



TO: Education Committee
FROM: Tom Venzor, Executive Director
Nebraska Catholic Conference
DATE: February 25, 2025
RE: LB557 (Optional Enrollment Denial Scholarships) (Support)

The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances the Gospel of Life through engaging, educating, and empowering public officials, Catholic laity, and the general public.

LB557 would allow students to access \$2500 in scholarships to use at a non-public school of their choice, if they are denied option enrollment by a public school.

The NCC supports LB557 for the fundamental reason that parents are the *primary* educators of their children. They have the sacred and moral responsibility to ensure their children receive an education that suits their unique academic, social, moral, emotional, and spiritual needs. Where there is a right, a duty corresponds. The corresponding duty belongs to the state, which should ensure that parents have the concrete ability to direct their children's education.

That said, I would like to focus our testimony on why LB557 is constitutional, despite opposition claims to the contrary.

The NCC has a long history with Art. VII, Section 11, of the Nebraska State Constitution, because of its impact on non-public schools and the families they serve. This constitutional provision states, in relevant part, that "appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively operated by the state or a political subdivision thereof[.]" The Nebraska State Supreme Court has clearly stated this prohibits *direct* appropriations to non-public schools, but it does not prohibit programs where a non-public school is an *indirect* or *incidental* beneficiary. LB557 has students and parents as its direct beneficiary; non-public schools are, at best, indirect beneficiaries.

This is supported by several cases the Nebraska Supreme Court has decided when reviewing programs very similar to LB557.

In *Lenstrom v. Thone*, 311 N.W.2d 884 (Neb. 1981), the Court upheld a nearly identical scholarship program at the post-secondary level (which you know today as the Nebraska Opportunity Grant program). Both NOG and LB557 function the same way: they each provide scholarships to low-income students to use at a non-public school of their choice. Opponents sometimes argue that NOG is constitutional because it allows student scholarships to be used at both public *and* non-public schools, but nowhere in the Court's analysis did that fact play a role in their ruling. They simply asked if the scholarships were a direct benefit to students or whether they were a direct benefit to non-public schools. Their answer: students.

In *Cunningham v. Lutjeharms*, 437 N.W.2d 806 (Neb. 1989), a case named after my predecessor and his family, the Court reviewed the state’s textbook loan program, which still exists today and provides funding for non-public school families to access textbooks they can take to their non-public school of choice. The Court clearly ruled this program does not provide an appropriation to non-public schools—the textbook loan program is a direct benefit to parents and students.

In *State ex rel. Bouc v. School District*, 320 N.W.2d 472 (Neb. 1982), the Court held that any “benefit” to private schools that came from a student busing appropriation is “incidental” to the school and not a violation of the state’s constitution.

In short, the case law—as applied to LB557—is clear and would highly likely lead the Nebraska State Supreme Court to rule—if challenged—that LB557 is not a violation of Art. VII, Section 11, because the program is about benefiting kids and giving them hope for a better education and future.

For these reasons and other, we support LB557 as a way to provide educational choice for some families across Nebraska. Thank you for your time and consideration.