

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

OCT 23 1987

Mich. State Law Lib.

Senate Bill 116 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Harmon Cropsey

Committee: Education and Mental Health

Date Completed: 9-30-87

RATIONALE

For over 65 years, Public Act 302 of 1921 has provided for the supervision of private, denominational, and parochial schools, including provision for the certification of teachers in those schools. Certain church school officials contend that teachers in private, religious schools should not be required to meet State certification standards because they consider their teachers to be "ministers" and because they don't believe that teacher certification is an accurate measure of a school's ability to educate. Public Act 302, some people believe, should be amended to allow the operation of private schools that for religious reasons do not want to be supervised by the State.

CONTENT

The bill would amend Public Act 302 of 1921, which provides for the supervision of private, denominational, and parochial schools to:

- Require the State Superintendent of Public Instruction to supervise each private school that elected to come under the Superintendent's supervision.
- Permit each private school to decide annually whether or not it would be supervised by the Superintendent and provide a method for indicating that decision.
- Require one of the following conditions to be met for children not enrolled in a public or State-supervised private school: be tested in specified grades with the Michigan Education Assessment Program test or a nationally standardized norm reference test of the school's choosing that met certain validity and reliability scores; or, be taught by a State certified or "qualified" teacher, who was either an ordained minister, a person who had earned a bachelor's degree, or a person who had training that allowed him or her to teach with a permit in a public school.
- Require parents or legal guardians of children enrolled in a non-State-supervised school to make certain information available to the Department of Education by submitting it directly to the Department, the superintendent of their local intermediate school district, or a "third party".
- Provide that a person or private school that violated provisions on testing, teacher qualifications, or reporting requirements would be in violation of the Act and would be subject to certain actions, including compelling students to attend the public schools or approved private schools, including home schools.
- Define "private" school and "third party".

The bill also would make several technical changes to update language in the Act.

State Supervision of Private Schools

The Superintendent of Public Instruction would be required to supervise each private school in the State that elected

to come under the Superintendent's supervision in the matters described in the bill. Currently, the State Superintendent supervises private, denominational, and parochial schools in the State.

Each private school would have to decide annually whether or not it would be supervised by the Superintendent of Public Instruction. A private school that elected to be supervised by the State Superintendent would indicate its decision by filing a pupil membership count at the same time and in the same manner as provided for school districts under the State School Aid Act. A private school that elected not to be supervised by the State Superintendent would indicate its decision by not filing a pupil membership count.

"Private school" would mean any school other than a public school that gives instruction to children who are less than 16 years of age in the first eight grades as provided for the public schools of the State and is not under the exclusive supervision and control of officials having charge of the State's public schools. Under current law, this definition applies to a "private, denominational or parochial school".

Conditions for Enrollment in a Private School

If a school-age child were not enrolled in a public or State-supervised private school, one of the following conditions would have to be met:

- The child would be tested during the second, fourth, seventh, and tenth grade years with a nationally standardized norm reference test of the school's choosing, which test had validity and reliability scores of at least 90% as determined by the "Mental Measurements Yearbook", 1985 edition, or during the fourth, seventh, and tenth grade years with the Michigan Education Assessment Program test. The test would be administered in consultation with a person trained in the administration and evaluation of such tests, to evaluate the child's educational progress. Copies of the test scores would be made available to the Department of Education in a manner provided in the bill.
- The child would be taught by a "qualified" or State-certified teacher whose credentials were made available to the Department of Education in a manner provided in the bill. "Qualified teacher" would mean an "ordained minister" or a person who had earned at least a bachelor's degree or who had training that allowed him or her to teach with a permit in a public school in the State.

Responsibilities of Parents/Legal Guardians

A parent or legal guardian who enrolled his or her child in a non-State-supervised school would be required to make available to the Department of Education, not later than September 30 of each school year in which the child was not enrolled in a State-supervised school, the name

S.B. 116 (9-30-87)

OVER

S.B. 116 (9-30-87)

and address of the non-State-supervised school in which the child was enrolled and any other information that was required to be made available to the Department under the bill. The parent or legal guardian would be required to make this information available to the Department of Education by submitting the information directly to one of the following:

- The Department of Education.
- The superintendent of the intermediate school district in which the parent or legal guardian resided.
- A third party that had previously agreed to keep the information as a matter of public record and to forward the information to the Department of Education. "Third party" would mean a private, statewide agency, organization, or coalition that represented private schools; or an attorney.

Teacher Certification

A person who did not hold a certificate that qualified him or her to teach a course in a public school in the State would not be able to teach that course in any State-supervised private school in the State. Teaching in a private school, whether State-supervised or not, would be equivalent to teaching in the public schools for the purpose of obtaining a certificate.

Currently, teachers affected by the Act "may take" any examination as provided by law for certification. Under the bill, teachers affected by the Act would have to be examined, as provided by law.

Violations

The Act now provides that when there is a violation, the Superintendent of Public Instruction must notify the person, corporation, association, or agency that operates, maintains, and conducts a private, denominational, or parochial school of the time and place of a hearing that takes place within 15 days after the date of notice. The bill would require notification to the same entities that operate, maintain, and conduct a private school of a hearing that would have to take place not less than seven days nor more than 15 days after the date of the notice and require the Superintendent to indicate why he or she believed that there was just cause for the issuance of the complaint.

Under the current Act, if the order from the Superintendent is not obeyed, the Superintendent may close the private, denominational, or parochial school and the entities operating the school are prohibited from exercising any functions described in the Act until the school complies with the order. Children attending a private, denominational, or parochial school that does not comply with the Act, after hearings have been held, must be compelled to attend the public schools or an approved private, denominational, or parochial school. The bill would provide, instead, that children, in cases of noncompliance, would be compelled to attend the public schools or approved "private schools, including home schools". In addition, a person or private school that violated the bill's conditions for enrollment of a child in a private school or provisions for informing the Department of Education that a child was enrolled in a non-State-supervised school would be considered in violation of the Act and would be subject to these provisions.

MCL 388.551 et al.

FISCAL IMPACT

Senate Bill 116 (S-1) would have an indeterminate impact on State government. The Department of Education currently collects membership and personnel reports from nonpublic schools, indicating the number of students by

grade and the number of teachers having valid teaching certificates. For the 1985-86 school year, these reports covered approximately 205,000 students in 1,180 nonpublic schools. The Department's costs of collecting and monitoring the individual and school-average test score data that would be mandated by Senate Bill 116 (S-1) could range between \$25,000 and \$50,000 annually. The Department's costs for hearings on private schools in violation of the test score standards of the bill would depend upon the number of schools found to be in violation.

ARGUMENTS

Supporting Argument

The United States Supreme Court, without comment, has refused to hear an appeal in a case brought by two Saginaw-area Christian schools that cite religious reasons for hiring noncertified teachers. The decision lets stand Public Act 302 of 1921, which allows the State to require certification of public and private school teachers. The bill is an attempt to reconcile the need to establish teacher qualification requirements and the rights of the State to do so, in relation to parental rights and religious freedom. The bill is a reasonable and balanced attempt to accommodate the State's legitimate interest in ensuring that all students, including private school students, receive a quality education, while maintaining the individual's right to free exercise of religion.

Response: The Supreme Court's decision not to hear the case and let stand a decision allowing Michigan to close schools that refuse to have their teachers certified by the State upholds the State's current certification requirements. The State's standards, should not be compromised as proposed under the bill.

Supporting Argument

One of the bill's requirements that a teacher in a private school have earned a bachelor's degree is the least intrusive way to determine whether an individual is literate and has demonstrated certain academic skills. State law requires teachers in public and nonpublic schools, including home schools, to meet certain preparation standards. Certification and permit are two methods of meeting teacher preparation requirements. In order for a person to receive a one-year, renewable permit to teach in a public or nonpublic school, there must be a school that will hire and supervise the individual, who must have earned a bachelor's degree. Teacher certification requires additional education courses. The bachelor's degree may come from a religiously affiliated school, and one-half of the teacher preparation institutions in the State are religiously affiliated. These requirements do not demand any form of philosophical test in order for a person to be certified.

Response: Rather than supporting this bill, these standards show that at least one of the bill's provisions should be defeated. Under the bill, a bachelor's degree and teaching permit would be only two of the three alternative credentials required of a person who taught schoolchildren: the third option would allow a person to teach simply because the person was an "ordained minister", who would not have to meet any other educational or professional requirements. Furthermore, these provisions would not apply if one of the tests described in the bill were given to the students, who literally could be taught by anyone who walked in off the street.

Supporting Argument

Under the bill, children attending a private school that refused to comply with the requirements of the bill would be compelled to attend a public school or approved private

school, including home schools. The bill would provide a recognition in the law of home schools, which enable parents and guardians to instruct their children at home.

Response: While Michigan does not have a law regulating home schools, State officials have relied on a 1979 Attorney General's opinion to require that children schooled at home be taught by a certified teacher. "[A] parent may not provide for his or her child's education at home without having a certified teacher providing instruction in courses comparable to those offered in the public school district in which the child resides", according to the Attorney General (1979 OAG No. 5579). The bill, in light of this opinion, would not aid home school advocates who believe it is their right to control the education of their children, which includes not being required to employ a certified teacher in their home schools.

Supporting Argument

The State should have alternative ways of determining when a private school is acceptable for the purposes of the State's compulsory school attendance law. There is no clear evidence concerning the preparation that leads to superior teaching. Lacking that evidence, those who formulate standards for certification and credential requirements are forced to choose from conflicting opinions, which often turn out to be wrong. There should be room for experimentation with various methods of measuring teacher preparedness, while demanding results. If a student learns well, does it matter whether teachers have been certified according to an official vision of good teaching? If students do not learn, what comfort is it to know that the teachers are fully certified?

Supporting Argument

The substitute for Senate Bill 116 acknowledges that testing is an effective method of ensuring a quality education. The best way to determine whether a school is doing its job is to look at its results — the students. The only sure way to prove that learning is occurring is to measure that learning directly. If the goal is to teach children to read, for example, teacher certification will not guarantee it. Schools that have graduated children who are illiterate have employed fully certified teachers. Testing, therefore, is the best method for determining whether a child can read. What better way to determine whether a student has learned to read than to hand the student a book, ask him or her to read aloud, and quiz the student about the meaning of the book? If the answers are accurate, who can say the child did not learn to read? Simple, direct testing methods can provide a straightforward answer to the question of whether the child has learned.

Supporting Argument

The Michigan Supreme Court in the 1986 case of Sheridan Road Baptist Church v the Department of Education (426 Mich 462) ruled that the State's interest in furthering the education of its citizens through competent teachers by requiring certification outweighed the "slight burden" that teacher certification placed on a person's right to the free exercise of religion. (The plaintiffs in the case objected to the State's teacher certification requirement because of religious beliefs and argued that the certification requirement interfered with the free exercise of those beliefs.) The bill reflects the minority opinion presented by Justice Dorothy Comstock Riley. In that opinion, the Justice argued that accommodating the religious practice of the plaintiffs would have no adverse effect on the State's interest in compulsory education. Less intrusive means were available, she added, by which the State could adequately supervise and ensure the fulfillment of its interest that underlies the compulsory education law. One method, she

suggested, that the State could employ would be to review the academic achievement of students by measuring their performance on nationally standardized academic achievement tests. The Justice went on to say:

Any assertion by the state that this alternative means is inadequate because the validity of such standardized achievement tests is questionable must be rejected. The record in this case, including the testimony of the state's own education expert, supports the conclusion that the validity of such tests is well-established and, indeed, that this alternative is a superior method of measuring student learning and good teaching. The record supports the conclusion that a higher, and more objectively identifiable, correlative relationship exists between standardized achievement test results and student learning, than between state teacher certification and student learning.

Justice Riley, who was joined by Justices Charles L. Levin and Michael J. Cavanagh, reflected a philosophy held by some private, church-related school officials that testing, and not teacher certification, is a preferred method of ensuring that students are being educated. While this substitute to Senate Bill 116 differs from the original bill, which relied solely on testing, the substitute attempts to accommodate both sides of the certification debate by offering non-State-supervised private schools the option of employing a qualified or State certified teacher or testing students on academic achievement.

Response: Then Chief Justice G. Mennen Williams noted in the majority opinion in the Sheridan Road Baptist Church case that testing was an inadequate substitute to teacher certification "because deficiencies in teaching would be discovered only after the damage had occurred. Further, we are not persuaded that testing would guarantee less intrusion by the state into the functioning of the private schools". In a concurring opinion, Justice Patricia J. Boyle argued that testing came too late and that certification requirements were "essentially prophylactic in nature". She added: "Certification does not guarantee that a person will be an effective teacher, but it increases the probability that a teacher will be competent. Therefore, the certification requirements help prevent children from being exposed to unqualified teachers. Testing can at best only identify problems that require remedies. Testing, therefore, does not fulfill the prophylactic goal of the state's requirement".

Supporting Argument

The United States Supreme Court has ruled that a compelling state interest in education does not necessarily justify all forms of educational regulation. The ruling resulted from the 1972 case of Wisconsin v Yoder (406 US 205), in which the Court was faced with balancing the religious claims of the Amish against Wisconsin's requirement of compulsory education for a child until he or she was 16 years of age. Despite the state's "admittedly strong interest in compulsory education", the Court concluded that the state of Wisconsin had failed to demonstrate how its interest would be adversely affected by granting the Amish an exemption. Supporters of Senate Bill 116 (S-1) contend that, like the Amish, the free exercise of their religious beliefs should outweigh state regulation.

In this instance, proponents of the bill believe that teaching in their schools is a ministry and that Michigan's teacher certification requirements pose a threat of restraint against a "call from God" to teach and a free exercise of their belief that teaching is a religious call. To remain true to their beliefs, therefore, supporters cannot concede to the State's requirement for teacher certification. This position was reached, they claim, out of conviction of faith, as with

the Amish, and not merely in an attempt to circumvent the law. Proponents feel that State officials should be guided by the Yoder decision.

Response: In writing the majority opinion in the Sheridan Road Baptist Church v the Department of Education, then Chief Justice Williams noted that in the Yoder case, the U.S. Supreme Court concluded that the state (Wisconsin) failed to "demonstrate with sufficient particularity" how exempting the Amish would adversely affect the state's interest in requiring compulsory education. Then Chief Justice Williams also pointed out that the Court emphasized the adequacy of the Amish vocational education alternative to secondary education; the fact that the Amish children were living in a closed, farming society and not the society at large; and that compulsory high school education ultimately would destroy the Amish community.

In the Sheridan Road Baptist Church case, then Chief Justice Williams concluded: "None of these factors are relevant in this case, and more importantly, the state's interest here is not how much time should be spent in school, but the qualifications of the teachers themselves".

In a concurring opinion, Justice Patricia J. Boyle concluded in light of the Yoder decision that the State's teacher certification requirements constituted "an indirect and minimal burden on the free exercise of religion by plaintiff". In the Yoder case, Justice Boyle explained, the U.S. Supreme Court required a "sufficient" state interest to "override the burdened religious interest". Cases in which the state had failed, Justice Boyle pointed out, were rare and occurred when a law had a severe effect on religious practices, and, as in the Yoder case, "where a lesser restrictive alternative had been clearly and convincingly established". Justice Boyle continued:

The Court...found that the Amish had carried the burden of demonstrating the sufficiency of their alternative mode of continuing informal vocational education in the same terms of those interests advanced by the state in support of its compulsory high school education. It was then, the Court concluded, that in light of this convincing showing, and considering the minimal difference between what the state required and the Amish accepted, the state must show with more particularity how the admittedly strong interest in compulsory education would be adversely affected by granting an exemption to the Amish.

Justice Boyle concluded that unlike the Yoder case, the departure from State requirements in the Sheridan Road Baptist Church case "are not minimal", and:

The plaintiffs in the case at bar have not established a case as strong and assuring as that established by the Amish in Yoder. For that reason, we do not find it necessary to require the state in this case to show with more particularity how its compelling interest in compulsory education will be adversely affected by granting an exemption to plaintiffs...

The teacher certification requirements represent, at once, a compelling state interest of their own right and a state regulation narrowly drawn to achieve the broader goal of quality education. They constitute, at most, an indirect and minimal burden of the free exercise of religion by plaintiff.

In addition, Department of Education officials note that the Amish are not exempt from the State's reporting requirements for schools.

Supporting Argument

According to some church officials, teachers in private, religious schools should not be required to be certified by the State because these teachers are ministers by divine calling and, as such, under the doctrine of the separation of church and state should not have to be licensed by the State. In fact, some church officials contend that State standards mandate a religious direction, a system that some have labeled as "Humanity". These church officials claim that State guidelines are obtrusive and hinder their freedom to teach their children in "Christianity".

Response: While church officials may consider their teachers to be under divine mandate, the State has a compelling social responsibility to assure that there is an educated citizenry. Besides, State certification requirements do not contain any sort of philosophical test. In order to discharge its responsibility, the State must have some oversight over the schooling of all children.

Opposing Argument

In order to give a haircut, manicure nails, or landscape a lawn in Michigan, the person purporting to provide that service must be licensed or board-certified by the State. Teaching is just as important — if not more so — as being a barber, cosmetologist, or landscape architect. Anyone with direct responsibility for the education of students must meet initial certification requirements, including a demonstrated ability to meet established standards for pedagogical skills, mastery of subject area, and knowledge of developmental learning stages of children and youth. A teaching certificate does guarantee that the teacher has a certain amount of knowledge about the subject or subjects being taught, while also guaranteeing that the teacher has been exposed to the science of teaching and can recognize that all children do not learn in the same way. It is not enough to argue that because a person can read a person can teach reading. Teaching is a profession and like other professions, such as medicine, law, and accounting, must require that its practitioners meet certain minimum standards. In fact, a 1984 report issued by the National Association of State Directors of Teacher Education and Certification indicated that 23 states require either licensing or certification for private school teachers by law or regulation, or require these individuals to complete an approved program.

Opposing Argument

Last year, the Legislature passed Senate Bill 447 (Public Act 267 of 1986) which requires that, beginning in 1991, prospective teachers pass both a basic skills examination and appropriate subject area examinations prior to certification. The State's standards for teachers would not be upheld by the requirement of Senate Bill 116 (S-1) that private schools employ either State certified or "qualified" teachers, which would include an "ordained minister", a person who earned at least a bachelor's degree, or a person who had received a permit to teach in a public school. Any relaxation of these standards would be inappropriate in light of the Legislature's decision to institute reforms, such as Public Act 267, to make education more effective.

Opposing Argument

The bill would create a special class of private schools that decided not to be supervised by the State Superintendent. Furthermore, these schools would not be subject to the State's standards for teachers. In fact, these schools would

be allowed to comply with a reduced standard for teachers. Under the bill, these schools could hire a State certified or "qualified" teacher. A "qualified" teacher could be an "ordained minister" or a person who had earned at least a bachelor's degree or had "training" that would allow him or her to teach with a permit in a State-supervised public school.

In order to be certified, a prospective high school teacher, for example, currently must hold a bachelor's degree from a State-approved program, according to the Department of Education. This includes at least: 30 semester hours in a major field of study, 20 semester hours in a minor, six semester hours of supervised student teaching, and 40 semester hours in a liberal arts education, as well as completion of a professional education sequence of at least 20 semester hours. Basically the same provisions apply to an elementary teaching certificate, except that the prospective teacher is expected to have three minor areas of study rather than a major and a minor.

As for obtaining a permit, according to Department officials, an individual cannot get a permit: only a school district can apply for a permit. In order to apply for a permit, a school district must demonstrate that a fully certified teacher is not available. To obtain a full-year teacher permit, for example, a person must have earned at least 120 semester hours of credit in an approved teacher education program of which at least 15 semester hours were in teacher preparation courses. A person with a bachelor's degree may be eligible for a substitute permit only on an "extreme" emergency basis.

Just having earned a bachelor's degree, therefore, does not allow a person to be a certified teacher in the State. In an attempt to accommodate home schools, the State has allowed parents who have earned a bachelor's degree to apply for an emergency permit. A bachelor's degree alone, however, is not equivalent to the State's current certification standard. The bill would create exceptions that vastly diluted the State's standards for teachers.

Opposing Argument

Certain religious groups contend that teaching in their schools is a ministry and not simply a profession or job. In light of this belief, the bill would allow a non-State-supervised private school to employ an "ordained minister" as a teacher. Being an ordained minister does not in and of itself mean that a person is qualified to teach school. In addition, the bill does not define "ordained minister", and there are no universally accepted criteria that a person must achieve in order to become an ordained minister. For example, some religious denominations require a person to complete a rigorous training program that involves earning a bachelor's degree or more advanced academic degrees. On the other hand, some denominations allow a person to become an ordained minister merely by declaring that the person is a minister. In fact, some organizations are known to confer the status of ordained minister on a person who simply applies by mail for a certificate. While this provision represents an attempt to accommodate the philosophies of certain religious denominations that operate schools, it could do more harm than good. Not only does this provision have the potential of weakening the State's teacher certification standards, it could jeopardize students by placing poorly trained persons in the classrooms as teachers.

Response: Within some denominations, there are persons who serve as ministers of religious education. In order to be specialized in religious education, these persons have had to study basic education concepts, such as curriculum development and planning. Such ministers, who possess knowledge of the educational process, would

be appropriate to serve as teachers and should be allowed to teach in the non-State-supervised private schools. Furthermore, the term "ordained minister" is nondenominational.

Opposing Argument

Since the enactment of Public Act 302 more than 65 years ago, Michigan's citizens have been assured that schools operating in the State, whether public or private, conformed to the same standards. Such standards have included using certified teachers, requiring a minimum of 180 days of instruction, operating a safely constructed school building, and using a comparable curriculum between public and nonpublic schools. This uniformity between public and nonpublic school education has not restricted a private school in maintaining its individual philosophy and integrity. Rather, this has enabled students to transfer from one private school to another, or from a private school to a public school, without jeopardizing their academic credits since the receiving school knows that the course work completed in the former school was similar, had been presented by certified instructors, and had taken place within a standard time frame and within a known educational environment. There should be no relaxation or lowering of these kinds of standards.

Response: The issue is not uniform education but unacceptable interference and control by the State. Private school officials do not oppose fire and sanitary requirements, for example, that are designed to protect the physical safety and welfare of their students. Private schools, however, should be free from licensure standards that prohibit these schools from hiring persons that the school officials consider qualified to teach their students.

Opposing Argument

Requiring the use of certification and other methods to dictate the qualifications of a teacher is an attempt to make private schools more like public schools on the mistaken assumption that public schools offer the best model for teaching. Yet, private school students generally out-perform their public school counterparts. This is the result of the fact that private schools are not forced to operate like public schools — they are locally autonomous; they are linked to the families they serve; and they have special ways of recruiting, selecting, and motivating their teachers. Since private schools seem to work much better than public schools, it does not make sense to impose on private schools a pattern of certification or qualifications for teachers that has not produced positive results in the public schools. Teacher certification cannot be regarded as a potent safeguard when some of the worst schools in the country, namely some public schools, are staffed with fully certified teachers.

Response: If private school students truly out-perform public school students, they do so under the existing system, which sets the same standards for both public and private educators. Under the lax standards proposed by the bill, however, the likelihood that private school students could continue to best or even could match the performance of public school students is purely speculative.

Opposing Argument

Under one of the bill's options, children enrolled in a private school would have to be tested with a nationally standardized norm reference test that achieved certain validity and reliability scores, as determined by the 1985 edition of the "Mental Measurements Yearbook". The yearbook is a compendium of essays that reviews a variety of tests. A review does not, however, necessarily contain statistics on reliability and validity of tests. For example, a 1985 yearbook review of the California Achievement Test, which according to the Department of Education is widely

administered to public school students in Michigan, gives no statistical information on validity and reliability. Since the data required in the bill may not actually be included in a review, a more sound process for judging the adequacy of tests would be to use the judgment of testing experts. These experts could work in collaboration with representatives of the non-State-supervised private schools, the State Department of Education, and educational organizations to review tests and publish a list of tests that would fulfill the bill's requirements. This method would be similar to the method proposed in Senate Bill 350, which would require that a student pass a competency test before the board of a school district could issue an endorsed high school diploma. Under Senate Bill 350, a local school district could select a "student competency test" based upon guidelines developed by a Student Competency Test Advisory Committee.

Opposing Argument

If a non-State-supervised private school decided to test its students, the bill would require the school to administer a nationally standardized norm reference test, which would have validity and reliability scores of at least 90%. In this requirement, the bill is flawed technically. Reliability quotients, according to education assessment specialists with the Department of Education, are expressed on a scale of from -1.00 to a +1.00, and are not expressed in percentages.

Furthermore, a reliability score is not a measure of how much a student has learned, but a measure of the internal consistency of the test. Thus, a test with a reliability coefficient of +.90, which the bill sponsors may have had in mind, would mean there was a very high relationship between the scores when the test was first administered to students and the scores resulting from the second time the test was taken by the same students.

Validity, on the other hand, is not described in statistics, according to assessment specialists, and there are a number of validity measures of an exam. For example, an exam can be assessed for content validity, which is evidence that the test actually measures what the test developers said it would measure. In discussing test validity in the "Mental Measurements Yearbook", the process used to develop the test rather than statistical measurements are presented, according to the Department.

While the bill would require that "a person trained in the administration and evaluation of such tests" consult in the administration of a test, the bill does not speak to the actual selection of a test. Instead, the bill would allow school officials to choose which test to administer, but not require any consultation with testing experts. There is a danger that an obscure or inappropriate test could be selected even though it would qualify with the bill's requirement that the test be included in the 1985 edition of the "Mental Measurements Yearbook". For example, the yearbook reviews the Canadian Achievement Test, which would not be appropriate to use with students in the United States because curricula differ between countries. Yet, under Senate Bill 116 (S-1), that test presumably would be available for use. Thus, the bill uses language that is not acceptable in the field of testing, and would create confusion in its implementation, if the bill were enacted.

Opposing Argument

The bill would require that the 1985 edition of the "Mental Measurements Yearbook" be used in determining which nationally standardized norm reference test would be appropriate to administer in a non-State-supervised private school. Referencing a particular edition of the yearbook, however, would tie the hands of non-State-supervised

private schools since these schools would be restricted to using only those tests reviewed in the 1985 edition. While it is not clear why this particular edition was selected, it is clear that if this bill were enacted, these schools in the future would not be able to administer the most current version of a test, but would be forced to use an older, and maybe outdated version of a test.

Opposing Argument

The bill would require testing of a student in order "to evaluate the child's progress". To accomplish this, the bill would require that a child be tested during the second, fourth, seventh, and tenth grade years with a nationally standardized norm reference test or during the fourth, seventh, and tenth grade years with the Michigan Education Assessment Program (MEAP) test. Both tests, however, achieve different results. A norm reference test ranks students above or below an average test score. The MEAP test, on the other hand, is a criterion reference test that assesses abilities by indicating a student's strong and weak points within a skill area. Some testing specialists contend that a norm reference test may be more suitable for selection purposes, e.g., college entrance exams. Such a test, however, does not work as well in assessing a student's skills since it is used for ranking a student, but does not provide a good indication of how well a student has mastered a certain skill, as criterion tests do. For example, a criterion test could show that a student passed 22 out of 25 reading objectives. While that student did well overall, the criterion test would indicate that the student needed help with reading concepts in areas that he or she did not pass. By providing that either a norm reference or a criterion test would be suitable, the bill would be mixing apples and oranges in its goal of measuring a child's educational progress. In addition, the bill would require that the tests be administered and scores be made available to the Department of Education — and nothing else. There are no provisions in the bill that would establish achievement levels that had to be met, or actions taken if test scores fell behind State and national levels.

Opposing Argument

Supporters of the bill argue that testing is the best method for determining and assuring that students attending private schools are learning. Yet, standardized tests do not always paint a true picture of student performance. Critics of these tests contend that they lead to myopic teaching — teachers teaching only the information needed to score well on the test — and foster erroneous conclusions. As a result, some schools may shortchange students in the achievement of complex skills such as applying mathematics or writing essays. Supporters of national standardized tests also contend that rising test scores indicate that learning is improving. This may actually mean that teachers only are doing a better job of fitting their instruction to the demands of the test. Tests are not a comprehensive measure of educational achievement and should not be the sole criterion for determining whether an educational program is successful.

Legislative Analyst: L. Arasim

Fiscal Analyst: N. Johnson

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.