

2017 HOUSE EDUCATION

HB 1429

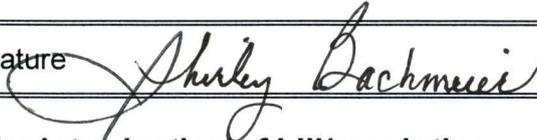
2017 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1429
1/31/2017
27658

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to home education standards.

Minutes:

Attachments 1 - 8b

Chairman Owens: Opened the hearing on HB 1429.

Rep. Olson: The purpose of the HB 1429 is to provide a greater amount of flexibility and autonomy to the home school families who have a special needs child. Some of the previous testimony noted, the evasiveness of the level of the progress assessment, the individualized education plan, the multidisciplinary assessment team, the different things that are in the law that trigger right now really have a chilling effect on the ability and the willingness of people to provide home education to students that have a learning disability. It is in the interest of the state to find a way to promote this type of activity because: 1. It is going to save the state a huge amount of money. Educating children with disabilities is incredibly expensive and it is an unfunded mandate in all of the school districts. The amount of funding that goes to the school districts from the state or from federal is just a minuscule percentage of the actual cost. In my school district it is an extra 10 million dollars to supply special education services. It is not a one size fits all. I think that parents are uniquely qualified to provide that level of care and concentration and focus for their child. And they know their child best. So those are some of the reasons I brought this bill forward. This is a specific issue for them that was brought up to me by a number of homeschooler's. The first part of the bill will reduce the percentile that requires monitoring would bring us in line with the majority of states. The only other state that has a 50th percentile is West Virginia. You are going to be monitored. Under present law, if you score below the fiftieth, you are going monitored for at least one additional school year until you score above the fiftieth again. If this doesn't happen, it will require constant monitoring. You are required to receive a multi-disciplinary assessment to determine if the child is disabled. There are a number of factors that go into the monitoring and intervention that is required by the local school districts to then go and send special folks to that child's home. It becomes a burden on the parents and the district. What the bill would do is eliminate those provisions that require intervention and the monitoring for a child who has a disability or who is diagnosed with a disability. But what has changed, what is added, is the ability for a parent to consult, see page 3, that a parent in consultation with an individual

whose license to teach by the ESPB or who is approved to teach determines a child requires special education or related services with the superintendent of the school district where the child resides and the school district provides those services to the parent with services without cost. This would provide a necessary tool for these parents to acquire the type of help that they would need should they so desire it and it would be a lower cost alternative than bringing that child into the public school as a full time student. That is the intent of that. I would stand for any questions if you have any for me right now.

Rep. Heinert: Rep. Olson, on page 3 - Who would the licensed qualified individual be that makes the determination whether the child needs special needs or not?

Rep. Olson: This would be any individual who is licensed by the state to determine that the child does require special education or related services. We would be leaving it up to the expertise of that particular individual to make that determination.

Rep. Heinert: My second question: on line 15, the school district should provide those educational services to the child at the request of the parent(s) without cost. Where would those educational services be provided?

Rep. Olson: The bill does not specify that so it would really be up to the superintendent in that school district whether it be in the classroom or the type of services that would be provided so it would be hard to prescribe in statute what that should look like. I would rather have the school district to decide. They would define what services would be needed, where they would be held. I would expect the parents would be able to work with their local district to determine what that should be. 8:30

Chairman Owens:

Vice Chairman Schreiber-Beck: Along the lines of that area, obviously there is testing that is involved with that in order to comply for the school district under Public Law 142. Would you advocate the testing involved in reaching a decision whether the child needs these services? This determination cannot be reached without going through standardize testing to denote that...psychologists etc.

Rep. Olson: So the requirement for the standardized achievement test, presently if you score below the 30%, what this bill would be doing is to trigger the requirement for the assessment. should that trigger occur, rather than requiring the assessment team, the parent(s) would consult with the individual who is licensed by ESPB to diagnose and determine that this child has a learning disability. That could happen without the use of the standardize test. They may be outside the threshold for requiring the test because it may be too early or in between, The parent, under section 1-23-13, would essentially, as a home school parent, be given the ability to participate in special education services. You can compare that to the ability that all homeschoolers have the freedom to participate in other activities within the public school system. The public schools do receive some credit for that.

Vice Chairman Schreiber-Beck: It is ok to have the standardize testing in the determination of the need that the child would have if they are in need of entering a program to compensate or work with his disabilities.

Rep. Olson: The use of the standardize testing to achieve the diagnosis is not the only requirement. That person can make use of a standardize test(s) but that would not be the sole determinant of whether the child has a learning disability. This would also be assuming that the parent submits to a standardize test. Because they hold the relevant qualifications. If those parents had a special needs child that they wish to engage in this program it would be up to them to not object to the use of standardize tests, to do your job and make it your business to do work with the school district.

Vice Chairman-Schreiber-Beck: One other question...do you know how many home school students are being monitored under your first section 15.1-2306. Is there a statistic on there or is there someone who holds that statistic?

Rep. Olson : I do not know if they are required to report any of the monitoring statistics or even any of the standardize test results to DPI. It is difficult for DPI to collate these test results because there is a wide variety of standard tests that home education family can choose from so they can be all over the map. I do not know if DPI collects any data on that. Do they talk to the local superintendents to find this information?

Vice Chairman- Schreiber-Beck: Do you know anyone that is being monitored; that is currently under this code?

Rep. Olson: Not personally although I do believe that there are several here who are coming to testify that are.

Rep. Guggisberg: Rep. Olson, I do not see a fiscal note with this bill. Personally I have a child with dyslexia. Looking at this, if with his diagnosis, the district would have to pay for the services that I am now paying myself.

Rep. Olson: That is the intent that the school district to provide special education services. It was brought to my attention that we may need to amend that to "necessary" special education services so that the determinant may lie with the local authority to decide how far they wish to cooperate. It would be my intent and hope that they would find the necessity as it actually relates to reality and not try to hold back but try to provide whatever they can. I am curious as to why there is no fiscal note.

Rep. Guggisberg: I am guessing at this but maybe that it would be a cost to the local school district; it would probably come out of their general fund if we didn't pay for it. So it would be a state mandate that we didn't pay for.

Rep. Olson: We are under water in all special education services in the majority of the school districts. I think that in the end this would lower the cost of those services if more people were to adopt this than to raise it because it would promote home schooling which is going to be in the long run cheaper on many different levels. I do think that it is maybe cost neutral. It is open to speculation.

Chairman-Owens: Your comment on unfunded mandate for special education, it is more accurate to call it inadequate than unfunded. Before the federal and state share, on the average across the state it is below the 100% needed about between 45 to 55% the last time

I looked. There is some money; it is inadequate but not unfunded. Anyone else in support of HB 1429?

Melissa Evensen: See attachment 1 for testimony. (Attachment 1) 18:22 – 26:00

Chairman- Owens: Are there any questions.

Melissa Evensen: May I add one more comment? For Rep. Schreiber-Beck: we have to report three times a year to our district. I am a nurse but I do not have a four-year degree so I cannot opt out of our testing. It does nothing for me and for my child except take time away from his education. I have to file these reports and they don't do anything with them and they do not help his education. We know that he is not going to achieve those standards; medically he is diagnosed that he won't get to those levels.

Rep. Schreiber-Beck: Does she have an IEP or not?

Melissa Evensen: (27:38) (Attachment 1) We do not have an IEP because we have not had to file under the monitoring for our family thus far. I had filed that she has dyslexia before additional testing at the school district. I filed right away and proceeded as normal what they were expecting from us.

Rep. Brandy Pyle: Ms. Evensen: Do you have the team-based monitoring? What is it like for you?

Melissa Evensen: For us, all I have to do is file a report with our superintendent or our principal two times a year and check in with them and make sure that things are going okay. But it is time consuming for me to prepare that report and turn it in.

Chairman- Owens: Anyone else in support of HB 1429?

Vice Chairman-Schreiber-Beck: From (Attachment 1) 26:30 taken from M. Evensen's testimony) As a former special education teacher. That does not always occur. I must disagree with that, and I wish they were. For you to understand, IEP, an IEP is required for that is the only way that the school district to receive funding back from federal; there are several rules and laws.

Melissa Evensen: What I was told by the vice principal of our school was that simply to enroll anyway because I had declared that she had dyslexia. They wanted to give her an IEP before she received any education regardless if it was special education or not; I had already indicated that that would happen. That happened before any testing had taken place for her.

Vice Chairman- Schreiber-Beck: There are standardized testing that has to take place in order for the school district to serve. It is a requirement.

Chairman-Owens: Any other questions in support of HB 1429?

Rebecca Winter: (Attachment 2) for testimony. 28:48 – 31:40

Chairman- Owens: Are there any questions?

Vice Chairman- Schreiber-Beck: Checking to see, does he fall under the IEP?

Rebecca Winter: We filed right away: these are his medical needs; I gave them everything from the start. We proceeded as normal.

Rep. Brandy Pyle: Miss Winter: do you have the team-based monitoring. What is it like for you?

Rebecca Winter: 32:47 It is time consuming for me to submit a report with our superintendent or principal three times a year and just check in with them and make sure that things are going okay. But it is time consuming for me to prepare that report and turn it in.

Rep. Brandy Pyle: Are ideas ever presented to help with what you can do to help child? No answer was given. 33:00

Chairman- Owens: Anyone is support of 1429

Angie Flynn: (Attachment 3) 33:39 – 40:52

Vice Chairman- Schreiber-Beck: 39:14 Did your son have an IEP?

Angie Flynn: Yes he did, as did my two other children.

Chairman- Owens: Any additional questions. Anyone else in support of 1429?

Amber Sand: (Attachment 4) testimony. 41:42 – 43:55

Chairman-Owens: Are there any questions? Anyone else in support of HB 1429?

Kenneth Night: I am the president of the N.D Homeschool Association. We strongly support this bill. The majority that need to be said has probably been already said. What I wish to say is that seeing this particular need that needs to be dealt with as far as special needs. So what our ND Homeschool Association is doing all on our own to help provide support for these people because it seems that in many of the discussions, many of the special needs parents feel that the only source of help that they can find is in the public school system. What the Homeschool Association is doing is striving to serve special needs families. We have a data base of resources specific to their challenges that we publish on our website. This is not specific to our organization; this is open to anyone who wants to come on board. (Attachment 5) 44:38 – 46:56. Some of our resources are lists of retired special educators of special needs, workshops, networking with like resources, vender lists with curriculum and educational aids, loving support and encouragement to help these people persevere. These children with special need the best educational opportunities possible. I strongly urge you to give it a Do Pass.

Chairman- Owens: Are there any questions?

Vice Chairman-Schreiber-Beck: I had inquired of your lady from Ellendale: had any been threatened or charged with educational neglect? 48:00 Are you aware of anything happening across North Dakota in that regard?

Kenneth Night: No. The North Dakota Homeschool Association, to my knowledge, has not nor have I heard such from anyone. 48:30

Chairman- Owens: Is there anyone else in support with HB 1429? Any opposition to HB 1429?

Anita Thomas: North Dakota School Board Association (Attachment 6) for testimony. 49:20 – 50:26. With HB 1429 in its current form, NDSBA requests a DO NOT PASS on this bill.

Chairman- Owens: Any further question? Is there anyone else in opposition to HB1429?

Russ Ziegler: Ass't. Director North Dakota Council of Educational Leaders (Attachment 7) for testimony. 51.00 – 57:51. We respectfully request a DO NOT PASS on HB 1429.

Chairman- Owens: Any questions? Anyone else on opposition on HB 1429?

Rep. Mary Johnson: My understanding from all the testimony, which happens a lot, the problem with the testing is that there cannot be one single test for all special education children. The 30 percent is in lieu of requiring a bunch of different tests for a bunch of different kids. Does that sound right?

Russ Ziegler: No, it has nothing to do with it. The testing from the 50th and the 30th is on the standardized test can give if they don't opt out. it has nothing to do with the multiple discipline team yet. They only move into that if they fall below the 50 percentile. Then it goes to a multiple disciplinary team. If they fall below the 50 percentile, they are monitored. It has nothing to do with IEP's or diagnosis of a learning problem.

Rep. Mary Johnson: The test itself, is it one test for each child?

Russ Ziegler: (Attachment 7) 59:59 – 1:00:40.

Chairman- Owens: Anyone else in opposition to HB 1429? Any neutral testimony?

Gwyn Marback: Asst. Director, Office of School Approval & Opportunity, Department of Public Instruction. See (Attachment 8A-8B) for testimony. 1:01:49 – 1:06:59

Chairman- Owens: Any questions? Seeing none, thank you. Any further neutral testimony. Seeing none, I close the hearing on HB 1429.

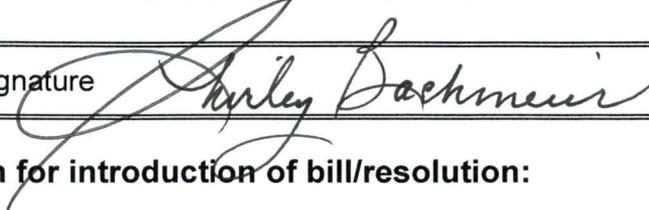
2017 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1429
2/1/2017
27762

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to home education standards.

Minutes:

Rep. Oliver: Page 3. Line 15-16: The school district shall provide special education services to the child requesting care without cost.

Chairman Owens: Any discussions?

Rep. Heinert: Page 3, I took a little issue with a "any licensed provider in consultation with an individual whose license to teach by the education standards and practices board... I think it has to be someone from the school district in consultation with professionals from the school district. I can see shopping going on here until the parent decides they find somebody that is on their side and then bring that person in as their expert. I think an amendment needs to be made there. I think the last part of that, "the school district shall provide special ..." I don't have a problem with that but I think that needs to be left up to the school district as to exactly where that is going to occur.

Rep. Longmuir: I have concerns with the whole bill. I think this is a bill that should come out as a DO NOT PASS. I will make that a motion for a DO NOT PASS. Second by Rep. Zubke. Any discussion please?

Rep. Guggisberg: I did discuss this with an adult sponsor yesterday and I absolutely feel their pain as a parent of a child with special needs. But the truth is, unless you go through the process of having a diagnosis and then doing what needs to be done to set up a IEP. You can't get this help at a public school. The way this bill is written you would just need to have somebody define them as needing special help and then the school district would be required to pay for it. So instead of taking my son to his tutor two to three times a week, we could homeschool him and make the school pay for it, would be another option. I think that it is a problem; they have identified a problem but the solution hasn't been found in the public schools yet either.

Chairman Owens: The part that I was going to make earlier that bothers me is they take away the thing that allows what little federal funds we get to help these parents and these children by taking away the multi-discipline team. Another thing, a single individual deciding whether the child is handicapped or disabled in some fashion; then to add to that, they tell them that they have to pay for it without cost. That doesn't bother me that much in the theory of helping the student and parent; but then how the process allows them to access all resources necessary.

Rep.???? not introduced: can also be setting yourselves up for a lawsuit since the constitution serves will provide of equal education. If you give this to one student, have to give it to all students.

Chairman Owens: Any further discussion? We have a do not pass for HB 1429. Roll call was taken

14 Yes 0 No 0 Absent Floor Assignment Rep. Heinert.

Date: 2/1/17

Roll Call Vote # 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1429

House Education Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Rep. Longmuir Seconded By Rep. Zubke

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------------|-----|----|-----------------------|-----|----|
| Chairman- Mark S. Owens | ✓ | | Rep. Andrew Marschall | ✓ | |
| Vice Chairman- Cynthia Schreiber-Beck | ✓ | | Rep. Bill Oliver | ✓ | |
| Rep. Rich S. Becker | ✓ | | Rep. Brandy Pyle | ✓ | |
| Rep. Pat D. Heinert | ✓ | | Rep. Matthew Ruby | ✓ | |
| Rep. Dennis Johnson | ✓ | | Rep. Denton Zubke | ✓ | |
| Rep. Mary Johnson | ✓ | | Rep. Ron Guggisberg | ✓ | |
| Rep. Donald W. Longmuir | ✓ | | Rep. Corey Mock | ✓ | |
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Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Heinert

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

REPORT OF STANDING COMMITTEE

HB 1429: Education Committee (Rep. Owens, Chairman) recommends **DO NOT PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1429 was placed on the
Eleventh order on the calendar.

2017 TESTIMONY

HB 1429

Attachment 1

HB 1429

1/31/17

HB 1429 - Yes

Good morning Chairman Owens and members of the House Education Committee. Thank you for allowing me the opportunity to speak to you today. Thank you also to the North Dakota Home School Association for inviting me to share our family's experience with you. My name is Melissa Evensen. I reside in Fargo's District 11 with my husband, Todd, and our three daughters. Our family began homeschooling in 2007 when our oldest daughter was in preschool. We have continued homeschooling ever since, with our children now in grades eight, six, and one. My oldest two daughters are typical students. Generally speaking, school comes easy to them. Some subjects are more challenging than others, but they learn quickly and their grades are good.

My youngest daughter is not so fortunate. For the sake of privacy, I will refer to her as "Emily" during the remainder of my testimony today. Emily faces many difficulties in life, primarily due to choices beyond her control that were made before and after her birth. My husband and I are licensed foster parents. Emily joined our family as a toddler in November 2010 when Cass County determined her birth family was no longer able to meet her needs. Six months later, in May 2011, we finalized her special needs adoption through North Dakota's Adults Adopting Special Kids program. We knew at Emily's adoption she would face many hurdles in the future, but due to her young age, it was impossible for anyone to determine just what those might be. In the last six years, Emily has been diagnosed with Hyposensitive Sensory Processing Disorder, Adjustment Disorder, severe dyslexia, vision impairments in depth perception and tracking, and depression. She has also been professionally treated for Attention Deficit Hyperactivity Disorder and meets the criteria for Fetal Alcohol Spectrum Disorder. Emily looks very normal from the outside, but on the inside, she is not. Emily is friendly and outgoing, but struggles to understand normal social cues and can sometimes exhibit inappropriate behaviors. In large group settings, she is easily distracted and often becomes a distraction to others. She works exponentially harder than her same-aged peers to keep her emotions in check during times of anger, frustration, stress, and illness. The trauma she endured as an infant and toddler is frequently triggered by sensory experiences she has now, often without warning.

In addition, Emily learns in a different manner than her peers. Her learning disability requires specialized curriculum and teaching techniques in reading, spelling, handwriting, and math. Since she began kindergarten in fall 2015, we have dedicated thousands of dollars and countless hours toward Emily's education. Our efforts are paying off in spades. Emily is at or above grade level in all of her academic work. My husband and I are absolutely convinced that our decision to homeschool was

instrumental in Emily's success. Her pediatrician and occupational therapist agree that homeschooling is Emily's best educational option. We have organized Emily's learning environment to minimize distractions and included recommended adaptive equipment. The flexibility in our schedule means Emily can attend therapy appointments without the worry of missing out on important academic time. Most importantly, she receives individualized, closely-supervised, one-on-one instruction every single day.

While I am grateful for the freedom and opportunity to homeschool our children, there are some areas of concern I would like to see change in our state. House Bill 1429 would solve two of those issues. First, ongoing team-based monitoring for disabled children who test below the fiftieth percentile on standardized achievement tests is unnecessary and burdensome. Parents of special needs children are strong advocates, dedicated caregivers, and determined cheerleaders. They want only the best for their sons and daughters. Special needs children will not fall through the cracks or fail to reach their potential for lack of a few multidisciplinary team meetings. Furthermore, parents must invest significant time and energy in preparation for these meetings. Their time would be better spent actually educating their children.

Second, families would benefit greatly from the option to utilize specialized services at no additional cost through their local school districts. When I sought our district's assistance after learning of Emily's dyslexia, they were unable to offer the help she needed. The district psychologist would not treat Emily's dyslexia until third grade. The director of special education would work with Emily as a kindergartner, but refused to use the curriculum recommended by our specialists, insisted we enroll Emily full time, demanded we cover the cost of additional dyslexia testing out of pocket, and wanted a full IEP before any remediation could begin. This was a disappointment. We wanted the district's help with Emily's learning disability, but not at the expense of her emotional and behavioral health.

House Bill 1429 would be a game changer for our family and many others across the state. North Dakota's homeschooled special learners would benefit greatly from the increased flexibility and educational supports this legislation provides. I urge you to vote "do pass" and I thank you for your time.

Melissa Evensen, tmevensen@gmx.com, (701) 793-2188

HB 1429- Yes

Mr. Chairman and Members of the Committee:

Thank you for your time today. My name is Rebecca Winter. I am a wife, mother, Registered Nurse, and Homeschool Mom. I have two boys ages 11 and 9. Shortly before birth, our 11 year old son had a massive stroke. Sam sustained significant brain damage. As a result, Sam, has epilepsy, mild cerebral palsy, learning and behavioral struggles. He has overcome many challenges and has far surpassed what the medical expectations of his life would be. We chose to homeschool Sam because of his special learning needs. Sam has a team of medical professionals in Minnesota who agree that this is the best option at this time. We have found that Sam has greatly benefited from being in the home environment, and being able to tailor every part of his education to his current educational need or medical status. This flexibility has given him more opportunity to succeed.

Our family moved here to North Dakota from Minnesota in February 2015. When we reviewed the North Dakota homeschool laws, we were nervous and uncomfortable. Due to Sam's brain injury, there are some educational subject areas where the Neurologist predicts Sam will have minimal success. This isn't something that we, as parents take lightly. Sam is a hard worker, but at times struggles with many subjects, more specifically, he doesn't easily comprehend math. The Neurologist has encouraged us to teach him to use a calculator early on, and focus on entry level math used for life skills. Regardless of different curriculum choices, teaching ways, or teaching methods, Sam's specialists believe he will not achieve the norm for standardized test scores. In spite of this, our son Sam, will continue to work hard on achieving educational success, to the best of his abilities in all areas.

The proposed changes to this law will benefit not only our family, but many other special needs families. We all want the best possible outcomes for our children. This is no different with special needs learners. We often have to fight and push hard to achieve educational goals for our children. We hope that you will pass this bill, and that working together we can improve the lives of these children and their families. Thank you for your time.

Sincerely

Rebecca Winter

26703 198th Ave NW, Carpio ND 58725

651-734-8125 (cell)

HB 1429 - yes

To Whom It May Concern:

I've been homeschooling for seven years. It has been my desire to see my children excel and meet the requirements for state testing. It has also been my desire to work with the public school to see them reach some of these requirements. During the last seven years I have found it extremely difficult to work with Ellendale Public Schools. There tends to be a strong hand that makes me as a parent feel like homeschoolers are being discriminated against for choosing to homeschool. Each of my children has received services in reading, language and speech. My son Kyle has had the greatest need for services. Kyle started having visible needs for intervention at age three. He went to early childhood services in Edgeley, ND. Kyle repeated kindergarten because he was not advancing with his peers and after his second year it was recommended that he should take another year of kindergarten. At that time I chose to homeschool Kyle and my daughter Taylor and take them out of all services they were receiving. The more I educated myself and began to teach my children I knew that we needed help in the areas of reading and language development. We intentionally got the kids in services before the first required homeschool testing in fourth grade. We wanted to stay on top of things and wanted to get the kids everything they needed so I had my children tested in Willmar, MN and in Jamestown, ND. It was determined by the testing that both children needed intervention. We were told that Taylor had anxiety and ADD. We were told Kyle had a 60% deficiency in reading and that there was a chance that he would never learn to read. He was also diagnosed with ADHD and a defiant disorder. When we approached the public school I was told that they did not need to accept our testing and they would do their own. They did, however, accept some of the testing we had done and did some of their own. I used the same person that they used out of Jamestown. Kyle and Taylor both started receiving services for reading, language and speech. We chose to put Taylor back in public school when she reached fifth grade and by the end of the first semester she was coming home with migraines and emotional outbursts. I tried speaking with the teachers and staff but no adjustments were made to her work load. In fact, I was told that what was happening was normal for her age. In sixth grade Taylor went back to full time homeschooling with the exception of special education in reading at the public school. Taylor graduated from special education at the end of sixth grade and did her required testing at the school and was found to be below the 30th percentile in the area that she had just graduated from. I was told that I had to put her through all the special education testing again to satisfy the requirements of the law. After doing this I was told that she didn't qualify for any

special education and that we would be required to retest and get above the 30th percentile or Taylor would come into public school for reading and be tested each time with her peers. She needed to reach above the 30 percentile on those tests to be able to come back into homeschooling. Over a heated discussion I was told those were my only options or I would be charged with educational neglect. I was given a month to have her retested. This time she scored over the required percentage. It is impossible to measure a person's true potential with a cookie cutter test. Until laws are looked at and changed in special education, testing is the only measuring stick that determines educational neglect. In my opinion, consistency, time and the working relationship with the educators should have some weight in determining neglect. By passing this legislation we will be benefiting students and families who are under the constant threat of being charged with educational neglect. One on one education for struggling learners is practical. Homeschooling provides this, especially for children with special needs. In fact, that was the recommendation I received for my children with ADD and ADHD. Thank you for your time.

Sincerely,

Angie Flynn

8123 96th ST SE

Ellendale, ND 58436

701-830-3042

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Attachment 4 HB 1429

1/31/17

HB 1429 - yes

To Whom It May Concern:

My name is Amber Sand. I am a mom of 6 and I have been homeschooling for 7 years. My son Roscoe was born in 2008. It became apparent by the time he was 2 years of age that there were some differences between him and other children his age. He started speech therapy when he was 4 and is still in speech at the time of this writing. He started occupational therapy when he was 5 years old and is also still receiving this service at the time of this writing. Roscoe has been diagnosed with sensory processing disorder. Among other things, sensory processing disorder makes it difficult for my son to understand directions. He often has to have things repeated many times in order to understand and follow through with what he has been told to do. He has a very difficult time in large gatherings and loud noises really bother him. We believe that homeschooling has been very beneficial for him and the best option for our son. As I mentioned earlier, Roscoe receives two types of therapies. Both of these therapies are available for free through the public school system in our area. We have chosen to use outside sources to provide these services and fortunately we are able to afford them. The reason that we have chosen not to go through the school system is because we have watched the school officials in our area repeatedly harass parents of students with special needs and make it difficult for them to continue homeschooling without interference by the school. I feel that if this legislation passes, it may be conceivable that we would be able to work together with the school system someday and our right to homeschool our special needs son will not feel threatened.

Amber Sand

420 1st St S

Ellendale, ND 58436

701-535-1335

Attachment 5

MICHAEL P. FARRIS, JD, LLM
CHAIRMAN (WA, DC)

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

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VICE PRESIDENT (OR, DC)

SCOTT A. WOODRUFF, ESQ.
SENIOR COUNSEL (VA, MO)

DARREN A. JONES, ESQ.
ATTORNEY (CA, DC)

THOMAS J. SCHMIDT, ESQ.
ATTORNEY (CA)

HSLDA

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HB 1429

1/31/17

MICHAEL P. DONNELLY, ESQ.
ATTORNEY (MA, NH, WV, DC)

WILLIAM A. ESTRADA, ESQ.
ATTORNEY (CA)

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ATTORNEY (MO, VA)

DANIEL T. BEASLEY, ESQ.
ATTORNEY (CA, WI)

MARY E. SCHOFIELD, ESQ.
OF COUNSEL (CA)

January 30, 2017

Honorable Mark S. Owens
Chairman, Education Committee
The North Dakota House of Representatives

Re: *House Bill 1429*

Dear Mr. Chairman, Honorable Members of the Committee:

By way of introduction, Home School Legal Defense Association (HSLDA) is a national advocacy organization committed to preserving the right of parents to educate their children at home. We presently have more than 81,000 member families in the United States, including nearly 400 member families in North Dakota.

HSLDA supports House Bill 1429. If passed, the bill would remove unnecessary, restrictive burdens on parents who wish to homeschool their special needs children, and children in need would be granted access to special education services at their local school district. The bill would also improve current regulations on parents who wish to homeschool but do not have a high school diploma.

Improving Homeschooling for Special Needs Children

North Dakota is currently the most restrictive state in the nation for parents who wish to homeschool children with special needs. This is unfortunate considering the tremendous benefit homeschooling provides these particular students. Homeschooling allows parents to custom-tailor an educational plan that meets the individual needs of each unique child.

The vast majority of states do not place additional restrictions on parents who choose to home educate their special needs children. Of the 4 states that do (IA, ND, PA, VT), North Dakota is the only one that requires special progress reports and supervision by a qualified teacher or other professional. H.B. 1429 would eliminate these burdensome requirements that apply to only parents of children with special needs.

When professional services are necessary to meet the needs of children, families may benefit from accessing these services at their local school district. H.B. 1429 ensures all families will have access to special education services.

HOME SCHOOL LEGAL DEFENSE ASSOCIATION

NATIONAL OFFICE ▪ ONE PATRICK HENRY CIRCLE ▪ PURCELLVILLE, VA 20132 ▪ 540-338-5600 ▪ 540-338-1952 FAX

CAPITOL HILL OFFICE ▪ 119 C STREET, S.E. ▪ WASHINGTON, DC 20003

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Improves Flexibility in Evaluating Test Scores

Under the current North Dakota homeschool statute, a homeschool student who scores below the 30th percentile on the required standardized testing must undergo a special education evaluation whether or not such an evaluation is actually necessary. This law is particularly burdensome for parents of homeschool students with special educational needs because standardized test scores often do not accurately reflect the educational level of these students. North Dakota is one of only 10 states that mandate standardized testing, and only 5 of those states require test results to be submitted to the state or local school officials. H.B. 1429 improves the law for special needs students by removing the stringent mandatory evaluation.

Modifying Requirements for Parents without a High School Diploma or GED

The vast majority of states (40) do not impose any additional restrictions on homeschooling based solely on the parent's level of education. North Dakota law requires homeschooling parents who do not have a high school diploma or GED to be monitored by a licensed teacher for two years. Students taught by such a parent are currently required to score at the fiftieth percentile on a standardized test. This means that unless the student (whose parent is not a high school graduate) scores above-average, monitoring must continue. No state in the nation sets such a high threshold.

H.B. 1429 reduces this threshold to the thirtieth percentile, a significant improvement. Under current law, these parents must work with a licensed teacher who must spend one hour per week with the student and make reports to the school district throughout the school year. These monitoring requirements remain unchanged by H.B. 1429. Studies have consistently demonstrated that homeschooling is an excellent educational option that should not be heavily burdened simply because a student tests slightly below average.

H.B. 1429 would bring North Dakota closer to the mainstream when compared to the level of homeschool regulation in other states across the country. Please feel free to peruse our national summary of homeschool laws (www.hsllda.org/laws) or our summary of special education provisions in state homeschool laws (www.hsllda.org/strugglinglearner/sn_states.asp).

For these reasons, I encourage you to support educational freedom by voting for H.B. 1429. If you have any questions or would like additional information, please do not hesitate to contact me.

Sincerely yours,



Daniel T. Beasley
HSLDA Staff Attorney

cc: Honorable Members of the House Education Committee

HB 1429 – Yes

Chairman Owens and Committee Members,

My name is Theresa Deckert and I am the Office Administrator for the North Dakota Home School Association and long time homeschooling parent. I answer the phone and email as well as keep our website up-to-date. I listen to the stories of families as you will hear from today, all the time.

North Dakota has the most restrictive homeschool law for special needs kids in the nation.

Parents of these children face special challenges each day in teaching them and yet our state puts extra regulations on them taking away the freedom and flexibility which is at the heart of homeschooling.

Our current law is also confusing. It can be difficult to help parents when administrators interpret the law differently than the parent, our association or even another school district.

There is a growing body of evidence which indicates homeschooled students with special needs may outperform their public school counterparts. You might wonder how a parent with only a high school diploma could meet the needs of such a child when most teachers in that area have a Master's degree or higher. A study conducted by Steven Duvall in 1997 and 2004 concluded that, **"it was not necessary for parents to have a teaching certificate in order to be highly effective instructors."**

So how can those with learning disabilities do better in a home education environment? It is because of Academic Engagement Time (AET) factored with student teacher ratio. The lower the student teacher ratio, the higher the (AET) which is critical to the success of a special needs learner. **This is exactly what homeschooling offers: a one-on-on tutorial approach focused on mastery learning.**

HB 1429 would support families who are homeschooling their special needs children and give them the **freedom** and **flexibility** they need rather than discriminating against them by requiring extra hoops to jump through. It would make the law easier to understand and it would insure that school services are available to **ALL** children. Please consider a "do pass" recommendation.

Theresa Deckert, 4631 76th Ave NE, Devils Lake, ND 58301, 701-662-4790

HB 1429 – yes

Sixty-Fifth
Legislative Assembly
of North Dakota
January 26, 2017

Good afternoon Chairman Owens and members of the Education Committee,

My name is Melissa Tannehill and I am a homeschooling mother to seven children in the state of Washington. I have been homeschooling for the past ten years. Three of my children have developmental disabilities and two of them were adopted from a foreign country and have a deeply traumatic history.

I write this testimony as a prospective North Dakota resident. My husband and I are considering moving to your great state to be near family. We urge you to please consider enacting House Bill No. 1429. It is our belief that the current law is discriminatory towards our children. We are quite thankful for the Americans with Disabilities Act, a federal law requiring that our children receive the same opportunities as a child without a developmental disability. However, we are very concerned about North Dakota's homeschooling laws, specifically the requirements for children with developmental disabilities, that go beyond the requirements for other children. As I am sure you can imagine, children with developmental disabilities are very complex and differ widely. Most parents work very hard to give them the very best education possible. Here in our local school district we work closely with our special education team and have been grateful for their work. However, they had asked us to send our son with a very complex trauma history to the school for services instead of receiving services in the home. Because he is post-institutional and has a very complex list of diagnoses we as his parents, his psychologist, and his pediatrician, all agree

that sending him to an institutional environment would be detrimental to his progress and damaging to his mental health. Here in Washington state we have the right to make that decision. We are grateful for the work they do but we also understand that their special education training has very little experience with post-institutional trauma. They had also asked that we send our non-verbal daughter and non-verbal son to the school for services. Unfortunately, there has been a growing trend of abuse and neglect of developmentally disabled children in our nation's schools. Our policy as parents has been not to send our non-verbal children anywhere without closely trusted supervision as long as they can not tell us if someone is hurting them. The point I am trying to make is that each one of our developmentally disabled children is so complex it would be very concerning to leave such important decisions about their education, well being, and mental health, to school district personnel who do not have the necessary experience to make such decisions.

We very much want to move to your state but must look out for the best interests of our vulnerable children. Please consider voting yes on amendment HB 1429 which would remove the discriminatory requirements for children who are developmentally disabled and would leave important decisions about their education and safety to the parents who know them best.

Chairman Owens and members of the education committee, I thank you for taking the time to hear my concerns and considering a yes vote for HB 1429. Thank you and God bless you.

Melissa J. Tannehill
260 Tuck Rd.
Eltopia, WA 99330

HB 1429 – Yes

Mr. Chairman and committee members,

I am writing to provide testimony regarding HB 1429. I urge you to pass this bill, as it would give parents of special needs children the support they need and remove the discrimination against home-schooling a child with disabilities that is in place due to the current legislation.

I am a home-schooling mother to a deaf child. Throughout our experiences, with both early intervention services and early education (i.e. a preschool for deaf and hard of hearing children), my husband and I have fought against the prevailing attitude from professionals that as her parents, we need to step back and allow the “experts” to handle the decision-making. This attitude is in error – because no one is more invested in our child’s success than us, her parents. To these professionals, our daughter is just a number. In making the choice to educate our child at home – in spite of the threat of forced intervention from the school system – we are able to provide our child with an education that is tailored to her specific needs and learning style.

Our choice to home-school did not come lightly. Before deciding to home-school, I carefully read ND state law regarding home-schooling children with disabilities, I asked questions of the North Dakota Homeschool Association (NDHSA) and spoke with the Homeschool Legal Defense Association (HSLDA) in regards to receiving access to services in the school. I was struck at how discriminatory this portion of the law is. Rather than providing support and special education services, the law threatens to take all educational leadership from

the parent(s) should the child test below a certain percentile. It creates an ever present fear, and, in the beginning, made us question taking a path that we feel is the best one for our daughter.

As parents, we strive to make the best possible choices for our daughter. While it is certainly a challenge to educate a deaf child at home (or any child with special needs), we should feel as free to home-school her as we do our other children. The law needs to be amended so that we are supported in the endeavor to home-school rather than restricted, and our daughter should be given all the services and support she needs to enable her to succeed.

Thank you for your consideration.

Sincerely Yours,

Claire Hoffer

225 E Wachter Ave.

Bismarck, ND 58504

(701)527-4303

Mr. Chairman and Members of the North Dakota House Education Committee:

My name is Jennifer Guzik, and I live in Kindred, North Dakota. I home educate my three children, including my seven-year-old son who has been diagnosed with autism. I would like to encourage you to please vote yes on HB1429.

As a parent of a child with special needs, I can tell you that there are many more worries and stresses involved in raising such a child. My son is a precious blessing, and I wouldn't change a thing about him. However, his special needs require extra attentiveness and extra patience in caring for him. In its current form, the parts of ND Century Code 15.1-23 which address home educating children with special needs add extra burden and stress to parents who already have so much on their plates just in raising a child with special needs. The current law requires parents of a child with a developmental disability to file with their school superintendent a services plan and progress reports three times a year for their child with special needs. The proposed amendment to the law makes so much more sense and would be of much more benefit to a child with special needs and his parents. It would be much better to allow parents to request special needs services from their local school for the child instead of requiring the parents to jump through more hoops by submitting extra reports to the school for their special needs child.

Before I became a parent, I was a teacher in a public elementary school. Having been in a classroom, I know that my son, with his special needs, benefits greatly from the one-on-one attention I am able to give him at home. For parents who choose to educate their children with special needs at home, please decrease the work load they bear by voting YES on HB1429.

Thank you for your consideration in this matter.

Sincerely,

Jennifer Guzik
120 1st Ave N
Kindred, ND 58051
701-428-9813 (home)
701-212-9154 (cell)

HB1429 - Yes

Dear members of the North Dakota Assembly,

My name is Lisa Tankersley and my son has Autism. Autism is known as a spectrum disorder because there are so many different ways that it manifests itself. This is why it is so difficult for our educational system to meet the needs of these children.

We chose to homeschool our son after second grade. That was the point that he became unable to be in a normal classroom environment. You see in his case he is highly intelligent but also highly sensitive. (I would urge you to watch the movie "[Extremely Loud And Incredibly Close](#)". It gives the clearest depiction of my son's behavior I have seen.) Christian doesn't do well with crowds, being out of his routine or the stressors of testing. He doesn't distract his class, he will just sit quietly, cry and hurt himself when the world becomes too loud or too close. So, we were blessed enough to create an environment where he thrives through homeschooling.

What I would like to see from all of you is enacting of bills that help us as parents give our children the best education possible. The reality is this; these children deserve every opportunity to succeed. For anyone to deny access to special education programs for children with special needs is no less than looking at these little ones and saying that they don't matter.

As a parent I know that being able to participate in some structured public school programs while still homeschooling would be valuable to our son. Isn't that the purpose of our educational system: to give ALL of our youth the opportunity to succeed? Please don't ask us to force our children to fit in the public education box. We can't. But you can open the box so that we can all fit in.

Lisa Tankersley
Community Resource Coordinator
GROWING TOGETHER INC
515 19th Ave SE
Minot, ND 58701
(903) 918-4161

HB 1429 - Yes

To Whom It May Concern:

We have been homeschooling our daughter April for 7 years. April has cognitive disabilities. After we turned in our intent to homeschool in 2014 we had a letter sent to us informing us that we would be charged with parental neglect if we did not get April certain therapies. The school required us to have her tested and then report to them how we would get all the therapies the school psychologist felt were necessary. We were informed that April would need a lot of different therapies that the school could provide, or we would have to prove to the school that we were taking her to several different therapists, and at the end of each semester, prove that she was progressing. We could not provide all the therapies required on our own so we have used the school specialists. The teachers and therapists at the school have been helpful but our concern as parents is that we do not have the right to determine when we feel April is done with special helps. We would like to see the language of the bill concerning homeschoolers and disabilities change so parents would have the right to determine when they felt it was time to be done with special therapies. We are both pastors and at times travel overseas. We do not want to be charged with neglect if we need to take a trip and want to take April with us. We would like to see the parents who have children with disabilities have the right to determine when and how long they would put their child in special services. We feel this legislation would accomplish that goal. Thank you for taking the time to read our story.

Sincerely,

Timothy & Jennifer Belmore

400 E Main St.

Ellendale, ND 58436

701-535-0379



NORTH DAKOTA
SCHOOL BOARDS
ASSOCIATION
I N C O R P O R A T E D

Excellence in North Dakota public education through local school board governance

HB 1429 – TESTIMONY

L. Anita Thomas, J.D., LL.M.

General Counsel

North Dakota School Boards Association

January 31, 2017

Under current law, if a child's score on a standardized achievement test is less than the 30th percentile nationally, a multidisciplinary team is to assess the child for a potential learning problem. If the multidisciplinary team determines that the child is not disabled, the parent is required to file a remediation plan. If the multidisciplinary team determines that the child is disabled, the parent is required to file a services plan demonstrating that the child's needs are being addressed by persons qualified to provide special education services.

The NDSBA takes no position on the merits of changing this requirement.

However, on the final page of the bill, the following concept appears:

If a parent, in consultation with a licensed teacher, determines that the child requires special education services, the parent may file a request for the school district to provide such services. The school district shall provide special education services to the child without cost.

There may not be any cost to the parent, but there most certainly will be to the school district. The board of a school district will not merely begin providing whatever services the parent demands. A multidisciplinary team needs to be a part of this proposal so that a child can be properly evaluated and so an individual education program (IEP) plan can be developed, as required by federal law.

With HB 1429 in its current form, NDSBA respectfully requests a **DO NOT PASS**.

House Bill No. 1429

Testimony in Opposition

North Dakota Council of Educational Leaders, Russ Ziegler

Chairman Owens, Vice-Chairwoman Schreiber-Beck, and members of the House Education Committee. For the record, my name is Russ Ziegler, the assistant director for the North Dakota Council of Educational Leaders. Thank you for allowing me to give testimony in opposition to House Bill 1429. I provide this testimony with the vision and mission of our organization in mind. NDCEL is committed to the success of ALL students in North Dakota.

As you may recall from my testimony with House Bill 1428 we are opposed to any regulations that would allow homeschool parents and students to have less accountability and/or transparency. If, as a state, we want ALL students to have the best education possible, our question would be how lowering the cut line from the 50th percentile to the 30th percentile helps achieve that goal? Currently if a homeschool student scores below the 50th percentile nationally on a standardized achievement test, the parent must be monitored for at least one additional school year and until the child receives a test score at or above the 50th percentile. Now, this bill would lower that to the 30th percentile? Why? If our students are at or below the 50% they should be receiving more help and support, not be offered permissiveness to slip between the cracks and/or fall below the radar.

Section 2 of this bill eliminates the ability of testing for the child to see if there are any learning problems. Again, this is reducing the accountability for homeschool parents and is not in the best interest of the students. Section 3 along with section 2 will eliminate the requirement for a multidisciplinary assessment team to assess the child for potential learning problems. In its

place a parent, in consultation with an individual who is licensed to teach or is approved to teach by ESPB would determine if their child needs special education. If the parent and ONE teacher feel special education is necessary, then the school district in which the child resides will have to provide special education services at no cost to the parent. As a parent with two kids on an IEP, I find this absolutely appalling! As the saying goes, it takes a village to raise a child. It also takes a team of educated multidisciplinary team members, which included the parents, to get the services needed for the students with special needs. One teacher and a parent(s) are not going to know what the school can and does offer. Also, how would an elementary teacher know the strategies that a student may need in high school mathematics, or vice versa? It takes a group of individuals to sit down together and discuss what works, what doesn't and what is the best way to address the issue at hand. Our second objection to Section 3 is that one parent and teacher can come and tell the district what the district MUST do and spend district funds in doing so. We are not opposed to have homeschool students receiving funding for their needs. However, we are opposed to them receiving assistance, financially or otherwise, without having a multidisciplinary team, (again which includes the parents), writing the program that the child would be on. Doing this would eliminate a school district's ability to utilize federal funds to cover those costs, forcing the district to utilize state funding to cover the cost, thereby increasing the state cost and obligation to support the student.

Section 4 would repeal sections of the homeschool Remediation plan, Child with developmental disability requirement, and Child with a developmental disability requirement for progress reports. I find it really troubling that a parent of a homeschool student can require a district to provide special education services at their request, but there would be absolutely NO

accountability on the parents end. Districts will be spending funds and will need to report to the state, however they any progress reports from the parents of the special needs child.

Again, schools are asked over and over again to have accountability and transparency at the state and national levels, and rightfully so. But, we keep getting requests from homeschool supporter to lower the expectations for their kids, as an example the request to move from the 50th Percentile to the 30th percentile. Schools are asked to provide evidence of where the students are according to standardized test scores. Homeschool supporters request that they not be required to provide evidence of any kind. Public schools are required to provide an equal, free education to all students, including students with disabilities. This is done with multidisciplinary teams, including parents, working together to do what is best for the child. Homeschool supporters want to make these difficult decisions on their own without the knowledge and support of a team of experts in the field. As you can see we are not on level playing fields. If the ND State Legislature is responsible for make sure ALL students in North Dakota have a high-quality education, why is it that homeschools do not have the same educational requirements as the Public or Private schools? We understand and agree with the rights of parents to choose to homeschool, but as a state we need to ensure that the education of ALL student in North Dakota meet or exceed the STATE'S educational goals. We respectfully request a DO NOT Pass on HB1429. Thank you for your time and consideration.

**TESTIMONY ON HB 1429
HOUSE EDUCATION COMMITTEE**

January 31, 2017

**Gwyn Marback, Assistant Director, Office of School Approval & Opportunity
Department of Public Instruction
701-328-2295**

Mr. Chairman and members of the committee:

My name is Gwyn Marback and I am the Assistant Director in the Office of School Approval & Opportunity for the Department of Public Instruction. I am here to provide information regarding HB 1429.

School districts are able to use federal IDEA B monies to serve children with disabilities if the child has been diagnosed with a disability as defined by IDEA regulations and found to be in need of specially designed instruction, by a multi-disciplinary team. A multi-disciplinary team is a group of professionals from multiple disciplines used to evaluate a student for placement in special education. This team is also responsible for writing the individual education program plan (IEP) (if the child is deemed eligible to receive special education services.) This bill, if passed, would allow the parent and a teacher licensed to teach by the Education Standards and Practices Board to identify the child's disability. The child's public school district would then be required to provide special education services to the child. Since the IDEA regulations were not followed, the districts

would need to use their foundation aid monies or other local funds to provide services to home-educated students. This may be fiscally burdensome for a school, a district and/or Special Education unit's budget.

Section 15.1-23-11 and 13 has been stricken in this proposed bill. As the law is written, there is concern if the child would be diagnosed properly. Multi-disciplinary teams use a number of criteria and tests to diagnose children for special education services. A specifically trained professional who is qualified to give these tests must use the appropriate evaluation tools needed to ascertain a child's disability.

For example, licensed teachers and administrators who are not special education teachers or school psychologists are not trained to give such common assessment tests as the Woodcock Johnson or the Wechsler Intelligence Scale for Children (WISC) to identify students with a disability. In addition, some publishers of standardized tests have specific rules and regulations regarding the examiner's credentials and test administration. As this bill is written, a parent and an individual licensed to teach by the Education Standards and Practices Board can determine (the bill does not specify how) if a child requires special education services. If that determination is made, a request may be filed with the superintendent mandating the district to provide services to the child without cost to the parent regardless of the cost. The proposed law does not state who should write the service plan nor

does it state under what criteria the plan was developed. This conflicts with existing North Dakota Century Code (NDCC).

It needs to be emphasized that there is language currently within the NDCC that requires a school district, if the parent chooses to request services, to discuss the child's needs and then negotiate services that the district can provide. This language is consistent with all other NDCC chapters, whether it be in Education, DHS-Behavioral Health, Developmental Disabilities, or Vocational Rehabilitation divisions that address the delivery of special services using the public's money.

This law as written may require additional auditing of school districts budgets. As stated, IDEA B federal funds may not be used for special educational services if the child is not diagnosed for services using a multi-disciplinary team. Additional monitoring of districts may be necessary to ensure the IDEA B funds are being used appropriately.

Members of the Committee, as you deliberate the merits of this bill, please consider the educational needs of the child as top priority.

I will be happy to answer any questions.

CHAPTER 75-04-06

ELIGIBILITY FOR INTELLECTUAL DISABILITIES-DEVELOPMENTAL DISABILITIES CASE
MANAGEMENT SERVICES

HB 1429
1/31/17

Section

| | |
|---------------|--|
| 75-04-06-01 | Principles of Eligibility |
| 75-04-06-02 | Criteria for Service Eligibility - Class Member [Repealed] |
| 75-04-06-02.1 | Criteria for Service Eligibility |
| 75-04-06-03 | Criteria for Service Eligibility - Applicants Who Are Not Members of the Plaintiff Class [Repealed] |
| 75-04-06-04 | Criteria for Service Eligibility - Children Birth Through Age Two |
| 75-04-06-05 | Service Availability |
| 75-04-06-06 | Developmental Disabilities Program Management Eligibility for Three-Year-Old and Four-Year-Old Children [Repealed] |

75-04-06-01. Principles of eligibility.

1. The process of determining an individual's eligibility to receive intellectual disabilities-developmental disabilities case management services involves the recognition of several criteria and an understanding of expected outcomes as each criterion is applied. Professional judgment is applied to determine the applicability of the provision of intellectual disabilities-developmental disability case management services in accordance with chapter 75-05-06.
2. The following criteria must be used as the frame of reference for a team of at least three professionals in the human service center, led by the developmental disabilities program administrator or the administrator's designee, for the determination of an individual's eligibility for intellectual disabilities-developmental disabilities case management services.

History: Effective July 1, 1991; amended effective January 1, 1997; July 1, 2012.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-01.2-02, 50-06-05.3

75-04-06-02. Criteria for service eligibility - Class member.

Repealed effective January 1, 1997.

75-04-06-02.1. Criteria for service eligibility.

1. An individual is eligible for intellectual disabilities-developmental disabilities case management services if the individual has a diagnosis of mental retardation which is severe enough to constitute a developmental disability.
 - a. A diagnosis of the condition of mental retardation must be made by an appropriately licensed professional using diagnostic criteria accepted by the American psychiatric association.
 - b. Determination of whether the manifestation of the condition is severe enough to constitute a developmental disability must be done in accordance with the definition of developmental disability in North Dakota Century Code section 25-01.2-01.
2. An individual is eligible for intellectual disabilities-developmental disabilities case management services if the individual has a condition of mental retardation, diagnosed by an appropriately licensed professional using diagnostic criteria accepted by the American psychiatric association, which is not severe enough to constitute a developmental disability, and the individual must be able to benefit from treatment and services purchased through the

supervised by public school authorities. The rules must be similar to those established for the delivery of special education in a public school.

15.1-32-05. Special education - Cooperation among agencies.

The superintendent of public instruction, the state department of health, and the department of human services shall cooperate in planning and coordinating early intervention programs for individuals under the age of three.

15.1-32-06. Director of special education.

The superintendent of public instruction shall employ a qualified director of special education and any necessary assistants.

15.1-32-07. Director of special education - Assistance to school districts.

The director of special education shall assist school districts with the development and administration of special education programs.

15.1-32-08. School districts - Provision of special education.

Each school district shall provide special education and related services as a single district, as a member of a multidistrict special education unit in accordance with chapter 15.1-33, or as a participating district in a regional education association under chapter 15.1-09.1. Each school district and entity providing special education shall cooperate with the director of special education and with the institutions of this state in the provision of special education.

15.1-32-09. Superintendent of public instruction - Rules.

The superintendent of public instruction shall adopt rules for the provision of special education to students with disabilities and for the administration of this chapter.

15.1-32-10. Gifted students.

A school district may provide special education to students who are gifted.

15.1-32-11. School district records - Students with disabilities.

Each school district shall make and keep current a record of all students with disabilities who are residents of the district.

*** 15.1-32-12. Multidisciplinary teams - Individualized education programs - Services plans.**

If a school district has evidence of a student's disability, the school district shall convene a multidisciplinary team. The team must include educational professionals and the student's parent and may include medical professionals. The team shall share assessment information related to the student's suspected disability. If necessary, the team shall develop an individualized education program or services plan and make recommendations for the delivery of special education and related services to the student.

15.1-32-13. Related services - Insurance options - School district responsibility.

Each school district shall obtain parental consent before accessing any family insurance options, whether public or private, to pay for the cost of determining a student's medically related disability and to pay for the provision of related services to the student, provided there is no financial loss to the student or the student's parent. The school district is responsible for all costs not covered by the family's insurance.

15.1-32-14. Special education students - Contracts for placement.

1. If in the opinion of an individualized education program team or a services plan team a student is unable to attend a public school in the special education unit to which the student's school district of residence belongs, the student's school district of residence shall contract with another public school that: