

January 31, 2023

Chairman Heinert, Vice-Chair Schreiber-Beck, Members of the House Education Committee:

My name is Fr. Jadyan Nelson. I am the president of Bishop Ryan Catholic School in Minot, ND. I am testifying in support of House Bill 1532.

In my ten years at Bishop Ryan as both a religious leader of the Catholic community in Minot, as well as an administrator of Bishop Ryan, I have come to see first-hand the important role that faith-based schools play in our communities, our families, and our students. I've also come to see that there are economic and legal hurdles in place that create unjust burdens for tax-paying, North Dakota parents, who desire an educational program and environment that specifically aligns with their religious, moral, and philosophical beliefs.

Our current educational funding framework does not recognize the legitimate interests that some families have in choosing a school for their children other than the free public school. The current framework implies that a parent's reasons for seeking a non-public school education are not germane to the reason for which taxes are levied and appropriated to education in the first place, namely, that a well-educated populace is essential to a well-functioning society. It does this in two ways: First, this funding framework implies that there is no legitimate reason why a parent would seek a non-public education. Second, it implies that none of those reasons actually contribute to the common good.

Our current educational funding framework says quite simply to the families that seek a non-public education: you must pay taxes for the sake of educating our populace, but if you happen to believe that a non-public education is best for your child, then you must forfeit your right to receiving any benefit from the taxes which you pay. In doing so, it treats them and their children as undeserving of sharing in the common good of education and places a higher burden on those taxpayers who because of religious, moral, or philosophical beliefs seek an education other than public.

Recent developments in educational policy have superseded the "one-size-fits-all" approach to education implied by our funding framework. When open-enrollment opportunities were made available in this State, the educational paradigm began to shift from a "one-size-fits-all" approach to a "best-fit approach". Open-enrollment between public schools acknowledges that parents should have greater latitude to choose a school that best fits their needs. Furthermore, the "Choice Ready" framework espoused by this State acknowledges that students should have a multitude of pathways available for their education. Yet, our current funding framework says that choice is important, unless it is choice based upon religious, moral, or philosophical reasons. In this case, there can be no support for personal agency on the part of the family.

It is important here to address the fact that the relationship between a parent and their minor child is such that the parent has rights and duties toward that child that are not derived by concession of the State or any other human entity, but from the natural parental relationship itself. Parental rights and duties are more fundamental than the rights and duties articulated by positive law, such as the Constitution or North Dakota Century Code. Chief among the duties of parents is the duty to educate their children not only intellectually, but also morally and religiously. Correlative with this duty to educate is the right to direct that education. Education is first a prerogative of parents before it is a prerogative of government.

One of the ways that the religious freedom recognized in our Constitution is often exercised is through religious education. Religious liberty extends beyond one's specific worship liturgy. For many parents, the provision of an education that integrates religious truths and practices while fulfilling the purpose of a general education as articulated by the Constitution is important to living out their relationship with God. This bill would help to remove the financial obstacle to achieving this exercise of religious liberty.

The very status of school authority over children in this country is based upon the fact that the school's authority is derived from parental authority. The juridical term *in loco parentis*, in the place of the parent, is a juridical acknowledgment that the school's educational role is proper first to parents, but due to the specialization necessary for a developed economy and highly skilled educational environment, often requires parents to delegate this role to schools to act in their stead. Schools, even public schools, by definition, should work for parents. This bill helps to recognize the primacy of the parental role in directing their child's education.

Members of the committee, this bill addresses the most prominent obstacle that some families in our state face when trying to educate their children in accord with their religious, moral, and philosophical beliefs by recognizing that their children's education should not only contribute to the common good of the State of North Dakota, but also benefit from it.

It is noteworthy that the preamble of the Constitution of this great State places religious and civil liberty in a harmonious relationship. This bill will remove serious obstacles to experiencing that harmonious relationship in the lives of those parents whose religious, moral, and philosophical beliefs dictate that their natural and statutory obligations to educate their children are best achieved through enrollment in a non-public school.

Sincerely,

*Rev. Jady Nelson*

Rev. Jady Nelson, M. Ed  
School President