

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1478

2007 HOUSE FINANCE AND TAXATION

HB 1478

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1478

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01-22-2007

Recorder Job Number: 1517

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Belter opened the hearing on HB 1478.

Rep. Lisa Meier introduced the bill.

Rep. Meier: I wanted to be a sponsor on HB 1478 for one simple reason. I have a son in the public school system in Bismarck for the past twelve years. He has had a fine education in the public school system. This bill would allow parents, grandparents, aunts, uncles and anyone who wanted to donate up to two thousand dollars towards my child's school to do that. Good programs could be enhanced without state funds plus the donator would receive a one thousand dollar state tax break. This to me is a win-win situation. This legislation would benefit both public and private education and I strongly support HB 1478.

Rep. Dosch: (see attached testimony) I do have a couple of items I would like to bring up. First, the fiscal note, it is inaccurate I have spoken with the tax department and they are in the process of and will be providing you with an updated fiscal note. There were incorrect presumptions on it and therefore you can disregard that. The second note I would like to make is if you look at the bill itself and in the title of the bill there needs to be a slight change. Page one, line three where it has "contributions to school districts of" the of should be "or". This bill is for public and non-public schools. I would like to go through and tell you exactly what this bill

does. It is actually quite simple. HB 1478 offers fifty-percent tax credit to anyone who makes a donation or contribution to any public school district or an approved non-public school in the state up to a maximum of one thousand dollars for married tax payers and five hundred dollars for single tax payers. 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-win-win bill. What do I mean? It is a win for the donors in our state who want to make a contribution to our education system for they would receive a tax credit. It is a win for the state that will see an inflow of funds into our education system. It is a win for the school districts who receive these funds and a win for our students in our schools.

Rep. Kelsh: The bill states an approved non-public school. Can you define what that would include, such as home schools as well?

Rep. Dosch: The institution has to be approved. You have to be an approved school in the eyes of ND.

Rep. Headland: With the way the state is and you have areas that there are a lot more wealthy people in certain areas than others, do you see this as causing some equity problems within schools and education?

Rep. Dosch: That is the beauty of this bill. It doesn't get into the education funding formula or any of those debates. This is strictly an opportunity for the private individual to donate money to go directly to that school district or approved school when they receive those money, that school could determine what they want to do with their funds. It doesn't get into any of the formulas or equities.

Rep. Headland: I tend to agree with you to a point in that when we try to provide a equitable education let's face it, how is a small town school out in central ND going to be able to, if they

don't have the wealth behind them in the district, how will they be able to offer a fair and equitable education to their students vs. Fargo?

Rep. Dosch: For one, I think you would be surprised at how many wealthy farmers there are in the state of ND. But again, where the differential comes in we are not talking about equity funding here, that is the responsibility of the state to provide. Where it comes in place where you talk about our small rural communities, there are a lot of struggling school districts and this bill gives some of the opportunity. People will give money, but a lot of times they want a little something in return. This will give the opportunity for someone in that small rural community that farmer that has done quite well to say you know what, I know our local school is struggling and I can give them a couple thousand dollars to help them out with some of these programs that aren't funded under the state program. Then he can get a fifty-percent tax credit, the school gets the money and it will help. This doesn't get into equity at all. That is the state's responsibility. This is frosting on the cake if you maybe want to look at it that way.

Rep. Vig: What they do now is a company comes in and buys a couple of score boards or something, would this affect them as well?

Rep. Dosch: No it would not. It doesn't, appropriations aren't permitted under this to give money under this bill. It is strictly with private individuals. Although I have already been approached by some businesses that asked if they can be added.

Rep. Weiler: The fiscal note, on the note itself, half way down, in the paragraph that begins with section one authorizes..It only mentions private schools. It says that donations, the tax credit is for one thousand and five hundred and then it says the estimated fiscal impact assumed approximately sixty five hundred students attend private schools and the tax credit average is eight hundred dollars each. So the fiscal note only mentions private schools and I am a little concerned about that and when I do the math on that it comes up to five million two

hundred thousand, so ten million four hundred thousand for the biennium. I am wondering why there is no mention of public schools in the fiscal note.

Rep. Dosch: That is why the fiscal note before you is incorrect. She did not take that into account. She did not take into account the money actually going to the school system, the two thousand dollars for example. There are a lot of things wrong with the fiscal note and therefore, that is why she relayed to us that she is preparing a revised fiscal note.

Rep. Froseth: There will have to be a fiscal note with this bill?

Rep. Dosch: Yes they are.

Rep. Froseth: If in fact, a dollar or two dollars goes to, the state gets one dollar for every dollar invested. It seems to me then that should come out of the states budget to Elementary and Secondary schools.

Rep. Dosch: First off, like I mentioned, it is not going to be a substantial element in education funding, put it that way. What this will be is to generate enough funds to provide extra dollars to the school district and because these funds are going to be coming from donations from the private sector directly to that school district, it is a whole different element.

Rep. Froseth: It actually isn't a savings to the state budget or anything then?

Rep. Dosch: I do believe that it in the long run and as this catches on, that it will amount to some good dollars going into education from the private sector. We need the option. If people are given the option to say they can contribute to the school, get a tax credit, I think that is the beauty of it. The school district never has enough money and this gives them the ability that if they have extra money in the fund and go to the teachers and let them use it as an incentive. They can increase the student scores and proficiencies and that and if they can contribute something to the school that is going to help with education of the child and have a

supplemental assistance if you will, I think they are going to go after it. I think they are going to find value to this.

Rep. Belter: For the private schools this would be a no brainer, but as far as a public school, if a public school should decide that they are no longer going to pay for sports and then set a fee for sports and the parent would have to come up with that. Under this bill, that parent could make a contribution to the school and then get a tax credit for half that amount so they could actually in essence save half of the fees?

Rep. Dosch: They could use it that way. The other way to look at it is if there is enough money coming in to the funds in that school district, the school district could say they are going to take care of the cost to have ourselves a football team or whatever, where we don't have to go back to the parents and charge a fee for each kid that wants to participate in sports and stuff like that.

Rep. Drovdal: Rich people generally donate in cash. Poor people donate in kind. They volunteer as a coach or transportation or things like that. Would give any flexibility to a school board as far as a dollar amount of what a contribution is in kind and allow them to also share in helping out the districts with a tax credit?

Rep. Dosch: I guess I haven't given that area much thought. I think this is one area and if we can get this going and see how this works that certainly would be something to take a look at.

Rep. Froseth: On line thirteen it says donations or payments of tuition. There are a lot of students that are open enrolling and the parents pay the tuition for that school and this would include all open enrollment tuitions there?

Rep. Dosch: Anyone that donates in that case, public, it would allow those parents to apply for this credit. Yes.

Rep. Grande: I want to head back towards that equity issue. This committee already heard a bill that was to take away the ability from home rule charters to these to be able to use a sales tax to help fund the schools and this body passed that so that we would stop that type of inequity and yet we come through and do this and I see that same kind of inequity happening with your larger school districts or certain areas that would have more wealth base to them. That money is going to pool into that public school you could have salary increases which will cause inequity for hard to fill positions in rural vs. urban, did we have that kind of discussion regarding this bill?

Rep. Dosch: Again, the whole purpose of this bill is to avoid those equity issues. To avoid the property tax issue, the sales tax issue and any other issue now facing education. This bill is dealing with private individuals for making that decision on their own if they want to give money to this school or that school. I would imagine those funds the school district is going to hold separately to do with what they want. They could use those funds for specific purposes to enhance education at their individual schools, without the equity or sales tax issues coming up.

Rep. Grande: That is exactly what the equity fight is all about. Let's use my school district. They end up with this money if it's in foundation but they end up with a multimillion dollar foundation and they are able to enhance all of these different course works and everything that our school district is criticized for having because other school districts can't afford to have them. Now you have just caused that big inequity again. We are trying to avoid that by redoing the whole payment system right now.

Rep. Dosch: I won't pick on Fargo because I think some of the things that you are doing over there to enhance education is exactly what we should be doing. With that being said, this gives the ability not only for Fargo but for anyone else across the state to get involved in that. If the result of this is school districts have a pool of money that they can use to enhance education in

their school district then we have accomplished exactly the purpose of this bill. We are talking about enhancing what schools are able to provide in that environment without going to property tax payers. This is going to be an individual choice by individual tax payers.

Rep. Weiler: About the equity issue, a very small rural school district that gets ten thousand dollars in donations from five different people vs. a large school district that gets five times that amount, their budgets are all different. A small school district has a smaller budget.

Proportionately maybe this does not improve the equity issue, but this is not going to harm the equity issue. You can comment on this, but proportionately this is equal anyway.

Rep. Dosch: I agree wholeheartedly with you.

Rep. Schmidt: I stick up for the millionaires in ND. A lot of them are farmers, but you got to remember if he's got two Quonsets out there full of machinery that is valued at a million dollars, but in order for him to turn that into cash he has to sell everything and if he does he doesn't sell it for a million dollars so I think that is a skewed figure that there is a lot of people that have a million dollars worth of equipment and that is an asset but the only part of that twelve hundred dollars in the bank. A millionaire to me is the guy that has a million in the bank.

Rep. Dosch: We are sure that they have an excellent auctioneer such as yourself, they could get that million dollars.

Jack McDonald, State Association of Nonpublic Schools, spoke in support of the bill.

McDonald: We strongly support the bill. See written testimony and proposed amendment.

Rep. Drovdal: If approved, would that also include home schools?

McDonald: I would have to check on that. I know that the home schools have to get approved.

Christopher Dodson, ND Catholic Conference, spoke in support of the bill. See written testimony.

John Jankowski, Superintendent at St. Mary's Central High School, spoke in support of the bill. See written testimony.

Rep. Vig: On page five, what department numbers are these, are they from the district?

Jankowski: Page five is from the ND DPI.

Jon Backes, President of Minot Catholic Schools Foundation, spoke in support of the bill. See written testimony.

Rev. Dr. Ross Reinhiller, administrator of a private Christian school, spoke in support of the bill. See written testimony.

Opposition to HB 1478 was heard at this time.

Bev Nielson, ND School Boards Association, spoke in opposition to the bill.

Nielson: We have had a resolution in our organization for the past probably twenty years opposing tuition tax credits of all forms for private and religious schools and don't see this as any different. One thing I wanted to do but didn't is I need to check with the DPI about whether we allow tuition into schools anymore. I just had something in the back of my head telling me that last session we couldn't get away with that. You either have a tuition agreement between the schools or you open enroll but I need to double check that. I don't see any win in this bill for us. I do see ten million dollars that would be unavailable to go to support your system of public education.

Rep. Weiler: The fiscal note of ten million four hundred thousand that would be the credit but the additional, basically that is twenty one million dollars would be added into all forms of education. You want to go on record as saying you guys don't want the twenty-one million dollars?

Nielson: I am not prepared to say that I accept that assumption. I don't believe the public school is going to get ten million dollars. I don't know from where it would come. When you say

ten million for each I don't understand where the ten million is going to come for the public schools.

Rep. Pinkerton: Do we know what the constitutionality of tuition tax waivers are?

Neilson: In ND I don't think there has been a challenge about a tax credit for tuition, it has clearly been case law on direct aid and I guess you could argue that. As far as the tuition tax credits go, I had a question to do with donating to schools and I wondered whether that including foundations, for instance if I could deduct five hundred dollars of my donation to the Fargo Public School Foundation every year, I would have to pay an ND taxes and I think that would be the case and I think this could end up costing a hole lot more than we think. If contributions for the public school foundation also applied to this, that you might find a lot of people doing that. That is one question I had.

Nick Whitman, Executive Director of the NDEA, spoke in opposition.

Whitman: We reluctantly oppose this. The NDEA has been one of the partners in a commission that has worked for the last year and a half to overhaul the funding formula in the state and the recommendations that came out of the committee were based on the existing tax structure. We have some concerns about the potential changes in both impact on adequacy and equity that could come as a result of this change in law.

Rep. Weiler: So would you guys like to be removed from the bill?

Whitman: No, I am not saying that at all. I think I am going to be honest with you, I'm not an expert on this bill, I have recently arrived in ND, and this is my third week on the job. In that time period I attended the last of the commission meetings went through the numbers and we looked at that based on the current situation the tax law. Simply saying without an analysis that we would like to be removed, I am not prepared to say that. I am saying that our opposition

today is reluctant because we generally support any positive support financially for education.

Because of the potential tax implications, that is why we are opposed today.

Rep. Wrangham: Are teachers from private schools, are they members of your union?

Whitman: No.

Rep. Belter: Are they not members or are they allowed being members?

Whitman: I believe that they are not allowed to be.

Rep. Belter: *(To Joe Becker of the Tax Dept.)* Does this apply to foundations?

Becker: I am not sure. We don't think so but we are not sure.

Rep. Froseth: I think we need a new fiscal note apparently this will pertain to every student in the private school and I don't know how many students we have in the ten private schools across ND. We need a new fiscal note and look at this pretty carefully.

The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1478 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1588

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1478. I'm going to hold this. Someone mentioned that they would maybe want to do some amendments on this. Rep. Grande, were you interested in an amendment?

Representative Grande: I wouldn't mind amending it that we remove the public schools; they don't seem to want to be a part of it.

Representative Pinkerton: What if we have an Attorney General's opinion on this Bill. (He stated that Milwaukee had a similar legislation and explained their situation.) I think you might have trouble with this Bill even if with a donation to a non public school, but it is put in as a payment for tuition. The way this is written, it only affects three schools in the State, its Minot, Bismarck and Fargo catholic systems. Those are the only non public accredited schools in the State. This is like a bomb.

Chairman Belter: Wasn't there amendments here to change "accredited" to "approved"?

Vice Chairman Drovda: There was a suggestion in line 11 for that so it would cover the other non public schools. Also we need to change the wording on line 3, because it doesn't make any sense at all.

Representative Froseth: The title doesn't follow the Century Code, section 1.

Chairman Belter: Rep. Pinkerton, are you saying the gentleman that testified from Shiloh, that they don't qualify for it?

Representative Pinkerton: Absolutely not.

Representative Grande: In Minot?

Representative Pinkerton: They don't have an accredited Principal and Superintendent that have credentials. They have to have an accredited Librarian and Special Ed services. This is my understanding.

Representative Grande: I'd like to check on that because we were considered accredited at Oak Grove and we didn't have all of those services. How we did it was when we would write it up, they just had different titles. That's how we justified it. I remember the accredited issue was lengthy and difficult, they always held accreditation.

Representative Pinkerton: I met with the Superintendent of Catholic Schools and he was very specific about what was approved and he felt that maybe the DPI had a hand in this Bill to put that word accredited in there to try to force a higher standard of education into some of these schools that are not accredited.

Representative Froseth: I think there are more questions on this Bill, on line 13 it says payments of tuition and I asked the question does this include payment of tuition for open enrollment. Is the State liable for the tuition portion credit to that parent for the tuition he pays? I think it's too vague and I didn't get an answer to that question. That could amount to a lot of students.

Chairman Belter: Rep. Grande, will you check on this?

Representative Grande: Yes

Representative Owens: I agree with the Rep. on that. I think it would. I think you'd see everyone doing open enrollment everywhere; it's a tax deduction the way it's written right now.

(He stated that the Supreme Court listened to a Bill for Cleveland schools and went on to explain it) I'm concerned if we don't have that wide option for people to go that that would create a problem.

Chairman Belter: Any other comments? We'll close the hearing on HB 1478.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1478 C

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2181

Committee Clerk Signature

Micki Schmidt

Minutes:

Chairman Belter opened the hearing on HB1478. I have amendments for this.

Representative Froseth: (See attachment #1) Rep. Dosch gave me these amendments to me, his father passed away so he could not be here.

The way he explained them to me is page 1, line 3 is just a correction of the word that should have been "of districts," should have been "or districts. "

Page 1, line 11; it includes a credit or approved schools.

Line 12; it replaces kindergarten rather than being grades K-12 or 1-12. The reasoning behind that is because a lot of schools have no kindergarten, some have part time and half time.

On line 13; it removes the "or payment of tuitions for 1 or more students", so this will not include the costs of people paying tuition. It will only be for donations to these school districts that qualify.

On page 14; it lowers the credit from \$1000 to \$500 for joint return and from \$500 to \$250 for single return.

So this would basically cut the fiscal note to less than ½. It only pertains to donations.

Chairman Belter: This doesn't take out the publics?

Representative Froseth: No.

Representative Weiler: If we pass these amendments, I believe what this Bill is then going to do is that if anybody wants to make a donation to a school district, whether it's public or private school, they are going to receive a \$500 or \$250 dollar credit. The donation cannot be tuition. It takes out the tuition. If you donate to your child's school to help them buy basketball uniforms, you're going to get a credit against your taxes for that. My only question is that I think that it's going to knock the fiscal note down to a very small amount of dollars. I don't know if you talked to the Tax Dept. or not but, the reason why the fiscal note was so high is because they took into account every tuition. If you look at the original fiscal note, halfway down the page it says, the estimated fiscal effect assumes approximately 6500 students attend private schools and the tax credit average is about \$800.00 each and that's where they come up with that \$10,400,000 figure. So if you knock out tuitions, that's next to nothing, now what you're talking about is donations, and there might not be a lot of donations. I would like an updated fiscal note

Chairman Belter: Do you want to put these amendments on today?

Representative Froseth: I would move the amendments.

Representative Brandenburg: Second it.

Chairman Belter: Is there any discussion?

Representative Pinkerton: This is an entirely different Bill with the amendments. I had asked for the Attorney General's opinion on it.

Representative Headland: I think the way this amendment neuters the Bill down; basically we're just going to allow for a tax credit for something that people are already doing. They can get a tax credit now for donating to the purchase of new uniforms for kids. We're asking people to do that already, now we're just going to give them a tax credit. I think people are doing it

without a tax credit, so I think the amendments changes the whole Bill and I don't think I could support it.

Vice Chairman Drovdal: Are we debating on do pass or do not pass? I donate to the schools whether or not there is a tax credit.

Representative Brandenburg: Some people deserve a credit for donating, we should encourage it more.

Representative Weiler: The School Boards Association opposed it. They opposed it because they don't want more of their money being taken away.

Chairman Belter: Any other discussion? All those in favor of the proposed amendments signify by saying aye. **The motion carries.** We won't act on this today. We'll close the hearing on HB 1478.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1478 D

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2372

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1478 and asked the committee if anyone had amendments.

Representative Froseth: I will move the amendments, # 0201.

Representative Brandenburg: Second it.

Chairman Belter: Is there any discussion?

Representative Weiler: Could we just get a brief explanation for the committee?

Representative Froseth: Rep. Dosch brought these amendments to me the other day because he knew he couldn't be here. What the amendments do is; **(See attachment #1)**

Chairman Belter: Any discussion?

Representative Weiler: If we do get this passed, this will have to go to Appropriations, correct?

Chairman Belter: Yes.

Representative Weiler: The fiscal note is going to be greatly affected by the amendment. It will bring it down.

Representative Froseth: Rep. Wald has an interest in this Bill and he gave me this list of non public schools. There are 55 non public schools in the State. They had a total enrollment of K-

12 of 6,510 students. The number of income tax returns filed were; 328,228, and the number of returns to zero tax liability is 69,852 for 21% of the returns filed that do not have a tax liability. So they would be not affected by this anyway. The number of returns with tax liability from \$1 dollar to \$1,000 dollars is \$201,000; 61% of the tax returns filed. I don't know exactly what that information does to this Bill, but he wanted me to present this information to the committee for considering this Bill.

Representative Weiler: Basically what that means is that even if they come out with a fiscal note that is greatly reduced of the families that attend non-public schools, 21% of them don't even pay any taxes, so they wouldn't be getting anything anyway. So what that means is that the fiscal note is going to be reduced even more, because of the fact that many families don't even have to have a tax line break.

Representative Froséth: I would move the amendments.

Representative Headland: Second it.

Chairman Belter: Is there any discussion? If not, all those in favor of the proposed amendments signify by saying aye. The motion carries. I would ask for a motion on the Bill, I guess I'm not going to support the Bill regardless of what your motion is because there really isn't much left in the Bill at this point, but I'll ask for a motion.

Representative Brandenburg: Do Pass as Amended & Rerefered to Appropriations.

Representative Weiler: Second it.

Chairman Belter: Is there any discussion?

Representative Froelich: Do they go to public scholars or private scholars or both?

Representative Weiler: This isn't college.

Representative Froelich: No, I understand, but I'm trying to correlate it. I know there's a federal deal to go to college because I think my son would qualify for; well take a look at UND, a public college, vs. Mary College, how does that work?

Donnita Wald, Legal Counsel for Tax Dept.: Are you asking does this affect higher education?

Representative Froelich: I understand that, I'm trying to see if there's a correlation here. What we're doing here on a State level vs. with the federal taxes. I know on the federal level, my son goes to UND and receives this tax credit from the federal law. Now if my son went to a private institution, would he still be eligible?

Donnita Wald: Yes.

Representative Froelich: My point being Mr. Chairman, this isn't far off from the federal law.

Vice Chairman Drovdal: This is kind of a difficult Bill for me. We have some private schools in our District and they do an excellent job with their kids there. They're achieving, they've been there for a long time and the students that have graduated out of there are achieving excellent results and good citizens. But still, I look at that we are responsible to support our public schools and this does take money out of the State Treasurer that eventually goes to their public schools. Not only does it affect it that way but in my home district where we have an excellent private school, it actually takes students from the public schools so they're declining at home and they're losing their funding in the public school that would be there if the students were there. That's \$3,000 a year so it kind of gives them a double hit, so I'm afraid that I'm going to have to oppose the Do Pass also.

Representative Froseth: This wouldn't happen to be on the long form?

Donnita Wald: I think it is on the short form.

Chairman Belter: So that means another line. Is there any other discussion?

Representative Pinkerton: Does that mean that the fiscal note won't go into affect until the tax year 2008?

Chairman Belter: That's correct. Wait, no the effective date is December 31, 2007, not 2008.

Representative Pinkerton: (couldn't hear)

Donnita Wald: (couldn't hear)

Chairman Belter: Ok, is there any other discussion? Would the clerk read the roll; **5-y; 8-n; 1-absent; the motion failed.** I would entertain another motion.

Representative Weiler: I make a motion to further amend to put it on the long form.

Representative Headland: Second it.

Chairman Belter: Is there any discussion? All in favor of the proposed amendments signify by saying aye; opposed; **Ok, lets do a roll call vote;6-y; 7-n; 1-absent; the motion fails.**

Representative Wrangham: Mr. Chairman, I move a Do Not Pass as Amended.

Vice Chairman Drovdal: Second it.

Chairman Belter: Any discussion? **Will the clerk read the roll; 6-y; 7-n; 1-absent; the motion fails.**

Representative Weiler: I believe that the Do Pass failed and the Do Not Pass failed; I don't know what to do...

Representative Wrangham: I move a Do Not Pass as Amended.

Chairman Belter: We just did that and it failed.

Representative Wrangham: I know, but maybe we'll have some discussion and maybe someone will explain why they voted on both sides. Obviously they were because both of them failed. I would like to hear from those whom changed their votes, why they did?

Representative Pinkerton: Second it.

Chairman Belter: Now...is there any discussion?

Representative Headland: Ok, I've got to clarify this; we killed the second amendment to put it on the long form. It's still going to go on the short form? Ok.

Chairman Belter: Will the clerk read the roll; **8-y; 5-n; 1-absent; Rep. Headland will carry the Bill.** The hearing was closed.

