

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EDUCATION SERVICES COMMITTEE

Tuesday and Wednesday, April 4-5, 2000  
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, Tim Flakoll, Jerome Kelsh, Pete Naaden, David O'Connell, Rolland W. Redlin; Representatives Michael D. Brandenburg, Bruce A. Eckre, Lyle Hanson, RaeAnn G. Kelsch, David Monson, Darrell D. Nottestad, Dorvan Solberg, Laurel Thoreson

**Members absent:** Senator Layton Freborg; Representative Jon Martinson

**Others present:** See Appendix A

**It was moved by Senator Naaden and seconded by Representative Thoreson that the minutes of the previous meeting be approved as distributed.**

Senator Kelsh said at the last meeting the committee reviewed the monitoring of home schools. He said he and Representative Eckre had been to a meeting with about 14 to 15 superintendents from their area. He said the superintendents have some real concerns about the present monitoring process and believe we would be better served if the state conducted the monitoring rather than the school districts. He said there seemed to be some hard feelings. He said the previous minutes reflected that he said the state should take over the education of all children, and he wanted to make it clear that comment was intended only with respect to the monitoring process. He said he did not intend that we close down every home school or every nonpublic school. He said he wanted that reflected in the minutes.

Representative Eckre said he received a lot of letters regarding what was said. He said the minutes are an abbreviation of what was said. He said we all know that, but some others do not. He said he has no problem with home education. He said he likes the law the way it is, and he would like to leave it the way it is. He said he had some school district superintendents who expressed concern because they believe they do not have the time or resources to comply with the statutory monitoring requirements. He said he merely brought up their concerns. He said he has no problem with home education and his votes reflect that.

Representative Nottestad said he wondered if the school district superintendents who want the

Superintendent of Public Instruction to do the monitoring are willing to give up the foundation aid that goes with the students receiving home education.

Representative Eckre said there was never any discussion regarding that matter.

**The motion to approve the minutes of the previous meeting as distributed carried on a voice vote.**

### EDUCATION STANDARDS AND PRACTICES BOARD - CHAPTER 15.1-13

Chairman Holmberg said at its last meeting this committee did a very thorough review of the law as it related to the Education Standards and Practices Board and the Administrator's Professional Practices Board. He said under present law provisions regarding the Education Standards and Practices Board and the Administrator's Professional Practices Board are found in portions of North Dakota Century Code Chapters 15-36 and 15-38. He said the present sections have no logical flow to them. He said the greater difficulty is the sections try to focus on the duties of two boards simultaneously. He said we have the Education Standards and Practices Board making decisions about teaching licenses held by teachers and the Administrator's Professional Practices Board making decisions about teaching licenses held by administrators. He said when the issue involves a teacher's license, the nine-member Education Standards and Practices Board determines the outcome. When the issue involves an administrator's teaching license, four members of the Education Standards and Practices Board excuse themselves and the remaining five members function as the Administrator's Professional Practices Board.

Chairman Holmberg said based on the recommendations of the 1997-98 interim Education Services Committee, the first rewrite literally put the Education Standards and Practices Board and the Administrator's Professional Practices Board into two separate chapters. He said Ms. Janet L. Welk, formerly known as Janet Placek, indicated to the committee there were some practical or administrative problems that she, as the boards' executive director, would have if the statutes were to clearly separate the two boards. He said in explaining how the boards worked, Ms. Welk referred to the Administrator's Professional

Practices Board as being in fact a "subset" of the Education Standards and Practices Board.

Chairman Holmberg said this committee considered the facts and determined in all cases the two boards were dealing with individuals who had been issued teaching licenses. He said in addition, the purpose of the Administrator's Professional Practices Board could be maintained by authorizing the use of a subcommittee when an issue was considered involving the teaching license of an administrator.

Chairman Holmberg said such a bill was drafted by the Legislative Council staff and shared with the Education Standards and Practices Board as well as with the assistant attorney general representing the board. He said the board had a few comments and suggestions that the Legislative Council staff subsequently placed in another draft. He said that is why the committee is reviewing a "third" draft.

### **Section 15.1-13-01**

Chairman Holmberg said the present law, which sets forth the members of the Education Standards and Practices Board, provides for two school administrators. He said this is another one of those sections that is not clear in statute. However, he said, people knew what was intended and functioned accordingly. He said it definitely needs to be clarified.

Chairman Holmberg said when this issue was first addressed during the previous interim, the Legislative Council staff inquired about the meaning of "two school administrators." He said the response from the Education Standards and Practices Board was that "two school administrators" meant school principals or school district superintendents. He said that was then spelled out in an earlier draft. He said at some point there was direction to expand this to include assistant superintendents and assistant principals.

Chairman Holmberg said at the last committee meeting Ms. Barb Norby from the North Dakota School Boards Association indicated things would be much simpler if the definition in the administrator hiring and firing law was used. He said that definition, found in Section 15-47-38.2, provides that the term "superintendent" includes district superintendents of schools and chief administrators of multidistrict special education units and multidistrict vocational education centers.

Chairman Holmberg said in order to avoid confusion about who exactly is on the Education Standards and Practices Board and in order to avoid confusion about whose teaching license is entitled to review by the "administrators" subcommittee, the committee needs to take some time to review the definition to ensure it accurately reflects the committee's intent. He said if it needs any expansion or contraction, now is the time to suggest changes.

Chairman Holmberg called on Ms. Welk, who said anyone who holds an administrator's credential is

considered an administrator, even if the individual is not functioning in an administrative role.

In response to a question from Chairman Holmberg, Ms. Welk said the board looks at the individual's credential and not at the individual's role or employment.

In response to a question from Senator Naaden, Chairman Holmberg said if an individual has an administrator's credential, the individual is eligible to serve on the Education Standards and Practices Board, even if the individual is not an administrator.

With the permission of Chairman Holmberg, Mr. Larry Klundt, Executive Director, Council of Educational Leaders, said it is important to delineate between those who have an administrator's credential and are using it and those who have an administrator's credential and are not using it. He said athletic directors, activities directors, county superintendents, and school district business managers might all have administrator credentials. He said athletic directors often spend 90 percent of their time teaching and 10 percent of their time in the role of athletic directors.

Chairman Holmberg said perhaps the committee should discuss this matter later. He said this would give people a chance to review who should be included in the definition.

Chairman Holmberg said Section 15.1-13-01 also includes a definition of the "profession of teaching." He said present Section 15-38-16 is a legislative intent section declaring the profession of teaching to be affected by high public interest, etc. He said the statute makes its declarations about the profession of teaching and then includes a definition of the "profession of teaching." He said in accordance with the legislative drafting manual, the committee has been removing all such declarations and intent sections. He said defining the profession of teaching did not appear to be necessary to the rewrite of the Education Standards and Practices Board chapter. However, he said, Ms. Welk asked that the definition be included because at times she uses the definition to determine whether certain professionals delivering services in the school system need to be first licensed as teachers. He said psychological service providers might be an example of one such category. He said the third draft includes a definition of the profession of teaching. He said it is defined as the provision in a public school of teaching services, administrative services, or other services which require licensure by the Education Standards and Practices Board.

Chairman Holmberg said like present law this definition references the provision of services "in a public school" as opposed to "in a public school district." He said with the consent of the committee, the appropriate phraseology is "in a public school district." He said this verbiage is broader and should be reflected in the next bill draft.

### **Section 15.1-13-02**

Chairman Holmberg said Section 15.1-13-02 sets forth the membership of the Education Standards and Practices Board. He said the statute requires that the Governor appoint four individuals who are public school classroom teachers, one individual who is a nonpublic school classroom teacher, one individual who is a school board member, two individuals who are administrators, and one dean of a college of education or chairman of a department of education. He said the Superintendent of Public Instruction or the superintendent's designee serves as a nonvoting member.

### **Section 15.1-13-03**

Chairman Holmberg said Section 15.1-13-03 provides compensation for Education Standards and Practices Board members at the rate of \$25 per day. He said this is the same rate as in current law. He said the only difference is the rewrite uses standard reimbursement language, i.e., "[e]ach member . . . is entitled to receive compensation in the amount of twenty-five dollars per day and to reimbursement for expenses as provided by law for other state officers . . . ."

Chairman Holmberg said as in present law the rewrite also provides that a board member may not lose the member's regular salary and may not be required to refuse the compensation to which the member is entitled under this section for serving on the board.

### **Section 15.1-13-04**

Chairman Holmberg said Section 15.1-13-04 addresses terms of office and vacancies. He said as in current law the rewrite provides for a three-year term with vacancies filled for the duration of the unexpired term in the same manner as the original appointment.

### **Section 15.1-13-05**

Chairman Holmberg said Section 15.1-13-05 addresses board officers. He said this section provides for a chairman and a vice chairman and directs that the executive director of the Education Standards and Practices Board serve as the secretary.

### **Section 15.1-13-06**

Chairman Holmberg said Section 15.1-13-06 governs the calling of meetings and the issuance of meeting notices. He said as in current law it provides that the chairman set the date and time of the board meetings. He said it also requires at least ten days' notice of the meetings for board members.

### **Section 15.1-13-07**

Chairman Holmberg said Section 15.1-13-07 relates to quorums. He said as in present Section

15-38-17 a majority of the board (five of nine members) constitutes a quorum and a majority of the quorum (three members) at any meeting can conduct business.

Chairman Holmberg said there is a question regarding whether this section accurately reflects legislative intent. He said the Education Standards and Practices Board is a nine-member board. He said according to this section three members (i.e., a majority of a five-member quorum) can bind the board. He said this is the time to determine whether this result was truly intended. He said according to the way the statute is presently written, three members of the nine-member board could take away a teacher's license.

Representative Thoreson said it does not seem right to have only three people make such a decision.

Senator Redlin said the only circumstance under which a decision by three members could be made involves a meeting attended by only five of the board members.

Senator Naaden said it would be very inappropriate to let three members make a decision regarding a teacher's license. He said at least a majority should be in agreement before a license is revoked.

Chairman Holmberg said perhaps the statute should provide that at least five members have to agree to a revocation of an individual's teaching license. He said there are many other administrative decisions that do not require the consent of five members.

Representative Brandenburg said when it comes to revoking a license there should be at least a majority of the board agreeing to it.

Chairman Holmberg asked the Legislative Council staff to draft for committee review a draft requiring the consent of at least five board members in the case of a license revocation. He said the majority requirement must also be applied to the Administrator's Professional Practices Board subcommittee.

### **Section 15.1-13-08**

Chairman Holmberg said Section 15.1-13-08 sets forth the duties of the Education Standards and Practices Board. He said it is taken from present Section 15-38-18. He said the present section, which is captioned "Duties of the education standards and practices board," combines in one section both the board's powers and its duties. He said the rewrite separates these into two sections. He said the board's duties include supervising the licensure of teachers, setting standards for and approving teacher preparation programs, seeking advice in developing and updating codes or standards, adopting codes or standards, making recommendations for inservice education, issuing minor equivalency endorsements, appointing an executive director, and authorizing the executive director to employ personnel.

### Section 15.1-13-09

Chairman Holmberg said Section 15.1-13-09 sets forth the powers of the Education Standards and Practices Board. He said as was noted earlier, it too is taken from present Section 15-38-18. He said the section provides that the board may contract with other states for the reciprocal approval of teacher preparation programs, apply for and receive federal or other funds, and perform any duties related to the improvement of instruction through teacher education, professional development, and continuing education programs.

With the permission of Chairman Holmberg, committee counsel said it is an accepted principle of law that the existence of a statute, by its very nature, authorizes the administering agency to adopt rules regarding the statute's subject matter. She said some years ago, language was added to Chapter 28-32 to articulate this principle. She said any other position would require the insertion of specific rulemaking authority in innumerable sections of the code. However, she said, the Attorney General's staff has now taken the position that each board, agency, commission, etc., must have specific statutory authority authorizing the adoption of rules under Chapter 28-32. She said until this matter is resolved, the specific rulemaking authority should probably be included so there is no doubt regarding the Education Standards and Practices Board's authority to adopt rules.

**It was moved by Senator O'Connell, seconded by Senator Kelsch, and carried on a voice vote that Section 15.1-13-09 be amended to provide specific rulemaking authority for the Education Standards and Practices Board.**

### Section 15.1-13-10

Chairman Holmberg said Section 15.1-13-10 directs that the Education Standards and Practices Board establish by rule the criteria for teacher licensure and the process for issuing teaching licenses. He said this section is taken from present Section 15-36-01. He said as in present law the section provides that the Education Standards and Practices Board may not require any teacher who graduated from college in an accredited teacher education program on or before September 1, 1980, to earn college credits in Native American or other multicultural courses in order to be licensed or relicensed. He said the section also continues to provide that life certificates are intact.

### Section 15.1-13-11

Chairman Holmberg said Section 15.1-13-11 sets forth the criteria for charging application and licensure fees. He said this section is taken from present Section 15-36-08.

### Section 15.1-13-12

Chairman Holmberg said Section 15.1-13-12 sets forth the period for which a teaching license is effective. He said this section is taken from present Section 15-36-08, which has as its major topic fees for licenses. He said there may be a small problem with this section. He said the section states that except for provisional teaching licenses, any license issued by the board is effective for at least one school year. He said additional language is needed providing this does not apply if a license has been suspended or revoked by the board.

**It was moved by Representative Nottestad, seconded by Representative Thoreson, and carried on a voice vote that Section 15.1-13-12 be amended to provide that the section is not applicable if the Education Standards and Practices Board suspends or revokes a license.**

### Section 15.1-13-13

Chairman Holmberg said Section 15.1-13-13 authorizes the issuance of provisional teaching certificates. He said this section is taken from present Section 15-38-18.2, which is better known as the section regarding background checks. He said it is 1999 law, and the rewrite gave it its own section.

### Section 15.1-13-14

Chairman Holmberg said Section 15.1-13-14 authorizes criminal background checks. He said the section parallels present Section 15-38-18.2. He said the material regarding provisional teaching licenses was moved to its own section.

### Section 15.1-13-15

Chairman Holmberg said Section 15.1-13-15 parallels present Section 15-36-01.1 and pertains to student transcripts. He said the section provides that a student who has met all the criteria necessary to receive a teaching license, but who has not graduated from a college or university, may request a copy of the student's completed transcript from the college or university the student attended. He said within 10 days of the request by the student, the college or university must mail a copy of the transcript to the Education Standards and Practices Board showing the student has met all the criteria necessary to receive a teaching license except graduation. He said the transcript must indicate areas in which the student has a major or minor.

Chairman Holmberg said if a student is seeking licensure in a state other than North Dakota, the statute should provide that the transcript may also be sent to a licensing board in another state. He asked the Legislative Council staff to prepare such an amendment for committee consideration.

**Section 15.1-13-16**

Chairman Holmberg said Section 15.1-13-16 provides that an individual may not engage in the profession of teaching, as defined in Section 15.1-13-01, unless the individual holds a teaching license issued by the Education Standards and Practices Board or the individual is approved to teach by the board. He said the section combines present Sections 15-36-11 and 15-36-11.1. He said the language in subsection 2 regarding the approval of individuals who have in the past held North Dakota teaching licenses or those who hold licenses from other states was added during the 1999 legislative session.

**Section 15.1-13-17**

Chairman Holmberg said Section 15.1-13-17 requires the presentation of one's teaching license to the school district business manager before one may be employed to teach. He said this is a clarification of current law that provides in one section an individual may not teach without a license and then in another section states if, however, the individual does teach without a license, the individual may not be paid for so doing.

**Section 15.1-13-18**

Chairman Holmberg said Section 15.1-13-18 relates to the expiration of a teaching license. He said the subject matter comes from present Section 15-36-12. He said because the subject matter was not germane to other matters in that section the rewrite gives it its own section. He said as in current law the section provides that an individual whose teaching license expires within the final six weeks of a school year may continue teaching under the expired license until the completion of the school year.

**Section 15.1-13-19**

Chairman Holmberg said Section 15.1-13-19 relates to the authority of the Education Standards and Practices Board to grant an interim reciprocal teaching license. He said it is taken from present Section 15-36-11.2, which was enacted by the 1999 Legislative Assembly. He said the section provides that the Education Standards and Practices Board is required to grant an interim reciprocal teaching license to an individual who holds a regular teaching license or certificate from another state provided certain standards and requirements are met.

**Section 15.1-13-20**

Chairman Holmberg said Section 15.1-13-20 is the rewrite of present Section 15-36-11.3. He said it is 1999 law, and it directs the Education Standards and Practices Board to pursue the reciprocal acceptance of teaching certificates issued by other states. He said the second sentence of the present section calls for the board to report to the Legislative Council or to

a committee designated by the Council before October 1, 2000. He said that line has been eliminated in the rewrite. He said this is the designated committee.

Chairman Holmberg said the committee needs to clarify what is meant by this section. He said some people understood the directive to pursue reciprocal acceptance of teaching licenses to be limited to this interim, i.e., a one-time matter, while others were under the impression the pursuit of reciprocal teaching licenses was to be an ongoing venture. He said this is an issue for this committee to determine whether the language should stay in statute or be eliminated at the end of the interim. He said this committee would discuss this section after Ms. Welk provides her report regarding the board's pursuit of reciprocity.

**Section 15.1-13-21**

Chairman Holmberg said Section 15.1-13-21 is the rewrite of present Section 15-36-18.1. He said the section provides that the Education Standards and Practices Board may license instructors of North Dakota Indian languages. He said the reference to the indigenous language boards is also clarified. He said the intent was that the Education Standards and Practices Board could license an individual provided that individual is recommended by an indigenous language board created by a tribal government in this state. He said in current law it seems as if the individual would have to be approved by all such boards as opposed to a single board.

**Section 15.1-13-22**

Chairman Holmberg said Section 15.1-13-22 is the rewrite of present Section 15-36-18. He said this is 1997 law, and it states that guidance and counseling services may be offered by a person holding a graduate degree in counseling provided the person has a teaching license or will obtain one within seven years.

**Section 15.1-13-23**

Chairman Holmberg said Section 15.1-13-23 is the rewrite of that portion of present Section 15-38-19 which deals with the Education Standards and Practices Board accepting complaints against teachers. He said the Attorney General's staff had some suggestions that were incorporated.

Chairman Holmberg said under present law the Education Standards and Practices Board reviews a complaint and any response submitted by the individual who is the subject of the complaint. He said the board can dismiss the complaint, issue a written warning, or determine that sufficient evidence exists to sustain the claims or charges and order a hearing to determine whether the individual's teaching license should be suspended or revoked.

Chairman Holmberg said as rewritten the Education Standards and Practices Board reviews the complaint and any response submitted by the individual who is the subject of the complaint. He said the board then can dismiss the complaint or determine there is a reasonable basis to believe the claims or charges are true and subject to action by the board. He said if the board takes this latter option, the board then files a formal complaint and schedules a public hearing under Chapter 28-32. He said current law does not clearly indicate a due process hearing must take place before there is any issuing of warnings, issuing of reprimands, or license suspensions or revocations. He said the rewrite does not change the procedure used by the board--it merely accurately reflects the manner in which the board has been operating.

#### **Section 15.1-13-24**

Chairman Holmberg said Section 15.1-13-24 is the rewrite of present Section 15-36-15. He said the section sets forth the grounds for revocation or suspension of a teacher's license. He said at the request of the Attorney General's office, new language was added in subsection 1. He said this language provides that if an individual obtains a license by means of fraud, misrepresentation, or the concealment of facts, the individual is subject to board action. He said the Attorney General's staff indicated they are trying to standardize the hearing and penalty procedures for all the boards and commissions. He said consequently, they recommended this addition.

Chairman Holmberg said one other change that should be noted is found in Section 15.1-13-24(1)(h). He said present law provides that the Education Standards and Practices Board may take action against a license if the individual has engaged in a serious violation of, or multiple violations of, professional codes and standards. He said at the recommendation of the Attorney General's staff, the rewrite provides that the board may take action against a license if the individual has violated this chapter or any rule adopted by the board. He said under Section 15.1-13-08 the board is to adopt codes or standards of ethics, conduct, professional performance, and professional practice in accordance with Chapter 28-32.

#### **Section 15.1-13-25**

Chairman Holmberg said Section 15.1-13-25 is the rewrite of present Section 15-36-15.1. He said this is the section that calls for denial of a teaching license and immediate revocation of an existing license if an individual has been found guilty of a crime against a child or a sexual offense.

#### **Section 15.1-13-26**

Chairman Holmberg said Section 15.1-13-26 is the rewrite of present Section 15-36-17. He said the

section initially provided that when a teaching license is revoked, the Education Standards and Practices Board must notify the business manager of the school district wherein the teacher is employed and must notify the teacher of the revocation through the business manager of the school district. He said the Education Standards and Practices Board was also to "notify each county superintendent of schools in the state and to enter an action in the case upon the records of the superintendent's office."

Chairman Holmberg said it seemed that notifying a teacher of a license revocation "through the business manager" was somewhat archaic. He said the other thing that struck the committee was that the notification should also cover suspensions as well as revocations, because both impact the individual's ability to earn a living. He said as it now stands, the language would provide that if an individual's license is suspended or revoked, the Education Standards and Practices Board is to notify the individual, the business manager of the school district employing the individual, each county superintendent in the state, and the Superintendent of Public Instruction.

#### **Section 15.1-13-27**

Chairman Holmberg said Section 15.1-13-27 is the rewrite of the last paragraph of present Section 15-36-15. He said the section provides that the revocation of a teaching license results in the immediate termination of employment. He said compensation must be paid until the notice of revocation is received by the district but not thereafter. He said neither present law nor the rewrite addresses what happens in the case of an individual whose license has been suspended.

#### **Section 15.1-13-28**

Chairman Holmberg said Section 15.1-13-28 sets forth the manner in which complaints against administrators are to be handled. He said when a complaint regarding an administrator is filed with the Education Standards and Practices Board, all actions and determinations provided for by the chapter must be handled by a subcommittee consisting of the same members as serve on the current Administrator's Professional Practices Board, i.e., the two Education Standards and Practices Board members who are administrators, the one Education Standards and Practices Board member who is a school board member, and the two Education Standards and Practices Board members who are teachers. He said just as the Administrator's Professional Practices Board does now, the subcommittee is to convene at a regular or special meeting of the Education Standards and Practices Board. He said the subcommittee is to have its own chairman and vice chairman.

Chairman Holmberg said the same quorum language is maintained, and subsection 6 provides that any action or determination by the subcommittee

regarding the teaching license of an administrator must be taken or made by the same process and on the same grounds as used by the Education Standards and Practices Board for teachers, that decisions of the subcommittee have the same force and effect as decisions by the full board, that decisions of the subcommittee may not be modified by the full board, and that decisions by the subcommittee may be appealed in the same manner as decisions by the full board. He said the Legislative Council staff needs to review the quorum language and reconcile it with the changes the committee made to Section 15.1-13-07.

### **Section 15.1-13-29**

Chairman Holmberg said Section 15.1-13-29 provides that Burleigh County is the venue for all legal actions to which the Education Standards and Practices Board is a party.

### **Section 15.1-13-30**

Chairman Holmberg said Section 15.1-13-30 directs the state's attorney to notify the Education Standards and Practices Board when an individual holding a teaching license is convicted of a felony or a Class A misdemeanor.

In response to a question from Representative Nottestad, Ms. Welk said sometimes she needs to remind state's attorneys of their obligation under this chapter and at other times they notify her on their own.

At the request of Chairman Holmberg, Mr. Bill Peterson, assistant attorney general representing the Education Standards and Practices Board, said the Attorney General's office does not believe that Chapter 28-32 provides blanket authority for a board to adopt rules. He said for that reason the Attorney General's office had asked for specific rulemaking authority.

Mr. Peterson said Section 15.1-13-22 provides that one-seventh of the total credits required must be made up each year. He said this allows no flexibility in the event a person gets sick. He said the committee should consider amending this section to provide such flexibility.

Chairman Holmberg said when this section was enacted it was done so as a compromise measure. He said the legislators sought to ensure that an individual would follow the requirements for certifications.

Senator Kelsh said the legislators wanted to ensure that people would not come in for a couple of years and then leave without making any serious attempt to obtain licensure.

Representative Kelsch said this whole issue was highly debated. She said it would not be a good idea for this committee to initiate discussions regarding flexibility. She said if the Attorney General's staff wishes to pursue this issue, they should draft an

agency bill and introduce it. She said the issue would then be given its own hearing.

Representative Thoreson said if there is a need to change this provision, it should be addressed on its own and not as a part of the title rewrite.

Representative Nottestad said the inflexibility in this section was put there for a purpose. He said that was how it was passed.

At the request of Chairman Holmberg, Ms. Welk presented testimony regarding the bill draft. Her testimony is attached as Appendix B. She said the Superintendent of Public Instruction issues the administrator's credential. She said we need to be very careful about defining an administrator.

Ms. Welk said with respect to any board action that affects a teaching license, a concurrence of the majority is the standard operating procedure. She said this is for any action not just for revocation. She said she would be happy to work with the Legislative Council staff to redraft Sections 15.1-13-07 and 15.1-13-28.

Ms. Welk said she wondered if Section 15.1-13-23, which deals with complaints against teachers and administrators, needs to be expanded to accommodate complaints against counselors and provisionally licensed teachers.

Ms. Welk said subsection 5 of Section 15.1-13-23 should be amended to provide that if an individual fails to file a response, the board may deem such failure to be an admission of the allegations. She said now a failure to file a response results in the board deeming the failure to be an admission. She said sometimes an address is not correct or a person has left the state.

Senator Redlin said it is wrong to have an automatic conviction. He said the subsection should be amended to provide that the board may deem a failure to file a response as an admission of the allegations in the complaint. He said the second sentence should be omitted.

Chairman Holmberg said the language needs some work. He said perhaps the Legislative Council staff could get together with the Education Standards and Practices Board staff and prepare an amendment for committee consideration.

## **HOME EDUCATION - CHAPTER 15.1-23**

Chairman Holmberg said at the previous meeting the committee noted that the rewrite of the home education chapter, as present law, maintained two references to "a parent's school district of residence," whereas all other references both in current law and in the rewrite were to "a child's school district of residence." He said concern was raised with respect to the appropriateness of referencing a child's school district of residence. He said a computer search of statutes in all the states found that 25 states reference a child's school district of residence. He said the only places in which a reference to a parent's school

district of residence were found were in the North Dakota home education chapter. He said a review of appellate court cases revealed that courts in 20 states referenced the phrase "a child's school district of residence" with no discussion regarding its appropriateness. He said in reviewing both statutes and case law, it appears the phrase is used to reference a child's location. He said it does not designate legal residency status as would be held by an adult. He said in response to a motion by this committee, the chapter regarding home education was amended to consistently reference a child's school district of residence rather than a parent's school district of residence. He said the amendments were made to Sections 15.1-23-08, 15.1-23-09, and 15.1-23-18 of the rewrite. He said there is still one reference in Section 15.1-23-10 and that will be reviewed in the next draft.

At the request of Chairman Holmberg, Ms. Cam Leedahl, home educator, Leonard, presented testimony regarding the rewrite of the home education chapter. She said Section 15.1-23-06 presently provides that "[a]n individual holding a valid North Dakota teaching license shall monitor the progress of each child being provided home education under that individual's supervision and shall report the child's progress to the school district superintendent or to the county superintendent if the district does not employ a superintendent." She said it would be her suggestion that the phrase "under that individual's supervision" be deleted. She said something such as the following would suffice "[f]or those parents that require a monitor under Section 15.1-23-05, an individual holding a teaching license shall monitor the progress of each child."

Chairman Holmberg said the committee is trying to distinguish between the different roles assigned to people. He said we have parents "supervising" and monitors "monitoring." He said there has to be a simple, clear way to define the roles.

Ms. Leedahl said Section 15.1-23-06 is not clear whether the school district is to provide the monitor.

Chairman Holmberg said perhaps Ms. Leedahl could work with the Legislative Council staff to come up with some amendments for presentation to the committee.

At the request of Chairman Holmberg, Ms. Bev Nielson, North Dakota School Boards Association, presented testimony regarding the rewrite of the home education law. She said a definition of home education should be maintained.

At the request of Chairman Holmberg, Dr. Gary Gronberg, Assistant Superintendent, Department of Public Instruction, presented testimony regarding the rewrite of the home education law. He said we need to ensure that home education is understood as the provision of education by a parent for the parent's child. He said we also need to ensure that supervision is not carried out by someone who is not

qualified to provide that kind of guidance and oversight.

Dr. Gronberg said Section 15.1-23-06 should clearly indicate who has the responsibility to take some affirmative action. He said the local school administrator should determine whether the parent needs a monitor and that administrator should have the responsibility to provide a monitor. He said the phrase "at the request of" is problematic and should be removed or possibly replaced by a phrase such as "provide and pay."

Dr. Gronberg said Section 15.1-23-08 still calls for standardized tests in grades 3, 4, 6, 8, and 11. He said the public school system traditionally tests its students in grades 4, 6, 8, and 10. He said some districts, however, provide testing at all grade levels on their own. He said others provide only the required minimum tests.

**It was moved by Representative Thoreson and seconded by Representative Eckre that Section 15.1-23-08 be amended to require standardized testing in grades 4, 6, 8, and 10.**

Ms. Leedahl said in some instances the school districts are paying for the tests in grades 3 and 11 and in other instances the tests are at the parent's expense. She said the grade three test was put in statute because of how the monitoring process works.

Representative Monson said taking the third grade out would make a substantive change. He said just changing grade 11 to grade 10 would at least help.

**It was moved by Representative Thoreson and seconded by Representative Eckre that the prior motion be amended to require that Section 15.1-23-08 provide for standardized testing in grades 3, 4, 6, 8, and 10.**

Ms. Leedahl said changing the standardized testing requirement from grade 11 to grade 10 should not create a problem.

**The motion, as amended, passed on a voice vote.**

At the request of Chairman Holmberg, Ms. Julie Green-Liffrig, home educator, Center, said as far as standardized testing in the third grade is concerned, the committee needs to understand that the public schools do not test until the fourth grade because of the students' maturity levels. She said younger children do not provide a good representative sample.

Ms. Green-Liffrig said she does not know why some school districts are paying \$125 for a standardized test. She said at Bob Jones University one can get a standardized test and have it scored for \$29. She said if school districts are paying \$125, they should check into alternate sources for tests and scoring.

Ms. Green-Liffrig said children receiving home education are intelligent children in a system that works for them. She said legislators must not get too caught up in what makes a teacher for purposes of home education.

Chairman Holmberg said Ms. Leedahl should work with the Legislative Council staff and the Department of Public Instruction to determine if changes need to be made to the third grade standardized test requirement in Section 15.1-23-05.

### **TEACHER LICENSURE - PURSUIT OF RECIPROCITY**

Chairman Holmberg called on Ms. Welk for testimony regarding the pursuit of reciprocity with respect to teacher licensure. She distributed a document entitled *Education Standards and Practices Board Report on Teacher Licensure Reciprocity*. The document is on file in the Legislative Council office. She said California spent about \$2 million looking at other state licensure standards and comparing them to their own. She said Florida did the same thing.

Ms. Welk said in 1999 the Legislative Assembly passed a statute providing that individuals licensed in other states could work in North Dakota if they agreed to meet the North Dakota standards within two years. She said the two-year period can be extended for an additional two years.

Ms. Welk said every five years North Dakota convenes a committee of teachers and teacher educators to examine this state's teacher standards and upgrade them. She said it would take a lot of time and money to look at what other states are doing. She said if during the course of the study the other states made changes to their requirements, the study would not be accurate.

Ms. Welk said under North Dakota's interim reciprocal license process all applicants have to meet our standards within two to four years. She said if we were to enter into a contract with other states, we would pick and choose the states with which we wanted to contract. She said we could accept teachers from some states and perhaps reject teachers from other states.

Ms. Welk said most of the interstate movement of teachers involves elementary teachers. She said many elementary teachers from other states do not have mathematics requirements that are as high as ours. She said the Education Standards and Practices Board has not met and discussed this report. She said they will discuss the report at their April 2000 meeting.

At the request of Chairman Holmberg, Ms. Deb Jensen, Education Standards and Practices Board, said when the board began the study, it looked only at regular teaching licenses. Later, she said, the board added interim reciprocal teaching licenses. She said while we have major/minor requirements, other states have standards-based requirements. She said because the laws are written differently, they may not initially appear to be comparable.

Ms. Jensen said the states have come a long way in defining some of what is necessary to obtain a teaching license. She said most states have various

levels of licensure. She said level I is an entry level license, level II is the regular teaching license, and level III involves advanced degrees or higher levels of licensure. She said grade levels often affect license provisions.

Ms. Jensen said there are over 100 different ways in which people can enter the teaching profession in other states. She said most new entries to the profession come as emergency licensures, career changes, or special licenses such as our indigenous languages license. She said all of these tend to happen because of teacher shortages.

Ms. Jensen said one of the things we have not talked about yet are portability of benefits and seniority.

Ms. Jensen said data collected by the Education Standards and Practices Board regarding the denial of licenses shows only one person was denied an interim reciprocal license since the law was enacted.

In response to a question from Representative Eckre, Ms. Jensen said North Dakota's regular teacher licensure process is about equal to that of other states. She said some states require master's degrees. She said many states have reduced their requirements because of severe teacher shortages.

Chairman Holmberg said Section 15.1-13-20 of the rewrite needs to be looked at again. He said as written it requires the Education Standards and Practices Board to continue pursuing the reciprocal acceptance of teaching licenses from other states.

Representative Brandenburg said it was the intent of the Legislative Assembly that this be pursued into the future and not viewed as just a one-time thing.

Representative Monson said as a superintendent in need of teachers, this is a very important tool.

Ms. Welk said the interim reciprocal licensing law allows North Dakota to license teachers from other states. She said that law is doing the same thing as contemplated by Section 15.1-13-20. She said the law requires teachers from other states to meet this state's requirements within two to four years.

Representative Kelsch said she would like to continue what has been put into effect during the last legislative session.

Ms. Jensen said we can enter into a contract that lets us select which states we wish to have as contracting partners. She said before we entered into such a contract, we would have to analyze much more closely what the requirements are in other states. She said such a contract also has a provision for ancillary requirements. She said the ancillary requirements provision accommodates statutory requirements that cannot be waived. She said the current interim reciprocal requirements would be considered ancillary requirements.

Chairman Holmberg said the committee should leave Section 15.1-13-20 as is and let the next Legislative Assembly look at it.

## TUITION - CHAPTER 15.1-29

### Section 15.1-29-03

Chairman Holmberg said Section 15.1-29-03 provides that the board of a school district may send its students to another district or to an accredited institution if doing so is in the best interest of all affected parties. He said Legislative Council staff should work with personnel from the Department of Public Instruction to clarify what is meant by an "accredited institution." He said there should also be a determination with respect to whether the accredited institutions must be in the state or whether out-of-state institutions are also intended.

Chairman Holmberg said present law provides that a school board may send its students to another district or accredited institution if doing so is in the best interest of the board. He said the 1997-98 Education Services Committee determined the best interest of the board was rather narrow in scope and from a policy perspective, the law should take into account at least the best interest of the students and of all affected parties.

At the request of Chairman Holmberg, Ms. Nielson presented testimony regarding Section 15.1-29-03. She said the proposed wording provides that a school board may send its students to another district or accredited institution if doing so is in the best interest of all affected parties. She said sometimes school boards have to make decisions that may not be in the best interest of all affected parties.

Chairman Holmberg asked the Legislative Council staff to draft an amendment for committee review which would require a school board to take into account the best interest of all affected parties.

### Section 15.1-29-04

Chairman Holmberg said Section 15.1-29-04 is one section the committee needs to review for amendments. He said the section provides that if a school district approves the payment of tuition charges for a student attending school in another district or if a district is required to make tuition payments under this chapter, 50 percent must be paid at the end of each semester, and if a district is more than 30 days late, interest accrues at the rate of six percent per annum. He said the committee was concerned the phrase "by the end of each semester" was not as clear as it should be, especially given the attachment of an interest penalty. He said at the last meeting the point was made that probably school people know when semesters end. However, he said, the statutes are written for the public and should consequently be clear. He said at the last meeting Mr. Decker stated there would not be a problem referencing the end of December and the end of May as payment due dates. The committee consequently asked the amendment be so drafted and presented for review.

## Section 15.1-29-06

Chairman Holmberg said a student's parent may file a petition with the board of the student's school district of residence asking that the resident board pay the tuition for the student to attend school in another district. He said the school board has 60 days to consider the petition. He said if the board denies the petition, the parent may appeal the decision. He said Section 15.1-29-06 governs the appeals process.

Chairman Holmberg said if an appeal is filed, the county superintendent is to convene a three-member board consisting of the county superintendent, the state's attorney, and one person appointed by the board of county commissioners. He said there is a hearing and the committee is given certain statutory parameters that it must apply in making a decision.

Chairman Holmberg said present law provides that if 25 percent or more of the taxable valuation of a student's school district of residence is located in another county, the three-member committee must be expanded to include the county superintendent from any county having 25 percent or more of the school district's taxable valuation. He said present law goes on to provide that the "concurrence of a majority of the quorum of the joint committee is necessary to render a decision regarding the payment of tuition." He said if it is a four-member committee, a quorum would be three members and a binding decision could be made by two, and if it is a five-member committee, a quorum would be three members and a binding decision could be made by two.

Chairman Holmberg said at the last meeting the committee was concerned with how cumbersome joint committees can be, especially given that a number of counties no longer have county superintendents. He said Mr. Decker had suggested the change that now appears in subsection 3 of Section 15.1-29-06. He said the change simply provides that if the school district consists of land situated in more than one county, the three-member committee consists of the county superintendent and the state's attorney from the county in which the greatest portion of the district's land is situated and an individual appointed by the board of county commissioners from the county in which the greatest portion of the district's land is situated. He said the committee had asked to have this amendment drafted so it could be reviewed today.

In response to a question from Senator Kelsh, Mr. Decker said the concept "from the county in which the greatest portion of the district's land is situated" presumes a calculation based on land mass, not valuation.

Senator Kelsh said if there are two school districts of very similar size, nearly half the land could be unrepresented in front of the three-member committee. He said perhaps the Department of Public Instruction staff could give this some additional thought.

Chairman Holmberg said once it is decided regarding which district must pay, there must be provisions regarding what should happen if tuition payments are not made. He said present law provides that if the student's district of residence does not comply with the decision requiring that tuition charges be paid, the board of the admitting district must notify the county superintendent of schools for the county of the student's residence and the Superintendent of Public Instruction. He said upon verification by the county superintendent of schools that tuition payments are due the admitting district and are unpaid, the Superintendent of Public Instruction is to withhold all state payments to the student's school district of residence until any tuition due has been fully paid.

Chairman Holmberg said the committee thought that given the assignment of county superintendent duties, together with modern technology, any verification of payment could be made quite easily between the school district business managers and the Department of Public Instruction. He said it was recommended the Legislative Council staff draft an amendment that would allow for verification by the Superintendent of Public Instruction but not specifically require the involvement of the county superintendent.

Chairman Holmberg said subsection 4 of Section 15.1-29-06 contains the change. He said the second sentence simply requires that the Superintendent of Public Instruction verify the fact the tuition has not been paid.

Ms. Nielson said the section provides that "[t]he committee's directive regarding the payment of tuition may be made for any fixed number of school years, up to the completion of the student's high school education." She said if the tuition must be paid throughout high school, there should be a statutory directive providing that this is the case if open enrollment is not an option.

Chairman Holmberg asked the Legislative Council staff to draft an amendment to provide this.

#### **Section 15.1-29-07**

Chairman Holmberg said Section 15.1-29-07, as Section 15.1-29-04, deals with the date tuition is due if it is paid by the student's parent. He said present law references the "first day of the second semester," and the committee had asked for an amendment referencing December 31 as a date certain.

#### **Section 15.1-29-10**

Chairman Holmberg said Section 15.1-29-10 still contains an old reference to an "agreement." He said as per a committee motion, that verbiage was changed to "contract." He said an agreement is a legal contract and this keeps the language consistent with other sections of the title.

#### **Section 15.1-29-11**

Chairman Holmberg said Section 15.1-29-11, as current law, requires a school district that educates a student in another school district to pay the full cost of education incurred by the admitting district. He said in the first draft an attempt was made to clarify the section using subsections and subdivisions. However, he said, it was still not clear, and consequently, the committee asked the Legislative Council staff to work with Mr. Jerry Coleman from the Department of Public Instruction to craft appropriate changes.

Chairman Holmberg said subsection 1 provides that a school district sending a student to another district for purposes of education must pay the full cost of education incurred by the admitting district. He said subsection 2 sets forth the calculations the admitting district must engage in to come up with the cost of education it incurs. He said this amount is the amount payable by the sending district.

Chairman Holmberg said a couple of minor changes are still needed. He said on page 8, line 12, the phrase should be "cost of education per student," and similarly, on line 15, the phrase should reference the "cost of education per student" not the "educational cost."

#### **Section 15.1-29-12**

Chairman Holmberg said subsection 4 of Section 15.1-29-12 needs to be deleted. He said consortium language is no longer needed.

#### **Section 15.1-29-13**

Chairman Holmberg said Section 15.1-29-13 is another section that has undergone substantial cleanup. However, he said, the Legislative Council staff and Department of Public Instruction personnel have asked that we forego a review of the section today. He said they believe the section still has some difficulties, and they would like to work with personnel from the Department of Human Services and the court system to make sure a workable system is crafted.

Chairman Holmberg said this particular topic--who pays when the placements are for noneducational purposes--has been problematic for years. He said the goal is to get to a point in which any interested party can pick up the statute and determine, easily and clearly, who is financially responsible.

At the request of Chairman Holmberg, Mr. Jerry Coleman, Department of Public Instruction, presented testimony regarding student placement for noneducational purposes. He said placements under this section often are made by county social services or juvenile services. He said this is a difficult section to administer because tuition responsibility has to be fixed on a district of residence. He said often the parents move or a court interjects guardians. He said

the Department of Public Instruction needs to determine residency at the time of a placement.

In response to a question from Representative Thoreson, Mr. Coleman said the Department of Public Instruction begins its search for financial responsibility with the custodial parent. He said if the custodial parent relocates out of state, the next level is the residence of the noncustodial parent. He said if that person moves, the burden often falls to the state.

Representative Hanson said one school district comes into his school district and tries to recruit students.

Mr. Decker said the open enrollment law forbids recruiting, but the language is general and there is no penalty.

## **STUDENT TRANSPORTATION - CHAPTER 15.1-30 Section 15.1-30-01**

Chairman Holmberg said the committee had some discussions about the current reference to "lodging" in Section 15.1-30-01 and whether the term was intended to allow reimbursement for merely housing expenses or whether meal expenses were to be included. He said Mr. Decker told the committee the term is interpreted to include meals. He also said the level of reimbursement is limited by statute.

Chairman Holmberg said consequently, based on a motion of the committee, Section 15.1-30-01 was amended to reference "lodging and meals" rather than just "lodging." He said to maintain consistency, this change was also made in Section 15.1-30-04.

Chairman Holmberg said Section 15.1-30-01 also authorizes a school board to provide for the transportation of students by "public conveyance." He said this is no longer a commonly used phrase. He said the committee was told the intent was to provide for the transportation of Grand Forks students by city buses. He said on committee motion the phrase was changed to provide for the transportation of students by "public transit" rather than by "public conveyance."

### **Section 15.1-30-02**

Chairman Holmberg said present law provides that the "school board of any school district in the state may pay to each family living more than two miles . . . from a school in the district which is taught the required length of time, a reasonable sum per day for each day's attendance of a student or students of such family, when transported by an adult member of the family or by a conveyance furnished or paid for by the family, or when the family has paid for lodging for the child, according to the distance between the home of the family and the school."

Chairman Holmberg said the rewrite attempts to sort some of this out by using sections and subsections, but there is still concern about the content. He said it appears payment may be provided if the student is transported by an adult member of the

family. He questioned whether this means a parent or any sibling aged 18 or older.

Chairman Holmberg said another circumstance under which payment may be provided is if the "conveyance" is "furnished or paid for" by the student's parent. He said under the first option, the driver must be an adult, but no condition of vehicular ownership is imposed. He said under the second option, the driver may be a minor--or the student himself--as long as the student's parents provide the car. He said if the student works at the local McDonald's and owns the car himself, payment probably would be precluded.

Chairman Holmberg said the rewrite also offers a third option, i.e., that the student's transportation is paid for by the student's parent. He said in reviewing the present language, however, that interpretation may not be accurate. He said it appears the present language references a "conveyance" paid for by the family not the transportation per se.

Chairman Holmberg said he wondered if this section is setting multiple conditions under which payment may be made when in fact what it is trying to provide is that a school board may pay a reasonable sum to the parent if the parent assumes responsibility for arranging the transportation of the student to school or housing the student at a location other than the student's residence. He said the committee may also want to clarify the reference to "housing" and perhaps use the phrase "meals and lodging" as is used in other sections.

Senator Naaden said what we are trying to do with this section is eliminate the running of empty schoolbuses.

Representative Hanson said it is difficult to arrange bus transportation when people are changing their minds regarding riding and not riding buses to school.

Senator Naaden said school districts are using bigger buses because they receive more money.

Chairman Holmberg said the subject of student transportation has been before the Legislative Assembly many times. He asked whether the intent is to say a school board may pay a reasonable sum to the parent if the parent assumes responsibility for arranging the transportation of the student to school or housing the student at a location other than the student's residence or to spell out all the possible options.

Representative Thoreson said this section should be as short and sweet as possible. He said the school boards should decide the circumstances under which they will pay for the parental transportation of students.

Representative Solberg said family transportation often eliminates lengthy bus rides for students.

In response to a question from Representative Eckre, Mr. Decker said in Montana parents must bring their students to a bus. He said buses do not leave

paved roads or county roads. Mr. Decker said we need the maximum amount of flexibility in transportation because of the declining number of students.

Representative Monson said perhaps we are opening up issues of liability with this section.

Chairman Holmberg said the school district pays the parent and the parent then arranges the transportation.

Representative Monson said as soon as someone accepts compensation for transporting another person, it makes them a commercial carrier.

Mr. Decker said the Superintendent of Public Instruction has always worked on the assumption the payment authorized by this section was for parents transporting their own children and not for parents running a small bus route.

Representative Monson said the current law is cumbersome and seems long. However, he said, changing it might be setting someone up for liability without their knowledge.

Chairman Holmberg said perhaps the Legislative Council staff and Department of Public Instruction personnel could review this section and draft some alternatives.

#### **Section 15.1-30-04**

Chairman Holmberg said Section 15.1-30-04 refers to the provision of meals and lodging. He said the committee had asked to have an amendment drafted for further consideration.

#### **Section 15.1-30-11**

Chairman Holmberg said Section 15.1-30-11 provides that a contract for the transportation of students, originally bid by and let to a contractor, may be renewed through direct negotiation between the board of a school district and the contractor or upon the submission of sealed bids. He said if the contract is to be renewed through direct negotiation, current law requires the board obtain "two or more written quotations . . . when possible." He said because the phrase "when possible" raised questions concerning enforceability, it was omitted from the rewrite.

Chairman Holmberg said the North Dakota School Boards Association, however, indicated that problems could arise if the statute requires two or more quotations and a board can get only one quotation. He said the committee asked the School Boards Association to work with the Legislative Council staff and make appropriate changes.

Chairman Holmberg said as now written, if a contract is to be renewed through direct negotiation, the school board must make a good-faith effort to obtain at least two written quotations. He said if any written quotations are received, the board may directly negotiate the contract.

#### **Section 15.1-30-14**

Chairman Holmberg said in the earlier draft, Section 15.1-30-14 paralleled present law by providing that a school board may extend its bus route into a bordering state for the purpose of transporting students from the bordering state into this state if the Superintendent of Public Instruction has entered into a reciprocal contract with the bordering state under Section 15.1-29-02.

Chairman Holmberg said the committee was told that, sometimes, the Superintendent of Public Instruction is not able to enter into a reciprocal agreement with another state. He said the committee was also told Section 15.1-29-02 authorizes an individual school district to contract with a district in another state for the education of its students even if the Superintendent of Public Instruction is unable to enter into a reciprocal contract. He said the committee asked that this contingency be included in this section as well.

Chairman Holmberg said Section 15.1-30-14 now authorizes a school board to extend its bus route into another state for the purposes of transporting students from the bordering state into this state, provided the Superintendent of Public Instruction has entered into a reciprocal contract with the bordering state, or the school board has entered into a contract with a school district in the bordering state under Section 15.1-29-02.

### **OPEN ENROLLMENT - CHAPTER 15.1-31**

#### **Section 15.1-31-04**

Chairman Holmberg said during the 1999 legislative session amendments were made to the special education reimbursement formula. He said school districts are now responsible for up to two and one-half times the state average cost per student plus 20 percent. He said the 1999 legislation did not make this change to the open enrollment chapter. He said the parties who had worked on this matter reported the omission was unintentional, so by a motion by this committee Section 15.1-31-04 is being amended to reconcile the special education reimbursement language with that found in other sections of the code.

Chairman Holmberg called on Ms. Trisha McCarthy, Director, South Central Prairie Special Education Unit, who handed out a document regarding students who were not identified as disabled at the time of open enrollment but, without knowledge of their resident district, were identified as needing special education services after open enrollment. The document is attached as Appendix C. She said after identification by the admitting district, the student's district of residence would receive the bill for services. She said generally, the student's district of residence is completely unaware that anything is going on until the bill is received.

Representative Nottestad said if parents have had difficulty getting special education services for their

child in their resident district, they might look for a district in which those services are made available.

In response to a question from Senator Kelsh, Ms. McCarthy said there are a variety of steps that should occur prior to an individualized education program being developed.

In response to a question from Chairman Holmberg, Ms. McCarthy said none of the students had any building level support services.

Chairman Holmberg said the interim Education Finance Committee is addressing special education reimbursement and that would be a venue within which to address this matter.

### **Section 15.1-31-06**

Chairman Holmberg said subsection 3 of Section 15.1-31-06 addresses recruitment for participation in varsity athletics.

Representative Hanson said the Pingree School District is recruiting students by publicizing the fact that they have smaller class sizes. He said districts such as Pingree want the enrollment for purposes of foundation aid.

Mr. Decker said there is an increasing amount of subtle recruitment. He suggested a general prohibition be established regarding recruiting.

Chairman Holmberg said Section 15.1-31-06 should be amended by removing from subsection 3 the phrase "for the purpose of having the student participate in varsity athletic activities."

Representative Kelsch said just putting the prohibition into the statute without a penalty should be sufficient in terms of expressing the legislators' intent. She said if it continues to be a problem, the Legislative Assembly will have to revisit it.

Chairman Holmberg said the last sentence of Section 15.1-31-02 should be removed because it is dated language.

## **SCHOOL CONSTRUCTION - CHAPTER 15.1-36**

Chairman Holmberg requested that Vice Chairman Monson assume the duties of chairman for the duration of the meeting.

Vice Chairman Monson said Chapter 15.1-36 requires the Superintendent of Public Instruction approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or "facility" if the cost of the project exceeds \$25,000. He said a "facility" is defined as a parking lot, public school athletic complex, or any other improvement to real property owned by the district.

Vice Chairman Monson said it was the motion of this committee that the definition of a "facility" be made applicable to the entire chapter. He said the reason for this had to do with Section 15.1-36-05, the penalty section. He said approval will be required for school buildings and facilities and yet the penalty

will be imposed only for violations related to school buildings.

## **COMPULSORY SCHOOL ATTENDANCE - CHAPTER 15.1-20**

### **Section 15.1-20-01**

Vice Chairman Monson said present Chapter 15-34.1 is better known as the home education law. He said originally, its focus was compulsory attendance. He said current law provides that every "parent, guardian, or other person who resides within any school district, or who resides upon any government base or installation without any school district, and has control over any educable child of an age of seven years to sixteen years who does not fall under the provisions of Section 15-34.1-02 or 15-34.1-03, shall send or take such child to a public school each year during the entire time such school is in session." He said Section 15.1-20-01 of the rewrite maintains the requirement but with less verbiage. He said it simply states that any person responsible for a child between 7 and 16 shall ensure that the child is in attendance at a public school for the duration of each school year unless otherwise excepted.

### **Section 15.1-20-02**

Vice Chairman Monson said the exceptions to compulsory school attendance are set forth in Section 15.1-20-02. He said they are that the child attends an approved nonpublic school, that the child has finished high school, that the child is needed to support his family, that a multidisciplinary team has determined participation in a regular or special education program is inexpedient or impractical, or that the child is receiving home education. He said we have done some significant clean up on this section.

Vice Chairman Monson said current law provides for an exception to the compulsory school attendance requirement if the child is in attendance for the same length of time at a parochial or private school approved by the county superintendent of schools and the Superintendent of Public Instruction. He said current law states that, except as provided in Section 15-41-27, no such school may be approved unless the teachers therein are licensed in the state of North Dakota in accordance with Section 15-41-25 and Chapter 15-36, the subjects offered are in accordance with Sections 15-38-07, 15-41-06, and 15-41-24, and the school is in compliance with all municipal and state health, fire, and safety laws. He said one major problem with this section is it seems to preclude a parent from sending his or her child to a boarding school in another state or even transporting the child, because of shorter distances, to a school across this state's border. He said the 1997-98 Education Services Committee had suggested the restriction be limited to merely being an approved school.

Vice Chairman Monson said, for some reason, someone had in the past decided this was a good

spot to list the requirements for an approved school, i.e., that the teachers be licensed, that the requisite subjects be taught, and that all health, fire, and safety laws be followed. He said the rewrite removes all this verbiage. He said the Legislative Assembly has placed the requirements for school approval into a separate section, which is Section 15.1-06-06.

Representative Kelsch said the language authorizing a child to stay out of school in order to support the child's family seems somewhat outdated. She said the social support system we have would likely make this language unnecessary.

Senator Flakoll said the language authorizing a child to stay out of school in order to support the child's family is not necessarily a long-term provision. He said there may be a need for some wiggle room. He said someone on a farm could be injured or otherwise disabled and it is not possible to hire help right away. He said in such a case the children might have to stay and provide help until other arrangements can be made.

### **Section 15.1-20-03**

Vice Chairman Monson said Section 15.1-20-03 is the rewrite of present Section 15-34.1-04. He said as in present law it provides that every school board member, school superintendent, principal, truant officer, teacher, and county superintendent of schools is charged with enforcing the compulsory school attendance provisions. He said they must inquire into all cases of alleged violation of such provisions, and if a violation is found, they must contact the state's attorney.

Vice Chairman Monson said the state's attorney may then petition a court for a determination as to whether a child is "educationally deprived." He said that term is not defined in the code. He said during the last interim the committee was concerned about the practicality of this section. However, he said, no alternate recommendations were made.

Representative Thoreson said he was concerned about the last sentence of Section 15.1-20-03. He said the sentence provides that the board of a school district having more than 500 residents may employ a truant officer to assist in the enforcement of compulsory attendance provisions. He said he wondered if this precludes smaller districts from hiring a truant officer.

**It was moved by Representative Thoreson and seconded by Representative Eckre that the language in Section 15.1-20-03, which authorizes the board of a school district having more than 500 residents to employ a truant officer, be deleted.**

Representative Kelsch said perhaps just the reference to 500 residents should be removed.

Vice Chairman Monson said the minutes should reflect it is not our intent to preclude the hiring of a truant officer by any district.

Representative Eckre said his district has designated an individual to handle matters of truancy.

Committee counsel said Section 15.1-09-33, which lists the general powers of a school board, authorizes a board to contract with, employ, and compensate school district personnel.

### **The motion carried on a voice vote.**

Vice Chairman Monson said the rewrite omits present Section 15-34.1-02. He said that section states that "[e]very parent, guardian, or other person who has control over any deaf child of at least four years of age, or control over any blind, or mentally deficient child of an age of seven years to twenty years, 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 said institution; and if mentally deficient, to the Grafton state school or other adequate institution for the entire school year, unless excused by the superintendent of that institution." He said the section was enacted in 1971, the same year Congress passed the Education for All Handicapped Children Act--the precursor to the Individuals with Disabilities Education Act. He said it is clearly contrary to the involvement of a multidisciplinary team in the determination of a child's placement and in fact limits the possibility of a child with specific disabilities from being placed in the public school system.

## **KINDERGARTENS - CHAPTER 15.1-22**

### **Section 15.1-22-01**

Vice Chairman Monson said Section 15.1-22-01 of the rewrite authorizes a school board to establish, on its own motion, a free public kindergarten. He said if the board is not so inclined, residents may submit a petition and the board must then place the question of establishing a kindergarten on the ballot at the next election.

Vice Chairman Monson said present law provides that this petition must be signed by at least five percent of the qualified electors and in no case may this be fewer than 25 people. He said during the 1997-98 biennium the interim committee thought the 25 people minimum could be tough for some districts to meet, so the committee asked the Legislative Council staff to see what was required in other similar code sections. He said the drafter's note reports that it takes 20 percent on a petition for participation in a vocational-education center. He said it takes 20 percent on a petition for Fargoans to consider removal of their unlimited taxing authority. He said in neither case is there a requisite minimum number of petition signers. He said in the rewrite the five percent petition requirement was maintained and the requirement for 25 minimum petition signers was

dropped. He said this change is subject to the committee's review and approval.

### **Section 15.1-22-02**

Vice Chairman Monson said Section 15.1-22-02 is the rewrite of present Section 15-45-02. He said as in current law the section establishes the requirements for operating a kindergarten. He said the committee may need to make an alteration to subsection 1 of Section 15.1-22-02.

Vice Chairman Monson said subsection 1 provides that a school district may not employ as a kindergarten teacher an individual who does not hold a teaching license issued by the Education Standards and Practices Board. He said the concern is the Education Standards and Practices Board has developed various procedures under which the board can allow an individual to teach even though that individual is not yet licensed. He said this might involve provisional licensing or reciprocal licensing. He said perhaps the committee needs to provide that the individual may teach if approved by the Education Standards and Practices Board.

Vice Chairman Monson asked the Legislative Council staff to prepare the amendment for committee review.

### **Section 15.1-22-03**

Vice Chairman Monson said Section 15.1-22-03 is the rewrite of the final paragraph of present Section 15-45-02. He said it merely provides that any person operating a nonpublic kindergarten may request approval from the Superintendent of Public Instruction. He said the superintendent must approve a kindergarten program if it meets the requirements of Section 15.1-22-02.

### **Section 15.1-22-04**

Vice Chairman Monson said Section 15.1-22-04, as does present Section 15-45-04, allows a school board by resolution to discontinue a kindergarten.

## **COURSES AND CURRICULA - CHAPTER 15.1-21**

### **Section 15.1-21-01**

Vice Chairman Monson said Section 15.1-21-01 tries to pull together the statutes that list which subjects must be taught. He said with very few exceptions neither present law nor the rewrite are very specific with respect to when, where, and how those subjects must be taught. He said if the committee is inclined to maintain this section, we need to ensure the course designations are appropriate. He questioned whether subjects should be referred to with terms such as government, nature study, moral instruction, English grammar, and arithmetic.

Vice Chairman Monson said when the 1997-98 interim Education Services Committee looked at this

chapter, the committee concluded, at the very least, present Section 15-38-11, which requires oral instruction in the humane treatment of animals, could be eliminated. He said the section was enacted in 1905 and has not been amended since before the first world war.

Representative Nottestad said subsection 13 of Section 15.1-21-01 provides that hygiene must be taught to students in grades 4 through 8 using grade-appropriate textbooks and that students in grades 1 through 3 must receive oral lessons regarding hygiene. He said these are not the grade levels at which such instruction is currently offered.

Senator Flakoll said present law requires that the teaching of physiology include the nature of alcoholic drinks and narcotics and their effect upon the human system. He said tobacco should be added to that subsection.

**It was moved by Representative Thoreson, seconded by Representative Eckre, and carried on a voice vote that the draft be amended to provide that the teaching of physiology include the nature and effect of tobacco upon the human system.**

Vice Chairman Monson said English grammar is usually referred to as English language arts.

Dr. Gronberg said there are several references that should be changed. He said English language arts encompasses reading, writing, speaking, and listening. He said arithmetic is more commonly known as mathematics. He said nature studies is known as the biological sciences.

Dr. Gronberg said the committee needs to determine whether it wants to list content areas or skills. He said some of what are included in this section are course content titles and some are skill areas. He said there are also references to courses and subjects. He said they need to be aligned.

Dr. Gronberg said Section 15.1-21-02 deals with high schools. He said perhaps Section 15.1-21-01 could deal exclusively with the elementary grades.

Senator Holmberg said the committee does not want to send the message that it is trying to take out spelling, reading, and writing at the elementary level.

Representative Kelsch said the present statute goes into a broader definition with respect to physiology and hygiene because the legislators were concerned about what precisely would be taught. She said some courses like spelling, reading, and writing are fairly self-explanatory. She said we do not want to be in the position of dictating to the school districts precisely what should be taught.

Representative Eckre said it is important that certain parameters be established.

Vice Chairman Monson said perhaps under the government reference should be included the teaching of the Constitution of the United States. He said he does not believe the section needs to specify that it must be taught in grades 8 through 12.

Vice Chairman Monson said referring to nature study as science would be appropriate. He said most schools do not teach agriculture.

Representative Nottestad said two tests used to be given in the seventh grade in the country schools--health and agriculture. He said you had to pass one or the other in order to go into the eighth grade.

Representative Hanson said North Dakota studies is a required course but it is not listed here.

Representative Thoreson said there is not anything in the statute about technology either.

Representative Hanson said industrial arts is listed in Section 15.1-21-02 as a high school course.

Vice Chairman Monson said the subjects listed in Section 15.1-21-01 appear to be for all grades.

Representative Eckre said there needs to be leeway for the local districts. He said, however, it is appropriate for the Legislative Assembly to articulate its wishes with respect to areas such as physiology and the Constitution.

Representative Kelsch said obsolete language should be deleted from this section.

Senator Holmberg said the Constitution, as referenced in Section 15.1-21-01 is a topic to be taught in school. He said if it is placed in Section 15.1-21-02, it becomes a separate course.

Representative Brandenburg said children reside in the urban areas of our state who have no ties to the land. He said perhaps we need to leave in the reference to agriculture so children who have no ties to the land can have an opportunity to learn something about food production.

Representative Hanson said North Dakota studies should include agriculture, state government, and state history.

Senator Holmberg said the Constitution should be placed under government and the reference to grades 8 through 12 should be left in the statute.

Representative Eckre said agriculture is very important to the well-being of North Dakota.

Vice Chairman Monson said subsection 13 of Section 15.1-21-01 contains a reference to grade-appropriate textbooks, as does current law. He said materials other than textbooks are often used in teaching about hygiene.

Representative Nottestad said the rewrite should reference grade-appropriate material.

In response to a question from Senator Holmberg, Vice Chairman Monson said there are curriculum materials in the area of agriculture. He said we also have the "Ag in the Classroom" program.

### **Section 15.1-21-02**

Vice Chairman Monson said Section 15.1-21-02 sets forth the required course offerings at the high school level. He said the drafter's note indicates the term "home economics" was changed to "consumer science" based on comments made to the previous interim committee. He said one concern is this

section might be clear to school people, but it is not necessarily clear to nonschool people. He said perhaps we need to define a unit.

Vice Chairman Monson said when four units of English must be offered at least once during each four-year period, a school district is in effect authorized to offer grades 9, 10, 11, and 12 English one year and no English for the next three years. He said this is obviously not what was intended. He said perhaps we could better define what is intended, and then this section could be amended to reflect that intent.

Dr. Gronberg said Section 15.1-21-02 lists what schools must offer during a four-year period in order to be an approved high school. He said when you begin talking about what must be offered each year, you are in fact dealing with accreditation standards.

Vice Chairman Monson said every student in the school must have the opportunity to take these courses once during each four-year period.

In response to a question from Representative Thoreson, Dr. Gronberg said a unit is generally equivalent to one year of instruction.

Vice Chairman Monson said a unit is defined in subsection 4 of Section 15.1-21-03. He said it should be given its own section.

**It was moved by Representative Hanson and seconded by Representative Solberg that the phrase "both of which must emphasize geography" found in subsection 4 of Section 15.1-21-02 be deleted.**

Representative Hanson said history courses are thick enough without including a geography component.

Dr. Wayne Sanstead, Superintendent of Public Instruction, said geography should be a component in a variety of subjects, rather than a stand-alone course. He said he thinks it needs to be included.

In response to a question from Representative Eckre, Dr. Sanstead said we are already offering too many different subjects at people's individual requests. He said we would need to extend the school day if we are going to keep adding individual wishes.

In response to a question from Senator Kelsh, Dr. Sanstead said there are high schools that offer elective geography courses.

Vice Chairman Monson said subsection 4 of Section 15.1-21-02 presently states there must be offered "three units of social studies, including one of world history and one of United States history, both of which must emphasize geography." He said there is a motion to remove the phrase "both of which must emphasize geography."

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

### **Section 15.1-21-03**

Vice Chairman Monson said Section 15.1-21-03 requires students to enroll in at least four units of high

school work in each grade from 9 through 12. He said exceptions are made in subsections 2 and 3 for graduating seniors. He said, as the drafter's note states, the rewrite does eliminate the following sentence: "The work which is done by pupils in any school which does not conform to the requirements contained in this section may not be accredited by the Superintendent of Public Instruction through state high school examinations or otherwise." He said the superintendent does not "accredit" the work of students "through state high school examinations or otherwise."

#### **Section 15.1-21-04**

Vice Chairman Monson said Section 15.1-21-04 authorizes the Superintendent of Public Instruction to develop and implement an Indian education curriculum. He said when enacted in 1977 the section was placed in the chapter relating to the Superintendent of Public Instruction. He said last interim the committee determined this section should be placed in the chapter relating to courses and curricula, not in the superintendent's chapter. He said the former chapter did not yet exist and the latter was repealed. As a result, he said, this section does not exist. As it was the committee's intent to change the section's location, he said, it is now being revived.

#### **Section 15.1-21-05**

Vice Chairman Monson said Section 15.1-21-05 tries to ensure school district participation in Goals 2000 is voluntary, and the section precludes the Superintendent of Public Instruction from imposing any financial penalty on a school district that chooses to terminate participation in Goals 2000. He said one concern with this section is if a school district breaches a contract with the federal government, the federal government might require the imposition of financial sanctions. If the Department of Public Instruction is the lead agency, the Superintendent of Public Instruction might very well find that office imposing penalties on behalf of the federal government.

Vice Chairman Monson said we need to find out how much longer Goals 2000 is going to exist.

Dr. Sanstead said the Elementary and Secondary Education Act is up for reauthorization. He said Congress is debating Goals 2000 within that framework. He said it looks as if Goals 2000 will become a part of the Elementary and Secondary Education Act. He said it may well include a new look toward the future.

Representative Kelsch said two sessions ago she sat on the Job Service conference committee. She said this is where the amendment to eliminate Goals 2000 was put. She said this was the compromising language. She said she would like to keep it in here and, if needed, changes can be made during the legislative session.

#### **Section 15.1-21-06**

Vice Chairman Monson said Section 15.1-21-06 tries to ensure participation in a school-to-work program is voluntary and not a condition of graduation. He said school personnel, school district personnel, or the Superintendent of Public Instruction may not impose any academic penalties or other sanctions on a student for failure to participate in a school-to-work program.

#### **Section 15.1-21-07**

Vice Chairman Monson said Section 15.1-21-07 is the section that declares the Bible is not a sectarian book. He said at the option of the teacher, it may be read in school for up to 10 minutes each day. He said no sectarian comment may be made regarding the passages read. He said a teacher may not require that a student be present in class when the Bible is being read and may not require that a student read the Bible if doing so is contrary to the wishes of the student's parents.

Representative Thoreson said he was curious to find out what happens to the students who do not need to be present in the class while the Bible reading is taking place. He asked whether they go to the commons.

In response to a question from Senator Flakoll, Vice Chairman Monson said distributive education is marketing.

Senator Redlin said with respect to the reference to nature study, we are paving over good land, cutting down rain forests, engaging in star wars technology, etc. He said we need to teach kids about their environment when they are very young.

### **SCHOOL FINANCE - CHAPTER 15.1-27**

Vice Chairman Monson said Chapter 15.1-27 deals with school finance. He said as do other chapters, it contains archaic and unclear language. He said in the rewrite an attempt is made to make the language more readily understandable and reflective of how the money is actually distributed. He said the committee is being asked to give extra attention to the rewrite of this chapter.

#### **Section 15.1-27-01**

Vice Chairman Monson said Section 15.1-27-01 is the rewrite of present Section 15-40.1-05. He said this section essentially sets forth the monthly payment schedule that must be followed by the Superintendent of Public Instruction. He said, except for adding subsections, the section was left alone.

Vice Chairman Monson said it is necessary to double-check one thing. He said present law begins by requiring the Superintendent of Public Instruction determine the "total" payments made to each respective school district during the previous fiscal year. He said this then becomes the basis for percentage distributions during the ensuing year. He said the

committee needs to make sure the reference to “total” payments is accurate, i.e., that the calculation includes per student dollars, transportation dollars, special education dollars, vocational education dollars, etc. He questioned whether it includes federal dollars.

Mr. Coleman said the reference is intended to mean total state dollars.

Vice Chairman Monson asked the Legislative Council staff to add the word “state” on page 1, line 3, of the bill draft so the intent would be clear.

### **Section 15.1-27-02**

Vice Chairman Monson said Section 15.1-27-02 governs reports that are required of the school districts in order to receive their funds. He said present law provides that “no school district may receive foundation payments beyond the October payment unless the following reports have been filed with the Superintendent of Public Instruction:

1. Annual average daily membership report.
2. Annual school district financial report.
3. The September tenth fall enrollment report.
4. The personnel report forms for certified and noncertified employees.

Vice Chairman Monson said in the rewrite the term “foundation aid” is avoided because it is not defined. He said sometimes the context seems to indicate it means just per student payments, and at other times it seems to mean per student and transportation aid payments. He said perhaps there are even other meanings. Consequently, he said, the committee needs to double check to make sure the descriptive phrase used is in fact that which was intended.

Mr. Decker said the reference in this section should be to state aid payments. He said districts get one check for “state aid.”

Vice Chairman Monson asked the Legislative Council staff to make the change when it prepares the next bill draft.

Vice Chairman Monson said present law provides that no school district may receive foundation payments beyond the October payment unless certain reports are filed. He said the rewrite provides that no school district may receive per student or transportation aid payments beyond the October payment unless certain reports are filed. He asked whether this is what is intended or whether it is intended that no school district may receive any state aid payments beyond the October payment unless the requisite reports are filed.

Vice Chairman Monson said while on this section, the committee also needs to take a look at subsection 2. He said present law provides that no “school district may receive the January foundation payment unless the taxable valuation and mill levy certifications are on file with the department of public instruction by December fifteenth.” He said the rewrite provides that the superintendent “may not

forward the January per student or transportation aid payments to a district unless the district, by December fifteenth, has filed the taxable valuation and mill levy certifications with the superintendent.” He said the problem is if the school district files the information on December 16, a literal reading of this section would preclude the Superintendent of Public Instruction from forwarding the January payments to the district.

Vice Chairman Monson said working from the assumption such punitive measures were never intended, the committee needs to articulate what is intended so the rewrite can accurately reflect that intent. He said it appears we do not need or intend to assess a penalty, but we do need to withhold payments until the district submits its required paperwork.

Vice Chairman Monson asked the Legislative Council staff to redraft the provisions of Section 15.1-27-03 to reflect the articulated intent.

### **Section 15.1-27-03**

Vice Chairman Monson said Section 15.1-27-03 provides that in determining the cost of education per student, the Superintendent of Public Instruction is required to use all school district expenditures for education except capital outlay for buildings and sites or debt service, funds generated from school activities and school lunch programs, and transportation costs, including schoolbuses. He said the rewrite has attempted to clean up the language a little, but there are questions.

Mr. Coleman said it is important this wording is right because weighting factors are affected by the cost of education. He distributed a document entitled *ND School District Financial Report*. The document is attached as Appendix D. He said instructional expenditures include regular, federal, special, vocational, and undistributed expenditures.

In response to a question from Senator O’Connell, Mr. Coleman said the tuition starts with the instructional expenditures. He said there is then an adjustment for any foundation aid the educating district receives on the student’s behalf.

Vice Chairman Monson said the committee needs to consider the provisions of subsection 1 of Section 15.1-27-03. He said the subsection lists capital outlay for buildings and sites or debt service. He questioned whether it means capital outlay for buildings, capital outlay for sites, and capital outlay for debt service, or whether debt service is a factor all on its own. He said he is not sure about the punctuation and the use of the word “or.”

Vice Chairman Monson said the committee also needs to consider the provisions of subsection 2 of Section 15.1-27-03. He said present law provides that the superintendent may not use “expenditures from school activities and school lunch programs.” He said it is confusing as to what is meant by “expenditures from school activities and school lunch

programs.” He said he wonders if the wording should be that the superintendent may not use “funds generated from school activities and school lunch programs.”

Mr. Coleman said it would be his wish to provide that the superintendent may not use the various listed factors in determining the cost of education per student. He said that leaves various options open to the superintendent. He said if the statute specifies that all expenditures except for those listed must be used in determining the cost of education per student, the superintendent has no option but to use all costs. He said all costs might not be appropriate measurements.

Vice Chairman Monson asked the Legislative Council staff to work with Mr. Coleman to clarify this section.

#### **Section 15.1-27-04**

Vice Chairman Monson said Section 15.1-27-04 places the per student payments in their own section. He said the per student payments are now part of a multitopic section--Section 15-40.1-06.

#### **Section 15.1-27-05**

Vice Chairman Monson said Section 15.1-27-05 places the mill deduct in its own section. Again, he said, it is part of the multitopic Section 15-40.1-06. He said present law provides that the amount of tuition apportionment, foundation aid, special education aid, and transportation aid for which a school district is eligible must be added together, and from that total, specific amounts must be subtracted. He said this is one instance in which “foundation aid” seems to mean just per student payments and that is what has been reflected in the rewrite.

#### **Section 15.1-27-06**

Vice Chairman Monson said Section 15.1-27-06 covers weighting factors applied to high school students. He said it begins by providing that the superintendent must make payments each year to each school district operating a high school and to each school district contracting to educate high school students in a federal school. He questioned whether the reference to “each school district contracting to educate high school students in a federal school” is still needed.

Mr. Decker said the reference to “each school district contracting to educate high school students in a federal school” should be kept in the statute. He said the airbase schools have their own school district, but they contract with the local school districts for the provision of education services. He said theoretically the airbase schools are in federal school districts.

Vice Chairman Monson said the committee needs to consider the verbiage of subsection 6 on page 5. He said this subsection provides that in order to be

eligible for enumeration under this section, i.e., in order to be counted for purposes of applying weighting factors, the student must be a resident of this state or a nonresident who is attending a high school in this state under the auspices of a foreign exchange program. He said it seems another phrase is needed to provide that the student must be a resident of this state “and enrolled in grades nine through twelve.”

Vice Chairman Monson asked the Legislative Council staff to add that phraseology when the document is redrafted.

Mr. Coleman said it would be useful to have a definition of a high school student.

Vice Chairman Monson asked the Legislative Council staff to work with Mr. Coleman to determine if such a definition is necessary and if it is, to provide the definition for committee review.

#### **Section 15.1-27-07**

Vice Chairman Monson said Section 15.1-27-07 covers weighting factors applicable to elementary school students. He said present law begins by providing that payments “must be made from state funds to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, employing teachers holding valid licenses in accordance with section 15-47-46 and chapter 15-36, adjusted as provided in section 15-40.1-09 . . . .” He said the reference to districts employing teachers that hold valid licenses has been placed in its own subsection, i.e., subsection 10 of Section 15.1-27-07.

Vice Chairman Monson said the rewrite provides that a school district is not entitled to any payments provided under this chapter unless each teacher employed by the district holds a valid teaching license issued by the Education Standards and Practices Board or has been approved to teach by the Education Standards and Practices Board. He said this latter statement was added in response to a 1999 legislative enactment that authorized the Education Standards and Practices Board to approve individuals who previously held a North Dakota license or individuals who are licensed by another state, provided they are in the process of pursuing current North Dakota licensure.

Vice Chairman Monson said on page 8, line 27, there is another reference to a “valid” teaching license. He said the committee has been trying to remove this adjective, and this word should be removed in the next draft. He said if you hold a license, it is a valid license. He said if your license has become outdated or invalid for any reason, you are not licensed. Consequently, he said, we do not need to thicken our statutes with references to “valid” as opposed to “invalid” licenses.

**Section 15.1-27-08**

Vice Chairman Monson said Section 15.1-27-08 is another provision found in present Section 15-40.1-06. He said this one has to do with unaccredited high schools. He said as in present law the section provides that if a high school becomes unaccredited, the school receives its per student payments but not any increases that would stem from the use of the weighting factors. He said each year thereafter that the school remains unaccredited the per student payment is reduced by \$200.

**Section 15.1-27-09**

Vice Chairman Monson said Section 15.1-27-09 is the section dealing with unapproved schools. He said if a school is unapproved, the per student payment is \$220. He said the committee needs to consider a translation problem. He said a school can receive the status of "unapproved" if it does not offer the statutory minimum in terms of courses, it employs unlicensed teachers, or it does not meet local, state, or federal health, fire, or safety codes. He said present law provides the following language:

School districts operating high schools not meeting the minimum curriculum as provided in Section 15-41-24 or the teacher qualifications in Section 15-41-25 must be supported in the amount of two hundred twenty dollars, which is the basis for calculating grants-in-aid on a per student basis as provided in Section 15-40.1-07.

Vice Chairman Monson said present law does not use the phrase "unapproved school" in this section and only addresses two of the three reasons a school could become unapproved. He said the question is whether unapproved schools receive only \$220 or whether this language is even addressing unapproved schools.

Dr. Gronberg said the section in essence provides that one can violate state law and still get some payment. He said the Superintendent of Public Instruction has never given money to an unapproved school.

Senator Redlin said it is bothersome that on one hand we say here are the standards and on the other hand we say that schools can ignore the standards.

Vice Chairman Monson said there are no unapproved public schools.

Representative Brandenburg said the committee needs to be thinking about those schools that are trying to remain accredited.

In response to a question from Representative Monson, Mr. Decker said the mill deduct would still be applied under this section. He said with the application of the mill deduct, there would be no payment for a school. He said students attending an unapproved school would be in violation of the compulsory attendance provisions.

Senator Redlin said the committee does have a concern for struggling schools, but Section 15.1-27-09 is not the section that can help them.

**It was moved by Representative Thoreson, seconded by Representative Eckre, and carried on a voice vote that Section 15.1-27-09 be deleted.**

**It was moved by Representative Eckre, seconded by Senator O'Connell, and carried on a voice vote that the meeting be adjourned.**

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L. Anita Thomas  
Committee Counsel

ATTACH:4