

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EDUCATION SERVICES COMMITTEE

Thursday and Friday, November 20-21, 1997
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, Randy A. Schobinger, Vern Thompson, Terry M. Wanzek, Dan Wogsland; Representatives Ole Aarsvold, Thomas T. Brusegaard, Linda Christenson, Howard Grumbo, Lyle L. Hanson, RaeAnn Kelsch, John Mahoney, Dennis J. Renner

Members absent: Representatives David Drovdal, David Monson, Laurel Thoreson

Others present: See Appendix A

It was moved by Senator Naaden, seconded by Senator Thompson, and carried on a voice vote that the minutes of the previous meeting be approved subject to the following amendment:

Page 2, paragraph 6, sentence 3, delete "frequently";

Page 2, paragraph 7, sentence 3, after "system" insert ", where courses are equivalent"; and

Page 2, paragraph 7, sentence 4, after "have" insert "begun to".

COUNTY SUPERINTENDENTS OF SCHOOLS

At the request of Chairman Holmberg, Ms. Pat Laubach, Department of Public Instruction, presented testimony regarding the position of county superintendent of schools. She said the 1995 Legislative Assembly authorized school districts to do away with the position of county superintendent of schools. She said 18 of 53 counties have assigned all of the statutory duties of the county superintendent of schools to one or more qualified persons as permitted by statute. She said 13 of those counties have filed their plans with the Legislative Council. She said 23 single counties currently employ a part-time county superintendent. She said 12 counties involved in six multicounty units employ a part-time or a full-time county superintendent. She said the four multicounty units of Walsh and Pembina, McHenry and Pierce, Bottineau and

Rolette, and Burleigh and Morton employ full-time county superintendents. She said Bowman and Slope and Golden Valley and Billings Counties share part-time county superintendents.

Ms. Laubach said five of the counties that have eliminated the position have not filed a plan with the Legislative Council. She said the law requires that the president of each school board having land in the county must approve the plan. She said the plans must state who will be responsible for performing the statutory duties of county superintendents. She said some of the counties have assigned the duties to the Department of Public Instruction. She said some of the plans are missing signatures. She said Department of Public Instruction personnel need to know who to contact when concerns arise.

Ms. Laubach distributed a document showing which plans have been filed with the Legislative Council and which counties maintain county superintendents. The document is attached as Appendix B.

In response to a question from Senator Thompson, Ms. Laubach said she has no data regarding cost savings to counties that remove their county superintendents.

In response to a question from Senator Holmberg, Mr. Tom Decker, Department of Public Instruction, said the difficulty is that they do not know who should be submitting certain reports.

In response to a question from Senator Holmberg, Ms. Gloria Snyder, Department of Public Instruction, said the statutes require county superintendents to sign reports and submit them to the Department of Public Instruction. She said often the people designated to assume the duties of the county superintendents do not sign and send in the reports.

In response to a question from Representative Brusegaard, Mr. Decker said in the past there was a systematic process for checking reports and assuring their accuracy. He said many county superintendents are not in a position to check the

accuracy of the reports but merely to transmit them.

In response to a question from Senator Holmberg, Ms. Laubach said if no changes are made, we will have status quo or a continuing whittling away of the office. She said the changes that will be made in Title 15 will impact the office. She said the present situation is not working. She said perhaps we need to look at a regional service agency arrangement where an individual could be appointed by the school districts in the area.

In response to a question from Senator Holmberg, Ms. Laubach said the duties of the county superintendent are set forth in North Dakota Century Code Section 15-22-09. She said the duties are not carried out as well when there are only part-time people doing those duties.

In response to a question from Senator Wogslund, Ms. Laubach said county superintendent salaries vary from county to county. She said in many cases county officials have assumed the extra duties without a salary increase.

With the permission of Chairman Holmberg, Dr. Gary Gronberg, Assistant Superintendent of Public Instruction, said the department needs to have a direct and consistent relationship with school districts through some sort of intermediate entity.

In response to a question from Senator Naaden, Mr. Decker said there are 50 K-8 school districts. He said 41 of them are graded elementary schools and nine are one-room rural schools. He said a number of those schools have their own administrators and no longer rely on the county superintendents for administrative services.

Representative Brusegaard said if we eliminate the position, it would encourage some consolidation.

Mr. Decker said Department of Public Instruction staff would prefer to have direct relationships with school districts to ensure reporting accuracy. He said the Superintendent of Public Instruction has long supported legislation to place all land in a high school district.

In response to a question from Representative Kelsch, Ms. Laubach said education service agencies could be used to assist school districts with functions still performed by county superintendents. She said these entities could also govern special education and vocational functions.

In response to a question from Senator O'Connell, Ms. Laubach said the county superintendents have always been viewed as an arm of the Department of Public Instruction. She said education service agencies could be funded by local school districts, the counties, or the state. She said school districts could pay into a pool for group

insurance, group purchasing, the salaries of education service agency personnel, and teacher inservice. She said even the teacher learning centers could be factored into the education service agencies.

In response to a question from Representative Kelsch, Ms. Laubach said there are only nine states that still have county superintendents. She said education service agencies would help with some of the reporting and accuracy concerns voiced by Department of Public Instruction personnel. She said most states use an intermediate administrative level between the school districts and the Department of Public Instruction. She said the education service agencies also present opportunities for cooperation in matters of technology, as well as in the procurement of Goals 2000 funds.

In response to a question from Senator Thompson, Mr. Decker said one of the problems we have now is that we cannot afford to train the county superintendents or their designees to do the reporting functions. He said we have technology units, special education units, Goals 2000 units, vocational units, and school district consortia. He said their borders do not match and all units have their own administrative staffs.

In response to a question from Senator Holmberg, Mr. Decker said the greatest difficulty is getting the information from the school district through the intermediary level of county superintendents or their substitutes.

In response to a question from Representative Aarsvold, Mr. Decker said an intermediate agency is quite capable of handling the annexation proceedings. He said given the reduction in the number of school districts, a regional person would be in the best position to handle annexation proceedings. He said when county committees were established, each county had 45 to 50 school districts to handle. He said today we have 235 districts in the entire state. He said a regional committee would handle the same number of districts as county committees handled in 1948. He said county committees are in a semijudicial position and they need to make objective decisions about what is best for the children and the taxpayers.

In response to a question from Senator Wogslund, Mr. Larry Klundt, Executive Director, North Dakota Council of Education Leaders, said there is a need for some sort of an intermediate agency. He said county superintendents are supposed to check reports for accuracy. He said somebody will have to do that work. He said in the past his association has opposed area service agencies. He said a number of North Dakota

school districts have joined area service agencies in Minnesota to obtain benefits that are not available in North Dakota.

In response to a question from Representative Aarsvold, Mr. Klundt said his organization is looking at joint purchasing opportunities, insurance pooling opportunities, and even transportation and maintenance agreements.

In response to a question from Representative Christenson, Mr. Decker said we are facing declining enrollment numbers. He said school districts will have extreme pressure on them.

In response to a question from Senator Naaden, Senator Holmberg said we need to eliminate the position of county superintendent of schools, reinstate the position, or adopt an area service agency concept.

In response to a question from Representative Hanson, Mr. Decker said there are relatively few counties from which they have trouble getting information. He said generally the problem exists where there are K-8 districts. He said there are a whole series of questions under the current system. He said one question has to do with who handles reorganizations if the position of county superintendent has been eliminated.

Representative Aarsvold said he knows of situations in which a county auditor makes no effort to verify reports. He said the county auditor merely signs the reports and passes them on to the Department of Public Instruction.

In response to a question from Representative Hanson, Ms. Laubach said Oliver County had appointed their school superintendent to perform the county superintendent's duties on an interim basis. She said a county official now performs the duties.

In response to a question from Representative Hanson, Dr. Mark Sanford, Superintendent, Grand Forks Public School District, said it would be possible in some instances to have a district superintendent perform the duties of the county superintendent.

In response to a question from Representative Aarsvold, Dr. Sanford said one would have to build in safeguards so that the local superintendent handling county duties is not put in a conflict of interest position.

In response to a question from Senator Naaden, Mr. Decker said county reorganization committee members are laypersons who listen to complex and emotional issues and exercise judgment. He said they are residents of the community and bring a reputation of honesty. However, he said, they often have no experience in tax issues, legal issues, or educational issues. He

said the boards of county commissioners probably do not want to deal with many of these issues. He said some county reorganization committees have not met for two or three years. He said those counties probably do not have the financial ability to maintain a person with such expertise on this staff.

Chairman Holmberg said the Legislative Council staff should be requested to prepare three bill drafts. He said the first one should eliminate the county superintendent's position and incorporate the concept of a regional educational service center. He said the second one should remove the position of county superintendent but statutorily assign the duties that are necessary while eliminating nonessential ones. He said the third one should maintain the ability of counties to keep a county superintendent or to reassign the duties, but it must be drafted in a manner that makes the concept operationally feasible.

STUDY OF TITLE 15

Vice Chairman Kelsch opened discussion of the provisions of North Dakota Century Code Title 15.

15-28-01. School board members, number, and terms - Elections to be at large - Reorganized districts vote once.

Vice Chairman Kelsch said this section provides for five-member school boards and the mechanism by which districts can increase or decrease the size of their school boards. She said the section requires internal organization.

15-28-02. Rural members of school board - Definitions.

Vice Chairman Kelsch said this section ensures rural representation on school boards that include cities having a population under 2,000 as well as those having populations between 2,000 and 15,000. She said the section requires cleanup but should not be substantively changed.

15-28-03. Annual and special elections - When held - Officers elected - Terms - Optional joinder with city election or primary election.

Vice Chairman Kelsch said this section provides for the annual election of school board members and the commencement of members' terms. It also provides for the conversion of school board member terms from three to four years and vice versa. She said the section should be consolidated with Section 15-28-01.

15-28-04. Election precincts, polling places, and officers.

Vice Chairman Kelsch said this section provides for the selection of polling sites and the appointment of election personnel. She said the section could be consolidated with Sections 15-28-05 through 15-28-09.

15-28-05. Compensation of election officials.

Vice Chairman Kelsch said this section relates to compensation for election officials. She said no changes appear to be needed.

15-28-06. Annual and special elections - Notice.

Vice Chairman Kelsch said this section sets forth the notice requirements for annual school district elections and special elections. She said no substantive changes appear to be needed.

15-28-07. Notice of election - Form.

Vice Chairman Kelsch said this section sets forth the form for the notice of election. She said no substantive changes appear to be needed.

15-28-08. Hours polls open.

Vice Chairman Kelsch said this section sets forth the hours during which polls must be open. She said no substantive changes appear to be needed.

15-28-09. Election - Candidates - Ballots - Stickers.

Vice Chairman Kelsch said this section sets forth the filing requirements for school board candidates. She said no substantive changes appear to be needed.

15-28-10. Duties of election officials - Other statutes applicable.

Vice Chairman Kelsch said this section merely lists other relevant sections and should not be subject to any changes.

15-28-11. Publication of school board proceedings - Electorate to decide biennially.

Vice Chairman Kelsch said this section provides that biennially, at the annual election of school board members, the question of whether minutes of the school board should be published in the official newspaper of the school district must be submitted to the electors of the district.

In response to a question from Representative Hanson, Mr. Dean Kreitinger, Business Manager, Grand Forks Public School District, said their annual cost of publishing the minutes is approximately \$5,000.

Representative Aarsvold said perhaps the public needs to know that minutes are not published free of charge. He said the ballot question should reference the cost of publishing the minutes.

Senator Naaden said the cost of the last two years should be mentioned.

Representative Brusegaard said legislators should not be holding the voters' hands if the voters do not realize that these things cost money. He said that is the job of a school board and those people running for school board seats. He said he would hate to put something in statute which has the effect of hiding the proceedings of

school boards. He said once voters see the dollars, they might be tempted to vote against publishing the minutes because of the dollar amount.

Vice Chairman Kelsch said the section should be cleaned up if necessary but not changed substantively.

15-29-01. School board - Quorum - Majority vote.

Chairman Holmberg said this section defines a school board. He said the section should be cleaned up.

15-29-01.1. School board members - Attendance at workshop.

Chairman Holmberg said this section requires each newly elected school board member to attend an inservice training workshop hosted by the North Dakota School Boards Association or its designee. He said no change is warranted.

15-29-02. Meetings of board - Notice - Schedule.

Chairman Holmberg said this section relates to the calling of annual and special school board meetings. He said no change is warranted.

15-29-03. Organization of school board - Election of president.

Chairman Holmberg said this section relates to the election of school board presidents. He said no change is warranted.

15-29-03.1. School district business manager to be substituted for school district treasurer and clerk.

Chairman Holmberg said this section references the transition from the school district treasurers and clerks to the business managers. He said it was enacted in 1975 and last amended in 1987. He said the section should be repealed.

15-29-04. Duties of president.

Chairman Holmberg said this section requires that the president preside at all meetings of the school board, appoint all committees, sign all warrants, and perform other acts required by law. He said it also provides that a president pro tempore may be elected.

In response to a question from Representative Aarsvold, Mr. Kreitinger said the checks of the Grand Forks Public School District are prepared by computer and signed using a signature stamp of the school board president and the business manager.

It was moved by Representative Aarsvold, seconded by Senator O'Connell, and carried on a voice vote that Section 15-29-04 be amended to modernize the language regarding warrants and to reference the election of a vice president rather than the president pro tempore.

Senator Holmberg said perhaps Sections 15-29-03 and 15-29-04 could be combined.

Mr. Klundt said it is important to ensure that two signatures are still required on the check.

15-29-05. Compensation of board members.

Chairman Holmberg said this section sets a level of compensation for school board members. He said it was cleaned up in 1995 and no changes are recommended at this time.

15-29-06. Vacancies on school board - How filled.

Chairman Holmberg said this section gives a school board the power to fill vacancies. He said it also requires the business manager to certify the appointment to the county superintendent. He said the committee must determine who should receive the certification if the position of county superintendent no longer exists.

With the permission of Chairman Holmberg, Mr. Decker said it is his suggestion that the certification go to the county auditor--the person who certifies the other elections in the county.

Senator Naaden said he agrees that the notice should go to the county auditor.

In response to a question from Senator Holmberg, Mr. Decker said it would be helpful if the Superintendent of Public Instruction could be notified as well.

Senator Holmberg said in the redrafting, a provision should be made to notify the Superintendent of Public Instruction.

Senator Naaden said the notifications should happen the same way for all school board elections.

Ms. Laubach said the county auditor should be the one to call the election.

Representative Brusegaard said the business manager is responsible for the general elections so the business manager should also be responsible for the special elections.

15-29-07. Supervision of schools.

Chairman Holmberg said this section provides that the schools of a public school district are under the supervision of the school board that may appoint a school superintendent to supervise the schools within the district. Chairman Holmberg said Section 15-29-07 should be included in Section 15-29-08, which addresses the duties of the school board.

15-29-08. General powers and duties of school board.

Chairman Holmberg said this section lists 28 school board duties. He said it would be preferable to refer to "real and personal property owned by a district" rather than "teacherages and dormitories."

Representative Hanson said provisions should be made to alleviate any controversy regarding money left over from a graduating class's account, and specifically, whether that money should be held by a district and made available for the class's reunions.

Representative Brusegaard said perhaps the money should just be rolled over and made available to the following graduating class. Senator Holmberg said perhaps this issue could be addressed in the rewrite of the title.

With the permission of Chairman Holmberg, Dr. Richard Ott, Director, North Dakota School Boards Association, said the legislative intent language should be removed from subsections 19 and 20 and subsection 27 should be repealed.

Representative Brusegaard said Section 15-29-08.4 could be consolidated with Section 15-29-08.

Mr. Max Laird, Chairman, North Dakota Education Association (NDEA), said the NDEA has had some problems with Section 15-29-08.4. He said he is not prepared to address the matter at this time but would like the opportunity to do so at a future meeting.

15-29-08.5. Goals 2000 - Participation voluntary.

Chairman Holmberg said this section authorizes a school district to participate in Goals 2000 or to choose not to participate in Goals 2000.

Representative Brusegaard said when this section was drafted, there was concern that there needs to be local control over how the federal funds are spent and that is why the section was crafted the way it was during the 1997 session.

Chairman Holmberg said it does not warrant any changes at this time.

15-29-08.6. School-to-work - Student participation voluntary.

Chairman Holmberg said this section provides that before any elementary or secondary school student may participate in any course, program, or project offered under the auspices of the School-to-Work Opportunities Act, the student's school principal must obtain the written consent of the student's parent or legal guardian.

Representative Kelsch said the policy was already in effect but people wanted the language in statute.

Senator Holmberg said this section references duties of a principal, so perhaps it could be placed in a section addressing the duties of school district personnel.

15-29-09. Duties of the business manager of the school board.

Chairman Holmberg said this section sets forth 12 duties of a school district business manager.

In response to a question from Senator Holmberg, Dr. Ott said the statutes reference both business managers of school districts and business managers of school boards. He said a business manager is employed by a school board to serve a school district. He said the references should be cleaned up.

15-29-10. District records open to examination - Records as evidence - Investigation - Exemption.

Chairman Holmberg said this section states that all records, vouchers, and papers of a school district are open to examination by any taxpayer of the district, unless otherwise provided by law. He suggested that the records should be open to the public, not just to taxpayers.

15-29-11. Business manager's bond.

Chairman Holmberg said this section requires each business manager to furnish a bond guaranteeing that the business manager will honestly and faithfully discharge the duties of the office. He said the section could be placed with others regarding business manager.

15-29-13. Form of warrants - How warrants paid by business manager - Activities fund - Incidental revolving fund.

Chairman Holmberg said this section requires that the business manager pay out moneys only upon the presentation of a warrant signed by the president of the board and only if there is money in the business manager's hands.

Senator Naaden said the language should be updated. He said the State Auditor should be asked to consider Sections 15-29-13 and 15-29-14 to determine if the proposed language will be sufficient from his perspective.

15-29-14. Warrants - Cancellation - Description in minutes.

Chairman Holmberg said this section allows a school board to cancel all warrants drawn on any fund of the school district if they have remained unpaid for one year or more. He said the section should be updated.

15-34.1-00.1. Definitions.

Chairman Holmberg said this section defines home education, nonpublic school, parent, and school.

With the permission of Chairman Holmberg, Dr. Gronberg said there was a desire to avoid the implications associated with a "school" and therefore the terminology that is preferred by the Superintendent of Public Instruction is "home education" not "home school."

Chairman Holmberg said the rewrite of Title 15 will maintain the reference to "home education."

15-34.1-01. Compulsory attendance.

Chairman Holmberg said this section requires that every parent, guardian, or other person who has control over any educable child ages 7 through 16 years take such child to a public school unless otherwise exempted. He suggested that this section be updated in relation to Section 15-34.1-03.

15-34.1-02. Compulsory attendance - Deaf, blind, or mentally deficient persons.

Chairman Holmberg said this section provides that every parent, guardian, or other person who has control over any deaf child at least four years old or control over any blind or mentally deficient child between the ages of 7 and 20 shall send the child, if deaf, to the School for the Deaf at Devils Lake or other adequate institution for the entire school year, unless excused by the superintendent of that institution; and if blind, to the School for the Blind at Grand Forks or other adequate institution for the entire school year, unless excused by the superintendent of that institution.

In response to a question from Senator Wanzek, Dr. Gronberg said in most instances there has not been a problem with disabled children seeking to leave school early.

Senator O'Connell said it was discriminatory to require a disabled child to stay in school until age 20, whereas a nondisabled child is permitted to leave school at age 16.

Dr. Gronberg said adult services programs do not begin until a person turns 21. He said if a disabled child meets the graduation requirements prior to age 20 or 21, the child may leave school.

Senator Wanzek said compulsory attendance until age 20 forces all disabled students to attend, regardless of whether or not it is in their best interests.

Senator Holmberg said we should draft the section with the current language (i.e., age 20) and then look at it again during a future meeting.

Representative Aarsvold said we should select one phrase for private schools rather than calling them private, nonpublic, and parochial.

15-34.1-03. Compulsory attendance - Exceptions.

Chairman Holmberg said this section provides the five exceptions to compulsory attendance.

Mr. Laird said there is discussion about creating alternative schools for middle school students. He said we should make sure that the alternatives in this chapter permit this.

Senator Holmberg said in rewriting this section care should be taken to ensure that the sending of a child to an out-of-state boarding school is not a violation of the compulsory attendance law.

15-34.1-04. Prosecution for violation of compulsory attendance law - Officers charged with enforcement.

Chairman Holmberg said this section provides that every school board member, school superintendent, principal, truant officer, and teacher in any school system in this state and every **county superintendent of schools** is charged with the enforcement of the provisions relating to compulsory school attendance.

Senator Holmberg said it is very difficult dealing with 14- and 15-year-olds who do not want to attend school. He said since truant officers are no longer used, the redraft should refer to more generic personnel.

15-34.1-06. Home education.

Chairman Holmberg said this section again defines "home education" and what it must include, sets forth who may provide home education, describes the keeping of academic records, and covers procedures for notifying a school district that a child will be home-schooled. He said the section needs to be cleaned up. He said any drafts should be made available to representatives of parents who home-school their children prior to the next committee meeting.

Dr. Gronberg said in redrafting the section consideration should be given to the scope of the applicable administrative rules and to the scope of the latest home school rules, the implementation of which was rejected by the Administrative Rules Committee.

Senator Holmberg said the rewrite should strive to make the section more comprehensible, but it should not make substantive changes.

15-34.1-07. Home education - Quality assurance.

Chairman Holmberg said this section covers required tests, the cost of the tests, test scores and consequences, plans of remediation, and monitoring. He said the rewrite should strive to make the section more comprehensible, but it should not make changes.

15-34.1-08. State aid.

Chairman Holmberg said this section provides that a school district is to receive 50 percent of the per student foundation aid for a home-schooled child plus proportionate payments for any classes the child takes at a public school. The total, however, may not exceed 100 percent of a per student foundation aid payment. He said the rewrite should strive to make the section more comprehensible, but it should not make substantive changes.

15-34.1-09. Monitoring or administration by a certificated teacher.

Chairman Holmberg said this section contains

the requirements for the monitoring of home-schooled children. He said it should be grouped with other sections regarding monitoring.

15-34.1-10. Home education - Liability.

Chairman Holmberg said this section states that no state agency, public school district, or county superintendent may be found liable for accepting as correct the information on the statement of intent or for any damages resulting from the parent's failure to educate the child. He said we need to reconcile the reference to the county superintendent.

15-34.1-11.1. High school diplomas - Issuance to home education students.

Chairman Holmberg said this section sets forth the conditions under which a home-schooled student may be issued a high school diploma. He said it was subject to an extensive reworking during the 1997 session and should not be changed at this time.

15-34.2-01. Vehicular transportation or lodging may be furnished at option of school board.

Chairman Holmberg said this section states that school boards may provide transportation to students or the equivalent of transportation payments for lodging assistance at another school.

Representative Brusegaard said county agricultural and training schools are a thing of the past and references to them should be eliminated.

15-34.2-03. Transportation - Payment optional with school board.

Chairman Holmberg said this section authorizes a school board to pay a reasonable sum per day to each family living more than two miles from the school for transportation or lodging expenses.

In response to a question from Senator Holmberg, Mr. Decker said family transportation is used by a number of districts in connection with school-provided transportation. He said he knows of no abuses based on the use of the phrase "reasonable" amount.

In response to a question from Senator Thompson, Mr. Decker said family transportation reimbursement cannot be authorized if the route duplicates that driven by a schoolbus.

15-34.2-04. Demand for payment - Waiver.

Chairman Holmberg said this section requires those entitled to payments to ask for them before the close of a school year. He said failure to do so waives the payment obligation. He said if a school district does not pay within a year, we are to assume the request for payment has been denied. He said the language needs to be updated.

15-34.2-05. Transportation expense - Report of business manager of the school district.

Chairman Holmberg said this section requires the business manager to include transportation expenditures in his annual statement.

With the permission of Chairman Holmberg, Mr. Decker said this is already required through other mechanisms and should be repealed.

15-34.2-06. Payment of board and lodging for high school students permitted - Levy.

Chairman Holmberg said this section provides that if it is more convenient or economical, a school district may pay a reasonable allowance instead of providing vehicular transportation for the attendance of high school students at another district.

In response to a question from Senator Holmberg, Mr. Decker said very little of this is being done at the moment.

Senator Naaden said as school districts get larger this may be put to use again.

Senator Holmberg said the rewrite should remove the language regarding convenience and economy.

15-34.2-06.1. Charge for bus transportation optional.

Chairman Holmberg said this section provides that districts that have not been reorganized may charge a fee for schoolbus transportation and goes on to provide what the maximum allowable fee is, based on whether the service was initiated before or after 1981.

15-34.2-07. Vehicular transportation - Bids, contracts, bonds.

Chairman Holmberg said this section requires school districts to enter into written contracts with entities for the furnishing of transportation services.

In response to a question from Senator Holmberg, Mr. Decker said the purchase of buses necessitates a long contract period.

15-34.2-07.1. School transportation contracts - Direct negotiation.

Chairman Holmberg said this section provides that once a school district enters into a contract with another party for the provision of transportation services, renewals may be undertaken by direct negotiation, provided that the school district obtains two or more written quotations. He said the section should be updated.

15-34.2-07.2. School fuel contracts.

Chairman Holmberg said this section states that a school board may purchase transportation fuel or heating fuel by obtaining written quotes from all vendors who have registered with the school district for that school year.

Representative Aarsvold said it sounds unusual to have registration of fuel vendors. However, he said, since it was important to someone at some time, we should not change the content. He said perhaps we could consider including this section with other duties of school boards.

15-34.2-08. Contract for vehicular transportation - Conditions for granting.

Chairman Holmberg said this section provides that a school board must let contracts for vehicular transportation to the lowest responsible bidder who furnishes a bond. He said the rewrite should eliminate phrases such as "in the judgment of the board."

15-34.2-09. Contents of vehicular transportation contract - Restrictions.

Chairman Holmberg said this section requires the use of a standardized transportation contract and sets forth the provisions of such a contract. He said the language regarding approved vehicles and approved drivers would seem inflexible if at 7:00 a.m. a schoolbus does not work.

Mr. Decker said the language should allow enough flexibility to accommodate unexpected situations.

In response to a question from Senator Thompson, Mr. Decker said the Superintendent of Public Instruction has no way of knowing whether school districts are abiding by this law.

Senator Holmberg said the rewrite should loosen up the language but still observe the intent of the section.

15-34.2-10. Arbitration of disagreement as to compensation on change of route.

Chairman Holmberg said this section provides that if there is a change of route and the transportation provider and the school district cannot agree on an adjustment, a three-member arbitration panel shall decide an appropriate compensation change. He said this section amounts to binding arbitration in the case of route changes.

In response to a question from Senator Holmberg, Mr. Decker said he knows of no instance in which this has been used. He said he suspects that any costs of arbitration are split between the parties.

Senator Holmberg said this could be part of the prior section regarding contracts in general.

15-34.2-11. Transportation of students - Authority over drivers and students.

Chairman Holmberg said this section provides that the operator of a vehicle used to transport students is under the supervision and direction of the board, the superintendent, the principal, and the teachers of the school at all times while on duty. He said the section also provides that the disciplinary authority of the school exists over all

students while being transported to and from school and that the operator is charged with the control and discipline of the students while they are being transported.

In response to a question from Senator Holmberg, Mr. Klundt said a school district has rules about the operation of schoolbuses. He said the driver has the authority to apply those rules.

In response to a question from Senator Wanzek, Mr. Klundt said a driver cannot go beyond those rules.

Senator Holmberg said the rewrite should clean up the section while maintaining its intent.

15-34.2-12. School boards' authority to purchase schoolbus equipment.

Chairman Holmberg said this section authorizes school boards to purchase bus bodies, chassis, or complete motorbuses. He said we could put this under the duties of the school board. He said since no one voiced a concern about the payment mechanism, it should not be altered.

15-34.2-13. Storage facilities for buses.

Chairman Holmberg said this section gives school boards the power to lease for purchase, purchase, or construct storage facilities for schoolbuses. He said this section could also be included in the powers and duties of a school board.

15-34.2-14. Qualifications, character, and age of schoolbus and school vehicle drivers.

Chairman Holmberg said this section requires that the driver of a schoolbus or a school vehicle be in good physical and mental health, be able-bodied, be free from communicable diseases, and have normal use of both hands, both feet, both eyes, and both ears.

In response to a question from Senator Holmberg, Mr. Decker said as of January 1, 1996, all school boards must have instituted random drug and alcohol testing of bus drivers. He said this is federal law.

In response to a question from Senator Thompson, Mr. Decker said when the federal drug testing requirements came about, North Dakota allowed the testing to become privatized. He said Medcenter One is the contractor in nearly every school district in the state. He said all people who are critically involved in the transportation of students are subject to drug and alcohol testing. He said that includes mechanics. He said we should rewrite this section so that it complies with the federal rules.

In response to a question from Representative Brusegaard, Mr. Decker said under federal law any vehicle that hauls more than nine passengers must be yellow and look like a schoolbus. He said the Department of Public Instruction rules require

anyone who transports students for school purposes to have normal use of their limbs, eyes, etc. He said it appears that the last sentence in the section is unnecessary and should be removed.

Senator Wanzek said the statute is inconsistent in that it requires all bus drivers to be at least 21 years of age and then provides that a school board may waive this minimum age requirement.

Chairman Holmberg called on Mr. Mel Olson, Director of Vocational and Technical Education, who said some school districts hire college students to drive buses. He said school boards at times have difficulty finding appropriately qualified people to drive the buses.

Senator Naaden said it is the job of a school board to hire appropriate people and the age of drivers should be left up to the determination of the school board. He said if a person meets all the criteria for being a good driver, why should the person be restricted from employment until age 21?

Representative Brusegaard said if we require a commercial driver's license to haul more than 16 people, we should observe the federal age requirements, too.

Senator Schobinger said private industry is reluctant to hire people until they are 24 because the insurance rates are so high for younger drivers.

Representative Aarsvold said this language puts the school board in the position of having to review a person on a case-by-case basis rather than just assume that any 18-year-old is able to drive a bus.

Mr. Decker said the most difficult job that a bus driver has is to maintain order and discipline.

Senator Holmberg said the rewrite should reflect a cleanup of the waiver language.

15-34.2-15. Transportation of students outside state by schoolbus - When permitted.

Chairman Holmberg said this section provides that a school district may extend its route into a bordering state for the purpose of transporting students when the Superintendent of Public Instruction has entered into a reciprocal agreement with the bordering state. He said there appears to be no need to make any substantive changes in this section.

15-34.2-16. Transportation of nonpublic elementary and high school students - Comprehensive transportation services - Conditions.

Chairman Holmberg said this section authorizes the provision of transportation services to students attending nonpublic schools and the provision of integrated transportation services to the general public. He said the section needs to

be organized. He said there must also be a coordinated reference to the types of schools.

15-34.2-17. School boards to release students for religious instruction.

Chairman Holmberg said this section authorizes a school board, upon the request of an elementary or high school student's parent or guardian, to release the student for one hour per week for religious instruction. He said this needs to be moved out of the transportation chapter. He said we need to clarify who must do this. He said it does not seem appropriate to ask a school board to release a student for this purpose.

15-34.2-18. School boards may furnish district-owned schoolbuses to nonprofit organizations.

Chairman Holmberg said this section provides that a school board may furnish district-owned schoolbuses to nonprofit organizations for use in conjunction with those organizations' activities. He said the section does not appear to require any substantive changes.

Chairman Holmberg recessed the meeting at 3:30 p.m. and reconvened the meeting at 9:00 a.m. on Friday, November 21, 1997.

Chairman Holmberg said the committee did not get a chance to discuss North Dakota Century Code Chapter 15-27.5 the prior day. He said the chapter pertains to school districts on military installations. He said Dr. Sanford, in a conversation with him and the committee counsel, indicated that the chapter worked well. He said the one change that Dr. Sanford recommended is that the installation school boards be allowed to fill vacancies by appointment.

15-35-01.1. Approval required for certain school district construction projects.

Chairman Holmberg said this section requires that the Superintendent of Public Instruction approve all school construction, repairs, etc., if they have a price tag in excess of \$25,000. He said the interim Education Finance Committee is presently considering this matter. He said this committee will not address the section at this time.

15-35-01.2. Inspection of schools - Submission of inspection report - Correction of deficiencies.

Chairman Holmberg said this section requires the State Fire Marshal to inspect each public and private elementary and secondary school in this state at least once every three years. He said this section underwent an extensive study and rewrite during the 1995-96 interim and requires no change at this time.

15-35-09. Fire, tornado, and disaster emergency drills - Duty of superintendents and teachers.

Chairman Holmberg said this section requires that all public schoolteachers who teach in school buildings consisting of more than one room conduct fire, tornado, or disaster emergency drills each month, except when the weather is inclement.

In response to a question from Senator Holmberg, Mr. Decker said a district superintendent should develop a plan for emergency drills and ensure that they are carried out.

15-35-11. Doors in schoolhouses to be unlocked and fire escapes kept clear.

Chairman Holmberg said this section requires that all doors in schoolhouses be kept unlocked from 8:30 a.m. to 4:30 p.m. on schooldays and that the way of egress to the fire escapes in every school building must be kept free from all obstruction at all times. He said while this is conceptually a good idea, it is not particularly practical. He said perhaps we would want to make an exception for private offices and supply rooms. He said we might also want to address the problem created when school begins at 7:30 a.m. He said the second part of the section is clearly important. He said the section should be rewritten in a way that maintains its intent.

15-35-12. School buildings - Sanitation.

Chairman Holmberg said this section requires that every public school building be kept clean and free from effluvia (noxious vapors and odors) arising from a drain, privy, or nuisance and be provided with a sufficient number of water closets, earth closets, or privies. It must also be ventilated in such a manner that the air does not become so impure as to be injurious to health.

In response to a question from Senator Holmberg, Mr. Decker said, on its face, this section appears to have outlived its usefulness. However, he said, there still needs to be language that requires the observance of basic health precautions. He said one example would be to ensure that washrooms have soap in them.

Senator Holmberg said the rewrite should reflect a reconciliation with other sections related to basic health issues in schools.

15-35-14. Use of school buildings for other than school purposes.

Chairman Holmberg said this section provides that school boards may permit the use of school buildings under proper restrictions for any appropriate purpose when not in use for school purposes. He said the section is in need of a cleanup.

In response to a question from Senator Holmberg, Representative Mahoney said the reference to appropriate uses should be maintained.

Representative Aarsvold said we are trying to convey a community standard of what is appropriate.

15-35-15. Duty of Superintendent of Public Instruction to enforce statutes.

Chairman Holmberg said this section provides that the Superintendent of Public Instruction must enforce the chapter. He said it should be repealed.

15-35-16. Penalty for improper erection of school building.

Chairman Holmberg said this section provides that any architect or other person who draws plans or specifications for, or who superintends the erection of, a public school building, or who erects or constructs a public school building in violation of the provisions of the chapter, is guilty of an infraction. He said the maximum fine for an infraction is \$500. He said at the very least it should be combined with Section 15-35-17.

15-35-17. Penalty for violating provisions of chapter.

Chairman Holmberg said this section provides that any person who violates this chapter is guilty of an infraction. He said at the very least the section should be combined with Section 15-35-16.

15-36-01. Teachers' certificates - Criteria to be established.

Chairman Holmberg said this section directs the Education Standards and Practices Board to determine the criteria for teacher certification. He said the section references one board that deals with teachers and another that deals with administrators. He said this is awkward and needs to be clarified.

15-36-01.1. Teachers' certificates - Student transcript.

Chairman Holmberg said this section provides that when a student requests a transcript, the college or university must provide a copy of the transcript. He said since no one appears to have a concern about this or any recollection as to why it was initially enacted, the rewrite should not reflect any substantive changes.

15-36-08. Fees for certificates.

Chairman Holmberg said this section provides that the Education Standards and Practices Board must set a fee for teachers' certificates. He said the fees, which are \$75 for five years, are deposited into the board's own account for its own use.

In response to a question from Senator Holmberg, Ms. Deb Jensen, Assistant Director, Education Standards and Practices Board, said the fee

that has been instituted for fingerprinting goes to the law enforcement agency conducting the background check, not to the Education Standards and Practices Board.

15-36-11. Certificate required.

Chairman Holmberg said this section provides that a person must hold a valid North Dakota teacher's certificate in order to be permitted or employed to teach in any public school in this state.

In response to a question from Senator Holmberg, Ms. Jensen said if a teacher is found to be teaching without a license, the Education Standards and Practices Board will notify the school at which the person is teaching. She said other sanctions are found in North Dakota Century Code Section 15-36-15.

In response to a question from Senator Wogsland, Ms. Jensen said the Education Standards and Practices Board has indicated to school districts that they might lose foundation aid if they employ an uncertificated teacher, but the Education Standards and Practices Board has never threatened to withhold aid because it is not within the purview of the board to do so.

In response to a question from Senator Thompson, Ms. Jensen said there were a few new teachers who could not be certificated because the results of their fingerprinting tests did not arrive on time. She said the Education Standards and Practices Board recommended that schools hire the new teachers as paraprofessionals until they could be appropriately certificated.

In response to a question from Senator Holmberg, Ms. Jensen said the North Dakota fingerprinting requirement is for initial certification only.

In response to a question from Senator Wogsland, Ms. Jensen said the Education Standards and Practices Board is looking at a 30-day provisional certification for people who encounter difficulties such as delays in background checks.

In response to a question from Senator Wogsland, Ms. Jensen said she is unaware of any statement made by the Education Standards and Practices Board indicating that they were not intending to do anything regarding provisional certifications for at least a year.

Senator Wogsland said lags in certification are not acceptable regardless of their length. He said we are requiring school districts to hire substitutes while they await the certification of professionals. He said this is entirely unacceptable.

15-36-12. Certificate must be exhibited to business manager of the school district - Completion of term after expiration of certificate.

Chairman Holmberg said this section provides that a teacher may not receive any compensation for the time the teacher teaches in a public school without a certificate to teach. He said the section also requires that the teacher, prior to receiving a salary for the first month taught in a school district, must exhibit the teacher's certificate to the business manager of the school district. He said the section must be reworked.

15-36-14.1. State's attorney - Duty to notify the education standards and practices board and the administrator's professional practices board.

Chairman Holmberg said this section requires the state's attorney to notify the Education Standards and Practices Board whenever a certificated teacher or administrator is convicted of a felony or a Class A misdemeanor.

In response to a question from Senator Holmberg, Representative Mahoney said in 19 years he has never had to deal with this issue. He also said he probably would have no way of knowing whether or not a convict is a certificated teacher.

Representative Aarsvold said this section was enacted because the old Teachers' Professional Practices Commission found there was no mechanism by which courts could report violations of the law by teachers and the commission had no way of obtaining that information.

Representative Mahoney said if a teacher is convicted in the smaller communities, the school board would most certainly know about it. He said this section might have more applicability to larger cities.

In response to a question from Senator Holmberg, Ms. Jensen said some state's attorneys are notifying the Education Standards and Practices Board and others are not. She said quite often the board finds out about a conviction by paging through the newspaper.

In response to a question from Representative Mahoney, Ms. Jensen said the Association of State's Attorneys was notified of this statute.

Senator Holmberg said perhaps the State's Attorneys Board and the Education Standards and Practices Board could together determine whether there needs to be a language change.

15-36-15. Revocation of teacher's certificates - Grounds - Effect.

Chairman Holmberg said this section provides that the Education Standards and Practices Board may suspend or revoke and annul any teacher's or administrator's certificate granted in this state upon certain grounds. He said this section needs to have its dual references to the teachers and the administrators clarified. He said the administrators' board is made up of some of the members of the teachers' board.

In response to a question from Senator Holmberg, Mr. Klundt said he proposed the concept of an administrators' board and that he and the administrators know how it works.

Mr. Laird said to be an administrator in North Dakota a teaching certificate is required. He said he would be concerned that any separation would imply that that might be different.

In response to a question from Senator Thompson, Mr. Laird said appeals from certificate revocations are taken to Burleigh County District Court because that is the county in which the Education Standards and Practices Board is situated.

In response to a question from Senator Holmberg, Mr. Klundt said different sections of the law define administrators differently. He said with respect to nonrenewals, superintendents are separated from others. He said in this case they mean a person who qualifies for an administrator's certificate.

Chairman Holmberg requested that Mr. Klundt and the Education Standards and Practices Board delineate clearly who qualifies as an administrator so that clear delineation can be considered for inclusion in the statute.

15-36-16. Proceedings to suspend, revoke, or annul certificate.

Chairman Holmberg said this section requires the Education Standards and Practices Board to hold a hearing when it receives a complaint alleging grounds to suspend, revoke, or annul any person's teaching certificate. He said the section needs to be cleaned up.

15-36-17. Notice to be given when teacher's certificate is revoked.

Chairman Holmberg said this section requires that the Education Standards and Practices Board notify the business manager of the school district when the certificate of a teacher in the district is revoked. He said this section needs to be cleaned up.

15-36-18. School guidance and counseling services - Providers.

Chairman Holmberg said this section allows guidance and counseling services to be provided by a person holding a graduate degree in counseling from a state-approved school counseling program, with coursework and an internship in school counseling, provided the person has a valid North Dakota teaching certificate or will obtain one within seven years from the date of first employment. He said this section received extensive attention during the 1997 legislative session. He said it appears to be adequate in its present form. He said, however, a new location must be selected for it.

15-37-01. Teacher's oath.

The committee did not address this section.

15-37-02. Faculty members of state institutions to take oath.

Chairman Holmberg said this section requires that every professor, instructor, or teacher employed by any university, college, or normal school in this state which is supported in whole or in part by public funds take the oath or affirmation prescribed in Section 15-37-01. He said perhaps it could be combined with Section 15-37-03.

15-37-03. Oath of aliens as members of faculty of state institutions.

Chairman Holmberg said this section provides that any person who is a citizen or subject of any country other than the United States and who is employed as a professor, instructor, or teacher in any university, college, or normal school in this state which is supported in whole or in part by public funds must take an oath to support the institutions and policies of the United States during the period of his sojourn within the state. He said this was instituted in 1931 and has not been amended since 1939.

15-38-01. Superintendent of schools - Powers and duties.

Chairman Holmberg said this section requires that the superintendent of schools supervise the administration of the courses of study, visit schools, examine classes, and have general supervision of the professional work of the schools, including the holding of teachers' meetings and the classification of teachers. He said this section needs to be reworked.

15-38-04.1. School holidays defined.

Chairman Holmberg said this section sets forth the statutory school holidays. He said the section is inappropriately placed among teachers' duties and should be moved.

15-38-06. Teachers to be excused to vote.

Chairman Holmberg said this section provides that a teacher must be excused from school, without loss of pay, in order to vote. He said generally school ends around 3:00 p.m. and polls are usually open until 8:00 p.m.

15-38-07. Required subjects in all schools.

Chairman Holmberg said this section provides that the following subjects must be taught in all public and private schools: spelling, reading, writing, arithmetic, language, English grammar, geography, United States history, civil government, nature study, and elements of agriculture. He said the section should be consolidated with other sections also governing required subjects and course content.

15-38-08. Study of Constitution of the United States.

Chairman Holmberg said this section requires the teaching of the United States Constitution. He said it needs to be consolidated with other sections regarding required subjects and course content.

15-38-09. Physical education to be taught in all schools.

Chairman Holmberg said this section requires that physical education be taught to all students in the public schools and offered in all educational institutions supported wholly or in part by money from the state. He said it needs to be consolidated with other sections regarding required subjects and course content.

15-38-10. Moral instruction.

Chairman Holmberg said this section requires the teaching of truthfulness, temperance, purity, public spirit, patriotism, international peace, respect for honest labor, obedience to parents, and deference to old age. He said it needs to be consolidated with other sections regarding required subjects and course content.

15-38-11. Teaching humane treatment of animals.

Chairman Holmberg said this section requires that oral instruction in the humane treatment of animals be given in each public school. He said it should be repealed.

15-38-12. Reading of Bible optional.

Chairman Holmberg said this section provides that the Bible be read in school for up to 10 minutes daily, provided no sectarian comment is made thereon.

15-38-13. Suspension of pupils - Cause - Notice.

Chairman Holmberg said this section allows a teacher to suspend any student from school for up to five days. The offenses for which suspension may be invoked include insubordination, habitual disobedience, or disorderly conduct. He said the teacher is required to give immediate notice of the suspension, and the reason therefor, to the parent or guardian of the student and to a member of the school board. He said this may have been the way it worked in 1890, at the section's time of enactment, but it does not fly in today's judicial arena. He said repeal is recommended.

15-38-13.1. Approved alternative education programs - Suspension of students.

Chairman Holmberg said this section relates to the suspension of students enrolled in approved alternative education programs.

In response to a question from Senator Holmberg, Mr. Laird said there is a difference between alternative schools and alternative programs.

15-38-13.2. Alternative education program - Expulsion of students.

Chairman Holmberg said this section deals with the expulsion of students enrolled in alternative education programs.

15-38-16. Responsibilities of the teaching profession.

Chairman Holmberg said this section contains legislative intent regarding the profession of teaching in the public schools. He said that this section should be repealed.

With the permission of Chairman Holmberg, Mr. Laird said the section also defines the "profession of teaching" or "teaching profession." He said he would urge inclusion of the definitions.

Senator Holmberg said definitions need to be related to specific references. He said he thought if the definitions were needed, they could be accommodated in the appropriate sections.

15-38-17. Education standards and practices board and administrator's professional practices board.

Chairman Holmberg said this section addresses the membership of the Education Standards and Practices Board and the Administrator's Professional Practices Board. He said sections related to the Education Standards and Practices Board should be in a chapter related to that board. He said the section presently refers to the "dean of a college of education." He said the terminology should also include chairmen of departments of education.

15-38-18. Duties of the education standards and practices board.

Chairman Holmberg said this section directs the Education Standards and Practices Board to supervise the certification of teachers; set standards for and approve teacher preparation programs; develop and revise professional codes or standards relating to ethics, conduct, and professional performance and practices; and provide recommendations for the inservice education of persons engaged in the profession of teaching in the public schools. He said sections related to the board should be in a chapter relating to that board.

15-38-18.1. Education standards and practices board - Certification of North Dakota American Indian language instructors.

Chairman Holmberg said this section authorizes the Education Standards and Practices Board to certify individuals as instructors of North Dakota American Indian languages and culture.

In response to a question from Senator Holmberg, Ms. Jensen said the Education Standards and Practices Board believes that this section works quite well. She said probably 10 to 15 people have been certified under this section.

15-38-18.2. Education standards and practices board - Initial certification of teachers - Background.

Chairman Holmberg said this section provides that the Education Standards and Practices Board must check, or cause to be checked, the background of each applicant for initial certification as a teacher. He said applicants are required to file a complete set of fingerprints and all other information necessary to complete a criminal history check with the Bureau of Criminal Investigation for state processing and filing with the Federal Bureau of Investigation for federal processing.

In response to a question from Senator Holmberg, Mr. Laird said the Attorney General had initially advised the Education Standards and Practices Board that the law gave them no flexibility and that therefore they could not process certificates if the background checks were delayed. He said the board should not be held responsible as an entity when background checks are delayed.

In response to a question from Representative Brusegaard, Mr. Laird said the thought is that there could be a 30-day temporary certification, pending background checks.

In response to a question from Senator Holmberg, Mr. Klundt said if there is an application for a certificate after August 15, the superintendent of the school district could request a temporary certificate while the background check is being made.

Representative Kelsch said the purpose of the legislation was to make sure that the fingerprinting and background check were completed before any person would be allowed in a classroom. She said the intent of the law was to ensure that unsafe people would not be allowed in the classroom.

Mr. Klundt said it is hoped that with a provisional certification, the local school board would be doing a good job and ensuring that pedophiles are not hired.

Representative Kelsch said the provisional certification issue should be addressed in a separate bill, not as part of the rewrite of Title 15.

In response to a question from Senator Wogslund, Ms. Jensen said the background checks will be much faster once the Bureau of Criminal Investigation moves into its new facilities. She said since teachers work a lot with

paper, there is often difficulty in obtaining a good, clear set of fingerprints.

Senator Wogsland said he hopes that all interested parties do whatever they can to expedite background checks.

Senator Thompson said he agrees with Representative Kelsch that this matter should be the subject of a separate bill.

15-38-19. Complaints against teachers and school administrators.

Chairman Holmberg said this section provides that the Education Standards and Practices Board or the Administrator's Professional Practices Board must accept complaints against any member of the teaching profession engaged in teaching or administration.

15-38.1-01. Purpose.

Chairman Holmberg said this section is legislative intent. He said it references the promotion of improved personnel management and relations between school boards and their certificated employees and it recognizes the right of public school certificated employees to join organizations of their own choice and be represented by such organizations in their professional and employment relationships with the public school districts. He said it should be repealed.

15-38.1-02. Definitions.

Chairman Holmberg said this section defines administrators, defines an appropriate negotiating unit twice, and defines a representative organization, a strike, and teachers. He said it is in need of a cleanup.

15-38.1-03. Education factfinding commission - Appointment - Terms - Quorum.

Chairman Holmberg said this section creates the Education Factfinding Commission. He said the section needs to be cleaned up.

15-38.1-04. Compensation of commission and factfinders.

Chairman Holmberg said this section sets the compensation for members of the Education Factfinding Commission and for their factfinders. He said the section is not in need of substantive change.

15-38.1-05. Powers of the commission.

Chairman Holmberg said this section defines the powers of the Education Factfinding Commission and authorizes the commission to adopt rules.

15-38.1-06. Cost of factfinding.

Chairman Holmberg said this section delineates the costs of the factfinding process and who must bear those costs. He said the section needs to be cleaned up.

15-38.1-07. Right to organize or not organize.

Chairman Holmberg said this section provides that teachers and administrators have the right to form, join, and participate in the activities of representative organizations and that they may refuse to join or participate in such activities. He said the section needs to be cleaned up.

15-38.1-08. Right to negotiate.

Chairman Holmberg said this section provides that representative organizations may represent the appropriate negotiating units in matters of employee relations with the school board. He said it also provides that a teacher or administrator has the right to present his views directly to the school board. He said the section needs to be cleaned up.

15-38.1-09. Subject of negotiations.

Chairman Holmberg said this section defines the scope of representation as including matters relating to terms and conditions of employment and employer-employee relations. He said the section needs to be cleaned up.

15-38.1-10. Determination of appropriate negotiating unit.

Chairman Holmberg said this section provides that representative organizations may be designated or selected by the majority of teachers or administrators employed in a public school district. He said the section needs to be cleaned up.

15-38.1-11. Selection of representative organization.

Chairman Holmberg said this section provides that any organization having an interest in representing teachers or administrators may file a petition with the school board alleging that it represents a majority of teachers or administrators included within an appropriate negotiating unit. He said such a petition must be accompanied by evidence substantiating the allegation contained in it. He said the section needs to be retained and cleaned up.

15-38.1-11.1. Provision for payroll deduction for dues of representative organization for teachers.

Chairman Holmberg said this section allows dues for representative organizations to be deducted from the regular paychecks of teachers.

15-38.1-12. Good faith negotiations.

Chairman Holmberg said this section provides that a school board and a representative organization must meet at reasonable times at the request of either party and must negotiate in good faith. He said the section needs to be cleaned up.

15-38.1-13. Impasse procedures.

Chairman Holmberg said this section sets forth the conditions under which an impasse is deemed

to exist. He said the section needs to be cleaned up.

15-38.1-14. General provision.

Chairman Holmberg said this section provides that no teacher, administrator, or representative organization may engage in a strike. He said it goes on to provide that if a teacher engages in a strike, the teacher may not receive the full amount of his wages during the strike. He said the section needs to be cleaned up.

15-38.2-01. Teacher's right of review of personnel file established.

Senator Holmberg said this section provides that every teacher employed in a school district or an educational institution supported by public funds has the right to review the contents of the teacher's personnel file.

In response to a question from Senator Holmberg, Mr. Klundt said a teacher may not view any material in the teacher's personnel file which was generated prior to his employment.

Chairman Holmberg said that the references need to be cleaned up.

15-38.2-02. Placement of material in personnel file.

Chairman Holmberg said this section allows a teacher to submit a written notation regarding any material and the same must be attached to the file copy of the material in question. He said the section needs to be cleaned up.

15-38.2-03. Right to object to material in file.

Chairman Holmberg said this section provides that if a teacher believes any material in the teacher's file is inappropriate or in error, the teacher may seek review by the school administration and the school administration must grant the review. He said if the teacher is dissatisfied with the result of the administration's review, the teacher is entitled to receive a formal review before the school board.

In response to a question from Senator Holmberg, Mr. Klundt said the "administration" in this section refers to the building principal. He said if the teacher is not satisfied, the next step is the superintendent and then the school board. The board has final say.

15-38.2-04. Complaints against teacher.

Chairman Holmberg said this section provides that when a complaint is made against a teacher, the complaint must be called to the attention of the teacher if it is to be placed in the teacher's personnel file.

In response to a question from Senator Holmberg, Mr. Klundt said if the principal anticipates using the complaint to build a case and contemplates putting it in the file for this purpose, the teacher must be informed.

15-38.2-05. Request for reproduction of materials in personnel file.

Chairman Holmberg said this section provides that a teacher must be given a reproduction of any material in the teacher's personnel file, excluding those references and information given at the time the teacher was being evaluated for employment. He said the teacher must pay the copying costs.

15-38.2-06. No secret files maintained - Penalty.

Chairman Holmberg said this section makes it a Class B misdemeanor for any person in a public school district to maintain a secret personnel file concerning any teacher.

In response to a question from Senator Holmberg, Mr. Klundt said there may be multiple files, but no secret files. He said working documents are closed until they are shared with the teacher. Senator Holmberg said we should try to find a word which is more appropriate than "secret."

In response to a question from Senator Holmberg, Mr. Joe Westby, Executive Director, North Dakota Education Association, said if the process that Mr. Klundt outlined is followed, there is no problem. However, he said, if notes kept by an administrator in a planner do not get put into a teacher's file until the hearing, there is a problem. Chairman Holmberg said the Legislative Council staff should consult with the North Dakota Education Association and the Council of Educational Leaders when crafting language regarding the time period within which material must be added to the file.

With the permission of Chairman Holmberg, Dr. Wayne Sanstead, Superintendent of Public Instruction, said the letter from the Attorney General regarding 1997 Senate Bill No. 2173 will be mailed to all school administrators. He said if a district's normal day is six and one-half hours and the district dismisses after five hours, only one hour must be made up. He said this has become somewhat of a "cause celebre" for some people. He said he does not view this as a matter of local control. He said this does not interfere with the Governor's ability to declare emergencies.

In response to a question from Representative Aarsvold, Dr. Sanstead said if a school is open and operational, even if no children are present, it is counted as an instructional day. He said there is no percentage of enrollment that must be present in order to qualify as an instructional day.

Chairman Holmberg adjourned the meeting at
11:40 a.m.

L. Anita Thomas
Committee Counsel

ATTACH:2