

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

FN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

14437

2001 HOUSE EDUCATION

HB 1437

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Education Committee

Conference Committee

Hearing Date 01-31-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		4400 to 6136
TAPE II		x	01 to 3960
Committee Clerk Signature <i>Rita Gilbertson</i>			

Minutes:Chairman Kelseh opened the hearing on HB 1437 and asked the clerk to read the title.

Rep. Doseh: District 32. I come before you in support of HB 1437, I would like to hand out a proposed amendment to the House Bill. It takes out the reference to the Lord's Prayer and inserts a prayer in its place. On April 20th 1999, the country was stunned by the events in Colorado. In all 13 dead. The nation searched for answers. How could such a terrible thing happen. Today, you have the opportunity to put God back in the schools. Today our children are exposed to alcohol, drugs, sex and gays and alternative life styles, but they can't talk about GOD. Religion of any kind has been removed from our schools and our children. Even the pledge of allegiance is no longer standard in our class rooms. We have become a nation of tolerance. Today I am sure that you will hear arguments that it is a separation of church and state, the fact it is legal and constitutionally sound. Right now in North Dakota moments of silence are allowed. Many states allow prayer in their school. Every day we as legislators start our day with a prayer. Our forefathers cherished their freedom and their religious freedom, they wanted a separation of

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House Education Committee

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church and state, and they wanted to assure us that no state would dictate what that religion would be. I am sure that they never intended to remove God from our everyday life. The first amendment states, Congress will make no law, respecting the establishment of a religion or the prohibiting of the free exercise thereof. Our country was founded under the principle of One Nation Under God, every coin minted, every dollar printed, contains the words In God We Trust. The preamble of the North Dakota Constitution states, We the people of North Dakota, grateful to a mighty God, for the blessing of civil and religious freedoms, do ordain and establish this constitution. When I first to draft this bill, I struggled what prayer I would suggest being said each morning, after much thought, I thought the Lord's Prayer was the best. After much discussion with many people, it was determined that suggesting a certain prayer might cause some problems. It was suggested that the words Lord's Prayer be amended out. This would give each student the opportunity to say their own prayer each day. Is this an easy issue, certainly not, but then something worth while usually is not. In America, which is a democracy, the majority does rule. Do you ever wake up some morning and wonder what our world is coming to. I am asking for a simple one minute prayer and the pledge of allegiance. We must remember the bases that this country was founded upon. Protect it for it is our past and it will give us direction in the future. This bill has no fiscal note. It will cost the state of North Dakota nothing. If we as adults are afraid to stand up for what is right, what kind of message are we sending to our children. How can we expect our children to stand up for something that is right, if we don't. I am asking each one of you to do what is right. Support this bill and send a message to all. Members of the committee make my dream come true and vote yes on HB 1437.

Chairman Kelsch: Are there any questions for Rep Dosch, seeing none, thank you. Anyone wishing to testify in support of HB 1437.

Rep Dan Ruby: District 38. Spoke in support of HB 1437.

Chairman Kelsch: Are there any questions for Rep Ruby? Seeing none thank you. Anyone else wishing to testify in support of HB 1437.

Chuek Longdus: I am a parent from Bismarek with two children in the school district. Spoke in support of HB 1437.

Chairman Kelsch: Are there any questions, seeing none thank you. Anyone else wishing to testify in support.

Mrs Gary Zentz: from Bismarek, spoke in support of HB 1437.

Chairman Kelsch: Any questions, thank you for appearing. Anyone else wishing to appear in support of HB 1437.

Maury Millican: resident of Bismarek with three children in the school system. Spoke in support of HB 1437.

Chairman Kelsch: Are there any questions, seeing none, thank you for your testimony. Anyone else wishing to appear in support of HB 1437.

Rep Lisa Meier: spoke in support of HB 1437.

Chairman Kelsch: Anyone else wishing to speak in support of HB 1437. Anyone who wishes to appear in opposition of HB 1437.

Richard Ott: North Dakota Council of Educational Leaders. Spoke in opposition of HB 1437.

Chairman Kelsch: Are there any questions, seeing none thank you. Anyone else wishing to testify.

Bev Nielson: North Dakota School Board Association. We are in opposition to the bill. We did work on some amendments and she gave them to the committee but was still opposed to the bill even if it were amended.

Chairman Kelsch: Are there any questions, seeing none thank you. Anyone else wishing to appear in opposition.

Doug Bauer: Director of the Civil Litigation Division of the Office of the Attorney General. Chairman Kelsch asked Mr Stenehjem to have me here so that the committee might ask any questions that they may have. As we discussed last week, in regard to the ten commandments, if a challenge is made to the bill such as this, there is likely to be a law suit against the school district. The bill does not mandate that the school district or a teacher do anything. It is very unlikely that the Office of the Attorney General would be defending this. If they do it would be on the face, meaning on constitutional issues, not defending school district or teacher. It is not appropriate to bind the state to defend this issue. There was testimony earlier that this is not establishing a religion as it does not favor one religion over the other, it does tend to favor religion over non religion. And the US Supreme Court says that the establishment clause prohibits favoring one religion over another or religion or non religion. I think that this has to be made clear. In examining the law it uses a three prong test to see if the law is constitutional.

Chairman Kelsch: Will you tell us the fundamental differences with what we currently have on law and what this law is, with the amendments.

Doug Bauer: He gave an example of his opinion from two states. Our current statute allows a moment of silence. A student at that time can do anything they want as long as it is silent. Under this bill, it would mean during that moment of silence, a child could get up and offer an oral

prayer in front of the class. Under the amendment, that prayer could be to anything or anybody. There is no limitation on this. Under the constitution you cannot prohibit religion nor can you promote it. The court may have some concerns of the bill as it is currently drafted.

Rep Mueller: There is a reference to the pledge of allegiance in the bill. Could you tell me the difference between the pledge and a spoken prayer.

Doug Bauer: The only case that I know of in regard to the pledge of allegiance is where it was mandated. The UN Supreme Court says you can not mandate.

Rep Mueller: My question is , is there a difference between those two in terms of the law.

Doug Bauer: I guess it would depend in the way it was used. I am not sure.

Rep Haas: Can you give us the reference on the current law on silent moment.

Doug Bauer: Are you referring to the statute that this amends.

Rep Haas: NO, you said that the current law allows a moment of silence, where in the statutes is that law.

Chairman Kelsch: That is the section that we are amending right here.

Rep Nottestad: The presenters of the bill said that this would not be denominational, yet the way it is worded in the amendment, a teacher could give it in their beliefs, would you comment on that.

Doug Bauer: The teacher isn't saying the prayer, the student is saying the prayer, well, it is very unclear. If the teacher is doing it, it raises constitutional issues.

Rep Thoreson: The disclaimer at the end is not of much value.

Doug Bauer: First the disclaimer of the board, the US Supreme Court has said that they are looking beyond the plain language. Second the disclaimer that this allows the student to look at

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the countries freedoms including the freedom of religion is appropriate. That has a secular purpose and that is what the courts will ask.

Chairman Kelsch: Any further questions, thank you for your information. We will close the hearing on HB 1437.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437 B

House Education Committee

Conference Committee

Hearing Date 1/31/01

Tape Number	Side A	Side B	Meter #
3	X		-3,351
Committee Clerk Signature <i>Robin Small</i>			

Minutes:

REP. R. KELSCH called the committee to order, with all members present except

REP. SOLBERG.

ACTION:

REP. BELLEW motions for an amendment, seconded by REP. HUNSKOR. Hearing no discussion, a voice vote was taken with the majority carrying it. The motion passes.

REP. HANSON states to the committee that he has a problem with the definition of the start of the school day. REP. R. KELSCH states that there is a need for a motion in order to have discussion. REP. MEIER then motions for a DO PASS AS AMENDED, seconded by

REP. BELLEW.

General discussion.

The roll call vote was taken with 4 YES, 10 NO and 1 ABSENT AND NOT VOTING. The

motion falls. REP. THORESON then motions for a DO NOT PASS AS AMENDED, seconded

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House Education Committee
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by REP. BRUSEGAARD. Seeing no discussion the clerk will call the roll. The roll call vote is taken with 10 YES, 4 NO and 1 ABSENT AND NOT VOTING. The motion carries. The CARRIER of the bill is REP. BRUSEGAARD.

HB 1437: DO NOT PASS AS AMENDED 10-4

CARRIER: REP. BRUSEGAARD

Date: 1/31/01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House House Education Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Meier Seconded By Rep. Bellew

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch		✓	Rep. Howard Grumbo	✓	
V. Chairman-Thomas T. Brusegaard		✓	Rep. Lyle Hanson		✓
Rep. Larry Bellew	✓		Rep. Bob Hunskor	✓	
Rep. C.B. Haas		✓	Rep. Phillip Mueller		✓
Rep. Kathy Hawken		✓	Rep. Dorvan Solberg		
Rep. Dennis E. Johnson		✓			
Rep. Lisa Meier	✓				
Rep. Jon O. Nelson		✓			
Rep. Darrell D. Nottestad		✓			
Rep. Laurel Thoreson		✓			

Total (Yes) 4 *Click here to type Yes Vote* No 10 *Click here to type No Vote*

Absent 1

Floor Assignment *Click here to type Floor Assignment*

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

Date: 11/31/01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1437

House House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amended

Motion Made By Rep. Thoreson Seconded By Rep. Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch	✓		Rep. Howard Grumbo		✓
V. Chairman-Thomas T. Brusegaard	✓		Rep. Lyle Hanson	✓	
Rep. Larry Bellew		✓	Rep. Bob Hunskor		✓
Rep. C.B. Haas	✓		Rep. Phillip Mueller	✓	
Rep. Kathy Hawken	✓		Rep. Dorvan Solberg		
Rep. Dennis E. Johnson	✓				
Rep. Lisa Meler		✓			
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				

Total (Yes) 10 Click here to type Yes Vote No 4 Click here to type No Vote

Absent 1

Floor Assignment Click here to type Floor Assignment Rep. Brusegaard

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

REPORT OF STANDING COMMITTEE (410)
February 1, 2001 4:19 p.m.

Module No: HR-18-2163
Carrier: Brusegaard
Insert LC: 10376.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1437: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 2, after "silence" insert ", the recitation of prayers, and the pledge of allegiance"

Page 1, line 6, after "silence" insert "- Recitation of prayer - Pledge of allegiance"

Page 1, line 8, overstrike "A" and insert immediately thereafter "In addition, the"

Page 1, line 10, replace "the Lord's" with "a" and after "prayer" insert "by a teacher or student"

Page 1, line 11, after "board" insert "or the teacher"

Page 1, line 12, replace "The exercises must be conducted in a manner" with ", rather" and replace "allows" with "the exercises allow"

Renumber accordingly

2001 SENATE EDUCATION

HB 1437

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

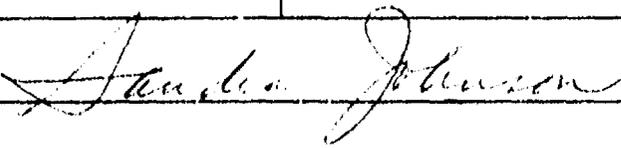
Senate Education Committee

Conference Committee

Hearing Date 02-14-01

Tape Number	Side A	Side B	Meter #
1	x		44.9 - end
1		x	0 - end
2	x		0 - 30.1
1 (2-19-01)	X		49.0 - 54.6
1 (3-06-01)	X		7.8 - 19.8
1 (03-13-01)	x		46.8 - end

Committee Clerk Signature



Minutes: CHAIRMAN FREBORG called the hearing on HB 1437 which relates to a period of silence in schools.

Testimony in support of HB 1437:

REPRESENTATIVE DOSCH, District 32, presented prepared testimony. (see attached).

SENATOR O'CONNELL asked if every teacher or classroom has the opportunity to do this.

REP. DOSCH replied yes. There would be one minute at the beginning of each day. SENATOR

CHRISTENSON asked if REP. DOSCH would be opposed or open to other prayers of other

religions being said aloud. He stated he would be open to that. He feel it gives room for

discussion and debate at home or other places. SENATOR KELSH asked what "authorize"

means. Can teachers do this. REP. DOSCH said yes. SENATOR O'CONNELL asked if he is

satisfied with the amended version. He stated he is. SENATOR FLAKOLL stated a school

could open a room in the school to deal with this over recess or lunch. REP. DOSCH stated that

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had not been talked about. SENATOR KELSH asked if a student can opt out of the class for the time of the prayer. Probable not because it is only for a minute. However, they are not required to participate. The issue of the student leaving the room was not discussed.

REV. MAURY MILLIGAN, Bismarck Community Church, spoke. Each day of the session opens with a prayer. He is here to speak in support of the bill and the rights of children in public schools. We need to learn we are a diverse community. He would ask the legislators to stand up and be courageous and stand up for the rights of children.

MRS. GARY ZENTZ, spoke on behalf of herself and her family. She believes in learning the diversity of religions and prayers. Children should have the right to ask for a blessing.

ROD KOMSHEN, Washburn, pastor by vocation, stated he sees a movement by youth to be allowed to pray and recite prayer. This bill brings back the balance of church and state and allows the freedom of religion. He urges support because we need balance.

SENATOR DEVER, District 32, asked the committee to consider the alternative. Consider what students and schools are up against in the world today. He feels the trend has been to dissolve all forms of Christian/Judeo morals.

SARA WANGLER, student at Shiloh Christian School, stated she is allowed to pray and does. She feels this instills morals and values in students. She asked the committee to look at the statistics between the parochial schools and the public schools.

Testimony in opposition to HB 1437:

BEV NIELSON, ND School Board Assn., presented written testimony from Gary Thune, Legal Council for NDSBA. She feels this will leave the local school boards open to litigation. The local school districts can not afford legal challenges. Does the legislature have the integrity to back the school boards with dollars if challenged. When it comes to prayer, it is hard to separate

from religion. SENATOR COOK asked her if she has any idea how NDSBA would respond to a superintendent asking to have an invocation before an athletic banquet. She stated they do have a policy in place with certain parameters where this type of thing may be permissible.

SENATOR FREBORG asked how NDSBA gets the feel of local school boards on the issues we are dealing with here. They do have legislative resolutions passed by a delegate assembly at their convention. They are opposing this piece of legislation on the basis of protecting the liability of local school boards. She stated they will support local control then see if it puts the board in jeopardy. Should the word "shall" on line 6 be changed to "may". SENATOR

FLAKOLL asked if lawsuits have been brought because the school board has allowed things to happen or occur. SENATOR WANZEK asked if lawsuits have been filed on the flip side of this, where a person has been forbidden to exercise their freedom. Discussion continued.

CAROL TWO FEATHERS presented written testimony from JENNIFER RING, Executive Director ACLU. (see attached). She feels the issue here is the compulsory attendance of the children. They can not just leave.

MAX LAIRD, President NDEA and a classroom teacher, presented written testimony. (see attached). He needs clear parameters of where he should work. He resents this legislation and feels it is demeaning to teachers. He feels questions should be asked about home and home life. He feels the issues should be addressed in the home on spiritualism and faith.

RICHARD OTT, ND Council of Educational Leaders, spoke in opposition to the bill. Regarding the law and how it is interpreted, he feels if there is action taken it would be against the local school board and they would have to defend themselves.

MARY WALL, citizen of Bismarck, feels the issue is separation of church and state. She feels the bill will blur that separation. She feels school districts/boards will be pressured to allow

prayer. The money that will be used in litigation could be much better spent. She feels this will lead to an acrimonious environment. SENATOR WANZEK asked if she felt there is a violation of separation of church and state and religious freedom when prayer is prohibited by law.

ANDREW VARVEL presented written testimony in opposition to the bill. (see attached).

DOUG BAHR, Attorney General's Office, explained the bill. The intent of the bill is to let people know they have options. There are three parts to this bill:

1. Amend the existing law to state the school district "may" in line 6.
2. On line 8, add "In addition" after the period. Deleting Line 9 gives no time limits, no additional guidelines. He didn't feel he could defend this portion. It seems to be able to direct prayer when a child can't or won't leave the room.
3. The Pledge of Allegiance. The courts have held that you can't make or force a student to say or participate in it.

SENATOR KELSH stated that if this bill passes and lawsuits come about, who is the litigation against. MR. BAHR feels the local board and perhaps the local teacher could be sued or both. The only limitation now on any of this (posting of the Ten Commandments, Prayers, The Pledge of Allegiance, the moment of silence) is the US Constitution. (this is the latest interpretation by the Supreme Court). The law is not authorizing the teachers, school administration or the school board to do anything more than they can do right now.

There being no further testimony, the hearing was closed.

02-19-01, Tape 1, Side A, 49.0 - 54.6

SENATOR KELSH would like to draft some amendments that would only make the state liable rather than the local school boards in the case of litigation. SENATOR FREBORG stated he felt if the entire burden was put on the state, every district could just do as they please and the size of

the Attorney General's office would have to increase. He feels the state should share the burden. SENATOR WANZEK feels there is a risk involved if you give authority to someone without accountability. He feels if you know the state will protect you, you may be a little more reckless in the administration of the rule. SENATOR KELSH feels that if the legislature allows this bill to pass (allows a minute of prayer), there should be some responsibility at the state level. Maybe there should be a percentage of responsibility on the part of the state, the part of the teacher, and also on the local school board. More discussion.

SENATOR FREBORG introduced former legislators Julie and Gordon Hill from Garrison.

Committee adjourned.

03-06-01, Tape 1, Side A, 7.8 - 19.8

SENATOR KELSH presented amendments for HB 1437. These state that the state of North Dakota would be 50% responsible if there is litigation against a local entity (school district, school board, teacher, student). SENATOR FREBORG feels the amendment with an appropriation would probably kill the bill or at the very least, the Appropriation Committee would take the appropriation out and we would have the original bill back.

SENATOR KELSH moved the amendments 10376.0301. Seconded by SENATOR CHRISTENSON.

SENATOR CHRISTENSON feels there needs to be accountability from the Legislature when they pass a law that could make school districts targets for lawsuits. SENATOR FLAKOLL would be more comfortable with stripping out of the bill things that could present problems rather than amending in language to cover consequences of the actions taken by the local district.

SENATOR KELSH is not against prayer, but with the opinions handed down by the Attorney General's office and the courts, there have not been any cases won. He feels this will definitely

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lead to litigation. He feels the legislature is shirking its duty if they pass this bill in its original form. SENATOR KELSH feels the present law is fine and supports the moment of silence.

Roll call Vote: 3 YES. 4 NO. 0 Absent. Amendment Failed.

03-13-01, Tape 1, Side A, 46.8 - end, Side B, 0 - 9.4

SENATOR WANZEK explained the intent of an amendment (see attached) he would propose for HB 1437. The e-mail from Doug Bahr explains the amendment.(see attached) . Essentially the amendments repeal the current law and puts in its place a statement that says a school can not prohibit the free and voluntary expression of prayer by a student. DOUG BAHR, Attorney General's office, further explained the amendment and what he feels the law's limits are regarding secular talk in schools..

SENATOR COOK moved to adopt the amendments by SENATOR WANZEK (see attached).Seconded by SENATOR FLAKOLL.

Roll Call Vote: 7 YES. 0 NO. 0 Absent. Amendment Adopted.

SENATOR WANZEK moved a DO PASS as Amended. Seconded by SENATOR FLAKOLL.

Roll Call Vote: 6 YES. 1 NO. 0 Absent. Motion Carried.

Carrier: SENATOR WANZEK

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1437

Page 1, line 2, after "schools" insert "; and to provide a contingent appropriation"

Page 1, line 6, after "A" insert:

"1."

Page 1, after line 14, insert:

- "2. If legal proceedings are initiated as a result of any actions taken or not taken under this section, a school board, school district, or school district employee incurring legal expenses as a defendant in the action may apply to the superintendent of public instruction for reimbursement in an amount equal to fifty percent of any legal expenses so incurred. The superintendent shall consider all applications for reimbursement chronologically.

SECTION 2. CONTINGENT APPROPRIATION. If the superintendent of public instruction receives a request for reimbursement of legal expenses as provided under section 1 of this Act, there is appropriated out of any moneys in the general fund in the state treasury the sum of \$1,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing reimbursement for legal expenses under section 1 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Renumber accordingly

Failed

Proposed amendments to HB 1437
Sen. Wanzek

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an act to create and enact a new subsection to section 15.1-19 of the North Dakota Century Code, relating to religious speech, secular speech, and restrictions in schools.

1. A student may voluntarily pray aloud or participate in religious speech at any time before, during, or after the school day, to the same extent that a student can voluntarily speak or participate in secular speech.
2. Neither a school board, a school administrator, nor a teacher may impose any restrictions on the time, place, manner, and location of any student initiated religious speech or prayer, which exceed the restrictions imposed on students' secular speech.
3. The board of a school district may, by resolution, allow a classroom teacher to impose up to one minute of silence for meditation, reflection, or prayer at the beginning of each school day.
4. The board of a school district may authorize the voluntary recitation of the Pledge of Allegiance by a teacher or by one or more students at the beginning of each school day. A student may not be required to recite the Pledge of Allegiance, stand during the recitation of the Pledge of Allegiance, or salute the American flag.

Repeal 15.1-19.03.

REPORT OF STANDING COMMITTEE

HB 1437, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to religious and secular speech in schools; and to repeal section 15.1-19-03 of the North Dakota Century Code, relating to periods of silence during a schoolday.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Recitation of prayer - Period of silence - Pledge of allegiance.

1. A student may voluntarily pray aloud or participate in religious speech at any time before, during, or after the school day to the same extent a student may voluntarily speak or participate in secular speech.
2. A school board, school administrator, or teacher may not impose any restriction on the time, place, manner, or location of any student-initiated religious speech or prayer which exceeds the restriction imposed on students' secular speech.
3. A school board may, by resolution, allow a classroom teacher to impose up to one minute of silence for meditation, reflection, or prayer at the beginning of each school day.
4. A school board may authorize the voluntary recitation of the pledge of allegiance by a teacher or one or more students at the beginning of each school day. A student may not be required to recite the pledge of allegiance, stand during the recitation of the pledge of allegiance, or salute the American flag.

SECTION 2. REPEAL. Section 15.1-19-03 of the North Dakota Century Code is repealed."

Renumber accordingly

2001 TESTIMONY

HB 1437

ENGROSSED HOUSE BILL 1437

To: Senator Layton Freborg, Chairman
Members of the Senate Education Committee

Re: Engrossed House Bill 1437— Period of Silence, Recitation of Prayers
Hearing: Wednesday, February 14, 2001 10:00 a.m.

From: Gary R. Thune, North Dakota School Boards Association Legal Counsel
Lobbyist No. 63

Chairman Freborg and Members of the Senate Education Committee, for the record, my name is Gary Thune and I am legal counsel to the North Dakota School Boards Association. Due to a conflict in schedules, I am unable to appear before your Committee this morning. Thank you for permitting me to submit this written testimony in opposition to House Bill 1437.

The engrossed version of HB 1437 seeks to, among other things, allow a period of silence in schools and also seeks to allow both students and teachers the opportunity to pray during school. With respect to the period of silence, HB 1437 specifically states that a portion of a school day may be used for meditation, reflection, or prayer. The United States Supreme Court and other courts have continuously found to be unconstitutional any statute, such as HB 1437, which provides for a moment of silence which a student could use for prayer or meditation. In striking down such statutes, the United States Supreme Court and other federal courts have held that the statutes lack any secular purpose and, instead, create the impression that the public school is unconstitutionally promoting or endorsing a religion.

Similarly, the courts have deemed it unconstitutional for a teacher or other public school employee to pray with or in the presence of his or her students in school or in their capacities as teachers or representatives of the school. The courts have reasoned that a teacher led prayer results in the unconstitutional promotion or endorsement of religion in the public school. Thus, the inclusion of any language in HB 1437 relating to prayer by teachers would, in all likelihood, be found unconstitutional.

The courts have, however, held that students have the right to engage in voluntary individual prayer during school that is not coercive and does not disrupt the school's educational mission and activities. Any school promotion or endorsement of a student's private religious activity, however, has consistently been deemed in violation of the United States Constitution.

Despite a long history of United States Supreme Court and other court decisions making it unconstitutional for a public school to promote or endorse religion, the 57th Legislative Assembly is now being asked to adopt laws which promote or endorse religion through a period of silence for prayer and teacher led prayers. In my opinion, this proposed bill creates a false sense of legal security and is likely to result in an opportunity for either a public school district or the State of North Dakota to end up in court as a defendant in an Establishment Clause or Free Exercise Clause lawsuit.

For these reasons, I testify in opposition to HB 1437.

Gary R. Thune

Submitted testimony on HB 1437 of Jennifer Ring, Executive Director of the ACLU of the Dakotas.

Chairman Freborg, members of the committee,

Thank you for this opportunity to submit written testimony.

The First Amendment has two things to say about the relationship between government and religion:

1. That government may not pick a religion, or even religion in general versus no religion, to promote (Establishment Clause); and
2. Government may not interfere with an individual citizen's practice of their individual religion (Free Exercise Clause).

The difficulty with HB 1437 is that it attempts to phrase actions in violation of the Establishment Clause in terms of the Free Exercise Clause.

A teacher in a public school is a public employee and the actions of the teacher in the classroom are the actions of the school, school district, and ultimately the state of North Dakota. If the teacher recites a prayer to the class it is the same as though the board of the school district had stood at the front of the class and recited the prayer in unison to the children all of whom, by the way, are required by law to sit there and listen even if the prayer chosen is offensive to the faith which their parents are trying to instill.

Even the "voluntary" prayer by the student becomes a state action when it uses state time and resources to force the other children to listen. See *SANTA FE INDEPENDENT SCHOOL DISTRICT v. DOE* decided June 19, 2000, in which the US Supreme Court once again addressed the issue of school prayer in the context of pregame prayer led by students and broadcast over the PA system. The fact that attendance at games was voluntary for most students did not make the prayer non coercive because some students were required as part of their extracurricular activities to be there.

The language proposed in HB 1437 to inform that the prayer is not intended to influence will not cure either the actual influence or the coercive nature of that influence.

Children have the individual freedom to pray before school or during recess either at home or on the playground. They have the right to preach their beliefs to other children before or after school. Teachers have the right to pray during their breaks in the teacher's break room. These would be protected free exercises, however, this bill is not about free exercise of religion but about unconstitutional establishment of religion enforced on the most vulnerable portion of our population, children.

ORDERED

Denied.



Benjamin A. KING; George H. Freis, on his own behalf and on behalf of Mark Freis, his minor child; Cynthia Hoekstra, on her own behalf and on behalf of Curtis and Christine Hoekstra, her minor children; and James McKenzie, on his own behalf and on behalf of John and Catherine McKenzie, his minor children, Plaintiffs,

v.

GRAND FORKS PUBLIC SCHOOL DISTRICT NUMBER 1, a public corporation; Dr. Raymond Fischer, Jack Kramer, F. John Marshall, Barbara Norby, Naomi Phillips, Michael Polevitz, Dr. D. Jerome Tweton, Gerald F. Hammerlik, in their official capacities as members of the School Board, Defendants.

Civ. No. A2-79-93.

United States District Court,
North Dakota,
Northeastern Division.

Jan. 28, 1980.

Action was brought seeking declaratory and injunctive relief against the operation and enforcement of North Dakota's Ten Commandments Law. On motions for summary judgment, the District Court, Benson, Chief Judge, held that the statute, which requires the display of a placard containing the Ten Commandments of the Christian religion in a conspicuous place in every classroom, violates the establishment clause of the First Amendment.

Plaintiffs' motion granted, defendants' motion denied; declaratory judgment accordingly.

1. Constitutional Law ¶24

To withstand an establishment clause challenge, statute must meet three criteria: it must have a secular legislative purpose, its principal or primary effect must be one that neither advances nor inhibits religion, and it must not foster an excessive government entanglement with religion; a statute which fails to meet any one of these requirements is unconstitutional. U.S.C.A. Const. Amend. 1.

2. Constitutional Law ¶84

Schools ¶165

North Dakota's Ten Commandments Law, which requires the display of a placard containing the Ten Commandments of the Christian religion in a conspicuous place in every classroom, does not serve a secular legislative purpose and advances religion, and thus violates the establishment clause of the First Amendment, despite contention that statute served secular purpose of instilling in students the basic mores of civilization and the principles of the common law. NDCC 15-47-10; U.S.C.A. Const. Amends. 1, 14.

3. Constitutional Law ¶84

State is not allowed to use religious means to serve secular ends where secular means would suffice. U.S.C.A. Const. Amends. 1, 14.

Robert Vogel, Grand Forks, N.D., Stephen L. Pevar, American Civil Liberties Union, Denver, Colo., for plaintiffs.

David Kesler, Grand Forks, N.D., for amicus curiae American Jewish Congress, Synagogue Council of America, National Jewish Community Relations Council; Leo Pfeffer and Victoria B. Eiger, New York City, of counsel.

Gary R. Thune, Shaft, McConn, Fisher & Thune, Grand Forks, N.D., for all defendants.

Murray G. Sagsveen, Sol., Bismarck, N.D., for State of North Dakota, intervenor.

ORDER

BENSON, Chief Judge.

Plaintiffs in the above entitled action seek declaratory and injunctive relief against the operation and enforcement of North Dakota's Ten Commandments Law, N.D. Cent. Code § 15-47-10. They allege that the statute violates both the Establishment Clause and the Free Exercise Clause in contravention of the First and Fourteenth Amendments of the United States Constitution. The case is now before the court on the parties' cross motions for summary judgment. A hearing on the motions for summary judgment was held on December 11, 1979. At that time the parties agreed that there are no genuine issues of material fact remaining.

Section 15-47-10 of the North Dakota Century Code provides as follows:

The school board of every school district, and the president of every institution of higher education in the state which is supported by appropriations or by tax levies, shall cause a placard containing the ten commandments of the Christian religion to be displayed in a conspicuous place in every schoolroom, classroom, or other place where classes convene for instruction. The superintendent of public instruction may cause such placards to be printed and may charge an amount therefor that will cover the cost of printing and distribution.

The defendants admit that they have complied with the above statute by displaying in each classroom in the School District a copy of a document entitled "The Ten Commandments." The document was printed by the School District and the cost of printing was paid from public funds of the district. The placard used appears as follows:

THE TEN COMMANDMENTS

The first commandment

You shall have no other gods.

The second commandment

You shall not take the name of the Lord your God in vain.

The third commandment

Remember the Sabbath day, to keep it holy.

The fourth commandment

Honor your father and your mother.

The fifth commandment

You shall not kill.

The sixth commandment

You shall not commit adultery.

The seventh commandment

You shall not steal.

The eighth commandment

You shall not bear false witness against your neighbor.

The ninth commandment

You shall not covet your neighbor's house.

The tenth commandment

You shall not covet your neighbor's wife, or his manservant, or his maid-servant, or his cattle, or anything else that is your neighbor's.

The first amendment states that "Congress shall make no law respecting an establishment of religion . . ." This Establishment Clause is made applicable to the states by the fourteenth amendment. See *Cantwell v. Connecticut*, 310 U.S. 296, 303, 60 S.Ct. 900, 84 L.Ed. 1213 (1940).

[1] To withstand an Establishment Clause challenge, a statute must meet three criteria. It must have a secular legislative purpose, its principal or primary effect must be one that neither advances nor inhibits religion, and it must not foster an excessive government entanglement with religion. *Lemon v. Kurtzman*, 403 U.S. 602, 612-613, 91 S.Ct. 2105, 29 L.Ed.2d 745 (1971). A statute which fails to meet any one of these requirements is unconstitutional. See e.g., *Meek v. Pittenger*, 421 U.S. 349, 363 n.13, 95 S.Ct. 1753, 44 L.Ed.2d 217 (1975).

[2,3] Plaintiffs and defendants have each provided the court with lengthy treatises on the origin and nature of the Ten Commandments. Defendants contend the Ten Commandments, although biblical in

origin, are the cornerstone of our legal system and thus have become secular in nature. Commandments four through ten of the posted placard express moral precepts which, for the most part, reflect the mores of our society and are reflected in our laws. Standing alone those seven commandments could be construed as secular. The problem the defendants have is that the statute requires a placard containing the Ten Commandments of the Christian religion. To comply, defendants must include the first three commandments on the placard. Those three commandments are clearly sectarian and violate the Establishment Clause unless it can be shown that they serve a secular legislative purpose. If the purpose and primary effect of N.D.C.C. § 15-47-10 is to advance or inhibit religion it is in violation of the Establishment Clause. See *Lemon, supra*.

Defendants cite *Anderson v. Salt Lake City Corporation*, 475 F.2d 29 (10th Cir. 1973), cert. denied, 414 U.S. 879, 94 S.Ct. 50, 38 L.Ed.2d 124 (1973), as authority for their argument that the placard serves a secular purpose. In that case the city and county had allowed the Order of Eagles to erect a granite monolith on the courthouse grounds. Inscribed on the monolith were the Ten Commandments along with other religious and non religious symbols. The erection of the monolith was challenged as being in contravention of the Establishment Clause.

The court found that the monolith was nothing more than a depiction of a historically important monument with both secular and sectarian effects and that it would be unreasonable to require removal of the monument simply because it reflected the religious nature of an ancient era. 475 F.2d at 34. The court went on to hold that the monolith was primarily secular and not religious in character. It did not hold that the Ten Commandments were primarily secular. It construed the Ten Commandments as being both religious and secular, *id.* at 33, but were being presented primarily for their historical significance. It was the secular purpose of the presentation that saved the monolith from a constitutional attack.

Section 15-47-10, N.D.C.C., was originally enacted in 1927 and last amended in 1961. The legislative purpose, though not explicitly expressed in the statute and not expressed in any historical record known to the court, appears to be clear on the face of the statute. That purpose is to display the Ten Commandments of the Christian religion in a conspicuous place in all classrooms. There is nothing more. There is not even a pretense of a secular purpose in the statute or in the defendants' compliance with the statute. In their argument to the court defendants contend the secular purpose is to instill in students the basic mores of civilization and the principles of our common law. If that is the secular purpose, they are making no effort to carry it out because the placard is posted in every classroom without explanation, instruction or program relating to the document. The document is clearly a sectarian religious document and serves no secular purpose. Furthermore, the state is not allowed to use religious means to serve secular ends where secular means would suffice. *Abington School Dist. v. Schempp*, 374 U.S. 203, 281, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963) (Brennan, J., concurring). If the secular purpose of the document is as defendants contend, they are in effect suggesting that the basic mores of civilization are embodied only in the Christian religion. The court does not believe that to be a serious contention.

The statute fails to meet two of the three criteria required to withstand the Establishment Clause challenge. It does not serve a secular legislative purpose and it advances religion. Freedom of religion is one of the most important of the individual rights that have been excluded by our Constitution from control or infringement by the Government. Any infringement, however well intended, takes something away from that aspect of our freedom that may never be recovered. Of even more concern, it serves as a basis for further infringement.

We repeat and reaffirm that neither a State nor the Federal Government can constitutionally force a person to profess

Cite as 483 F.Supp. 275 (1980)

a belief or disbelief in any religion." Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.

Torcaso v. Watkins, 367 U.S. 488, 81 S.Ct. 1680, 6 L.Ed.2d 982 (1961) at 495, 81 S.Ct. at 1683, 1684.

The Establishment Clause protects religion. "Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion." *Engel v. Vitale*, 370 U.S. 421, 431, 82 S.Ct. 1261, 1267, 86 L.Ed.2d 601 (1962). "[R]eligion is too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate." *Id.* at 432, 82 S.Ct. at 1267.

IT IS ORDERED defendants' motion for summary judgment is denied.

IT IS FURTHER ORDERED plaintiffs' motion for summary judgment is granted.

IT IS FURTHER ORDERED judgment be entered declaring North Dakota Century Code § 15-47-10 to be a violation of the First and Fourteenth Amendments to the Constitution of the United States.



J. L. STANHOPE, Plaintiff,

v.

FORD MOTOR CREDIT COMPANY,
INC., and Thornton & Associates,
Inc., Defendants.

No. 79-4025.

United States District Court,
W. D. Arkansas,
Texarkana Division.

Jan. 29, 1980.

Plaintiff moved to withdraw its earlier motion to dismiss case without prejudice

after addition of party nondiverse from plaintiff as a defendant. The District Court, Arnold, J., held that: (1) it would not vacate order which granted leave to add nondiverse defendant, even though vacation would resolve jurisdictional problems, where plaintiff could not get complete relief in one lawsuit unless both original defendant and nondiverse defendant were parties defendant, plaintiff would have been content to litigate against original defendant alone and addition of nondiverse party as defendant was provoked solely by original defendant's assertion that nondiverse party, not it, was responsible, and (2) removed case should be remanded to state court, rather than dismissed, upon joinder of nondiverse party as defendant.

Case remanded.

1. Removal of Cases ⇐ 100

Federal district court has independent responsibility to make sure that it does not act without jurisdiction in case removed to it from state court. 28 U.S.C.A. § 1447(c).

2. Removal of Cases ⇐ 36, 76

After removal by defendants, plaintiff should not be allowed to defeat jurisdiction by adding nondiverse defendant or by any device, such as amending complaint to reduce claim for damages below jurisdictional amount. 28 U.S.C.A. § 1447(c).

3. Federal Courts ⇐ 315

Federal district court would not vacate order which granted leave to add nondiverse defendant, even though vacation would resolve jurisdictional problems, where plaintiff could not get complete relief in one lawsuit unless both original defendant and nondiverse defendant were parties defendant, plaintiff would have been content to litigate against original defendant alone and addition of nondiverse party as defendant was provoked solely by original defendant's assertion that nondiverse party, not it, was responsible. 28 U.S.C.A. § 1447(c).

Testimony on HB # 1437

Opposition Max Laird

- Teachers are at the end of the stream on this issue and the exposure to liability is immense and nothing in this bill mitigates that fact.
- Management of this by virtue of "authorize" leaves no parameters by which the promotion of any religion can be controlled.
- What is prayer and how is it defined.
- The constitutionality of the pledge continues to be in question at the federal level.
- Having the board inform students is really having the teachers do this job and this becomes a defacto curriculum.
- How do we define "not meant to" without extensive education in a variety of areas.
- How do we reconcile this curriculum in a back to basics context.
- Learning about the country's freedoms requires conversation about in addition to religion extensive conversation in privacy, right to bear arms, etc in every classroom.
- Beyond the constitutional question this is a management nightmare.

**Testimony of Andrew Varvel to the
North Dakota Senate Education Committee
February 14, 2001**

Mr. Chairman and members of the committee:

My name is Andrew Varvel. I live in Bismarck. I speak against HB 1437 because it infringes on religious liberty in public schools.

This proposed law says "the school board may authorize the voluntary recitation of a prayer by a teacher or student". This is religious tyranny, because if government can authorize prayer, it can also ban prayer. I don't think government should be in the business of deciding which prayers are authorized and which prayers are unauthorized.

This law teaches children that prayer exists because of big government, not out of the yearning of the human soul. From my point of view, prayer is so important that it must not be taken lightly. Prayer for purpose of social conformity is frivolous. The vanity of big government is a bad reason to encourage children to pray. From my point of view, prayer must be personal, genuine, and heartfelt. Any other prayer is taking His name in vain.

If states like California and Hawaii follow this bill's example, Christian schoolchildren would be forced to sit through Shinto, Wiccan, or Islamic prayers. Sappho's Prayer to Aphrodite is beautiful, but would you put a Christian child through hearing it as a religious observance? Would you want the Trenchcoat Mafia leading Satanic prayers when there would otherwise be a moment of silence? Jesus Christ once said, "Treat others as you would like them to treat you." If you don't want to risk making your children sit through heathen prayers, don't require children of nonconformists to sit through yours.

Prayer is a fundamental right so long as such prayer does not deprive others of their inherent rights. It is not the place of government to either promote or deny prayer.

North Dakota should be congenial for people of all faith. To fully love God with one's heart and soul, children should have the liberty to love Him in their own way, without the government encouraging teachers and fellow students to impose prayer on them. The best way to encourage faith is to let it spring free from within the soul. The best way for government to help religious faith is to leave it alone.

I hope this bill is not passed. Thank you.

**Andrew Varvel
1800 East Capitol Avenue #258
Bismarck, ND 58501-2131
(701) 355-6639
pakicetus@hotmail.com**

*Refers to
Wanzek amendment*

"Bahr, Douglas A."
<dbahr@state.nd.us>

03/07/01 03:40 PM

To: "Wanzek, Terry M." <twanzek@state.nd.us>
cc: "Tabor, Sandi" <stabor@state.nd.us>
Subject: Possible amendments to 1437

As requested, below is a possible redraft of Engrossed HB 1437. The first sentence emphasizes students' right to religious speech, which is paraphrased from a Supreme Court decision. The second sentence prohibits school districts and schools from improperly restricting students' religious speech. Again, it is paraphrased from a Supreme Court case. The second sentence is not necessary, but I thought it helped instruct schools and students of their rights. The third sentence addresses a moment of silence and is basically the same as in the current law. The fourth sentence authorizes voluntary recitation of the Pledge of Allegiance. To educate schools and help prevent them from getting into legal trouble by violating a student's freedom of speech and freedom of religion, I included the fifth sentence. It is not necessary, but I was concerned some schools might read the fourth sentence to give them more authority than they have under the Constitution.

Please call me if you have any questions or would like to discuss the draft.

Possible Changes to Engrossed House Bill 1437

Students may voluntarily orally pray or participate in religious speech at any time before, during, or after the schoolday to the same extent students can voluntarily participate in secular speech. A school district or school may not apply restrictions on the time, place, and manner of student-initiated religious speech or prayer that exceed those placed on student's secular speech. The board of a school district may allow a classroom teacher to observe a period of silence for meditation, reflection, or prayer for up to one minute at the beginning of each schoolday. In addition, the school board may authorize the voluntary recitation of the Pledge of Allegiance by a teacher or students at the beginning of each school day. Students may not be required to offer the Pledge of Allegiance, stand during the Pledge of Allegiance, salute the American flag, or otherwise show respect to the Pledge of Allegiance.

Douglas A. Bahr
Solicitor General
(701) 328-3640
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TESTIMONY ON HB 1437
February 14, 2001
Senate Education Committee
BY REPRESENTATIVE
MARK DOSCH

Good morning chairman Freborg and members of the Senate Education Committee, for the record my name is Representative Mark Dosch from district 32 Bismarck. I come before you in support of House Bill 1437.

On April 20, 1999 at 11:30 am the country was stunned, as we learned about the events in the state of Colorado, in a school called Columbine High. The nation watched in disbelief as we learned about the cold blooded murders. Students killing fellow students. In all 13 dead. The nation searched for answers. The questions loomed, how and why could such a terrible thing happen. Paul Harvey I believed responded best. When asked how could God have allowed such a terrible thing like this to happen at Columbine High. The answer was simple... You see, God was not allowed in Columbine High.

Today, our children are exposed to talk about drugs, alcohol, sex, aids, and alternative life styles, yet they can't talk about God. Religion of any kind has been systematically removed from our schools and our children. Even the pledge of allegiance is no longer standard in our class rooms. We have become a nation of tolerance. Tolerant about everything **except** anything that is good. Our children learn that is OK to burn or even defecate on our national flag as it is a protected expression of freedom of speech... yet we can't talk about God?

Today I'm sure you will hear the argument that it is an issue of separation of church and state. The fact is, it is legal and constitutionally sound. Right now in ND moments of silence and meditation is legal and it is allowed. Many states also allow prayer in their schools, states like Kentucky, Maryland, Mississippi, Montana, New Hampshire, the list goes on (I have attached a listing of states). It's not a question if we can do it, it's a question of do we have the courage to do it. **Everyday we as legislators start our session with prayer. I think it is a great way to start. This is some how legal and OK, as we are simply exercising our freedom of speech. Why then not allow the same freedom to the children of ND? It's not so bad is it?**

Our forefathers cherished their freedom and cherished their religious freedom. They wanted separation of church and state to assure that no state would ever dictate what religion one could be, but I'm sure they never intended to remove God from our everyday life. The first Amendment states: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech." **We are not "establishing a religion" by the introduction of a one minute prayer, WE ARE SIMPLY EXERCISING OUR RIGHT TO FREEDOM OF SPEECH.** Our county was founded under the principals of one nation under God. Every coin minted, and every dollar printed contains the words "In God we trust" The preamble to the ND constitution states: "We, the people of North Dakota, grateful to Almighty God for the blessing of civil and Religious Liberty, do ordain and establish this constitution".

Today I'm sure you will hear from certain school board members who will say anything to try and keep prayer, morals or values out of our schools. They testified before this very committee against the 10 commandments, they also testified against the 10 commandment when it was presented on the house side. They also testified against this very bill on the house side, as I'm

TESTIMONY ON HB 1437
February 14, 2001
Senate Education Committee
BY REPRESENTATIVE
MARK DOSCH

certain they will do today. They will try and instill fear into you by mentioning the word law suit. Unfortunately they have tried to take away those freedoms we enjoy by using fear against us. They do it in the name of not infringing on others rights, while trying to deny us of ours. They will try and use the very constitution to destroy the very society that it was established to protect. They eliminate morals, values, and religion, and sadly what is left is what we call our school system today. I received an e-mail after I testified on the house side, and I would like to share it with you, and I quote. "It was really sad to see educators complaining about a 60 second prayer. They complain about having to deal with pregnancies, suicides, drug and alcohol problems. Don't they realize this 60 second prayer may help to restore morals and values and may help reduce all these problems"?

Is this an easy issue? Absolutely not, but usually nothing worth while is. I ask one thing, and that is you keep this issue in perspective. In American, a democracy, the majority does rule. Unfortunately, we have seen this concept being eroded away by special interests. We can't have prayer because maybe there is an atheist in class and he might be offended. So does that mean that everyone else should give up their freedom of speech? This exactly what is happening here. Take a look at the Boy Scouts of America. Certain business and special interest groups are calling on its members to renounce the organization and withdraw all financial support" because the Boy Scouts don't want homosexual leaders. Renounce the Boy Scouts of America? Do you ever wake up some mornings and wonder what our world is coming too?

Our country was founded under the concept that we are one nation under God. The first amendment guarantees freedom of religion, yet we are hesitant about this bill because we might offend some one! I am asking for a simple voluntary one minute prayer , and the reciting of the Pledge Allegiance. Is this asking too much? I ask you, is trying to put morals and values back into our school so bad? Will it make our children worse off if we try? Think about it, will it make our children worse off if we try? Why are some so fearful that our children may be exposed to God or religion or morals or values in our schools? They act as if something horrible will happen to our children if they are exposed to something good. We must ladies and gentleman remember what basis this country was founded upon, and we must protect it, for it is our past, and it shall give us direction into our future.

Members of the committee, this has nothing to do with being a Democrat, or about being a Republican, or nothing to do about what religion each of us may be, but it has everything to do about our children, our nieces and nephews, and grandchildren. It has everything to do about doing what is right.

If we as adults are afraid to stand up for what we know is fundamentally right, what kind of message are we sending to our children? What kind of example are we setting? How can we ever expect our children to stand up for what is fundamentally right if we don't?

Being able to exercise our freedom of religion and freedom of speech is what this bill is all about.

TESTIMONY ON HB 1437
February 14, 2001
Senate Education Committee
BY REPRESENTATIVE
MARK DOSCH

Today I am asking each of you to search your heart and soul and do what is right. Each of us can support this bill and send a message to all, that we care about our children and we care about the fundamentals this great country of ours was founded upon. And when we leave here today, we can do so with our heads held high, and that feeling in our hearts that to day, we did make a difference, we did do something very good, and we did make a positive difference in the lives of thousands of children. Doing something good after all, isn't so bad... Is it?

Please, now is the time to tell our children we do care about them, and they are worth the fight. Members of the committee I urge your support on HB 1437.

Thank you!

May God bless America

PS Tell the committee the response from the House side.

Wp/Testimony HD 1437 Senate

entirely

traditional

New Hampshire

KS	Kan. Stat. Ann. § 72-5308a	Teachers may observe a brief period of silence at the start of each day. This period shall not be conducted as a religious exercise, but shall be an opportunity for silent prayer or "silent reflections on the anticipated activities of the day." (AR, IN, KS, NY and PA statutes are similar.)	Unknown
KY	Ky. Rev. Stat. Ann. § 158.175	Teachers may conduct a period of silence or reflection not to exceed 1 minute. District boards of education may authorize the voluntary recitation of the traditional Lord's prayer and the pledge of allegiance in elementary schools. Pupils shall be informed that these exercises are not meant to influence an individual's personal religious beliefs. The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion.... (Similar to NH.)	1996
	Ky. Rev. Stat. Ann. § 158.183	Except where it would "otherwise infringe on the rights of other persons," students may pray in a public school, vocally or silently, express religious viewpoints, in school or to other students, and distribute religious literature, subject to reasonable time, place and manner restrictions.	1998
LA	La. Rev. Stat. § 11:2115	Each parish and city school board shall allow school authorities to allow students and teachers to observe a brief time of prayer or meditation.	Unknown
MA	Mass. Gen. Laws ch. 71, § 1A	Each day, every teacher must announce a period of silence not to exceed one minute for personal thoughts.	1985
MD	Md. Code Ann., Education § 7-104	Principals and teachers may require all students to meditate silently for about 1 minute each day. During this time, a student or teacher may "read the holy scripture or pray."	1978
ME	Me. Rev. Stat. Ann. tit. 20-A § 4805	The school board may require teachers to hold a period of silence for reflection each school day.	Unknown
MI	Mich. Comp. Laws § 15.41565	The board of education of a district may "provide the opportunity during each school day to allow students who wish to do so, the opportunity to observe time in silent meditation."	1997
MS	Miss. Rev. Stat. § 17-13-4	Teachers or school administrators may allow students or others to participate voluntarily in prayer.	1994
MT	Mont. Code Ann. § 20-7-112	Instruction may not be given advocating sectarian or denominational doctrines. However, any teacher or principal may open the school day with a prayer.	1989
NC	N.C. Gen. Stat. § 115C-47	Local boards of education have the authority to authorize the observance of a moment of silence, not to exceed one minute, at the start of class each morning.	1999
ND	N.D. Cent. Code § 15.1-19-03	Teachers may require students to observe a period of silence for meditation for up to 1 minute at the beginning of each workday.	1999
NE	Nev. Rev. Stat. § 388.075	Every district must set aside a period of silence at the start of every day for voluntary individual meditation, prayer or reflection.	1977
NH	N.H. Rev. Stat. Ann. § 189:1-b	On each school day, a period of not more than 5 minutes shall be available to those who "wish to exercise their right to freedom of assembly and participate voluntarily in the free exercise of religion."	1977
	N.H. Rev. Stat. Ann. § 195:15-a	School districts may authorize the reciting of the traditional Lord's prayer. Student participation is voluntary. "Pupils shall be reminded that this prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom." (Similar to KY.)	1975
NJ	N.J. Stat. Ann. § 18A:38-4	Principals and teachers shall permit students to observe a 1 minute period of silence to be used solely at the discretion of the	Unknown