

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EDUCATION COMMITTEE

Thursday, October 10, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Dwight Cook, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Dwight Cook, Tim Flakoll, Jerome Kelsh, Terry M. Wanzek; Representatives Larry Bellew, Lois Delmore, Howard Grumbo, C. B. Haas, Lyle Hanson, Kathy Hawken, Dennis E. Johnson. RaeAnn G. Kelsch, David Monson, Phillip Mueller, Darrell D. Nottestad, Dorvan Solberg, Laurel Thoreson

Members absent: Senators Layton Freborg, David O'Connell; Representatives James Boehm, Thomas T. Brusegaard, Bob Hunskor, Lisa Meier

Others present: See Appendix A

It was moved by Representative Delmore, seconded by Representative Nottestad, and carried on a voice vote that the minutes of the previous meeting be approved.

At the request of Chairman Cook, Mr. Raymond Lambert, State Fire Marshal, presented testimony regarding school fire inspections. His testimony is attached as Appendix B. Mr. Lambert said inspections of all schools were completed in early April 2002. He said approximately 150 schools had repeat deficiencies at that time. He said to date only seven school districts, i.e., 10 school buildings, have not completed corrective action on their repeat deficiencies. He said some of those schools have efforts underway.

In response to a question from Representative Hanson, Mr. Lambert said even if Cooperstown plans to close its elementary school in the near future, the deficiency list still stands. He said he does not know what the district's plan is with respect to making its schools fire safe for as long as the buildings are open.

In response to a question from Representative Mueller, Mr. Lambert said reinspections were conducted during the summer months to verify that the work which was supposed to have been done was in fact done. He said the districts with the 10 buildings have made strides toward correcting the districts' fire safety deficiencies. He said Fessenden has some issues with asbestos and now it has open ceilings. He said the fire alarm system cannot be installed until the other work is done. He said it is his role to report what he has found to the Superintendent of Public Instruction.

In response to a question from Representative Thoreson, Mr. Lambert said the significant reduction in the number of fire safety deficiencies is the result of the interim Education Committee's work, the work of the Superintendent of Public Instruction, the work of the media, and the efforts put forth by local school boards and school districts to find the money needed to address these issues. He said when the inspection cycle began there were 150 schools that had repeat deficiencies. He said there were also 160 schools that had no deficiencies or were in the process of correcting the deficiencies.

In response to a question from Representative Nottestad, Mr. Lambert said he appreciates the fact that the local communities wish to work with the local contractors and electricians. He said he has continued to stress that the fire safety deficiencies need to be addressed or a school's approval status becomes jeopardized.

In response to a question from Representative Haas, Mr. Lambert said students are still being educated in all the schools that have deficiencies. He said his office concentrated on those facilities that had imminent or dangerous conditions. He said the facilities do have methods of manually setting off fire alarms in order to facilitate exiting of students.

In response to a question from Representative Delmore, Mr. Lambert said his office is again on the normal school inspection process. He said since beginning the normal cycle he has not cited a repeat deficiency. He said he believes there will be some schools that have not yet addressed the cited deficiencies from the last inspection cycle. He said the longstanding deficiencies have been cleaned off the list. He said he is not expecting to see major issues like corridor separations.

In response to a question from Representative Monson, Mr. Lambert said the larger schools tend not to have the same corridor separation issues that are commonly found in smaller schools. He said his office has developed a much better working relationship with many of the school districts. He said he is finding that the school districts are taking the initiative to prevent the citing of repeat deficiencies.

At the request of Chairman Cook, committee counsel presented a bill draft [30151.0100] relating to the development of long-term plans by school boards.

She said the bill draft provides that during the first six months of each even-numbered year, the board of each school district must hold a public hearing to consider the effects of demographics on the district and to consider appropriate responses to changes. She said the board is then to prepare a report that sets forth the district's 5-, 10-, and 20-year plans. She said the plans must include potential changes in academic, athletic, and extracurricular programs; potential staff changes; potential building changes, including repairs, remodeling, new construction, and closure; and potential taxation changes. She said when the report is ready the school district must publish notice of that fact in the newspaper and it must make the report available upon request.

It was moved by Representative Mueller and seconded by Representative Haas that the bill draft relating to the development of long-term plans by school districts be approved and recommended to the Legislative Council.

Representative Solberg said 20 years is a long time in terms of doing any practical planning.

Senator Cook said long-term plans are done all the time, with the knowledge that the 20-year predictions are perhaps not as accurate as the shorter-term predictions.

Representative Nottestad said building needs and annexation issues often cover at least 20 years.

Representative Haas said the criteria for writing a 5-year plan are different from those used for writing a 10-year plan or a 20-year plan. He said the benefit of requiring a plan is that it forces school staff and school boards to engage in discussions.

Representative Mueller said a lot of schools are doing this already.

The motion carried on a roll call vote. Senators Cook, Flakoll, Kelsh, and Wanzek and Representatives Bellew, Delmore, Grumbo, Haas, Hanson, Hawken, Johnson, Kelsch, Monson, Mueller, Nottestad, Solberg, and Thoreson voted "aye." No negative votes were cast.

At the request of Chairman Cook, committee counsel presented a bill draft [30101.0200] relating to an appropriation for the development and implementation of a student achievement and teacher quality pilot project. She said the bill draft appropriates \$340,000 to the Superintendent of Public Instruction for the purpose of funding a pilot project designed to enhance student achievement and teacher quality, also known as the knowledge-skills-based pay program. She said the bill draft directs the Superintendent to select two recipients--each would be entitled to \$150,000 after implementing the program, plus \$20,000 to cover the direct and indirect costs of participation. She said in order to be a participant one must be a school district having more than 2,500 students or a consortium of districts having over 2,500 students. She said this reference to the

consortium is the amendment that had been requested by the committee.

Committee counsel said this bill draft, like the one presented to the committee in June, sets forth details regarding the development and implementation of a mentoring program, a professional development program, an evaluation program, and a teacher compensation package that recognizes four categories of teachers from beginning to advanced, and which sets the compensation level for each category, based on the individual teacher's ability to meet or exceed the established standards for content knowledge, planning and preparation for instruction, instructional delivery, student assessment, classroom management, and professional responsibilities.

Representative Delmore said as we are looking at a budget shortfall we are likely to have difficulty even sustaining the teacher raises enacted during the 2001 legislative session. She said under the new federal legislation a lot of these issues have been addressed.

Senator Cook said this concept was amended onto the foundation aid bill and it stayed there until the final days of the 2001 legislative session. He said it was removed, presumably to help balance the budget. He said we should look at a bill on its merits. He said this is \$340,000 that will go to compensating teachers.

In response to a question from Representative Delmore, Senator Cook said the conditions in the mentoring and professional development requirements will be found in the new federal requirements. He said the knowledge-skills-based pay consortium came up with this as a way to enhance teacher quality. He said the No Child Left Behind Act also addresses teacher quality. He said the Act will bring about changes in the way students are taught. He said along with that there will likely come the need to change the way teachers are compensated. He said in passing this bill draft we are being proactive rather than reactive.

In response to a question from Representative Delmore, Senator Cook said this is a pilot program that would only come into play if there was agreement among the teachers of a district and the school board. He said finding the money to pursue the increased compensation will be something the participating boards choose to do.

Representative Haas said when an idea comes to the forefront, which is somewhat outside of the box, we tend to reject it out of hand. He said whether this idea gets funded and passes the Legislative Assembly is another issue.

It was moved by Representative Haas and seconded by Senator Flakoll that the bill draft relating to an appropriation for a student achievement and teacher quality pilot project be approved and recommended to the Legislative Council.

Representative Monson said he supports Representative Delmore's comments. He said there are many school districts in which all the teachers would qualify for the increased compensation. He said as a member of the Appropriations Committee, he sees very little potential for funding this concept. He said it is a commendable program and he would love to fund it. He said the concept can be included along the way without it being in a separate bill.

In response to a question from Senator Cook, Representative Monson said there are numerous teachers who are highly qualified.

Senator Cook said this bill draft would allow a local board to pay teachers in a manner that is different from the way in which they are being paid right now. He said it would take an agreement on the part of the board and the teachers.

Representative Delmore said there are only two school districts that are eligible for this program under the bill draft. She said she sees this appropriation being taken from education funding in general.

Senator Cook said any district can implement a knowledge-skills-based pay plan if it elects to do so.

Representative Nottestad said about 20 years ago the administrators went to a merit pay system in addition to their salaries. He said the "haves" and the "have nots" changed with the new superintendents and assistant superintendents. He said after three years the program was viewed as a dismal failure and the program was canceled. He said he has lived under this type of a program and it was not something he would want to repeat.

Representative Thoreson said after this seed money is gone the school districts will be on their own.

The motion failed on a roll call vote. Senators Cook and Flakoll and Representatives Bellew, Haas, Hawken, and Thoreson voted "aye." Senator Kelsh and Representatives Delmore, Grumbo, Hanson, Johnson, Kelsch, Monson, Mueller, Nottestad, and Solberg voted "nay."

At the request of Chairman Cook, committee counsel presented a bill draft [30078.0500] relating to high school course offerings. She said this bill draft sets forth the subjects that each public and nonpublic high school must make available each school year. She said it requires that each school year there be made available one unit of English, mathematics, science, and social studies at each grade level from grades 9 through 12 and it requires those courses be aligned to the state content standards. She said current law references one unit of health and physical education. She said it is not clear whether that means one unit of each or one unit that combines the two courses. She said based on an earlier bill draft this version provides that there be made available one-half unit of health and one-half unit of physical education at each grade level from grades 9 through 12.

Committee counsel said the list is rounded out with 2 units of music, 3 units of the same foreign language, and 24 elective courses. She said this bill draft does not require that students take all these subjects. She said graduation requirements would still be governed locally. She said this bill draft addresses only those subjects that must be made available by a school in order for that entity to be approved.

Committee counsel said at the last meeting the committee had requested that the phrase "made available" be clarified. She said the phrase is defined on the second page of the bill draft. She said it means a school has to provide to its students a course selection list that includes at least what is set out in subsection 1 of Section 1 of the bill draft. She said if no student elects to take a third year of a foreign language, the school is not required to do anything. She said if even one student selects that particular course, then the school is obligated to provide it.

Committee counsel said the school can provide courses through basically any delivery method that is not against the law. She said this includes traditional classroom instruction. She said it can be individual instruction and it can be instruction through distance learning such as interactive video, computer instruction, correspondence, and even postsecondary enrollment options. She said the school has to provide the course at its own expense. She said the school cannot charge the student any special fees.

Committee counsel said if the school uses a post-secondary course in order to meet its required minimum course offerings, then the school has to pay the student's cost of attendance and to provide transportation to the student or reimbursement for transportation if provided by the student.

Representative Monson said we need to clarify the references to music and foreign language.

Representative Kelsch said a student needs to have access to at least two units of music and three units of a foreign language.

Representative Haas said the references are clear and he could accept the bill draft as it is.

It was moved by Representative Hawken, seconded by Representative Haas, and carried on a roll call vote that the bill draft relating to minimum high school course offerings be approved and recommended to the Legislative Council. Senators Cook, Flakoll, Kelsh, and Wanzek and Representatives Bellew, Delmore, Grumbo, Haas, Hanson, Hawken, Johnson, Kelsch, Monson, Mueller, Nottestad, Solberg, and Thoreson voted "aye." No negative votes were cast.

Senator Cook said he will support the bill, but he is concerned that local school districts might rob Peter to pay Paul. He said he urges his colleagues to ensure that this does not happen. He said it is not an intended consequence.

Chairman Cook called on Ms. Anita Decker, Department of Public Instruction, for a report regarding requests for waivers of rules governing school accreditation. Ms. Decker said there was one request for a waiver of an accreditation rule. She said the principal at Strasburg could not fulfill her role as principal and science teacher. She said the Superintendent of Public Instruction was asked to allow the principal to serve an hour less than that which is normally required of a principal. She said the Superintendent of Public Instruction granted the request.

In response to a question from Representative Monson, Ms. Decker said the waiver statute is working as intended.

Chairman Cook called on Ms. Decker for a report regarding requests for waivers of North Dakota Century Code Section 15.1-21-03, which relates to instructional time for high school units. She said no requests for waivers were filed.

Chairman Cook called on Dr. David Larson, Department of Public Instruction, who presented a report relating to school district employee compensation. Dr. Larson distributed a document governing employee compensation. The report is attached as Appendix C. He said the Legislative Assembly directed that compensation information be collected and reported. He said the data is collected electronically.

Dr. Larson said the data is collected for the normal school year and the extended school year and for a normal schoolday and an extended schoolday. He said 98 percent of the data has been collected. He said four districts have not met the required deadline for data submission.

Representative Monson said Dr. Larson was very helpful in assisting superintendents with filling out the forms.

Dr. Larson said when he is done with the data it will be capable of being sorted by school, district, or specific job.

In response to a question from Representative Haas, Dr. Larson said the data is still active and that accounts for some of the anomalies. He said when the data is complete it will be 100 percent accurate.

In response to a question from Representative Kelsch, Dr. Larson said this information deals only with licensed professional staff. He said a business manager would not be included unless the individual was licensed.

In response to a question from Senator Flakoll, Dr. Larson said the process for data collection is in place. He said it will take only minimal dollars to tweak it in the future. He said the program allows for the importation of data. He said this was a huge undertaking for the large districts. He said for the smaller districts, however, it was only an inconvenience. He said this was prepared in such a way that districts could start working on it last summer when things were not as busy.

In response to a question from Senator Flakoll, Dr. Larson said the export function will be provided for a five-year period. He said if a school district wishes to review salary and benefit information from years back, it will be able to export the data and review it. He said school boards will be able to review the data. He said unlike other data collection systems this one provides consistent data from district to district. He said school administrators or school boards can review their situation and that of their neighbors or they can review all the districts in the state. He said there will be no variation in what is meant by a full-time teacher.

Dr. Larson said for larger districts a simple programming change will make data importation very easy. He said there is a review underway by Department of Public Instruction staff who use this information to see what can be done to consolidate data-gathering requests and forms.

Representative Hawken said when the Legislative Assembly passed this bill, it was not intended that it cause this much work. She said since the business managers are involved most significantly in this, it would be good if Department of Public Instruction staff talked to them.

Dr. Larson said the preparation of the documentation did include input from a business manager advisory group. He said the business managers did not always agree with the decisions that were made, but the business managers were a very significant resource in the creation of the data collection process. He said approximately seven business managers were involved in the design of the process. He said it was a testy time, but he did not back off from what the statute required.

Chairman Cook called on Mr. Mark LeMer, Business Manager, West Fargo Public School District, who presented testimony regarding the employee compensation reports. Mr. LeMer said he served on a committee that was designed to create this report.

Mr. LeMer said the law requires the total amount of base salary; the total amount of compensation reportable as gross income under the Internal Revenue Code; any other compensation paid or provided to or on behalf of individuals employed as teachers and as administrators; health insurance benefits paid to or on behalf of individuals employed as teachers and as administrators; retirement contributions and assessments paid on behalf of individuals employed as teachers and as administrators, including individual shares if paid by the district; and any other benefits paid or provided to or on behalf of individuals employed as teachers and as administrators.

Mr. LeMer said other items were added to the report to accommodate teacher retirement reporting. He said when the teacher retirement system could not accept annual reporting in lieu of monthly reporting, the other items were not removed. He said he is troubled by the level of detail that is required by the

report. He said he would like to see some direction from the Legislative Assembly as to what precisely is meant by other compensation.

In response to a question from Senator Cook, Mr. LeMer said it will be easier the next time to compile the data.

Representative Kelsch said when this amendment was proposed, the individuals who wanted this amendment were in fact looking for this type of detailed information. She said it may be worthwhile for the business managers to sit down with the Department of Public Instruction staff and suggest some changes.

Senator Wanzek said he was one of those who proposed this idea. He said he was trying to break out things like regular salary, payments for coaching, health insurance benefits, etc.

Chairman Cook called on Mr. Dan Huffman, Assistant Superintendent, Fargo School District, for testimony regarding the employee compensation reports. Mr. Huffman said he was under the impression there would be about two dozen reporting categories. He said they have had an opportunity to express their concerns to Dr. Larson. He said he does not believe their suggestions were taken into account. He said he would welcome the opportunity to sit down with Department of Public Instruction staff and design a reasonable process.

With the permission of Chairman Cook, Dr. Kermit Lidstrom presented testimony regarding the employee compensation reports. Dr. Lidstrom said the data he received from Dr. Larson is both fair and equitable and it was a tremendous help in dealing with the teacher salary impasse issues. He said this type of information was critical in the Minot impasse situation. He said the Legislative Assembly should not reduce the quality of the information it is finally receiving.

In response to a question from Senator Cook, Dr. Larson said school districts can get the data in a fashion they can manipulate. He said every district has reported on-line. He said a school district can get the information back in a way that it can manipulate the data.

Representative Monson said the figures on page 4 of the handout are very accurate. He said even though the salary reported for a deputy superintendent seems high at \$97,010, one has to realize there are only 12 deputy superintendents. He said those individuals are found in the largest districts. He said superintendent salaries appear to be lower. However, he said, the superintendent salaries include a great many more people and reflect a much greater range of salary. He said this data can also be used to argue that the smaller schools are not overcompensating their administrators and are not hiring too many administrators.

Representative Kelsch said there are 151 superintendents who make an average of \$75,397. She said there is no breakdown between smaller and larger

districts. She said there is nothing in this data from which one could draw conclusions regarding the efficiencies of smaller versus larger schools.

Senator Cook said this is some very valuable information. He said legislators could have used this information last session when they first got involved in teacher compensation. He said Dr. Lidstrom's comment about the value of this information applies equally to the needs of each legislator. He said perhaps the business managers could work with Department of Public Instruction staff to tweak the legislation so that we get the information we need but not more than we need.

Chairman Cook called on Mr. Greg Gallagher, Education Improvement Director, Department of Public Instruction, who presented testimony regarding the No Child Left Behind Act and recent student assessments. Mr. Gallagher's testimony is attached as Appendix D.

Mr. Gallagher said the No Child Left Behind Act builds upon four principles or themes--accountability, flexibility, research-based education, and parental options. He said the primary performance goal is that all students reach high standards and, at a minimum, attain proficiency in reading or language arts and mathematics.

Mr. Gallagher said the second primary performance goal deals with limited English proficient students becoming proficient in English and reaching high academic standards. He said the third performance goal requires that all students will by the 2005-06 school year be taught by highly qualified teachers. He said the fourth goal is that all students will be educated in learning environments that are safe, drug free, and conducive to learning. He said the fifth goal is that all students will graduate from high school.

Mr. Gallagher said North Dakota will receive approximately \$3.4 million to develop and administer assessments during the 2002-03 school year.

In response to a question from Representative Mueller, Mr. Gallagher said North Dakota can go a long way toward achieving the goal of additional grade level assessments provided North Dakota continues to use a testing instrument that involves an off-the-shelf test plus additional questions to ensure that our state standards are met. He said the assumption is that the \$3.4 million will be in addition to the \$1.2 million that the Legislative Assembly appropriated during the 2001 legislative session. He said the assumption is that \$1.2 million will also be appropriated during the 2003 session.

In response to a question from Representative Mueller, Mr. Gallagher said Congress has linked funding for Title I very closely to the development and implementation of an accountability system. He said if a state decided it would not play the assessment game, it would put itself at risk for a loss of all other title funds.

Chairman Cook called on Dr. James P. Comerford, District Manager, CTB/McGraw-Hill, who presented testimony regarding North Dakota state-wide assessments. His testimony is attached as Appendix E. Dr. Comerford said we no longer use norm-referenced tests. He said we are now developing tests to measure North Dakota standards.

In response to a question from Senator Cook, Dr. Comerford said a valid test is one which measures what we say it does. He said reliability means that, theoretically, if the same student took the same test a second time, the second score would be the same as the first score.

Mr. Gallagher said with respect to the concept of adequate yearly progress, some schools are higher-achieving than other schools. He said the federal law wants to ensure that we identify the lowest-performing schools and direct resources to those entities to ensure they become high-performing schools.

Mr. Gallagher said the No Child Left Behind Act puts emphasis on the lowest-performing schools. He said the lowest-performing schools are identified by a reliable measure of performance levels. He said there is an expectation that by 2014 all students will reach the level of proficiency.

In response to a question from Representative Haas, Mr. Gallagher said the 95 percent rule means that 95 percent of students in each subgroup and of those students not in a subgroup must participate in the assessments. He said this eliminates the possibility of taking the lowest-performing students on a field trip on the day the test is scheduled.

In response to a question from Representative Hawken, Mr. Gallagher said if one is dealing with a student who has a significant disability, the student might take an alternative test that involves a portfolio-based assessment reviewed by an independent reviewer. He said even a student with a significant disability can be adjudged as being proficient given the testing instrument.

In response to a question from Representative Kelsch, Mr. Gallagher said accommodations have been an acceptable part of assessments for many years. He said depending on an individual's disability, there may be an additional time requirement for the assessment.

In response to a question from Senator Flakoll, Mr. Gallagher said North Dakota schools have great comparability. He said we also have schools that are significantly off the charts with respect to being poor-performing schools.

In response to a question from Representative Hanson, Mr. Gallagher said we have been assessing students for years. He said there is nothing in these assessments that places any kind of sanction on a student. He said these assessments are designed to improve the schools.

In response to a question from Representative Monson, Mr. Gallagher said the law states that the

system of adequate yearly progress must be reliable. He said in a small school there could be a statistical error. He said anytime a school is identified for improvement, we must ensure that the identification is a good clean identification and not impacted by a statistical error. He said it is the intent of this law that every student get a good quality education, regardless of the size of school attended by the student.

In response to a question from Representative Thoreson, Mr. Gallagher said when an individualized education program (IEP) plan is put together, consideration should be given to the issue of assessments. He said although we are a lot better at writing IEPs now than we were 20 years ago, there is still no guarantee every IEP will address assessment procedures. He said there has been a significant level of discussion in the special education community regarding the issue of alternative assessments.

In response to a question from Representative Monson, Mr. Gallagher said there exists some good historical data regarding the special education population of North Dakota. He said if a school decided to increase its IEPs because of test results, that move would show up on the radar screen. He said there is also an assumption that the profession will behave in an ethical manner and implement IEPs only when they are truly required. He said the Department of Public Instruction staff has the responsibility for monitoring the schools.

Chairman Cook called on Ms. Laurie Matzke, Title I Director, Department of Public Instruction, who presented testimony regarding consequences for schools not meeting the accountability requirements found in the No Child Left Behind Act. Ms. Matzke said the No Child Left Behind Act requires one single accountability system for public schools in the state. She said schools that do not receive Title I funds cannot be identified for program improvement. She said those schools do not go through the sanctions process. She said the state assessments will occur in March and the assessment reports of adequate yearly progress should be available in June.

Ms. Matzke said if a school does not make adequate yearly progress for two years in a row, and if the school receives Title I funds, the school will be identified for school improvement. She said the school will be given three months within which to submit a program improvement plan. She said the school will have to withhold 10 percent of its Title I funds and expend it specifically for teacher professional development. She said if the school does not show adequate yearly progress, the school must offer school choice. She said the following year the school must offer supplemental services tutoring. She said these services are available only to students who are on free or reduced lunches. She said in the fifth year, the school must begin to replace staff, institute a new curriculum, restructure, or extend its schoolday or school year. She said in the sixth year, the school

must plan for alternative governance, and in the seventh year, the school must become a charter school, replace staff, or undergo state control or other fundamental reform.

Ms. Matzke said 21 schools are currently in the school improvement process and have been there for a number of years. She said under the law those schools do not go back to a year 1 status. She said as a result some of those schools are within three years of facing the year 7 alternatives.

Mr. Gallagher said one of the requirements in the No Child Left Behind Act is that the reports of the schools must be given to parents and to the public. He said the information will be placed on the Department of Public Instruction web site. He said it is up to the individual school districts to provide the information to people in the district, especially those who may not have access to the Internet.

Chairman Cook called on Ms. Jean Newborg, Department of Public Instruction, who presented information regarding student assessments. Ms. Newborg said the information became available on Wednesday, October 9, 2002. She said since 1994 federal law has required the development and implementation of various assessments for the purpose of identifying schools for adequate yearly progress. She said the state is currently under a program waiver effective until August 2003 for the purpose of developing and implementing its assessment system. She said beginning on page 26 of Appendix D there is a mockup of what the North Dakota state assessment reports will look like.

Ms. Newborg said the unofficial impact data of the March 2002 mathematics test indicates that of the fourth grade students, 18 percent are at the advanced level, 38 percent are proficient, 29 percent are partially proficient, and 14 percent are novice. She said that is based on the testing of 8,083 students. She said the eighth grade mathematics tests show that 10 percent of the students are advanced, 31 percent are proficient, 46 percent are partially proficient, and 12 percent are novice. She said for 12th grade mathematics 13 percent of the students are advanced, 20 percent are proficient, 41 percent are partially proficient, and 25 percent are novice.

Ms. Newborg said with respect to the fourth grade reading test 21 percent of the students scored in the advanced category, 53 percent were proficient, 18 percent were partially proficient, and 8 percent were novice.

Ms. Newborg said the eighth grade reading test showed that 16 percent of the students are advanced, 50 percent are proficient, 20 percent are partially proficient, and 13 percent are novice.

Ms. Newborg said the 12th grade reading test showed that 19 percent of the students are advanced, 32 percent are proficient, 27 percent are partially proficient, and 22 percent are novice.

Ms. Matzke said beginning on page 39 of Appendix D there is a summary of the highly qualified staff requirements. She said states are required to ensure that by 2005-06, individuals teaching in core academic areas are highly qualified. She said the core subjects are defined as English, reading, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. She said it may be that teachers in North Dakota will be able to have composite majors.

Ms. Matzke said highly qualified teachers must be licensed and must hold bachelor's degrees. She said new elementary teachers will have to pass a rigorous test; whereas, new middle school and high school teachers will have to pass a rigorous test or obtain a major in the area in which they teach. She said teachers who are not new will be able to take a rigorous test, show they have a major in the course area, or undergo a portfolio-based state evaluation. She said it appears the rigorous test will be the Praxis II. She said that test includes content and pedagogy.

In response to a question from Senator Cook, Ms. Matzke said higher education personnel have been involved in the discussions about using Praxis II as the rigorous test and the changes that will need to be made in the teacher preparation curriculum.

In response to a question from Representative Monson, Ms. Matzke said if an individual is teaching in an area in which the individual has only a minor, the individual will have three alternatives--get a major, take the rigorous test, or complete a portfolio-based assessment.

In response to a question from Representative Monson, Ms. Janet Welk, Executive Director, Education Standards and Practices Board, said if a teacher has been teaching with a minor, that individual will have to go back and obtain major-equivalent coursework. She said that individual will not have to engage in student teaching in the course area. She said such an individual could take the Praxis II test just like a new graduate. She said an alternative would be to take the portfolio-based assessment. She said there is concern that teachers who are able to retire will do so instead of trying to meet the new requirements. She said another option might be to require a master's degree in a composite science area, so the individual could teach a variety of sciences.

In response to a question from Representative Monson, Ms. Welk said what is being discussed with representatives of the institutions of higher education is that someone like Representative Monson could go to an institution of higher education, have his transcript reviewed, and have it be determined whether over the years he has acquired coursework comparable to that of a graduate with a composite science degree. She said she would like to see the development of a system that enables a person to meet the highly qualified standard once and not have to go

through that process a second time if the person chooses to relocate in another state.

Ms. Matzke said with respect to elementary teachers who are not new to the teaching profession, if it appears they have a major in elementary education and if they are licensed and hold a bachelor's degree, they will be deemed highly qualified. She said middle school teachers will be a challenge. She said if a building has grades 6, 7, and 8, and if the sixth graders are in that building because of space, and if the classroom is self-contained, that teacher would be deemed highly qualified, provided the teacher had an elementary education major. She said if the sixth grade is part of the middle school concept, wherein one teacher teaches science and another teaches mathematics, the teachers would need to meet the new requirements. She said June 2006 is the deadline by which the teachers must meet the requirements. She said Title I teachers will have to meet the requirements sooner.

Ms. Matzke said districts will have to do a needs assessment and determine how many teachers do not meet the highly qualified requirements.

Ms. Matzke said all Title I schools must withhold 5 percent of their Title I funds and their Title II funds to help those teachers who need to go back and get coursework or get their designation as highly qualified.

Chairman Cook called on Dr. Gary Gronberg, Department of Public Instruction, who presented testimony regarding legislation that might be needed as a result of the No Child Left Behind Act. Dr. Gronberg said the Legislative Assembly may need to look at sanction options for schools that are not making adequate yearly progress. He said there is a sanction provision already in administrative rule. He said perhaps that could be looked at as a potential vehicle.

Dr. Gronberg said the Legislative Assembly may need to look at changes to the open enrollment provisions if a parent wishes to exercise the option of enrolling a student in a school other than a low-performing school. He said there may be a need to look at waiving the timeline requirements. He said the Legislative Assembly may need to consider a charter school option.

Dr. Gronberg said with respect to limited English proficient students, the Legislative Assembly may need to look at improving the quality of our English proficiency assessments and to consider implementing increased weighting factors for certain limited English proficient students. He said in this state Native American children may qualify as being limited English proficient students.

Dr. Gronberg said requirements for the teacher qualifications will need to be changed. He said this includes our current provisions allowing individuals to teach with a major, a minor, or a minor equivalency. He said this state will receive over \$13.7 million,

which can be used to help teachers achieve a highly qualified status.

In response to a question from Representative Monson, Dr. Gronberg said the \$13.7 million is an annual amount coming to the state. He said the \$13.7 million is going to the school districts for redirection as the districts see fit. He said a district could pay a teacher to go back to school. He said the manner in which the dollars are used is up to the local school districts. He said these federal dollars can even be used for recruitment and retention.

Dr. Gronberg said the Legislative Assembly will have to identify what constitutes a persistently dangerous school. He said such a designation will allow a student to transfer to another school. He said this might be another opportunity to look at open enrollment as an option. He said the Legislative Assembly will also need to look at graduation requirements, student suspension, dropouts, and expelled students. He said the Legislative Assembly might need to look at how graduation rates are identified. He said graduation rates could be based on the number of students who start together in grade 9 and then graduate from grade 12. He said graduation rates can also be calculated on the basis of 25 students who start together in grade 1 versus the number of students who graduate from high school.

In response to a question from Representative Kelsch, Dr. Gronberg said we have a statewide system of standards. He said we do not have to go down to the curricular level. He said the districts can decide how to achieve those standards. He said we need to make certain that the course offerings at the local level align to the state standards.

Dr. Gronberg said the Superintendent of Public Instruction has to have a mechanism and a system by which information can be gathered and reported. He said this process involves the United States Department of Education, the Legislative Assembly, school districts, and the public. He said sometimes reporting is difficult and time-intensive. He said it needs to be done. He said people want to have accountability for how we are spending our \$1.5 billion in state education funds. He said the question is being asked by the federal government as well. He said this information also helps determine what is working at the state level. He said we know we are not going to have a lot of new dollars and we need to know that we are putting our dollars to the best possible use. He said the development and maintenance of data collection systems do have a price tag. He said data collection affects not only policy decisions, but it also affects instructional choices.

It was moved by Representative Haas, seconded by Representative Kelsch, and carried on a voice vote that the chairman and staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and the

recommended bill drafts to the Legislative Council.

It was moved by Senator Flakoll, seconded by Representative Kelsch, and carried on a voice vote that the meeting be adjourned sine die.

L. Anita Thomas
Committee Counsel

ATTACH:5