

Senate Appropriations Committee
To: Chairman, Ray Holmberg
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From Shane Goettle, Lobbyist:
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HB 1137

Mr. Chairman and members of the Senate Appropriations Committee, my name is Shane Goettle, and I am representing three entities: the State Association of Nonpublic School, the University of Jamestown, and the University of Mary.

This bill concerns a tax credit for individuals who make a charitable contribution to a nonpublic school or private university in this state. The eligible schools are attached to this testimony. The bill had a 5-2 “do pass” recommendation from your Finance and Taxation policy committee.

Two years ago, this Appropriations Committee had this bill in front of it, proposing to expand this credit, which already existed in law for corporations and other business entities, to individuals. Because of “undetermined” fiscal note, you adopted an amendment to the bill which essentially turned it into a pilot program for the purposes of gathering some data on its potential use and impact. You invited us to return after we had this data and could determine a fiscal note. So, your Senate amendments in 2019 did two things for those individuals who donate to an eligible school:

- 1) Capped the credits at 25 percent of a taxpayer’s liability (and keep in mind there is also a ceiling of \$2,500 that already exists in law); and
- 2) Inserted a sunset of the expansion of this program to individuals.

Today we have data, and as a result of that data, you have a fiscal note of \$1 million assigned to this program from the tax department.

The history on the contribution tax credit goes back a long time (more than 40 years). At one time individuals were allowed the credit, but they were excluded a few sessions ago when North Dakota went back to just one individual tax form. The business credit was expanded in 2015 to include partnerships and S corporations to come into line with current business structures.

The 2019 legislature restored the ability of individuals to make direct contributions and claim the credit (some were anyway as a result of the pass-through entities being added in 2015).

Our research last session found that of 24 tax credits in the North Dakota Century Code only one other credit had a limit based on a percent of the taxpayer's liability.

In 2019, we were asking, in HB 1384, to be treated like most other tax credits and have no percentage cap. In the House, the bill (HB 1384) passed without a sunset or a percentage cap on tax liability, but you in the Senate amended the bill to include a percentage cap and a sunset over concerns about the "cannot be determined" status of the fiscal note in expanding the credit to individual taxpayers.

Considering the state's current fiscal situation in 2021, we (the nonpublic schools and private universities) agreed with this bill's prime sponsor, Representative Mike Nathe, to keep a percentage cap, adjusted to 50%, as well as remove the sunset. That is what you see in the bill before you today.

The big change from our discussion two years ago is that is that we now have data to determine that the expansion of this credit to individuals generates a \$1 million fiscal note.

Based on 2019 tax returns filed of record as of November 16, 2020 \$687,950 in credits were claimed on individual returns in the 2019 tax year. (See attached).

What we cannot determine from the 2019 data alone is how many of these individuals claimed the credits based on individual contributions, or claimed the credits based on contributions that may have been made through a pass-through entity those individuals were already a part of. Keep in mind that contributions through a corporation or passthrough entity is already permanent law. So, the working assumption is that in expanding this program to individuals, we are looking at about \$500 thousand in credits each year to arrive at \$1m.

The fiscal note impacts are quite nominal as compared to the benefits provided by non-public education. This credit has been beneficial to the non-public schools in attracting contributions to help cover their cost of education. Much of this support is going to assist low-income families whose children attend the non-public schools in North Dakota but cannot afford the tuition. Our estimate is that North Dakota's non-public K-12 schools provide nearly \$4 million per year in tuition assistance and scholarships based on need. This number does not include scholarships at the university level.

It is important to keep in mind that when a student is in a non-public K-12 schools in North Dakota, the costs associated with that student's education are no longer borne by the taxpayers. We estimate that nonpublic school enrollment generates about \$168 million dollars* per biennium in public tax savings. Likewise, the private universities in North Dakota provide similar savings of approximately \$90 million dollars per biennium.

Mr. Chairman and members of the committee, our nonpublic schools and private universities find this program to be of enormous benefit to securing donors, who are the lifeblood of any charitable enterprise.

Our private universities report that this program is really helpful in cultivating the small donor base. Larger donors have access to other types of tax incentives that motivate them to give, and the individual cap, coupled with a ceiling of \$2,500, limits its usefulness to larger donors. But, cultivating the small donor base today can give rise to long term relationships that, hopefully, result in larger donors in the future.

Given these benefits stacked against the nominal fiscal impact of this bill, we are asking for a “do pass” recommendation from this committee.

Thank you for your time and I would be happy to address any questions.

**NDDPI School Finance Facts (Fall 2019) Non-Public enrollment of 6,770 students X average cost of education per pupil of \$12,435.*

Qualified nonprofit private schools

The following lists identify the qualifying schools in each school category. (Note: These lists are subject to change.)

Primary Schools (Grades K through 8)

Academy for Children (Fargo)	Ojibwa Indian School (Belcourt)
Anne Carlsen Center (Jamestown)	Our Redeemer's Christian School (Minot)
Bishop Ryan Catholic School (Minot)	Prairie Learning Education Center (Raleigh)
Brentwood Adventist Christian School (Bismarck)	Prairie Voyager Adventist School (Grand Forks)
Cathedral of the Holy Spirit Primary School (Bismarck)	Red River Adventist Primary School (Fargo)
Children's Montessori Center (Fargo)	Shanley High-Sullivan Middle School (Fargo)
Christ the King Primary School (Mandan)	Shiloh Christian School (Bismarck)
Dakota Memorial School (Minot)	St Alphonsus Primary School (Langdon)
Dakota Montessori School (Fargo)	St Anne Primary School (Bismarck)
Forest River School (Fordville)	St Ann's Catholic School (Belcourt)
Grace Lutheran Primary School (Fargo)	St Bernard Mission School (Fort Yates)
Grand Forks Montessori Academy (Grand Forks)	St Catherine Primary School (Valley City)
Hillcrest SDA School (Jamestown)	St John's Academy (Jamestown)
Holy Family – St. Mary's Primary School (Grand Forks)	St John's Primary School (Wahpeton)
Holy Spirit Primary School (Fargo)	St Joseph Primary School (Mandan)
Hope Christian Academy (Dickinson)	St Joseph Primary School (Devils Lake)
Invitation Hill Adventist School (Dickinson)	St Joseph's Primary School (Williston)
Johnson Corners Christian Academy (Watford City)	St. Mary's Academy (Bismarck)
Little Flower Primary School (Rugby)	St Mary's Primary School (Bismarck)
Martin Luther School (Bismarck)	St Michael's Primary School (Grand Forks)
Missouri Valley Montessori School (Bismarck)	The Innovation School (Bismarck)
Nativity Primary School (Fargo)	Trinity Primary East School (Dickinson)
New Testament Baptist Christian School (Larimore)	Trinity Primary North School (Dickinson)
Oak Grove Lutheran Primary School (Fargo)	Trinity Primary School (West Fargo)
	Trinity Primary West School (Dickinson)
	Trinity Jr/High School (Dickinson)
	Victory Christian School (Jamestown)
	Wichakini Owayawa Primary School (Fort Yates)
	Williston Trinity Christian School (Williston)

High Schools (Grades 9 through 12)

Anne Carlsen Center (Jamestown)	Oak Grove Lutheran High School (Fargo)
Bishop Ryan Catholic School (Minot)	Our Redeemer's Christian School (Minot)
Dakota Adventist Academy (Bismarck)	Prairie Learning Education Center (Raleigh)
Dakota Memorial School (Minot)	Shanley High-Sullivan High School (Fargo)
Hope Christian Academy (Dickinson)	Shiloh Christian School (Bismarck)
Johnson Corners Christian Academy (Watford City)	St Mary's Central High School (Bismarck)
New Testament Baptist Christian School (Larimore)	Trinity Jr/High School (Dickinson)
	Williston Trinity Christian School (Williston)

Colleges (Education above 12th grade)

Jamestown College (Jamestown)	United Tribes Technical College (Bismarck)
Trinity Bible College (Ellendale)	University of Mary (Bismarck)
Turtle Mountain Community College (Belcourt)	ND Independent College Fund (Bismarck)

**North Dakota Income Tax Credit
For Contributions to Private Nonprofit Schools
(Based on 2019 Law Change Effective for
Tax Years 2019 and 2020)**

	<u>Tax Year</u>	<u>Number of Returns</u>	<u>Total Credits Claimed</u>
<u>Individual Income Tax Returns</u>			
Primary Schools (K-8)	2019	625	\$ 350,751
High Schools (Gr 9-12)	2019	378	\$ 238,415
Colleges	2019	247	\$ 98,784
<u>C Corporation Income Tax Returns</u>			
Primary Schools (K-8)	2019	11	\$ 30,824
High Schools (9-12)	2019	13	\$ 33,603
Colleges	2019	7	\$ 11,378
Grand Total		1281	\$ 763,755

Statistics are as of November 16, 2020. Additional 2019 returns may be filed and tax credits claimed may change