

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EDUCATION SERVICES COMMITTEE

Thursday and Friday, September 17-18, 1998  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Ray Holmberg, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Ray Holmberg, David O'Connell, Randy A. Schobinger, Vern Thompson; Representatives Ole Aarsvold, Linda Christenson, David Drovdal, Howard Grumbo, Lyle L. Hanson, RaeAnn Kelsch, David Monson, Dennis J. Renner, Laurel Thoreson

**Members absent:** Senators Pete Naaden, Terry M. Wanzek, Dan Wogsland; Representatives Thomas T. Brusegaard, John Mahoney

**Others present:** See Appendix A

**It was moved by Representative Aarsvold, seconded by Representative Kelsch, and carried on a voice vote that the minutes of the previous meeting be approved as mailed.**

At the request of Chairman Holmberg, Mr. Dennis Steele, Assistant State Director, Vocational and Technical Education, presented testimony regarding the coordination of statewide access to work force training.

Mr. Steele said the state is making progress toward meeting its work force training needs. He said the impact of technology will make these activities continue to grow. He said the State Board for Vocational and Technical Education's mission is to cooperate with other state agencies and private organizations to provide work force training programs in a manner that will allow statewide access to the programs. He said there are partnering activities with higher education, Job Service North Dakota, the Department of Economic Development and Finance, the Department of Public Instruction, and the Workforce Development Council, among others. He said there are also industry partnerships with entities such as the North Dakota Home Builders Association, the Association of Heavy Equipment Dealers, Implement Dealers, the Greater North Dakota Association, and the North Dakota Building and Construction Trades Association.

At the request of Chairman Holmberg, Mr. Don Roloff, State Board for Vocational and Technical Education, presented testimony regarding work force development. He said the board has been involved in customized training for some time. He distributed a document entitled *Developing the Workforce*. The document is attached as Appendix B.

Mr. Roloff said the definition of work force training provides a broad perspective regarding work force training. He said it involves an all-encompassing continuum of education that includes kindergarten through grade 12, postsecondary, graduate programs, and continuing education. He said work force development is geared toward serving the individual. He said there is a critical shortage of skilled labor in virtually every area.

In response to a question from Representative Christenson, Mr. Roloff said work force training impacts the retention of trained employees by companies.

In response to a question from Representative Aarsvold, Mr. Roloff said industries need to recognize that cheap labor is not the only thing that will keep them productive.

Mr. Steele said work force training is a long-term commitment. He said there are 457 high school vocational and technical education programs. He said enrollment in such programs has risen in the last two years. He said, in the programs, students receive an opportunity to explore various careers and to see first-hand how their academic skills can be used in a specific area. He said the students are also able to gain entry-level skills in many areas.

Mr. Steele said vocational and technical course curricula are driven by business and industry. He said that is the group that tells the schools what they want students to know.

In response to a question from Representative Thoreson, Mr. Steele said there is a lot of misinformation about four-year college programs versus two-year technical programs. He said four-year colleges often do not meet our labor needs.

In response to a question from Representative Christenson, Mr. Steele said if a long-term study were done regarding people who have a vocational and technical background, it would show they have a very good standard of living. He said the State Board for Vocational and Technical Education has been working very hard to distribute information regarding the opportunities that are available to students who have occupationally specific training.

Mr. Steele said many students enrolled in vocational and technical education programs develop marketable skills before they complete their programs.

Mr. Steele said the demand for vocational and technical training is growing and expanding rapidly. He said during this legislative session the State Board for Vocational and Technical Education will be requesting additional funding to meet the work force needs of North Dakotans through customized training.

In response to a question from Senator Holmberg, Mr. Steele said there is a significant amount of cooperation between and among the interested parties.

At the request of Chairman Holmberg, Mr. Fraine Zeitler, Workforce Development Council, said programs currently funded under the Jobs Training Partnership Act will be block-granted, and cooperative and strategic plans will be required. He said during the past fifteen months surveys of industries in this state and outside this state were completed. He said the surveys identified technologies that are coming and helped program providers to adapt curricula to their needs. He said there is an ongoing effort to jointly identify work force needs and improve training. He said there is also an effort to identify short-term or immediate work force needs. He said concerns about which entity is to provide which services requires ongoing discussions. He said there is no consensus regarding what is a work force development system. However, he said, there is an improved dialogue among the private and public sector entities. He said our needs greatly exceed the amount of dollars available.

Chairman Holmberg asked that the committee consider the bill draft to enact North Dakota Century Code (NDCC) Title 15.1. He said it was his plan to review and discuss the bill draft by chapters. He said Chapter 1 relates to the State Board of Public School Education. He said the chapter maintains the current board composition and, as earlier directed by the committee, raises the compensation of board members from \$50 to \$62.50.

With the permission of Chairman Holmberg, Ms. Leah Ann Schneider, Assistant Attorney General representing the State Board of Public School Education, said the board is concerned that the current statutory scheme for selecting members of the board is no longer representative of the population.

In response to a question from Representative Monson, Senator Holmberg said prior to the 1997 legislative session the membership of the State Board for Vocational and Technical Education and the State Board of Public School Education was identical. However, he said, during the 1997 legislative session, additional members were added to the former board, and therefore it would be appropriate to again reference the State Board of Public School Education, the State Board for Vocational and Technical Education, and the State Board of Higher Education in NDCC Section 15.1-01-02.

**It was moved by Representative Monson, seconded by Representative Hanson, and carried on a voice vote that Section 15.1-01-02 be**

**amended by referencing the State Board for Vocational and Technical Education.**

Chairman Holmberg said that Chapter 2 deals specifically with the Superintendent of Public Instruction and Chapter 3 deals specifically with the Department of Public Instruction.

With the permission of Chairman Holmberg, Mr. Tom Decker, Department of Public Instruction, presented comments regarding the bill draft. He said there has not been enough time for department personnel to adequately review the bill draft. He said once they do review it thoroughly, there will probably be some word changes.

Chairman Holmberg said Chapter 4 sets forth the Compact for Education, as entered into in 1967, and Chapter 5 pertains to the North Dakota Educational Telecommunications Council.

With the permission of Chairman Holmberg, committee council said that Section 15.1-05-01 states the purpose of the North Dakota Educational Telecommunications Council, and Section 15.1-05-06 contains virtually identical language.

**It was moved by Representative Thoreson, seconded by Representative Monson, and carried on a voice vote that Section 15.1-05-01 be deleted.**

With the permission of Chairman Holmberg, Representative Aarsvold said we are on a collision course with the Administrative Rules Committee. He said the Administrative Rules Committee has tried to require the adoption of very specific rules and to require their specific enforcement. He said he was concerned about how this effort to rewrite Title 15 would mesh with rules already under consideration.

Chairman Holmberg said Chapter 6 pertains to schools.

With the permission of Chairman Holmberg, Dr. Gary Gronberg, Department of Public Instruction, said Section 15.1-06-06 causes a great deal of difficulty for the department. He said the section requires the Superintendent of Public Instruction to approve both public and nonpublic schools. He said if a public school does not meet approval criteria, the Superintendent may withhold a portion of the school district's foundation aid. However, he said, if a private school does not meet approval criteria, no consequence or penalty exists either for the school or for parents who send their children to the nonapproved private school. He said there are several nonapproved schools at this time.

Chairman Holmberg said the committee can give direction to the Superintendent through statute or through the committee record. He said one area that clearly needs additional work is that of school approval. He said that area should be studied further next year.

In response to a question from Representative Monson, Dr. Gronberg said the committee should consider either removing the requirement that schools be approved or inserting some consequence for

parents who send their children to nonapproved schools.

In response to a question from Senator Thompson, Dr. Gronberg said parents at one time were prosecuted for educating their children at home. He said when home education became permissible, the penalties for educating children at home were removed.

Dr. Gronberg said perhaps there could be prosecution of the people who operate nonapproved nonpublic schools.

In response to a question from Representative Christenson, Dr. Gronberg said there are currently six nonapproved schools.

In response to a question from Representative Drovdal, Mr. Roger Rieger, Director, Secondary Education, Department of Public Instruction, said one of the six schools was not approved because approval requires the signature of the county superintendent, and the individual to whom the county superintendent's duties were assigned failed to submit the necessary paperwork in a timely fashion.

Mr. Rieger said one nonpublic school is located in Aneta. He said it is operated primarily for students whose parents reside out of state. He said the school chose not to return approval forms required by the Department of Public Instruction. He said there is also a nonapproved Mennonite school. He said that school is not approved in part because it employs noncertified teachers.

In response to a question from Representative Christenson, Mr. Rieger said the Department of Human Services has no cause to step in unless there is evidence of abuse or neglect.

Representative Kelsch said state's attorneys seem reluctant to prosecute this issue.

Mr. Rieger said the state can withhold funds with public schools. He said with nonpublic schools, that option does not exist.

Chairman Holmberg called on Ms. Lois Olson, County Superintendent of Schools, Walsh County, who said the Mennonite school referenced earlier is located within her jurisdiction. She said the school has been in operation for a long time. She said she was unable to find a state's attorney who would prosecute the administrators of the school for operating an unapproved school. She said the problem is a very delicate one.

Representative Monson said the law as written does as much as possible. He said if a state's attorney chooses not to prosecute, that is a local issue that the residents can address at the next election.

Representative Christenson said we are losing sight of what is good for the children.

Ms. Olson said the Mennonites have built their own building. She said the concern with that school is uncertified teachers. She said the Mennonites claim

that they do not allow a teacher to teach a class unless the teacher has completed the class herself.

Chairman Holmberg said we have done about all we can do right now. He said it needs to be further addressed by the Legislative Assembly.

With the permission of Chairman Holmberg, Mr. Max Laird, North Dakota Education Association, asked whether Section 15.1-06-05, which deals with modification of the school calendar, could be included under the general waiver provisions of Section 15.1-06-08.

Chairman Holmberg said the general waiver provisions in Section 15.1-06-08 require the involvement of the Superintendent of Public Instruction and a waiver committee consisting of one member appointed by the North Dakota Education Association, one member appointed by the North Dakota Council of Educational Leaders, and one member appointed by the North Dakota School Boards Association.

**It was moved by Representative Kelsch and seconded by Senator Thompson that Section 15-1.06-05 be combined with Section 15.1-06-08.**

At the request of Chairman Holmberg, committee counsel reviewed the content of both sections. Committee counsel said the committee had earlier directed that every effort should be made to eliminate sections having multiple concepts.

Representative Monson said the bill draft flows better the way it is now. He said there is a difference between requiring a waiver to be granted by a committee and authorizing the Superintendent of Public Instruction to grant waivers.

On a voice vote, **the motion failed to pass.**

Chairman Holmberg said Chapter 7 addresses matters relating to school districts. He said he had met with representatives of the Fargo school board and obtained their assent to eliminate sections of Chapter 15-51 that were not important to their operation. He said other sections were incorporated into existing provisions, and therefore, the rewrite does not contain a separate chapter relating to the Fargo School District.

Representative Monson said under present law the board of a school district is directed to purchase a United States flag and display it on the grounds of each school in the district. He said there might be occasions when a school district is given a flag and would have no reason to purchase one.

**It was moved by Representative Monson, seconded by Representative Thoreson, and carried on a voice vote that Section 15.1-06-17 be amended to require the display of a United States flag but not its purchase.**

Chairman Holmberg asked the committee to consider Section 15.1-07-04. He said present law uses passive language to require that the notice of an election clearly states the question posed to the electorate. He said unless the committee members have other suggestions, the committee should assent to the

section as rewritten. He said the rewrite gives a school board the specific duty to ensure clarity of the notice.

Chairman Holmberg said the committee should consider eliminating the sample ballot language found in Section 15.1-07-05. He said because the present language requires only that a ballot include "substantially" the same language, the statutory example did not appear to be necessary.

**It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that Section 15.1-07-05 be amended by deleting the sample ballot language.**

Chairman Holmberg said Section 15.1-07-14 addresses qualified electors and subsection 2 of that section specifically references persons who reside on Air Force bases and their participation in school district elections. He said Air Force bases have their own school districts. He said the Grand Forks School District does not receive impact aid but receives funding directly from the Air Force base school district.

Representative Aarsvold said Air Force bases do have school boards, but the board members are appointed by the base commander.

In response to a question from Representative Hanson, Senator Holmberg said college students who meet the electoral requirements of this state can vote in any election.

Senator Thompson said residents of elementary school districts are not permitted to vote for school board members in the district to which they send their high school students.

**It was moved by Representative Drovdal, seconded by Representative Kelsch, and carried on a voice vote that subsection 2 of Section 15.1-07-14 be deleted.**

Chairman Holmberg asked the committee to consider Section 15.1-07-20.

With the permission of Chairman Holmberg, committee counsel said Section 15.1-07-20 requires that an individual who is employed to prepare or serve school lunches obtain a health certificate signed by a physician stating that the individual is not afflicted with any communicable disease. Committee counsel said the committee may wish to clarify whether students who prepare or serve school lunches are required to obtain health certificates as well.

At the request of Chairman Holmberg, Ms. Kathy Grafsgaard, Department of Public Instruction, presented testimony about students preparing or serving school lunches. She said it is the department's interpretation that students are not involved in the preparation or service of school lunches and therefore do not need a health certificate. She said when one is looking at communicable diseases, the act of food preparation is more critical than the act of food service. She said this is an area that is getting attention, and the department is working with the

State Department of Health to have the requirement for a health certificate removed from the law.

Chairman Holmberg said Chapter 8 relates to military installation school districts. He said Section 15.1-08-02 reflects a request made by Dr. Mark Sanford, Grand Forks Superintendent of Schools, at an earlier meeting. He said present law provides that vacancies on a military installation school board are to be filled by the Superintendent of Public Instruction in consultation with the base commander. He said the rewrite provides that the remaining board members could fill vacancies.

In response to a question from Representative Aarsvold, Senator Holmberg said Air Force base school boards do not directly operate their schools. He said they contract for their operation.

At the request of Chairman Holmberg, Dr. Marv Erhardt, Director, Leadership in Education Administration (LEAD) Center, presented testimony regarding the development of training programs for teachers and administrators. His testimony is attached as Appendix C. He said the research being done about the human brain and how it processes information will be instrumental in the development of new teaching strategies.

Senator Holmberg said during the last session the legislature appropriated \$25,000 to the LEAD Center for this project.

In response to a question from Senator Holmberg, Dr. Erhardt said they were able to develop an amicable working relationship with personnel from the teacher learning centers.

In response to a question from Representative Grumbo, Dr. Erhardt said the first phase of the project involved two days and took place prior to the start of school. He said, therefore, no teacher-student contact days were lost. He said the second phase will take place on Friday evenings and Saturdays. He said some of the appropriation will be used to pay stipends and travel expenses.

In response to a question from Representative Thoreson, Dr. Erhardt said there are parts of the brain that shut down and do not allow learning when fear or intimidation is present. He said, as educators, we have known that intuitively. He said we now have research that supports our intuition. He said we are also looking at factors that help children retain the information they obtain.

Senator Holmberg said brain research is also showing us when it is most advantageous to teach a foreign language. He said things like that often involve local decisionmaking.

Chairman Holmberg said Chapter 9 relates to school boards.

In response to a question from Senator Holmberg, Ms. Schneider said in a reorganization plan, there must be included reference to the manner in which new school board members are to be elected. She said if the plan is approved, the reorganization

election takes the place of an election otherwise required under Chapter 15.1-09.

Chairman Holmberg requested that Ms. Schneider work with the Legislative Council staff to clarify lines 17 through 21 on page 40 of the bill draft.

Chairman Holmberg said because the committee has directed the removal of other sample ballot language, perhaps the committee would want to also remove the sample ballot language in Section 15.1-09-10.

**It was moved by Representative Monson, seconded by Representative Drovdal, and carried on a voice vote that the sample ballot language found in Section 15.1-09-10 be deleted.**

Senator Holmberg said the Legislative Council is in the process of determining whether electronic notice qualifies as sufficient notice when a statute calls for written notice.

Representative Monson said Section 15.1-09-32 requires newly elected school board members to attend a workshop hosted by the North Dakota School Boards Association. He said the problem is that often they do not attend, and the law has no provision to make them attend.

In response to a question from Senator Holmberg, Ms. Schneider said extracurricular activities are those outside any activities mandated by statute.

With the permission of Chairman Holmberg, Ms. Bev Nielson, Assistant to the Executive Director, North Dakota School Boards Association, said extracurricular activities are school-related and noncurricular activities are not school-related. She said a community jazz festival would be an example of a noncurricular activity.

Chairman Holmberg asked the committee to examine Section 15.1-09-42. He said a literal reading of the section, which is current law, provides that a school board must allow a district superintendent, school principals, and teachers to attend any meeting of an educational association without a loss of pay.

In response to a question from Senator Thompson, Mr. Laird said there are a variety of in-state and out-of-state meetings and conferences that require teacher attendance. He said we have some districts that do not have substitute teachers, and those districts are examining the reasons for which teachers are allowed leave. He said it would be appreciated if representatives of the North Dakota Education Association and the North Dakota School Boards Association were permitted to discuss this section with the Legislative Council staff and determine how best to amend it.

Ms. Olson said present Section 15-47-13 is unclear, but it is intended to reference both census and enumeration forms.

Chairman Holmberg asked Ms. Olson to work with the Legislative Council staff and determine how best to amend Section 15.1-09-46.

Ms. Schneider said that one can elect school board members at large, with or without geographical areas, or one can have geographical areas, and in this case only those residents of the geographical areas can elect candidates from within the geographical areas. She said current law is unclear in this area.

Representative Drovdal said when some school districts reorganized, they made agreements as to the areas from which candidates must come.

Chairman Holmberg said this section is not as clear as it can or should be. He asked if Ms. Schneider would work with the Legislative Council staff to propose an amendment to subsection 4 of Section 15.1-09-01 which would accurately reflect the necessary clarification.

In response to a question from Senator Holmberg, Ms. Schneider said the intent of present Section 15-29-06, which is rewritten as Section 15.1-09-05, is that the State Board of Public School Education only appoints the number of board members needed to achieve a quorum and then the school board itself fills the rest of the vacancies.

Ms. Nielson said subsection 2 of Section 15.1-09-05 creates confusion. She said her interpretation is that the appointee of the State Board of Public School Education may serve only until the school board is able to legally and technically fill its own vacancies.

Representative Kelsch said this area is extremely gray.

Senator Holmberg said he tends to interpret the section in the way Ms. Nielson described. He said it is his understanding that the individual appointed by the State Board of Public School Education may serve only until a school board is in a position to handle its own vacancies.

Representative Aarsvold said the State Board of Public School Education should appoint a quorum and then that new board should fill the remaining vacancies. He said after that the State Board of Public School Education appointee should step down, unless the individual is reappointed by the newly configured board.

Ms. Ioane Schmidt, President, North Dakota County Superintendents Association, said a school board should be required to notify the county superintendent if a vacancy exists.

Chairman Holmberg said the Legislative Council staff, Ms. Schneider, and the North Dakota School Boards Association should meet to determine how best to amend Section 15.1-09-05.

Ms. Nielson said another practical problem exists on page 41, lines 7 and 8. She said the language in the section, which reflects current law, requires that the holdover candidate serves until the successor is elected and duly qualified. She said the Secretary of State presumes there is a vacancy if a person who is elected is not qualified. She said perhaps the

committee could consider inserting language into Section 15.1-09-05 to clarify the causes under which a vacancy may be deemed to exist. She said the vacancy concept under current law appears to apply to seated candidates. She said problems are encountered when holdover candidates who are rejected by the people cannot be relieved of their duties until their successors are qualified.

Representative Aarsvold said a conference with the Secretary of State would help the committee determine an appropriate amendment for the section.

Senator Thompson said he believes that a board requires a quorum even to accept a resignation.

Ms. Nielson said, with respect to Section 15.1-09-32, which requires newly elected school board members to attend a workshop, it is considered important to have school board officials attend a workshop. She said the legislature could require that all candidates for election to a school board attend a workshop or engage in some other knowledge acquisition as a condition of running for office. She said the North Dakota School Boards Association is happy with the people that voluntarily attend their workshops. She said, if read literally, Section 15.1-09-42 could cause a lot of teacher absences. She said it needs to be amended so that it conforms to reality.

Chairman Holmberg said Chapter 10 deals with county committees and Chapter 11 relates to county superintendents of schools.

Ms. Schneider said many of the duties that a county superintendent must undertake in connection with the role of secretary to the county committee have never been placed in statute, and yet those duties are of vital importance to the State Board of Public School Education in annexation, reorganization, and dissolution proceedings. She said if a board of county commissioners chooses not to employ a county superintendent but instead designates the duties of a county superintendent to one or more individuals, a large number of duties will be left unassigned because they are not codified.

In response to a question from Senator Holmberg, Ms. Schneider said these duties have developed out of necessity, rather than any statutory mandate.

Chairman Holmberg said certain parts of the title rewrite are in very good or in relatively good shape. He said there are other areas that need considerable review, testimony, and committee discussion. He said one option that he considered was to introduce the bill with a delayed effective date. He said that was done with the North Dakota Criminal Code rewrite. He said the other option is to select for introduction chapters that the committee has thoroughly reviewed and then to suggest that the remaining sections be addressed during the following interim.

Representative Aarsvold said he is in agreement with the chairman's suggestion. He said the

committee should not assent to the introduction of a piece of legislation that is not ready for introduction.

Mr. Joe Westby, North Dakota Education Association, said he too concurs with the suggestion of the chairman.

Ms. Schneider said the fact that there has not been testimony should not be construed to mean that the bill draft is without problems. She said people simply have not had an adequate opportunity to digest the bill draft.

Ms. Nielson said the chairman's suggestion is the best way to handle something so large.

Chairman Holmberg said the committee should leave it up to the Legislative Council staff to determine whether new Title 15.1 numbering should occur or whether the bill draft should just amend existing law.

**It was moved by Representative Aarsvold, seconded by Representative Drovdal, and carried on a voice vote that the bill draft be shortened to include only Sections 1-12, 19, and 24-27 and that the remaining sections be considered during the next interim.**

Chairman Holmberg said some months ago the committee determined that the rewrite of Title 15 should maintain the position of county superintendent of schools. He said there are still concerns about requiring qualifications for county superintendents versus requiring no qualifications of the individuals to whom a county superintendent's duties are assigned.

In response to a question from Representative Christenson, Senator Holmberg said the teacher's certificate referenced in Section 15.1-11-01 must be a valid certificate.

Ms. Schneider said, while a county superintendent is by statute required to have a valid teaching certificate, a designee does not have to have a certificate.

Chairman Holmberg asked the Legislative Council staff to determine whether another subsection should be added to Section 15.1-11-04 regarding the county superintendent's duties with the county committee.

Dr. Gronberg said he would like to see stronger language in Section 15.1-11-02 regarding the assignment of county superintendent duties and, specifically, which assignees are appropriate.

Ms. Schneider said Section 15.1-11-02 should be clarified to provide that counties that have already reassigned the duties of county superintendents must abide by these new statutory provisions.

Chairman Holmberg said Chapter 12 relates to school district boundaries and reorganization.

Ms. Schneider said Section 15.1-12-02 needs to be placed in an annexation chapter because it is an annexation procedure. She said the current law on school district reorganization needs to be reworked. She said the law should provide for the content of the reorganization plan, which is not provided in current law. She said the boundary restructuring process could be made clearer if the people who work in the area have the opportunity to meet with the Legislative

Council staff. She said, while the rewrite reflects considerable clarification, there is even room for more. She said she would prefer that the annexation, reorganization, and dissolution provisions be placed in four separate chapters, as they are currently.

Representative Aarsvold said, as a former school board member, he has always thought of school district boundaries and boundary restructuring as a single issue. He said he likes the fact that the rewrite includes them within a single chapter.

Chairman Holmberg said school district boundaries and boundary restructuring should remain in one chapter and that the Legislative Council staff should work with Ms. Schneider to incorporate the necessary changes.

Chairman Holmberg said Chapter 19 pertains to students.

In response to a question from Senator Holmberg, Mr. Rieger said federal law requires states to mandate expulsion for a year if a student brings a weapon to school. However, he said, the law must allow local officials to reduce the period of expulsion.

Chairman Holmberg said Chapter 24 relates to career guidance and development programs. He questioned why the rewrite, like current law, provides that the Superintendent of Public Instruction may adopt rules, but then goes on to state what those rules, if adopted, must contain.

In response to a question from Senator Holmberg, Mr. Joe Linnertz, Department of Public Instruction, said there are no career guidance and development rules because there is no career guidance and development program.

Chairman Holmberg said at one point the committee had discussed including an authorization in the duties of the Superintendent of Public Instruction and eliminating this chapter.

In response to a question from Representative Aarsvold, Mr. Linnertz said normally, career guidance falls under the auspices of the State Board for Vocational and Technical Education.

Representative Monson said if the chapter is not needed, the committee should eliminate it.

Representative Aarsvold said a majority of legislators thought this was important at the time it was passed.

Representative Christenson said the rules requirements are not particularly burdensome.

Mr. Linnertz said if the committee takes generic provisions out of the North Dakota Century Code, it will not prevent or impede the utilization of any funding if such becomes available in the future.

Dr. Gronberg said the requirement that rules be implemented under Chapter 28-32 did not exist in 1989. He said if money ever did become available, rules would be implemented under Chapter 28-32. He said leaving this chapter in the North Dakota Century Code is redundant.

Mr. Laird said perhaps the committee could remove the laundry list for rules and maintain the authority to adopt rules.

In response to a question from Senator Holmberg, committee counsel said the Superintendent's authority to adopt rules is not contingent upon maintaining this language.

**It was moved by Representative Monson, seconded by Representative Thoreson, and carried on a roll call vote that Chapter 15.1-24 be eliminated.** Senators Holmberg and Schobinger and Representatives Drovdal, Kelsch, Monson, and Thoreson voted "aye." Representatives Aarsvold, Christenson, and Grumbo voted "nay."

Chairman Holmberg said Chapter 25 deals with chemical abuse and prevention programs.

Mr. Linnertz said the department has a drug free schools program. He said he does not believe that the provisions of Chapter 15.1-25-01 have ever been used or have ever been a pertinent part of the department's efforts. He said this chapter is not necessary to the drug free schools program. He said the provisions of this chapter have never been funded or used. He said it does not hurt to have them in statute, but they are not used.

Senator Holmberg said when the law was first implemented, there was no duty on the law enforcement officials of other states to report violations, so the kegs moved to East Grand Forks.

Mr. Linnertz said during the last session, in response to the performance audit of the department, the Legislative Assembly added language providing that the Superintendent did not have to comply with proposed Chapter 15.1-25 provisions unless moneys become available.

Chairman Holmberg said Chapter 26 pertains to postsecondary enrollment options. He said the chapter came about as a result of a study by the 1995-96 interim Education Services Committee. He said no changes were made to existing law.

Chairman Holmberg said Chapter 27 relates to adult education.

In response to a question from Senator Holmberg, Mr. Linnertz said Mr. David Massey, Department of Public Instruction, will be available tomorrow to comment on the chapter.

Chairman Holmberg recessed the meeting and called the meeting back to order at 9:00 a.m., Friday, September 18, 1998.

At the request of Chairman Holmberg, Ms. Brenda Oas, Department of Public Instruction, presented testimony regarding the home schooling of children with autism. Her testimony is attached as Appendix D.

At the request of Chairman Holmberg, Mrs. Catherine and Mr. Charles Holle presented testimony regarding their experience home schooling their child, Karl. Mrs. Holle said people did not understand how determined they were to assist their child. She said

there are five families that are involved with home schooling autistic children. She said the University of Mary has asked if their students can come into the Holle's home to observe what they are doing and how they are doing it. She said they can now access computer programs designed for children with autism. She said the major problem they are encountering is the cost. She said the evaluations that are required under their special legislation are nearly \$6000. She said this money could be better used to purchase additional computer programs for Karl. She said they would very much prefer to expend the money on Karl's education rather than on the statutorily mandated evaluations.

Mrs. Holle said the reason a home-school program is effective is because it is consistent, seven days a week, 24 hours a day. She said if a child is in school, he is handled one way during the day and another way during the remaining hours. She said they have taken Karl to school for music, physical education, and recess. She said he is not yet ready for lunch.

Mr. Holle said research is just beginning to find out how to reach children with autism. He said the programs that are proving successful for autistic children involve those real life situations that the Holles already do on a day-to-day basis. Mrs. Holle said what they are doing is already being done all over the United States.

In response to a question from Senator Holmberg, Mrs. Holle said school personnel have been very accommodating, but the school has had problems regarding large classrooms and a lack of classroom aides.

Mrs. Holle said their major obstacle has been the cost of statutorily required evaluations and reports. She said she pays \$633 for an evaluation every three months and \$350 for progress reports every three months. She said, over the biennium, this will amount to more than \$6000. She said for a family with four children operating a dairy farm, \$6000 is a lot of money to spend for statutorily required reports and evaluations.

Senator Holmberg said if the Holles plan to continue home schooling Karl, they should work with the Department of Public Instruction and their school district to determine what statutory changes need to be made.

At the request of Chairman Holmberg, Mr. David Massey, Department of Public Instruction, presented testimony regarding adult education. He said references in Section 15.1-27-05 to general equivalency certificates should be changed to general equivalency diplomas. He said on page 151, line 12, "certificates" should be replaced by "development," on page 151, line 15, "this section" should be replaced by "the general equivalency diploma program," and on page 151, line 20, the reference to "request" should be replaced by "written request."

**It was moved by Representative Monson, seconded by Representative Christenson, and carried on a voice vote that Chapter 15.1-27 be amended according to the suggestions offered by Mr. Massey.**

Chairman Holmberg asked the committee to review Section 15.1-25-05. He said at one point there had been a discussion of eliminating this section, providing its reporting requirements were required elsewhere in the code. However, he said, this particular requirement is not found elsewhere and should be maintained.

At the request of Chairman Holmberg, Ms. Patricia A. Laubach, Programs Administrator, Department of Public Instruction, presented testimony regarding the Office of County Superintendent. Her testimony is attached as Appendix E. She said 22 of the 53 counties have assigned the statutory duties of the county superintendents of schools. She said only 13 of the 22 have filed plans with the Legislative Council. She said Section 15.1-11-02, as written, will address most of the problems of the assignment of duties. She said she is still concerned about enforcing compliance and about the qualifications of those persons assigned the statutory duties. She said the bill draft makes no requirement regarding the qualifications of the designee.

In response to a question from Senator Thompson, Ms. Laubach said the form that the department will develop under Section 15.1-11-02 will help ensure that appropriate assignments of duties are made.

Senator Holmberg said legislators would be very uncomfortable if schools were financially penalized because a board of county commissioners chooses to ignore state law.

Senator Holmberg said the Superintendent of Public Instruction could perhaps be given the authority to waive certain filing requirements for counties that have already filed adequate plans assigning the duties of county superintendents.

In response to a question from Representative Aarsvold, Ms. Laubach said she is unaware of any district facing a lack of approval status for assigning superintending duties to an unqualified individual. Ms. Laubach said those duties could be assigned to another qualified individual such as the superintendent of a neighboring district.

In response to a question from Senator Holmberg, Ms. Laubach said she did not think that boards of county commissioners would make assignments that they knew would result in negative financial implications for their local school districts.

In response to a question from Senator O'Connell, Ms. Laubach said a board of county commissioners can assign duties to individuals who do not necessarily reside in the county.

**It was moved by Senator Thompson, seconded by Senator O'Connell, and carried on a voice vote**

**that the bill draft be amended to provide that the Superintendent of Public Instruction be permitted to waive filing requirements for counties that have already assigned the duties of the county superintendent of schools in an adequate fashion.**

At the request of Chairman Holmberg, Mr. Robert Lane, Assistant Attorney General, presented testimony regarding the Gun Free Schools Act and the Gun Free Zones Act. He said the first Act requires suspension or expulsion if a student is found on school property with a weapon. He said the latter Act made it a crime for anyone to bring a weapon within a school zone. He said the *Lopez* case declared the Gun Free Zones Act unconstitutional. He said our present law, as found in Section 15-49-13 and proposed Section 15.1-19-10, does not address the Gun Free Zones Act.

In response to a question from Senator Schobinger, Mr. Lane said the *Lopez* case did not address the federal law that was the basis of the North Dakota statutory effort.

Senator Schobinger said he believes that the Gun Free Schools Act appears to be included in the Supreme Court's decision in *Lopez*.

At the request of Chairman Holmberg, Mr. Dan Huffman, Assistant Superintendent, Business Services, Fargo Public School District, presented testimony regarding the treatment of provisions in present Chapter 15-51. His testimony is attached as Appendix F. He said the Fargo School District was organized as a corporate entity before the state came into being. He said, although many of the sections in Chapter 15-51 are no longer relevant, other sections are still very necessary to the present operation of the district. He said Fargo runs all its school district elections with the city of Fargo. He said the candidates file with the city, and the city is responsible for all aspects of the election.

Mr. Huffman said the rewrite should be amended to replace page 46, line 2, with the phrase "consistent with city elections."

Mr. Huffman said subsection 4 of Section 15.1-09-13 should be rewritten to provide that the polling places for the Fargo School District elections must be consistent with those for city elections.

In response to a question from Representative Aarsvold, Mr. Huffman said the 26.4 mills is used to repay the principal and interest on bonded indebtedness. He said 15 of the 26.4 mills are included in present Section 15-51-13, and 11.4 mills are included in present Section 15-51-16.

In response to a question from Senator O'Connell, Mr. Huffman said, to date, there has been no effort to repeal the unlimited mill levy.

Chairman Holmberg requested the Legislative Council staff to work with Mr. Huffman and draft any suggested changes.

Chairman Holmberg said it is his intention to assign new chapter numbers as per the index handed out to the committee and to reserve other chapters for future use.

**It was moved by Representative Monson, seconded by Senator O'Connell, and carried on a voice vote that Section 15.1-09-05 be amended to require that the business manager of a school district notify the county superintendent when a vacancy occurs.**

Representative Monson said with this amendment if a vacancy is not filled within 60 days, at least the county superintendent will know and can then call a special election.

At the request of Chairman Holmberg, Mr. Tom Decker presented testimony regarding the postsecondary enrollment options program. His testimony is attached as Appendix G. He said the program is colloquially known as "dual credit." He said the first year's experience with dual credit has been very positive. He said during the first year over 600 courses were taken. He said twice as many females are taking courses as compared to males. He said we have no idea why that is happening.

In response to a question from Senator Holmberg, Mr. Decker said the numbers on page 4 of his handout refer to courses.

In response to a question from Senator Thompson, Mr. Decker said if high school students are taking courses at the college or university level, they are counted as part-time higher education students.

In response to a question from Representative Thoreson, Mr. Decker said high school students are still taking advanced placement courses or attending colleges on their own in addition to their high school work. He said he knows of only one instance in which a North Dakota college level course taken as dual credit was not accepted at an out-of-state college or university.

In response to a question from Senator O'Connell, Mr. Decker said the school district still receives foundation aid while the student enrolls in university or college level courses. He said the student pays all costs associated with the college level course.

**It was moved by Representative Hanson, seconded by Representative Kelsch, and carried on a voice vote that the committee adjourn.** The meeting was adjourned at 11:15 a.m.

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L. Anita Thomas  
Committee Counsel

ATTACH:7