

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1368
(Representatives Grande, Belter, Boehm)
(Senators Schobinger, Wanzek)

AN ACT to amend and reenact subsection 1 of section 15-34.1-00.1, subsection 5 of section 15-34.1-03, sections 15-34.1-06, 15-34.1-07, 15-34.1-08, 15-34.1-09, 15-34.1-10, and 15-34.1-11 of the North Dakota Century Code, relating to home education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-34.1-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~"Home-based instruction"~~ "Home education" means an educational program for ~~students a~~ child, based in the child's home and supervised by the child's parent or parents wherein a resident of North Dakota may legally fulfill the compulsory instruction requirements of section 15-34.1-01.

SECTION 2. AMENDMENT. Subsection 5 of section 15-34.1-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. That the child, not including a child with developmental disabilities as defined by subsection 1 of section 25-01.2-01, is receiving ~~home-based instruction~~ home education in accordance with the provisions of this chapter.

SECTION 3. AMENDMENT. Section 15-34.1-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-34.1-06. ~~Home-based instruction~~ Home education.

1. ~~Home-based instruction~~ Home education is an educational program for ~~students a child~~. It is based in the child's home and supervised by the child's parent or parents. ~~A parent who provides home-based instruction may only invoke the home-based instruction exception to compulsory attendance.~~
2.
 - a. A parent is qualified to supervise a program of ~~home-based instruction~~ home education if the parent is certified to teach in North Dakota; has a baccalaureate degree; or has met or exceeded the cut-off score of the national teacher exam given in North Dakota, or in any other state if North Dakota does not offer such a test.
 - b. A parent who has a high school diploma or a general education development certificate is qualified to supervise ~~home-based instruction~~ home education but must be monitored by a certificated teacher during the first two years the parent supervises ~~that instruction, and if~~ home education or until the child being instructed completes the third grade, whichever is later. If the child being instructed receives a composite standardized achievement test score below the fiftieth percentile nationally, the monitoring required by this section must continue during the following school year or longer if the child has not achieved the fiftieth percentile. If testing is not required by section 15-34.1-07 in either of the first two years of monitoring, the time of monitoring may not be extended except upon the mutual consent of the parent and the monitor. Once a parent has completed the monitoring requirements for one child, the parent may not be monitored with respect to other children being educated at home.

3. ~~Home-based instruction~~ Home education must include instruction in those subjects required to be taught in accordance with sections 15-38-07, 15-41-06, and 15-41-24 ~~and~~. Instruction must be provided for at least four hours per day for a minimum of one hundred seventy-five days per year.
4. Every parent supervising ~~home-based instruction~~ home education shall maintain an annual record of courses taken by the child and the child's academic progress assessments, including any standardized achievement test results. A parent shall furnish these records to any school to which the child may transfer upon request of the superintendent or other administrator of that public school district. A parent intending to supervise ~~home-based instruction~~ home education for the parent's child shall file an annual statement with the superintendent of the public school district in which the child resides. If the school district does not employ a local school superintendent, the statement must be filed with the county superintendent of schools for the county of the child's residence. The statement must be filed at least ~~thirty~~ fourteen days prior to the beginning of the ~~school semester for which the parent requests an exemption except when residency of the child is not established by that date. If residency has not been established, the statement must be filed within thirty days of the establishment of~~ home education or within fourteen days of establishing the child's residency within the district. The statement must include:
 1. a. The names and addresses of the parent who will supervise and the child who will receive ~~home-based instruction~~ home education;
 2. b. The date of birth and grade level of each child receiving home education;
 3. c. The intention of the parent to supervise ~~home-based instruction~~ home education;
 4. d. The qualifications of the parent who will supervise ~~the home-based instruction~~ home education;
 5. e. A list of courses or extracurricular activities in which the child intends to participate in the public school district;
 6. f. Proof of an immunization record as it relates to section 23-07-16; and
 7. g. Proof of identity as it relates to section 54-23.2-04.2; and
 8. ~~An oath or affirmation that the parent will comply with all provisions of this chapter.~~

SECTION 4. AMENDMENT. Section 15-34.1-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-34.1-07. ~~Students receiving home-based instruction~~ Home education - Quality assurance. ~~In order to meet the state's compelling interest in assuring that citizens of the state receive a quality education, the~~ The following minimum indices of quality education are established:

1. A standardized achievement test used by the public school in the school district in which the parent resides or, if requested by the parent, a nationally normed standardized achievement test ~~used by a state-approved nonpublic school~~ must be given to each child receiving ~~home-based instruction~~ home education in grades three, four, six, eight, and eleven. The test must be given in the child's learning environment or, at the option of the child's parent, in the public school and must be administered by a certified certificated teacher. The cost of such testing must be borne by the test is the responsibility of the local school district in which the parent resides if the test is administered by a certified teacher employed by a public school district or by the parent of the child if the test is a nationally normed standardized achievement test requested by the parent, if it is a test used by the district. The cost of administering the test is the responsibility of the local school if it is district administered by a certificated teacher employed by the district. The cost of the test is the responsibility of the parent if the test requested is not used by the local school district and the cost of having the test administered is the responsibility of the parent if it is administered by a certificated teacher secured by the parent. Results of such testing must

be filed with the local public school superintendent. If the parent resides in a school district which does not employ a local school superintendent, the results must be filed with the county superintendent of schools for the county of the parent's residence.

2. If the child's basic composite score on a standardized achievement test falls below the thirtieth percentile nationally, the child must be professionally evaluated for a potential learning problem by a multidisciplinary assessment team according to guidelines established by the superintendent of public instruction. If the multidisciplinary assessment team evaluation determines that the child is not ~~handicapped~~ disabled according to the eligibility criteria ~~of the department~~ established by the superintendent of public instruction ~~and the child does not require specially designed instruction according to rules adopted by the department of public instruction~~, the parent providing instruction may continue to ~~provide home-based instruction~~ conduct home education, upon filing with the superintendent of ~~the public instruction~~ school district, from an appropriately licensed professional, that the child is currently making reasonable academic progress when the learning abilities of the child are taken into consideration. If such statement is not filed, the parent is not entitled to an exemption under subsection 5 of section 15-34.1-03 or county superintendent if there is no local superintendent, a plan of remediation to address the academic deficiencies of the child. An annual determination of reasonable academic progress conducted by the local school district superintendent must be based on the child's plan of remediation. If such a plan is not filed, the parent is deemed to be in violation of the compulsory attendance requirement of section 15-34.1-01 and the child no longer qualifies for home education. Such plan of remediation must be developed in consultation with and with the approval of a state-certificated teacher selected by the parent. Costs associated with the consultation are the responsibility of the parent. The plan of remediation must remain in effect until such time as the child demonstrates reasonable academic progress by achieving a basic composite score on a standardized achievement test at or above the thirtieth percentile or a score indicating one year of academic progress as compared to a score on a test from the previous school year. The test may be one required by this section or one administered in an additional grade level, at the option of the parent. The plan of remediation may be amended from time to time in consultation with and with the approval of the state-certificated teacher in order to accommodate the academic needs of the child. If a plan of remediation is no longer in effect and the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a plan of remediation must again be developed and instituted. If the evaluation of the multidisciplinary assessment team determines that the child is ~~handicapped~~, but not developmentally disabled, but does not have a developmental disability, according to the eligibility criteria ~~of the department~~ established by the superintendent of public instruction, and that the ~~student~~ child requires specially designed instruction due to the ~~handicap~~ disability, and that this instruction cannot be provided without special education and related services, the parent providing instruction may continue to provide ~~home-based instruction~~ home education, upon filing with the superintendent of ~~the public instruction~~ school district an individualized education program plan, ~~formulated within rules adopted by the department of public instruction~~ developed privately or through the local school district, indicating that the child's ~~needs~~ need for special education ~~are~~ is being appropriately addressed by persons qualified to provide special education or related services. An annual determination of reasonable academic progress conducted by the local school district superintendent must be based on the child's individualized education plan. If such a plan is not filed, the parent ~~is not entitled to an exemption under subsection 5 of section 15-34.1-03~~ is deemed to be in violation of the compulsory attendance requirements of section 15-34.1-01, and the child no longer qualifies for home education. A child who is once evaluated by a multidisciplinary 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 provision of special education and related services.
3. Any ~~certified~~ certificated teacher monitoring ~~home-based instruction~~ home education shall spend, at a minimum, an average of one hour per week in contact with the first student and in conjunction with the parent. With two or more children under supervision, the teacher

shall ~~monitor~~ spend, at a minimum, an additional one-half hour per month for each child under the teacher's supervision who is receiving ~~home-based instruction~~ home education. The time may be reduced proportionately if the child is in attendance in a public school or an approved ~~private~~ nonpublic school. The teacher shall evaluate the student's progress and report the student's progress at least twice annually to the local public school superintendent. If the school district does not employ a local school superintendent, the report must be filed with the county superintendent of schools for the county of the child's residence.

4. ~~If the local superintendent of public schools or the county superintendent of schools in those school districts that do not employ a local superintendent determines that the child is not making reasonable academic progress consistent with the child's age or stage of development, the parent of the child must be notified of the conclusion reached and the basis for the conclusion. Upon receipt of that notice, the parent shall make a good faith effort to remedy any deficiency. The appropriate official shall report the failure on the part of a parent to make a good faith effort to the state's attorney pursuant to section 15-34.1-04 as a violation of this chapter. The superintendent of public instruction shall adopt rules to assist local superintendents of schools, county superintendents of schools, and the licensed professionals referred to in subsection 2, in determining whether a child is making reasonable academic progress. If a monitor is required by section 15-34.1-06, the school district shall, at the request of the parent, provide the monitor at school district expense. A monitor retained by the parent must be compensated by the parent.~~

SECTION 5. AMENDMENT. Section 15-34.1-08 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-08. State aid. For purposes of allocating foundation aid and other state assistance to local school districts, a student receiving ~~home-based instruction~~ home education is deemed enrolled in the school district in which the student resides if the student is monitored by a certificated teacher employed by the public school district in which the parent resides. A school district is entitled to one-half of the ~~per-pupil~~ per student payment provided in section 15-40.1-06 times the appropriate factor in section 15-40.1-07 or 15-40.1-08 for each such student. When a student is supervised ~~through home-based instruction~~ in home education and is enrolled in classes in the public school, proportionate payments must be made as provided in sections 15-40.1-07 and 15-40.1-08. The total amount may not exceed the equivalent of one full foundation aid payment.

SECTION 6. AMENDMENT. Section 15-34.1-09 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-09. Monitoring or administration by a certified certificated teacher. Any ~~certified~~ certificated teacher who monitors ~~home-based instruction~~ a child receiving home education or who administers a standardized achievement test to ~~children receiving home-based instruction~~ a child receiving home education must notify the child's public school district of residence that the teacher is providing such monitoring or administration. The parent of any ~~student receiving home-based instruction~~ that child receiving home education who is monitored by or taking a test administered by a ~~certified~~ certificated teacher not employed by a public school district is responsible for ~~any~~ the costs ~~charged for such~~ of the monitoring or test administration.

SECTION 7. AMENDMENT. Section 15-34.1-10 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-10. ~~Home-based instruction~~ Home education - Liability. No state agency, public school district, or county superintendent may be found liable for accepting as correct the information on the statement of intent or for any damages resulting from the parent's failure to educate the child.

SECTION 8. AMENDMENT. Section 15-34.1-11 of the North Dakota Century Code is amended and reenacted as follows:

15-34.1-11. ~~Home-based instruction~~ Home education - High school diploma - Fee. The superintendent of public instruction shall issue to a student who has completed the requirements for

high school graduation through ~~home-based instruction~~ home education a diploma that clearly indicates that the requirements for graduation have been met through ~~home-based instruction~~ home education. The superintendent may charge a fee for issuing the diploma.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1368.

House Vote: Yeas 86 Nays 7 Absent 4

Senate Vote: Yeas 40 Nays 7 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State