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2001 HOUSE EDUCATION

HB 1045

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1045 15.1-13

House Education Committee

Conference Committee

Hearing Date 01/15/01

Tape Number	Side A	Side B	Meter #
#2	X		97 to 3075
Committee Clerk Signature <i>Lisa Gelbertson</i>			

Minutes:

Chairman R. Kelsch, Vice-Chair T. Brusegaard, Rep. Bellew, Rep. Grumbo, Rep. Haas, Rep. Hanson, Rep. Hawken, Rep. Hunskor, Rep. Johnson, Rep. Meier, Rep. Mueller, Rep. Nelson, Rep. Nottestad, Rep. Solberg, Rep. Thoreson

Chairman Kelsch: We will now hear HB1045

Anita Thomas: (Legislative Council) I'd like to do a brief history about how we got to this point. This efforts has its roots back in 1995. At that point, the legislature directed the state auditor to conduct a performance audit of the DPI. The audit was presented to the Legislative Audit and Review Committee. That committee referenced a number of education issues and it should be heard by the Education Finance Committee. When it was heard by the Finance Committee, the 1995-1996, the committee was told that sections to the title were inconsistent, unclear, illogically arranged, etc., so the committee recognized that it would take time and it would take commitment on the part of committees, on the part of interested parties, agencies and

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our office as well. They suggested a legislative council study. That study was subsequently assigned to the '97-'98 interim education services committee. The first thing the committee did was segregate chapters that are not directly related to k12 education from those that are directly related to k12 education. So the committee chose not to address issues such as higher ed. Their main chapters were looked at, they were put in some logical order. The committee knew that it would have to address sections that were inconsistent, unclear, illogically arranged, but more importantly, the committee wanted to ensure that the rewritten sections would accurately reflect the manner in which business was conducted at the school level, the school district level and within the DPI. It didn't take that committee long to realize that the project would encompass more than one interest. The last interim, the committee worked on 16 of the 34 proposed chapters. These include the State Board of Public School Education, DPI, Contract for Education, the Educational Telecommunications Council, schools, school districts, military installation school districts, school boards, county committees, county superintendents, school district boundaries, students chemical abuse prevention program, post-secondary enrollment options and adult education. Those efforts in the passage of 1999 HB1034, with no descending votes in either the House or the Senate. At this interim, the Education Services Committee returned to its efforts, and they addressed the following chapter. ESPB, Superintendent and Director Dismissal, teacher dismissal, teacher employment contracts, teacher personnel issues, teacher qualification, compulsory attendance, courses in curricula kindergartens, home education, school finance, state tuition fund, payment of tuition, student transportation, open enrollment, special education, multidistrict special education unit, boarding home care, child nutrition and food distribution program, and school construction. The one thing that's important for you to

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note is not the intent of the interim committee to make substantive changes in the law. However, in meeting the other goals, there were changes that were sometimes necessary.

Moving on the first chapter that we're going to be dealing with, that's the ESPB. This deals with teachers who hold teaching licenses, the second, the Administrative Practices Board deals with administrators who hold teaching licenses. The ESPB consists of 9 members. The Administrative Board consists of five of those members. When the interim committee started working on this chapters. We found that referencing two boards with different duties in the same section, just didn't work. The committee's first thought was to put each of the boards and their separate duties in separate chapters. Chapter 13 would deal with the ESPB, and Chapter 14 would deal with Administrators Professional Practices Board. That was certainly more clear, but it created a problem. There were issues of separate notices, compensation and the list went on. So the committee finally concluded since we're dealing with teaching licenses, that the individual holding the license might be a teacher or administrator, that the license was the same. Then the committee went back to referencing only one board, and as it stands in the rewrite when decisions need to be made by the administrators who hold teachers licenses, the committee of the ESPB will handle those decisions. One other thing the committee found, is that the present law didn't define who fell into the category of an administrator. People who worked with the law had a sense of when they were talking about an administrator and when they weren't. The committee thought that a definition should be included and what they came up with is under the first section of the proposed bill. *For Definition, see 15.1-13-01. Definitions.*

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*Under Section **15-38-17. Education standards and practices board and administrator's professional practices board.** Of the current law, which is attached, you can find a description of the ESPB*

In 15.1-13-02 we set forth the membership requirements. We made one change from current law. Presently, one member of the board must be the dean of a college of education. Because title vary from school to school, the committee added language providing that the member could be the dean of a college of education or the chairman of the dept. of education.

Next section, 15.1-13-03 sets forth the board of compensation. That is still \$25 per day, plus expenses.

15.1-13-04 sets fort the term of office for board members which is three years, and it provides that no person may serve for more than two consecutive terms.

15.1-13-05 provides the board officers and designates the executive director of the ESPB and the board's secretary.

15.1-13-06 sets forth the notice requirements.

15.1-13-07 addresses quorum requirements. This section the committee also made some changes. *Read current law **15-38-17** that is attached* The ESPB has 9 members, 5 members would constitute a quorum, and 3 members would constitute a majority of the quorum. Having 3 members agree to new letterhead wasn't a problem, it's the decision before a board of the revocation of an individual seeking license. The sense was the committee of three members should be in agreement, so in the rewrite, the committee provided that at least 5 members of the board must consent to the revocation of an individual seeking license.

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15.1-13-08 and 15.1-13-09 these two sections stem from present sections 15-38-18 under current law (**Duties of the ESPB**). A duty is a mandate 'thou shall', so it was confusing when the section contained language provided that the board 'shall' perform certain functions and the board 'may' perform other functions, so in the rewrite, the committee chose to do it in two sections. 13-08 deals with the things that 'must' be done and 13-09 lists the board's powers, if so chosen.

15.1-13-10, like current law requires the ESPB to adopt the criteria for teacher licenship
15.1-13-11 like current law authorizes the board to set and charge for filing an application and for issuing an application. These selected by the board have to be deposited in accordance with section 54-44-12.

15.1-13-12 like current law provides the teaching licenses that are effective for at least one school year.

15.1-13-13 deals with provisional certificates. The current law can be found at the end of the fingerprint section, which is 15-38-18.2

15.1-13-14 deals with the background check and fingerprints.

15.1-13-15 Earlier I had mentioned that the ESPB section was spread out over two chapters. Actually, this section comes from yet a third chapter, 15-37-01. That chapter contains oaths for teachers or faculty members of state colleges and universities and for aliens to teach in state colleges and universities. We will be looking at latter two oaths in another bill, but for now, the committee opted to put the teacher oaths in the teacher licensing section. That was just moved from one spot to another, the content was not changed.

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15.1-13-16 deals with obtaining transcripts from colleges and universities. Apparently, some institutions were not timely in responding to requests for transcripts. The current law directed that they be given 10 days. The committee made one small change. Present law directs that the institute of higher education is to forward the transcript to the ESPB, and since some people do seek licenser in another state, the committee thought that the we should require the transcript be sent to the ESPB or a comparable entity in another state.

15.1-13-17 combines the content of both 15-36-11 and 15-36-11.1. It requires licenser or approval from the ESPB before one can teach in this state. The committee did make one change in phraseology. Current the law provides that an individual must hold a 'valid ND professional teaching license'. First, the committee removed the word 'valid'. Secondly, the committee removed the word 'professional'.

15.1-13-18 We provide in current law that one cannot teach without a license. 15-36-12 provides that a teacher cannot be paid for any time that they teach in a public school without a license. The committee eliminated some verbiage. Before being employed to teach the individual must present his/her teaching license or other evidence of approval to teach to the school district business manager.

15.1-13-19 This section sets forth one exception to the requirement. If one's license expires within the final six weeks of the school year, the individual is permitted to finish out the year under the expired license. It applies to someone who is about to retire.

15.1-13-20 deals with the interim reciprocal teaching license. The committee made no substantive changes

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15.1-13-21 this directed that the ESPB pursue the reciprocal acceptance of teaching licenses by other states. The ESPB was also directed by law to report the progress of their efforts to the committee. The ESPB made the report and the specific requirement was removed from the rewrite.

15.1-13-22 allows for the licenser of instructors of North American Indian languages. Such individuals have to have a BA degree, but not a teaching license. The concept is found in section 15-38-18.1 of the current law.

15.1-13-23 was enacted in the '97 session. It gives individuals who hold graduate degrees in counseling and who want to be employed as school guidance counselors 7 years in which to obtain a teaching license.

In this point in the rewrite, we get away from the point of issuing licenses, and we enter the complaint segment of the ESPB.

15.1-13-24 pulls language from several different sections. First an individual files with the board a complaint against a teacher or an administrator. This complaint has to state the complaint's charges, it has to be signed, and it has to include supporting documentation. When the board receives the complaint, it must be sent to the named individual. That individual is given 20 days in which to respond. If the individual responds, the board needs to review the complaint. No testimony is taken at this point. The board may decide to dismiss the complaint or determine that the charges are substantive and file a formal board complaint. In the latter case, the board then schedules a public hearing on the complaint. Subsection isn't new practice, but it is new language requesting actual practice. If the individual fails to file a timely response, the board can determine whether this is an admission of the charges and whether or not the license should be

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acted upon. It gives the board some discretion over whether or not they want to continue pursuing the complaint.

15.1-13-25 This section continues the chronicle of board action. After the hearing, the board can issue a warning or a reprimand, suspend the individual's license or revoke the individual's license. The grounds for taking action set forth in this section, the committee did a little bit of modernization. One of the grounds is still that the individual is incompetent, immoral, intemperate or cruel. We attempted to delve into these standards, but the committee thought that it should be the subject of an independent bill draft if anyone wanted to pursue that.

15.1-13-26 This section is taken virtually verbatim from present law. It calls for the denial of an application, an immediate revocation of the teacher's license if that teacher is found guilty of a crime against a child or as a sexual offense. The statutory section used in defining a crime against a child are listed in subsection 5 (see attached subsection for the list).

15.1-13-27 requires the board to give notice of the suspension or revocation to the business manager of the school district that employs the individual, to each county superintendent in the state, to the superintendent of public instruction. This individual is, under such circumstances, expected to surrender his/her license, and if the individual fails to do so, the ESPB may publish notice of the suspension or revocation in the official newspaper of the county in which the individual was employed.

15.1-13-28 like current section 15-36-15, it provides that the revocation of one's teaching license result in immediate termination.

15-13-29 This section sets forth the manner in which the inner-committee chose to address the teaching licenses of the administrators. If a complaint is filed against an administrator, the

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complaint goes to a subcommittee of the ESPB. The subcommittee is made up of the same ESPB members that currently make up the Administrator's Professional Practices Board. Two ESPB members who are administrators, the member who is the school board member, and the two ESPB members who are teachers and who have been appointed to the subcommittee by the ESPB. This subcommittee operates much as the APPB did, in terms of convening its meetings, selecting its chairmen, etc. Any action or determination by the subcommittee has the same force and effect as any action taken by the full board. The action can't be changed by full board, it can, however, be appealed to the courts.

15.1-13-30 provide that the venue for legal actions involving ESPB is Burleigh County

15.1-13-31 directs state's attorneys to notify ESPB when an individual who holds a teaching license is convicted of a felony or a class A misdemeanor.

Chairman Kelsch: Any questions?

Janet Welk: (Executive Director of the ESPB) during the process of the rewrite, the ESPB rules and laws, we had our Asst. Attorney General, Bill Peterson, go through them, review them, and the board believes and is very well aware of the rewrite and is in favor of the entire rewrite. We wish to thank the interim committee for their hard work.

Rep. Hunskor: Going back to pg. 2, I'm wondering why there was not one individual on the board that would not be associated with education when determining revoking licenses to get a different perspective. These are all people who are involved in the education system.

Welk: The makeup of the board, because of the educational board, involves teacher education, administrators, teachers and school board, and it's always been the interpretation that the school

