



Legislative Council  
Legislation Committee

Report on the consideration in detail of the Education and  
Training Reform Bill

April 2006

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*Ordered to be printed*

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Parliamentary Paper No. 196  
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**EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL**

**Wednesday, 29 March 2006**

- 8 LEGISLATION COMMITTEE** — Mr Gavin Jennings (for Mr John Lenders) moved, That the Honourables Philip Davis, Damian Drum and Bill Forwood, Ms Carolyn Hirsh, Ms Jenny Mikakos and Mr Matt Viney be members of the Legislation Committee.

Debate ensued.

Question — put and resolved in the affirmative.

**Tuesday, 4 April 2006**

- 12 EDUCATION AND TRAINING REFORM BILL — REFERRAL TO LEGISLATION COMMITTEE** — Mr Gavin Jennings moved, That at the conclusion of the second reading debate, this Bill be referred to the Legislation Committee.

Question — put and resolved in the affirmative.



## **MEMBERS OF THE COMMITTEE**

Mr M.S. Viney, MLC (Chair)

The Hon. A.R. Brideson, MLC (substitute for The Hon. P.R. Davis, MLC)

The Hon. P.R. Hall (substitute for The Hon. D.K. Drum, MLC)

Ms C.D. Hirsh, MLC

The Hon. W.A. Lovell (substitute for The Hon. W. Forwood, MLC)

Ms J. Mikakos, MLC



## REPORT

The Legislation Committee of the Legislative Council, appointed pursuant to the Resolution of the Council on 29 March 2006, has the honour to report as follows:

1. This is the second report of the Legislation Committee, established by trial Sessional Orders adopted by the Legislative Council on 8 February 2006.
2. The function of the Committee, prescribed by Sessional Order 43, is to consider in detail a Bill or series of related Bills referred to the Committee by the Council and to report to the Council on the Committee's consideration of the Bill, which may include any recommendations for amendments to the Bill(s).
3. On Tuesday, 4 April 2006, on the motion of Mr Gavin Jennings, the House resolved that at the conclusion of the second reading debate, this Bill be referred to the Legislation Committee.
4. Following the second reading of the Education and Training Reform Bill in the Legislative Council on Thursday, 6 April 2006, the Bill was referred to the Committee by the House. The Committee met publicly to consider the Bill in detail on 21 April 2006 in the Legislative Council Committee Room, Parliament House.
5. The Honourable Lynne Kosky, Minister for Education and Training, attended and gave evidence along with Mr John Livi, Chief Legal Officer and Mr Michael Kane, General Manager, Strategic Initiatives from the Department of Education and Training. The Committee notes that this is the first time that a Minister from the Legislative Assembly has attended the Legislation Committee to give evidence in relation to the detail of a Bill.
6. Under Sessional Orders the Committee is required to consider the Bill in the same order and generally the same manner that Bills are considered in Committee of the whole Council. While remaining cognisant of these requirements, the Committee found it useful to once again adopt a flexible approach, particularly in allowing Debate across a range of clauses and circulated amendments in relation to the question on a single clause or amendment.
7. Amendments were moved by the Honourable Peter Hall, which are found in the Minutes of the Proceedings which follow.
8. The trial Sessional Orders governing the operation of this Committee require the Committee to report back to the Council no later than the first sitting day that occurs after two sitting weeks or four calendar weeks following the referral of the Bill, whichever is the shorter period.

9. This time line along with the prescribed function of the Committee, which is to consider the Bill in the same manner as Committee of the whole Council, do not envisage a lengthy narrative of the many issues raised during the consideration of the Bill. However, the Committee notes that the final part of this report, which is the Hansard transcript of the proceedings, included, pursuant to Sessional Order 56, serves to inform the reader of the various points of view on the Bill's contents.
10. The Committee's detailed consideration of the Bill is found in the Minutes of the Proceedings attached to this Report. Following this consideration, the Committee recommends that the Bill be passed by the Legislative Council without amendment.

Committee Room,  
27 April 2006

## MINUTES OF THE PROCEEDINGS

The Minutes of the public proceedings of the Legislation Committee in relation to consideration in detail of the Education and Training Reform Bill were as follows:

### FRIDAY, 21 APRIL 2006

The Committee met in the Legislative Council Committee Room to consider the Education and Training Reform Bill.

Present: Mr M.S. Viney, MLC (Chair)  
The Hon. A.R. Brideson, MLC (substitute for The Hon. P.R. Davis, MLC)  
The Hon. P.R. Hall (substitute for The Hon. D.K. Drum, MLC)  
Ms C.D. Hirsh, MLC  
The Hon. W.A. Lovell (substitute for The Hon. W. Forwood, MLC)  
Ms J. Mikakos, MLC

Witnesses: The Hon. Lynne Kosky, MP, Minister for Education and Training  
Mr John Livi, Chief Legal Officer, Department of Education and Training  
Mr Michael Kane, General Manager, Strategic Initiatives, Department of Education and Training

Also in Attendance: Ms G.D. Romanes, MLC  
Mr Andrew Young  
Assistant Clerk – Committees  
Ms Felicity Murphy  
Manager – Papers Office

### Meeting Opened

The Chair declared the meeting open at 1.37 p.m.

### Consideration in detail

#### *Clause 1.1.1.*

The Honourable Peter Hall moved Amendment no. 1,  
Clause 1.1.1, page 2, lines 12 and 13, omit "and the regulation of non-Government schools and" and insert ", the regulation of non-Government schools and the registration of students for".

Question — That the amendment be agreed to — put.

The Committee divided.

AYES: 1

NOES: 3

Mr Hall

Ms Hirsh  
Ms Mikakos  
Mr Viney

Amendment thus negatived.

Question — That Clause 1.1.1 stand part of the Bill — put.

The Committee divided.

AYES: 3

NOES:1

Ms Hirsh  
Ms Mikakos  
Mr Viney

Mr Hall

Clause thus agreed to.

**Clauses 1.1.2 to 2.1.9** — agreed to.

**Clause 2.1.10.**

The Honourable Peter Hall moved Amendment no. 3,  
Clause 2.1.10, after line 8 insert—

"( ) If a child is asked for his or her name and address under sub-section (1), a parent of the child may provide that name and address instead of the child."

Mr Hall withdrew Amendment no. 3.

Question — That clause 2.1.10 stand part of the Bill — agreed to.

**Clauses 2.1.11 to 4.2.4** — agreed to.

*(The Hon. Lynne Kosky, Mr Kane and Mr Livi left the meeting at 4.16 p.m.)*

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*Proceedings suspended from 4.16 p.m to 4.21 p.m.*

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**Clauses 4.2.5 to 4.3.8** — agreed to.

**Clause 4.3.9.**

Question — That clause 4.3.9 stand part of the Bill — put.

The Committee divided.

AYES: 5

NOES: 1

Mr Brideson  
Ms Hirsh  
Ms Lovell  
Ms Mikakos  
Mr Viney

Mr Hall

Clause thus agreed to.

**Clauses 4.3.10 to 5.8.4** — agreed to.

**Clause 5.8.5.**

Question — That clause 5.8.5 stand part of the Bill — put.

The Committee divided.

AYES: 3

NOES: 3

Ms Hirsh  
Ms Mikakos  
Mr Viney

Mr Brideson  
Mr Hall  
Ms Lovell

There being an equality of votes, the Chair gave his casting vote for the Ayes.

Clause thus agreed to.

**Clauses 5.8.6 to 6.1.3** — agreed to.

**Schedules 1 to 8** — agreed to.

Consideration of the Bill concluded.

**Adjournment**

The Committee adjourned its deliberations at 4.31 p.m.



**EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATION COMMITTEE**

**Thursday, 27 April 2006**

**Report on the consideration in detail of the Education and Training Reform Bill**

Adoption of paragraph 10 —  
Moved Ms Mikakos, seconded Ms Hirsh.

Question — That paragraph 10 be agreed to — put.

The Committee divided.

AYES: 3	NOES: 2
Ms Hirsh	Mr Brideson
Ms Mikakos	Mr Forwood
Mr Viney	

Paragraph thus agreed to.



# **Hansard Transcript of Proceedings**

21 April 2006



**PARLIAMENT OF VICTORIA**

**LEGISLATIVE COUNCIL  
LEGISLATION COMMITTEE**

*Education and Training Reform Bill*

**21 April 2006**



**Chair**

Mr M. Viney

**Deputy Chair**

Hon. Bill Forwood

**Members**

Hon. Philip Davis

Hon. D. K. Drum

Hon. Bill Forwood

Hon. C. D. Hirsh

Ms Mikakos

Mr Viney

**Substituted members**

Hon. Andrew Brideson (for Hon. Philip Davis)

Hon. W. A. Lovell (for Hon. Bill Forwood)

Hon. P. R. Hall (for Hon. D. K. Drum)

**Also present**

Ms L. Kosky, Minister for Education and Training; and

Mr J. Livi, chief legal officer; and

Mr M. Kane, general manager, strategic initiatives, Department of Education and Training.



**Friday, 21 April 2006**

**EDUCATION AND TRAINING REFORM BILL**

**Referred from Legislative Council.**

**The CHAIR** — I declare the meeting open. Before commencing with the introduction of the Minister for Education and Training and the witnesses accompanying her, I wish to make the following statement for the information of all participants and the public.

This public meeting of the Legislation Committee is a proceeding of the Legislative Council and therefore enjoys the same powers and immunities and warrants the same respect as are enjoyed by the house. The sessional orders governing the operation of the committee require the committee to consider a bill in detail in the same order that applies to the consideration of a bill in a committee of the whole Council. In relation to a question on a clause or a proposed amendment to a clause, all questions will be decided by a majority of committee members present. The Chair has a deliberative vote and, in the case of an equality of votes, will give a casting vote. The proceedings are being recorded by Hansard, and members of the committee, the minister and any witnesses accompanying the minister will have an opportunity to request corrections to the proof through Hansard.

I welcome the Minister for Education and Training, the Honourable Lynne Kosky. Before inviting her to introduce her advisers, I would like to thank the minister, as a minister from the lower house, for her preparedness to attend this hearing of the upper house Legislation Committee and to extend the committee's appreciation to the Assembly for its resolution enabling ministers to attend these proceedings.

These Legislation Committee hearings are a trial, and I hope this proves to be a worthwhile process in enabling the Legislative Council to consider, as a house of review, legislation that comes before Parliament.

I ask the minister to introduce the advisers whom she may wish to use during the course of this hearing.

**Ms KOSKY** — Mr John Livi, the chief legal officer with the department, will be with me, along with Mr Michael Kane, the general manager, strategic initiatives.

**The CHAIR** — I ask each of the advisers to state their name and address and the capacity in which they appear, for the Hansard record.

**Mr LIVI** — My name is John Livi. I am the department's chief legal officer. My work address is 2 Treasury Place, Melbourne.

**Mr KANE** — My name is Michael Kane, general manager, strategic initiatives, and my address is 2 Treasury Place, Melbourne.

**The CHAIR** — We will now consider the bill in the same manner in which the committee as a whole would. The first clause I will call is clause 1, and in doing so I invite the minister to make some opening remarks on the bill.

**Clause 1.1.1**

**Ms KOSKY** — I thought it would be useful to you to give a very brief background on the bill — I know the second-reading speech has been tabled — just really to indicate that this is obviously the first complete rewrite of the Education Act since not the last century but the century before. What we have attempted to do is build a new framework that is contemporary — obviously modernising its language — but is contemporary in our expectations in terms of education and training now as a society.

What it does is establish a very robust framework for education and training that I think compares very favourably with the best across the OECD countries. We have also developed it so that, hopefully, it will stand us in very good stead for many years to come. It is not just about now, but about future times as well.

Just in terms of consultation, because I know there has been some discussion — certainly in the lower house there were some comments about the lack of consultation — we have consulted on this legislation for the last 14 months, so we have had a very, very long and developed consultation process. It began with the release of a discussion paper which provided some of the broad areas and some questions that we wanted people to respond to, followed by a white paper and then an exposure draft of the bill. So it has actually been a very lengthy process. There have probably been no, or very few, other bills that have gone through this type of consultation.

We have had a very strong response from a whole variety of stakeholders and a lot of feedback, and that has been both in written form as well as when we had a whole range of meetings around the state. In addition to that, more recently we have had quite a number of consultations around Victoria with the home-schooling community.

The bill — just very briefly — includes for the first time a set of guiding principles that will underpin the delivery of education and training. That is a first for Victoria, and I believe it might be — no, a couple of the other states do something similar, but it is a first for Victoria. We also established a new common regulatory authority for all schools, training providers and higher education providers, apart from universities, as well as for home-schooling. That is a first in Victoria, and I believe it is a first across Australia, where we are trying to have a common regulatory regime rather than have quite separate responses to each of the different systems.

Given that we want consistency through our education and training system as well as across it, we do need to make certain that all providers are meeting minimum standards so that all students have the opportunity to reach their potential. These standards are not about lowest common-denominator standards, but they are a guarantee that all of our children can have access to a quality education, no matter what school they attend or which training provider or higher education institution. It is light touch in approach and it is consistent in approach to regulation.

I know there have been some amendments that were tabled, which we can discuss in more detail as they come up. Some were put forward in the Legislative Assembly. Those amendments were not accepted in the lower house because there were a number of exceptions that were made, particularly for home-schoolers in terms of regulation and for non-government schools. We believe it is important to have the same consistent approach for all children across Victoria in terms of a set of standards and that we can guarantee parents that all children, no matter where they are being schooled or educated, actually achieve those standards and have access to those standards.

We are taking a consistent approach across all, and I must say we are the only state — it is a first again for Victoria, that we are actually applying this regulatory regime to government schools. It has always been there: another regulatory regime has always been there for non-government schools, not for home-schoolers. In fact home-schoolers have not been acknowledged previously in legislation, and we are doing that for the very first time — that is, acknowledging that home-schooling exists and should be supported; and it separates it from truancy.

Previously the only time it had been referred to was in relation to truancy provisions, and I have to say that the penalties in place were actually very severe and very inappropriate for home-schooling. Now we acknowledge home-schooling, and there is a minimum set of regulations in relation to home-schooling and that consistency across government and non-government schools in terms of the regulation.

We are establishing a new statutory authority that will deal with those regulations in relation to all schools — government, non-government, home-schooling and also the training system — and that will be transparent in the way that it operates — and we are attempting to get consistency across the different systems.

I probably should say that since I tabled the set of draft regulations in the lower house — I know some concern was expressed by some within the home-schooling community about what the regulations would look like and whether they were light-touch regulations — we have received very positive feedback about those regulations. Indeed one of the home-schoolers has written to me stating that they welcome and support the changes that have been introduced and that they felt our stated goals of being light touch and non-onerous were certainly achieved when they were handed a copy of the draft regulations.

We are going to continue to consult with the home-school community in relation to those regulations, but I think the regulations that I did table demonstrate that it was a light-touch approach and we were being true to our word.

With regard to the regulation of non-government schools, we are wanting to have a certain consistency in the regulation right across the board of government and non-government schools. I think that is appropriate, and we are giving that commitment to parents so that we are not only applying regulation to government schools but we are applying that to the non-government sector.

That probably covers the main areas of contention, and obviously with the amendments that are brought forward I can talk about any of those in more detail if the need arises.

**Hon. ANDREW BRIDESON** — Chair, can I make a brief response in — —

**The CHAIR** — Yes, I was in fact, Mr Brideson, about to say that my approach to this committee has been to have maximum flexibility, and I was going to invite anyone on the committee, if they wanted to, to ask a question or make a brief comment in that regard.

**Hon. ANDREW BRIDESON** — On behalf of the Liberal opposition I would like to welcome the minister from the other place to this august committee and also extend our welcome to representatives of the education department whom she has brought with her. I note that this will probably be John Livi's only visit to such a committee, because he will be retiring in the not-too-distant future. I did make some appropriate comments in relation to John in the second-reading debate.

Minister, thank you for putting your position quite clearly on the table. I note you have mentioned there will be a light-touch approach to the regulations, and we would like to explore that a little bit more as today unfolds. I note that you have also acknowledged the home-schooling fraternity, and we do have quite a few of the home-schoolers here today who are listening with great interest to our proceedings. I note that you have acknowledged them so much that you are going to support them, so we would like to know a little bit about what sort of support will be offered.

It is probably fair to you that I put on the table now the position of the Liberal Party. I have just prepared a very brief summary of the points I made during the second-reading debate. We believe that parents must have the right to choose what they consider to be the best form of education for their children. It is the position of my party that the government should not proceed with compulsorily requiring home-educators to register. We are taking a fairly hard line — that is, of no registration. We also believe that the VRQA should have representation from the non-government sector and the independent sector. We are of the strong view that 20-year-olds and those older should not have to pay to complete their VCE.

The final point that we will be exploring is to do with the power of self-regulation of the non-government schools and systems. We believe that it should be in the act that they have direct responsibility in relation to all matters concerning those systems. I am sure you have received correspondence from Michelle Green and the Catholic education system in relation to those.

They are essentially the four issues that we will be exploring, and we will have a range of questions on all of those issues. I should give you notice that the Liberal Party will not be moving any amendments today. We will be reviewing our position after today, and we reserve the right to move our amendments in the house when it next meets. I think that basically sums up our position.

**The CHAIR** — Thank you, Mr Brideson. Mr Hall, I am assuming you will make some comments. Before that, however, since Mr Brideson has raised the position his party is taking, from the government's point of view we are disappointed that in the process of trying to establish this committee, the intention was to give members who had a strong interest in particular legislation the maximum amount of time — in fact, more time than would normally be available through the processes of the committee of the whole in the house to explore issues.

I think it was a general understanding that we would try to deal with all amendments in this process rather than going into a committee of the whole. However, it is of course the opposition's right to take that position, but seeing that you raised it I felt that it was important to put on the record the different understanding we thought we had.

**Hon. ANDREW BRIDESON** — I note your comments.

**Ms KOSKY** — Can I respond to that briefly in terms of the amendments, which I suppose is the one issue for this committee to make a decision about. If you are keen to have ministers from the lower house coming along and then choose to actually move the amendments in a separate place, it means that this becomes a discussion rather than actually responding to the particular amendments and addressing the issues, so in a sense I am guessing what your amendments are likely to be in the upper house, rather than being able to respond to them directly. It is your decision, it is your call, but as a minister it is easier to respond directly to the issues rather than skirt around them.

**Hon. ANDREW BRIDSON** — The amendments that we are currently proposing are identical to the amendments that were moved in the lower house. It may be that after today's meeting we will not go ahead and move those amendments; it may be that there will be some different amendments, but we will keep you in close communication in relation to that.

**Hon. P. R. HALL** — I do not want to reiterate in its entirety the position of The Nationals on this legislation. That was well expanded on during the second-reading stage, and I am sure the minister will have either looked at it herself or will have been well briefed as to where we as a party sit on this legislation.

I want to also thank the minister for appearing before the committee. I think there are some benefits, as the minister has just said, in terms of having a direct response from the minister who is actually responsible for the legislation and indeed having advisers sit beside her rather than having the farcical situation we sometimes have of having ministers race backwards and forwards to an adviser's box to get a response. I am appreciative of that.

Essentially The National's point of view, in about one sentence, is that we support this legislation, apart from aspects relating to home-education. That was signalled during the second-reading debate. I also circulated in the second-reading debate seven amendments in my name, which I have now circulated before this committee. It is my intention to move those amendments and seek to have them adopted by the committee as part of the process towards making this better legislation. What I want to do is indicate that of the seven amendments that have been circulated, six of them relate specifically to home-education. One of them is slightly at variance to that but in some respects related. When I get the opportunity to move my first amendment I wish to canvass some of the other issues and perhaps question and promote some discussion of the issues associated with six of these seven amendments as I go through.

Beyond that there are some general questions and issues that I want to explore in the legislation as well, but essentially my first amendment, which relates to the purposes clause, will canvass the substantial issue regarding home-education.

**The CHAIR** — We will come to that very soon, Mr Hall.

**Hon. C. D. HIRSH** — I just want to say briefly that having been involved in the passing in 1990 and 1991 of the Adult, Community and Further Education Act and the Vocational Education and Training Act, and having been involved in education for many years, I want to congratulate the government on this new bill. It is a very exciting thing to revamp old legislation and turn it into something that is up to date. Reading speeches that many people, including the ministers, made on the bill in the early 1990s you can see that there was a great need to update the legislation. It was landmark stuff then, but of course 15 years have gone by. Congratulations Minister, and to the government generally on this great bill, although I will ask you a question or two later.

**Ms MIKAKOS** — Just briefly I want to thank the minister for attending today to assist this committee in its consideration of the bill. I will be coming back to some specific comments later on once we get into it, but I want to say that I too regard this as groundbreaking legislation. In particular the inclusion in the bill of democratic principles is something that I welcome. The fact that it is acknowledged in the bill that choice of education options is at the cornerstone of the legislation is important to acknowledge, as is the reaffirmation of the commitment to free public education in this state.

I will come back to the issue of home-schooling once we get into the discussion that Mr Hall wants to raise. Firstly, it is important to acknowledge that all members of Parliament have received a great deal of correspondence in the lead-up to Parliament's consideration of this bill, so I think it is important to acknowledge the fact that people have taken the trouble to communicate with us.

**The CHAIR** — Including from the United States.

**Ms MIKAKOS** — Can I say at the outset that I did not have a single local constituent that I can recall contact me expressing concerns in relation to this bill. I did however have a number of emails from overseas, and I regard that as reflective generally of the support there is in the Victorian community for a historic rewrite of this legislation. That has not occurred I think for 150-odd years. I could have the number of years wrong.

**Hon. C. D. HIRSH** — 1872.

**Hon. ANDREW BRIDESON** — 1872.

**Ms MIKAKOS** — Right, so I am close enough. Generally there is a great deal of support for where the government is going with this legislation; I think it is important to say that. It is also important to say that there have been concerns raised particularly amongst people who educate at home. Those people are perfectly entitled to choose to educate their children at home. That is something that you have acknowledged in your second-reading speech, and I am sure we will explore those issues further. But I do think that some of those concerns, as I understand from the information I have been provided with, were based on a misunderstanding of the scope of the legislation and the government's intent.

I think it would be useful today if you could perhaps explore those issues with us further just in terms of reassuring people who choose to home-educate what the government's intentions are in that regard. I will leave it at that, Chair.

**Hon. W. A. LOVELL** — Minister, I would just like to say that one thing that really is important to me is choice for parents to have their children educated in a manner that they find appropriate, whether that be through a government school, a Catholic school, an independent school or home-schooling. Is also important to me that Catholic and independent schools have a right to self-govern their schools. They are not part of the state school system, and that is why some parents choose to send their children to those schools, whether it be based around religion or the type of curriculum practised within those schools.

Also on the home-schooling issue, unlike Ms Mikakos I had a number of home-schoolers within my electorate contact me, and perhaps that is because Ms Mikakos is a metropolitan-based MP and I am a country-based MP. In the country we have less choice of where to send our children to school, and there are probably more parents who choose to home-educate because of that.

**The CHAIR** — The question is that clause 1.1.1 stand part of the bill. Mr Hall, to move his amendment.

**Hon. P. R. HALL** — I move:

1. Clause 1.1.1, page 2, lines 12 and 13, omit "and the regulation of non-Government schools and" and insert "the regulation of non-Government schools and the registration of students for".

Amendment 1 standing in my name seeks to amend clause 1.1.1(2)(c), which talks about the establishment and regulation of government schools. We are deleting 'and the regulation of non-Government schools and', so it will now read:

the establishment and regulation of Government schools, the regulation of non-Government schools and the registration of students for home schooling.

We all know that parliamentary counsel's words are rather verbose, but the intent of this amendment is simply to still impose upon home-educators a system which will require registration but a system which will no longer require them to be regulated in any way at all.

By contrast perhaps I should say it is my understanding of the government's legislation that what the government is seeking to do is to have students who undertake home-education registered and to have home-education regulated. The provisions which enable that are clauses like 4.2.2 on page 252 and some of the subclauses in 4.3.9 on page 265, which set out the parameters by which somebody can be registered and the arrangements by which some regulation will take place.

What The Nationals seek to do by way of my amendments — and as I said in my opening remarks, six of the seven amendments relate to this very principle — is to steer a centre course, or a moderate course, and one that I think would be acceptable to home-educators, or the majority of home-educators — and, I would have thought, acceptable to the government, given the promise, with the words having been said, that this is light touch. What we have proposed is light touch, will give the government something it wishes to achieve but at the same time will sit comfortably with the majority of home-educators.

What we are proposing in this set of amendments is to establish a registration system by way of a simple, no-cost notification to enable registration to take place but that they not be subjected to any scrutiny in respect to minimum standards, as has been proposed by the government in this bill. I outlined very clearly in the second-reading debate the reasons why we thought there was no need to have a regulated environment for home-education.

To flush out some of those issues and explore some of the reasons why we have taken this approach, through you, Chair, I want to ask the minister a series of questions relating to this subject. The first is probably one of terminology — that is, I wondered if the minister is able to explain to the committee why the government chose to use the term ‘home-schooling’ instead of ‘home-education’. It simply seems to me that you go to school to be educated, and the outcome is an education. If we talk about school education, why do we not talk about home-education, and why has the government chosen to use the terminology ‘home-school’ and ‘home-schooling’ throughout the bill?

**Ms KOSKY** — Very simply, because we are talking about only those people who are doing home-education in relation to school-age children. If we had taken ‘home-education’, we would be talking about adults who are educating themselves at home, we would be talking about people who are doing training online. To use ‘home-education’ would be too broad. We were very specific that this was to relate to children who were of school age, the compulsory school age, who were receiving their education at home rather than at school. That is why it was ‘home-schooling’; it was very simple.

**Hon. P. R. HALL** — Is ‘home-schooling’ defined in the bill?

**Ms KOSKY** — No, it is not, and that goes to the issue of light touch. Can I just give a bit of an outline of why the regulations are here in relation to home-schooling, because I think it would be helpful.

I suppose one of the dilemmas I have had as minister for education over a period of time is this: for those children who are not attending a formal school setting, what do we as a government and an authority do, given that we are saying schooling is compulsory up until the age of 15, or 16 in the future — it was the age of 15; if this bill passes through both houses, it will be 16 — because then you have to say that not providing schooling has a penalty attached to it? We can define that easily where children are enrolled at government schools or non-government schools, because they are clearly enrolled and they are going to school. If they are not formally enrolled at a school, then how do you actually acknowledge that a child is receiving the education that we as the state are saying is compulsory for children within that age to receive, and how do we make sure that it is treated differently from truancy, where children are both absent from school and absent from any form of education?

Clearly we wanted the penalties to be different for home-schooling as opposed to truancy. Previously, because of the legislation’s lack of definition or acknowledgment of home-schooling, it became truancy, and it was treated under those mechanisms. So we deliberately have not defined ‘home-schooling’, apart from, one, saying we want parents to provide notification that their child is being educated at home so that they are making a commitment, and that is through a statutory declaration, and, then, being able to follow up — and you mentioned the amendment from The Nationals about not regulating.

The difficulty I have as a minister is if someone rings up and complains that a child is receiving absolutely no education — and we have that in the office and through MPs who come to see me and ask, ‘What do I do?’. If we have no mechanism for actually confirming that education is indeed taking place at home, the only provisions we can use to apply to that family are under the truancy provisions. It seems to me that that is a very punitive measure. It is not the sort of measure we want for home-schooling. What we are wanting is both a notification and a commitment or guarantee that parents are continuing to provide education.

Where there is a complaint we need the capacity — I use the word ‘investigate’, but I use it advisedly — to actually make sure that education is taking place. We have examples of parents who have a mental illness or who are lonely at home and who keep their children at home for company. That is not home-schooling; that is truancy. We need a mechanism that can respond to those circumstances differently from those of home-schoolers. That is why this provision is in the legislation: it acknowledges that home-schooling is a legitimate form of schooling.

We also, through the regulations, refer to the sort of support that we are prepared to provide if home-schoolers wish to take that support up, and it is a choice by them as to whether it is for curriculum or whether it is for professional development. We also acknowledge that children can be enrolled, and we will alter the enrolment requirements so that if they want to do, say, art or sport through the school they will be able to do that. Some home-schooling parents have asked us if they would be able to do that.

In home-schooling there is a range of different approaches to schooling. We have tried to cover the range, and we have tried to keep it light touch, but I need to make the distinction between what is truancy and what is education occurring in the home. That is why the provisions are as they are within the legislation. That probably covers really what we are trying to address in the legislation in relation to home-schooling.

**The CHAIR** — I just want to get some clarification from Mr Hall on his amendments. It is absolutely your call, Mr Hall, but in going through your proposed amendments it appears to me that all but your proposed amendment 2 relate to the same issue — essentially, the registration of students for home-schooling and the mechanisms by which that might occur.

The Clerk has advised that each of your proposed amendments could be treated as a stand-alone, but it seems to me that there are a lot of links to your first proposed amendment. If you wish to have your proposed amendment 1 regarded as a test for your proposed amendments 3, 4, 5, 6 and 7 — and amendment 7 is in fact a new clause — I am happy to entertain a discussion now that goes across all those proposed amendments. In other words, we can have a discussion on any of the detail of the subsequent clauses while discussing this one and regard your amendment 1 to clause 1.1.1 as a test. Can I also say that that does not remove the opportunity for you to subsequently raise issues as we go through the bill clause by clause.

So rather than our coming back and voting on all the various amendments, I am happy to treat it as a test. If you want to treat them all individually you can, but that would limit the discussion to each clause, whereas you might want to broaden the discussion to include all of your other subsequent amendments and the implications of them. I will give you a minute to think about it.

**Hon. P. R. HALL** — No. as I said before, six of the seven are all related, but it is no. 3 that is the stand-alone.

**The CHAIR** — Amendment 3 is the stand-alone. It is clearly different; it is not related to that. What I am suggesting is that your proposed amendment 1 be treated as a test of your proposed amendments 2, 4, 5 and 6; and of course getting to the new clause in amendment 7 requires 5 to be agreed to by the committee.

**Hon. P. R. HALL** — As I said before, I am happy to canvass all of those as part of this, because they are all on the same principle.

**The CHAIR** — We will treat them all as a test, and of course as we go through the individual clauses you still have the right to vote against individual clauses. There are a couple that you want to completely omit, so we can still deal with those and raise issues individually. But rather than our coming back and formally putting all the various amendments separately, I am offering to have us canvass the broad discussion now and regard this one as a test.

**Hon. P. R. HALL** — Yes, that is fine with me.

Following on from the minister’s response to that, can I ask her to outline the current process for people wishing to undertake home-education for their children?

**Ms KOSKY** — The current process is that parents make that decision entirely by themselves. They do not register their child; the state could, if it were going to take action, do that under the truancy provisions. The current regulatory arrangements I believe are very punitive. They mean that the government can take action where there are

doubts about the education being provided in the home, that being through the courts, which I do not believe is the appropriate mechanism to use. It makes it very adversarial and confrontational.

What we have picked up is what is in place in other states and also overseas, which is both registering and providing the opportunity — the regulations indicate what is required — and then obviously if there are any legitimate concerns that are registered, they can be investigated to the point where parents just have to indicate that they are providing education at home — and that is what is being provided.

There are no current regulations. There is no acknowledgment that home-schooling exists. Therefore, really the reading of that is that if the child is not in a formal educational setting, they are truant.

**Hon. P. R. HALL** — They do not have to have approval from a regional office?

**Ms KOSKY** — They are actually truanting. Because there is no acknowledgment of home-schooling in the legislation, they are truanting. That is what the current legislation indicates in relation to children who are not at school, given that schooling is compulsory up to the age of 15.

**Hon. P. R. HALL** — With due respect, Chair, I want to follow up that point. With respect to that answer, is it not true that they are not truanting if they have a reasonable excuse as provided for in the Community Services Act? I fail to understand why you can say that anybody not attending a school now is truanting because they would have a reasonable excuse under the Community Services Act.

**Ms KOSKY** — They do not need approval at the moment. I believe, as a government, that if we are saying schooling is compulsory up to the age of 16, we are saying that not because we want to punish children for being at school, we are saying it because we believe it is a fundamental right of children, not of their parents, to receive an education of a certain standard up to the age of 16.

That debate was had a very long time ago when governments of all persuasions decided that we had to make schooling compulsory. That is a fight that was had when children were being kept home or sent out to work and were not being provided with education, and that was seen as a liberating experience for children. All parties of various political persuasions actually believe it is important for children to receive a certain level of education up to the age of 16. I understand The Nationals support that, given that you are not challenging the compulsory school leaving age being raised to 16.

If we accept that as a fundamental premise, you cannot then say, 'If you choose not to send your child to school and not to give any evidence of the education you are providing, it is okay', because you are actually saying that you are not absolutely committed to that fundamental principle of the right of a child to have education up to the age of 16.

That is where this government stands. We believe it is the right of the child. What we are asking for, through the regulatory system that we are putting in place, is some form of evidence — it is very light touch, because we are not asking for all the curriculum to be provided and we are not asking for home-schooling parents to defend why they have chosen a particular type of education — and for them to sign up to the fact that they are providing that education at home so that we can be assured that a child is being provided with that education up to the age of 16 in a setting that is a non-formal setting and so that where there are complaints, we can actually determine whether they are legitimate or not legitimate.

We are making the commitment to the child, and parents have rights in that, but the view of our government is that it is the fundamental right of a child to have access to quality education. We acknowledge that home-schooling is one of those forums, but we want evidence that that is the case, just as — you would well know the newspapers covering the absenteeism rates — both the opposition and The Nationals have a bit of fun when the absenteeism rates come out for government schools and it becomes, 'Shock, horror! We must be very tough on absenteeism'. That is why we are putting these regulations in place. It is not to punish the parents or the children. It is to make sure that all of our children right across Victoria have access to a certain level of education, and I do not shy away from that.

**Hon. ANDREW BRIDSON** — I am really reluctant to jump in. I do not want to stop Mr Hall's train of thought.

**Hon. P. R. HALL** — In terms of the issue of complaints, you have raised the fact that the department has received complaints, including from members of Parliament, about the quality of education that somebody undertaking home-education may be receiving. What action has the government taken in respect of those complaints? Is it not true that there have been no court cases in the last 16 years with respect to certain provisions under the Community Services Act and the Education Act?

**Ms KOSKY** — I will ask John Livi to comment on that. I understand that there has been some court action.

**Mr LIVI** — Thank you minister. The last court action was in 1990, and it was before Magistrate Cosgriff. That involved the situation where home-schoolers refused to allow the department to see what a child was being taught. We had some concerns about what the child was being taught. Under the legislation, the only way we could address those concerns was to prosecute the parents for not sending their child to school.

There have been other instances since then. Might I say the department lost that case, because the way the case proceeded was that the department had its experts before the magistrate and the parents came along with their experts before the magistrate. The magistrate got to see what the child was being taught. Having seen what the child was being taught, the magistrate formed the view that the child was receiving efficient and regular instruction.

There have been, since then, about four cases that have come to my attention, where the department had concerns but where the only way we could address those concerns would again be to launch prosecutions. I gave the advice that the prosecutions would have to be launched. I am not sure how the cases were resolved. They may have been resolved amicably and with cooperation.

In the 1990 court case the magistrate did say that parents could be expected to cooperate with the department and that the department had a duty to ensure that the children were receiving an appropriate education but the department had no option in the circumstances of that case but to prosecute.

**Hon. P. R. HALL** — Do you think four cases in 16 years — that is, four expressions of concern about the quality of home-education in 16 years — warrant a major overhaul of the way home-education is regulated and registered in this state?

**Ms KOSKY** — No, I do not think it requires a major overhaul. This is not a major overhaul. This is absolutely a very light-touch approach — both asking that parents register their child if the child is being schooled at home and also monitoring that in a very light-touch way. We are not asking to approve the curriculum that is being provided, just for parents to acknowledge that an approach to education is being provided.

It is quite different from the level of regulation that is being applied to government schools and to non-government schools. This is very light touch. We are not doing this because of cases in the past. We are doing it because we believe it is a right of every child in this state up to the age of 16 to have access to education. That is why we are doing this. Truancy is not on, and we need an ability to actually distinguish between a child whose parents have decided — deliberately or not deliberately — that their child will not have access to education and those who want their child to have access to education but in a form that is not in a formal educational institution. We need the capacity to distinguish between them so we can ensure that every child has access to education up to the age of 16. That is why we are introducing this.

As I have said, this bill is about making the legislation contemporary; it is not about just responding to issues and concerns that have arisen in the past. It is actually trying to bring it up to a particular level so that it will stand itself in good stead well into the future. I think it is very light touch, and this is a commitment we are making to all of our children.

**Hon. P. R. HALL** — Through you, Chair, the minister has spoken about a light-touch regulatory framework. Could the minister explain to the committee how the monitoring or the regulation of home-education is going to take place?

**Ms KOSKY** — I have tabled the draft regulations. They are in front of me somewhere.

**Hon. P. R. HALL** — No, I want to know the mechanisms by which the Victorian Registration and Qualifications Authority is actually going to regulate home-schooling.

**Ms KOSKY** — Obviously the VRQA has not been established at this stage, but it will be advising me. In discussions about this bill, as I have said, we have indicated that the regulation will be, first, notification, and that notification will occur each year that the child is continuing to be educated or schooled at home. Then it really will be only where a complaint is made that there will be some monitoring — ‘monitoring’ is the wrong word — or some checking of whether that education is still taking place at home.

It is not going to be an annual check on the parent. If the parent is indicating that the child is being home-schooled, that will be accepted unless there is a complaint or a suggestion to the contrary, which would mean that the VRQA would seek information from the parent about whether the child is being schooled at home. Also, obviously if a child is stopped in the street — and it is probably more likely to be by a police officer than a truancy officer — then they would have to indicate, and that would be followed through. But it is at that level. We are asking not to approve the form of education that is taking place at home but to have parents indicate that that education is taking place. We have to take their word for it. That is the position I have adopted, and it has been mentioned in discussions we have had with a lot of people within the home-schooling community; and when the VRQA is established that is the advice I will give it in terms of those regulations.

**Hon. P. R. HALL** — My reading of clause 4.3.9 is that it gives certain powers that the authority, after the passage of this bill, can call upon to review. I particularly refer you to clause 4.3.9(b)(i) on page 265, which states:

the parents of the student or the student refuse permission to authorised officers of the Authority to review the educational program, material or other records used for or related to the home schooling of the student —

et cetera. I am interested to know what sort of evidence and material the authorised officer here will be requiring of parents to establish whether they are meeting minimum standards of education.

**Ms KOSKY** — Can I make a distinction here between the legislation and the regulations. Obviously the legislation sets the framework; the draft regulations are quite clear about what the requirements will be. If a future government chooses to change those regulations, then that is its right. It could do that, but certainly this government will not be changing those draft regulations. I cannot speak for future governments. You might be able to.

**Hon. P. R. HALL** — I am not asking about future governments.

**Ms KOSKY** — It is legislation that will be about the future. Can I say that we will be establishing the advisory committee on home-schooling, and we will have home-schoolers on it. The fall-back position, and the reason I tabled the regulations, was to assure home-schoolers and others of the mechanisms that would be put in place to, in a sense, stay in touch or monitor the home-schooling. I can keep repeating what I have said, but I do not think there is a lot of purpose in that.

**The CHAIR** — I am happy to come back to that. Mr Brideson keeps trying to grab my attention.

**Hon. ANDREW BRIDESON** — On the same train of thought — and I am sure Mr Hall would ask this question of you, Minister — at the end of the draft regulations is a heading ‘Review’. You have said that it is a condition of registration that the VRQA may review the program, material or other records relating to home-schooling where the authority has reasonable grounds to suspect otherwise. You have said that an authorised officer could be called to go into a home upon receiving a complaint. Who do you envisage would make such a complaint? There could be all sorts of vexatious complaints. There could be neighbourhood disputes, family disputes or whatever. Can I explore with you what reasonable grounds would be? What do you see as being reasonable grounds for having a program reviewed?

**Ms KOSKY** — I am going to ask Michael Kane, who has been doing lots of the work on this, to respond in more detail. The mechanism for review is in the regulations, as it is in other regulations, because there needs to be the capacity for review.

Can I also say that the authorised officers cannot enter the premises of a home-schooler without permission. I understand why you are trying to build this up into a scaremongering tactic — probably if I were in opposition, I

would do the same, but that is not the purpose. I think any reasonable person reading all that we have tabled would understand this is a light-touch approach, but we are giving that guarantee to young people. Yes, there will be the opportunity to review, and we will be using the home-schooling advisory group committee to give us the advice on how and under what circumstances that should occur.

It might be MPs, too, who actually make complaints about children who are not being schooled. From my past experience that is certainly an area where I have had some of the complaints expressed to me, and I do not think they are vexatious.

**Hon. ANDREW BRIDSON** — Chair, for the record, I am not scaremongering. I am expressing genuine concerns that have been expressed personally to me both verbally and in writing from home-educators. It is a genuine concern, and that is the reason I raised the question.

**Mr KANE** — I have a brief comment, Chair. We have had a number of consultations chaired by the parliamentary secretary, the most recent one in Bendigo last Wednesday. The issue of vexatious complaints has troubled a number of home-schoolers in their conversations with me, as opposed to the genuine cases, which we all acknowledge would be few and far between. How you might in fact distinguish those is something that we believe — and home-schoolers have told me — would be best taken on advice from groups of home-schoolers. The issue is how the committee that the minister is proposing to establish is best representative of a range of views in the home-schooling community.

With respect to the VRQA, they will advise the minister on regulations, but I am presuming that the minister will take advice from the home-schooling community as well through the committee structure envisaged. The vexatious issue is one that we left for further consultation.

**Ms KOSKY** — Any parent who is home-schooling should not have a concern with this legislation; but any parent who is keeping their child away from any form of formal schooling should be concerned about it. That is the purpose of it.

I have spoken with a whole range of home-schoolers, from those who probably have a more formalised curriculum right through to those who talk about un-schooling and have a very open approach. But it is actually having a form and an approach to education and ensuring that the environment is provided for that education to occur in that is important for us. It is the education that is important to us. We do not want children to get to the age of 16 without having had access to education, frankly then leading to some of the literacy and numeracy concerns that have been expressed by the opposition on many occasions.

**Hon. P. R. HALL** — I have to say in terms of everything I have heard that it reinforces in my mind that there is a truancy problem out there and not really an education problem when it comes to home-education, because you just said it yourself, Minister, that there are very few genuine cases out there of kids who stay away from school. Nevertheless let me say this — —

**Ms KOSKY** — Can I ask a question? How would you be able to tell if they were truanting or being schooled at home at the moment under the current legislation?

**Hon. P. R. HALL** — You assume it is a truancy issue, and you put in place mechanisms to address truancy. It seems to me that in many instances home-educators are being made a scapegoat for inadequate provisions in relation to truancy.

**Ms KOSKY** — Playing politics.

**Hon. P. R. HALL** — I am not playing politics.

**Ms KOSKY** — It is playing politics. I accept — —

**Hon. P. R. HALL** — In respect of these amendments, I have consulted with your office, as you know, to try and steer a middle course down this road. I accepted your light-touch mechanism, and I have put in place what I believe is an appropriate light-touch framework to address these particular issues.

**Ms KOSKY** — I know you have been working with the office. The difficulty with the amendments you have put forward is that once a child is registered, if there is a complaint — if there are complaints from 30 people within a community — about a particular child not receiving home-schooling when they have been registered as being home-schooled, there is no absolutely no capacity at the moment to actually deal with that. What do you do when the child gets to the age of 16 and says, ‘No, I sat in front of the telly the whole time. Mum and dad filled out the form and said I was being home-schooled, but I was not.’?

**Hon. P. R. HALL** — Do you reckon that is what happens now?

**Ms KOSKY** — I think there are a number of cases where parents do keep their children home from school — because of issues of loneliness and because of issues of illness — and the children are not getting support in school. Now there are a range of ways of dealing with that. I do not think the people who define themselves as home-schoolers and who have been writing to all of us about home-schooling fit within that category. But at the moment the only way we can deal with that is through very punitive measures which are truancy measures, and the only way that we can deal with some of the vexatious complaints is again through those measures.

What we are trying to put in place is something that, firstly, works for home-schoolers so they can register their child, and secondly, so that if there are complaints — and no doubt there are some vexatious complaints from time to time — the home-schooling parents have a very easy way of indicating that they are providing that schooling and so we can get out of their lives very quickly and they can go on with the education.

If we continue with the system that operates at the moment when we decide to step in, you actually step over a line immediately. There is no in-between point. But if we do not have some mechanism for checking, then it is just that notification at the beginning of every school year, which means that parents could do that — whether it is parents who are home-schooling or those who are lonely.

I do not know whether you have had any complaints, but I have had complaints about people who are very concerned about children not getting any access to education because the parents are lonely — single parents sometimes; I am not saying that is all the time — but they want the child at home to look after them. That is not in the best interests of children. We need a way of distinguishing that. This is not about punishing home-schooling parents — far from it

**Hon. C. D. HIRSH** — I would like to speak briefly on the issue that the minister has just been referring to — that is, the concept of truancy where a child stays at home with a lonely parent. It is something that, when I worked in psychology in education, occurred from time to time, and there was a need to address that issue. A complaint would be received, perhaps from a neighbour or another parent or through the school, that a child was home.

On investigation — and this was not a legal investigation — on occasion it was found that the child was not wanting to go to school because mum needed the child at home. It usually meant that the child was afraid that something would happen to mum while he or she was at school and would not go. It was called ‘school refusal’: it is a type of truancy where the child actually stays home. In the days when I was working in the field it was easy to separate those children from children who were being home-schooled, because in home-schooling they used the old Correspondence School curriculum and would usually work through the Correspondence School. That does not seem to happen now in the distance education program.

Some people in my electorate wrote to me or contacted me, and I wrote back to them. It was not until I started getting deluged with emails from interstate and from the US, as we all were, that I gave up on the whole thing and just deleted the lot, so I am afraid a few local people ended up in that mishmash.

However, it does not concern people who are legitimately providing an education for their children at home. It is not about them; it is about that very sad group of families — and the minister has been saying this — where the children are at home and they are being kept at home by mum, often out of fear. Often the child is depressed; often mum is depressed. The child is too scared to go to school. That group of families will be covered, and the children will be cared for, by this legislation. I am very pleased to see it happening. Certainly when I was working in the field it was always a difficult situation to work out.

**Ms KOSKY** — I understand why, when we brought the legislation in at the beginning, the home-schooling community was very concerned. In the absence of the regulations which really define what we mean by 'light-touch approach', it could have meant a wide range of things. I understand why the parents would have been concerned. We have had consultations right around the state. Certainly since the draft regulations have been tabled, the response from the bulk of the home-schooling community, through the consultations that we have had before and since the legislation was introduced, and also from some of the letters, is that they are much more comfortable now.

I have spoken with some people who are doing home-schooling who believe that what we have done in terms of the draft regulations is very appropriate. Some of their earlier concerns were that this was trying to stamp out home-schooling, but that is not the case at all nor is trying to define what the curriculum and teaching product should be within the home.

They are also appreciative of what we are doing and what we can do through this process once parents have notified about home-schooling — that is, provide support, if that is wanted and requested, to provide a form and a forum for home-schoolers to say they would like some extra information about whatever they would like to be put in touch with — whether it is interstate or overseas.

This does exist overseas. In America some of the states have this approach and some have a more detailed and inventive approach. I have certainly spoken with home-schoolers who have indicated that that support around additional education materials might be requested — not our formal curriculum materials necessarily, not the correspondence and not the distance education materials, but other materials to assist with home-schooling and also access to some of the facilities at the schools. At the moment we have no mechanism for doing that.

Whilst we are focusing on the legislation and the regulations, the support mechanisms are going to be established there. We will have an advisory committee, and I think we will all become much better educated ourselves about the home-schooling community. Some people will still sit outside the more formally connected home-schooling community and just do the notification, and that will be it. But it does allow us to actually provide support where that is requested.

Every other state has legislation on home-schooling that is similar to what we are providing in our bill.

**Hon. P. R. HALL** — That regulates home-schooling?

**Ms KOSKY** — Yes.

**Hon. P. R. HALL** — Every other state?

**Ms KOSKY** — Michael, would you like to comment?

**Mr KANE** — Every other state has regulation. Indeed, in New South Wales and Queensland, it is far more intensive than this proposal is. Much of the advice we have had from a number of home-schoolers is that the Tasmanian model, which includes an advisory committee, is the way forward. I was speaking with home-schoolers as late as yesterday about that.

**Hon. P. R. HALL** — Can I respond to a couple of the answers that have been given in terms of this and then go on to seek some information, because I do not think we are going to come to an agreement on some of the more contentious issues of this. First of all, the minister asked how you discriminate between a case where a parent is just keeping a child at home because the parent is lonely and where they are not receiving an appropriate home-education.

One way you can differentiate and investigate the two is to do as I am proposing in these amendments that I am putting forward — that is, set up a registration system or a notification system as proposed by my amendments. Then if it is a simple case of a parent keeping at home a child who has not been registered for home-schooling, then it is obviously an issue of truancy, and there are truancy provisions which you can follow up. That is what I am saying: I think the whole home-educators situation is being made a bit of a scapegoat for truancy in respect of that.

The other thing that I have some concerns with is, when we talk about people making complaints about standards of home-education, what we are actually doing is imposing a value judgment on that level of home-education. I am concerned that MPs think that they know what is best for other people's children if they are making complaints about it or if third parties are making complaints about it, and when the investigating body is a government authority — that is, the Victorian Registration and Qualifications Authority — knows best. Is that so?

We have a court system, as John Livi said before. There are previous cases. There is a court — there is a democracy in this country — that makes those judgments about what is regular and efficient regulation. I have some concerns with this system that what we are seeking to do is for government to impose a subjective, values decision on what is, quite rightly, the responsibility of parents to raise their children.

That being said, I want to ask a specific question. The question I was asking 15 minutes ago was that the draft regulations and clause 4.3.9 of the bill say in the case of a review that the VRQA may review the program, material and other records relating to the home-schooling. Minister, I would like to know what is intended. What material and what documentation is likely to be called for by the VRQA when such a review is taking place?

**The CHAIR** — Mr Hall, I have to say I think I hear every day I sit in Parliament MPs express views on a whole range of things, and I have to say I read on page 3 of today's *Age* some very significant opinions by the Prime Minister about English education.

**Hon. P. R. HALL** — I think I know what is best for my kids rather than you knowing what is best for them.

**The CHAIR** — The Prime Minister seems to think it is okay to express his opinion.

**Ms KOSKY** — I would back a politician over a lawyer any day. Sorry, John!

**Ms MIKAKOS** — And what about politicians who are lawyers?

**Ms KOSKY** — Previous governments to this government have made decisions that we are going to have compulsory schooling. We make a decision that we know best what is the right of every child in Victoria, and that is education. I do not shy away from that. In relation to the particular question, we are going to have discussions with the home-schooling advisory group, because it is in the best place to actually be able to indicate what it thinks would be an appropriate way to demonstrate the sort of instruction it is providing. We need a mechanism. The difficulty I have — and I think you probably have missed me before — is that it is not the parents who do not register their child for home-schooling. If you only had to register and there was no follow-up, then if you had a child you wanted to keep home from school, with no home-schooling, you would just register them because there is going to be no follow-up.

It is not a distinction between those who register and those who do not. We want to make sure that those who register are not only saying but are doing home-schooling. That is why we have the registration and why we have the capacity to follow up with the parents where there are concerns that are expressed, whether within the community or by others within different community groups, about a child not receiving any education. That is why we need both aspects of it rather than just the registration. We will be talking with the home-school advisory committee and consulting it about the way it would prefer, if there were a complaint or concern, to point to the education people are providing for their child.

**Ms MIKAKOS** — In speaking against Mr Hall's raft of amendments in relation to home-schooling, I want to say I agree with the minister that the best interest of the student needs to be our first and primary consideration in relation to this legislation. I think there is a distinction to be had between home-schooling and the issue of truancy. They are interrelated, and the way I see it is the registration process works basically to ensure that students are not truant. That is I guess the primary reason for setting up this registration process. Mr Hall's proposed new clause, and I specifically refer to subclause(3), states:

(3) The Authority must cancel the registration of a student for home-schooling —

...

(b) if the Authority is otherwise satisfied that the student is no longer receiving home schooling.

Even Mr Hall's proposed new clause presumably envisages that the authority could on advice received from outside third parties and through information derived through its own investigation be able to deregister a student for these purposes, in which case presumably the student is then regarded as being truant. Even Mr Hall in his thinking about how an alternative system may work is acknowledging that you have to have some system whereby the authority can take some action if there is a determination — it does not matter that you do not use the word 'standards' — that home-schooling is not in fact being delivered to that particular student.

Minister, I thank you for your comments, and you have been discussing this issue now at some length, because of the further detail you have provided to this committee today. When home-schoolers read it in *Hansard* at a later point in time they will get some comfort from the assurances you have given them as to how this process of checking and registration will actually work. I think people will take great comfort from the fact that there is no intention to actively go out and audit people at home and that this is essentially a safety mechanism.

I said earlier on than I had not received correspondence from local constituents; however, I had an email forwarded to me by Mr Geoff Hilton, who is a member for Western Port Province and is unable to be here today. He asked me if I could raise with you an issue that has been sent to him by one of his constituents, Mr Peter Dun. It is a very lengthy email, and I think in the explanation you have given you have really addressed many of his concerns. It comes back to what I was saying earlier: that there is a fundamental misunderstanding, I think, amongst some home-schooler as to how this will work. He specifically raised the issue of the home-education advisory group. I wanted you to flesh out — perhaps to give him some comfort — how that group will operate, what its intended role is and how it will assist the department in terms of conducting these types of checks and the whole regulatory mechanism for home-schools. If perhaps you could give us some more information on that particular advisory group, it would be much appreciated.

**Ms KOSKY** — I will get Michael to talk about this in more detail. Thank you for your comments. We have absolutely no intention of trying to get children who are being home-schooled into schools. We have no intention of trying to frogmarch kids off to schools about learning. What we are wanting to do is set up a regime where I suppose we are saying as a standard that all children have the right to education and therefore acknowledging the range of different forms of education that occur and wanting to support that.

I do not think this government could be criticised at all for having a punitive position in relation to education, and the previous government did not either. Maybe 20 or 30 years ago there was a much more punitive approach in terms of children who were truanting; it is now much more an approach of trying to support all children to have access to that education. I think it is important to put that on the record. We have no intention of looking through people's windows, trying to go through people's information to check whether in fact they are home-schooling or not. What we are trying to do is to set up a regime which allows home-schooling parents to indicate that that is what they are providing — they have not had that opportunity before, so there has often been a question mark by the broader community about whether those children are being educated or not — and also the capacity to follow through any concerns if they are registered.

I suppose, Mr Hall, the one concern I have — and I understand what you are trying to do through the amendments — is that if there is not a capacity to have some sort of discussion with parents about the home-schooling taking place, then it is very difficult, and I think irresponsible, for the VRQA to actually make an assessment that home-schooling is not taking place. What we do not want is for people to be looking through rubbish bins or talking with a whole lot of other people to try to get that information. But I think the advisory committee can best give us the advice on what form that information can be provided in, which gives them comfort and gives the government comfort that all the children who are at home are actually being schooled. That is the intent of this part of the legislation.

In regard to the advisory committee in terms of the representation, I will just refer to Michael, because he has been following it through in a lot more detail.

**Mr KANE** — The issue with respect to the advisory committee, and members of the committee would understand this, is that the very diversity of home-schooling makes it a process of broad consultation just to get a broadly representative group together who can genuinely cover the range of philosophies and beliefs and be a useful group both for home-schoolers in general and for the minister.

My understanding is, though, that the intention would be to have that consultation and a group of up to a dozen would form an advisory committee to the minister, not to the VRQA. The VRQA would advise the minister on regulations and I presume the home-schooling advisory committee would have a view with respect to regulations on home-schooling, as indeed the Catholic Education Office will have a view with respect to regulations on non-government schooling and will no doubt advise the minister, and — I should perhaps make this distinction — as will the department on behalf of the schools it owns on behalf of the people of Victoria, which is the government school system. The VRQA, remember, is at arm's length from the department as well as from the Catholic Education Office, as well as from the Independent Schools Association, and as well as home-schoolers, all of which are acknowledged in the bill as legitimate forms of education for compulsory-aged schoolchildren. The home-schooling advisory committee that we have been advised by home-schoolers as working very well is a Tasmanian model, which I understand has been in place for a number of years.

**Hon. P. R. HALL** — I would like to know about the draft regulations that have been produced. What was the process for producing the draft regulations; what will the process from here on be in terms of finalising regulations; and what legislative structures do they have to go through to be approved — that is, do they go to Parliament, or what?

**Ms KOSKY** — The draft regulations have been developed. I will go back a step before that. The reason we have looked at home-schooling within the legislation is through all of the consultations and discussions that have been held, and in a sense that has also informed the regulations. So the reason that I tabled the draft regulations was that I knew what I meant by the legislation, but it was probably important that others actually understood what 'light touch' meant. So it was one thing to say 'light touch' in the legislation — and you do not put in legislation the sort of detail that is in the regulations — so it was providing much more definition, based on a whole range of the consultations we have had to date and also based on the government's intention in terms of the legislation.

We will continue to have consultations with the home-schooling community before the formal regulations are recommended by the VRQA. They come to me as minister and I then agree to them. We have to do a regulatory impact statement, and then I make recommendations to the Governor in Council. So it does not come back to the Parliament in terms of regulations.

**Hon. P. R. HALL** — So there is no regulatory impact statement and there is no opportunity for the disallowance of these regulations by either house of Parliament?

**Ms KOSKY** — I will refer to John.

**Mr LIVI** — Under the Subordinate Legislation Act following a regulatory impact statement — —

**Hon. P. R. HALL** — And that will take place for these?

**Mr LIVI** — Under the Subordinate Legislation Act you have to do a regulatory impact statement depending on certain criteria, and one of them is if the regulation imposes — I think the wording is — an appreciable economic or other burden on the public. One might try to argue that the regulations are so light touch that there is no appreciable burden on the public, but as I understand it the minister's and the department's intention is to, or it is the minister's decision to issue a regulatory impact statement, where the public will be given a month's notice and a month's opportunity to comment on the regulations. All those comments are then received by the department; a report has to be done to the minister examining all those comments; the minister has to consider those comments, then decide whether or not any amendments should be made to the draft regulations.

By the way, I should also mention that before the regulatory impact statement and the draft regulations are published to the public, the parliamentary counsel settles those draft regulations.

Returning to the situation where we have gone to the public with the regulatory impact statement, the draft regulations have gone to the minister to consider all the submissions; if the minister then decides to proceed with the regulations, a notice is then published in the *Government Gazette* and in the newspaper to that effect and then the minister makes the recommendation to the Governor in Council that the regulation has been made. Following that, a copy of the regulations must be forwarded to the Scrutiny of Acts and Regulations Committee and that

committee — I am sorry, it is towards the latter sections of the Subordinate Legislation Act — has the power to recommend to Parliament that the regulations be disallowed.

There is a very long list of criteria — for example, if the regulations are retrospective, if they infringe the rules of privacy or a number of matters. If the Scrutiny of Acts and Regulations Committee considers any one of those criteria have been infringed, the committee can recommend to Parliament that the regulations be disallowed; and then, as I understand the procedure under that act, it is up to either house of Parliament to decide to disallow them.

**Hon. P. R. HALL** — They do not come to Parliament as a matter of course for potential disallowance?

**Mr LIVI** — No, not under the Subordinate Legislation Act. I recently looked at that act. If you could give me another 10 minutes I could double check it again, but the procedure and the sections do not allow for the automatic disallowance of the regulations if Parliament, for any reason it considers appropriate, were to disallow them. I think that is the position you are putting to me.

**Hon. P. R. HALL** — Yes.

**Mr LIVI** — No, that is not the position under that act.

**The CHAIR** — Thank you, Mr Livi. Mr Hall, I remind you that all questions go through me to the minister. Thank you.

**Hon. ANDREW BRIDESON** — I have three quick issues I wish to raise with the minister in relation to light touch in regulations. I hope we can dispense with them quickly so we can move on. Fees: there will be no fees. Can you guarantee that there will not be any fees in the near or distant future?

**Ms KOSKY** — There is no power to prescribe a fee for home-schooling, so there will be no fees under this government. I cannot promise for future governments.

**Hon. ANDREW BRIDESON** — No, you cannot. All right, that dispenses with that one.

If consent to enter a home is refused, does this constitute a reason for not renewing registration for a home-educator?

**Ms KOSKY** — The regulations still have to be developed. My view is that it may form one of the reasons, but it alone probably would not be enough of a reason.

**Hon. ANDREW BRIDESON** — Of itself?

**Ms KOSKY** — Of itself. You would need other supporting information, which clearly would have been there if anyone had decided to go and ask for evidence of the home-schooling. They do not do that just because they have been walking down the street; they do that because there has been at least one if not several complaints, and there would obviously be evidence within those complaints. But of itself, no.

**Hon. ANDREW BRIDESON** — Finally, through you, Mr Chairman, in relation to the key learning areas it has been drawn to my attention that not all home-educators have the capacity to teach in all eight key learning areas — for example, technology has been cited as one and languages was cited as another. Would failing to teach in one or both of those KLAs also constitute refusal to renew?

**Ms KOSKY** — No. Through the Chair, I would ask Michael Kane to respond.

**Mr KANE** — We have had several discussions at these consultations with home-schoolers about this, and it is understood that some home-schoolers will emphasise some of those key learning areas rather than others. Not everyone has the capacity to teach languages. Indeed, one of the issues that has been raised is this part registration home-schooling, part attendance at school which takes place in a number of government and non-government schools already, and it is true of course in schools. Not everyone does languages all the time, even with the best intention in the world of government policy. We know this. So really words we have been discussing within the

regulatory framework here would be acknowledging, or within the general framework of the eight key learning areas, which is precisely what happens in a range of government and non-government schools.

**Hon. ANDREW BRIDSON** — Thank you. I think it is important to have that on the record and that is the reason I asked.

**Hon. P. R. HALL** — Through you, Chair, I want to ask the minister whether she will today give a commitment to ensure that these regulations go through a regulatory impact statement?

**Ms KOSKY** — I am not prepared to do that until I look at the advice that I have. If it needs to go through an RIS, then yes, I would do that. If the requirements of the RIS indicate that I should do that then, yes, of course I would do it; but I am not going to say that I will put this through an RIS even if it is not required by the RIS. So no, I am not prepared to give that commitment today. But I will certainly give the commitment to consult with the home-schooling community about the regulations.

**Hon. P. R. HALL** — Further to those regulations, what is the process if you want to change matters within the regulations themselves?

**Ms KOSKY** — The process if I as minister want to?

**Hon. P. R. HALL** — If you as minister wish to change the regulations in any way in the future, what is the process involved in that?

**Ms KOSKY** — I will get John to detail that.

**Mr LIVI** — The process is that an amendment to the regulations would have to be made. Depending on the substance of that amendment, again you would have to face issues as to whether a regulatory impact statement would be required. The end result is that the paperwork would have to go to the Governor in Council, who has the power to make the regulation, and the minister at the end of the process would be making a recommendation to the Governor in Council.

**Ms KOSKY** — It has to be published?

**Mr LIVI** — Yes, the regulation also has to be published, and again it would have to go to the Scrutiny of Acts and Regulations Committee. But if you are trying to home in on whether or not another RIS would be required, it is very hard to answer that because it would depend on the substance of the amendment.

**Hon. P. R. HALL** — I understand that. I just wanted to know, through you, Chair, the process that would be involved, and in particular where it says at the moment ‘No fee is payable for any application or renewal on the cancelling of the registration’. If it was decided by government, with the publication of these regulations, that a fee would be required, or if indeed in the future the government decided to charge a fee for the registration, would it then be required to go through an RIS, because there is an economic implication then?

**Ms KOSKY** — My understanding — I will get John to comment — is that we would actually have to go through legislation because there is no capacity for the charging at the moment.

**Mr LIVI** — The regulation makes explicit a position which is already in the act. You cannot charge for registration for home-schooling. And clearly we could not charge to deregister or cancel the registration, as well. There is no power to do it.

**Hon. P. R. HALL** — Can I ask whereabouts in the act it says that there is no charge for registration?

**Mr LIVI** — It is not so much that there is a section there which says there is no charge; there is no section there which says we can prescribe a fee. When one examines the act one will find various sections which enable either regulations to be prescribed for certain matters — and, for example, the fee on registration of certain education authorities; the minister may fix a fee, or regulations may be made. But when it comes to home-schooling, there is no reference and no power in that particular section which would enable us to make a regulation prescribing a fee.

**The CHAIR** — Mr Hall, I know I am being finicky about this, but this committee does not have the power to question witnesses, other than to ask questions of the minister. I know that it seems finicky to say, ‘Please direct questions to the minister and then we will allow the minister to determine whether or not an adviser will answer it’, but it is an important principle. I appreciate that in the context of trying to get information it is perhaps a little bit too process focused, but I think it is an important principle that we need to follow. Mr Hall, is there anything further?

**Hon. P. R. HALL** — I still have a couple of questions, or a couple of arguments to put forward in relation to my amendments.

**The CHAIR** — Yes, remembering that the committee will finish at 4 o’clock, that there are some other issues that I am sure members wish to raise and that we have a whole series of clauses we need to adopt.

**Hon. P. R. HALL** — I am getting close.

What I want to do is draw the committee’s attention, through you, Chair, to similarities between the draft regulations relating to home-schooling that were circulated in the Assembly debate — and I presume other members of the committee have a copy of those draft regulations?

**Hon. W. A. LOVELL** — Yes.

**Hon. P. R. HALL** — And the amendments which are standing in my name. In particular, I refer, for example, to amendment 2:

... to register the child for home schooling and to ensure that the child receives regular and efficient instruction in the learning areas set out in Schedule 1 ...

That is a direct reflection, I suppose, of some of the current terms of the act itself.

If you look at the regulations and at those matters which are going to have to appear in the state register — and that is on page 2 of the regulations — and compare them to the items in subclause (2) of my proposed new clause, to be inserted by amendment 7, there are the exact same items that the state register must contain:

... the name and address of the registered student;

... the name and address of each parent of the registered student;

... the date that the authority was notified by the parent that the student is to be home schooled.

There are a lot of similarities between the registration process proposed in my amendment and the draft regulations. My question, therefore, to the minister is: why can these particular matters not be incorporated in legislation?

**Ms KOSKY** — I am going to refer to John to give a dissertation on the difference between regulations and legislation.

Before I do that, you are right, there are a lot of similarities, and what I should have said before is that in the consultation, obviously when the legislation was being debated in the lower house, we took notice of a range of the amendments and attempted to incorporate the intent of those amendments, where they actually fitted within the legislation that we were wanting to put through, in the regulations.

It is no surprise that there is a fair similarity between some of your amendments and what is in the regulations, because we did take note of what The Nationals put forward as amendments, as well as those from the opposition and one of the Independents.

My understanding is that regulations further define the legislation; the legislation is a very broad framework, and the regulations provide that clear definition. I will ask John; I am not an expert on the distinction between legislation and regulations, so I will ask John to comment on that.

**Mr LIVI** — As the minister has already indicated, it is a question of how much detail you put in a bill — we already have a bill of 430 pages — and what you leave for the regulations. This is a matter which, the decision was

made, could be dealt with in the regulations, and it is as simple as that — trying to decide what goes in the bill and what goes into regulations.

**The CHAIR** — Minister, my understanding is that the regulations are required to be regularly updated. They need to be regularly reviewed and reissued, whereas legislation is only changed at the whim of Parliament?

**Ms MIKAKOS** — Subject to the sunset clause.

**Ms KOSKY** — Regulations are reviewed, as I understand, every 10 years.

**Hon. P. R. HALL** — It was a view of parliamentary counsel that these particular matters could have been well incorporated into the legislation without any undue complications. And that is why, on the advice of parliamentary counsel, these were incorporated into my amendments. That is for the advice of the committee.

**Ms KOSKY** — Can I just respond to that: that is possibly true. I have actually had a whole lot of the other organisations, in relation to many other aspects in this bill, wanting the sorts of issues that you have raised, but which relate to their areas, incorporated into the bill as well.

Once I actually do it for one group, we will be talking about a much thicker document. One of the intentions of having this Education and Training Reform Bill in its current form is that it was a more compact piece of work, it was more consistent and it did not go into absolute detail. Whilst I know that most people would not sit down and read this, I think it is more able to be read than if it was a thousand pages. It certainly was not deliberate that they were not included; it is just that if I do it for home-schooling, I will actually have to do it for all other areas, and then it would become a much thicker and more detailed bill.

**The CHAIR** — In calling on this issue of home-schooling, I remind the committee that we have dealt with this for an hour and a half, and allowed ourselves 45 minutes to deal with other substantial issues in the bill.

**Hon. W. A. LOVELL** — I would like to move on to the establishment of the new Victorian Registration and Qualifications Authority, if that is all right — —

**Hon. P. R. HALL** — I will sum up simply by explaining the intent of my other amendments. That will not take me long, and then I will be happy for the committee to vote on these particular matters.

As I said before, amendments 1, 2, 4, 5, 6 and 7 are all related to home-education. The first one, as I also previously said, sets out the preferred process of The Nationals — that is, to establish a registration system by way of notification and not by a regulation system. Amendment 2, which is an amendment to clause 2.1.1, ensures that there is a process and a requirement for those registering their children for home-education, in that they give a commitment to give:

... regular and efficient instruction in the learning areas set out in Schedule 1...

I am saying to the committee through you, Chair, that this particular clause ensures that people who register for home-education give that commitment to provide regular and efficient instruction to their children. It is not just a vague term; it is actually locking those who register for home-schooling in to providing that particular service.

Amendment 4 relates to the power of the authority, being the Victorian Registration and Qualifications Authority:

to ensure that minimum standards are maintained by providers and organisations it has registered ...

If the committee wishes to, it can have a look at clause 4.2.2, but essentially what this amendment does is restrict that power to ensure minimum standards are maintained to providers and organisations it has registered and not to home-schoolers. Essentially it is a consequential amendment of the principle espoused in amendment 1.

**The CHAIR** — Mr Hall, I advise you that I think we will handle your amendment 1 as a test of amendments 2 and 4, and then, when we come to clause 4.3.9, if you wish to still proceed with moving to omit the clause, you can vote against the adoption of that clause. If that clause were not adopted, then you will be able to move your amendment 7. When we come to adopting clause 4.3.9, I will allow the discussion on your amendment 7 because

essentially your amendment 5 — or voting to omit clause 4.3.9 — determines whether or not your amendment 7 can proceed. I do not think you need to go beyond your amendments 1, 2, and 4 for the purposes of summing up.

**Hon. P. R. HALL** — Okay. I have argued the case for the amendments, and I invite the committee to support those amendments.

**Hon. ANDREW BRIDESON** — Chair, can I just briefly state that Ms Lovell and I will not be able to support the amendment of The Nationals for the simple reason that we will be moving an amendment to delete all reference to home-schooling whatsoever, so we would see that as being quite contradictory to our position.

**The CHAIR** — In putting the question on the amendment, it is important that as Chair I briefly make a comment about my vote. I am particularly swayed by the arguments around education being a right that every child has and that the purpose of this legislation is to ensure that right for children. In our society there is a mix of rights and responsibilities, and I think, as the minister has said, that this is light touch in relation to the responsibilities that go with the right of each child to have an education. I will not be supporting the amendment moved by Mr Hall.

I say that because there are members of the committee here who have not seen me chair these meetings before. I think it is important that I try to chair the meeting but also make it clear to the members of the committee, particularly when I have had to use my deliberative and casting vote on a number of occasions, why I am voting in a particular way.

**Committee divided on amendment:**

*Ayes, 1*

Hall, Mr

*Noes, 3*

Hirsh, Ms  
Mikakos, Ms

Viney, Mr

**Amendment negatived.**

**Committee divided on clause:**

*Ayes, 3*

Hirsh, Ms  
Mikakos, Ms

Viney, Mr

*Noes, 1*

Hall, Mr

**Clause agreed to; clauses 1.1.2 to 1.1.5 agreed to.**

**Clause 1.2.1**

**Hon. P. R. HALL** — I want to ask a question about clause 1.2.1 on page 12 of the bill. We were told, I think in the second-reading speech, that regulations will be made to implement the principles set out in subclauses (a), (c), (e) and (f) of clause 1.2.1. I wonder if the minister is able to advise the committee on the time line for the development of those regulations and what process will be followed to compile them?

**Ms KOSKY** — Once the legislation has been given royal assent, we will then start work on the regulations, and I expect that that will take around six months.

**Clause agreed to.**

**Clause 1.2.2**

**Hon. P. R. HALL** — I have another quick question about this one. It relates to an issue that I think I have raised with the minister either by way of the adjournment debate or by way of letter recently. I have two young mums

returning to school at Cann River P-12 doing their VCE. It is admirable that they are actually returning to work and doing so well. The school does not receive any funding for those two mums, because they are over the age of 20. There is no TAFE institute they can reasonably attend, being residents of Cann River.

It seems to me that clause 1.2.2(b), where it talks about instruction in the learning areas and the student being under 20 years age, is one of the inhibiting factors in the school receiving funds for people over 20 years of age. Can the minister advise if there is any resolution to that particular problem, because I am sure we would all agree in principle that people such as the two I referred to are deserving of being supported, and the school deserves funding to support them?

**Ms KOSKY** — Can I just say, in relation to the commitment we have made to fund all young people up to the age of 20 to complete their year 12 or equivalent, that it is the first time any jurisdiction around Australia has given that commitment. Previously the commitment has been up to the age of 15, and obviously funding is provided to the end of year 12 if the young person attends a public school. If they attend any other educational institution they have access, as they have with TAFEs or ACE providers — adult education providers — to the funds that have been made available for adults. So we have still provided funding, but this is a guaranteed place that is provided up to the age of 20.

For the two women you are talking about, whilst that does not get picked up in the legislation, we do make exceptions to this rule where there are no other alternative educational settings in place. Although we are dealing with the legislation, I am happy to sort that issue out, because I agree that people who might be over the age of 20 should be able to access those facilities. It just will not be through the funding that is provided for young children; we will use adult education funding to fund those places.

**Clause agreed to; clause 1.2.3 agreed to.**

#### **Clause 2.1.1**

**The CHAIR** — Mr Hall, your amendment no. 2 to clause 2.1.1 was tested by the previous division.

**Hon. P. R. HALL** — Yes. I wanted to ask a question about clause 2.1.1, which is on page 15 and deals with attendance at school for a child under, now, 16 years of age — that is the compulsory school attendance age. Through you, Chair, I want to ask the minister what is going to happen in circumstances where a school finds a gainful employment place, maybe on a part-time basis, for somebody who is under 16 years of age? When I say 'gainful', there are many students, as the minister would realise, that sometimes are better off doing that than being in a normal mainstream school situation. Is there still going to be provision for that to occur, and will that be able to occur under the exemptions you are able to give under clause 2.1.5 of this bill?

**Ms KOSKY** — There are two possibilities under which that can occur. One is the exemption that is provided, and we acknowledge that for some children school may not be the best place for their education to take place or that they may need a break from education. We understand that. The other means by which it can occur is where a child is doing part-time education and part-time work, so they would be able to work as well. So there are two opportunities there.

**Clause agreed to; clause 2.1.2 agreed to.**

#### **Clause 2.1.3**

**Hon. P. R. HALL** — I would just like to ask the minister one question. Subclause (b) of clause 2.1.3 of the bill talks about a reasonable excuse for not attending school. It says:

- (b) there is no Government school within a prescribed distance of the child's residence ...

What is the prescribed distance at the moment, and are there any plans to alter that?

**Ms KOSKY** — I have just been advised, but I am happy for John to respond, that there is none at the moment. There was supposed to be a regulation, but there is none. I might ask John to comment.

**Mr LIVI** — That subclause (b) pretty much reflects what is in the current provisions. The current act does actually mention a distance.

**The CHAIR** — Sure.

**Mr LIVI** — It is not in the Education Act; it is in section 74C of the Community Services Act 1970. Subsection (3) says:

It shall be a reasonable excuse as regards any child that —

and if we go down to paragraph (c) —

there is no State school which the child can attend within a distance (measured according to the nearest practicable route) from the residence of the child —

and you have got 3 kilometres if the child is under 9 years of age and 5 kilometres if the child is at least 9 years of age, and it goes on to provide ‘that the child is being educated by correspondence tuition’. What we are doing is simplifying that to require that a regulation could now specify what the relevant distances would be.

**Hon. P. R. HALL** — Can I ask the minister, through you, Chair: is there any intention to alter those prescribed distances?

**Ms KOSKY** — I think there would be an intention. Obviously those distances were developed at a time when families did not have cars to the same extent, and probably when we were more used to smaller schools. If you take, for example, the situation in Bendigo, where they have the senior secondary college, the community has decided it wants large numbers so it can provide the breadth of offerings. The context has now changed, but we certainly understand the intention of making sure that children do not have to travel for long distances to get to school; and the younger they are, the less the distance or the time you want them to be travelling for. John, does that cover it?

**Mr LIVI** — Yes. Could I just add that I think those original distances may have been inserted back in the days of the horse and cart.

**Hon. P. R. HALL** — They would have been miles then, would they not, not kilometres?

**The CHAIR** — They might have been converted. I am tempted to be mischievous and point out that the closure of all those little country schools meant there were lots more reasons why children did not have to go to school — the closures by the previous government, I am referring to — but I will avoid that.

**Ms KOSKY** — I am not going there.

**Clause agreed to; clauses 2.1.4 to 2.1.9 agreed to.**

#### **Clause 2.1.10**

**Hon. P. R. HALL** — I move:

3. Clause 2.1.10, after line 8 insert —

“( ) If a child is asked for his or her name and address under sub-section (1), a parent of the child may provide that name and address instead of the child.”.

It seems commonsense to me that if a child is walking along with its parent and an authorised officer chooses to ask that child their name and address, it would be appropriate for the parent to answer that question of behalf of that child in those circumstances. That is simply the intent of that amendment.

**Ms MIKAKOS** — The way I read that amendment, it would require the attendance officer to only ask the parent, so if the child is on their own without a parent, presumably they are not in a position to ask the child why they are not in school. I strongly oppose this amendment. The Nationals, as I understand, are also supportive of

measures to reduce truancy, and we need to ensure we have got a system in place that gives these officers the legislative authority to ask minors why they are not in school.

**Hon. P. R. HALL** — We simply do not understand the objection of Ms Mikakos with respect to what happens if a child is walking along with a parent. Why is it not just as likely or just as convenient for a parent to respond on behalf of their child?

**Ms KOSKY** — I will defer to John.

**Mr LIVI** — As I understand it the concern was raised because of the offence in clause 2.1.11, which states that ‘A person must not wilfully ...’. I stop at the word ‘wilfully’, which is a very important word in that clause:

A person must not wilfully obstruct, hinder or interfere with a school attendance officer in the performance or exercise of his or her duties under this Part.

As I understand it, the concern was that if a parent were walking along with the child and the child was asked by an attendance officer the child’s name and address, the parent who offered and volunteered that name and address might face a charge of wilfully obstructing, hindering or interfering with the attendance officer’s performance of their duties. We say there is no substance to that concern, because the parent who is genuinely trying to assist the attendance officer in providing the correct name and address of the child could not be considered to be wilfully obstructing, hindering or interfering. If, on the other hand, the parent gave a false name and address, that would be wilfully obstructing and hindering the attendance officer.

**Hon. P. R. HALL** — From my own point of view, through you, Chair, I do not see that there is any harm in putting the amendment forward. I think it simply clarifies the position so that people reading this legislation better understand that they are able to answer on behalf of their child, if they believe it is more appropriate.

**Hon. C. D. HIRSH** — Chair, in my view it clearly does not preclude it. If a child is asked a name and address, the current legislation does not preclude the parent from answering on behalf of the child, if it is so desired. It seems to be totally extraneous and unnecessary. A parent can always answer on behalf of a child.

**Ms KOSKY** — The advice I have had is that it is unnecessary to put that in place. Between now and when this goes before the upper house, can I have another look at it? We do not have an objection to the intention, it is just that the advice I have had is that it is unnecessary. Can I have a look at that?

**Hon. P. R. HALL** — Through you, Chair, I am happy for the minister to have a look at it. In that case should I withdraw the moving of this amendment, so that if the advice that comes back is that the government is prepared to accept it, I will move it in the committee stage in the house?

**The CHAIR** — If the minister is happy with that process.

**Ms KOSKY** — We do not disagree with the intent.

**The CHAIR** — You are just going to have a look at the — —

**Ms KOSKY** — I will take some further advice. The advice I have had is that it is unnecessary. We will have further discussions with Mr Hall and take that on notice. I think that is the best way of dealing with it.

**The CHAIR** — Mr Hall, you are withdrawing that amendment?

**Hon. P. R. HALL** — I will withdraw that amendment and keep it in reserve for the committee stage in the chamber.

**Amendment withdrawn by leave.**

**Clause 2.1.10 agreed to.**

**The CHAIR** — Could I have the attention of the committee, particularly opposition members. As you would know, normally in the house when we are operating as a committee of the whole, if a division is called all members

in the chamber are required to vote. I am ruling that the previous votes will stand, but I am raising the issue for the members of the opposition to be aware of. I know that under normal circumstances there would be a ringing of the bells and members would be able to leave, and that is why I am satisfied that the vote can stand.

However, we have a slightly different problem under our sessional orders — that is, that a quorum requires that at a meeting three members of the committee will constitute a quorum and at least one government member and one opposition member. That is not a non-government member but one opposition member, under the sessional orders. If we look at *Odgers* we find it states:

No decision is taken to have been reached by a division if a quorum of senators has not voted in the division ...

Therefore, if the opposition did not vote we would not have had a quorum. I highlight it to point out that it is something the Standing Orders Committee might need to resolve. I am saying for the purposes of us proceeding through the bill I want to have the previous votes stand, but I am drawing it to members' attention that if there are future divisions on this bill, members are conscious of those requirements under the sessional orders and the interpretation in *Odgers*.

**Ms KOSKY** — In relation to the last matter that has been withdrawn, can I also indicate that we will also look at the possibility of a regulation with that. I did not quite understand what you said just then, so I do not know whether that had anything to do with that issue or not.

**The CHAIR** — If you knew how I was regarded in the Council, you would know that I was completely onto that very quickly, and I am just kind of expressing my advice to members.

#### **Clauses 2.1.11 to 2.2.4 agreed to.**

#### **Clause 2.2.5**

**Hon. ANDREW BRIDSON** — It is the view of the Liberal opposition that we oppose this particular aspect. We believe that people aged 20 years or over who want to finish year 12 or its equivalent should have the courtesy of the state paying those fees, so we oppose this clause 2.2.5. I will try to encapsulate them in one, if you like. It appears that the word 'may' is discretionary. I want to know, if it is discretionary, whether there is going to be a cost, and if so, what the cost proposed is. Will it be means tested if there is a cost? What is the rationale behind this clause 2.2.5? They are all the things we want to know about this aspect.

**Ms KOSKY** — My understanding about providing free instruction in all government schools up to the age of 20 is that certainly we have made that commitment under this legislation, which as I indicated before is the only jurisdiction around Australia to do that in an educational institution other than a school. I think that is important to mention because it is our commitment to make sure that we improve educational standards.

My understanding — and John Livi, who is the font of all wisdom on this, will correct me if I am wrong — is that it was actually the previous government that determined that people over the age of 20 could not study the VCE at a school setting unless there was no other educational institution within the near vicinity. That is, they had to therefore study either the VCE or a general certificate of education at a different educational environment, either at a TAFE or at an ACE facility, and they had to pay. The policy was actually established by the previous government about those over 20 not being able to study the VCE within a school setting.

This clause says 'may' because essentially we have made a commitment to all people who are under 20. It has cost the government additional funds to make that commitment because we are guaranteeing a place, and it is an immediate place rather than having to go into a queue and wait. It means if you are under the age of 20 and you want to study up to year 12 or its equivalent, you will be guaranteed a place at a public educational institution to do that. When the term starts or when the course starts, you will have an immediate place and there is a direct funding arrangement from government.

If you are over 20, then there are two or probably three mechanisms by which you can do that study. You can register and you may have to wait in a queue for a place. We provide, obviously, funding through both our TAFE institutes and adult education providers for a certain number of places, but there is no guarantee of funding for

every place. Many of those people get concessions for their courses and whilst they pay an amount — about \$50 at the moment — —

**The CHAIR** — Per subject?

**Ms KOSKY** — No, per semester. They can do it in that way or they can be a full fee-paying student, in which case they would be able to get a place, probably still when there is a place available, but the guarantee we have given is that the young people under 20 get an automatic place and they get automatic funding — the institutes get automatic funding, rather than the way we fund TAFE institutes and adult education providers; we would give them funding for a certain number of places and then people may have to wait later.

The main reason we have made the commitment to all those under 20 years of age to complete year 12 or its equivalent is because many of the young people, if school was not the ideal setting for them, would go to another educational institution. If they had to wait for a long time, often they drop out rather than complete. Also what was happening was they were displacing adults from education because the institutions were providing those places.

We are making that commitment up to the age of 20 and for anyone over the age of 20 where there is no provision, as I mentioned before, in the nearby vicinity, we look at those case by case, but it is not automatic funding because it actually comes out of the adult education budget rather than out of the schooling budget, because we would not want to redirect funds from young people under 20.

**Hon. ANDREW BRIDSON** — So essentially it is a policy decision?

**Ms KOSKY** — It is a policy decision that has been in place for quite a long time. There are 77 476 students who received a concession in 2005, so a very significant number of people have received that concession.

**Clause agreed to; clause 2.2.6 agreed to.**

**Clause 2.2.7**

**Hon. P. R. HALL** — Clause 2.2.7 is related to voluntary financial contributions. This morning I received some comments from the Good Shepherd organisation in a letter addressed to you, Chair, on 13 April. I wondered whether the committee was going to have any discussion or look at the suggested amendments by this organisation with respect to voluntary financial contributions.

**The CHAIR** — Mr Hall, the committee has not been given the power to call witnesses or receive submissions, but any member of the committee is free to put before the committee views expressed by community organisations or individuals.

**Ms MIKAKOS** — We are able to raise issues in the context of going through the clauses. I had intended to raise this same correspondence, just to get a clarification from the minister. Perhaps it might be appropriate to do so at this point.

Essentially the correspondence we have all received, as members of this committee, was from Marilyn Webster of the Good Shepherd Social Policy Unit. She wants to seek a reassurance that the way clause 2.3.6(1)(c) will be read is that it will not impose any additional ability on school councils to charge parents fees:

... for goods, services or other things provided by the school to a child of the parent;

The point that is made by Good Shepherd is that clause 2.3.6(1)(c) is qualified by clause 2.2.4 which relates to students under the age of 20 but does not seem to be qualified by the provisions related to voluntary financial contributions in 2.2.7. As I understand it, the government's intention is to retain the voluntary nature of financial contributions to schools.

Perhaps it might be useful at this point, Minister, if you could clarify how those two clauses interact, and if there is going to be any new ability for school councils to charge fees not of a voluntary nature.

**The CHAIR** — In giving the minister a moment to respond to that, I am not sure whether the minister has had the courtesy of seeing that correspondence. I am wondering whether a member of the committee who has received

it might like to pass it forward. I will allow the minister and her advisers a moment to consider the complexity of those questions.

**Ms KOSKY** — I have seen the letter. It would be good to have a copy, because I do not have it with me. I have a very high regard for the Good Shepherd organisation, so I was absolutely surprised by the letter that was sent, because it is incorrect. They state in their letter — and I am responding to them — that for the first time we are introducing compulsory fees and charges for core curriculum subjects. That is absolutely wrong and incorrect, and I am surprised that in reading the legislation they could gain that understanding — or rather, misunderstanding.

For the very first time in the legislation we have stated very clearly what was previously a regulation — not even a regulation; I think a memorandum — that had gone from the minister to schools about voluntary levies. For the very first time in the legislation we make it absolutely clear what the voluntary levies can be applied to, the voluntary financial contributions. We indicate, in fact we update, what will be free — that is, the eight key learning areas — and we bring that into modern language. Previously it was in, I suppose, historical language, so we have brought into the modern day what must be provided as free instruction within the school. We identify what voluntary contributions can be asked for and that they must be voluntary. We are very clear about that.

The item that has been referred to, which is clause 2.3.6(c), relates to, as I understand it, and John can comment as well, any items that a school council might charge for when it provides a service or goods, such as a school uniform — a parent might be purchasing something from the school or the school council — and provides school councils with the power to charge for goods or a service, such as a fee for an excursion. It gives schools the power to charge for items that have been sold to the parents, otherwise the school would not be able to provide that service and it would have to be provided by a third party. That is my understanding of the item that has been referred to.

I am surprised that the Good Shepherd has not congratulated us for putting into legislation the conditions under which voluntary contributions can be applied, as a whole lot of other community organisations have. We are trying to make sure that all children have access to education, not that schools can charge for a whole lot of different aspects of the school in our government school system. John, did you want to add to what I said?

**Mr LIVI** — Yes, clause 2.3.6(1)(c) is to reflect what councils are currently doing in a number of subsets of little powers. The minister gave the example of school councils providing school uniforms to parents and obtaining payments for them. School councils can run tuckshops or school canteens, again to supply services and to receive payment for them. School councils can approve excursions and make arrangements for the bookings and various other matters. That clause is designed to cover what we call the contractual arrangements that parents and school councils can enter into voluntarily and so the school council can charge for the relevant services and goods that are being provided. In the explanatory memorandum we make a comment, which appears on page 22 of the bill. In the note to clause 2.3.6 we say:

Subclause 1(c) is new. It refers to councils charging fees.

...

The fees may cover matters such as the costs of excursions or extra curriculum programs or facilities provided to students.

**The CHAIR** — Members, the minister has commitments very shortly after 4.00 p.m. as I warned the committee, and we have spent a lot of time on home-schooling. Can I ask your advice, Members, as to how much more of the minister's time you need and whether there are elements of this we can deal with directly?

**Hon. ANDREW BRIDSON** — I can be very brief on two issues.

**Hon. P. R. HALL** — I will be brief.

**Hon. C. D. HIRSH** — Can I have one very brief question, which may be covered by Mr Brideson?

**The CHAIR** — We will do our best. Can we get away with 5 past 4? Can we get away with that?

**Ms KOSKY** — Okay, but I have operated on the basis that we would be concluding there, and I have other commitments.

**The CHAIR** — I appreciate it, and I appreciate your preparedness to give us those extra couple of minutes.

**Ms MIKAKOS** — Minister, thank you for that clarification. The Good Shepherd is an organisation that I think we all respect.

**Clause agreed to; clauses 2.2.8 to 2.3.26 agreed to.**

**Clause 2.3.27**

**Hon. P. R. HALL** — This is a matter of a school council preparing a report, and it lists matters that will go in the annual report, including:

... any other matters that are determined by the Minister.

I am just making a plea here that schools not be required to put in bald performance measures which might therefore become a league-table type situation between schools.

**Ms KOSKY** — What I am requiring government schools to do is to provide information to their own school community about school performance data, but that that would not be provided in a broader sense. They do provide that performance data to their own school. So for instance they would provide the AIM data to their own school community but not provide that in a broader sense.

**Hon. P. R. HALL** — Annual reports go further than just the school community, do they not?

**Ms KOSKY** — I am requiring that the annual reports with this information be sent home, for government schools, to the parents. That is not through the legislation but through a memorandum. Or is it through the legislation? Sorry, 'being sent home to parents' is separate to the legislation, but it can be provided to another person upon request.

It is a dilemma in trying to make sure that the information that comes through the AIM data is not provided for league tables, but it is important that school communities have access to that. If someone did want to establish league tables they would have to apply to every school for a copy of their school reports and have every one sent through to them. I have tried to look at the balance to make sure that the parents can be informed of what is happening in their own child's school and get that balance right with, I suppose, the danger that someone might want to write to every school across the state to get a copy of the annual report.

It is also the danger we have in place with the VCE data. Unfortunately there is someone who pulls that information together and provides a league table of sorts.

**Hon. P. R. HALL** — I understand.

**Clause agreed to; clauses 2.3.28 to 2.6.2 agreed to.**

**Clause 2.6.3**

**Hon. P. R. HALL** — I have left out my next one and move to this clause. This is just about the registration and re-registration of teachers with VIT. I want to know the circumstances by which VIT considers someone for re-registration. For example, I have a teaching qualification: is there a requirement that I have to be a practising teacher in the last two or three or four years or whatever to maintain registration?

**Mr LIVI** — If I could have the opportunity to reconfirm what I am about to say, I would appreciate it.

**Hon. P. R. HALL** — A true lawyer.

**Mr LIVI** — Yes. For practising registration, when you seek to renew it you must have had relevant practical experience in the past five years, as I understand it. What this bill will do is update the relevant provisions at the request of the VIT to enable certain teachers who are on various types of leave to maintain their registration and to be able to renew their registration, notwithstanding that they have not had the practical experience because they are out of the school situation. The bill actually accommodates that new position.

**Ms KOSKY** — If not, you would re-register — —

**Mr LIVI** — The difficulty is that to re-register normally you would have to have your experience over the period prior to your registration. But with these new provisions — I am sorry, it is a question without notice which goes into quite a bit of detail, and that is why I said — —

**Hon. P. R. HALL** — I am happy to leave it on notice, through you, Chair — and would you, Mr Livi, in terms of a response on notice, consider the circumstance whereby somebody may continue to be a teacher but be not employed by a school? I can think of, for example, VicRoads which employs education officers but they are not employed by a school as such. In terms of a response, you could tell me whether a person who is still teaching but not in paid employment by a school can still fit the criteria for re-registration.

**The CHAIR** — We will take that as a question on notice for the minister.

**Clause agreed to; clauses 2.6.4 to 4.2.1 agreed to.**

#### **Clause 4.2.2**

**Hon. P. R. HALL** — I would like to ask the minister, through you, Chair, about the Victorian Registration and Qualifications Authority. Part of its functions is to make sure that minimum standards are maintained. In what areas are standards to be set and what is the process for setting the standards? I look at page 255 and 261 of the bill and see a couple of different categories where I think they are going to set standards. What are the standards and what is the process for setting the standards? Related to that, what about the physical standards of schools themselves? Are there going to be any minimum standards in respect of the physical infrastructure of schools?

**Ms KOSKY** — The VRQA does need to, obviously once it is established, advise me on the regulations that should apply. But clause 4.3.1(6)(b) provides the areas that are expected in terms of the regulation — that is:

the prescribed minimum standards for registration.

So they include those areas — —

**Hon. P. R. HALL** — ‘Student learning outcomes’ et cetera?

**Ms KOSKY** — Yes. What has previously happened is we have not had regulations established for government schools. It has just been the government system that has monitored, in a sense, government schools. For the non-government schools — both the Catholic schools and private independent schools — we have had the registered schools board, and I had a review probably more than two years ago of the registered schools board. At the time the recommendations that came through still dealt with registered schools as being quite different, as a completely distinct system from government schools.

It certainly seemed to me and to the government that we had what was probably a unique opportunity to, for the very first time, set up a regulatory mechanism for government schools as well. We are insisting on a set of minimum standards that were updated as well, because the previous requirements through the registered schools board were about minimum numbers — heights of toilet seats and some of the physical facilities — but they did not really address the issue of outcomes. They had to demonstrate a curriculum program, but there was no commitment to standards.

What we have been able to do through this legislation is to set, I suppose, a set of aspirational standards. Some will be requirements in terms of registration of non-government schools but, for the ongoing registration of schools, some of them are aspirational standards and some of them are set requirements. For instance, if, once an independent school has been established, the numbers drop below what was required initially, we do not go in and close it. Obviously they are encouraged to build them up. Some are requirements in terms of initial registration and others are standards that are expected to be maintained in an ongoing way. We are also going to establish a process for quality assurance.

Again, it is a new approach where we are trying to focus more on the outcomes and quality assurance. We are having discussions with the Catholic Education Office and the AISV. I am also having discussions with the

department about the mechanisms that we will have for the quality assurance. We have a process in place for government schools. I have had initial discussions with the AISV about how we might do that for the independent schools and the same for the Catholic Education Office.

**Clause agreed to; clause 4.2.3 agreed to.**

**Clause 4.2.4**

**Hon. W. A. LOVELL** — The VRQA replaces the registered schools board and the Victorian qualifications authority, which currently have representation on them from the Catholic and independent schools. Under the legislation there is no requirement for you to actually appoint from the Catholic or independent schools. Will you ensure that there are appointments from the Catholic and independent schools to the VRQA? Will the VRQA be consulting with the non-government sector and also with home-schoolers?

**Ms KOSKY** — Absolutely; what we are not doing is having representatives. I am not having any of the different organisations voting and nominating their own people. I will absolutely make sure that there is expertise from the different sectors, but it is not a representative body in part because if you are establishing a quality assurance mechanism, it actually needs to be somewhat separate from the deliverers. If you had representatives, it would be very difficult to separate the responsibilities of those who deliver the education from those who are actually doing the quality assurance.

We have used the model of the Australian Universities Quality Assurance Agency and also what we have had with the VQA to make sure that we can separate those functions. In that way we ensure not only their service delivery but the quality assurance mechanism is independent from that.

Certainly we are going to have expertise, but it is one of the difficulties that we have had with the registered schools board, where there has been representation. It is very difficult for people who, on a daily basis, work within a particular school or within a particular sector to raise concerns around quality of groups or within their sector or, indeed, maybe their own schools. We need to separate those functions. That is what we do within the training sector, it is what we do within the university sector at a national level, and I think it is important to apply those rules of transparency and independence. We now have a consistent approach right across the sectors of education as well as the systems of education.

**Hon. ANDREW BRIDESON** — Also following your logic, there would not be a representative from the government sector on that authority either?

**Ms KOSKY** — There will be expertise, but they will be ministerial appointments — but not a representative.

**Hon. ANDREW BRIDESON** — I am making a differentiation between representatives.

**Ms KOSKY** — Absolutely.

**Hon. ANDREW BRIDESON** — I am happy with that.

**Ms KOSKY** — If you notice, in most of my statutory authorities, apart from the VIT, which was set up under different legislation, I find it better not to appoint representatives but to actually appoint people with expertise.

**Hon. ANDREW BRIDESON** — Thank you.

**Hon. P. R. HALL** — Is that expertise in home-education?

**Ms KOSKY** — Yes, certainly.

**Clause agreed to.**

**The CHAIR** — Members of the committee, the minister has gone beyond her allocated time. There is nothing to prevent us concluding this bill without the minister being here, but perhaps you might wish to consider whether there is any question you wish to put to the minister, in the view of my flexible chairing, to enable the minister to give the information you are seeking, then allow her to leave and we will then conclude the legislation.

**Hon. ANDREW BRIDSON** — I have one issue.

**Hon. P. R. HALL** — I have two quick ones.

**Ms KOSKY** — I am really struggling for time.

**The CHAIR** — Can it be very quick?

**Hon. ANDREW BRIDSON** — It will be extremely quick. Minister, you have already mentioned your ongoing discussions with the Catholic Education Commission and the AISV in relation to quality assurance, self-regulation and all of those issues.

**Ms KOSKY** — With self-regulation, we are looking at a mechanism. I do not want the VRQA to do the quality assurance. What I want the VRQA to do is to ensure that there are mechanisms across the schools for quality assurance to take place, in exactly the same way as we do with universities. I will be having discussions with the Catholic Education Office and the AISV. The AISV is a little bit different because it is a membership body. I will also be talking to the Australian Council for Private Education and Training to look at the mechanisms by which they can essentially do the quality assurance, but then the VRQA will actually monitor the mechanisms they have got in place for that.

**Hon. ANDREW BRIDSON** — I might be reading something into the white paper, but the indication was that those systems, those three groups, could be licensed to carry out the quality assurance.

**Ms KOSKY** — That is correct. The discussions I have had with the AISV have been that they would set up a separate independent body, because we need to make sure the issues of independence are addressed, given that the AISV is a membership body whereas the Catholic Education Office is a system. We need to make sure those issues of independence are addressed. But we have been having those discussions.

**Hon. P. R. HALL** — Under schedule 5 of the bill, can education maintenance allowances be applied for by students who are registered to receive home-education?

**Ms KOSKY** — No, because it goes to the issue of the cost of education, and we do not pay the parents to do home-schooling. If we were to do that, we would then be going down the road of registration with VIT and all of that, and I do not think that is where we want to go with home-schooling.

**The CHAIR** — Thank you, Minister. I know you have to go, but if one of the advisers wants to stay to give me any advice if a question happens to come up, I would be happy to have that happen. I think we have had ample time. We would be happy to do that, but it is your decision. We will go through and proceed to adopt the clauses of the legislation.

**Ms KOSKY** — I would prefer it if the advisers were not put in a position where they were having to answer without me.

**The CHAIR** — That is fine.

**Ms KOSKY** — Can I just thank the committee for the wonderful opportunity to talk about the legislation.

**The CHAIR** — I want to thank you, Minister, and your advisers, particularly for your preparedness to go beyond the time we agreed.

**Ms KOSKY** — If you would like to move an amendment so that the fount of all knowledge, John Livi, remains in Education and Training, I would certainly quite happily support it!

**Witnesses withdrew.**

**Sitting suspended 4.16 p.m. to 4.21 p.m.**

**Clauses 4.2.5 to 4.3.8 agreed to.**

**Clause 4.3.9**

**Hon. P. R. HALL** — I move to omit this clause. I draw the committee's attention to a replacement clause for that, which is my amendment 7, so I will talk about those two together. Clause 4.3.9 is about the registration of students for home-schooling, and it sets out the circumstances in which registration can take place and the circumstances in which registration can be cancelled. What my new clause seeks to do is put in place a new registration system. It also addresses the circumstances in which the cancellation of registration could take place. In terms of the new clause to replace clause 4.3.9, it simply says:

- (1) The Authority must register a student for home schooling on being notified in writing by a parent of the student that the student is to be home schooled.

It is similar to the draft regulations proposed by the government, except that this just says 'notified in writing' rather than 'by statutory declaration'. It seems to me that there is an immaterial difference between those two sentiments. I think it is a better clause because it spells out exactly what details the authority requires when an application for home-schooling is made.

The third part of the new clause sets out the circumstances by which the authority can cancel the registration of a student for home-schooling — certainly on being notified in writing, and:

- (b) if the Authority is otherwise satisfied that the student is no longer receiving home schooling.

In response to an earlier comment by Ms Mikakos with respect to that particular provision, in a discussion with parliamentary counsel it was decided to include that because it might be brought to attention, for example, in a way other than in writing, that the parents are no longer able to conduct home-education. It might be a court order, for instance; or, touch wood, it might be the death of a parent or some instance like that that would therefore require the provisions of subclause (3)(b) of this particular new clause. It was certainly not intended to be contradictory to my sentiment that VRQA should not be able to investigate standards of home-education. So that is the reason for (3)(b) — extraneous circumstances of the nature I have just outlined.

Also this amendment makes it clear that no fee is payable for the registration. Again, that was part of the proposed regulations by the government, so it simply gives the legislative guarantee of the zero cost. It gives a legislative guarantee of much of what is now proposed to be regulations. That is why I believe it is a better way in which to give some assurance to those involved in home-education. I have moved that clause 4.3.9 be omitted — which, as the committee understands, would essentially be replaced by a new clause, which is amendment 7.

**The CHAIR** — Actually, Mr Hall, the question will be whether clause 4.3.9 stand part of the bill, and you can vote against that question.

**Ms MIKAKOS** — In speaking in support of the clause as it currently stands, I think the discussion we had with the minister earlier was very helpful. It certainly has assisted me in my understanding of how the home-schooling provisions will operate. I think the minister made it very clear that there will not be an onerous obligation on parents, nor will there be audits or unsolicited checking of parents in this area. Complaints will be followed up, but essentially matters will only be investigated if a complaint has been raised. I think on that basis the amendments being proposed by Mr Hall are unnecessary. Whilst I accept the sentiment that he has expressed in relation to subclause (3)(b) of his new clause, reading that I still think it would give the authority some scope to investigate home-schooling perhaps in a way that Mr Hall had not intended. That is certainly how I would read subclause (3)(b) in that new clause.

**Hon. P. R. HALL** — If I can just respond to that, the previous amendments I have lost do not give the power to the authority to investigate whether minimum standards are being upheld.

**The CHAIR** — Thank you, Mr Hall. I will just indicate that I will be voting to keep the clause in the bill and therefore the proposed insertion of the new clause will not proceed. The reason is that, similar to Ms Mikakos, I am satisfied that the regulatory process which covers many of the issues you have raised is actually a more flexible one and, with sunset clauses, allows reconsideration of those issues in the future with appropriate safeguards about the consultation processes where ministers are desirous of setting regulations under the act. With that comment I will put the question. The question is:

That clause 4.3.9 stand part of the bill.

I think the ayes have it.

**Hon. P. R. HALL** — The noes have it.

**The CHAIR** — A division is required. The question is that clause 4.3.9 stand part of the bill. Those in favour please raise their hands: myself, Ms Mikakos and Ms Hirsh. Those against please raise their hands: Mr Hall — —

I need you to cast a vote, Mr Brideson and Ms Lovell.

**Hon. ANDREW BRIDESON** — Because of our stance on excluding all reference to home-education in the bill, it puts us in a very difficult situation. But we can vote under duress!

**The CHAIR** — I require you to vote, Mr Brideson. Can I start the division again so I have it clear.

**Committee divided on clause:**

*Ayes, 5*

Brideson, Mr	Mikakos, Ms
Hirsh, Ms	Viney, Mr
Lovell, Ms	

*Noes, 1*

Hall, Mr

**Clause agreed to.**

**Clauses 4.3.10 to 5.8.4 agreed to.**

**Clause 5.8.5**

**Hon. P. R. HALL** — The amendment seeks to omit this clause. In part it is conditional on my previous amendments, and because they have been beaten I do not expect there will be any support for this amendment either. But this clause simply says:

The Authority must, on the request of a school attendance officer, provide the officer with any information relating to the registration of students for home schooling that the officer may reasonably require for carrying out the officer's functions and powers under Part 2.1.

Because I am advocating there be no regulatory regime for home-schoolers, there is no need for this particular clause and for such information to be transferred to attendance officers. I therefore move for the omission.

**The CHAIR** — I am going to put the question and in doing so just say that obviously we have a difference of view about the role of registration of home-schoolers. I will be voting to retain the clause.

**Committee divided on clause:**

*Ayes, 3*

Hirsh, Ms	Viney, Mr
Mikakos, Ms	

*Noes, 3*

Brideson, Mr	Lovell, Ms
Hall, Mr	

**The CHAIR** — There being an equality of votes, I exercise my casting vote in favour of the question.

**Clause agreed to.**

**Clauses 5.8.6 to 6.1.3 agreed to; schedules 1 to 8 agreed to.**

**The CHAIR** — That concludes the consideration of the bill.

**Committee adjourned 4.31 p.m.**

