

1999 HOUSE EDUCATION

HB 1064

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1064

House Education Committee

Conference Committee

Hearing Date 1-11-99

Tape Number	Side A	Side B	Meter #
Tape # 2	x		11.3 to end
Committee Clerk Signature <i>Savvy Wagner jed</i>			

Minutes:

CHAIRMAN KELSCH: The hearing for HB 1064. Rep Boehm.

REP BOEHM: see attached written testimony. Are there any questions?

CHAIRMAN KELSCH: Thank you, are there any questions for Rep Boehm? We'll have the Holle's come forward.

CHARLIE HOLLE and CATHERINE HOLLE: see attached written testimony.

CHAIRMAN KELSCH: Are there any questions for the Holles. Rep Thoreson.

REP THORESON: In getting this program established, there is a licensed psychologist involved in the process.

HOLLE: Yes

REP THORESON: Then when you reevaluate the program you take out the psychologist.

HOLLE: She is only taken out off of the every 3 months, she is still on the yearly evaluation.

THORESON: But isn't that three months, isn't that when you determine whether the program is benefiting the child or not.

HOLLE: Yes, but we didn't need the psychologist to determine that, the occupational thryapist, certified teacher and speech therapist were plenty.

THORESON: Let's say after 6 months those three people meet and decide the child does not benefit. What's the process then?

HOLLE: They are all from the CDC, and if they see if the child is not making progress then the IP team is to be called.

THORESON: The team is to be called including the psychologist?

CHAIRMAN KELSCH: Rep Nowatzke:

REP NOWATZKI: I noticed in the legislation its striking the term legal guardian, I'm wondering why that change? In certain situations you have children in foster homes or custody of the state and I am wondering if it would be wise to leave in legal guardian in those situations.

HOLLE: I would like to see that it would be allowed, I don't know why it was struck.

CHAIRMAN KELSCH: Rep Brandenburg

REP BRANDENBURG: Question that I have, you had your boy up to Grand Forks , to meet with the evaluator, why did you go to Grand Forks.

HOLLE: That was done because the Grand Forks at the University the psychologist we went to was the same psychologist who diagnose him for the disability. They had previous records on him. The laws were very strict, in order to do a progress report there had to be prior records.

CHAIRMAN KELSCH: Any further questions. The chair will recognize Senator Solberg that was the sponsor of the amendment that was passed during the past legislative session.

SENATOR SOLBERG: I don't know why the legal guardian was taken out. This whole bill was put together very tight and very strict to make sure that it was not going to open up the entire area of disabled children to home schooling. We've had two years to look at this. I've gotten the opportunity to get to know Karl and see the advance that he has made. I would highly urge the committee would put a DO PASS on this legislation. Any questions, I would be happy to entertain them.

CHAIRMAN KELSCH: Rep Mueller

REP MUELLER: One could not argue with the intent, question I have is with the funding with the services that are required here. Is it more expense to do with what the Holles have done that it would have been to do with the school district resources.

SENATOR SOLBERG: I'm sure, there is going to be some cost. But we have the responsibility to educate to the best of our ability, including those that are disabled. If we can see progress as we can see in Karl, it would be money well spent.

CHAIRMAN KELSCH: Any further questions for Senator Solberg? Rep Haas.

REP HAAS: Catherine mentioned that the three visits per year to the psychologist were not necessary for Karl. In other situations with other children there should be some other provision, maybe three visits would be required.

SENATOR SOLBERG: That is difficult to answer. It's possible, yes. There are safe guards in the bill, if this begins to regress steps are in place to quicker evaluations.

CHAIRMAN KELSCH: Would you state again for the record your name.

HOLLE: Question on the funding, we have paid everything ourselves, we have gotten no funding from the school district. As far as another child using the district money, if they were to

put the child in the class room, the child would have to have trained aids, they would have to have facilities and equipment that would also cost. In regards to the three visits, the psychologist didn't see the need for three visits

REP HAAS: Madam Chair may I continue, one visit was sufficient for Karl about other children who would determine the number of visits? How would that be determined.

HOLLE: All those involved would speak up and ask for another evaluation from a psychologist.

CHAIRMAN KELSCH: Rep Thoreson

REP THORESON: Do you use the services of the occupational therapist, speech therapist or are they advisory. What type of cost to the district.

HOLLE: They are private therapists, no cost to school district.

REP THORESON: This changes that, it would be at school district expense.

HOLLE: No it would not, if you are private it would be family cost.

CHAIRMAN KELSCH: Rep Nelson, Lundgren, then Brusegaard.

REP NELSON: If using the services of the public school system, the special Ed district would have the oversight, that more visits would be granted.

HOLLE: No we did not.

REP LUNDGREN: Section 2 on page 2 you have the option of not using the occupational therapist, speech pathologist and certificated teacher and paying for your own.

HOLLE: We choose to use the therapist that Karl was familiar with and working on a regular basis.

CHAIRMAN KELSCH: The section says if you provide written notice to the superintendent of schools you can go out and contract.

LUNDGREN: If you choose to they will provide it for you?

HOLLE: Only if you use there therapist. won't pay for private therapist.

CHAIRMAN KELSCH: Rep Brusegaard, Grumbo

REP BRUSEGAARD: Guardian was taken out, there is no provision in the home education section for guardian when the section was done last session.

CHAIRMAN KELSCH: The Intern looked up the following - One must go before court to be appointed as a legal guardian. Rep Grumbo

REP GRUMBO: Home education foundation aid is provided for a student that has home education?

HOLLE: I do believe they are receiving.

CHAIRMAN KELSCH: Rep Haas

REP HAAS: The school district received a prorated amount of the foundation payment only if the home schooling situation is under the direct supervision of the school.

HOLLE: Karl is under the direct supervision of the school.

CHAIRMAN KELSCH: So the school would receive a partial foundation payment. Any further questions for Ms Holle? Thank you for your testimony. Anyone else wishes to testify in support of HB 1064?

MRS GARY ZENT: Has four adopted children with special needs. She knows the Holles and has watched the family and the needs of Karl. She recommends a pass on the bill. She did have a question about legal guardian but that question was answered. She is in support of HB 1064.

CHAIRMAN KELSCH: Any questions for Mrs Zent? Thanks for testifying this afternoon.

Anyone else who wished to testify in support of HB 1064? Anyone who wishes to testify in opposition of HB 1060?

BRENDA OAS: see written testimony attached .

CHAIRMAN KELSCH: Committee Members we are going to stand at ease for 5 minutes as we have just received the fiscal and I would like to get copies because it has been alluded to several times in testimony. I will open for questions. Rep Brandenburg.

REP BRANDENBURG: What exactly in this bill are you concerned about.

OAS: If the purposed bill included the provision related to Individual Disabilities Education Act and Individual Educational Planning process which is a part of that law, we probably need section 2.

REP BRANDENBURG: Brenda could you explain what take team does

OAS: The team would oversee assessments They would identify strategies that might be appropriate.

CHAIRMAN KELSCH: Rep Nelson.

REP NELSON: You referenced 3 kids outside of the state, those three cases were handled through the public school system. How this bill would cost special education to increase?

OAS: The long term question of children with autism is how effected their program has been. What we are going for is to reduce the life time cost. Make the maximum gain possible in the education system. The child in question is not a typical question and legislation is making a policy that can effect all children.

REP NELSON: Section 2 is well defined. How would that differ from the IEP team that is now being used?

OAS: You wouldn't need this section 2.

REP NELSON: What skills do the IEP team bring to the table.

OAS: Might be a broader team and more expertise.

REP NELSON: Wonder if special ed district would be available.

OAS: Yes. Have project in works for training. Public schools access services such as consulted services in autism further away with a high level of expertise.

CHAIRMAN KELSCH: Rep Brandenburg

REP BRANDENBURG: Would you say Karl has improved.

OAS: Yes, child has made a lot of progress. My concern that you would consider this a typical case. She expressed concerns of other children the state.

REP BRANDENBURG: If program is working, why not work with them rather than another evaluation?

OAS: We would consider some flexibility, we would not however need section 2. We have exclusion statement in section 1 of Century Code changing item 3c.

REP BRANDENBURG: This family is paying for it, is there a potential cost in other situations?

OAS: Refer to fiscal note. Services of three areas would cost based on an hour of direct services and an hour of planning, recording, traveling, at \$240.00 plus \$50.00 for travel times 9 months for a school year. A typical student -- the cost would increase

CHAIRMAN KELSCH: Rep Thoreson, Nowatzki, Nelson

REP THORESON: What is your department involvement with the Holles?

OAS: The child is accessing some services.

REP THORESON: If the student was in school would they have an IEP.

OAS: Yes

REP THORESON: You seemed to be concerned about cost the child later.

OAS: Research indicates early services reduces long term costs.

REP THORESON: Concern that there are others that may not have intensive services.

OAS: Careful monitoring quality assurance aspect, child of autism are very different. You need different kinds of intervention to develop skills.

REP NOWATZKI: Prefer flexibility, the bill says the parent may provide it doesn't say they have to. This law does not preclude them from using the services of special ed services in their district.

OAS: Yes, does provide flexibility.

REP NOWATZKI: Concerned we are trying to legislate a law that is specifically a case and maybe that is your concern.

OAS: Yes

REP NOWATZKI: Why are we dropping licensed occupational therapist, and speech psychologist.

CHAIRMAN KELSCH: The licensed part is dealing only with the psychologist.

REP NELSON: Referring to fiscal note, do parents customarily ask for more services than are provided through their IEP.

OAS: Correct

REP NELSON: Holle did consider locating outside of North Dakota. What are surrounding states do in cases of autism?

OAS: I am not familiar with home education provision.

REP LUNDGREN: What are the number children in each of the types of programs

OAS: I would need to research this question.

REP LUNDGREN: Are there progress required?

OAS: IEP requires a three year evaluation to determine if they meet the category that they are in and to see the progress.

REP LUNDGREN: When getting information about children in different programs you could also get progress reports on these children.

OAS: That information is available in the school district and not collected at the state level.

REP LUNDGREN: Parents are entitled to the services offered by the school district, if they not to take those, they can go outside what is offered. Looking at fiscal note - can the parents request the hours of services required- do they have the authority to do that?

OAS: I think that is one of the items that is unclear.

CHAIRMAN KELSCH: Are there any further questions for Ms Oas? Seeing none thank you for you testimony.

TRACEY KLEIN: see written testimony attached

CHAIRMAN KELSCH: Are there any questions for Mr Klein? Rep Drovdal

REP DROVDAL: My question is with the open check book.? A student in our system today, wouldn't a parent be able to demand those same services.

KLEIN: IT would be a team process with the local educational unit, it would not be a plan coming in from the outside.

REP DROVDAL: IF it's paid for by the local district there are local people involved. IT doesn't say in this bill if the family decides to go beyond your recommendation that the district has to pay for it.

KLEIN: MY understanding they would be involved in the monitoring of progress not in the development of what the education plan is to be.

CHAIRMAN KELSCH: Rep Thoreson

REP THORESON: Would you concur that we could do without section 2?

KLEIN: IF this would fall under IDEA and a team process was utilized, I would agree.

REP THORESON: The way this is done, the state is creating the team.

KLEIN: Would supersede education team as required by federal legislation

CHAIRMAN KELSCH: Rep Brandenburg

REP BRANDENBURG: The child's residence school district would provide services at the school district expense. Isn't that how it's handled now.

KLEIN: Yes

REP THORESON: Upon written notification to the superintendent the child's parents may select and compensate.

KLEIN: Yes

REP BRANDENBURG: Where is the fiscal note?

KLEIN: The plan could be designed by someone from the outside and parents could ask the school district pay for the plan.

REP BRANDENBURG: But the parents are going to pay.

KLEIN: IF they use their own personal.

REP BRANDENBURG:But if they used the schools, they'd have that ability right now.

KLEIN: It does not allow the school to develop the plan, but the school pays for either plan.

CHAIRMAN KELSCH: Thank you for your testimony, is there any one else wishing to appear in opposition of HB 1064.

BERRY CHATHAMS:I'm the Special Ed Director in North Dakota from Buelah. Under IDEA, there are 13 conditions. This law ties in to one of these conditions. We are creating a law that zeros in on one condition. WE have requests from a private school on service.We have to be very careful when we create legislation for one condition it can become very complicated. Would like a clarification on qualifications. You could have two teams recommending programs. Whose do you use. Can limit scope of related services or activities for child.

CHAIRMAN KELSCH: Any questions for Mr. Berry? Rep Grumbo

REP GRUMBO: Certification of teacher, are we using the process right now. We have monitors now for monitoring teachers and programs now.

CHATHAMS: Elementary teachers do have expertise in that field, need to expand definition of who the monitoring teacher is.

CHAIRMAN KELSCH: Are there any other, Rep Thoreson

REP THORESON: Are these students going to be in a regular classroom?

CHATHAMS: The ones we serve are right now in classrooms.

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House Education Committee

Bill/Resolution Number Hb 1064

Hearing Date 1-11-99

CHAIRMAN KELSCH: Any further questions, seeing none I will close the hearing on HB 1064

We need a Subcommittee to get the bill in order -- working with the Holles Rep Nelson, Rep Thoreson, Rep Lundgren. Time for the bill resolution beginning of next week.(Jan 18th).

COMMITTEE ACTION HB 1064 1-18-99

CHAIRMAN KELSCH: Take up HB 1064.

REP NELSON: Sub committee met with department and the Holles and came to an agreement.

See attached amendments. Moved to accept the amendments.

REP LUNDGREN: second

CHAIRMAN KELSCH: Motion on the floor in favor of the amendments. Voice vote. carried.

Now have HB 1064 as amended. What are the wishes of the committee.

REP NOTTESTAD: Moved a DO PASS as amended.

REP THORESON: second

CHAIRMAN KELSCH: We have a DO PASS as amended motion on HB 1064, will the clerk call the roll. HB 1064 passes with 14 Yes 0 No 1 Absent Floor assignment Rep Lundgren.

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: _____ Amendment to: HB 1064

Requested by Legislative Council Date of Request: 1-25-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

It is difficult to estimate if there would be any impact from this legislation because the numbers who would access the home education for students with autism will likely be very small. For the 1997-98 school year, the total number of children with autism served in public schools was 81.

- State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Fund	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: None
- For the 1999-2001 biennium: None
- For the 2001-03 biennium: None

- County, City, and School District fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed *Brenda K. Oas*

Typed Name Brenda K. Oas

Department Public Instruction

Phone Number 328-2277

Date Prepared: 1/27/99

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB1064

Amendment to: _____

Requested by Legislative Council

Date of Request: January 8, 1999

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

Based on the estimated hours provided by the family that requested the legislation, the cost for provision of the services is based on one hour per month of speech pathology, one hour per month of occupational therapy, and one hour per month of services from a certificated teacher. The total cost of these services based on estimates from the special education unit in question would be approximately \$240 per month. Travel reimbursement to provide the services is estimated at \$50 per month. The total cost would be approximately \$290 per month X 9 months = \$2610 per school year.

Because the proposed legislation is written without any limitation to the amount of services that a family may request from the school district, it is impossible to estimate what the fiscal impact might be if a family would choose to request more extensive services. For example, if a family would request 5 hours of speech pathology services per week, rather than one hour per month, the cost of this service would increase to \$1000 per month or \$9000 per school year. If the other services were requested at this level (five hour per week), the cost might rise to \$2340 per month or \$21,060 per year. (continued on second page)

2. **State fiscal effect in dollar amounts:**

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Fund	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0 ¹	0	0 ¹	0	0 ¹	0
Expenditures:	0	0	0	0	0	0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: No effect on Department budget
- b. For the 1999-2001 biennium: No effect on Department budget
- c. For the 2001-03 biennium: No effect on Department budget

4. **County, City, and School District fiscal effect in dollar amounts:**

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts X ²	Counties	Cities	School Districts X ²	Counties	Cities	School Districts X ²

If additional space is needed, attach a supplemental sheet.

Signed *Brenda K. Oas*

Typed Name Brenda K. Oas

Date Prepared: 01-08-99

Department Public Instruction

Phone Number 328-2277

#1. Narrative (continued from page 1)

There were 81 children with autism identified by North Dakota school districts during the 1997-98 school year. The potential cost if all families should choose to receive home education based on the estimates above, would be between \$211,410 and \$1,705,860. State support available to the school district will vary based on the number of hours of service the children receive per month. For example, in the first scenario with the child receiving 3 hours of service per month, the school district would receive a proportional amount of foundation aid and special education funding based on average daily membership. In the second scenario with the child receiving 60 hours per month, a larger proportion of a foundation aid payment would be available to the district to offset costs.

¹District is not eligible for funding under NDCC 15-59 based on the assignment of fiscal responsibilities as identified in the bill.

²It is difficult to estimate the fiscal effect because the number of families that might access this option is not known. Potential estimates of the impact on local districts are included in the narrative above.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1064

Page 1, line 18, overstrike "A description of the instruction plan to be followed during the school year,"

Page 1, overstrike line 19

Page 1, line 20, remove "certificated" and overstrike "teacher that the instructional plan is appropriate for the"

Page 1, line 21, overstrike "child" and insert immediately thereafter "An individualized education program 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 individualized education program, developed and followed, according to the provisions of this Act, by an individualized education program team selected by and compensated by the child's parent"

Page 2, line 2, after "~~school~~" insert "**education**", remove the overstrike over "**Progress report**", and remove "**education - Professional observations**"

Page 2, line 6, remove the overstrike over "~~progress reports~~" and remove "written observations"

Page 2, line 7, overstrike "an occupational therapist, a speech pathologist, and a"

Page 2, line 8, remove "certificated", overstrike "teacher" and insert immediately thereafter "the individualized education program team selected under section 15-34.1-12", and overstrike "occupational"

Page 2, line 9, overstrike "therapist, the speech pathologist, and the", remove "certificated", overstrike "teacher agree", and insert immediately thereafter "individualized education program team agrees"

Page 2, line 10, remove "the child is not benefiting from home"

Page 2, line 11, remove "education", overstrike ", they", and insert immediately thereafter "the child is not benefiting from home education, the team"

Page 2, line 12, after "team" insert "appointed by the superintendent of the child's school district of residence"

Page 2, line 13, remove "The child's school district of residence shall provide the services of the"

Page 2, remove lines 14 through 18

Page 2, line 19, remove "3."

Renumber accordingly

VR
1/21/99

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Date: 1-19-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1064

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO Pass as amended

Motion Made By Nottestad Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson					
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Lundgren

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

REPORT OF STANDING COMMITTEE

HB 1064: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1064 was placed on the Sixth order on the calendar.

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1999 SENATE EDUCATION

HB 1064

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1064

Senate Education Committee

Conference Committee

Hearing Date March 2, 1999

Tape Number	Side A	Side B	Meter #
1	x		3265-end
1		x	0-874
2	x		3025-3340

Committee Clerk Signature *Jenda Christman*

Minutes:

SENATOR FREBORG opened the hearing on HB1064. All committee members present.

REPRESENTATIVE JIM BOEHM, DISTRICT 31 introduced HB1064. This bill started in 1997 with Sen Solberg. It was about the Holle family having the opportunity to educate their child at home. This bill gives them a chance to teach their particular child at home with the help of a couple of other professionals.

SENATOR O'CONNELL : How come the house put an amendment on and how do you feel about it?

Rep. Boehm: I have no problem with that.

SENATOR O'CONNELL : You don't know why they changed it.

Rep. Boehm: Mostly because of the concerns of DPI.

SENATOR SOLBERG, District 7 testified in favor of the bill. This bill came to us at a very

late time two years ago in the session. The Holle family came to us with a problem. After two years they have shown us what they could do. They are a shining example of what can be done.

SENATOR O'CONNELL : Fiscal note, I'm having a little trouble because of the all district payments. It's estimated anywhere from \$211,000 to 1.7 million for the 87 who have been identified. So basically that would be all districts costs in this appropriation.

Sen. Solberg: Believe that would be right. I'm not sure how they arrived at that. The family has come to great expense on taking care of Carl. This is going to happen whether they do home schooling or whether the special education unit takes over and I would venture to say it will be cheaper on the district and state if the parents do it at home. The fiscal note should also show the money that possibly would be saved on this.

SENATOR FLAKOLL : Are you comfortable with the house amendment.

Sen. Solberg: I'm comfortable to the extent that the Holle's are comfortable. They are certainly the most expert on home schooling with autism as anyone in North Dakota and the surrounding states.

Testimony in Favor: Charlie Holle, father of Carl an autistic child. Written testimony attached. The Holle's live on a dairy farm in New Salem and have 4 children. Their third child, Carl was diagnosed as autistic in 1993 at the age of 3.

SENATOR O'CONNELL : What was and wasn't provided in the public school and what kind of programs have you put together.

Testimony in Favor: Catherine Holle, written testimony attached.

Catherine: What was happening to him in school wasn't necessarily the fault of the school. He was uncomfortable in that environment. That was why when we put him in the home program he did make progress because his environment was suited to his needs.

SENATOR O'CONNELL : What kind of time do you have to spend with the child. Explain the different hours and programs you have to go through.

Catherine: Twenty-four hours a day, seven day a week program. We adjust our lives and family around accommodating him.

SENATOR O'CONNELL : Explain to the committee what is the cost.

Catherine: Psychology evaluation is \$633 and the OT evaluation costs \$150. This program has cost well over \$6,000 just to keep him at home. DPI did agree to have a psychologist approve the curriculum once a year. If the child was in the school system the psychologist would only have to evaluate once every three years. We're still being held to a higher standard. We have to see the Board every week.

Charles Holle: About the 87 autistic children in the state and if they were all home schooled. These children are very hard to take care of from bathroom habits, voluntary vomiting, etc. if we wanted the easy way out we would have sent him to school.

Catherine: Parents that choose this do so because they want to help their child. By implementing him in this program we have eliminated a lot of those behaviors and I think it is more because he feels he belongs. He's a part of our family and he has self worth.

Testimony in Favor: Gary Gronberg, DPI. Department of Education worked with the family to amend the bill. Need to build protection in the bill to safeguard the other children.

SENATOR O'CONNELL : Walk me through the amendments and why did your department have concerns.

GARY WALKED THE COMMITTEE THROUGH THE AMENDMENTS.

Gary: This gives you a road map to follow throughout the year. It does say that if the parents choose an option other than that provided by the public school, it would be at the parents request, rather selected by parents and compensated by them. They pay for their own specialists.

Options. The public school option and that would be the fiscal note where other children would be educated publicly at public expense or they can choose an option of their own.

SENATOR O'CONNELL : I can't see anywhere that there are requirements for a certified teacher. Is that still in there.

Gary: That comes in the definition of what is an appropriate team. Teacher is part of that team. Section 2 regarding the progress report and how the parent at least informs the local school district who is the bottom line, keeper of the progress. Team prepares the report and gives it to the superintendent of the local school district, also files with DPI. Lack of progress, the team looks to the local school district superintendent if something hasn't taken place.

SENATOR KELSH : Section 1, if the individual parents would choose one specific member of the team, you would provide 4-5 people Would they only pay for the one they asked to be on the team. Would they have to pay for the whole team. Would Special Ed pick up the other people.

Gary: I think there could be some sort of combination. The idea of the option of the parent choosing the team usually has to do with the fact if there has been some sort of difficulty or the particular kind of therapy mode is offered. Where in fact they can choose their own team.

Usually its a philosophical position or approach on the part of a particular therapist is why they are chosen. The Holle's went to a particular individual who had a particular therapy style approach and followed that individual even when they left the hospital and formed their own clinic. It allows that kind of option. But I think if there wanted to be some more of a nature of a partnership between the two that could be worked out. The Holle's have partnerships with the school district in other ways, particularly extra curricular activities, music, some other kinds of services where they want to work with the school.

SENATOR O'CONNELL : Under the regular home schooling that they use for school, say for one hour you get foundation aid under special ed., how can that work to help these people out. If they are using any programs in the school will they just be paid for that hour or what can be done.

Gary: It would be on the same kind of basis as you suggested if a regular child who is home educated. For any participation or time or services provided by the school district the school district can then collect a pro rated kind of foundation aid payment.

SENATOR FREBORG : Thank you Gary. We will now close the hearing on HB1064.

SENATOR FREBORG : Any discussion committee.

SENATOR COOK : I move a DO PASS on HB1064.

SENATOR FLAKOLL : 2nd

Vote: 7 Yes 0 No

CARRIER: SENATOR REDLIN

Date: 3/2/99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1064

Senate EDUCATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Move w Do Pass?

Motion Made By Cook Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Redlin

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

REPORT OF STANDING COMMITTEE (410)
March 2, 1999 3:02 p.m.

Module No: SR-37-3882
Carrier: Redlin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1064, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1064 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1064

HB 1064

Chairperson Kelsch and members of the education committee, my name is Tracy Klein, Director of Special Services for the Morton-Sioux Special Education Unit. While I support a family's choice to private/home education, I do not support House Bill 1064 as drafted for the following reasons:

1. The local school districts across our state would have very limited involvement in developing the education plan or determining the necessary services to meet autistic children's needs. However, the local district would be required, at parent request, to pay the cost of services (open checkbook).
2. I believe House Bill 1064 promotes private education at the public tax payer's expense.
3. Passage of this bill essentially results in state statute that contradicts federal regulations under the Individual's with Disabilities Education Act (IDEA).
4. This bill prioritizes one disability condition "autism" over numerous other disability conditions prevalent in the state

January 11, 1999

Good Morning Madam Chairwoman and members of the House Education Committee:

My name is Representative Jim Boehm, and I represent District 31.

House Bill #1064 is a good bill.

It is good for kids, and that is one very important reason we are legislators...to help kids.

Sometimes we have to make revisions to present law, and that is what was done in the 1997 session by Senator Ken Solberg. This gave the Charles Holle family a chance to show the people of North Dakota that in this particular situation, they, along with the help of other professionals, were the most qualified to provide the services that their son Carl needed.

I have seen the progress Carl has made due to the dedication and willingness of Charles and Katherine Holle. Let's give them and other parents like them the opportunity to continue to help Carl and kids like him become all they can be. There is no doubt in my mind that we did the right thing for Carl in 1997.

Now we need to update the law as stated in HB #1064. Please give HB #1064 your favorable consideration.

The Holles will also explain the bill and what they have done.

Thank You.

Charlie and Catherine Holle
testimony on HB1064
Phone 701 843-7271

Mr. Chairman and members of the committee,

My name is Charlie Holle and this is my wife Catherine. We live on a dairy farm NW of New Salem and we have four children. Our third child, Karl, was diagnosed with autism in 1993 at the age of 3. Autism seriously affected his ability to communicate or carry on a conversation. He became easily agitated and used no eye contact. He was tactile defensive and did not want to keep his clothes on or use other toilets in different places besides home. This also affected his ability to wear a seatbelt for long periods of time. He needed joint compressions and brushing therapy every two hours to help him with these problems. He was affected by the lighting and also background sounds which therapists call "little white noises". He used an exercise bar and frequent baths to calm down.

Karl since has been in four different educational placements. He was placed in Mandan Preschool in early fall 1993. He regressed severely with night terrors, bedwetting, and constant crying. We were displeased with how Karl was treated there so we removed him from the program. We contacted several different specialists for help. Karl was then placed in rehab therapy at Medcenter One in Bismarck in late 1993. We worked with Anne Bry (ST) and Ramona Eli (OT). They taught us alot about autism and how to teach Karl to function appropriately. We remained there until Anne left to open the Children's Development Center. We transferred him to the CDC so he could continue to work with familiar therapists. After nearly two years of rehab therapy and countless trips to Bismarck we felt confident enough to implement Karl in a home program. We began the home program when Karl was 5 years old and functioning at a 3 year 2 month level. He had very limited speech. This made his life frustrating and in turn affected our other children.

We purchased therapy equipment, two computers, several computer programs from the neuropsychology department of the University of California and curriculum from the Seton Home Study School in Virginia. We purchased a variety of educational tools such as Hooked on

Phonics, Saxon Math Manipulatives, Fast Track Reading Action, and Hooked on Math to name a few. We put a lot of time and money into this program.

A few weeks after he was home we experienced drastic improvements in Karl's behavior and communication skills.

In 1996, a few months after we began the home program we found out it was illegal to home educate a child with a disability in the state of ND. We had until July 15th, 1997 to comply with state law or be charged with educational neglect. We began looking at our options and realized we were very limited with what was offered in the state for autistic children. We were faced with the possibility of establishing residency in a neighboring state where we had many more alternatives for getting Karl the help he needed. However, during the 1997 legislative session the pilot program was implemented so we could continue to home educate Karl under very strict monitoring.

During the pilot program we attempted to place Karl in a New Salem classroom on an inclusive basis. His teacher noticed his difficulties and expressed to us the classroom situation was not right for him. She said he needs to be worked with on a one on one situation. So we proceeded with the pilot program.

Now he is functioning at age level in several areas and is much calmer and pleasant to be with. He is now able to carry on a conversation, tell jokes, express his needs, attend basketball games, sing in the Christmas choir, participate in Sunday School, go to the grocery store and other activities he would not be able to otherwise do. His life is happy and content due to the consistency of the home program and the one on one help we give him. It can be implemented 24 hours a day 7 days a week. The environment can be adjusted to meet his needs. If there is any child that should be allowed to be home educated it is an autistic child. Autism is a very misunderstood disability and there is a lot to be learned about it. We are simply doing what has worked for our child. If at anytime Karl wished to attend school we would not deny him that option. Right now that is not the case.

We have asked to have some of the restrictions lifted from the pilot program due to the expenses of the frequent evaluations and the transitioning problems Karl experienced while traveling to Grand Forks for the psychology evaluations. He would not use the bathrooms in the hotel room or anywhere else. He became very uncomfortable and as a result did poorly with his evaluation.

In conclusion, the home program has been very beneficial to Karl and has kept our family in tact.

We ask that you support HB1064 and allow us to do what is best for our son. Thank You! Are there any questions?

TESTIMONY ON HB 1064
HOUSE EDUCATION COMMITTEE
January 11, 1999
by Brenda K. Oas, Director of Special Education
328-2277
Department of Public Instruction

Madam Chairperson and Members of the House Education Committee

My name is Brenda Oas. I am Director of Special Education for the Department of Public Instruction. The Department is opposed to the wording in this bill. I am here to provide some background information for our position and to answer questions that you might have regarding the fiscal note.

Over the past two years, we have been dealing with a policy that is scheduled to sunset at the end of June 1999. A family had requested that they be permitted to provide home education to their child who had been diagnosed with autism. Previous home education policy had excluded children who are developmentally disabled from the home education exception to compulsory attendance. The reason for their exclusion within the home education policy was twofold: there had been a history prior to the passage of the Education of the Handicapped Act in 1975 of some parents "closeting" children with significant disabilities. Awareness of this practice and schools exclusion of some 2 million children with disabilities led to Congress' inclusion of a provision in EHA entitled Free and Appropriate Public Education (FAPE). Within the FAPE provisions in federal law, states are mandated to locate, identify, evaluate and provide educational services to children with disabilities. It was through the process of locating children with disabilities after passage of the law in 1975 that the education community became aware of the extent to which children with significant disabilities were not being educated.

The second reason for the exclusion of children with significant disabilities in North Dakota's home education law has to do with the requirements for their education. It would be very rare that a family would have all the types of expertise necessary to educate a child with significant disabilities. Most children with autism, for example, have significant difficulties in learning to communicate and to use language. Teaching them communication skills is highly challenging to the most highly trained professionals in the field of language disorders. Many of these children also have very challenging behaviors. Teaching them appropriate behaviors is highly challenging to the most highly trained professionals in the behavior management field. There is a considerable amount of disagreement among researchers whose life's work has been devoted to studying this population about how to address their needs. This contributes to parents' and educators' confusion about how to proceed educationally. Our office is concerned about the protections for the child in all situations in which home education is proposed for any child with significant disabilities.

Relatedly, we are also concerned about the long-term effectiveness of the educational services because this is important to taxpayers. Those of us in special education provide intensive services to children with significant disabilities, not because we believe they are

going to become typical citizens who pay taxes and work in typical jobs, but to reduce the amount of services that they will need over their life spans. As they become older, some of the young with autism develop very challenging behaviors. We currently have three students with autism from North Dakota schools placed in a residential facility for young people with autism in Worthington, Minnesota. They are in the 18-21 year old range and have very challenging behaviors. The services are costly now and they are going to continue to be very costly to serve over their life times. We have no way of knowing whether more intensive services provided at any earlier time could have prevented the need for type of services that they are now receiving.

Because children with autism are perhaps the most challenging to serve of all children with disabilities, I do not want you to take the provisions in the proposed legislation lightly. I want you to be as concerned as I am because any policy that you develop affects all similarly situated individuals.

As the bill is currently written, families of similarly situated children with autism could request significantly more services from school districts than are being requested by the family in question. The lack of limitation on the amount of services would undoubtedly be of concern to school districts. The range in the estimates provided in the fiscal note gives some indication of the potential impact.

Another concern that I have is that the proposed legislation does not provide that children with autism who are home educated come under the protections of the Individuals with Disabilities Education Act (the Education of the Handicapped Act was renamed in 1990). The legislation seems to be sidestepping the fact that children with autism are already included under IDEA and have access to the same services requested in the bill. IDEA already allows for educating children with autism in the home. Based on Century Code, home education is considered private education and children in private education are eligible for the types of services included in the proposed legislation. What the legislation essentially provides is the option of home education for children with autism in Century Code's exemption to compulsory attendance. If the reason for not coming under the provisions of IDEA has to do with a family's conflict with local administrators, there are dispute resolution options available under IDEA to resolve these concerns. For example, mediation is used for the purpose of settling disputes over differing opinions about how services might best be provided. No one has accessed any dispute resolution services for the case in question.

Overall, I have specific concerns about the particulars of the bill as I have indicated, but I am not opposed to the basic intent of allowing some flexibility in where services are provided for children with autism. The basis of special education is individualized decision-making. Consistent with my responsibility for assuring that the provisions of the Individuals with Disabilities Education Act are carried out in North Dakota, I would like to see that supervision of special education services for a child who is being home educated come under special education.

I would be happy to answer any questions that committee members might have.

Charlie and Catherine Holle
Testimony on HB1064
Phone 701 843-7271

Mr. Chairman and members of the committee,

My name is Catherine Holle from New Salem, ND. During the subcommittee meeting in the house a copy of the laws for SD,MN,MT were brought forth and discussed. Gary Gronberg and Brenda Oas had written a version of what they felt applied. All parties concerned came up with a compromise that we could all live with. We accepted Gary Gronberg's version of the amendments. I researched the laws of the other states regarding home education and ND is still the most restrictive state.

Thank You, Are there any questions?