NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

NO CHILD LEFT BEHIND COMMITTEE

Thursday, May 18, 2006
Harvest Room, State Capitol
Bismarck, North Dakota

Representative RaeAnn G. Kelsch, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives RaeAnn G. Kelsch, Bob Hunskor, Joe Kroeber, Darrell D. Nottestad, Margaret Sitte, John Wall; Senators Dwight Cook, Tim Flakoll, Gary A. Lee

Members absent: Senators Layton W. Freborg, Ryan M. Taylor

Others present: See Appendix A

Representative Lois Delmore, member of the Legislative Council, was also in attendance.

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

NO CHILD LEFT BEHIND ACT - FEDERAL PERSPECTIVE

Chairman Kelsch called on Ms. Wendy Evans, Deputy Secretary's Regional Representative, United States Department of Education, Denver, Colorado, who presented testimony regarding the federal perspective of the No Child Left Behind Act. She said January 2006 marked the fourth anniversary of the No Child Left Behind Act. She said the Act's goal is still grade level proficiency for all students by the end of the 2013-14 school year. She said the Act is based on accountability. She said the Act is still a work in progress. She said the United States Department of Education will continue to implement the law in a sensible and flexible way, while still remaining focused on accountability and the goal of grade level proficiency. She said the Act has given us unprecedented data about student performance and school performance. She said the Act is raising standards and showing the educational progress of more children than ever before. She said the role of the federal government is to insist on standards, provide resources, hold people accountable, and help school districts meet standards. Under the Act, she said, schools that take federal money must show whether students are learning and whether expectations are being met.

Ms. Evans said because of the testing and measuring, we know that the No Child Left Behind Act is producing results. She said test scores are going up and the achievement gap is becoming narrower. She said the Act was passed by a large bipartisan vote and continues to receive strong bipartisan support in Congress. She said the House Education Committee is holding the first of multiple meetings on the Act today as part of the reauthorization process.

Ms. Evans said Ms. Margaret Spellings, Secretary of Education, United States Department of Education, has articulated various principles that are essential and indispensable for implementing the No Child Left Behind Act. She said the principles are nonnegotiable. She said they include assessments in grades 3 through 8 and once in the high school grades. She said Secretary Spellings believes that what gets measured gets done.

Ms. Evans said the principles include having disaggregated data, which she said provides a picture of the quality of the schools. She said the principles include proficiency by the conclusion of the 2013-14 school year. She said all of the efforts must focus on the bottom line, i.e., raising student achievement and closing the achievement gap. She said states must include all students in their school accountability systems. She said the principles include the requirement that states implement a rigorous system to ensure that all teachers are highly qualified and to ensure that all students have access to highly qualified teachers.

Ms. Evans said another principle involves options for families. She said there must be opportunities for access and the ability to move students to schools that are better suited to their needs if their local schools are not meeting those needs.

Ms. Evans said Secretary Spellings has pledged to listen closely to states and to consider ways in which the United States Department of Education can provide flexibility so states can reach their student achievement goals while staying true to the stated principles.

Ms. Evans said the United States Department of Education has entered into a pilot program with Virginia. She said the program allows Virginia to alter the order in which school choice and supplemental services are offered in the school improvement timeline. Virginia has committed to increasing the number of eligible students participating in the supplemental services program by extending the enrollment period, expanding options for parents, and providing achievement data on the students enrolled in the pilot districts. On May 15, 2006, she said, Secretary Spellings made the program available to all states.

Ms. Evans said the United States Department of Education also entered into a pilot program with the Chicago Public School System. Under this program, she said, the Chicago Public School System, which has been identified as being in need of improvement, could be the supplemental service provider for its students. Generally, she said, districts that have been found in need of improvement have not been allowed to provide the supplemental services. She said the district has agreed to provide early notification to parents of their children's eligibility to receive supplemental services, to provide extended enrollment periods so that parents can make the necessary choices, and to allow school district facilities to be used by nondistrict providers at a reasonable cost. She said the Chicago Public School System also agreed to provide the academic data to an independent data collection agency that will evaluate the effectiveness of the supplemental services.

Ms. Evans said Secretary Spellings and the United States Department of Education have also worked with states to provide flexibility in raising the achievement of certain special needs students. She said these efforts are targeted toward those students who need modified standards and achievements. She said these students can make progress toward, but may not reach, their grade level achievement standards in the same timeframe as other students. She said 31 states currently are using this additional flexibility.

Ms. Evans said in October 2005 Secretary Spellings realized that despite the substantial progress states had made in having all core academic subjects taught by highly qualified teachers by the end of the 2005-06 school year, some were still encountering difficulty in fully meeting this requirement. She said Secretary Spellings decided that if a state is falling short of meeting the requirement, but is still making substantial progress toward the goal, the state will be deemed to have put forth a good-faith effort to meet the basic requirements of the No Child Left Behind Act and it will be asked to submit a revised plan detailing steps that the state intends to take in order to meet the goal by the conclusion of the 2006-07 school year. She said the United States Department of Education has recognized that North Dakota is working toward the requirements set forth in the No Child Left Behind Act with respect to highly qualified teachers but, like other states, North Dakota may not meet the requirements by the end of the current school year. She said a letter was sent to the Superintendent of Public Instruction on May 12, 2006, which asks the Superintendent to submit a revised plan indicating how the state will meet the highly qualified requirements by the conclusion of the 2006-07 school year.

Ms. Evans said in November 2005 Secretary Spellings announced implementation of another pilot program. She said this program allows a state to submit a proposal for use of a growth-based accountability model in meeting the goals of the No Child Left Behind Act. She said the United States Department of Education will use this to test whether growth models appropriately test and ultimately hold schools accountable for student achievement. She said the United States Department of Education will approve no more than 10 growth model pilot programs for measurement of student achievement during the 2005-06 school year. She said Tennessee and North Carolina have already had their proposals approved. She said all of the information regarding the growth model pilot programs are on the United States Department of Education web site.

Ms. Evans said the United States Department of Education has made great strides in providing technical assistance to states and in helping to fine-tune implementation of the Act. She said in September 2005 the United States Department of Education awarded new grants to establish both regional and content-focused technical assistance centers to assist states in implementing their programs and the policies and goals of the No Child Left Behind Act. She said even though states have the primary responsibility for school improvement, these centers can focus their technical assistance on helping states increase their capacity to provide support to districts and schools.

Ms. Evans said 16 grants have been awarded to regional comprehensive centers. She said the center for this region is on the campus of Hamline University in St. Paul, Minnesota, and serves the states of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. She said there are also grants to support content centers. She said these content centers are national in scope and work closely with the regional centers to provide expertise and assistance. She said the centers are responsible for providing indepth knowledge, expertise, and analysis to the regional centers and the states they serve. She said content centers disseminate knowledge on scientifically based research and provide experts who can deliver technical assistance in their areas of instruction, teacher quality, innovation and improvement, high schools, and assessment and accountability.

Ms. Evans said there are two major initiatives in the President's 2007 budget. She said due to the rapidly changing economy we need an educational system that can produce graduates with the skills necessary to go on to higher education or to go into the workforce. She said to bring high standards and accountability to the nation's high schools, the President has proposed that $1.475 billion be put in the high school reform initiative. She said this is a grant that will focus more attention on at-risk high school students struggling to reach grade level proficiency in reading and mathematics. She said recent national assessment of educational progress scores have shown no progress at the high school level in the last 30 years.

In response to a question from Representative Kroeber, Ms. Evans said last year the President requested a large amount of money for the high school reform initiative. She said some of the money is to be shifted from one program to another. She said the purpose is to reformulate some programs and refocus some programs. She said all of the requested amount is not new money. She said the high school reform initiative was not successful on Capitol Hill last year.

Ms. Evans distributed a document entitled *North Dakota Briefing Manual 05/2006*. The document is on file in the Legislative Council office.

In response to a question from Representative Kroeber, Ms. Evans said since 2001 the Title I programs saw a 45 percent increase. She said this year North Dakota will receive $362.2 million in federal education funding. She said that represents a 39.5 percent increase since President George W. Bush was first elected.

Ms. Evans said the high school reform initiative would require states to assess students in reading and mathematics in two additional high school grades. She said the additional assessments are needed to increase accountability and give parents and teachers the information they need to keep the students on track toward high school graduation. She said the assessments would also help researchers and policymakers understand what does and does not work at the high school level.

Ms. Evans said the initiative seeks to target intervention and improve the performance of at-risk students so they too will meet the standards. She said the high school reform initiative also includes a $70 million request for the striving reader's program. She said this will significantly expand the development and implementation of research-based interventions to improve the reading skills of students who are two to three years below grade level.

Ms. Evans said $8 million has been requested for the state scholars program. She said this program encourages high school students to complete a rigorous four-year course of study. She said the President recently signed into law two new grant programs--the academic competitiveness grants and the national science and mathematics access to retain talent grants. These programs are to be made available beginning with the 2006-07 school year. She said they will encourage students to take more challenging courses in high school and hopefully be better prepared to pursue college-level courses in science, mathematics, engineering, and critical foreign languages.

In response to a question from Representative Kelsch, Ms. Evans said all states have the option of identifying additional high school programs of study for the United States Secretary of Education to recognize as being rigorous. She said it is being left up to the states to determine what is a rigorous course of study.

Ms. Evans said the American Competitiveness Initiative will also focus on the global economy, encourage American innovation, and strengthen our ability to compete with the rest of the world. She said the purpose is to increase federal investment in critical research so that America will continue to lead the world and provide our children with a strong foundation in mathematics and science. She said the American Competitiveness Initiative builds on the administration's record of results with new investments, especially in the physical sciences and engineering. She said the American Competitiveness Initiative proposes $380 million in new federal support to improve the quality of mathematics, science, and technology education in our elementary and high schools.

Ms. Evans said additional programs include the National Math Panel, Math Now for Elementary School Students, Math Now for Middle School Students, the Evaluation of Federal Science, Technology, Engineering and Math programs, the Expanded Advanced Placement Incentive Program, the Adjunct Teacher Corps, and the addition of science assessments to the No Child Left Behind Act.

In response to a question from Representative Delmore, Ms. Evans said all of the highly qualified teacher programs are run by the states. She said the President is trying to bring in people who have real experience, such as engineers. She said he would like to find a way to enable them to come back into the classroom and energize students and bring in a new perspective from the working world.

Representative Kelsch said she finds the concept of the Adjunct Teacher Corps intriguing. She said one of her children is a sophomore in college. She said he was never told that he should be looking at mathematics until he was in college. She said there is a disconnect in our high schools between what the counselors and what the teachers are encouraging students to do. She said this program would allow us to bring in people who are actually working in the trenches and to motivate students who have a strong background in mathematics and science or who are trying to determine which direction they should go. She said it is another way in which students can be motivated to explore the critical science areas.

Representative Delmore said this is getting away from the role of preparing students. She said that is where funds should be directed. She said many of her students do job-shadowing and they do have access to real people.

Ms. Evans said under the 2007 budget request, there are critical proposals for strengthening Title I while maintaining strong support for the other No Child Left Behind programs. She said $200 million is being requested for first-time funding for Title I school improvement grants. She said states would have flexibility in using these formula grants to establish or expand comprehensive state systems of support for continuous school and district improvement. She said schools and districts could use these funds for their

school improvement activities rather than using part of their current 4 percent Title I set-aside. She said this has been authorized but not funded in the past.

Ms. Evans said total federal education funding for North Dakota would be $382.2 million, which is a 39 percent increase since 2001. She said that amount includes $93.3 million for the implementation of the No Child Left Behind Act, $30.1 million in Title I funding, $463,000 in new Title I school improvement grants, $2.5 million for Reading First, $3.5 million for annual assessments, and $13.8 million to attract and retain highly qualified teachers. She said $37.7 million is included for Pell grants and $185.4 million is included for new student loans. She said if the President's proposed high school reform initiative is successful, North Dakota would receive a total of $4.6 million for that program.

Ms. Evans said the Department of Public Instruction staff members have worked hard to implement the No Child Left Behind Act and she is looking forward to coming back to North Dakota and visiting our highly successful schools, our Blue Ribbon schools, and our Title I distinguished schools. She said North Dakota will also have another American Star Teaching Award this fall.

Representative Kroeber said his sources show that in 2000 the Department of Public Instruction received approximately $80 million in federal funds. He said in 2001 the amount was $85 million. He said up to the present date, we have seen an increase of $33 million in federal funds for running our schools. He said his amount does not include Pell grants and similar things. However, he said, as far as really teaching students, that is the amount of increased federal funding since 2000.

Ms. Evans said there has been a tremendous increase in the amount of federal education money flowing to North Dakota and to all states. She said this year North Dakota will receive $3.5 million for assessments alone.

In response to a question from Representative Kelsch, Ms. Evans said she will send booklets describing the American Competitiveness Initiative.

Representative Hunskor said some people think some special education students will never meet the levels that are being required by 2014. He said he wonders if enough flexibility will be given by the United States Department of Education so that schools educating those students will not be labeled as needing improvement. He said some of those students do not have the ability to go any higher than they are.

Ms. Evans said Congress will look at a variety of issues within the reauthorization process. She said there will be discussions regarding the substantive policy portions of the law and the funding provisions.

Representative Nottestad said he wonders if there are any pilot programs for small rural school districts so that their expectations and achievements under the No Child Left Behind Act could be compared to districts of similar size and circumstances rather than against large urban school districts.

Ms. Evans said there are no such programs available at the present time. She said there has not been as much attention focused on rural issues as on urban issues. She said many people still want to know more about the impact of the No Child Left Behind Act on rural school districts and on the reservations.

In response to a question from Senator Lee, Ms. Evans said the national assessment of educational progress scores can be disaggregated by state but not by a smaller unit. She said accountability is the goal of the No Child Left Behind Act. She said rural school districts have particular challenges.

Representative Sitte said if we are going to close the achievement gap and if everybody is going to be considered proficient, teachers know that there are students who are only going to achieve so much. She said by putting all our resources into the students at the bottom so that they can become proficient, the end result is that the students at the top will not get the education they deserve. She said we can talk about reform and what we are seeing are things, such as Algebra I, becoming a two-year class, because that helps more students become proficient in algebra. She said our high-achieving students can no longer take Algebra I as a one-year class. She said they must now take it as a two-year class. She said maybe some students are going to get a better grade and have two years of math credits on their transcripts but they are not getting the same rigorous mathematics curriculum that students were getting even four years ago.

Representative Sitte said she read that Iowa chose the lowest student proficiency standard so it could avoid accountability. She said Michigan chose a very high proficiency standard and it is now considered to be a failing state.

Ms. Evans said if states set their standards too low, their students will not be prepared for either entry into the workforce or for college.

In response to a question from Representative Delmore, Ms. Evans said students need to be prepared regardless of what they choose to do after high school. She said even going into the workforce after high school requires students to be better qualified than they needed to be just a few years ago. She said the United States Department of Education does not require a specific set of courses. She said curriculum is a state determination. She said the Secretary of Education would like to see students come out well-rounded so that they do not need remedial courses after high school.

Chairman Kelsch called on Dr. Gary Gronberg, Assistant Superintendent, Department of Public Instruction, who said the Superintendent of Public Instruction intends to adopt the North Dakota University System's entrance standards as the North Dakota standard for a rigorous curriculum, with a

one-year waiver for the foreign language requirement. He said the United States Department of Education has stated it would like to have one year of a modern language. He said the North Dakota University System recommends that but does not yet require it.

Dr. Gronberg said if the state application is not accepted, any school district can submit its own standard. He said it is the Superintendent of Public Instruction's understanding that the state will determine what constitutes a rigorous curriculum and the United States Department of Education will accept or deny the application. He said the deadline for submission of the plan is June 1, 2006.

Dr. Gronberg distributed a document entitled the *Academic Competitiveness Grant*. The document is attached as Appendix B. He also distributed a document entitled *North Dakota P-16 Task Force Resolution in Support of an Academic Competitiveness Grant Alternative Rigorous Curriculum*. The document is attached as Appendix C.

Representative Kelsch said we need to address the foreign language issue because even though the North Dakota University System does not require a foreign language, universities in other states do require one or more years of a foreign language.

In response to a question from Representative Delmore, Dr. Gronberg said in order for a student to be eligible for an academic competitiveness grant, the student will need to meet the grant's requirements. He said this is not a requirement for admission to the colleges and universities of the state.

NO CHILD LEFT BEHIND ACT - STATE PERSPECTIVE

Chairman Kelsch called on Mr. Greg Gallagher, Director, Standards and Achievement, Department of Public Instruction, who presented testimony regarding the state assessment process. His testimony is attached as Appendix D. He said the document includes proficiency rankings by groups and by grade levels.

In response to a question from Senator Flakoll, Mr. Gallagher said in some instances the migrant population is so low that their scores cannot be reported. He said the dates during which the state assessment is given do not coincide with the migrant work season. He said the Department of Public Instruction staff must rely on school districts to identify and properly categorize or classify a student as a migrant.

In response to a question from Representative Sitte, Mr. Gallagher said when the cut scores were lowered in 2005, more students were deemed to be proficient.

In response to a question from Representative Kelsch, Mr. Gallagher said there has been an increase in the performance of special education students since alternative testing has been used and attention has been given to how their assessments were administered. He said the American Indian population has become much more clustered and their performance as a whole is significantly lower than that of other groups.

In response to a question from Representative Nottestad, Mr. Gallagher said we do a better job of aligning content to state standards at the elementary level. At the high school level, he said, not all students are being exposed to the standards.

In response to a question from Representative Kelsch, Mr. Gallagher said there are still many students who are not reaching the proficient levels. He said the level of poverty is a dominant influence in school and district results. He said he is not seeing clear breakdowns between those school districts that are well-funded and those that are not.

Mr. Gallagher said adequate yearly progress has been conducted under new rules negotiated with the United States Department of Education. He said a substantial change from previous results is not expected. However, he said, next year there will be a rolling together of the composite data from grades 3 through 8 and 11 and this will reduce the number of schools that in the past would not have been reported due to their low numbers. He said he is expecting an increase in school identifications as a result.

Mr. Gallagher said we will be seeing a reduced rate of graduation in North Dakota because the method of calculation will be changed to one that is more accurate. In the past, he said, we have had graduation rates in the 90 percent range. He said we will see a rate in the 80 percent range hereafter.

Representative Delmore said a teacher cannot be held responsible for a student who was taught by the teacher in the ninth grade if the state does not know where the student went after that and whether or not the student graduated. She said she knows there are students who go from Red River High School to the University of North Dakota and after two years transfer elsewhere. She said those students are counted as not having completed college. She said those are not valid statistics and should not be used.

Mr. Gallagher said in the situation described by Representative Delmore, the data would not be used. He said if a student moves to a different district, the student is no longer an issue for the district the student previously attended. He said under the current rules if a student's whereabouts cannot be validated, that student is not counted. In the past, he said, the graduation rates were determined based on those who entered their senior year.

In response to a question from Representative Nottestad, Mr. Gallagher said if a student relocates during each year of high school, it is only the last school that is held accountable for the student's graduation. He said the schools the student attended prior to that time are not charged with what happened to the student.

In response to a question from Senator Flakoll, Mr. Gallagher said in the case of a student who changed districts in the 9th grade, then again in the

10th grade, and eventually dropped out in the 11th grade in large part because the school he attended in the 10th grade was not a good school and caused him to be hopelessly behind, the system does not allow identification of the school that failed the student.

EDUCATIONAL ASSOCIATIONS GOVERNED BY JOINT POWERS AGREEMENTS

Chairman Kelsch called on Mr. Tom Decker, Director, Finance and Organization, Department of Public Instruction, who presented testimony regarding educational associations governed by joint powers agreements. His testimony is attached as Appendix E.

Mr. Decker said the biggest challenge to North Dakota's constitutional directive to provide a free and uniform system of public education is demographics, particularly declining enrollment and enrollment concentration. He said those factors also affect school districts' ability to provide a level playing field for their students. He said in 1966 the public school enrollment was more than 148,000 students. In about 1975, he said, we were down to 118,000 students, and we had a stable enrollment until about 1995. He said at that point we began a dramatic drop. He said public and private school enrollments are tracking in a parallel fashion.

Mr. Decker said in a normal school district population, there will be more students in grades 1 through 3 than in grades 10 through 12. He said this will allow a stable population to be retained. He said in North Dakota in those school districts having high schools with 550 or more students, 12,285 students are enrolled in grades 1 through 3 and 13,363 are enrolled in grades 10 through 12. He said that is an enrollment shift of -8.1 percent. He said these do not include dropout rates. He said the news is much worse for the remaining smaller school districts.

Mr. Decker said in North Dakota in those school districts having high schools with 150 to 549 students, the enrollment shift is -29.1 percent. He said a very large percentage of our students are in eight large districts. He said the other 188 operating districts educate the remaining students. He said those districts are declining at a significantly higher rate. He said declining enrollment leads to a reduced ability to provide services. He said Slope County has 13 students enrolled in its public schools.

Mr. Decker said there will continue to be teacher and administrator retirements. He said we can expect a severe shortage of teachers, particularly in critical areas. He said schools with fewer than 185 to 200 students will have a very difficult time providing the full range of services that are expected of schools today. He said those are the schools that are experiencing the most rapid decline in enrollment.

Mr. Decker said 99 of 204 districts currently have fewer than 185 students. He said 52 high schools have enrollments of fewer than 60 students. He said 100 districts educate 9,000 of our 97,000 students. He said the largest eight districts educate 52 percent of the students. By 2012, he said, we expect that figure to be 55 percent of the total enrollment. He said no school district can say that it is totally independent. He said even our largest districts depend upon collaboration with other districts to provide services, i.e., distance-learning, vocational education, etc. He said as the districts move down in size, the need for services from other organizations increases dramatically.

Mr. Decker said in North Dakota there is a separate organizational structure for virtually every major service that school districts have to provide. He said 42 of the 50 states have elected to implement a regional service agency approach.

Mr. Decker said there are nine educational associations governed by joint powers agreements in the state. He said the oldest are nearly five years old. He said they serve 94 percent of the state's public school enrollment. He said if the Mandan and Carrington School Districts would join an educational association, 98 percent of North Dakota students would be served. He said only 27 districts are not presently members of educational associations governed by joint powers agreements. He said educational associations governed by joint powers agreements are currently providing staff development opportunities, summer school courses, common calendars, and common clocks. He said advanced placement is again getting a lot of discussion. He said only 14 schools provide advanced placement coursework. He said 122 out of 174 high schools provide dual-credit courses. He said the question is why not the rest.

Mr. Decker said if we did not have the current system of stovepipe delivery, we would not invent it. He said educational associations governed by joint powers agreements allow every student to have a service network, regardless of where that student resides.

Senator Cook said one school district would accomplish the same thing.

Mr. Decker said even nine would help. He said his question to the legislators is when will they make that change or will they.

Senator Cook said legislators will do that as soon as they all agree that doing what is right for the children and for equity is the only thing that will motivate the decisions. He said we can look at all the great things that educational associations governed by joint powers agreements have accomplished and can accomplish. However, he said, we must also look at their shortcomings. He said we should look at one educational association and its necessary bureaucracy, together with all the administrators who are still involved in the member school districts, and then compare the cost of that to what we could accomplish with one school district and one administrative structure. He said we would have

money available to improve the educational opportunities for all students who are in the educational association. He said educational associations are preventing us from doing that which we should be doing.

Mr. Decker said in the last 10 years the state has lost 50 school districts. He said we have 204 school districts. He said eight of them are nonoperating. He said that puts us down to 196. He said declining enrollment will force significant numbers of districts out of business in the next two years. He said there is no way around that. He said our question is what is the politically acceptable short-term solution for leveling the playing field and the answer is educational associations governed by joint powers agreements.

Senator Cook said he wanted to know what the chances were that any one of the nine educational associations might ever become a single school district and if none were focused on that, should the Legislative Assembly be discussing a timeframe within which that goal should be accomplished.

Mr. Decker said it has not been the goal for educational associations governed by joint powers agreements to become super school districts. He said the goal is to have school districts belong to a service organization that is capable of providing to all of the member districts the services that any one district is able to provide. He said that is possible in ways that are cost-effective. He said the answer is shared services. He said as educational associations grow and become more effective service providers, we need to be asking school districts to seriously evaluate what they can efficiently do and then decide that those services they cannot efficiently provide should be obtained from the educational association.

Mr. Decker said educational associations are school district support organizations. He said they are not super school districts, which would be consolidation. He said educational associations are a politically acceptable alternative to consolidation. He said they can obtain virtually all of the efficiencies that could be realized through consolidation, without the political ramifications.

Mr. Decker said educational associations now have a high level of ownership. He said if they are going to grow, they need the ability to hire staff and to receive funding directly. He said they also need adequate state funding. He said there are preliminary discussions about incorporating special education units. He said some are talking about bringing in their teacher learning centers.

In response to a question from Senator Flakoll, Mr. Decker said if we collectively believe that educational associations are valuable and can resolve many of the problems associated with declining enrollment, as well as leveling the playing field, then $5 million per biennium is the absolute minimum that would be needed to make those things happen.

Senator Cook said services on a regional basis might have a positive effect on the adequacy of education but he wonders how that affects equity.

Mr. Decker said the issues of equity include getting to a uniform levy to reflect an equalization effort and input. He said when it comes to redistribution of that money and getting the most bang for our buck, educational associations can play a significant role.

Senator Cook said if we had a state-levied property tax, we would not have a consolidation issue. He said that is the only thing that is keeping consolidation from happening.

Mr. Decker said the disparity is far less when it is looked at from the perspective of an educational association governed by a joint powers agreement.

In response to a question from Representative Nottestad, Mr. Decker said about half of the elementary districts are in educational associations governed by joint powers agreements. He said districts with high American Indian populations tend not to be in educational associations governed by joint powers agreements. He said the other notably absent group is rural high school districts.

AMERICAN COLLEGE TEST

Chairman Kelsch called on Mr. Gallagher who presented testimony regarding the cost and effects of making the American College Test (ACT) mandatory for all students. His testimony is attached as Appendix F.

In response to a question from Representative Delmore, Mr. Gallagher said about 80 percent of all North Dakota students currently take the ACT. He said the ACT is a college readiness assessment, not a standards-based assessment the purpose and design of which is readily applicable to a state accountability plan. He said if the ACT were to be used as a state assessment, we would need independent alignment studies, bias reviews, test item augmentation, test item development strategies, standards-setting procedures, report development, and quality assurance validation.

Senator Cook said if we are trying to achieve a seamless education system, it would make sense to give students a college readiness assessment in their junior year so they could work on their shortcomings during their senior year.

Mr. Gallagher said we need to look at what is happening to students from the 3rd grade through the time of the 11th grade high school assessment. He said we would need to find a test that could serve both purposes well. He said the ACT does not reach into the elementary grades. He said the state assessment that we have does not reach into the higher education realm.

Mr. Gallagher said the ACT is not, without augmentation, capable of being a state assessment.

Senator Cook said higher education is requiring more and more remediation and that fact might indicate that we are not adequately preparing students for college.

Representative Delmore said perhaps many of the students who are in college should not be there because their scores are just not high enough.

In response to a question from Senator Flakoll, Mr. Gallagher said if the basic ACT were provided, it would be $29 per student. He said the current state assessment for students in grades 3 through 8 and 11 costs about $58 per student. He said states that have attempted to make the ACT their primary test vehicle have brought in additional test items. He said Michigan's cost is $74 per student and Illinois' cost is about $50 per student because they do things a little differently.

In response to a question from Senator Flakoll, Mr. Gallagher said the students choose the time they want to take the ACT. He said students in those states that require the ACT tend to take it in the spring of their junior year. He said the results are available in the early summer. He said states have a limited ability to affect anything in the ACT. He said if a student needs a special accommodation, that is determined by the ACT, not by the state.

In response to a question from Senator Flakoll, Mr. Gallagher said if the ACT is to replace the current state assessment, there will be additional administrative costs for alignment, test item selection, etc.

Representative Sitte said she would like to have the Iowa Test of Basic Skills administered at the elementary level.

Mr. Gallagher distributed a document entitled *Reading Cut Scores by Performance Level*. The document is attached as Appendix G. He said the ACT should be looked at as an add-on, not as a substitute for the state assessment.

Representative Nottestad said motivating 11th and 12th grade students is difficult. He asked if the 20 percent of students who are not college-bound are made to take the ACT, which they know to be a college entrance examination, what is their motivation.

Representative Sitte said the SAT is more of an intelligence test than an assessment.

Mr. Gallagher said 4 percent of North Dakota high school students take the SAT.

Representative Sitte said since nearly all students take the PSAT, that test could be another secondary instrument for us to consider.

COMPARISON OF THE STATE ASSESSMENT AND THE ACT

Chairman Kelsch called on Mr. Gallagher who presented testimony regarding a comparison of the ACT and the state assessment. His testimony is attached as Appendix H. He said we need to understand what the different tests are designed to measure and the ACT and the state assessment show similar strengths among North Dakota students.

Mr. Gallagher said analyzing correlation data requires care. He said one must avoid making bold or sweeping statements based solely on correlation data. The analysis of data from the North Dakota state assessment and the ACT indicates that the two instruments relate commensurately in strength and direction with one another. He said the mathematics assessments demonstrate a stronger relationship than do the reading assessments and both indicate a general ability to measure comparable achievement patterns. Mr. Gallagher said a higher ACT composite score is generally reflected in a higher North Dakota state assessment scale or achievement level. He said the state assessment aligns itself to the state's content and achievement standards and the ACT is aligned to a national curriculum survey and is norm-referenced. He said we need to begin with the alignment and purpose of each respective assessment.

Representative Sitte said the state standards are not cognitive. She said they do not show what students know but what they can do. She said the state standards are nebulous, whereas the ACT is very precise with respect to what it expects of students. She said the ACT is a far more reliable tool.

Representative Kelsch said there is no study guide for the state assessment, but there is one for the ACT. She said students can purchase the study guide and practice tests, which help students prepare for the ACT. She said she wonders if we would be discriminating against poor students who may not be able to make such purchases.

In response to a question from Representative Wall, Mr. Gallagher said there are support documents that individual districts have put together.

Representative Kroeber said he wonders if a teacher's basic job is to teach for the test. He said that is his problem with the No Child Left Behind Act. He said teachers are all being graded on how well their students do on the test. He said a teacher has no choice but to see to it that students do well on the test, which takes away time from teaching other concepts.

Representative Sitte said she does not view what teachers do as teaching to the test. She said ACT expectations of students are basic elements of a solid core curriculum. She said there is nothing in the test requirements which is so bizarre or so eccentric or so precise that the average informed citizen should not be able to do. She said it is not "teaching to the test." She said it is a motivating factor.

In response to a question from Representative Wall, Mr. Gallagher said the field has not communicated a request that the state assessment be replaced by the ACT.

RESOLUTION URGING CONGRESS TO AMEND THE NO CHILD LEFT BEHIND ACT

Chairman Kelsch distributed copies of a resolution urging Congress to amend the No Child Left Behind Act. The resolution is attached as Appendix I. She asked Vice Chairman Lee to serve as the chairman

while she presented the resolution. Representative Kelsch said the resolution parallels similar efforts in other states. She said we do not want to leave any child behind but we also want Congress to recognize that it is the states' responsibility to educate students. She said we are not enamored with having the federal government run our education system. She said the No Child Left Behind Act does have good points, i.e., accountability for student achievement and the requirement for highly qualified teachers. She said we need to look at what states can do to reach the federal government's goals without the federal government's intrusion. She said this committee has the statutory authority to communicate directly with Congress and for that reason this document is drafted as a resolution from the interim No Child Left Behind Committee rather than as a concurrent resolution for introduction in the next Legislative Assembly.

Senator Cook asked that the committee consider an amendment to the second "**WHEREAS**." He said the second "**WHEREAS**" currently provides that "it is the responsibility of each state to create and maintain a quality public education system."

It was moved by Senator Cook, seconded by Representative Nottestad, and carried on a voice vote that the second "WHEREAS" be amended to provide that "it is the constitutional responsibility of the state of North Dakota, not the federal government, to create and maintain a quality public education system."

Representative Sitte said she must oppose the resolution because it calls for a new state-federal partnership.

In response to a question from Senator Flakoll, Representative Kelsch said we already have a relationship with the federal government and it is not going away. She said this resolution asks for local control.

It was moved by Senator Flakoll, seconded by Senator Cook, and carried on a roll call vote that the resolution urging Congress to amend the No Child Left Behind Act, as amended, be approved and forwarded to the President of the United States, the United States Secretary of Education, and to each member of the North Dakota Congressional Delegation. Representatives Kelsch, Hunskor, Kroeber, Nottestad, and Wall and Senators Cook, Flakoll, and Lee voted "aye." Representative Sitte voted "nay."

COMMITTEE DISCUSSION AND REQUESTS

Chairman Kelsch opened the discussion for committee consideration of items for consideration at future meetings. Representative Kroeber said he would like the Department of Public Instruction staff to determine the amount of federal funding that the state has received for the No Child Left Behind Act.

Senator Cook said South Dakota has passed legislation that allows parents to be involved in the selection of a three-tiered pathway to graduation. He asked for information on how this meshes with the South Dakota state assessment.

Representative Nottestad asked for information on what measures are being taken by those schools that have failed to make adequate yearly progress for a number of years.

Representative Hunskor asked for information on the percentage of North Dakota teachers who took the portfolio option to become highly qualified and how many actually went back to school.

Representative Kroeber asked for information on which school districts are having trouble finding highly qualified teachers.

Representative Sitte asked for information on how many North Dakota teachers are not highly qualified.

Representative Kelsch said we speak a lot about highly qualified teachers and whether our students are learning what they need to learn. She said we also need to look at our administrators. She said she has a copy of a letter that was written by a high school principal. She said it was one of the most poorly written letters she has ever seen. She said the letter states that "North Dakota's First Lady, Mikey Hoven", is an advocate for teenage drinking." Representative Kelsch said the letter continues with "This is a special time for all of our school high schoolers. . . ." She said this letter went out to parents.

Representative Kelsch said there was another letter sent out which apparently was intended to correct the first one and was changed to state that "Mikey Hoeven is an advocate against teenage drinking" but the letter still encourages our teenagers to act "responsible" rather than "responsibly" and leaves in phrases and errors such as school high schoolers. She said as we focus on how our students and teachers are doing, we should not overlook our school administrators. She said anyone who wants to see the letter is welcome to do so. She said the second version did not correct any of the grammatical errors.

Representative Hunskor said he is glad to see us move more toward state control. He said those who have been in the classroom any number of years know that if one can motivate a group of students and communicate with them, education will take place. He said highly qualified teachers know how to motivate and communicate. He said there is no measuring tool for that. He said we talk about being highly qualified and being masters and doctors, but all of us have been in college classrooms with people who have doctorates and they cannot get the point across.

The meeting was adjourned at 4:00 p.m.

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L. Anita Thomas
Committee Counsel

ATTACH:9