

2011 HOUSE EDUCATION

HB 1436

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1436  
02/08/11  
14208

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1436.

**Rep. Kathy Hawken:** Sponsor. When we changed the date of kindergarten enrollment last session we also changed wording that when along with entrance to kindergarten. Over this biennium people have become aware that the wording change has caused some issues I think mostly in the larger school districts. It was talked about changing the wording back to what it was prior to the date change. There are two reasons for this request. One is on the lower end of the scale that parents often think their children are brilliant and should go to kindergarten no matter what and the wording doesn't give the districts the tools to say to the parent that we need to wait. In some instances parents don't want to pay for another year of daycare. The second side is with the child that is advanced and probably should go ahead even though their birth date is not in alignment with what we had put in Century Code. As we all know this is somewhat arbitrary. It is a tool for the use of the school district in making sure the children that come to them are placed correctly in the classroom.

**Rep. Brenda Heller:** On the second page line two, how do you demonstrate superior academic?

**Rep. Kathy Hawken:** That is what the wording was before and they do that through testing. If that word isn't something you feel comfortable with a word similar might work.

**Rep. Brenda Heller:** Was "talents or abilities and" also in the previous law before we changed it last session?

**Rep. Kathy Hawken:** My understanding is all this is doing is reverting to what the language was.

**Chairman RaeAnn Kelsch:** I'm fairly certain that is right.

**Rep. Phillip Mueller:** Superior means you are not average, you above average and above, above average. Could something like adequate work there?

**Chairman RaeAnn Kelsch:** Remember committee members that this is for enrollment for kids before they are of the minimum age. You are starting a gifted child early. You can't just

have adequate or average. You have to be a step above in order to go into a kindergarten class a year early. We have tried to tinker with that language in the past and haven't been very successful with it. I think that is why you see words like that.

**Rep. Kathy Hawken:** It was said that a word other than superior could be found. What we need to be careful of is that we don't insert a word that greatly reduces the standard. It is a double edge. It is moving the advanced child forward but it is also gives the district a tool for the over exuberant parent who's tests at a non-ready area to say we are sorry and it is not in your child's best interest.

**Rep. David Rust:** I remember when we started writing early entrance for first grade. When we started doing that we did that for the kids in the 95% and above so they had to do very well. I don't think superior is a bad word.

**Rep. Kathy Hawken:** I do have a couple studies on why it is important to move that highly scoring child forward.

**Rep. Karen Rohr:** Is the standard for superior academic the same throughout all the schools?

**Rep. Kathy Hawken:** I would have no idea as to the answer but I would guess it is standard within a district, I can't say it is standard throughout the state.

**Rep. Dennis Johnson:** Could you replace superior with grandchild?

**Rep. Kathy Hawken:** That is the issue.

**Rep. John Wall:** I realize all words are probably subjective. I have a problem with superior also. I think a word you used was advanced and I think that would be more measurable.

**Rep. Kathy Hawken:** That could certainly be replaced.

**Chairman RaeAnn Kelsch:** For some of you that had been here, in the 90s we had a couple of bills that tried to loosen up this language. It was being done for a couple of parents that said I am certain my child is ready but the school district keeps giving them these tests and the tests are saying my child isn't ready but I'm sure that they are so could you loosen up the law a little bit. We've had this discussion in the past about loosening up the law.

**Rep. Mike Schatz:** On the other end of superior, I'm reading in this bill it says "the child has not received the age of 21 before August 1, of the year of enrollment." Am I right in thinking you could be 21 on August 2, and go to school?

**Rep. Kathy Hawken:** That is the top end of the law.

**Chairman RaeAnn Kelsch:** That is typically for special needs children.

**Rep. Mike Schatz:** But that could be any age?

**Chairman RaeAnn Kelsch:** Yes because you can't discriminate but typically what we see are special needs children.

**Rep. Brenda Heller:** Why was this taken out last session?

**Chairman RaeAnn Kelsch:** I think it was an oversight.

**Rep. Kathy Hawken:** It was amended too.

**Chairman RaeAnn Kelsch:** I think some language ended up being dropped and it shouldn't have been. I remember last session talking about this and all we talked about was changing the dates. It was not talked about anything about this.

**Rep. Lyle Hanson:** This bill basically measures intelligence. How would you measure social skills for someone going into kindergarten?

**Rep. Kathy Hawken:** I believe there are tests that tell you where you are. I know my grandchildren took tests that worked on social skills.

**Rep. Lyle Hanson:** They do that now?

**Rep. Kathy Hawken:** I know they do in St. Louis.

**Chairman RaeAnn Kelsch:** There are two issues here. We had a bill that dealt with kindergarten readiness where they do testing before kindergarten starts. What happens here is this testing is done if you go and say your child exhibits superior academic and I want to have them tested for early admission, they have tests for those children. They do have tests for social behavior and how they socialize with other children. Really is it subjective testing? Some probably is but I think it's done by people are experts in that field that have a good understanding at what they level the child is at.

**Rep. Lyle Hanson:** If a child is going into kindergarten and is coming from a family of 7 siblings, that child is probably more adjusted than that of a child that comes from a single child family.

**Chairman RaeAnn Kelsch:** You may have that single child that has been in daycare or preschool program. You could have the child that is home with mom all the time and doesn't have quite as good social skills although I think something that has become popular is to have play dates so those kids can have the time for socialization.

**Rep. Kathy Hawken:** This is just a tool that allows the district the ability to visit with the parent and have that wherewithal to say this child is socialized and would fit in. Who knows we might have pre-k someday and this won't be an issue.

**Rep. David Rust:** It is a process through not only testing but interviews that you determine the level of academic, social, and emotional readiness.

**Rep. Kathy Hawken:** This allows the districts to do the best job they can for each child.

**Chairman RaeAnn Kelsch:** Further testimony in support?

**Warren Larson – NDCEL:** We support this bill as it is adjusted. As I recall the terms are designed to match the assessments and the level of assessments. Generally most of the policies that school districts have around the state are very similar. The assessment also assesses the various aspects of the child not just the academic. There are a number of people that work with the child. It is a very intensive process.

**Chairman RaeAnn Kelsch:** Are you saying the superior is in there because that is one of the levels of testing?

**Warren Larson – NDCEL:** I believe so.

**Rep. Karen Rohr:** Are you saying this language would work for all in state of North Dakota?

**Warren Larson – NDCEL:** There is constancy in these policies. There are some individual differences. These were first developed by school districts and they came from special education districts. Then we came back around and realized this wasn't a special education deal and redesigned them. There is a similar pattern between all those in the state. They may use different assessments from time to time.

**Chairman RaeAnn Kelsch:** Further questions? Support?

**Bev Nielson – School Board Association:** We support this as a tool for districts to assess their kindergarten students if they chose to use it.

**Chairman RaeAnn Kelsch:** Questions? Support? Opposition? Neutral? Wishes of the committee?

**Rep. David Rust:** I move a do pass.

**Rep. Joe Heilman:** Second.

**Rep. David Rust:** Most school districts have early entrance policies. I would bet that most probably say the same thing which is we understand that some kids are more ready to go to school than others, but this is basically designed for those kids that score at the 95 percentile. It is a superior student you are allowing into school early. If you don't like that, then change kindergarten starting at age 4 and first grade starting at age 5. It is designed for those kids that are really above average socially and emotionally as well as academically.

**Chairman RaeAnn Kelsch:** Discussion? We will take the roll on a do pass. Motion carries. We will close on HB 1436.

**15 YEAS 0 NAYS 0 ABSENT**  
**CARRIER: Rep. Corey Mock**

**DO PASS**

Date: 02-08-11  
Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1436

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. RUST Seconded By REP. HEILMAN

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller	X		Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 15 No 0

Absent 0

Floor Assignment REP. MOCK

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

**REPORT OF STANDING COMMITTEE**

**HB 1436: Education Committee (Rep. R. Kelsch, Chairman)** recommends **DO PASS**  
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1436 was placed on the  
Eleventh order on the calendar.



2011 SENATE EDUCATION

HB 1436

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Education Committee**  
Missouri River Room, State Capitol

HB 1436  
March 2, 2011  
14856

☐ Conference Committee

Committee Clerk Signature

*T. Gorge*

## Explanation or reason for introduction of bill/resolution:

Relating to enrollment in kindergarten; add "superior talents or abilities."

## Minutes:

See "attached testimony."

**Chairman Freborg** opened the hearing on HB 1436; no fiscal note attached.

**Representative Hawkin, District 46**, introduced HB 1436 which was put in at the request of a number of school districts. Last session when the entrance date for kindergarten was changed, the wording of the appropriate terms were also changed—either on purpose or inadvertently. The school districts would like to go back to the original language which includes the terms "superior talents or abilities"; just reinstates the wording on lines 2 & 3 of page 2. The rationale from the school districts is two-fold. First, there are children who are gifted and extremely talented; this gives the school the ability to place them in the classroom earlier than they would normally be able to. Second, there are some children that aren't ready at an earlier age (as shown by the testing) so it gives the school district some leverage in saying they don't meet the criteria for early enrollment.

**Senator Heckaman:** Those terms "superior" and "talents and abilities" have specific number that the school uses for criteria, correct? **Representative Hawkin:** Believes that is correct; goes along with the assessment.

**Doug Johnson, North Dakota Council of Educational Leaders** testified in support of the bill which changes the language as presented. To answer the previous question—those terms align with the assessments that are given. Very easy for kindergarten teachers and administrators to look at the scores so they can tell the parents where the student has superior academic talents or abilities.

**Bev Nielson, North Dakota School Boards Association** supports the bill.

**Rick Buresh, Superintendent, Fargo Public Schools** presented a letter in support of the bill (#1 Testimony)

**Betty Hanson, Principal, Kindergarten Center in West Fargo** testified in support of HB 1436 (#2 Testimony)

No further testimony in support of HB 1436; no opposition. Hearing closed.

**Senator Heckaman** questioned why there was a dash after "academic"; is it punctuated correctly? Linda Paluck from the audience felt it was correct, and maybe a strikethrough of the comma below it.

**Senator Heckaman:** Move a Do Pass to HB 1436; second by **Senator Marcellais**. Motion carried 7-0-0. **Senator Schaible will carry the bill.**

Date: 3-2-11  
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1436

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Heckaman Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	<input checked="" type="checkbox"/>		Senator Joan Heckaman	<input checked="" type="checkbox"/>	
Vice Chair Donald Schaible	<input checked="" type="checkbox"/>		Senator Richard Marcellais	<input checked="" type="checkbox"/>	
Senator Tim Flakoll	<input checked="" type="checkbox"/>				
Senator Gary A. Lee	<input checked="" type="checkbox"/>				
Senator Larry Luick	<input checked="" type="checkbox"/>				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Schaible

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

**REPORT OF STANDING COMMITTEE**

**HB 1436: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS**  
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1436 was placed on the  
Fourteenth order on the calendar.

2011 TESTIMONY

HB 1436

Testimony in support of **HB 1436 Title: Relating to enrollment in kindergarten.**  
Rick Buresh, Superintendent, Fargo Public Schools  
3/2/2011

Chairman Freborg, Senators, good afternoon. Thank you for the opportunity to address this committee to express my support for HB 1436.

My understanding is that prior to the 2009 Legislative Assembly, the language used to describe the standard that would qualify for early entry to kindergarten were those used in HB 1436, page 2, lines 2 and 3 and lines 21 and 22. To be eligible for early entry a student must attain a rating of "superior" and be judged to be emotionally ready for kindergarten expectations. The term "superior", we believe, is critical. It is a commonly used term within rubrics to report

performance on many developmental and readiness screening instruments. The term "superior", or its

**HB 1436 to reenact 15.1-06-01 and 15.1-22-02  
KINDERGARTEN**

5. May not enroll a child who is not five years old before August first of the year of enrollment, unless the child will be five years old before December first and:
  1. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the kindergarten operator, can demonstrate superior academic, talents or abilities and social, and emotional readiness; or

equivalent, is well understood within the educational community and many parents as they consider the best timing for a student's entry into kindergarten.

During the 2009 Legislative Assembly, the term "superior" was deleted from both 15.1-06-01 and 15.1-22-02 leaving the standard at being kindergarten "ready". We have to agree with some parents who have since appealed to us that this new language expresses a far lesser standard than the "superior" standard that had previously been there and permits early entry for many more students than were contemplated. Based on this new language we admitted

more students this year  
than in previous years and  
expect even more once this  
new standard is widely  
known. We do not believe  
this to be in the best  
interest of students in the long run.

**Current NDCC 15.1-22 KINDERGARTEN**

5. May not enroll a child who is not five years old before August first of the year of enrollment, unless the child will be five years old before December first and:
  - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the kindergarten operator, can demonstrate academic, social, and emotional **readiness**; or

For these reasons, we support the language changes contained in HB 1436.

The next page lists some research to support the notion of grade skipping for students with superior academic talents or abilities.



The rationale behind including the term superior is based on the research that shows grade skipping (early entrance is a type of grading skipping) has proven to have a positive academic long-term outcome on those students who are academically gifted. Including the term superior in the language of the statute, allows a district the opportunity to better select students for early entrance. The decision will impact a student, not only for the upcoming school year, but for their entire academic career.

Statements from research:

Meta-analysis by James Kulik and Chen-Lin Kulik of 26 long-term studies of accelerated students found that gifted students who skipped grades academically outperformed gifted students who were not accelerated without negative social or emotional outcomes.

Kulik, James A. and Chen-Lin C. Kulik. "The Effects of Accelerated Instruction on Students." *Review of Educational Research* Vol. 54, No. 3 1984:409-425.

Davidsons stress that in their personal experience working with profoundly gifted children, roughly 90% of those who've experienced grade acceleration have a positive long-term outcome.

Davidson, Ian and Bob Davidson with Laura Vanderkam. *Genius Denied: How to Stop Wasting Our Brightest Young Minds*. New York: Simon and Schuster, 2004

Authors John Feldhusen, Theron Proctor and Kathryn Black state, "Grade advancement is a legitimate and valuable method of meeting the needs of some intellectually or academically gifted students. Grade advancement is a way of bringing some gifted and talented children up to a level of instruction closer to their levels of achievement and pace.

Feldhusen, J., Proctor, T. B., & Black, K. N. *Roeper Review* Vol. 9, No. 1, pp. 9-10  
September 1986

According to the Minnesota Council for Gifted and Talented, "Sometimes, gifted youngsters may be so advanced in knowledge and so clearly operating at an intellectual level beyond that of their age-peers that educational acceleration is a realistic and desirable alternative to normal grade-level work. Educational acceleration, or providing students with academic work they would not ordinarily encounter until reaching a later grade in school, is usually considered when no amount of enrichment, individual attention, or special grouping within a class seems to keep the gifted student engaged in school."

Sharon J. Lynch, Ph.D - [http://www.mcgt.net/Articles/should\\_gifted\\_students\\_be\\_grade.html](http://www.mcgt.net/Articles/should_gifted_students_be_grade.html)

## Testimony on HB 1436

### Presented to the Senate Education Committee

By Betty Hanson, Principal, Clayton A. Lodoen Kindergarten Center, West Fargo Schools

(701) 356-2020 // [hanson@west-fargo.k12.nd.us](mailto:hanson@west-fargo.k12.nd.us)

Mister Chairman and members of the Senate Education Committee, my name is Betty Hanson, Principal of the Clayton A. Lodoen Kindergarten Center, West Fargo School District and I am here today to support the provisions of HB 1436.

Prior to last year, North Dakota Century Code has stated that a child must have special talents or abilities to be considered for early entrance into kindergarten. This statement was removed during the last legislative session and we believe it should be reinstated. The first requirement for entrance to school is that the child turn five before August 1. When a family decides to supersede that expectation, we need to have other prerequisites in place. Without clearly defined criteria, any four year old child whose birthday lies between August and December could be allowed to attend school. Over the years, we have observed a majority of four year old children are not socially, emotionally or academically ready to meet the demands of a structured school setting.

It is more difficult and subjective to assess social and emotional readiness versus superior academic talent. It is important to have a child's first year in school be successful in all developmental areas. A child of superior intelligence may need to have advanced placement at a later grade level, but this would be after that child has shown success in the social and emotional setting of a school. It is difficult to determine their social skills prior to being involved in a classroom with many other students.

Please consider supporting the expectation that a child have superior academic talents <sup>or</sup> abilities before allowing them to attain early entrance.