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February 5, 2025

The Honorable Pat D. Heinert
Chairman
House Education Committee

RE: *Testimony in Opposition to House Bill 1540*

Dear Chairman Heinert and members of the House Education Committee:

I write to voice our opposition to H.B. 1540, as drafted.

HSLDA, as the world's largest homeschool advocacy organization, opposes the public funding of private home education. We believe that public tax-payer aid directly to home educating families is poisonous to the homeschooling movement. We have several concerns with the bill.

First, it is unclear whether a home educating family would be able to participate in the state funding available under this new bill. Presumably, a home school child is an "eligible student" under the definition provided in Section 1, Definitions, paragraph 5. However, the definition of "participating school" is a "private school" that "...has notified the administrator of the school's intention to participate...."

Second, H.B. 1540 references "any private school" in Section 1, Definitions, paragraph 7. However, NDCC, 15.1-20-02, which sets forth the exceptions to compulsory public school attendance, does not refer to a private school. As such, one is left to presume (or guess) that the private school referenced in the proposed legislation is either "an approved nonpublic school" or "home education" or both. H.B. 1540 should make clear what is referenced here and exclude home education as defined in NDCC, 51.1.20-04.



Third, even if home education is not included as a “participating school”, home education is undoubtedly included under the definition of an “education service provider” under Section 1, Definitions, paragraph 3. The modern homeschool movement over the past 40+ years has been successful not because of government funding, but because of the voluntary association of parents who love their children and desire the best for them. We reject the notion and proposal that a home education parent could now be formally defined as a state “education service provider.”

If the North Dakota Senate desires to fund a parent’s decision regarding the education of his or her child, they can and should do so in a manner that does not jeopardize the freedom of home education. Several states have done this, and I am happy to provide examples of how this can be accomplished and work with the committee if needed to successfully accomplish this. Arizona, Florida, West Virginia, Utah and other have created tax-payer funded education savings account that create a separate compulsory exemption category and leave home education as it is.

It is also worthwhile to note that there is ample evidence that public funding of private education has not produced the results many desire. Just look to the examples of Arizona, Florida, West Virginia, Arkansas and others to find recent examples of the high cost of these programs, the significant implementation challenges and the bureaucratic hurdles they create.

The public, taxpayer funding of private home education places, at least in some small manner, the responsibility for approving decisions of home educating families in the hands of the state. After all, when the government collects tax dollars from residents and gives those tax dollars to others via an education savings account, the state ought to know how those funds are being spent. Isn’t fiscal transparency and responsible stewardship of tax payer funds still a good thing?

I also note that this legislation does not provide any additional educational options for any North Dakota children. H.B. 1540 does nothing to provide any additional choice, but simply provides state funds to the choice that parents already (or want to) make. It forces the tax-payers of North Dakota to pay for the private educational decisions of other families and does not provide any additional education options for families in the state.

Finally, state aid to home education is premised on the notion that the education of children is a state responsibility based on the interests of the state. We disagree. We agree with the Supreme Court when it stated 100 years ago in *Pierce v. Society of Sisters*: “The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” (268 U.S. 510 (1925)). It’s the parent who has this duty, not the state.

We also oppose H.B. 1590 and H.B. 2400 for the same principled reasons above.

For over four decades, HSLDA has stood for homeschool freedom. We encourage you to stand for this as well.

I urge a “do not pass” recommendation on H.B. 1540.

Sincerely yours,



Kevin M. Boden, Esq.
Staff Attorney