

1999 HOUSE EDUCATION

HB 1480

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1480

House Education Committee

Conference Committee

Hearing Date 1-26-99

Tape Number	Side A	Side B	Meter #
# 2	x		29.1 to end
#2		x	0.1 to 40.6
Committee Clerk Signature <i>Joan Dries</i>			

Minutes:

Those present: Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas , Rep. Johnson , Rep. Nelson , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson , Rep. Lundgren Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R. Kelsch ; We will open the hearing on HB 1480 and ask the clerk to read the title.

Rep Kerzman: cosponsor of HB 1480, from district 35. This provides a tax credit for someone to send their kids to a nonpublic school. This allows parents to make a choice. A maximum of two hundred credit.

Rep Cleary: sponsor of HB 1480 from district 49. (see written attached).

Vice-Chair Drovdal : This bill allows a tax credit of up to two hundred dollars, is this per student? If they don't owe a tax liability they get the tax credit, is that correct?

Cleary: It is like the earned income tax credit.

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House Education Committee
Bill/Resolution Number Hb 1480
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Rep. Nelson : What is the number of non-students now, is it around eight thousand?

Cleary: I'm not sure, I think it is a little less.

Rep. Nottestad : On page 1, where you spoke about reimbursement for summer school fees, is the summer school remedial or recreational?

Cleary: Summer school classes and sometimes there is a cost.

Rep. Nottestad : Those that are recreational, are they covered?

Cleary: I don't believe so.

Vice-Chair Drovdal : To clarify the thirty nine thousand dollar income, that is an individual, so it it was a couple it would double?

Cleary: I'm not sure.

Vice-Chair Drovdal : The fiscal note is unclear, is it family or individual.

Cleary: I haven't seen the fiscal note.

Chairman R. Kelsch : The chairman reads the fiscal note attached.

Cleary: I assumed the thirty nine thousand was a total.

Vice-Chair Drovdal : In the research of the North Dakota tax structure, what do they pay in North Dakota tax?

Cleary: I think I remember reading it was three hundred fifty six dollars, approximately.

Rep. Mueller : In the fiscal note, we have a note that speaks to unconstitutional, do you know anything about that?

Cleary: It has been proven constitutional.

Jim Hofman: On behalf of the of the State Association of Nonpublic Schools, as the president of the association. (see written attached).

Rep. Nelson : Of the eight thousand students enrolled in nonpublic schools at least a portion of the carry over foundation aid funds, would be contributed to those students?

Hofman: I think the eight thousand figure reflects the same number over the years.

Christopher Dodson:Executive Director of the North Dakota Catholic Conference. (see written attached). Conference supports HB 1480. Tape #2 side A ends in the middle of the testimony.
continued Tape # 2 side B.

Tape # 3 side A

Rep. Hanson : On page 1 line 12 and 13, why do you have the word school in there?

Dodson: Because under the Mueller vs Allen decision, it is only constitutionally permissible, if you make it available to all parents.

Rep. L. Thoreson : Would this apply to home schooling?

Dodson: Haven't figured out yet, what is the definition of school and are they connected to public school.

Chairman R. Kelsch : It would apply to any student attending a public or nonpublic school.

Peter Engelman: Senior at St Mary's Central High School. (see written attached).

Ericka Anderson: Attends St Mary's Central High School, was in support of HB 1480.

Steve Brannan: Administrator of St Mary's Central High School. (see written attached).

Rep. Mueller : If the bill passes, would you have an increase in the nonpublic enrollment?

Brannan: No.

Vice-Chair Drovdal : Superintendent Brannan, would you give the two students from St Mary's for their presentation.

Bernice Thomas: A parent in Mandan, who represented home schooling. (see written attached)

Rep. Nottestad : I make a statement that not all problems are in the public school system.

Thomas: The one thing that came out of our going to the administrators, was nothing was done to correct problems.

Ralph Kilzer: Written testimony in support of HB 1480 submitted. Senator from district 47.

Chairman R. Kelsch : anyone wishing to speak in support of HB 1480? Anyone wishing to appear in opposition of HB 1480?

Joe Westby: Executive Director of the North Dakota Education Association. (see written attached).

Rep. Nelson : The lost income for the general fund could result in less funding for local schools. Are you taking into account the foundation payment that would be paid. Why didn't you include that?

Westby: The students in attendance in nonpublic would change much. We would be sending some to the tax dollars to support those institution.

Bev Nielson: from the NDSBA , they do have a resolution opposing any tuition tax credit or vouchers to pay for tuition for private schools. There is no accountability to the tax payers in the governing of these schools.

Larry Klundt: North Dakota Council of Education Leaders. Was in opposition of HB 1480.

The standards, rules and regulations are different in a nonpublic school. Nonpublic schools do a fine job of educating children. The nonpublic schools do not have to take all students as opposed to the public schools.

Rep. Hanson : Madam Chair may I ask the superintendent Hofman a question. Does your school offer a special education program?

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House Education Committee

Bill/Resolution Number Hb 1480

Hearing Date 1-26-99

Hofman: Yes, K through 12.

Chairman R. Kelsch : Anyone else who wishes to appear in opposition of HB 1480? We will

close the hearing on HB 1480.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1480-2-12-99

House Education Committee

Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
Tape #3	x		16.1 to 23.5
Committee Clerk Signature <i>Joan Davis</i>			

Minutes:

COMMITTEE ACTION

Chairman R. Kelsch , Vice-Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep. Haas ,
Rep. Johnson , Rep. Nelson , Rep. Nottestad , Rep. L. Thoreson , Rep. Grumbo , Rep. Hanson ,
Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R. Kelsch : We will take up HB 1480. What are the wishes of the committee.

Rep. Haas : I move a DO NOT PASS.

Vice-Chair Drovdal : Second.

Chairman R. Kelsch : Discussion. There is a DO NOT PASS motion on the floor. Ask the clerk
to read the roll. The DO NOT PASS motion passes 13 YES 2 NO 0 Absent Floor Assignment
Vice-Chair Drovdal .

FISCAL NOTE

(Return original and 14 copies)

Resolution No.: HB 1480

Amendment to: _____

Requested by Legislative Council

Date of Request: 1/20/99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: If enacted, HB 1480 is expected to reduce revenues by \$2,156,000 during the 1999-2001 biennium. This analysis assumes the legislative intent is to limit the tax credit to returns with taxable incomes of \$39,000 or less. The fiscal note does not consider the legal interpretation that joint filers would be allowed \$39,000 taxable income each, in effect raising the income limit to taxable income of \$78,000 on joint returns. The fiscal impact, under this interpretation would increase by \$400,000 to -\$2,556,000 for the 1999-2001 biennium.

(Note: The refund provisions of HB 1480 may constitute an unconstitutional gift)

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			-\$2,156,000			
Expenditures						

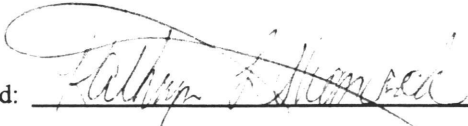
What, if any, is the effect of this measure on the budget for your agency or department:

- For rest of 1997-99 biennium: _____
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 1999-2001 biennium: _____
(Indicate the portion of this amount included in the 1999-2001 executive budget:)
- For the 2001-03 biennium: _____

4. County, city, and school district fiscal effect in dollar amounts:

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

If additional space is needed
attach a supplemental sheet.

Signed: 

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: January 22, 1999

Phone Number: 328-3402

Date: 2-2-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1480

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Haas Seconded By Drovdal

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

Total (Yes) 13 No 2

Absent Ø

Floor Assignment Drovdal

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

REPORT OF STANDING COMMITTEE (410)
February 2, 1999 6:00 p.m.

Module No: HR-21-1740
Carrier: Drovdal
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1480: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS
(13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1480 was placed on the
Eleventh order on the calendar.

1999 TESTIMONY
HB 1480

TESTIMONY FOR HB 1480

Prepared by Representative Audrey Cleary

Tuesday, January 26, 1999

Madam Chairman and Members of the Education Committee. My name is Audrey Cleary, State Representative from District 49.

HB 1480 is really quite simple. It would allow a tax credit to parents who expend monies for tuition and textbooks to an approved school, public or nonpublic. The credit is limited to those with a taxable income not to exceed \$39,000. The taxpayer may claim a credit equal to 50% of the amount paid during the taxable year, up to \$200 for each dependent in grades one through twelve. It excludes expenditures for religious doctrine, transportation, and extra curricular activities. This bill also provides a refund for those whose tax liability is less than the eligible credit.

In recent sessions, the legislature has recognized parental choices in the education of children by allowing for home schooling and open enrollment. HB 1480 extends that recognition to the financial commitments made by public and nonpublic school parents.

Parents of children in public schools are also incurring educational expenses. Public school fees for instructional materials and tuition fees would be eligible for the tax credit. These would include:

1. Textbook and tuition fees for classes taken through the Division of Continuing Education or Higher Education which are paid by parents.
2. Summer school fees.

We as a society do not accept any other public policy or monopoly that gives an advantage to only one choice over others. We have antitrust laws which protect our citizens and consumers. Why do our parents and children only deserve one choice when it comes to education?

Our parents are asking for simple equity - a portion of the costs of the required basic non-religious curriculum. They want the ability to educate their children the way they choose without financial penalty. Nonpublic school parents pay taxes to support the public school system and then pay again for their children to attend nonpublic schools. This does not mean

that we want to take from the public school system. We have great respect for the public school system but our country was founded on the principles of justice and freedom. Too many families are not free to choose the education they wish for their children because they cannot afford it.

This bill will benefit families with students in public or nonpublic schools. I urge the committee to give HB 1480 a Do Pass.

Thank you.

Representative Audrey Cleary
District 49

January 26, 1999

Mr. Chairman, Members of the House Education Committee

My name is Jim Hofman and I rise before you this afternoon in support of HB 1480 which would create an income tax credit for the cost of tuition and textbooks for attendance at elementary or secondary schools in this state. I am here on behalf of the State Association of Non-Public Schools, for which I serve as President, and on behalf of Shiloh Christian School where I serve as Superintendent. I am also here as a parent, a third generation product of independent Christian schools, in this great country of ours.

As the president of SANS, I represent approximately 40 schools spread across our great state which represent an enrollment of approximately 8,000 pupils in grades K-12. These schools are as diverse as the communities and the founding fathers they represent. They include both independent Christian schools, schools that are controlled by the parents who send their children to them, and parochial schools, which are owned and supported by various church denominations. All of us, however, share in common a vision of excellence in education and support the parents' right to choose the education their children receive. The vast majority of the parents who are represented in these schools are not fleeing from or standing in opposition of the local government-supported school; but rather, come out of a heart conviction, searching for a school where the values that are taught in their homes and in their churches are more clearly reflected in the schools. We all believe in the diversity that needs to exist within this enterprise called education.

We come here today, seeking at least some acknowledgement of the dual financial burden that all of us are subjected to. All of us pay our local public school taxes and in addition are charged tuition by the institutions to which we send our children. This bill would be a step toward acknowledging that dual payment which is made from a conviction of our hearts for the education of our children.

Page 2

Most non-public schools also provide financial assistance for those parents who are not able to afford the full cost of the education provided by their schools. We wish to have a student population that closely reflects the communities in which we exist. This bill will be a step in helping those families from lower income brackets who desire the type of education provided by independent schools and yet know the pressures of tight finances.

Independent education in any state, in any community, in any county, provides that community with a strong, positive alternative, which is part of the very fiber of the American dream. We are not here to overthrow or to undermine the local public school system, but are here rather to instill in future generations the strong moral and spiritual character that has been the defining factor of American diversity. Independent, Christian education, be it parochial or other is and has served a long history of providing America with leaders that are committed to providing the leadership this country so desperately needs.

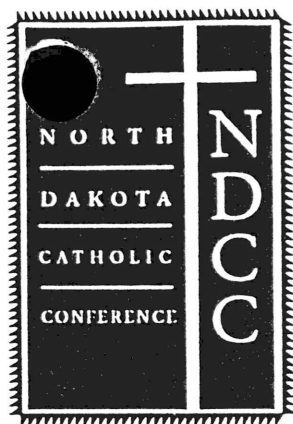
As the President of SANS, as the Superintendent of Shiloh Christian School, as a parent with children enrolled in Shiloh, I would urge you to pass this bill. It is a step in bringing relief to those of us who feel the conviction to educate our children in the way we feel God has ordained us to do so.

Thank you for your consideration of my comments and those of many other adults as well as students who will and have testified before you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JW Hofman', written in a cursive style.

James W. Hofman
Lobbyist #384



Representing the Diocese of Fargo
and the Diocese of Bismarck

Christopher T. Dodson
Executive Director

To: House Education Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1480 (Tuition Tax Credits)
Date: January 26, 1999

The North Dakota Catholic Conference supports House Bill 1480.

Our position stems from a belief in two fundamental principles. The first is that every parent has a fundamental right to choose the means of education for their children. The United States Supreme Court has recognized this right. The second principle is that every child has a right to an education and that the state has an obligation to help financially support that education. This principle is well established in our nation's history and is a key to our nation's success and the preservation of democracy. This obligation is what is meant by public education.

Our society generally accepts these two principles. However, for various historical reasons, some of them rooted in anti-Catholic movements, our present system treats them as mutually exclusive. In our present system, if parents exercise their right to choose they can be denied the right to government assisted education. If society provides the education, the parents must lose their right to choose. The mere fact that some parents choose a government school and their child gets a state-supported education does not negate the fact that the system does not recognize both rights as coexistent.

It is for the coexistence of these two principles that we support HB 1480. We are not here because we want assistance for Catholic schools. HB 1480 does not provide assistance to Catholic or any other nonpublic schools. We are not here because we believe the government school system has failed. The North Dakota Catholic Conference supports the public school system and insists that the state fully support that system. We are here because every child deserves an education and because the state has a duty to assist in that education, even if the parent happens to exercise their right to choose a nonpublic school.

When society helps relieve the burden placed on families that choose a nongovernment school, it accomplishes several things. First, society affirms their belief in public education. Public education is society's support, financially and otherwise, of a child's education. We do this because we recognize that a basic

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education is essential to a person's development and dignity, the support of families, the preservation of communities, and the maintenance of a democracy.

Second, when society alleviates the burden it empowers parents. Allowing parents to choose the means of education for their children and providing the concrete conditions for exercising that choice, places parents in their rightful position as the primary educators of their children. If you want better parents, you treat parenting, including parental choice in education, with respect. Our present system, however, penalizes parents for their choice if it involves a nongovernment school.

Third, when society relieves some of the burden of choosing a nonpublic school, it helps achieve justice. When the parents of children who are not in government schools pay twice for education - once to the government system and again for the education of their own children, but receive nothing from the state in return, justice is denied. When poor families do not receive the same opportunities to choose the school of their choice available to affluent families, justice is denied. When parents are penalized for choosing a school that best reflects their philosophical convictions, justice is denied. HB 1480 will help address some of these problems.

A few points should be made about HB 1480. First, HB 1480 is constitutional. In 1983, the U.S. Supreme Court, in *Mueller v. Allen*, 463 U.S. 388, held constitutional a Minnesota statute providing a tax deduction for tuition and textbook expenses for public and nonpublic school parents.¹ There is no constitutional distinction between a deduction and a tax credit. (See e.g.,

¹ Speaking for the court, Justice Rehnquist stated: "Finally, private educational institutions, and parents paying for their children to attend these schools, make special contributions to the areas in which they operate. Parochial schools, quite apart from their sectarian purpose, have provided an educational alternative for millions of young Americans; they often afford wholesome competition with our public schools; and in some States they relieve substantially the tax burden incident to the operation of public schools. *Wolman*, supra, at 262. If parents of children in private schools choose to take especial advantage of the relief provided by [the statute] it is no doubt due to the fact that they bear a particularly great financial burden in educating their children. More fundamentally, whatever unequal effect may be attributed to the statutory classification can fairly be regarded as a rough return for the benefits, discussed above, provided to the State and all taxpayers by parents sending their children to parochial schools. In the light of all this, we believe it wiser to decline to engage in the type of empirical inquiry into those persons benefitted by state law which petitioners urge. Thus, we hold that the Minnesota tax deduction for educational expenses satisfies the primary effect inquiry of our Establishment Clause cases."

Luthens v. Bair, 788 F.Supp. 1032 (1992) [upholding Iowa's tax credit on the grounds that it was indistinguishable from a deduction.]

Nor does HB 1480 violate our state constitution. Art. VIII, section 5 of the North Dakota Constitution merely states that "[n]o money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school." Assistance through tax credits, however, is not assistance from money raised for the support of the public schools. Moreover, the assistance provided through tax credits is assistance to parents, not sectarian schools. Indeed, if tax credits were construed as support for sectarian schools, the U.S. Supreme Court would have reached a different conclusion in *Mueller v. Allen*.

Second, HB 1480 does not take money away from the public schools. The argument that tuition tax credits will financially hurt public schools is a false argument because it is based on a false premise. Tax credits do not take money away from public schools any more than roads, medicaid, the public employees' retirement system, lignite energy tax breaks, or any other public program takes money away from public schools. The state can provide relief to parents without affecting funding for government schools.

In short, there really are no valid reasons to deny this relief to parents and the time has come for HB 1480. We urge a **Do Pass** recommendation on this bill. We would be happy to answer any questions the committee may have.

House Education Committee

My name is Erika Anderson, I live in Mandan and attend St. Mary's Central High School. I am in support of House Bill 1480.

I would like to make five points:

1. This bill will assist low to middle income families who send or would like to send their children to private schools. These families pay property taxes which support public schools and pay tuition to fund the non-public school. This bill would help give these families the 'true choice' of sending their kids to public or private schools. If this bill doesn't pass we indirectly remove the choice from them because they are unable to afford funding both systems.
2. Many parochial schools are struggling to survive. This assistance may help enrollment increase or at least remain stable. It is important to keep these schools open and the teachers and auxiliary staff employed. Closings will cost the local public school district additional dollars. For example, if one of the parochial schools in Mandan were to close, the Mandan School District would have a tough time absorbing them into their schools. There is no room for another 100 + children in the Mandan public grade schools, thus causing over-crowded classrooms, or renting a building until a new school could be built. School buildings are not cheap!
3. I have attended both public and private schools. While the level of education is comparable, I must note the differences that mean much to me. The smaller class size provides for more individualized instruction. I'm not just a number in my high school. The teaching faculty and administration know me by name. I also know all of my fellow classmates by name, which gives me a better sense of unity with my class.
4. I have friends who come from single parent families and participate in the school's work study program to help offset some of the tuition costs. Their parent(s) can NOT afford the cost of tuition and textbook fees. Passage of this bill would help. Some type of tax relief would allow a true choice for these types of family situations.
5. There are quite a few of our state officials who have private schooling in their background. Perhaps some of you graduated from a private school. We have invested many financial resources in our state government. I believe it is time for the state to invest back in the schools and especially the families that choose to send their children to NON-PUBLIC schools.

I urge a do pass on this bill and Thank You for your time and consideration.

Respected members of the House Education Committee

My name is Peter Christopher Engelman and I am a Senior at St. Mary's Central High School.

I appear before you today in support of House Bill 1480

The education that I have received at St. Mary's Central High School has had a profound effect on my life. My four years at St. Mary's have been challenging. I have grown, not only in an intellectual and physical sense, but also spiritually. I have made some great friends and established relationships that will last a lifetime. I have respect for my teachers and appreciation for the many patrons of the school who give of their time, talents, and treasure to keep the school doors open.

The education I have received at St. Mary's Central High School has NOT come without sacrifice. I am one of four children in my family who has or is attending Parochial schools. My parents have accepted a heavy financial burden by having us educated in private, Catholic schools. Let me assure you that they are not financially wealthy, but a typical middle-class North Dakota family. They have chosen private education for us because they believe in the importance of celebrating our faith every day, in school and in our home.

It is my belief that House Bill 1480 would help provide a sense of fairness for my parents. My parents have always and probably will always support public education. They believe in the mission of public education, but they also believe in the mission of non-public schools. Their choice of parochial schools should NOT create an unfair situation for them. They deserve some type of tax break for the tuition and textbook fees they pay to send their children to Catholic schools.

Bismarck has choice for parents in selecting public schools, passage of House Bill 1480 would give 'true choice' for every family in the type of school they select for their children.

I ask you to support House Bill 1480. I ask that you allow the full House to have a thoughtful and serious debate on this issue. Please vote yes for a sense of fairness for all families.

Thank You for your kind consideration.

I would be happy to address any questions you might have for me.

To: House Education Committee

From: Steve M. Brannan, Supt. - SMCHS
Pres.- Elect - State Association of Non-public Schools

Subject: House Bill 1480
Testimony in support of the bill

Date: January 26, 1999

My name is Steve Brannan, I am the administrator of St. Mary's Central High School here in Bismarck. I have been part of the Catholic School system for over 37 years. I have been a member of SANS for eighteen years and currently serve on the SANS Executive Committee.

The SANS organization is concerned with the issue of choice - true choice when it comes to parents selecting a school for their children. Non-public schools provide positive competition for our local public school systems, yet receive NO state funding for the quality academic programs non-public schools provide. Parents who choose to send their children to non-public schools continue to pay taxes to fund the local public school system and tuition to finance the non-public school. As a matter of justice, there must be some type of tax relief to families for the educational expenses of their children. Our Church related schools have had to increase tuition substantially in recent years. Many families in North Dakota can NOT make a choice where they send their children, they simply can NOT afford it. Providing a tax credit, for the tuition and textbooks costs, would allow some relief to families choosing non-public schools. It could also provide the same tax relief for families that have some educational expenses for their children in public schools.

Responsible Government Officials like you, must recognize the tremendous benefit of our non-public schools. Over 12 million dollars in State Foundation Aid payments are

saved the N.D. taxpayer each year, because over 6,000 students attend non-public schools. When you add the additional savings of local property taxes, the savings actually doubles. You must be able to recognize that it 'makes good sense' to provide some type of tax relief to parents so that 'choice' really is an option for more families. Keep the true spirit of competition alive in North Dakota by providing a tax credit for the tuition and textbook expenses as provided for in House Bill 1480.

Much study is taking place regarding the funding of our educational system in our great country. Some states have a voucher system, others provide textbooks through the local public school districts, other have a tax credit plan in place, while others are currently studying the situation. Many states are looking at the equity issues regarding funding. As our elected officials, I ask you to look closely at all of the issues and not forget the inequity and injustice parents face that choose non-public schools for their children.

Parents are the primary educators of their children and should have the right to choose the educational system they want their children to receive. North Dakota Laws presently permit inequity in the distribution of public tax funds for education.

What is the best solution for the future of our state's greatest resource, our children? What is the fairest way to address the equity issue in education?

The answer to both questions certainly includes keeping our non-public schools viable and providing tax credits to parents to recover some of the educational costs they incur by choosing non-public schools for their children.

Please pass House Bill 1480

Madam Chairman and members of House Education Committee,

My name is Bernice Thomas. I live in Mandan ND.

Tuition tax credits are an idea whose time has come. First I would like the committee to consider amending this bill to include home based educators. This isn't an issue of money as much as it is an issue of trying to be conscientious parents in training our children to respect the law, authority, and being good citizens. It's been said of late that character doesn't matter. Because so many of the American public bought into that lie, much disrespect has been brought to the highest office in the land. I come to you today and say character matters, honesty matters, integrity matters, faithfulness matters.

Why do parents choose private schools or home school? Because all these qualities make sense when the child is taught that we are accountable to the standards of the highest authority which sees all we do in public and private. Since the Ten Commandments can no longer be even posted in the public school, for many students it becomes a war of wills between student, teachers and administrators. It is no wonder there is foul language, smoking, drinking, drugs, stealing, promiscuity, rapes and even murders. How can a child learn academically when all these pressures are burdening them? Some of these children are strong enough to overcome these pressures and some commit suicide because they feel they have no worth or life isn't worth living.

When the parents and the school are stressing the same values to these children, the likelihood of public money having to be spent on suicide counselors, drug and alcohol rehabilitation, larger police forces and prisons are greatly diminished.

I am a mother of 7 children ranging in age from 25 to 5. We have utilized all the different school systems and currently have one enrolled in private school and two are being home schooled. Let me give you only two of the many examples of the values I am talking about. My two oldest children went to private school through sixth grade and public junior and senior high. When my daughter was in the public Jr. High, 7th grade, she brought home a couple of books out of their school library. These books put out by Planned Parenthood encouraged the kids not to be pressured into sex until they felt **they** were ready. It wasn't the parent's teachings that mattered, but the **child's choice**. That sex will be a beautiful experience when **they** felt ready. Another thing that was far from the truth, was that an abortion was safer than childbirth. Nothing was said about the emotional scarring and the diseases. They encouraged the reader to contact one of their offices if they needed someone to talk to. At the end of the book it gave the addresses of Planned Parenthood Offices in every state of the union. Needless to say my blood boiled. Another mother and I took our concerns to the principal and asked to have the books removed. He said he would talk to the school counselor and others. Later we were informed that the books would stay in the library because there might be some child that needs access to this information.

Another incident involved my son shortly after entering 7th grade. He purchased a bike from Dakota Cyclery which he had made payments on for two years out of money he received from having a *Finder* route. The first month of school, his bike was stolen. He was devastated. Not only was this bike his pride and joy, but also his transportation. The school and the police department did little, because it was such a common problem. My husband pursued it. We prayed every day for leads and the return of his bike. Over the next several months we were able to piece together the who and what had happened. The bike had been immediately dismantled and pieces went here and there. We went to the principal and the police with the name of the initially responsible person. We were told that this kid was under suspicion for some much bigger things and this was just peanuts. Nothing was done. Our son's academic grades suffered because he was distraught and fearful of this gang of kids. Interestingly, the kid initially responsible died while inhaling gas fumes. Statistics this year, say crime is down nationwide, but the crime rate among juveniles is up even in Bismarck and Mandan.

Many will testify that we can not afford to give tax credits and that our public school system will fall apart. Now let's get real. This bill is proposing a \$200 tax credit per child maximum. There will not be a mass exodus from the public schools because \$200 is a very small portion of what we really pay for private education. We all pay the same taxes regardless of how our children are educated. We are asking for a little fairness because we pay twice for having our children educated and even \$200 per child would help.

So I challenge you to consider the thought; are private and home schooled children putting a financial burden on society? Judge the fruit. Thank you.

TESTIMONY FOR HB 1480

Prepared by Senator Ralph Kilzer

January 26, 1999

Madam Chairman and Members of the House Education Committee, I ask that you consider my support in favor of House Bill 1480. Educational matters that come before your committee and the legislator are of great importance to the future of our state. There is no better way of insuring the future of our state than providing quality education to all young people in our state. This bill will provide badly needed assistance to families who are struggling to carry out the mandate of educating their children. Families should be able to send their children to their school of choice. However, in recent times this choice has become more limited by two factors:

First of all, nonpublic schools have been closing. Very few nonpublic schools have opened in recent years. Within the past generation, the number of catholic high schools in North Dakota has been reduced from 15 down to 4. Elementary schools have also been closing at a rapid rate.

The second reason for families having a less choice is, in addition to the unavailability of schools, financial considerations have put much pressure on the budget. Many families have become unable to afford nonpublic education. This bill addresses that problem.

Critics of assistance to families for nonpublic education say that this is a diversion of public funds into religious schools. This bill does not divert any funds to any religion. It merely pays a small assistance to needy families. In fact, the assistance amounts to less than 10 percent of the foundation aid that would go to a similar child attending a public school. In reality, in addition to less money coming out of the state treasury, there would also be relief of property taxes by the local taxing unit when more of its children are not attending the public school.

I would urge you to give a DO PASS to House Bill 1480. The state should do something about the double billing of families who choose to send their children to a nonpublic school - they pay taxes in addition to the cost of educating their children. Whatever can be done about this situation is greatly appreciated. Thank you.

Senator Ralph Kilzer
District 47

House Bill 1480 Testimony
House Education Committee
Joseph A. Westby, NDEA
January 26, 1999

Chairperson Kelsch and members of the House Education Committee, my name is Joe Westby, executive director of the North Dakota Education Association. Our membership exceeds 8,000 and includes public school teachers, higher education faculty, education employees and students preparing to become teachers. I appear in opposition to HB 1480. This bill proposes to divert public tax dollars to private and parochial schools through the granting of income tax credits to individuals, estates and trusts. According to the North Dakota Tax Department, the cost to the general fund of the state of North Dakota would be either \$2,156,000 or \$2,556,000. The larger amount would be the case if joint filers are each allowed the \$39,000 taxable income, in effect raising the income limit to \$78,000 on joint returns. The lost income to the state general fund could result in that much less funding for public schools, requiring state or local tax increases to make up the loss.

North Dakota's public school students continue to perform at or near the top in national tests. We have good nonpublic schools and their students also do well. A recent study reported by *Education Week* cited North Dakota schools as having high performing students and a positive climate conducive to learning. We didn't do as well in the adequacy, equity and allocation of financial resources, however. And, we scored an F in standards, assessments and accountability. Obviously, we have work to do if our students are to continue to excel and perform in this changing world.



I'm sure you know about the decline in state support to schools -- from 63.7 percent of per-pupil cost in 1982 to about 49 percent today. Teacher salaries during this same time period have dropped in ranking from 30th to 50th nationally, making it increasingly difficult for school districts to retain and recruit quality teachers. Local districts have attempted to fill the gap by increasing local property taxes, but have been unable to keep up and most are now at the maximum levy allowed. The state simply cannot continue this erosion of the core of public education funding. HB 1480 would exacerbate an already critical situation.

Public schools have an obligation to educate all students, rich or poor, black, red, yellow or white. Private schools can be exclusive and decide which students should be admitted, based on religious preference, achievement level or ability to pay. If you elect to begin down the path of funding private schools with public dollars, the amount of the tax credit in this bill is only the beginning. Each legislative session in the future will be asked to increase the amount, and more and more public money will be taken away from already financially strapped public schools. North Dakota public schools are in dire need of improved funding such as proposed in SB 2281.

Proponents of this legislation argue against the "double taxation" faced by parents who enroll their children in private schools. But, private school parents voluntarily choose to send their children to private schools and thus make tuition payment; they are not taxed for doing so. Furthermore, all citizens pay taxes for basic services such as police, paramedics, fire departments, libraries, garbage removal, street repairs and public

education regardless of whether they use these services. What would happen to streets, police and fire and the other services if we demanded tax credits for these? These services are provided because they make our communities stronger and safer. In fact, a tax deduction or credit would cause all taxpayers to face double taxation because they will have to pay for private schools plus higher taxes to make up for the lost revenue due to the tax break.

Private schools are, and need to continue to be, financed by private funds. Their very existence requires it. If we provide public money to nonpublic schools, then we must insist they comply with state and federal laws, as well. Will they want to comply with the continuing contract law? The due process law for the nonrenewal of teachers' contracts? The bargaining law? What about the federal laws that govern special education? Nonpublic schools are free to select their students, determine their own curriculum (which in most North Dakota nonpublic schools has a religious component), and determine their own set of procedures and guidelines for operation. Certainly, they don't want to give up this uniqueness.

We do not oppose private schools. They do a fine job in meeting their mission, which is commonly one incorporating a particular religious ideology. My bachelor's degree was obtained from a private college with a religious emphasis. I received a fine education at that institution and my parents and I worked hard to pay the tuition for that education. That is as it should be. In order to fulfill that kind of mission, one with a religious emphasis, private institutions must be privately funded. The constitution of the

state of North Dakota requires it. Article VIII Section V says: "No money raised for the support of public schools of the state shall be appropriated to or used for the support of any sectarian school."

This bill proposes to divert public tax money to the support of nonpublic schools contrary to the North Dakota Constitution and raises significant financial and legal questions. I urge the committee for a Do Not Pass recommendation on HB 1480.