

2019 HOUSE EDUCATION

HB 1052

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Choteau A Room, State Capitol

HB 1052
1/8/2019
30531

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Bev Monroe by Caitlin Fleck
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Explanation or reason for introduction of bill/resolution:

Relating to the definition of parent and supervise in home education. Public Testimony.

Minutes:

A,B,C,D,E,F,G,H,I,J,K

Introduce bill name.

Representative Daniel Johnston, District 24: (see attachment A) There are many homeschool families here today that would like to share how this bill will affect their families.

(5.07) Theresa Deckert, ND Home School Association. Office Administrator: Rep. Schreiber-Beck: (see attachment B) (Also handed out attachments C, & D)

(10.11) Representative Schreiber-Beck: To clarify, in the definition that the parent chooses the materials, etc., who was choosing the materials prior?

Ms. Deckert: The parents have always chosen the materials, but we just want to make it very clear. The clearer it can be, the better and then there won't be another opinion rendered.

Chairman Mark S. Owens: The phrase "determination of educational philosophy," it bothers me a little bit in the sense that there are people out there that could argue and define that as they are doing the startreck educational program, and may not be getting the basic minimum requirements that you need to make it in the world. There are some people that would try to abuse or twist it. You don't see the determination of educational philosophy, coupled with the oversight of the method, manner, and delivery of instruction as an open book? And you can do anything you want.

(2.12) Ms. Deckert: Right now it only says supervise. So we are trying to define supervise more to show. We are trying to clarify with this working that the type of philosophy and method chosen is up to the parent.

Representative Hoverson: Do you know anyone that has used an odd method of education?

Ms. Deckert: No I do not and I talk to homeschoolers all around the state.

Joy Melhoff (homeschool teacher): I have graduated 4 of my children from homeschooling and have 1 child still at home. Two of my graduates are college graduates and one is currently college enrolled. The fourth is currently a stay-at-home mom. The high school years are challenging and as parents we want to provide a well-rounded education and we want our children to end up being productive members of society. To graduate my children with this took a great deal of creative on my part. When the homeschool law was originally written not many methods existed. Classical conversations (CC) is one of the innovations that was made for the lack of teaching methods. CC is an innovative classical education resource used by homeschoolers in 50 states and 22 foreign countries. There are more than 117,000 students enrolled in its tutoring programs provided by more than 2200 CC communities. It is one of the fastest growing homeschool programs with a growth rate of 52% each year since its inception in 1997. So ND now have 7 CC communities and it is continuing to grow. CC provides resources, guidance, and a community for collaborative Christian homeschool education using classical education. It works like this. One day a week, called the community day, CC offers a full presentation of the curriculum. The tutor leads other people's children for that day in the curriculum. This is critical in making sure that all of the basics for our children's education are covered. They cover the basics, but also get the extras like debate, speech, musical theory, foreign language, mock trial, etc. We as parents work with our children the other 4 days of the week to make sure that they are staying up on their homework and assignments and also grade them. I have been one of those parent tutors for CC, and have experience in that. Our children love CC. CC provides a depth to our curriculum that we couldn't achieve otherwise. It is an amazing option to homeschool children.

(20.11) Representative Hoverson: I understand that this method is popular on the air force base, is that what you have heard too?

Ms. Melhoff: Actually, the Grand Forks Air Force base is where CC began in North Dakota because someone had come from another place and they had been doing it.

Chairman Owens: Has it become very popular and to what level?

Ms. Melhoff: I don't have the exact number of us in ND, but a community for younger children can host 48 kids. And then a community considered the same could have grades 7-12, so I don't know. I think there are about 300 kids.

Chairman Owens: 300 of how many? I'll find that out.

(22.46) Linda Thorson, State Director of Concerned Women of America of ND: (see attachment E)

(25.15) Representative Schreiber-Beck: How many members do you have?

Ms. Thorson: Currently 800, but the number may vary.

Lori Wentz, Home School Facebook group, Welcome Wagon group, Dickinson, ND: (see attachment F)

(29.05) Mark Jorritsma, Executive Director of Family Policy Alliance of ND: (see attachment G)

(31.40) Christopher Jorritsma, Homeschooled student: (See attachment H)

(33.58) Joe Kolosky, Deputy Director of the Office of School Approval and Opportunity with the Department of Public Instruction: (see attachment I)

Chairman Mark S. Owens: My concern is that it leaves opened ended licensure for certain people. WE need to make sure that our children need to be educated to a certain level. How does it affect the minimum requirements for graduation and how your office feels about that?

Mr. Kolosky: I deal with the good, bad, and ugly. NDHSA are my high fliers. Currently the law is written that if you have a HS diploma or a GED, your hands are free. I feel that for those people that need help, this will allow them to gain that help. Also there are 427 students right now, but the data is still being collected. Last year was 3,078 students in ND and those were the families that filed an intent to homeschool form.

Representative Hager: That 3,078, is that a head count?

Mr. Kolosky: Yes.

Representative Hager: So they would be teaching a full-day curriculum?

Mr. Kolosky: 4 hours/day, 175 days/year.

Representative Hager: So what if the parent would keep their kid home for just one subject, and send them to public school for the rest?

Mr. Kolosky: The parent has the option to utilize and activity in the course that is taken in the homeschooled presence. So the parent would fill out the form and include all the courses the child was taking from public school and then the courses they were taking at home.

Representative. Hager: You don't have those numbers?

Mr. Kolosky: If a parent homeschools even just one class, they have to file as a homeschool parent.

Chairman- Mark S. Owens: Do you know the number of partial between full?

Mr. Kolosky: No, we only know the number of total forms.

Willow Hall, home school graduate: (see attachment J)

Russ Ziegler, Assistant Director for the ND Council of Educational Leaders representing educational school leaders: (see attachment K)

(48.28) Representative Heinert: Doesn't the amendment tell the parents that they have to go to an REA?

Mr. Ziegler: We left that open ended on purpose so that they parent can chose the curriculum.

Representative Heinert: Explain to me how one would get accredited in a music background.

Mr. Ziegler: The intent was mainly for online courses. When we're talking about the accreditation, were not talking about an individual. The tutors then would go back to the parent to supervise that tutor as long as the tutor meets the qualifications set forth by law.

Representative Johnston: Why shouldn't a homeschool parent be given the opportunity to bring in non-accredited professionals to speak to their children, when a public school teacher can bring them in to speak to their class?

Ms. Ziegler: We agree that they should be able to. That is why the words direct instruction are in there. When a speaker comes in they aren't teaching something new. The direct instruction would be teaching something new.

(52.23) Representative Mary Johnson: In statute, parents that are not qualified are subject to a monitoring process. How would that be any different from a person that they choose who is not qualified?

Mr. Ziegler: That is the question that we have. Every other part of the law says parent. We agree that it should change to legal guardian or parent. It always says parent.

NO FURTHER TESTIMONY OR QUESTIONS, MEETING CONCLUDED.

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1052
1/9/2019
30620 (11:00)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Bev Monroe

Explanation or reason for introduction of bill/resolution:

Relating to the definition of parent and supervise in home education

Minutes:

Attachment

Chairman Mark S. Owens: Opened the hearing with discussion on HB 1052.

Rep. Mary Johnson: In discussions with fellow representative Johnston and the concerns of NDCEL, we thought an amendment to the bill to include a slight change – required monitoring of progress might satisfy everyone’s concerns (that portion of the code) – A parent, or parent’s designee who does not meet the qualifications provided – which is a high school diploma basically, the child will be monitored under those circumstances. That monitor has to be licensed to teach, if the parent’s choice of tutor does not meet the (parental) qualifications.

Chairman Mark S. Owens: Did you discuss that with NDCEL?

Rep. Mary Johnson: I have not.

Chairman Mark S. Owens: I found their testimony a bit contradictory. Russ Ziegler (NDCEL) supported several different things, struggling with being for and against it and came out with this amendment. It sounded like he was strictly talking about CDE and CTE. He was talking about correspondence courses of that type of training in the amendment and I think that’s why they struggled. What they were focused on was trying to restrict the correspondence courses. That was my understanding; questioned what the committee’s thoughts are?

Rep. Longmuir: My concern is the curriculum they are going to use. Your Star Wars analogy to the curriculum was appropriate because there is no requirement of what they teach (use) and I think it’s a good bill. How do we monitor the curriculums that they use? There are a lot of good ones out there.

Rep. Brandy Pyle: School districts have the right to choose their curriculum, we just set the standards and as long as the standards are being met I don't care what curriculum they have. We aren't choosing what text books to use.

Rep. Mary Johnson: The subject matter is included.

Rep. Brandy Pyle: Yes.

Vice Chairman Cynthia Schreiber-Beck: To affirm, yes, Rep. Pyle's statement, school districts choose their curriculum.

Chairman Mark S. Owens: In looking at the code in its holistic form, not just this portion, and what I kept overlooking is that they get to dictate the method, manner and delivery of the instruction is what I first said, and I jumped the gun when I used the Star Wars analogy. What I overlooked was the word 'oversight'. They don't get to pick it; they just get to oversee it according to this. They are not trying to take it over. You still have the rest of the code dictating the standards, the subjects and the rules about monitoring and qualifications. Those are still in there; this says the parent (now including legal guardian), can supervise the actual materials that still accomplish all this. They can supervise the general educational philosophy (an oversight of how it's taught, not what's taught). I didn't want to mislead anybody since Rep. Longmuir brought up the Star Wars curriculum.

Vice Chairman Cynthia Schreiber-Beck: Is it important in Item 3, Line 11 of the bill – supervise means a selection of materials, determination of an educational philosophy, an oversight of the method, manner and delivery of instruction – my question is whether it needs to be in there. I'm not sure what it means, but if you have oversight of the method, manner and delivery, you're determining the philosophy anyway, unless this is negating something. I'm questioning that because we don't refer to it anywhere else in educational code.

Rep. Daniel Johnston: This language was drafted with the Attorney General's office. Included in there was the philosophy.

Chairman Mark S. Owens: It was stated that it was needed. HB 1052 will be held and Vice Chairman Cynthia Schreiber-Beck research that. Closed the hearing on HB 1052.

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1052
1/15/2019
30832

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Bev Monroe by Marjorie Conley
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Explanation or reason for introduction of bill/resolution:

Relating to the definition of parent and supervise in home education

Minutes:

Attachment 1

Chairman Owens: Opened the hearing.

Russ Ziegler, Assistant Director of the North Dakota Council of Educational Leaders:
Clarification of language that we talked about during the committee meeting.
(Attachment 1).

Rep. Hoverson: I Move a Do Pass on HB 1052.

Rep. A. Marschall: Seconded the motion.

Rep. Johnston: The Department of Public Instruction informed me that when public school teachers bring someone into the classroom or teach online, it is not a requirement to be accredited.

Chairman Owens: The parents are the teachers and they have the ultimate responsibilities. NDCEL was talking about the course material and the actual instructor. They weren't trying to invade at all. Any further discussion?
The DO Pass as presented not as amended as we have not amended anything.

Roll Call Votes was taken. Yes 13 No 0 Absent 1

Rep. M. Johnson is the Carrier.

Date: 1/15/19
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES**
BILL/RESOLUTION NO. 1052

House Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. J. Hoverson Seconded By Rep. A. Marschall

Representatives	Yes	No	Representatives	Yes	No
Chairman M. Owens	✓		Rep. Guggisberg	✓	
V. Chair. Schreiber-Beck	✓		Rep. Hager	✓	
Rep. Heinert	A				
Rep. Hoverson	✓				
Rep. D. Johnson	✓				
Rep. M. Johnson	✓				
Rep. Johnston	✓				
Rep. Longmuir	✓				
Rep. Marschall	✓				
Rep. Pyle	✓				
Rep. Strinden	✓				
Rep. Zubke	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. M. Johnson

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

REPORT OF STANDING COMMITTEE

HB 1052: Education Committee (Rep. Owens, Chairman) recommends **DO PASS**
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1052 was placed on the
Eleventh order on the calendar.

2019 SENATE EDUCATION

HB 1052

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

HB 1052
3/5/2019
33177 (37:58)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of parent and supervise in home education.

Minutes:

Att. #1-Johnston; Att. #3-Deckert; Att. #4-Melhoff; Att.#5-Grande; Att. #6-Jorritsma; Att. #7-Kolosky; #8- Peterson; Att. #9-Biby
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Chairman Schaible: The hearing for HB 1052 is open. Welcome Representative Johnston.

Representative Daniel Johnston, Dist. 24: See Att. #1 & #2.

Senator Oban: I am surprised that it has taken this long to come forward if the opinion was given in 2007. Do you know if there were efforts before this to do this or is this the first time it has come up in bill form in front of the legislature?

Daniel Johnston: As far as home schooling goes, it seems it goes in bits and pieces rather than in one large chunk. This is obviously something that should have been addressed sooner, I think. I think it is a good step forward.

Senator Rust: You provide a definition for guardianship. Is that the legal definition from the code, or where did you get the definition from?

Daniel Johnston: Actually, I sorted the source – it was an online source. This seems to be consistent with other definitions that I found.

Senator Rust: Can I make somebody a legal guardian of my child by just signing a letter saying so?

Daniel Johnston: I am not exactly sure what the process is for doing that.

Senator Rust: I would think in order for someone to be a legal guardian, there should be a legal document that must be attested to, but I didn't know if that is the case. I don't know if you can do it by just signing a statement or if you need a power of attorney or if you need a legal document. What constitutes someone being a legal guardian would be a question that would be good to answer.

Daniel Johnston: I am not a lawyer, but from what I read, I think it does involve a judge and he does have to issue an order.

Senator Rust: My question is what about temporary guardianship? That could create some issues, too.

Theresa Deckert: Office Administrator for the Home School Association: See Att. #3.

Joy Melhoff: See Att. #4.

(17:41) **Senator Rust:** You say you have been a parent tutor for six years. That would mean that you tutored children other than your own.

Joy Melhoff: Yes, I have. The other parents are there – usually – and they bring their kids and we tutor them.

Chairman Schaible: Other questions. Seeing none, thank you.

(18:38) **Bette Grande, Heartland Institute and the Roughrider Policy Center of ND: See Att. #5.** I come before you as a former member of the Senate Education Committee and during that time home schooling in ND was probably one of the toughest things to do. The hurdles were very high and many home schoolers came and asked for different things to happen. Over the course of those years, we were able to work and move along things for home schoolers to be given the opportunity to really work with their children and giving a better understanding to the legislature and the people around the state of ND that home schooling is not a scary thing, home schooling is not a bad thing, home schoolers love their children and that is why they want to home school. In that, they have faced many, many barriers. We have changed a lot of those. This last caveat is so critical and it actually goes with a piece of legislation I worked on in one of my last sessions as a legislator. That was to allow the expansion of who was doing the actual teaching. Technology and the information era has changed so many things for the state of ND and for the world. The better materials and improved opportunities, as was just spoken about, should be addressed in that every parent should have that opportunity for their child. Who knows better for what is best for each individual child but the parent themselves. I know in my case, my oldest child – by the time he hit junior high – due to bullying, we moved him out of the public school system and put him in a private school and he flourished. My next child, private school he tried a couple of years and it was just like you had him in restraints. He needed to be out and he wanted to be in a public school and that is where he belonged. It worked out perfect for him. My next child, she needed more guidance – strictly at home – was in the private school, but we needed to very closely monitor things for her. As a parent, those were my choices and we got to work with how we would do that – both my sisters-in-law had the opportunity to home school at various times for their children. It worked for them at that time. I think we need to keep looking at what the parent's decision in that close knit community of homeschoolers can best serve their children with all the individual needs and individual ways to learn. With that, I stand in front of you today and ask for support for this particular piece of legislation.

(22:13) **Chairman Schaible:** Are there any questions? Thank you.

(23:08) **Mark Jorritsma: See Att. # 6.** Our children have been in public school, private school and home schooled. We have done the gambit there of all the choices. We were worried when we started home schooling our children the quality of instruction they were going to receive. I can tell you the quality of instruction and their teachers was actually higher than public or private school. To give you an example, their biology and chemistry teacher was head of surgery in the ICU Unit of the Trauma One Center in Washington, DC. Their physics teacher had taught physics for 35 years, so these are people that have had extensive experience. You can find them and they can provide excellent education for your child.

Chairman Schaible: Are there are any questions? Seeing none, thank you.

(27:00) **Joe Kolosky, Deputy Director, Office of School Approval and Opportunity, Department of Public Instruction: See Att. # 7**

Senator Marcellais: Do you have some information on where these home schools are located?

Joe Kolosky: They are not necessarily home schools; they are enrollment of home educated students in the state. They're based of a statement of intent where parents must submit to the district of residence.

Senator Oban: Has the Department of Public Instruction had any response to people questioning this – I assume; you are okay based on your testimony. But the fact it is already happening – I assume that you are not giving credit for those things.

Joe Kolosky: I get this question a lot and for nine times out of ten, people want to do the right thing – I would say 99 out of 100 actually – everyone wants to do the right thing. I simply give guidance on what the law states. You should be with the child as a filter of the education so to be deemed legal. Then I give the number and email to Theresa Deckert and she guides on the curriculum matters. I do get it. I have learned there are a lot of people in the state that are ignorant – parents – on the law and my job is to try to educate them so they are meeting the requirements of the law. Especially people that move into the state like during the oil boom and there is still a steady influx of people into the state.

Senator Rust: At one time, we struggled with accounting for home educated students. There is a reporting process or a filing process. I assume there are a number of people that don't do that – to your knowledge, is that correct?

Joe Kolosky: I can only speak on what I witness. I go by a percentage base, so if I get 50 calls, I would say three out of five do not file the intent to home school. It is only because they are ignorant and didn't know they had to. I immediately say you need to file this and what I have noticed – being in the department a few years – is that superintendents and principals are starting to really learn the law and when they learn of a home school family, they reach out to them – not based on a consequence for them. They say, "Hey, we are liable for your child's education unless you want to fill out this form and then you are liable for your child's education and everyone is legal." That does happen periodically. It is not every day, but I would say once a month – twice a month that will happen.

Senator Rust: The reason I am asking about that is a particular contact I have had from my district about somebody that wasn't aware and then all the sudden got into some serious issues dealing with extra -curricular activities and that evidently is another issue that – especially if you failed to file – can create some issues as far as what the ND High School Activities Association considers a transfer student. I know that in years past, that has been an issue for people that don't know or choose not to file. Of this number of 2017-18 – 3,078 students is that close to the number or is it 60% of – do we really know?

Joe Kolosky: We really don't know. As you can see, it is growing and I get more and more calls on the statement of intent. The knowledge is out there, but there is going to be a small percentage that aren't filing because they don't know.

Senator Rust: I presume that one of the ways you find out is a contact by a school or another individual in that area or something – is that right?

Joe Kolosky: There are a few ways to find out. In a small town, where everyone knows everybody, I'll get a phone call that says, "I know they are home educating and I know they didn't file." I have to tell them it is none of their business – contact the superintendent and they will follow up. Another way is the superintendents know everyone in the community and they will reach out as well.

Senator Rust: Point of clarification – home educated students are the responsibility of their resident district – is that not correct.

Joe Kolosky: Technically, yes. You file the intent to home educate with your home district even if you are an open enrolled student. That will go into the home district's file.

Senator Rust: And they have the choice of taking any portion of what they might want from that resident district.

Joe Kolosky: Or an open enrolled district as well.

Chairman Schaible: Other testimony in favor of the bill.

Bobbie Will: I was part of a private school and then I did home school for six years. For the last year and a half, my children have been in public school. It was a really good conversation to hear this morning. I wanted to address what Senator Oban said. It is very hard when you are black and white with the way the law currently is. I really struggled with how unclear it was on the supervision and the materials when I pulled my children out of private school to home school. It was a real advantage to be able to have a tutor, but I sat there as a parent because there are certain subjects that you might not feel you could do yourself. Having this clarified in the law would be fantastic for the parents that really struggle with possibly their children in public school or private school. There are some deficiencies that they would like to correct, but they aren't pulling their children for a subject or more because this wasn't clear. I am in favor of this language clarification.

Chairman Schaible: Other testimony in favor of the bill.

Levi Bachmeier, Policy Director, ND Governor's Office: We don't have any prepared remarks, but we would like to echo everything that has been shared this morning. One of the five strategic initiatives for the governors first term has been transforming education. We firmly believe that HB 1052 does just that – providing more opportunities and resources to home school educators to support a transformative education for their students.

Chairman Schaible: Other testimony in favor of the bill. Any agency testimony? Any testimony in opposition to the bill? Seeing none, the hearing is closed.

Additional written testimony was submitted to the clerk:

John Peterson: See Att. # 8.

Gail M. Biby: See Att. # 9.

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

HB 1052
3/6/2019
33263 (6:45)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A bill relating to the definition of parent and supervise in home education.

Minutes:

Att. #1 & #2-Grindberg

Chairman Schaible: Committee we will look at HB 1052.

Senator Davison: Motion to Do Pass HB 1052.

Senator Oban: Second.

Chairman Schaible: Is there any discussion on the bill?

Senator Oban: I am curious about the legal guardian discussion from yesterday – just to see – I imagine somewhere in code we define it and I don't know if that means we use that definition through the entirety of Century Code or how that works. I didn't see it defined anywhere in the Education Code.

Senator Rust: Our legal assistant, (Hugh Grindberg) may have some information on that for us. He did provide to me – ND Self Help Center has guideline on establishing guardianship of a minor child. Guardianship of a minor child is a state court process where a judge appoints a guardian to act in place of a parent of the minor child. The legal relationship is created between the guardian and the minor child allowing the guardian to care for and make decisions on behalf of the minor child. (Turning to Hugh) Did you find a definition in Century Code?

Hugh Grindberg: I did not look for one. **See Att. #1, Att. #2.**

Senator Rust: I am thinking it is kind of like immigrant. You have a legal immigrant and you have an illegal immigrant. I think the same thing can be said about guardianship. You have legal guardians and probably illegal ones. A legal guardian is established by law and you must conform to that or you are probably a self-appointed guardian, but not a legal guardian. It would be interesting to see the definition of it, but my gut feeling is that there is in law a definition. If this state's legal guardian, I am sure we would abide by that definition.

Chairman Schaible: I guess we could contact the Department of Public Instruction and see if there is anyone that could come down and talk about it.

Senator Davison: A legal guardian is a process. The wording in this is going to relate to that. I think that is a positive for the bill that it has some framework and some validity to it. It is not just a random – she said – he said – kind of thing. The thing I appreciate is that they brought this forward. They are already crossing the line regarding how they go about that process and that is not whether we should judge that or not. We can do that individually, but, the fact they brought this forward for some more clarity and they are trying to be up front and transparent about what is happening I appreciate that and within the bill, too.

Chairman Schaible: I agree also that this an innovation practice which I think we encourage and private, public and even home school which we are encouraging with our charge for what we set for schools that we are looking for better ways to teach our kids. If this does that, I think it is good that we do it.

(Unintelligible discussion as the attachments are reviewed by committee members.)

Chairman Schaible: Committee do you need more time? I am getting a lot of negative responses, so with that, I will ask the clerk to take the roll.

Roll Call Vote: 7 Yeas; 0 Nays; 0 Absent.

Senator Oban will carry the bill.

Date: 3-6-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. AB 1052

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen Davison Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible:	✓		Senator Marcellais:	✓	
Vice-Chairman Fors:	✓		Senator Oban:	✓	
Senator Davison	✓				
Senator Elkin:	✓				
Senator Rust:	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Oban

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

REPORT OF STANDING COMMITTEE

HB 1052: Education Committee (Sen. Schaible, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1052 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1052

Testimony: HB 1052
Rep. Daniel Johnston (24)
1/8/2019

HB 1052
1/8/2019
A

Why does ND need this legislation?

HB 1052 is needed because of an Attorney General's opinion from 2007 which suggest that only a child's parent may provide instruction in a homeschool. Unfortunately, the opinion has led to questions about whether cooperative classes, online courses, or other third-party instruction may be considered instruction in a home education program.

(Final Paragraph 2007 AG opinion, "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".)

What does HB 1052 seek to do?

H.B. 1052's solution defines the term "supervise" to mean "the selection of materials, determination of an educational philosophy, and oversight of the method, manner, and delivery of instruction. HB 1052 also seeks to clarify the decision-making authority of a legal guardian with respect to homeschooling by coalescing parent and legal guardian into a single meaning, for the homeschool chapter.

What is a legal guardian/guardianship?

"A guardianship is when a person (other than the child's parent or de facto custodian) has legal custody and control over a child. The Guardian has the right to make all decisions concerning the child, and is legally responsible for the child". With the definition of a legal guardian in mind, it's clear that a legal guardian is intended to have the same authority as a parent. Currently, legal guardians are homeschooling in ND, which, technically according to the law as written, may be illegal or a grey area in the law that needs rectified.

<http://kyjustice.org/node/1235>

What HB 1052 won't do:

A homeschooling parent will not be able to set up something like a private school. It still leaves the responsibility with each parent, but opens up using a tutor and takes some homeschooling programs out of the gray area. Much of the language for this bill was attained through collaboration with the Attorney General's office and the Department of Public Instruction. I believe DPI intends to testify in support of this legislation.

Please give HB 1052 a Do Pass recommendation. Thank you.

Chairman Owens and Committee Members,

My name is Theresa Deckert from Devils Lake. I am the Office Administrator for the North Dakota Home School Association (NDHSA) and also serve on the board of directors.

As the Office Administrator, I take phone calls from people throughout the state who are beginning to homeschool or just need help and advice. This gives me a good understanding of issues as they arise.

In 2007, the Attorney General Wayne Stenehjem issued an opinion concerning who could do the actual instruction of a home educated student (see addendum #1). This was at the request of then Representative Merle Boucher who had been contacted by a superintendent in Grand Forks County. In order to homeschool, the law at that time required a parent to have a B.A, be N.D. state certified, or meet or exceed the cut-off scores on a national teacher's exam. There were a number of parents who were providing the education for their child under the "supervision" of the other parent who held the qualifications. This was deemed unacceptable based on early testimony prior to the adoption of the home education law in 1989. Please note I have highlighted a few key phrases in that document as well as my testimony.

Since that time, home education has changed and the resources available have significantly expanded. **The internet has made online education an excellent choice for parents as have Classical Conversation Communities and expanded tutoring opportunities – but because of this opinion these are gray areas.**

This summer our association (NDHSA) approached the Governor's Office requesting a new opinion. They arranged for a meeting between me and the Attorney General's Office in which they determined that it would be best to address this legislatively.

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Our purpose in this bill is to:

- Define the word “supervise” to clarify that the parent chooses the materials, determines the educational philosophy and the method, manner and delivery of instruction.
- Clarify that a legal guardian can also homeschool their charge.

Currently the homeschool law uses the term “legal guardian” in one spot. If you look at addendum #2, line 226 you will see that instance. Including it in the definition at the beginning will make it clear that a legal guardian can homeschool.

The current opinion has caused problems because districts interpret it differently. **The wording of the bill was left broad enough to allow for new curriculum developments and online resources.** It will also make it clear that a parent will be able to hire a tutor for areas they need help in or be part of a collaborative learning program such as Classical Conversations. This is reflected by the term “delivery” which was suggested by the DPI.

We consulted the DPI as requested by the Attorney General’s Office. **These changes are supported by the DPI and AG offices as well as the North Dakota Home School Association.**

Homeschoolers are innovative and the scope of resources available today is amazing.

We want to insure that home schooling parents have access to all of the best resources and methods.

Please give HB 1052 a “do pass”.

Theresa Deckert
District 15
Devils Lake, ND
701-662-4790

LETTER OPINION
2007-L-03
February 1, 2007

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B

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.

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

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

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education, but who may not meet the qualifications specified in N.D.C.C. §§ 15.1-23-03 and 15.1-23-06.

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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 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,

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).

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

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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

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)

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225 high school coursework from the minimum required curriculum offerings established by
226 law for public and nonpublic schools and the child's parent or legal guardian submits to
227 the issuing entity a description of the course material covered in each high school
228 subject, a description of the course objectives and how the objectives were met, and a
229 transcript of the child's performance in grades nine through twelve. The issuing entity
230 may indicate on a diploma issued under this subsection that the child was provided
231 with home education.

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

235 **15.1-23-18. Home education - Liability.**

236 No state agency, school district, or county superintendent may be held liable for accepting
237 as correct the information on the statement of intent or for any damages resulting from a
238 parent's failure to educate the child.

239 **15.1-23-19. Home education - State aid to school districts.**

240 For purposes of allocating state aid to school districts, a child receiving home education is
241 included in a school district's determination of average daily membership only for those days or
242 portions of days that the child attends a public school.

1/8/19

HB 1052
1/8/2019
C

John Peterson
District 29
Jamestown, ND
701.368.9534
6 January 19

HB 1052

Chairman Owens and Committee Members,

My name is John Peterson from Jamestown. I have taught in public schools for four years and have math and science degrees in education from the University of Jamestown that allow me to teach almost every math and science class offered at the high school level.

During my four years in public education, I created my own online course work which included computer-generated and graded worksheets, video lectures, and online quizzes. I used this work to offer the best education I could to my students. It allowed me to:

- 1) Move students up and down levels in math as they needed
- 2) Attempt a Flipped-Classroom (Students watch the lecture when they have time, and then use class time to ask questions and work on homework)
- 3) Provide instant feedback to students
- 4) Allow students to work at their own pace

Once I used the online materials for several years, I started thinking that homeschoolers would also benefit from the materials. However, I ran into a problem when pursuing this idea. In the 2007-L-03 attorney general's opinion, Wayne Stenehjem concluded that the word 'supervise' in the Code meant that the parent must provide the actual instruction. That meant I could not offer my video lectures and subsequent course work to homeschoolers because I would be delivering the instruction instead of the parents.

In the public-school system, we were encouraged to use other resources to provide instruction to the students and we were evaluated based on how involved the community was in our curriculum

(Marshal Plan – E. Family and Community Outreach). If the public schools are supposed to enlist the involvement of the community, why are homeschooling families restricted to instruction provided only by the parents? Therefore, I support passage of HB 1052 to clarify that parents can supervise other individuals instructing their children. With the passage of HB 1052 I could offer my math classes and manage science labs for homeschoolers.

Furthermore, the goal for any education system is to provide the best possible education for its students. Homeschoolers should be able to seek out the best education for their students as well. That may mean hiring a local math teacher to teach subjects like trigonometry or calculus. It may mean organizing several families together with a local science teacher (or engineer) to do lab experiments.

Choosing to homeschool should not limit the options for education. In fact, it should create more options because there is not a school bell restricting the time.

Public-school teachers can choose who delivers the instruction in their classrooms from online sources like Khan Academy to guest speakers. Homeschooling parents should have the same ability. Please give HB 1052 a “do pass” recommendation.

John Peterson
District 29
Jamestown, ND
701-368-9534

Gail M. Biby
252 Circle Dr. N.
Fargo, ND 58102 701.566-4538
January 8, 2019

HB 1052 - YES

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1/8/2019
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Chairman Owens and House Education Committee members,

I have worked with parent educators for almost 30 years. I remember in the early 1990s when the parent's only choice was to make their own curriculum or purchase a textbook/workbook/teachers' manual system from a supplier that made materials for private schools.

When the original law was written it was perhaps assumed that the 'supervising' parent would be the provider of all the instruction. As the decades have passed and a plethora of options have developed for homeschoolers, the original intent of the wording of the law is no longer adequate to describe how homeschooling is actually occurring nor does it take into account the technological age we now live in. Options which were once minimal are now overwhelmingly numerous.

The attorney general's opinion cited which brought about this bill may have been correct in its assumptions 30 years ago, but is now sadly out-dated. Homeschooling hasn't operated as described for a long time. The opinion disallows 'credit' for the homeschooled on such activities not taught directly by the parent educator such as: piano lessons, private art lessons, science center labs, geography and spelling bees, coop math classes, beginner and advanced writing classes, biology labs, and worldview studies. These are all options currently being offered to ND homeschoolers not taught by the parent educator. Under the current attorney general's opinion these could not be credited to the child's educational accomplishments.

Further I have always thought the brouhaha over the meaning of the word 'supervise' was a bit disingenuous. Supervise means: to observe and direct the execution of (a task, project, or activity). Synonyms include: oversee, be in charge of, be in control of, preside over, direct, administer, manage, govern. No definition declares that the supervisor is the one who actually is doing all the work. When properly interpreted, the word 'supervise' is still useful but over the past three decades it has been misunderstood and misapplied, thus the need for clarification in the law.

HB 1052 will clear up any confusion regarding this issue, benefiting both parents and public school officials.

Finally, with the increasing amount of options available to homeschoolers, freedom to pursue what works best in the family ought to be expanded to include the many technological advances we now enjoy.

I urge you to give HB 1052 a 'do pass'.

CONCERNED
WOMEN *for* AMERICA
OF NORTH DAKOTA

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E

January 8, 2019
Education Committee
Testimony in Support of HB 1052

Mr. Chairman and Members of the Committee, my name is Linda Thorson. I am a former educator of 26 years and am the State Director for Concerned Women for America (CWA) of North Dakota. I am here today on behalf of our North Dakota members **in support of HB 1052.**

As our state's largest public policy women's organization, CWA of North Dakota has seven core issues, education being one of them. We strongly support the provisions in HB 1052.

HB 1052 meets the goal of providing quality of education to a level of excellence in academic achievement, without governmental mandates that are detrimental to parental rights.

This bill addresses Attorney General Wayne Stenehjem's opinion of the current home-based education laws. In 2007, he stated, "... 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."

HB 1052 clarifies definitions in the North Dakota Century Code relating to the home education to allow not only a child's parent but also a child's legal guardian to provide home school supervision. Statute changes also clarify the term "supervise" to mean that the parent/legal guardian determines the methods, manner, and delivery of instruction employed. This permits a parent in a supervisory role to use resources such as an outside expert, tutor, or other collaborative learning situations just as occurs in other types of school classroom settings (i.e. private and public schools). Parents and legal guardians acting as supervisors will thereby be able to effectively use multiple outside resources to enhance the student's learning environment.

CWA of North Dakota members are in full support of home school education.

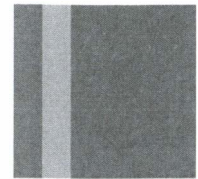
Again, the goal of providing quality of education to a level of excellence in academic achievement, without governmental mandates that are detrimental to parental rights, is achieved in HB 1052. It gives needed clarity to home-based education services while ensuring parental rights to parents and legal guardians in home school settings.

As the state director for CWA of North Dakota, I urge a "do pass" on HB 1052.

Lori Wentz

338 1st Ave W, Dickinson, ND

701-483-0179 loriwentz@hotmail.com



HB1052
1/8/2019
F

01/06/19

ND House Education Committee

600 E. Boulevard Ave. Bismarck, ND 58505

RE: HB1052 - Yes

To Chairman Owens and Committee Members,

My name is Lori Wentz from Dickinson, ND. I am currently the unofficial *Welcome Wagon* for our local home school group as well as the organizer of our local Facebook page, gym classes and open swim days. In my role as *Welcome Wagon*, I help new parents understand the legal requirements to home school as well as helping them choose their first curriculum.

Since the inception of home schooling, curriculum options have blossomed into a billion-dollar industry. There are multiple options such as subscription websites, CD's to order, tutors to hire and cooperative learning groups such as Classical Conversations. The current law as written causes questions regarding what *supervision* looks like with many of these options. For example, I have an amazing teacher with a Master's Degree in Music who has been my children's piano teacher for the last three years. Even though he is extremely qualified for this position, and since I am familiar with the current opinion stated

by the Attorney General Wayne Stenehjem, it is questionable whether this can be counted as school time.

The current definition of 'supervise' no longer fits the diverse options available to Home schoolers today. The suggested amendment we are making that defines *supervise as the selection of materials, determination of an educational philosophy, and oversight of the method, manner and delivery of instruction* meets these changing needs.

The other proposed change in this amendment is in regards to a parent who has legal guardianship of a child being allowed to make educational choices for that child. I recently received a phone call from local grandparents who have full custody of their grandchildren.

It is difficult for them to understand how the court has deemed them fit to make all decisions regarding their grandchildren's well-being, yet current ND law does not allow them to choose home schooling as a valid option.

The wording and intent of this amendment to the current bill was created in cooperation with the ND Attorney General's Office, ND Department of Public Instruction and the ND Home School Association. This amendment to the current home school bill is an appropriate and necessary response to meet the needs of the changing home school community.

Please give HB1052 a 'do pass'.

Sincerely,

Lori Wentz

Testimony in Favor of House Bill 1052

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota

Chairman Owens and honorable members of the House Education Committee, my name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am here today to testify in favor of House Bill 1052.

Parents have certain legal rights in North Dakota to direct the upbringing and education of their children, which is a great start. However, Family Policy Alliance of North Dakota believes that to give children a wide open future, parents must be free to choose the best educational fit for their child, whether it is public, charter, private, or homeschool.

Homeschooling in particular offers unique opportunities. It allows parents to tailor their child's education experience to his or her individual learning needs. All children have unique talents and interests given by God. They should be free to explore these gifts, even if alternative educational plans are the best way to do this.

Currently, North Dakota law is unclear on what it means for a parent to direct and supervise the education of their children. It also indirectly restricts who can actually teach the child, such as a tutor or legal guardian. This bill clarifies these issues and gives parents the opportunity to use all the excellent tools available to provide instruction to their child. The key to this bill is freedom of educational choice, which is what North Dakota parents want and need.

In the time I've lived here in North Dakota, there is one thing that has become abundantly clear: North Dakotans believe in freedom. The thing to remember is that freedom attracts. We need only look so far as the founding of our country to see evidence of that. I think we would all be proud if our state's homeschooling opportunities were lauded as some of the best in the nation.

Chairman Owens and honorable members of this committee, I respectfully request that you render a "Do Pass" recommendation on this bill. Thank you for your time and I'd be happy to answer any questions you may have.

1515 Burnt Boat Drive., Ste. C148
Bismarck, ND 58503

P 866.655.4545

UNLEASHING CITIZENSHIP

FamilyPolicyAlliance.com/NorthDakota



Testimony in Favor of House Bill 1052

Christopher Jorritsma, University of Mary Student
Homeschooled Ninth through Twelfth Grade

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1/8/2019
H

Chairman Owens and honorable members of the House Education Committee, my name is Christopher Jorritsma and I am a student at the University of Mary. I am here today to testify in favor of House Bill 1052.

I was homeschooled from ninth through twelfth grade by my parents, who were not satisfied with the curriculum options available through other educational avenues. At the time we lived in Maryland, which meant that my parents had access to a wide variety of options for homeschooling me and my sister. Homeschooling allowed my parents to customize our curricula to best suit our individual needs. In addition to both of my parents teaching us classes, they also hired private teachers for us in subjects such as art and music. We also joined a homeschool co-op which offered classes for homeschoolers in a wide variety of subjects. This program allowed me and my sister to take courses that fell outside of our parents' areas of expertise.

Homeschooling was a wonderful experience for me. I made many close friends through the homeschool co-op and thoroughly enjoyed the classes I took there. The private teachers that my parents hired also provided valuable instruction that my sister and I greatly benefited from. Homeschooling also helped me grow closer to my parents and my sister; spending more time together as a family ultimately led to a stronger bond between us. Finally, homeschooling prepared me for college by forcing me to take ownership of my education. Successfully completing my homeschool classes required me to function independently and plan out my work in advance, two skills that are vital to thriving in college. I feel that homeschooling completely prepared me for my time at University of Mary, and I wouldn't trade the experience for the world.

Chairman Owens and honorable members of the House Education Committee, I respectfully request that you render a "Do Pass" recommendation on this bill. Homeschool families all across our state will benefit from the opportunities this bill will provide them. Thank you for your time, and I'd be happy to answer any questions you may have.

Attest #
HB 1052 1/8/19
I

TESTIMONY ON HB 1052
Education COMMITTEE
1/8/2019

By: Joe Kolosky, Deputy Director
701-328-2295

North Dakota Department of Public Instruction

Mr. Chairman and Members of the Committee:

My name is Joe Kolosky and I am the Deputy Director of the Office of School Approval & Opportunity with the Department of Public Instruction. I am here to speak in favor of provide information regarding home education and specifically the supervision of home education.

Superintendent Baesler, myself and the Department of Public Instruction support this bill. We have worked closely with the ND Home Education Association to draft language that will assist in clarifying the current home education law. We feel this bill is important especially in this day when more and more students are taking advantage of the great opportunity of technology and online coursework.

Lastly, this bill will allow the NDDPI to provide better technical assistance and guidance to our home school families.

Chairman Owens and Members of the Committee, that concludes my prepared testimony and I will stand for any questions that you may have.

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J

Chairman Owens and members of the Education Committee.

My name is Willow Hall, and I am writing to request a "do pass" recommendation for HB1052.

I won't trouble you with details you heard in testimony from others-but wanted to mention that I am a homeschool graduate who moved to ND at the age of 16. Prior to that I was tutored in math and music.

When we moved to ND, shortly after the opinion by the attorney general was given, my parents discontinued looking for these options as the school district in Pembina interpreted that to mean that it wasn't legally allowed.

As an upcoming homeschool parent I want to have these options that I missed out on my last 2 years of high school available to my kids.

I see the bill as actually creating more accountability and preventing kids from slipping through the cracks rather than the opposite.

Thank you for considering my testimony today.

Willow Hall
701-391-4650
1809 N Bell St
Bismarck ND 58501



125 Slate Drive STE 7 Bismarck, ND 58503

HB1052
1/8/2019
K

Attach #
1/8/19

HB1052 – Definition of parent and supervise in home education
Testimony in opposition with amendment
1/8/2019

Good afternoon members of the committee. My name is Russ Ziegler. I serve as the assistant director for the North Dakota Council of Educational Leaders representing educational school leaders throughout the state including Superintendents, County Superintendents, Principals, Technology Directors, CTE Directors, REA Directors, Business Officials, and nearly every school leader with the exception of teachers and school board members. I come before you today to testify in opposition, with an amendment, of the bill relating to the definition of parent and supervise in home education.

The concern we have with this definition change is that the parent would no longer be the provider of the education for their student(s). They would be the supervisor which according to the definition, would be the individual who oversees the education and does not provide it. According to an Attorney General's opinion, which is why I believe this bill was drafted:

Using the terms "supervise home education" and variation of those terms throughout N.D.C.C. ch. 15.1-23 creates 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. When a statute is ambiguous, the statutory rules of construction permit the use of extraneous sources, including the legislative history, to determine legislative intent. The home education law in N.D.C.C. ch 15.1-23 was originally enacted in 1989. This law created an exception to the compulsory attendance law for home-based instruction. 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



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125 Slate Drive STE 7 Bismarck, ND 58503

permit a parent to supervise education provided to that parent's child by another individual.

We feel that the changes being proposed will change the intent of the law too broadly. It would make it possible for a parent who has the qualification to home-school their child, to "supervise" someone who is giving direct instruction to their child, even though the instruction could be coming from someone without the qualifications prescribed by the law.

NDCEL understands that the intent on the bill is to allow for home-school children to be able to take courses through on-line or distance education. We agree that not all parents can teach their child upper level math or science for example, and we applaud those parents who want to give their child a rigorous education. We would like to suggest an amendment that may allow this to occur without changing the initial definitions of 15.1-23.

Our amendment would be to add a line in section 15.1-23-04 that would allow for parents to utilize on-line or distance education as an option in their curriculum.

15.1-23-04. Home education – Required subjects – Instruction time.

1. A parent supervising home education shall include instruction in those subjects required by law to be taught to public school students.
2. If the parent is not doing the direct instruction of content, then the instruction must come from an accredited educational institution.
3. The instruction must have the duration of at least four hours each day for a minimum of one hundred seventy-five days each year.

NDCEL supports the intent of the legislation change but cannot support the bill as written.

Thank you for your time and I will stand for any questions.

Russell Ziegler, Assistant Director



125 Slate Drive STE 7 Bismarck, ND 58503

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1/8/2019
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Suggested Amendment to HB 1052

1/8/2019

Add the following statement to section 15.1-23-04 Home Education – Required subjects – Instruction time

15.1-23-04. Home education – Required subjects – Instruction time.

1. A parent supervising home education shall include instruction in those subjects required by law to be taught to public school students.
2. If the parent is not doing the direct instruction of content, then the instruction must come from an accredited educational institution.
3. The instruction must have the duration of at least four hours each day for a minimum of one hundred seventy-five days each year.

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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.

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

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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 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,

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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

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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:

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A BILL for an Act to amend and reenact section 15.1-23-01 of the North Dakota Century Code, relating to the definition of parent and supervise in home education.

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~~ Definitions.

~~For purposes of~~ In this chapter, "home:

1. "Home education" means a program of education supervised by a child's parent in accordance with the requirements of this chapter.
2. "Parent" includes a child's legal guardian.
3. "Supervise" means the selection of materials, determination of an educational philosophy, teaching the selected materials, and oversight of the method, manner, and delivery of instruction.
4. "Instruction" means the act of teaching
5. "Teaching" means the act, practice, or profession of a teacher

Section 2. Amendment. Section 15.1-23-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-04. Home education - Required Subjects - Instructional time - Teacher of record

1. A parent supervising home education shall include instruction in those subjects required by law to be taught to public school students.
2. The instruction must have a duration of at least four hours each day for a minimum of one hundred seventy-five days each year.



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3. The parent will serve as the teacher for their child(ren). The parent is directly responsible for the instruction for their child(ren) being homeschooled. If the parent chooses not to do the instruction for a specific course, then the instruction must come from an accredited educational institution (i.e. Center for Distance Education, local public/private school). This rule does not preclude the parent from utilizing guest speakers, homework tutors, classical conversations, or any other program(s) that supplement their instruction.

Rep. Daniel Johnston
Senate Education Committee
Testimony for HB 1052
March 5, 2019

Mr. Chairman and Members of the Committee, my name is Daniel Johnston and I represent District 24 in the North Dakota House. Thank you for allowing me to be here today and testify on HB 1052.

Why does ND need this legislation?

HB 1052 is needed because of an Attorney General's opinion from 2007 which suggest that only a child's parent may provide instruction in a homeschool. Unfortunately, the opinion has led to questions about whether cooperative classes, online courses, or other third-party instruction may be considered instruction in a home education program.

(Final Paragraph 2007 AG opinion, "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".)

What does HB 1052 seek to do?

H.B. 1052's solution defines the term "supervise" to mean "the selection of materials, determination of an educational philosophy, and oversight of the method, manner, and delivery of instruction. HB 1052 also seeks to clarify the decision-making authority of a legal guardian with respect to homeschooling by coalescing parent and legal guardian into a single meaning, for the homeschool chapter.

What is a legal guardian/guardianship?

"A guardianship is when a person (other than the child's parent or de facto custodian) has legal custody and control over a child. The Guardian has the right to make all decisions concerning the child and is legally responsible for the child". With the definition of a legal guardian in mind, it's clear that a legal guardian is intended to have the same authority as a parent. Currently, legal guardians are

homeschooling in ND, which, technically according to the law as written, may be illegal or a grey area in the law that needs rectified.

<http://kyjustice.org/node/1235>

What HB 1052 won't do:

A homeschooling parent will not be able to set up something like a private school. It still leaves the responsibility with each parent but opens up using a tutor and takes some homeschooling programs out of the gray area. Much of the language for this bill was attained through collaboration with the Attorney General's office and the Department of Public Instruction. I believe DPI intends to testify in support of this legislation.

Please give HB 1052 a Do Pass recommendation. Thank you.

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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:

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Sincerely,

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NORTH DAKOTA HOME
SCHOOL ASSOCIATION

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At #3
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HB 1052 - Yes

Chairman Schaible and Committee Members,

My name is Theresa Deckert from Devils Lake. I am the Office Administrator for the North Dakota Home School Association (NDHSA) and also serve on the board of directors.

As the Office Administrator, I take phone calls from people throughout the state who are beginning to homeschool or just need help and advice. This gives me a good understanding of issues as they arise.

In 2007, the attorney general, Wayne Stenehjem, issued an opinion concerning who could do the actual instruction of a home educated student (see addendum #1). This was at the request of then Representative Merle Boucher who had been contacted by a superintendent in Grand Forks County. In order to homeschool the law required a parent to have a B.A, be N.D. state certified, or meet or exceed the cut-off scores on a national teacher's exam. There were a number of parents who were providing the education for their child under the "supervision" of the other parent who held the qualifications. This was deemed unacceptable based on early testimony prior to the adoption of the home education law in 1989. Please note I have highlighted a few key phrases in that document.

Since that time, home education resources have significantly expanded. Products which are home school specific have been developed, many by home schooling parents or individuals who graduated from a home education program, a number which are delivered online. **The internet has made online education an excellent choice for parents as have Classical Conversation Communities and expanded tutoring opportunities – but because of this opinion these are gray areas.**

This summer our association (NDHSA) approached the Governor's Office requesting a new opinion. They arranged for a meeting between me and the Attorney General's Office in which they determined that it would be best to address this legislatively.



NDHSA
PO Box 1066
Devils Lake, ND 58301

Phone: 701-662-6347
E-mail: office@ndhsa.org

This bill only changes terms dealing with definition and does not remove any current homeschool requirements such as filing to homeschool, instruction time or subjects taught.

Our purpose in this bill is to:

- Define the word “supervise” to clarify that the parent chooses the materials, determines the educational philosophy and the method, manner and delivery of instruction.
- Clarify that a legal guardian can also homeschool their charge.

Currently the homeschool law uses the term “legal guardian” in one spot. If you look at addendum #2, line 226 you will see that instance. Including it in the definition at the beginning will make it clear that a legal guardian can homeschool.

The current opinion has caused problems because districts interpret it differently. **The wording of the bill was left broad enough to allow for new curriculum developments and online resources.** It will also make it clear that a parent will be able to hire a tutor for areas they need help in or be part of a collaborative learning program such as Classical Conversations. This is reflected by the term “delivery” which was suggested by the DPI.

Even though you will hear reference to particular programs today, we did not include specific names of products or schools feeling that would be inappropriate to add into ND Century Code.

I consulted the DPI as requested by the Attorney General’s Office. **These changes are supported by the DPI and AG offices as well as the North Dakota Home School Association.** I also met with the North Dakota Council of Educational Leaders, but they did not offer any input to our association concerning this bill.

On a personal note, I would like to share what our homeschool looks like as my last child finishes his senior year. He is enrolled in two classes at Lake Region State College as dual credit, he takes orchestra at Devils Lake Public School, Trigonometry and Statistics classes are both done through online programs, and Government class is on video. I would note that the online and video classes were ordered directly from the publisher which is the practice of most homeschooling families. I am not doing any actual instruction in any of his classes this year, but just give input as needed, grade papers and supervise the overall program.

This past year I had the opportunity to serve on one of the subcommittees of the Governor’s Innovative Education Task Force as the home education representative. This task force

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explored learning options to enhance public school student's education. HB 1052 assures that North Dakota home educated students can avail themselves of all resources as well.

Homeschoolers are innovative and the scope of resources available today is amazing. We want to insure that home schooling parents have access to all of the best resources and methods.

Please give HB 1052 a "do pass".

Theresa Deckert
Devils Lake, ND
District 15

LETTER OPINION
2007-L-03
February 1, 2007

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3-5-19
Att #3
p4 of 7

The Honorable Merle Boucher
State Representative
House Chambers
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Dear Representative Boucher:

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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 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,

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).

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

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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

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)

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225 high school coursework from the minimum required curriculum offerings established by
226 law for public and nonpublic schools and the child's parent or legal guardian submits to
227 the issuing entity a description of the course material covered in each high school
228 subject, a description of the course objectives and how the objectives were met, and a
229 transcript of the child's performance in grades nine through twelve. The issuing entity
230 may indicate on a diploma issued under this subsection that the child was provided
231 with home education.

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

235 **15.1-23-18. Home education - Liability.**

236 No state agency, school district, or county superintendent may be held liable for accepting
237 as correct the information on the statement of intent or for any damages resulting from a
238 parent's failure to educate the child.

239 **15.1-23-19. Home education - State aid to school districts.**

240 For purposes of allocating state aid to school districts, a child receiving home education is
241 included in a school district's determination of average daily membership only for those days or
242 portions of days that the child attends a public school.

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Joy Mehlhoff
1716 E Omaha Drive
Bismarck, ND 58504

HB 1052

Chairman Schaibel and Committee Members,

I am Joy Mehlhoff from Bismarck and have [homeschooled since 1997](#) [graduating 4](#) of our children from our homeschool with one child still at home. Two of my graduates are also college graduates, one is currently enrolled in college and the fourth is a stay-at-home mom.

The high school years are challenging and as parents, we want to provide a well-rounded education for our children. We want them to be active, responsible citizens in society. To graduate my children with this goal in mind took a great deal of creativity. There are now many innovations available to parent educators. When the homeschool law was initially written, these programs and resources didn't exist. [Classical Conversations is one of those innovations.](#)

Classical Conversations (CC) is an innovative classical education resource used by homeschoolers in all 50 states, 22 foreign countries. There are more than 117,000 students enrolled in its tutoring programs provided by more than 2,500 CC communities. It is [one of the fastest growing homeschool programs](#) with a growth rate of 52% each year since its inception in 1997. ND now has 7 CC communities and is continuing to grow as homeschool families realize it's amazing benefits for their children's education. CC [provides resources, guidance and a community for a collaborative Christian homeschool curriculum using classical education.](#) My family's educational philosophy is not only Classical but strongly Christian. This makes CC a great option for us!

It works like this. One day per week (community day), [CC offers a full presentation of curriculum for kindergarten through grade 12](#), directed by a trained parent tutor. The parent tutor leads other people's children for that 1 community day per week in discussions and

provides accountability for the children to complete the curriculum assignments. CC has been a very valuable asset to our students' education.

Primarily it has been invaluable to my husband and me in making sure there were no "gaps" in our children's education. Everything academic is covered and they even get the "extras" in debate, speech, musical theory, foreign language, mock trial, etc.

Even though the tutor directs our children on the community day once a week, we work with our children the remaining 4 days a week to understand, complete and grade the assignments. I have been a parent tutor for 6 years, have tutored the elementary age for 4 years, grades 11 and 12 for one year each. Our children love CC because they get to experience academic accountability and enjoy collaborative learning. Lively discussions among students are facilitated by the parent tutor and occur weekly with much peer feedback. They even get together outside of community day to do their school work, hang out and have fun.

CC provides a depth to our children's education we could not achieve without the curriculum and collaborative educational community. CC has made high school completely feasible for homeschool parents to achieve. It is a fantastic option for parents who desire to homeschool their children, but, may initially feel inadequate and unsure of themselves. It virtually eliminates the possibility of parents failing to provide a well-rounded education. CC provides all of the necessary resources and tools and trains parents how to successfully use them. There are annual 3-day practicum for parent educators to learn and put these tools into practice. I have been a CC Practicum main speaker for the past 2 years and have traveled to different cities to provide quality training for homeschool parents.

Classical Conversations is what I have successfully used with my family and my concern is that the current law is vague about whether this method is technically allowed due to the Attorney General's opinion on the definition of 'supervise.' The amended definition of home education ensures that we are free to supervise the educational philosophy and delivery of instruction for our children. Please give HB 1052 a "do pass".

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Testimony before the North Dakota Senate Education Committee
Bette Grande, Research Fellow
The Heartland Institute
March 5, 2019

Chairman Burckhart and members of the Senate Education committee,

As a former legislator who served on the Education Committee at one time, I can tell you that North Dakota has come a long way in its acceptance of Home education over the past couple of decades. When I drafted and introduced bills in support home education and parental direction during my tenure in the House, we faced significant barriers and I found any change was hard fought. But, the home educators of this state have proven over and over that they are qualified, capable and motivated for the important role of education. Yet, there is more that can be done, and this Bill goes a long way in helping parents have control and a say in the way their children are educated.

Technology, the information era, provides access to more and better materials and improved means of sharing knowledge and skills. Home education networks and families are close knit and enjoy the ability to work together. The State should embrace this opportunity and encourage all means and ways to empower family's access to the education opportunities for their children.

The Heartland Institute and the Roughrider Policy Center of North Dakota stand in support of HB 1052 and ask for your support.

<https://www.heartland.org/multimedia/podcasts/new-homeschooling-phenomenon-road-schooling>

NEW HOMESCHOOLING PHENOMENON: 'ROAD SCHOOLING'

SEPTEMBER 6, 2017

By [Teresa Mull](#)

When you go to this above site you will hear from an interesting home education story. Not every child learns the same, not every parent would do things this way, but it is a way they choose to educate their children.

Caroline Makepeace, a mother of two elementary-school-aged daughters and former teacher, talks about how she and her family travel the world and make learning on the road not only a possibility, but an exciting adventure. Makepeace discusses how she and her family incorporate learning experiences - both mental and physical through the exploration of new cultures and places and the learning of new activities - into every new place they visit. Caroline Makepeace explains her family's inspiration to start "road schooling," some hurdles they've encountered along the way, and why the flexibility of the method is great for the whole family.

Testimony in Favor of House Bill 1052

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
March 5, 2019

Chairman Schaible and honorable members of the Senate Education Committee, my name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am here today to testify in favor of House Bill 1052.

Parents have certain legal rights in North Dakota to direct the upbringing and education of their children, which is a great start. However, Family Policy Alliance of North Dakota believes that to give children a wide open future, parents must be free to choose the best educational fit for their child, whether it is public, charter, private, or homeschool.

Homeschooling in particular offers unique opportunities. It allows parents to tailor their child's education experience to his or her individual learning needs. All children have unique talents and interests given by God. They should be free to explore these gifts, even if alternative educational plans are the best way to do this.

Currently, North Dakota law is unclear on what it means for a parent to direct and supervise the education of their children. It also indirectly restricts who can actually teach the child, such as a tutor or legal guardian. This bill clarifies these issues and gives parents the opportunity to use all the excellent tools available to provide instruction to their child. The key to this bill is freedom of educational choice, which is what North Dakota parents want and need.

In the time I've lived here in North Dakota, there is one thing that has become abundantly clear: North Dakotans believe in freedom. The thing to remember is that freedom attracts. We need only look so far as the founding of our country to see evidence of that. I think we would all be proud if our state's homeschooling opportunities were lauded as some of the best in the nation.

Chairman Schaible and honorable members of this committee, I respectfully request that you render a "Do Pass" recommendation on HB 1052. Thank you for your time and I'd be happy to answer any questions you may have.



TESTIMONY ON HB 1052

Education COMMITTEE

3/5/2019

By: Joe Kolosky, Deputy Director

701-328-2295

North Dakota Department of Public Instruction

Mr. Chairman and Members of the Committee:

My name is Joe Kolosky and I am the Deputy Director of the Office of School Approval & Opportunity with the Department of Public Instruction. I am here to speak in favor of HB 1052 regarding home education and specifically the supervision of home education.

Superintendent Baesler, myself and the Department of Public Instruction support this bill. We have worked closely with the North Dakota Home Education Association to draft language that will assist in clarifying the current home education law. We feel this bill is important especially in this day when more and more students are taking advantage of the great opportunity of technology and online coursework.

Lastly, this bill will allow the NDDPI to provide better technical assistance and guidance to our home school families.

Chairman Schaible and Members of the Committee, that concludes my prepared testimony and I will stand for any questions that you may have.

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North Dakota Home School Enrollment Data:

School Year	Home School Students
2018-2019	439*
2017-2018	3078
2016-2017	3067
2015-2016	2858
2014-2015	2764
2013-2014	2359
2012-2013	2048
2011-2012	1891
2010-2011	1683
2009-2010	1494
2008-2009	1543
2007-2008	1478
2006-2007	No Data Available

*This data is may not be accurate as STARS reporting is not fully completed until year end.

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John Peterson
District 12
Jamestown, ND
701.368.9534
18 February 2019

HB 1052

Chairman Schaible and Committee Members,

My name is John Peterson from Jamestown. I have taught in public schools for four years and have math and science degrees in education from the University of Jamestown that allow me to teach almost every math and science class offered at the high school level.

During my four years in public education, I created my own online course work which included computer-generated and graded worksheets, video lectures, and online quizzes. I used this work to offer the best education I could to my students. It allowed me to:

- 1) Move students up and down levels in math as they needed
- 2) Attempt a Flipped-Classroom (Students watch the lecture when they have time, and then use class time to ask questions and work on homework)
- 3) Provide instant feedback to students
- 4) Allow students to work at their own pace

Once I used the online materials for several years, I started thinking that homeschoolers would also benefit from the materials. However, I ran into a problem when pursuing this idea. In the 2007-L-03 attorney general's opinion, Wayne Stenehjem concluded that the word 'supervise' in the Code meant that the parent must provide the actual instruction. That meant I could not offer my video lectures and subsequent course work to homeschoolers because I would be delivering the instruction *instead of* the parents.

In the public-school system, we were encouraged to use other resources to provide instruction to the students and we were evaluated based on how involved the community was in our curriculum (Marshal Plan – E. Family and Community Outreach). If the public schools are supposed to enlist the involvement of the community, why are homeschooling families restricted to instruction provided only by the parents? Therefore, I support passage of HB 1052 to clarify that parents can supervise other individuals instructing their children.

When parents take the responsibility of educating their children upon themselves, they should also be able to set the credentials for who instructs their children. If they believe a veterinarian can best instruct their children in biology, they should be able to select the veterinarian. Perhaps a local journalist could deliver instruction for a writing class. The list of non-certified and non-licensed, yet highly qualified, persons that could deliver instruction is endless. With the passage of HB 1052 I, a former math teacher, could offer my math classes and manage science labs for homeschoolers.

Furthermore, the goal for any education system is to provide the best possible education for its students. Homeschoolers should be able to seek out the best education for their students as well. That may mean hiring a local math teacher to teach subjects like trigonometry or calculus. It may mean organizing several families together with a local science teacher (or engineer) to do lab experiments. Choosing to homeschool should not limit the options for education. In fact, it should create more options because there is not a school bell restricting the time.

Public-school teachers can choose who delivers the instruction in their classrooms from online sources like Khan Academy to guest speakers. Homeschooling parents should have the same ability. Please give HB 1052 a “do pass” recommendation.

John Peterson
District 12
Jamestown, ND
701.368.9534

Gail M. Biby
252 Circle Dr. N.
Fargo, ND 58102 701.566-4538
January 8, 2019

HB 1052 - YES

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Mr. [REDACTED] and Senate Education Committee members,

I have worked with parent educators for almost 30 years. I remember in the early 1990s when the parent's only choice was to make their own curriculum or purchase a textbook/workbook/teachers' manual system from a supplier that made materials for private schools.

When the original law was written it was perhaps assumed that the 'supervising' parent would be the provider of all the instruction. As the decades have passed and a plethora of options have developed for homeschoolers, the original intent of the wording of the law is no longer adequate to describe how homeschooling is actually occurring nor does it take into account the technological age we now live in. Options which were once minimal are now overwhelmingly numerous.

The attorney general's opinion cited which brought about this bill may have been correct in its assumptions 30 years ago, but is now sadly out-dated. Homeschooling hasn't operated as described for a long time. The opinion disallows 'credit' for the homeschooled on such activities not taught directly by the parent educator such as: piano lessons, art lessons, science center labs, geography and spelling bees, coop math classes, beginner and advanced writing classes, biology labs, and worldview studies. These are all options currently being offered to ND homeschoolers not taught by the parent educator. Under the current attorney general's opinion these could not be credited to the child's educational accomplishments.

Further I have always thought the brouhaha over the meaning of the word 'supervise' was a bit disingenuous. Supervise means: to observe and direct the execution of (a task, project, or activity). Synonyms include: oversee, be in charge of, be in control of, preside over, direct, administer, manage, govern. No definition declares that the supervisor is the one who actually is doing all the work. When properly interpreted, the word 'supervise' is still useful but over the past three decades it has been misunderstood and misapplied, thus the need for clarification in the law.

HB 1052 will clear up any confusion regarding this issue, benefiting both parents and public school officials.

Finally, with the increasing amount of options available to homeschoolers, freedom to pursue what works best in family ought to be expanded to include the many technological advances we now enjoy.

I urge you to give HB 1052 a 'do pass'.

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CHAPTER 28-35
UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION
ACT

28-35-01. (102) Definitions.

In this chapter:

1. "Adult" means an individual who has attained eighteen years of age.
2. "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under chapter 30.1-29.
3. "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under chapter 30.1-28.
4. "Guardianship order" means an order appointing a guardian.
5. "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.
6. "Incapacitated person" means an adult for whom a guardian has been appointed.
7. "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.
8. "Person", except in the term incapacitated person or protected person, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
9. "Protected person" means an adult for whom a protective order has been issued.
10. "Protective order" means an order appointing a conservator or other order related to management of an adult's property.
11. "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.
12. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
13. "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.
14. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

28-35-02. (103) International application of chapter.

A court of this state may treat a foreign country as if it were a state for the purpose of applying sections 28-35-01, 28-35-02, 28-35-03, 28-35-04, 28-35-05, 28-35-06, 28-35-07, 28-35-08, 28-35-09, 28-35-10, 28-35-11, 28-35-12, 28-35-13, 28-35-14, 28-35-15, 28-35-16, and 28-35-20.

28-35-03. (104) Communication between courts.

1. A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.
2. Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

28-35-04. (105) Cooperation between courts.

1. In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:
 - a. Hold an evidentiary hearing;
 - b. Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

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**CHAPTER 30.1-27
GUARDIANS OF MINORS**

30.1-27-01. (5-201) Status of guardian of minor - General.

A person becomes a guardian of a minor by acceptance of a testamentary appointment or upon appointment by the court. The guardianship status continues until terminated, without regard to the location from time to time of the guardian and minor ward.

30.1-27-02. (5-202) Testamentary appointment of guardian of minor.

The parent of a minor may appoint by will a guardian of an unmarried minor. Subject to the right of the minor under section 30.1-27-03, a testamentary appointment becomes effective upon filing the guardian's acceptance in the court in which the will is probated and upon approval by the court either after or without a hearing, if, before acceptance, both parents are dead or the surviving parent is adjudged incapacitated. If both parents are dead, an effective appointment by the parent who died later has priority. This state recognizes a testamentary appointment effected by filing the guardian's acceptance under a will probated in another state which is the testator's domicile and upon approval by the court either after or without a hearing. Upon acceptance of appointment, written notice of acceptance must be given by the guardian to the minor and to the person having the minor's care or to the minor's nearest adult relation.

30.1-27-03. (5-203) Objection by minor of fourteen or older to testamentary appointment.

A minor of fourteen or more years may prevent an appointment of the minor's testamentary guardian from becoming effective, or may cause a previously accepted appointment to terminate, by filing with the court in which the will is probated a written objection to the appointment before it is accepted or within thirty days after notice of its acceptance. An objection may be withdrawn. An objection does not preclude appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person.

30.1-27-04. (5-204) Court appointment of guardian of minor - Conditions for appointment.

The court may appoint a guardian for an unmarried minor if all parental rights of custody have been terminated or suspended by circumstances or prior court order. A guardian appointed by will as provided in section 30.1-27-02 whose appointment has not been prevented or nullified under section 30.1-27-03 has priority over any guardian who may be appointed by the court, but the court may proceed with an appointment upon a finding that the testamentary guardian has failed to accept the testamentary appointment within thirty days after notice of the guardianship proceeding.

30.1-27-05. (5-205) Court appointment of guardian of minor - Venue.

The venue for guardianship proceedings for a minor is in the place where the minor resides or is present.

30.1-27-06. (5-206) Court appointment of guardian of minor - Qualifications - Priority of minor's nominee.

The court may appoint as guardian any person whose appointment would be in the best interests of the minor. The court shall appoint a person nominated by the minor, if the minor is fourteen years of age or older, unless the court finds the appointment contrary to the best interests of the minor.

30.1-27-07. (5-207) Court appointment of guardian of minor - Procedure.

1. Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given by the petitioner in the manner prescribed by section 30.1-03-01 to:
 - a. The minor, if the minor is fourteen or more years of age.