Mary Heath, Deputy Commissioner of Education
c/o NH Department of Education
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Dear Ms. Heath,

I would like to forward a sincere thank you from the homeschoolers present at the HEAC meeting for your attendance and participation. We realize how busy you are, and appreciate you taking time out of your busy schedule to address our concerns. We also appreciate hearing that it was never the intention of the bill's sponsors to affect homeschoolers.

I do not think the concerns of most homeschoolers were allayed by the discussion. Although legislative intent is important in formulating regulations and policies, it should be possible to construct an approximate meaning of the law from the language. The following story illustrates why homeschoolers are wary of reassurances that legislative intent and agency rules will take care of ambiguities in the language of the law. In 1990, the meaning of a "composite score" was very well understood by both the educational community and homeschooling parents. It was so well understood that no one thought it necessary to provide a definition in RSA 193-A:1. By 2004, the use of composite scores had declined, as the trend in public schools was to use the subscores of tests to define a child's strengths and weaknesses, and better tailor his/her education. When the position of Administrator of School Approval (which is the department that administers the Home Education Program in the DOE) was filled by a DOE employee who did not know the history of the home education law, and who also did not know what a composite score was, she constructed a meaning that was quite different from legislative intent. For a while, it looked like homeschoolers would have to give up a right they were granted by the legislature, of submitting nothing more than a single composite score of an achievement test as proof of a successful program year. The end of the story is that since the rules were being rewritten, a definition of "composite score" was added to the new rules at the insistence of homeschoolers and over the objection of the DOE. Since the DOE did not wish to preserve legislative intent, homeschoolers are reluctant to rely on it for that purpose.

RSA 193:1, as amended by SB268 and the amendment to the bill proposed by the Senate Education Committee, will still require ALL students between the ages of 6-18 to attend public school unless they are covered by one of the exemptions. If you and the bill's sponsors meant the phrase "and is therefore exempt from this requirement" in section (b) to refer to the creation of an alternative learning plan, it will be hard for people to know your intent. Because the only meaningful antecedent for "this requirement" is the requirement to attend school, the amended section (b) only restates the meaning of existing law, that the parent can choose home education as an alternative to attendance at a public school. It would be better to state the exemption specifically. Just for the sake of discussion, and not that this exact language is being proposed, a section (b) that looks something like this:

(b) The child is receiving home education; or the child is no younger than sixteen, was formerly receiving home education, and a parent or guardian has signed an affidavit stating that the home education program is complete;

might better convey the intent of the legislation to other legislators, to superintendents, and to any member of the executive or judiciary branches who might review the law. Homeschoolers understand that legislators cannot spell out every little detail in the statute, and must place some of the burden of interpretation on agency rules, but those are usually small details. With something as important as this, the homeschoolers present at the meeting are more comfortable with language that better defines the exemption.

There seems to be a misunderstanding about the reason a few homeschooling parents requested a change to RSA 193-A:1 to define "child" to include children ages 16 and 17. Most homeschoolers are well versed in the dual enrollment opportunities and understand that those will not be in jeopardy. That access is already guaranteed because of the way "home educated pupil" is defined in RSA 193:1 (c) I:

193:1-c Access to Public School Programs by Nonpublic or Home Educated Pupils.
I. Nonpublic or home educated pupils shall have access to curricular courses and cocurricular programs offered by the school district in which the pupil resides. The local school board may adopt a policy regulating participation in curricular courses and cocurricular programs, provided that such policy shall not be more restrictive for non-public or home educated pupils than the policy governing the school district's resident pupils. In this section, "cocurricular" shall include those activities which are designed to supplement and enrich regular academic programs of study, provide opportunities for social development, and encourage participation in clubs, athletics, performing groups, and service to school and community. For purposes of allowing access as described in this section, a "home educated pupil" shall not include any pupil who has graduated from a high school level program of home education, or its equivalent, or has attained the age of 21.

As far as any of us present at the HEAC meeting are aware, the request was made in an effort to guarantee that, in the event a district did misinterpret the intent, homeschool parents could at least continue to exercise the rights they currently have under RSA 193-A when their children turn 16. Those rights include the ability to select a participating agency and means of evaluation, parental determination of the curriculum and methods of instruction, etc.

At the Senate Education Committee hearing, Senator Estabrook wondered why homeschoolers would not be willing to continue to use the home education law for two additional years as an alternative to compulsory attendance. The home education law requires a parent to provide the majority of the instruction and teach required subjects. This would make it very difficult for many homeschoolers to pursue educational options that are appropriate for older students, and which have proven very successful. Homeschooling parents could pursue an exemption through the use of an alternative learning plan, but these plans require approval of the superintendent. Homeschooling parents have been using alternative education successfully for years with no oversight, and do not believe that increasing their own regulatory burden is necessary in order to provide that opportunity for public school students.

Although the spelling out of an exemption for homeschoolers will allow those who homeschooled before their children turned 16 to cease reporting at age 16, it only fair to let you know that there will still be a large number of homeschoolers who will actively oppose the bill.

The governor may "truly, sincerely and passionately" believe that every student in the state should obtain a diploma, but many homeschoolers "truly, sincerely and passionately" believe that parents, not the government, should be determining the best interest of their children. Most, if not all, of the homeschoolers present at that meeting believe that compelling interest of the state in ensuring that a child is educated is satisfied by the requirement for the child's education to be supervised by the state until age 16. Many, but not all, support the reforms of providing alternative forms of education, and giving truancy officers the authority to enforce the wishes of parents when students at ages 16 and 17 leave school without the parents' permission. If the bill were rewritten to remove the increase in age of compulsory attendance, I personally believe it would be supported by the majority of the homeschooling community.

Chris Hamilton
Beaver Lodge Homeschool

Cc: Commissioner Lyonel Tracy
Roberta Tenney
Senator Green
Senator Estabrook
Senator Gallus
Senator D'Allesandro
Senator Foster
Senator Odell
Senator Gottesman
Senator Larsen
Senator Hassen
Senator Martel
Representative Weyler
Representative L'Heureux
Representative Craig
Representative Snyder