

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/04/2019**

Amendment to: Engrossed HB 1321

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$(17,000,000)			
<b>Expenditures</b>						
<b>Appropriations</b>						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1321 creates a new income tax credit for taxpayers with dependents attending nonpublic or home schools.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of engrossed HB 1321 creates a new income tax credit for individuals with dependents attending nonpublic or home schools. The credit is \$2,000 per student per year. The credit is allowed in the tax year in which the school year ends. The credit is reduced by 50% if the dependent attended less than the full school year but at least half the school year. If the credit exceeds the taxpayer’s tax liability in the tax year in which the credit is first allowed, the excess may be carried over and used in subsequent tax years for up to 3 years.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The total enrollment in nonpublic and home schools in grades K through 12 is around 9,617 students. Therefore, the total possible credit is \$19.2 million per year, or \$38.4 million per biennium. The average tax liability for individual taxpayers is significantly lower than \$2000 per year and will set the ceiling on the fiscal effect for each tax year. If enacted, engrossed HB 1321 is expected to reduce state general fund revenues by an estimated -\$17 million for the 2019-21 biennium. In the first biennium after enactment, this estimate could be overstated due to families with two or more children home schooled or attending nonpublic schools. However, the carryforward provisions of the bill would allow for the potential of the entire \$38.4 million generated each biennium to eventually be claimed.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 701.328.3402

**Date Prepared:** 01/24/2019

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/07/2019**

Bill/Resolution No.: HB 1321

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$(17,000,000)			
<b>Expenditures</b>						
<b>Appropriations</b>						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1321 creates a new income tax credit for taxpayers with dependents attending nonpublic or home schools.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1321 creates a new income tax credit for individuals with dependents attending nonpublic or home schools. The credit is equal to the amount of the state aid payment per student in the school district in which the dependent resided during the tax year. The credit is allowed in the tax year in which the school year ends. The credit is reduced by 50% if the dependent attended less than the full school year but at least half the school year. If the credit exceeds the taxpayer’s tax liability in the tax year in which the credit is first allowed, the excess may be carried over and used in subsequent tax years for up to 12 years.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The total enrollment in nonpublic and home schools in grades K through 12 is around 9,617 students. The current base state aid payment amount per student is \$9,646. The average tax liability for individual taxpayers is significantly lower than the state aid payment amount and will set the ceiling on the fiscal effect for each tax year. If enacted, HB 1321 is expected to reduce state general fund revenues by an estimated -\$17 million for the 2019-21 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 701.328.3402

**Date Prepared:** 01/24/2019

**2019 HOUSE FINANCE AND TAXATION COMMITTEE**

**HB 1321**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1321  
1/28/2019  
31569

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

### Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for taxpayers whose children receive nonpublic school or home education.

### Minutes:

Attachments 1-6

**Chairman Headland:** Opened hearing on HB 1321.

**Representative Ertelt:** Introduced bill. Distributed written testimony, see attachment #1. Ended testimony at 4:36.

**Chairman Headland:** Is there testimony in support?

**Paul Henderson, home schooling educator:** Distributed written testimony, see attachment #2. Ended testimony at 7:18.

**Chairman Headland:** We use property taxes to fund education across the state. There are plenty of property taxpayers who don't have kids in the education system so the system really isn't fair but it's the system we have today. Do you have any response to that inequity?

**Paul Henderson:** I understand what you're saying. The services are provided. In a 10 year span we pay upwards of \$170,000 in property taxes for our small farm. It's not going to my estate so it's not going to my children. It's inequity.

**Representative Hatlestad:** Do your students/children participate in any of the school activities?

**Paul Henderson:** We do not. I believe that number is pretty low for those that do.

**Representative B. Koppelman:** For the kids who participate in the public schools, the schools get to count those students for those hours they put in and get paid by the state for that. Is that correct?

**Paul Henderson:** That's my understanding.

**Chairman Headland:** Is there further support?

**Rod Backman, State Association of Non-Public Schools:** Distributed written testimony, see attachment #3. Ended testimony at 12:31.

**Chairman Headland:** Any comment on section 2 of the bill where it speaks to the amount of the credit equaling the state aid per pupil? We heard Mr. Henderson's costs are closer to \$500-700 a year per student. We understand that the costs vary from family to family. Do you think the state aid payable per student is the right number?

**Rod Backman:** Our perspective is anything the state can do to help those parents with the cost because right now it's virtually nothing. Whether it's the state aid number or it was 50% of the state aid number it would be a help. I'm assuming the tax credit for most people is going to be significant and limited by just their tax liability. It takes quite a lot of income to get to \$1,500-2,000 of state tax so for most of these families I think it would be substantially less than the state aid payment.

**Representative B. Koppelman:** What is the average cost of tuition and fees to go to a private school?

**Rod Backman:** Some local schools in Bismarck are in the range of \$4,500-6,500 a year for tuition. There is a perception that these private schools are only for the wealthy but I also know that data from the local schools show they spend a substantial part of their budget in tuition assistance and scholarships for low income families. The school I'm familiar with was up around \$300,000 a year in scholarships based on income. That represented 15-20% of their total budget. That is being funded through the tuition of the parents who can afford to pay or contributions to those schools.

**Chairman Headland:** They are trying to make the argument that it saves the state a lot of money, not just homeschoolers but also private school attendees because of the per pupil payment. Some might argue that by reducing that state aid payment to those school districts it puts more pressure on property taxes and probably raises property taxes. Do you have a response to a comment like that?

**Rod Backman:** I'm not sure of the impact but it may have some valid argument. When you figure in the state aid almost \$10,000 per student I would go back to the fiscal note and say what can't be computed is how many students or families may decide that as a result of this they could now afford a nonpublic school. Now for every one of those students who transfers you're talking about \$20,000 per biennium in reduced state foundation aid costs.

**Chairman Headland:** Do you think that something similar in the code already relates to private school attendance would be fair to homeschoolers?

**Rod Backman:** We have a bill for tomorrow asking for some increase in the tax credit for contributions to nonpublic schools.

**Chairman Headland:** That's where I was going.

**Rod Backman:** That's a benefit to the nonpublic schools that's not there for the homeschoolers.

**Chairman Headland:** Is there further testimony in support? Is there opposition?

**Alexis Baxley, North Dakota School Boards Association:** Distributed written testimony, see attachment #4. Ended testimony at 20:40.

**Representative B. Koppelman:** I would argue that you do drive and if you don't drive you don't pay gas tax. For those that don't have kids they still pay school tax. You said one way you are certain we can't achieve the goal is to ensure there are less dollars the state brings in. Does that mean you're against all tax deductions and tax credits because they theoretically would have less dollars in the state coffers?

**Alexis Baxley:** The North Dakota School Boards Association does not have a position on taxes but we believe the state is obligated to provide an equitable education to all of the students in the public school system. We would caution against any reduction that would limit the state's ability to do that.

**Representative Steiner:** How many students are there in the 178 public school districts?

**Alexis Baxley:** I can get you that number.

**Chairman Headland:** Further opposition?

**Nick Archuleta, president of North Dakota United:** Distributed written testimony, see attachment #5. Ended testimony at 25:22.

**Representative Ertelt:** Are any dollars that are not taxed before they are sent to the state, are all those dollars public funds?

**Nick Archuleta:** The way the legislation reads means the folks would have to petition the government.

**Representative Ertelt:** Any credit that is offered by the state, are all those dollars public funds? They are actually the taxpayer's funds to begin with, they haven't paid them into the state. Before someone pays a tax dollar to the state is that already deemed a public fund?

**Nick Archuleta:** I believe the taxpayer would have to petition the state for those monies rather than simply withhold them. I believe the state considers those monies due them the state.

**Representative B. Koppelman:** It was said that this was a voucher program. If it was focused around the state aid portion of the payment locals pay 25-30% of the cost of education so if some kids choose to go to private school because of this wouldn't each school district have more money per pupil to work with? Wouldn't they be keeping \$.25 of every dollar that exited but wouldn't have to educate a kid?

**Nick Archuleta:** There are fixed costs associated with educating a child. I don't know whether or not that would be enough to offset to be a plus on their part.

**Representative Ertelt:** You made a point of reference to the constitution that public schools be free from sectarian control. How do you see that this bill would impose sectarian control on public schools?

**Nick Archuleta:** I just wanted to include the entire section of the State Constitution that deals with public school education. If the money is spent in a non-public facility education, I think you could make that case.

**Lisa Feldner, North Dakota Council of Educational Leaders:** Written testimony, see attachment #6. Ended testimony at 33:40.

**Chairman Headland:** Is there further opposition? We will close the hearing on HB 1321.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1321  
1/28/2019  
3156

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

### Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for taxpayers whose children receive nonpublic school or home education.

### Minutes:

No attachments

**Representative Dockter:** Some work needs to be done. I don't think the credit they are asking for is realistic. I think we need to come up with something. In testimony they mentioned expenses for a student are between \$500-700. I think the credit is a little high. We could change it to a three year carry over instead of 12 that is in the bill. There are things to tweak. There could be amendments to make it better.

**Representative Ertelt:** How would you address the non-public schools? Would you address them in the same manner since the costs of the nonpublic schools is significantly greater?

**Representative Dockter:** We have this issue every session. I don't have any amendments at this time but something needs to be done.

**Representative B. Koppelman:** My suggestion is on line 15 take out words, "state aid payable" and replace with \$5,000 which would cover the amount almost equal to private school tuition. The amount most homeschool parents are going to claim of that \$5,000 is not likely to be the full amount. Instead of using "state aid payable" we could use the \$5,000 and limit it to three years. I can get some amendments drafted.

**Representative Hatlestad:** As a public school instructor I'm a little concerned with tax money into nonpublic schools. You're basically looking at church schools which is faith based and I think it's improper.

**Representative B. Koppelman:** If you look at it from that perspective then you could also look at nursing homes who also have a faith base and yet we have tax credits to help with that. We have other tax credits put out there with the intent of keeping people in their homes which saves the state money. Every parent who puts their child in private school or homeschools with a \$5,000 tax credit the amount they'll use is probably half that. We're

probably saving the state \$7,000-10,000 a year as long as they stay doing what they're doing. We can't have this dual idea that it's okay if it's faith based when it's nursing homes and saving the state money but it's not okay if it's faith based in private school. Let's remember a tax credit and deduction is letting people keep their money.

**Chairman Headland:** I can't support this bill unless we completely cut out the nonpublic schools because we don't offer a credit to the parents. In most cases the parents are donating and we offer a credit to encourage that, we don't offer anything for tuition. I think there are constitutional questions with this bill to start with and I would need answers to those before I could support any version of this.

**Representative B. Koppelman:** Last session I believe the House passed an educational savings account concept of a bill but the Senate didn't. That would allow you to take money and put it into an educational savings account. People from the educational community have an attitude that until we have enough money there's not enough to go around to the nonpublic schools. We heard one say that any tax credit or deduction could be viewed as the ability to pay more towards school. If that were true and we would be able to reduce income taxes in anyway then we would be inversely supporting sectarian schools. You have to put some reasonable limitation on that. As long as we're not directly making payments to a sectarian school I believe there is plenty data showing we are on solid ground.

**Chairman Headland:** You're free to get amendments if you wish. Are there any other comments?

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1321  
1/29/2019  
31732

- Subcommittee  
 Conference Committee

Committee Clerk: Mary Brucker

### Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax credit for taxpayers whose children receive nonpublic school or home education.

### Minutes:

Attachment 1

**Chairman Headland:** Representative Ertelt, would you like to explain your amendment?

**Representative Ertelt:** Distributed proposed amendments, see attachment 1. This would change the state aid payable to \$2,000 per student. That was based on testimony for home education and that it may be lower as far as out of pocket expense so the \$2,000 is considering someone's time and any other resources they are expending. The carry forward period was originally 12 years to coincide with 12-year education for primary and secondary school down to three taxable years. Those two reductions from state aid payment from roughly \$10,000 to \$2,000 and the carry forward from 12 years to three years. **MADE A MOTION TO ADOPT THE AMENDMENT 19.0471.03001.**

**Representative Toman: SECONDED**

**Chairman Headland:** Your amendment would reduce the fiscal impact. I just can't support the bill. We're already providing a tax credit for those who will donate to a nonpublic school. I don't think we need to provide the parents with an additional one. The Constitution says we need to provide free education. I just don't know that taxpayers who choose to utilize that should pay for the choices of people who choose not to use the public education system. I'm not going to support the amendment or the bill.

**Representative Ertelt:** The credit available to non-public schools is completely separate from the tuition that it costs to go to those schools. There are really two separate issues here; paying for tuition and a direct donation to the school which is typically used to reduce tuition for others in need.

**Representative B. Koppelman:** I don't have the same concerns that the chairman has at least from a constitutional basis. I think this amendment puts the bill in better shape. I'm going to support the amendment.

## **VOICE VOTE ON AMENDMENT- MOTION CARRIED**

**Chairman Headland:** We have amended bill before us.

**Representative Ertelt: MADE A MOTION FOR A DO PASS AS AMENDED**

**Representative Kading: SECONDED**

**Chairman Headland:** Discussion.

**Representative Ertelt:** The savings to the state that is given on a yearly basis is \$93 million and this has been going on for 20-30 years. These people have saved the state by sending their children to nonpublic schools or homeschooling. This really needs to be done to show that we support that activity. We need to be asking why does it take three times as much to educate in the public school as it does in the nonpublic school? If next year they all enroll in state school we're talking about \$160 million per biennium just for nonpublic school so, please vote yes for this.

**Representative Mitskog:** My children went to parochial school. They run a bare bones budget and they don't pay their teachers enough. They fundraise for materials and ask for donations from families or parishioners. The numbers don't tell the entire story. They are dedicated staff members. There are numerous reasons why the cost to educate is different.

**Representative B. Koppelman:** How many tax credits have we considered and are still considering? This is one of the few tax credits that have a quantified number of those we know have taken a different course and saving the taxpayer money every day and we don't get that very often. Even though I'm against a lot of tax credits this is one of those that I think we need to think about that.

**Chairman Headland:** That's up for debate. Even with its reduced level down to \$2,000 that's a pretty generous credit. We heard the cost to educate the children was \$500-700 a year.

**Representative Kading:** I'm going to support this bill. I don't believe government should have a monopoly on education. I think this helps provide an opportunity for individuals who would like a different option to send their child to a non-government school. Public education is a great thing but not a great fit for everyone. In North Dakota K-12 is basically a right for people. I think a diverse set of education opportunities is a good thing for us. I only like credits or deductions when it encourages a public function to be provided by the private sector. I'm going to support this bill.

**Representative Trottier:** I spoke with a former superintendent and he said that when he looked at the private schools he wished he had most of those students. They are good students and the parents are very dedicated people. He said to keep in mind that public schools have to take some students that private schools won't take and that's a negative here.

**Chairman Headland:** I think that the intention of the bill is understandable but here again government is going to reward someone who has made a choice. Their choice is that they believe their child will have a better education through the private system. This bill takes away from their ability to provide the best public education through the public system. The intent is good but it's a choice. I don't think it should be rewarded with a tax break.

**ROLL CALL VOTE: 6 YES 8 NO 0 ABSENT**  
**MOTION FAILED**

**Chairman Headland:** Looking for direction.

**Vice Chairman Grueneich: MADE A MOTION FOR A DO NOT PASS AS AMENDED**

**Representative Blum: SECONDED**

**Chairman Headland:** Discussion.

**ROLL CALL VOTE: 8 YES 6 NO 0 ABSENT**  
**MOTION CARRIED**

**Vice Chairman Grueneich will carry this bill.**

19.0471.03001  
Title.04000

Prepared by the Legislative Council staff for  
Representative Ertelt  
January 28, 2019

CR  
1/29/19  
1 of 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1321

Page 1, line 15, replace "the amount of state aid payable" with "two thousand dollars"

Page 1, line 15, remove "under"

Page 1, remove line 16

Page 1, line 17, remove "for which the credit is being claimed"

Page 2, line 3, replace "twelve" with "three"

Renumber accordingly

Date: 1-29-19  
 Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1321

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: <sup>on line 15</sup> Remove "state aid payment" replace with

Recommendation: and p. 2 line 3 replace 12 with 3, \$2,000.  
 Adopt Amendment

- Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Ertelt Seconded By Rep. Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice Vote = Motion carries.

Date: 1-29-19  
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1321**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 19.0471.03001

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Ertelt    Seconded By Rep. Kading

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland		✓	Representative Eidson		✓
Vice Chairman Grueneich		✓	Representative Mitskog		✓
Representative Blum		✓			
Representative Dockter		✓			
Representative Ertelt	✓				
Representative Fisher	✓				
Representative Hatlestad	✓	✓			
Representative Kading	✓				
Representative Koppelman	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier		✓			

Total (Yes) 6 No 8

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 1-29-19  
 Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1321**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 19.0471.03001

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Grueneich Seconded By Rep. Blum

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt		✓			
Representative Fisher		✓			
Representative Hatlestad	✓				
Representative Kading		✓			
Representative Koppelman		✓			
Representative Steiner		✓			
Representative Toman		✓			
Representative Trottier	✓				

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Grueneich

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

**REPORT OF STANDING COMMITTEE**

**HB 1321: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1321 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "the amount of state aid payable" with "two thousand dollars"

Page 1, line 15, remove "under"

Page 1, remove line 16

Page 1, line 17, remove "for which the credit is being claimed"

Page 2, line 3, replace "twelve" with "three"

Renumber accordingly

**2019 TESTIMONY**

**HB 1321**

#1  
HB 1321  
1-28-19

Testimony in Support of House Bill 1321  
Rep. Sebastian Ertelt  
ND District 26

Chairman Headland and Fellow Members of the Finance and Taxation Committee,

For the record, I am Representative Sebastian Ertelt representing North Dakota District 26, which includes all of Sargent County, the eastern half of Dickey County, the southern half of Ransom County, and the western half of Richland County. House Bill 1321 would provide an income tax credit for either non-public or home education. While there aren't any non-public schools in my district, there are a number of parents who choose home education for their children. This choice is not one of convenience, but one of deep care and high cost.

House Bill 1321 seeks to give credit where credit is due. Parents who choose non-public or home education instead of public school pay for both the education of others' children and their own. They pay for public education with property tax, which is the most direct, and also income tax and sales tax as those both go into the state general fund from which public education is primarily funded. They then pay for their own children's education directly out of pocket.

I would like to attempt to answer a few questions in advance, which primarily apply to home education. At a school district's discretion, home educated students may also be enrolled part-time at a public school. Section 3 of the bill intends to cover this circumstance and reduce the credit by 50% since the student would be receiving home education for less than the entire school year. Home educated students are also eligible to participate in extracurricular activities, including sports, at their local public schools at the discretion of the school district and students with special needs are eligible for testing and various services through their local public schools. At the Committee's direction, I am willing to amend the bill to include these circumstances in Section 3 to reduce the credit by 50% as well.

Finally, I would like to address the fiscal note attached to this bill. While a \$17 million reduction in revenues in the next biennium (or \$8.5 million per year) may cause you to hesitate, keep in mind that this pales in comparison to the amount that non-public and home education save the state every year. Using the data provided in the fiscal note, the 9,617 students enrolled in non-public and home schools in grades K through 12 save taxpayers approximately \$9,646 per student (the base state aid payment), for a total of \$92.8 million per year. The income tax credit proposed in HB 1321 amounts to less than 10% of these savings.

Chairman Headland and fellow Members of the Finance and Taxation Committee, I thank you for your time today and urge a unanimous DO PASS recommendation on House Bill 1321.

#2  
HB 1321  
1-28-19

## TESTIMONY IN SUPPORT OF HB 1321

Good morning Mr. Chairman and Committee. My name is Paul Henderson from Calvin, ND, coming to you today as a homeschooling dad. We have been home educating our 6 children since 2000.

I am pleased to ask your support for HB 1321, a bill restoring equality for home educated and privately educated families and students. We have chosen home education now for 18 years. During that time, like private schoolers, we have paid our tax dollars in support of the system. We additionally are paying for home education costs and a normal tax burden at the same time.

Annual costs vary, obviously. National averages could be as high as \$2500 per child- which is not unrealistic, as some full online curriculums cost upwards of \$2200 per student. (Freedom Project Academy.) Our expenses run closer to \$500-\$700 per student. However, that's not putting a price on Donna's and my time. But of course, we have chosen to home educate not for the cost analysis reasons, but because we felt it was the right choice for our family. No one is homeschooling for this tax break, but we are asking to restore some equality in the system. We are providing a tax base while not costing the system anything because we are not using it.

Thank you. I will answer any questions.

Paul Henderson

Calvin, ND

701-370-1878

#3  
HB 1321  
1-28-19

**House Finance and Taxation committee**

**HB 1321**

**January 28, 2019**

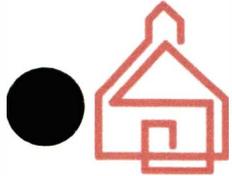
**Chairman Headland and members of the committee, my name is Rod Backman here today representing the State Association of Non-Public Schools.**

**As an association we are supportive of any effort to help those parents who choose to educate their children via non-public schools or through home schooling. On behalf of the 6,500+ students in non-public schools in North Dakota and their parents we ask for your support of HB 1321. The non-public schools in North Dakota save taxpayers of North Dakota in excess of \$160 million dollars\* per biennium.**

**Mr. Chairman, I would be happy to take any questions you may have.**

**Thank You**

**\*NDDPI School Finance Facts (Fall 2017) Non-Public enrollment of 6,539 students X average cost of education per pupil \$12,237.**



**NDSBA**  
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BOARDS ASSOCIATION

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#4  
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1-28-19

**HB 1321**  
**Testimony of Alexis Baxley**  
**House Finance & Taxation Committee**  
**January 28, 2019**

Chairman Headland and members of the committee, my name is Alexis Baxley. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 178 North Dakota public school districts and their boards. NDSBA stands firmly in opposition to HB 1321.

Our state constitution very specifically states that the Legislative Assembly shall provide for a uniform system of free public schools throughout the state, and does not provide for the financial support of private or home education. In fact, it explicitly states that no money raised for the support of public schools of the state shall be appropriated or used for the support of any sectarian school. While this bill does not direct state funds towards non-public education exactly, it does ensure the state collects less in order to support non-public education.

Continuously, public school districts, their administrators and their staff are asked to do more with less. Costs associated with behavioral health, safety, staff benefits, social services, etc. continue to rise. So much so that we spent this interim studying our state's education funding formula – trying to understand how we could better provide for our public-school system with the same amount of money.

One way I am certain we can't achieve that goal is to ensure there are less dollars available to input into the formula. While a parent certainly has the right to choose where and how they want their children educated, that choice does not and should not entitle them to the dollars provided for public education by our state constitution. Additionally, home and private schools are not subject to many of the same requirements that public schools are. This is often a reason parents cite in choosing non-public education for their children. However, state dollars, or an exemption from the taxes other citizens are required to pay, should not come without those same requirements.

We often hear the argument that the taxpayer shouldn't have to fund the education of others. You'll have to forgive me as I'm not that good at analogies, but I don't receive a gas tax rebate for the roads I don't drive on. If we begin exempting those who opt out of the system, we will fall short of our constitutional obligation to effectively and efficiently provide for the delivery of public education.

NDSBA urges a Do Not Pass recommendation on HB 1321, and I would be happy to stand for any questions. Thank you for your time.



Great Public Schools

Great Public Service

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**Testimony Before the House Taxation and Finance Committee  
HB 1321  
Monday, January 28, 2019**

Chairman Headland and members of the Committee, for the record, my name is Nick Archuleta and I am the president of North Dakota United. On behalf of our members across the state, I rise in strong opposition to, and urge a DO NOT PASS recommendation for, HB 1321.

Mr. Chairman, HB 1321 is no more than a voucher bill for those folks who choose to avail themselves of non-public educational options. No one at North Dakota United has any issue with parents who choose non public school education for their children. We know they do so in the sincerest belief that private school or home schooling is the best educational choice for their children.

What is problematic is that HB 1321 directs public funds to subsidize that choice. This is from the fiscal note that accompanies HB 1321:

*"The total enrollment in nonpublic and home schools in grades K through 12 is around 9,617 students. The current base state aid payment amount per student is \$9,646. The average tax liability for individual taxpayers is significantly lower than the state aid payment amount and will set the ceiling on the fiscal effect for each tax year. If enacted, HB 1321 is expected to reduce state general fund revenues by an estimated **-\$17 million** for the 2019-21 biennium."*

Seventeen million dollars over the next biennium is a steep subsidy to pay so that one's private educational choice can be accommodated. That \$17M of public money should be used for public purposes, including public education.

Mr. Chairman and members of the committee, our Founders were quite clear in their advocacy of public education in North Dakota.

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## VIII EDUCATION

### Section 1.

*"A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of **public schools** which shall be open to all children of the state of North Dakota and **free from sectarian control**. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota."*

This section is clear in that they never intended to allow public monies to support non-public educational options. HB 1321 violates this principle enshrined in our Constitution.

For this reason, Chairmen Headland and members of the Committee, I urge a DO NOT PASS recommendation for HB 1321.

Thank you, Mr. Chairman, for allowing my testimony here this morning. I am happy to answer any questions.



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HB 1321 – Tax Credit for Non-public and Homeschool parents

Testimony in Opposition

Good afternoon Chair Headland and members of the House Finance and Tax Committee, I stand before you on behalf of NDCEL which is the organization that serves our school Superintendents, Principals, CTE Directors, Technology Directors, Athletic Directors, County Superintendents, Business Officials and truly every school leader with the exception of teachers and school board members. We stand before you today in Opposition of HB 1321.

HB 1321 would give a taxpayer a tax credit on their North Dakota income taxes because they chose to either send their child(ren) to a non-public school or they chose to homeschool their child(ren). According to subsection 2 the amount of the credit would be equal to the amount of state aid payable per student under chapter 15.1-27 in the school district in which the child resided during the period for which the credit is being claimed. This is the area of our first concern. What is the tax liability that the state is taking on with this legislation? There are approximately 6,722 Private School students and there are 2,662 reported homeschooled students. I say reported because we know there are more, but they do not all fill out the intent to homeschool with the districts. So, combined the low number is 9,384 students who could be claimed as a dependent. Each taxpayer with a qualifying dependent would receive a tax credit in the amount of (on the low side) 65% of the per-pupil payment. We say 65% because the current split between local and state is approximately 35% (local) to 65% (state) when considering state general fund investment *we were shooting for a low number.*

#### **Potential state-wide fiscal impact**

- 65% of \$9,646 would be - \$4,515 (potential tax credit)
- Taking the number of students (9,384) times the tax credit (\$4,515) would yield \$42,368,760 in possible reduction in tax revenue per year.
  - We understand that number is high because the individual's income tax probably will not be \$4,515 in a year.
  - For a married couple filing jointly they would have to have a taxable income of over \$232,687 in order to come close to the that tax liability. If their tax liability is not up to the tax credit, then the excess would be carried forward to each of the twelve succeeding taxable years.



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Please allow me to explain further potential concerns.... If a qualifying family had a tax liability that was \$1,000 out of the \$4,515 (potential tax credit) on their child in 1<sup>st</sup> grade, when they file the next year, they would receive a tax credit of \$8030 (4515 + 3515 *the unused from the prior year*). When their child is in the third grade the tax credit would be \$11,545 which is the \$4,515 + \$8,030 - \$1,000(tax liability) = \$11,545. At the end of the twelve years this individual would have an extremely large tax credit, and this is only figured out if they had only one child. If they had more eligible children, the tax credit could be exponentially larger.

Other areas to consider that are causes for concern that is not listed in the bill is whether or not the tax credit is refundable? We understand that most tax credits are nonrefundable, but also most tax credits expire the year in which it is used and not carried forward as this one is – which is a rationale to at least ask the question.

In essence this tax credit would remove these families from paying any income tax while their child(ren) are participating in non-public school or being homeschooled. It is extremely difficult to know exactly what those numbers are since we don't know how many eligible dependents these specific individuals have? Because of all of unanswered question, the unknown tax liability on the state, and lack of constitutional obligation to fund education outside of public schools, we respectfully request a Do Not Pass on HB 1321.

19.0471.03001  
Title.

Prepared by the Legislative Council staff for  
Representative Ertelt  
January 28, 2019

#1  
HB 1321  
1-29-19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1321

Page 1, line 15, replace "the amount of state aid payable" with "two thousand dollars"

Page 1, line 15, remove "under"

Page 1, remove line 16

Page 1, line 17, remove "for which the credit is being claimed"

Page 2, line 3, replace "twelve" with "three"

Renumber accordingly