

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EDUCATION SERVICES COMMITTEE

Friday, October 23, 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, Pete Naaden, David O'Connell; Representatives Howard Grumbo, Lyle L. Hanson, RaeAnn Kelsch, David Monson, Dennis J. Renner, Laurel Thoreson

**Members absent:** Senators Randy A. Schobinger, Vern Thompson, Terry M. Wanzek, Dan Wogslund; Representatives Ole Aarsvold, Thomas T. Brusegaard, Linda Christenson, David Drovdal, John Mahoney

**Others present:** See Appendix A

**It was moved by Senator O'Connell, seconded by Representative Kelsch, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.**

Chairman Holmberg said the bill draft the committee will consider today is a revised version of the title rewrite presented at an earlier meeting. He said the committee had reduced the number of chapters to be addressed by the revised bill draft and asked representatives of various public and private sector entities to work with the Legislative Council staff so their wishes could be incorporated in the bill draft. He said it is his intention to address those sections of the bill draft which have been amended and to allow members of the public the opportunity to comment on all sections of the bill draft.

Chairman Holmberg said Section 15.1-01-02 was amended to include the State Board for Vocational and Technical Education as one of the boards required to meet jointly each year. He said this amendment came about as a result of an earlier committee motion.

Chairman Holmberg said Section 15.1-01-03 was amended to include a cross-reference and to simplify the parameters within which the State Board of Public School Education must adopt rules. He said the amendment was made at the direction of the committee, as per the request of Ms. Leah Ann Schneider, Assistant Attorney General.

Chairman Holmberg said Section 15.1-02-04 was amended by including a new subsection that authorizes the Superintendent of Public Instruction to participate in publicly and privately sponsored programs designed to assist children and to adopt rules regarding such programs. He said the language was

added at the recommendation of Department of Public Instruction personnel to fill gaps generated by the repeal of Chapter 15-54. However, he said, after reconsideration, department staff believed it would be preferable if the proposed language in subsection 9 was deleted and current Chapter 15-54 was retained for closer examination during the next interim.

Chairman Holmberg said Section 15.1-05-05 was amended to include provisions from current Sections 15-65-05 and 15-65-06.

Chairman Holmberg said Section 15.1-06-17 was amended to remove the requirement that a school district purchase a United States flag. He said the amended version requires only that a United States flag be displayed. He said this amendment came about as a result of a committee motion.

Chairman Holmberg said Section 15.1-07-05 was amended by deleting the sample ballot language. He said this amendment came about as a result of a committee motion.

Chairman Holmberg said Section 15.1-07-14 was not amended. He said the committee had by motion directed that subsection 2 be removed. However, he said, he had asked committee counsel to retain the section. He said after the last meeting he was given information indicating that the effects of removing the verbiage were not fully understood and therefore it would be preferable if the current language would be retained. He said further changes could be considered during the legislative session.

Representative Monson said it would be consistent with other sections of the title if Section 15.1-07-14 referenced military installations rather than merely Air Force bases.

Senator O'Connell said the section would then have applicability, even if there was a change in the branch of service that controlled a facility.

**It was moved by Representative Monson, seconded by Senator O'Connell, and carried on a voice vote that Section 15.1-07-14 be amended to refer to military installations rather than to Air Force bases.**

Senator Naaden said he wondered if the Superintendent of Public Instruction has any control over what a school district can choose to build if the district has money donated to it or otherwise made available to it.

Chairman Holmberg called on Mr. Tom Decker, Department of Public Instruction, who said the law was changed in 1993 to give the Superintendent approval authority over school construction. He said the Superintendent has used his denial authority sparingly. He said once an initial project is approved there is no statutory requirement that future adjustments be approved by the Superintendent.

Chairman Holmberg said Section 15.1-09-01 was amended to clarify the provisions of subsection 4, relating to voting by geographical areas, and the provisions of subsection 5, relating to elections on reorganization plans. He said the amendment was suggested by Ms. Schneider, at the direction of the committee.

Chairman Holmberg called on Mr. Kurt P. Eddy, Superintendent, Drayton Public School District, who said there is a tremendous turnaround of people relocating from farms into towns. He said districts are having difficulty finding people in rural areas to run for the school board as representatives of rural areas. He said most of the people who own land live in town. He said consequently the committee should look at changing the requirements for rural members on school boards in Section 15.1-09-04.

Chairman Holmberg said it would be appropriate to bring such concerns to the attention of local legislators.

Chairman Holmberg said Section 15.1-09-05 was amended to clarify the role of the State Board of Public School Education in ensuring that school boards have sufficient members to allow the transaction of their business. He said the amendment was suggested by Ms. Schneider, at the direction of the committee.

Chairman Holmberg called on Ms. Bev Nielson, North Dakota School Boards Association, who said it would be helpful to allow a school board to call a special election to fill a vacancy.

**It was moved by Senator Naaden, seconded by Representative Thoreson, and carried on a voice vote that Section 15.1-09-05 be amended to provide that a school board may fill a vacancy by appointment or by special election.**

Representative Monson said it would help with information flow if the school district business manager were required to notify the county superintendent of schools when a vacancy occurs on a school board.

**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 school district business manager notify the county superintendent when a vacancy occurs on the school board.**

Chairman Holmberg said Section 15.1-09-10 was amended by removing the sample ballot language. He said the amendment came about as a result of a committee motion.

Chairman Holmberg said Section 15.1-09-12 was amended to provide that the opening and closing requirements for polls in the Fargo School District be the same as the times required for Fargo city elections. He said the amendment was suggested by Mr. Dan Huffman, Assistant Superintendent for Business Services, Fargo Public Schools, as per committee direction.

Chairman Holmberg said Section 15.1-09-13 was amended by deleting the provisions of earlier subsection 4, which referenced the designation of polling places in Fargo School District elections. He said the amendment was also suggested by Mr. Huffman.

Chairman Holmberg said Section 15.1-09-27 was amended to refer to a school board vice president rather than to a president pro tempore. He said the amendment was suggested by Mr. Huffman.

Chairman Holmberg said Section 15.1-09-30 was amended to remove a conflict with Section 15.1-09-02, which provides that the term of office for a school board member begins at the annual meeting in July following the member's election and that the term of office for a member of the Board of Education of the city of Fargo begins at the first regular monthly meeting after the annual school district election held on the third Tuesday of April. He said the amendment was suggested by Mr. Huffman.

Chairman Holmberg called on Mr. Larry Klundt, Executive Director, North Dakota Council of Educational Leaders, who said Section 15.1-09-34 relates to contracting by school boards. He said the law provides that a school board may not enter into a contract involving an aggregate expenditure in excess of \$8,000 unless the board uses the bidding procedure set forth in statute. He said the \$8,000 limit is simply too low and the committee should consider raising that figure. He said it ought to be raised to \$25,000 and boards should be allowed to bid on insurance coverage lasting for periods in excess of a year.

Chairman Holmberg said it would be better if the Legislative Assembly considered this proposal and its implications during the upcoming session.

Chairman Holmberg called on Mr. Roger Rieger, Department of Public Instruction, who said Section 15.1-09-36 references "noncurricular" activities. He said perhaps there should be a definition of that concept.

Chairman Holmberg said the committee had on a previous occasion discussed noncurricular activities and neglected to add a definition. He said one example of a noncurricular activity would be a community jazz festival. In response to a question from Senator Holmberg, Mr. Rieger said he did not have a definition yet of a noncurricular activity but would present one to the Legislative Assembly.

Chairman Holmberg said Section 15.1-09-42 was amended to clarify the circumstances under which school district employees could attend educational conferences. He said a literal reading of the present

law would allow any teacher to attend any educational conference without loss of pay. He said the committee at its previous meeting had asked the North Dakota Education Association and the North Dakota School Boards Association to work with the Legislative Council staff and draft an amendment that accurately reflects current practices.

Chairman Holmberg called on Mr. Klundt, who said the new language references only attendance at the North Dakota Education Association's annual instructional conference. He said administrators would prefer to attend the North Dakota Council of Educational Leaders' annual conference.

**It was moved by Senator O'Connell, seconded by Representative Monson, and carried on a voice vote that Section 15.1-09-42 be amended by including a reference to the North Dakota Council of Educational Leaders' annual conference.**

Chairman Holmberg called on Mr. Joe Westby, Executive Director, North Dakota Education Association, who said the last sentence in Section 15.1-09-42 is not necessary.

Chairman Holmberg called on Ms. Nielson, who said the last sentence appears to mandate that a school board, by contract, provide for the attendance of district employees at educational meetings. She said she would prefer that districts handle their own labor relations.

Chairman Holmberg called on Mr. Klundt, who said the North Dakota Council of Educational Leaders would also support a deletion of the last sentence. He said the process is presently handled very well and it does not need to be addressed in state law.

**It was moved by Representative Kelsch, seconded by Senator O'Connell, and carried on a voice vote that Section 15.1-09-42 be amended by deletion of the last sentence.**

Representative Monson said he thought perhaps the section should include references to other conferences, not just the annual conferences of the North Dakota Education Association and the North Dakota Council of Educational Leaders.

Chairman Holmberg said those two conferences have been determined by the Legislative Assembly to be major conferences for which foundation aid days may be used.

Chairman Holmberg said Section 15.1-09-46 was amended to clarify the census procedure. He said the amendment was suggested to the committee by Ms. Lois Olson, Walsh County Superintendent of Schools. He said the new language provides that only a summary of the census is sent to the Superintendent of Public Instruction, not the entire census.

Chairman Holmberg said Section 15.1-09-50 contains an archaic reference to "appendages." He said since no one from the Fargo School District is present, he is reluctant to change a reference taken from the Fargo chapter without being assured there were no unknown consequences. He said perhaps the standing committee could determine what was

meant by appendages and what would be an appropriate modern replacement. He said Section 15.1-09-51 also contains an archaic reference. He said the section allows the city of Fargo to "take hold of" real or personal estates.

**It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that the phrase "take hold of" in Section 15.1-09-51 be replaced with the word "accept".**

Chairman Holmberg said Section 15.1-11-01 was amended to correct a section reference.

Chairman Holmberg said Section 15.1-11-02 was amended by inserting waiver provisions governing counties that have already assigned the duties of a county superintendent to other individuals. He said the waiver provision was added as a result of a previous committee motion.

Representative Monson said he wondered whether we will have unqualified persons inspecting and approving schools and performing teacher evaluations.

Chairman Holmberg called on Ms. Pat Laubach, Department of Public Instruction, who said under the proposed statute the assignments of duties would have to be approved by the Superintendent of Public Instruction. She said approval will not be given if assignees are considered inappropriately qualified to perform the duties.

Chairman Holmberg said Section 15.1-11-04 was amended to include more of the duties actually performed by county superintendents. He said this amendment was suggested by Ms. Schneider. He said Ms. Schneider had indicated earlier that a more comprehensive list of county superintendent duties would make it easier for the department to compile a list of duties to be assigned.

**It was moved by Senator Naaden, seconded by Representative Kelsch, and carried on a voice vote that the reference to the Superintendent of Public Instruction in subdivision c of subsection 7 of Section 15.1-11-04 be replaced with a reference to the State Board of Public School Education.**

Chairman Holmberg said Section 15.1-11-05 was amended by rephrasing the title.

Chairman Holmberg said Section 15.1-12-01 was amended by clarifying the definitions. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg said Section 15.1-12-02 was amended by clarifying the steps of an annexation when an exchange of property is involved. He said the amendments were recommended by Ms. Schneider, as per committee direction. He said Ms. Schneider also suggested that the phrase "in this section" be added to line 15.

**It was moved by Representative Monson, seconded by Representative Kelsch, and carried on a voice vote that subsection 6 of Section**

**15.1-12-02 be amended by adding the phrase "in this section" after the word "provided".**

Chairman Holmberg called on Ms. Ioane Schmidt, Pierce and McHenry County Superintendent of Schools, who asked that subsection 4 of Section 15.1-12-03 be amended to require that the annexation petition be filed with the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district rather than with the county superintendent for the county in which a majority of the property to be annexed is located.

**It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that subsection 4 of Section 15.1-12-03 be amended to require that the annexation petition be filed with the county superintendent of schools whose jurisdiction includes the administrative headquarters of the district and that this same language be used in subdivision e of subsection 1 of Section 15.1-12-04.**

Chairman Holmberg said subsection 6 of Section 15.1-12-03 should be deleted. He said even though it is in current law, it is not accurate.

Chairman Holmberg called on Ms. Schneider, who said an annexation can be approved by the state board even if no county committee approves it.

**It was moved by Senator Naaden, seconded by Representative Kelsch, and carried on a voice vote that subsection 6 of Section 15.1-12-03 be deleted.**

Committee counsel suggested that subdivision c of subsection 1 of Section 15.1-12-04 be amended by deleting the word "proposed". She said annexations have only one effective date and that is July 1.

**It was moved by Senator Naaden, seconded by Representative Kelsch, and carried on a voice vote that subdivision c of subsection 1 of Section 15.1-12-04 be amended by deleting the word "proposed".**

Chairman Holmberg said Section 15.1-12-05 was amended to clarify prehearing and posthearing activities. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg called on Ms. Schneider, who said subsection 4 of Section 15.1-12-05 articulates the items about which the county committee must accept testimony and documentary evidence. She said subdivision c, which is in current law, is not an appropriate description of the information being sought. She said it would be better to replace subdivision c with "[t]he levies for bonded indebtedness to which the property will be subjected or from which the property will be exempted, as provided for in Section 15.1-12-08."

**It was moved by Senator Naaden, seconded by Representative Kelsch, and carried on a voice vote that subdivision c of subsection 4 of Section 15.1-12-05 be replaced with "[t]he levies for bonded indebtedness to which the property will**

**be subjected or from which the property will be exempted, as provided for in Section 15.1-12-08."**

Chairman Holmberg said subsection 8 of Section 15.1-12-05 addresses who should submit the annexation petition and a record of the hearing to the state board for final approval.

Committee counsel suggested that the last sentence of subsection 8 be deleted and that a new subsection be inserted after subsection 12 to address the submission of the annexation petition and accompanying documents to the state board, using language consistent with that of other sections.

**It was moved by Representative Kelsch, seconded by Senator Naaden, and carried on a voice vote that the last sentence of subsection 8 of Section 15.1-12-05 be deleted and that a new subsection be inserted after subsection 12 of Section 15.1-12-05 to provide that the county superintendent with whom the petition has been filed shall forward all minutes, records, documentary evidence, and other information regarding the annexation, and the county committee's decision, to the state board for final approval or for consideration of an appeal.**

Chairman Holmberg called on Ms. Schneider, who said the members of the State Board of Public School Education met and asked if the committee would consider removing the word "not" from subdivision c of subsection 11 of Section 15.1-12-05. She said this would allow an annexation petition to be appealed to the state board even if the petition is denied by two county committees. She said it is very rare that this would happen. However, she said, it would make it more equitable if an appeal were available.

Representative Monson said awarding an appeal where presently there is not one amounts to a substantive change. He said he would prefer if the state board would introduce a bill. He said a public hearing could then be held and there would be adequate time to consider the pros and cons of such a proposal.

Chairman Holmberg said Sections 15.1-12-06 and 15.1-12-07 will be placed in reverse order to better accommodate their content.

Chairman Holmberg said Ms. Schneider and committee counsel were asked to rework present law reflected in Section 15.1-12-08 in order to lend clarity to an otherwise complicated concept. He said because there is still concern about the wording, some additional work will be done on the section over the noon recess and the committee will review it.

Chairman Holmberg called on Ms. Schneider, who asked if the committee would consider deleting Section 15.1-12-09. She said this section has been in the law a long time and has never been used. She said it pertains to tax levies for equalization between school districts. She said it does not apply to reorganizations. She said she is not sure what the initial intent had been. She said it is not needed.

Chairman Holmberg said because the committee has not had adequate time to examine the section and determine its purpose and effect, it would be preferable for Ms. Schneider to place the concept within a bill so that a standing committee can determine the implications of a repeal.

Chairman Holmberg said Section 15.1-12-10 was amended to clarify the process by which a reorganization is initiated. He said the amendments were recommended by Ms. Schneider, as per committee direction. He said the reference in subsection 4 to a county committee should be changed to a county superintendent and the reference in that same section to the greater portion of property should be changed to a major portion of property, in order to remain consistent with other sections.

**It was moved by Representative Kelsch, seconded by Senator Naaden, and carried on a voice vote that subsection 4 of Section 15.1-12-10 be amended to replace the words "committee or committees" with "superintendent" and to replace the word "greater" with "major".**

Chairman Holmberg said Section 15.1-12-11 was amended to clarify the contents of a reorganization plan and posthearing activities. He said the amendments were recommended by Ms. Schneider, as per committee direction. He said because some of the requirements must be very specific while others need be only briefly addressed, that is what the section should reflect.

**It was moved by Representative Kelsch, seconded by Senator Naaden, and carried on a voice vote that Section 15.1-12-11 be amended by requiring that the content of subdivisions f, g, j, and n of subsection 1 be "addressed" by the reorganization plan, that the content of subdivision k be "identified" by the plan, that the content of the remaining sections be "included" in the plan, and that subdivision n be amended by deleting the words "[a] proposal for the equitable distribution of all" and inserting after "district" the words "as provided for in section 15.1-12-19".**

Chairman Holmberg said Section 15.1-12-12 was amended to clarify the duties of a county superintendent if the state board approves a reorganization plan. He said the amendments were recommended by Ms. Schneider, as per committee direction. He said because the section begins with the phrase "[i]f the state board approves a reorganization plan", we should eliminate the redundant second phrase.

**It was moved by Representative Kelsch, seconded by Senator Naaden, and carried on a voice vote that subsection 1 of Section 15.1-12-12 be amended by deletion of the phrase "together with the proposed adjustments of property, debts, and liabilities among the participating districts".**

Chairman Holmberg said Section 15.1-12-13 was amended to clarify the title.

Chairman Holmberg said Section 15.1-12-14 was amended to clarify the role of the county committee in

considering revised reorganization plans. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg said Section 15.1-12-15 was amended to clarify the times at which members of a newly reorganized district's school board could assume their duties. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg said Section 15.1-12-16 was amended to provide that decisions regarding teachers' contracts must be communicated to the teachers by a written instrument. He said the change was suggested by Ms. Schneider to make the language consistent with that of other sections.

Chairman Holmberg said Sections 15.1-12-17, 15.1-12-18, 15.1-12-19, 15.1-12-20, and 15.1-12-21 were amended to clarify the title.

Chairman Holmberg said Section 15.1-12-22 was amended to clarify the title and to clarify a reference to the number of qualified electors required to sign a petition for changes in a reorganization plan.

Chairman Holmberg said Sections 15.1-12-23 and 15.1-12-24 were amended to clarify the title.

Chairman Holmberg said Section 15.1-12-25 was amended to clarify the definition of a nonoperating district. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg said Section 15.1-12-27 was amended to clarify the duties of a county superintendent of schools with respect to dissolution proceedings. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg said Section 15.1-12-28 was amended to clarify the duties of a county superintendent of schools with respect to dissolution proceedings and the factors that must be considered by a county committee during a dissolution proceeding.

Chairman Holmberg called on Ms. Schneider, who said subdivision c of subsection 3 would be more accurate if it provided that the county committee shall consider testimony and documentary evidence regarding the distribution of property and assets among the district to which the dissolved district is attached. She said the content of subdivision h should be replaced with a requirement that the county committee consider testimony and documentary evidence regarding each school in the dissolving district and in adjacent districts, including its name, location, condition, accessibility, and the grade levels it offers.

In response to a question from Representative Monson, Ms. Schneider said the list of facts to be considered in a dissolution proceeding is very broad. She said depending on the facts of a particular dissolution the list may be expanded or contracted. She said the broader the statutory requirements, the more likely it is that the state board will be able to focus on the issues of true importance in a particular dissolution.

Chairman Holmberg said leaving the list very broad will not do any harm.

**It was moved by Representative Kelsch, seconded by Senator Naaden, and carried on a voice vote that subdivision c of subsection 3 of Section 15.1-12-28 be amended by providing that the county committee shall consider testimony and documentary evidence regarding the distribution of property and assets among the district to which the dissolved district is attached, that the content of subdivision h be replaced with a requirement that the county committee consider testimony and documentary evidence regarding each school in the dissolving district and in adjacent districts, including its name, location, condition, accessibility, and the grade levels it offers, and that subdivision j be deleted.**

Chairman Holmberg said Section 15.1-12-29 was amended to clarify the distribution of unobligated cash balances held by a dissolving district. He said the amendments were recommended by Ms. Schneider, as per committee direction.

Chairman Holmberg called on Mr. Klundt, who said he preferred the current law regarding school district weapons policies rather than the proposed version found in Section 15.1-19-10.

**It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that the substantive content of Section 15.1-19-10 be returned to the form currently found in Sections 15-49-12 and 15-49-13.**

Chairman Holmberg called on Mr. Klundt, who said Section 15.1-24-04 states that “[a]ny record of a student’s medical treatment, use of a chemical abuse assistance program, or other individual record generated under this chapter is confidential. It is not part of the student’s educational record and may not be released without the written consent of the student, or if the student is a minor, without the written consent of the student’s parent.” He said he believed that present law provides that the student may consent to the release of records if the student is at least age 14.

In response to a question from Senator Holmberg, committee counsel said present North Dakota Century Code Section 15-21.1-06 provides that a child of 14 may give written consent for the release of his medical records. She said since Section 15-21.1-05 references a “minor,” rather than a child of 14, the sections were drafted to be consistent. She said more importantly, nonemergency medical treatment cannot be provided to a child under the age of 18 without parental consent or judicial intervention. She said it is questionable whether a child of 14 has the legal authority to consent to a release of records.

Mr. Klundt said that is the age now used.

**It was moved by Representative Kelsch, seconded by Senator O’Connell, and carried on a voice vote that Section 15.1-24-04 be amended to provide that a child of 14 can provide written consent for the release of records.**

Chairman Holmberg said Section 15.1-26-05 was amended to reference general equivalency diplomas rather than certificates. He said Section 15.1-26-05 was amended to require a written request for the release of test results. He said both amendments were the result of committee motions.

Chairman Holmberg called on Mr. Rieger, who asked the committee to amend Section 15.1-26-05. He said he is proposing the amendment on behalf of Mr. David Massey. He said the first sentence of Section 15.1-26-05 should provide that the Superintendent of Public Instruction may charge up to \$3 for each general equivalency diploma (GED) issued, up to \$10 for each copy of a GED, and up to \$2 per copy for a transcript belonging to an individual pursuing a GED.

Representative Monson said for \$10 one should receive a certified copy of a diploma, not just a diploma.

**It was moved by Senator O’Connell, seconded by Senator Naaden, and carried on a voice vote that the first sentence of Section 15.1-26-05 be amended to provide that the Superintendent of Public Instruction may charge up to \$3 for each GED issued, up to \$10 for each copy of a GED, and up to \$2 per copy for a transcript belonging to an individual pursuing a GED.**

Chairman Holmberg said the committee does not have a quorum today. He said the committee could have a conference call meeting or submit the report without the assent of a majority. He said the committee would discuss those options later.

Chairman Holmberg called on Ms. Schneider, who presented an amendment to Section 15.1-12-08. She said the amendment is intended to clarify the current wording of Section 15-27.1-12. She said if a piece of property is taken from district A and placed in district B, that property will have to pay all of the levies of district B, except those to retire bonded debt existing prior to the annexation. She said the county committee and the state board can determine that the property should be subject to those levies required to retire debt. She said the second subsection addresses annexation. She said the property taken from district A and placed in district B is no longer subject to the levies from district A, except those to retire bonded debt. She said the county committee and the state board can decide that the property will no longer be subject to the bonded debt levy of district A.

In response to a question from Representative Monson, Ms. Schneider said a piece of property has never been subjected to mill levies from an old and a new district.

**It was moved by Representative Kelsch, seconded by Senator O’Connell, and carried on a voice vote that Section 15.1-12-08 be amended by providing that property annexed or attached to a receiving school district is subject to all of the receiving district’s levies, except those to retire**

**bonded debt existing before the effective date of the annexation, that the county committee and the state board, in approving the annexation or dissolution, may require that the property be subject to the levies to retire bonded debt; and the property annexed to a receiving school district is not subject to any levies of the district from which it was detached, except those to retire bonded debt existing before the effective date of the annexation, but that the county committee and the state board, in approving an annexation, may exempt the property from the levies required to retire bonded debt existing before the effective date of the annexation.**

Chairman Holmberg said the committee will review all sections to be repealed by omission as a result of the Title 15 redraft. He said this will give both the committee members and the audience an opportunity to raise questions or voice any concerns they might have about the repeals.

Chairman Holmberg said Section 15-21-06, which relates to the seal of the Superintendent of Public Instruction, was omitted because the committee at an earlier meeting determined that the requirement of a seal was archaic.

Chairman Holmberg said Section 15-21-07.2, which relates to rules for agreements with federal agencies, was omitted because the committee at an earlier meeting determined that the Attorney General is responsible for reviewing all contracts entered into by state agencies and that departmental rules are therefore not necessary.

Chairman Holmberg said Section 15-21-09.1, which allows the Superintendent of Public Instruction to contract for services to develop an Indian education curriculum, was omitted because such authority is granted to the Superintendent under proposed Sections 15.1-02-03 and 15.1-02-04.

Chairman Holmberg said Section 15-21-13, which requires the Superintendent of Public Instruction to provide school districts with all requisite report forms, was omitted because the committee at an earlier meeting directed that the section's concept be incorporated in proposed Section 15.1-12-13.1.

Chairman Holmberg said Section 15-21-19, which provides that the State Board of Public School Education may authorize any school district to acquire sites, construct buildings, and operate schools, to discontinue such schools and liquidate the assets thereof, outside its district boundaries if the school district is affected by the impact of federal activities in its area, or if anticipated increased enrollments make it necessary, and if consent is first obtained from the school district within which the school is to be located, was omitted because the committee at an earlier meeting determined that the section, which was enacted in 1957, has limited validity. He noted that all land in the state must belong to a school district and that the board of each school district, using available statutes,

can acquire sites, construct buildings, operate schools, and discontinue schools.

Chairman Holmberg said Section 15-21.1-01, which provides definitions regarding chemical abuse and prevention programs, was omitted because the definitions are self-explanatory and not necessary to the proposed rewrite.

Chairman Holmberg said Section 15-21.1-02, which provides that the purpose of the chapter regarding chemical abuse prevention programs is to provide local communities, through the local school districts, an avenue to develop chemical abuse prevention programs in North Dakota schools, was omitted because it is a statement of purpose.

Chairman Holmberg said the committee had moved at an earlier meeting to omit all provisions of Chapter 15-21.2, which relate to career guidance and development programs.

Chairman Holmberg said Section 15-22-12, which requires the county superintendent of schools to visit the school districts in the county as often as necessary and enforce a correct method of keeping the district records, was omitted because, under proposed Section 15.1-02-08, the Superintendent of Public Instruction was directed to implement a uniform system for the accounting, budgeting, and reporting of school district data.

Chairman Holmberg said Section 15-22-25, which provides that the boards of county commissioners from two or more counties could agree to jointly employ a county superintendent of schools, was omitted because the committee at an earlier meeting determined that the section was unwieldy and incomprehensible. He said the committee has adopted a much simpler, more straightforward manner of allowing one individual to serve as a county superintendent for multiple counties. He said under proposed Section 15.1-11-01 a county superintendent may be hired on a full-time or a part-time basis and could therefore be employed by several counties simultaneously.

Chairman Holmberg said Section 15-27.1-02 was omitted because it attempts to state which sections in the currently separate reorganization, annexation, and dissolution chapters were applicable to other chapters. He said school district boundaries and the methods by which they may be changed were a major focus of this study. He said the committee took a great deal of time to clarify the reorganization, annexation, and dissolution procedures and consequently a section such as this is not necessary to the proposed rewrite.

Chairman Holmberg said Section 15-27.1-08 was omitted because it directs county and state officers to make available to public entities such as county committees and the state board information from public records.

Chairman Holmberg said Section 15-27.1-09 was omitted because it directs county superintendents to perform statutorily mandated duties.

Chairman Holmberg said Section 15-27.3-06, which requires that the county committee determine the amount necessary to meet the expenses of the proposed reorganized district and propose a tax levy sufficient to meet those expenses, is omitted because that requirement has been reworked as part of proposed Section 15.1-12-11, which sets forth the elements that must be part of a reorganization plan.

Chairman Holmberg said Section 15-27.3-07 provides that an appeal may be taken to the district court on any question of adjustment of property, debts, and liabilities among the districts involved in which the power to make an adjustment or adjustments has been extended by this chapter. He said it goes on to provide that any person feeling aggrieved by the decision of the county committee after the hearing provided for in Section 15-27.3-05 may appeal from the decision in accordance with the procedure provided in Section 28-34-01. He said if the court finds the terms of the adjustment in question to be not legally or equitably constituted, it shall make an adjustment that is equitable and legal. He said the section also provides that a determination by the court with respect to the adjustment of property, debts, and liabilities among the districts or areas involved may not otherwise affect the validity of the reorganization or creation of any district or districts under this chapter. He said the section was omitted upon the recommendation of Ms. Schneider because it allows for an appeal from a decision of a county committee, without recognizing the statutorily mandated review and approval by the state board, as well as by a majority of the people within the boundaries of the affected area. He said it is not clear under this section whether or not an appeal from a decision of a county committee and a subsequent adjustment by a court renders state board approval and voter approval unnecessary.

Chairman Holmberg said Chapter 15-27.6, which relates to the administration of planning grants and supplemental payments to school districts so that they could pursue boundary restructuring, was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Chapter 15-27.7, which relates to the provision of supplemental payments for cooperating school districts, was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-29-03.1, which provides that the business manager of a school district must be substituted for the treasurer and the clerk of such public school district, was omitted because it is no longer necessary. He said it was enacted in 1975 and allowed for the transition from school district treasurers and clerks to school district business managers.

Chairman Holmberg said subsection 27 of Section 15-29-08 was omitted. He said it provides that if an impasse is declared and final offer resolution is in

effect, a school board may hold one executive session prior to submitting its final offer. He said this was placed in the general powers and duties of a school board. He said the content of this subsection has been redrafted as new language in the accompanying bill draft to reconcile references to Title 15 sections and will be placed in Chapter 15-38.1, which deals generally with teachers' representation and negotiation and specifically with impasse procedures.

Chairman Holmberg said Section 15-38-06 provides that a teacher who cannot use an absent voter's ballot must be excused from school, without loss of pay, on any day on which an election is held throughout the state to permit the teacher to go to the voting precinct to vote. He said the section was omitted because the committee determined that sufficient time was available, given the fact that school generally ends around 3:30 p.m. and polls generally close around 8:00 p.m. He said travel is much improved since the section's enactment in 1890, and the requirements for permissible use of an absentee ballot have been expanded.

Chairman Holmberg said Section 15-38-13, which allows a teacher to suspend a pupil from school for not more than five days for insubordination, habitual disobedience, or disorderly conduct, was omitted because the committee determined that the appropriate procedure for suspension at the time of enactment, 1890, was no longer applicable. He said the concept is addressed in proposed Section 15.1-19-09.

Chairman Holmberg said Section 15-41-01 provides that high schools must be divided into six-year, five-year, four-year, and three-year high schools. He said it was omitted because it was enacted in 1931, not altered since the 1943 revision, and neither the committee nor Department of Public Instruction staff could find a reason to maintain it.

Chairman Holmberg said Section 15-41-03, which requires the Superintendent of Public Instruction, with the approval of the State Board of Higher Education, to appoint a director of secondary education, was omitted by the committee at the request of the Superintendent of Public Instruction. He said this was an issue raised in the performance audit of the Department of Public Instruction.

Chairman Holmberg said Section 15-41-04, which sets forth the duties of the director of secondary education, was also omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-41-05, which directs the State Board for Vocational and Technical Education to make rules required for compliance with the Smith-Hughes Act, the George-Deen Act, and other federal acts under which a high school may participate in financial benefits accorded by the federal government, was omitted because the committee determined that the section would be better placed in the chapter regarding vocational and technical education. He said a letter was sent to the executive director of the State Board for Vocational

and Technical Education informing him of the committee's decision to omit the language from proposed Title 15.1.

Chairman Holmberg said Section 15-41-07, which provides that the content of all courses and the grade in which they are taught in all types of high schools and in the high school department of all schools doing high school work must conform to the state course of study for high schools as outlined by the Superintendent of Public Instruction and that the Superintendent of Public Instruction shall provide for an elective course of instruction in cooperative marketing and consumers' cooperatives, was omitted because the committee determined that the section would be better placed in the chapter regarding vocational and technical education. He said a letter was sent to the executive director of the State Board for Vocational and Technical Education informing him of the committee's decision to omit the language from proposed Title 15.1.

Chairman Holmberg said Section 15-41-08, which requires each pupil entering a high school to select one of the courses of study offered by the high school and not change the selection except upon permission of the school district superintendent or upon the request of the student's parents or guardian, was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-43-11.1, which sets forth public policy regarding textbooks, was omitted because the committee determined that the first subsection was merely an articulation of policy and that the second and final subsection was a seemingly obvious definition of "textbook."

Chairman Holmberg said Section 15-47-10, which requires the board of every school district and the president of every institution of higher education supported by appropriations or by tax levies to display the Ten Commandments in a conspicuous place in every schoolroom, classroom, or other place where classes convene for instruction, was omitted because it had been declared unconstitutional by a federal court in 1980.

Chairman Holmberg said Section 15-47-12 provides that legislation proposed or advocated by or on behalf of any person, institution, or educational interest affecting education, and any proposed amendments to the school laws, must be submitted whenever possible, on or before November 15 preceding the regular session of the Legislative Assembly to the State Board of Higher Education if the proposals relate to any of the institutions governed by the board or, when not relating to any such institutions, to the Superintendent of Public Instruction. He said the section was omitted because the committee determined the section has not been followed in many years.

Chairman Holmberg said Section 15-47-16 provides that whenever the educational responsibility of a school district within an Indian reservation in this

state is completely taken over by the government of the United States, payments from the state tuition fund and the state foundation aid program which otherwise would be paid to such school district must be paid to the United States if the compulsory school attendance laws of this state are enforced in such district and government school. He said the section was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-47-24, which requires the conservation of natural resources to be taught, was omitted because the committee determined that the inclusion of specific courses should be left within the purview of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-47-29, which provides that a public schoolteacher may not wear in school or while engaged in teaching any dress or garb indicating the fact that such teacher is a member of or an adherent of any religious order, sect, or denomination, was removed because the committee determined that the section contained the potential for significant First Amendment challenges.

Chairman Holmberg said Section 15-47-30, which requires the suspension and revocation of a teaching certificate for wearing religious garb, was omitted because the committee determined that the section contained the potential for significant First Amendment challenges.

Chairman Holmberg said Section 15-47-31, which allows any school in the state of North Dakota that is now or which may become a member of the North Dakota High School League to secure protection for students who may be injured on the school premises or who may be injured by their participation in school athletic activities or physical education programs, was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-47-32, which allows school districts to contract for joint educational endeavors, was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-47-37, which requires instruction on the United States and state constitutions, the pledge of allegiance, and the national anthem, was omitted because the committee determined that the inclusion of certain specific courses should be left within the purview of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-47-40, which relates to cooperative agreements for student teaching and supervised field experiences between school boards and teacher training institutions, was omitted because the committee determined that the section would be better placed in the chapter regarding higher education. He said a letter was sent to the chancellor of the North Dakota University System informing him of the committee's decision to omit this language from proposed Title 15.1.

Chairman Holmberg said Section 15-47-41, which provides that the State Board of Higher Education is authorized to pay for the services of any public or private school or of any public or private school administrators, teachers, or employees in training student teachers, was omitted because the committee determined that the section would be better placed in the chapter regarding higher education. He said a letter was written to the chancellor of the North Dakota University System informing him of the committee's decision to omit the language from proposed Title 15.1.

Chairman Holmberg said Section 15-49-03, which prohibits the purchase of school district warrants at less than the full face value, was omitted because the committee determined that the offense is already referenced in the state's criminal code.

Chairman Holmberg said Section 15-49-04, which prohibits the unlawful withdrawal of school money, was omitted because the committee determined that the offense is already referenced in the state's criminal code.

Chairman Holmberg said Section 15-49-05, which addresses the refusal of a business manager to pay over to his successor in office any money in his hands, was omitted by the committee at the request of the Superintendent of Public Instruction.

Chairman Holmberg said Section 15-49-06, which addresses violations by a school district business manager with respect to warrants not paid for want of funds, was omitted because the committee determined that the issuance of a check on an account having insufficient funds is already referenced in the state's criminal code.

Chairman Holmberg said Section 15-51-03, which directs the Fargo city auditor, within five days after such election, to notify in writing each person elected to the Fargo Board of Education, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-05, which provides that the Fargo Board of Education shall elect members to fill all vacancies, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-06, which provides that the Fargo Board of Education may declare vacant the seat of any member who is absent from all the meetings of the board for four consecutive months, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-08, which provides that members of the Fargo Board of Education may receive no compensation, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-09, which provides that the Fargo Board of Education shall hold regular meetings at least once in each month, was

omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-10, which directs the Fargo Board of Education to elect a secretary and provide compensation, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-14, which provides that all moneys raised and all school moneys appropriated to or provided for the city must be paid over to the treasurer of the Board of Education and the county treasurer of Cass County, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-15, which directs the Fargo Board of Education to appoint a treasurer, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-16, which provides that all moneys received by the school district must be deposited for safekeeping with the treasurer of the Board of Education, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-18, which directs each member of the Fargo Board of Education to visit all the public schools in the city at least twice each year, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-19, which provides that the Fargo Board of Education may allow children of persons not residents in the city to attend the schools of the city, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Section 15-51-22, which provides that it is the duty of the board, at least 15 days before the annual school board election, to prepare and report to the mayor and city council true and correct statements of the receipts and disbursements of moneys, was omitted by the committee at the request of the Fargo Board of Education.

Chairman Holmberg said Chapter 15-54 was to have been omitted, as per the request of the Superintendent of Public Instruction. However, he said, concerns still exist regarding the effect of such omission. He said it would be preferable to maintain the chapter as it currently exists and examine it in greater detail during the next phase of this study.

**It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that Chapter 15-54 not be repealed by omission and that it be set aside for further study during the next interim.**

**It was moved by Representative Kelsch, seconded by Representative Monson, and carried on a voice vote that Sections 15-21-06, 15-21-07.2, 15-21-09.1, 15-21-13, 15-21-19, 15-21.1-01, 15-21.1-02, Chapter 15-21.2, Sections 15-22-12, 15-22-25, 15-27.1-02, 15-27.1-08, 15-27.1-09, 15-27.3-06, 15-27.3-07, Chapters 15-27.6 and**

**15-27.7, Section 15-29-03.1, subsection 27 of Section 15-29-08, and Sections 15-38-06, 15-38-13, 15-41-01, 15-41-03, 15-41-04, 15-41-05, 15-41-07, 15-41-08, 15-43-11.1, 15-47-10, 15-47-12, 15-47-16, 15-47-24, 15-47-29, 15-47-30, 15-47-31, 15-47-32, 15-47-37, 15-47-40, 15-47-41, 15-49-03, 15-49-04, 15-49-05, 15-49-06, 15-51-03, 15-51-05, 15-51-06, 15-51-08, 15-51-09, 15-51-10, 15-51-14, 15-51-15, 15-51-16, 15-51-18, 15-51-19, 15-51-22, and 15-65-01 of the North Dakota Century Code be repealed by omission.**

Chairman Holmberg asked the committee to consider the bill draft to reconcile cross-references to Title 15.

Committee counsel said the word "restructuring" needs to be removed from page 6, line 1.

**It was moved by Representative Kelsch, seconded by Senator Naaden, and carried on a voice vote that the bill draft to reconcile cross-references to Title 15 be amended by deletion of the word "restructuring" from page 6, line 1.**

Chairman Holmberg distributed copies of a concurrent resolution directing the Legislative Council to continue its study of those provisions of Title 15 which relate to elementary and secondary education. The concurrent resolution is attached as Appendix B.

**It was moved by Representative Monson, seconded by Representative Kelsch, and carried on a voice vote that the concurrent resolution be prepared as a committee resolution.**

Chairman Holmberg said the committee will hold a conference call at noon on Wednesday, October 28, 1998. He said at that time the committee will vote to consider recommendation of the bill draft to create

and enact Title 15.1, as amended; recommendation of the bill draft to reconcile statutory references to Title 15, as amended; acceptance of sections to be repealed by omission; recommendation of a concurrent resolution directing the Legislative Council to continue its study of those sections of Title 15 which relate to elementary and secondary education; preparation of the committee's final report; and adjournment sine die.

With the permission of Chairman Holmberg, Mr. Decker distributed *K-12 Fall Enrollments by District for the last 5 years*. It is attached as Appendix C. He said the fall enrollment for 1994 was 118,616 students. He said the fall enrollment for 1998 is 113,994. He said this decline is very likely due to the agricultural crisis. He said there have been heavy losses in the lower grades. He said if that trend continues the loss in future years will be even bigger than earlier predicted.

In response to a question from Senator Naaden, Mr. Decker said losses were expected in the smaller rural districts. However, he said, even the larger school districts lost enrollment.

**It was moved by Representative Thoreson, seconded by Representative Renner, and carried on a voice vote that the meeting be adjourned.**

The meeting was adjourned at 2:30 p.m.

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L. Anita Thomas  
Committee Counsel

ATTACH:3