

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### EDUCATION COMMITTEE

Tuesday, October 6, 2009  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative David Monson, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives David Monson, Lyle Hanson, Brenda Heller, Bob Hunskor, Dennis Johnson, Karen Karls, RaeAnn G. Kelsch, Jerry Kelsh, Lisa Meier, Corey Mock, Phillip Mueller, David S. Rust, John D. Wall; Senators JoNell A. Bakke, Robert S. Erbele, Layton W. Freborg, Dave Oehlke

**Members absent:** Representatives Rod Froelich, Lee Myxter

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

At the request of Chairman Monson, committee counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

#### SCHOOL APPROVAL AND ACCREDITATION

At the request of Chairman Monson, committee counsel presented a background memorandum entitled [School Approval and Accreditation - Background Memorandum](#).

At the request of Chairman Monson, Ms. Linda M. Paluck, Director, School Approval and Accreditation, Department of Public Instruction, presented testimony regarding the approval and accreditation compliance process. She distributed a document entitled *School Approval & Accreditation* ([Appendix B](#)). She said the document indicates the roles and functions assigned to each member of the school approval and accreditation unit.

Ms. Paluck distributed a document entitled *School Approval and Accreditation Unit* ([Appendix C](#)). She said as director of the unit, she stresses the necessity of working as a team to support the schools of North Dakota, the Department of Public Instruction, and each other. She said the team's commitment is reflected through courtesy, respect, honesty, and open communication.

Ms. Paluck said the North Dakota Century Code sets forth the following five criteria for school approval:

1. Each classroom teacher must be licensed to teach by the Education Standards and Practices Board or approved to teach by the Education Standards and Practices Board;
2. Each classroom teacher must be teaching only in those course areas or fields for which the teacher is licensed or for which the

teacher has received an exception under Section 15.1-09-57;

3. The students must be offered all subjects required by law;
4. The school must be in compliance with all local and state health, fire, and safety laws; and
5. The school must have conducted all criminal history record checks required by Section 12-60-24.

Ms. Paluck said approval criteria are mandatory.

Ms. Paluck said the North Dakota Administrative Code sets forth the criteria for school accreditation. She said accreditation is not mandatory. However, she said, in order to become accredited, a school must meet certain "required" criteria and may meet other criteria. She said the accreditation process focuses on the following areas:

1. Education improvement;
2. Credentials;
3. Curriculum requirements;
4. Student personnel services;
5. Required plans and handbooks; and
6. Counselor requirements.

Ms. Paluck distributed sample copies of an educator's professional license ([Appendix D](#)). She said one of the requirements of her unit is to ensure that classroom teachers are licensed or approved to teach by the Education Standards and Practices Board. She said another requirement for her unit is to ensure that each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed. She said the handout includes three examples of teacher's licenses. She said on the back of an individual's license is a listing of those subjects the individual is qualified to teach.

Ms. Paluck distributed a document entitled *School Approval and Accreditation - Accomplishments* ([Appendix E](#)). She said this document lists a variety of other activities that fall within the responsibility of the school approval and accreditation unit.

Ms. Paluck said one of the most important aspects of accreditation involves the school improvement process. She said she has been involved in updating the state standards for school improvements so they are reflective of practices that are known to work. She said in this state there are only two tracks for school improvement. She said one is the North Central Accreditation (NCA), now known as AdvancED, and the other is the North Dakota state education

improvement process. She said the purpose of both NCA and the North Dakota state education improvement process is to focus schools on what can be done to improve student learning. She distributed a document entitled *North Dakota State Education Improvement Process* ([Appendix F](#)). She said the North Dakota state education improvement process has five standards--vision and beliefs; leadership and governance; teaching and learning; resources, support, and environment; and ongoing and continuous improvement.

Ms. Paluck distributed a document entitled *North Dakota State Education Achievement Standards (July 2009)* ([Appendix G](#)). She said this document sets forth the benchmarks that comprise each of the five standards for school improvement. She said these benchmarks are what schools will be measured against when they have an improvement team conducting an evaluation. She said each school within the improvement process will receive an external team evaluation at least once every five years.

Ms. Paluck distributed a document entitled *Team Chair Assessment of Standards Report - State Education Improvement Process* ([Appendix H](#)). She said when the outside individual goes to a school to determine how that school measures up against the state standards, the individual uses this particular document. She said the standards in each of the respective benchmarks are included on the document.

Ms. Paluck distributed a document entitled *Action Plan: Education Improvement Process* ([Appendix I](#)). She said as part of the school improvement process each school has to choose two goals to work on, at a minimum. She said schools choose their goals based largely on assessment data.

In response to a question from Representative Monson, Ms. Paluck said the school improvement process is ongoing but occurs within a five-year cycle.

Ms. Paluck distributed a document entitled *Annual Review: Education Improvement Process* ([Appendix J](#)). She said the Department of Public Instruction used to require that during the five-year cycle there be at least two external team visits to a school. She said because of expense and difficulty finding individuals to come in and evaluate other schools, the Department of Public Instruction now suggests only one such evaluation during each five-year cycle. She said in place of more frequent outside or external visits, each school is now asked to conduct its own annual review and determine what worked well and what did not work so well. In addition, she said, schools are asked to note their improvement plans for the following school year. She said the real value of this document is that it contains actual information about the school improvement process. She said administrators come and go and team leaders come and go, and sometimes the corporate memory with respect to what has been done and what should be done is lost.

In response to a question from Representative Rust, Ms. Paluck said NCA uses a quality assurance review as part of its school improvement process.

In response to a question from Representative Monson, Ms. Paluck said she does not get the actual reports from NCA. She said, however, she does receive a list of schools that are in compliance with the accreditation requirements.

In response to a question from Representative Monson, Ms. Paluck said NCA has the ability to bring in from other states people who are truly focused on school improvement and ensure that they will be involved in the continuing school improvement process. She said NCA is truly the gold seal of accreditation, in large part because of the research that it has conducted. She said the resources of NCA are significant. She said if a school of approximately 200 students has not met adequate yearly progress, that school can be linked electronically with another school of similar size elsewhere in the nation. She said the schools that utilize NCA because of its resources find those resources to be invaluable. She said the NCA process costs approximately \$800 per school. She said in and of itself, that causes certain schools to choose the North Dakota state education improvement process.

Ms. Paluck said the unfortunate aspect of school accreditation, whether that be through NCA or through the North Dakota state education improvement process, is that the majority of the work gets placed on the shoulders of one or two people. She said those people usually are charged with collecting data and making graphs and in actuality performing a job that very few would choose to undertake. She said in many instances there is still a great deal of anxiety in preparing for the team visit, and once that team visit is completed the documents are put back on the shelf and forgotten.

In response to a question from Representative Monson, Ms. Paluck said in year one of the five-year cycle the team chairman goes into the school to conduct the evaluation. She said it is during the second or third year that the team comes in to evaluate the school. She said the team generally consists of about five individuals.

In response to a question from Representative Rust, Ms. Paluck said in the past the NCA standards were more stringent than the North Dakota state education improvement standards. She said that is no longer the case.

In response to a question from Senator Oehlke, Ms. Paluck said if the school needs improvement, it is generally because students lack academic growth. She said the teams in those cases suggest ways that the school can improve the students' performance.

In response to a question from Representative Mueller, Ms. Paluck said she was not aware of any school that sought accreditation both through NCA and the North Dakota state education improvement process. She said the important thing about the accreditation process is that it ensures schools offer

the best things for their students. She said whether a school should participate in the North Dakota state education improvement process or participate with NCA is up to the individual school.

In response to a question from Representative Monson, Ms. Paluck said the larger schools utilize accreditation through NCA.

Ms. Paluck distributed a section of the North Dakota Administrative Code entitled Calculation Tables for Elementary Schools ([Appendix K](#)).

Ms. Paluck distributed a section of the North Dakota Administrative Code entitled Calculation Tables for Secondary, Middle Level, or Junior High Schools ([Appendix L](#)). She said the point value standards that are used to determine whether a school meets accreditation require an inordinate amount of staff time. She said this time could be better used in activities that actually help schools improve student learning.

Ms. Paluck said there are a variety of detailed forms that schools need to fill out in the fall of each year. She said these forms generate the data needed by the Legislative Assembly in order to make decisions, particularly funding decisions. Likewise, she said, the Department of Public Instruction needs to have the forms submitted as early as possible in order to generate the data. She said by rule, many of these forms need to be submitted during the fall. She said in order to accommodate the workflow at the department and provide schools and school districts with timely results, the forms should really be submitted no later than September 15.

Ms. Paluck said after the department receives the data from the schools, the data must be cleaned to ensure its accuracy. She said even if the department does not get the data until around Thanksgiving, the department still is faced with a regulatory deadline of January 1 for the issuance of school approval letters.

Ms. Paluck distributed a letter ([Appendix M](#)) from Mr. Kenneth A. Steiner, Department of Public Instruction. She said the letter indicates that as of September 30, 2009, six districts have yet to submit their fall enrollment reports. She said the Bismarck and Mandaree School Districts are close to being done, as are the New Town and Minot School Districts. She said Fargo and West Fargo have not yet submitted their fall enrollment reports. She said data is submitted by more than 470 schools, and there are four people in the department who deal with that information.

Ms. Paluck said once the department issues the approval letters, the four staff members go into the data more deeply and determine whether the schools are providing the requisite number of minutes of instruction.

Ms. Paluck said the points assigned to various accreditation requirements must be 85 percent or higher. She said if the school does not meet the 85 percent threshold, the school is put into a status known as "Accredited Warned." She said for some school personnel this is a very traumatic time because

there has to be an explanation forthcoming to the superintendent, to the school board, and to the community in which a school is located.

Ms. Paluck said in looking at the point system, she has to wonder how this is in fact helping students.

Ms. Paluck said ideally she would like to see a way to alter the approval and accreditation process so that it accomplishes appropriate goals and also allows department staff to help the schools in turn help their students.

Representative Monson said without a specific date by which forms need to be submitted to the Department of Public Instruction, schools could literally take until Christmas to provide the requisite data.

Ms. Paluck said it is very difficult to ask that schools submit their data in a timely fashion when, from the schools' perspective, the department is not able to issue approval letters in a timely fashion.

Representative R. Kelsch said as the interim committee gives consideration to the requirements, it will have to be very measured in its consideration of any punitive measures such as the withholding of state aid. She said it will probably be very important to distinguish between those requirements that help students learn and help teachers teach versus those that provide data for other purposes.

Chairman Monson said it will be important to examine the various reports that are currently required and the dates by which they are to be submitted.

Senator Bakke said in reviewing the points assigned, it appears that a librarian is worth three points and a teacher handbook is worth two points. She said she does not understand how the point system came into being and does not see the rationale for some of the point assignments. Ms. Paluck said she cannot provide any insight into Senator Bakke's concerns. She said as the study goes forward it will be important to look at how other states distinguish between approval and accreditation, if in fact they still do so. Representative Rust said all of the required standards within the accreditation system reference things that are already required by the North Dakota Century Code.

Senator Bakke said she is disturbed that the accreditation standards focus so heavily on personnel and much less heavily on what is being taught and how it is being taught.

Ms. Paluck distributed a document entitled *Schools Approved and Accredited 2007-09* ([Appendix N](#)). She said this document shows the number of public and nonpublic elementary schools and the number of public and nonpublic high schools that are approved and those that are accredited.

Ms. Paluck distributed a document entitled *Reporting Timeline for Schools* ([Appendix O](#)). She said this document sets forth the dates by which various reports, requests, and applications are due.

In response to a question from Representative Monson, Ms. Paluck said if her unit determines that a

school is not approved, she notifies Dr. Wayne Sanstead, Dr. Gary Gronberg, and Mr. Jerry Coleman.

In response to a question from Representative Monson, Mr. Jerry Coleman, Director, School Finance, Department of Public Instruction, said the law provides for reduction in state aid if a school is not accredited. He said there is no provision in the Century Code for penalizing a school that is not approved.

### SCHOOL CLOSURES

At the request of Chairman Monson, committee counsel presented a background memorandum entitled [School Closings Due to Severe Weather and Other Emergencies - Background Memorandum](#).

At the request of Chairman Monson, Mr. Coleman presented testimony regarding state aid payments to districts affected by school closures and student transfers necessitated by natural or manmade causes. He said during the 2008-09 school year the Governor waived 308 school days. He said the closures, especially those attributed to the floods in the spring of 2009, caused questions to be raised about enrollment, state aid, attendance reporting, and how funding would be provided for lost transportation days. He said the Superintendent of Public Instruction issued a memorandum to school districts urging them to accept displaced students and to provide the students with a meaningful educational experience. He said issues involving state aid for displaced students were generally resolved in favor of the home district unless there was an official change in enrollment.

Mr. Coleman said the department asked school districts to report on the number of displaced students that they served, the number of days the displaced students were served, the districts from which such students came, and any incremental costs incurred by the receiving district in providing educational services to the displaced students. He said 14 school districts responded to the memorandum. He said 149 students had been served. He said the days served numbered 243. He said the total incremental costs were \$2,200.

Mr. Coleman said state aid is based on data generated during the prior school year. He said generally state aid follows the student. However, he said, state aid is required to go to the district in which the student is actually enrolled. He said generally the student attends school in the district in which the student resides. However, he said, options such as open enrollment and the payment of tuition allow students to attend school in districts other than their district of residence. He said a student can be enrolled only in one school district at a given time. He said the state aid program is not designed as a disaster relief program.

Mr. Coleman said for some school districts, transportation reimbursement was an issue as well. However, he said, the transportation reimbursement is based on the number of miles actually driven and the

number of students actually transported. He said if a school district did not run buses during days on which a school was closed because of weather or flooding, the school district could not claim those miles for purposes of transportation payments.

Mr. Coleman said when the Grand Forks School District flooded in the spring of 1997, school was canceled for the remainder of the year. He said all of the 6,000 students were displaced. He said at that time, state aid was based on the higher of two years' data. He said a school district was paid either on its last year's average daily membership or its current year enrollment, whichever was higher. He said that allowed state aid to continue flowing to the Grand Forks School District and it allowed state aid in the form of per student payments to be paid to those districts that accepted students who were displaced as a result of the Grand Forks flood. He said the current state aid formula is based strictly on the prior year's student count. He said there are no phantom students in the formula today.

Mr. Coleman said when the tornado hit Northwood, the Northwood School District actually set up a school in a neighboring district. He said the Northwood School District operated that school. He said the state aid continued to flow to the Northwood School District because, in effect, its students were not displaced from the district.

Mr. Coleman said we also need to consider what could have happened if Fargo had flooded like Grand Forks did 10 years earlier. He said 10,000 students would have been displaced. He said he does not know how the state would have handled the distribution of state aid.

Mr. Coleman said when the Grand Forks School District had to close in 1997, the school district continued to pay its hourly personnel.

In response to a question from Representative Monson, Mr. Coleman said transportation payments are based on the number of miles actually driven. He said if a school district runs buses in the morning and then the district closes school early because of weather-related issues, the district is still reimbursed for transportation both ways. He said the transportation is not dependent on school being held for a full schoolday as defined in the North Dakota Century Code. He said, however, if a schoolbus route was not passable because of weather, the school district would not be reimbursed for rides it did not provide.

Representative R. Kelsch said she is concerned that the Governor has the authority to waive an unlimited number of student contact days, especially in light of the fact that the Legislative Assembly has worked very hard to increase the required student contact days. She said if the Governor is waiving student contact days, the schools are not meeting the letter of the law with respect to the approval of requirements.

In response to a question from Representative Wall, Mr. Coleman said if school is canceled, it is up

to the local district to determine whether the district will pay hourly workers for the days canceled.

In response to a question from Representative Wall, Mr. Coleman said when a student graduates, the school district has fulfilled its statutory obligation to that individual. He said there is no authority for the school district to require that the individual return for summer school or any other classes after graduation.

At the request of Chairman Monson, Ms. Paluck presented testimony regarding the process for granting school rescheduling waivers.

Ms. Paluck distributed a letter ([Appendix P](#)) sent out on behalf of Governor John Hoeven to school district superintendents on January 16, 2009. She said the letter sets forth the procedure to be followed by a school district in requesting a waiver of instructional days.

Ms. Paluck distributed a document entitled *Request for Emergency Declaration State Aid Eligibility* ([Appendix Q](#)). She said this is the document that the school districts complete and forward to the Superintendent of Public Instruction. She said the document, which must be submitted on or before May 1, requires school districts to list the dates that school was canceled, the reasons for the cancellation, and whether the date was made up or in need of a waiver.

Ms. Paluck distributed a sample letter ([Appendix R](#)) indicating that the Superintendent of Public Instruction has received a request from a particular school district regarding waivers of days. The letter contains a summary of those days that a school was canceled and the recommendation of the Superintendent of Public Instruction with respect to whether or not the canceled days should be waived. She said the letter is then forwarded to the Governor for consideration.

In response to a question from Representative Wall, Ms. Paluck said she is unaware of any school that does not build into its calendar at least two storm days. She said some districts build in additional days and call them professional development days.

In response to a question from Representative Hanson, Ms. Paluck said sometimes in the rural areas buses are late, and even though school is open, the number of students in a classroom is fairly low. She said the Department of Public Instruction wants to know how many students are in fact affected. She said when a goodly number of students are absent because of weather-related issues, effective instruction does not take place within the classroom.

Representative R. Kelsch said it seems as if certain school districts have weather-related closures much more frequently than others. She said perhaps there needs to be a recommendation that certain school districts build more storm days into their calendar than others. She said she is displeased with school districts setting aside professional development days and using those as storm day makeup time. She said a professional development day should be used for professional development.

Representative R. Kelsch said it is very rare for the larger urban school districts to close because of weather-related issues. She said it is not fair to the children of this state that full school calendars are offered for those who live in urban areas and that a reduced number of instructional days for students who reside in the rural areas is acceptable.

In response to a question from Representative Mueller, Ms. Paluck said she does reject certain requests for waivers. She said in one instance she rejected a request and the district superintendent called and reminded her that the Governor could override her rejection. She said the district superintendent then called the Governor's office, and ultimately the Governor waived the time in question.

In response to a question from Senator O'Connell, Ms. Paluck said with respect to school closures resulting from the H1N1 virus, schools have been urged not to close unless the outbreak is very significant. She said what others have found is that if school is closed some students go to day care and the older students go to the mall or other public places. She said this does nothing to contain the spread of the virus. She said it is much preferred to keep the schools open and keep products such as hand sanitizers readily available.

Senator O'Connell said some school districts found they were not able to use hand sanitizers that include alcohol because students were drinking or huffing the product. He said they proceeded to make available hand sanitizers without alcohol, and those are not considered to be effective.

In response to a question from Senator O'Connell, Ms. Paluck said Department of Public Instruction personnel are looking at ways to consolidate data that they require from school districts and see if there is a more effective and efficient way to collect the data in a timely fashion.

At the request of Chairman Monson, Mr. Kirby Kruger, State Epidemiologist, State Department of Health, presented testimony ([Appendix S](#)) regarding H1N1 pandemic influenza planning for schools. He said influenza is a viral infection and it is a respiratory infection. He said influenza viruses come in many different shapes and sizes and they are all related to each other.

Mr. Kruger said each year in the United States, 36,000 people die from influenza. He said more than 200,000 are hospitalized because of the influenza or complications accompanying the influenza. He said in North Dakota approximately 400 people die each year from influenza and its complications. He said the most common complication is pneumonia. He said approximately 2,300 influenza cases are reported to the State Department of Health each year. He said extrapolating from a Centers for Disease Control and Prevention estimate, there could be anywhere from 32,000 to 128,000 influenza infections during a given year.

Mr. Kruger said in any given year children will make up the majority of reported cases. He said they

are more likely to be taken in for care, and they are more likely to be tested. He said school-age children serve as efficient virus transmitters. He said not only do they get ill, but they are very good at shedding the virus. He said their hygiene habits are not all that great, and as a result they tend to share the virus with their parents, aunts, uncles, brothers, sisters, and friends. He said this year we do not have a typical virus season in that we have a new virus which will circulate in addition to the ones we have already come to expect. He said in a typical season there will be three viruses circulating among the human population--two influenza As and one influenza B. He said this year there will be three As and one B. He said the new one this year is the H1N1. He said it is very similar to what is normally seen in terms of the hospitalization rates, and the death rates are not any more severe than seasonal influenza. He said it is different in that it is a brand new virus, and therefore there is very little immunity within the population. He said there have been fewer cases and less severe cases in older adults. He said it appears that those who are over age 50 have been exposed to something in the past which provides a level of immunity. He said the more severe cases are occurring in the younger groups, especially those in the 18-24 age groups.

Mr. Kruger said because this is a new virus, the State Department of Health, very early on, began involving the stakeholder groups. He said the State Department of Health met with personnel from the Department of Public Instruction and held a videoconference in August. He said the State Department of Health also is working with child care providers.

Mr. Kruger said when the virus first became apparent, other countries had fairly high mortality rates. He said schools were being closed even if there was only one reported case. Now, he said, rather than closing schools, schools are being kept open as long as possible.

Mr. Kruger said while school dismissal is an option, it is not one that is being recommended as a first response and it is certainly not one that should be undertaken without participation by the community's stakeholder groups.

Mr. Kruger said unless there are dramatic changes in the anticipated virus season, schools are encouraged to stay open. He said what has been found is that if schools are closed younger students are taken to day care and older students are taken to the malls and the virus transmission actually increases. He said the recommendation for schools is that any staff or student who has a fever of 100 degrees Fahrenheit, accompanied by a cough or sore throat, should remain at home. He said if staff or students become ill while at school, the school should work to separate those individuals from others who do not appear to be ill. He said in addition to hand hygiene and respiratory etiquette, all that is really needed is routine cleaning of the schools. He said

closing the school to clean it is really a feel good type of activity. He said the reality is that 10 minutes after the school opens the next day, the school is contaminated again. He is recommending that schools pay careful attention to the cleaning of frequently touched surfaces such as doorknobs and computer keyboards.

Representative R. Kelsch said athletes are among the groups that should be vaccinated. She said when the student athletes travel they may pick up a virus and ultimately return it to their community. In addition, she said, they tend to use items such as balls, which have been handled by many other individuals. She said she was wondering if the North Dakota High School Activities Association had taken a role in stressing the need for vaccinating athletes.

Mr. Kruger said the fact that one is an athlete does not elevate that person to a higher priority in terms of needing a vaccination, unless that individual has underlying health concerns.

In response to a question from Representative Monson, Mr. Kruger said once a person becomes infected, it takes two to three days to become symptomatic. He said an infected person can shed the virus beginning approximately one day before the person is symptomatic and extending to 24 hours after symptoms have resolved, which is generally 24 hours after one's fever subsides while not using fever reducing medication.

Senator O'Connell said he was told that hand sanitizers are not effective unless they contain at least 62 percent alcohol. He said some schools have found that the students are inhaling the product. He said, as a response, schools are now using hand sanitizers without alcohol.

Mr. Kruger said the Centers for Disease Control and Prevention recommends that a hand sanitizer, if used, contain at least 62 percent alcohol. He said in those places where misuse of the product becomes an issue, they may have to resort to more frequent handwashing with regular soap.

In response to a question from Representative Monson, Mr. Kruger said handwashing with any kind of soap is the most effective response to germ management. He said the soap does not have to be antibacterial. He said it is the actual, mechanical removal of germs that is important.

Mr. Kruger said if the virus does change and there is increased hospitalization or an increased death rate, schools may be asked to participate in active screening. He said this involves looking for individuals who are ill and then sending them home. He said under these circumstances, it might be appropriate for high-risk students and staff to stay home. He said they could also go to a quarantine arrangement. He said this is different than isolation. He said this is asking someone in the household who is not ill to stay home and take care of someone in the household who is ill.

Mr. Kruger said another response would be to ask that schools increase the distance between individuals

in the school setting. He said we do know that influenza is transmitted by large droplets. He said if people are at least six feet apart, the droplets are not likely to travel that far, and consequently, a person who has influenza is not able to infect another. He said another option is to extend the period during which a person who has influenza should be isolated. He said one could require isolation for a total of seven days or 24 hours after the fever subsides, whichever period is longer. He said there is also a possibility that a school could be closed preemptively in order to reduce transmission within a community. However, he said, a preemptive closure is only appropriate if the students stay at home. He said it has no value if the students are placed in day care or allowed into community settings such as shopping malls.

### INDIAN EDUCATION

At the request of Chairman Monson, committee counsel presented a background memorandum entitled [Indian Education and Contractual Options for State-Supported Educational Delivery](#).

At the request of Chairman Monson, Mr. Robert Marthaller, Assistant Superintendent, Department of Public Instruction, presented testimony ([Appendix T](#)) regarding educational delivery to Indian students in North Dakota. He said this state has five federally recognized tribes. He said these include the Three Affiliated Tribes of the Fort Berthold Reservation; the Spirit Lake Tribe; the Standing Rock Sioux Tribe; the Turtle Mountain Band of Chippewa Indians; and a small portion of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, which is located in the southeastern portion of the state.

Mr. Marthaller said there are approximately 93,900 students enrolled in North Dakota schools. He said approximately 10,650 of those students are Indian. He said this constitutes approximately 11 percent of the total students enrolled. He said approximately 11.5 percent of all students receiving special education are Indian students. He said Indian students also comprise the largest number of English language learners in North Dakota.

Mr. Marthaller distributed a document entitled *Reservation Schools - Type, Funding, Grade Level - 2008-2009* ([Appendix U](#)). He said this document lists the public, private, and Bureau of Indian Education grant schools operational in North Dakota. He said the public schools receive state funding. He said the nonpublic schools do not receive state funding. He said the tribal schools receive federal revenues from a variety of sources. He said some of the funding is distributed directly to the schools from the United States Department of Education or from the Bureau of Indian Education.

Mr. Marthaller said the Standing Rock Community School is operated solely by the tribe. He said the Fort Yates Middle School and the Standing Rock Community School have entered a joint powers agreement under which they jointly provide services for the students enrolled in the Fort Yates Middle

School. Although the tribes receive federal dollars, he said, the Fort Yates Middle School is a public school and receives state aid for its students. He said there is tribal funding, a tribal school board, and state aid.

Mr. Marthaller said the Belcourt School District maintains management and operational control over the Turtle Mountain Community Elementary School, the Turtle Mountain Community Middle School, and the Turtle Mountain Community High School. He said all three are public schools and receive state aid. He said the Turtle Mountain community schools have a tribal school board that receives federal funding. He said this funding eventually finds its way to the Belcourt School District. He said there are federal dollars flowing through the tribe to the school district and state dollars going into the school district in the form of state aid. In Belcourt, he said, the school district works with the tribes through an operational agreement. However, he said, in order for this agreement to work, the school district must maintain full control and management. He said the board hires teachers and other personnel and are in charge of the day-to-day operations and other matters pertinent to the district.

Mr. Marthaller said the Dunseith Day School is a Bureau of Indian Education school. He said the school is operated by the Dunseith School District. He said the students in the Dunseith Day School are part of the district's student count. He said the Dunseith School District receives state aid for its students. He said the Dunseith Day School is operated under the statutory provision allowing school districts to contract with federally connected schools.

Mr. Marthaller said there is one more unique situation. He said this pertains to the Ojibwa Indian School in Belcourt. He said it was a nonpublic school and has recently retroceded to Bureau of Indian Education control. He said it is therefore a federally controlled school and eligible to contract with the Belcourt School District as a federally controlled school. He said the school is eligible to receive state aid much in the same way as the Dunseith Day School receives state aid.

Mr. Marthaller said the issue being addressed with this study is one of school governance. He said, in this state, aid flows to a school district. He said another way to look at this issue is by asking which students are supported by state funds. He said as issues of governance and eligibility for funding are pursued, it is imperative that the best interests of the students are kept in mind.

In response to a question from Representative R. Kelsch, Mr. Coleman said he is unaware of any tribal or Bureau of Indian Education school that is considering a change of status to a public school in a school district.

At the request of Chairman Monson, Mr. Scott J. Davis, Executive Director, Indian Affairs Commission, and Mr. Robert J. Parisien, Indian Education Program Administrator, Indian Affairs Commission, presented

testimony regarding educational delivery to Indian students in North Dakota.

Mr. Parisien said in Indian country, 90 percent of the schools do not make adequate yearly progress. He said schools in Indian country have among the highest dropout rates and the lowest graduation rates. He said the reasons for this include poverty, cultural relevance, and an inability to find highly qualified teachers.

Mr. Parisien said one of the primary concerns is having school administration under a combination of Bureau of Indian Education control, tribal control, and school district control. He said when there is that level of separation within a school's administration, the students are the ones who suffer. He said they are often not pointed in the right direction.

Mr. Parisien said the Standing Rock Community School is still fighting for state aid. He said the Ojibwa Indian School opted to retrocede and ultimately will be in a position to contract with the state. He said that was a more straightforward route to obtaining state financial assistance. He said the schools are still looking for assistance because they do not have a tax base on which they can fall back.

Mr. Parisien said with respect to English language learners, many of the students come from families where the old language is still spoken at home. He said it is difficult for the students to be at home and speak the Lakota language with their parents and then go into a school and be expected to learn and excel at a language that is foreign to them, i.e., English. He said some students lack conversation at home. He said there are not always people at home with whom the student can speak.

Mr. Parisien said it would be wonderful to have traditional functional families. However, he said, on the reservation, there are dysfunctional families and nontraditional families. He said there are a lot of single-parent families, and this makes it difficult for the adults to participate in the education of the children.

Mr. Parisien said North Dakota held a convention focused on dropout prevention. He said the convention took place this summer. He said it was an excellent convention. However, he said, among the tribal schools, participation was very limited. He said the Indian Affairs Commission is working with the Department of Public Instruction to put together a dropout prevention summit for tribal schools in the state.

In response to a question from Representative Monson, Mr. Parisien said he does not know why representatives of tribal schools elected not to participate in the statewide dropout prevention summit. He said this was a very disheartening turnout on the part of those responsible for education on the reservations. He said Indian educators and tribal leaders need to understand the importance of preventing students from dropping out.

In response to a question from Representative R. Kelsch, Mr. Davis said each reservation in the state has a tribal college. He said

he is pretty sure that every tribal college has an elementary education program. He said one of the missions of a tribal college is to educate young teachers who will then serve their people.

Mr. Davis said education on the reservations is very complex. He said the focus needs to be on what works for the Indian children. He said this becomes particularly important because 65 percent of the Indian population is between the ages of 18 and 25. He said Indians are the fastest growing population in this state. He said they tend not to migrate from North Dakota.

Mr. Davis said we are in the midst of getting better educated teachers who want to live on the reservations with their people. He said at the same time they are up against a complex system that they often do not understand.

Mr. Davis said among the biggest challenges to educating Indian youths are cultural identity and language. He said during the 2009 legislative session a bill was enacted to assist with the preservation of Indian languages.

Mr. Davis said he presented the bill to the tribes. He said the bill provided an \$18,000 appropriation for the tribes with a 3-to-1 match. He said this means that the tribes have to come up with \$54,000 in order to access the \$18,000. He said there is no strategy to raise that money from the tribes.

Mr. Parisien said approximately 79 percent of the teachers in the tribal schools are Caucasian. He said 81 percent of them commute to the schools. He said a lot of the schools struggle to find highly qualified teachers in core areas such as mathematics and reading. He said the New Town School District was able to use some of its oil money to incentivize teachers, and New Town made adequate yearly progress. He said he believes that it is important to incentivize teachers through salary adjustments.

In response to a question from Representative Monson, Mr. Parisien said he does not know the history behind schools continuing to be Bureau of Indian Education schools or tribal schools, as opposed to becoming part of a public school system.

In response to a question from Representative J. Kelsh, Mr. Davis said he does not believe that the tribes have the available funds to come up with the 3-to-1 match as required by the 2009 language preservation bill. He said the tribes also do not understand why a member of the State Historical Society should be on the American Indian Language Preservation Committee.

Representative J. Kelsh said the appropriation had to be reduced in order to get the bill passed. He said if the American Indian Language Preservation Committee makes significant strides, there is the possibility that in the future more money will be forthcoming. However, he said, if advantage is not taken of this initial appropriation, it will be much more difficult to obtain dollars in the future.

In response to a question from Representative Mueller, Mr. Parisien said there is ongoing discussion

about what the tribes are trying to accomplish educationally and how they will accomplish such. He said particularly in the last 10 years, as elders are starting to die, people in the Indian communities are becoming concerned that they are losing their culture. He said the elders are the ones who know about the history of the people and their culture and their languages. He said it is often difficult to get youths to learn their old languages because there are so many other things that they would prefer to be doing.

Senator Bakke said in order to determine what is not going well in the efforts to educate Indian children, it is necessary to look at test scores, class sizes, absentee rates, economic status, the ratio of counselors to students, the currentness of the curriculum and curricular materials, and the use of technology.

Mr. Parisien said he is in the process of putting together a portfolio that will address many of the

matters raised by Senator Bakke on a school-by-school basis.

Mr. Davis said they are also working on a tribal advisory committee, which will include principals, superintendents, and board members from each of the five tribes. He said this will give them the opportunity to compare and contrast what is happening in each of the sectors. He said he anticipates that the committee will be in place by November 2009.

No further business appearing, Chairman Monson adjourned the meeting at 4:30 p.m.

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L. Anita Thomas  
Committee Counsel

ATTACH:21