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HOUSE FILE 455  
BY COMMITTEE ON EDUCATION

Place On Calendar

(SUCCESSOR TO HSB 202)

Passed House, Date 3/27/91 (S. 870) Passed Senate, Date 4/25/91 (P. 1490)  
Vote: Ayes 64 Nays 0 Vote: Ayes 43 Nays 4  
Approved May 23, 1991

A BILL FOR

1 An Act relating to school instruction and attendance of children  
2 of compulsory school attendance age and providing for  
35723 mediation of truancy issues, penalties, and a repealer.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*h.s. 455*

1 Section 1. Section 256.9, Code 1991, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 45. Develop model guidelines for district  
4 in-service training programs for truancy officers and direct  
5 the area education agencies to assist local school districts  
6 in providing the programs.

7 Sec. 2. Section 280.2, Code 1991, is amended to read as  
8 follows:

9 280.2 DEFINITIONS.

10 The term "public school" means any school directly  
11 supported in whole or in part by taxation. The term  
12 "nonpublic school" means any other school which is accredited  
13 or which uses licensed practitioners as instructors.

14 Sec. 3. Section 280.3, unnumbered paragraph 1, Code 1991,  
15 is amended to read as follows:

16 The board of directors of each public school district and  
17 the authorities in charge of each nonpublic school shall  
18 prescribe the minimum educational program and an attendance  
19 policy which shall require each child to attend school for at  
20 least one hundred forty-eight days, to be met by attendance  
21 for at least thirty-seven days each school quarter, for the  
22 schools under their jurisdictions. The minimum educational  
23 program shall be the curriculum set forth in section 256.11,  
24 except as otherwise provided by law. The board of directors  
25 of a public school district shall not allow discrimination in  
26 any educational program on the basis of race, color, creed,  
27 sex, marital status or place of national origin.

28 Sec. 4. Section 299.1, Code 1991, is amended to read as  
29 follows:

30 299.1 ATTENDANCE REQUIREMENTS.

31 The Except as provided in section 299.2, the parent,  
32 guardian, or legal or actual custodian of a child who is over  
33 seven-and-under-sixteen-years-of-age-by-September-15,-in  
34 proper-physical-and-mental-condition-to-attend-school is of  
35 compulsory attendance age, shall enroll cause the child to

1 attend some public school, commencing-as-provided an  
2 accredited nonpublic school, or competent private instruction  
3 in accordance with the provisions of chapter 299B, during a  
4 school year, as defined under section 279.10. The board of  
5 directors of a public school district or the governing body of  
6 an accredited nonpublic school shall set the number of days of  
7 required attendance for the schools under its control.

8 The board of directors of a public or the governing body of  
9 an accredited nonpublic school may, by resolution, require  
10 attendance ~~in the public schools~~ for the entire time when the  
11 schools are in session in any school year and adopt a policy  
12 or rules relating to the reasons considered to be valid or  
13 acceptable excuses for absence from school.

14 ~~A child shall attend an accredited or approved school for~~  
15 ~~at least one hundred twenty days each school year. The~~  
16 ~~requirement shall be met by attendance for at least thirty~~  
17 ~~days each school quarter, or a similar distribution of~~  
18 ~~attendance throughout the school year.~~

19 In lieu of such attendance such at a public or accredited  
20 nonpublic school a child may attend upon equivalent private  
21 instruction for at least one hundred forty-eight days each  
22 school year by a licensed teacher elsewhere.

23 The failure of a child to attend school or competent  
24 private instruction under chapter 299B, as provided in this  
25 chapter, establishes a rebuttable presumption that the child  
26 is truant as defined in section 299.8 and that the parent,  
27 guardian, or legal or actual custodian of the child has  
28 committed a violation of this chapter.

29 Sec. 5. NEW SECTION. 299.1A COMPULSORY ATTENDANCE AGE.

30 A child who has reached the age of six and is under sixteen  
31 years of age by September 15 is of compulsory attendance age.

32 Sec. 6. Section 299.2, Code 1991, is amended to read as  
33 follows:

34 299.2 EXCEPTIONS.

35 Section 299.1 shall not apply to any child:

- 1 ~~1. Who is over the age of fourteen and is regularly~~
- 2 ~~employed.~~
- 3, 193 ~~2. Whose educational qualifications are equal to those of~~
- 4 ~~pupils who have completed the eighth grade:~~
- 5 1. Who has completed the requirements for graduation in an
- 6 accredited school or has obtained a high school equivalency
- 7 diploma under chapter 259A.
- 8 2. Who is excused for sufficient reason by any court of
- 9 record or judge.
- 10 3. While attending religious services or receiving
- 11 religious instructions.
- 12 4. Who is attending a private college preparatory school
- 13 accredited or probationally accredited under section 256.11,
- 14 subsection 13.
- 15 5. Who has been excused under section 299.22.
- 16 6. Who is exempted under section 299.24.

17 Sec. 7. Section 299.3, Code 1991, is amended to read as  
18 follows:

19 299.3 REPORTS FROM PRIVATE ACCREDITED NONPUBLIC SCHOOLS.

20 ~~Within ten days from receipt of notice from the secretary~~  
 21 ~~of the school district within which any private school is~~  
 22 conducted On or before the third Friday in September of each  
 23 school year, and at any time when requested in individual  
 24 cases, the principal of such an accredited nonpublic school  
 25 ~~shall, once during each school year, and at any time when~~  
 26 ~~requested in individual cases,~~  furnish to such the secretary  
 27 of the public school district, within which the accredited  
 28 nonpublic school is located, a certificate and report in  
 29 duplicate on forms provided by the public school district of  
 30 the names, ages, and number of days attendance of each pupil  
 31 of such the accredited nonpublic school over seven and under  
 32 sixteen years of age who is of compulsory attendance age, the  
 33 course of study pursued by each such child the pupil, the  
 34 texts used, and the names of the teachers, during the  
 35 preceding year and from the time of the last preceding report

1 to the time at which a report is required. The secretary  
2 shall retain one of the reports and file the other with the  
3 secretary of the area education agency.

4 Sec. 8. Section 299.4, Code 1991, is amended to read as  
5 follows:

6 299.4 REPORTS AS TO PRIVATE INSTRUCTION.

7 The parent, guardian, or legal or actual custodian of a  
8 child who ~~by-September-15-is-over-seven-and-under-sixteen~~  
9 ~~years-of-age~~ is of compulsory attendance age, who places the  
10 child under competent private instruction under chapter 299B,  
11 not in an accredited or-approved school, shall furnish a  
12 report in duplicate on forms provided by the public school  
13 district, to the district by the earliest starting date  
14 specified in section 279.10, subsection 1. The secretary  
15 shall retain and file one copy and forward the other copy to  
16 the district's area education agency. The report shall state  
17 the name and age of the child, the period of time during which  
18 the child has been or will be under competent private  
19 instruction for the ~~school~~ year, an outline of the course of  
20 study, texts used, and the name and address of the instructor.  
21 The parent, guardian, or legal or actual custodian of a child,  
22 who is placing the child under competent private instruction,  
23 for the first time, shall also provide the district with  
24 evidence that the child has had the immunizations required  
25 under section 139.9. The term "outline of course of study"  
26 shall include, but is not limited to, subjects covered, weekly  
27 lesson plans, and time spent on the areas of study.

28 Sec. 9. Section 299.5, Code 1991, is amended to read as  
29 follows:

30 299.5 PROOF OF MENTAL OR PHYSICAL CONDITION.

31 The parent, guardian, or legal or actual custodian of a  
32 child who is ~~ever-seven-and-under-sixteen-years-of-age-by~~  
33 ~~September-15~~ of compulsory attendance age, who is physically  
34 or mentally unable to attend school, or whose presence in  
35 school would be injurious to the health of other pupils, shall

1 furnish proofs by affidavit certificate under sections 281.6  
2 and 281.7 as to the physical or mental condition of the child.

3 Sec. 10. NEW SECTION. 299.5A MEDIATION.

4 If a child is truant as defined in section 299.8, school  
5 officers shall attempt to find the cause for the child's  
6 absence and use every means available to the school to assure  
7 that the child does attend. If the parent, guardian, or legal  
8 or actual custodian, or child refuses to accept the school's  
9 attempt to assure the child's attendance or the school's  
10 attempt to assure the child's attendance is otherwise  
11 unsuccessful, the truancy officer shall refer the matter to  
12 the county attorney for mediation or prosecution.

13 If the matter is referred for mediation, the county  
14 attorney shall cause a notice of the referral to be sent to  
15 the parent, guardian, or legal or actual custodian and  
16 designate a person to serve as mediator in the matter. If  
17 mediation services are available in the community, those  
18 services may be used as the designated mediation service. If  
19 mediation services are not available in the community,  
20 mediation shall be provided by the county attorney or the  
21 county attorney's designee. The mediator shall contact the  
22 school, the parent, guardian, or legal or actual custodian,  
23 and any other person the mediator deems appropriate in the  
24 matter and arrange meeting dates and times for discussion of  
25 the child's nonattendance. The mediator shall attempt to  
26 ascertain the cause of the child's nonattendance, attempt to  
27 cause the parties to arrive at an agreement relative to the  
28 child's attendance, and initiate referrals to any agencies or  
29 counseling that the mediator believes to be appropriate under  
30 the circumstances.

31 If the parties reach an agreement, the agreement shall be  
32 reduced to writing and signed by a school officer, parent,  
33 guardian, or legal or actual custodian, and the child. The  
34 mediator, the school, and the parent, guardian, or legal or  
35 actual custodian shall each receive a copy of the agreement,

1 which shall set forth the settlement of the issues and future  
2 responsibilities of each party.

3 The school district shall be responsible for monitoring any  
4 agreements arrived at through mediation. If a parent,  
5 guardian, or legal or actual custodian refuses to engage in  
6 mediation or violates a term of the agreement, the matter  
7 shall be rereferred to the county attorney for prosecution  
8 under section 299.6. The county attorney's office or the  
9 mediation service shall require the parent, guardian, or legal  
10 or actual custodian and the school to pay a fee to help defray  
11 the administrative cost of mediation services. The county  
12 attorney's office or the mediation service shall establish a  
13 sliding scale of fees to be charged parents, guardians, and  
14 legal or actual custodians based upon ability to pay. A  
15 parent, guardian, or legal or actual custodian shall not be  
16 denied the services of a mediator solely because of inability  
17 to pay the fee.

18 Sec. 11: Section 299.6, Code 1991, is amended to read as  
19 follows:

20 299.6 VIOLATIONS -- COMMUNITY SERVICE IN-STEAD-OF OR FINE  
21 OR IMPRISONMENT.

22 ~~Any person who shall-violate~~ violates a mediation agreement  
23 under section 299.5A or any of the provisions of sections  
24 299.1 to through 299.5 or refuses to participate in mediation  
25 under section 299.5A, inclusive, shall-be for a first offense,  
26 is guilty of a simple misdemeanor and-the-court-shall,

27 A first offense conviction is punishable by imprisonment  
28 not exceeding ten days or a fine not exceeding one hundred  
29 dollars. The court may order the person to perform not more  
30 than forty hours of unpaid community service instead of any  
31 fine or imprisonment. A person convicted of a second  
32 violation is guilty of a serious misdemeanor.

33 A second offense conviction is punishable by imprisonment  
34 not exceeding twenty days or a fine not exceeding five hundred  
35 dollars, or both a fine and imprisonment. The court may order

1 the person to perform unpaid community service instead of any  
2 fine or imprisonment.

3 A third or subsequent offense is a serious misdemeanor and  
4 a conviction is punishable by imprisonment not exceeding  
5 thirty days or a fine not exceeding one thousand dollars, or  
6 both a fine and imprisonment. The court may order the person  
7 to perform unpaid community service instead of any fine or  
8 imprisonment.

9 If community service is imposed as part of a sentencing  
10 order, the court may require that part or all of the service  
11 be performed for a public school district or nonpublic school  
12 if the court finds that service in the school is appropriate  
13 under the circumstances.

14 If a parent, guardian, or legal or actual custodian of a  
15 child who is truant, has made an objective and reasonable good  
16 faith effort to comply with the provisions of sections 299.1  
17 through 299.5, the parent, guardian, or legal or actual  
18 custodian shall not be criminally liable for the child's  
19 nonattendance.

20 Sec. 12. Section 299.8, Code 1991, is amended to read as  
21 follows:

22 299.8 "TRUANT" DEFINED.

23 Any child ~~over-seven-and-under-sixteen-years-of-age,~~ in  
24 ~~proper-physical-and-mental-condition-to-attend-school,~~ of  
25 compulsory attendance age who fails to attend school regularly  
26 as provided in this chapter, or as required by the school  
27 board's or school governing body's attendance policy, or who  
28 fails to attend competent private instruction under chapter  
29 299B, without reasonable excuse for the absence, shall be  
30 deemed to be a truant.

31 Sec. 13. Section 299.9, Code 1991, is amended to read as  
32 follows:

33 299.9 ~~TRUANT-SCHOOLS~~ TRUANTS -- RULES FOR PUNISHMENT.

34 The board of directors ~~may provide for the confinement,~~  
35 ~~maintenance, and instruction of truant children and may for~~

1 ~~that purpose establish truant schools or see apart separate~~  
2 ~~rooms in any public school building, and it~~ of a public school  
3 district or the authorities in charge of an accredited  
4 nonpublic school shall prescribe reasonable rules for the  
5 punishment of truants.

6 Sec. 14. Section 299.10, Code 1991, is amended to read as  
7 follows:

8 299.10 TRUANCY OFFICERS -- APPOINTMENT --- COMPENSATION.

9 The board of each school district ~~may, and in school~~  
10 ~~districts having a population of twenty thousand shall,~~  
11 appoint a truancy officer.

12 ~~In districts having therein a city, the~~ The board may  
13 appoint a member of the police force, or marshal, as such  
14 officer, ~~and other districts may appoint a constable a~~  
15 teacher, school official, or other suitable person to serve as  
16 the district truancy officer. Each school district shall  
17 provide an in-service training program for the person  
18 appointed to serve as the district truancy officer. The  
19 training program shall reflect, but is not limited to,  
20 information about school and local legal procedures relating  
21 to the methods of handling truant children and the children's  
22 families.

23 ~~Such officers shall be paid a reasonable compensation by~~  
24 ~~the board.~~

25 Sec. 15. Section 299.11, Code 1991, is amended to read as  
26 follows:

27 299.11 DUTIES OF TRUANCY OFFICER.

28 The truancy officer shall may take into custody without  
29 warrant any apparently truant child and place the child in the  
30 charge of the ~~teacher in charge of the public~~ school  
31 principal, or the principal's designee, designated by the  
32 board of directors of the school district in which ~~said the~~  
33 child resides, or of any private nonpublic school designated  
34 by the ~~person having legal control of the child~~ parent,  
35 guardian, or legal or actual custodian; but if it is other

1 than a public school, the instruction and maintenance of the  
2 child therein shall be without expense to the school district.

3 The truancy officer shall promptly institute ~~criminal~~  
4 proceedings against any person violating any of the provisions  
5 of sections 299.1 ~~to~~-299.5 through 299.5A.

6 Sec. 16. Section 299.16, Code 1991, is amended to read as  
7 follows:

8 299.16 FAILURE TO ATTEND.

9 School officers shall ascertain the number of children ~~over~~  
10 seven-and-under-sixteen-years-of-age who are of compulsory  
11 attendance age, in their respective districts, the number of  
12 such those children who do-not-attend-school are truant under  
13 section 299.8 or who have accumulated fifteen unexcused  
14 absences during a three-year period, and so far as possible  
15 the cause of the failure to attend. School officers shall,  
16 until July 1, 1999, biennially report this information to the  
17 department of education on forms provided by the department.  
18 The department shall attach a summary of the reports, an  
19 analysis of the data, and policy recommendations based on the  
20 data analysis, along with the department's annual report under  
21 section 256.9, subsection 28.

22 Sec. 17. Section 299.18, Code 1991, is amended to read as  
23 follows:

24 299.18 EDUCATION -- STATE SCHOOL.

25 Children ~~over-seven-and-under-nineteen-years-of~~ who are of  
26 compulsory attendance age and who are so deaf or blind or  
27 severely handicapped as to be unable to obtain an education in  
28 the ~~common~~ public or accredited nonpublic schools shall be  
29 sent to the ~~proper~~ appropriate state school-~~therefor~~  
30 institution, or shall receive appropriate special education  
31 under chapter 281, unless exempted, and any person having such  
32 a child under the person's control or custody shall see that  
33 ~~such the~~ child attends such-school the institution or special  
34 education program during the scholastic year.

35 Sec. 18. Section 299.19, Code 1991, is amended to read as

1 follows:

2 299.19 PROCEEDING AGAINST PARENT.

3 Upon the failure of any a person having the custody and  
4 control of such a deaf, blind, or severely handicapped child  
5 to require its the child's attendance as provided in section  
6 299.18, the state board of regents may make application to the  
7 district court or the juvenile court of the county in which  
8 such the person resides for an order requiring such the person  
9 to compel the attendance of such the child at the proper state  
10 institution.

11 Sec. 19. Section 299.20, Code 1991, is amended to read as  
12 follows:

13 299.20 ORDER.

14 Upon the filing of the application mentioned in section  
15 299.19, the time of hearing shall be determined by the  
16 juvenile court or the district court. If, upon hearing, the  
17 court determines that the person required to appear has the  
18 custody and control of a child who should be required to  
19 attend a state ~~school~~ institution under section 299.18, the  
20 court shall make an order requiring such the person to keep  
21 such the child in attendance at ~~such-school~~ the institution.

22 Sec. 20. Section 299.22, Code 1991, is amended to read as  
23 follows:

24 299.22 WHEN DEAF AND BLIND CHILDREN EXCUSED.

25 Attendance at the state institution may be excused when the  
26 superintendent thereof ~~is satisfied:~~

27 ~~1.--That the child is in such bodily or mental condition as~~  
28 ~~to prevent or render futile attendance at the school.~~

29 ~~2.--That the child is so diseased or possesses such habits~~  
30 ~~as to render the child's presence a menace to the health or~~  
31 ~~morals of other pupils.~~

32 3.--That of the institution determines that the child is  
33 efficiently taught for the scholastic year in a private  
34 accredited nonpublic or other school devoted to such the  
35 instruction, or by a private tutor, in the branches taught in

1 public schools, or is shown to be physically or mentally  
2 unable to attend school under section 299.5.

3 Sec. 21. NEW SECTION. 299B.1 PRIVATE INSTRUCTION.

4 The parent, guardian, or custodian of a child of compulsory  
5 attendance age who places the child under private instruction  
6 shall provide, unless otherwise exempted, competent private  
7 instruction in accordance with this chapter. A parent,  
8 guardian, or custodian of a child of compulsory attendance age  
9 who places the child under private instruction which is not  
10 competent private instruction, or otherwise fails to comply  
11 with the requirements of this chapter, shall be presumed to  
12 have violated the provisions of sections 299.1 through 299.4  
13 and is subject to the penalties provided in section 299.6.

14 For purposes of this chapter, "competent private  
15 instruction" means private instruction provided on a daily  
16 basis for at least one hundred forty-eight days during a  
17 school year, to be met by attendance for at least thirty-seven  
18 days each school quarter, by a licensed practitioner, or other  
19 person under section 299B.3, which results in the student  
20 making adequate progress.

21 For purposes of this chapter and chapter 299, "private  
22 instruction" means formal instruction in a setting other than  
23 and not affiliated with a public or organized accredited  
24 nonpublic school.

25 Sec. 22. NEW SECTION. 299B.2 COMPETENT PRIVATE  
26 INSTRUCTION BY LICENSED PRACTITIONER.

27 If a licensed practitioner provides competent instruction  
28 to a child of compulsory attendance age, the practitioner  
29 shall possess a valid license or certificate which has been  
30 issued by the state board of educational examiners under  
31 chapter 260 and which is appropriate to the ages and grade  
32 levels of the children to be taught. Sections 299B.3 through  
33 299B.7 do not apply to competent private instruction provided  
34 by a licensed practitioner under this section.

35 Sec. 23. NEW SECTION. 299B.3 PRIVATE INSTRUCTION BY

1 NONLICENSED PERSON.

2 A parent, guardian, or custodian of a child of compulsory  
3 attendance age providing competent private instruction to the  
4 child shall meet all of the following requirements:

5 1. Complete and send, in a timely manner, the report  
6 required under section 299.4 to the school district of  
7 residence of the child.

8 2. Ensure that the child under the parent's, guardian's,  
9 or custodian's instruction is tested annually to determine  
10 whether the child is making adequate progress, as defined in  
11 section 299B.6.

12 3. Report the child's annual test results to the school  
13 district of residence of the child and to the department of  
14 education by a date not later than June 30 of each year in  
15 which the child is under private instruction.

16 Sec. 24. NEW SECTION. 299B.4 ANNUAL ACHIEVEMENT TESTS --  
17 REQUIREMENTS AND PROCEDURE.

18 1. Each child of compulsory attendance age who is  
19 receiving competent private instruction shall be tested  
20 annually by May 1, using a nationally recognized standardized  
21 achievement test chosen by the child's parent, guardian, or  
22 custodian from a list of approved tests provided by the  
23 department of education.

24 2. A child, who is seven years of age and is receiving  
25 competent private instruction or who is placed under competent  
26 private instruction for the first time, shall be administered  
27 a test for purposes of obtaining educational baseline data.

28 3. The director of the department of education, or the  
29 director's designee, which may include a school district or an  
30 area education agency, shall administer each test required of  
31 children under competent private instruction. Testing shall  
32 occur at a time and a place to be determined by the person  
33 responsible for administering the test.

34 4. The parent, guardian, or custodian of a child receiving  
35 competent private instruction may be present when the child is

1 tested, but only if both the parent, guardian, or custodian  
2 and the child are under the supervision of the test  
3 administrator.

4 5. The administration of tests shall include, but is not  
5 limited to, purchasing of test materials, giving the tests,  
6 scoring and interpreting the tests, and reporting the test  
7 results.

8 6. The parent, guardian, or custodian of the child being  
9 tested shall reimburse the entity providing the test  
10 administration for the cost of testing required by this  
11 chapter. However, the parent, guardian, or custodian is not  
12 required to reimburse the testing entity for costs incurred as  
13 a result of testing and evaluation under section 299B.9.

3363 14 Sec. 25. NEW SECTION. 299B.5 REPORTING OF TEST RESULTS.

15 The results of tests administered to children of compulsory  
16 attendance age who are under competent private instruction  
17 shall be reported by the test administrator to the child's  
18 parent, guardian, or custodian, the school district of  
19 residence of the child, and the department of education.  
20 Personally identifiable information relating to or contained  
21 in the test scores is confidential and shall not be released  
22 without the prior consent of the child's parent, guardian, or  
23 custodian except as otherwise permitted by law.

3363 24 Sec. 26. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE  
25 PROGRESS.

26 If the results of tests, administered to a child of  
27 compulsory attendance age who is under competent private  
28 instruction, indicate that the student has failed to make  
29 adequate progress, the parent, guardian, or custodian shall  
30 cause the child to attend an accredited public or nonpublic  
31 school at the beginning of the next school year unless, before  
3363 32 the beginning of the next school year, the child retakes the  
33 same test and the results indicate that adequate progress has  
34 been made or the director of the department of education, or  
35 the director's designee, grants approval for competent private

1 instruction to continue under a plan for remediation.

2 A child who is required to attend an accredited public or  
3 nonpublic school under this section shall continue attendance  
4 at an accredited public or nonpublic school until the child  
5 achieves adequate progress.

6 For purposes of this chapter, "adequate progress" means,  
7 for children in all grade levels of competent private  
8 instruction, test scores which are above the thirtieth  
9 percentile, nationally normed, in each of the areas of  
10 reading, mathematics, and language arts, and which indicate  
11 either that the child has made six months' progress from the  
12 previous test results or that the child is at or above grade  
13 level for the child's age. For children in grade levels six  
14 and above, "adequate progress" also means that the child has  
15 achieved test scores in both science and social studies which  
16 are above the thirtieth percentile, nationally normed, and  
17 which either indicate that the child has made six months'  
18 progress from the previous test results or that the child is  
19 at or above grade level for the child's age.

20 Sec. 27. NEW SECTION. 299B.7 NOTICE TO PARENTS --  
21 REMEDIATION.

22 If a child is placed under competent private instruction  
23 and the child fails to make adequate progress under competent  
24 private instruction, the director of the department of  
25 education, or the director's designee, shall notify the  
26 parent, guardian, or custodian of the child that the child is  
27 required to attend an accredited public or nonpublic school,  
28 unless approval for competent private instruction under a  
29 remediation plan is granted. The director, or the director's  
30 designee, may provisionally approve continued competent  
31 private instruction under an approved remediation plan  
32 designed to improve instruction for up to one year.

33 Sec. 28. NEW SECTION. 299B.8 DUAL ENROLLMENT.

34 A child who is receiving competent private instruction  
35 under this chapter shall also be registered in a public school

1 for dual enrollment purposes. The child shall also be  
2 permitted to participate on the same basis as public school  
3 children in any extracurricular activities available to  
4 children in the child's grade or group. The child shall be  
5 included in the public school's basic enrollment under  
6 sections 442.4 and 257.6 and shall be counted as one pupil.

7 Sec. 29. NEW SECTION. 299B.9 CHILDREN REQUIRING SPECIAL  
8 EDUCATION.

3262 9 A child of compulsory attendance age who is identified as  
10 requiring special education under chapter 281 is not eligible  
11 for placement under competent private instruction without  
12 prior approval of the placement by the director of the  
13 department of education, in cooperation with the director of  
14 special education of the area education agency of the child's  
15 district of residence.

16 A child who has been placed under competent private  
17 instruction, whose performance on the tests required under  
18 this chapter indicates that the child may require special  
19 education, shall be referred for evaluation under chapter 281  
20 and the rules of the state board of education. Testing shall  
21 occur at a time and a place to be determined by the person  
3288 > 22 responsible for administering the test.

23 Sec. 30. NEW SECTION. 299B.10 RULEMAKING.

24 The department of education shall develop and recommend and  
25 the state board shall adopt rules to implement this chapter.

26 Sec. 31. REPEAL. Chapter 299B is repealed effective June  
27 30, 1995.

28 Sec. 32. Sections 299.13 and 299.14, Code 1991, are  
29 repealed.

30 EXPLANATION

31 This bill makes changes in laws related to and which affect  
32 Iowa's compulsory attendance procedures. The bill changes the  
33 beginning compulsory attendance age from seven to six years of  
34 age. Compulsory attendance policy for students attending  
35 accredited schools is to be set by the board of directors of a

1 school district or other governing or nonpublic body of a  
2 private school. The exceptions from compulsory attendance,  
3 including children who were over the age of fourteen and  
4 regularly employed or whose educational qualifications are  
5 equal to those of pupils who have completed the eighth grade,  
6 are stricken. Deadlines are added to the provisions relating  
7 to reports from accredited nonpublic schools, and reports  
8 relating to competent private instruction by licensed teachers  
9 must include information on immunization. If a child is  
10 truant, the matter can be turned over for either mediation or  
11 prosecution of the parent, guardian, or custodian. The  
12 penalty for violation of the compulsory attendance law has  
13 been changed to graduated terms of imprisonment, fines, or  
14 community service instead of fine or imprisonment. A census  
15 summary relating to attendance and school population must be  
16 provided to the department of education.

17 The term "truant" is defined as a child who fails to attend  
18 school for at least 148 days per school year or who fails to  
19 attend competent private instruction under chapter 299B.  
20 Development of rules relating to excuses from attendance at  
21 school and punishment of truants is made the duty of the  
22 boards of school districts. All districts must hire a truancy  
23 officer who is to determine which children are truant and  
24 provide the district with information about the truant child  
25 and the names and locations of the child's parents. The  
26 compulsory attendance law is made applicable to even severely  
27 handicapped children.

28 This bill also creates a new competent private instruction  
29 law. Reports on competent private instruction must be filed  
30 by the third Friday in September, unless a child is placed  
31 under private instruction after that date.

32 The competent private instruction law legalizes two forms  
33 of competent private instruction: instruction by licensed  
34 practitioners and instruction by parents, guardians, or  
35 custodians of children. If a child is instructed by a parent,

1 however, the child must be tested on at least an annual basis  
2 for adequate progress in learning. If the child fails to make  
3 adequate progress, the child will be required to attend an  
4 accredited public or nonpublic school, unless permission is  
5 granted to do otherwise. The costs of testing, except for  
6 testing related to special education, must be reimbursed by  
7 the parent, guardian, or custodian to the entity which  
8 provides the test administration. Children requiring special  
9 education may not be placed under competent private  
10 instruction unless special permission is granted by the  
11 department of education, in cooperation with the director of  
12 special education for the area education agency of the child's  
13 district of residence. Children attending competent  
14 instruction are to be enrolled in their district of residence  
15 and are each to be counted as one pupil. Children who are  
16 dually enrolled under chapter 299B are eligible for both  
17 academic and extracurricular activities in their district.

18 The bill may contain a state mandate under chapter 25B.

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## HOUSE FILE 455

H-3199

- 1 Amend House File 455 as follows:
- 2 1. Page 13, by striking lines 8 through 13.

By CORBETT of Linn

H-3199 FILED MARCH 14, 1991

*w/d 2/27 (890)*

## HOUSE FILE 455

H-3200

- 1 Amend House File 455 as follows:
- 2 1. Page 1, line 31, by striking the words "Except
- 3 as provided in section 299.2," and inserting the
- 4 following: "The state of Iowa recognizes that".
- 5 2. Page 1, line 32, by inserting after the word
- 6 "child" the following: "has the ultimate right and
- 7 responsibility for assuring that the child acquires
- 8 basic knowledge and skills that are essential for
- 9 effective citizenship. The state, in establishing the
- 10 state's right to ensure that this responsibility is
- 11 performed and to ensure that every child of compulsory
- 12 attendance has the opportunity to receive the basic
- 13 education necessary to become a productive citizen,
- 14 requires that the parent, guardian, or legal or actual
- 15 custodian of a child".

By BANKS of Plymouth

H-3200 FILED MARCH 14, 1991

*Love 3/26 (p. 872)*

## HOUSE FILE 455

H-3203

- 1 Amend House File 455 as follows:
- 2 1. Page 2, line 30, by striking the word "six"
- 3 and inserting the following: "seven".

By LAGESCHULTE of Bremer

H-3203 FILED MARCH 14, 1991

*Love 3/26 (p. 878)*

## HOUSE FILE 455

H-3210

- 1 Amend House File 455 as follows:
- 2 1. Page 11, line 23, by striking the words "and
- 3 not affiliated with".
- 4 2. Page 11, line 32, by inserting after the word
- 5 "taught." the following: "The competent private
- 6 instruction provided pursuant to this section may be
- 7 performed by, but is not limited to performance by, a
- 8 teacher who is employed by a school district, who
- 9 assists and supervises a parent, guardian, or
- 10 custodian who is providing instruction to a child in a
- 11 setting other than in a public or nonpublic school,
- 12 and who administers standardized tests to the student
- 13 to determine whether the student is making adequate
- 14 progress."

By SPEAR of Lee

H-3210 FILED MARCH 14, 1991

*w/d 3/27 (884)*

HOUSE FILE 455

H-3179

- 1 Amend House File 455 as follows:
- 2 1. Page 1, by striking lines 1 through 6.
- 3 2. Page 8, line 9, by striking the word "may" and
- 4 inserting the following: "may".
- 5 3. Page 8, line 10, by striking the word "shall"
- 6 and inserting the following: "shall".
- 7 4. Page 8, by striking lines 16 through 22, and
- 8 inserting the following: "the district truancy
- 9 officer."
- 10 5. By renumbering as necessary.

By MILLAGE of Scott

H-3179 FILED MARCH 12, 1991

*Adopted 3/26 (p. 869) Motion to reconsider (p. 872) w/s 3/27*

HOUSE FILE 455

H-3185

- 1 Amend House File 455 as follows:
- x 2 1. Page 6, line 22, by striking the words "Any
- 3 person" and inserting the following: "Any-person a
- 4 parent, guardian, or legal or actual custodian."

By SPEAR of Lee

H-3185 FILED MARCH 13, 1991

*w/s 3/27 (p. 887)*

HOUSE FILE 455

H-3267

- 1 Amend House File 455 as follows:
- 2 1. Page 3, by striking lines 3 and 4 and in-
- 3 serting the following:
- 4 "2. Whose educational qualifications are equal
- 5 to those of pupils who have completed the eighth
- 6 grade."
- 7 2. By renumbering as necessary.

By SPEAR of Lee

H-3267 FILED MARCH 19, 1991

*w/o 3/27*

## HOUSE FILE 455

H-3280

1 Amend House File 455 as follows:

2 1. Page 2, by striking lines 19 through 22 and  
3 inserting the following:

4 ~~"In-lieu-of-such-attendance-such-child-may-attend  
5 upon-equivalent-instruction-by-a-licensed-teacher  
6 elsewhere."~~

7 2. Page 11, line 4, by inserting after the words  
8 "guardian, or" the following: "legal".

9 3. Page 11, line 8, by inserting after the words  
10 "guardian, or" the following: "legal".

11 4. Page 11, line 23, by striking the words "and  
12 not affiliated with".

13 5. Page 11, line 32, by inserting after the word  
14 "taught." the following: "Competent private  
15 instruction may include, but is not limited to,  
16 instruction or instructional supervision offered  
17 through a school district by a teacher, who is  
18 employed by the school district, who assists and  
19 supervises a parent, guardian, or legal custodian in  
20 providing instruction to a child who is enrolled and  
21 included in the basic enrollment of the school  
22 district."

23 6. Page 12, line 2, by inserting after the words  
24 "guardian, or" the following: "legal".

25 7. Page 12, line 9, by inserting after the word  
26 "or" the following: "legal".

27 8. Page 12, line 22, by inserting before the word  
28 "custodian" the following: "legal".

29 9. Page 12, line 23, by inserting after the word  
30 "education." the following: "The department shall  
31 provide information on the cost of and the  
32 administration time required for each of the approved  
33 tests. The department shall provide, as part of  
34 approval procedures for tests to be used under this  
35 section, a mechanism which permits the introduction  
36 and approval of new or alternate methods of  
37 educational testing which meet the requirements of  
38 this chapter."

39 10. Page 12, line 34, by inserting after the  
40 words "guardian, or" the following: "legal".

41 11. Page 13, line 1, by inserting after the words  
42 "guardian, or" the following: "legal".

43 12. Page 13, by striking line 3 and inserting the  
44 following:

45 "6. Except when a child has been enrolled in a  
46 public school district under section 299B.3, the  
47 parent, guardian, or legal custodian of the child  
48 being".

49 13. Page 13, line 11, by inserting after the  
50 words "guardian, or" the following: "legal".

H-3280

Page 2

- 1 14. Page 14, line 34, by striking the word "A"  
 2 and inserting the following: "If a parent, guardian,  
 3 or legal custodian of a".  
 4 15. Page 14, line 35, by inserting after the word  
 5 "chapter" the following: "submits a request, the  
 6 child".  
 7 16. Page 15, line 1, by striking the words "The  
 8 child" and inserting the following: "If the child is  
 9 enrolled in a public school district for dual  
 10 enrollment purposes, the child shall be permitted to  
 11 participate in any academic activities in the district  
 12 and".  
 13 17. Page 15, line 4, by striking the words "  
 14 The" and inserting the following: ", and the parent,  
 15 guardian, or legal custodian shall not be required to  
 16 pay the costs of any annual testing under this  
 17 chapter. If the child is enrolled for dual enrollment  
 18 purposes, the".

By OLLIE of Clinton

H-3280 FILED MARCH 19, 1991

*Adopted as amended by 3341 & 3345 3/26 (p. 877)*

## HOUSE FILE 455

H-3270

- 1 Amend House File 455, as follows:  
 2 1. Page 15, by striking lines 26 and 27.  
 3 2. By renumbering as necessary.

By SPEAR of Lee

H-3270 FILED MARCH 19, 1991

*Adopted 3/27 (p. 893)*

## HOUSE FILE 455

H-3274

- 1 Amend House File 455 as follows:  
 2 1. Page 11, line 4, by striking the word "The"  
 3 and inserting the following: "It is the intent of the  
 4 general assembly in enacting this chapter to  
 5 facilitate a quality education for all children and to  
 6 maximize opportunities for the education of children  
 7 by the children's parents, guardians, or custodians in  
 8 the home. Therefore, a".  
 9 2. Page 12, line 32, by inserting before the word  
 10 "person" the following: "parent and".  
 11 3. Page 15, line 21, by inserting before the word  
 12 "person" the following: "parent and".

By HIBBARD of Madison  
MILLER of Cherokee  
HURLEY of Fayette

H-3274 FILED MARCH 19, 1991

*Lost 3/27*

## HOUSE FILE 455

H-3340

- 1 Amend amendment, H-3280, to House File 455 as  
2 follows:  
3 1. Page 1, by inserting after line 6, the  
4 following:  
5 "\_\_\_\_\_. Page 3, by striking lines 3 and 4, and  
6 inserting the following:  
7 "2 1. Whose educational qualifications are equal  
8 to those of pupils who have completed the eighth  
9 grade.""  
10 2. By renumbering as necessary.

By CORBETT of Linn

H-3340 FILED MARCH 26, 1991

LOST (p. 874)

## HOUSE FILE 455

H-3341

- 1 Amend the amendment, H-3280, to House File 455, as  
2 follows:  
3 1. Page 2, by inserting after line 18 the  
4 following:  
5 "\_\_\_\_\_. Page 15, by inserting after line 25, the  
6 following:  
7 "Sec. \_\_\_\_\_. ASSESSMENT FOR CERTAIN CHILDREN. The  
8 department of education shall develop and recommend  
9 and the state board of education shall adopt by July  
10 1, 1993, rules which provide an alternative assessment  
11 mechanism for children who meet age and educational  
12 development criteria generally accepted for placing a  
13 child in third or a lesser grade. Rules adopted shall  
14 require that the assessment mechanism utilize  
15 observation, anecdotal description of a child's  
16 achievement, samples of the child's work, and other  
17 samples of data relating to the child's academic  
18 performance, and shall include requirements relating  
19 to collection and evaluation of the information. In  
20 developing the alternative assessment mechanism, the  
21 department shall consult with any available  
22 committees, councils, or task forces which are working  
23 on assessment issues. The department shall also  
24 develop any recommendations for legislation deemed  
25 necessary to implement the alternative assessment  
26 mechanism.""  
27 2. By numbering and renumbering as necessary.

By OLLIE of Clinton

H-3341 FILED MARCH 26, 1991

ADOPTED (p. 877)

HOUSE FILE 455

H-3287

- 1 Amend the amendment, H-3280, to House File 455, as  
2 follows:  
3 1. Page 1, by inserting after line 25, the  
4 following:  
5 "\_\_\_\_\_. Page 12, line 21, by inserting after the  
6 word "test" the following: "or other nationally  
7 recognized assessment tool"."  
8 2. Page 1, by striking lines 27 and 28, and  
9 inserting the following:  
10 "\_\_\_\_\_. Page 12, by striking line 22, and inserting  
11 the following: "legal custodian from a list of  
12 approved tests or assessment tools provided by the".  
13 3. Page 1, line 37, by striking the word  
14 "testing" and inserting the following: "assessment".  
15 4. By numbering and renumbering as necessary.

By OLLIE of Clinton

H-3287 FILED MARCH 21, 1991

*Adopted 3/26 (p 874)*

HOUSE FILE 455

H-3288

- 1 Amend House File 455 as follows:  
2 1. Page 12, line 33, by inserting after the word  
3 "test." the following: "Persons administering the  
4 tests shall make every reasonable effort to administer  
5 the tests at times and places which are convenient for  
6 the parent, guardian, or legal custodian."  
7 2. Page 15, line 22, by inserting after the word  
8 "test." the following: "Persons administering the  
9 tests shall make every reasonable effort to administer  
10 the tests at times and places which are convenient for  
11 the parent, guardian, or legal custodian."

By OLLIE of Clinton

H-3288 FILED MARCH 21, 1991

*Adopted 3/27 (p 890)*

## HOUSE FILE 455

H-3348

1 Amend amendment, H-3200, to House File 455 as  
2 follows:  
3 1. Page 1, by inserting after line 15 the  
4 following:  
5 "\_\_\_\_\_. Page 12, by inserting after line 1 the  
6 following: "A parent, guardian, or custodian of a  
7 child of compulsory attendance age may provide  
8 competent private instruction in either of the  
9 following manners:"  
10 \_\_\_\_\_. Page 12, line 2, by striking the word "A"  
11 and inserting the following: "1. A".  
12 \_\_\_\_\_. Page 12, line 3, by inserting after the word  
13 "instruction" the following: "under this subsection".  
14 \_\_\_\_\_. Page 12, line 5, by striking the figure "1."  
15 and inserting the following: "a."  
16 \_\_\_\_\_. Page 12, line 8, by striking the figure "2."  
17 and inserting the following: "b."  
18 \_\_\_\_\_. Page 12, line 12, by striking the figure  
19 "3." and inserting the following: "c."  
20 \_\_\_\_\_. Page 12, by inserting after line 15 the  
21 following:  
22 "2. The parent, guardian, or custodian of a child  
23 of compulsory attendance age providing competent  
24 private instruction to the child under this  
25 subsection, shall send a written notice to the clerk  
26 of the district court in the district of the child's  
27 residence within thirty days of the earliest starting  
28 date specified in section 279.10, subsection 1. The  
29 clerk shall retain and file the notice and forward a  
30 copy of the notice to the board of the local public  
31 school district and the district's area education  
32 agency. The notice shall state the names and ages of  
33 the children under competent private instruction, the  
34 location at which the private instruction by the  
35 parent, guardian, or custodian is taking place, and  
36 contain a certification that the parent, guardian, or  
37 custodian will provide instruction in reading,  
38 language arts, mathematics, social studies, and  
39 science. The notice shall also include at least one  
40 of the following:  
41 a. Evidence that the parent, guardian, or  
42 custodian providing the competent private instruction  
43 holds a baccalaureate degree from an accredited public  
44 or private higher education institution.  
45 b. A written statement from a licensed teacher  
46 which certifies that the teacher has examined a  
47 portfolio of the child's work and that the child's  
48 progress is adequate for the child's age and ability.  
49 c. The results of a nationally normed standardized  
50 achievement test that demonstrates progress of no less

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Page 2

1 than the achievement of the fifteenth percentile in  
2 the child's cumulative score, that is administered by  
3 a person chosen by the parent, guardian, or custodian.  
4 d. A written statement that the parent, guardian,  
5 or custodian is conscientiously opposed, due to a bona  
6 fide religious belief or training, to the child's  
7 attendance at a public or accredited private school.  
8 Instruction methods and curriculum used in  
9 competent private instruction which is provided by a  
10 parent, guardian, or custodian are not subject to  
11 supervision or approval by a public school district,  
12 area education agency, the department of education, or  
13 the state board of education unless the parent,  
14 guardian, or custodian consents to the supervision or  
15 approval, nor is the district, area education agency,  
16 department, or state board obligated to provide  
17 services to children under this type of instruction.  
18 A parent, guardian, or custodian providing instruction  
19 under this section is also not required to provide  
20 instruction in any particular subject matter areas. A  
21 child who is the subject of a notice under this  
22 subsection is not truant, as defined under chapter  
23 299.

24 Sections 299B.4 through 299B.7 do not apply to a  
25 parent providing competent private instruction under  
26 this subsection."

27 \_\_\_\_\_. Page 15, by inserting after line 25, the  
28 following:

29 "Sec. \_\_\_\_\_. Section 602.8102, Code 1991, is amended  
30 by adding the following new subsection:

31 NEW SUBSECTION. 49A. Carry out duties relating to  
32 receipt and recording of notice of private instruction  
33 by a parent or guardian under section 299.4.

34 Sec. \_\_\_\_\_. Section 602.8105, subsection 1, Code  
35 1991, is amended by adding the following new  
36 paragraph:

37 NEW PARAGRAPH. v. For filing a notice of private  
38 instruction by a parent or guardian under section  
39 299.4, ten dollars.""

40 2. By numbering and renumbering as necessary.

By HIBBARD of Madison

H-3348 FILED MARCH 26, 1991

NOT GERMANE (p. 271)

## HOUSE FILE 455

H-3350

1 Amend the amendment, H-3280, to House File 455, as  
2 follows:

3 1. Page 1, by striking lines 43 through 48.

4 2. Page 2, by striking lines 1 through 18, and  
5 inserting the following:

6 "\_\_\_\_\_. By striking page 14, line 33, through page  
7 15, line 6."

8 3. By numbering and renumbering as necessary.

By DAGGETT of Adams

H-3350 FILED MARCH 26, 1991

LOST (y 875)

## HOUSE FILE 455

H-3357

1 Amend the amendment, H-3185, to House File 455 as  
2 follows:

3 1. Page 1, line 2, by striking the word  
4 "striking" and inserting the following: "inserting  
5 after".

6 2. Page 1, by striking lines 3 and 4, and  
7 inserting the following: "person other than a child  
8 who is the subject of a mediation agreement".

By SPEAR of Lee

H-3357 FILED MARCH 26, 1991

w/10 3/27 (y 887)

## HOUSE FILE 455

H-3345

1 Amend the amendment, H-3280, to House File 455 as  
 2 follows:  
 3 1. Page 1, by inserting after line 50, the  
 4 following:  
 5 "\_\_\_\_. Page 13, by inserting after line 13, the  
 6 following:  
 7 "7. In addition to the annual achievement tests, a  
 8 parent, guardian, or legal custodian of a child may  
 9 submit, as evidence of adequate academic progress, any  
 10 of the following:  
 11 a. A book of lesson plans, a diary, or other  
 12 written record indicating the subjects taught and  
 13 activities in which the child has been engaged.  
 14 b. A portfolio of the child's work, including but  
 15 not limited to, an outline of the curriculum used by  
 16 the child, copies of homework completed in conjunction  
 17 with the curriculum and instruction, and copies of  
 18 tests completed by the child which have been produced  
 19 by the parent, guardian, or legal custodian.  
 20 c. Completed assessment tests, other than the  
 21 annual achievement test, which are administered to a  
 22 pupil as part of the competent private instruction by  
 23 the parent, guardian, or legal custodian.  
 24 If a parent, guardian, or legal custodian submits  
 25 evidence under this section, the information shall be  
 26 reviewed by a person designated as an evaluator by the  
 27 director of the department of education. The  
 28 evaluator shall prepare a report based on a review of  
 29 the child's work submitted, which shall include an  
 30 assessment of the child's achievement or academic  
 31 progress levels. If the evidence demonstrates, in the  
 32 evaluator's opinion, that the child is achieving  
 33 adequate progress, the report shall create a  
 34 presumption that the child is making adequate progress  
 35 and may be used to refute the results of the annual  
 36 achievement test."  
 37 \_\_\_\_\_. Page 13, line 34, by inserting after the  
 38 word "made" the following: ", the child has  
 39 demonstrated adequate performance in the opinion of an  
 40 evaluator and documented in a report under section  
 41 299B.4, subsection 7, "."  
 42 2. By numbering and renumbering as necessary.

By SHEARER of Louisa	HURLEY of Fayette
HIBBARD of Madison	PLASIER of Sioux
PETERSEN of Muscatine	SPENNER of Henry
GRUBBS of Scott	IVERSON of Wright
CORBETT of Linn	SVOBODA of Tama
BAKER of Polk	BROWN of Lucas

H-3345 FILED MARCH 26, 1991

ADOPTED (p. 777)

## HOUSE FILE 455

H-3359

1 Amend the amendment, H-3274, to House File 455, as  
2 follows:  
3 Page 1, by inserting after line 10, the following:  
4 " \_\_\_\_ . Page 12, line 33, by inserting after the  
5 word "test." the following: "If the person  
6 responsible for administering the test and the parent  
7 cannot agree on a time and place for administration of  
8 the test, the matter shall be submitted to a mediator  
9 as provided in section 299B.101.""  
10 2. Page 1, by inserting after line 12, the  
11 following:  
12 " \_\_\_\_ . Page 15, line 22, by inserting after the  
13 word "test." the following: "If the person  
14 responsible for administering the test and the parent  
15 cannot agree on a time and a place for administration  
16 of the test, the matter shall be submitted to a  
17 mediator as provided in section 299B.101."  
18 \_\_\_\_ . Page 15, by inserting after line 25, the  
19 following:  
20 "Sec. \_\_\_\_ . NEW SECTION. 299B.101 MEDIATION.  
21 If the parent, guardian, or custodian and the  
22 person responsible for administering the test, cannot  
23 agree on a time or place for administration of the  
24 test, the matter shall be referred to the county  
25 attorney for mediation.  
26 If the matter is referred for mediation, the county  
27 attorney shall cause a notice of the referral to be  
28 sent to the parent, guardian, or custodian and the  
29 person responsible for administering the test and  
30 shall designate a person to serve as mediator in the  
31 matter. If mediation services are available in the  
32 community, those services may be used as the  
33 designated mediation service. If mediation services  
34 are not available in the community, mediation shall be  
35 provided by the county attorney or the county  
36 attorney's designee. The mediator shall contact the  
37 parent, guardian, or custodian, the person responsible  
38 for administering the test, and any other person the  
39 mediator deems appropriate in the matter and arrange  
40 meeting dates and times for discussion of the matter.  
41 The mediator shall attempt to ascertain the cause of  
42 the failure to agree on a time and place for testing,  
43 attempt to cause the parties to arrive at an agreement  
44 relative to the child's testing, and initiate  
45 referrals to any agencies or counseling that the  
46 mediator believes to be appropriate under the  
47 circumstances.  
48 If the parties reach an agreement, the agreement  
49 shall be reduced to writing and signed by the person  
50 responsible for administering the test and the parent,

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1 guardian, or custodian. The mediator, the person  
2 responsible for administering the test, and the  
3 parent, guardian, or custodian shall each receive a  
4 copy of the agreement, which shall set forth the  
5 settlement of the issues and future responsibilities  
6 of each party.

7 The school district shall be responsible for  
8 monitoring any agreements arrived at through  
9 mediation. If a parent, guardian, or custodian  
10 refuses to engage in mediation or violates a term of  
11 the agreement, the matter shall be rereferred to the  
12 county attorney for prosecution under section 299.6.  
13 The county attorney's office or the mediation service  
14 shall require the parent, guardian, or custodian and  
15 the school to pay a fee to help defray the  
16 administrative cost of mediation services. The county  
17 attorney's office or the mediation service shall  
18 establish a sliding scale of fees to be charged  
19 parents, guardians, and custodians based upon ability  
20 to pay. A parent, guardian, or custodian shall not be  
21 denied the services of a mediator solely because of  
22 inability to pay the fee.""

By HIBBARD of Madison

H-3359 FILED MARCH 26, 1991

*Adopted 3/27 (p 879)*

## HOUSE FILE 455

-3363

1 Amend House File 455, as follows:

2 1. By striking page 12, line 2, through page 14,  
3 line 19, and inserting the following:

4 "The parent, guardian, or custodian of a child who  
5 is over six and under sixteen years of age by  
6 September 15, who wishes to instruct the child without  
7 the assistance of a licensed teacher, shall send a  
8 written notice to the clerk of the district court in  
9 the district of the child's residence within thirty  
10 days of the earliest starting date specified in  
11 section 279.10, subsection 1. The clerk shall retain  
12 and file the notice and forward a copy of the notice  
13 to the board of the local public school district and  
14 the district's area education agency. The notice  
15 shall state the names and ages of the children under  
16 competent private instruction, the location at which  
17 the private instruction by the parent, guardian, or  
18 custodian is taking place, and contain a certification  
19 that the parent, guardian, or custodian will provide  
20 instruction in reading, language arts, mathematics,  
21 social studies, and science. The notice shall also  
22 include at least one of the following:

23 a. Evidence that the parent, guardian, or  
24 custodian providing the competent private instruction  
25 holds a baccalaureate degree from an accredited public  
26 or private higher education institution.

27 b. A written statement from a licensed teacher  
28 which certifies that the teacher has examined a  
29 portfolio of the child's work and that the child's  
30 progress is adequate for the child's age and ability.

31 c. The results of a nationally normed standardized  
32 achievement test that demonstrates progress of no less  
33 than the achievement of the fifteenth percentile in  
34 the child's cumulative score, that is administered by  
35 a person chosen by the parent, guardian, or custodian.

36 d. A written statement that the parent, guardian,  
37 or custodian is conscientiously opposed, due to a bona  
38 fide religious belief or training, to the child's  
39 attendance at a public or accredited private school.

40 Instruction methods and curriculum used in  
41 competent private instruction which is provided by a  
42 parent, guardian, or custodian are not subject to  
43 supervision or approval by a public school district,  
44 area education agency, the department of education, or  
45 the state board of education unless the parent,  
46 guardian, or custodian consents to the supervision or  
47 approval, nor is the district, area education agency,  
48 department, or state board obligated to provide  
49 services to children under this type of instruction.

50 A parent, guardian, or custodian providing instruction

H-3363

Page 2

1 under this section is also not required to provide  
2 instruction in any particular subject matter areas. A  
3 child who is the subject of a notice under this  
4 subsection is not truant, as defined in this chapter."

5 2. Page 15, by inserting after line 25, the  
6 following:

7 "Sec. \_\_\_\_\_. Section 602.8102, Code 1991, is amended  
8 by adding the following new subsection:

9 NEW SUBSECTION. 49A. Carry out duties relating to  
10 receipt and recording of notice of private instruction  
11 by a parent or guardian under section 299.4.

12 Sec. \_\_\_\_\_. Section 602.8105, subsection 1, Code  
13 1991, is amended by adding the following new  
14 paragraph:

15 NEW PARAGRAPH. v. For filing a notice of private  
16 instruction by a parent or guardian under section  
17 299.4, ten dollars."

18 3. By renumbering as necessary.

By HIBBARD of Madison

H-3363 FILED MARCH 26, 1991

*Loss 3/27 (p. 892)*

HOUSE FILE 455

H-3360

1 Amend the amendment, H-3185, to House File 455 as  
2 follows:

3 1. Page 1, by striking lines 2 through 4 and  
4 inserting the following:

5 "\_\_\_\_\_. Page 6, line 22, by inserting after the  
6 word "person" the following: "other than a child who  
7 is the subject of a mediation agreement".

By SPEAR of Lee

H-3360 FILED MARCH 26, 1991

*Loss 3/27 (p. 887)*

HOUSE FILE 455

H-3362

1 Amend House File 455 as follows:

2 "1. Page 13, line 32, by inserting after the word  
3 "year," the following: "the child has been referred  
4 for evaluation and identified as requiring special  
5 education under section 299B.9,".

6 2. Page 15, line 10, by inserting after the word  
7 "education" the following: "as defined".

8 3. Page 15, line 10, by striking the words "is  
9 not" and inserting the following: "shall be".

x 10 4. Page 15, line 11, by striking the word  
11 "without" and inserting the following: "if the  
12 parent, guardian, or custodian secures, as part of the  
13 competent private instruction, assistance from an  
14 individual or organization which possesses the  
15 necessary licensing and other credentials to be  
16 qualified as a provider of special education  
17 instruction. The parent, guardian, or custodian shall  
18 annually provide the department of education with  
19 written notice informing the department of the name of  
20 the individual or organization possessing the special  
21 education licensing and other credentials, providing  
22 proof or a method of verifying the individual's or  
23 organization's license and credentials, and verifying  
24 that the individual or organization has approved the  
25 special education program which is to be part of the  
26 competent private instruction and that the parent,  
27 guardian, or custodian has maintained contact with the  
28 individual or organization possessing the special  
29 education license and other credentials at least four  
30 times each year."

31 5. Page 15, by striking lines 12 through 15."

By HURLEY of Fayette  
HIBBARD of Madison

H-3362 FILED MARCH 26, 1991

*Lost 3/27 (p. 891)*

HOUSE FILE 455

H-3367

1 Amend amendment H-3362, to House File 455, as  
2 follows:

3 1. Page 1, line 12, by inserting after the word  
4 "or" the word "legal".

5 2. Page 1, line 17, by inserting after the word  
6 "or" the word "legal".

7 3. Page 1, line 27, by inserting after the word  
8 "or" the word "legal".

By HURLEY of Fayette

H-3367 FILED MARCH 27, 1991

ADOPTED BY UNANIMOUS CONSENT *(p. 890)*

HOUSE FILE 455

H-3372

1 Amend House File 455 as follows:

2 1. Title page, by striking line 3, and inserting  
3 the following: "mediation of truancy issues and  
4 penalties."

By OLLIE of Clinton

H-3372 FILED MARCH 27, 1991

ADOPTED BY UNANIMOUS CONSENT *(p. 896)*

HOUSE BILL 455  
FISCAL NOTE

A fiscal note for House Bill 455 is hereby submitted pursuant to Joint Rule 10. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HB 455 makes changes in laws related to and which affect Iowa's compulsory attendance procedures. The bill changes the beginning compulsory attendance age from seven to six years of age. A compulsory attendance policy must be set for students attending accredited schools. If a child is truant, the matter can be turned over for either mediation or prosecution of the parent, guardian, or custodian. The term "truant" is defined as a child who fails to attend school for at least 103 days per school year or fails to attend competent private instruction under Chapter 299B. All districts must hire a truancy officer.

The Bill also creates a new competent private instruction law which legalizes two forms of competent private instruction: instruction by licensed practitioners and instruction by parents, guardians, or custodians of children. If a child is instructed by the parent, the custodian or guardian, the matter can be turned over for either mediation or prosecution of the parent, guardian, or custodian. The term "truant" is defined as a child who fails to attend school for at least 103 days per school year or fails to attend competent private instruction under Chapter 299B. All districts must hire a truancy officer.

ASSUMPTIONS:

1. Average district cost per pupil is \$3,167 and the average State percentage of the cost is 58%.
2. Mediation and monitoring of mediation agreements of 100 students at an average staff cost of 5600 per student.

FISCAL EFFECT:

1. The Fiscal Bureau does not have any accurate way to estimate the number of students who are currently home schooled or age six, but not enrolled in the public schools. Every 100 students in this category would generate \$324,700. Of this amount, \$193,000 is the average state cost.
2. The cost to local districts for mediation and monitoring of mediation agreements is approximately \$400,000.
3. The cost to Area Education Agencies to develop and deliver truancy officer training programs is approximately \$25,000.

Source: Department of Education

HOUSE FILE 455  
FISCAL NOTE

A fiscal note for House File 455 as amended by the House is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HF 455 as amended by the House makes changes in laws related to and which affect Iowa's compulsory attendance procedures. The bill changes the beginning compulsory attendance age from seven to six years of age. A compulsory attendance policy must be set for students attending accredited schools. If a child is truant, the matter can be turned over for either mediation or prosecution of the parent, guardian, or custodian. The term "truant" is defined as a child who fails to attend school for at least 148 days per school year or fails to attend competent private instruction under Chapter 299B. The bill allows school districts to appoint a truancy officer.

The bill also creates a new competent private instruction law which legalizes two forms of competent private instruction: instruction by licensed practitioners and instruction by parents, guardians, or legal custodians of children. If a child is instructed by the parent, the child must be tested on an annual basis for adequate progress in learning. Children attending competent instruction can be enrolled in the district of residence for dual enrollment purposes. Children who are dually enrolled under Chapter 299B are eligible for both academic and extracurricular activities in their district. The parents will not be assessed any cost of the annual testing required, if dually enrolled. Students registered with the public school will be counted in the public school's basic enrollment for school finance purposes. The Department of Education is required to develop and adopt rules on providing alternative assessment mechanisms for children in third grade or a lesser grade by July 1, 1993.

ASSUMPTIONS:

1. Average district cost per pupil is \$3,247 and the foundation level is 83.5%.
2. Mediation and monitoring of mediation agreements of 500 students at an average staff cost of \$800 per student.

FISCAL EFFECT:

1. The Fiscal Bureau does not have any accurate way to estimate the number of students who are currently home schooled which may now enroll in their district of residence or six year olds who would not have enrolled before this bill. Every 100 students in this category would generate \$324,700. Of this amount, \$271,125 is the

-2-

state cost.

2. The cost to local districts for mediation and monitoring of mediation agreements is approximately \$400,000.
3. Requiring the Department of Education to develop and adopt rules which provide an alternative assessment mechanism for children in third grade or a lesser grade is estimated to cost a minimum of \$500,000 per grade level. If existing alternative assessment techniques are utilized the initial cost could exceed \$100,000.

Source: Department of Education

(LSB 2220hv.3, JAS)

FILED MAY 1, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 455  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 202)

(As Amended and Passed by the House March 27, 1991)

Passed House, Date Jan Below Passed Senate, Date 4/25/91 (p. 1470)  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 43 Nays 4  
Approved May 23, 1991

*Motion to Reconsider (p. 1507)  
" 2/10 5/1/91*

A BILL FOR

1 An Act relating to school instruction and attendance of children  
2 of compulsory school attendance age and providing for  
3 mediation of truancy issues and penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5  
6 House Amendments \_\_\_\_\_

7 Deleted Language \*

8 Conference Committee Appointed 5/2/91

9 *Senators Connolly (chair), Murphy, Kulesnow, Krasner, & Kersten (p. 1619)*  
10 *Repr. Ollie (chair), Adams, Laguskelte, Corbett, & Manning (p. 2024)*

11  
12 Passed per Conference Committee Report

13 Passed House 5/3/91 (p. 2085)  
14 84-16

15 Passed Senate 5/3/91 (p. 1658)  
16 45-8

\*1 Section 1. Section 280.2, Code 1991, is amended to read as  
2 follows:

3 280.2 DEFINITIONS.

4 The term "public school" means any school directly  
5 supported in whole or in part by taxation. The term  
6 "nonpublic school" means any other school which is accredited  
7 or which uses licensed practitioners as instructors.

8 Sec. 2. Section 280.3, unnumbered paragraph 1, Code 1991,  
9 is amended to read as follows:

10 The board of directors of each public school district and  
11 the authorities in charge of each nonpublic school shall  
12 prescribe the minimum educational program and an attendance  
13 policy which shall require each child to attend school for at  
14 least one hundred forty-eight days, to be met by attendance  
15 for at least thirty-seven days each school quarter, for the  
16 schools under their jurisdictions. The minimum educational  
17 program shall be the curriculum set forth in section 256.11,  
18 except as otherwise provided by law. The board of directors  
19 of a public school district shall not allow discrimination in  
20 any educational program on the basis of race, color, creed,  
21 sex, marital status or place of national origin.

22 Sec. 3. Section 299.1, Code 1991, is amended to read as  
23 follows:

24 299.1 ATTENDANCE REQUIREMENTS.

25 The Except as provided in section 299.2, the parent,  
26 guardian, or legal or actual custodian of a child who is over  
27 seven-and-under-sixteen-years-of-age-by-September-15,-in  
28 proper-physical-and-mental-condition-to-attend-school is of  
29 compulsory attendance age, shall enroll cause the child in to  
30 attend some public school, commencing-as-provided an  
31 accredited nonpublic school, or competent private instruction  
32 in accordance with the provisions of chapter 299B, during a  
33 school year, as defined under section 279.10. The board of  
34 directors of a public school district or the governing body of  
35 an accredited nonpublic school shall set the number of days of

1 required attendance for the schools under its control.

2 The board of directors of a public or the governing body of  
 3 an accredited nonpublic school may, by resolution, require  
 4 attendance in the public schools for the entire time when the  
 5 schools are in session in any school year and adopt a policy  
 6 or rules relating to the reasons considered to be valid or  
 7 acceptable excuses for absence from school.

8 ~~A child shall attend an accredited or approved school for~~  
 9 ~~at least one hundred twenty days each school year. The~~  
 10 ~~requirement shall be met by attendance for at least thirty~~  
 11 ~~days each school quarter, or a similar distribution of~~  
 12 ~~attendance throughout the school year.~~

13 ~~In lieu of such attendance such child may attend upon~~  
 14 ~~equivalent instruction by a licensed teacher elsewhere.~~

3525 15 The failure of a child to attend school or competent  
 16 private instruction under chapter 299B, as provided in this  
 17 chapter, establishes a rebuttable presumption that the child  
 18 is truant as defined in section 299.8 and that the parent,  
 19 guardian, or legal or actual custodian of the child has  
 20 committed a violation of this chapter.

21 Sec. 4. NEW SECTION. 299.1A COMPULSORY ATTENDANCE AGE.

22 A child who has reached the age of six and is under sixteen  
 23 years of age by September 15 is of compulsory attendance age.

24 Sec. 5. Section 299.2, Code 1991, is amended to read as  
 25 follows:

26 299.2 EXCEPTIONS.

27 Section 299.1 shall not apply to any child:

28 ~~1. Who is over the age of fourteen and is regularly~~  
 29 ~~employed.~~

30 ~~2. Whose educational qualifications are equal to those of~~  
 31 ~~pupils who have completed the eighth grade.~~

32 1. Who has completed the requirements for graduation in an  
 33 accredited school or has obtained a high school equivalency  
 34 diploma under chapter 259A.

35 3 2. Who is excused for sufficient reason by any court of

1 record or judge.

2 4 3. While attending religious services or receiving  
3 religious instructions.

4 5 4. Who is attending a private college preparatory school  
5 accredited or probationally accredited under section 256.11,  
6 subsection 13.

7 5. Who has been excused under section 299.22.

8 6. Who is exempted under section 299.24.

9 Sec. 6. Section 299.3, Code 1991, is amended to read as  
10 follows:

11 299.3 REPORTS FROM PRIVATE ACCREDITED NONPUBLIC SCHOOLS.

33-42  
3565  
12 ~~Within ten days from receipt of notice from the secretary~~  
13 ~~of the school district within which any private school is~~  
14 ~~conducted~~ On or before the third Friday in September of each  
15 school year, and at any time when requested in individual  
16 cases, the principal of such an accredited nonpublic school  
17 ~~shall, once during each school year, and at any time when~~  
18 ~~requested in individual cases,~~ furnish to such the secretary  
19 of the public school district, within which the accredited  
20 nonpublic school is located, a certificate and report in  
21 duplicate on forms provided by the public school district of  
22 the names, ages, and number of days attendance of each pupil  
23 of such the accredited nonpublic school over seven and under  
24 sixteen years of age who is of compulsory attendance age, the  
25 course of study pursued by ~~each such child~~ the pupil, the  
26 texts used, and the names of the teachers, during the  
27 preceding year and from the time of the last preceding report  
28 to the time at which a report is required. The secretary  
29 shall retain one of the reports and file the other with the  
30 secretary of the area education agency.

31 Sec. 7. Section 299.4, Code 1991, is amended to read as  
32 follows:

33 299.4 REPORTS AS TO PRIVATE INSTRUCTION.

34 The parent, guardian, or legal or actual custodian of a  
35 child who ~~by September 15 is over seven and under sixteen~~

1 years-of-age is of compulsory attendance age, who places the  
2 child under competent private instruction under chapter 299B,  
3 not in an accredited or-approved school, shall furnish a  
4 report in duplicate on forms provided by the public school  
5 district, to the district by the earliest starting date  
6 specified in section 279.10, subsection 1. The secretary  
7 shall retain and file one copy and forward the other copy to  
8 the district's area education agency. The report shall state  
9 the name and age of the child, the period of time during which  
10 the child has been or will be under competent private  
11 instruction for the school year, an outline of the course of  
12 study, texts used, and the name and address of the instructor.  
13 The parent, guardian, or legal or actual custodian of a child,  
14 who is placing the child under competent private instruction,  
15 for the first time, shall also provide the district with  
16 evidence that the child has had the immunizations required  
17 under section 139.9. The term "outline of course of study"  
18 shall include, but is not limited to, subjects covered, <sup>3525</sup> weekly  
19 lesson plans, and time spent on the areas of study.

20 Sec. 8. Section 299.5, Code 1991, is amended to read as  
21 follows:

22 299.5 PROOF OF MENTAL OR PHYSICAL CONDITION.

23 The parent, guardian, or legal or actual custodian of a  
24 child who is over-seven-and-under-sixteen-years-of-age-by  
25 September-15 of compulsory attendance age, who is physically  
26 or mentally unable to attend school, or whose presence in  
27 school would be injurious to the health of other pupils, shall  
28 furnish proofs by affidavit certificate under sections 281.6  
29 and 281.7 as to the physical or mental condition of the child.

30 Sec. 9. NEW SECTION. 299.5A MEDIATION.

31 If a child is truant as defined in section 299.8, school  
32 officers shall attempt to find the cause for the child's  
33 absence and use every means available to the school to assure  
34 that the child does attend. If the parent, guardian, or legal  
35 or actual custodian, or child refuses to accept the school's

1 attempt to assure the child's attendance or the school's  
2 attempt to assure the child's attendance is otherwise  
3 unsuccessful, the truancy officer shall refer the matter to  
4 the county attorney for mediation or prosecution.

5 If the matter is referred for mediation, the county  
6 attorney shall cause a notice of the referral to be sent to  
7 the parent, guardian, or legal or actual custodian and  
8 designate a person to serve as mediator in the matter. If  
9 mediation services are available in the community, those  
10 services may be used as the designated mediation service. If  
11 mediation services are not available in the community,  
12 mediation shall be provided by the county attorney or the  
13 county attorney's designee. The mediator shall contact the  
14 school, the parent, guardian, or legal or actual custodian,  
15 and any other person the mediator deems appropriate in the  
16 matter and arrange meeting dates and times for discussion of  
17 the child's nonattendance. The mediator shall attempt to  
18 ascertain the cause of the child's nonattendance, attempt to  
19 cause the parties to arrive at an agreement relative to the  
20 child's attendance, and initiate referrals to any agencies or  
21 counseling that the mediator believes to be appropriate under  
22 the circumstances.

23 If the parties reach an agreement, the agreement shall be  
24 reduced to writing and signed by a school officer, parent,  
25 guardian, or legal or actual custodian, and the child. The  
26 mediator, the school, and the parent, guardian, or legal or  
27 actual custodian shall each receive a copy of the agreement,  
28 which shall set forth the settlement of the issues and future  
29 responsibilities of each party.

30 The school district shall be responsible for monitoring any  
31 agreements arrived at through mediation. If a parent,  
32 guardian, or legal or actual custodian refuses to engage in  
33 mediation or violates a term of the agreement, the matter  
34 shall be rereferred to the county attorney for prosecution  
35 under section 299.6. The county attorney's office or the

1 mediation service shall require the parent, guardian, or legal  
2 or actual custodian and the school to pay a fee to help defray  
3 the administrative cost of mediation services. The county  
4 attorney's office or the mediation service shall establish a  
5 sliding scale of fees to be charged parents, guardians, and  
6 legal or actual custodians based upon ability to pay. A  
7 parent, guardian, or legal or actual custodian shall not be  
8 denied the services of a mediator solely because of inability  
9 to pay the fee.

10 Sec. 10. Section 299.6, Code 1991, is amended to read as  
11 follows:

12 299.6 VIOLATIONS -- COMMUNITY SERVICE ~~IN-STEAD-OF~~ OR FINE  
13 OR IMPRISONMENT.

*s.525* 14 Any person who ~~shall-violate~~ violates a mediation agreement  
15 under section 299.5A or any of the provisions of sections  
16 299.1 to through 299.5 or refuses to participate in mediation  
17 under section 299.5A, inclusive, shall-be for a first offense,  
18 is guilty of a simple misdemeanor and-the-court-shall.

19 A first offense conviction is punishable by imprisonment  
20 not exceeding ten days or a fine not exceeding one hundred  
21 dollars. The court may order the person to perform not more  
22 than forty hours of unpaid community service instead of any  
23 fine or imprisonment. A person convicted of a second  
24 violation is guilty of a serious misdemeanor.

25 A second offense conviction is punishable by imprisonment  
26 not exceeding twenty days or a fine not exceeding five hundred  
27 dollars, or both a fine and imprisonment. The court may order  
28 the person to perform unpaid community service instead of any  
29 fine or imprisonment.

30 A third or subsequent offense is a serious misdemeanor and  
31 a conviction is punishable by imprisonment not exceeding  
32 thirty days or a fine not exceeding one thousand dollars, or  
33 both a fine and imprisonment. The court may order the person  
34 to perform unpaid community service instead of any fine or  
35 imprisonment.

1 If community service is imposed as part of a sentencing  
2 order, the court may require that part or all of the service  
3 be performed for a public school district or nonpublic school  
4 if the court finds that service in the school is appropriate  
5 under the circumstances.

33946 6 If a parent, guardian, or legal or actual custodian of a  
7 child who is truant, has made an objective and reasonable good  
8 faith effort to comply with the provisions of sections 299.1  
9 through 299.5, the parent, guardian, or legal or actual  
10 custodian shall not be criminally liable for the child's  
11 nonattendance.

12 Sec. 11. Section 299.8, Code 1991, is amended to read as  
13 follows:

14 299.8 "TRUANT" DEFINED.

15 Any child ~~over-seven-and-under-sixteen-years-of-age,~~ in  
16 ~~proper-physical-and-mental-condition-to-attend-school,~~ of  
17 compulsory attendance age who fails to attend school regularly  
18 as provided in this chapter, or as required by the school  
19 board's or school governing body's attendance policy, or who  
20 fails to attend competent private instruction under chapter  
21 299B, without reasonable excuse for the absence, shall be  
35657 22 deemed to be a truant.

23 Sec. 12. Section 299.9, Code 1991, is amended to read as  
24 follows:

25 299.9 ~~TRUANT-SCHOOLS~~ TRUANTS -- RULES FOR PUNISHMENT.

26 The board of directors ~~may-provide-for-the-confinement,~~  
27 ~~maintenance,-and-instruction-of-truant-children-and-may-for~~  
28 ~~that-purpose-establish-truant-schools-or-set-apart-separate~~  
29 ~~rooms-in-any-public-school-building,-and-it~~ of a public school  
30 district or the authorities in charge of an accredited  
31 nonpublic school shall prescribe reasonable rules for the  
32 punishment of truants.

33 Sec. 13. Section 299.10, Code 1991, is amended to read as  
34 follows:

35 299.10 TRUANCY OFFICERS -- APPOINTMENT --- ~~COMPENSATION.~~

1 The board of each school district ~~may~~and in school  
 2 ~~districts having a population of twenty thousand shall~~  
 33927 3 appoint a truancy officer.

4 ~~In districts having therein a city, the~~ The board may  
 5 appoint a member of the police force, or marshal, ~~as such~~  
 6 ~~officer, and other districts may appoint a constable a~~  
 7 teacher, school official, or other suitable person to serve as  
 8 the district truancy officer.

9 ~~Such officers shall be paid a reasonable compensation by~~  
 10 ~~the board.~~

11 Sec. 14. Section 299.11, Code 1991, is amended to read as  
 12 follows:

13 299.11 DUTIES OF TRUANCY OFFICER.

14 The truancy officer ~~shall~~ may take into custody without  
 15 warrant any apparently truant child and place the child in the  
 16 charge of the ~~teacher in charge of the public~~ school  
 17 principal, or the principal's designee, designated by the  
 18 board of directors of the school district in which ~~said~~ the  
 19 child resides, or of any private nonpublic school designated  
 20 by the ~~person having legal control of the child~~ parent,  
 21 guardian, or legal or actual custodian; but if it is other  
 22 than a public school, the instruction and maintenance of the  
 3565 23 child ~~therein~~ shall be without expense to the school district.

24 The truancy officer shall promptly institute ~~criminal~~  
 25 proceedings against any person violating any of the provisions  
 26 of sections 299.1 ~~to 299.5~~ through 299.5A.

27 Sec. 15. Section 299.16, Code 1991, is amended to read as  
 28 follows:

29 299.16 FAILURE TO ATTEND.

30 School officers shall ascertain the number of children ~~over~~  
 31 seven and under sixteen years of age who are of compulsory  
 32 attendance age, in their respective districts, the number of  
 33 such those children who do not attend school are truant under  
 34 section 299.8 or who have accumulated fifteen unexcused  
 35 absences during a three-year period, and so far as possible

1 the cause of the failure to attend. School officers shall,  
2 until July 1, 1999, biennially report this information to the  
3 department of education on forms provided by the department.  
4 The department shall attach a summary of the reports, an  
5 analysis of the data, and policy recommendations based on the  
6 data analysis, along with the department's annual report under  
7 section 256.9, subsection 28.

8 Sec. 16. Section 299.18, Code 1991, is amended to read as  
9 follows:

10 299.18 EDUCATION -- STATE SCHOOL.

11 Children over-seven-and-under-nineteen-years-of who are of  
12 compulsory attendance age and who are so deaf or blind or  
13 severely handicapped as to be unable to obtain an education in  
14 the common public or accredited nonpublic schools shall be  
15 sent to the proper appropriate state school-therefor  
16 institution, or shall receive appropriate special education  
17 under chapter 281, unless exempted, and any person having such  
18 a child under the person's control or custody shall see that  
19 such the child attends such-school the institution or special  
20 education program during the scholastic year.

21 Sec. 17. Section 299.19, Code 1991, is amended to read as  
22 follows:

23 299.19 PROCEEDING AGAINST PARENT.

24 Upon the failure of any a person having the custody and  
25 control of such a deaf, blind, or severely handicapped child  
26 to require its the child's attendance as provided in section  
27 299.18, the state board of regents may make application to the  
28 district court or the juvenile court of the county in which  
29 such the person resides for an order requiring such the person  
30 to compel the attendance of such the child at the proper state  
31 institution.

32 Sec. 18. Section 299.20, Code 1991, is amended to read as  
33 follows:

34 299.20 ORDER.

35 Upon the filing of the application mentioned in section

1 299.19, the time of hearing shall be determined by the  
 2 juvenile court or the district court. If, upon hearing, the  
 3 court determines that the person required to appear has the  
 4 custody and control of a child who should be required to  
 5 attend a state school institution under section 299.18, the  
 6 court shall make an order requiring such the person to keep  
 7 such the child in attendance at such-school the institution.

8 Sec. 19. Section 299.22, Code 1991, is amended to read as  
 9 follows:

10 299.22 WHEN DEAF AND BLIND CHILDREN EXCUSED.

11 Attendance at the state institution may be excused when the  
 12 superintendent ~~thereof-is-satisfied:~~

13 ~~1.--That-the-child-is-in-such-bodily-or-mental-condition-as~~  
 14 ~~to-prevent-or-render-futile-attendance-at-the-school.~~

15 ~~2.--That-the-child-is-so-diseased-or-possesses-such-habits~~  
 16 ~~as-to-render-the-child's-presence-a-menace-to-the-health-or~~  
 17 ~~morals-of-other-pupils.~~

18 ~~3.--That~~ of the institution determines that the child is  
 19 efficiently taught for the scholastic year in a private  
 20 accredited nonpublic or other school devoted to such the  
 21 instruction, or by a private tutor, in the ~~branches-taught-in~~  
 22 public schools, or is shown to be physically or mentally  
 23 unable to attend school under section 299.5.

24 Sec. 20. NEW SECTION. 299B.1 PRIVATE INSTRUCTION.

25 The parent, guardian, or legal custodian of a child of  
 26 compulsory attendance age who places the child under private  
 27 instruction shall provide, unless otherwise exempted,  
 28 competent private instruction in accordance with this chapter.  
 29 A parent, guardian, or legal custodian of a child of  
 30 compulsory attendance age who places the child under private  
 31 instruction which is not competent private instruction, or  
 32 otherwise fails to comply with the requirements of this  
 33 chapter, shall be presumed to have violated the provisions of  
 34 sections 299.1 through 299.4 and is subject to the penalties  
 35 provided in section 299.6.

1 For purposes of this chapter, "competent private  
2 instruction" means private instruction provided on a daily  
3 basis for at least one hundred forty-eight days during a  
4 school year, to be met by attendance for at least thirty-seven  
5 days each school quarter, by a licensed practitioner, or other  
6 person under section 299B.3, which results in the student  
7 making adequate progress.

8 For purposes of this chapter and chapter 299, "private  
9 instruction" means formal instruction in a setting other than  
\*10 a public or organized accredited nonpublic school.

11 Sec. 21. NEW SECTION. 299B.2 COMPETENT PRIVATE  
12 INSTRUCTION BY LICENSED PRACTITIONER.

13 If a licensed practitioner provides competent instruction  
14 to a child of compulsory attendance age, the practitioner  
15 shall possess a valid license or certificate which has been  
16 issued by the state board of educational examiners under  
17 chapter 260 and which is appropriate to the ages and grade  
18 levels of the children to be taught. Competent private  
19 instruction may include, but is not limited to, instruction or  
20 instructional supervision offered through a school district by  
21 a teacher, who is employed by the school district, who assists  
22 and supervises a parent, guardian, or legal custodian in  
23 providing instruction to a child who is enrolled and included  
24 in the basic enrollment of the school district. Sections  
25 299B.3 through 299B.7 do not apply to competent private  
26 instruction provided by a licensed practitioner under this  
27 section.

28 Sec. 22. NEW SECTION. 299B.3 PRIVATE INSTRUCTION BY  
29 NONLICENSED PERSON.

30 A parent, guardian, or legal custodian of a child of  
31 compulsory attendance age providing competent private  
32 instruction to the child shall meet all of the following  
33 requirements:

34 1. Complete and send, in a timely manner, the report  
35 required under section 299.4 to the school district of

1 residence of the child.

2 2. Ensure that the child under the parent's, guardian's,  
3 or legal custodian's instruction is tested annually to  
4 determine whether the child is making adequate progress, as  
5 defined in section 299B.6.

6 3. Report the child's annual test results to the school  
7 district of residence of the child and to the department of  
8 education by a date not later than June 30 of each year in  
9 which the child is under private instruction.

10 Sec. 23. NEW SECTION. 299B.4 ANNUAL ACHIEVEMENT TESTS --  
11 REQUIREMENTS AND PROCEDURE.

12 1. Each child of compulsory attendance age who is  
13 receiving competent private instruction shall be tested  
14 annually by May 1, using a nationally recognized standardized  
15 achievement test or other nationally recognized assessment  
16 tool chosen by the child's parent, guardian, or legal  
17 custodian from a list of approved tests or assessment tools  
18 provided by the department of education. The department shall  
19 provide information on the cost of and the administration time  
20 required for each of the approved tests. The department shall  
21 provide, as part of approval procedures for tests to be used  
22 under this section, a mechanism which permits the introduction  
23 and approval of new or alternate methods of educational  
24 assessment which meet the requirements of this chapter.

25 2. A child, who is seven years of age and is receiving  
26 competent private instruction or who is placed under competent  
27 private instruction for the first time, shall be administered  
28 a test for purposes of obtaining educational baseline data.

29 3. The director of the department of education, or the  
30 director's designee, which may include a school district or an  
31 area education agency, shall administer each test required of  
32 children under competent private instruction. Testing shall  
33 occur at a time and a place to be determined by the person  
34 responsible for administering the test. Persons administering  
35 the tests shall make every reasonable effort to administer the

1 tests at times and places which are convenient for the parent,  
2 guardian, or legal custodian.

3 4. The parent, guardian, or legal custodian of a child  
4 receiving competent private instruction may be present when  
5 the child is tested, but only if both the parent, guardian, or  
6 legal custodian and the child are under the supervision of the  
7 test administrator.

8 5. The administration of tests shall include, but is not  
9 limited to, purchasing of test materials, giving the tests,  
10 scoring and interpreting the tests, and reporting the test  
11 results.

12 6. Except when a child has been enrolled in a public  
13 school district under section 299B.8, the parent, guardian, or  
14 legal custodian of the child being tested shall reimburse the  
15 entity providing the test administration for the cost of  
16 testing required by this chapter. However, the parent,  
17 guardian, or legal custodian is not required to reimburse the  
18 testing entity for costs incurred as a result of testing and  
19 evaluation under section 299B.9.

20 7. In addition to the annual achievement tests, a parent,  
21 guardian, or legal custodian of a child may submit, as  
22 evidence of adequate academic progress, any of the following:

23 a. A book of lesson plans, a diary, or other written  
24 record indicating the subjects taught and activities in which  
25 the child has been engaged.

26 b. A portfolio of the child's work, including but not  
27 limited to, an outline of the curriculum used by the child,  
28 copies of homework completed in conjunction with the  
29 curriculum and instruction, and copies of tests completed by  
30 the child which have been produced by the parent, guardian, or  
31 legal custodian.

32 c. Completed assessment tests, other than the annual  
33 achievement test, which are administered to a pupil as part of  
34 the competent private instruction by the parent, guardian, or  
35 legal custodian.

1 If a parent, guardian, or legal custodian submits evidence  
2 under this section, the information shall be reviewed by a  
3 person designated as an evaluator by the director of the  
4 department of education. The evaluator shall prepare a report  
5 based on a review of the child's work submitted, which shall  
6 include an assessment of the child's achievement or academic  
7 progress levels. If the evidence demonstrates, in the  
8 evaluator's opinion, that the child is achieving adequate  
9 progress, the report shall create a presumption that the child  
10 is making adequate progress and may be used to refute the  
11 results of the annual achievement test.

12 Sec. 24. NEW SECTION. 299B.5 REPORTING OF TEST RESULTS.  
13 The results of tests administered to children of compulsory  
14 attendance age who are under competent private instruction  
15 shall be reported by the test administrator to the child's  
16 parent, guardian, or custodian, the school district of  
17 residence of the child, and the department of education.  
18 Personally identifiable information relating to or contained  
19 in the test scores is confidential and shall not be released  
20 without the prior consent of the child's parent, guardian, or  
21 custodian except as otherwise permitted by law.

22 Sec. 25. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE  
23 PROGRESS.  
24 If the results of tests, administered to a child of  
25 compulsory attendance age who is under competent private  
26 instruction, indicate that the student has failed to make  
27 adequate progress, the parent, guardian, or custodian shall  
28 cause the child to attend an accredited public or nonpublic  
29 school at the beginning of the next school year unless, before  
30 the beginning of the next school year, the child retakes the  
31 same test and the results indicate that adequate progress has  
32 been made, the child has demonstrated adequate performance in  
33 the opinion of an evaluator and documented in a report under  
34 section 299B.4, subsection 7, or the director of the  
35 department of education, or the director's designee, grants

1 approval for competent private instruction to continue under a  
2 plan for remediation.

3 A child who is required to attend an accredited public or  
4 nonpublic school under this section shall continue attendance  
5 at an accredited public or nonpublic school until the child  
6 achieves adequate progress.

7 For purposes of this chapter, "adequate progress" means,  
8 for children in all grade levels of competent private  
9 instruction, test scores which are above the thirtieth  
10 percentile, nationally normed, in each of the areas of  
11 reading, mathematics, and language arts, and which indicate  
12 either that the child has made six months' progress from the  
13 previous test results or that the child is at or above grade  
14 level for the child's age. For children in grade levels six  
15 and above, "adequate progress" also means that the child has  
16 achieved test scores in both science and social studies which  
17 are above the thirtieth percentile, nationally normed, and  
18 which either indicate that the child has made six months'  
19 progress from the previous test results or that the child is  
20 at or above grade level for the child's age.

21 Sec. 26. NEW SECTION. 299B.7 NOTICE TO PARENTS --  
22 REMEDIATION.

23 If a child is placed under competent private instruction  
24 and the child fails to make adequate progress under competent  
25 private instruction, the director of the department of  
26 education, or the director's designee, shall notify the  
27 parent, guardian, or custodian of the child that the child is  
28 required to attend an accredited public or nonpublic school,  
29 unless approval for competent private instruction under a  
30 remediation plan is granted. The director, or the director's  
31 designee, may provisionally approve continued competent  
32 private instruction under an approved remediation plan  
33 designed to improve instruction for up to one year.

34 Sec. 27. NEW SECTION. 299B.8 DUAL ENROLLMENT.

35 If a parent, guardian, or legal custodian of a child who is

1 receiving competent private instruction under this chapter  
2 submits a request, the child shall also be registered in a  
3 public school for dual enrollment purposes. If the child is  
4 enrolled in a public school district for dual enrollment  
5 purposes, the child shall be permitted to participate in any  
6 academic activities in the district and shall also be  
7 permitted to participate on the same basis as public school  
8 children in any extracurricular activities available to  
9 children in the child's grade or group, and the parent,  
10 guardian, or legal custodian shall not be required to pay the  
11 costs of any annual testing under this chapter. If the child  
12 is enrolled for dual enrollment purposes, the child shall be  
13 included in the public school's basic enrollment under  
14 sections 442.4 and 257.6 and shall be counted as one pupil.

3417

15 Sec. 28. NEW SECTION. 299B.9 CHILDREN REQUIRING SPECIAL  
16 EDUCATION.

17 A child of compulsory attendance age who is identified as  
18 requiring special education under chapter 281 is not eligible  
19 for placement under competent private instruction without  
20 prior approval of the placement by the director of the  
21 department of education, in cooperation with the director of  
22 special education of the area education agency of the child's  
23 district of residence.

24 A child who has been placed under competent private  
25 instruction, whose performance on the tests required under  
26 this chapter indicates that the child may require special  
27 education, shall be referred for evaluation under chapter 281  
28 and the rules of the state board of education. Testing shall  
29 occur at a time and a place to be determined by the person  
30 responsible for administering the test. Persons administering  
31 the tests shall make every reasonable effort to administer the  
32 tests at times and places which are convenient for the parent,  
33 guardian, or legal custodian.

34 Sec. 29. NEW SECTION. 299B.10 RULEMAKING.

35 The department of education shall develop and recommend and

1 the state board shall adopt rules to implement this chapter.

2 Sec. 30. ASSESSMENT FOR CERTAIN CHILDREN. The department  
3 of education shall develop and recommend and the state board  
4 of education shall adopt by July 1, 1993, rules which provide  
5 an alternative assessment mechanism for children who meet age  
6 and educational development criteria generally accepted for  
7 placing a child in third or a lesser grade. Rules adopted  
8 shall require that the assessment mechanism utilize  
9 observation, anecdotal description of a child's achievement,  
10 samples of the child's work, and other samples of data  
11 relating to the child's academic performance, and shall  
12 include requirements relating to collection and evaluation of  
13 the information. In developing the alternative assessment  
14 mechanism, the department shall consult with any available  
15 committees, councils, or task forces which are working on  
16 assessment issues. The department shall also develop any  
17 recommendations for legislation deemed necessary to implement  
18 the alternative assessment mechanism.

\*19 Sec. 31. Sections 299.13 and 299.14, Code 1991, are  
20 repealed.

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HOUSE FILE 455  
FISCAL NOTE

A fiscal note for House File 455 as amended by the House is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HF 455 makes changes in laws related to and which affect Iowa's compulsory attendance procedures. The bill changes the beginning compulsory attendance age from seven to six years of age. A Compulsory attendance policy must be set for students attending accredited schools. If a child is truant, the matter can be turned over for either mediation or prosecution of the parent, guardian, or custodian. The term "truant" is defined as a child who fails to attend school for at least 148 days per school year or fails to attend competent private instruction under Chapter 299B. The bill allows school districts to appoint a truancy officer.

The bill also creates a new competent private instruction law which legalizes two forms of competent private instruction: instruction by licensed practitioners and instruction by parents, guardians, or legal custodians of children. If a child is instructed by the parent, the child must be tested on an annual basis for adequate progress in learning. Children attending competent instruction can be enrolled in their district of residence for dual enrollment purposes. Children who are dually enrolled under Chapter 299B are eligible for both academic and extracurricular activities in their district. The parents will not be assessed any cost of the annual testing required, if dually enrolled. Students registered with the public school will be counted in the public school's basic enrollment for school finance purposes. The Department of Education is required to develop and adopt rules on providing alternative assessment mechanisms for children in third grade or a lesser grade by July 1, 1993.

ASSUMPTIONS:

1. Average district cost per pupil is \$3,247 and the foundation level is 83.5%.
2. Mediation and monitoring of mediation agreements of 500 students at an average staff cost of \$800 per student.

FISCAL EFFECT:

1. The Fiscal Bureau does not have any accurate way to estimate the number of students who are currently home schooled which may now enroll in their district of residence or six year olds who would not have enrolled before this bill. Every 100 students in this category would generate \$324,700. Of this amount, \$271,125 is the

-2-

state cost.

2. The cost to local districts for mediation and monitoring of mediation agreements is approximately \$400,000.

Source: Department of Education

(LSB 2220hv.2, JAS)

FILED APRIL 10, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

## HOUSE FILE 455

S-3565

- 1 Amend House File 455, as amended, passed, and  
2 reprinted by the House, as follows:
- 3 1. Page 2, by striking lines 15 through 20.  
4 2. Page 3, by striking lines 12 through 18 and  
5 inserting the following:  
6 "Within ten days from receipt of notice from the  
7 secretary of the school district within which any  
8 ~~private~~ an accredited nonpublic school is conducted,  
9 the principal of ~~such~~ the accredited nonpublic school  
10 shall, once during each school year, and at any time  
11 when requested in individual cases, furnish to ~~such~~  
12 the secretary".
- 13 3. Page 4, line 18, by striking the words ", but  
14 is not limited to," and inserting the following: "~~7~~  
15 ~~but-is-not-limited-to,~~".
- 16 4. Page 6, line 15, by striking the word "or" and  
17 inserting the following: ", who is referred for  
18 prosecution under section 299.5A and is convicted of a  
19 violation of any of the provisions of sections 299.1  
20 through 299.5, who violates".
- 21 5. Page 6, line 16, by striking the word "or" and  
22 inserting the following: ", or who".
- 23 6. Page 7, line 22, by inserting after the word  
24 "truant." the following: "A finding that a child is  
25 truant, however, shall not by itself mean that the  
26 child is a child in need of assistance within the  
27 meaning of chapter 232 and shall not be the sole basis  
28 for a child in need of assistance petition."
- 29 7. Page 8, line 23, by inserting after the word  
30 "district." the following: "If a child is taken into  
31 custody under this section, the truancy officer shall  
32 make every reasonable attempt to immediately notify  
33 the parent, guardian, or legal or actual custodian of  
34 the child's location."
- 35 8. Page 9, line 15, by striking the word "~~school~~"  
36 and inserting the following: "operated school".
- 37 9. Page 9, line 16, by striking the word  
38 "~~institution~~".
- 39 10. Page 9, line 19, by striking the words  
40 "~~school~~ the institution" and inserting the following:  
41 "the state operated school".
- 42 11. Page 9, line 31, by striking the word  
43 "institution" and inserting the following:  
44 "institution operated school".
- 45 12. Page 10, line 5, by striking the words  
46 "~~school~~ institution" and inserting the following:  
47 "operated school".
- 48 13. Page 10, line 7, by striking the words  
49 "~~school~~ the institution" and inserting the following:  
50 "the state operated school".

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Page 2

- 1 14. Page 10, line 11, by striking the word  
2 "institution" and inserting the following:  
3 "institution operated school".
- 4 15. Page 10, line 18, by striking the words  
5 "institution determines" and inserting the following:  
6 "state operated school certifies that an  
7 interdisciplinary staffing team has determined,  
8 pursuant to the requirements of chapter 281,".
- 9 16. Page 10, line 33, by striking the words  
10 "shall be presumed to have violated" and inserting the  
11 following: "is subject to".
- 12 17. Page 10, line 34, by striking the words "is  
13 subject to".
- 14 18. Page 11, line 5, by inserting after the word  
15 "by" the following: "or under the supervision of".
- 16 19. Page 11, line 9, by striking the words  
17 "formal instruction" and inserting the following:  
18 "instruction using a plan and a course of study".
- 19 20. Page 11, line 20, by striking the word "a"  
20 and inserting the following: "an accredited nonpublic  
21 school or public".
- 22 21. Page 11, line 21, by inserting after the word  
23 "the" the following: "accredited nonpublic school or  
24 public".
- 25 22. Page 11, line 23, by striking the words  
26 "child who is" and inserting the following: "child.  
27 If competent private instruction is provided through a  
28 public school district, the child shall be".
- 29 23. Page 12, line 3, by striking the word  
30 "tested" and inserting the following: "evaluated".
- 31 24. Page 12, line 6, by striking the words  
32 "Report the child's annual test results" and inserting  
33 the following: "Ensure that the results of the  
34 child's annual evaluation are reported".
- 35 25. Page 12, line 13, by striking the words "be  
36 tested" and inserting the following: "either be  
37 evaluated".
- 38 26. Page 12, line 16, by inserting after the word  
39 "tool" the following: "such as, but not limited to,  
40 the Iowa test of basic skills, the Iowa test of  
41 educational development, or the stanford achievement  
42 test,".
- 43 27. Page 12, line 18, by inserting after the word  
44 "education" the following: "or be evaluated annually  
45 in the manner provided in subsection 7".
- 46 28. Page 12, line 31, by striking the words  
47 "administer each test required of" and inserting the  
48 following: "conduct the evaluations required under  
49 subsections 1 and 2 for".
- 50 29. Page 12, line 32, by striking the word

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Page 3

- 1 "Testing" and inserting the following: "Evaluation".  
2 30. Page 12, by striking lines 34 and 35, and  
3 inserting the following: "responsible for conducting  
4 the evaluation. Persons conducting the evaluations  
5 shall make every reasonable effort to conduct the  
6 evaluations".  
7 31. Page 13, line 1, by striking the word  
8 "tests".  
9 32. Page 13, line 5, by striking the word  
10 "tested" and inserting the following: "evaluated".  
11 33. Page 13, by striking lines 8 through 10, and  
12 inserting the following:  
13 "5. The conducting of evaluations shall include,  
14 but is not limited to, purchasing of evaluation  
15 materials, giving the evaluations, scoring and  
16 interpreting the evaluations, and reporting the  
17 evaluation".  
18 34. Page 13, line 14, by striking the word  
19 "tested" and inserting the following: "evaluated".  
20 35. Page 13, by striking line 15, and inserting  
21 the following: "entity conducting the evaluation for  
22 no more than the actual cost of".  
23 36. Page 13, line 16, by striking the word  
24 "testing" and inserting the following: "evaluation".  
25 37. Page 13, by striking line 18, and inserting  
26 the following: "evaluating entity for costs incurred  
27 as a result of".  
28 38. Page 13, line 20, by striking the words "In  
29 addition to the" and inserting the following: "In  
30 lieu of".  
31 39. Page 14, by striking lines 3 and 4, and  
32 inserting the following: "licensed practitioner  
33 selected as the evaluator by the parent, guardian, or  
34 legal custodian and agreed to by the superintendent of  
35 the local school district or the superintendent's  
36 designee. The evaluator shall prepare a report".  
37 40. Page 14, line 7, by striking the word  
38 "levels" and inserting the following: "levels, and  
39 submit a copy of the report to the child's parent,  
40 guardian, or legal custodian, the school district of  
41 residence of the child, and the department of  
42 education".  
43 41. Page 14, by striking lines 10 and 11, and  
44 inserting the following: "is making adequate  
45 progress."  
46 42. Page 14, line 16, by inserting before the  
47 word "custodian" the following: "legal".  
48 43. Page 14, line 27, by inserting before the  
49 word "custodian" the following: "legal".  
50 44. Page 16, line 18, by striking the word "not".

S-3565

Page 4

1 45. Page 16, line 19, by striking the word  
2 "without" and inserting the following: "with".

3 46. Page 16, line 20, by striking the words  
4 "director of the" and inserting the following:  
5 "director of".

6 47. Page 16, by striking line 21.

7 48. Page 16, lines 25 and 26, by striking the  
8 words "on the tests required under this chapter".

9 49. Page 16, line 28, by striking the word  
10 "Testing" and inserting the following: "Evaluation".

11 50. Page 16, by striking lines 30 and 31, and  
12 inserting the following: "responsible for conducting  
13 the evaluation. Persons conducting the evaluations  
14 shall make every reasonable effort to conduct the  
15 evaluations".

16 51. Page 16, line 32, by striking the word  
17 "tests".

18 52. Page 17, line 14, by inserting after the word  
19 "shall" the following: "use available home schooling  
20 data and shall".

21 53. Page 17, line 15, by inserting after the word  
22 "forces" the following: ", and home schooling  
23 practitioners or research organizations".

24 54. Page 17, line 16, by striking the words  
25 "assessment issues" and inserting the following: "or  
26 have experience in the assessment of children who have  
27 been placed under home instruction".

By LARRY MURPHY

MICHAEL W. CONNOLLY

WILLIAM W. DIELEMAN

RAY TAYLOR

MARY KRAMER

DALE L. TIEDEN

JOHN W. JENSEN

JACK W. HESTER

JAMES R. RIORDAN

RICHARD VANDE HOEF

MARK R. HAGERLA

WILMER RENSINK

ELAINE SZYMONIAK

JAMES B. KERSTEN

S-3565 FILED APRIL 24, 1991

*Adopted 4/25/91 (p 1489)*

HOUSE FILE 455

S-3392

- 1 Amend House File 455, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 3, line 24, by striking the word ", the"  
4 and inserting the following: "7 and the".  
5 2. Page 3, lines 25 and 26, by striking the words  
6 ", the texts used, and the names of the teachers" and  
7 inserting the following: "7-the-texts-used7-and-the  
8 names-of-the-teachers".  
9 3. Page 7, lines 7 and 8, by striking the words  
10 "an objective and reasonable good faith effort" and  
11 inserting the following: "reasonable efforts".  
12 4. Page 7, line 9, by inserting after the figure  
13 "299.5," the following: "but is unable to cause the  
14 child to attend school, the parent, guardian, or legal  
15 or actual custodian may file an affidavit listing the  
16 reasonable efforts made by the parent, guardian, or  
17 legal or actual custodian to cause the child's  
18 attendance and".  
19 5. Page 8, line 3, by inserting after the word  
20 "officer." the following: "The board of each school  
21 district, which does not appoint a truancy officer for  
22 the district, shall designate a suitable person to  
23 collect information on the numbers of children in the  
24 district who are truant."

By COMMITTEE ON EDUCATION  
MIKE CONNOLLY, Chairperson

S-3392 FILED APRIL 11, 1991

*Adopted 4/25/91 (p. 1489)*

HOUSE FILE 455

S-3417

- 1 Amend House File 455, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 16, by striking lines 15 through 33.  
4 2. By renumbering as necessary.

By JOHN W. JENSEN

S-3417 FILED APRIL 15, 1991

*4/15 4/25/91*

## SENATE AMENDMENT TO HOUSE FILE 455

H-4003

1 Amend House File 455, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 2, by striking lines 15 through 20.

4 2. Page 3, by striking lines 12 through 18 and  
5 inserting the following:

6 "Within ten days from receipt of notice from the  
7 secretary of the school district within which any  
8 ~~private~~ an accredited nonpublic school is conducted,  
9 the principal of such the accredited nonpublic school  
10 shall, once during each school year, and at any time  
11 when requested in individual cases, furnish to such  
12 the secretary".

13 3. Page 3, line 24, by striking the word ", the"  
14 and inserting the following: "7 and the".

15 4. Page 3, lines 25 and 26, by striking the words  
16 ", the texts used, and the names of the teachers" and  
17 inserting the following: "7-the-texts-used7-and-the  
18 names-of-the-teachers".

19 5. Page 4, line 18, by striking the words ", but  
20 is not limited to," and inserting the following: "7  
21 but-is-not-limited-to7".

22 6. Page 6, line 15, by striking the word "or" and  
23 inserting the following: ", who is referred for  
24 prosecution under section 299.5A and is convicted of a  
25 violation of any of the provisions of sections 299.1  
26 through 299.5, who violates".

27 7. Page 6, line 16, by striking the word "or" and  
28 inserting the following: ", or who".

29 8. Page 7, lines 7 and 8, by striking the words  
30 "an objective and reasonable good faith effort" and  
31 inserting the following: "reasonable efforts".

32 9. Page 7, line 9, by inserting after the figure  
33 "299.5," the following: "but is unable to cause the  
34 child to attend school, the parent, guardian, or legal  
35 or actual custodian may file an affidavit listing the  
36 reasonable efforts made by the parent, guardian, or  
37 legal or actual custodian to cause the child's  
38 attendance and".

39 10. Page 7, line 22, by inserting after the word  
40 "truant." the following: "A finding that a child is  
41 truant, however, shall not by itself mean that the  
42 child is a child in need of assistance within the  
43 meaning of chapter 232 and shall not be the sole basis  
44 for a child in need of assistance petition."

45 11. Page 8, line 3, by inserting after the word  
46 "officer." the following: "The board of each school  
47 district, which does not appoint a truancy officer for  
48 the district, shall designate a suitable person to  
49 collect information on the numbers of children in the  
50 district who are truant."

H-4003

Page 2

- 1 12. Page 8, line 23, by inserting after the word  
2 "district." the following: "If a child is taken into  
3 custody under this section, the truancy officer shall  
4 make every reasonable attempt to immediately notify  
5 the parent, guardian, or legal or actual custodian of  
6 the child's location."
- 7 13. Page 9, line 15, by striking the word  
8 "~~school~~" and inserting the following: "operated  
9 school".
- 10 14. Page 9, line 16, by striking the word  
11 "institution".
- 12 15. Page 9, line 19, by striking the words  
13 "~~school the institution~~" and inserting the following:  
14 "the state operated school".
- 15 16. Page 9, line 31, by striking the word  
16 "institution" and inserting the following:  
17 "institution operated school".
- 18 17. Page 10, line 5, by striking the words  
19 "~~school institution~~" and inserting the following:  
20 "operated school".
- 21 18. Page 10, line 7, by striking the words  
22 "~~school the institution~~" and inserting the following:  
23 "the state operated school".
- 24 19. Page 10, line 11, by striking the word  
25 "institution" and inserting the following:  
26 "institution operated school".
- 27 20. Page 10, line 18, by striking the words  
28 "institution determines" and inserting the following:  
29 "state operated school certifies that an  
30 interdisciplinary staffing team has determined,  
31 pursuant to the requirements of chapter 281,"".
- 32 21. Page 10, line 33, by striking the words  
33 "shall be presumed to have violated" and inserting the  
34 following: "is subject to".
- 35 22. Page 10, line 34, by striking the words "is  
36 subject to".
- 37 23. Page 11, line 5, by inserting after the word  
38 "by" the following: "or under the supervision of".
- 39 24. Page 11, line 9, by striking the words  
40 "formal instruction" and inserting the following:  
41 "instruction using a plan and a course of study".
- 42 25. Page 11, line 20, by striking the word "a"  
43 and inserting the following: "an accredited nonpublic  
44 school or public".
- 45 26. Page 11, line 21, by inserting after the word  
46 "the" the following: "accredited nonpublic school or  
47 public".
- 48 27. Page 11, line 23, by striking the words  
49 "child who is" and inserting the following: "child.  
50 If competent private instruction is provided through a

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Page 3

- 1 public school district, the child shall be".  
2 28. Page 12, line 3, by striking the word  
3 "tested" and inserting the following: "evaluated".  
4 29. Page 12, line 6, by striking the words  
5 "Report the child's annual test results" and inserting  
6 the following: "Ensure that the results of the  
7 child's annual evaluation are reported".  
8 30. Page 12, line 13, by striking the words "be  
9 tested" and inserting the following: "either be  
10 evaluated".  
11 31. Page 12, line 16, by inserting after the word  
12 "tool" the following: "such as, but not limited to,  
13 the Iowa test of basic skills, the Iowa test of  
14 educational development, or the stanford achievement  
15 test,".  
16 32. Page 12, line 18, by inserting after the word  
17 "education" the following: "or be evaluated annually  
18 in the manner provided in subsection 7".  
19 33. Page 12, line 31, by striking the words  
20 "administer each test required of" and inserting the  
21 following: "conduct the evaluations required under  
22 subsections 1 and 2 for".  
23 34. Page 12, line 32, by striking the word  
24 "Testing" and inserting the following: "Evaluation".  
25 35. Page 12, by striking lines 34 and 35, and  
26 inserting the following: "responsible for conducting  
27 the evaluation. Persons conducting the evaluations  
28 shall make every reasonable effort to conduct the  
29 evaluations".  
30 36. Page 13, line 1, by striking the word  
31 "tests".  
32 37. Page 13, line 5, by striking the word  
33 "tested" and inserting the following: "evaluated".  
34 38. Page 13, by striking lines 8 through 10, and  
35 inserting the following:  
36 "5. The conducting of evaluations shall include,  
37 but is not limited to, purchasing of evaluation  
38 materials, giving the evaluations, scoring and  
39 interpreting the evaluations, and reporting the  
40 evaluation".  
41 39. Page 13, line 14, by striking the word  
42 "tested" and inserting the following: "evaluated".  
43 40. Page 13, by striking line 15, and inserting  
44 the following: "entity conducting the evaluation for  
45 no more than the actual cost of".  
46 41. Page 13, line 16, by striking the word  
47 "testing" and inserting the following: "evaluation".  
48 42. Page 13, by striking line 18, and inserting  
49 the following: "evaluating entity for costs incurred  
50 as a result of".

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Page 4

- 1 43. Page 13, line 20, by striking the words "In  
2 addition to the" and inserting the following: "In  
3 lieu of".
- 4 44. Page 14, by striking lines 3 and 4, and  
5 inserting the following: "licensed practitioner  
6 selected as the evaluator by the parent, guardian, or  
7 legal custodian and agreed to by the superintendent of  
8 the local school district or the superintendent's  
9 designee. The evaluator shall prepare a report".
- 10 45. Page 14, line 7, by striking the word  
11 "levels" and inserting the following: "levels, and  
12 submit a copy of the report to the child's parent,  
13 guardian, or legal custodian, the school district of  
14 residence of the child, and the department of  
15 education".
- 16 46. Page 14, by striking lines 10 and 11, and  
17 inserting the following: "is making adequate  
18 progress."
- 19 47. Page 14, line 16, by inserting before the  
20 word "custodian" the following: "legal".
- 21 48. Page 14, line 27, by inserting before the  
22 word "custodian" the following: "legal".
- 23 49. Page 16, line 18, by striking the word "not".
- 24 50. Page 16, line 19, by striking the word  
25 "without" and inserting the following: "with".
- 26 51. Page 16, line 20, by striking the words  
27 "director of the" and inserting the following:  
28 "director of".
- 29 52. Page 16, by striking line 21.
- 30 53. Page 16, lines 25 and 26, by striking the  
31 words "on the tests required under this chapter".
- 32 54. Page 16, line 28, by striking the word  
33 "Testing" and inserting the following: "Evaluation".
- 34 55. Page 16, by striking lines 30 and 31, and  
35 inserting the following: "responsible for conducting  
36 the evaluation. Persons conducting the evaluations  
37 shall make every reasonable effort to conduct the  
38 evaluations".
- 39 56. Page 16, line 32, by striking the word  
40 "tests".
- 41 57. Page 17, line 14, by inserting after the word  
42 "shall" the following: "use available home schooling  
43 data and shall".
- 44 58. Page 17, line 15, by inserting after the word  
45 "forces" the following: ", and home schooling  
46 practitioners or research organizations".
- 47 59. Page 17, line 16, by striking the words  
48 "assessment issues" and inserting the following: "or  
49 have experience in the assessment of children who have  
50 been placed under home instruction".

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Page 5

- 1 60. By renumbering, relettering, or redesignating  
2 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4003 FILED MAY 1, 1991

*House Referred to Council 5/2/91 (8 1993)*  
*Senate Amended 5/2 (p. 1619)*

REPORT OF THE CONFERENCE COMMITTEE  
ON HOUSE FILE 455

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 455, a bill for an Act relating to school instruction and attendance of children of compulsory school attendance age and providing for mediation of truancy issues and penalties, respectfully make the following report:

1. That the Senate amendment, H-4003, to House File 455, as amended, passed, and reprinted by the House, is amended as follows:

1. Page 2, by striking lines 37 and 38, and inserting the following:

"\_\_\_. Page 11, line 5, by striking the words "by a licensed practitioner" and inserting the following: "by or under the supervision of a licensed practitioner in the manner provided under section 299B.2"."

2. Page 3, by striking lines 11 through 15, and inserting the following:

"\_\_\_. Page 12, lines 15 and 16, by striking the words "or other nationally recognized assessment tool" and inserting the following: "or other assessment tool developed or recognized by the department of education"."

3. Page 4, by inserting after line 3, the following:

"\_\_\_. Page 13, line 22, by striking the word "any" and inserting the following: "all".

\_\_\_. Page 13, line 33, by striking the word "which" and inserting the following: "if assessment tests"."

4. Page 4, line 5, by striking the word "licensed" and inserting the following: "qualified, licensed, Iowa".

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Page 2

5. Page 4, line 7, by striking the words "agreed to" and inserting the following: "approved".
6. Page 4, line 42, by striking the word "use" and inserting the following: "review and consider".
7. By numbering and renumbering as necessary.

## ON THE PART OF THE HOUSE:

C. ARTHUR OLLIE, Chairperson  
JANET ADAMS  
RON CORBETT  
RAYMOND LAGESCHULTE  
MATTHEW WISSING

## ON THE PART OF THE SENATE:

MIKE CONNOLLY, Chairperson  
WILLIAM DIELEMAN  
JAMES KERSTEN  
MARY KRAMER  
LARRY MURPHY

CCH-455 FILED MAY 3, 1991  
*House adopted 5/3/91 (y 2085)*

*Senate adopted 5/3/91 (y 1657)*

Ollie, chair  
Daggett  
Wissing

HSB 202

EDUCATION

HOUSE FILE 455  
BY (PROPOSED COMMITTEE ON  
EDUCATION BILL BY  
CHAIRPERSON OLLIE)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to school instruction and attendance of children  
2 of compulsory school attendance age and providing for  
3 mediation of truancy issues, penalties, and a repealer.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 256.9, Code 1991, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 45. Develop model guidelines for district  
4 in-service training programs for truancy officers and direct  
5 the area education agencies to assist local school districts  
6 in providing the programs.

7 Sec. 2. Section 280.2, Code 1991, is amended to read as  
8 follows:

9 280.2 DEFINITIONS.

10 The term "public school" means any school directly  
11 supported in whole or in part by taxation. The term  
12 "nonpublic school" means any other school which is accredited  
13 or which uses licensed practitioners as instructors.

14 Sec. 3. Section 280.3, unnumbered paragraph 1, Code 1991,  
15 is amended to read as follows:

16 The board of directors of each public school district and  
17 the authorities in charge of each nonpublic school shall  
18 prescribe the minimum educational program and an attendance  
19 policy which shall require each child to attend school for at  
20 least one hundred forty-eight days, to be met by attendance  
21 for at least thirty-seven days each school quarter, for the  
22 schools under their jurisdictions. The minimum educational  
23 program shall be the curriculum set forth in section 256.11,  
24 except as otherwise provided by law. The board of directors  
25 of a public school district shall not allow discrimination in  
26 any educational program on the basis of race, color, creed,  
27 sex, marital status or place of national origin.

28 Sec. 4. Section 299.1, Code 1991, is amended to read as  
29 follows:

30 299.1 ATTENDANCE REQUIREMENTS.

31 The Except as provided in section 299.2, the parent,  
32 guardian, or legal or actual custodian of a child who is-over  
33 seven-and-under-sixteen-years-of-age-by-September-15,-in  
34 proper-physical-and-mental-condition-to-attend-school is of  
35 compulsory attendance age, shall enroï cause the child in to

1 attend some public school, commencing as provided an  
2 accredited nonpublic school, or competent private instruction  
3 in accordance with the provisions of chapter 299B, during a  
4 school year, as defined under section 279.10. The board of  
5 directors of a public school district or the governing body of  
6 an accredited nonpublic school shall set the number of days of  
7 required attendance for the schools under its control.

8 The board of directors of a public or the governing body of  
9 an accredited nonpublic school may, by resolution, require  
10 attendance in the public schools for the entire time when the  
11 schools are in session in any school year and adopt a policy  
12 or rules relating to the reasons considered to be valid or  
13 acceptable excuses for absence from school.

14 ~~A child shall attend an accredited or approved school for~~  
15 ~~at least one hundred twenty days each school year. The~~  
16 ~~requirement shall be met by attendance for at least thirty~~  
17 ~~days each school quarter, or a similar distribution of~~  
18 ~~attendance throughout the school year.~~

19 In lieu of such attendance such at a public or accredited  
20 nonpublic school a child may attend upon equivalent private  
21 instruction for at least one hundred forty-eight days each  
22 school year by a licensed teacher elsewhere.

23 The failure of a child to attend school or competent  
24 private instruction under chapter 299B, as provided in this  
25 chapter, establishes a reputable presumption that the child is  
26 truant as defined in section 299.8 and that the parent,  
27 guardian, or legal or actual custodian of the child has  
28 committed a violation of this chapter.

29 Sec. 5. NEW SECTION. 299.1A COMPULSORY ATTENDANCE AGE.

30 A child who has reached the age of six and is under sixteen  
31 years of age by September 15 is of compulsory attendance age.

32 Sec. 6. Section 299.2, Code 1991, is amended to read as  
33 follows:

34 299.2 EXCEPTIONS.

35 Section 299.1 shall not apply to any child:

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 ~~1. Who is over the age of fourteen and is regularly~~  
2 ~~employed.~~

3 ~~2. Whose educational qualifications are equal to those of~~  
4 ~~pupils who have completed the eighth grade.~~

5 1. Who has completed the requirements for graduation in an  
6 accredited school or has obtained a high school equivalency  
7 diploma under chapter 259A.

8 3 2. Who is excused for sufficient reason by any court of  
9 record or judge.

10 4 3. While attending religious services or receiving  
11 religious instructions.

12 5 4. Who is attending a private college preparatory school  
13 accredited or probationally accredited under section 256.11,  
14 subsection 13.

15 5. Who has been excused under section 299.22.

16 6. Who is exempted under section 299.24.

17 Sec. 7. Section 299.3, Code 1991, is amended to read as  
18 follows:

19 299.3 REPORTS FROM PRIVATE ACCREDITED NONPUBLIC SCHOOLS.

20 ~~Within ten days from receipt of notice from the secretary~~  
21 ~~of the school district within which any private school is~~  
22 conducted On or before the third Friday in September of each  
23 school year, and at any time when requested in individual  
24 cases, the principal of such an accredited nonpublic school  
25 ~~shall, once during each school year, and at any time when~~  
26 ~~requested in individual cases, furnish to such the secretary~~  
27 of the public school district, within which the accredited  
28 nonpublic school is located, a certificate and report in  
29 duplicate on forms provided by the public school district of  
30 the names, ages, and number of days attendance of each pupil  
31 of such the accredited nonpublic school over seven and under  
32 sixteen years of age who is of compulsory attendance age, the  
33 course of study pursued by each such child the pupil, the  
34 texts used, and the names of the teachers, during the  
35 preceding year and from the time of the last preceding report

1 to the time at which a report is required. The secretary  
2 shall retain one of the reports and file the other with the  
3 secretary of the area education agency.

4 Sec. 8. Section 299.4, Code 1991, is amended to read as  
5 follows:

6 299.4 REPORTS AS TO PRIVATE INSTRUCTION.

7 The parent, guardian, or legal or actual custodian of a  
8 child who ~~by-September-15-is-over-seven-and-under-sixteen~~  
9 ~~years-of-age~~ is of compulsory attendance age, who places the  
10 child under competent private instruction, not in an  
11 accredited ~~or-approved~~ school, shall furnish a report in  
12 duplicate on forms provided by the public school district, to  
13 the district by the earliest starting date specified in  
14 section 279.10, subsection 1. The secretary shall retain and  
15 file one copy and forward the other copy to the district's  
16 area education agency. The report shall state the name and  
17 age of the child, the period of time during which the child  
18 has been or will be under competent private instruction for  
19 the school year, an outline of the course of study, texts  
20 used, and the name and address of the instructor. The parent,  
21 guardian, or legal or actual custodian of a child, who is  
22 placing the child under competent private instruction, for the  
23 first time, shall also provide the district with evidence that  
24 the child has had the immunizations required under section  
25 139.9. The term "outline of course of study" shall include,  
26 but is not limited to, subjects covered, weekly lesson plans,  
27 and time spent on the areas of study.

28 Sec. 9. Section 299.5, Code 1991, is amended to read as  
29 follows:

30 299.5 PROOF OF MENTAL OR PHYSICAL CONDITION.

31 The parent, guardian, or legal or actual custodian of a  
32 child who is ~~over-seven-and-under-sixteen-years-of-age-by~~  
33 ~~September-15~~ of compulsory attendance age, who is physically  
34 or mentally unable to attend school, or whose presence in  
35 school would be injurious to the health of other pupils, shall

1 furnish proofs by affidavit certificate under sections 281.6  
2 and 281.7 as to the physical or mental condition of the child.

3 Sec. 10. NEW SECTION. 299.5A MEDIATION.

4 If a child is truant as defined in section 299.8, school  
5 officers shall attempt to find the cause for the child's  
6 absence and use every means available to the school to assure  
7 that the child does attend. If the parent, guardian, or legal  
8 or actual custodian, or child refuses to accept the school's  
9 attempt to assure the child's attendance or the school's  
10 attempt to assure the child's attendance is otherwise  
11 unsuccessful, the truancy officer shall refer the matter to  
12 the county attorney for mediation or prosecution.

13 If the matter is referred for mediation, the county  
14 attorney shall cause a notice of the referral to be sent to  
15 the parent, guardian, or legal or actual custodian and  
16 designate a person to serve as mediator in the matter. If  
17 mediation services are available in the community, those  
18 services may be used as the designated mediation service. If  
19 mediation services are not available in the community,  
20 mediation shall be provided by the county attorney or the  
21 county attorney's designee. The mediator shall contact the  
22 school, the parent, guardian, or legal or actual custodian,  
23 and any other person the mediator deems appropriate in the  
24 matter and arrange meeting dates and times for discussion of  
25 the child's nonattendance. The mediator shall attempt to  
26 ascertain the cause of the child's nonattendance, attempt to  
27 cause the parties to arrive at an agreement relative to the  
28 child's attendance, and initiate referrals to any agencies or  
29 counseling that the mediator believes to be appropriate under  
30 the circumstances.

31 If the parties reach an agreement, the agreement shall be  
32 reduced to writing and signed by a school officer, parent,  
33 guardian, or legal or actual custodian, and the child. The  
34 mediator, the school, and the parent, guardian, or legal or  
35 actual custodian shall each receive a copy of the agreement,

1 which shall set forth the settlement of the issues and future  
2 responsibilities of each party.

3 The school district shall be responsible for monitoring any  
4 agreements arrived at through mediation. If a parent,  
5 guardian, or legal or actual custodian refuses to engage in  
6 mediation or violates a term of the agreement, the matter  
7 shall be rereferred to the county attorney for prosecution  
8 under section 299.6. The county attorney's office or the  
9 mediation service shall require the parent, guardian, or legal  
10 or actual custodian and the school to pay a fee to help defray  
11 the administrative cost of mediation services. The county  
12 attorney's office or the mediation service shall establish a  
13 sliding scale of fees to be charged parents, guardians, and  
14 legal or actual custodians based upon ability to pay. A  
15 parent, guardian, or legal or actual custodian shall not be  
16 denied the services of a mediator solely because of inability  
17 to pay the fee.

18 Sec. 11. Section 299.6, Code 1991, is amended to read as  
19 follows:

20 299.6 VIOLATIONS -- COMMUNITY SERVICE ~~IN-STEAD-OF~~ OR FINE  
21 OR IMPRISONMENT.

22 Any person who ~~shall-violate~~ violates a mediation agreement  
23 under section 299.5A or any of the provisions of sections  
24 299.1 to through 299.5 or refuses to participate in mediation  
25 under section 299.5A, inclusive, shall-be for a first offense,  
26 is guilty of a simple misdemeanor and-the-court-shall.

27 A first offense conviction is punishable by imprisonment  
28 not exceeding ten days or a fine not exceeding one hundred  
29 dollars. The court may order the person to perform not more  
30 than forty hours of unpaid community service instead of any  
31 fine or imprisonment. A person convicted of a second or  
32 subsequent violation is guilty of a serious misdemeanor.

33 A second offense conviction is punishable by imprisonment  
34 not exceeding twenty days or a fine not exceeding five hundred  
35 dollars, or both a fine and imprisonment. The court may order

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 the person to perform unpaid community service instead of any  
2 fine or imprisonment.

3 A third or subsequent offense conviction is punishable by  
4 imprisonment not exceeding thirty days or a fine not exceeding  
5 one thousand dollars, or both a fine and imprisonment. The  
6 court may order the person to perform unpaid community service  
7 instead of any fine or imprisonment.

8 If community service is imposed as part of a sentencing  
9 order, the court may require that part or all of the service  
10 be performed for a public school district or nonpublic school  
11 if the court finds that service in the school is appropriate  
12 under the circumstances.

13 If a parent, guardian, or legal or actual custodian of a  
14 child who is truant, has made an objective and reasonable good  
15 faith effort to comply with the provisions of sections 299.1  
16 through 299.5, the parent, guardian, or legal or actual  
17 custodian shall not be criminally liable for the child's  
18 nonattendance.

19 Sec. 12. Section 299.8, Code 1991, is amended to read as  
20 follows:

21 299.8 "TRUANT" DEFINED.

22 Any child ~~over-seven-and-under-sixteen-years-of-age, in~~  
23 ~~proper-physical-and-mental-condition-to-attend-school, of~~  
24 compulsory attendance age who fails to attend school regularly  
25 as provided in this chapter, or as required by the school  
26 board's or school governing body's attendance policy, or who  
27 fails to attend competent private instruction under chapter  
28 299B for at least one hundred forty-eight days per year,  
29 without reasonable excuse for the absence, shall be deemed to  
30 be a truant.

31 Sec. 13. Section 299.9, Code 1991, is amended to read as  
32 follows:

33 299.9 ~~TRUANT-SCHOOLS~~ TRUANTS -- RULES FOR PUNISHMENT.

34 The board of directors ~~may provide for the confinement,~~  
35 ~~maintenance, and instruction of truant children and may for~~

1 ~~that purpose establish truant schools or set apart separate~~  
 2 ~~rooms in any public school building, and it~~ of a public school  
 3 district or the authorities in charge of an accredited  
 4 nonpublic school shall prescribe reasonable rules for the  
 5 punishment of truants.

6 Sec. 14. Section 299.10, Code 1991, is amended to read as  
 7 follows:

8 299.10 TRUANCY OFFICERS -- APPOINTMENT ---COMPENSATION.

9 The board of each school district ~~may, and in school~~  
 10 ~~districts having a population of twenty thousand~~ shall  
 11 appoint a truancy officer.

12 ~~In districts having therein a city, the~~ The board may  
 13 appoint a member of the police force, or marshal, ~~as such~~  
 14 ~~officer, and other districts may appoint a constable a~~  
 15 teacher, school official, or other suitable person to serve as  
 16 the district truancy officer. Each school district shall  
 17 provide an in-service training program for the person  
 18 appointed to serve as the district truancy officer. The  
 19 training program shall reflect, but is not limited to,  
 20 information about school and local legal procedures relating  
 21 to the methods of handling truant children and the children's  
 22 families.

23 ~~Such officers shall be paid a reasonable compensation by~~  
 24 ~~the board.~~

25 Sec. 15. Section 299.11, Code 1991, is amended to read as  
 26 follows:

27 299.11 DUTIES OF TRUANCY OFFICER.

28 The truancy officer shall ~~may~~ take into custody without  
 29 warrant any apparently truant child and place the child in the  
 30 charge of the ~~teacher in charge of the public school~~  
 31 principal, or the principal's designee, designated by the  
 32 board of directors of the school district in which ~~said the~~  
 33 child resides, or of any private nonpublic school designated  
 34 by the ~~person having legal control of the child~~ parent,  
 35 guardian, or legal or actual custodian; but if it is other

1 than a public school, the instruction and maintenance of the  
2 child therein shall be without expense to the school district.

3 The truancy officer shall promptly institute ~~criminal~~  
4 proceedings against any person violating any of the provisions  
5 of sections 299.1 to-299-5 through 299.5A.

6 Sec. 16. Section 299.16, Code 1991, is amended to read as  
7 follows:

8 299.16 FAILURE TO ATTEND.

9 School officers shall ascertain the number of children over  
10 seven-and-under-sixteen-years-of-age who are of compulsory  
11 attendance age, in their respective districts, the number of  
12 such those children who do-not-attend-school are truant under  
13 section 299.8 or who have accumulated fifteen unexcused  
14 absences during a three-year period, and so far as possible  
15 the cause of the failure to attend. School officers shall,  
16 until July 1, 1999, biennially report this information to the  
17 department of education on forms provided by the department.  
18 The department shall attach a summary of the reports, an  
19 analysis of the data, and policy recommendations based on the  
20 data analysis, along with the department's annual report under  
21 section 256.9, subsection 28.

22 Sec. 17. Section 299.18, Code 1991, is amended to read as  
23 follows:

24 299.18 EDUCATION -- STATE SCHOOL.

25 Children over-seven-and-under-nineteen-years-of who are of  
26 compulsory attendance age and who are so deaf or blind or  
27 severely handicapped as to be unable to obtain an education in  
28 the common public or accredited nonpublic schools shall be  
29 sent to the proper appropriate state school-therefor  
30 institution, or shall receive appropriate special education  
31 under chapter 281, unless exempted, and any person having such  
32 a child under the person's control or custody shall see that  
33 such the child attends such-school the institution or special  
34 education program during the scholastic year.

35 Sec. 18. Section 299.19, Code 1991, is amended to read as

1 follows:

2 299.19 PROCEEDING AGAINST PARENT.

3 Upon the failure of any a person having the custody and  
4 control of such a deaf, blind, or severely handicapped child  
5 to require ~~its~~ the child's attendance as provided in section  
6 299.18, the state board of regents may make application to the  
7 district court or the juvenile court of the county in which  
8 such the person resides for an order requiring such the person  
9 to compel the attendance of such the child at the proper state  
10 institution.

11 Sec. 19. Section 299.20, Code 1991, is amended to read as  
12 follows:

13 299.20 ORDER.

14 Upon the filing of the application mentioned in section  
15 299.19, the time of hearing shall be determined by the  
16 juvenile court or the district court. If, upon hearing, the  
17 court determines that the person required to appear has the  
18 custody and control of a child who should be required to  
19 attend a state ~~school~~ institution under section 299.18, the  
20 court shall make an order requiring such the person to keep  
21 such the child in attendance at ~~such-school~~ the institution.

22 Sec. 20. Section 299.22, Code 1991, is amended to read as  
23 follows:

24 299.22 WHEN DEAF AND BLIND CHILDREN EXCUSED.

25 Attendance at the state institution may be excused when the  
26 superintendent thereof ~~is satisfied:~~

27 ~~1.--That the child is in such bodily or mental condition as~~  
28 ~~to prevent or render futile attendance at the school:~~

29 ~~2.--That the child is so diseased or possesses such habits~~  
30 ~~as to render the child's presence a menace to the health or~~  
31 ~~morals of other pupils:~~

32 ~~3.--That~~ of the institution determines that the child is  
33 efficiently taught for the scholastic year in a private  
34 accredited nonpublic or other school devoted to such the  
35 instruction, or by a private tutor, in the branches taught in

1 public schools, or is shown to be physically or mentally  
2 unable to attend school under section 299.5.

3 Sec. 21. NEW SECTION. 299B.1 PRIVATE INSTRUCTION.

4 The parent, guardian, or custodian of a child of compulsory  
5 attendance age who places the child under private instruction  
6 shall provide, unless otherwise exempted, competent private  
7 instruction in accordance with this chapter. A parent,  
8 guardian, or custodian of a child of compulsory attendance age  
9 who places the child under private instruction which is not  
10 competent private instruction, or otherwise fails to comply  
11 with the requirements of this chapter, shall be presumed to  
12 have violated the provisions of sections 299.1 through 299.4  
13 and is subject to the penalties provided in section 299.6.

14 For purposes of this chapter, "competent private  
15 instruction" means private instruction provided on a daily  
16 basis for at least one hundred forty-eight days during a  
17 school year, to be met by attendance for at least thirty-seven  
18 days each school quarter, by a licensed practitioner, or other  
19 person under section 299.3, which results in the student  
20 making adequate progress.

21 For purposes of this chapter and chapter 299, "private  
22 instruction" means formal instruction in a setting other than  
23 and not affiliated with a public or organized accredited  
24 nonpublic school.

25 Sec. 22. NEW SECTION. 299B.2 COMPETENT PRIVATE  
26 INSTRUCTION BY LICENSED PRACTITIONER.

27 If a licensed practitioner provides competent instruction  
28 to a child of compulsory attendance age, the practitioner  
29 shall possess a valid license or certificate which has been  
30 issued by the state board of educational examiners under  
31 chapter 260 and which is appropriate to the ages and grade  
32 levels of the children to be taught. Sections 299B.3 through  
33 299B.7 do not apply to competent private instruction provided  
34 by a licensed practitioner under this section.

35 Sec. 23. NEW SECTION. 299B.3 PRIVATE INSTRUCTION BY

1 NONLICENSED PERSON.

2 A parent, guardian, or custodian of a child of compulsory  
3 attendance age providing competent private instruction to the  
4 child shall meet all of the following requirements:

5 1. Complete and send, in a timely manner, the report  
6 required under section 299.4 to the school district of  
7 residence of the child.

8 2. Ensure that the child under the parent's, guardian's,  
9 or custodian's instruction is tested annually to determine  
10 whether the child is making adequate progress, as defined in  
11 section 299B.6.

12 3. Report the child's annual test results to the school  
13 district of residence of the child and to the department of  
14 education by a date not later than June 30 of each year in  
15 which the child is under private instruction.

16 Sec. 24. NEW SECTION. 299B.4 ANNUAL ACHIEVEMENT TESTS --  
17 REQUIREMENTS AND PROCEDURE.

18 1. Each child of compulsory attendance age who is  
19 receiving competent private instruction shall be tested  
20 annually by May 1, using a nationally recognized standardized  
21 achievement test chosen by the child's parent, guardian, or  
22 custodian from a list of approved tests provided by the  
23 department of education.

24 2. A child, who is seven years of age and is receiving  
25 competent private instruction or who is placed under competent  
26 private instruction for the first time, shall be administered  
27 a test for purposes of obtaining educational baseline data.

28 3. The director of the department of education, or the  
29 director's designee, which may include a school district or an  
30 area education agency, shall administer each test required of  
31 children under competent private instruction. Testing shall  
32 occur at a time and a place to be determined by the person  
33 responsible for administering the test.

34 4. The parent, guardian, or custodian of a child receiving  
35 competent private instruction may be present when the child is

1 tested, but only if both the parent, guardian, or custodian  
2 and the child are under the supervision of the test  
3 administrator.

4 5. The administration of tests shall include, but is not  
5 limited to, purchasing of test materials, giving the tests,  
6 scoring and interpreting the tests, and reporting the test  
7 results.

8 6. The parent, guardian, or custodian of the child being  
9 tested shall reimburse the entity providing the test  
10 administration for the cost of testing required by this  
11 chapter. However, the parent, guardian, or custodian is not  
12 required to reimburse the testing entity for costs incurred as  
13 a result of testing and evaluation under section 299B.8.

14 Sec. 25. NEW SECTION. 299B.5 REPORTING OF TEST RESULTS.

15 The results of tests administered to children of compulsory  
16 attendance age who are under competent private instruction  
17 shall be reported by the test administrator to the child's  
18 parent, guardian, or custodian, the school district of  
19 residence of the child, and the department of education.  
20 Personally identifiable information relating to or contained  
21 in the test scores is confidential and shall not be released  
22 without the prior consent of the child's parent, guardian, or  
23 custodian except as otherwise permitted by law.

24 Sec. 26. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE  
25 PROGRESS.

26 If the results of tests, administered to a child of  
27 compulsory attendance age who is under competent private  
28 instruction, indicate that the student has failed to make  
29 adequate progress, the parent, guardian, or custodian shall  
30 cause the child to attend an accredited public or nonpublic  
31 school at the beginning of the next school year unless, before  
32 the beginning of the next school year, the child retakes the  
33 same test and the results indicate that adequate progress has  
34 been made or the director of the department of education, or  
35 the director's designee, grants approval for competent private

1 instruction to continue under a plan for remediation.

2 A child who is required to attend an accredited public or  
3 nonpublic school under this section shall continue attendance  
4 at an accredited public or nonpublic school until the child  
5 achieves adequate progress.

6 For purposes of this chapter, "adequate progress" means,  
7 for children in all grade levels of competent private  
8 instruction, test scores which are above the thirtieth  
9 percentile, nationally normed, in each of the areas of  
10 reading, mathematics, and language arts, and which indicate  
11 either that the child has made six months' progress from the  
12 previous test results or that the child is at or above grade  
13 level for the child's age. For children in grade levels six  
14 and above, "adequate progress" also means that the child has  
15 achieved test scores in both science and social studies which  
16 are above the thirtieth percentile, nationally normed, and  
17 which either indicate that the child has made six months'  
18 progress from the previous test results or that the child is  
19 at or above grade level for the child's age.

20 Sec. 27. NEW SECTION. 299B.7 NOTICE TO PARENTS --  
21 REMEDIATION.

22 If a child is placed under competent private instruction  
23 and the child fails to make adequate progress under competent  
24 private instruction, the director of the department of  
25 education, or the director's designee, shall notify the  
26 parent, guardian, or custodian of the child that the child is  
27 required to attend an accredited public or nonpublic school,  
28 unless approval for competent private instruction under a  
29 remediation plan is granted. The director, or the director's  
30 designee, may provisionally approve continued competent  
31 private instruction under an approved remediation plan  
32 designed to improve instruction for up to one year.

33 Sec. 28. NEW SECTION. 299B.8 CHILDREN REQUIRING SPECIAL  
34 EDUCATION.

35 A child of compulsory attendance age who is identified as

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1 requiring special education under chapter 281 is not eligible  
2 for placement under competent private instruction without  
3 prior approval of the placement by the director of the  
4 department of education, in cooperation with the director of  
5 special education of the area education agency of the child's  
6 district of residence.

7 A child who has been placed under competent private  
8 instruction, whose performance on the tests required under  
9 this chapter indicates that the child may require special  
10 education, shall be referred for evaluation under chapter 281  
11 and the rules of the state board of education. Testing shall  
12 occur at a time and a place to be determined by the person  
13 responsible for administering the test.

14 Sec. 29. NEW SECTION. 299B.9 RULEMAKING.

15 The department of education shall develop and recommend and  
16 the state board shall adopt rules to implement this chapter.

17 Sec. 30. REPEAL. Chapter 299B is repealed effective June  
18 30, 1995.

19 Sec. 31. Sections 299.13 and 299.14, Code 1991, are  
20 repealed.

21 EXPLANATION

22 This bill makes changes in laws related to and which affect  
23 Iowa's compulsory attendance procedures. The bill changes the  
24 beginning compulsory attendance age from seven to six years of  
25 age. Compulsory attendance policy for students attending  
26 accredited schools is to be set by the board of directors of a  
27 school district or other governing or nonpublic body of a  
28 private school. The exceptions from compulsory attendance,  
29 including children who were over the age of fourteen and  
30 regularly employed or whose educational qualifications are  
31 equal to those of pupils who have completed the eighth grade,  
32 are stricken. Deadlines are added to the provisions relating  
33 to reports from accredited nonpublic schools, and reports  
34 relating to competent private instruction by licensed teachers  
35 must include information on immunization. If a child is

1 truant, the matter can be turned over for either mediation or  
2 prosecution of the parent, guardian, or custodian. The  
3 penalty for violation of the compulsory attendance law has  
4 been changed to graduated terms of imprisonment, fines, or  
5 community service instead of fine or imprisonment. A census  
6 summary relating to attendance and school population must be  
7 provided to the department of education.

8 The term "truant" is defined as a child who fails to attend  
9 school for at least 148 days per school year or who fails to  
10 attend competent private instruction under chapter 299B.  
11 Development of rules relating to excuses from attendance at  
12 school and punishment of truants is made the duty of the  
13 boards of school districts. All districts must hire a truancy  
14 officer who is to determine which children are truant and  
15 provide the district with information about the truant child  
16 and the names and locations of the child's parents. The  
17 compulsory attendance law is made applicable to even severely  
18 handicapped children.

19 This bill also creates a new competent private instruction  
20 law. Reports on competent private instruction must be filed  
21 by the third Friday in September, unless a child is placed  
22 under private instruction after that date.

23 The competent private instruction law legalizes two forms  
24 of competent private instruction: instruction by licensed  
25 practitioners and instruction by parents, guardians, or  
26 custodians of children. If a child is instructed by a parent,  
27 however, the child must be tested on at least an annual basis  
28 for adequate progress in learning. If the child fails to make  
29 adequate progress, the child will be required to attend an  
30 accredited public or nonpublic school, unless permission is  
31 granted to do otherwise. The costs of testing, except for  
32 testing related to special education, must be reimbursed by  
33 the parent, guardian, or custodian to the entity which  
34 provides the test administration. Children requiring special  
35 education may not be placed under competent private

1 instruction unless special permission is granted by the  
2 department of education, in cooperation with the director of  
3 special education for the area education agency of the child's  
4 district of residence.

5 The bill may contain a state mandate under chapter 25B.

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"nonpublic school" means any other school which is accredited or which uses licensed practitioners as instructors.

Sec. 2. Section 280.3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The board of directors of each public school district and the authorities in charge of each nonpublic school shall prescribe the minimum educational program and an attendance policy which shall require each child to attend school for at least one hundred forty-eight days, to be met by attendance for at least thirty-seven days each school quarter, for the schools under their jurisdictions. The minimum educational program shall be the curriculum set forth in section 256.11, except as otherwise provided by law. The board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status or place of national origin.

Sec. 3. Section 299.1, Code 1991, is amended to read as follows:

299.1 ATTENDANCE REQUIREMENTS.

~~The Except as provided in section 299.2, the parent, guardian, or legal or actual custodian of a child who is over seven-and-under-sixteen-years-of-age-by-September-15, in proper-physical-and-mental-condition-to-attend-school is of compulsory attendance age, shall enroll cause the child in to attend some public school, commencing-as-provided an accredited nonpublic school, or competent private instruction in accordance with the provisions of chapter 299B, during a school year, as defined under section 279.10. The board of directors of a public school district or the governing body of an accredited nonpublic school shall set the number of days of required attendance for the schools under its control.~~

The board of directors of a public or the governing body of an accredited nonpublic school may, by resolution, require attendance in-the-public-schools for the entire time when the schools are in session in any school year and adopt a policy

HOUSE FILE 455

AN ACT

RELATING TO SCHOOL INSTRUCTION AND ATTENDANCE OF CHILDREN OF COMPULSORY SCHOOL ATTENDANCE AGE AND PROVIDING FOR MEDIATION OF TRUANCY ISSUES AND PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 280.2, Code 1991, is amended to read as follows:

280.2 DEFINITIONS.

The term "public school" means any school directly supported in whole or in part by taxation. The term

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of rules relating to the reasons considered to be valid or acceptable excuses for absence from school.

~~A child shall attend an accredited or approved school for at least one hundred twenty days each school year. The requirement shall be met by attendance for at least thirty days each school quarter, or a similar distribution of attendance throughout the school year.~~

~~In lieu of such attendance such child may attend upon equivalent instruction by a licensed teacher elsewhere.~~

Sec. 4. NEW SECTION. 299.1A COMPULSORY ATTENDANCE AGE.

A child who has reached the age of six and is under sixteen years of age by September 15 is of compulsory attendance age.

Sec. 5. Section 299.2, Code 1991, is amended to read as follows:

299.2 EXCEPTIONS.

Section 299.1 shall not apply to any child:

~~1--Who is over the age of fourteen and is regularly employed;~~

~~2--Whose educational qualifications are equal to those of pupils who have completed the eighth grade;~~

~~1. Who has completed the requirements for graduation in an accredited school or has obtained a high school equivalency diploma under chapter 259A.~~

~~2. Who is excused for sufficient reason by any court of record or judge.~~

~~3. While attending religious services or receiving religious instructions.~~

~~4. Who is attending a private college preparatory school accredited or probationally accredited under section 256.11, subsection 13.~~

~~5. Who has been excused under section 299.22.~~

~~6. Who is exempted under section 299.24.~~

Sec. 6. Section 299.3, Code 1991, is amended to read as follows:

299.3 REPORTS FROM PRIVATE ACCREDITED NONPUBLIC SCHOOLS.

Within ten days from receipt of notice from the secretary of the school district within which any private an accredited nonpublic school is conducted, the principal of such the accredited nonpublic school shall, once during each school year, and at any time when requested in individual cases, furnish to such the secretary of the public school district, within which the accredited nonpublic school is located, a certificate and report in duplicate on forms provided by the public school district of the names, ages, and number of days attendance of each pupil of such the accredited nonpublic school over seven and under sixteen years of age who is of compulsory attendance age, and the course of study pursued by each such child the pupil, the texts used, and the names of the teachers, during the preceding year and from the time of the last preceding report to the time at which a report is required. The secretary shall retain one of the reports and file the other with the secretary of the area education agency.

Sec. 7. Section 299.4, Code 1991, is amended to read as follows:

299.4 REPORTS AS TO PRIVATE INSTRUCTION.

The parent, guardian, or legal or actual custodian of a child who by September 15 is over seven and under sixteen years of age is of compulsory attendance age, who places the child under competent private instruction under chapter 299B, not in an accredited or approved school, shall furnish a report in duplicate on forms provided by the public school district, to the district by the earliest starting date specified in section 279.10, subsection 1. The secretary shall retain and file one copy and forward the other copy to the district's area education agency. The report shall state the name and age of the child, the period of time during which the child has been or will be under competent private instruction for the school year, an outline of the course of study, texts used, and the name and address of the instructor.

The parent, guardian, or legal or actual custodian of a child, who is placing the child under competent private instruction, for the first time, shall also provide the district with evidence that the child has had the immunizations required under section 139.9. The term "outline of course of study" shall include, but is not limited to, subjects covered, weekly lesson plans, and time spent on the areas of study.

Sec. 8. Section 299.5, Code 1991, is amended to read as follows:

299.5 PROOF OF MENTAL OR PHYSICAL CONDITION.

The parent, guardian, or legal or actual custodian of a child who is over-seven-and-under-sixteen-years-of-age-by-September-15 of compulsory attendance age, who is physically or mentally unable to attend school, or whose presence in school would be injurious to the health of other pupils, shall furnish proofs by affidavit certificate under sections 281.6 and 281.7 as to the physical or mental condition of the child.

Sec. 9. NEW SECTION. 299.5A MEDIATION.

If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. If the parent, guardian, or legal or actual custodian, or child refuses to accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution.

If the matter is referred for mediation, the county attorney shall cause a notice of the referral to be sent to the parent, guardian, or legal or actual custodian and designate a person to serve as mediator in the matter. If mediation services are available in the community, those services may be used as the designated mediation service. If mediation services are not available in the community, mediation shall be provided by the county attorney or the

county attorney's designee. The mediator shall contact the school, the parent, guardian, or legal or actual custodian, and any other person the mediator deems appropriate in the matter and arrange meeting dates and times for discussion of the child's nonattendance. The mediator shall attempt to ascertain the cause of the child's nonattendance, attempt to cause the parties to arrive at an agreement relative to the child's attendance, and initiate referrals to any agencies or counseling that the mediator believes to be appropriate under the circumstances.

If the parties reach an agreement, the agreement shall be reduced to writing and signed by a school officer, parent, guardian, or legal or actual custodian, and the child. The mediator, the school, and the parent, guardian, or legal or actual custodian shall each receive a copy of the agreement, which shall set forth the settlement of the issues and future responsibilities of each party.

The school district shall be responsible for monitoring any agreements arrived at through mediation. If a parent, guardian, or legal or actual custodian refuses to engage in mediation or violates a term of the agreement, the matter shall be rereferred to the county attorney for prosecution under section 299.6. The county attorney's office or the mediation service shall require the parent, guardian, or legal or actual custodian and the school to pay a fee to help defray the administrative cost of mediation services. The county attorney's office or the mediation service shall establish a sliding scale of fees to be charged parents, guardians, and legal or actual custodians based upon ability to pay. A parent, guardian, or legal or actual custodian shall not be denied the services of a mediator solely because of inability to pay the fee.

Sec. 10. Section 299.6, Code 1991, is amended to read as follows:

299.6 VIOLATIONS -- COMMUNITY SERVICE IN-STEAD-OF OR FINE OR IMPRISONMENT.

Any person who shall-violate violates a mediation agreement under section 299.5A, who is referred for prosecution under section 299.5A and is convicted of a violation of any of the provisions of sections 299.1 through 299.5, who violates any of the provisions of sections 299.1 to through 299.5, or who refuses to participate in mediation under section 299.5A, inclusive; shall-be for a first offense, is guilty of a simple misdemeanor and-the-court-shall.

A first offense conviction is punishable by imprisonment not exceeding ten days or a fine not exceeding one hundred dollars. The court may order the person to perform not more than forty hours of unpaid community service instead of any fine or imprisonment. A person convicted of a second violation is guilty of a serious misdemeanor.

A second offense conviction is punishable by imprisonment not exceeding twenty days or a fine not exceeding five hundred dollars, or both a fine and imprisonment. The court may order the person to perform unpaid community service instead of any fine or imprisonment.

A third or subsequent offense is a serious misdemeanor and a conviction is punishable by imprisonment not exceeding thirty days or a fine not exceeding one thousand dollars, or both a fine and imprisonment. The court may order the person to perform unpaid community service instead of any fine or imprisonment.

If community service is imposed as part of a sentencing order, the court may require that part or all of the service be performed for a public school district or nonpublic school if the court finds that service in the school is appropriate under the circumstances.

If a parent, guardian, or legal or actual custodian of a child who is truant, has made reasonable efforts to comply with the provisions of sections 299.1 through 299.5, but is

unable to cause the child to attend school, the parent, guardian, or legal or actual custodian may file an affidavit listing the reasonable efforts made by the parent, guardian, or legal or actual custodian to cause the child's attendance and the parent, guardian, or legal or actual custodian shall not be criminally liable for the child's nonattendance.

Sec. 11. Section 299.8, Code 1991, is amended to read as follows:

299.8 "TRUANT" DEFINED.

Any child over-seven-and-under-sixteen-years-of-age-in proper-physical-and-mental-condition-to-attend-school, of compulsory attendance age who fails to attend school regularly as provided in this chapter, or as required by the school board's or school governing body's attendance policy, or who fails to attend competent private instruction under chapter 299B, without reasonable excuse for the absence, shall be deemed to be a truant. A finding that a child is truant, however, shall not by itself mean that the child is a child in need of assistance within the meaning of chapter 232 and shall not be the sole basis for a child in need of assistance petition.

Sec. 12. Section 299.9, Code 1991, is amended to read as follows:

299.9 TRUANT-SCHOOLS TRUANTS -- RULES FOR PUNISHMENT.

The board of directors may provide for the confinement, maintenance, and instruction of truant children and may for that purpose establish truant schools or set apart separate rooms in any public school building; and it of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

Sec. 13. Section 299.10, Code 1991, is amended to read as follows:

299.10 TRUANT OFFICERS -- APPOINTMENT ---COMPENSATION.

The board of each school district ~~may, and in school districts having a population of twenty thousand shall,~~ appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant.

~~In districts having therein a city, the~~ The board may appoint a member of the police force, or marshal, ~~as such officer, and other districts may appoint a constable a~~ teacher, school official, or other suitable person to serve as the district truancy officer.

~~Such officers shall be paid a reasonable compensation by the board:~~

Sec. 14. Section 299.11, Code 1991, is amended to read as follows:

299.11 DUTIES OF TRUANCY OFFICER.

The truancy officer ~~shall~~ may take into custody without warrant any apparently truant child and place the child in the charge of the ~~teacher-in-charge-of-the-public school principal, or the principal's designee,~~ designated by the board of directors of the school district in which said the child resides, or of any private nonpublic school designated by the person ~~having legal control of the child~~ parent, guardian, or legal or actual custodian; but if it is other than a public school, the instruction and maintenance of the child therein shall be without expense to the school district. If a child is taken into custody under this section, the truancy officer shall make every reasonable attempt to immediately notify the parent, guardian, or legal or actual custodian of the child's location.

The truancy officer shall promptly institute ~~criminal~~ proceedings against any person violating any of the provisions of sections 299.1 to 299.5 through 299.5A.

Sec. 15. Section 299.16, Code 1991, is amended to read as follows:

299.16 FAILURE TO ATTEND.

School officers shall ascertain the number of children over seven and under sixteen years of age who are of compulsory attendance age, in their respective districts, the number of such those children who ~~do not attend school~~ are truant under section 299.8 or who have accumulated fifteen unexcused absences during a three-year period, and so far as possible the cause of the failure to attend. School officers shall, until July 1, 1999, biennially report this information to the department of education on forms provided by the department. The department shall attach a summary of the reports, an analysis of the data, and policy recommendations based on the data analysis, along with the department's annual report under section 256.9, subsection 28.

Sec. 16. Section 299.18, Code 1991, is amended to read as follows:

299.18 EDUCATION -- STATE SCHOOL.

Children ~~over seven and under nineteen years of~~ who are of compulsory attendance age and who are so deaf or blind or severely handicapped as to be unable to obtain an education in the common public or accredited nonpublic schools shall be sent to the proper appropriate state operated school therefor, or shall receive appropriate special education under chapter 281, unless exempted, and any person having such a child under the person's control or custody shall see that such the child attends such the state operated school or special education program during the scholastic year.

Sec. 17. Section 299.19, Code 1991, is amended to read as follows:

299.19 PROCEEDING AGAINST PARENT.

Upon the failure of any a person having the custody and control of such a deaf, blind, or severely handicapped child to require its the child's attendance as provided in section 299.18, the state board of regents may make application to the district court or the juvenile court of the county in which such the person resides for an order requiring such the person

to compel the attendance of such ~~the~~ child at the proper state institution operated school.

Sec. 18. Section 299.20, Code 1991, is amended to read as follows:

299.20 ORDER.

Upon the filing of the application mentioned in section 299.19, the time of hearing shall be determined by the juvenile court or the district court. If, upon hearing, the court determines that the person required to appear has the custody and control of a child who should be required to attend a state operated school under section 299.18, the court shall make an order requiring such the person to keep such the child in attendance at such the state operated school.

Sec. 19. Section 299.22, Code 1991, is amended to read as follows:

299.22 WHEN DEAF AND BLIND CHILDREN EXCUSED.

Attendance at the state institution operated school may be excused when the superintendent thereof is satisfied:

~~1--That the child is in such bodily or mental condition as to prevent or render futile attendance at the school;~~

~~2--That the child is so diseased or possesses such habits as to render the child's presence a menace to the health or morals of other pupils;~~

~~3--That of the state operated school certifies that an interdisciplinary staffing team has determined, pursuant to the requirements of chapter 281, that the child is efficiently taught for the scholastic year in a private accredited nonpublic or other school devoted to such the instruction, or by a private tutor, in the branches taught in public schools, or is shown to be physically or mentally unable to attend school under section 299.5.~~

Sec. 20. NEW SECTION. 299B.1 PRIVATE INSTRUCTION.

The parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction shall provide, unless otherwise exempted,

competent private instruction in accordance with this chapter. A parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction which is not competent private instruction, or otherwise fails to comply with the requirements of this chapter, is subject to the provisions of sections 299.1 through 299.4 and the penalties provided in section 299.6.

For purposes of this chapter, "competent private instruction" means private instruction provided on a daily basis for at least one hundred forty-eight days during a school year, to be met by attendance for at least thirty-seven days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under section 299B.2, or other person under section 299B.3, which results in the student making adequate progress.

For purposes of this chapter and chapter 299, "private instruction" means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school.

Sec. 21. NEW SECTION. 299B.2 COMPETENT PRIVATE INSTRUCTION BY LICENSED PRACTITIONER.

If a licensed practitioner provides competent instruction to a child of compulsory attendance age, the practitioner shall possess a valid license or certificate which has been issued by the state board of educational examiners under chapter 260 and which is appropriate to the ages and grade levels of the children to be taught. Competent private instruction may include, but is not limited to, instruction or instructional supervision offered through an accredited nonpublic school or public school district by a teacher, who is employed by the accredited nonpublic school or public school district, who assists and supervises a parent, guardian, or legal custodian in providing instruction to a child. If competent private instruction is provided through a public school district, the child shall be enrolled and

included in the basic enrollment of the school district. Sections 299B.3 through 299B.7 do not apply to competent private instruction provided by a licensed practitioner under this section.

Sec. 22. NEW SECTION. 299B.3 PRIVATE INSTRUCTION BY NONLICENSED PERSON.

A parent, guardian, or legal custodian of a child of compulsory attendance age providing competent private instruction to the child shall meet all of the following requirements:

1. Complete and send, in a timely manner, the report required under section 299.4 to the school district of residence of the child.
2. Ensure that the child under the parent's, guardian's, or legal custodian's instruction is evaluated annually to determine whether the child is making adequate progress, as defined in section 299B.6.
3. Ensure that the results of the child's annual evaluation are reported to the school district of residence of the child and to the department of education by a date not later than June 30 of each year in which the child is under private instruction.

Sec. 23. NEW SECTION. 299B.4 ANNUAL ACHIEVEMENT TESTS -- REQUIREMENTS AND PROCEDURE.

1. Each child of compulsory attendance age who is receiving competent private instruction shall either be evaluated annually by May 1, using a nationally recognized standardized achievement test or other assessment tool developed or recognized by the department of education chosen by the child's parent, guardian, or legal custodian from a list of approved tests or assessment tools provided by the department of education or be evaluated annually in the manner provided in subsection 1. The department shall provide information on the cost of and the administration time required for each of the approved tests. The department shall

provide, as part of approval procedures for tests to be used under this section, a mechanism which permits the introduction and approval of new or alternate methods of educational assessment which meet the requirements of this chapter.

2. A child, who is seven years of age and is receiving competent private instruction or who is placed under competent private instruction for the first time, shall be administered a test for purposes of obtaining educational baseline data.

3. The director of the department of education, or the director's designee, which may include a school district or an area education agency, shall conduct the evaluations required under subsections 1 and 2 for children under competent private instruction. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

4. The parent, guardian, or legal custodian of a child receiving competent private instruction may be present when the child is evaluated, but only if both the parent, guardian, or legal custodian and the child are under the supervision of the test administrator.

5. The conducting of evaluations shall include, but is not limited to, purchasing of evaluation materials, giving the evaluations, scoring and interpreting the evaluations, and reporting the evaluation results.

6. Except when a child has been enrolled in a public school district under section 299B.8, the parent, guardian, or legal custodian of the child being evaluated shall reimburse the entity conducting the evaluation for no more than the actual cost of evaluation required by this chapter. However, the parent, guardian, or legal custodian is not required to reimburse the evaluating entity for costs incurred as a result of evaluation under section 299B.9.

7. In lieu of annual achievement tests, a parent, guardian, or legal custodian of a child may submit, as evidence of adequate academic progress, all of the following:

a. A book of lesson plans, a diary, or other written record indicating the subjects taught and activities in which the child has been engaged.

b. A portfolio of the child's work, including but not limited to, an outline of the curriculum used by the child, copies of homework completed in conjunction with the curriculum and instruction, and copies of tests completed by the child which have been produced by the parent, guardian, or legal custodian.

c. Completed assessment tests, other than the annual achievement test, if assessment tests are administered to a pupil as part of the competent private instruction by the parent, guardian, or legal custodian.

If a parent, guardian, or legal custodian submits evidence under this section, the information shall be reviewed by a qualified, licensed, Iowa practitioner selected as the evaluator by the parent, guardian, or legal custodian and approved by the superintendent of the local school district or the superintendent's designee. The evaluator shall prepare a report based on a review of the child's work submitted, which shall include an assessment of the child's achievement or academic progress levels, and submit a copy of the report to the child's parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. If the evidence demonstrates, in the evaluator's opinion, that the child is achieving adequate progress, the report shall create a presumption that the child is making adequate progress.

Sec. 24. NEW SECTION. 299B.5 REPORTING OF TEST RESULTS.

The results of tests administered to children of compulsory attendance age who are under competent private instruction shall be reported by the test administrator to the child's

parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. Personally identifiable information relating to or contained in the test scores is confidential and shall not be released without the prior consent of the child's parent, guardian, or custodian except as otherwise permitted by law.

Sec. 25. NEW SECTION. 299B.6 FAILURE TO MAKE ADEQUATE PROGRESS.

If the results of tests, administered to a child of compulsory attendance age who is under competent private instruction, indicate that the student has failed to make adequate progress, the parent, guardian, or legal custodian shall cause the child to attend an accredited public or nonpublic school at the beginning of the next school year unless, before the beginning of the next school year, the child retakes the same test and the results indicate that adequate progress has been made, the child has demonstrated adequate performance in the opinion of an evaluator and documented in a report under section 299B.4, subsection 7, or the director of the department of education, or the director's designee, grants approval for competent private instruction to continue under a plan for remediation.

A child who is required to attend an accredited public or nonpublic school under this section shall continue attendance at an accredited public or nonpublic school until the child achieves adequate progress.

For purposes of this chapter, "adequate progress" means, for children in all grade levels of competent private instruction, test scores which are above the thirtieth percentile, nationally normed, in each of the areas of reading, mathematics, and language arts, and which indicate either that the child has made six months' progress from the previous test results or that the child is at or above grade level for the child's age. For children in grade levels six and above, "adequate progress" also means that the child has

achieved test scores in both science and social studies which are above the thirtieth percentile, nationally normed, and which either indicate that the child has made six months' progress from the previous test results or that the child is at or above grade level for the child's age.

Sec. 26. NEW SECTION. 299B.7 NOTICE TO PARENTS -- REMEDIATION.

If a child is placed under competent private instruction and the child fails to make adequate progress under competent private instruction, the director of the department of education, or the director's designee, shall notify the parent, guardian, or custodian of the child that the child is required to attend an accredited public or nonpublic school, unless approval for competent private instruction under a remediation plan is granted. The director, or the director's designee, may provisionally approve continued competent private instruction under an approved remediation plan designed to improve instruction for up to one year.

Sec. 27. NEW SECTION. 299B.8 DUAL ENROLLMENT.

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under this chapter submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual testing under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under sections 442.4 and 257.6 and shall be counted as one pupil.

Sec. 28. NEW SECTION. 299B.9 CHILDREN REQUIRING SPECIAL EDUCATION.

A child of compulsory attendance age who is identified as requiring special education under chapter 281 is eligible for placement under competent private instruction with prior approval of the placement by the director of special education of the area education agency of the child's district of residence.

A child who has been placed under competent private instruction, whose performance indicates that the child may require special education, shall be referred for evaluation under chapter 281 and the rules of the state board of education. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

Sec. 29. NEW SECTION. 299B.10 RULEMAKING.

The department of education shall develop and recommend and the state board shall adopt rules to implement this chapter.

Sec. 30. ASSESSMENT FOR CERTAIN CHILDREN. The department of education shall develop and recommend and the state board of education shall adopt by July 1, 1993, rules which provide an alternative assessment mechanism for children who meet age and educational development criteria generally accepted for placing a child in third or a lesser grade. Rules adopted shall require that the assessment mechanism utilize observation, anecdotal description of a child's achievement, samples of the child's work, and other samples of data relating to the child's academic performance, and shall include requirements relating to collection and evaluation of the information. In developing the alternative assessment mechanism, the department shall review and consider available home schooling data and shall consult with any available

committees, councils, or task forces, and home schooling practitioners or research organizations which are working on or have experience in the assessment of children who have been placed under home instruction. The department shall also develop any recommendations for legislation deemed necessary to implement the alternative assessment mechanism.

Sec. 31. Sections 299.13 and 299.14, Code 1991, are repealed.

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ROBERT C. ARNOULD  
Speaker of the House

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JOE J. WELSH  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 455, Seventy-fourth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 23, 1991

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TERRY E. BRANSTAD  
Governor