

2009 HOUSE EDUCATION

HB 1469

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

House Education Committee

Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8294

Committee Clerk Signature

Carmen Hart

Minutes:

Vice Chair Lisa Meier, District 32, appeared in support of HB 1469.

Rep. Mark Dosch, District 32, appeared in support of HB 1469. **(See Attachment 1.)**

Rep. Bob Hunsakor: You referenced several states here and I am wondering if the benefits

those states are given to the nonpublic schools would be very similar to this piece of legislation? Is it pretty much the same what they are doing?

Rep. Dosch: It basically the same. It is a little different but similar.

Rep. Brenda Heller: Are home schoolers considered private schools?

Rep. Dosch: It is my understanding that home schoolers are now able to get these books from the public school system at no cost.

Chairman Kelsch: They are included in the language in the bill.

Rep. Jerry Kelsh: What if a public school ordered a certain textbook that the nonpublic school didn't want to use for whatever reason? Would the school district then be required to get them the books that they would want to use or how would that work?

Rep. Dosch: No. The public school system would go out and say kwow what we have looked at it, we want to get ABC English book, and they would notify the nonpublic schools in the area and say this is the book we are getting, and they will either say yes we want it or no we don't.

The nonpublic schools cannot go back in and say we don't want that book, we want this book.

It has to be what the district is using, and it is their choice to either say yes or not, but that's it. These books remain the property of the public school system as well. If the nonpublic schools would no longer need the books, they would be required to give them back.

Rep. Phillip Mueller: What happens in the circumstance that obviously nonpublics have a good reason for going there—one of them that always pops into my mind is that creation versus evolution thing. Probably public schools are going to be talking about both of those issues or maybe talking about the evolution as in the science case. Why would nonpublic want that kind of publication?

Rep. Dosch: You are absolutely right. In that case the nonpublic would say thanks, but no thanks. It is totally voluntary on their part. They can look over the book, and if it doesn't meet their criteria or dwells into areas that they don't care to go, they say no. The effect would be quite minimal. How often do you replace math books or things like that?

Rep. John Wall: Do you have any idea what the additional cost would be?

Rep. Dosch: There is a statement on the fiscal note.

Chairman Kelsch: There is going to be a cost to someone. It probably is going to be for the school district. This money would come out of the monies they would receive in their foundation aid payments. In your mind, what do you think? How many books this may involve? Can you ballpark it at all?

Rep. Dosch: We will have a school administrator come up and he may have a better idea. What I have been told is that and why they felt the debts aren't going to be that great, is simply because they do keep books for many years at a time.

Chairman Kelsch: Can you tell me how many nonpublic students we have in North Dakota at present?

Rep. Dosch: I believe it is about 6,500 in K-12.

Rep. Lyle Hanson: In some of the public schools, they charge a user fee. They also charge if you lose a book, they have to pay for it. I don't see anything in here about who is going to pay for books that lost.

Rep. Dosch: There is a part in the bill that says a student pays a security deposit for the return of the textbook and assess a student a use charge if the textbook provided under this section has received undue wear. These texts are basically on loan.

Rep. Lee Myxter: The Fargo Public Schools could be responsible for buying textbooks for Shanley and Oak Grove?

Rep. Dosch: Yes, that is correct.

Rep. Lee Myxter: An English text at \$75, \$80, \$100 x 600 is a pretty good chunk of money for the district.

Rep. Dosch: They use these books for four or five years or whatever that is. You spread that cost out and that is assuming they want to use that book as well.

Rep. Corey Mock: The understanding I am receiving from this bill is this deals primarily when ordering new books. Is that correct?

Rep. Dosch: Yes, that is correct.

Rep. Corey Mock: Is it ever considered to have sort of a contract? If the school district is ordering books for nonpublic schools as well, my understanding at any time the nonpublic school can say we don't need these books anymore and the public school is left with x number of sitting? Isn't that possible?

Rep. Dosch: They are not going to order the books unless they want the books. They will use them for whatever their useful life is and that is the end of it. If the public school district isn't going to be reordering books for four years and the nonpublic wants to switch off earlier than

that, then they are on their own. This has to be in conjunction with when the public school district is bringing in new texts.

Rep. Jerry Kelsh: We had a bill the other day that talked about the federal government from military students and the money that comes with them and how that should be dealt with. The question was asked if they go to a private, nonpublic school whether that money follows him. The answer was no. I am wondering about constitutionality of a measure like this of tax money going into a nonpublic school? Did you ever check that out?

Rep. Dosch: These remain the property of the school district so it is not like they are giving the nonpublic schools this money to go out and buy a particular textbook. These are provided for them. When you think about it, take Bismarck, even if the student goes to Bismarck or Century High Schools, the school district is buying those books. It is because the ownership of the book would be retained by the school district, I am told that would not be an issue.

Rep. Phillip Mueller: Are you familiar with the nonpublic use in the way of textbooks currently? Are they pretty similar in many cases to what the publics are doing? Do you have a sense of that?

Rep. Dosch: I would prefer to defer that question if I may.

John Jankowski, St. Mary's Central High School Supt., and President of the State Association of Nonpublic Schools, appeared in support of HB 1469. (See Attachment 2.)

Rep. Bob Hunsakor: You alluded to students transferring back and forth between your school and the public school. Would you have any sense of over a four year period how many there would be from the time a student who is a freshman to a sophomore or in one year?

John Jankowski: St. Mary's High School does 9-12. In Bismarck the junior highs finish in the ninth grade. We get about each year about 20 freshmen that transfer over to our school from the public schools. During the course of the year at the end of the first semester, I would

estimate maybe between five and six students come to our school from the public school and leave our school to go to public school. Through the course of the year about 30.

Rep. Phillip Mueller: Would you envision that this bill would eventually be a circumstance where you would be part of the selection of textbooks on the public school level?

John Jankowski: We know that in a large school district they have curriculum committees and they study what books they are going to buy and what curriculum they should follow. We think it would be tremendous. We rely on their expertise, but it would be a great thing if they would invite our private school teachers to sit down with their teachers and have a discussion about curriculum. We think that both parties could learn from each other. If it would go that far, I think that would be great. I do have a lot of faith in our public schools and the curriculum committees they do have especially in the larger cities so their textbook process is pretty well defined and I think it will help our students then if we get to share some of that expertise.

Rep. Mike Schatz: When you buy a text, after you get to a certain number, there is going to be a discount. If you had 200 in the public school and 20 in the nonpublic, that could possibly trigger a discount in the amount of the textbook. Would that be correct?

John Jankowski: Textbooks in our country are pretty well defined by the states of California and the state of Texas because of the large numbers that they buy. The volume discount afforded in North Dakota I think is minimal. It might help a little bit.

Chairman Kelsch: Trust me, Rep. Schatz, I don't think textbook companies mark books down much at all.

Tom Frei, Secretary for Education and Formation, Diocese of Fargo, appeared in support of HB 1469. (See Attachment 3.)

Rep. John Wall: To your knowledge is there any sharing of textbooks going on now? Your private nonpublic school goes to the public school because of declining enrollment and has extra books that are not used.

Tom Frei: I am not aware of that happening.

Vice Chair Lisa Meier: I wanted to know how often do your textbooks turn over in the private schools?

Tom Frei: Four to five years. Other administrators here might be able to speak to that point with more precision than myself. We tend to use them until they fall apart.

Kristi Voeller, Principal of Martin Luther School, appeared in support of this bill. Our parents are paying their taxes in addition to the tuition they are spending at our schools.

Chairman Kelsch: How close do you follow the contents standards developed by the state?

Kristi Voeller: We look at that as we are looking at new curriculum. We take North Dakota state standards. We do take that very seriously. That is important to us.

Chairman Kelsch: Do you look at the Bismarck contents standards then as well?

Kristi Voeller: We do look at that, yes. That was one of my first calls when looking at our science curriculum to find out what they are using.

Rep. Karen Karls: What type of books do you think your school would accept from the private schools? My kids went to Shiloh. I doubt if they would unless it was Saxon math or something like that take.

Kristi Voeller: Science has been brought up. I think that would probably be the one area where we would be very careful at what we look at. When you are looking at history, math, or English, it is pretty hard to paint English. We definitely would review it just like we would if we were on our own.

Rep. Phillip Mueller: If this bill passes, we in essence then public education will be a small way beginning to subsidize nonpublics. Usually when this body being the legislative assembly or school board asks for money, there are strings attached. Do you have a concern that we are opening the door for that kind of a situation?

Kristi Voeller: If Bismarck, for example, decides to adopt a certain science curriculum and if we have the opportunity to look at that and say it does not follow in line with what we are teaching, we don't have to take that. I don't have that concern. If it was being said, you are forced to you must take this, that would be a concern.

Rep. Phillip Mueller: It is the other end of it that I am talking about. Whenever we have policy that comes out of here and attach money to it in the public education arena or any other arena, we have some standards, again I call them strings attached, the strings are going to be coming from the state in this case, versus what you were addressing. Does that concern you?

Kristi Voeller: Performance in the end? That is something that we are under, some state guidelines. I would say North Dakota has more state guidelines for their nonpublics than I ever had in Missouri. I am not saying that is a bad thing.

Peter Lingen, Principal, St. Joseph's Catholic School, Williston, appeared in support.

(See Attachment 4.)

Rep. Karen Karls: Could you explain the Blaine Amendment?

Peter Lingen: Basically the Blaine Amendment was the amendment that was passed by the US House of Representatives back in 1875 not the US Senate. It was close but it didn't pass the Senate, so the supporters of this amendment then turned their attention to the state legislators. Eventually all but 11 states approved the amendment which basically states that private schools cannot receive state funds. Unfortunately North Dakota was one of those states adopting the amendment and basically back then it would prohibit the rising prominence

of the Catholic Church in education back then. We have to realize that I have 115 students in Williston. They are Williston students whose parents chose to go to the Catholic school. We also have Trinity Christian and I believe they have 200 some students. In the long run we feel that down the road we have to look at legislation that would benefit all students whether they be private or public. One thing about North Dakota is that we have a great public school system, but we also have a great private school system. That is something we can be proud of. Not every state can say that. We do at St. Joseph's School follow the state standards and benchmarks religiously because we do have students going back and forth.

Kyle Edgerton, Superintendent of the Fargo Catholic Schools Network, appeared. (See Attachment 5.)

Chairman Kelsch: How many non Fargo students do you have attending your school?

Kyle Edgerton: We have approximately 23 students.

Leann Binde, Principal, Cathedral School, appeared in support. She talked about what this bill was like in Minnesota. She taught at a private Catholic school in St. Paul that had about 1300 students. Minnesota has a bill which allows each private institution to order whatever books they want. We would just get in, our kids would sign a piece of paper, and we would get money for every child that was there for all the books. It did not go through local districts and local districts did not choose the book, and then we had a choice to take our books. We actually chose our own book. In addition to textbooks, Minnesota provides school counselors and school nurses. Like Kyle, I believe all kids deserve a great education. In order to provide a great education, we have to have great textbooks.

Christopher Dodson, Executive Director, ND Catholic Conference, appeared in support.

Questions were raised about constitutionality. These types of programs don't violate the federal constitution and the fact that some of the other states have programs. A number of

those states have Blaine Amendments. How Blaine Amendments are interpreted depends on your state court and particulars of that particular state. We don't have any cases deciding are they amended but when you look at the other states that have the amendments and have this program, there is reason to believe that a program like this would not violate our state constitution as well. Questions were asked about the similarities of the books in nonpublic and public schools. We do use mainly the same books. North Dakota nonpublic schools are among the most regulated in the nation. There are more regulations in our schools and in our teachers that I don't see in any other state. At the same time we see less assistance from the state than any other state. It becomes a fairness issue here. Among those regulations are the graduation requirements that we have to offer certain courses in the school. We have to find additional funding for books for courses we did not ask for but are part of the regulations that come with operating in the state.

Chairman Kelsch: Of the 6,000 students attending nonpublic schools, how many of them are attending high school?

Christopher Dodson: We guess about 1200.

Opposition

Bev Nielson, NDSBA, appeared in opposition. The local district has to buy the books so they spent their money and they are in essence donating them to the private schools for their use. We oppose this in any form. This will impact local districts inequitably. Some districts don't have any private school kids or home school kids. They would not be required to purchase additional textbooks where in some districts there are a considerable number of private schools and that district would be impacted more than others. We also have private school students in the state who are not residents of the state and so we would also be providing unequal spending for non state residents. Section 1 of this bill is very unclear when you say ...

Each year they are giving them back and we are getting them back the following year. It is unclear when you continue to reference the student. In the final line of the bill that notification can be made to the administrator, but I think the bill should just say that. We are notifying individual students. Then it says the student may request the textbook. I think it needs a lot of work in rewriting if you are going to anywhere with which we hope you don't.

Rep. Lyle Hanson: Are nonpublic schools students regulated more than public school students?

Bev Nielson: No, I believe what the reference was to that we make teacher requirements and graduation requirements to coincide with public schools, but as far as regulations, I know they don't have to bargain with their teachers.

Rep. Lee Myxter: In 30 days before you order the book—all 600 people that Shanley—where would you get the books to send out?

Bev Nielson: I think that is where the confusion is in Section 1. It sounds like we are sending out individual copies to students to review or whatever. Then down in Section 2 we start talking about security deposits and so forth. It is totally unclear.

Rep. Dennis Johnson: There was also reference to home school.

Bev Nielson: They did indicate home school. However, you would be dealing with the parent and not the student.

Rep. David Rust: The taking of a census is no longer mandatory. Do you see a problem if schools are no longer doing a census of maybe not even knowing what kids might be out there?

Bev Nielson: Perhaps. We would have to have all the information on the names of all the private schools and home schools. Again, I don't think we would be talking about the individual students. The way it is explained it seems to me that we would be obligated to

contact the administration of these private schools or the parents of the home schoolers if we knew about them and find out if they want us to get them some books.

Dr. Doug Johnson, NDCEL, appeared in opposition. They too have a long standing resolution from my board and membership with regard to our position on using public funds for funding private schools. For that reason they are opposed to this. One question he really had was the definition on line 7. Bev's testimony clears that up. If the committee does wish to pursue this, it would become a real burden for those school districts that have large population of those students. If you do pursue this, I would look into having a state program similar that was described in Minnesota.

Rep. Bob Hunsakor: Do you know if there has been communication between administrators of public and nonpublic about this issue? It only affects the larger communities. I am wondering what the administrators in those public and nonpublic, what their thoughts are, maybe they talked about this, maybe it is a problem, maybe it isn't?

Dr. Doug Johnson: To my knowledge, not on this particular bill and issue.

Josh Askvig, NDEA, appeared in opposition. He agreed with what Bev Nielson and Dr. Doug Johnson had said. We might suggest that they should be required to bargain. The issue might be resolved by simply encouraging private schools to communicate with public schools.

Jack McDonald, State Association of Nonpublic Schools, appeared to say he would be available if the committee needs help to refine the language or make some amendments to make it clearer. The intent of the bill is relatively simple—that the schools will work with their local public schools and purchase some of our books.

Chairman Kelsch: Otherwise, Jack, you are really supporting the bill.

Jack McDonald: I am not in opposition.

Chairman Kelsch: School districts and nonpublic schools currently could work together and could purchase the books. We don't have prohibitions in state law that would preclude those school districts from working with the nonpublic school districts to purchase districts.

Jack McDonald: No, they would not. There are contacts right now between the nonpublic and public schools. There are some areas of development and some of areas of teacher training that are done right now. Here in Bismarck St. Mary's does talk to Bismarck School District about these issues.

The hearing was closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

House Education Committee

Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8721

Committee Clerk Signature *Carmen Hart*

Minutes:

Rep. Phillip Mueller made a motion for a **Do Not Pass** on HB 1469. **Rep. Corey Mock** seconded the motion.

10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING.

The carrier of the bill is **Rep. Phillip Mueller**.

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1469

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

John Walstad
Code Revisor

Date: 2-4-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1469

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep Mueller Seconded By Rep Mock

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson		
Vice Chairman Lisa Meier		✓	Rep. Bob Hunsakor	✓	
Rep. Brenda Heller	✓		Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Corey Mock	✓	
Rep. Karen Karls	✓	✓	Rep. Phillip Mueller	✓	
Rep. Mike Schatz		✓	Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep Mueller

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

REPORT OF STANDING COMMITTEE

HB 1469: Education Committee (Rep. R. Kelsch, Chairman) recommends DO NOT PASS
(10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1469 was placed on the
Eleventh order on the calendar.

2009 TESTIMONY

HB 1469

HB 1469

Education Committee

R. Kelsch, Chairman

February 2nd, 2009

Madam Chairman and members of the Education Committee, for the record my name is Representative Mark Dosch, representing the 32 District. I come before you today to ask your support of HB 1469, which deals with the purchasing and use of textbooks.

Our ND public schools have been very fortunate over the last 10 years, as they have seen **historic increases** in the level of funding they have received. Education funding has been one of the highest priorities in our governor's administration, and the legislature as well.

While this is good news for our public schools, our nonpublic schools have been for the most part been left behind and to fend for themselves and deal with some of the unintended consequences of dramatic funding increases our public schools have enjoyed. Rising teach pay for one example has forced nonpublic schools to also increase their teachers pay to try and remain somewhat competitive. This along with the other cost increases has resulted in a financial struggle for many of our nonpublic schools.

What we are asking you today, is to allow for some of the "crumbs off the table" if you will and allow our nonpublic schools the opportunity to obtain textbooks from our respective school districts. Considering that textbooks are not changed out that often, the cost to the districts would be minimal when compared to their overall budgets, and funding increases that they have enjoyed.

We must also remember that most of the parents that send their children to nonpublic schools are also property owners who are paying their local property taxes, of which approx. 50% goes to education funding. They are receiving

absolutely no benefits, and are actually helping to subsidize their local school districts by paying this tax but not utilizing the public education. Asking the school district to pick up the cost of a few textbooks seems more than just and reasonable, considering the thousands of dollars these parents pay.

This is something that already is being done by our neighbors to the east in Minnesota, as well as Connecticut, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Mississippi, New Jersey, New York, Ohio, Pennsylvania to name a few. It seems to me that if some of these large state with many more nonpublic schools can do it so to can ND.

There are many more benefits that would result, such as uniformity in our education, as there would be a more seamless transfer between public and nonpublic schools should students transfer between the two.

Madam Chair and members of the education committee, what we are asking from you today is without doubt a very reasonable request. Parents of nonpublic students are paying for their own children's education costs, in addition to paying property taxes, thus saving our state and cities millions of dollars each and every year. Paying for a few textbook is one heck of a good deal for our state and local schools districts. It is the fair thing to do, and the right thing to do as well.

This concludes my testimony, I will stand for any questions you may have.

House Education Committee

February 2, 2009

Testimony for HB 1469

Chairperson Kelsch and House Education Committee Members

My name is John Jankowski. I'm the Superintendent of St. Mary's Central High School here in Bismarck and the President of the State Association of Non-Public Schools.

HB 1469 is a bill that certainly can get your attention. A public school district giving textbooks to a private school seems somewhat revolutionary. However I have attached some supplementary information to my testimony to show that textbooks are provided to private schools in some states. In fact it happens in as many as 19 other states including the state of Minnesota.

Having served as a public school superintendent in 2 different districts I know what some would superintendents or school board members may want to say to you. You shouldn't share public school funds with private schools. That's not what this bill is about. This bill is about providing the same textbooks to all students in a school district. We often hear that the playing field isn't level when comparing public and private schools in the state of North Dakota. Well people that say that are right. It's not level. Private schools seem to do more with less.

Our schools have the same requirements and expectations of public schools. Our students take state mandated tests, and meet or exceed state graduation requirements. Some experts would tell you that North Dakota has more regulations for private schools than most states. At the present time we don't have the time to explore that thought but the attachments will demonstrate to you

why some may say that. Our schools don't mind that, as we believe that we should meet accreditation standards or at a minimum meet the requirements for school approval.

Getting back to HB 1469 what does it mean, how it could work? Its as simple as for example:

The Bismarck School District decides that its time to purchase a new Math series for either the elementary school, junior high or high school they then contact the respective private schools in the district as too what textbook that as been chosen. The private school administration and curriculum committee can then decide if they wish, that the textbook that should be used in their school and thus be provided to the appropriate students. There may be times when the answer is no, and other times when the answer is yes. What it would do is provide the same opportunity for curriculum materials to each and every student in a school district. The private school would be responsible for teacher and supplementary materials.

In Bismarck the advantage to both public and private school students is when they transfer back and forth between schools they will be using the same textbook. Students when tested will have used the same textbook and received somewhat the same basic instruction so it will make the comparison of test scores more meaningful.

Yes, there will be some bumps in the road to implement the process to make this work. But for something as important as this, it can be done. I think this bill can improve the communication between the school district and the local private schools. I believe that's a good thing, and perhaps they will learn from each other. This bill can make a dramatic difference in the types of materials that students will be able to access. There is no question as this recession continues; it will be a challenge for private schools to do their increase fund-raising through charitable giving.

This bill can make a difference. After all aren't all the students in school district members of that district? Their parents pay property tax, income tax, and sales tax in their district. They have simply chosen to send their children to a different type of school rather than the public school.

Ok, so some will try to tell you the fiscal note with this bill! Oh, that's right there isn't one right now. So let's imagine that all the public school districts that have private schools are going to buy new textbooks in every class. So using the number of 6000 private school students, 5 classes, \$100 per book, we have \$3,000,000. Sounds like a lot money, and it is. But all of us know that this scenario is not going to happen. More likely it would be 6000 students, 1 book, at \$100 so we have about \$600,000 per year. We compared to the states budget for education, doesn't hardly seem significant, but what an impact it could have on 6000 students each year.

My attachments includes information on what is happening in other states regarding oversight of private schools in states, and what funding is provide to private schools in other states.

Providing textbooks seems like such a simple thing, but can make a difference for many students.

I encourage you to give a do pass to HB 1469. Demonstrate to private school parents and students that you are willing to help them. Thank you for your consideration.

Attachments:

1. The State of Ohio and Private Schools
2. State of Connecticut Office of General Assembly:
Tax Credits and Textbook Loans for Private Schools in Other States



The State of Ohio and Private Schools: Essentials and Historical Background

The State of Ohio currently recognizes 4 categories of schools:

Public schools

1) **Public School Districts** and their schools are chartered and regulated by the Ohio Department of Education. The vast majority of Ohio students, about 1.85 million, attend public schools.

2) **"Community schools"** acquired their name to avoid confusion with Ohio schools (both public and non-public) that are chartered under the authority of the State Board of Education.¹ About 10 years ago a national movement for school reform started the idea of states providing competition for the public schools by allowing start up groups to open schools using dollars that would be transferred from public school funding. Many states, including Ohio, have passed legislation implementing the "charter school" concept. Each state's program is different, but in most plans, money that might have gone to public schools is shifted to support these new schools that operate with a minimum of state regulation (each state varies on how much). "Community schools" in Ohio are "charter" schools in the context of the national school reform movement but because of Ohio's unique chartering system the ODE uses a different name, hoping to avoid confusion. There is considerable debate in Ohio about the financial impact on public schools of the community schools and about whether there has been sufficient accountability since these schools are publicly funded. Approximately 76,000 students attend Ohio's community schools.

Private/Non-public

3) **Religious schools** that accept no money from the state and only minimal regulation as a matter of religious principle are informally called "08" schools for the section of Ohio Administrative Code (3301-35-08) which exempts schools with "truly held" religious beliefs from the full sweep of state operating standards. They do not have charters or receive state funding but must meet safety and health requirements as well as a few minimal educational standards with regard to instruction and teacher qualifications. While the State Department of Education has the authority to ask for basic information from the "08", it is difficult to keep track of them and to maintain accurate enrollment figures.

¹ The Ohio Board of Education is a 19 member board which creates policy and makes recommendations that are carried out by the Ohio Department of Education which is the administrative agency led by the State Superintendent of Public Instruction and charged with implementing policy and programs. 8 members of the Ohio Board of Education are appointed by the Governor while the remainder are elected from one of 11 districts or At-Large. The Chairs of the House and Senate Education Committees serve ex officio on the State Board of Education

4) **Chartered non-public schools** (the Catholic schools, the independent schools in the Ohio Association of Independent Schools, the Lutheran Schools, and a portion of the Christian Schools) -- all have met Ohio Operating Standards for schools and are eligible for state money for transportation, auxiliary services, and reimbursement for administrative costs necessitated by reports required by the State of Ohio. Under the 2001 Operating Standards for Ohio Schools, chartered non public schools that are accredited by associations that have had their standards approved by the State Superintendents' advisory committee are monitored directly by those associations. (See OAC 3301-35-01) In the case of OAIS schools, OAIS has secured approval from the State of Ohio of its accreditation standards, i.e. those are the Independent Schools Association of the Central States standards with an Ohio Addendum. (In most states, independent schools and parochial schools receive virtually no public funding and are subject to far less regulation than in Ohio.) About 223,000 students are enrolled in all chartered non-public schools the vast majority of which are Catholic schools, Christian schools, or Lutheran schools. Roughly 16,000 students are enrolled in OAIS member schools. The majority of these are non-sectarian schools. Not all chartered non-public schools are members of an association.

Public Funds Available to Chartered Non-Public Schools

Chartered non-public schools are eligible for 3 kinds of financial support from the state.

1) Bus transportation (See ORC 3327.01)

Passed in 1966 *Ohio Fair Bus Legislation* established a policy of providing transportation to children in both public and non-public schools if they live more than 2 miles from the school of their choice but less than 30 minutes travel time.

2) Auxiliary Services (See ORC 3317.07)

Passed initially 1967 *Ohio Auxiliary Services Legislation* provided a variety of services for children attending chartered non-public schools. Additional legislation was passed in 1973 and 1975. Currently auxiliary services for which chartered non-publics schools are eligible include such items as textbooks, computer instructional software, psychologists, academic support programs, and speech diagnostic services and therapists, etc. Non-public schools must channel their requests for auxiliary services through the local public school districts in which the nonpublic schools are located.

3) Administrative Cost Reimbursement (See ORC 3317.03)

Nonpublic School Administrative Reimbursement legislation was passed in 1982. This provides direct payment to nonpublic schools to reimburse the costs of recordkeeping which is imposed upon schools by state mandates. In the last year or two, the reimbursement amount was raised from \$250 to \$275 per student. Schools must keep detailed records of the expenditures to be reimbursed but, with the 2001 implementation of Ohio Operating Standards, the kinds of costs that can be reimbursed are quite broad.

Standards for Obtaining and Maintaining a Non-Public School Charter

Ohio implemented new Operating Standards for schools in 2001. The new standards updated all changes that had been made in the operating standards since 1983. These are found in Ohio Revised Code sections 3301-35-02 to 3301-35-11. While the broad framework of the standards focuses on processes for governance and leadership with an emphasis on stakeholder consideration, data driven performance, and strategic planning and continuous improvement, some specific mandates from previous operating standards are retained such as graduation requirements, the length of the school year, and some curriculum provisions.

Implications of Chartering System for Independent Schools

What we know informally from other independent school associations and from the National Association of Independent Schools is that Ohio stands apart in its approach to both the regulation and support of private (non-public) schools. Virtually all states have health and safety regulations for private schools. Some states impose teacher certification requirements and/or some very broad curriculum and diploma requirements. Some states have implemented textbook and busing aid programs for private schools, but none have as comprehensive a program of public support for non-public schools as Ohio.

How does this chartering system affect OAIS member schools? The most notorious effect began in 1992 when the State of Ohio announced that it would mandate statewide proficiency testing requirements. This sparked a multi-year effort by independent schools to oppose the imposition of proficiency testing upon private schools. Early on, political agreements were made to limit proficiency testing for the non-public schools to the 9th grade proficiency tests. One version of the proficiency testing bill would have exempted chartered non-public schools from proficiency testing but the Governor vetoed that exemption. After a number of years of debate back and forth, OAIS filed suit in federal court in 1995. An early ruling went against OAIS and at that point the National Association of Independent Schools supported an appeal. Independent schools around the country urgently hoped that such required state testing would be defeated. The appeals court found that OAIS's position had failed to demonstrate that the testing requirement would substantially encroach upon independent schools' discretion to design their own curricula.

As is common in extremely complex issues, our colleagues in the independent school world assume that the reason that Ohio independent schools must take state tests (now the Ohio Graduation Tests) is attributable primarily to accepting state funds for non-public schools. This oversimplification is likely based on the fact that regulation is a requisite of accepting federal funds; a number of independent schools do not accept federal funds in order to preserve their independence. In reality it is Ohio's system of chartering schools both public and non-public that resulted in the testing requirement. The chartering system is an intricate linking of constitutional interpretation, legislation, and administrative regulation developed over many years. Out of curiosity, I've spent some time trying to trace back the origin and historical development of this system. Much research remains to be done for a clear explanation. However, several observations can be made.

As early as the late 1800's and early 1900's Ohio had an education officer variously titled as Superintendent of Common Schools or State Superintendent of Public Instruction. By 1912 an amendment to the Ohio Constitution reestablished the position which had languished and by 1953 a constitutional amendment restored the State Board of Education. By 1953, Ohio Revised Code 3301.7 made reference to the responsibility of the State Board of Education to develop minimum standards that would be applied to all elementary and high schools for the purpose of providing a general education of high quality. There was also provision for the State Board to "classify and charter high schools."

The shelves of the State Library have Department of Education annual reports going well back into the 1920's; a number of the schools currently in OAIS are listed in their own group in those reports throughout the 1930's and 1940's. While there are gaps in the documentation, it appears reasonable to assume that in the years since 1953, the processes for chartering schools and establishing minimum requirements for the charters were established and revised a number of times. By 1976, there was a State Department of Education process by which schools could apply for a college preparatory charter. The Miami Valley School in Dayton forwarded documentation of their college preparatory charter from 1976.

During the 1990's when the great mandated testing battles were waged, some of the OAIS schools explored the implications of giving up their state money and their charters. They learned quickly that the Ohio system is so tightly woven that were they to give up their charters their graduates would not be eligible for any of the post secondary enrollment programs for high school students or for scholarships at state colleges and universities. Admission to Ohio colleges and universities would be affected as these require state sanctioned diplomas. Athletic teams could not be members of nor compete with members of the Ohio High School Athletic Association. Finally, independent school students would have been considered truant under Ohio law with parents facing stiff fines. OAIS's loss of the legal battle on proficiency testing was primarily a function of the chartering system and not of accepting state monies.

Although independent schools still object in principle to mandated testing (now the Ohio Graduation Tests) only minor adjustments have had to be made in curriculum and the OAIS schools as a group are at the top (upper 90th percentile) in their OGT pass rate. Because of the chartering system, however, and the small number of independent school students in relationship to public school and parochial school students in Ohio, OAIS believes that state legislation and regulation on education has to be monitored for its impact on OAIS member school independence.

Topic: PRIVATE SCHOOLS; STATE AID; TAX CREDITS; TEXTBOOKS; TUITION;
 Legislation: SCHOLARSHIPS AND LOAN PROGRAMS; SCHOOLS - PRIVATE; TAXATION;



July 3, 2007

2007-R-0404

**TAX CREDITS AND TEXTBOOK LOANS FOR PRIVATE SCHOOLS IN
OTHER STATES**

By: Soncia Coleman, Associate Legislative Analyst

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

SUMMARY

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

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

STATE TAX CREDITS/DEDUCTIONS FOR PRIVATE SCHOLARSHIP FUND DONATIONS

Arizona

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

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

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

Florida

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

Iowa

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

Pennsylvania

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

Rhode Island

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

SC: ts

Archived Information

The Regulation of Private Schools In America: A State-by-State Analysis

Chart 1: State Oversight of Private Schools

STATE	Registration	Approval	Accreditation	Licensing
Alabama	mandatory			mandatory with broad exemptions
Alaska			voluntary	
Arizona				
Arkansas				
California				
Colorado			voluntary acknowledgment	
Connecticut		voluntary		
Delaware				
District of Columbia		mandatory		
Florida				
Georgia				
Hawaii		mandatory		
Idaho				
Illinois	voluntary	voluntary		
Indiana ¹			voluntary	
Iowa			See below. ²	
Kansas	mandatory unless accredited		voluntary	

Kentucky ³				
Louisiana		voluntary		
Maine		voluntary	voluntary	
Maryland		mandatory, church schools exempt		
Massachusetts		mandatory ⁴		
Michigan		mandatory		
Minnesota				
Mississippi		mandatory for schools receiving public funds		
Missouri				
Montana			voluntary	
Nebraska ⁵		voluntary	voluntary	
Nevada				<u>mandatory with exemptions⁶</u>
New Hampshire		mandatory		
New Jersey		mandatory on a limited basis		
New Mexico			voluntary	
New York	mandatory for nonpublic high schools issuing diplomas only			
North Carolina	See below. ⁷		voluntary	
North Dakota		mandatory	voluntary	
Ohio ⁸				

Oklahoma			voluntary	
Oregon	voluntary	mandatory for public placement for special education services		private school residential programs only
Pennsylvania	mandatory for sectarian schools			mandatory for nonsectarian schools unless accredited
Puerto Rico			voluntary	mandatory
Rhode Island		mandatory		
South Carolina		voluntary ⁹		
South Dakota		mandatory	voluntary	
Tennessee		voluntary	mandatory, unless membership in specified associations	
Texas				
Utah			voluntary	
Vermont		voluntary		
Virginia			voluntary	mandatory for special education schools unless approved/ accredited
Virgin Islands 10			voluntary	
Washington		mandatory	voluntary	
West Virginia		mandatory, with alternative		
Wisconsin		voluntary		
Wyoming				mandatory for nonreligious elementary and

secondary schools

1 Indiana has a voluntary recognition process for non public schools.

2 Iowa private schools have the option of state accreditation or operating with licensed instructors.

3 Kentucky law provides for the voluntary certification of private, parochial and church schools.

4 Massachusetts law requires mandatory approval of private schools by the local school committees.

5 Nebraska private schools have the option of approval or accreditation; and, if these options violate parent's religious beliefs, parents can elect to comply with other state requirements.

6 Nevada nonprofit fraternal or benevolent institutions offering instruction to their members or their immediate relatives are exempt from licensing subject to the approval of the State Department of Education.

7 North Carolina private schools must file a notice of intent to operate within the state.

8 Ohio private schools are chartered on a voluntary basis by the State Board of Education.

9 South Carolina private schools have the option of state approval or membership in the South Carolina Independent School Association or a similar organization. Parochial, denominational and church-related schools are exempt.

10 The Virgin Islands' law provide for mandatory certificates of operation issued by the Department of Education.

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[Wyoming]



[Chart 2: State-Mandated Educational Requirements]

Archived Information

The Regulation of Private Schools In America: A State-by-State Analysis

Chart 2: State-Mandated Educational Requirements

STATE	Length of School Year	Teacher Certification	Mandated Subjects
Alabama	yes	private schools, but not church schools	yes
Alaska	yes	nonexempt private schools only	yes
Arizona	yes		
Arkansas			yes
California			yes
Colorado	yes		yes
Connecticut			yes
Delaware			yes
District of Columbia	yes		
Florida	yes		
Georgia	yes		yes
Hawaii		all private schools	
Idaho	yes	all private schools	yes
Illinois	yes		yes
Indiana	yes		accredited schools only
Iowa	yes	yes	accredited schools only
Kansas	yes		yes

Kentucky	yes		yes
Louisiana	yes	See below. ¹	yes
Maine	yes	approved private schools	yes
Maryland	yes		yes
Massachusetts	may be regulated by the local school committee		
Michigan	no	teacher's certificate or permit ²	yes
Minnesota	yes	several options allowed besides licensing	yes
Mississippi	no	required only for nonpublic schools that choose to be approved	
Missouri			yes
Montana	yes		yes
Nebraska	yes	teachers at accredited and approved schools must have certificates or permits	yes
Nevada			yes
New Hampshire	yes		yes
New Jersey	yes		yes
New Mexico	yes		
New York	yes	mandatory only for teachers at approved private schools offering special education	yes
North Carolina	yes	accredited schools only	
North Dakota	yes	all parochial and private school teachers	yes
Ohio	yes	nontax-supported and nonchartered schools have differing standards for certification	chartered schools only
Oklahoma			
Oregon	yes	one of several options to show qualifications	yes

Pennsylvania	yes	private licensed academic schools	yes
Puerto Rico	yes	required for accredited schools; licensed schools may utilize provisional certificate	no
Rhode Island	yes		yes
South Carolina			
South Dakota	yes		yes
Tennessee	yes		yes
Texas			<u>only one course</u> ³
Utah			
Vermont	recognized independent schools only		yes
Virginia	yes		
Virgin Islands	yes	yes	
Washington	yes	with some exceptions	yes
West Virginia	yes		yes
Wisconsin	yes	no	yes
Wyoming	yes	nonreligious schools must give public notice if teachers are not certified	nonreligious schools only

¹ Louisiana private schools accepting public aid must employ teachers that qualify under Board standards.

² Michigan private school teachers must have a teachers's certificate or permit unless one has sincerely held religious belief objecting to the certification requirement.

³ Texas law requires private schools to provide a study of good citizenship.

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[Chart 1: State Oversight of Private Schools]

[Chart 3: Public Assistance to Private Schools and Private School Children]

Archived Information

The Regulation of Private Schools In America: A State-by-State Analysis

Chart 3: Public Assistance to Private Schools and Private School Children

STATE	Textbook Loans	Transportation	Auxiliary Services	Constitutional Prohibition on Public Aid
Alabama				yes
Alaska		yes		yes
Arizona				yes
Arkansas				yes
California		yes	yes	yes
Colorado			yes	yes
Connecticut	yes	yes	yes	yes
Delaware		yes	yes	yes
District of Columbia				
Florida			yes	yes
Georgia				yes
Hawaii				yes

Id		ruled unconstitutional		yes
Illinois	yes	yes	yes	yes
Indiana	yes	yes		yes
Iowa	students attending state accredited schools only	students attending state accredited schools only	yes	
Kansas		yes	yes	yes
Kentucky				yes
Louisiana	yes	yes	yes	
Maine	yes	permissible	yes	
Maryland			yes	
Massachusetts	no	yes	yes	yes
Michigan		permissible	yes	yes
Minnesota	yes	yes	yes	
Mississippi	yes			yes
Missouri			yes	yes
Montana		permissible		yes
Nebraska	yes	yes	yes	yes

Nebraska		permissible		yes
New Hampshire	yes	yes	yes	yes
New Jersey	yes	yes	yes	
New Mexico	yes			yes
New York	yes	under certain circumstances	yes	yes
North Carolina				yes
North Dakota		permissible		
Ohio	yes	permissible	yes	yes
Oklahoma				yes
Oregon		yes	yes	yes
Pennsylvania	yes	yes	yes	yes
Puerto Rico				yes
Rhode Island	yes	yes		
South Carolina				yes
South Dakota				
Tennessee			yes	
Texas			yes	yes

				yes
Vermont				
Virginia				yes
Virgin Islands		yes	yes	yes
Washington		permissible	yes	
West Virginia	yes	yes ¹	yes	
Wisconsin		yes, with some exceptions	yes	yes
Wyoming				yes

¹ West Virginia provides transportation to private schools students or payment in lieu of transportation.

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[Chart 2: State-Mandated Educational Requirements]



Testimony on HB 1469

Attachment 3

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

I think the merits of this bill are straightforward. If the state is able to help children in North Dakota in their education, then they should help all children irregardless of where they go to school. Providing access to certain common textbooks creates a needed equity in our system that all children deserve. Providing access to certain common textbooks also creates a unity in our educational process that benefits all children. And finally, providing access to certain common textbooks nurtures the financial benefit that all public schools enjoy whenever a child in their district attends a private school.



S + . Joseph's Catholic School

Fr. Dennis Schafer, Superintendent
Mr. Peter Lingen, Principal (Peter.D.Lingen@send.nodak.edu)
124 6th Street West, Williston, ND 58801
"The Gift That Lasts A Lifetime"



Good morning, my name is Peter Lingen, I am currently principal at St. Joseph's Catholic School in Williston, ND. I am also president of the Administrators of the Diocese of Bismarck, a board member of SANS(State Association of Non-public Schools), and a member of the North Dakota Council of Educational Leaders.

I am here speaking on behalf of SANS in support of HB 1469 which relates to the purchase and use of textbooks for students who attend nonpublic schools. This is the type of legislation that would provide benefits for both public and private schools.

But, beyond this bill, the time has come for North Dakota Legislators to take a look at the big picture of education for ALL students whether they be in public, private or home schools. This is my thirty-fourth year in education, all in North Dakota. My first salary back in 1975 was \$9,700 which included coaching. It is great to see the great strides that North Dakota has taken in improving the educational needs of teachers and students in North Dakota.

We have to realize that public schools are not for everyone, just like private schools and home schools are not for everyone. Parents in this state have a choice of what type of education they want for their children. Fortunately for North Dakota we have great public and private school systems. This is a great testament to the hard working administrators, teachers, parents, and students in our state. The people of North Dakota have always taken pride in this fact and now it is time to do what is best for ALL students.

St. Joseph's School has an enrollment of 115 students in grades K-6 and 67 students in its preschool program. Our school has 8 full time instructors and 8 part-time instructors. Our school participates in the National Hot Lunch Program. We receive around \$25,000 from the Federal Title Programs such as Title I, IIA, IID, and IV. This allows our school to have a part-time Title I instructor that we share with WPS District #1. The funds help with our professional development needs. Being a part of these federal programs helps our school immensely when it comes to the costs of operating our school.

What support do private schools receive from the State of ND? The Legislature cannot provide any aid to private schools because of the



S[†]. Joseph's Catholic School

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Blaine Amendment. This was an amendment that was passed by the US House of Representatives in 1875 but not the US Senate. Supporters of the amendment then turned their attention to the State Legislatures. Eventually, all but eleven states approved the amendment. Unfortunately, North Dakota was one of those states adopting the amendment. The amendment's main focus was to ensure that it would prohibit the rising prominence of the Catholic Church in education in the United States.

This amendment clearly needs to be repealed so that our state organizations such as SANS, NDEA, and NDCEL can work together instead of against each other to support legislation that is best for ALL students. The purchase of defibrillators for all schools last legislative session was a great example of legislation for ALL students. We are here for ALL students in North Dakota and HB 1469 is another step forward of legislation that will benefit ALL students.

As an administrator in the twilight of his career, as an educator who has spent his entire career in North Dakota, and as a boy who grew up on a family farm in Southeastern North Dakota, I thank you for all that you have done to improve the educational system in North Dakota. But, please do not forget about the private schools in this legislative session and future legislative sessions to come. Thank you and may God Bless You!

Respectfully Submitted,
Peter Lingen
Principal
St. Joseph's Catholic School
Williston, ND

Attachment 5

Sixty-first Legislative Assembly of North Dakota
HOUSE BILL NO. 1469

Kyle J. Edgerton Superintendent of the Fargo Catholic Schools Network * February 2009

The Fargo Catholic Schools Network **supports** House Bill No. 1460 which would loan textbooks nonpublic school students. This would be good public policy because:

- All North Dakota students would be provided with educational resource materials appropriate to the learning process that will prepare them to live and work in the challenging world of the twenty-first century.
-
- A minimum of seventeen other states currently have similar programs for children in private and parochial schools. (Connecticut, Illinois, Indiana, Iowa, Louisiana, Maine, Minnesota, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia)
-
- Government at all levels, acting in partnership with parents, has a responsibility to provide adequate professional and material resources to assist all children to attain a quality education. This includes, but is not limited to, textbooks and other instructional materials.
-
- This bill can be crafted so as to not mix church and state. Textbooks that are religious in nature would be excluded.
-
- Such a policy would not suggest using public money to fund private institutions. Students would be the direct beneficiaries, since they are the ones to whom the textbooks would be loaned.
-
- When education legislation is aimed at improving the educational situation of North Dakota students and teachers in public schools, these services should also be available to students and teachers in private and religious schools. These individuals should not be penalized for choosing to enroll or work in these schools since they also serve the common good of our nation.
-
- "An educated populace is essential to the political and economic health of any community, and a state's effort to assist parents in meeting the rising costs of educational expenses plainly serves the secular purpose of insuring that the state's citizenry is well educated." [U. S. Supreme Court Decision, Mueller v. Allen (1983)]
-
- All North Dakota Parents deserve some benefit from tax dollars they pay for education. Approximately 6000 students attend nonpublic schools in North Dakota, saving the State thousands of dollars annually. The loan of textbooks to these students is a sound investment for the State.
-
- The United States Supreme Court has upheld this right on several occasions. [Cochran v. Louisiana State Board of Education (1930); Board of Education of Central School District No. 1 v. Allen (1968); Meek v. Pittenger (1975) and Wolman v. Walter (1977)]