

Testimony on HB 1532

January 27, 2023

Chairman Elkin and Members of the House Education Committee

My name is Daniel Rice and I am the former Dean of the College of Education and Human Development at UND. My testimony is on behalf of myself and does not represent a position on this issue by the University.

I write in **opposition to HB 1532** for the following reason:

The bill is unconstitutional on its face. It is a clear violation of the [ND Constitution, Article VIII, Section 5](#), which reads, “No 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.**” (Emphasis added)

1. The bill attempts to “reimburse” parents for expenses of a child attending a nonpublic school. The funds identified in this bill would be appropriated by the legislature and thus violate that prohibition in the Constitution.
2. The bill clearly **violates “used for the support of any sectarian school.”** The funds must be used to replace the funds the parents expended that were **used for the support** of a nonpublic school which could be a sectarian school. Both the plain language and the clear intent of the Constitution is to prohibit any public funds for the support of sectarian schools.
3. The reimbursement of parents is obviously an attempt to find a mechanism to avoid the plain language and intent of the Constitution by “laundering” the state money through the parents. It is not possible to argue that the funds are to restore the expense of the parents apart from the mandated purpose of the reimbursement which is, in the end, “used for the support of any sectarian school.”
4. The definition of a “Qualified School,” is vague and inadequate. The definition “means a nonpublic school in the state which accepts program funds.” The bill uses the term “nonpublic” schools which is also an attempt to circumvent the plain language and clear intent of the Constitution. This definition would, in fact, provide funding to any “nonpublic” school, including “sectarian” schools in clear violation of the Constitution.
5. The definition defines a “Qualified School,” as an instate school “which accepts program funds.” The bill is self-justifying in that it defines an eligible school as one that accepts the funds provided by the same bill. In other words, if a school accepts the state funds, it is therefore qualified to receive those funds. That is a meaningless use of the term “Qualified School.”
6. Because the Constitution mandates that the state of North Dakota provide a free public educational system, parents are relieved of that expense. If parents reject that free educational system for their children the state has met its duty and the intent of the Constitution has been fulfilled. The people of North Dakota through the Constitution have been explicit in the prohibition of the use of any public funds for the support of sectarian schools.

7. It follows that if parents reject the free public education system, which they are free to do, they are responsible for the expenses of that decision and have no claim on the state of North Dakota to recover those expenses. In fact, the state is prohibited from providing any funds that will be “used for the support of any sectarian school.”
8. If the sponsors of this bill argue that the state funds would not be “raised for the support of the public schools of the state,” to quote the Constitution, that would be an argument in conflict with the clear intent of the Constitution. To argue that the funds being accessed by this bill come from the general fund and are not intended for the support of the public schools, is still contrary to the clear intent of the Constitution to prohibit the use of public funds to support sectarian schools. The sponsors are attempting to find a way around the will of the citizens of the state as enshrined in our Constitution.
9. The issue at stake here is that the citizens of this state have made it clear that they do not want their taxes being used to support nonpublic sectarian schools that may promote beliefs contrary to what they believe.
10. If the state actually has an extra \$24 million it would be better and more properly used for the public schools that face a teacher and staff shortage and and/or the colleges and universities that are cutting programs and laying off faculty and staff.

I strongly urge the Committee to give a DO NOT PASS to HB 1532.

If any member of the Committee wishes to contact me for additional comment or questions, I would be happy to respond.

I respectfully submit this testimony and thank the Committee for its attention.