

# MICROFILM DIVIDER

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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 50<sup>th</sup> percentile, they need monitoring for a short period of time. If a child scores less than the 30<sup>th</sup> 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 30<sup>th</sup> 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 50<sup>th</sup> 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 30<sup>th</sup> 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 50<sup>th</sup> 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 Hunsakor:** 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

