

**1999 HOUSE EDUCATION**  
**HB 1365**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1365

House Education Committee

Conference Committee

Hearing Date 1-25-99

Tape Number	Side A	Side B	Meter #
#1		x	36.3 to end
#2	x		0.1 to 6.9
Committee Clerk Signature <i>Juan Davis</i>			

Minutes:

Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas , Rep. Johnson , Rep. Nelson , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson , Rep. Lundgren, Rep. Mueller , Rep. Nowatzki , Rep. Solberg present.

Chairman R. Kelsch : We will open the hearing on HB 1365 and have the clerk read the title.

Rep Bernstein: Sponsor of HB 1365. Main change of this bill will be on line 9 of page 2. The '97 legislature mandated this notice on rule making. DPI would have to give thirty days notice for all rule making.

Rep. Nelson : Cosponsor of HB 1365 from District 7. I serve on the administrative rules committee. This change would not be a burden to DPI,

Rep. Hanson : Why only the superintendent of Public Instruction, why not other state agencies?

Rep. Nelson : I believe it is an economic factor.

Bev Nielson: North Dakota School Board Association. Spoke in support of HB 1365. DPI sets the policy in the state, and superintendent need to know the rules.

Rep. Nottestad : Does the School Board Association have a clipping service, to watch for these changes.

Nielson: I don't read all the legals from around the state. No.

Rep. Grumbo : Has this come from an audit?

Nielson: I came to light, when the legislature passed the DPI had to go through the legislative and administrative rules policy as all other agencies.

Ron Torgeson: North Dakota Council of Education Leaders and we support HB 1365.

Rep. Nottestad : What does the council do in regard to notices?

Torgeson: We do not have a clipping service. In this day of technology, perhaps e-mail could be used to connect all superintendents.

Chairman R. Kelsch : Anyone in opposition of HB 1365?

Willis Heinrick: Speaking for Joseph Leonard (see written testimony attached).

Chairman R. Kelsch : Anyone wishing to appear in opposition of HB 1365?

Rep Brandenburg : Question for Heinrick. The bill requires superintendent be notified thirty days upon a rule making change. What is being done right now?

Heinrick: The law requires agencies purposing rules , send by a public notices, published once each week for a period of two weeks. Last notice must be at least thirty days before the hearing.

Rep Brandenburg : In what papers are these notices published?

Heinrick: All the daily papers in North Dakota. Listed most of them.

Page 3

House Education Committee

Bill/Resolution Number hb 1365

Hearing Date 1-25-99

Rep Brandenburg : So if you were in a weekly newspaper in a rural school and didn't read a daily from a bigger city, you might miss the notices.

Heinrick: If the daily paper did not get into that region, yes. This was on the web, e-mail.

Rep. Lundgren : It was e-mail to them or it was on the web?

Chairman R. Kelsch : Joe Leonards indicated both. (Mr Leonards was at the hearing but could not speak.

Rep. Nelson : The meeting that you referred to, as a good attendance. The reason was when the rules were reviewed by the committee, the committee did some calling. Isn't it in the best interest of DPI for have all the schools attend?

Heinrick: Hopefully the regulated community, is interested in the construction of a rule.

Rep. Nelson : I agree, given the fact that there is only two hundred plus school district in the state, it is a small price to pay for .

Heinrick: I don't want to make a mountain out of this. But how many hoops are going to be put in.

Chairman R. Kelsch : Anyone else wishes to appear in opposition of HB 1365.? Seeing none we will close the hearing on HB 1365.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1365-2-12-99

House Education Committee

Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
Tape # #3	x		0.1 to 6.7
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

COMMITTEE ACTION

Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas ,  
Rep. Johnson , Rep. Nelson , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson ,  
Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R. Kelsch : We will take up HB 1365. What are the wishes of the committee.

Rep. Nelson : I move a DO PASS.

Rep Brusegaard : Second.

Chairman R. Kelsch : Discussion. The DO PASS motion passes with a 12 YES 3 NO 0 Absent

Floor Assignment Rep Nelson.

## FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: \_\_\_\_\_ Amendment to: HB 1365

Requested by Legislative Council Date of Request: 3/5/99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:**

The costs would be negligible. The use of electronic mail would probably reduce the costs slightly.

- State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Fund	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures:	-	-	\$100	\$100	\$100	\$100
---------------	---	---	-------	-------	-------	-------

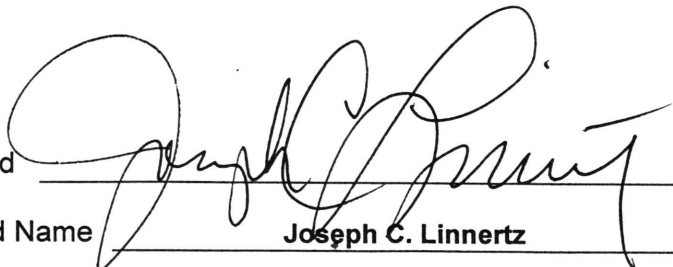
- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: 0
- For the 1999-2001 biennium: 0
- For the 2001-03 biennium: 0

- County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
		0			0			0

If additional space is needed, attach a supplemental sheet.

Signed   
 Typed Name Joseph C. Linnertz  
 Department Department of Public Instruction  
 Phone Number (701) 328-2278

Date Prepared: 3/8/99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1365 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-18-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The costs would be negligible, possibly there would be minimal increase in advertising charges.

- 2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds

Revenues:

Expenditures: \$100 \$100 \$100 \$100 \$100 \$100

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: 0
b. For the 1999-2001 biennium: 0
c. For the 2001-03 biennium: 0

- 4. County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
		-0-			-0-			-0-

If additional space is needed, attach a supplemental sheet.

Signed [Signature]

Typed Name Joseph C. Linnertz

Department Department of Public Instruction

Date Prepared: 1/18/99

Phone Number (701) 328-2278

Date: 2-2-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1365

House Education Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Nelson Seconded By Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad		✓			
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo		✓			
Rep. Lyle Hanson		✓			
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 12 No 3

Absent 0

Floor Assignment Nelson

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE (410)**  
**February 2, 1999 5:47 p.m.**

**Module No: HR-21-1736**  
**Carrier: Nelson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1365: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
**(12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1365 was placed on the**  
**Eleventh order on the calendar.**

**1999 SENATE EDUCATION**

**HB 1365**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1365

Senate Education Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		4586-end
1		x	0-218
1		x	2517-3598
3/3/99 1		x	5540-end
3/3/99 2	x		0-1066
Committee Clerk Signature <i>Jinda Christman</i>			

Minutes:

SENATOR FREBORG opened the hearing on HB1365. All senators present.

Representative Bernstein, District 45. Testimony in Favor. This bill came out of the committee of Administrative Rules. The difficulty is that we had complaints from superintendents and school boards that they weren't being notified far enough in advance so they could attend the hearings. Talked to DPI but it was always 5-7 days before the hearing and that did not give them enough time to do any testimony or research. As a point of clarification the first part of the bill goes through what they actually do now. On the back is 30 days prior to a hearing DPI would send out a letter to all the school districts or superintendents so that they would know if they wanted to come and testify.

Testimony in Favor: Representative Nelson, District 7. It is a very important bill and I am

also a member of the Administrative Rules Committee. Some very important issues came down last summer and I tried to contact my 12 school districts. I did contact all 12 of the superintendents and not one of them were aware of this hearing that was taking place. I don't think this bill is an indictment of DPI but more on the Associations that the school districts belong too. Schools are not becoming aware of the rule making process. I think the number of school districts in ND makes this bill workable. Having only 232 school districts, sending one letter to each 30 days in advance is doable. Will help make our schools and administration informed on what is happening.

SENATOR KELSH : Is there no type of notification or advertising in the paper now.

Rep. Nelson: Requirements are that they are published in all the daily papers, but what is happening is that the publication is in the legal notices and people aren't reading this. They are being published and we are trying to acknowledge with provisions to make it easier to read or notice. Plan to add county papers to the notifications.

SENATOR WANZEK : So when there is a hearing on rule making process they would have to send essentially a notice to every single school district out there and they are not doing that now.

Rep. Nelson: Exactly, yes that is what we envision with this is that all public schools will be notified of the proposed rule that the hearing is taking place.

SENATOR FLAKOLL : Would the intent be then to have a short title of what would be proposed as far as the rule change.

Rep. Nelson: I would envision a brief description, similar to what is in the legal notices. The whole text would not be included. Inform the schools of the nature of the rule changes and

obviously it would be to their interest to burden the proof on them to find out what these changes would be.

Testimony in Favor: Bev Nielson, ND School Board Association. We support this bill. Very specific about the 30 days. Several instances that we got the information too late to inform our members.

SENATOR COOK : You say that you do get notified but the problem is that you didn't get it within the 30 days.

Bev: We didn't get them very far ahead and one instance in April where the date was changed and we weren't aware of that. I did not know it was my responsibility to let every one know about these and so the notice came to me, I didn't know that it didn't go to the schools. In some cases the schools knew about it before I did. Some of this is a communication problem.

SENATOR COOK : The existing law makes it kind of clear about the 30 day requirement now. Has anybody ever challenged administrative rule because they didn't follow the process.

Bev: Lots of confusion about compliance.

SENATOR KELSH : There is no fiscal note. There must be some kind of fiscal note.

SENATOR FREBORG : We do have a fiscal note. For \$100 dollars.

Testimony in Favor: Tom Decker, DPI. We are not opposed to this bill but I just want to raise a couple of issues. We send stuff to school districts weekly, sometimes daily and we can include this notice with monthly foundation aid printouts or any number of other things and save a considerable amount of money.

SENATOR FREBORG : How many days in advance is the publication.

Tom: I believe 30 days.

SENATOR FLAKOLL : If you went from first class to bulk you would have no assurance that they actually got them. If they were sent out with the wrong name or address you would not know as they don't get sent back to you.

Tom: That may be true but we do foundation aid mail outs and our experience is pretty good about them getting there.

SENATOR COOK : How many school superintendents have gone through the step here of requesting that they be notified or any citizen can request that they receive a copy and you have to notify them. Do you receive a lot of those requests.

Tom: I am not familiar with the departments standing list of people to be notified. Whenever we are dealing with the rules we use a pretty predictable list. We hear from some on a regular basis and others that we never hear from.

SENATOR COOK : How many schools can you communicate with e-mail.

Tom: We can communicate with about 95 % plus by e-mail now we have mass faxing capability. Couple of vehicles for fast communication and they are getting better every day.

Close Hearing on HB1365.

Discussion was held.

SENATOR COOK: I know what they are trying to accomplish. They're trying to get school boards notified in a timely fashion about changes in administrative rules. There is definite merit in that. There are a lot of other ways that they can accomplish that. Also believe that any school superintendent that wants to be notified can simply request that they be notified and they will be notified. Can use fax or e-mail.

SENATOR FREBORG: Or maybe by their organization.

SENATOR WANZEK: I heard the Dept. say that there are a number of times that they are sending a notice to the schools. Seems reasonable to me to allow them to use that method. If the rest of the committee would be willing I would make an amendment to strike out first case mail.

SENATOR FREBORG: If you are going to make a motion you only strike out first class, leave mail.

SENATOR WANZEK: I move to adopt an amendment to strike out first class on line 12 page 2.

SENATOR COOK: 2nd.

SENATOR FLAKOLL: That would not include e-mail or would it.

SENATOR FREBORG: I guess it would.

SENATOR WANZEK: The most important thing is that they are notified. It allows some means to save money.

VOTE: 7 yes, 0 no.

SENATOR KELSH: I was thinking we would get some amendments. Once a year say by Jan. 30th the Dept. notifies school districts that this is how we will be communicating with you. Either by e-mail, fax, etc., please know this is the way you'll be notified. Thought about having amendments drawn like that. I would keep fiscal note in the order that you want it to be.

SENATOR FREBORG: Do you know, is the School Board Association and Administration Association getting the hearings.

Tom: Not sure if they do that absolutely consistently, cause I don't work directly with the overall administrative rule process. I'm guess that's happening.

SENATOR FREBORG: Reason I asked because I'm upset with the notification going back to the schools from the two organizations. I know of a couple of instances where it was very important to be timely on those notifications after session, one had to do with the fact that the schools that were paying both shares of the premium or teacher's retirement isn't that what we changed last session, didn't have to pay the increase unless it was renegotiated. None of those schools knew that they didn't automatically have to pay the teacher's share of the increase. Not one. They weren't notified by the Dept. not by the ND School Board Association, not by the Administrative Association. That upsets me. We try to do things here to protect the schools from an additional ½ % increase and they didn't know about it, they couldn't take advantage of it. So they automatically thought that if they were paying with shares they had to pay the increase for both sides.

Tom: After every legislative session the Dept. sends out a document with a summary of every bill that deals with education that we've tracked and the actual copy of the signed bill if we think it's substantial.

SENATOR FREBORG: I wasn't directing criticism toward your office. I would have thought the Association would have a great interest in what took place every session and immediately mail it out to the district. Trying to make a point that they should be better informed by their own organizations.

SENATOR REDLIN: Bring up what SENATOR COOK brought up, lines 17, 18, and 19, tells that the agency shall mail a copy of the notice to each person who has made a timely request of the agency.



SENATOR FREBORG: We will hold the bill to allow SENATOR KELSH to draft some amendments.

SENATOR O'CONNELL: Why do we continuously put more stuff on file at Council. Just putting more paper work up there, what does it really mean. I know it is present law but we are adding to it all the time.

SENATOR KELSH: Says the agency shall mail a copy of a notice to anyone who has made a timely request. Is that request one time or every time.

Tom: Standing request, forever.

Close hearing.

.SENATOR FREBORG : I would think the Associations would get everything out. They should be better informed by their own associations.

SENATOR REDLIN : SENATOR COOK brought up about the agency was to send out to everyone who has made a timely request of the agency. If they are worth their salt for the dues they are collecting they ought to be right on top of these things to show their value of their membership.

SENATOR KELSH : Is the request to be notified is that an annual request or continual..

Closed the hearing.

3/3/99

SENATOR FREBORG opened discussion on HB1365.

SENATOR KELSH : Basically all it does is DPI would notify each association with state wide membership and everyone who has requested to receive information. Then every school district across the state would be notified by the January 30th of each year. What method they

will be notified by whether it is e-mail, registered, whatever is the most effective. So they would have notification of this is where you would look for any rules hearings that are coming up.

I did ask Tom if that would be satisfactory way of doing it to cut down on time and expense and yet have proper notification. This requires them to notify their associations, each school district one time to tell them how they will be notified. An appropriate way of doing it rather than every time having to send out a first class letter across the state.

SENATOR COOK : Your first part of the amendment there, what would be different there than what is existing law right now.

SENATOR KELSH : This would put into law that they would notify the associations.

SENATOR COOK : It also says which had requested to receive notices, and that is law right now anyway.

SENATOR KELSH : All they have to do is make a one time request. Right now they are not doing it. Maybe they didn't know it before. If they did then they are not doing a very good job of it.

SENATOR KELSH : I move to adopt amendment 90418.0101.

SENATOR O'CONNELL : 2nd

SENATOR WANZEK : Does that mean that the notice has to be e-mail or first class mail, either or. Did I understand that DPI there are certain times where they are making other mailings that they could include the notification and help save.

SENATOR FLAKOLL : When they are notified about how they are going to be contacted is that the only means by which they would be contacted after that. Not all districts have e-mail, they

would say like District 1 you will be contacted by e-mail, District 2 by letter. I'm not understanding exactly how that would work.

SENATOR KELSH : They have the option of requesting how they want to be notified and I think the reason for that is that they send out weekly or daily notices to school districts and they can just include it in another envelope. Wouldn't have to go separate by first class mail. Or they can use e-mail.

SENATOR FREBORG : The option is left up to the Dept.

SENATOR O'CONNELL : The first amendment all we would have to do is cross out first class on the first line and then it would be second line.

SENATOR KELSH : In all honestly the idea is to make sure the school districts know under what form they are going to get notified. By first class mail they should open it and read it. 50% of them may do that.

SENATOR FREBORG : Not first class maybe 5% will open and read. Let's reconsider our actions whereby we adopted the amendment.

SENATOR O'CONNELL : 2nd

Vote: 7 Yes 0 No

SENATOR KELSH : I move to adopt the amendment 90418.0101.

SENATOR O'CONNELL : 2nd

Vote: 6 Yes 1 No

SENATOR O'CONNELL : I move for a DO PASS as amended.

SENATOR KELSH : 2nd

Vote: 6 Yes 1 No

CARRIER: SENATOR KELSH

Proposed Amendment to:  
House Bill 1365 with Senate Amendments

Page 2, line 19, replace "may" with "shall", replace "or" with " . However, upon the request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail", and remove "Within"

Page 2, remove lines 20 through 24

Re-number accordingly

Lines 10 through 24 will now read:

considered by the agency. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notices from the superintendent under this section and to the superintendent of each public school district in this state, or the president of the school board for school districts that have not superintendent, at least thirty days before the date of the hearing described in the notice. Notice provided by the superintendent of public instruction under this section shall be by first class mail. However, upon the request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.

Date: 3/1/99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1365

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Motion to amend HB 1365

Motion Made By Wanzek Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3/3/99  
 Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1365

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Motion to reconsider our actions.

Motion Made By Freborg Seconded By O'Connell

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

March 2, 1999

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1365

Page 2, line 12, replace "by first-class mail" with "to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notices from the superintendent under this section and"

Page 2, line 15, after the underscored period insert "Notice provided by the superintendent of public instruction under this section may be by first-class mail or electronic mail. Within thirty days after the effective date of this Act or by January thirtieth of each year the superintendent shall notify each group or person entitled to notice under this section of how notices will be provided during the period ending the following January thirtieth and shall request a mail or electronic mail address to be used for each group or person."

Renumber accordingly

Date: 3/3/99  
 Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1365

Senate EDUCATION Committee

- Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move to adopt amendment 90418.0101

Motion Made By Kelsh Seconded By O'Connell

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman		✓			
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 6 No 1

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:



Date: 3/3/99  
Roll Call Vote #: 4

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1365

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Moved a Do Pass as amended

Motion Made By O'Connell Seconded By Kelsh

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek		✓			
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 6 No 1

Absent \_\_\_\_\_

Floor Assignment Kelsh

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1365: Education Committee (Sen. Freborg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1365 was placed on the Sixth order on the calendar.

Page 2, line 12, replace "by first-class mail" with "to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notices from the superintendent under this section and"

Page 2, line 15, after the underscored period insert "Notice provided by the superintendent of public instruction under this section may be by first-class mail or electronic mail. Within thirty days after the effective date of this Act or by January thirtieth of each year the superintendent shall notify each group or person entitled to notice under this section of how notices will be provided during the period ending the following January thirtieth and shall request a mail or electronic mail address to be used for each group or person."

Renumber accordingly

1999 HOUSE EDUCATION

HB 1365

CONFERENCE COMMITTEE

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. Conference Committee HB 1365

House Education Committee

Conference Committee

Hearing Date 3-16-99

Tape Number	Side A	Side B	Meter #
Tape # 2-3-16-99	x		0.1 to 24.4
Tape # 2-3-17-99	x		0.1 to 2.5
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

CONFERENCE COMMITTEE ON SB 1365

Chairman Nelson : Called the committee to order. Have the clerk call the roll.

Sen Cook, Sen Flakoll, Sen Kelsh, Rep Nelson, Rep Brusegaard, Rep Mueller, all present.

Looking at the amendments that were purposed by the Senate in this bill, was the concern with this the cost of notification. Maybe we should try to come to some common ground as to why you felt the amendments were needed in this bill.

Sen Cook: Senator Kelsh introduced them, maybe he wants to speak to them.

Senator Kelsh: I have some difficulty with the cost, although that wasn't a big factor. I think DPI testified that they use several means of communicating with districts and groups that are involved. A lot of them was e-mail and we felt that there was a better means than a first class letter every time there was going to be a hearing to every school district and every interest group

that was interested in primary and secondary education. We talked about if we e-mail them, they got a notice that they are going to get their notification by e-mail once a year and that would be sufficient.

Chr Nelson : If I understand this right, that if, one time a year the department would send out an e-mail.

Sen Cook: One time a year, by the thirtieth of January, they would send out a letter notifying the school districts of what method they would be notified of these meetings, if it was e-mail they would be expected to watch the e-mail, if it was going to be by first class mail or however they would be notified that, that is how it is going to be done.

Chr Nelson : Given that, one of the concerns that we have on the administrative rules committee, that this is new ground for the department. They are just beginning their rule making process, and I think one of the areas we need to clear up is the thirty day notice. That the schools have to be aware thirty days prior to hearing, that the hearing is taking place. So whichever agreement we can come to I think that, that is paramount that we keep the thirty days limit in there.

Sen Kelsh: Just above the amendment on the second page Mr Chairman, it says that the agency shall allow at the conclusion of any rulemaking a comment period, oh excuse me that is comment period. I believe it says thirty some place else.

Rep. Mueller : Yes, it does in the existing bill.

Sen Kelsh: In the existing bill and that wasn't changed.

Chr Nelson : So really where the main where the main difference on this bill would be is how that notification takes place, whether e-mail, some kind of electronic transmission or first class letter. I guess the feeling from the House side was that, a first class letter was appropriate from

the standpoint that it was hard copy , maybe it is old fashioned but there seems to be some sense of permanency with that.

Rep Brusegaard : Mr chairman, there is another change, that is that the amendments instruct the DPI to also send it out to any association with state wide membership whose primary focus is elementary and secondary education.

Sen Kelsh: The reason for that is, the chairman of our committee , had made comments that I think on the school days bill last time, the association that were involved school boards, superintendents and NDEA did not notify their members well enough of some things, or maybe that wasn't even the issue,

Sen Cook: That was teacher retirement.

Sen Kelsh: teacher retirement, just felt maybe we should make it law that they have to be notified so they are aware so they can pass the information on to their people. That was the only reason for that part of it. That is just in connection that they notify these associations of hearings.

Sen Flakoll: I believe also they could actually request that information anyway and then have to be permanently on that list of people who get the mail. Just by requesting they are forever on the list until they ask not to be on it any longer. I think also if you look at the fiscal note on it, it was only one hundred dollars applied towards that, and you can't many letters and stamps with one hundred dollars. The fiscal note, to look at other methods like electronic mail or to including it in another packet of other information as they typically send out to schools and that is often bulk mail. They would technically be against the law by not having first class.

Chr Nelson: I think maybe were muddying the waters somewhat. First of all it should be pointed out that in the rule making process, I would not envision more than two sets hearing notices in a

year, it is possible there would be another one, but very, very unlikely. You know between the hearing and the comment period and the time it takes to get the attorney general on the rules, there really isn't much more time. So we are talking at the very most, 232 school districts, two times a year. I think if we start including these notices in bulk mailing, and I hesitate too loose with this, but on the other hand , given the fact that what we are trying to do is give notice of a particular concern to a district, that this single letter requirement is not a undo burden on the department. If adding the organizations, I don't have a problem with that, that is kind of open ended too. What is the definition of an education primary focus that we are talking you know the three major, the school boards, the educational leaders and the NDEA, if defined that way I wouldn't necessarily have a problem with that, but it could get a little farther reaching than that.

Rep. Mueller : I think in committee, if I remember correctly, we talked about and maybe this is not a concern, but do all 216 school districts have proper capabilities to do e-mail work with.

Chr Nelson: I don't know the answer to that.

Sen Cook: I will speak to that, if you look at the amendments, the very first amendment replaced by first class mail, that is started simply replacing first class and leaving mail, because mail would include e-mail. The question was asked in committee, the answer was 95 per cent of the schools can communicate with DPI via e-mail right now. And the other thing, if I understand Sen Kelsh and our committee action on this bill, the intent was to somehow even clearer, that these schools were going to get notified. It wasn't an attempt to loosen it up, maybe its gotten too cumbersome I don't know. It was an intent to even further assure that these schools are going to get notified. Number one, they receive a notice by the 30th of the month, telling them how they are going to be notified, because it is a new procedure for a lot of school board members. And

you make a good point, that was new to me, that we are probably talking two notifications during the year, and the first part you will see involves the associations but it also says associations that request to receive notices from the superintendent. That is in existing language, anybody can, I can request from the superintendent to receive notification, and he is required by law to notify me. The one question that came up, and I don't know if it has really been answered yet, we were given an answer, do you have to request every year to get on that list? Or once you make a request are you on it until you request that your name comes off? The answer we were told is you only have to request once and your on the list. And that is common practice with all agencies that go through administrative rules, is the answer we were given. But I still question, is that the way all agencies do it.

Chr Nelson: I couldn't answer that question, I don't know.

Sen Cook: And I think further, a lot of this becomes redundant its, an association can request right nor, and an association take it upon themselves to notify school boards. Senator Freborg's question or his concern was that we pass legislation regarding teacher retirement. And in that legislation it made it clear that schools that are , both the employer and the teacher share did not have to pay the teachers share on the increase. And none of them knew about that. They assumed that they had to continue to do that and Senator Freborg had some concerns on how they should have been notified. Now that is not an administrative rule, but any changes that we make to legislative law is got to get reported and explained to school board, and with that amendment it would just try and send a message to the associations that we hope that you take an active role in informing your schools.



Chr Nelson: I think anything that we do to increase that, the communication the ability to know about those hearings would be good. If we are talking with three groups, I'm comfortable with adding that language, because of for the cost of that, whether its a mailing or communications. The ability to reach every school board member, every administrator, and every teacher in the state of North Dakota as far as these changes and how would it affect them and the school systems of the state would be pretty economic expenditure I would think. From my stand point any way, that doesn't put any spurs in my saddle at all.

Sen Cook: Personally looking at these amendments, I thought they were a lot of over kill trying to solve these problems, but maybe considering its a new process and there is a learning curve to go through and seems to be a certain amount of defiance as people are told that you have to start doing this, a very good strong message should be sent and a few years from now some of these bugs will be worked out and we can make it kind of.

Sen Kelsh: I think there is frustration on both sides. DPI feels they have notified , these people say they were never notified, and without being notified and its an attempt to make sure that we can document that they have been notified. Then if they don't show up, there is not much we can do about it. I do agree sending out another notice in a bulk mail. They probably won't open the bulk mail, in the first place. They are lucky if open the third class in all honesty, because they are busy and its easy to put off and then pretty soon it gets lost or whatever, thats part of the problem. Now e-mail I think we all know, we read every day and if we haven't read them, they are right there and its pretty handy, they are going to notice it.

Chr Nelson: I tend to agree with you. I don't think that this is an indictment of the department. This transcends through the administrative rule process, every day we share these problems every

day as far as the notices, just that when they are in a professional group like the school systems of the state its kind of, it concerns me when the administrators aren't picking up the notices. The department is doing what they have to do by law, there is no question about that, that just goes to show what the process is, there needs to be some improvement in the process. I personally I think as we try and fix this particular problem, I would like to see the first class mail requirement stay in at least to start with, to get this off on a smother ground and I know that the prime sponsor would feel that, that is a necessary item and maybe that is something that we could work with as things evolve with this process.

Rep. Mueller : Senator Kelsh, did you get any input from DPI on this issue, one way or the other.

Sen Kelsh: They testified, I guess that is when we started questioning , they said they send out sometimes daily, but at least weekly to every school district a mailing of some kind and they thought they could put it in there. Well, like I said before, I don't know if I necessarily agree with that, but then they talk about e-mail and thats why we I think somewhat by the request of the committee, to look into some kind of amendment that would work. I'm certainly not stuck on that amendment by any means. If there is something better , we'll fix it..

Sen Flakoll: For point of clarification, while the terminology first class is taken out, a portion of it was added back in, its either got to be first class mail or e-mail.

Chr Nelson: You're right.

Sen Flakoll: We have talked about bulk mail at various times with different things but in the essence of what the amendment are, it still has to be first class or e-mail.

Chr Nelson: Senator Flakoll, did you, in the discussion, with electronic mail what contexts was that you were talking, a personalized e-mail or listed on the web page, what was, was there any discussion in this committee as to how that was administrated?

Sen Flakoll: I would anticipate it would just be, each school has it primary e-mail address, is that what you think, we didn't specify.

Chr Nelson: The reason I ask this, you know there is a number of, I suppose maybe more so in the rural areas, where you know, it might be a personalized address, some may have e-mail capabilities in there personal computer, not in the computer in the school. You know, depending on the INTERNET services, you get out in the area where I live, and it is improving but there are some technological deficiencies out in the vast lands of North Dakota.

Sen Cook: I'm looking at the amendments, the second amendment, notice by the superintendent of public instruction under this section may be by first class mail or electronic-mail. And maybe if I am listening to everybody what we need to do is change may to shall. In this section say shall be by first class mail or electronic mail to the individual or to the superintendent.

Chr Nelson: It looks like the electronic mail is going to be the biggest concern. I guess personally I'd like to see that part taken out.

Sen Cook: Electronic mail?

Chr Nelson: Yes.

Sen Cook: Fine.

Chr Nelson: If we could come to an agreement on that, the rest I think you know I think you added some good language, that the department would they, I guess they really wouldn't let's see, the next, the language after that, that wouldn't really be necessary.

Rep. Mueller : I think Senator Cook makes a good point about the, we have shall in at least two other, again depending if we keep the rest of that language in there, we have shall notify and shall request maybe for consistency sake it would be well to put the shall back in.

Sen Kelsh: Mr Chairman, does that care of your concern about the e-mail.

Chr Nelson: Yes, it does. And I think the first amendment

Rep Brusegaard : Are you saying just putting the may to shall take care of the--

Chr Nelson: No it doesn't, excuse me, I would like to see the electronic mail taken out of there, personally, if we could may to shall and take out electronic mail then the first part of the amendment is I think is a good addition.

Sen Kelsh: The only thing I see is that we would be back to first class mail which is what the original bill says, so what we do is delete the amendment on page two after line fifteen on line fifteen. I don't see any sense of having it in there if we take out because in the original bill it says they have to notify each school district, the superintendent, or the president of the school board by first class mail.

Chr Nelson: Exactly.

Sen Kelsh: I don't see any sense of leaving any of that language in there if we take e-mail out, do you?

Chr Nelson: Sen Kelsh, I would agree with that. I think we are duplicating there is no reason for the rest of that language, so what we would be doing, we would be back to the original language, the new language starting on line 9 and going through line 15. And I am trying to think how we could work that, you know the first part of that amendment, of your amendment in there also, you know allowing the groups notice also.

Sen Kelsh: Maybe we should go to the first page Mr Chairman, line 18 I mean line 17, the agency shall mail a copy of the notice to each person or organization who has made a timely request?

Sen Cook: It's already there.

Rep Brusegaard : Technically, that first part is in there,

Sen Kelsh: Other than it says person. It's in there.

Chr Nelson: I would assume that the definition of person would include that, the organizations, you know. Maybe Ms Nielson you would like to come to the podium for informational purposes. Do you have something to add to this?

Bev Nielson: North Dakota School Board Association. Rep Nelson , the only concern I have is in the original bill, even though it said that they had to give notice, the problem has been 30 days. The 30 day notice for newspapers has been fairly well stuck to, but I wish I could have found this morning. I had one notice to a meeting in the fall that was dated on the stationery on DPI stationery two and one half weeks before the postmark on the envelope. I got the letter six days before the hearing. Now you can put a date, any date that you want in your word processor at the top of the letter, and say gave notice, but the, our concern is that we get 30 days notice so we have the opportunity to let our membership know in time to make arrangements, to take time off their jobs, for board members its a little different, if they care to be there. As I read it, its pretty clear that the newspaper has to be thirty days but if we are going to strike line 17 , line 15 and 17, back on the amendments, where it says at least 30 days before the date of the prescribed notice somehow that was our biggest concern, whether we get adequate notice, which would be 30

days. I understand in the bulk of the bill, in current law that they have to give notice. The question is could we please get 30 days notice.

Chr Nelson: I look on page two in the new language, starting on line 9, starting with in addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any of any proposed rulemaking by the superintendent of public instruction by first class mail to the superintendent of each public school district in this state, its somewhere in that sentence adding the thirty day requirement.

Rep Brusegaard : It's down at the bottom. What she is saying, what

Nielson: Strike the amendment.

Rep Brusegaard : Right, and then add in the paragraph after president of school boards for districts that have no superintendent, and to each association of state wide membership whose primary focus is primary and secondary education, requested to receive notices from superintendent under this section at least thirty days before the date of the hearing prescribed.

Chr Nelson: Adding the 30 day notice that way.

Sen Kelsh: We could do it that way, get it on the front page too.

Chr Nelson: So that is in twice then.

Nielson: Just so you strike the amendment, the 30 days gets added to the bulk of the bill, because that is our main concern is adequate notice.

Chr Nelson: OK, that you.

Sen Cook: Mr Chairman, do you think you can get those amendments written up and we can have a quick meeting and make our decision?

Chr Nelson: It's my understanding that you would be willing to consider leaving the first class requirement in tact and adding the 30 day notice. We will do that.

Sen Flakoll: Does DPI currently e-mail schools? Do they broadcast it out? Do they have all 230 of them or whatever?

Chr Nelson: I couldn't answer that question, and I don't know if anyone in the room that can, I would envision that we would move towards the notice given to legislators as far as interim meetings and some of the notices.

Sen Flakoll: That doesnot help me out, I hate to tell you that.

Rep Brusegaard : That is a good example of why depending on e-mail at this time is not the best .

Sen Flakoll: The reason I'm asking is I would hope that DPI would do a follow-up e-mail to all those people as a reminder.

Rep. Mueller : I think that Senator Cook kind of thought 95 per cent is getting there, but not there yet.

Chr Nelson: That's the thing, as we move towards the electronic age, those that are that feel more comfortable with it, will start signing off on the written notice. I think that it is important that we have it in place to start with, and then those that feel more comfortable with it, will sign off on it as it evolves and move forward with it. I think we will probably be back with this issue as technology capabilities improve and the personnel improved. I think at this point to get to what we want to do with this, I think we should strike that language.

Sen Flakoll: I'm fine with this, doing the change you talk about, we see it every day with what we do and if we don't get reminded of it, we tend to forget about meetings or whatever.

Sen Cook: I'm comfortable with what's going, but just a suggestion if you could, after first class mail say or e-mail if requested by the individual receiving the notice.

Chr Nelson: OK, is that, we will add that language to the amendment and we should be able to. Can we have this amendment prepared for tomorrow morning, Shall we say 8:00, 8:30am on Wednesday. meeting adjourned.

CONFERENCE COMMITTEE CONTINUES 3-17-99

Chairman Nelson: Call the meeting to order and ask the clerk to call the roll.

Senator Cook, Senator Flakoll, Senator Kelsh, Rep Nelson, Rep Brusegaard , Rep. Mueller are present. I trust that everyone got the amendments yesterday, did you get a chance to review them.

Senator Cook: Will, the intern, is cleaning up the language in that one section where the words don't quite flow That's a typo, I'm looking at the line that begins with districts and not superintendent, if we could get that cleaned up. Once we take action and make it a motion then the amendments go to legislative council and get put in proper legislative form.

Chr Nelson: That would be my understanding.

Sen Cook: Then do we have to see them again or.

Chr Nelson: I'm not sure of the committee process myself, but I would think that once we set this, approve these amendments that our job is finished. If that is not the case, I will get hold of you and if we need to call another meeting, we will do that. Will, do you have anything to add to that.

Will Illingworth: Explains the procedure.

Chr Nelson: Well, at this time if there is, if we offer an amendment.



Page 14  
House Education Committee  
Bill/Resolution Number Conference Committee HB1365  
Hearing Date 3-16-99

Sen Cook: I would move that the Senate RECEDE from the senate amendments and offer these amendments.

Sen Flakoll: seconded the motion.

Chr Nelson: Discussion. Hearing none, the clerk will call the roll. Motion carries with a 6 YES

0 NO 0 Absent Floor assignment Rep Nelson. We will adjourn.

VR  
3/19/99

**CONFERENCE COMMITTEE** AMENDMENTS TO HOUSE BILL NO. 1365 **Edu 3-22-99**

That the Senate recede from its amendments as printed on page 758 of the House Journal and page 615 of the Senate Journal and that House Bill No. 1365 be amended as follows:

Page 2, line 12, replace "by first-class mail" with "to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and"

Page 2, line 15, after the underscored period insert "Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail."

Renumber accordingly

Date: 3-17-99  
 Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO.

House \_\_\_\_\_ Committee \_\_\_\_\_

Subcommittee on Education \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Senate recede from Senate amendments

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives Senate	Yes	No	Representatives	Yes	No
Sen Cook	✓		Rep Nelson	✓	
Sen Malakoff	✓		Rep Brusegaard	✓	
Sen Kelsh	✓		Mueller	✓	

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

(Bill Number) HB-1365 (, as (re)engrossed):

Your Conference Committee

For the Senate:

For the House:

Sen Cook P

Sen Blakoll P

Sen Kelsh P

Rep Nelson P

Rep Brusegaard P

Rep Mueller P

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      S724/H726      S723/H725  
 the (Senate/House) amendments on (SJ/HJ) page(s) 758 - \_\_\_\_\_

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
 \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
 and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
 calendar.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

(Bill Number) HB-1365 (, as (re)engrossed):

Your Conference Committee

For the Senate:

<u>Sen Cook</u>	P	Y
<u>Sen Blakoll</u>	P	Y
<u>Sen Kelsh</u>	P	Y

For the House:

<u>Rep Nelson</u>	P	Y
<u>Rep Brusegaard</u>	P	Y
<u>Rep Mueller</u>	P	Y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      S724/H726      758      S723/H725  
 the (Senate/House) amendments on (S/H) page(s) 258 - 305  
SS-615

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
HB1365 on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
 and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 3/17/99  
 CARRIER: Rep Nelson  
 LC NO. 90418.0102 \_\_\_\_\_ of amendment  
 LC NO. \_\_\_\_\_ of engrossment  
 Emergency clause added or deleted \_\_\_\_\_  
 Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

Module # LR822/M2  
CHR515249

**REPORT OF CONFERENCE COMMITTEE**

**HB 1365:** Your conference committee (Sens. Cook, Flakoll, Kelsh and Reps. Nelson, Brusegaard, Mueller) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 758, adopt amendments as follows, and place HB 1365 on the Seventh order:

That the Senate recede from its amendments as printed on page 758 of the House Journal and page 615 of the Senate Journal and that House Bill No. 1365 be amended as follows:

Page 2, line 12, replace "by first-class mail" with "to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and"

Page 2, line 15, after the underscored period insert "Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail."

Renumber accordingly

HB 1365 was placed on the Seventh order of business on the calendar.

**1999 TESTIMONY**  
**HB 1365**

*read by  
Willis*

HB 1365 1/25/99 1:00 PM Pioneer Room House Education Committee

This bill would require DPI to send a first class letter to every school superintendent or school board president at least 30 days before the date of a rule hearing. The notice would be in addition to other requirements for published notice of rulemaking. DPI would be the only agency covered by this legislation.

The reason for this legislation seems to be a concern that too few interested in rules are able to obtain adequate notice. The DPI has conducted two hearings since coming under the administrative code. The first hearing, and the one that supposedly brought forth this bill, had nearly 50 interested parties attend. That is a very good attendance for rules hearings. Notices for that hearing included the required legal notices, e-mail notices, 1<sup>st</sup> class letters, press releases.

While it is desirable from all points of view to have as many people as possible involved in the rulemaking process, it has been a problem for all agencies to attract substantial hearings attendance. While the first class letter notice may be a good idea, the setting of another legal requirement, such as required by this law could cause undue delay in rulemaking. For example, if the letter was postmarked 29 days before the hearing, the entire hearings process would have to start over. It should also be remembered that interested parties have 30 days after the hearing to register written commentary. Some 30 recommendations and comments were received in this manner.