

2009 HOUSE FINANCE AND TAXATION

HB 1506

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1506**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8439

Committee Clerk Signature

Minutes:

Chairman Belter: We will open the hearing on HB 1506.

Representative Mark Dosch: (Testimony 1) (4:08)

Chairman Belter: I was just looking at your bill 1190 and that has a fiscal note of \$700,000

and this one doesn't have any numbers in it. Do you know what the reason was on that?

Representative Dosch: For HB 1190, the schools did provide some information to the Tax Department. On this one, they are figuring it, according to their explanation, that it is pretty hard to determine what the effect will be. Any program like this—it takes years and years for people to understand and know that the credit is out there and start taking advantage of it, so I think it would initially be very small. As the years progress...right now how many people would take advantage of it is hard to say.

Representative Weiler: Are there donations now that are given to non-public schools? Let me rephrase that, are there currently donations going on now; and if so, how many if in the future we pass this bill would qualify for the tax credit?

Representative Dosch: Are you asking in the public school systems? Unless it is specific to an endowment that they may have, we are not aware of any donations made to a public school district at this time or what that amount may be.

Representative Weiler: This bill is public and non-public. Are there any non-public donations? My point is, is this going to increase the amount of donations to the non-public schools because if all we are doing is giving a credit to the ones that are already giving donations, I see a little bit of a danger there. Then when it comes to donations for public schools, I don't see a lot of that happening because across the state, 54% of people's property taxes are going to support public schools. I don't know that people are going to want to throw in an extra couple thousand dollars to support the schools.

Representative Dosch: That is a variable we don't know. Up to this point, there has never been any incentive that I am aware of to make a donation to a public school. We know that public schools have some needs too. It is not just the non-publics out there selling tickets for this and that. We bought a raffle ticket from a BHS student the other day; they are trying to raise funds to go on a trip. In the past there has never been any incentive. If we can get people to the point, by providing an incentive, where money would start flowing into our public schools, it is a definite win-win situation.

Representative Weiler: I do see the non-public side of it; I get that. On the public side, I don't know that there are going to be donations and I recall this same bill was in last time and then education came and stood against it. They didn't like the idea so I just don't know. Maybe we could just amend out the public schools.

Representative Dosch: We could certainly do that. I think it is good that the public school systems are in here. It is an opportunity to help them raise some money. This bill isn't about public or none public; it is about our school system and how we can improve it and how can we get some of this outside money that has never really flowed into the school system before.

They all can benefit; they all have needs. If we can bring some money into the system; if we can help pay for some other programs or enhancements to the education process, it is our kids

in the end who will win and benefit from this thing. I think that is what it is all about—it's about the kids.

Representative Pinkerton: Obviously I support the bill because I am on the bill. In the Minot district, we do have a foundation that does gather in money. I have a bit of concern about the proposed amendment though. I don't know if this amendment is coming from you or if this amendment is proposed by...

Representative Dosch: I was just aware that it was coming in. I have not seen that amendment myself yet. It was my understanding they just wanted to make a change in the bill itself where it says a public or non-public accredited, I think they want to change that to approved. I believe Justin is going to be coming up after me and he can perhaps answer that question for you.

Representative Winrich: I believe there is a foundation, perhaps more than one for some of the public schools in Grand Forks as well and that it operates as a 501C3, much as the foundations that would exist for non-public schools. If I gave a contribution to one of those foundations, it already is an exemption. It reduces my taxable income. This would add a tax credit on top of that reduction in taxable income?

Representative Dosch: Yes, that is correct but these funds would go to the school district. Contributions would be to a school district. If you were to give to a foundation and to this, I would assume that you would be eligible for both.

Representative Winrich: This only applies to direct contributions to a school district, not to some foundation whose purpose is to support the school district?

Representative Dosch: It is my understanding that this is for contributions made to a school district.

Representative Pinkerton: I guess we need clarification on what Representative Winrich brings up, would this include the foundations for the schools or only the school? I see it as a contribution to the band or to the orchestra and that we bring in a tax credit with it, but I think that is an excellent question about whether it includes the foundations associated with the schools.

Representative Wrangham: I have a question that probably involves most income tax credits. I think obviously donations to public and private schools are a good thing. People who have the wherewithal to do that should do that because it is the right thing to do. But I have a problem when we ask the working poor to furnish the monetary incentives to give those who, for lack of a better phrase, are better off to do the right thing. Either I am not understanding or I am hearing this wrong; am I wrong or am I not justified in my conclusion?

Representative Dosch: Yes you are wrong. How I would disagree with you is that I think a bill like this would specifically help those people...what is nice about it is that it helps those people looking for a tax donation to give; they have the wealth (?); that is fine and wonderful. The other real important thing that this does is it helps bring money into both the public school systems and the non-public schools to help keep the cost of education down. For example, if you have a parent out there who would like to send their kids to a non-public school, this could make a huge difference, a huge difference. If you have a low-mid income family and they have one or two kids, whatever, this bill would help them greatly. That is the nice part; it helps both the middle and the bottom of the scale. That is why this is a very good piece of legislation and it is bringing more outside money into the system, not just relying solely on the government to fund everything.

Jack McDonald, State Association of Non-Public Schools: (Testimony 2) (15:40-16:50)
Donnita Wald is here from the Tax Department. Perhaps she can clarify the situation

concerning foundations. Representative Winrich is right that many of the public schools in North Dakota do have private foundations as well as the non-public schools. My initial thought was somewhat similar to his that this would tie the donations to the foundations, but perhaps it is only direct payments to the district and not to the various foundations. There is a large foundation here in Bismarck; the Bismarck School District has a private foundation and I am sure Grand Forks, Fargo and Minot probably do as well. We would encourage these amendments. If the bill is combined with other bills, that is up to the committee certainly, but we would appreciate that you put the word "approved" in instead of "accredited" so that that part is correct as the bill goes forward. There are several other people here from the state association who will testify in favor of the bill.

Representative Pinkerton: Do we have a list of accredited as opposed to approved?

Jack McDonald: We can get that list; I don't have it with me right now, but I can get it. There is a list.

Representative Pinkerton: And perhaps some delineation between accredited and approved.

Jack McDonald: Yes, we can get that.

John Jankowski, Superintendent of St. Mary's Central High School and President of the State Association of Non-Public Schools: (Testimony 3) (18:55-25:03)

Thomas Frei, Secretary for Education and Formation, Diocese of Fargo: (Testimony 4).

Mike Motschenbacher: (Testimony 5) (27:02-29:02)

Leann Binde, Superintendent of Cathedral School: I think almost all of our private schools are approved because we don't meet a couple criteria for the state. The criteria are usually librarians; we don't have full-time librarians at our school and we do not have school counselors. In 2004 that was the main reason we are not accredited. Our teachers are

certified teachers; they meet the same criteria as everybody in the state, but the two main focuses are librarian and school counselors.

Representative Pinkerton: Are there any non-public schools that do meet the accreditation standards?

Leann Binde: Yes, St. Mary's High School is accredited. It helps high schools to be accredited for students to go on to college and also Shanley High School.

Representative Pinkerton: I think Bishop Ryan in Minot is accredited.

Representative Winrich: Are we talking about just high schools here or elementary schools as well?

Leann Binde: For accreditation? I think all the grade schools here are approved in Bismarck and the high school is accredited and Shiloh is approved. Martin Luther and (inaudible) are approved. But it sounds like in other areas like Fargo, it may be different. I can only speak to Bismarck and we are approved mainly for those two things.

Thomas Frei: In the diocese of Fargo, we have 13 schools and I believe 11 of them are accredited; the other two are approved so both high school and elementary.

Chairman Belter: Any further testimony in support of HB 1506? Any opposition to 1506?

Greg Burns, Executive Director, NDEA: (Testimony 6) (31:50-34:29)

Representative Froelich: Do you have NDEA members that teach at non-public schools?

Greg Burns: Not yet, but we will.

Representative Grande: When I taught in a private school, we were told we couldn't be a member.

Greg Burns: The NDEA changed their policy on this last summer so that we can at the pre-school level begin recruiting members in the private sector. I don't agree with the NDEA prohibition on that; I would like to see us open to people who teach wherever.

Chairman Belter: Any more questions? Further testimony in opposition to 1506? Any neutral testimony to 1506?

Representative Winrich: Can we get clarification from the Tax Department about contribution to a foundation versus contribution to a school?

Donnita Wald, Legal Counsel to the Tax Department: You asked if this is for a contribution to a foundation, our interpretation is that this would not cover.

Representative Winrich: So the tax credit would not apply to a contribution to the foundation?

Donnita Wald: That is how we are interpreting the bill.

Representative Winrich: If I give a contribution to the school, which is not set up under federal tax laws and a 501C3 or anything like that, but a contribution to the school, is that tax deductible? Does that reduce my taxable income?

Donnita Wald: I don't believe it does. It does not.

Chairman Belter: A lot of schools have dollars for scholars. Are those tax deductible donations?

Donnita Wald: I don't know about that. I don't think so.

Chairman Belter: If there is no further testimony, I will close the hearing on HB 1506.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1506

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8500

Committee Clerk Signature



Minutes:

Chairman Belter: This is the bill we heard this morning.

Representative Grande: I move the amendment to cross out "accredited" and put in "approved".

Chairman Belter: I have a motion from Representative Grande and a second from Representative Drovdal to **move the amendments from Jack McDonald (Attachment 1)**.

Any discussion?

The motion carries. What are your wishes on 1506?

Chairman Belter: I have a motion for a "do pass as amended" on HB 1506 from

Representative Grande. Anyone want to second? If not, **the motion fails.** I ask for a substitute motion.

Chairman Belter: I have a "do not pass as amended" from Representative Drovdal and a second from Representative Winrich on HB 1506.

Representative Drovdal: Allowing contributions to the payment of tuition for students, isn't that all covered in the bill we just passed?

Representative Weiler: Bill 1190, I believe, was for contributions to non-public or private K-12 and higher ed. This bill is for contributions for non-public elementary and secondary

schools in the state and school districts, which would include public. The similarity between the two is that if we pass both of them, the private K-12 is getting a double shot.

Representative Grande: 1190 deals strictly with donations to the institution. 1506 is for the individual, but maybe I misunderstood. The taxpayer would have the ability to utilize this. It is where the donation goes.

Chairman Belter: The big difference here is tuition on 1506. We have a motion for a "do not pass as amended". Any further discussion? **A roll call vote on a "do not pass as amended" resulted in 10 ayes, 2 nays, and 1 absent/not voting. Representative Kelsh** will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/20/2009

Bill/Resolution No.: HB 1506

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1506 provides an income tax credit for contributions to schools, including tuition payments.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB 1506 creates an income tax credit equal to 50% of an amount contributed to a school, or the amount of tuition paid to a K-12 school in the state. The credit is capped at \$500 per taxpayer, or \$1000 for joint filers, per tax year. The credit is made available on both the state's income tax filing methods, Form ND-1 and ND-2.

There is no information available to determine the donations that are currently occurring, or are likely to occur, if HB 1506 is enacted. The state general fund revenue loss cannot be determined.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/31/2009

February 3, 2009

VR
2/3/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1506

Page 1, line 11, replace "accredited" with "approved"

Renumber accordingly

Date: 2/3/09

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1506

House FINANCE AND TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment change of credited

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended by Jack McDonald

Motion Made By Grande

Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) 10 No 1

Absent _____

Floor Assignment _____

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

Motion carries

Date: 2/3/09

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1506

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Grande Seconded By No

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Do Pass
Motion fails

Date: 2/3/09

Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1506

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☒ Amended

Motion Made By Drovdal Seconded By Winrich

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		/
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg			Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande		/	Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 10 No 2

Absent 1 (Brandenburg)

Floor Assignment Representative Kelsh

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

REPORT OF STANDING COMMITTEE

HB 1506: Finance and Taxation Committee (Rep. Belter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1506 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "accredited" with "approved"

Renumber accordingly

2009 TESTIMONY

HB 1506

HB 1506

Finance & Tax Committee

Rep. W Belter, Chairman

February 3, 2009

Mr. Chairman and members of the Finance and Taxation Committee, for the record my name is Mark Dosch District 32. I come before you today in support of HB 1506.

HB 1478 offers a tax credit to anyone who makes a donation or contributions to any public school district or an approved nonpublic school in the state up to a maximum of \$500 per single tax payer.

Mr. Chairman and members of the committee I am excited to talk to you about this bill today because of the positive impact it would have on our schools across the state. This bill is a win, win bill. It is a win for donors in our State that wants to make a contribution to our education system for they would receive a tax credit. It is a win for the State, who will see an inflow of funds to our education system. It is a win for the school district who receives these funds, and a win for our students in our schools.

The beauty of this bill is that it does not fight for funds from property taxes, or from the state foundation aid payments or from any other funds currently dedicated to education funding. This bill for the first time will make it attractive and provide incentive for private individuals to give money to our education systems.

A few years ago, I read an article in one of the financial magazines that stated that ND has more millionaires' per-capata than anywhere else in the country. Make no mistake; there are a lot of people with money in ND. Unfortunately up to now, there was little incentive for people to actually donate money to education. This bill will provide this incentive. Now I'm not suggesting that this is a cure all for education funding. Rather I view it as an enhancement to the education system.

Any school administrator will tell you that each year there is some project at their schools that have to go unfunded or undone because the money just isn't there. Funds for example to cover the costs of after-school programs, new playground equipment, or how about to fund teacher bonuses for increasing student proficiency scores or new computer or chemistry equipment, new wrestling mats, new basketball floors are just a few examples that these funds could be used for.

It is an opportunity for parents or grandparents of our kids to give money to the school districts to enhance the quality of our kid's education. It's an opportunity for alumni to make a donation to their grade or high school, or other individuals who by granting a little incentive may encourage them to make a donation.

Another big benefactor could be a school districts endowment funds. There is no doubt that this would make a huge difference in their fund raising efforts, affecting education in years to come.

Think about this, for every 2 dollars given to education, the cost to the State is only \$1 tax credit. That's a 100% return for the state for education funding. This bill is no doubt a win for the state, win for the donor, and win for the school district and a win for the students across ND.

Mr. Chairman and members of the committee give this bill a chance to open a new door in education funding, to open up an opportunity to all citizens across the state to play a role in our education of our youth. We have nothing to lose and everything to gain. Thank you for this opportunity to appear before you today. Your support of this bill and education funding is greatly appreciated.

February 3, 2009

HOUSE FINANCE & TAXATION COMMITTEE
HB 1506

CHAIRMAN BELTER AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the State Association of Nonpublic Schools (SANS). We strongly support this bill and urge you to do likewise.

This will allow the North Dakota parents of school children to not only support the schools of their choice, either public or private, but it will also encourage these schools to develop private nonprofit foundations that can help ensure the continued growth and viability of these schools. It is really a win-win situation.

We are also asking for one "technical" amendment. Most of the nonpublic schools in the state are not accredited, but rather "approved" by the Department of Public Instruction. Therefore, we are asking that you amend this bill on line 11 to reflect that distinction.

We respectfully request that you amend this bill and then give it a DO PASS. If you have any questions, I will be happy to try to answer them.

THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENTS FOR HOUSE BILL 1506

On page 1, line 11, delete "accredited" and replace with "approved"

Renumber accordingly.

House Finance and Taxation Committee

February 3, 2009

Testimony: HB 1506

Chairman Belter and House Finance and Taxation Committee:

My name is John Jankowski and I serve as the Superintendent of St. Mary's Central High School but

I'm here to speak to you as the President of the State Association of Non-Public Schools. I am here to ask you to support HB 1506. I don't claim to be a tax expert or some sort of economics guru, to say the least I'm a novice at best.

What I do understand somewhat is the predicament that seems to be facing the North Dakota Legislature in 2009. When you came to Bismarck a month ago optimism was high as people were looking forward to property tax relief, income tax reductions, pay increases for teachers and state employees, and a certain sense of safety from the recession facing the country. Now as oil prices have declined, the recession seems to be getting worse around the country, companies continue to ask for help from the government through the new "bailout programs", which are designed to stimulate our economy, your committee must face group after group coming to you for some sort of help.

Private schools are in that category. Private schools have a rich history in the state of North Dakota. I believe they have played a vital role in providing the right competition for public schools in our larger cities so that all schools public and private continue to strive to improve each year. It's a healthy competition as we respect each other's role in providing a quality education to our students.

Our private schools rely on our parents to pay tuition, if we are religious school, support from our churches or parishes, and all of our schools rely on fund-raising. We rely on charitable giving to make our budgets work. In my school about 20% of our total budget comes from some form of fund-raising.

We couldn't do what we do without fund-raising. Now I understand that HB 1506 is more than a tax credit for a donation bill. That tuition can count as a donation and a credit can be up to \$1000 for a married couple. I'm well aware of that.

I can't begin to tell you what kind of impact that would have on private schools. Our schools are not unlike the public schools as we try to increase teacher pay to attract and retain quality teachers. We too are faced with rising costs of insurance and utilities, technology costs, and yes, this year snow removal. Our schools provide a vital alternate to parents in our respective cities. Where would school districts be without our private schools? If you will allow, let use mine for example.

325 students in grades 9-12. Foundation aid is set at 3375: Total cost to the state for SMCHS would be \$1,096,875.00. Ok, so that's doesn't seem like much. But if we then calculate the cost per pupil for Bismarck (\$6866)it would be \$2, 231,450.00. So just imagine of all private schools closed? It could cost over \$20,000,000 in Foundation aid and using Bismarck's cost per pupil it becomes a bill of \$41,196,000 Now tell me, if someone came to you and said that state help was needed to save over \$40,000,000 wouldn't you take serious look at it?

Now I'm not here to tell you that our schools are in crisis and facing closing. But I will tell you that I will be very concerned if this recession lasts very long. I want to ensure that parents will be able to afford to send their children private schools if they so wish. This bill will give our parents a tax credit for their income tax and give our other donors added incentive to give us that needed donation. This bill is about helping parents send their children to a private school if they so wish, and encouraging other continue their charitable giving in the challenging economic times. Please help them! Please help us!

I know your job is difficult, but I do ask for your support for HB 1506.

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ISSUE ANALYSIS

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Education Tax Credits

Basic Information

As parents become increasingly dissatisfied with the performance of public schools, alternatives in the form of private, religious, charter, or homeschools are growing in interest. However, the method of education funding remains a big obstacle between students and the quality education parents seek for their children. Most parents already pay for their children's public education through taxes. When parents choose to educate their child privately, they are effectively paying twice for education—once for a public education they do not use and once for a private or homeschool education they do use.

In response to this problem, lawmakers at both the state and federal level have proposed varying forms of education tax credits and education tax deductions. They are designed to rectify the discrepancy by allowing parents to be reimbursed, at least partially, for tuition and other expenses for non-public education. A tax credit can be claimed (subtracted) against the amount of tax owed whereas a tax deduction is subtracted from a taxpayer's gross income, lowering the total amount of earnings on which the final tax is paid. Typically, a credit or deduction will be equal to the amount of actual education expenses.

For example, someone owing \$3,000, eligible for a \$500 credit, would ultimately owe the government \$2,500. The credit eases the financial burden for parents who choose to educate their children through private or homeschool. In this way, parents not using public education do not have to pay the full amount for a service they do not use or from which they do not benefit.

While many opponents of the education tax credit say that it will detrimentally affect the public school system by taking away funding from necessary programs, supporters realize that giving parents more freedom will encourage healthy rivalry between schools and that this competition will promote improved performance.

A credit or deduction could be helpful for homeschoolers. However, HSLDA opposes any tax break legislation that comes with governmental regulations. Homeschoolers have fought far too long and much too hard to throw off the chains of government regulation that hinder effective education and interfere with liberty. It would be inconsistent and foolhardy to accept government tax incentives in exchange for government regulation. However, HSLDA will support tax credits that promote educational choice without threatening any regulation of homeschoolers.

There are many different education tax credit models currently being proposed and discussed. Some include an actual tax credit for personally incurred educational expenses for one's own child; others set up a middleman (usually called a scholarship tuition organization, STO) where any individual or corporation can give to the STO and receive a credit for the gifts. Usually, the STO is required to distribute at least 90% of

all funds received to schools or students for educational expenses.

Regardless of the education tax credit model, HSLDA continues to support and fight for education tax credits at the local, state and federal levels in order to eliminate the "double" taxation of private and homeschool parents.

Below are a list of education tax credit laws already on the books and information about key education tax credit legislation being offered by state and federal lawmakers.

Current Education Tax Credit Laws

Since 1987, **Iowa, Minnesota, Arizona, and Illinois** have each enacted education tax credit laws geared toward helping low income families, combating poor quality of public education, and helping students with learning disabilities. These credits are available for individuals, while Florida and Pennsylvania have also STOs to which only businesses may contribute. A summary of each tax credit law is below, but the statute should be consulted for full details and restrictions.

Iowa's Tuition Credit

Iowa was the first state to pass legislation providing for a tuition credit. In 1987, the Iowa General Assembly added to Iowa Code § 422.12 a credit "equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11." However, because competent private instruction (CPI) does not constitute a school that "is accredited or approved under section 256.11," most homeschool families will not be able to claim this credit.

Arizona's Scholarship Tuition Organization

Ten years later, Arizona followed in Iowa's steps with a credit applicable when cash contributions are made to a 501(c)(3) scholarship tuition organization (STO). The STO, in turn, grants scholarships to individual students for their private or public education. An individual can receive up to a \$500 deduction for contributions to a qualified STO. Corporations and joint filers can receive up to a \$1,000 deduction as outlined in § 43-1089 of the Arizona Revised Statutes.

Minnesota's Education Tax Credit

Minnesota's tax credit is similar to the Iowa statute, but it allows for 75 percent of education-related expenses instead of 25 percent, and up to \$1000 per qualified child. The maximum credit is reduced for families with a household income over \$33,500. "Education-related expenses for a qualifying child in kindergarten through grade 12" are covered in the credit. Minnesota Statutes § 290.0674 was added in 1998 and specifies qualifying expenses as tuition, textbooks, up to \$200 for personal computer hardware, and transportation, but with more detailed specifications for each category.

Illinois Education Tax Credit

In 1999, the Illinois legislature passed its version of the education tax credit that allows for up to \$500 of tuition and materials expense to be deducted from state income tax. This credit is available to any public or private school student. (Under Illinois law, homeschooled students have the same legal status as private school students.) This provision is covered in 35 Illinois Compiled Statutes 5/201.

Each of these states offers tax credits for individuals, but **Florida and Pennsylvania** offer tax credits for businesses that make contributions to scholarship tuition organizations (STO).

Florida's STO

In Florida, businesses can contribute up to 75 percent of the amount of tax they owe to scholarship-granted organizations and receive dollar-for-dollar credit. Under section 220.187 of Florida Statutes, in effect since 2002, organizations can receive this credit, but the state has limited the number of credits it grants to \$118 million annually.

Pennsylvania's STO

In 2001, Pennsylvania's Act 4 amended the Public School Code to allow up to a \$300,000 tax credit for businesses that contribute to scholarship organizations. (See 24 Pennsylvania Consolidated Statutes §§ 20-2001-B-20-2008-B.) The credit received is 75 percent of the total amount they donate, up to the \$300,000 cap. In 2004, the maximum amount of credits — \$40 million — was exhausted by September. Currently, the maximum amount is \$67 million. (See 24 PA. Cons. Stat. § 20-2006-B.)

	Year	Maximum Amount	Expenses Allowed	Statute
For Individuals				
Iowa	1987	\$250	tuition, textbooks	Section 422.12
Arizona	1997	\$500 individual \$1,000 joint	STO donations	Section 43-1089
Minnesota	1998	\$1,000	tuition, textbooks, transportation, computer equipment	Section 290.0674
Illinois	1999	\$500	tuition, materials	35 ILCS 5/201
For Businesses				
Florida	2000	75% of tax liability	STO donations	Section 22.187
Pennsylvania	2001	\$300,000	STO donations	Section 20-2001-B et seq.

Federal Tax Credit Bills

As education choice is becoming more popular and vouchers — a direct governmental grant to private and charter schools — are gaining prevalence, education tax credit legislation is also increasing in volume on both a federal and a state level.

Senator David Vitter (LA) introduced The Home School Opportunities Make Education Sound Act (HOMES Act — S. 3076) in June 2008. The goal of the HOMES Act is to amend the Internal Revenue Code of 1986 to provide an optional tax deduction for parents who choose to homeschool their children. The legislation provides for a tax deduction of \$500 per child (with an annual limit of \$2,000) for education related expenses, including books, supplies, academic tutoring, special needs services, and computer equipment. Families who do not itemize their tax returns would still be eligible for a similar standard deduction. Furthermore, this legislation would apply to all homeschool programs, including those in states that only have a private school statute.

State Tax Credit Bills

States periodically introduce education tax credit legislation, which HSLDA wholeheartedly supports. Unfortunately, of the many bills that have been introduced in recent years, very few have been passed into law. However, HSLDA continues to monitor and lobby for such measures.

Constitutionality Issues

While these tax credits enable parents to keep their money and use it for education, some opponents raise questions concerning their constitutionality. In three states with existing education tax credit laws — **Arizona**¹, **Illinois**² and **Minnesota**³ — suits have been brought against the tax credit laws. The suits were based on the Establishment Clause, because these credits also apply to religious school tuition. Furthermore, opponents cite the Blaine Amendment, which prohibits appropriating funds to religious or sectarian schools.

All three court cases, however, have upheld the constitutionality of tax credits because government money is not being directly given to these schools. The courts ruled that state recognition of tax credits does not involve giving any government funds to institutions.

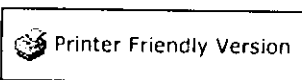
Other Resources

For the most up-to-date information on federal legislation, visit HSLDA's Federal Relations legislation page.

For information regarding tax credit bills currently being considered, visit HSLDA's state legislation page.

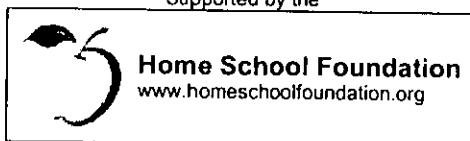
Endnotes

1. *Kotterman v. Killian*, 972 P.2d 606 Ariz. (1999).
2. *Griffith v. Bower*, 319 Ill. App. 3d 993 5 Dist. (2001).
3. *Mueller v. Allen*, 463 U.S. 388 (1983).



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OLR RESEARCH REPORT

July 3, 2007

2007-R-0404

TAX CREDITS AND TEXTBOOK LOANS FOR PRIVATE SCHOOLS IN OTHER STATES

By: Soncia Coleman, Associate Legislative Analyst

You wanted information on programs sponsored by other states to encourage support for private schools. Specifically, you wanted information on state tax credits for private scholarship fund donations and state loan programs for textbooks.

SUMMARY

[REDACTED] states (Arizona, Florida, Iowa, Pennsylvania, and Rhode Island) offer a tax credit for contributions to private scholarship funds. Generally, the contributions must be made to school tuition organizations (STOs), or similar entities, that grant scholarships to needy students and meet other criteria. The programs are detailed below.

According to a 2004 Education Commission of the States survey on state aid to nonpublic schools, it appears that less than half the states in the country provide support to private schools for text books. After a cursory review of surveys on recent private school policy changes, it appears as if there has been no change relating to textbooks. The survey is attached for your use.

STATE TAX CREDITS/DEDUCTIONS FOR PRIVATE SCHOLARSHIP FUND DONATIONS

Arizona

In 1997, Arizona established an individual income tax credit for contributions made by taxpayers to STOs that grant scholarships for students to attend private schools. The cap on credits is \$ 500 for individual donors and \$ 1,000 for married persons filing jointly. In 2006, the Arizona legislature instituted a similar tax credit for corporations for contributions made to STOs that provide educational scholarships and tuition grants to children from low-income families. The corporate tax credit is capped at an aggregate of \$ 10 million in any fiscal year and the aggregate amount of the cap from the previous fiscal year must be annually increased by 20% until 2011.

[REDACTED] must award 90% of corporate contributions as scholarships to students whose family incomes do not exceed 185% of the income limit required to qualify a child for reduced price lunches under the National School Lunch and Child Nutrition acts. These grants may be used at private schools that meet Arizona requirements for nondiscrimination policies and teacher

background checks. The schools must also administer and make available to the public its students' scores on achievement tests.

Florida

In 2001, Florida made businesses and corporations eligible for income tax credits for contributions to Scholarship Funding Organizations (SFOs) that grant scholarships to low-income students enrolling in nonpublic schools and public schools outside their districts. SFOs must use all of the contributions to cover tuition, textbook expenses, or transportation for children who qualify for the federal free or reduced lunch program. The annual cap on total corporate tax credits (and carryforwards) is \$ 88 million in any fiscal year. In 2006, the program was amended to provide for more accountability.

Iowa

In 2006, the Iowa General Assembly created an individual income tax credit for 65% of a contribution made to an STO. The STOs must allocate at least 90% of their annual revenue in tuition grants for low-income children to attend the qualified nonpublic school of their parents' choice. The credits are capped at \$ 2. 5 million for 2006 and \$ 5 million each year thereafter. The schools must be accredited under state regulations and must annually report to the state enrollment figures and information about the STOs.

Pennsylvania

In 2001, Pennsylvania established a tax credit for corporations that donate money to educational improvement organizations (for grants to public schools) or scholarship organizations. Pennsylvania's tax credit is available for 75% of a corporation's contribution up to \$ 100,000 or 90% percent of its contribution, if it contributes for more than one year. Scholarship organizations must use at least 80% of their contributions for scholarships to public and non-public school children to attend the public or private school of their choice. In 2006, the statewide cap on the program was raised to allow businesses to donate up to \$ 18 million to scholarship organizations.

Rhode Island

In 2006, Rhode Island created a corporate tax credit for contributions to scholarship organizations (SOs) that provide private school tuition assistance grants for students whose household income is less than 250% of the federal poverty guidelines. (SOs must use 90% of contributions for scholarships for these students). Businesses are eligible to contribute up to \$ 100,000 annually. Corporations donating for one year will receive a 75% tax credit, while those committing to two consecutive years will receive a 90% tax credit. Tax credits are capped at \$ 1 million per fiscal year.

SC: ts

Testimony for HB1506

Thomas Frei
Secretary for Education and Formation
Diocese of Fargo
Member of State Association of Non-Public Schools

I think the rationale to support this bill is straightforward. The state has a natural duty to support education of children in the state. It is obvious that an educated citizenry benefits the state in numerous ways. The public and private schools of this state have a long tradition of providing this education that all children deserve. Both systems, both private and public, provide this necessary role that is essential to human development.

Providing a modest tax relief to parents who send their children to private schools provides a dual benefit. First of all, it nurtures the education of those children who attend private schools--children who previously receive no benefit from the state whatsoever in their education, thus creating an equity that is absent in the current state of affairs. Second, this tax credit recognizes and nurtures the financial benefit to public schools in effect whenever parents choose to send their children to a private school.

Testimony
February 3, 2009

Chairman Baker

~~Madam Chair~~ and members of committee

My name is Mike Motschenbacher, and I am urging you to consider a Do Pass recommendation on HB 1506.

As written, families will receive up to a \$1,000.00 income tax credit if they choose to send their kids to private schools.

I believe this bill will actually SAVE the state of North Dakota money as more families will choose to send kids to private school. The per student cost to send a child to public school is currently between \$8,000.00 and \$8,500.00.

If I choose to remove my child from public school, I will actually be saving the state money because the state will not have to educate my child. Lunches alone for my child will cost the state over \$1,000.00 per year. It will also benefit teachers, as to help alleviate overcrowding in classrooms as I keep hearing about.

My oldest child is 5 years old. He will enter kindergarten next year. I want to send him to private school, but financially, we might not be able to do it. This bill, if passed, will make mine and my wife's dreams of sending our kids to private school a reality. If not, we will have no choice but to send them to public school.

Please consider a "Do Pass" vote on HB 1506.

Thank you for your time and consideration.

Sincerely,

Mike Motschenbacher
2905 Remuda Drive
Bismarck, ND 58503

Testimony to
HB 1506

Testimony re: HB 1506 House Finance and Tax Committee 2/3/09

Mr. Chairman, members of the committee, for the record my name is Greg Burns and I am the Executive Director of the North Dakota Education Association (NDEA).

The question presented by this proposed legislation is whether or not parents who choose to send their children to a private school should receive an income tax credit for that choice. The NDEA believes that the answer to that question is no.

At our Representative Assembly last April, NDEA delegates adopted a Legislative Agenda that includes the following language: "Oppose diverting public money for the support of non-public schools." This agenda passed unanimously.

By its constitution, North Dakota offers a free, public education to all parents and students. All adults in North Dakota support that system through a tax system. For a multitude of reasons, some parents decide that they want to send their children to a private school. The NDEA supports parents' rights to make those decisions for whatever reason they deem necessary.

However, why should public policy in North Dakota provide a fiscal incentive for those who chose not to participate in what the state offers?

I think the following example best illustrates our point. Everyone in North Dakota pays for law enforcement through their taxes. Some folks are wealthy enough that if they don't like the law enforcement that the state provides, they can hire their own private security. They do not receive a tax credit for that. People are free to make those choices, as they should be, but they do not get a tax credit because they choose to purchase a service that the state offers at no cost.

The state of North Dakota offers education as a public service to its citizens. Those citizens have every right to refuse to use that service, but not to expect a tax credit when they refuse that service. It's not fair to the other taxpayers.

The NDEA urges you to vote "no pass" on HB 1506.