

2019 SENATE EDUCATION COMMITTEE

SB 2229

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

SB 2229
1/22/2019
31190

- Subcommittee
 Conference Committee

Committee Clerk Signature Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A bill relating to making up instructional time if school is canceled due to a no travel advisory.

Minutes:

Att. #1-Heckaman; Att. #2-Slade; Att. #3-Burkle; Att. #4-Ziegler

Chairman Schaible: Committee will come to order. We will be hearing SB 2229.

Senator Joan Heckaman, Dist. 23: *See Attachment #1.*

Senator Davison: Senator Heckaman, what is the penalty?

Senator Heckaman: They have to make up that time.

Senator Davison: So, bringing the kids back to school and educating them is a penalty?

Senator Heckaman. I am not understanding what you are meaning.

Senator Davison: I am not understanding that that is a penalty. That kids come back to school and get more education.

Senator Heckaman: Oh, ok, to make up that time, you mean. I think in some ways it gets to be a difficult situation if you get to the end of your three storm or two storm days at the end of school, you are going weekends or extending day length to make up these times. That is what my concern is. I understand what you are talking about is the number of hours per day that they are there and that they need their education. I do think there are other opportunities for schools to use in these situations that could compensate for those times that they are learning.

Chairman Schaible: There is another bill in the House that is going strictly by time. You are OK with that which would give a lot of flexibility on storm days and storm time.

Senator Heckaman: It gives flexibilities, but I don't know what flexibilities it writes in for storm issues. There is a problem in this bill too, in that lists the National Weather Service and that is not who lists the no travel advisories. DOT lists the no travel advisories. The National

Weather service lists weather advisories that administrators also use in their decision making process. There are two entities that should have been written into this bill – DOT for the no travel advisories and the National Weather Service for the weather advisories. The opportunities for learning can take place at home. I don't think this has ever been abused in the past and I am not sure why we went to the fact of tracking every hour that kids are not in school because our administrators are responsible administrators. If they weren't, they wouldn't be there. We need to give them credit for what they do and the tough decisions they have to make every winter.

(9:14) **Jay Slade: See Attachment # 2.**

Chairman Schaible: Why don't you just build in five storm days?

Jay Slade: Because we are mandated to have a specific number of days. We can go to school into June if we needed to, but we are dictated when our local REA starts with their training. We try to end before the end of May.

Chairman Schaible: But if you wanted to, you could add more storm days into your calendar.

Jay Slade: Definitely could.

Senator Davison: What is your last day of school this year?

Jay Slade: May 22nd or 23rd.

Senator Davison: Which is a Wednesday or a Thursday.

Jay Slade: I believe it is the 22nd.

Senator Davison: So the 23rd and the 24th could potentially be days to be used as make-up days if you needed to.

Jay Slade: I was under the impression that we couldn't use those last school days as storm days. I am not sure why.

Chairman Schaible: Seems strange to me, but... Senator Oban.

Senator Oban: Have you ever had any bus drivers say "I just won't go?"

Jay Slade: Ironic you ask me that, this morning we had to go two hours late and the choice to go was my choice, so I here in Bismarck and I had a bus driver that was upset that we didn't notify him right away and I had a few apologies to make. The answer is yes.

(15:10) **Elroy Burkle, Small Organized Schools: See Attachment # 3.**

(16:44) **Russ Ziegler, ND Council of School Leaders: See Attachment # 4.**

Chairman Schaible: We had earlier you can't schedule the last few days of school. Is that correct?

Russ Ziegler: I did ask Superintendent Vollmer and he indicated it makes it kind of iffy when you are waiting until the last few days with graduation set in there and other time sensitive issues.

Chairman Schaible: I understand that it messes up plans and schedules, but it is possible to put as many storm days in your calendar as you would like.

Russ Ziegler: I would defer to Superintendent Vollmer.

Senator Rust: I was of the opinion days that you couldn't schedule makeup days after graduation, because those kids are done. Essentially, scheduling days after graduation.

Russ Ziegler: I was under the same understanding, but maybe we will learn something from Dr. Vollmer.

Chairman Schaible: Other testimony.

Joe Kolosky, Department of Public Instruction: Part of my job at the Department of Public Instruction is to oversee storm days, makeup days, professional development, waivers. I've heard the question on the graduation, I have not found that in Century Code. I will go back and check on that for you. The problem is after graduation is the scheduling conflict. A lot of superintendents don't want to schedule that after graduation. Also, there are a few bills out there regarding this and I think you are aware of it. There is one on Russ mentioned the hours bill. Senator Heckeman mentioned another bill that could be combined. There is one more House bill 1170 that is the virtual education bill if a school district would close, they could make that up online. There are possibilities to combine some bills here so with that being said, I will take any questions you have.

Senator Rust: That directive came from the Department of Public Instruction and their logic was that graduating seniors were done and it made no sense to them. I know it isn't in the law, but rather a directive from the Department of Public Instruction.

Chairman Schaible: But there is no restriction on how many storm days that can be put into the calendar.

Joe Kolosky: No, there isn't. You have the basic days of 175 days a year, you have 951.5 hours for elementary students, and 1038 hours of instructional time in the high school. They can be waved as well with waivers and what not, but there are some numbers in the law that I know of. There is nothing after graduation or extra storm days.

Chairman Schaible: Do you know how many schools go over the time of hours/days?

Joe Kolosky: I can't say for sure, but I know a majority of them do.

Chairman Schaible: Can you explain that the only other way to get a waiver is through the governor?

Joe Kolsoky: Yes, the only other way is for the governor to make a declaration that you don't have to make up those days and right now he is of the opinion of not doing that.

Senator Davison: Fargo has not made up days based on the number of hours that they went. What is the process that they used to do that.

Joe Kolosky: I would have to dig into their work...

Senator Davison: Their days are longer and I just remember because I am on their feed.

Joe Kolosky: A lot of schools have that time built in, if so many days or hours built in so they don't have to make up that day.

Senator Davison: So technically, in a way you are already going by the number of hours to a certain extent anyway.

Chairman Schaible: I think Fargo is going more days than they have to and that is why they didn't have to make it up.

Senator Davison: Mr. Chairman, they specifically stated in their email that they made it up because of their longer days.

Chairman Schaible: But I mean that they are choosing to go more than the required number of days.

Senator Davison: Sure, because they extend their professional development days.

Senator Rust: We haven't talked about time on task for a long time, but I became very acutely aware of something one of the last years I was teaching/administrating. I was amazed at the number of days that we didn't have class for one reason or another. It is probably in the neighborhood of 20 to 25 days a year. What is the Department of Public Instruction attitude on time on task and the number of required number of days, also, what is the FFA group gone for a week and the instructor goes with them and those kids get four days of substitutes or you know what I mean? The same thing happens when the music contests come up. You end up with 30% of the kids so you couldn't have much of a class. What is the attitude on time on task?

Joe Kolosky: Our attitude is of course that every second should be focused on education – doing the lessons, the activities that best prepare our students for graduation and life after school. From my perspective on the law, we don't have the ability of tracking what everyone is doing. That's a local control decision. We have trust in our administrators that if they are leaving class, it is for those good reasons, they are making up that time with either an activity that is related to the class they are leaving. The teachers are making themselves available for students if they have any questions. Our attitude, of course, is that we want those students

to have the best education possible for the hours they are in school, but monitoring it, we don't have that capability.

Chairman Schaible: Thank you. Any other testimony. Since we had a request to have Dr. Vollmer back, could you come to the podium.

Mark Vollmer: We do in Minot put our days on the end of the year. Graduation is extended out past. What we were told by the Department of Public Instruction is that if we would put those days on the end of the year and we had graduation 500 graduates were not going to change the day of graduation in March, so we would not get foundation aid payments for those seniors because they would effectively be done. There was a time when seniors graduated a week before the end of the year and over time we continued to tighten it up. I understand at the end of the day it is a difficult decision at 2:00 pm should we get those buses out on the road now or should we wait. The other issue is we get a lot of grief from parents when we send buses out at the end of the day when there is no travel advised. Highway 83 may have no travel advised, but the city of Minot has no limitations, so we have a lot of different effects with it. I think the bill allows a little clarity for administrators.

Senator Oban: On the one hand we hear administrators saying, "We have too much to do, we don't have enough time. You keep putting more on our plates." And then, on the flip side, everybody supports not making up these days. Can you see how that is a bit of a contradiction?

Mark Vollmer: I know you gave me a pass earlier and I thought I was going to get out of here without having one of the senators going after me. I'll lay it on the line this way: we have to protect academic time and we know that. I won't make any comment on the other bill-the extended hours bill. I think there will be a lot of lively discussion about that bill. I do think there may be some issues in regard to teacher work days and contracts as we dig into that. I believe all of this needs to get down to reason. I operate in the best ability I can under law and now we make up minute for minute. If I feel I need to get buses on the road I am going to do that whether we are making up time or not. We also have to remember that if I have a parent that works at Trinity Emergency room, they don't get a snow day and what are they going to do with their kids? That's all stuff that enters into that. At the end of the day, a little flexibility, I think by saying if you need to release at 2:00 and your day is done at 3:00, do you tack on an extra hour or 15 minutes a day, we make it work. It does add a little flexibility in that. I don't see that as "You missed a day, so what, no big deal." We have a job of educating kids and we need to be sure we have the time to do that. This is more of a flexibility tweak I see.

Senator Oban: Do you know how often Minot would have closed because of weather if there wasn't a National Weather advisory and a DOT did a not travel advisory?

Mark Vollmer: Depending on who you ask, I am told we don't close nearly enough while others tell me we close too much. Two years ago, we missed three full days and we had one day we had to make up above and beyond the two days we had built into our calendar. I counted it up the other day – in eight years being a superintendent, not including the waiver after the flood, but I think we have probably missed five days of school. But, I don't have many rural routes. There may have been days where we didn't run our rural routes but did

have school for those that could get there. It is very different in regard to the highway 83 corridor. We also deal with Minot Air Force Base – sometimes they will say, depending on who the commander is, we are shutting down the base. Well, we have kids to get to and from the base, we have staff to get to and from the base. Our situation is unique. In general, if we feel we can have school and be safe, we have school. I have also been a principal in a rural community and when you can't see anything in front of you, you don't have school.

Chairman Schaible: Thank you Mark. With that, we'll close the hearing on SB 2229.

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

SB 2229
2/12/2019
32565 (7:51)

- Subcommittee
 Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A bill relating to making up instructional time if school is canceled due to a no travel advisory.

Minutes:

No Attachments

Chairman Schaible: Committee we are looking at SB 2229.

Senator Rust: One of the things that is precious is uninterrupted student/teacher time. We have too much of that happening in schools – where kids are gone – they are all good reasons. But, we do need to have kids in desks and in classrooms. You can schedule days, as many as you want for that matter, most schedule a couple and probably even a third one, so that if weather enters into the picture. I don't know that I am ready to give up that time. I understand this is a good one – I understand that here you have inclement weather and maybe it is 2:30 and there is an hour and a half left in the day and you would really like to send them out and not penalize everybody, but the fact of the matter is, kids lost one or two classes.

Senator Davison: Is that a motion of some kind? (Laughter) I was just kind of trying to clarify the comments is all I was trying to do, Mr. Chairman.

Chairman Schaible: You know I understand what they are trying to do, I have a couple of problems with this. I don't like the weather service team dictating when we are going to forgive school days. I understand the reality of and seriousness of not having school when it is dangerous for kids. I think that is pretty obvious for every administrator that has to make this call and it is not a call they like to make, but this bill is more about forgiving those days when the weather service has declared a no travel advisory. It's not the idea that is this a safety issue whether the kids should be in school or not – if they shouldn't be there, they shouldn't be there. What this is about is is that these days will be forgiven. I had a conversation yesterday about school closures because there is a lot of interest in – right now we are running into a lot of trouble with our schools going to closures and we have – there is another bill – it is not on our side, but it is talking about changing the time from days to hours and minutes, which I think gives more flexibility to schools, but it is not going to solve this problem. The other thing I talked to them is the survey they have done with all the schools that are already looking for school closures right now. The most serious ones we have right now is

one or two days. As bad as it has been and we have a lot of winter left, so I am not saying it isn't going to get a lot worse, but we are looking at one or two days for our most severe schools. I don't really think this is a tremendous problem and being part of a school board and setting up calendars, I know how that worked. I talked to some administrators that have said, "We are on our fourth or fifth day." I asked how many days they built into their calendar and they built in three or four. The days they put them on were not the best ones to use as snow days. There again, like I said, the biggest problem I have is this would be an automatic forgiving of those days and I have heard costs of \$6 million a day if every school would be closed and I'm not sure what that is, but to me, I like the days to hours instead of that and I think schools need to take more responsibility in setting up snow days. If we do have issues, which we do now, the governor does have the right to forgive days on a school by school district basis. I think that is appropriate right now.

Senator Rust: Sometimes we would schedule one of the storm days to be Easter Monday and maybe a different day – maybe President's day or another. Then what would happen is Easter Monday would come and go and then you'd have a two-day blizzard. We have had some blizzards on April 29th and some in May where we have had to call off school. Those are difficult ones. Now we have already used out days out. What we used to do is schedule school to get out on Wednesday, graduation on the following Sunday and then if something happened, you have Thursday and Friday to make up, which was a much better plan – but sometimes the calendar didn't always help you out there. I understand it is a tough deal, but most superintendents are going to go on a safety. Most of them are not quite willing to say I am going to hold school as long as I can because I've got to get this day in and I don't want to make it up. We are willing to bite the bullet and nope, we need to get these kids out of here, I don't care when we have to make it up. If you want to argue with that, periodically they review my contract.

Chairman Schaible: One of the other questions is if we would go to rather than by day count or by hour and minute and talking to the governor about that if we had that would that be available now? He says they would have a real problem forgiving days on any day before that because it is - he says he doesn't have a problem going forward, but anything in the past he is uncomfortable with. I kind of agree with that after we talked a little bit – that makes a lot of sense. Going forward, when you are planning for that – but if we have a system like that then they can – they won't have to make up a day, they can make up hours and minutes which to me makes a lot better solution, so if you can just go twenty minutes longer or whatever, then you have a solution. I think we are working to this end. But I don't think this is the right way to do it.

Rust: I Move to Do Not Pass SB 2229.

Oban: Second.

Roll Call taken: 7 Yeas; 0 Nays; 0 Absent.

Motion to Do Not Pass Bill SB 2229.

Senator Schaible will carry the bill.

Date: 2-12-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 8B 2229

Senate Education Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rust Seconded By Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible:	✓		Senator Marcellais:	✓	
Vice-Chairman Fors:	✓		Senator Oban:	✓	
Senator Davison	✓				
Senator Elkin:	✓				
Senator Rust:	✓				

Total (Yes) 70 No 0

Absent _____

Floor Assignment Schaible

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

REPORT OF STANDING COMMITTEE

SB 2229: Education Committee (Sen. Schaible, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2229 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2229

SB2229
1-22-19
Att #1
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SENATE EDUCATION COMMITTEE

SB 2229

SENATOR JOAN HECKAMAN

Chairman Schaible and Members of the Senate Education Committee:

I am Senator Joan Heckaman from D-23 and I live in New Rockford.

SB 2229 addresses the issue of make up time for K-12 schools when no travel is advised.

This bill came from one of the superintendents in a school in my district. And, that district has students that may be as far as 50 miles away from their high school. How do these administrators respond when it is their call on sending out buses? How do parents respond when there are still buses going out, they live a long distance from the school and the visibility is worse in their area? How do staff respond when needing to head to work, as many teachers and staff live several miles away from their base of employment?

This bill is not exactly written how I envisioned the process, so I will provide a little further explanation to you. This bill is meant to address the time slots between when DOT issues the first No Travel Advisory and when it is lifted, and school send out buses. In the drafting of this bill, the national weather service is referenced. I believe it should be the North Dakota Department of Transportation. If weather is inclement, weather advisories may be issued, and schools typically delay the start of school for 2 hours. This is true after a weather event also. In this bill, if this happens, schools would not have to make up that time. I would ask that you look at an amendment that would address late starting time the same way it would if schools dismiss early because of inclement weather. I believe this would take us back to the days when late starts and early outs did not have to be made up.

There are options for schools to continue student learning. I do understand that currently some schools send home work packets with students in case of a late start or a storm day. With the increased utilization of technology, remote learning opportunities could be an opportunity for learning to continue.

I trust our North Dakota administrators. I do not believe they would abuse this opportunity. They are making tough decisions often in the winter that affect our students and staff because of the regulations we have set in place. Current regulations insinuate we do not trust the local authorities to decide in the best interest of the safety and well being of students and staff. Those decisions should be made at the level where inclement weather is present.

I also know that there is a bill in the House changing the times students need to be in school from days to hours. Maybe there could be a melding of these ideas across that piece of legislation that looks at the liability issue and demands that are placed on administrators in late starts and early dismissals for storm days.

Thank you for your attention and I would stand for any questions you may have.

Senator Joan Heckaman

SB2229
1-22-19
AA #2
p 1 of 1



DAKOTA PRAIRIE SCHOOL DISTRICT

Andrew Mondry, Principal
Dakota Prairie High School
PO Box 37 • 518 4th Ave
Petersburg, ND 58272
Phone: 701-345-8233 • Fax: 701-345-8251
Andrew.Mondry@k12.nd.us

Jay Slade, Superintendent
701-345-8233
Jay.Slade@k12.nd.us

Jackie Bye, Principal
Dakota Prairie Elementary
PO Box 337 • 101 Nyhus Avenue
McVillie, ND 58254
Phone: 701-322-4771 • Fax: 701-322-5128
Jackie.Bye@k12.nd.us

Mr. Chairman and members of the committee, my name is Jay Slade and I am the Superintendent of Dakota Prairie School District and it is a privilege to be here today with you. I am here today in favor of Senate Bill 2229 for many reasons.

It is my understanding that the purpose of Senate Bill 2229 is to amend language in North Dakota Century Code 15.1-06-04 making it so instructional time could be waived if a no travel advisory is placed on any or all of a particular portion of a school district.

I believe this amendment, to already established law, is beneficial for many rural school districts across the state. The Dakota Prairie School District encompasses over 900 square miles of area, is made up of 8 counties, and currently runs 9 bus routes to all of those areas. Though DP may be unique in its size, geographical make up, and number of bus routes, we are not unique when it comes to making a decision on whether or not to have school aged children being transported on roads when weather conditions make that proposition unsafe.

As of right now, my unofficial policy, as well as my predecessor's unofficial policy was that if a no travel advisory is placed in any area of our school we will not be having school until that advisory is lifted. As I am sure you can imagine, this places unnecessary stresses on all of our stakeholders. The current mandate from NDDPI states that any educational time lost during the course of the school year is required to be made up. This policy also creates a system in which a school must build in "storm days". The purpose of these storm days are to make up that lost instructional time due to any number of reasons. The average instructional days Dakota Prairie Schools have missed over the past 5 years is 3 days per year. In all but 2 of those instances of missed instructional time over the past 5 years, there was a travel ban or advisory in place. These past decisions not to have school were made with the safety and security of our kids in mind and schools and students should not be punished based upon a decision to keep everyone safe.

Opponents of this idea may offer the counter argument that expecting stakeholders to complete what has already been required is not a punishment, but merely fulfilling their contractual obligation. I would respectfully disagree with that assertion. By mandating all stakeholders make up any lost instructional time, it creates a sense of uncertainty and possibly irresponsible decision making. At Dakota Prairie, not only would we alter the plans of approximately 250 families plus 50 plus staff members, we are also forced to make difficult decisions that may be unsafe for all involved. However, with the passage of Senate Bill 2229, a large majority of these decisions would not be forced upon school administrators any longer. The concern of whether or not to have school would be alleviated, school districts and school administrators could be comforted by the idea that weather related make-up days, and schools could focus on their largest priority, the education of North Dakota's children.



North Dakota Small Organized Schools

SB 2229
1-22-19
Att #3
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Mr. ElRoy Burkle
Executive Director
1419 9th Ave NE
Jamestown, 58401
Eburklendsos@gmail.com
701-230-1973

Mr. Brandt Dick
President
PO Box 100 – 123 Summit Street
Underwood, ND 5857
Brandt.Dick@underwoodschool.org
701-442-3274

Mrs. Janet Brown
Business Manager
925 Riverview Drive
Valley City, ND 58072
janet.brown@k12.nd.us
701-845-2910

January 18, 2019

Chairman Schaible and Members of the ND Senate Education Committee,

For the record, my name is Mr. ElRoy Burkle, Executive Director of North Dakota Small Organized Schools .

NDSOS goes on record of supporting SB 2229 and recommend a 'do pass.' Making weather related decisions is one task I clearly do not miss in my semi-retirement. NDSOS supports this bill to ensure that this issue does not get lost with all the numerous school calendar bills being considered this session. I do believe, that HB 1346 may be better as the language is all compassing in addressing hours of instruction and weather delays.

Please support SB 2229 so the topic remains in the conversation.

Thank you for your time and I shall stand for questions.

Respectfully,

s/s Mr. ElRoy Burkle

Mr. ElRoy Burkle, Executive Director
ND Small Organized Schools
1419 9th Ave NE
Jamestown, ND 58401
Cell: 701-230-1973 Email eburklendsos@gmail.com

Revised: January 18, 2019

File: SB 2229 Making up instructional time due to no travel advisory19.0944.0100

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The mission of NDSOS is to provide leadership for the small/rural schools in North Dakota and to support legislation favorable to their philosophy while opposing legislation that is harmful.



SB 2229
1-22-19
Att #4
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SB 2228 - Testimony in Support

Good afternoon Senate Education Committee we stand before you in support of SB ²²²⁹~~2228~~ on behalf of the North Dakota Council of Educational Leaders which is the organization that serves our school Superintendents, Principals, CTE Directors, Technology Directors, AD's, County Superintendents, Business Officials and truly every school leader with the exception of teachers and school board members.

Senate Bill 2228 would make it so it would not be required to make up the time for an early release if it is due to a no-travel advisory by the National Weather service. School districts are put into a precarious situation when the decision must be made on school cancelations because of weather. It is always a no-win situation. If school is canceled, there are calls about why and if school is not canceled there are also calls about the reasons. That decision is made even harder when there is a no-travel advisory. One would think it would be easier, but it is not. This bill would take the required school time off of the decision makers mind when there is a no-travel advisory issued. It is always a difficult decision whether to cancel school. Keeping everyone safe during these weather-related events is always on the top of the mind of the individuals making the decisions. Having this guidance will help with that decision.

There is also another bill, HB 1346, that will also help with weather related closures. This bill will make the change the requirements from a number of days to a total number of hours. All of our neighboring states and others in the north utilize this method for weather related closures.

NDCEL respectfully requests a Do Pass on SB 2229.