

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1265

2005 HOUSE EDUCATION

HB 1265

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1265**

House Education Committee

☐ Conference Committee

Hearing Date **18 January 05**

Tape Number	Side A	Side B	Meter #
1		x	1500 - end
2 x			0 - 3800
2		x	1,290 - 3000

Committee Clerk Signature



Minutes:

Chairman Kelsch opened the hearing on **HB 1265**. Forty-five minutes will be allowed for each side. The hearing will likely run into the afternoon.

Rep. Sitte introduced the bill. (Testimony attached.)

Dewitt Black, senior counsel of the **Home School Legal Defense Association**, testified in favor of the bill. (Testimony attached.)

Gail Biby, executive secretary, **ND Home School Association**, testified in support of the bill.

(Testimony attached--four pieces: (1) testimony, (2) Research shows, (3) **NHERI** fact sheet, (4) **Summary of Home School Laws in the Fifty States**.)

Rep. Hunskor: There is no question that all the parents that are here and the vast majority of parents want what is the very best for their child. Do you have any figures as to where parents

are being negligent in the education of their child, it's certainly possible and that would be a concern.

Biby: Since we have testing required in grades 4, 6, 8, & 10, it would certainly show up by grade 4. If there is monitoring and the child tests below the 50th percentile, the monitoring must continue. If they test below the 30th percentile, then the child has to be tested for disability and then there's a whole new set of regulations that apply, a multidisciplinary team has to be assembled and an IEP must be written, then the parent must implement that IEP or they lose the right to home school the child. No one has to check in with me, so if there are families who are not doing the job that we think they should, I wouldn't have any way of knowing that. Have I encountered parents over the years that I think need additional help? Very rarely, and then I generally offer the additional help.

Dr. Gail Carlson, home schooler, Sheyenne ND, testified in favor of the bill. (Testimony attached.)

Aimee Schirodo, home schooler from Fargo, testified in favor of the bill. (Testimony attached.)

Rep. Hawken: Did you at any time visit with the school district about the fact this monitor was not being effective?

Schirodo: No, I did not. She didn't have anything to offer me. I think there are so many other resources available for home schoolers that I didn't think that a monitor could offer us.

Karissa Hochstetler, from Arthur ND, testified on behalf of several people who could not be there in favor of HB 1265. She read a letter from a family that was home schooling their older children and then had a daughter that had Down's Syndrome. That parent felt she was uniquely

able to care and educate her own daughter in the manner best for her. She asked for the flexibility to do so.

And from another family who had a borderline retarded daughter. The daughter tested higher than doctors thought she was capable. Doctors gave her credit for the one-on-one tutoring that she received for so many years in home school household. When her disability is identified she will be placed in a school. They owned property and planned to retire in ND, but based on the outcome of today, may move to Minnesota.

From the Devil's Lake region: Because of our laws regarding home schooling are restrictive they were unable to attract a new business to the area.

The last letter: Our daughter is 8, has Down's Syndrome and we feel strongly that we are the ones who know best how to meet all her needs. She's thriving and learning and we understand her limits and abilities. We've educated ourselves on how children with Down's Syndrome learn. In consideration of the ND home schooling laws, we decided to relocate to Moorhead as we concerned about putting our home schooling freedoms in jeopardy for our daughter with special needs. They would be much in favor of living in ND provided the laws were changed.

Cam Leedahl home educator since 1989, testified in favor of the bill. (Testimony attached and includes a letter from Pat Sojka, Moorhead MN)

Chairman Kelsch: You remember when we passed the amendment regarding autism. That was extremely difficult to get through, but it seems to be pretty effective. Have there been other parents who have utilized that?.

Leedahl: I don't know, that's not tracked.

Chairman Kelsch: Do we know how many parents of children with developmentally disabled children want to home school their children.

Leedahl: We have no idea, but I do know of some who have specifically gotten around and figured out how they could home school without being targeted.

Chairman Kelsch: When you say a child is no longer enrolled in the school district you say the monies don't have to go to the school district for a home schooled child. Does this mean that you are also giving up the extracurricular activities that home schooled children have access to.

Leedahl: No, nothing would change, the children would still be allowed to participate in the public schools.

Rep. Mueller: How many home schoolers would be affected, how many don't qualify?

Leedahl: As far as I know there have been no numbers gathered. I have a general idea of how many are in our support group--about 20 are being monitored. We have no way of tracking across the state.

Barbara Miller, home educator, did not have time to testify verbally but submitted **attached testimony.**

Anita Decker, director of School Approval and Accreditation, DPI, testified in opposition to HB 1265. **(Testimony attached.)**

Rep. Hawken: I asked a previous testifier about a monitor that was not adequate. Is there a method for finding one that is.

Decker: The school district provides the monitor so yes there is.

Rep. Mueller: We talk a lot about NCLB. Are there any NCLB requirements of home schooled students.

Decker: There are none that I am aware of.

Robert Rutten, director of Special Education, DPI, testified in opposition to the bill.

(Testimony attached.)

Rep. Sitte: How many cases are there in ND where someone has hidden a child with disabilities from school district?

Rutten: I don't know the actual number of instances where that is happening. When these laws were put into place, there were concerns about just what you are asking. There is a long history in our country of children being closeted away and not receiving adequate education and that's how we came to have this system of safeguards in place. In one instance when I was conducting a school visitation it was brought to my attention by a local superintendent of an individual who was 45 years old who had never left the farm and never received either home education or public education. Those have happened in our state.

Rep. Sitte: I know of two people who were kept at home and were not put in school because the option at that time was to send their children to Grafton. I find your accusations absolutely preposterous and I find them an insult to the families of this state.

Bev Nielson, ND Association of School Boards, testified in opposition of the bill. Parents can make educational decisions for their children. However, all of our rights are limited by a compelling interest of the state. Clearly the state has a compelling interest in the education of it's youth. We have compulsory attendance laws, teacher licensing requirements, fire and safety codes and so on. ND public and private schools will not be approved by NCLB if only one of their core teachers is not highly qualified. With this in mind and when we look at what HB 1265 does, this is what I see: it removes all monitoring and oversight of education of autistic students

as well as others. It removes home and parent from the definition of home education. It removes all education requirements of the teacher except the high school diploma or GED and it removes monitoring of student process. We are left with a home education that does not require that the education occur at home or by a parent so what we can have in essence, and I believe this is going on, are private schools with multiple students being taught by anyone with a GED gathered in a location that may not meet fire and safety codes. They would not have to meet any approval requirements of the state that private and public schools must meet. This begs the question that if the requirements that we have in statute are not essential, then why do any schools have to meet them in order to be approved.

Rep. Norland: I believe a school has the option to follow federal guidelines and would lose federal money, but would they lose state money.

Nielson: Our licensing laws for approval in ND now coincide with the "highly qualified" so you would not meet school approval.

Rep. Sitte: Are you saying that if you going to home school your children you must be at home for the educational experience?

Nielson: By virtue of the home education requirements, yes. With this bill that's being stricken and they could be at any location with other students and be taught by whomever which in my mind creates a private school.

Rep. Sitte: I really think you're taking a leap here. I think of all of the times we've taken our children on camping trips to 47 states it was a wonderful educational experiences had I been home schooling at time, I would have been entitled to count those educational experiences. Field Trips.

Nielson: I'm talking about groups of children meeting some place and being taught by a separate person and you've created a private school.

Rep. Sitte: Are you familiar with the first amendment, the right to assemble. If a group of parents go to the zoo they have the right to do that. Aren't you over interpreting? Wouldn't people be prosecuted for having an unapproved school? Don't we have laws in place?

Nielson: This deletes that and could create private schools. It's not a first amendment issue.

Doug Johnson, assistant executive director, NDCEL, testified in opposition to the bill.

(Testimony attached.)

Barb Arnold-Tengesdal, Voices of North Dakota's Children, testified in opposition of HB 1265. (Testimony attached.)

Chairman Kelsch closed the hearing on HB 1265.

Chairman Kelsch again opened committee discussion on HB 1265 in the afternoon. She said the home school bill was carefully crafted with help from the home school organization. We've been able to sit down with the homeschoolers and DPI and come up with consensus bill. What bill does is takes all of the consensus and hard work working together for home schools and the state of ND and it throws it all out the window. I'm disappointed that I wasn't contacted and we could have come up with a bill that wasn't quite as earth shattering. There are some good things in this bill but there are things that I absolutely cannot go along with in this bill. Some issues could be looked at and perhaps changed.

Since there were not too many questions I'm lacking a sense of direction of where the committee wants to go with this. I will then set up a subcommittee to come up with some amendments.

Rep. Herbel: I think you said it very well. This legislation has been worked on for years and years and to destroy it overnight is absurd. We worked for years to upgrade the standards of the people who were teaching. We need to look at the big picture and we need to look at those who are not going to benefit from this and we need to protect them. In particular we are talking about those with disabilities. There is a problem there as was stated in some of the testimony. For us to adopt this legislation would be a giant step backwards. I can't support it.

Rep. Solberg: I for one am extremely proud of the fact that our state ND offers high quality free education k-12 to all our children who want to participate in it. Some of these home school kids enter college and they're 4.0, some of them. But this bill really surprised me and as Gil said we have a set of rules that pretty much guaranteed a high quality education to the kids that participate in home schooling and this bill wrecks all those guarantees. I am disappointed to see all the things they have eliminated that were in the bill. I cannot support this bill.

Rep. Hunskor: I like the rest of you have read a multitude of bill that have to do with this situation. My concern would be "certain special needs who may function best at home." That area should be checked into a bit.

Chairman Kelsch: When we worked on the autism amendment we worked very hard to craft it just perfectly. It was crafted to fit one family's need. We sat in a closed room with DPI, the Holly's, Sen. Solberg and myself and tried to craft something that would meet their needs but still meets the requirement of the state to monitor that child to make sure that child didn't fall through the cracks. The biggest reason it passed unanimously was because it was a passionate, emotional debate. We understand there are some circumstances but I will agree with Bob Rutten when he was talking about people with disabilities being neglected by their parents, I know for a

fact because I have been president of HIT Inc. since 1993 and I know for a fact that there are parents that are abusing their disabled children out there. I can cite cases time and time again where there is that abuse. I think there are circumstances when a disabled child is better with their parents, but I'm not willing to give free rein to them. I still think the restrictions we have for the children with autism need to be in place so if the child is not making progress, that child would be put into the appropriate setting. I will never forget the young woman who was kept in a basement and they built a fence so that child was not allowed into the upstairs of that home. That's the kind of parents we sometimes see, those are the kind we need to protect these kids from.

Rep. Meier: In light of the discussion around the table I think it will be appropriate to have a subcommittee look at this bill.

Rep. Norland: When you look at home schooling and we get testimony on it everything comes out like this brochure which is glamorous. If this is the true picture we should let them go and do their thing. However, I had the opportunity to work with home school people when I was an administrator and it isn't always like that. I wish we had some testimony that said that. The home schooling bill also allows people to use it to their advantage. When something comes up that they get upset with, right away they can take their student out and home school. Two things happen when they do that. (1) You as a teacher or administrator just got rid of a problem, do you care, so you don't care how long it takes set up home schooling. The parents aren't prepared to start a home schooling situation. It takes a long time to set up and sometimes they don't and that's when truancy comes in and compounds the problem. It happens a lot. (2) Eventually you get the student back, they've missed two months of school, they're way behind. Sometimes

parents just opt out and go to a different district and start over. There are times when parents use it and not in the best interest of their students.

Chairman Kelsch: I'm curious when we had the debate over section 2 that says the home education must take place by the parent in the home, has there ever been a penalty imposed on a parent or group of parents who have taken their children to the zoo for a field trip? Every session we have home schooled kids in here. Is it such a concern that we're taking it out of the bill? There is nothing in state law that prohibits this.

Rep. Haas: I think that was a feeble excuse to remove that section of the statute. Those kids are eligible, they walk in and take extracurricular activities in public schools, they can take classes, they can be involved in speech, debate, art, etc. To say this is so restrictive they couldn't take a field trip is pretty feeble. A potential for problems is the natural progression is those home schooling doing the same thing put their kids together and you have started a private school. That's the issue and it's critical it stays in the way it is.

Rep Sitte: In other states where they don't have this really restrictive wording, is it a problem? Do we have all sorts of unapproved private schools springing up in the other 49 states that need regulation.

Chairman Kelsch: I have heard from my colleagues across the states is yes, that is true. ND is unique to a lot of the other states because in other states the number of home schooled students is very high. The reason it is is because a lot of parents have lost confidence in the public system and they cannot afford the private system so we see higher concentrations in other states and they have left their laws really ambiguous and part of it is they become a large contingency to deal

Page 11

House Education Committee

Bill/Resolution Number **HB 1265**

Hearing Date **18 Jan 05**

with. They've been a little bit less able to enforce or enact certain types of home schooling laws.

SD is looking at passing some laws this session to look at their home schooling more closely.

Rep. Mueller: A solution would be to change Line 7 "based in a child's home."

Chairman Kelsch: I have a feel. I will put a subcommittee on this when we meet in the morning.

Closed

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1265**

House Education Committee

☐ Conference Committee

Hearing Date **25 January 05**

Tape Number

1

Side A

X

Side B

Meter #

4725 - 5990

Committee Clerk Signature



Minutes:

Chairman Kelsch opened discussion of HB 1265.

Rep. Sitte: This is amendment that the home school association came in with in. It adds similar language to another section of the state law so that it would coherent and consistent throughout.

(Amendment attached.)

Chairman Kelsch: You have heard Rep. Sitte's amendment. Here is another. Basically it restores the bill back to its current law with the exception of allowing a child with disabilities to be able to be home schooled. All other provisions such as the multidisciplinary team, monitoring, and other provisions would stay in effect.

Rep. Hanson: I move the Kelsch amendment.

Rep. Haas: I second.

Rep. Herbel: In essence this leaves all regulations as they are with the exception of the disability part of it?

Chairman Kelsch: That's correct. I visited with our Special Ed director and this was something that I have a big concern about. This was very difficult for me to draft just because I do deal with people with disabilities and they do see children with disabilities falling through the cracks. There are people that are abusing those children. In order to allow this amendment to go through I have to believe there is going to be monitoring. Many times we have bills before us that represent the minority and I think this is one of those cases. If it doesn't work, we have safeguards in place to assure the child will be taken care of.

Rep. Sitte: I do believe that ND is by far overly restrictive. I think economic development is an enormous issue for us and yet we heard how people are not moving to the state because of the monitoring provisions. We have not seen a single case of a case where someone has abused a developmental disabled child. I'm saddened to see the bill gutted this way.

Chairman Kelsch: That's because they are not home schooled now.

The question was called on the amendment (50311.0201)

Yes: 13 No: 1 Absent: 0 The amendment passed.

Chairman Kelsch asked the wishes of the committee.

Rep. Hawken: I move a do pass on the bill as amended.

Rep. Haas: I second.

There being no further discussion a roll call vote was called.

Yes: 14 No: 0 Absent: 0

Representative Hawken volunteered to carry the bill.

VR
1/25/05
102

HOUSE AMENDMENTS TO HOUSE BILL NO. 1265 ED 1-26-05

Page 1, line 1, replace "15.1-20-04, 15.1-23-01," with "15.1-23-13, 15.1-23-14, and 15.1-23-15"

Page 1, line 2, remove "15.1-23-03, 15.1-23-08, and 15.1-23-19"

Page 1, line 3, replace "; and to repeal sections 15.1-23-06, 15.1-23-07, 15.1-23-14, and 15.1-23-15 of the" with "of students with developmental disabilities."

Page 1, remove lines 4 and 5

HOUSE AMENDMENTS TO HB 1265 ED 1-26-05

Page 2, line 3, replace "15.1-20-04" with "15.1-23-13"

Page 2, replace lines 5 through 31 with:

"15.1-23-13. Home education - Disabilities - Services plan.

1. a. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise home education, provided that:
 - a- The child does not have a developmental disability;
 - b- (1) The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
 - c- (2) The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
- b. If the multidisciplinary team determines that the child has a developmental disability, the parent may continue to supervise home education under the provisions of sections 15.1-23-14 and 15.1-23-15.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem upon scoring below the thirtieth percentile on a subsequent standardized achievement test unless the reevaluation is performed pursuant to the child's services plan.

2082
SECTION 3. AMENDMENT. Section 15.1-23-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-14. Children with autism Child with a developmental disability - Home education. Notwithstanding any other law, a A parent may supervise home education for a developmentally disabled child with ~~autism~~ a developmental disability if:

1. The child has been determined to ~~be autistic~~ have a developmental disability by a licensed psychologist;
2. The child's parent is qualified to supervise home education under this chapter; and
3. The child's parent files with the superintendent of the child's school district of residence:
 - a. A notice that the child will receive home education;
 - b. A copy of the child's diagnosis of ~~autism~~ a developmental disability prepared and attested to by a licensed psychologist; and
 - c. A services plan developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the child's parent.

SECTION 4. AMENDMENT. Section 15.1-23-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-15. Children Child with autism a developmental disability - Home education - Progress reports.

1. On or before November first, February first, and May first of each school year, a parent supervising home education for ~~an autistic~~ a child with a developmental disability under section 15.1-23-14 shall file with the superintendent of the child's school district of residence progress reports prepared by the services plan team selected under section 15.1-23-14. If at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction."

Page 3, remove lines 1 through 12

Renumber accordingly

Date: *25 Jan 05*
Roll Call Vote #: *1*

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *1265*

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Amend attached title 50.311.0201*

Motion Made By *Hanson* Seconded By *Haas*

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep. Hanson	✓	
Vice Chairman Johnson	✓		Rep. Hunskor	✓	
Rep. Haas	✓		Rep. Mueller	✓	
Rep. Hawken	✓		Rep. Solberg	✓	
Rep. Herbel	✓				
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte		✓			
Rep. Wall	✓				

Total (Yes) *13* No *1*

Absent *0*

Floor Assignment

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

Date: *25 Jan 05*
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *1265*

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number *50311-0201*

Action Taken *No Pass as amended*

Motion Made By *Hawken* Seconded By *Haas*

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep. Hanson	✓	
Vice Chairman Johnson	✓		Rep. Hunsakor	✓	
Rep. Haas	✓		Rep. Mueller	✓	
Rep. Hawken	✓		Rep. Solberg	✓	
Rep. Herbel	✓				
Rep. Horter	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Wall	✓				

Total (Yes) *14* No *0*

Absent *0*

Floor Assignment *Hawken*

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

REPORT OF STANDING COMMITTEE

HB 1265: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1265 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "15.1-20-04, 15.1-23-01," with "15.1-23-13, 15.1-23-14, and 15.1-23-15"

Page 1, line 2, remove "15.1-23-03, 15.1-23-08, and 15.1-23-19"

Page 1, line 3, replace "; and to repeal sections 15.1-23-06, 15.1-23-07, 15.1-23-14, and 15.1-23-15 of the" with "of students with developmental disabilities."

Page 1, remove lines 4 and 5

Page 2, line 3, replace "15.1-20-04" with "15.1-23-13"

Page 2, replace lines 5 through 31 with:

"15.1-23-13. Home education - Disabilities - Services plan.

1.
 - a. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise home education, provided that:
 - a. The child does not have a developmental disability;
 - b. (1) The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
 - c. (2) The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
 - b. If the multidisciplinary team determines that the child has a developmental disability, the parent may continue to supervise home education under the provisions of sections 15.1-23-14 and 15.1-23-15.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem upon scoring below the thirtieth percentile on a subsequent standardized achievement test unless the reevaluation is performed pursuant to the child's services plan.

SECTION 3. AMENDMENT. Section 15.1-23-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-14. Children with autism Child with a developmental disability - **Home education.** Notwithstanding any other law, a A parent may supervise home education for a developmentally disabled child with ~~autism~~ a developmental disability if:

1. The child has been determined to ~~be autistic~~ have a developmental disability by a licensed psychologist;
2. The child's parent is qualified to supervise home education under this chapter; and
3. The child's parent files with the superintendent of the child's school district of residence:
 - a. A notice that the child will receive home education;
 - b. A copy of the child's diagnosis of ~~autism~~ a developmental disability prepared and attested to by a licensed psychologist; and
 - c. A services plan developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the child's parent.

SECTION 4. AMENDMENT. Section 15.1-23-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-15. Children Child with ~~autism~~ a developmental disability - Home education - Progress reports.

1. On or before November first, February first, and May first of each school year, a parent supervising home education for ~~an autistic~~ a child with a developmental disability under section 15.1-23-14 shall file with the superintendent of the child's school district of residence progress reports prepared by the services plan team selected under section 15.1-23-14. If at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction."

Page 3, remove lines 1 through 12

Renumber accordingly

2005 SENATE EDUCATION

HB 1265

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1265

Senate Education Committee

☐ Conference Committee

Hearing Date 03/01/05

Tape Number

Side A

Side B

Meter #

1 x

2520-4835

Committee Clerk Signature



Minutes: Relating to home education of students with developmental disabilities.

Senator Freborg : Call the meeting to order on **HB 1265**

All members were present.

Representative Sitte : District 35 central Bismarck

See attached : written testimony

Senator Seymour : When we look at this, so far, why haven't we allowed this?

Rep. Sitte : ND has the most restrictive laws concerning home schooling and we were the last state to really allow it. I think we are just behind the times, and we are just catching up and change is slow. I have several suggestions in this bill, but they were gutted out.

Gail Biby : Executive Secretary of ND Home School Association. Distributed information to the committee.

See attached : written testimony

Catherine Holle : Citizen of ND and is home schooling their disabled child and later placed into the public school.

See attached : written testimony

Elizabeth Hanson : Citizen of ND and is home schooling their disabled children at home.

See attached : written testimony

Sophia Preszler : Concerned citizen, said she favors this bill. She said she has been in contact with homestall students on different occasions. I have really fallen in love with these children, as I have baby-sat many of them. It seems so easy to correspond with these children, they have a lot of wisdom and discernment is way above that of the average. I can only say I love home schooling and I love the families of home schooling they are very special and I can only say God Bless them.

Opposition to the bill :

Doug Johnson : NDCEL not really here to testify in opposition to 1265 as it has been amended. I would like to give a cautionary meld from an administrator perspective, there have been time when I as an administrator other of my colleagues where people that have come in to home school children. Their purpose is not to have them in school and not to educate them and I think with this bill the way it has been amended does address that issue so we are more neutral on the bill at this point and time.

Senator Freborg closed the hearing on **HB 1265**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1265

Senate Education Committee

☐ Conference Committee

Hearing Date 03/07/05

Tape Number

3

Side A

x

Side B

Meter #

452-2620

Committee Clerk Signature



Minutes: Relating to home education of students with developmental disabilities.

Senator Freborg : Call the meeting to order on **HB 1265**

Opposition of HB 1265

Additional testimony from someone who wasn't able to be there the day of the hearing.

Bob Rutten : Director of Special Education for the DPI, is in opposition of this bill. Has an alternative to offer some amendments. Option for home education is available for students who have mild disabilities, and students who have autism.

See attached : written testimony

Senator Flakoll : Could you walk through the amendments.

Bob Rutten : Going to page 2 of the engrossed bill, line 12, the proposed amendment here would overstrike privately or, pg. 2 again line 17, after disability insert as defined in subsection 1 of section 25-01.2.01. Please go to pg. 3, and line 13 of engrossed bill, overstrike prior to the semi colon, or coma, after providing written notice to the, pg. 3 overstrike lines 14, 15,

completely. Page 3 line 16 overstrike plan team selected by and compensated by the child's parent, and renumber accordingly.

Senator Flakoll : On pg. 3 line 14, 15, and 16 everything is over struck?

Bob Rutten : No, explained this to the committee again.

Senator Flakoll : If we were to adopt the amendments would you still be opposed to the bill, but just less opposed? Is that where we are at here?

Bob Rutten : We discussed at the department that we could live with this. Our consensus is if this is passed, that this will not any concern about opening home education with this group of more severely developmentally disable children. This is the concern that we are most worried about. This did pass the House with an overwhelming margin, on the other hand, the nonverbal children that they are unable to express their own preference. That is really who I am here for today.

Senator Flakoll : In the context of NCLB, the bill as it is before us, can you compare the bill before us as to if we were to adopt your amendments? Is there really any difference? Are they both OK or are we going off on a tangent. Does the amendment make it better?

Bob Rutten : I think that the amendments would help b/c they would ensure some measure of accountability. We are saying that the people are knowledgeable about the disability have are available across the state through the public schools. If there were to continue to be some sort of oversight or connection to the public school system, then there would be someone knowledgeable about these more severely disabling condition, who could provide counseling to those families, and again the intent of NCLB, is No Child Left Behind including the kids the most severe disabilities in our country. That's why to me this would be moving away from

accountability, at a time when we are seeing on the national level and increase level of accountability does not seem to be in the right direction.

Senator Flakoll : With the added oversight who is responsible to pay for that added oversight. I know you looked at striking out some of the language on pg. 3 line 16 that talks about some of the compensation. Who bares the responsibility for those services?

Bob Rutten : That oversight that is currently in law, their responsibility for that really resides with the local superintendent, the local administrators, who responsible in the families really have also a degree to reporting progress to them. This is already occurring, to a certain extend with children who are now home schooled with disabilities. Also local Special Education administrators have an obligation to do some consultation with private and home educated students or parents of those kids and representatives of private schools.

Senator Flakoll : So you wouldn't anticipate any additional cost to the parent or family who has a child that they are home schooling in this manner?

Bob Rutten : I guess I have a hard time anticipating what that would be, what those additional costs would be. The benefit would be that they would actually be able to still have home education, but through this process could actually access the services of the public school. The family could access the professionals in this area, this is not a cost issue.

Senator Erbele : On pg. 2 of testimony about part way down, it says home education has been made an option for all students with developmental disabilities, then it is appropriate to take out the language of existing law that allows a parent to select and compensate a private services plan team. My question is why and tell me a little bit about what a private services plan means.

Bob Rutten : Under the Federal special education law, the individuals with disabilities education act. There is language in there that describes a services plan and really what that is, a lot of you are aware of what the term I.E.P., individualized education plan. That's the language that is in Federal Law for a student with a disability who gets special education in a public school. They realized they could not use that term in a private school or in ND we want to make sure we are clear on this, home education is equivalent to private education. So it is not legal to use the term I.E.P. in terms of a student with a disability who gets home education. I.E.P. is a legal construct, so now it is called service plan, basically it is equivalent to an I.E.P. but it is in a private or home education setting. The concern that special educators have about this provision of the law is, it seems to me that this is subject to abuse, by basically saying the parents could identify and pay whoever they wanted to be the services plan team for that child. To me that is the potential for conflict of interest, again, the loss of oversight, for kids who may not be able to speak for themselves.

Senator G. Lee : Looking @ the language that you want struck, and maybe you have already answered the question, I don't really have it clear. If a district superintendent, already has responsibility for the education of that child, and knows of the service plan, what difference does it make if we strike this language or not?

Bob Rutten : When we were doing an analysis of what was currently in law again we're seeing more questions arise through this. One of the things that we picked up was when this section of century code was modified a few yrs. ago, and the provisions to allow students with autism to begin receiving home education, there was new language written that provided for that. The way we were reading this was that there are portions of current century code, that apply to students

with mild disabilities that don't apply to the kids with the more severe disability of autism. So we were really concerned if this were now broadened to include many more kids than the relatively low number of kids with autism that oversight is not quite there or should be for even kids with milder disability. The developmental disabilities category is not in a special education terminology and it sounds confusing and I can certainly appreciate what you might wonder what is this all about. Developmental disability is something that is defined in ND century code, it is not one of the disability categories, from IDEA. When we talk about disability categories, autism is considered a low incident disability, what we are talking about here now would be an extension to many more kids than just kids with just autism. Severe cognitive disabilities, severe physical disabilities, very severe emotional disabilities, this is not a group of kids that have a mild speech impairment.

Senator Erbele : Are there a number of students like this with developmental disabilities, that you feel are not being adequately educated then? Or is there a fear that certain parents probably wouldn't do anything then if there wasn't the oversight of the school district?

Bob Rutten : I appreciate this question, part of what is causing anxiety among special educators. I made some comments to the House education committee that were not very well received, and I want to be clear with you b/c I think they were perceived as being inflammatory, I would like to explain to you what the big caution is. We work so closely with the Department of Human Services with so many issues, where there is a disability involved. Disability has its natural tendency to require a broader system of support than just the public school. We work closely with the foster care system, child abuse and neglect, in 2003 there was the data for that yr. in our state indicated that there are approximately 30 to 40 % of the actual number of investigative reports of

abusive neglect involved a child with a disability. These were kids who have mental retardation, kids with severe emotional disturbance, and some kids who have physical or medical disabilities. This is a precipitator of tension or stress in the home, and so part of the concern that we have is that so many of the parents that have come forward to really say home education is the best thing since sliced bread. It is hard to refute that, when it works it is great, when it doesn't work and those kids, that have access to the system of support that is out there. Especially when you are out there trying to raise a kid with severe disabilities, it is like a recipe for additional stress possible abuse and neglect. That is the concern that we really have.

Senator Erbele : With this bill, if we put the amendments there, you would still be able to identify them the quote unquote good parent that could take this child at home with a severe disability and educate them, they would still be able to do that correct? They would just have the oversight of the district.

Bob Rutten : That is how the bill would work with those amendments, that option would be there then for those families for me to have a local principle with the access of a special educator knowledgeable about severe cognitive impairment. Seems to me like pretty minimal oversight, in order to have that home education option for a kid who might not normally have been in this situation.

Senator Freborg : Closed the hearing on **HB 1265**

Senator Flakoll : I think it would be appropriate to give us a little time to digest this, and allow us to get a little additional feed back that might we may need for the amendment. Something along those lines.

2005 SENATE STANDING COMMITTEE MINUTES

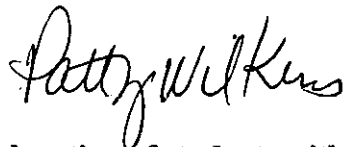
BILL/RESOLUTION NO. HB 1265

Senate Education Committee

☐ Conference Committee

Hearing Date 03/08/05

Tape Number	Side A	Side B	Meter #
2	x		0-690

Committee Clerk Signature 

Minutes: Relating to home education of students with developmental disabilities.

Senator Freborg : Call the meeting to order on **HB 1265**

Senator Erbele : Felt what Bob Rutten was saying about his concerns with private service agencies doing the student evaluation thought, I feel some of those things are addressed on pg.2 on line 11 where the parent files with school districts service plan that develop privately or through the school district and I do think that there is that oversight of the school, with the superintendent of even looking at who they are dealing with in a private situation, I guess I would be comfortable with the bill as it is.

Senator G. Lee : I agree with Senator Erbele that if we strike that privately language it removes that option for those parents who may like to look in that direction, I think leaving that for them is probably a positive thing as well.

Senator Erbele : I would like to make a motion for a Do Pass on HB 1265 as is.

Senator G. Lee second the motion

Discussion:

Senator Seymour : I am not comfortable with the skills some parents have in the special ed. area, as far as being certified in being able to know what to do. I am a little skittish about that.

Senator Taylor : I am probably likely to support this, but has anyone looked into or given a thought of what the cost of special education is there going to be some concern that some schools may encourage for parents to keep those children at home to save those districts some cost. Maybe that is not a realistic concern, but when you look at 30,000.00 dollars or what it does cost to educate some of these students there might be some pressure on parents of these students that maybe are not ready to educate them. I am just wondering about that.

Senator Freborg : I would guess that if it successful the schools would be encouraging these parents to home school these children, if they are doing a good job.

Senator Erbele : I think these children are highly identified already through the human services programs and everything else, so they are being tracked in numerous ways and they are looking or have a lot of other support following these children through human service issues that also tie into education.

Senator Flakoll : I am not sure if I am wired up strongly one way or another with this one. I wonder if we should have put a sunset on this so that we may revisit this again in two yrs.

Senator Freborg : I am also open to a substitute motion.

No further discussion

Hearing None, Clerk took roll: Vote 4 Yea 2 Nay 0 Absent

Senator Freborg said that they can still revisit this in two yrs. and also indicated to Senator Flakoll that a substitute motion would be in order.

Page 3
Senate Education Committee
Bill/Resolution Number HB 1265
Hearing Date 03/08/05

Senator Flakoll indicated that they may have needed to withdraw their motion.

Senator Freborg : Said not necessarily that a substitute motion could have had an amendment tacked onto it.

Senator Flakoll : Not that I will cause any problems on the floor.

Senator Erbele will carry the bill.

Date: 3/8/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1265

Senate SENATE EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Erbe

Seconded By

Lee

Senators
CH- SENATOR FREBORG
V-CH- SENATOR G. LEE
SENATOR ERBELE
SENATOR FLAKOLL

Yes **No**
✓
✓
✓
✓

Senators
SENATOR SEYMOUR
SENATOR TAYLOR

Yes **No**
✓ ✓

Total (Yes)

4

No

2

Absent

Floor Assignment

Erbele

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

REPORT OF STANDING COMMITTEE (410)
March 8, 2005 3:24 p.m.

Module No: SR-42-4442
Carrier: Erbele
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1265, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends
DO PASS (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1265
was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1265

HA 1265
18 Jan 05

House Bill 1265 relating to home education
Testimony of Representative Margaret Sitte,
January 18, 2005

Madame Chairwoman and members of the committee, I am Representative Margaret Sitte, sponsor of House Bill 1265. North Dakota was one of the last states in the Union to allow parents to home school. In the last fourteen years since home education became legal, the home school movement has come a long way. We all know families who have taught their children at home and whose children are not only thriving in college but are also blooming socially. Home educators no longer need to defend themselves about the effectiveness of their education. It's time to look to the future and to some important changes that home schooling families across the state are requesting.

Section 1 of the bill would remove the current limitations from teaching children with developmental disabilities. I have attached a copy of Section 25-01.2-01 defining developmental disabilities. Note that this broad category includes people with mental or physical impairments or those with at least three physical limitations as listed under Subsection *d*. The proposed change to allow parents to educate their children with developmental disabilities is important because the law mandates in Section 25-01.2-02 that "Treatment, services and habilitation for developmentally disabled persons must be provided in the least restrictive appropriate setting." We have all received an email from a Wahpeton family who believes the setting where their Down's syndrome daughter can receive the best treatment, the best services, and the best habilitation is in their own home. A copy of that email is attached.

In Sections 2 and 3, we are eliminating the words "by the child's parent" and "in the child's home." Since many parents and students leave their homes for such activities as physical education, field trips, music lessons, and science, the present wording is overly restrictive. Children in public schools attend concerts, travel to state parks, and go to the zoo to study reptiles and mammals, and these experiences count as educational. Why is the current wording of the law restricting parents from traveling to the zoo with their grandparents?

Section 4 changes the parental qualifications to teach at home. The present law requires a parent to have a North Dakota teaching license, to have a baccalaureate degree, to pass a national teacher exam, or to be monitored. Again, North Dakota's requirements are among the most restrictive of any states. Forty-one states do not require home school parents to meet any teacher qualifications. Of the remaining nine states, only North Dakota requires more than a high school diploma or GED.

Dr. Lawrence Rudner, Director of the ERIC Clearinghouse on Assessment and Evaluation, conducted an independent study of 20,760 home school parents and found no difference in children's educational achievement between parents certified to teach and those not certified. He also noted that 88 percent of home schooling parents have continued their education beyond high school compared to 50 percent for the nation as a whole. In every subject and at every grade level of the Iowa Test of Basic Skills and Tests of Achievement and Proficiency, home school students scored significantly higher than their public and private school

counterparts. Dr. Rudner documented that on average, home school students in grades 1 through 4 perform one grade level higher than public and private school students. By 8th grade the average home school student performs four grade levels above the national average. He also noted that the median amount of money spent on educational materials in 1997 was \$400.

In a University of Durham study published in the journal of Early Childhood Research, Paula Rothermel concluded, "It appeared that a flexible approach to education, and a high level of parental attention and commitment, regardless of their socioeconomic group and level of education, seemed the most important factors in the children's development and progress." You will soon hear from parents who have successfully home schooled without a baccalaureate degree.

Section 5 of the bill also relates to section 7, the repeal of home monitoring provisions. I applaud the teachers who are serving as monitors, for in most cases they are teachers committed to helping parents. In fact, I began working as monitor for the Bismarck Public Schools last fall. For the most part home school parents believe monitors are unnecessary. In the few cases where parents are not providing a sound education, the monitors' recourse is to summarize the problem in twice-annual reports. From others here today, you will hear about the unconstitutionality of the current law and about the impracticality of someone with classroom management skills monitoring parents who often use entirely different approaches.

Section 6 removes the payment to school districts of 50 percent of foundation aid per monitored child. Since monitoring is being eliminated, this payment is unnecessary. The school district will continue to receive proportionate payments for those home-educated students who enroll in public schools part time.

Section 7 repeals several sections of current law that I have provided as attachments to this testimony. Section 15.1-23-06 mandates monitoring; 15.1-23-07 mandates duties of monitors as already discussed. Sections 15.1-23-14, and 15.1-23-15 relate to children with autism. As you are all aware, the number of children diagnosed with autism has increased enormously. Current law allows parents to educate children with autism only if they follow a plan developed by the school district and if they complete progress reports that are filed with the school district and forwarded to the superintendent of public instruction. By removing these sections of state law, we will allow parents of autistic children the freedom that other parents have to determine what educational services are best for their children without mandating excessive interventions.

Children are the most precious gifts ever given to parents, and parents are responsible for their children until they reach the age of 18. These home school parents aren't trying to get out of anything; instead they are giving their children the most important gifts they can provide: they give their time, they share their talents; they instill their virtues. I urge you to give a favorable vote to these proposed changes and to support the families of North Dakota who are teaching their children at home.

CHAPTER 25-01.2 DEVELOPMENTAL DISABILITY

25-01.2-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Developmental disability" means a severe, chronic disability of a person which:
 - a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - b. Is manifested before the person attains age twenty-two;
 - c. Is likely to continue indefinitely;
 - d. Results in substantial functional limitations in three or more of the following areas of major life activity:
 - (1) Self-care;
 - (2) Receptive and expressive language;
 - (3) Learning;
 - (4) Mobility;
 - (5) Self-direction;
 - (6) Capacity for independent living; and
 - (7) Economic sufficiency; and
 - e. Reflects the person's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
2. "Institution or facility" means any school, hospital, residence center, group home, or any other facility operated by any public or private agency, organization, or institution, which provides services to developmentally disabled persons.
3. "Least restrictive appropriate setting" means that setting which allows the developmentally disabled person to develop and realize the person's fullest potential and enhances the person's ability to cope with the person's environment without unnecessarily curtailing fundamental personal liberties.
4. "Service or services for developmentally disabled persons" means services provided by any public or private agency, organization, or institution, directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of a developmentally disabled person.

25-01.2-02. Appropriate treatment, services, and habilitation - Treatment in least restrictive appropriate setting. All persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for those disabilities. Treatment, services, and habilitation for developmentally disabled persons must be provided in the least restrictive appropriate setting.

25-01.2-03. Presumption of incompetence prohibited - Discrimination prohibited - Deprivation of constitutional, civil, or legal rights prohibited. No developmentally disabled

15.1-23-06. Home education - Required monitoring of progress. A parent who has a high school diploma or a general education development certificate may supervise home education but must be monitored in accordance with section 15.1-23-07 for the first two years. If a child receiving home education obtains a basic composite standardized achievement test score below the fiftieth percentile nationally, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the fiftieth percentile. If testing is not required by section 15.1-23-07 during the first two years of monitoring, the period of monitoring may not be extended, except upon the mutual consent of the parent and the monitor. If a parent completes the monitoring requirements of this section for one child, the parent may not be monitored with respect to other children for whom the parent supervises home education.

15.1-23-07. Home education - Required monitoring of progress - Reporting of progress - Compensation.

1. If monitoring is required under section 15.1-23-06, the school district shall assign and compensate an individual to monitor a child receiving home education unless the parent notifies the school district that the parent shall select and compensate an individual to monitor the child.
2. The individual assigned by the school district or selected by the parent under subsection 1 must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. Twice during each school year, the individual shall report the child's progress to the school district superintendent or to the county superintendent if the district does not employ a superintendent.
4. If one child receives home education, the individual shall spend an average of one hour per week in contact with the child and the child's parent. If two or more children receive home education, the individual shall spend one-half hour per month for each additional child receiving home education. If the child attends a public or an approved nonpublic school, the time may be proportionately reduced.

15.1-23-08. Monitoring or test administration. An individual who in accordance with this chapter monitors a child receiving home education or who administers a standardized achievement test to a child receiving home education shall notify the child's school district of residence.

15.1-23-09. Home education - Standardized achievement test. While in grades four, six, eight, and ten, each child receiving home education shall take a standardized achievement test used by the school district in which the child resides or, if requested by the parent, shall take a nationally normed standardized achievement test. The child shall take the test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.

15.1-23-10. Home education - Standardized achievement test - Cost.

1. If a child receiving home education takes the standardized achievement test used by the school district in which the child resides, the school district is responsible for the cost of the test and for the cost of administering the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
2. a. If the child takes a nationally normed standardized achievement test not used by the school district in which the child resides, the child's parent is responsible for the cost of the test.

- b. The cost of administering a test under this subsection is the responsibility of the child's parent if the test is administered by an individual who is selected by the parent. An individual selected by the child's parent to administer a test under this subsection must be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
- c. The cost of administering a test under this subsection is the responsibility of the school district if, at the request of the child's parent, the school district administers the test. The school district shall ensure that the test is administered by an individual who is employed by the district and who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.

15.1-23-11. Home education - Standardized achievement test - Results.

1. A parent supervising home education shall file the results of the child's standardized achievement test with the superintendent of the district in which the child resides or with the county superintendent if the district does not employ a superintendent.
2. If the child's basic composite score on a standardized achievement test is less than the thirtieth percentile nationally, a multidisciplinary assessment team shall assess the child for a potential learning problem under rules adopted by the superintendent of public instruction.
3. If the multidisciplinary assessment team determines that the child is not disabled and the child's parent wishes to continue home education, the parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board, shall prepare a remediation plan to address the child's academic deficiencies and file the plan with the superintendent of the school district or with the county superintendent if the district does not employ a superintendent. The parent is responsible for any costs associated with the development of the remediation plan. If the parent fails to file a remediation plan, the parent is deemed to be in violation of compulsory school attendance provisions and may no longer supervise the home education of the child.

15.1-23-12. Home education - Remediation plan. The superintendent of the school district shall use the remediation plan required by section 15.1-23-11 as the basis for determining reasonable academic progress. The remediation plan must remain in effect until such time as the child achieves on a standardized achievement test a basic composite score at or above the thirtieth percentile or a score, which when compared to the previous year's test score, demonstrates one year of academic progress. At the option of the parent, the test may be one required by section 15.1-23-09 or one administered in a higher grade level. The child's parent, with the advice and consent of an individual who is licensed to teach by the education standards and practices board or who is approved to teach by the education standards and practices board, may amend the remediation plan from time to time in order to accommodate the child's academic needs. If after a remediation plan is no longer in effect the child fails to demonstrate reasonable academic progress on a subsequent test required by this section, a remediation plan must again be developed and implemented.

15.1-23-13. Home education - Disabilities - Services plan.

1. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise home education, provided that:

- a. The child does not have a developmental disability;
 - b. The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
 - c. The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.
2. Annually, the superintendent of the child's school district of residence shall determine reasonable academic progress based on the child's services plan.
 3. If a parent fails to file a services plan as required by this section, the parent is deemed to be in violation of the compulsory school attendance provisions and may no longer supervise the home education of the child.
 4. A child who was once evaluated by a multidisciplinary assessment team need not be reevaluated for a potential learning problem upon scoring below the thirtieth percentile on a subsequent standardized achievement test unless the reevaluation is performed pursuant to the child's services plan.

15.1-23-14. Children with autism - Home education. Notwithstanding any other law, a parent may supervise home education for a developmentally disabled child with autism if:

1. The child has been determined to be autistic by a licensed psychologist;
2. The child's parent is qualified to supervise home education under this chapter; and
3. The child's parent files with the superintendent of the child's school district of residence:
 - a. A notice that the child will receive home education;
 - b. A copy of the child's diagnosis of autism prepared and attested to by a licensed psychologist; and
 - c. A services plan developed and followed by the child's school district of residence and the child's parent; or, after providing written notice to the superintendent of the child's school district of residence, a substitute services plan, developed and followed, according to section 15.1-23-15, by a services plan team selected by and compensated by the child's parent.

15.1-23-15. Children with autism - Home education - Progress reports.

1. On or before November first, February first, and May first of each school year, a parent supervising home education for an autistic child under section 15.1-23-14 shall file with the superintendent of the child's school district of residence progress reports prepared by the services plan team selected under section 15.1-23-14. If at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's school district of residence.
2. The superintendent of the child's school district of residence shall forward copies of all documentation required by this section to the superintendent of public instruction.

15.1-23-16. Home education - Participation in extracurricular activities.

1. A child receiving home education may participate in extracurricular activities either:

From: Karen M. Shervheim
504 7th Street North
Wahpeton, ND 58075

Subject: Support of proposed changes outlined in House Bill No. 1265

Date: Sunday 16 January 2005

Dear Chairperson, Vice-Chairman, Members of the ND House Education Committee and other participants:

I am writing in support of the proposed changes to the North Dakota Century Code as outlined in House Bill No 1265. We are very sorry that we cannot be with you in person today, but wish to share both our story and our thoughts on educating children with special needs at home.

Background:

Originally raised on a grain farm in northwestern Iowa, I attended and graduated from the public schools in Albert City, IA. Upon graduation I spent two years at Bethel College in St. Paul and then transferred to Iowa State University in Ames, IA and received my bachelor's degree in Biology with teaching certification in 1990.

My husband was raised in Des Moines and attended Johnston Public Schools and then went on to study engineering at Iowa State University, receiving his bachelors and masters degrees from that institution in 1988 and 1990 respectively.

We have been residents of Wahpeton, North Dakota since June of 1993 and periodically – prior to having children – I was employed as substitute teacher in the Wahpeton and Breckenridge, MN schools. My husband has been employed at 3M/Imation Corp and is a production operations manager at the site.

In 1996 – we were blessed to have twin sons and another son in 2001 and a daughter in 2004. Needless to say – our home is filled with an abundance of: learning, laughter, Legos, and at times a loudness that (may) drown out a 747 jetliner.

Home schooling for us was something that we had talked about – but actually never seriously considered until 2002. Both my husband and myself were products of public schools and in general had a very good experience – which prepared us well for both our academic pursuits as well as gave us skills that helped us be successful in life. In combination with a good education – both of us are blessed with parents who cared and were highly involved in the development of our character, skills and abilities.

As the time drew closer for us to make a decision about sending our children to public school or teaching them at home, we looked carefully at the pros and cons – and made a decision for us at this time – our best option was to teach them at home. What tipped the scale had little to do with the quality of education – but much more do to with the wonderful opportunity to provide a one-on-one educational program tailored to each of our child's unique abilities.

Daniel and Andrew are our twins. They are presently in the second grade. They have learned to read well and are tackling the progressive readers. They are also involved in Cub Scouts and Wednesday night programs at our church.

Our son Daniel, loves artwork and creative projects. One of the fun highlights of their kindergarten year was a puppet show that Daniel and his brother Andrew put on about the first Thanksgiving. They designed the sets and the helped me write the script. It was truly one of those unique experiences right up his alley.

Andrew has a love of adventure and exploration. One of the field trips that we were able to take last year was a trip to Indiana to visit the fossil beds along the Ohio River. We have wonderful memories as a family of exploring an area that was unfamiliar to us – and seeing it through the eyes of our children. These are treasured memories of learning that we will have forever.

Samuel is soon to be 4, but also sits in during school and absorbs a significant amount of what the twins are learning. One of the focuses in 2004 was space – and it was amazing to see Samuel learn with his brothers about the solar system. I am often reminded that the floor is full of hot lava, just like the surface of the Sun – so step carefully!

In summary – it comes down to answering a basic question – one that all parents hopefully wrestle with on a regular basis – “what is best for my child at this point in their life?” We continue to evaluate on those criteria each year – what is best for our children. As their parents, (and at this age) we feel a strong commitment and obligation to make decisions that will help them to grow in knowledge, character and develop to their fullest potential.

Present Situation:

Shortly after our daughter was born in May of 2004 – we realized that she might be a special needs child. A genetic test confirmed, Anne has Down Syndrome.

For us, as we stated earlier – the ultimate question that has to be answered is, “what is best for my child at this point in their life?” Presently – as we understand the ND Century Code – we do not have the ability to answer that question with the same choices and options for Anne as we do for Daniel, Andrew and Samuel.

For Anne – we have a somewhat different set of circumstances to consider. We recognize that there will be limitations to her ability to learn. We don't yet know what all those are – but as the one who cares for her daily needs and will have watched her grow, develop and learn for the first five years of her life – I am uniquely able to make those judgments and assessments at the appropriate time.

On a side note, it is someone intriguing to me that we are considering this aspect of her formal education in this legislation (eg mandatory public/private schooling for special needs children). Her education begins long before age five or six when she would begin kindergarten. We are already exploring educational programs for children with Down Syndrome which starts them on a pre-reading program of cognitive skill development – as early as 12 months. In addition, some of the things that I am also considering with respect to her education:

- How can I focus on her abilities – not her disabilities?
- Exploring the abundance of additional materials available for those with special needs.
- Discovering what works best for her learning style and temperament
- Networking and sharing with those in a similar situations
- Integrating Anne's learning into the other boys with an opportunity to strengthen our family bonds through learning together.
- The relationship of our other children with her – being able to see her abilities and develop patience, respect and an appreciation of those with special needs

Our Desire

Ultimately – we share with you, a common goal of developing young people to their fullest potential, training leaders, instilling character and creating opportunities for a productive and successful life.

There is not one path that leads there – each child is unique, each situation is unique. As you consider the merits of the legislation in front of you – what I would ask is that you consider flexibility in the options that exist for parents of special needs children.

Please allow those of us that have been blessed with children with special needs – the opportunities to educate them in the manner that is best for each one of them as individuals. We sincerely believe that will create the widest range of options as well as the highest potential for a life of purpose and significance.

Thank you for your time and consideration.

Karen M. Shervheim
Shervheim@wah.midco.net

Sitte, Margaret A.

From: Deb Unruh [dapunruh@earthlink.net]
Sent: Saturday, January 15, 2005 3:09 AM
msitte@state.nd.us
Subject: Re: House Bill 1265

Follow Up Flag: Follow up
Flag Status: Green

Dear Margaret,

I am a homeschooling mother and fellow Republican, and I am writing to urge you to please vote for House Bill 1265. I feel that the current homeschool law is unfair to those of us who graduated from high school and chose to pursue a trade at a technical school, instead of acquiring a bachelor's degree from a university. Although I have had more years of formal education than some of my friends who do have bachelor's degrees, it is still required that I be supervised by a certified teacher, while my friends need not be.

This bill would also bring the homeschool law of North Dakota more in line with other states by removing unnecessary restrictions on parents. There is no evidence to substantiate the validity of the current law. I feel that it is arbitrary. Are you aware that every study conducted thus far on homeschooling has found that the formal education level of teaching parents makes no significant difference in the performance of their children on standardized tests? These students score, on average, 15-30 points higher than their public school counterparts. House Bill 1265 would permit parents with a high school diploma or GED to homeschool their children without being monitored every week by a state-certified teacher.

Furthermore, House Bill 1265 would allow parents to homeschool their developmentally disabled children, as every other state permits. From an educational standpoint, there is little question that the one-on-one attention given to a developmentally disabled child by a parent is more effective than a classroom setting. This has been confirmed in two studies by Steven F. Duvall, P.h. D., a Kansas school psychologist, who found that there are higher rates of time in homeschooling where the student is "academically engaged", and consequently greater academic gains were made by homeschool students who have learning disabilities.

Personally, I am concerned about the time when my daughter, Anna, will start school. We adopted Anna from Russia in 2003, at the age of three. She is delayed in the area of speech because of the quality of care she received in her orphanage. It will take more time and speech therapy for her to catch up to her age level in that area. If she is still considered delayed by the time she reaches the age of seven, will she be denied the right to receive the same home education that her brothers have received because of her "disability"?

Time after time I have heard public school teachers express frustration about parents who do not make an effort to be actively involved with the education of their children. Teachers have also repeatedly expressed regret about the lack of time that they have to give all of their students the one-on-one attention that their students sometimes so desperately need. Please help those of us who are actively involved in our children's education, and have chosen to home educate them. I thank you for your kind attention to this matter, and hope you see the wisdom in voting for House Bill 1265. I would appreciate a response, via email, on how you plan to vote on this issue.

Sincerely,
Deborah Unruh

HB 1265
18 Jan 05

HOME SCHOOL[®] LEGAL DEFENSE ASSOCIATION

Advocates for Family & Freedom

J. MICHAEL SMITH, ESQ.
PRESIDENT (CA, DC, VA)

CHRISTOPHER J. KLICKA, ESQ.
SENIOR COUNSEL (VA)

DEWITT T. BLACK III, ESQ.
SENIOR COUNSEL (AR, SC, DC)

SCOTT W. SOMERVILLE, ESQ.
ATTORNEY (VA)

THOMAS W. WASHBURN, ESQ.
ATTORNEY (IN)

MICHAEL P. FARRIS, ESQ.
CHAIRMAN & GENERAL COUNSEL (DC, WA)

JAMES R. MASON III, ESQ.
LITIGATION COUNSEL (OR)

SCOTT A. WOODRUFF, ESQ.
ATTORNEY (VA, MO)

DARREN A. JONES, ESQ.
ATTORNEY (CA)

TESTIMONY OF DEWITT T. BLACK, III BEFORE THE NORTH DAKOTA HOUSE EDUCATION COMMITTEE REGARDING HOUSE BILL 1265

Madam Chairman, Members of the Committee, Ladies and Gentlemen:

My name is Dee Black. I am Senior Counsel of Home School Legal Defense Association, a non-profit association which has as its primary purpose the protection of the right of parents to educate their children at home. Our office is located in northern Virginia within the Washington, D.C., metropolitan area. Our Association presently has over 80,000 member families in all 50 states and the District of Columbia, with almost 300 member families in North Dakota. It has been my privilege to work with the homeschooling families of North Dakota for the past 14 years.

Thank you for permitting me to testify before this Committee concerning proposed changes in the home education law of North Dakota. I appear before you today to speak in favor of House Bill 1265. This bill would make changes in the law relating to the required location of the home education program, the monitoring of parents by state-certified teachers, and the homeschooling of children with developmental disabilities.

First, regarding the location of the home education program, current law defines home education as a program of education supervised by a child's parent "in the child's home." House Bill 1265 would delete the "in the child's home" language so that the instruction could take place in other locations. For example, a parent may retain the services of another teacher at a location other than the home to instruct the child in a foreign language, a higher math course, or music. This would also give parents the flexibility to involve grandparents in the instruction of their children. This change in the law would broaden the educational options for parents, enabling them to choose the best instructional setting for each subject.

Second, under current law, a parent with a high school diploma or GED may homeschool in North Dakota but only if monitored on a weekly basis by a state-certified teacher for at least the first two years. Unless the parent elects to hire the certified teacher, the local school district must assign and pay a certified teacher to do the monitoring. State law requires the teacher to spend an average of one hour per week in contact with the child and the child's parent. More monitoring time is required if more than one child is being homeschooled. Twice during the school year the certified teacher must report each child's progress to the local superintendent. These evaluations are in addition to standardized testing required of all homeschool students in grades four, six, eight, and ten.

North Dakota is the only state in the nation requiring homeschooling parents to be monitored by state-certified teachers. North Dakota is one of only nine states requiring parents to have at least a high school diploma or GED. The other 41

states, including the surrounding states of Montana, South Dakota, and Minnesota, do not require parents to have a high school diploma or GED.

Being the only state in the nation with a law requiring this monitoring is not necessarily a sufficient reason to change the law. If a law is being effective to maintain a higher level of academic performance, then one could easily argue that the other states should adopt what North Dakota is doing. But this is not the case here.

I am providing the members of this Committee with a copy of the summary of two studies conducted by Dr. Brian D. Ray of the National Home Education Research Institute in 1997 and Dr. Lawrence M. Rudner of the University of Maryland in 1998. They found that homeschooling's one-on-one tutorial method seemed to equalize the influence of parents' educational background on their children's academic performance. Home educated students' test scores remained above the 80th percentile, whether their mothers had a college degree or did not complete high school. Also, there was no statistical difference between the academic performance of homeschooled students in highly regulated states like North Dakota and states with no regulation of homeschooling.

This data supports a change in the law eliminating the requirement that parents even have a high school diploma or GED, but House Bill 1265 would only remove the monitoring requirement for parents with these qualifications. North Dakota would still be in the distinct minority of states requiring parents to have a high school education or its equivalent. Eliminating monitoring would not only

remove an unnecessary requirement but would save the taxpayers of North Dakota the money now being paid to teachers to conduct the monitoring. For each child being monitored by a certified teacher provided by the school district, the school district receives fifty percent of the amount the district would receive if that child were enrolled full-time in the public school.

With the exception of children with autism, North Dakota law prohibits parents from homeschooling children with developmental disabilities. North Dakota is the only state in the nation denying parents the right to homeschool children with developmental disabilities. And North Dakota's law permitting the home instruction of autistic children is very restrictive. The parent must file with the local superintendent a copy of the child's diagnosis of autism by a licensed psychologist, along with a service plan developed by the school district and the parent. Additionally, the parent must file progress reports with the school district three times a year. If at any time the school district's services plan team believes the child is not benefiting from home education, additional evaluations are required.

House Bill 1265 would permit parents to homeschool not only autistic children but other children with developmental disabilities, such as Down's syndrome. These children would be subject to the same provisions of the law as other children with learning disabilities. They would be evaluated by a multidisciplinary assessment team using criteria developed by the Superintendent of Public Instruction, and, if appropriate, a service plan would be developed to meet

their needs. Each year the local superintendent would determine reasonable academic progress based on the child's services plan.

From an educational standpoint, there can be little question that the one-on-one attention given to a developmentally disabled child by a parent is more effective than a classroom setting. This has been confirmed in two studies by Dr. Steven F. Duvall, a Kansas school psychologist who found that there are higher rates of time in homeschooling where the student is "academically engaged" and consequently greater academic gains were made by homeschool students who have learning disabilities.

From a personal standpoint, there is little question that the natural bonds of affection between a parent and child provide the most loving environment for the child. These most vulnerable and needy children should not be forced by the state to be separated from their parents. Being at home in the care of their parents is the safest place they can be. And these parents of developmentally disabled children should be entitled to teach them at home the same as other parents.

There is also a legal reason why North Dakota's law should be changed to permit parents to homeschool their developmentally disabled children. Under the Fourteenth Amendment to the United States Constitution, parents have the fundamental right to direct the education of their children. This is well-settled law. In our opinion, current North Dakota law denies this right to parents of children with developmental disabilities, because these parents are prohibited from choosing home instruction. Parents should have the right under state law to choose the

educational option they consider best for their children. We do not believe current law would survive a constitutional challenge, especially in light of the fact that North Dakota is the only state in the nation denying parents this fundamental right.

On behalf of our member families in North Dakota, we at Home School Legal Defense Association ask you to vote for House Bill 1265.

Thank you.

States Which Do Not Require a Homeschooling Parents to Possess a High School Diploma or GED

1. Alabama
2. Alaska
3. Arizona
4. Arkansas
5. California
6. Colorado
7. Connecticut
8. Delaware
9. Florida
10. Hawaii
11. Idaho
12. Illinois
13. Indiana
14. Iowa
15. Kansas
16. Kentucky
17. Louisiana
18. Maine
19. Maryland
20. Massachusetts
21. Michigan
22. Minnesota
23. Mississippi
24. Missouri
25. Montana
26. Nebraska
27. Nevada
28. New Hampshire
29. New Jersey
30. New York
31. Oklahoma
32. Oregon
33. Rhode Island
34. South Dakota
35. Texas
36. Utah
37. Vermont
38. Virginia
39. Washington
40. Wisconsin
41. Wyoming

**States Which Require Homeschooling Parents to Possess a High School Diploma
or GED**

1. Georgia
2. New Mexico
3. North Carolina
4. Ohio
5. Pennsylvania
6. South Carolina
7. Tennessee
8. West Virginia

States Which Have Additional Requirements for Homeschooling Parents Who Possess a High School Diploma or GED

North Dakota

HB1265
18 Jan 06

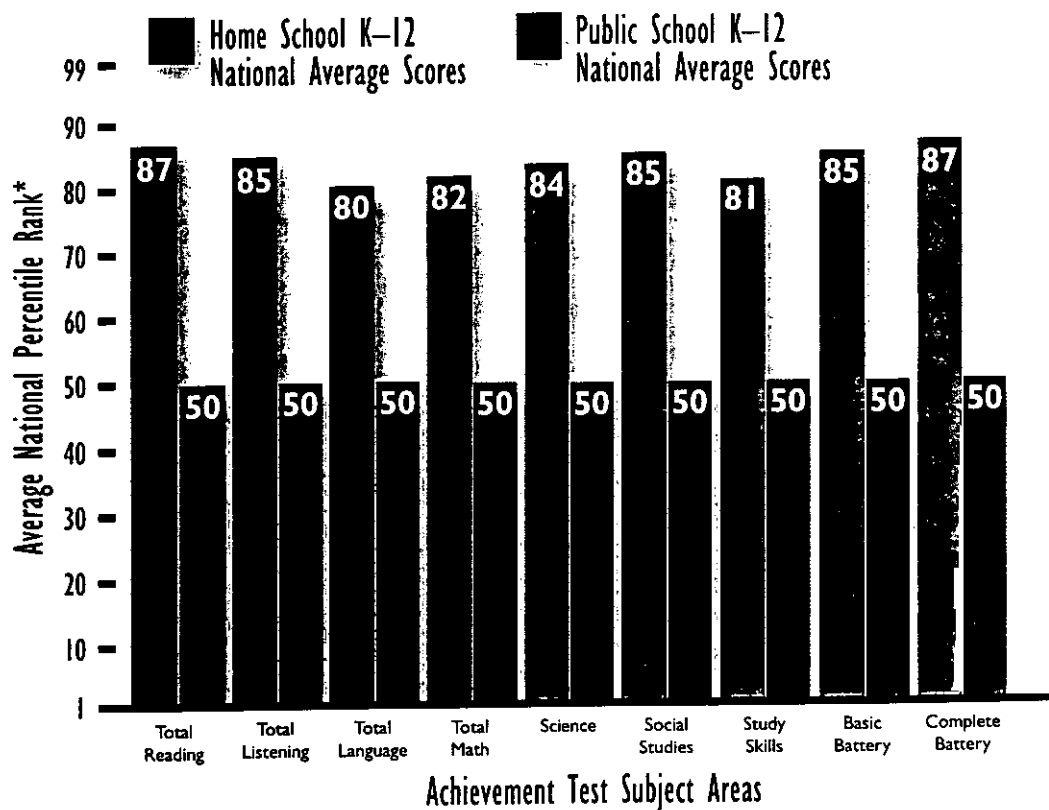
Home Schooling Achievement

Why are so many parents choosing to home school? Because it works.

A 1997 study by Dr. Brian Ray of the National Home Education Research Institute (NHERI) found that home educated students excelled on nationally-normed standardized

achievement exams. On average, home schoolers outperformed their public school peers by 30 to 37 percentile points across all subjects (Figure 1.0).

Figure 1.0 — How Do Home School Students Score?



Footnote: (Ray, 1997) Data collected for standardized academic achievement tests for the 1994-95 academic year.

*For more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the

ends of the scale, see the complete study by Brian D. Ray, *Strengths of Their Own—Home Schoolers Across America: Academic Achievement, Family Characteristics, and Longitudinal Traits*, 1997, Salem, OR: National Education Research Institute, www.nheri.org.

Does Parent Education Level Predict Student Achievement?

for Figures 2.1–2.3: Parents' Highest Education Level Attained

-  Graduated College
-  Some Education after High School
-  Graduated High School
-  Less than High School Education

Footnotes: (Ray, 1997) *For more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale, see Ray 1997.

**Basic battery achievement test scores not available for public school students.

***Public school data are for 8th grade writing scores and 13-year-olds' math scores based on tables from the U.S. Department of Education, Office of Educational Research & Improvement, National Center for Education Statistics (1996, November). *National Assessment of Educational Progress (NAEP) trends in academic progress* [trends report and appendices].

Washington, DC: U.S. Department of Education.
Public school data are for grades K–12.

Figure 2.1 — Home School Achievement — Basic Battery Test

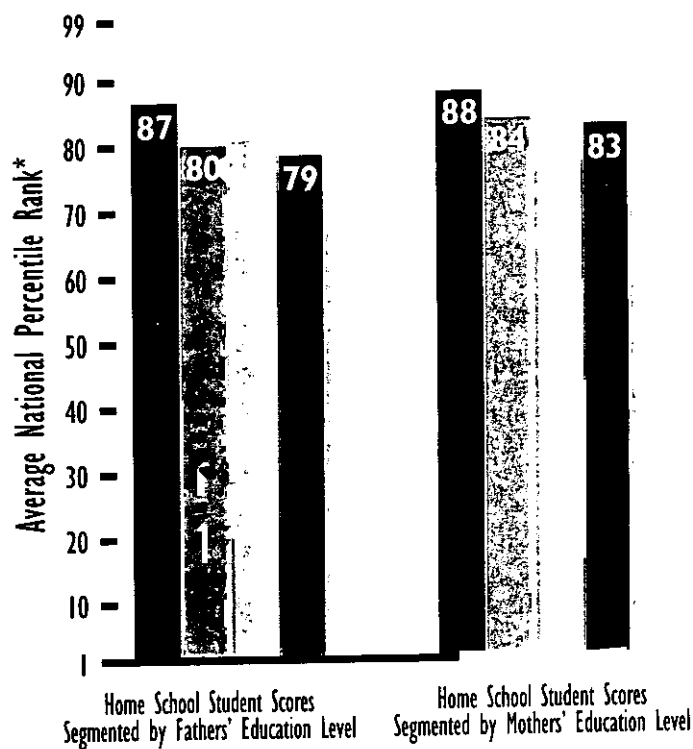


Figure 2.2 — Public School Achievement — Writing Test**

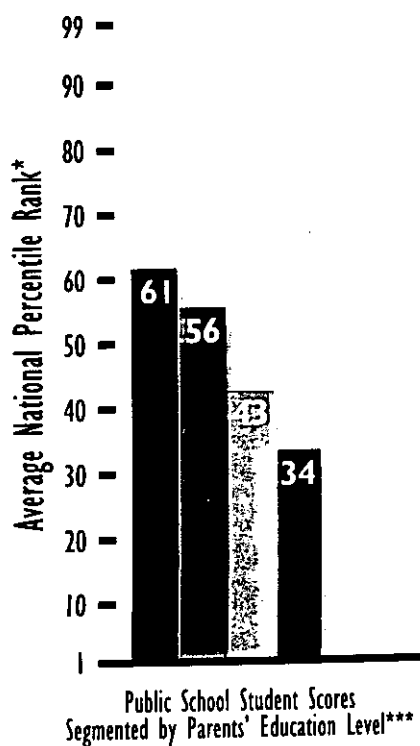


Figure 2.3 — Public School Achievement — Math Test**

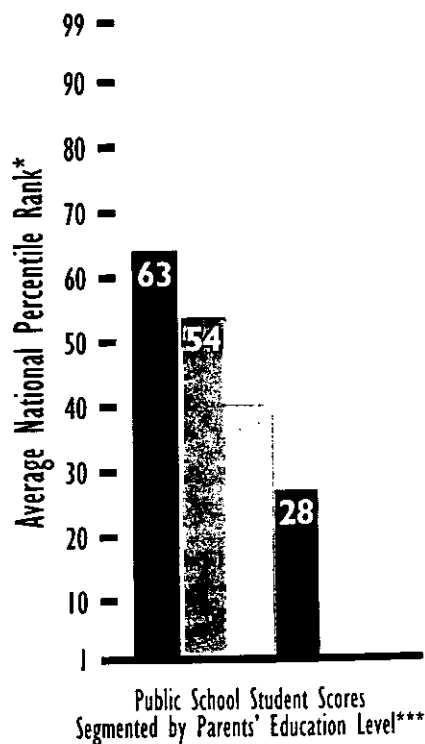
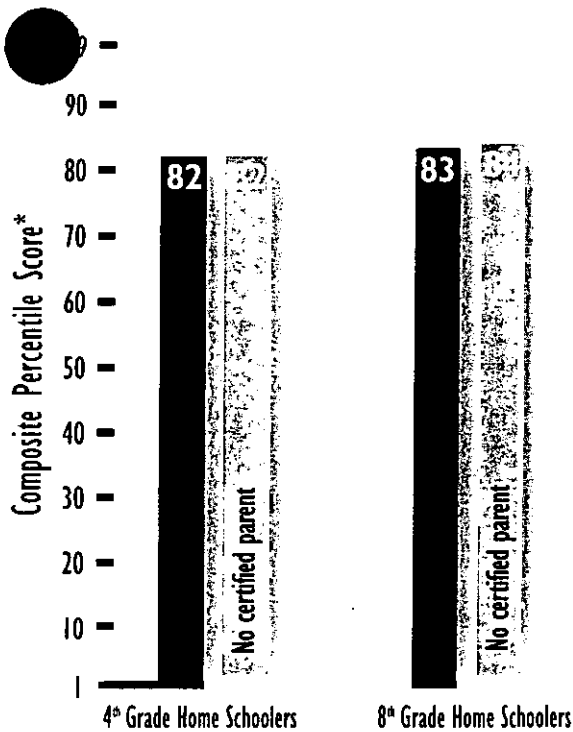
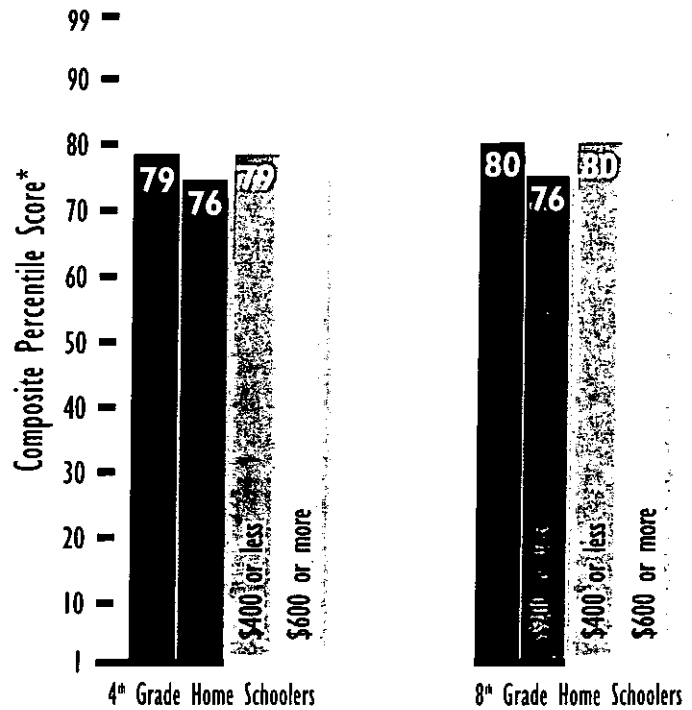


Figure 3.0 — Home School Percentile Rankings Based on Parent Certification



Footnote: (Rudner, 1999) *Composite Percentile Score refers to the percentile corresponding to the mean composite scaled score.

Figure 4.0 — Home School Percentile Scores Based on the Money Spent on Education per Child



Footnote: (Rudner, 1999) *Composite Percentile Score refers to the percentile corresponding to the mean composite scaled score.

Is Government Regulation Necessary for High Achievement?

Key for Figures 5.1 & 5.2



Low Regulation

No state requirement for parents to initiate any contact with the state.



Moderate Regulation

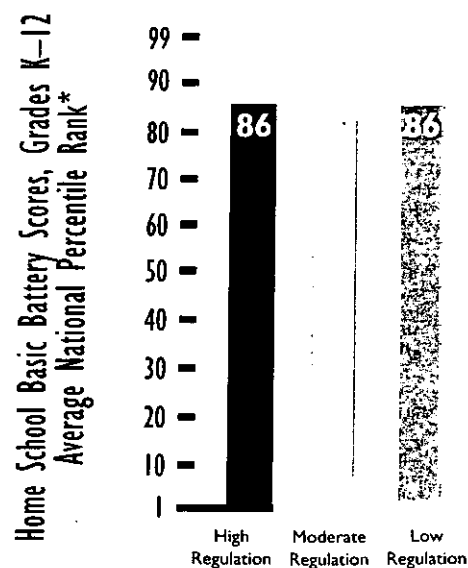
State requires parents to send notification, test scores, and/or professional evaluation of student progress.



High Regulation

State requires parents to send notification or achievement test scores and/or professional evaluation, plus other requirements (e.g. curriculum approval by the state, teacher qualifications of parents, or home visits by state officials).

Figure 5.1 — State Regulation: No Impact on Home School Achievement

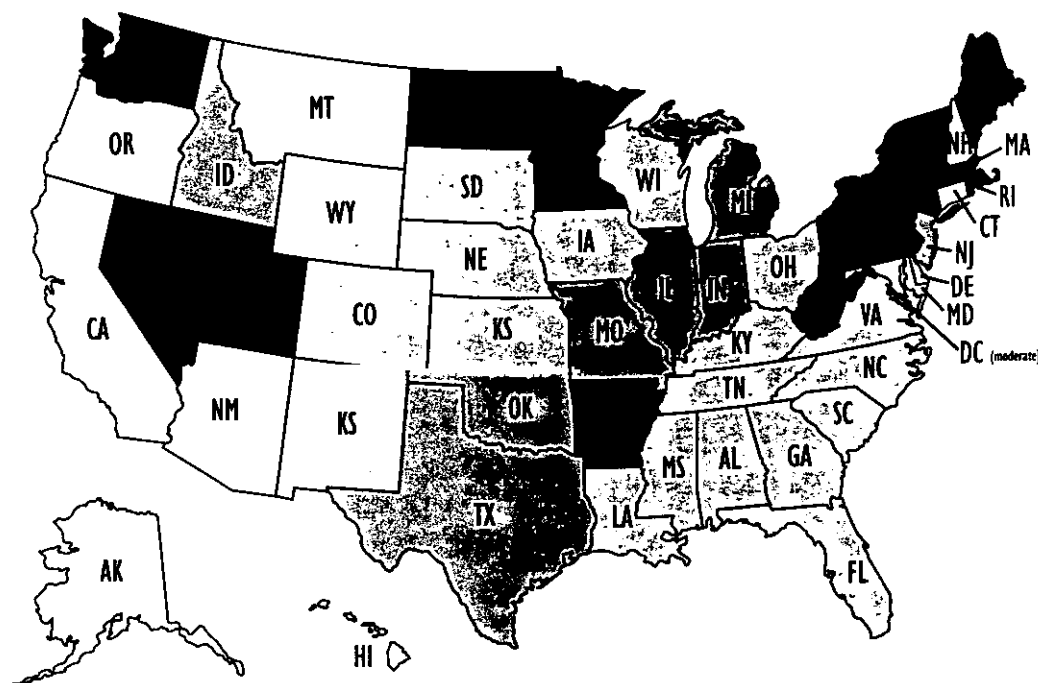


Amount of State Regulation

Footnote: (Ray, 1997) *See study for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

Figure 5.2 — Breakdown of States by Regulatory Policy

(Ray, 1997)



Home schooling's one-on-one tutorial method seemed to equalize the influence of parents' educational background on their children's academic performance. Home educated students' test scores remained between the 80th and 90th percentiles, whether their mothers had a college degree or did not complete high school (Figure 2.1).

In contrast, a parent's education level did appear to affect the performance of children in traditional school settings (Figures 2.2, 2.3). Students taught at home by mothers who never finished high school scored a full 55 percentile points higher than public school students from families of comparable educational backgrounds. Similarly, Dr. Lawrence M. Rudner found no difference in achievement according to whether or not a parent was certified to teach (Figure 3.0). For those who would argue that only certified teachers should be allowed to instruct their children at home, these findings suggest that such a requirement would not meaningfully affect student achievement.

The median amount of money spent in 1997 on educational materials for home school students was \$400. Considering this relatively small expenditure in light of the high scholastic achievement of most home school students, it is reasonable to conclude that it does not require a great deal of money to home school successfully (Figure 4.0).

The degree of governmental regulation had no significant effect on the academic performance of home schoolers (Figure 5.1, 5.2). Whether a state imposed a high degree of regulation, low regula-

tion, or no regulation, home school student test score averages were nearly identical. Such regulations may be legitimately questioned since there is no apparent benefit to student learning.

Traditionally, gender and race have been consistent predictors of student performance. But home schooling is breaking down those barriers. Math and reading scores for minority home school students show no significant difference when compared to white's. A similar comparison for public schools students, however, demonstrates a substantial disparity (Figures 6.0).

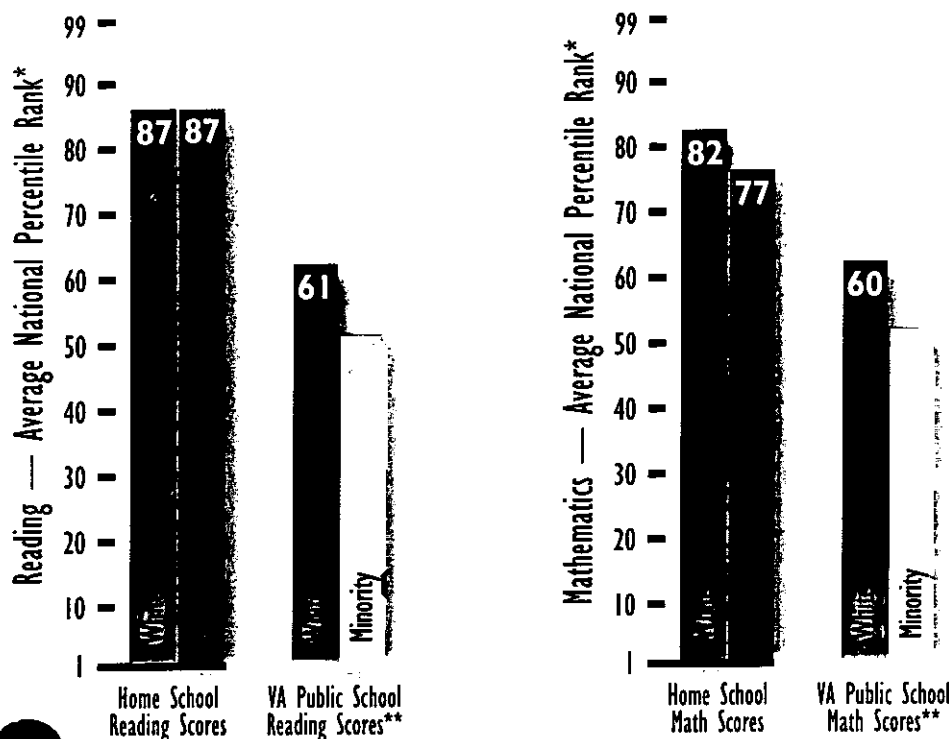
When segmented by gender, test scores for home schoolers reveal that boys are slightly better in math and girls are somewhat better in reading. Public school student performance in math follows a similar pattern, but public school boys' reading scores are markedly behind girls' (Figure 7.0).

The first question the general public asks whenever home schooling is mentioned is, "What about socialization?" Data on home school students' activities and community involvement reveal that, on average, these children are engaged in 5.2 activities outside the home (Figure 8.0).

Home schooling is an effective educational alternative chosen by dedicated and loving parents for their children. Not only is it working, it is working very well!

How Do Minorities Fare in Home Education?

Figure 6.0 — Race Relationship to Reading and Math Test Scores



Footnote: (Ray, 1997) *See study for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

**Public school achievement data are based on 8th grade scores from Table 4 of *The Virginia Assessment Program: Results for the 1995-1996 School Year* (1996, July). Richmond, VA: Virginia Department of Education.

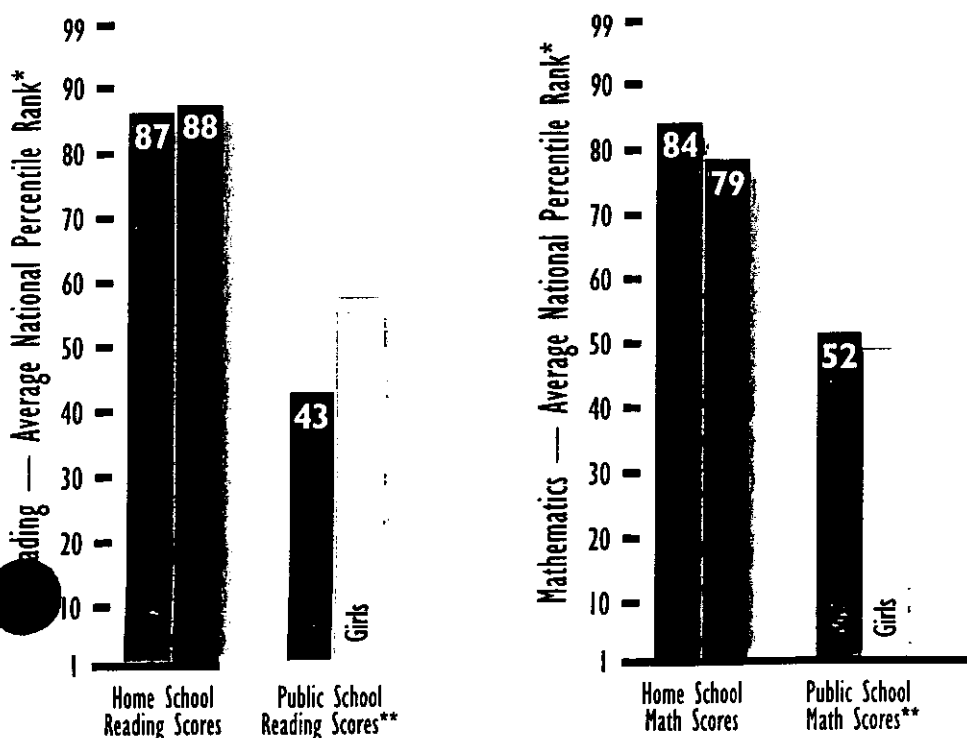
The Virginia minority scores were weighted according to the proportions of minorities in this study of home schoolers to arrive at the numbers in this figure. The minority groups were American Indian/Alaskan Native, Asian/Pacific Islander, black, and Hispanic. Of home school minority students tested in this study about 63% were black or Hispanic.

Public school achievement data are similar for the U.S. in general but the same detail of data was not available for all public schools. See U.S. Department of Education, Office of Educational Research & Improvement, National Center for Education Statistics (1996, November). *National Assessment of Educational Progress (NAEP) trends in academic progress* [trends report and appendices]. Washington, DC: U.S. Department of Education.

Home school data are for grades K-12.

What About the Gender Gap in Academics?

Figure 7.0 — Gender Relationship to Reading and Math Test Scores



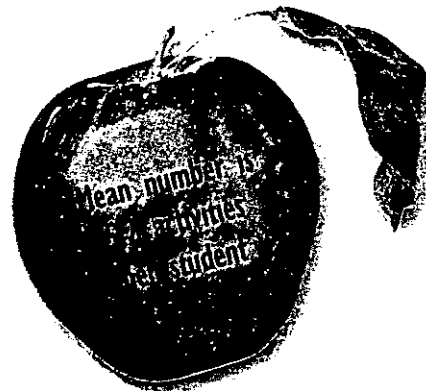
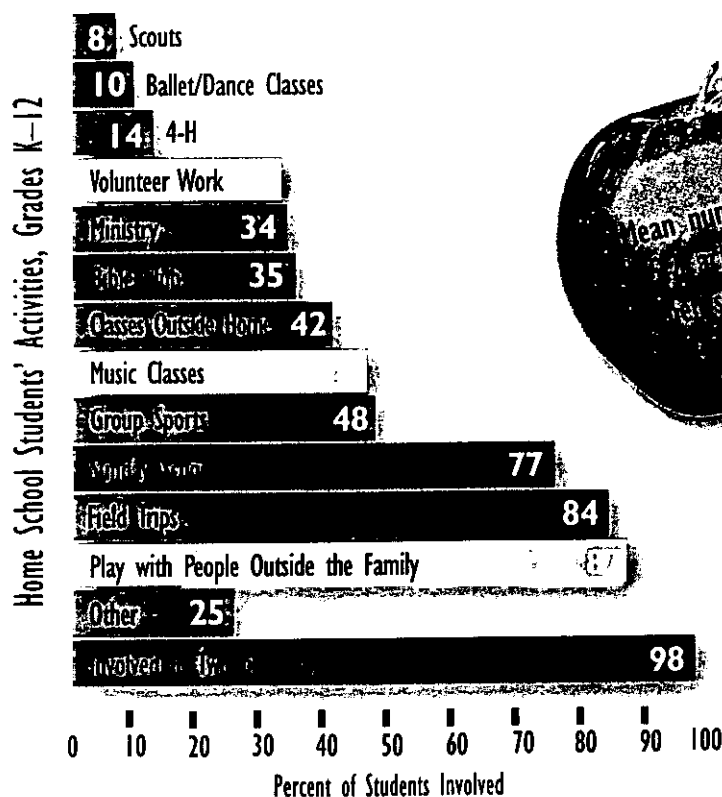
Footnote: (Ray, 1997) *See study for more detail about the non-equal-interval nature of a simple percentile scale which has distortion especially near the ends of the scale.

**Public school achievement data are for 8th grade based on tables from the U.S. Department of Education, Office of Educational Research & Improvement, National Center for Education Statistics (1996, November). *National Assessment of Educational Progress (NAEP) trends in academic progress* [trends report and appendices]. Washington, DC: U.S. Department of Education.

Home school data are for grades K-12.

What about Socialization?

Figure 8.0 — Home Schoolers' Activities and Community Involvement



Footnote: (Ray, 1997) *Participation in two or more of the 12 activities does not include "other activities." See Table 8 in study.

About the Research

Strengths of Their Own—Home Schoolers Across America: Academic Achievement, Family Characteristics, and Longitudinal Traits, Brian D. Ray, 1997 (book).

Dr. Brian D. Ray collected data on 5,402 home school students from 1,657 families for the 1994-95 and 1995-96 academic years. Nearly 6,000 surveys were sent to home school families. Some surveys were mailed directly to families (those randomly selected from numerous mailing lists and longitudinal participants from a 1990 study). Others were blindly forwarded to families through the leadership of independent home school support groups and networks in every state. This was the largest and most comprehensive study on home schooling to that point.

Brian D. Ray, Ph.D., is president of the National Home Education Research Institute. He holds a Ph.D. in science education from Oregon State University, an M.S. in zoology (1979), and has been a professor and classroom teacher. NHERI conducts basic data gathering research; serves as a clearinghouse of information for researchers, home educators, attorneys, legislators, policy makers, and the public at large; and provides speaker services. NHERI also publishes research reports and the unique, academic, refereed journal *Home School Researcher*.

The full study is available from NHERI for \$8.95, plus \$2 shipping.

National Home Education Research Institute
P.O. Box 13939 • Salem, Oregon 97309
phone: 503-364-1490 web: www.nheri.org

The Scholastic Achievement and Demographic Characteristics of Home School Students in 1998, Lawrence M. Rudner, 1999.

Conducted by Dr. Lawrence M. Rudner and commissioned by HSLDA, this study involved seven times as many families as any previous study of its kind: 20,760 students in 11,930 U.S. families.

Unlike any previous study, families chose to participate before they knew their children's test scores, minimizing the possibility of selective reporting. All participants took the same tests: the Iowa Test of Basic Skills for grades K-8 and the Tests of Achievement and Proficiency for grades 9-12, both published by the Riverside Publishing Company.

Lawrence M. Rudner, Ph.D., is with the College of Library and Information Services, University of Maryland in College Park. He has been involved in quantitative analysis for over 30 years, having served as a university professor, a branch chief in the U.S. Department of Education, and a classroom teacher. For the past 14 years, he has been the director of the ERIC Clearinghouse on Assessment and Evaluation. Dr. Rudner holds a Ph.D. in Educational Psychology (1977), an MBA in Finance (1991), and lifetime teaching certificates from two states. His two children attend public school.

For a copy of the full report, see *Education Policy Analysis Archives* at <http://epaa.asu.edu/epaa/v7n8/>

Good morning, Madam Chairwoman and members of the House Education Committee. My name is Gail Biby and I am the Executive Secretary of the North Dakota Home School Association. We have provided services and information to home educating parents in North Dakota for almost 20 years. I have worked with home educators since 1991 and my experience has given me insight into the reasons families home school and the obstacles many have encountered. I network with home school leaders across the country which provides me with insight into how home schooling is working in the United States (*Summary of Home School Laws in the Fifty States* handout) and gives me access to many resources.

HB 1265 will remove some of the obstacles parents encounter. North Dakota remains one of the most highly regulated states in the nation. Parental qualifications, in my opinion, are among those obstacles. Take the national teacher exam option: the test is not specified in law and we are currently using the Pre-Professional Skills Test, which I understand is being used in the licensing process of education majors in our state and at least 38 other states. This assessment is designed to be used for licensing education professionals and was never intended to be used in conjunction with home schooling.

The monitoring provision is another area that has proven difficult for many parents and public school officials. The current law requires monitoring for at least two years. This option has created difficulties for both parties. Some schools are resistant to providing a monitor. It is often difficult for rural schools to find someone willing or available to provide these services. In addition, many parents have been belittled, insulted and generally held in low regard by monitors. Some public school officials and many monitored parents would recommend removal of this provision. One parent who sent an email to the members of this committee stated, "Recently my husband and I have been looking for a new home (we currently live in Moorhead, MN), and one of our main requirements has been that we NOT even LOOK in ND, because we so strongly disagree with the highly restrictive homeschooling requirement that we would need to have a monitor." A side note: even if this woman had homeschooled eight children into college, if she moved to North Dakota, she would still need to be monitored for the first two years.

In regard to the prohibition against home schooling developmentally disabled children, in the past 14 years I have spoken with many families contemplating a move to North Dakota. Invariably if the family has a child with a developmental disability the first question parents ask me is, "What are the laws regarding home schooling?" It saddens me to tell them they will not be allowed to home school that child in this state. Too often I have heard that mom sigh on the other end of the phone and say, "Well, my husband's transfer choice could be Colorado," so they move elsewhere.

I have spoken with parents whose child is not yet compulsory attendance age and when their disabled youngster becomes seven they plan to move to another state. Sometimes it's as close as Moorhead or Breckenridge. These are not parents looking to pull the wool over anyone's eyes, they are not trying to keep their child from being educated, they are not attempting to circumvent the laws. They are fully committed to these little ones. They are so committed that they are willing to become a single income family, tough these days. They are willing to forego summer vacations and two cars and recreational vehicles, designer clothes and technical gadgets. They are willing to bear all the expenses including purchasing their own educational resources and curriculum. They are willing to lay down their lives for their children and government should not stand in their way. A fully committed, loving parent provides the impetus for developmentally disabled children to succeed to the highest level of their abilities. One parent has stated, "As parents of a disabled child, we have made his education our commitment." Another stated in an email to this committee, "From an educational standpoint, there is little question that the one-on-one attention given to a developmentally disabled child by a parent is more effective than a classroom setting." Studies have confirmed this (Dr. Brian Ray, *NHERI* handout).

The North Dakota Home School Association publishes a beginner's packet filled with information. We also publish the *ND Guide to Home School High School*. It contains information on: college preparation, general ideas on getting started, course requirements, credits, study skills, record keeping, AP and CLEP, PSAT and SAT, diplomas, scholarships, apprenticeship, the military, independent study programs, athletic scholarships and much more. We publish a quarterly mailing to support group leaders in more than 30 local support groups associated with the NDHSA representing between 700 and 900 families. We also host an annual support group leaders' retreat to provide an opportunity for further training and enrichment and to encourage networking amongst groups from around ND. We host an annual convention featuring nationally-known keynote speakers, more than 30 workshops on various aspects of home education and parenting, an art exhibition, a juried writing contest, a large used-book sale, and a vendor hall featuring about 75 booths. This

event continues to expand. In 1991 175 to 200 people attended; we now have more than a thousand.

There are now national magazines written just for home schooling parents. And they are professional, informative and sometimes exhaustive in their resources. There are websites which provide everything conceivable: math worksheets, science experiments, astronomy guides, writing materials, lessons on American history and World history, information on famous inventors, women, politicians, astronauts...you name it! In addition there are suppliers for educational materials and curriculum that run the gambit from the unschooling approach to the traditional textbook/workbook/teacher's manual approach. There seems to be no end to new products. There are many groups to network with across the country.

All this is to say...we are not without myriad resources. For the parents who have committed themselves to educate their youngsters, whether disabled or not, there are many aids available. The easy choice is to turn the child over to others to educate. The hard choice is to do it yourself. We have 20 years of home school experience behind us. Home schooling has proven to be a method of instructional delivery that is at least as effective and often superior both academically and socially. And research shows (*Research shows* handout) it has nothing whatsoever to do with how regulated a state is or what level of education the parent possesses. ND remains one of the most highly regulated states in the nation when it comes to home education statutes. It is time for North Dakota to remove the restrictions that hinder committed parents from fully directing their children's education.

I urge you to support HB 1265 as currently written.

Gail Biby, executive secretary
North Dakota Home School Association
PO Box 7400
Bismarck, ND 58507
701.223.4080
ndhsa@riverjordan.com

Research shows

Homeschooling Grows Up

The latest research conducted by Dr. Brian Ray of the National Home Education Research Institute surveyed more than 7,300 adults who were home schooled.

Some of the results:

- Over 74% of those ages 18-24 have taken college level courses (46% in the general U.S. population).
- 71% participate in an ongoing community service activity (37% in the general U.S. population).
- 76% of home school graduates between ages 18-24 voted within the last five years (29% in the relevant U.S. population).
- 95% are glad they were homeschooled.
- 99 % of those surveyed use the Internet (compared to 37% in the general U.S. population).

Clearly these graduated home schoolers have not fallen off the radar screen. They are actively involved in political, community and social life.

Home Schooling Works...pass it on!

Dr. Lawrence Rudner, Director of the ERIC Clearinghouse on Assessment and Evaluation, conducted research in 1999 on achievement test scores (ITBS and TAP) of 20,760 home schooled children. Dr. Rudner was an impartial third party whose own children are enrolled in public school. This avoids the criticism of pro-home school bias leveled against some previous studies.

Some of the results:

- In every subject and at every grade level home school students scored significantly higher than their public and private school peers.
- On average, home school students in grades 1-4 perform one grade level higher than their public and private school counterparts.
- By 8th grade the average home school student performs four grade levels above the national average.
- No difference was found according to whether or not a parent was certified to teach.
- The median amount of money spent in 1997 on educational materials for home school students was \$400.
- This study found no valid correlation between teacher certification and student achievement.

Home Schooling on the Threshold

In 1999 the National Home Education Research Institute compiled an overview of the current research available on home education.

Some of the results:

- The home school population is about 24% of the size of private school population. If this trend continues at a modest 7% annual growth rate, about 3 million students will be home schooled during the fall of 2010. (U.S. Department of Education, 1998; Lines, 1998, Ray, 1998b)
- The learning program is generally flexible and highly individualized.
- The median amount that families spend per child per year is about \$450.



Search

January 15,
2005**Main Menu**

- [Home](#)
- [About NHERI](#)
- [Calendar of Events](#)
- [Contact NHERI](#)
- [Content](#)
- [Feedback](#)
- [Online Store](#)
- [Recommend Us](#)
- [Research](#)
- [Search](#)
- [Web Links](#)

Online Store

Please make sure you visit our [online store](#) before leaving.

Newest DVD/Video

Home-Based Education:
The Informed Choice

Quick Links

The following links will quickly lead the inquisitive to many key aspects of home schooling, not just research.

- Home School Legal Defense Association
- Homeschooling Today
- The Teaching Home

[More sites...](#)

Facts on Home Schooling**FACTS ON****HOMESCHOOLING**

Brian D. Ray, Ph.D.*
February 2003

Active and Visible in American Life

- There were an estimated 1,700,000 to 2,100,000 children (grades K-12) home educated during 2002-2003 in the United States. Homeschooling appears to still be the fastest-growing form of education.
- Dr. Patricia Lines said that home education families "... have not turned their backs on the broader social contract as understood at the time of the Founding [of America]. Like the Antifederalists, these homeschoolers are asserting their historic individual rights so that they may form more meaningful bonds with family and community. In doing so, they are not abdicating from the American agreement. To the contrary, they are affirming it."¹
- Home education families are not dependent on public, tax-funded resources - they likely save American taxpayers over \$10 billion per year.²

Academic Achievement

- Dr. Brian Ray, in the most in-depth nationwide study on home education across the United States, collected data on 5,402 students from 1,657 families. Homeschool students' academic achievement, on average, was significantly above that of public-school students. In addition, the home educated did well even if their parents were not certified teachers and if the state did not highly regulate homeschooling.³
- Home educators are able to be flexible and tailor or customize the curriculum to the needs of each child.
- In study after study, the home educated score better, on average, than those in conventional state-run schools (see table).²

....	Reading	Language	Math
Public Schools	50	50	50
Home Education	65-80	65-80	65-80

· For learning disabled students, there are higher rates of academic engaged time in homeschooling and greater academic gains made by the home educated. "... [P]arents, even without special education training, provided powerful instructional environments at home..." (p. 11).⁴

Social Activity and Emotional Development

· Studying actual observed behavior, Dr. Shyers (1992) found the home educated have significantly lower problem behavior scores than do their conventional school agemates.⁵

· Multiple studies show that the home educated have positive self-concepts.²
· Homeschool students are regularly engaged in field trips, scouting, 4-H, and community volunteer work, and their parents (i.e., their main role models) are significantly more civically involved than are public school parents.²

The Home Educated as Adults

· Regarding the critical thinking skills of college students, researchers found no significant differences among high school graduates of private schools, public schools, and homeschooling.⁶

· A study of adults who were home educated found that none were unemployed and none were on welfare, 94% said home education prepared them to be independent persons, 79% said it helped them interact with individuals from different levels of society, and they strongly supported the home education method.⁷

For More Information

Key resources from NHERI www.nheri.org: (1) *Worldwide Guide to Homeschooling: Facts and Stats on the Benefits of Home School* (book, \$9.99), (2) *Home Schooling on the Threshold: A Survey of Research at the Dawn of the New Millennium* (report, \$3.95), and (3) *Home-Based Education: The Informed Choice* (video, \$19.99). Order online www.nheri.org or add 30% shipping in the U.S. The nonprofit 501(c)(3) NHERI accepts contributions.

*** Brian D. Ray, Ph.D., is a researcher, writer, and speaker, a former professor of education and science (at the undergraduate and graduate levels), a former middle school and high school classroom teacher, and is the president of the National Home Education Research Institute. Dr. Ray holds his Ph.D. in science education from Oregon State University.**

**National Home Education Research Institute
PO Box 13939, Salem OR 97309**

(503) 364-1490 fax (503) 364-2827 www.nheri.org

COPYRIGHT © 2003 by Brian D. Ray To order multiple copies of this fact sheet, contact NHERI.

Endnotes:

1. Lines, Patricia M. (1994, February). Homeschooling: Private choices and public obligations. *Home School Researcher*, 10(3), 9-26..
2. Ray, Brian D. (2002). A quick reference worldwide guide to

longitudinal traits. Salem, OR: National Home Education Research Institute.

4. Duvall, Steven F. (1994, August 30). The effects of home education on children with learning disabilities. A paper presented to the Home School Legal

students educated in public schools, Christian schools, and home schools. *Home School Researcher*, 10(4), 1-8.

7. Knowles, J. Gary. (1991). Now we are adults: Attitudes, beliefs, and status of adults who were home-educated as children. Paper presented at the Annual Meeting of the American Educational

homeschooling: Facts and stats on the benefits of home school, 2002? 2003. Nashville, TN: Broadman & Holman, Publ.

3. Ray, Brian D. (1997). Strengths of their own—Home schoolers across America: Academic achievement, family characteristics, and Defense Association.. Research Association, April 5. Shyers, Larry E. 3-7, Chicago IL. (1992). A comparison of social adjustment between home and traditionally schooled students. Home School Researcher, 8 (3), 1-8.

6. Oliveira (de Oliveira), Paulo C. M., Watson, Timothy G., & Sutton, Joe P. (1994). Differences in critical thinking skills among

Copyright © by NHERI All Right Reserved.

Published on: 2003-09-06 (10648 reads)

[[Go Back](#)]

[Content ©](#)

Access Denied

SUMMARY OF HOME SCHOOL LAWS IN THE FIFTY STATES

1. Thirty-seven states have adopted home school statutes or regulations in the following years:

2003: ME
1997: DE, AK
1996: MI
1991: IA
1990: NH, CT
1989: ND, HI, and OH
1988: CO, NY, SC, NC and PA
1987: MD, MN, VT and WV
1986: MO
1985: AR, FL, NM, OR, TN, WA and WY
1984: GA, LA, RI*, and VA
1983: WI and MT
1982: AZ and MS
1957: UT*
1956: NV.

* These two states still give superintendents or school boards the discretionary authority to "approve" home schools.

Note: The rules governing home schooling in Maryland, New York, and Ohio are state board of education regulations rather than statutes. The rules governing home schools in Connecticut are Department of Education "Guidelines." The rest are home school statutes enacted by the state legislatures.

2. In at least fourteen states—AK, AL, CA, IL, IN, KS, KY, MI, NE, LA, OH, PA, TN, and TX—individual home schools may operate as private or church schools. Nine of these states do not have specific home school statutes making the private school law their only realistic option under which to home school. In AK, LA, MI, OH, PA, and TN, home schoolers have the option to operate under the private school law or a home school law.
3. In five other states—CO, FL, ME, VA, and UT—groups of home schoolers, rather than individual home schools, qualify as private or church schools: In these states, home schoolers have the option to operate under either a home school law or the private school law.
4. At present, three states require home schools to be subject to the discretionary "approval" of the local school district, school board or state commissioner: MA, RI, and UT.
5. South Carolina is the only state in which the legislature has specifically exempted home school *associations* from compulsory attendance. In South Carolina, any home schooler enrolled in an association of 50 or more home schoolers does not have to meet the home school law approval requirements.
6. Oklahoma, Idaho, New Jersey, and South Dakota are the only states that do not fit into the category of a home school state, private school law state, or approval state. Oklahoma is the only state with a

constitutional amendment that specifically guarantees the right to home school ("other means of education"). In Idaho, home schools simply must be "otherwise comparably instructed." No approval is involved. In New Jersey, home schools are considered under the category "elsewhere than at school." In South Dakota, they are "alternative instruction programs" along with private schools. They must annually notify and test.

7. Forty-one states do not require home school parents to meet any specific teacher qualifications. The eight states which require only a high school diploma or a GED are: GA, NC, NM, OH, PA, SC, TN, and WV. (In TN, there is no qualification requirement for grades K-8 if home school is associated with a church-related school). The remaining state has the following qualification requirements: ND requires only a high school diploma or GED, provided that the parent is monitored by a certified teacher for two years.

(Three states—CA, KS, and NY—require home school teachers to be "competent," "qualified," or "capable of teaching." In California, Kansas, and New York, less than a GED is recognized as competent. New York parents who comply with the home instruction regulation are deemed "competent.")

8. Twenty-four states require standardized testing or evaluation if the family is operating under the home school law:
 - a. The following eleven states require standardized testing only: AR (testing only in grades 5, 7, and 10—no other method of evaluation); GA (requires annual progress report by instructor and testing every three years); HI (grades 3, 5, 8, and 10); MN and NC (annual testing); ND (testing only in grades 4, 6, 8, and 10—no other method of evaluation); OR (grades 3, 5, 8, and 10); PA (grades 3, 5, and 8); SD (grades 2, 4, 8, and 11); TN (5, 7, and 9); and NY (grades 9-12). (Note: MN and GA do not require submission of results to the public school.)
 - b. Thirteen of the 24 states provide an alternative to testing: CO, FL, IA, LA, ME, MA, NH, NY, OH, VT, VA, WA, and WV. (CO, NH, and WA do not require submission of test results or evaluation to the public school.)
9. Eight states—VA, MD, VT, NE, AL, AK, PA, TN—allow home schoolers to obtain some type of religious exemption from compulsory attendance laws:
 - a. Virginia: "A school board ... shall excuse from attendance at school any pupil who, together with his parents, by reason of *bona fide religious training or belief*, is conscientiously opposed to attendance at school." § 22.1-257 (B)(2). No other requirements apply.
 - b. Maryland: [P]arents may home school if at least fifteen days before the beginning of a home instruction program, the parent signs a notice of intent form indicating that the child's "instruction is offered through correspondence courses and is under the supervision of a school or institution offering an educational program operated by a *bona-fide church organization*."
 - c. Vermont: "After the filing of the enrollment notice or at a hearing, if the home study program is unable to comply with any specific requirements *due to deep religious conviction* shared by an organized group, the Commissioner may waive such requirements if he or she determines that the educational purposes of this section are being or will be substantially met." Title 16 § 166b(j).

- d. Nebraska: A home school is considered a private, denominational, or parochial school and therefore must declare in writing that "requirements for approval and accreditation ... *violate sincerely held religious beliefs* of the parents or guardians."
 - e. Alabama: Home schools qualify as church "schools ... operated as a *ministry of a local church*, group of churches, denomination, and/or association of churches on a nonprofit basis which do not receive any state or federal funding." Ala. Code § 16-28-1(2) (emphasis added). "Every child *attending* a church school is exempt from the requirements of this [compulsory attendance] section provided the child complies with the procedure in § 16-28-7 [parent or guardian reporting attendance in church school]." Ala. Code § 16-28-3 (emphasis added).
 - f. Alaska: A home school may qualify as a "religious or other private school" as long as it meets the following definition: The definition of a religious school is a "private school *operated by a church or other religious organization* that does not receive direct state or federal funding." Alaska Stat. § 14.45.200(2).
 - g. Tennessee: "Home schools who teach grades K-12, whose parents are associated with an organization that *conducts church related schools* as defined by § 49-50-801 ... shall be exempt" from all home school requirements.
 - h. Pennsylvania: Parents may teach their children at home if the home is an extension or satellite of a religious day school. Since the law simply states a child must be "enrolled," parents may "enroll" their child in a religious day school, but teach them at home. According to § 13-1327(a), such a day school must do the following: "A child enrolled in a day school which is *operated by a bona fide church or other religious body*, and the parent, guardian or other person having control or charge of any such child or children of compulsory school age shall be deemed to have met the requirements of this section..."
10. Six states—CT, IN, KS, ME, NJ, and NV—require instruction or amount of time to be "equivalent" to public schools: In Indiana, although the "equivalent curriculum" requirement is still in place, the legislature rendered it inapplicable to home schools by enacting Indiana Code § 20-8.1-3-17.3, which exempts private schools from all curriculum requirements. The term "equivalent" was struck down by courts as void for vagueness in MN and MO. Three states—MD, DE, and RI—require instruction to be "regular and thorough." One state—ID—requires instruction to be "comparable" to public schools.
11. Higher courts in six states have ruled that their states' compulsory attendance statutes were unconstitutional because they were too vague:
- a. Georgia: the case *Roemhild v. State*, 308 S.E.2d 154 (Ga. 1982) resulted in Georgia's legislature passing a favorable home school law.
 - b. Wisconsin: the case *State v. Popanz*, 332 N.W.2d 750 (Wis. 1983) also resulted in the passage of a favorable home school law.
 - c. Minnesota: the case *State v. Newstrom*, 371 N.W.2d 525 (Minn. 1985) declared the law void because it was too vague. This resulted in the passage of a favorable home school law.

- d. Missouri: the case *Ellis v. O'Hara*, 612 F. Supp. 379 (E.D. Mo. 1985) declared the law void because it was too vague. This resulted in the passage of a favorable home school law. After the home school law was passed, the *Ellis* case was reversed as moot. 802 F.2d 462 (8th Cir. 1986).
- e. Iowa: Fellowship *Baptist Church v. Benton*, 815 F.2d 485 (8th Cir. 1987) upheld the certification requirements against private schools and remanded to a district court the issue of the vagueness of the equivalent instruction requirements. The district court ruled new administrative regulations cured the vagueness of the statute. 678 F. Supp. 213 (S.D. Iowa 1988).
- f. Pennsylvania: the case *Jeffery v. O'Donnell*, 702 F. Supp. 516 (M.D. PA 1988) ruled that compulsory attendance was unconstitutionally vague as applied to home schools. This resulted in the passage of a favorable home school law.

12. Three states have passed Parental Rights Acts protecting the right of parents to train their children:

a. Michigan

"It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children." M.C.L.A. § 380.10.

b. Kansas

"Parents shall retain the fundamental right to exercise primary control over the care and upbringing of their children in their charge. Any parent may maintain a cause of action in a federal or state court, or before an administrative tribunal of appropriate jurisdiction for claims arising under 42 U.S.C. 1983 and any damages resulting therefrom or arising under the principles established in subsection (b). Upon the finding by the court of a substantial basis for claim, the court shall award attorney fees to the parent." K.S.A. § 159 (b)-(d).

c. Texas

"The department [of Protective and Regulatory Services] is the state agency with primary responsibility for ... providing family support and family preservation services which respect the fundamental right of parents to control the education and upbringing of their children." Tex. Hum. Res. Code § 40.002 (b)(2).

"A state agency may not adopt rules or policies or take any other action that violates the fundamental right and duty of a parent to direct the upbringing of the parent's child." Tex. Fam. Code § 151.005.

13. Thirteen states have passed Religious Freedom Restoration Acts (RFRA) which protect religious home schoolers' rights to train and home school their children:

Alabama: Alabama Constitutional Amendment No. 622

Arizona: A.R.S. § 41-1493 et seq.

Connecticut: Conn. Gen. Stat. § 52-571b

Florida: Fla. Stat. § 761.01 et seq.

Idaho: Idaho Code § 73-401 et seq.

Illinois: 775 ILCS 35/1 et seq.

Missouri: RSMo §§ 1.302 and 1.307.
New Mexico: N.M. Stat. Ann. § 28-22-1
Oklahoma: Oklahoma Statutes, Section 251 of Title 51.
Pennsylvania: 71 P.S. 2401, *et. seq.*
Rhode Island: R.I. Gen. Laws § 42-80.1-1 *et seq.*
South Carolina: S.C. Code Ann. § 1-32-10 *et seq.*
Texas: Tex. Civ. Prac. & Rem. Code § 110.001 *et seq.*

In addition to these 13 states, seven additional states provide a safeguard equivalent to the RFRA through their own state supreme court case law. (KS, MA, MN, OH, VT, WA, WI, and MI.)

If a parent in one of these states is home schooling for religious reasons and comes in conflict with the state, the parent may invoke their state's Religious Freedom Restoration Act as a defense. Typically, in order to override the parents' religious beliefs, these states require the government to prove with "clear and convincing evidence" that its regulation is "*essential*" for children to be educated and that it is the least restrictive means of fulfilling that interest. This act restores the protection of individuals' right to freely exercise their religious beliefs that was taken away by the U.S. Supreme Court in its 1997 *City of Boerne* decision.

HB 1265
18 Jan 05

HOUSE BILL NO. 1265
January 18, 2005

Dr. Gail L. Carlson
3452 73rd Ave. NE
Sheyenne, ND 58374
carlsonranch@gondtc.com
701-996-4505 (home); 701-739-9021 (cell)

Madam Chairman Kelsch and members of the House Education Committee:

As a home educator, I am **in favor** of this bill. Please listen and allow me to explain why I would like to see these changes in the home education law by telling a story about how the current law affected me, one of your constituents.

When we began to plan to home school our two sons, the state legislature had recently changed the home education law to read as it currently does concerning *parental qualifications* found on page 2 of the bill, lines 15-23.

To abide by the letter of the law, I took the *Praxis National Teacher's Examination (NTE)*. Though I have twelve years education at several universities, including two doctorates, I did not have a four-year baccalaureate degree as veterinary medical school requirements were completed without obtaining a Bachelor of Science degree.

Interestingly the results of my NTE showed an above average general knowledge score in

all categories. I am mentioning this not to elevate myself above others, but only to question the need for such a test.

This was not a difficult exam where general knowledge is tested. Many with a high school education have this knowledge and have successfully passed the NTE as well. A high school education or a GED is all parents need to home educate a child from K-12.

Furthermore, any type of teacher's exam is inappropriate for parents wanting to home educate their children. A national teacher's exam is designed to evaluate new teachers who have presumably taken the required education courses and are destined for the public school system.

Research on home education in several states by Dr. Brian D. Ray and others show that there was "no significant relationship between student achievement and the teacher certification status of their parents".

One other point I would like to make in the form of a question is concerning lines 7 and 11 on page 2. Does "in the child's home" exclude home educators from taking field trips to museums, libraries, historic places, etc.?

I support HB 1265 on the removal of the parental qualifications. Thank you for your thoughtful attention.

HF 1265
18 Jan 05

Testimony HB 1265
Aimee Schirado, Fargo

Greetings, Madam Chairwoman and members of the House Education committee, from the Red River Valley. My name is Aimee Schirado and I am a home school mom.

Two years ago at this time my husband and I decided to home school our sons. We knew we would have to be monitored; my husband and I both have two-year degrees and not the required four -year degrees.

To prepare myself for the task of educating my children, I educated myself. I received a home school packet from the North Dakota Home School Association with much helpful information on various educational styles conducive to the tutorial style. In this information I was referred to a book that taught me clearly how to use the Charlotte Mason approach of education. With much relief I found the curriculum I ordered clearly outlined how to teach their information.

Now that we had an educational plan in place, we needed to fulfill the requirements of the law. I filed my Statement of Intent and requested a monitor from the school district. I figured there were two reasons for the monitor: for the benefit of the students and to carry progress information to the school district.

With my self-education I knew I was prepared for my first meeting with my monitor. I was very excited to talk with her of my newfound knowledge regarding education. To my disappointment when I mentioned different styles of education, and how I came across this amazing book about a Victorian educator who created a beautiful, natural, effective educational style, that we were going to use, a blank look came across her face. She had no idea what I was talking about. Upon later reflection I realized this was because she had been trained for the institutional setting, not the tutorial, literary, hands-on approach of my home school.

Later, I was excited to show the list of great books my oldest son was reading by Mark Twain. She was impressed and then went on to say she did not care to read at all and had read no books of consequence in her entire life. I realized from this point that she would have very little to offer my precious students. My first assumption, for the benefit of the child, seemed incorrect.

The second reason I thought monitoring was instituted was to monitor the progress of the child and get that information to the school district.

For us, this was accomplished by my weekly report on the general topics we are covering for the week, what the children were reading, our field trips, any activities they were in and any social events the children would be attending. The monitor would write down what I described to her. Once a semester I gave her grades that she puts onto a form provided by the school district. This spring we will be tested for the first time. She will administer this test.

It seems to me the information she gathered over the last two years will be summed up in our tests. If we had an educational plan in place and we executed that plan, the test will give some idea about our success. The few hours of the test will show more than the hours and hours of monitoring at the taxpayer's expense.

I am not an extraordinary home school parent. I am average. My research and self-education is the norm in home school circles. If I get stuck along the way and am having a problem there are so many books, resources, magazines, web sites, chat rooms, and homeschool support groups, that I will be helped by an experienced home school parent, not a traditional classroom teacher. I want to educate myself so I can better educate my children. My stake in this is greater than any teacher or classroom or school district. For these children are my own, my loves, and my life.

If I thought for one minute the monitor was a benefit I would continue the monitor with or without any law to tell me to do so and at my own expense. But by the very nature of how monitoring is set up there is no way for the monitor to get a complete picture of a home school. I create the lesson plans. I execute those plans. I grade the children. She reports it to the school district. She seems like a cumbersome expensive unnecessary step.

I urge you to support HB 1265 as written.

Testimony in Support of **HB1265**

HB 1265
18 Jan 05

House Education Committee January 18, 2005

Chairman Kelsch and members of the committee:

I am Cam Leedahl, a home educator since 1989.

I want to emphasize that our testimony this morning has not been intended to undermine the training and value of the teaching profession. After all, quite a few homeschool graduates go on to become teachers in a public school system.

Nor has the purpose been to flaunt the achievement test scores of homeschooled children. It has been proven that any child can do well when parents are committed to his success, no matter what kind of school they are in.

We have shown you unmistakable statistics and glowing stories of accomplishments, but because of the barrier of philosophical differences, some may remain unmoved.

So, I ask you to set aside philosophy and just look at the situation logically.

- If homeschooled children in states where there are no parental qualifications do as well on achievement tests as homeschooled children in North Dakota, then what do our state's stringent requirements prove? By the way, I am a registered nurse, but do not have a college degree. The national teacher's exam I took in 1989 did not prepare me to more effectively guide my children's education.
- Those who would oppose these changes might argue that the stringent requirements are there for some assurance that the children will do well. But the students in states that do not have those requirements are achieving as well as ND students. There must be a reason unrelated to the educational level of the parent to explain that phenomena. And if there is another reason, then why have the requirements?

- And if monies for public education are hard to come by, and statistics show that monitoring is actually unnecessary for student achievement, then why spend precious tax money on the unnecessary?
- If the educational level of the parent does not significantly impact the achievement of homeschooled children then would not the present "safeguards" of testing in grades 4, 6, 8, and 10 be satisfactory for all the homeschools, regardless of the parent's education?
- If autistic children can be homeschooled in North Dakota, no matter how profound their affliction, then why not other developmentally disabled children?
- And if developmentally disabled children are thriving in homeschool environments in Minnesota, for example, why would not that same child do well in North Dakota?
- If North Dakota desires to grow its populace, why would it allow needless requirements to turn away homeschooling families who would like to live here?

It is understandable that in the early days, before there were thousands of North Dakota children being successfully homeschooled, that it might be a scary step for the state to start giving educational control to parents who sought it. It can therefore be understandable that at that time there was a desire for much accountability. But it isn't 1989 anymore and the old arguments have been proven to not hold water.

I urge you to support this legislation. Thank you for considering my testimony.

Cam Leedahl
15470 County Road 2
Leonard, ND 5805
701-645-2578
camleedahl@aol.com

Dear ND House Education Committee Members,

We were recently asked to share our story of reasons why we after living and home educating in Fargo, ND for six years relocated just two miles east to Moorhead, MN where we have now resided and continue to home educate our two sons for the past five and one half years. We thank you in advance for taking the time to review our account especially in relation to any changes in the current ND home education law that you may consider during the current legislative session.

Our family moved to Fargo in 1993. Our previous research had shown that we were moving to one of three most restrictive states in the nation at that point for home educating families. We had some concerns about this but we were willing to attempt to continue home educating in ND under the burden of added regulations because we were committed to this form of education for our sons. As our sons' stay-at-home mother I was their primary teacher in those elementary school age years. Home education is most often a joint effort by both parents and my spouse has always been active in our sons' education. Because I was the primary teacher and only had a high school diploma (this remains my current status) we were required to be monitored by a licensed ND teacher on a weekly basis. We functioned within the realm of our weekly monitor's visit for the first two school years that we lived in the Fargo Public School District. During our third year I choose to complete and passed the National Teacher Exam to be able to continue home educating our sons without a monitor in our home.

To be honest, our monitor visits were inconvenient at best and invasive at the worst into our normal school week. I don't express this view in a combative or disrespectful way. On the contrary, it is my strongest desire to give you a fuller understanding of this part of the ND Home Education law and what it looks like in the actual homes of the ND families that you represent and diligently serve in the ND Legislature.

Perhaps the following analogy works better to illustrate my point: Imagine with me that you are involved in a new business that you are establishing and the majority of your employees are your adult children who you are interested in purposefully training to some day manage this business for themselves and their families. You believe that much of the knowledge and life skills you already possess can be crossed over to managing this new business. In addition, your strong personal interest in acquiring the knowledge, skills and mentoring needed to allow you to be productive and proficient in this business so that you can train your adult children puts you in the Highly Committed category. Your additional research has convinced you that the immediate and long term benefits of having your adult children work under you while you are continually learning about the many different facets of this business are obvious but definitely unconventional in comparison to how others in this business venue have been seen as successful for the last century.

Fast forward to the point where your new business is actually up and running. Everyday is a new adventure for both you and your adult children as together you do the hard work of learning so many things that are new to all of you. At the same time there is continual excitement as each new skill or knowledge database acquired is taken ownership of. With the passing of time come routines that work well for optimal production for every member of this new business adventure. Soon it is apparent that each family member excels in given areas and as a smart owner-manager you grant them both freedoms and additional responsibilities in those areas knowing that will be a win-win situation for both the company and them personally as their confidence is built by leaps and bounds. As an added bonus you are reaping strong rewards in the actual measurable outcomes of this business.

One day you get a visit from a couple of gentlemen who are highly regarded in your business industry. They are both curious and skeptical that your unconventional business practices could actually work. They have heard rumors that your small, almost maverick appearing company is flourishing and they have decided to come check it out for themselves. Their presence has you a little

on your guard. Have they come as friend or foe? Are they truly interested in your continued success or simply not wanting someone to look different than the majority of this industry? Really – why did they come? After spending some time with these gentleman and they are preparing to leave, they inform you that they would like to come back for regular visits to observe how your business is progressing.

My question is this: If you were the managing owner of this business how would you feel about the continued visits from these industry analysts? Be honest - take time to think about it. Don't go with the first thing that comes to your mind. Put yourself in these shoes.

I respect the care, concern and large responsibility that each of you as an Education Committee member feels towards ensuring that each child/youth in ND receives the highest quality education possible. I can tell you unabashedly that home educating families are some of the most highly motivated and committed child/youth education people I know. Ask yourself this question: What parent would intentionally want their children to fail or will they do everything they can think of to encourage their future success? The mere nature of home education inherently commands a high degree of accountability because of the powerful, natural love and protection a parent has for their children.

Every other state in our nation has logically come to the conclusion that the long term research is conclusive in showing that measurable outcomes for every level of home educated children, youth and young adults (K through college) are very successful. We are seeing home education producing young adults stepping out into the real world with advanced academic, social and life skills. Do we really believe that ND families are any less capable than families in every other state in the nation? On the contrary, I am personally acquainted with many amazingly resourceful home educating families who reside in ND. Yes, home educating restrictions in ND were in our top two reasons to cross the border into MN. Looking back now we probably would have been less inclined to border hop if we had felt that home educators were a welcome addition to the state of ND economy, lifestyle and education climate.

Today I've asked you take a look at life from a home educating family's point of view. I have also given thought to what my response would be to reviewing the current ND Home Education Law if I were to sit in your shoes. If I could be a legislator who had the knowledge of a fourteen year veteran home educator I would be working hard to find ways to not only create a ND home educating friendly climate, but perhaps in a more visionary step I would explore and consider implementing a program to highly recruit the very capable home educated high school graduates into the state colleges and then develop a retention program to place those college graduates in ND businesses.

This seems like a win-win solution verses the continued friction that has historically marked the relationship between ND legislators, the DPI and home educating families. The question is, "What is truly in the best interest of educating our children?" I strongly encourage the ND House Education Committee members to carefully consider revisiting the current ND Home Education Law with an eye towards creating an extended hand to ND home educating families.

Sharing the part of my heart
still residing in North Dakota,

Mrs. Pat Sojka
Moorhead, MN

1265
18 Jan 05

I am a home educator with a BA in Elementary Education and North Dakota certification. I am thankful for my college education, but I do not feel that it has added to the quality of education my children are receiving. Much of what I was taught in college concerned classroom management and how to analyze and accommodate a student's learning style, strengths and weaknesses with the limited time and contact a teacher has in a room with at least 25 students. This type of study is not necessary for a parent in a home school setting. Having seen every phase of my children's development, I am familiar with their learning style and their habits.

What makes learning a positive and beneficial experience is the student's attitude. Children who know that their parents have set aside other priorities for the sake of their education have a positive attitude toward learning. Furthermore, each student is accountable for learning; they have no hope of escaping the teacher's attention if they have not done their work. Because their relationship with their teacher is loving and permanent, the children can focus on learning instead of the classroom pecking order. And that teacher is readily available when there are questions or problems. These factors have much more influence on the amount of learning which occurs than the necessarily broadly focused and theoretical education classes required for a teaching degree.

In my college classes, I did not become an expert on every subject which I was to teach. Instead, I learned how to use the curriculum scope and sequence. Home educators have a wealth of well-designed teaching materials available which are suitable for every home school situation, ranging from high tech to no tech, with everything in between.

In short, any conscientious parent who is determined to teach his or her child already has the most necessary and effective elements that influence learning, with an attitude and commitment that is not enhanced by any college degree. For this reason, I urge you support HB 1265.

Barbara Jo Miller
409 7th Avenue NW
Mandan, ND
663-1667

HB 1265
18 Jan 05

**TESTIMONY ON HB 1265
HOUSE EDUCATION COMMITTEE
January 18, 2005
by Anita K. Decker, Director
School Approval and Accreditation
328-1718
Department of Public Instruction**

Chairwoman Kelsch and members of the committee:

For the record my name is Anita Decker. I am the director of School Approval and Accreditation for the Department of Public Instruction. I am here to speak in opposition to HB1265 regarding changes in the compulsory attendance and home education statutes of North Dakota.

HB1265 removes the minimal safeguards provided in North Dakota Century Code for home educated students. The state has a constitutional responsibility to provide a system of free and uniform public schools for every child. That is being interpreted in 23 states as a requirement to achieve educational adequacy. In short, that means to decide what every 12th grade graduate needs to know and be able to do and ensure, in fact, that each student achieves those goals. The constitution doesn't indicate that home educated students are left out of that protection.

The current statute provides limited oversight and assistance to parents who do not meet the parental qualifications in the statute. This monitoring is only for two years if students are achieving. The parent is even allowed to choose his or her own monitor if preferred.

The proposed reduction in parental qualification means that the parent may be scarcely better educated than the child they teach. Is that acceptable when the requirements for licensed teachers in our schools has increased dramatically to

comply with demands for accountability? This bill requires only that the parent has completed high school or, even less, a GED.

We concur that bullet No. 3, lines 20 and 21, on page 2 should be amended. It's my understanding that the National Teacher Exam is no longer given. North Dakota requires that new teachers pass the PPST, a basic skills test, and the Praxis.

The deletion on page 2, line 7 removes the requirement that the instruction be provided by the parent in the home. In essence, it is providing permission for groups of children to meet at a common site for instruction—we call that a nonapproved private school. In at least one instance of which I have been made aware by a frustrated school administrator, the building housing this “school” is locked with the children in the basement of a building the fire marshal could not approve—if indeed, he were allowed to visit.

I have not addressed the issues in the proposed legislation relating to students with disabilities. My colleague, Mr. Rutten, is here to respond to those sections.

We have heard many stories supporting home education. What we hear in our offices and from school districts across the state, the experience is not always as positive. If home education is working, we would ask its proponents not to be afraid to share the evidence by the minimal oversight from the district of residence. If it's not working, that message also needs to get out.

Perhaps the question we need to answer is: What's good for children in this bill?

We urge a DO NOT PASS on HB1265, but we would also ask that perhaps before you vote, you go home this weekend and have a private conversation with the school administrators in your legislative district who oversee the current law. Let them share their perspective of what's working and what's not.

AFTER DISPUTED ELECTIONS, UKRAINIANS VOTE AGAIN TODAY-3A

WWW.ARGUSLEADER.COM

Argus Leader

Sunday • Dec. 26, 2004

SIOUX FALLS, SOUTH DAKOTA

\$1.50

TODAY'S
BRIEFING

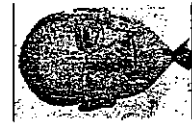
Home-school testing debated

Lawmaker aims to require monitoring, but opponents see little reason for change

BY TERRY WOSTER
twoster@midco.net

PIERRE — A Garrettsen lawmaker wants the state to monitor home-school testing and tell parents of low-achieving students that their children might be required to return to public school for further education.

The measure, offered by Republican Sen. Clarence Koolstra, is sure to spark emotional debate in the next Legislature about the rel-



Clarence
Koolstra

ative balance between state and parental interests in a child's education.

Koolstra and co-sponsor Democratic Rep.-elect Elaine Roberts of Sioux Falls say it's an issue of quality control, a way to ensure that children tested at home meet the same standards and take their tests under the same conditions as those in formal school settings.

"I don't think you can consider valid the scores reported by home-

unnecessary intrusion into a family's choices in educating their child.

"We do have to turn in scores. We can't make them up," said Peggy Schoon, a Brandon mother who has testified on alternative-instruction issues in the past.

"I think what he's suggesting is unnecessary," Schoon said. "I don't think Mr. Koolstra has made

See **LEGISLATION**, page 5A

INSIDE

More parents are choosing to educate their children at home. The trend has grown in the past 10 years as more states legalized the practice. **4A**

HB 1265
18 Jan 05

**TESTIMONY ON HB 1265
HOUSE EDUCATION COMMITTEE**

January 18, 2005

By Robert Rutten, Director of Special Education

328-2277

Department of Public Instruction

Madam Chairman and members of the committee:

My name is Robert Rutten and I am the Director of Special Education for the Department of Public Instruction.

My purpose in testifying on HB 1265 is to ask for your thoughtful use of caution as you consider whether or not to amend the North Dakota Century Code related to the provision of home education to children with developmental disabilities.

The bill as I understand it would repeal the currently required monitoring of progress of children who receive home education, including those children who have the developmental disability of autism. If I understand the true intent of this bill, if passed it would no longer require parents supervising home education for a child with autism to file progress reports with the local superintendent of the child's school district of residence. Under current state law (15.1.23.15), *"if at any time the services plan team agrees that the child is not benefiting from home education, the team shall notify the superintendent of the child's school district of residence and request that the child be evaluated by a multidisciplinary team appointed by the superintendent of the child's district of residence."* It seems to me that this is a minimal safeguard to ensure that children who have autism have some protection if there would ever be a situation when a child with autism was not benefiting from a home education program.

Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance (§300.7 Child with a disability). Considering how profoundly disabling autism can be, and that children with autism may have significant inability to communicate with others about their education, are we as a state truly comfortable no longer requiring anyone to monitor whether a child with autism is benefiting from home education?

As a parent, I have great appreciation for the rights of parents. As a special educator, I have great appreciation for the laws of our state and nation that have given rights to parents, but also to children with disabilities. I am all too familiar with the history of abuse and neglect that children with disabilities have experienced and continue to experience, even in our own state.

I want to draw your attention to a 2001 report from the U.S. Department of Health & Human Services, *"The Risk and Prevention of Maltreatment of Children with Disabilities."* The studies reported in this document showed that children with disabilities are maltreated at a much higher rate than children without disabilities. Some disturbing characteristics of perpetrators of maltreatment became evident in these studies. Regrettably, "most studies of adult perpetrators indicate that the majority of perpetrators are family members; this is true for maltreated children with and without disabilities (Crosse et al., n.d.; Sullivan & Cork, 1996). "Those supporting stress as a risk factor point to the increased demands of caring for children with disabilities, which may involve daily assistance with bathing, dressing, eating, transporting, and providing medical care." (Ammerman, & Baladerian, 1993; Rogow & Hass, 1999; Tomison, 1996). "Finally, children who have difficulty communicating may be at a higher risk for maltreatment because potential perpetrators may believe they can 'get away with it' thinking that the child will not be able to report the behavior." (Ammerman, &

Patz, 1993; Wolcott, 1997). "... (C)hildren with disabilities may be perceived as being relatively 'safe victims.'" (Dr. Frieda Meacham in National Symposium on Abuse and Neglect of Children with Disabilities, 1994).

It's difficult to raise these disturbing issues. Someone must. I believe that the proponents of this bill are well intentioned. However, my job is to be mindful of one of the most vulnerable populations in our state. As our society becomes more aware of past wrongs regarding the maltreatment of children with disabilities, I ask you to use extreme caution before you lessen the very minimal oversight that North Dakota currently has for this group of children.

Testimony on HB 1265

By

Dr. M. Douglas Johnson, Assistant Executive Director—NDCEL

HB 1265
17 Jan 05

Madam Chairman and members of the Committee, my name is Doug Johnson and I am the assistant executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in opposition to HB 1265.

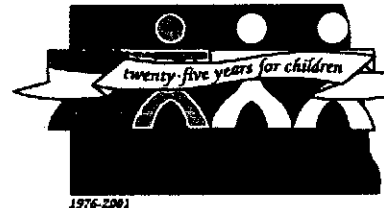
There are several reasons why the NDCEL opposes this bill. First, we believe that deleting the home schooling exception for developmentally disabled children from current law would put those children at risk for possible educational neglect. Many of these children require significant services from profession staff which, in a home schooling setting, may not be sought by the parent. We believe that it is critical for these children to receive all of the needed services that are available through our public schools and are given and protected under IDEA requirements. Second, the lowering of the level of education for parent qualifications to only a high school diploma or a GED certificate is a step in the wrong direction toward ensuring the quality education for home schooled students. Our state, through the NCLB Act, is now requiring teachers to prove that they have knowledge of the content area in which they teach. We believe that if this standard has value for our State's public schools, it should have value for our State's home schooled students. The current law provides the needed safe guards which ensure parents who home school their child have the needed knowledge to do so.

Finally, we believe the aid given to school districts through foundation payments to provide for the monitoring of home schooled children's educational progress must be maintained. This is the only gate keeping process the State has to monitor the progress of home school students. This process is critical in providing assurance that a child's home schooling will be a viable education which allows for the transfer of credit and college admission.

Thank you for your attention and I encourage you to give HB 1265 a Do Not Pass recommendation. I will be happy to answer any questions that you might have regarding this testimony.

HB 1265
17 Jan 05

VOICES FOR
NORTH DAKOTA'S CHILDREN



CENTER FOR EARLY CHILDHOOD
LEADERSHIP & ADVOCACY

January 18, 2005

To: RaeAnn Kelsch, Chairperson, House Education Committee

From: Barb Arnold-Tengesdal
Voices for North Dakota's Children

Re: Testimony opposed to HB 1265

Voices for North Dakota's Children is a collaborative advocacy effort of early childhood education professional organizations. It is made up of the North Dakota Head Start Association, North Dakota Association for the Education of Young Children, Child Care Resource & Referral Network and Children's Caucus.

Is this bill good for children?

That is what we ultimately ask ourselves each time we decide on a position relating to a proposed piece of legislation that affects the well-being of young children. This bill seems to be in the best interest of parents, not children. If every parent in our state had the best interest of their child in mind, we would not have need for foster care services, child abuse and prevention programs, parenting classes or a number of social and educational supports that help families maintain unity and grow strong. It is a tough job raising children. A job that brings joy to most parents, yet not an easy task if you ask any parent raising a child in today's fast paced world. Having support systems in place is important. This bill takes away an important educational support for children using home education as the basis for learning.

Is this bill legal in the face of federal law that requires access to services for all children? What position does this put our state in when a child is not given special services or testing to assure the rights of the child to develop to their full educational potential is not being met? What is wrong with the current law that does not appear to take away a parents choice to choose home education? Why lower the educational standard for those serving as the child's teacher in section 4 15.1-23.03? At a time we are finding even trained teachers not qualified, lowering this standard for home education seems thoughtless.

We urge you to oppose HB 1265

Monitoring home education is not taking away parental choice or academic choice for children. It is assuring children the right to an education equal their public school counterparts.

HB 1265
18 Jan 05

The red line ought to have been struck and the subsequent letters b. and c. relettered to a. and b.

15.1-23-13. Home education - Disabilities - Services plan.

1. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise home education, provided that:

- a. The child does not have a developmental disability;**

HB 1265
25 Jan 05

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1265

Page 1, line 2, after "15.1-23-08," insert "subsection 1 of 15.1-23-13," and after "and" insert "section"

Page 2, after line 29, insert:

"SECTION 6. AMENDMENT. Subsection 1 of section 15.1-23-13 of the North Dakota Century Code is amended and reenacted as follows:

1. If a multidisciplinary assessment team, using eligibility criteria established by the superintendent of public instruction, determines that the child is disabled, that the child requires specially designed instruction due to the disability, and that this instruction cannot be provided without special education and related services, the parent may continue to supervise home education, provided that:

- a. The child does not have a developmental disability;
- ~~b.~~ a. The parent files with the school district superintendent a services plan that was developed privately or through the school district; and
- ~~c.~~ b. The services plan demonstrates that the child's special needs are being addressed by persons qualified to provide special education or related services.

Renumber accordingly

TESTIMONY ON HB 1265
SENATE EDUCATION COMMITTEE
March 7, 2005
By Robert Rutten, Director of Special Education
328-2277
Department of Public Instruction

Mr. Chairman and members of the committee:

My name is Robert Rutten and I am the Director of Special Education for the Department of Public Instruction. I am here to speak in opposition to HB 1265 and, as an alternative, to offer some amendments. Under current law, the option of home education is available for students who have mild disabilities and students who have autism. For example, learning disabilities and speech-language disabilities are generally considered milder disabilities. The bill would expand the scope of home education to students with developmental disabilities. Special educators have some deep concerns about how this bill would erode accountability for the learning of students with developmental disabilities.

Who are these students with developmental disabilities? They are students with severe, chronic conditions. Many are nonverbal. Many require adult care and attention at all times. They are among the most severely disabled and vulnerable students in our state.

The committee has heard testimony from parents of students with autism who have been very successful learning in the home education environment. That's great. Parents who take the time and trouble to testify are deeply committed parents. Parenting a child with a developmental disability is typically an immense challenge under the best of circumstances. Not ALL parents are as committed to ensuring that their children receive an

education. Not all parents, even though they are committed, have the ability or system of support that most students with developmental disabilities would require in order to benefit from home education.

A clarification needs to be made about current law. Home educators point to nurturing attention, specialized curriculum, and specialized environment as benefits of home education. These benefits are already available through existing law to students with a developmental disability. Current law provides for a continuum of environments where education may take place. Current law factors in a child's unique strengths and needs, including the child's needs for nurture, specialized curriculum and a specialized environment.

The Department believes it is in the best interest of children with developmental disabilities to stay with current law. As an alternative to the existing bill, the Department has some proposed amendments. Even under current law, public oversight of home education of children with autism is minimal. If home education is to be made an option for all students with developmental disabilities, then it is appropriate to take out the language of existing law that allows a parent to select and compensate a private services plan team. Under the proposed amendments, parents of a student with a developmental disability could home educate their child under a services plan that would ensure at least a minimal involvement on the team for local school officials. The student's services plan would be developed by a team that includes the parent and local school staff who are knowledgeable about the needs of children with developmental disabilities. There would be some accountability and oversight on behalf of these very vulnerable students.

The proposed amendments would also remove the option of a privately selected and compensated team for home-educated students with

milder disabilities. It would ensure that a local person knowledgeable about the disability would take part in developing and reviewing the child's services plan.

The proposed amendments would also incorporate the definition of "developmental disability" by reference from NDCC sec. 25-01.2-01 as a housekeeping matter.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions the committee may have.

Testimony of Elizabeth Hanson

Senate Education Committee Regarding Bill # 1265

March 1st, 2005

Chairman Freeborg, and members of the Committee. Thank you for giving me an opportunity to speak to you this morning. I am Elizabeth Hanson and I live in Rolla. I could tell you a lot about myself and the things I do but the most important thing to me and for you to know is that I am my kid's mom. I have three daughters: Esther 12, Sarah 11, and Hannah 3. I am honored to be their mother. My girls are a gift and a responsibility. This responsibility is no less important and all the more real to me because 2 of my daughters were diagnosed with developmentally delays.

When Esther was 5, she was diagnosed with a moderately severe hearing impairment, obsessive compulsive disorder and mild autism. Sarah was just 2 when she was diagnosed with severe autism. No matter the disability, it is my responsibility to see that they get every opportunity possible to grow to be the best women possible. One of these opportunities has been to home educate.

As a parent it is always good to have choices. This is especially true when you have a child with a developmental delay. Because of the autism exception in North Dakota law, we had the option to home educate. We made a decision as to what would be best for each of our daughters. Concerning Sarah, her needs were overwhelming for only one person, and our choice was to place her in the local public school where she is in a self-contained classroom with two teachers and at least one aid and only 3 or 4 other students. Sarah's needs have been met well over the last 5 years and we are please with her slow but steady progress. For Esther we chose to home educate.

When we began, Esther was 5 with the speech, social, fine and gross motor skills of a 2-3 year-old. Home educating has benefited her in many ways. First, the hearing impairment and sensory issues made home less distracting and more comfortable. Second, our schedule did not have to be rigid. On a good reading day we could extend the time, on a bad math day we could move on to something else. Third, subjects could be remediated back to Esther's developmental level. Forth, we could repeat, repeat and repeat until she got it. Fifth, curriculum did not have to mean a textbook, paper and pencil. For example, with the gross and fine motor delays handwriting was nearly impossible so we spent days making letters out of popsicle sticks, twist ties, wax wikie sticks, drawing them in sand and with finger

paint. Sixth, I was able to change curriculum within days of realizing that it was not working. Seventh, the flexible schedule meant we could go to Minot and Winnipeg weekly and Fargo, Grand Forks, Bismarck, and Minneapolis when needed to have hours of therapies to augment the 30 minutes a week she was given through the local school district. We were also able to use alternative and specialized technologies and therapies that took hours a day for weeks at home or numerous trips out of town to complete. Eighth, we were able to protect her health and limit her exposure to the 169 food and 20 environmental allergies she had. Ninth, we were able to preserve her love of learning because we were able to make it fun, interesting, at her level, and within her reach. There was none of the discouragement of not being able to perform at the same level as the other students. Tenth, and I think most importantly, we were able to protect her self image. Within our home, she was the norm, she worked to out-do herself, she learned to set goals and strive for more. Just this past Sunday, she returned from a Girl Scouting event where she had to make a name tag for herself with her talents written around her name. She very proudly showed me the tag and said, "I wrote these talents but I have many more, you know." That one statement made the last seven years, all the miles, all the money, all the hours of work worth it.

Standardized achievement testing shows that Esther is now at or above grade level in all areas, with the exception of reading and spelling, the most difficult for a hearing-impaired individual. But Esther has been progressing quickly; she has moved ahead another grade level since the beginning of this school year. This once socially backward child is now very active in 4-H and Junior Girl Scouts. In 4-H, she is the vice president of her club, and each year earns numerous trophies, champion and reserve champion ribbons for her work in projects/exhibits and competitions, including speech. In Girl Scouts, she is a Junior Aide, was awarded the Junior Leadership Pin this fall, and is about to complete her Bronze award. And last, but surely not least, as of April of 2004 Esther is no longer diagnosed as Obsessive Compulsive or Autistic.

Esther wanted to be here this morning to tell you herself what being home educated has meant to her but she has to work on her bronze award, has a guitar lesson today and a concert tonight, so she has left it to me to say thank you to the state of North Dakota for giving us this opportunity to home educate a child that **WAS** developmentally delayed and ask you to make it possible for other parents to do the same by approving bill #1265.

Thank you!

Elizabeth Hanson

P.O. Box 158

Rolla, ND 58367

701-477-6929

highcore6@yahoo.com

Charlie and Catherine Holle
Testimony on HB 1265
Phone 701 843 - 7271

Mr. Chairmen and members of the committee,

My name is Catherine Holle. I live on a dairy farm NW of New Salem and my husband and I have four children.

In the summer of 1993, after a year and a half of testing, our third child Karl was diagnosed with Autism at the age of three. Autism affected his ability to communicate, his social skills, his emotional and mental development. He was easily agitated, tactile defensive and used no eye contact. He was a difficult child to raise.

In the fall of 1993, we placed Karl in a public school educational program with regressive results. Karl was later placed in a rehab therapy program where I was traveling to Bismarck with him three times per week. He was transferred to the Children's Development Center where he received Speech therapy and Occupational therapy. He was receiving psychological evaluations at the rehab center in Grand Forks.

We began using our home program when Karl was five years old. We purchased therapy equipment, computers, computer programs, and curriculum from the neuropsychology department of the University of California and the Seton Home Study School. Throughout his home education, Karl continued to receive therapy from the Children's Development Center in Bismarck.

During the 1997 legislative session, we were able to legalize the home education of autistic children and with great results. We home educated Karl from the age of three until he was ten. During those seven years of home programming, we were able to treat him successfully. By the time Karl was in the 5th grade, he was talking, writing, reading

and was emotionally and mentally stable enough to attempt a part home, part school placement. We eventually succeeded in transitioning him into a full time regular education environment.

Karl is now in the 8th grade in New Salem High School. He has an aid that works with him in classes that require cognitive ability. The other classes he attends independently and is continuing positive progress.

Many professionals, teachers, and therapists have told us if we wouldn't have done what we did during those early years of development; Karl would not be functioning as high as he is now. He went from scoring below the thirtieth percentile to a high functioning asperger type behavior. He went from one end of the autism spectrum to the other in ten years time.

Parents of all children with disabilities should have the right to do whatever it is going to take to achieve success for their child. Every parent wants their child to function to their highest potential. Parents should be allowed to use private therapy, home education or whatever it is going to take to achieve this success. Parents that are willing to provide their child with a stable solid environment during the early years of development will have success during the later years of that child's life.

Now that all of my children are in school and doing well and my days are free, I was asked to help out in the Bismarck schools in the special education department. I have been able to experience both the home education of children with disabilities and the school environment. The simple fact is that small town rural ND schools are not always able to give these children the best services possible due to funding. Open enrollment is

not allowed for children with developmental disabilities, so that leaves the parents with limited choices to get their children the help they need.

I noticed that half of the children I work with in the middle and high school level belong to group homes. My personal opinion is these children are taken out of the home at the age of three and placed in educational programs. These children are not allowed to bond with their families in the same way children raised in the home are. Karl was raised the same as our other children taking part in all the family activities. He was raised as an accepted part of our family and was always the same as the other children. Every child deserves to be in a family situation bonded by siblings that love and care for them. This cannot happen if the child is taken out of the home during those early years.

In regards to the potential of abuse of children that are home educated, abusive parents are going to abuse their children regardless of their educational placement. Abusive parents need to be dealt with appropriately. Children enrolled in school miss school until the bruises heal. The parents call them in sick or whatever. Abuse needs to be dealt with on its own merits in its own way separate from the school environment. The parents that elect to home educate generally choose to do so out of a desire to do what is best for their child or wishing to raise their disabled child the same way as they raise their other children in the family.

Are there any questions?

House Bill 1265 relating to home education
Testimony of Representative Margaret Sitte,
March 1, 2005

Chairman Freborg and members of the committee, I am Representative Margaret Sitte from District 35 in central Bismarck and sponsor of House Bill 1265. Home education has come a long way in North Dakota. We all know families who have taught their children at home and whose children are not only thriving in college but are also blooming socially. It's time to look to the future, to a change that home schooling families across the state are requesting.

House Bill 1265 would remove the current limitations from teaching children with developmental disabilities. I have attached a copy of Section 25-01.2-01 defining developmental disabilities. Note that this broad category includes people with mental or physical impairments or those with at least three physical limitations as listed under Subsection *d*. The proposed change to allow parents to educate their children with developmental disabilities is important because the law mandates in Section 25-01.2-02 that "Treatment, services and habilitation for developmentally disabled persons must be provided in the least restrictive appropriate setting."

A few years ago this committee worked with Catherine Hawley to allow her to home educate her autistic son, Carl, and her success has paved the way for others. This change allowing parents to home educate their children with developmental disabilities will give parents the option to help their children in the least restrictive environment.

In a University of Durham study published in the journal of Early Childhood Research, Paula Rothmel concluded, "It appeared that a flexible approach to education, and a high level of parental attention and commitment, regardless of their socioeconomic group and level of education, seemed the most important factors in the children's development and progress."

Children are the most precious gifts ever given to parents, and parents are responsible for their children until they reach the age of 18. These home school parents are giving their children the most important gifts they can provide: they give their time, they share their talents; they instill their virtues. I urge you to give a favorable recommendation to this proposed change and to support the families of North Dakota who want to teach their disabled children at home.

Department of Public Instruction
Senate Education Committee
March 7, 2005

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1265

Page 2, line 12, overstrike "privately or"

Page 2, line 17, after "disability" insert "as defined in subsection 1 of section 25-01.2-01"

Page 3, line 13, overstrike "; or, after providing written notice to the"

Page 3, overstrike lines 14 and 15

Page 3, line 16, overstrike "plan team selected by and compensated by the child's parent"

Renumber accordingly

Testimony on HB 1265
Senate Education Committee
March, 1, 2005

Gail Biby, Executive Secretary, North Dakota Home School Association

Good morning, Chairman Freborg and members of the Senate Education Committee.

My name is Gail Biby and I am the executive secretary of the North Dakota Home School Association. The NDHSA has been providing information and services to parent educators for almost 20 years. I have worked with hundreds of homeschooling families over the past 14 years.

There is a plethora of research now available on the success of home schooling across the United States. The best overview available, to my knowledge, is *Home Schooling on the Threshold*, which I have provided with a copy of my testimony. I have also included a brochure on homeschooling children with special needs.

Since our bill now deals only with the home schooling of developmentally disabled children I would like to comment on research that's been done on this specific area of home education.

Our attorney, Dewitt Black, Home School Legal Defense Association senior counsel, stated in testimony at the House Education committee hearing on HB 1265 the following:

From an educational standpoint, there is no question that the one-on-one attention given to a developmentally disabled child by a parent is more effective than a classroom setting. This has been confirmed in two studies by Dr. Steven F. Duvall, a Kansas school psychologist who found that home school students with learning disabilities achieve greater academic gains than public school students in special education classes.

I have attached a brief article that goes into more detail on Dr. Duvall's research.

Through an acquaintance in the Netherlands, Peter van Zuidam, I was given access to the results of research conducted in Western Australia on this subject. The article, "Home Schooling of Children with Disabilities", was published in the *Queensland Journal of Educational Research*, 2002, vol. 18, no. 1, pp. 38-61.

This study concluded that disabled children do very well in a home school program because:

- The program can be tailored to suit the child's abilities and needs.
- The program can be flexible to take advantage of teachable moments.
- Issues of interest to the child can be incorporated into the program to stimulate learning.
- A tutorial method of instruction has proven most suitable for children with disabilities.

The research also showed that one of the primary reasons parents chose to homeschool was because of negative peer influences such as teasing, bullying, rejection and segregation. The parents in this study, as with most home educating parents, have not chosen the easy course. The easiest thing to do would be to send the disabled child off to the local public school and let someone else educate her. The difficult decision is to do it yourself.

The aforementioned research showed that a dedicated, loving parent can assist the disabled child to function at his optimum because of a flexible, tailored-to-the-child, tutorial method of instruction and the removal of negative influences.

North Dakota is one of the most highly regulated states in the nation when it comes to home schooling. We have plenty of safeguards in place for those who believe the State has a compelling interest in the education of its citizens. I would also point out that ND is the only state in the nation prohibiting the home schooling of children with developmental disabilities other than autism. Even with the passage of HB 1265, ND would remain the only state with special provisions for these children. All other states simply apply their special education law to these children and do not place them in a separate category.

We are *highly* regulated. North Dakota home school statutes require parental qualifications (the only state in the Union to require more than a high school diploma or G.E.D.). The law requires that home schooled students be tested in grades 4, 6, 8 and 10 with a nationally-normed, standardized achievement test. Our law requires that a child testing below the 30th percentile must be assessed for a potential learning problem. If the child is not deemed to be disabled, a remediation plan must be developed by the parent and a state certified teacher. This plan must address the child's deficiencies and it must be filed with the superintendent of the school district of residence. The parent pays for the costs associated with the development of this plan. If the parent fails to file a remediation plan, the parent is deemed to be in violation of the compulsory attendance provisions and she can no longer supervise the education of this child.

If the child is determined to be disabled, a services plan must be developed either privately (the parent pays all costs associated with a private plan) or through the school district. This plan must demonstrate that

these needs are being addressed by persons qualified to provide special education or related services. Annually the superintendent of the district determines reasonable academic progress based on the child's services plan. Again, if the services plan is not filed the parent may no longer supervise the home education of this child and is deemed in violation of the compulsory attendance law.

The current law regulating the homeschooling of autistic children is *very* stringent. If HB 1265 gains approval, these stringent rules would apply to parents choosing to home educate any developmentally disabled child.

Briefly, the current autism law requires:

- A diagnosis of a developmental disability by a licensed psychologist.
- Parental qualifications per the current home school statutes.
- Filing of the statement of intent, a copy of the diagnosis, and a services plan developed by the school district and the child's parent OR a substitute services plan developed by the parent and a services plan team compensated by the parents.
- Three progress reports filed with the superintendent by November first, February first, and May first prepared by the services plan team.

I urge you to support HB 1265. Allow parents the freedom to make these educational choices for their children. The resources available to parents with Down Syndrome children, children with autism or any other type of developmental disability are abundant. I know of at least one consultant in North Dakota who is a special education teacher, health care provider and home schooling parent. She provides services to home schooling parents such as:

- Help in developing an individualized curriculum.
- Development of individualized education plans (IEPs).
- Provision of formally written periodic evaluation reports.
- Coordination of public and private services.

Loving, dedicated parents WILL access all the necessary services to ensure their children receive the best education possible. They are willing to be one-income families, to forego annual vacation trips, to drive ten-year old automobiles, to purchase all their own curriculum and pay for any other expenses involved with the education of their children. And there are plenty of stringent regulations already in place.

Support HB 1265 and allow North Dakota parents this freedom of choice.

Parents Excel in Teaching Their Special Needs Children

Written by Chris Klicka

Objective studies demonstrate that parents are providing a superior form of education for their special needs children by teaching them at home. Contrary to the claims of the education elite, parents do not have to be specially certified or have special qualifications to teach their handicapped children at home.

In fact, in one of the most thorough studies performed thus far, Dr. Steven Duvall conducted a year long study involving eight elementary and two junior high students with learning disabilities. He compared one group of five students that received instruction at home with a group of five students who attended public schools. He was careful to match the public school students to the homeschool students according to grade level, sex, I.Q., and area of disability. Using a laptop computer, Dr. Duvall sat in on teaching sessions and took an observation every twenty seconds, creating tens of thousands of data points that were then fed into a statistical analysis package. Normally his research included a second observer who double-checked Dr. Duvall's readings.

Dr. Duvall recorded and analyzed academically engaged time by students during instructional periods. He also administered standardized achievement tests to them to measure gains in reading, math, and written language. His results show that in the homeschool, special needs students were academically engaged about two-and-one-half times as often as public school special needs students! He found the children in the public school special education classrooms spent 74.9 percent of their time with no academic responses, while the homeschool children only spent 40.7 percent of their time with no academic responses. He also found that homeschools have children and teachers sitting side-by-side or face-to-face 43 percent of the time, while public education classrooms had such an arrangement for special needs children only 6 percent of the time. This was a tremendous advantage for the homeschoolers.

From This Author



[Home Schooling: The Right Choice](#)

Author:
Klicka,
Christopher J.

Our Price:
\$14.99

[See Description](#)

His study further demonstrated that the homeschool students averaged six months' gain in reading compared to only a one-half month gain by the special public school students. Furthermore, the homeschool special needs students during the year gained eight months in written language skills compared to the public school counterparts who gained only two-and-one-half months

Dr. Duvall summarized, "These results clearly indicate that parents, even though they are not certified teachers, can create instructional environments at home that assist students with learning disabilities to improve their academic skills. This study clearly shows that homeschooling is beneficial for special-needs students."¹

It is interesting to note that Thomas Edison was expelled from public school at age seven because he was considered "addled" by his public school teacher. He lasted only three months in formal schooling. Over the next three years, his mother taught him the basics at home, and as Edison himself stated, "She instilled in me the love and purpose of learning."² Without any special qualifications, Mrs. Edison helped her son overcome his disabilities to become a great inventor.

Once again we see homeschooling works for any child!

Chris Klicka is Senior Counsel of the [Home School Legal Defense Association](#), as well as Director of State and International Relations. He is the author of several books, including [The Heart of Homeschooling](#) and [Home Schooling: The Right Choice](#), published by [Broadman & Holman](#). He and his wife Tracy homeschool their seven children.

¹ Dr. Steven Duvall, The Impact of Home Education on Learning Disabled Children: A Look at New Research, 30 August 1994, presented to the Home School Legal Defense Association, Purcellville, VA . 540-338-5600.

²Christopher Klicka, "Home Schooling: The Right Choice," (Twin Sisters, OR: Loyal Publishing, 2000), p. 168.

Related Articles:

1. [Ten Steps for Embracing Your Special Needs Child](#)
2. [The Heart of Homeschooling](#)
3. [Special Needs Students Can Thrive at Home](#)

© 2001-2003 LifeWay Christian Resources

NATHHAN Order Form

NATHHAN Membership

\$25.00/year..._____

Donation to help NATHHAN support birth parents through CHASK \$_____

☐ Yes, Please send me more information about CHASK!

Name _____

Address _____

City _____

State _____

Zip _____

Phone _____

Email _____

NATHHAN
National Challenged Homeschoolers
Associated Network

P.O. Box 39

Porthill, ID 83853

(208) 267-6246

WWW.NATHHAN.COM

NATHHAN/CHASK
is a 501(c)3 non-profit organization.
Your donation is tax-deductible

The Ministry of

CHASK

Chistian Homes And Special Kids

Families with disabled children have started a project that is really catching on in the Christian community.

Here is a pro-life resource for birth parents facing an adverse prenatal diagnosis. Babies are generally terminated if they have medical "imperfections." If only birth parents knew what a joy their baby would be to them. Here is a way you can share, so parents can make a truly informed choice.

CHASK offers birth parents help.

#1. Support and help every step of the way through birth and raising of their special needs child.

#2. If they cannot parent their child, CHASK has literally hundreds of families willing to adopt babies with any disability or medical need.

Doctors, crisis pregnancy centers, women's clinics, churches and many others are sharing this family-to-family help with birth parents.

Can you help us?

CHASK

P.O. Box 39

Porthill, ID 83853

1-(800) 266-9837

WWW.CHASK.ORG

Equipping parents to raise their children with special needs.



What is NATHHAN?

National Challenged Homeschooler

Encouragement, support and resources for families raising their children with special needs.

NATHHAN News Print and Internet Style.

- Includes letters and articles from families with special needs children. You don't want to miss this encouragement.
- FREE classified ads for members. Find everything from used therapy equipment, wheelchairs, friends, and specific resources.
- Resource reviews and up-to-date information about what is working for parents educating their challenged children.



Joining NATHHAN is like being at a support group meeting, a homeschooling fair and a friend's house for tea all at once. I wish I would have known about NATHHAN earlier!"

- Linda Dillon - Camano Island, WA
Homeschooling mom of 7.

Family Directory

- NATHHAN members who wish to be in it, are listed by state. Entries include disability and family interests to help families find others for encouragement.
- Directory is double password protected.

"I will instruct you and teach you in the way which you should go."
Psalms 32:8

NATHHAN Lending Library

Learn about new methods, or tried and true ways of teaching disabled children.

Here are hundreds of books, audio tapes and videos, useful to parents teaching special needs children privately. With easy-to-use online ordering, this resource is operated through the mail. Members who utilize the library donate postage.

Do you have a child with special needs?

Don't be without support!

Membership is only \$25.00 / year.
(Gift memberships are available.)

Get your personal password to access the member's section immediately when you join NATHHAN on-line today at:

WWW.NATHHAN.COM