

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EDUCATION COMMITTEE

Monday, October 27, 2008  
Roughrider 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, C. B. Haas, Lyle Hanson, Gil Herbel, Bob Hunsakor, Karen Karls, Lisa Meier, David Monson, Phillip Mueller, Gary Sukut, John D. Wall; Senators John M. Andrist, Layton W. Freborg, Gary A. Lee, Carolyn Nelson

**Members absent:** Representative Francis J. Wald; Senator Tim Flakoll

**Others present:** See [Appendix A](#)

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

#### HEALTH EDUCATION

At the request of Chairman Kelsch, committee counsel presented a bill draft [\[90336.0100\]](#) relating to health education. She said current law provides that a student may not graduate from a high school in this state unless the student demonstrates successful completion of a variety of subjects, including one unit of physical education, which may include up to one-half unit of health education. She said the bill draft proposes that in order for a student to graduate from high school, the student must demonstrate successful completion of a variety of subjects, including one unit of physical education and one-half unit of health education.

At the request of Chairman Kelsch, Ms. Valerie Fischer, Director, Coordinated School Health, Department of Public Instruction, presented testimony regarding the bill. She said health education provides factual information to students regarding risk behaviors. She said it is research based and a positive step toward ensuring that students become healthy and safe adults.

Representative Karls said she wonders if this will be a hardship on small school districts.

With the permission of Chairman Kelsch, Mr. Doug Johnson, Executive Director, North Dakota Council of Educational Leaders, said school districts will have an opportunity to discuss whether it is a hardship during the 2009 legislative session.

Representative Haas said the reason for this bill draft is the national crisis with respect to overweight children and adults. He said this subject should be attacked with a sense of urgency. He said the first

response should not be a concern about adding to a high school curriculum. He said this is a very high-priority issue.

Representative Herbel said this bill draft does not require that health education be offered every year. He said it merely requires that a student successfully complete one-half unit of health education as a condition of high school graduation.

**It was moved by Representative Mueller, seconded by Representative Meier, and carried on a voice vote that the bill draft relating to health education be approved and recommended to the Legislative Council.**

#### REGIONAL EDUCATION ASSOCIATIONS

At the request of Chairman Kelsch, committee counsel presented a bill draft [\[90049.0300\]](#) relating to regional education associations (REAs). She said the bill draft serves to highlight numerous issues that have been raised regarding REAs and provides discussion-promoting alternatives with respect to REAs' future configuration and operations. She said the bill draft addresses the number of REAs that should exist and minimum size requirements. She said it addresses contiguity among participating school districts, the number of members that should be on an REA governing board, and whether those members should be school board members or could include school district superintendents. She said the bill draft also addresses ex officio members and term limitations for REA governing board members. Finally, she said, the bill addresses compensation for governing board members and the authority for REAs to employ and compensate executive directors.

With the permission of Chairman Kelsch, Mr. Kyle Davison, Director, South East Education Cooperative, presented testimony ([Appendix B](#)) regarding the bill draft. He said by 2012 REAs envision having an operational structure that will support each REA and each school district so that world-class comprehensive education can be provided to all students. He said the goal of the REAs is to facilitate collaboration among schools; to collaborate with related state and local entities as well as the private sector; to encourage collaboration among REAs in the interest of improving efficiency and developing special expertise; and to develop a unified, consistent message and image about REAs that can be

conveyed to all stakeholders. He said the priorities are autonomy and accountability.

Mr. Davison said the REAs have a strong culture of local control. He said REAs are supportive of the proposed \$3 million appropriation for the 2009-11 biennium.

Mr. Davison said with respect to the bill draft, decisions regarding the number of REAs appropriate for the state of North Dakota should be based not only on land mass but also on the number of students served and the number of services provided.

Mr. Davison said some REAs have governing boards with 28 members to 35 members. He said if the members are enthusiastic and willing to attend meetings, there is no reason for the Legislative Assembly to limit their participation. He said board members have to be elected school board members. He said this is positive and it allows school board members from neighboring school districts to meet and discuss commonalities at least four times a year. He said if superintendents were placed on REA boards, consideration should be given to whether part-time superintendents have the time to devote to REA activities.

Mr. Davison said as for term limits, if people are interested and enthusiastic about serving on an REA board, they should not be precluded statutorily. He said, realistically, after six years most people are interested in moving to other activities.

Mr. Davison said allowing REAs to provide a small stipend to their board members would be a positive move. He said as for an executive director, many REAs believe there are better uses for those dollars than salaries for executive directors. He said REAs are finding it cumbersome to hire personnel through member school districts. He said this is an issue that should be addressed in the future.

In response to a question from Representative Herbel, Mr. Davison said REAs have made progress during the past four years to six years of their respective existences. He said he does not believe that membership in an REA should be statutorily mandated. He said several districts have joined their REAs in recent months.

In response to a question from Representative Sukut, Mr. Davison said REAs are supportive of the proposed \$3 million appropriation. He said they are conscious of the fact that superintendents would view a larger appropriation as money being taken out of the elementary and secondary school district appropriation.

In response to a question from Senator Andrist, Mr. Davison said REAs are trying to create an infrastructure that can support schools and school districts. He said as the Legislative Assembly puts more and more requirements on school districts, they will have to turn to REAs in order to meet the legislative directives.

Chairman Kelsch said it is important for people to understand that the \$2 million in contingency funding, which REAs were due to receive at the end of the

biennium, did not disappear. She said that money was distributed through the education funding formula.

With the permission of Chairman Kelsch, Ms. Kathryn Pederson, Director, Mid-Dakota Education Cooperative, presented testimony regarding the bill draft. She said Mid-Dakota includes nine school districts and serves 8,500 students. She distributed a document ([Appendix C](#)) entitled "Mid-Dakota Education Cooperative Services 2008-2009." She said if the bill draft were enacted, she would qualify to serve as an executive director.

Ms. Pederson said, during the past academic year, her REA acquired more than \$700,000 in grants.

Ms. Pederson said if state dollars are given directly to schools and if her REA can demonstrate to the schools and school districts that she provides services they need, the money will flow to the REA.

In response to a question from Representative Kelsch, Ms. Pederson said every REA has done good work. She said they just need time. She said given time, all of the things addressed in the bill draft will probably happen.

With the permission of Chairman Kelsch, Mr. Chuck Miller, Lead Administrator, Mid-Dakota Education Cooperative, presented testimony regarding the bill draft. He said local control and local input have been the benchmarks of REAs. He said they are very proud of what they have accomplished at Mid-Dakota. He said the Legislative Assembly should allow for the continued involvement of REAs.

With the permission of Chairman Kelsch, Mr. Greg Burns, Executive Director, North Dakota Education Association, presented testimony regarding the bill draft. He said the North Dakota Education Association supports the concept of REAs. However, he said, everyone except teachers has been consulted about what the legislation should look like. He said REAs should provide collective bargaining rights for their members.

With the permission of Chairman Kelsch, Mr. Wilfred Volesky, Lead Administrator, Missouri River Education Cooperative, presented testimony regarding the bill draft. He said the Missouri River Education Cooperative serves 40 districts and 20,000 students. He said if the cooperative went to a smaller board, some of its small school district members would be concerned about losing representation.

Mr. Volesky said superintendents like the possibility of changing board configuration to include half superintendents and half school board members. He said the superintendents discuss the issues and forward them to the governing board members so they in turn can vote on them. He said board configuration would eliminate a step.

Mr. Volesky said as for a statutory executive director position, the reality is that the Missouri River Education Cooperative is one of the biggest cooperatives in the state. He said they utilize a part-time director. He said it is important to understand that if a good director is at the helm of an REA, good things will happen. He said rather than mandating a

full-time statutory position, the Legislative Assembly should give consideration to having a full-time equivalent position.

With the permission of Chairman Kelsch, Mr. Maurice Hardy, member, Beach Public School District Board, presented testimony regarding the bill draft. He said REAs are working fine and are doing a good job. He said as an REA board member, he is happy to fulfill that role without compensation. He said legislators should not consider imposing term limits on REA board members. He said REAs would lose consistency. He said in one year, 11 out of 16 administrators left their posts. He said he is not in support of a statutorily mandated five-, seven-, or nine-member board. He said board members would not feel comfortable making decisions that impact other school boards.

Mr. Hardy said he does not mind statutory qualifications for executive directors. He said he is, however, opposed to statutorily mandated salary levels. He said REAs should be allowed to negotiate salaries with the people they hire.

In response to a question from Representative Monson, Mr. Hardy said the REA law does not have to be changed at this time.

With the permission of Chairman Kelsch, Mr. Jon Martinson, Executive Director, North Dakota School Boards Association, said he is supportive of some of the changes recommended in the bill draft. He said legislators need to decide whether the proposed changes would cause REAs to flourish or to maintain the status quo. He said as for issues regarding the makeup of REA boards, he believes that superintendents should manage the issues, and school board members should govern REAs.

With the permission of Chairman Kelsch, Mr. Johnson said the North Dakota Council of Educational Leaders has not taken a formal position on REAs. However, he said, the council does support the \$3 million appropriation for the 2009-11 biennium.

### **NORTH DAKOTA COMMISSION ON EDUCATION IMPROVEMENT - UPDATE**

At the request of Chairman Kelsch, Mr. Doug Johnson appeared as a member of the North Dakota Commission on Education Improvement and presented a summary ([Appendix D](#)) of the commission's likely recommendations. He said the document lists the proposed recommendations of the commission's assessment subcommittee, the curriculum subcommittee, the professional development subcommittee, and the formula subcommittee. He said the commission is expected to meet again on November 6, 2008, to finalize its recommendations.

At the request of Chairman Kelsch, Lieutenant Governor Jack Dalrymple presented testimony regarding the work of the North Dakota Commission on Education Improvement. During this interim, he said, the North Dakota Commission on Education

Improvement has spent less time on equity and more time on ensuring that we get what we expect from each student, school, and school district. He said the commission has focused its examination on whether or not the total funding per student is adequate to ensure that each student can achieve an acceptable level of performance on the state curriculum.

Lieutenant Governor Dalrymple said the commission contracted with Picus and Associates to assist with the study of adequacy. He said Picus presented a comprehensive report to the commission. He said the commission will include in its final report all the Picus recommendations that it deemed worthy of consideration by the 2009 Legislative Assembly.

Lieutenant Governor Dalrymple said Picus determined that a funding level of \$7,293 per student will achieve adequacy. He said this does not include any federal dollars. He said this would assume a state funding level of \$3,520 for 2009-10 and a funding level of \$3,585 for 2010-11. He said there is an assumption that the resources being placed into schools and school districts will be used in a manner that will increase student performance.

Lieutenant Governor Dalrymple said the North Dakota Commission on Education Improvement likely will recommend an at-risk weighting factor, changes to the English language learner factors, a discontinuation of the minimum mill levy offset, a variable multiplier for special education contracts, and an appropriation of \$3 million for REAs. He said the commission likely will recommend that the appropriation for REAs be distributed through a factor in the formula and that superintendents be permitted to represent districts on the REA boards unless the districts specifically vote to preclude their presence.

Lieutenant Governor Dalrymple said the commission likely will recommend four early dismissal days so that collaborative efforts can take place within schools and school districts and, in addition, recommend an increase of one professional development day. He said student-teacher contact days will likely be increased from 173 to 175. He said this will accommodate the early dismissal days and will recognize that student activities often remove students from classrooms and consequently from student-teacher contact time.

Lieutenant Governor Dalrymple said the commission likely will recommend mentorship grants to assist new teachers and grants for instructional coaches.

Lieutenant Governor Dalrymple said the North Dakota Commission on Education Improvement will not support the Picus recommendations for extended day programs, additional funding for gifted and talented students, and state funding for substitute teachers.

Lieutenant Governor Dalrymple said the commission believes adequacy involves preparing a large percentage of our high school students for college or work upon graduation. He said it also involves preparing our students for an adequate

performance on a state assessment or the American College Test (ACT). He said the commission believes adequate preparation will require having a student take at least three years of mathematics and three years of science. However, he said, the commission does not want to cause an increase in the student dropout rate. Therefore, he said, the commission is likely to recommend a merit diploma that recognizes those students who have taken at least three mathematics classes, three science classes, and other advanced electives.

Lieutenant Governor Dalrymple said the North Dakota Commission on Education Improvement also is likely to recommend use of formative assessments by every school district, career interest inventory assessments to be taken at least once by students in grades 7 through 10, and recommend that all students take a Scholastic Aptitude Test (SAT), an ACT, or a WorkKeys assessment during high school. He said these recommendations, if accepted, will assist policymakers in determining whether students are in fact ready for work or for college upon high school graduation.

Lieutenant Governor Dalrymple said in 2007 the Legislative Assembly worked very hard to provide people with property tax relief. He said Senate Bill No. 2032 (2007) was enacted as a credit against state income taxes. However, he said, people have indicated they would like to see actual property tax relief. He said the way to achieve this is to increase state funding for education so that local property taxes can be decreased.

In response to a question from Senator Andrist, Lieutenant Governor Dalrymple said student contact time is frequently discussed, especially in light of the need to work with other schools and districts that are widely apart from each other. He said while some believe that lengthening the schoolday is appropriate, others believe that lengthening the schoolday is not necessary if the quality of instruction can be increased.

In response to a question from Representative Herbel, Lieutenant Governor Dalrymple said Picus recommended changes that are statistically proven to increase student performance.

In response to a question from Representative Kelsch, Lieutenant Governor Dalrymple said the commission is recommending a gradual approach to implementing the Picus strategies. He said an immediate implementation of all the strategies would involve a spending level that is considerably greater than what the state is able to currently support.

In response to a question from Representative Mueller, Lieutenant Governor Dalrymple said the commission has struggled with ways in which to verify that the dollars given to schools and school districts are actually being used for their intended purposes.

In response to a question from Representative Hunskor, Lieutenant Governor Dalrymple said the general consensus is that our students are not exceeding the performance of students from other

countries. He said we have enough to do to ensure that our students are above average with respect to students from other states in this country.

## HOME EDUCATION

At the request of Chairman Kelsch, Mr. James Bartlett, Executive Director, North Dakota Home School Association, presented testimony ([Appendix E](#)) regarding changes being proposed by the association during the 2009 legislative session. He said among all states, North Dakota has the greatest number of regulations governing the provision of home education. He said it is the association's desire to reduce those regulations to a moderate level during 2009, to a low level during 2011, and to remove all regulations by the 2013 legislative session. He said North Dakota Home School Association members hold the position that laws governing home education in North Dakota are 20 years old and must be modernized.

With the permission of Chairman Kelsch, Ms. Cam Leedahl presented testimony regarding changes in the home education statutes. She distributed a copy ([Appendix F](#)) of the North Dakota Home School Association's draft legislation. She said the goal of the legislation is to remove the requirement that home education be provided in the child's home, to remove the requirements for parental qualifications, and to remove the requirements for monitoring.

In response to a question from Representative Meier, Ms. Leedahl said the North Dakota Home School Association does not have accurate information regarding the number of students being home schooled. She said some parents prefer to home school children in kindergarten through second grade. She said compulsory attendance begins at age seven. She said some parents also do not file statements of intent to home school if their children are older than the age of 16.

In response to a question from Representative Hanson, Ms. Leedahl said the average ACT score for North Dakota public school students is 21.3. She said the average ACT score for North Dakota students who are home educated is 22.2.

In response to a question from Representative Herbel, Mr. Bartlett said parents have a constitutional right to teach their children in the way they see fit.

In response to a question from Representative Mueller, Ms. Leedahl said the state assessment measures what students in the public school system are taught. She said it does not measure what home-educated students are taught.

Mr. Bartlett said the North Dakota state assessments have a bias of which home-school parents are unresponsive.

With the permission of Chairman Kelsch, Dr. Wayne Sanstead, Superintendent of Public Instruction, said Department of Public Instruction staff will examine the proposed legislation.

In response to a question from Representative Karls, Dr. Sanstead said he would view the North

Dakota Home School Association's proposal as being a step backward. He said he is unaware of any educational neglect cases that are pending.

### COMMITTEE DISCUSSION

Representative Herbel said he believes REAs have an important role in the provision of education in this state. He said the state requires that various subjects be taught in schools and that students spend a certain amount of days in school. He said there is no reason why the state of North Dakota should not require all school districts to participate in their local REA.

Senator Freborg said he is extremely concerned about putting unelected people on an REA board. He said it is important that school board members be the REA board members.

Representative Mueller said while the discussion about proposed changes to REAs has been most interesting, this committee is not at a point where it should take a position on any of the proposals.

Representative Kelsch said if funding for REAs becomes part of the state's education funding formula,

districts that are not yet members of an REA will elect to become members.

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

**It was moved by Representative Mueller, seconded by Representative Sukut, and carried on a voice vote that the committee be adjourned sine die.** No further business appearing, Chairman Kelsch adjourned the meeting.

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L. Anita Thomas  
Committee Counsel

ATTACH:6