

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

2371

2007 SENATE EDUCATION

SB 2371

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2371

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: 2930, 2932

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on SB 2371, relating to the provision of home education. All members were present.

Senator Heckaman testified in favor of the bill. (Written testimony attached)

Alan Gleason testified in favor of the bill. (Written testimony attached)

Senator Taylor asked if anyone will be walking us through the bill.

Mr. Gleason said Dr. Bartlett would know about the bill.

Dinah Gleason testified in favor of the bill. (Written testimony attached)

Dr. Jim Bartlett, Executive Director of the North Dakota Home School Association, testified in favor of the bill. (Written testimony attached)

Senator Gary Lee asked why Human Services would need to approve a home schooling arrangement when they have already approved that household for foster care.

Dr. Bartlett said because the child would be a ward of the state.

Senator Gary Lee asked what the testimony meant about the state not recognizing a graduate of home school high school education.

Dr. Bartlett said many home schoolers write their own transcripts and diplomas. Some want a public school diploma. They can bring their curriculum to their local high school and if they approve it, they will issue a diploma. They want the right to request a state diploma.

Senator Taylor asked what tests are used.

Dr. Bartlett said the public schools use the state assessment, based on the state curriculum. Home schoolers can use a variety of tests such as the Iowa Basic, Stanford. They do well on the tests, 30 – 35 percentile points higher than the public schools. Other tests are more valid.

Senator Taylor asked what the advantage of the state assessment is.

Dr. Bartlett said most are not following the state curriculum. Some take the state assessment at their local high school. There is a big variety of tests used.

Senator Bakke asked if it would be permitted under the bill for grandparents to teach in a home school setting, why not other relatives?

Dr. Bartlett said he wanted to add that language.

Senator Bakke said she has been a foster parent. Isn't there another section of law that requires foster parents to send their foster children to school?

Dr. Bartlett said he is concerned about the section of law that says only a parent can home school, it may appear other places in the law.

Senator Flakoll asked if "parent" also applies to legal guardian in code.

Dr. Bartlett said he doesn't know. Legal guardian is a common term.

Senator Flakoll said when we look at code the word parent also includes legal guardian.

Dr. Bartlett said he doesn't know but that could explain why it is drafted like it is.

Senator Bakke asked if there are limits to the number of children that can be home schooled by one person.

Dr. Bartlett said no.

Senator Bakke some home schooling mothers could teach 20 – 30 children.

Dr. Bartlett said that is a good question. Some mothers that home school have 12 children. There is a limit to the number of children one family could have in foster care. They would not pass their tests after a while.

Christopher Dodson, North Dakota Catholic Conference, testified in favor of the bill. Last week he thought the bill was not necessary, the code says the parent is the supervisor of the home school education. Last week the Attorney General issued an opinion that the parent must provide the home school education. In Jamestown, some home school students go to the art center once a week, the instructor might not be a certified teacher. Some home school students go to the Y for gymnastics, that is not a school setting. This would not be permissible even if the parent was supervising. He likes that the bill clarifies that a grandparent could be a teacher. He recommended the committee take a look at the Attorney General's opinion.

Julie Liffbrig, home school mother of 9, testified in favor of the bill. Three of her children have finished high school, 2 are national merit scholars. They are doing very well. Home education works. We have strict regulations in North Dakota. We should do all we can to encourage this kind of education.

Michael Farris who heads the National Home School Defense has statistics that show 80% of our leaders will be home school educated from a pool of 2%. In 2001 one father and 2 mothers of home schooled children died. In this circumstance, she would want her children to continue to be home schooled. They have an environment and liberty that is conducive to learning. One grandparent from the Dickinson area took over home schooling of the grandchildren when the father was killed and the mother left under circumstances that would have caused the children to be ridiculed at school. The grandparent was the guardian. The first ever home school Science Olympiad team went to Nationals from North Dakota.

They pay \$300 per year for Iowa Basic testing. They may have to look for a different test.

Senator Bakke asked if the tests must be given under the supervision of a certified teacher.

Mrs. Liffrig said she is a certified teacher. She works with Center school and they have been very helpful.

Dennis Gleason testified regarding his wife's testimony regarding the diploma issue. His daughter lives in Texas. She is a home school high school graduate. When she interviewed for a job in Texas, the company called Department of Public Instruction to check on her high school diploma and they were told by Wayne Sanstead's office that the state does not recognize the diploma. His daughter met all the requirements. This was disturbing to his daughter. He would like to get it clarified.

Greg Gallagher, Standards and Achievement Director, Department of Public Instruction, testified in opposition to the bill.

Senator Bakke asked about the supervision of home schools, who approves the curriculum?

Dr. Gallagher said it varies from setting to setting. If the parent meets the qualifications of being a certified teacher, they can set the curriculum. If they do have a baccalaureate degree, they need to be monitored. There are two issues with testing. If the child scores less than the 50th percentile, they need monitoring for a short period of time. If a child scores less than the 30th percentile, they need to be evaluated for possible disability and if no disability is found, there would be ongoing assessment by the school district or other qualified teacher.

Senator Bakke asked about the diploma issue.

Dr. Gallagher said there was testimony regarding no recognition of the diploma and he is not qualified to speak to that. There is an expectation of the course exposure that is comparable to that of the public school.

Senator Bakke said the law says the North Dakota Division of Independent Study may grant a diploma so it is not a given. The public school issues the diploma, they register it with Department of Public Instruction, is that correct?

Dr. Gallagher said they do not register it with Department of Public Instruction. That would occur at the local level. The language of "may" with the Division of Independent Study is that they have their own specifications and process of review.

Senator Flakoll asked if Department of Public Instruction has no opposition to the portion of the bill on page 1.

Dr. Gallagher said they would not support change in language relating to the norm reference. They think it would be good to reference the state assessment and they could provide language for that. As far as the parent part, they would not favor a change.

Senator Bakke said you would not approve grand parents or foster parents providing the schooling.

Dr. Gallagher said the law makes a clear demarcation that home education takes place at home with a parent. By broadening the definition, there may be a movement toward a quasi school setting. The moment you have a school, there is a need for requirements for the well being of all the students. It needs to be clear distinction between a home education and a school setting. With a parent as the very clear supervisor of home instruction, there is no doubt that is where the instruction lies.

Senator Bakke asked if the state assessment is not nationally normed.

Dr. Gallagher said that is correct.

Senator Bakke asked if tests need to be in place for a certain period of time before they can be normed and the state test has not been in place long enough.

Dr. Gallagher told what constitutes norming.

Paul Ronnigen, Director of Children and Family Services, Department of Human Services, testified in opposition to the bill. (Written testimony attached)

Senator Flakoll asked if the department of Human Services could require parents to sign off before home schooling is approved by a foster parent.

Mr. Ronnigen said yes.

Senator Flakoll said what if a parent were incapacitated?

Mr. Ronnigen said then the department would move towards permanency and a guardianship or adoptive relationship and in that case they could seek home schooling.

Larry Bernhardt, County Social Services, testified in opposition to the bill. He is the legal custodian of 53 children. This could be a problem with reunification. There are many different kinds of legal custodians. The minimum that should be changed is from Department of Human Services to legal custodian.

Chairman Freborg asked if grandparents, in a case where their grandchildren come to live with them, are legal guardians.

Mr. Bernhardt said not without judicial involvement.

Vivian Schaefer, child advocate, testified in a neutral position. We have high standards in North Dakota. It is important to maintain them.

Chairman Freborg closed the hearing on SB 2371.

Senator Taylor said he would like to look at the potential for using the state assessment.

Senator Bakke said she is uncomfortable with the foster parent provision.

Chairman Freborg said the committee will take up the bill tomorrow.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2371

Senate Education Committee

Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: 3001 3007

Committee Clerk Signature

Minutes:

Chairman Freborg opened the discussion on SB 2371. All members were present.

Senator Bakke proposed an amendment to strike the provision that allows for foster parents to provide home education. It is important in foster care to disrupt as little of the life of the foster child as possible and the movement to a home school situation would be disruptive. There is more direct supervision in a public school setting. The home school people really wanted the grandparents to be able to provide home education and the foster parents just got thrown in the mix and she doesn't think it's appropriate.

Senator Taylor said he has received some email from home on the foster situation. Even though it says with the permission of human services, there is not enough protection. The foster care program works towards permanency. He asked Senator Bakke how soon they want to achieve permanency.

Senator Bakke said it can be a lengthy process. She had a child placed in her home at 4 months and when he was three he went up for adoption. It depends on the case. The law says if a child is in foster care for 15 out of 22 months, they must seek permanency. It can go on for years.

Senator Bakke moved the Bakke amendment, seconded by Senator Gary Lee.

The motion passed 5-0.

Senator Taylor said he would like to invite Greg Gallagher to the podium to answer questions about testing.

Chairman Freborg said a brief appearance will be acceptable.

Greg Gallagher, Director of Standards and Achievement, Department of Public Instruction, appeared to answer questions.

Senator Taylor asked if the state assessment might be a possibility if it was normed? Without the state assessment are there enough testing options for home schooled students?

Greg Gallagher said the state assessment can be broken into a norming arrangement, if you go 30% and 50% norming on North Dakota norms, you don't get a very elegant demarcation because of the way the North Dakota state assessment was set up. You could say a 30th percentile on a national norm would be equal to the novice achievement level on the state assessment. That would be a legitimate demarcation. You could say the 50th percentile on a national norm would be equal to the partially proficient level. That would be a very elegant sort of demarcation because that shows below grade level. Norming is generally said to be below what the average would be, on our test it is where is grade expectation. They could do a norming of the state assessment if the committee desired but the elegance of the test scoring is lost. He would recommend treating the novice category as equivalent to 30th percentile on a national norm for the purposes of a disability multi disciplinary team. Then the partially proficient category, which is still below grade expectation, could be equivalent to the 50th percentile for possible monitoring. That would be a very easy amendment. Other norming can be done, but their recommendation is to stay with the achievement levels. As far as the last question, are there enough testing options, it goes to the term "battery" in current law. "Battery" is not defined. He heard in testimony yesterday that the home school association

generally understands it to mean reading, writing, mathematics and science and that is the way they would interpret it as well.

Senator Taylor asked why some want to do the state assessment? Is it a cost issue or is it the availability?

Greg Gallagher said from what they receive from the field, many parents in home education want to see how they are doing compared to the state as a whole. They understand it is a good measure of what is happening in the critical areas of reading, writing, mathematics and science. Cost is an issue. If you choose a test that is not offered by the local school districts, the parent has to pay for that and you heard testimony that \$50 per test is not uncommon. Any time the state can absorb the cost for parents who want to use the state assessment, we should do that. There would be no fiscal impact to the state at all because we build this into our contracts. A law would be nice to be permissive to use the state assessment for parents who so choose.

Senator Taylor asked if waiting another two years would be a better option.

Greg Gallagher said a delay would not be beneficial. All arguments would be in favor of doing something now.

Senator Taylor asked how soon could an amendment be prepared.

Greg Gallagher said 4 sections are impacted by the language here; he could have a draft by the end of the day. He would offer the opportunity for the use of the state assessment or a nationally normed assessment at selected grade levels. He would suggest the committee consider a change in grade level from 4, 6, 8 and 10 to 3, 4, 6, 8, 11 which starts early enough for reading and math identification. Would the committee want any language on the definition of a battery, that is one problematic area, what does a battery mean? Their suggestion would be reading, language arts, mathematics, and science.

Senator Bakke asked if they will add other subject areas to the state assessment?

Greg Gallagher said nothing is planned now to introduce social studies. If there were to be one, his guess would be setting proficiency scales for writing, they are doing that now. It might be civics but he is not seeing that as a requirement.

Senator Bakke asked if language could be written in such a way that if additional areas are added to the state assessment, they would automatically be added to the testing of home schooled students.

Greg Gallagher said the most elegant way to do that would be to make reference to what is in section (meter 15:30). That is the section that deals with the overall assessment of the state.

Chairman Freborg asked if the committee would like to pursue the amendment.

Senator Taylor said he could see us passing out a simple bill that adds grandparents. If the time is right to make this option available, he would like to go forward with it.

Chairman Freborg asked Greg Gallagher if he could have it drafted by 3:00.

Greg Gallagher said yes.

Senator Taylor introduced the amendment proposed by Department of Public Instruction. It adds the basic battery language, adds the proficiency score levels on the state assessment so either the state assessment or a nationally normed test is acceptable. He thinks the amendment does what we expect it to do.

Senator Taylor moved the amendment from Department of Public Instruction, seconded by Senator Flakoll.

The motion passed 5-0.

Senator Taylor moved a Do Pass As Amended on SB 2371, seconded by Senator Flakoll.

Senator Flakoll added that he asked Anita Thomas about the definition of grand parents in an adoption situation and she said the non biological, or adoptive, grand parents would be considered to be the grand parents for the purposes of home education.

Chairman Freborg asked if we would want to include the biological grand parents?

Senator Bakke said ties are severed with adoption and including the biological grand parents could cause a hardship on the new parents.

The motion passed 5-0. Senator Taylor will carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL 2371

Page 1, line 11, after ";" insert "or"

Page 1, line 12, replace "or" with a period

Page 1, remove line 13 through 14

adopted
S-0
2/7/07

Sen. Patke 2/7/07

Proposed Amendments to SB 2371
Department of Public Instruction
On behalf of the Senate Education Committee

- Page 3, line 11: after "obtains", delete "~~a basic composite standardized achievement test score below the fiftieth percentile nationally, on the basic battery of a standardized achievement test,~~"
- replace with "either a below grade-level proficiency score in any subject tested on the state achievement assessment or a composite score below the fiftieth percentile in any subject tested on an alternative assessment specified in section 15.1-23-09,"
- Page 3, line 14: after "above", delete "the" and insert "grade-level proficiency on the state achievement assessment or above"
- Page 3, line 14: after "percentile", insert "on an alternative assessment specified in section 15.1-23-09."
- Page 4, line 14: after "test." Delete "~~While in grades four, six, eight, and ten, each child receiving home education shall take a standardized achievement test used by the school district in which the child resides or, if requested by the parent individual supervising the child's home education, shall take a nationally normed standardized achievement test selected by the individual supervising the child's home education.~~"
- replace with "Each child receiving home education shall take the state standardized achievement test in the subjects and grades specified in section 15.1-21-08 or, if requested by the parent individual supervising the child's home education, shall take in grades three, four, six, eight, and eleven either the state achievement assessment specified in 15.1-21-08 or a nationally normed standardized achievement test in the subjects specified in section 15.1-21-08."
- Page 5, line 26: delete "~~If the child's basic composite score on the basic battery of a standardized achievement test is less than the thirtieth percentile,~~"
- replace with "If a child receiving home education obtains either a score in the lowest achievement level on the state achievement assessment or a score below the thirtieth percentile on an alternative assessment specified in section 15.1-23-09,"
- Page 6, line 17: after "achieves", delete "~~on a standardized achievement test a basic a-composite score at or above the thirtieth percentile on the basic battery of a standardized achievement test~~"

Capital
5-0
2/7/07

Sen-Taylor 2/7/07

Replace with "a score above the lowest achievement level on every subject tested on the state achievement assessment or at or above the thirtieth percentile on every subject tested on an alternative assessment specified in section 15.1-23-09,"

Page 7, line 23:

after "problem", delete "~~upon scoring below the thirtieth percentile on a subsequent standardized achievement test~~"

REPORT OF STANDING COMMITTEE

SB 2371: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2371 was placed on the Sixth order on the calendar.

Page 1, line 11, after the underscored semicolon insert "or"

Page 1, line 12, replace "; or" with an underscored period

Page 1, remove lines 13 and 14

Page 3, line 11, after "obtains" insert "either a below grade level proficiency score in any subject tested on the state achievement assessment or"

Page 3, line 12, replace "on the basic battery of a" with "in any subject tested on an alternative assessment specified in section 15.1-23-09"

Page 3, line 13, remove "standardized achievement test"

Page 3, line 14, after "percentile" insert "on an alternative assessment specified in section 15.1-23-09"

Page 4, line 14, overstrike "While in grades four,"

Page 4, line 15, overstrike "six, eight, and ten, each" and insert immediately thereafter "Each" and overstrike "a" and insert immediately thereafter "the"

Page 4, line 16, overstrike "used by the school district in which the child resides or, if requested by the"

Page 4, line 17, remove "individual supervising the child's home education", overstrike ", shall take a", and overstrike "standardized"

Page 4, line 18, overstrike "achievement test" and replace "selected by the individual supervising the child's home education" with "in the subjects and grades specified in section 15.1-21-08 or, if requested by the individual supervising the child's home education, shall take in grades three, four, six, eight, and eleven either the state achievement assessment specified in section 15.1-21-08 or a nationally normed standardized achievement test in the subjects specified in section 15.1-21-08"

Page 5, line 26, overstrike "the child's", overstrike "composite score on", remove "the basic battery of", and overstrike "a standardized"

Page 5, line 27, overstrike "achievement test is less than the thirtieth percentile" and after "nationally" insert "a child receiving home education obtains either a score in the lowest achievement level of the state achievement assessment or a score below the thirtieth percentile on an alternative assessment specified in section 15.1-23-09"

Page 6, line 17, remove "a", overstrike "composite" and insert immediately thereafter "a", and after "score" insert "above the lowest achievement level on every subject tested on the state achievement assessment or"

Page 6, line 18, replace "the basic battery of a standardized achievement test" with "every subject tested on an alternative assessment specified in section 15.1-23-09."

Page 7, line 23, overstrike "upon scoring below the thirtieth"

Page 7, line 24, overstrike "percentile on a subsequent standardized achievement test"

Renumber accordingly

2007 HOUSE EDUCATION

SB 2371

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2371**

House Education Committee

Check here for Conference Committee

Hearing Date: **28 February 2007**

Recorder Job Number: **4090**

Committee Clerk Signature

Jan Prindle

Minutes:

Chairman Kelsch opened the hearing of SB 2371.

Senator Joan Heckaman, District 23, introduced the bill which would allow grandparents to home school their grandchildren. The state of ND has supported home schooling for a number of years. I have had close friends who have home schooled their children and I understand their philosophy for choosing this educational delivery service. I received a call from a constituent in my district concerning the issue of having grandparents home school grandchildren and I felt the issue had merit. Currently ND code limits that supervision of the child's program to the parent. As our extended families expand and change in our state, it was brought to my attention that grandparents may also wish to use the home education service model. This bill would allow grandparents to supervise home education plans if they meet current criteria set forth in the Century Code. The other question that came up was should we do something to change the standardized testing. We defeated the standardized testing additions that were recommended. We kept the grandparent section and somehow in the translation of all this, we lost the whole home school bill. As you see it now, it's 10 lines long. Representative Mueller has amendments to restore that.

Representative Karls: In other states are grandparents allowed to home school?

Senator Heckaman: It is my understanding that they are in some states but I'm not sure how it's written in their laws.

Representative Wall: It says on line 10 "grandparent in the grandparent's home." Does that mean that they could not offer schooling in the parent's/grandchild's home?

Senator Heckaman: I'm not sure about that. The situation we have right now would be in the grandparents' home. I wouldn't be opposed to moving that part out.

Representative Hanson: Some have been doing it in a city library or any other place. Is that in the original law—home?

Senator Heckaman: I think Dr. Bartlett would be able to address that later when he comes up.

Chairman Kelsch: In code currently it says, ". . . in the child's home. . ."

Senator Heckaman: So if that is happening now, they are out of compliance right now but I don't think any one comes to check on where the services are being delivered.

Representative Hunskor: Does age enter in to concern? If so, who determines if that grandparent is at that age?

Senator Heckaman: As far as know, it doesn't anymore than a parent's health enters into the issue.

Alan Gleason, grandparent, testified in favor of the bill. (Testimony Attached.)

Representative Mueller: You make reference to your wife home schooled her nephew. Were you aware that that you were in violation of the law?

Gleason: Yes, but the middle school in Devils Lake basically threw up their hands not knowing what they were going to do with this kid. They just said "go ahead." They were in full cooperation and gladly agreed to it. So they just let it go, I guess. He improved immensely during that time period.

Representative Mueller: I think in that instance Devils Lake would have had the responsibility of coming up with a program to help this young man out. There are reasons we have the rules in the book the way they are. There may be changes, but as long as it is in the code, somebody's breaking the law.

Gleason: I agree, and that's why we're trying to change it.

Vice Chairman Meier: If this bill were to pass, would you and your wife home school your grandson?

Gleason: I don't know if we would or not. In the public school setting he is in now, he is doing very well.

Jonathan Bartlett, Bottineau, student, spoke in favor of the bill. (Testimony Attached.)

Jim Bartlett, executive director of the ND Home School Association, testified in favor of the bill. **(Testimony Attached.)** His testimony included "Restrictions on Instructors in a Home Education Program" listing of other states.

Representative Mueller: As executive director what role do you and the association play in following up on misuses of the home schooling laws?

Bartlett: We don't become involved in that. We are typically involved in giving home schooling advice. If any issue comes up we have legal counsel who give advice on that issue and it is posted on our web site. We also put it in our newsletter so every one knows what the law says and how it operates. We actually don't hear about misuse very often. I've been asking legislators and others to give me examples of bad home schoolers because most of the examples I have are good examples.

Representative Mueller: I will be happy to share some of those with you at the proper time. Who does follow up that? Who is charged with the responsibility that the young person gets

some form of an education when you folks aren't doing it and the DPI is somewhat tied down as to what they can do, who is charged with it?

Bartlett: That responsibility is with the parents. If those people are not upholding their responsibility, then we have police departments that are involved. As far as an official educational checkup, I'm not involved with that.

Representative Mueller: Your information references different states and the different ways of doing business and we are among the most restrictive and we heard testimony about letting an aunt or an uncle or a good neighbor—would you anticipate that next session that we will have bills that are going to expand the grandparents thing to whatever else?

Bartlett: It is not something our board has discussed. It is not something we have on our radar.

Vice Chairman Meier: How many requests have you had from grandparents in the last one to two years?

Bartlett: I've only been watching this for last 5 to 7 months and I would approximately 5 or 7 have asked us about that. Support groups indicated that last spring there were a greater number. Based on input from the support groups, I would say 50 – 100.

Representative Sukat: Would you review for me the qualification and the procedure that is gone through for certified as a homeschooler.

Bartlett: There are four basic procedures: 1.) the parent being a certified teacher, 2.) take a national teacher exam, 3.) have a bachelor's degree in any subject, and 4.) be monitored for the first two years of the program by a certified teacher.

Chairman Kelsch: One question I have. This morning I had discussions with school boards, superintendents, and principals on a bill that had to do with fingerprinting before providing

services to kids. If they are in a public place will parents or grandparents have to be fingerprinted in order to provide services to the child?

Bartlett: I'm not familiar with the bill but would certainly oppose any further "police state" type of action.

Representative Herbel: Seeing as you are the spokesman for this group, would you favor removing all restrictions and supervision of home school.

Bartlett: Yes.

There being no further testimony, Chairman Kelsch closed the hearing of SB 2371.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2371 a

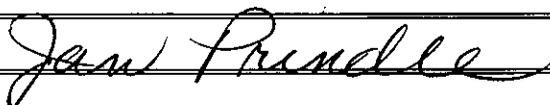
House Education Committee

Check here for Conference Committee

Hearing Date: **28 February 2007**

Recorder Job Number: **4139**

Committee Clerk Signature



Minutes:

Representative Mueller: You have a "hog house" in front of you and the reason it is there is because in the senate processing of the bill there were words that didn't get taken through the entire act that is the home school section of the code. It is not a contradiction at all of what the bill tries to do. As you notice on the front page, the parents and grandparents provision is still in there. In addition to that I've added a few pieces to this thing.

- 1.) There has never been any reference as to what the people who do the home schooling have to have as qualifications. You will see "on the professional skills test." This is a pretty basic skills test—the PRAXIS test.
- 2.) It adds the provision that the test would be the state assessment test. If we go to state assessment, we go grades 3, 4, 6, and 11 so we made that change. That would be the grade levels in which they do the assessment. They will still have a choice of the state assessment or the national norms test.
- 3.) It adds a violation section. A penalty of an additional year of monitoring.

Chairman Kelsch: I'm still curious what the definition of a grandparent is and if there is a definition in state law. We see a lot of people who are divorced and remarried. Is the grandparent a blood relative or someone you have always called your grandparent. I know a couple of situations where this could be a bit vague.

Representative Mueller: The other possibility is to kill the bill.

Chairman Kelsch: We have other options: take the amendments or decide to do away with the whole home schooling chapter. Once you are done being monitored there is no oversight. If people are choosing to ignore the law regularly, when it comes to the education of our kids I have a difficult time with that. Is it better for us as lawmakers to say "it's not our issue." We have a philosophical decision that we as legislators need to consider.

Representative Johnson: Can we regulate this?

Representative Hanson: I'm pretty well acquainted with what happens in Jamestown and there are so many violations and no penalties and the school district doesn't want anything to do with it. It used to be if you graduated with a home school degree it had to be issued by your local high school and we've changed it to come out of DPI because the schools didn't want to be involved with it. I want to get rid of the whole thing. They are not enforced and we don't have the staff to go after them.

Representative Solberg: The suggestion to "get rid of the whole thing" that would take all the rules away from home schooling and if anyone wanted to home school, there would be no rules. It sounds good to me.

Chairman Kelsch: Every time they come in to testify they tell us we have the strictest laws in the nation. We are way too strict.

Representative Herbel: What do we do in circumstances where there is real educational abuse.

Chairman Kelsch: We laws on the books that deal with abuse. I didn't know there were people that were being home schooled by any one other than their parents. Today we learned of an aunt and others just sitting here. I bet each one of us if we go back to our district we would find others.

Representative Herbel: What about more oversight.

Representative Hunskor: If we throw the whole thing out they can home school but there are no regulations. Is that done in some states?

Representative Herbel: There are a lot (he read from a list). There are quite a few.

Chairman Kelsch: ND is the most restrictive state.

Representative Wall: I can share the frustration, but there a lot of home schoolers that abide with the rules. In my estimation as responsible policy makers we could be doing a real injustice to a lot of kids. The abuses will get much worse.

Representative Hanson: We don't know what these families are doing. You only monitor for two years and you don't even have to do that if they have a degree or pass the equivalency test. They are on their own.

Representative Wall: You can tell some are doing it right because the kids excel. They are cognizant of state laws.

Representative Hanson: You have parents that do a heck of job. And some that don't. I'll give you an example of one in Jamestown. She's a single mom who works full time and the girl stays home all day long by herself and mom doesn't hardly show up for the meeting with the monitor and mom goes out at night and she's alone at night.

Representative Johnson: You hear about the abuses and it's easy to focus in on them but there are several in our area and one graduated a year ago and he's in Annapolis right now and the other went to Notre Dame for four year. There are a lot of others. The outcomes of about six families is great.

Chairman Kelsch: The point is that regardless of if we have the laws in effect regarding home schooling would those kids still have gotten the same good education. Absolutely!

Representative Johnson: Those same parents that are doing a good job would like to see guidelines.

Chairman Kelsch: If you have people that are not obeying the law, they will continue to not obey the law. Those that are obeying the law will continue to do a good job regardless of if we have the laws or not because it's important to them.

Vice Chairman Meier: Don't kids have to take a standardized test. What is passing?

Representative Mueller: About 30%.

Representative Mueller: There is a provision in the law now that if you are under 30% you have to go to the school district and set up a plan. I don't think there are many out there that get 30%--that's pretty poor. It's not that hard if you take a test with the answer book in front of you and that's what's going on in some cases. You are not going to catch up with them that way. To actually find out about misuse and abuse is pretty hard. I think I agree with Representatives Wall and Johnson, we don't want to throw the baby out with the bath water. I don't think we want to just turn it loose and then the bad ones have absolutely no reason to do anything. Currently there is some structure. We as representatives of education in our state have to help those kids that are getting a bad deal.

Representative Hunskor: I think we are talking about people like me with seat belts. If that law wasn't there I wouldn't put it on. Let's say 60% of the home schoolers are doing a wonderful job, 15% are doing a crappy job and then you have those in between that because the law is there they are going to do a good job. For that group of people I think we need to have to have some type of regulation.

Chairman Kelsch: I do have some definitions of relative in code. They are inferring biological.

Representative Haas: It says relative by marriage, blood or adoption—so that goes beyond biological.

Representative Mueller: I would move the amendment but further amend to strike # 2 on page one out (the reference to grandparents).

(no second)

Chairman Kelsch: Let's nosh over this over the weekend and decide where to go. We need to determine which direction we want to go.

Discussion closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2371**

House Education Committee

Check here for Conference Committee

Hearing Date: **7 March 2007**

Recorder Job Number: **4528 (morning) 4599 (afternoon)**

Committee Clerk Signature

Jane Prindle

Minutes: **Chairman Kelsch opened discussion of 2371.**

Representative Mueller: Here is the amendment for the grandparent's bill. I've had an amendment drafted that is a hog house that left the grandparents in then added three other provisions. Basically those involved who are not college educated take a professional skills test. It also allowed for students to take the state assessments or a test of their choosing. It changes the grades when the test is administered. The other part is new language that has something of a penalty phase for not living up to the rules of home education law. It is fairly minimal but does require another year of monitoring. The difference between the bill we started out with and the "hog house" you have in front of you is that we have eliminated the grandparents from the mix and we kept in the parts and pieces in the first hog house. For discussion purposes, **I Move the Amendment**

Representative Hanson: I second.

Chairman Kelsch: So this would become the bill if it were passed and what you said is that the parents need to be licensed by ESPB, hold a baccalaureate degree, or take the professional skills test—which is in essence the PRAXIS test. (She continued through the amendment clarifying each point for the Committee.)

Representative Hunsakor: I agree with all the changes. I'm wondering if the grandparent has the same qualifications as the parent, why are they out of the mix?

Representative Mueller: That is a philosophical discussion that we maybe need to have. I think that we have doing that is to open things up a bit more. Grandparents holding an ESPB license, you could make that argument. Basically what is it that we as an Education Committee and the Legislature want to do? Open it up and then you can make the same argument for the neighbor living across the road, for the aunt or the uncle or the brother and the sister. I personally don't think that's where we want to go, but it's a decision this Committee can and should make.

Representative Herbel: I'm going to oppose the amendment and then I'm going to oppose the bill. I think what we have now is working about as well as what we ever had. There have been very few complaints.

Chairman Kelsch: I agree with you. I was disappointed when I saw the bill come in. The only issue I have a problem with is that there are violations occurring right now and we know of them. That's one of the issues that bother me.

Representative Herbel: I agree that there are some violations. I don't think we will ever get away from it. What we have is working very well and there have been very few complaints.

Representative Mueller: I understand what you are saying but I would certainly not want to understate some of problems that are going on out there with home schooling. I have been given a laundry list of things that are incidents and situations in which home school problems very distinctly are there. Are we going to fix them by doing this? I'm not so sure we are going to fix all of them but to put a little more teeth in the law as it stands today I think does have a tendency to make folks do a little better job than what they are purporting to do out there. The bottom line is that we have some young people out there and one was first talked to me about a month ago. This poor young man under the auspices of home school has really learned

nothing and there is a violation involved with the testing part and to say to continue to do that same thing out there is in my mind not the right thing to do.

Representative Herbel: If we pass this what this amendment will do then is it will require monitoring an extra year in case of a violation. So let's suppose the violation continues and the monitoring continues, where's the penalty?

Representative Mueller: They continue the monitoring until he's 16. They don't want that so to have that over their head they may clean up their act and do things the way they should do it.

Representative Herbel: There's merit to what you're saying but at the same time those people that you are talking about under just monitoring system I don't believe will probably clean up their act a whole lot.

Representative Mueller: Do we just forget about it and let it ride and that kid not come close to having the ability to enter the workforce or to function as a productive citizen of our state. That's where I have an issue. That's where I have a problem. There are a lot that do a good job and they are not going to be effected by anything we do here. They will continue to do a good job. It's that's percent that are misusing the system. . . .

Representative Hanson: I have a question for Representative Herbel. You asked the person in charge of home schooling about removing all restrictions. Why don't you make that motion to repeal the whole section?

Representative Herbel: I like the restrictions we have now. That's why I don't want to support the amendment or the bill. What we have is working very well.

Representative Solberg: I have a question for Representative Mueller. This strengthens the existing laws for home schooling.

Representative Mueller: I certainly think it does.

Representative Karls: This you run this amendment by the home schooling associations?

Don't we normally do that courtesy?

Representative Mueller: I did not do that.

Representative Hunsakor: Getting back to the grandma and grandpa thing. Is there any heart for any of the Committee folks to further that discussion? I would like to see them be a part of it if they are qualified. Maybe I'm alone.

Chairman Kelsch: Over the years this body has taken kind of a hard line approach to if a student is to be home schooled, those home schooling the students shall be their parents because that's the reason behind it. Parents chose not to send their kids to either public or private school so that they could educate the children themselves. If we open it to grandparents, next legislative session it will be aunts and uncles and we already know that there is a violation. We know that because we heard it in testimony that there is an aunt that is home schooling a nephew. I think that philosophically what we as a Committee need to say is do we begin to open the door and take away the whole purpose behind home schooling or do we leave it as home schooling was intended to be by parents. I believe if we open it a crack then I think we should appeal the whole section on home schooling and let them do whatever they want. The second issue though is the violations. Just having a discussion in this Committee about toughening up the law whether it is for the assessment, whether it is for the qualifications of the parent, or whether it is for a penalty for violation. Regardless where this amendment goes, this Committee is on records as having this discussion knowing that there are bad actors out there. I think it is incumbent upon the home school association to clean up the bad actors. If every one of us sitting around this table can cite situations where there is a violation of the home school law then I believe it is incumbent upon that association to go out there and make sure that they know what is happening. Unfortunately it's a select

few that are giving parent home schooling students a bad name. That's what happens a lot of times in the Legislature. We try to address things based on the minority not based on the majority. I'm not sure how I'm going to vote on the amendment. I'm of the mind that there was a good hearing regarding these issues. Having said that, I must agree with Representative Mueller that there has to be more of an alignment with what we are doing in the public schools. I'm not sure this is the time to do that or not.

Representative Hunskor: I believe that as long as there is home schooling there are going to be violations just because it's in the home where there is no other monitoring, it's going to happen. Maybe it can be minimized through this avenue so there are fewer, but it's going to happen.

Chairman Kelsch: I'm thinking of over the years. . . We've had Cam Ledahl come in and testified. She's a good person and I've worked with them to work out a compromise on some of the language. I think she would be a good person to go to and point out the violations. The new director seems to be a good person and I think going to him with some of the violations, would be kind of putting them on notice. If we come back in two years and we still have some stories, then we need to do something.

Representative Herbel: Most of our conversation is stemming around violations so why don't we just amend that portion in to the regular statute?

Representative Mueller: That's what we are doing.

The question was called.

A roll call vote was taken: Yes: 8, No: 4, Absent: 1 (Meier)

The amendment was adopted.

Representative Haas: I move Do Pass as Amended.

Representative Solberg: I Second

Representative Johnson: The reason I'm going to vote no on this is we had a 10 line bill introduced and we have a four-page amendment without a hearing.

Chairman Kelsch: I will tell you there would have been that big an amendment for the bill because the way the bill was amended in the Senate did not address the sections of the home school law and it would have had to be updated. We would have ended up with 8-10 pages of amendments because their amendments didn't get on there correctly.

Representative Johnson: I appreciate that and I appreciate all the hard work Representative Mueller has done. I would sooner see us come back next session and look at the bill.

Representative Haas: This isn't first hog house I've seen since I've been here.

Representative Karls: On behalf of thousands of home schoolers who do a really good job in this state, I would be much more comfortable if we could have a hearing on this bill. I think we give that courtesy to a lot of other organizations all the time. If we vote this amendment down and this goes forth, there is nothing left in our statute.

Chairman Kelsch: The amendment is already on the bill. You are either in support of the amendment which is the bill now or you are not in support of the amendment. If you are not in support of the amendment, then vote no on the bill. If it goes down, nothing else in the home school code changes. It stays exactly the same.

Representative Herbel: In defense of the bill, those that do a good job aren't going to be hurt by this bill.

Representative Hanson: The amended bill will go back to the Senate. They will have another chance at it.

The question was called: Yes: 6, No: 6, Absent: 1 (Meier)

The vote was tied.

Chairman Kelsch: Let's leave this sit for a while and take it up again this afternoon.

Discussion closed.

Later on the same day, discussion was again opened on SB 2371. There were 13 members present.

Chairman Kelsch: We had a tie vote on the Do Pass. I'm open to another motion.

Representative Johnson: I move Do Not Pass

Representative Karls: I second.

A roll call vote was taken: Yes: 7, No: 6, Absent: 0

SB 2371 as amended Did Not Pass.

Chairman Kelsch: Based on the close vote I do want the Committee to know that the Association did not bring this bill forward. It is a constituent bill. On the House side I told the Legislator to not get into this discussion this session. They went over to the Senate and had the bill brought in. I know that many of you do have issues with the violation of the law and I will send an email to the head of the Association and tell him of the issues and that we would like them to take care of these from within.

Representative Mueller: I think that's a good position to take. When I visited with Dr. Bartlett he was amazed at the violations. I have a laundry list of them if you would like to include that in any communication you might have.

Chairman Kelsch: I think it is incumbent upon us as Legislators as we hear of these violations, we need to let them know.

Representative Karls will carry the bill.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2371

House Education Committee

Check here for Conference Committee

Hearing Date: **13 March 2007**

Recorder Job Number: **5005 and 5006**

Committee Clerk Signature

Jan Prindle

Minutes:

Chairman Kelsch: SB 2371 was referred to the House Education Committee today on the floor. The purpose for that was two fold. There was a representative that was going to ask for the amendment to be heard separately and try to defeat the amendment and then to pass the bill. My concern is always when we amend bills or when we pass bills out they be in the best shape possible. I could not let a bill go out the way that bill was if the amendment were defeated. All those well intended people that were sending us way too many emails didn't realize that the way the Senate passed it was going to be illegal for grandparents to home school their kids. The bill only affected one section of the home school code and it would still not be legal for grandparents to teach those kids. Representative Mueller had prepared the amendment and the other necessary items were included in there. It's up to you, Committee. It has to be a motion to bring it back. We can decide if we want to bring it back and re-amend it or if we want it to go just the way it is. That's up to the Committee. I'm hoping the Home School Association will tell their members to let things simmer for a little and if they are going legislators because I've had several legislators that are not happy about receiving emails from all across the state. They are just deleting them if they are not from their district. That's my reasoning for bringing it back is if there was a chance that the bill was going to pass there is no way for the Senate to not concur because we would not have amended the bill. So it would

have gone to the governor and his legal advisor, I believe, would have told him to veto it because it was illegal. At this point we are going to have to decide what to do as a Committee and we can decide that tomorrow. I'm just giving you heads up.

Representative Solberg: What was the illegal part?

Chairman Kelsch: It's because it only deals with one section of the law and only adds grandparents in to that section but it does not add grandparents in to the sections that actually allow grandparents to teach their grandchildren. What the Senate did was make the amendment on the floor and this is what came out. We knew that and when Representative Mueller first drafted his amendment that included the testing it added in the language for all the sections of law and he when he proposed the amendment he did not mean to have the grandparent language in there and his amendment only addressed that. This would have been one of those situations where a two line bill becomes an eight page bill. That's what this would have been because it needed to be consistent throughout the whole school chapter that grandparents were added in.

Representative Solberg: If this had passed as it came out of the Senate, grandparents could not have legally taught anyway?

Chairman Kelsch: Right. As I said, if there was a chance it was going to pass I needed it to be in the best shape possible.

Representative Johnson: When something like that happens in the Senate, is there not oversight over those amendments?

Chairman Kelsch: I don't know how they amend on the Senate floor because I've never sat in over there. If we would have amended here in the Committee and said I want to add language into a bill typically Dan would come back to me and say "this is more than one section code." They don't do that when they amend on the floor. This was a motion and

that's what they came up so that's the way the bill was interpreted. I had a heads up on that so I had asked Anita Thomas to put together the amendments that would address all the sections of code.

Representative Johnson: If the bill would have originated in the house rather than the Senate, it would have better tracked that type of thing.

Chairman Kelsch: Well Legislative Council should and typically does.

Representative Herbel: Since we amended the bill couldn't that just been covered in conference committee?

Chairman Kelsch: The bill came out with a do not pass so my guess is the bill would have been defeated. Now there are emails coming that say remove the amendments and pass the bill. That's where the complications come in. I could have just let it go on the floor and I could have waited to see if the amendment was passed or defeated. Potentially it could have been defeated and I don't know about the bill itself.

End of discussion.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2371**

House Education Committee

Check here for Conference Committee

Hearing Date: **14 March 2007**

Recorder Job Number: **5050**

Committee Clerk Signature

Jaw Prindle

Minutes:

Chairman Kelsch opened discussion of SB 2371. As you know, this bill is not in Committee until the Committee reconsiders their action and brings the bill back here. (She outlined the process for new members of the Committee.) I know that Representative Karls has amendments being drafted. (Dan Kelsch called LC and was told they would not be done until Monday)

Representative Mueller: It came to us from the Senate in a form that was not acceptable. Is there some connection to that as to why we were bringing it back?

Chairman Kelsch: Yesterday I heard there was a move to take the bill off the sixth order and debate the amendment and their intention was to defeat the amendment. Because there had been communication from some of the home schoolers and the Home School Association that if you defeated the amendment and passed the bill everything would be honky dory. The problem is if you stripped off the amendment the bill did nothing. It did not do what the intention was. Grandparents would still not be able to teach because the bill did not go through the whole chapter. If the intention is to make the bill correct before it goes to the house floor then you would reconsider and correct the bill. I think Representative Karls bill would put the grandparents language throughout the chapter and I do not believe it has the penalty clause in there.

Representative Herbel: If the bill is left as is and defeated on the floor we go back to the way it has been. If the bill would pass, could it not in conference committee be amended into the form that Representative Karls is talking about?

Chairman Kelsch: If the amended version passes, and it came out of this Committee with a Do Not Pass.

Representative Haas: If the amendment did not pass on the House floor then there is no conference committee.

Chairman Kelsch: Yes, then it's in the same form in which it left the Senate which would not be what the intent was. I will tell you that over the years we've had some lengthy and confrontational hearings and we worked out a pretty good deal with Home School Association whereby if they had legislation they were bringing forward, we discussed it as professionally as possible and it was brought in and it sailed right through. We don't have the controversy that we had in the past. This bill was not forward by the Home School Association. That's probably one of the reasons there has been a little bit more discussion and heartburn over it than if it had been the Home School Association. If this is going to lay here until Monday there will be 500 emails. I know some of my colleagues were to the point where they wanted this taken care of one way or another.

Representative Solberg: I would urge the chair to resolve this issue today.

--a 15 minute recess was called. (During the break Representative Karls and Anita Thomas worked on an amendment.)

Chairman Kelsch: We have SB 2371 floating. What are the wishes of the Committee?

Representative Karls: I move to reconsider our actions.

Representative Haas: Did Representative Karls vote on the prevailing side of the question?

Chairman Kelsch: She is.

Chairman Kelsch: Is there a second?

Chairman Kelsch: Is there a Second?

The reconsideration motion failed for lack of a second.

Chairman Kelsch: What that means is that the bill is in the same shape it was as it was on the floor yesterday.

Adjourned.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2371

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-23 of the North Dakota Century Code, relating to violations of the home education chapter; to amend and reenact sections 15.1-23-01, 15.1-23-02, 15.1-23-03, 15.1-23-04, 15.1-23-05, 15.1-23-06, 15.1-23-07, 15.1-23-09, 15.1-23-10, 15.1-23-11, 15.1-23-12, 15.1-23-13, 15.1-23-14, 15.1-23-15, 15.1-23-16, 15.1-23-17, and 15.1-23-18 of the North Dakota Century Code, relating to the provision of home education; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-23-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-01. Home education - Definition. For purposes of this chapter, "home education" means a program of education offered in accordance with this chapter and supervised by a child's parent:

1. Parent, in the child's home, in accordance with the requirements of this chapter; or
2. Grandparent, in the grandparent's home.

SECTION 2. AMENDMENT. Section 15.1-23-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-02. Statement of intent to supervise home education. At least fourteen days before beginning home education or within fourteen days of establishing a child's residence in a school district, and once each year thereafter, ~~a parent~~ the individual intending to supervise or supervising home education shall file a statement, reflecting that intent or fact, with the superintendent of the child's school district of residence or if no superintendent is employed, with the county superintendent of schools for the child's county of residence.

1. The statement must include:
 - a. The name and address of the child receiving home education;
 - b. The child's date of birth;
 - c. The child's grade level;
 - d. The name and address of the ~~parent~~ individual who will supervise the home education;
 - e. The qualifications of the ~~parent~~ individual who will supervise the home education;
 - f. Any public school courses in which the child intends to participate and the school district offering the courses; and

- g. Any extracurricular activities in which the child intends to participate and the school district or approved nonpublic school offering the activities.
2. The statement must be accompanied by a copy of the child's immunization record and proof of the child's identity as required by section 54-23.2-04.2.

SECTION 3. AMENDMENT. Section 15.1-23-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-03. Home education - ~~Parental qualifications~~ Qualifications. ~~A parent~~ An individual may supervise home education if the ~~parent~~ individual:

1. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Holds a baccalaureate degree;
3. Has met or exceeded the ~~cutoff~~ state's qualifying score of a national teacher examination given in this state or in any other state if this state does not offer such a on the preprofessional skills test; or
4. Meets the requirements of section 15.1-23-06.

SECTION 4. AMENDMENT. Section 15.1-23-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-04. Home education - Required subjects - Instructional time. ~~A parent~~ An individual supervising home education shall include instruction in those subjects required by law to be taught to public school students. The instruction must have a duration of at least four hours each day for a minimum of one hundred seventy-five days each year.

SECTION 5. AMENDMENT. Section 15.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-05. Home education - Academic records. ~~A parent~~ An individual supervising home education shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including the results of any standardized achievement test results or state assessment. If the child transfers to a public school district, the ~~parent~~ individual supervising home education shall furnish the record, upon request, to the school district superintendent or other administrator.

SECTION 6. AMENDMENT. Section 15.1-23-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-06. Home education - Required monitoring of progress. ~~A parent~~ An individual who has a high school diploma or a general education development certificate may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains either a below grade level proficiency score in any subject tested on the state assessment or a basic composite standardized achievement test score below the fiftieth percentile nationally, in any subject tested on an alternative assessment specified in section 15.1-23-09, the ~~parent~~ individual must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile on an alternative assessment allowed under section 15.1-23-09. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the ~~parent~~ individual and the monitor or as provided for in section 18 of this Act. If a ~~parent~~ individual completes the monitoring requirements of this section for one child, the ~~parent~~ individual may not

be monitored with respect to other children for whom the parent individual supervises home education, except as provided for in section 18 of this Act.

SECTION 7. AMENDMENT. Section 15.1-23-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-07. Home education - Required monitoring of progress - Reporting of progress - Compensation.

1. If monitoring is required under section 15.1-23-06, the school district shall assign and compensate ~~an individual to a monitor a child receiving home education~~ unless the parent individual supervising the child's home education notifies the school district that the parent individual shall select and compensate ~~an individual to a monitor for~~ the child.
2. The individual monitor assigned by the school district or selected by the parent individual supervising the child's home education under subsection 1 must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. Twice during each school year, the individual monitor shall report the child's progress to the school district superintendent or to the county superintendent if the district does not employ a superintendent.
4. If one child receives home education, the individual monitor shall spend an average of one hour per week in contact with the child and the ~~child's parent individual supervising the child's home education~~. If two or more children receive home education, the individual monitor shall spend one-half hour per month for each additional child receiving home education. If the child attends a public or an approved nonpublic school, the time may be proportionately reduced.

SECTION 8. AMENDMENT. Section 15.1-23-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-09. Home education - ~~Standardized achievement test~~ Required tests.

1. While in grades ~~three, four, six, eight, and ten eleven~~, each child receiving home education shall ~~take a standardized achievement test used by the school district in which the child resides or, if requested by the parent,~~ shall:
 - a. Take the state assessment, as provided in section 15.1-21-08; or
 - b. At the option of the individual supervising the child's home education, take a nationally normed standardized achievement test.
2. The child shall take the state assessment or the achievement test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.

SECTION 9. AMENDMENT. Section 15.1-23-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-10. Home education - ~~Standardized achievement test~~ Required tests - Cost.

1. If a child receiving home education takes the ~~standardized achievement test used by the school district in which the child resides~~ state assessment, the child's school district of residence is responsible for the cost of the test assessment and for the cost of administering the test assessment. The school district shall ensure that the test assessment is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.

2. a. If the child takes a nationally normed standardized achievement test ~~not used by the school district in which the child resides~~, the child's parent individual supervising the child's home education is responsible for the cost of the test-
 - b- ~~The and the cost of administering a the test under this subsection is the responsibility of the child's parent if the test is administered by an individual who is selected by the parent. An individual selected by the child's parent to administer a test. The test administrator selected by the individual supervising the child's home education~~ under this subsection must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.

 - e- ~~b. The cost of administering a test under this subsection is the responsibility of the school district if, at the request of the child's parent, the school district administers the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board~~ individual supervising the child's home education is also responsible for the cost of having the test graded by the testing company.

SECTION 10. AMENDMENT. Section 15.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-11. Home education - State assessment - Standardized achievement test - Results.

1. ~~A parent~~ An individual supervising the child's home education shall file the results of the child's state assessment or standardized achievement test with the superintendent of the district in which the child resides or with the county superintendent if the district does not employ a superintendent.

2. ~~If the child's basic composite score on a standardized achievement test is less than the thirtieth percentile nationally~~ a child receiving home education obtains either a score in the lowest achievement level of the state assessment or a score below the thirtieth percentile on a nationally normed standardized achievement test, as specified in section 15.1-23-09, a multidisciplinary assessment team shall assess the child for a potential learning problem under rules adopted by the superintendent of public instruction.

3. If the multidisciplinary assessment team determines that the child is not disabled and the individual supervising the child's ~~parent~~ home education wishes to continue home education, the parent individual, with the advice and consent of ~~an individual~~ one who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the superintendent

of the school district or with the county superintendent if the district does not employ a superintendent. The parent individual supervising the child's home education is responsible for any costs associated with the development of the remediation plan. If the parent individual supervising the child's home education fails to file a remediation plan, the parent individual is deemed to be in violation of compulsory school attendance provisions and may no longer supervise the home education of the child.

SECTION 11. AMENDMENT. Section 15.1-23-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-12. Home education - Remediation plan. The superintendent of the school district shall use the remediation plan required by section 15.1-23-11 as the basis for determining reasonable academic progress. The remediation plan must remain in effect until such time as the child achieves ~~on a standardized achievement test a basic composite~~ a score above the lowest achievement level on every subject tested on the state assessment or at or above the thirtieth percentile on every subject tested on a nationally normed standardized achievement test, as specified in section 15.1-23-09, or a score, which when compared to the previous year's test score, demonstrates one year of academic progress. At the option of the parent individual supervising the child's home education, the test may be one required by section 15.1-23-09 or one administered in a higher grade level. The individual supervising the child's parent home education, with the advice and consent of ~~an individual~~ one who is licensed to teach by the education standards and practices board or who is approved to teach by the education standards and practices board, may amend the remediation plan from time to time in order to accommodate the child's academic needs. If after a remediation plan is no longer in effect the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a remediation plan must again be developed and implemented.

SECTION 12. AMENDMENT. Section 15.1-23-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-13. Home education - Disabilities - Services plan.

1. a. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent individual supervising the child's home education may continue to supervise the child's home education, provided that:
 - (1) The parent individual files with the school district superintendent a services plan that was developed privately or through the school district; and
 - (2) The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
- b. If the multidisciplinary team determines that the child has a developmental disability, the parent individual may continue to supervise home education under the provisions of sections 15.1-23-14 and 15.1-23-15.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.

3. If ~~a parent~~ the individual supervising the child's home education fails to file a services plan as required by this section, the ~~parent~~ individual is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem ~~upon scoring below the thirtieth percentile on a subsequent standardized achievement test~~ unless the reevaluation is performed pursuant to the child's services plan.

SECTION 13. AMENDMENT. Section 15.1-23-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-14. Child with a developmental disability - Home education. A ~~parent~~ An individual may supervise home education for a child with a developmental disability if:

1. The child has been determined to have a developmental disability by a licensed psychologist;
2. The ~~child's parent~~ individual supervising the child's home education is qualified to supervise home education under this chapter; and
3. The ~~child's parent~~ individual files with the superintendent of the child's school district of residence:
 - a. A notice that the child will receive home education;
 - b. A copy of the child's diagnosis of a developmental disability prepared and attested to by a licensed psychologist; and
 - c. A services plan developed and followed by the child's school district of residence and the ~~child's parent~~ individual; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the ~~child's parent~~ individual supervising the child's home education.

SECTION 14. AMENDMENT. Section 15.1-23-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-15. Child with a developmental disability - Home education - Progress reports.

1. On or before November first, February first, and May first of each school year, ~~a parent~~ an individual supervising home education for a child with a developmental disability under section 15.1-23-14 shall file with the superintendent of the child's school district of residence progress reports prepared by the services plan team selected under section 15.1-23-14. If at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction.

SECTION 15. AMENDMENT. Section 15.1-23-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-16. Home education - Participation In extracurricular activities.

1. A child receiving home education may participate in extracurricular activities either:
 - a. Under the auspices of the child's school district of residence; or
 - b. Under the auspices of an approved nonpublic school, if permitted by the administrator of the school.
2. For purposes of this section, a child participating under the auspices of the child's school district of residence is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the district.
3. For purposes of this section, a child participating under the auspices of an approved nonpublic school is subject to the same standards for participation in extracurricular activities as those required of full-time students enrolled in the school.
4. Once ~~a child's parent~~ an individual supervising the child's home education has selected the public school district or the approved nonpublic school in which the child will participate for purposes of extracurricular activities and has provided notification of the selection through the statement required by section 15.1-23-02, the child is subject to the transfer rules as provided in the constitution and bylaws of the North Dakota high school activities association.

SECTION 16. AMENDMENT. Section 15.1-23-17 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-17. Home education - High school diplomas.

1. A child's school district of residence, an approved nonpublic high school, or the North Dakota division of independent study may issue a high school diploma to a child who, through home education, has met the issuing entity's requirements for high school graduation provided the ~~child's parent~~ individual supervising the child's home education submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve.
2. In the alternative, a high school diploma may be issued by the child's school district of residence, an approved nonpublic high school, or the North Dakota division of independent study provided the child, through home education, has completed at least twenty-one units of high school coursework from the minimum required curriculum offerings established by law for public and nonpublic schools and the ~~child's parent or legal guardian~~ individual supervising the child's home education submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve. The issuing entity may indicate on a diploma issued under this subsection that the child was provided with home education.

3. If for any reason the documentation required in subsection 1 or 2 is unavailable, the entity issuing the diploma may accept any other reasonable proof that the child has met the applicable requirements for high school graduation.

SECTION 17. AMENDMENT. Section 15.1-23-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-18. Home education - Liability. No state agency, school district, or county superintendent may be held liable for accepting as correct the information on the statement of intent or for any damages resulting from ~~a parent's~~ the failure of any individual supervising the child's home education to educate the child.

SECTION 18. A new section to chapter 15.1-23 of the North Dakota Century Code is created and enacted as follows:

Violation of chapter - Penalty. If the superintendent of public instruction determines, after a hearing as provided for in chapter 28-32, that an individual supervising a child's home education has violated a provision of this chapter, unless otherwise provided, the superintendent shall direct the child's school district of residence to monitor the individual for a period of one year. If the individual is already being monitored under section 15.1-23-06, the superintendent shall direct the child's school district of residence to extend the monitoring of the individual for a period of one additional year. The child's parent is responsible for the cost of any monitoring required by this section."

Renumber accordingly

**House Amendments to Reengrossed SB 2371 (70835.0302) - Education Committee
03/08/2007**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-23 of the North Dakota Century Code, relating to violations of the home education chapter; to amend and reenact sections 15.1-23-03, 15.1-23-05, 15.1-23-06, 15.1-23-09, 15.1-23-10, 15.1-23-11, 15.1-23-12, and 15.1-23-13 of the North Dakota Century Code, relating to the provision of home education; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-23-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-03. Home education - Parental qualifications. A parent may supervise home education if the parent:

1. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Holds a baccalaureate degree;
3. Has met or exceeded the cut-off state's qualifying score of a national teacher examination given in this state or in any other state if this state does not offer such a preprofessional skills test; or
4. Meets the requirements of section 15.1-23-06.

SECTION 2. AMENDMENT. Section 15.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-05. Home education - Academic records. A parent supervising home education shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including the results of any standardized achievement test results or state assessment. If the child transfers to a public school district, the parent shall furnish the record, upon request, to the school district superintendent or other administrator.

SECTION 3. AMENDMENT. Section 15.1-23-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-06. Home education - Required monitoring of progress. A parent who has a high school diploma or a general education development certificate may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains either a below grade level proficiency score in any subject tested on the state assessment or a basic composite standardized achievement test score below the fiftieth percentile nationally, in any subject tested on an alternative assessment specified in section 15.1-23-09, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile on an alternative assessment allowed under section 15.1-23-09. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the parent and the monitor or as provided for in section 9 of this Act. If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children for

whom the parent supervises home education, except as provided for in section 9 of this Act.

SECTION 4. AMENDMENT. Section 15.1-23-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-09. Home education - ~~Standardized achievement test~~ Required tests.

1. While in grades three, four, six, eight, and ten eleven, each child receiving home education shall ~~take a standardized achievement test used by the school district in which the child resides or, if requested by the parent,~~ shall:
 - a. Take the state assessment, as provided in section 15.1-21-08; or
 - b. At the option of the child's parent, take a nationally normed standardized achievement test.
2. The child shall take the state assessment or the achievement test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.

SECTION 5. AMENDMENT. Section 15.1-23-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-10. Home education - ~~Standardized achievement test~~ Required tests - Cost.

1. If a child receiving home education takes the ~~standardized achievement test used by the school district in which the child resides~~ state assessment, the child's school district of residence is responsible for the cost of the ~~test~~ assessment and for the cost of administering the ~~test~~ assessment. The school district shall ensure that the ~~test~~ assessment is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
2.
 - a. If the child takes a nationally normed standardized achievement test ~~not used by the school district in which the child resides~~, the child's parent is responsible for the cost of the test:
 - b. ~~The and the cost of administering a the test under this subsection is the responsibility of the child's parent if the test is administered by an individual who is selected by the parent. An individual selected by the child's parent to administer a test under this subsection. The test administrator selected by the child's parent must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.~~
 - e. b. The cost of administering a test under this subsection is the responsibility of the school district if, at the request of the child's parent, the school district administers the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board. child's parent is also responsible for the cost of having the test graded by the testing company.

SECTION 6. AMENDMENT. Section 15.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-11. Home education - State assessment - Standardized achievement test - Results.

1. A parent supervising the child's home education shall file the results of the child's state assessment or standardized achievement test with the superintendent of the district in which the child resides or with the county superintendent if the district does not employ a superintendent.
2. ~~If the child's basic composite score on a standardized achievement test is less than the thirtieth percentile nationally~~ a child receiving home education obtains either a score in the lowest achievement level of the state assessment or a score below the thirtieth percentile on a nationally normed standardized achievement test, as specified in section 15.1-23-09, a multidisciplinary assessment team shall assess the child for a potential learning problem under rules adopted by the superintendent of public instruction.
3. If the multidisciplinary assessment team determines that the child is not disabled and the child's parent wishes to continue home education, the parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the superintendent of the school district or with the county superintendent if the district does not employ a superintendent. The parent is responsible for any costs associated with the development of the remediation plan. If the parent fails to file a remediation plan, the parent is deemed to be in violation of compulsory school attendance provisions and may no longer supervise the home education of the child.

SECTION 7. AMENDMENT. Section 15.1-23-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-12. Home education - Remediation plan. The superintendent of the school district shall use the remediation plan required by section 15.1-23-11 as the basis for determining reasonable academic progress. The remediation plan must remain in effect until such time as the child achieves ~~on a standardized achievement test a basic composite~~ a score above the lowest achievement level on every subject tested on the state assessment, a score at or above the thirtieth percentile on every subject tested on a nationally normed standardized achievement test, as specified in section 15.1-23-09, or a score, which when compared to the previous year's test score, demonstrates one year of academic progress. At the option of the parent, the test may be one required by section 15.1-23-09 or one administered in a higher grade level. The child's parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or who is approved to teach by the education standards and practices board, may amend the remediation plan from time to time in order to accommodate the child's academic needs. If after a remediation plan is no longer in effect the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a remediation plan must again be developed and implemented.

SECTION 8. AMENDMENT. Section 15.1-23-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-13. Home education - Disabilities - Services plan.

1. a. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise the child's home education, provided that:
 - (1) The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
 - (2) The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
- b. If the multidisciplinary team determines that the child has a developmental disability, the parent may continue to supervise home education under the provisions of sections 15.1-23-14 and 15.1-23-15.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem ~~upon scoring below the thirtieth percentile on a subsequent standardized achievement test~~ unless the reevaluation is performed pursuant to the child's services plan.

SECTION 9. A new section to chapter 15.1-23 of the North Dakota Century Code is created and enacted as follows:

Violation of chapter - Penalty. If the superintendent of public instruction determines, after a hearing as provided for in chapter 28-32, that a child's parent has violated a provision of this chapter, unless otherwise provided, the superintendent shall direct the child's school district of residence to monitor the parent for a period of one year. If the parent is already being monitored under section 15.1-23-06, the superintendent shall direct the child's school district of residence to extend the monitoring of the parent for a period of one additional year. The child's parent is responsible for the cost of any monitoring required by this section."

Renumber accordingly

Date: 7 Mar 07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2371

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number 70835-0302

Action Taken Amend 2371 per attached

Motion Made By Mueller Seconded By Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	—	—	Rep Hunskor	✓	
Rep Haas	✓		Rep Mueller	✓	
Rep Herbel		✓	Rep Myxter	✓	
Rep Johnson		✓	Rep Solberg	✓	
Rep Karls		✓			
Rep Sukut	✓				
Rep Wall		✓			

Total Yes 8 No 4

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

70835.0302

Date: 7 Mar 07

Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2371

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number 70835-0302

Action Taken do Pass as Amended

Motion Made By Haas Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch		✓	Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunskor		✓
Rep Haas	✓		Rep Mueller	✓	
Rep Herbel		✓	Rep Myxter	✓	
Rep Johnson		✓	Rep Solberg	✓	
Rep Karls		✓			
Rep Sukut	✓				
Rep Wall		✓			

Total Yes 6 No 6

Absent 1 (Meier)

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 7 Nov 07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2371

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number 70835-0302

Action Taken do Not Pass as amended

Motion Made By Johnson Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson		✓
V Chairman Meier	✓		Rep Hunskor	✓	
Rep Haas		✓	Rep Mueller		✓
Rep Herbel	✓		Rep Myxter		✓
Rep Johnson	✓		Rep Solberg		✓
Rep Karls	✓				
Rep Sukut		✓			
Rep Wall	✓				

Total Yes 7 No 6

Absent 0

Floor Assignment Karls

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2371, as reengrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2371 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-23 of the North Dakota Century Code, relating to violations of the home education chapter; to amend and reenact sections 15.1-23-03, 15.1-23-05, 15.1-23-06, 15.1-23-09, 15.1-23-10, 15.1-23-11, 15.1-23-12, and 15.1-23-13 of the North Dakota Century Code, relating to the provision of home education; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-23-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-03. Home education - Parental qualifications. A parent may supervise home education if the parent:

1. Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Holds a baccalaureate degree;
3. Has met or exceeded the ~~cutoff state's qualifying score of a national teacher examination given in this state or in any other state if this state does not offer such a~~ on the preprofessional skills test; or
4. Meets the requirements of section 15.1-23-06.

SECTION 2. AMENDMENT. Section 15.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-05. Home education - Academic records. A parent supervising home education shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including the results of any standardized achievement test results or state assessment. If the child transfers to a public school district, the parent shall furnish the record, upon request, to the school district superintendent or other administrator.

SECTION 3. AMENDMENT. Section 15.1-23-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-06. Home education - Required monitoring of progress. A parent who has a high school diploma or a general education development certificate may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains either a below grade level proficiency score in any subject tested on the state assessment or a basic composite standardized achievement test score below the fiftieth percentile nationally, in any subject tested on an alternative assessment specified in section 15.1-23-09, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile on an alternative assessment allowed under section 15.1-23-09. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the parent and the monitor or as provided

for in section 9 of this Act. If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children for whom the parent supervises home education, except as provided for in section 9 of this Act.

SECTION 4. AMENDMENT. Section 15.1-23-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-09. Home education - ~~Standardized achievement test~~ Required tests.

1. While in grades three, four, six, eight, and ~~ten~~ eleven, each child receiving home education shall ~~take a standardized achievement test used by the school district in which the child resides or, if requested by the parent, shall:~~
 - a. Take the state assessment, as provided in section 15.1-21-08; or
 - b. At the option of the child's parent, take a nationally normed standardized achievement test.
2. The child shall take the state assessment or the achievement test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.

SECTION 5. AMENDMENT. Section 15.1-23-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-10. Home education - ~~Standardized achievement test~~ Required tests - Cost.

1. If a child receiving home education takes the ~~standardized achievement test used by the school district in which the child resides~~ state assessment, the child's school district of residence is responsible for the cost of the ~~test~~ assessment and for the cost of administering the ~~test~~ assessment. The school district shall ensure that the ~~test~~ assessment is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
2.
 - a. If the child takes a nationally normed standardized achievement test ~~not used by the school district in which the child resides~~, the child's parent is responsible for the cost of the test-
 - b. ~~The~~ and the cost of administering a the test under this subsection is the responsibility of the child's parent if the test is administered by an individual who is selected by the parent. An individual selected by the child's parent to administer a test under this subsection. The test administrator selected by the child's parent must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
 - e. ~~b.~~ The cost of administering a test under this subsection is the responsibility of the school district if, at the request of the child's parent, the school district administers the test. The school district

~~shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board~~ child's parent is also responsible for the cost of having the test graded by the testing company.

SECTION 6. AMENDMENT. Section 15.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-11. Home education - State assessment - Standardized achievement test - Results.

1. A parent supervising the child's home education shall file the results of the child's state assessment or standardized achievement test with the superintendent of the district in which the child resides or with the county superintendent if the district does not employ a superintendent.
2. ~~If the child's basic composite score on a standardized achievement test is less than the thirtieth percentile nationally~~ a child receiving home education obtains either a score in the lowest achievement level of the state assessment or a score below the thirtieth percentile on a nationally normed standardized achievement test, as specified in section 15.1-23-09, a multidisciplinary assessment team shall assess the child for a potential learning problem under rules adopted by the superintendent of public instruction.
3. If the multidisciplinary assessment team determines that the child is not disabled and the child's parent wishes to continue home education, the parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the superintendent of the school district or with the county superintendent if the district does not employ a superintendent. The parent is responsible for any costs associated with the development of the remediation plan. If the parent fails to file a remediation plan, the parent is deemed to be in violation of compulsory school attendance provisions and may no longer supervise the home education of the child.

SECTION 7. AMENDMENT. Section 15.1-23-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-12. Home education - Remediation plan. The superintendent of the school district shall use the remediation plan required by section 15.1-23-11 as the basis for determining reasonable academic progress. The remediation plan must remain in effect until such time as the child achieves ~~on a standardized achievement test a basic composite~~ a score above the lowest achievement level on every subject tested on the state assessment, a score at or above the thirtieth percentile on every subject tested on a nationally normed standardized achievement test, as specified in section 15.1-23-09, or a score, which when compared to the previous year's test score, demonstrates one year of academic progress. At the option of the parent, the test may be one required by section 15.1-23-09 or one administered in a higher grade level. The child's parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or who is approved to teach by the education standards and practices board, may amend the remediation plan from time to time in order to accommodate the child's academic needs. If after a remediation

plan is no longer in effect the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a remediation plan must again be developed and implemented.

SECTION 8. AMENDMENT. Section 15.1-23-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-13. Home education - Disabilities - Services plan.

1. a. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise the child's home education, provided that:
 - (1) The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
 - (2) The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
- b. If the multidisciplinary team determines that the child has a developmental disability, the parent may continue to supervise home education under the provisions of sections 15.1-23-14 and 15.1-23-15.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem ~~upon scoring below the thirtieth percentile on a subsequent standardized achievement test~~ unless the reevaluation is performed pursuant to the child's services plan.

SECTION 9. A new section to chapter 15.1-23 of the North Dakota Century Code is created and enacted as follows:

Violation of chapter - Penalty. If the superintendent of public instruction determines, after a hearing as provided for in chapter 28-32, that a child's parent has violated a provision of this chapter, unless otherwise provided, the superintendent shall direct the child's school district of residence to monitor the parent for a period of one year. If the parent is already being monitored under section 15.1-23-06, the superintendent shall direct the child's school district of residence to extend the monitoring of the parent for a period of one additional year. The child's parent is responsible for the cost of any monitoring required by this section."

ReNUMBER accordingly

Date: 14 Mar 07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2371

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider 2371

Motion Made By Karls Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep Hanson		
V Chairman Meier			Rep Hunskor		
Rep Haas			Rep Mueller		
Rep Herbel			Rep Myxter		
Rep Johnson			Rep Solberg		
Rep Karls					
Rep Sukut					
Rep Wall					

Total Yes 1 No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

no record

2007 TESTIMONY

SB 2371

TESTIMONY FOR SB 2371
EDUCATION COMMITTEE
FEBRUARY 6, 2007

Chairman Freborg and Committee Members,

I am Senator Joan Heckaman from New Rockford in District 23.

As a public educator for over 30 years, I'm sure you are wondering why I am sponsoring a bill for home schooling.

The state of North Dakota has supported home schooling for a number of years. I have had close friends who have home schooled their children and I understand their philosophy for choosing this educational service delivery system. I received a call from a constituent in my district concerning this issue. I felt their issue had merit.

Currently North Dakota's code relating to the provision of home education limits the supervision of the child's program to the parent. As our extended families expand and change in our state, it was brought to my attention that grandparents and foster parents may also wish to use a home education service model.

This bill would enable grandparents or foster care providers to supervise home education plans if they meet the current criteria as set forth in the century code.

I will let others provide testimony to the committee and ask for your support of SB 2371.

Testimony of Alan & Leslie Gleason

SB 2371

Bismarck, ND

1-06-07

*same
to House*

Madam/Mr Chairman, Members of the Committee, Ladies and Gentlemen:

1. My name is Alan Gleason. My wife Leslie & I are grandparents who were directly affected by this bill. We have a grandson who is 8 years old and has stayed with us since he was about 2 years old. He is very active and has a short attention span in certain subjects. My wife asked the parents if she could school him for kindergarten. They said it would be the best thing to do so Leslie home schooled him for kindergarten, first grade, and ½ of 2nd grade. He is currently in 2nd grade in Public School and doing very well. We believe that without the one on one schooling Leslie did with our grandson he would not be doing as well in school today.

2. Another thing happened several years ago. Leslie had a nephew who was in the Devils Lake Public School. He was in 6th grade but he was at about a 3rd grade level in most subjects. He was having major problems in school and other areas. Leslie volunteered to home school her nephew for a year. The school and the parents gladly agreed. After completion of the year he had made improvements bringing him up 2 or 3 grade levels in some subjects. The following year he went back to public school. In this case Leslie was the aunt so it may be best to amend bill SB 2371 so anyone who meets the qualifications and has the parents permission can school a child.

3. Just a little bit of history. Approximately 20 out of the first 35 presidents were able to school with a father, mother, uncle, grandparent, governess, or tutor. Teddy Roosevelt, one of our greatest presidents loved North Dakota and lived here. He was very sickly as a child. His father and a tutor taught him for the first fourteen years of his life. North Dakota has the Theodore Roosevelt National Park and we are also noted to be the Rough Rider State. Theodore Roosevelt once remarked, "I never would have been president if it had not been for my experiences in North Dakota." Who knows how different his life may have been if he would not have had the opportunity to do schooling and traveling with his father and a tutor.

Who better to help a child than someone who really loves and cares for them. If someone shows this much love & concern to tackle such a huge responsibility in order to help a child their should not be a law against it. We hope we can count on your support for bill SB 2371.

Thank you. Are there any questions?

Testimony of Dennis and Dinah Gleason

SB 2317

Bismarck, ND
2-6-2007

Mr. Chairman, Members of the Committee, Ladies and Gentleman

My name is Dinah Gleason, my husband is Dennis Gleason. I have been home educating for almost 20 years in this fine state of North Dakota and before that in Texas. I was home educating in this state when North Dakota saw us as illegal, we were told we didn't care for our kids and therefore we just had them at home. We were told we just wanted to work them on the farm, we don't farm! I am a Registered Nurse with some pre-med and my husband is a General Contractor. We stood on our 1st amendment rights of Freedom of Religion and the 14th where the United States Constitution wins over the state law IF the state law goes against the Constitution.

When North Dakota state law changed, I and many others rushed to beat the dead line to sign up to take the National Teachers Exam. There was little time for study. I took the 1st one available, passed and became legal to the state.

In the early years my mother-in-law, as a former teacher, and my children's grandparent, filled in teaching during family emergencies.

I have home educated up to 6 children, five of my own and a nephew in 6th grade came to me from public school in Kansas, he could barely read. We would work all day on phonics, I remember the 1st time he made a D, we were so excited! He learned and eventually went back to his home, finished school and graduated. At that time (18 years ago), the state still considered me illegal as before mentioned. Recently, last summer, another nephew came from another school. I put him in public school, I was not allowed to home educate him, he was doing mostly 9th grade work for the 3rd year in a row. After 3 month of failing most of the same classes again, being disrespectful to the overworked and underpaid teachers, I took him out and we went to the college and had him do a pre-test for the GED. The school said he would not qualify for alternative school mostly because of his behavior. I agree, 'you can bring a horse to water but you can't make him drink.' He passed his pre-test and went the next two weeks and received his GED.

I am now in my 50's and a grandparent. This bill directly affects us, our oldest daughter who graduated from Homeschool in ND now lives in Houston, Texas, with her husband and child. They are planning to move back to ND to finish their college, my daughter, her RN, my son-in-law, his business degree, I would then help take care of my grandchild. My daughter has asked me to consider helping her teach my grandchild when she becomes school age. My daughter is a bit nervous about this, as she remembers the hardship we went through years ago. We must admit, few come to ND for extended

university, so many of our children leave and never return. ND is my home now and I would like my family to stay even after they get their degrees!

I have not asked anything of my state, except to educate any children in my charge by my freedoms given to me by the 1st Amendment and yet I went through a few years of fear of my children being taken away, police involvement, and much prayer of standing for what we believe. Please allow this bill to pass so my family can stay together, and others will stay in the state, and others will move in.

We are a loyal, patriotic bunch of families. There is even a Monument for home schoolers: MT. RUSHMORE!!!!

All 4 presidents were home or self educated.

Who knows, maybe one day we will be foster parents. It takes alot of love and concern to take on this tremendous task of home educating and it would be sad to have a law against it.

Please pass this bill for grandparents and guardians, by parent permission ect., to be able to home educate, for the betterment of our families and state!

Thank you very much for your time!
Are there any questions?

PS Could you think about making our children recognized as graduates as we submit to the requirements? I do not understand this.

FROM THE OFFICE OF THE
NORTH DAKOTA HOME SCHOOL ASSOCIATION

February 6, 2007

**TESTIMONY OF DR. BARTLETT ON SB 2371
BEFORE THE ND SENATE EDUCATION COMMITTEE**

Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

My name is Dr. Jim Bartlett and I am the Executive Director of the North Dakota Home School Association, which a non-profit association that has been serving North Dakota home educators since 1985. Our office is located in Bottineau, and our mailing list currently contains 662 North Dakota Families. Thank you for the opportunity to present this testimony in support of SB 2371.

Restrictions on Instructors

1. Included with this written testimony is a "List of Restrictions on Instructors in a Home Education Program." This document shows how other states allow grandparents, legal guardians, and foster care providers to home school their children, where the current North Dakota law does not. That would include 44 states.
2. If a child is in the care of grandparents, legal guardians or foster care, it is only sensible that these people be allowed to home educate if they choose. Often, where the parent is unable to be the primary care giver to a child, the child will heal, learn and mature quicker in the loving, one-on-one tutorial, home learning environment.
3. Not allowing foster parents to home educate reduces the number of foster parents available because many loving, capable, home educating parents find that positive socialization improves academic achievement and moral leadership. Therefore, having a child in public school while home educating other children reduces the effectiveness of home education due to the negative socialization received in public school which comes home in form of secular humanism and the immoral pop culture. Home schooling families

are generally morally sound and have loving environments with full-time stay-at-home moms, who may be especially important to a child placed in foster care.

4. Where financial or time or knowledge constraints limit what parents have available to home educate their children, grandparents can and often desire to fill the gap. This is encouraged in the Christian scriptures (Deuteronomy 6:2) and has many practical and family strengthening aspects. Grandparents often have knowledge, wisdom, understanding and skills which would help their grandchildren. Grandparents say that home schooling makes them feel younger and that it is good for their physical and mental health! They also say that it is a wonderful way to stay in close loving contact with their grandchildren and pass on their faith to the second generation.

5. There are likely hundreds of families in North Dakota that would home school the children, if the parents had a better support system within their extended family unit, and especially if that support came from the grandparents of the children. These parents wish they could home school, but feel that they cannot live on one paycheck, or feel that their education did not prepare them well enough to teach what they ought to have learned.

6. A full investigation of home education reveals that home education is in the best interest of both the taxpayer and the State because the majority of home educators (80% nationally) have Christian convictions which they teach to their children. They teach the children not be a burden on society, to obey the laws of the land, and love their children. Home education is motivated by parents', grandparents', and legal guardians' love for their children and their faith; and not by social engineering or financial gain.

7. With home education growing nationally at the rate of 7% to 12 % per year (Research Facts on Homeschooling, National Home Education Research Institute, July 10, 2006), the number of grandparents, legal guardians and foster parents desiring to home educate is likewise expected to grow.

8. Our office receives calls every week from parents and grandparents who have been cured of homeschool phobia through their observing the good academic, philosophical, moral and economic fruit of home education and want to know how they can be more involved in the education of their children and grandchildren.

Standardized Achievement Tests

9. This bill removes the “nationally normed” limitation from the achievement test requirement to give parents more options for testing. This change would then allow parents to take the North Dakota State Assessment test, which is the test which North Dakota requires of public schools. Other children with special needs would also have more options for appropriate testing.

Basic Battery is the Correct Language

10. This bill also corrects the language used in describing the standardized achievement test results. The word “basic” is removed as used with “basic composite” since that has no meaning and used appropriately with “basic battery” as per page three of the bill. This does not affect any aspect of the current testing requirements.

Amend to Allow Administration of Test by Those Qualified

10. Referring to page 5, line 22 of this bill, the language referring to who shall administer the test should be completed by adding “or qualified by the test publisher.”

Summary

To summarize, the North Dakota Home School Association urges you to support SB 2371, with the amendment which allows administration of the test by those qualified, for the sake of educational quality, American principles of liberty, strengthening families, and the best interests of the children and the state.

Thank you for your time and attention. Are there any questions?

1854 107TH STREET NORTHEAST
BOTTINEAU, NORTH DAKOTA 58318
(701) 263-3727

*Encouraging multigenerational faithfulness to the Lord Jesus Christ. Psalm 78:6-7
Assisting home schoolers since 1985.
office@ndhsa.org, ndhsa.org*

Restrictions on Instructors in a Home Education Program

Alabama – No restriction on instructors.

Alaska – Law requires the instruction be provided by the child's parent or legal guardian.

Arizona – Parent simply files the affidavit, no restriction on the instructor.

Arkansas – A home school requires primary instruction from the parent or legal guardian.

California - Private school state merely requiring "capable" instructor.

Colorado – Law permits instruction by parent, guardian or adult relative designated by the parent.

Connecticut – There is no home instruction statute. Children receiving instruction away from public school must receive "equivalent instruction."

Delaware – All options define homeschooling as education of children "primarily by the parent(s) or legal guardian(s)."

Florida – Homeschool statute defines home education as "directed by his or her parent or guardian," so apparently a grandparent could teach.

Georgia – Home study statute limits instruction to the parent but permits parent to employ a tutor.

Hawaii – "A parent teaching the parent's child shall be deemed a qualified instructor."

Idaho – No restriction on instructors.

Illinois – No restriction on instructors.

Indiana – No restriction on instructors.

Iowa - Parents must file the Competent Private Instruction Report Form which names the instructor, but there is no restriction on instructors.

Kansas – Private school state, no restriction on instructors..

Kentucky – Private school state, no restriction on instructors.

NDHSA on SB2371 Bartlett Testimony

- Louisiana – Parents must apply for approval for home education, but there is no restriction on instructors.
- Maine – Parents must file a one-time notice of intent, but there is no restriction on instructors.
- Maryland – No restriction on instructors.
- Massachusetts – No homeschool statute, but case law says school district may examine the competency of the parents to teach their children.
- Michigan – There is a statutory exemption to public school attendance if the child is being educated at the child's home by his or her parent or legal guardian.
- Minnesota – The law requires the home instructor to be qualified under the statute but doesn't specify that the instructor must be the parent or legal guardian.
- Mississippi – Parents or legal guardians must file the certificate of enrollment, but there is no restriction on instructors.
- Missouri – No restriction on instructors.
- Montana – The statute defines a homeschool as “instruction by a parent of his child, stepchild, or ward in his residence.”
- Nebraska – Private school state, no restriction on instructors.
- Nevada – No restriction on instructors.
- New Hampshire – The law requires instruction by the parent unless agreed upon otherwise.
- New Jersey – No restriction on instructors.
- New Mexico – The law defines a home school as the operation of the parent of a school-aged person of a home study program of instruction.
- New York – Parents must file the Notice of Intent and IHIP, but there are no restrictions on instructors.
- North Carolina – Statute defines a home school as a “nonpublic school in which one or more children of not more than two families or households receive academic instruction from parents, or legal guardians, or a member from either household.”
- North Dakota – Statute defines home education as a program for a child provided by the child's parent in the child's home.
- Ohio – Law defines home education as education primarily directed and provided by the parent.
- Oklahoma – No restriction on instructors.
- Oregon – Children are exempt from public school if they are being educated in the children's home by a parent or legal guardian.
- Pennsylvania – Instruction is provided by the supervisor, defined as the “parent or guardian or such person having legal custody of the child or children....”

Rhode Island – Child may receive “at-home instruction” if approved by the school committee. No restriction on instructor.

South Carolina – The language beginning each home school option in South Carolina limits instruction by stating, “Parents or guardians may teach their children at home if....”

South Dakota – No restriction on instructors. Since the statute places a prohibition on instruction of more than twenty-two children, it is doubtful that instruction would be limited to the parents.

Tennessee – Statute defines a home school as “a school conducted by parent(s) or legal guardian(s) for their own children.”

Texas – Private school state, no restriction on instructors.

Utah – Parents must file the affidavit, but there are no restrictions on instructors.

Vermont – defines home study as a minimum course of study offered to not more than (a) children residing in that home and (b) children not residing in that home who either are two or fewer in number or who are from one family. Further, the notice filed for the home study program is to include contact information for “persons providing instruction in any required subject” and the signatures of all custodial parents or guardians legally authorized to make educational decisions for the student.

Virginia – Section 22.1-254.1 *et seq* of Virginia Code Annotated. Section 22.1-254.1(A) states “parental instruction of children is an acceptable form of education.”

Washington – Statute says that home-based instruction must be provided by “a parent who is instructing his or her child only.”

West Virginia – One option under the law requires instruction by a person adjudged by the superintendent and county board to be qualified to give instruction, but the law does not limit that person to be the parent of the child. The other option requires the parent to file a form indicating an intention to provide home instruction and evidence of the parent’s high school diploma or its equivalent.

Wisconsin – The law defines home-based private educational program as instruction provided to the child by the child’s parent or guardian or by a person designated by the parent or guardian.

Wyoming – Parents must annually submit curriculum, but there is no restriction on instructors.

TESTIMONY on SB 2371
By Greg Gallagher
Department of Public Instruction
February 6, 2007

Mr. Chairman and Members of the Senate Education Committee,

I am Greg Gallagher, Standards and Achievement Director within the Department of Public Instruction. I am here to provide testimony in opposition of SB 2371.

SB 2371 proposes basic changes to the state's current home education law regarding who may teach a home education student and how home education students are assessed for the purposes of monitoring student progress. The Department of Public Instruction opposes any changes to current state law.

In a February 1, 2007 opinion from the Attorney General, the clear tenets of home education have been upheld, including the exclusive role of the parent as the teacher of record. The Department defers to the contents of the Attorney General's ruling and the interpretation of the Department of Human Services regarding the proper definitions of a parent or foster parent for the purposes of home education. The Department of Public Instruction opposes any changes to the current role of the parent as the provider of home education.

The Department of Public Instruction directs its opposition to SB 2371 regarding the proposed change in the manner that home education students are assessed for monitoring overall achievement.

The Department of Public Instruction specifically opposes the amendments proposed within Sections 6, 8, 9, and 11 of SB 2371, regarding changes to the current testing requirements. The current law exists to provide a clear measure for the monitoring of student achievement and the ability of parents and school officials to identify lower levels of achievement that may require additional services for the student. This monitoring guides parents and the school officials to identify possible learning difficulties or inadequate instruction. The proposed amendments within SB 2371 remove nationally normed reporting as the understood reference for student achievement; in its place, the proposed amendment provides no discernable reference for student achievement, at all.

A nationally normed assessment is one that reports student achievement relative to how a national sample of students performed. A student's performance is presented

as the percentage of students that performed higher or lower than the student; for instance, a student score at the 65th percentile indicates that the student performed better than 65% of all students nationwide. Clear achievement references, like national norming or the state's challenging achievement standards, are required if there is to exist any means for parents and school officials to measure and compare student achievement for the purposes of determining the sufficiency of student progress.

The state should not allow any form of assessment that does not clearly define its point of reference. In the absence of any clearly defined reference point, the state must presume that no reference point exists. The state must protect any student from poorly designed assessments or poorly defined or interpreted assessment results.

The Department has long supported the administration of the state's standardized assessment for all students, including students instructed through home education. The state's assessments would provide for truly meaningful referencing regarding student achievement. The state's current home education test law limits the number of grade levels at which the test is administered; furthermore, the law does not specify the subject matter to be tested. The proposed amendments within SB 2371 remain silent on the content of the assessments to be used, referring only to an undefined basic battery.

The state's current law minimally references national normed reporting. Minimally, in the absence of any state-defined achievement standards, national norming provides a clear, unmistakable reference point. Under no condition should the state permit undefined assessment products or procedures to hinder or cloak the state's need to protect the well being of all its students, whether they be instructed in a public school, a non-public school, or a home education setting.

Mr. Chairman, this completes my testimony. I am available to answer any questions from the committee.



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
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LETTER OPINION
2007-L-03

February 1, 2007

The Honorable Merle Boucher
State Representative
House Chambers
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Representative Boucher:

Thank you for your letter asking whether a parent home schooling the parent's child must be the person providing the education to the student or whether the parent may supervise another person who provides the education to the child. For the reasons explained below, it is my opinion that the parent must provide the education and may not merely supervise the individual providing the education to the child.

ANALYSIS

Section 15.1-23-01, N.D.C.C., defines "home education" as "a program of education supervised by a child's parent, in the child's home." Throughout N.D.C.C. ch. 15.1-23, the chapter authorizing home schooling, there are several other references to the parent "supervising" the home education provided to the parent's child. For example, N.D.C.C. § 15.1-23-02 states that "a parent intending to supervise or supervising home education" must file a statement of intent which must include the name and address of the parent "who will supervise the home education" and the qualifications of the "parent who will supervise the home education." North Dakota law provides that a parent may supervise home education if the parent is licensed or approved to teach by the Education Standards and Practices Board, holds a baccalaureate degree, has met or exceeded the cutoff score of a national teacher examination, or has received a high school diploma or a general education development certificate and is monitored for the first two years.¹ And N.D.C.C. § 15.1-23-04 states that a "parent supervising home education" shall include instruction in areas required to be taught to public school children.

¹ N.D.C.C. §§ 15.1-23-03 and 15.1-23-06.

LETTER OPINION 2007-L-03

February 1, 2007

Page 2

Using the terms "supervise home education" and variations of those terms throughout N.D.C.C. ch. 15.1-23 creates an ambiguity. It is not clear whether the terms mean that the parent must supervise the education by providing the home education directly to the student, or whether the parent may "supervise" someone else who is providing the education, but who may not meet the qualifications specified in N.D.C.C. §§ 15.1-23-03 and 15.1-23-06.

The primary purpose of statutory construction is to ascertain the Legislature's intent.² When a statute is ambiguous, the statutory rules of construction permit the use of extraneous sources, including the legislative history, to determine legislative intent.³ The home education law in N.D.C.C. ch. 15.1-23 was originally enacted in 1989.⁴ This law created an exception to the compulsory attendance law for home-based instruction.⁵ The legislative history supports the conclusion that home-based instruction must be provided to a child by a parent who meets one of the qualifications described above. It does not permit a parent to supervise education provided to that parent's child by another individual.

The prime sponsor of the bill testified that under the bill "the parent may legally teach if the parent has passed a national teacher exam or if that parent has a high school education and is supervised by a certified teacher employed by a public school in which they reside."⁶ Representative Melby, another sponsor, testified that "responsible parents should [be] allowed to instruct their children at home."⁷ Yet another sponsor of the bill testified that the intent of the bill was to "provide parents and their children with a broad range of educational opportunities in a manner that will permit the accomplishment of the necessary objectives without infringing upon the right of parents to raise and teach their children. . . . A parent qualifying must successfully complete a refresher course in home-based instruction every third year."⁸ Reverend Clinton Birst, Executive Director, North Dakota Home School Association, said "[w]e ask you to accept that parents are effective educators. They have experience educating their children at home" ⁹ The

² Leet v. City of Minot, 721 N.W.2d 398, 404 (N.D. 2006).

³ N.D.C.C. § 1-02-39; Leet v. City of Minot, 721 N.W.2d at 404.

⁴ 1989 N.D. Sess. Laws ch. 198.

⁵ N.D.A.G. Letter to Sanstead (Dec. 22, 1989).

⁶ Hearing on H.B. 1421 Before the House Comm. on Education, 1989 N.D. Leg. (Feb. 8) (Testimony of Rep. Dan Ulmer).

⁷ Hearing on H.B. 1421 Before the House Comm. on Education, 1989 N.D. Leg. (Feb. 8) (Testimony of Rep. Art Melby).

⁸ Hearing on H.B. 1421 Before the House Comm. on Education, 1989 N.D. Leg. (Feb. 8) (Testimony of Rep. Dagne Olson).

⁹ Hearing on H.B. 1421 Before the House Comm. on Education, 1989 N.D. Leg. (Feb. 8) (Testimony of Rev. Clinton Birst).

LETTER OPINION 2007-L-03

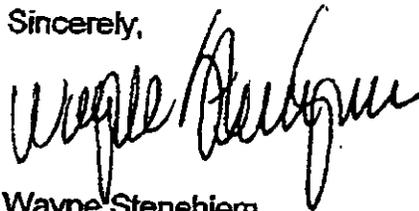
February 1, 2007

Page 3

minutes of the House Appropriations Education and Environment Subcommittee state that this bill allows "home-based education - a parent teaching their own child."¹⁰ Jim Vukelic, the solicitor general for this office at the time, explained that the bill was drafted by the Attorney General's office and was the result of a task force formed by this office to study the state's compulsory attendance laws.¹¹ He stated that this bill "would allow parents to teach their children at home."¹² When asked whether the bill requires the teacher to be the parent or whether it would be possible for the parent to farm out a student to someone else who was certified, he responded that "it would have to be a parent. The bill is specific as to that."¹³

In conclusion, it is my opinion that only a parent, qualified under N.D.C.C. §§ 15.1-23-03 and 15.1-23-06, may provide home-based instruction to that parent's child. With respect to home-based instruction, North Dakota law does not permit a parent to supervise the education of that parent's child by any other individual.

Sincerely,

Wayne Stenehjem
Attorney General

jak/pg

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.¹⁴

¹⁰ Hearing on H.B. 1421 Before the House Subcommittee on Appropriations Education and Environment, 1989 N.D. Leg. (Feb. 20).

¹¹ Hearing on H.B. 1421 Before the House Comm. on Education, 1989 N.D. Leg. (Feb. 8) (Testimony of James Vukelic).

¹² Id.

¹³ N.D.A.G. Letter to Sanstead (Dec. 22, 1989) (citing Hearing on H.B. 1421 Before the House Comm. on Education, 1989 N.D. Leg. (Feb. 8) (Testimony of James Vukelic)).

¹⁴ See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).

Testimony
Senate Bill 2371 – Department of Human Services
Senate Education Committee
Senator Layton W. Freborg, Chairman
February 6, 2007

Chairman Freborg and members of the Senate Education Committee, my name is Paul Ronningen; I am the Director of the Children and Family Services Division of the Department of Human Services. I'm here today to offer testimony in opposition to Section 1 of the bill before you, SB 2371.

When faced with situations where we must remove a child from their home because of safety concerns, the court places the child in the care, custody and control of an agency, typically a county social services agency. As a custodian, under current North Dakota law (NDCC 27-20-38) the Department of Human Services is given the right, and the duty, to make decisions regarding the child, specifically educational decisions. The Department works closely with foster parents and others as a team to make the best and most informed decisions for the children in our custody. We already have many options for special services to address educational issues that a foster child may have.

Section 1 of this bill clearly gives foster parents, with the permission of the Department of Human Services, the opportunity to provide home education to a child. The decision to offer home education is a decision best made by a parent, not by a custodial agency. The options available for public school education are, and have always been, sufficient to meet the needs of children in foster care. Foster parents already assume a great deal of responsibility for providing day-to-day care for children in their homes; providing education in addition to all the other

responsibilities would be beyond the role we currently expect from our foster parents. Foster children benefit from the opportunities to be educated in an atmosphere that give them the maximum social benefits to build both peer-to-peer relationships and relationships with the various professionals who guide their education. Therefore, with all due respect, we oppose Section 3 of 15.1-23-01, found in Section 1 of SB 2371.

This concludes my testimony. I would be happy to answer any questions you might have.

IN-FORUM

Jonathan Bartlett, Bottineau, N.D., letter: Grandparents should be able to teach kids
The Forum - 12/16/2006

North Dakota is known to be the most restrictive state in the nation in regards to its regulations concerning home education. This is clear in the case of grandparents wishing to school their grandchildren.

In Deuteronomy 6, parents are given the responsibility of educating their children within the home. However, when parents need assistance in the process, they have the right to choose who will replace or help them in their educational capacity. North Dakota has denied this right to its citizens by limiting the parents' choice. There is absolutely no logical reason for a willing grandparent to be denied the privilege of passing on knowledge when his or her credentials in education are as legitimate as the parent's.

The Bible teaches in Proverbs 13:22a and Proverbs 17:6 that grandchildren are a joy to grandparents and that grandparents should pass on not only a physical inheritance but also more importantly an educational one. As we all know, it is natural for grandparents to enjoy their children's children, and it is just as natural that they pass on their hard-earned wisdom to them.

State precedence is clearly in favor of not restricting who the teacher must be. Thirty-six out of the 50 states do not require a parent to be the teacher, but instead, merely a "capable instructor."

Please defend freedom by showing your support of future legislation allowing grandparents to home school.

FROM THE OFFICE OF THE
NORTH DAKOTA HOME SCHOOL ASSOCIATION
February 28, 2007

**TESTIMONY OF DR. BARTLETT ON SB 2371
BEFORE THE ND HOUSE EDUCATION COMMITTEE**

Madam Chairman, Members of the Committee, Ladies and Gentlemen:

My name is Dr. Jim Bartlett and I am the Executive Director of the North Dakota Home School Association, which a non-profit association that has been serving North Dakota home educators since 1985. Our office is located in Bottineau, and our mailing list currently contains 662 North Dakota Families. Thank you for the opportunity to present this testimony in support of SB 2371.

Restrictions on Instructors who Home Educate

1. Included with this written testimony is a "List of Restrictions on Instructors in a Home Education Program." This document shows how other states allow grandparents and others to home school their children, where the current North Dakota law does not.

Forty-four states now allow grandparents to home school their grandchildren. It is in the interest of the state, education of the children, and families to not restrict who is doing the home education.

2. Where financial or time or knowledge constraints limit what parents have available to home educate their children, grandparents can and often desire to fill the gap. This is encouraged in the Christian scriptures (Deuteronomy 6:2) and has many practical and family strengthening aspects.

3. Our office often receives calls from people who would like to move to North Dakota, but first ask about the home schooling laws. Many large families have left North Dakota or are choosing not to come to North Dakota because the North Dakota home education law

is more burdensome than other states as exemplified by grandparents not being allowed to home educate.

Summary

To summarize, the North Dakota Home School Association urges you to support SB 2371 so that grandparents can home educate in North Dakota. Support this bill for the sake of educational quality, American principles of liberty, strengthening families, and the best interests of the children and the state.

Thank you for your time and attention. Are there any questions?

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*Encouraging multigenerational faithfulness to the Lord Jesus Christ. Psalm 78:6-7
Assisting home schoolers since 1985.
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