

2011 HOUSE EDUCATION

HB 1092

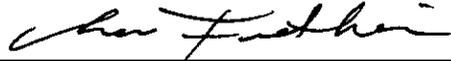
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1092  
01/11/11  
12756

Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1092.

**Wayne Kutzer - CTE:** Testimony. Attachment.

**Chairman RaeAnn Kelsch:** Questions?

**Rep. Phillip Mueller:** I guess I go back to some of your comments. Is there no concern and if there were how would one as a student pursue that if we don't have some kind of oversight? To wash our hands of it would seem to be extreme.

**Wayne Kutzer - CTE:** Typically what happens at the end of any program, especially that which relates to a clinical, if that whole process has been satisfactory for them, by the time they have got to that part of their education, they will either be satisfied or won't be there anymore. Once to that clinical environment, typically the oversight that comes from that organization is strong so we feel there really isn't much opportunity for displeasure for those students. We think it is a safe bet that once they have hit the clinical area if there had been any problems we would have known about it.

**Rep. Phillip Mueller:** What about higher education? Would we see same kinds of concerns coming from them in the same regard? I'm taking about what they may be asked to coordinate for a student. Would board of higher education be concerned with this issue?

**Wayne Kutzer - CTE:** I would have to say no. They've had a copy of testimony and we've talked about this. Typically there is a dividing line on what's offered at those public colleges and universities and what's offered outside. You can see those differences and I think you wouldn't see the overlap.

**Chairman RaeAnn Kelsch:** Michel Hillman might be able to answer that.

**Rep. Bob Hunsakor:** If those resources were available would this bill not be before us? Are there other things that enter into this were we should still be involved?

**Wayne Kutzer - CTE:** The resources are not only staff time but also to discover what's out there. We have a third time person on our staff that handles private post-secondary

institutions. Up until recently we've worked with about eight schools in the state with private post-secondary authorizations. What this would do would expand the number of schools. Resources are a big issue for us. As we looked at the bill more, that is when the other issues came out.

**Rep. Bob Hunskor:** Are we not going cover some important bases because of lack of funding?

**Wayne Kutzer - CTE:** Funding is an issue. Back in 1999 the board changed legislation so it only impacted schools that had this physical presence. Through my experience we've only had a half to a third time person working on this. We do a good job for what we do but it has got to the point where it is really hard.

**Chairman RaeAnn Kelsch:** You state that part has to do with resources. But then it says it was offered at the advice of the AG. Did you go to AG because of limited resources and he suggested the bill? Couldn't keep up? How did that conversation take place?

**Wayne Kutzer - CTE:** The attorney general's office contacted us. They had received a call from one of the school asking about this new process. When we found out about it we contacted schools. Pending on the outcome of this legislation, if there is an exemption we don't want to have to refund the dollars back out to schools. It was a direction from the AG's office on how we handle this. Resources always were a part but they probably looked at it at the standpoint of only having a handful of schools.

**Chairman RaeAnn Kelsch:** LeAnn thought this would be the best avenue to take?

**Wayne Kutzer - CTE:** Yes this was her request.

**Vice Chair Lisa Meier:** If this bill doesn't pass what does your department plan on doing to continue to have oversight?

**Wayne Kutzer - CTE:** We will have to start that anytime we learn there is a clinical we will have to have those schools go through the whole authorization process. It's a lot of work.

**Vice Chair Lisa Meier:** When you talk about fees what are we talking about in terms of the amounts?

**Wayne Kutzer - CTE:** The initial fee is 2000 dollars. It's a lot of paperwork. Typically with a school like this we end up with a small three ring binder.

**Rep. Phillip Mueller:** In looking at exemptions, how is number 12 different from what is being proposed in the bill?

**Wayne Kutzer - CTE:** Exemption 12 was a catchall statement so if you are not operating in the state you don't have to abide by any of our authorizations. Because all of a sudden they are operating in our state by offering a clinical, that takes them out of number 12.

**Rep. Karen Rohr:** So if I have a respiratory therapy student with all the online courses, they contact, for an example, Sanford Health. Sanford Health then makes sure they were authorized to operate in the state?

**Wayne Kutzer - CTE:** It ended up being through a roundabout way, but yes. At that point Sanford Health had no idea anybody was in charge and ended up contacting the AGs office.

**Rep. Karen Rohr:** So would the correct way have been that the student should have contacted your agency first and then you would have set up the clinical through an agency that was in sync with all of the application process?

**Wayne Kutzer - CTE:** We wouldn't do anything with setting up clinical. The whole purpose of the law is consumer protections so anyone getting education in the state are getting their money's worth.

**Rep. Mark Sanford:** What would be the procedure if a student was enrolled at North Texas State and needed to do a clinical or field experience and wanted to do it here in North Dakota. What relationship would that have here?

**Wayne Kutzer - CTE:** If it's a public institution they are exempt by this. If private they would need to come to get authorization to operate.

**Chairman RaeAnn Kelsch:** Questions? Support?

**Michel Hillman - NDUS:** Our office works close with regulation of out of state providers. On this particular topic we have only had brief discussions. You should be aware that tomorrow you have a couple of bills that will expand this topic. On out of state providers, we would agree with Wayne that it takes significant expertise and staffing to have oversight of everything and it's tough to find in one office. If there is regulations required for things like internships by out of state providers, the specific agencies in the state that are charged with regulating those operations would really be in a better position to review. Also we have been working on this issue for a number of years. We agree that the state needs to do more with consumer protection. We recognize consumers in ND can be disadvantaged in a broad context. This provides some background.

**Rep. Mark Sanford:** If there aren't resources and some of these clinical or internships inevitably involve contact with citizens/patients, are there background checks in the process?

**Michel Hillman - NDUS:** There really does require, for example student teaching, that a background check be completed. We require that for our student teachers. I can't speak for nursing but assume that the provider require a background check.

**Chairman RaeAnn Kelsch:** If it was required by the private facility, then those checks would need to be done. They have to completely fulfill the requirement of state law. How often is a student teacher, someone that has completed all of online courses, put into a classroom in ND that's done like that? Rep. Sanford? Mike?

**Michel Hillman - NDUS:** I'm actually more familiar with the flipside. Valley city offers teacher education program where courses are completed online but it does require and internship in the classroom.

**Chairman RaeAnn Kelsch:** Questions? Support? Opposition? We will close the hearing on HB 1092.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1092  
01/31/11  
13738

Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open on HB 1092.

**Chairman RaeAnn Kelsch:** If you recall, the bill basically says regarding the physical presence whether the board has the resources to fairly enhance the act for increasing number of schools. This is the bill that says for an example a nursing student. So if they have a program they are running in the state whether or not they have the ability to set up for their clinical and CTE didn't want that authority. A couple sessions ago we took away the authority from the Board of Nursing This amendment says out of state nursing programs must submit written notice to the board for approval, mainly for a checks and balances for the board. While it's not regulating nursing students, it is checks and balances that they need to provide written notification to the board.

**Rep. Karen Rohr:** Motion to do pass on amendment.

**Rep. Brenda Heller:** Second.

**Rep. John Wall:** If we adopt the amendment, who do we see right now regulating?

**Chairman RaeAnn Kelsch:** First of all they'd have to have the approval. Once we pass either HB 1028 or HB 1029. These institutions would have to have the approval of either CTE if they are offering up to an associate's degree or if they were offering above that it would have to be the approval of State Board of Higher Education. This would say the nursing student themselves would have to provide written notice to the Board of Nursing to make sure it is a recognized nursing program before the student goes through with it.

**Rep. Phillip Mueller:** Would that give the Board of Nursing the veto power over some program out of Wyoming for example as to their being able to be recognized and in fact do the clinical practicum here in our state?

**Chairman RaeAnn Kelsch:** No. What they say is the board obligated according to it's mission of public protection to monitor students practicing in ND settings caring for ND residents. And then they are saying if HB 1092 passes without the amendment then all oversight would be eliminated for the private or non public proprietary institutions requesting a clinical in ND. Remember it is that ND student but attending or taking classes

from one of these institutions that is not based in the state, but is able to practice because they paid their fee and then those students need to be able to find a clinical in the state so the board is approving those clinicals. What the board is doing is making sure student is going to a legitimate school and that the school is able to operate in the state.

**Rep. Phillip Mueller:** That amendment won't go into this section of code will it? It will go elsewhere?

**Chairman RaeAnn Kelsch:** It goes into 43-12.1-04.

**Rep. Phillip Mueller:** The point is we are amending part of the law that we are not necessarily dealing with here in this particular section.

**Chairman RaeAnn Kelsch:** Correct except that is a section of code we need to utilize otherwise there would be no oversight whatsoever over those nursing clinical.

**Rep. Phillip Mueller:** The other part might be how many other operations are we going to be exempting that might come in next time, but I can see this going on beyond the nursing.

**Chairman RaeAnn Kelsch:** That could very well be by doing it this way. We have a motion and we will do a voice vote.

Voice vote: 14 yeas, 0 nays, 1 absent. Motion carries.

**Chairman RaeAnn Kelsch:** We have amended HB 1092 before us. What are the wishes of the committee?

**Rep. Phillip Mueller:** Move do pass.

**Rep. Karen Rohr:** Second.

**Chairman RaeAnn Kelsch:** Committee discussion?

**Rep. John Wall:** If this passes, then we do need to pass one of the others that pass the torch so to speak to higher education. Correct?

**Chairman RaeAnn Kelsch:** The two bills HB 1028 and HB 1129. 1128 would set up that separate commission that would give the approvals for these private institutions to operated in the state. 1129 would basically say that up to an associate of arts degree that CTE would make those approvals and beyond that those approvals would come from the Board of Higher Education. Both of the bills have fiscal notes and it looks like expenditures and appropriations will offset themselves, so it looks like the fiscal effect is only 20,000 dollars. Further discussion? We will take the roll on a do pass as amended on HB 1092. Motion carries. We will close on HB 1092.

**14 YEAS 0 NAYS 1 ABSENT  
CARRIER: Rep. Karen Rohr**

**DO PASS as Amended**

February 1, 2011

VR  
2/1/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1092

Page 1, line 3, after "education" insert "; and to amend and reenact subsections 2 and 12 of section 43-12.1-04 of the North Dakota Century Code, relating to exemptions from the Nurse Practices Act"

Page 1, after line 8, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. A student practicing nursing as a part of an in-state board-approved nursing education program.

**SECTION 3. AMENDMENT.** Subsection 12 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

12. ~~Upon written notification to the board by an out-of-state nursing program, a student practicing nursing as a part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is approved by a board of nursing and is located in an institution of higher education that offers transferable credit. A student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability."~~

Renumber accordingly

Date: 1-31-11  
Roll Call Vote #: VOICE VOTE

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1092

House EDUCATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
Amendment

Rerefer to Appropriations  Reconsider

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Kelsch     | X   |    | Rep. Hanson     | X   |    |
| Vice Chairman Meier | X   |    | Rep. Hunsakor   | X   |    |
| Rep. Heilman        | X   |    | Rep. Mock       | X   |    |
| Rep. Heller         | X   |    | Rep. Mueller    | X   |    |
| Rep. Johnson        | X   |    |                 |     |    |
| Rep. Karls          | X   |    |                 |     |    |
| Rep. Rohr           | X   |    |                 |     |    |
| Rep. Rust           |     |    |                 |     |    |
| Rep. Sanford        | X   |    |                 |     |    |
| Rep. Schatz         | X   |    |                 |     |    |
| Rep. Wall           | X   |    |                 |     |    |
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|                     |     |    |                 |     |    |

Total (Yes) 14 No 0

Absent 1- REP. RUST

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

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

**VOICE VOTE AMENDMENT  
MOTION CARRIES**

Date: 1-31-11  
 Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1092

House EDUCATION Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt  
 Amendment

Rerefer to Appropriations  Reconsider

Motion Made By REP. MUELLER Seconded By REP. ROHR

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Kelsch     | X   |    | Rep. Hanson     | X   |    |
| Vice Chairman Meier | X   |    | Rep. Hunskor    | X   |    |
| Rep. Heilman        | X   |    | Rep. Mock       | X   |    |
| Rep. Heller         | X   |    | Rep. Mueller    | X   |    |
| Rep. Johnson        | X   |    |                 |     |    |
| Rep. Karls          | X   |    |                 |     |    |
| Rep. Rohr           | X   |    |                 |     |    |
| Rep. Rust           |     |    |                 |     |    |
| Rep. Sanford        | X   |    |                 |     |    |
| Rep. Schatz         | X   |    |                 |     |    |
| Rep. Wall           | X   |    |                 |     |    |
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Total (Yes) 14 No 0

Absent 1 - REP. RUST

Floor Assignment REP. ROHR

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

**REPORT OF STANDING COMMITTEE**

**HB 1092:** Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1092 was placed on the Sixth order on the calendar.

Page 1, line 3, after "education" insert "; and to amend and reenact subsections 2 and 12 of section 43-12.1-04 of the North Dakota Century Code, relating to exemptions from the Nurse Practices Act"

Page 1, after line 8, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. A student practicing nursing as a part of an in-state board-approved nursing education program.

**SECTION 3. AMENDMENT.** Subsection 12 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

12. ~~Upon written notification to the board by an out-of-state nursing program, a student practicing nursing as a part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is approved by a board of nursing and is located in an institution of higher education that offers transferable credit. A student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability."~~

Renumber accordingly

2011 SENATE EDUCATION

HB 1092

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

HB 1092  
March 23, 2011  
15879

Conference Committee

Committee Clerk Signature

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

Exemption of certain institutions from regulation by the State Board for Career and Technical Education.

**Minutes:**

See "attached testimony."

**Chairman Freborg** opened the hearing on HB 1092; no fiscal note attached.

**Wayne Kutzer, Director and CEO for Career and Technical Education** introduced the bill. (#1 Testimony) (#2 Century Code 15-20.4-03; #3 proposed amendment; #5 CTE Private postsecondary exemptions)

**Senator Flakoll:** Sanford Health is in his district; how may this affect any relationship pro/con that they would have with nursing programs at Concordia College and/or Minnesota State University in Moorhead? Will it make it easier? **Wayne Kutzer:** Yes, should make it easier because the law will create an exemption and not have to apply for authorization to operate. That may differ with the board of nursing, depending on how that operates, but the CTE board wants to create an exemption for schools and specifically Sanford.

**Senator Flakoll:** page 1, line 22 refers to a board—guessing it would be the Board of Nursing? **Wayne Kutzer:** Yes **Senator Flakoll:** But the amendments you propose would be in Section 15, correct? **Wayne Kutzer:** Yes

**Senator Gary Lee:** Is there a fiscal note for this amendment or any part of the bill if we are shifting duties or responsibilities? **Wayne Kutzer:** No; shouldn't be a fiscal note. The university system, as they have been sending programs and institutions over to higher ed for at least 10 years now. When the university system discovered that they no longer had the authority under law when the piece was taken out, from that time on they would look at the applications and review but not give a recommendation whether to approve or not. Something they have always been doing; am sure it will add to their workload some but in talking with the Chancellor about this amendment, that was the understanding. No talk of a fiscal note.

**Senator Heckaman:** Looking at the amendment, is this the language that came out in 1999 or has that been changed? **Wayne Kutzer:** Exact same language. **Senator**

**Heckaman:** When she looks at the word, "upon approval of" the executive officer—"of" sort of confusing. The executive officer being who? **Wayne Kutzer:** That would be me.

**Senator Flakoll:** Does this bill change any kind of reciprocity between North Dakota and Minnesota? **Wayne Kutzer:** No, shouldn't change anything. Public universities are exempted from oversight already.

**Dr. Constance Kalenek, Ph.D., RN, Executive Director, North Dakota Board of Nursing** testified in favor of the bill and the amendment (#5 Testimony)

**Senator Luick:** Did you say you were in favor of the amendment also? **Dr. Constance Kalenek:** Yes, we are in favor of both.

**Mike Hillman, Vice Chair, North Dakota University System** would like to reinforce that the Chancellor supports the bill and amendment. The amendment would reinforce what they are currently already doing.

No further testimony in favor; no opposition. Hearing closed.

**Senator Flakoll:** Move to adopt the amendments as presented by Wayne Kutzer (11.8012.02001); second by **Senator Schaible**. Motion carried 7-0-0 (Vote 1A)

**Senator Flakoll:** Move Do Pass as amended to Engrossed HB 1092; second by **Senator Schaible**. Motion carried 7-0-0 (Vote 1B) Senator **Schaible** will carry the bill.

Date: 3/23/11  
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1092

Senate Education Committee

Check here for Conference Committee

11. 8012. 02001

Legislative Council Amendment Number Flakoll (Wayne Kutzer) Amendment.

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Schaible

| Senators                   | Yes | No | Senators                   | Yes | No |
|----------------------------|-----|----|----------------------------|-----|----|
| Chairman Layton Freborg    | X   |    | Senator Joan Heckaman      | X   |    |
| Vice Chair Donald Schaible | X   |    | Senator Richard Marcellais | X   |    |
| Senator Tim Flakoll        | X   |    |                            |     |    |
| Senator Gary A. Lee        | X   |    |                            |     |    |
| Senator Larry Luick        | X   |    |                            |     |    |
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Total (Yes) 7 No 0

Absent 0

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

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

Date: 3/23/11  
 Roll Call Vote # 1B

**2011 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1092**

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Schaible

| Senators                   | Yes | No | Senators                   | Yes | No |
|----------------------------|-----|----|----------------------------|-----|----|
| Chairman Layton Freborg    | X   |    | Senator Joan Heckaman      | X   |    |
| Vice Chair Donald Schaible | X   |    | Senator Richard Marcellais | X   |    |
| Senator Tim Flakoll        | X   |    |                            |     |    |
| Senator Gary A. Lee        | X   |    |                            |     |    |
| Senator Larry Luick        | X   |    |                            |     |    |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Schaible

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

**REPORT OF STANDING COMMITTEE**

**HB 1092, as engrossed:** Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1092 was placed on the Sixth order on the calendar.

Page 1, line 3, after "reenact" insert "subsection 2 of section 15-20.4-03 and"

Page 1, line 4, after "to" insert "authorization to operate academic or professional postsecondary educational institutions and"

Page 1, after line 10, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 15-20.4-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions. Authorization to operate an academic or professional postsecondary educational institution offering educational credentials may be issued only upon approval of the executive officer and the commissioner of the state board of higher education or the commissioner's designee.

Renumber accordingly

2011 HOUSE EDUCATION

CONFERENCE COMMITTEE

HB 1092

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1092  
04/01/11  
16271

Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman Lisa Meier:** We will open the conference committee hearing for HB 1092. To begin with I guess we really don't understand what the senate did so if you could explain what you did with your amendments and how you changed the bill.

**Sen. Donald Schaible:** This is kind of like HB 1129 which split the duties between CTE and higher education on how they delegate approval and credentials for online courses or private institutions that come in. Those were the extensions they were asking and that bill asked for a split of the duties. We killed that bill mostly because of funding. The reason for this amendment is this was language that was removed in 1999. Right not CTE is in charge of accepting, reviewing, and authorizing the private institutions to come into the state and offer classes. Before they had to have a physical presence in the state to be certified or authorized by the state. With online and the amount of that kind of stuff coming in, CTE is the one that is delegated to oversee that. The thinking was that there needed to be some higher education input and we felt that some of that delegation should be handled by higher education. This was the language that was removed in 1999 and at that time it probably wasn't prevalent to the needs we have now. What the amendment did was put back the language that was in there and it allows higher education to handle these private institutions that are coming into the state with the types of degrees and credentials that they need to oversee. That gives higher education the review of the recommendation approval for classes that come into the state and want that oversight. It helps CTE which right now is the one that has to do that. That is basically what the amendment does.

**Chairman Lisa Meier:** Further questions?

**Rep. John Wall:** I thought when the bill left the house that is exactly what we had granted. CTE would shed those duties that didn't relate to anything less than a 2 year degree.

**Chairman Lisa Meier:** That was my thought exactly so I am interested why we added this back in code. I have a couple questions for Wayne Kutzer. Did you come to the senate and request the additional language to be placed back in that had been omitted in 1999?

**Wayne Kutzer – Director, CTE:** Yes we did. Currently right now in code our agency has total responsibility for any private post-secondary institutions that want to come into the state and provide any kind of education. There are exemptions to that and the original bill

1092 addressed the exemption piece. This amendment actually put back in language that will allow us to forward those degrees that we don't have expertise on to the university system for them to put their stamp of approval on it. That would then come back to us because our agency still has the responsibility and authority to grant the authorization to operate. It would come back to us and then our board would say yes because higher education has approved it and then they could operate in the state. In the amendment where it says approval of the executive officer, that is I and the commissioner of higher education is the chancellor or his designee. We are not sure why the language was taken out in 1999.

**Chairman Lisa Meier:** In previous legislative sessions have you attempted to have this language put back in?

**Wayne Kutzer – Director, CTE:** No. We didn't know it had been taken out. It was just before the last session. Since the new chancellor has come on that is when we recognized it wasn't there.

**Chairman Lisa Meier:** Have you had situations where individuals come to you and state that they are interested in receiving a doctorate degree from maybe the University of Phoenix and that they were having some problems? Have you had any situations coming to you addressing this concern?

**Wayne Kutzer – Director, CTE:** Yes as far the approving of the bachelor's degree programs and above. Right now we have, for example Rasmussen, and they have approximately 90 programs that we need to approve. This will allow us to get it to higher education and have them give us recommendation one way or the other.

**Sen. Tim Flakoll:** This is a question related to the 1999 session. In the 1999 session there was a technical rewrite and then again in 2001. Is it plausible that it could have inadvertently been struck out at that time?

**Wayne Kutzer – Director, CTE:** Yes that is.

**Rep. Corey Mock:** How often are these institutions authorized? Is it annually, biannually, or is it once you are authorized you are in good standing until otherwise? How does that work?

**Wayne Kutzer – Director, CTE:** There is an initial authorization and then it is every year after that. If an institution all of a sudden has more programs then that new program has to be authorized. Once it is authorized it will be authorized until it is discontinued. Each program has to go through an approval process.

**Chairman Lisa Meier:** Further questions? Seeing none thank you. Committee members today I think we just wanted to get an explanation from the senate. I would like some time to look over this. Are there any further thoughts or questions? We will close the conference committee on HB 1092.

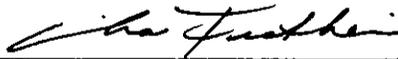
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1092  
04/08/11  
16439

Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman Lisa Meier:** We will have the conference committee on HB 1092 come to order.

**Rep. John Wall:** After our discussion last week I move that the House accede to the Senate amendments on HB 1092.

**Rep. Corey Mock:** Second.

**Chairman Lisa Meier:** Any further discussion?

**Sen. Tim Flakoll:** I would note that the conference committee was not posted on any of the Senate dashboards and as a result Sen. Schaible was not able to know about that. Sen. Marcellais and I just heard about the conference committee through a phone call. I did check with leadership and Sen. Schaible has already voted in support of this bill as is presented and he felt it was ok to move ahead. It would not change anything that he has already voted in support of and it seems proper that we could do this with two which is somewhat unusual.

**Chairman Lisa Meier:** Thank you for the explanation. It will be noted. Is there any further discussion?

**Sen. Tim Flakoll:** That is why I was a little later than Sen. Marcellais. It is not that he is quicker afoot; it was that I was taking to the Majority Leader which took me a little time.

**Chairman Lisa Meier:** The clerk will note that. Further discussion? We will take the roll. We will adjourn on HB 1092.

**5 YEAS 0 NAYS 1 ABSENT**  
**Senate amendments**

**House acceded to**

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1092 as (re) engrossed

Date: 4-01-11 / 4-08-11

Roll Call Vote #: \_\_\_\_\_

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1152 - 1153

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: REP. WALL Seconded by: REP. MOCK

| Representatives | H | J | S | J | S | J | S | J | S | J | S | J | S | J | S | J | S | J | S |  |  |
|-----------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|--|--|
|                 |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |  |
| REP. L. MEIER   | X | X |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |  |
| REP. WALL       | X | X |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |  |
| REP. MOCK       | X | X |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |  |
|                 |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |  |
|                 |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |  |  |

Vote Count Yes: 5 No: 0 Absent: 1

House Carrier REP. L. MEIER Senate Carrier SEN. SCHAIBLE

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1092, as engrossed:** Your conference committee (Sens. Schaible, Flakoll, Marcellais and Reps. L. Meier, Wall, Mock) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ pages 1152-1153 and place HB 1092 on the Seventh order.

Engrossed HB 1092 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

HB 1092

House Education Committee  
January 11, 2011  
Testimony on HB 1092  
Department of Career and Technical Education

Chairperson Kelsch and Members of the Committee, my name is Wayne Kutzer, Director of the Department of Career and Technical Education. CTE requested HB1092 and is in support of its passage.

The State Board for Career and Technical Education is responsible for the administration of Chapter 15-20.4 of the North Dakota Century Code, pertaining to the regulation of private postsecondary educational institutions. The Board is seeking to add an exemption from oversight for private institutions whose sole interest in the state is to establish sites for clinicals, practicums, internships, or student teaching. The primary reason behind this request is that the Board lacks the resources required to fairly enforce the act for the increasing number of schools seeking to host these kinds of learning experiences in the state. This bill is offered for your consideration on advice by the Office of the Attorney General.

Background: Current state law mandates that institutions deemed to be "operating" in North Dakota must obtain an authorization to operate from the State Board for Career and Technical Education, unless that institution qualifies for an exemption. "Operating" an institution in North Dakota means:

"to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform such an act".

Establishing a supervised educational experience in the state is considered to be “operating” in the state, because schools must enter into formal agreements with hospitals, clinics, schools, businesses, and other North Dakota entities to host the supervised educational experiences, and provide the required supervision. Programs delivered entirely on-line are exempt, but these hybrid programs, delivered partially on-line and partially on-site, are not.

In recent months, the State Board for Career and Technical Education has experienced an onslaught of inquiries from out-of-state educational institutions wishing to become authorized to operate in North Dakota for the purpose of hosting clinicals, practicums, and the like.

There are two main reasons for the growing interest in serving North Dakotans by out-of-state schools:

1. The rapid development of distance education technologies has made it profitable for schools to enter into far distant markets. There has been major growth in the development of hybrid distance education programs that deliver theory classes on-line, but must also provide for supervised, face-to-face training for students in programs leading to licensure, e.g., nursing, teaching, counseling. We now have institutions from both coasts, and in between, seeking to enroll North Dakotans into programs requiring supervised clinical experiences. Examples include the University of Southern California and a more recent inquiry from Georgetown University.
2. It was discovered earlier this year, through conversations with the North Dakota Board of Nursing, that the Board of Nursing no longer has regulatory authority over out-of-state nursing schools due to actions by the 2003 Legislature. As a result,

regulatory responsibility for private institutions offering distance education nursing programs fell to the State Board for Career and Technical Education.

To explain: NDCC 15-20.4-02 (10) exempts schools of nursing regulated by the Board of Nursing from oversight by the CTE Board. When the legislature removed Board of Nursing authority over out-of-state schools that authority defaulted to the State Board for Career and Technical Education, which is responsible for private postsecondary institutions “operating” in the state.

Perhaps this transfer of regulatory authority from NDBON to SBCTE was an unintended consequence. Regardless, we have seen in just a few months time that the Department lacks the resources to fairly provide oversight for all of the out-of-state institutions with established clinical sites here. Certain hospitals and other medical facilities have long standing agreements with multiple private out-of-state institutions for the provision of clinical sites. Sanford Health, in particular, is concerned that oversight by SBCTE will disrupt the clinical activity that the medical center has hosted over the years, which has provided the medical center with needed professional employees.

In addition to the question of unequal enforcement, however, there is another question of fairness, and of practicality, and that is this:

How fair or practical is it to require that a school establish a full authorization to operate in the state, involving fees, a bond, and completion of a detailed application procedure, when all they wish to do is accommodate a handful of North Dakotans (and sometimes only one North Dakotan) who would like to complete a critical part of their training in their home state?

In the past few months, we have learned that there are some schools unable or unwilling to devote the resources required to become authorized to operate by the State Board for Career and Technical Education. Consequently, there are North Dakota students who will not be able to complete training in their home state. Schools, hospitals and businesses may lose good opportunities to hire these students because they will be compelled to leave the state to complete their training.

The purpose of the regulatory authority of the State Board for Career and Technical Education is consumer protection. We are concerned that the state's current authorization procedure, as applied to schools that only want to accommodate a few North Dakota students with supervised educational experiences, represents the kind of overkill that will negatively impact students, and ultimately, employers. While we acknowledge that there may be consumer issues associated with clinicals or practicums, we have not fielded any complaints by students related to this issue to date. We do not believe students should be negatively impacted by those who would "protect" them, and believe there is more potential for harm due to the demands of the authorization procedure than to issues arising from an established clinical or practicum.

We respectfully request that you vote for passage of HB 1092.

**ND Century Code 15-20.4-02**  
**Postsecondary Educational Institutions**  
**State Board for Career and Technical Education**

**15-20.4-02. Exemptions.** The following education and educational institutions are exempted from the provisions of this chapter:

1. Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.
7. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
8. Schools of barbering regulated under chapter 43-04.
9. Schools of cosmetology regulated under chapter 43-11.
10. Schools of nursing regulated under chapter 43-12.1.
11. Native American colleges operating in this state, established by federally recognized Indian tribes.
12. Postsecondary educational institutions not operating in this state.

Senate Education Committee  
March 23, 2011  
Testimony on HB 1092  
Department of Career and Technical Education

Mr. Chairman and Members of the Committee, my name is Wayne Kutzer, Director and Chief Executive Officer for Career and Technical Education. CTE requested HB1092 and is in support of its passage.

The State Board for Career and Technical Education is responsible for the administration of Chapter 15-20.4 of the North Dakota Century Code, pertaining to the regulation of private postsecondary educational institutions. The Board is seeking to add an exemption from oversight for private institutions whose sole interest in the state is to establish sites for clinicals, practicums, internships, or student teaching. The primary reason behind this request is the practicality and fair enforcement of the law for the increasing number of schools seeking to host these kinds of learning experiences in the state. This bill is offered for your consideration on advice by the Office of the Attorney General.

Background: Current state law mandates that institutions deemed to be "operating" in North Dakota must obtain an authorization to operate from the State Board for Career and Technical Education, unless that institution qualifies for an exemption. "Operating" an institution in North Dakota means:

"to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform such an act".

Establishing a supervised educational experience in the state is considered to be "operating" in the state, because schools must enter into formal agreements with hospitals, clinics, schools, businesses, and other North Dakota entities to host these educational experiences, and provide the required supervision. Programs delivered entirely on-line are exempt, but these hybrid programs, delivered partially on-line and partially on-site, are not.

In recent months, the State Board for Career and Technical Education has experienced an increase of inquiries from out-of-state educational institutions wishing to become authorized to operate in North Dakota for the purpose of hosting clinicals, practicums, and the like.

There are two main reasons for the growing interest in serving North Dakotans by out-of-state institutions:

1. The rapid development of distance education technologies has made it profitable for institutions to enter into distant markets. There has been major growth in the development of hybrid distance education programs that deliver theory classes on-line, but must also provide for supervised, face-to-face training for students in programs leading to licensure, e.g., nursing, teaching, counseling. We now have institutions from both coasts, and in between, seeking to enroll North Dakotans into programs requiring supervised clinical experiences. Examples include the University of Southern California and a more recent inquiry from Georgetown University.
2. It was discovered earlier this year, through conversations with the North Dakota Board of Nursing, that the Board of Nursing no longer has regulatory authority over out-of-state nursing schools due to actions by the 2003 Legislature. As a result, regulatory responsibility

for private institutions offering distance education nursing programs fell to the State Board for Career and Technical Education. In the House this bill has been amended to give that authority back to the Board of Nursing.

To explain: NDCC 15-20.4-02 (10) exempts schools of nursing regulated by the Board of Nursing from oversight by the CTE Board. When the legislature removed Board of Nursing authority over out-of-state schools that authority defaulted to the State Board for Career and Technical Education, which is responsible for private postsecondary institutions "operating" in the state. Perhaps this transfer of regulatory authority from NDBON to SBCTE was an unintended consequence. This amendment was offered by the Board of Nursing and is a good addition to the bill. We support the Board of Nursing's oversight of out-of-state schools providing clinical sites in this state.

In regards to the other types of practicums, clinicals or internships: how fair or practical is it to require that a school establish a full authorization to operate in the state, involving fees, a bond, and completion of a detailed application procedure, when all they wish to do is accommodate a handful of, or even one North Dakotan who would like to complete a critical part of their training in their home state?

In the past few months, we have learned that there are some schools unable or unwilling to devote the resources required to become authorized to operate by the State Board for Career and Technical Education. We also heard from a North Dakota student who could have been affected because their institution was going to pull the clinical and move it out of state. Schools, hospitals and businesses may lose good opportunities to hire these students because they will be compelled to leave the state to complete their training.

The purpose of the regulatory authority of the State Board for Career and Technical Education is consumer protection. We are concerned that the state's current authorization procedure, as applied to schools that only want to accommodate a few North Dakota students with supervised educational experiences, represents the kind of overkill that will negatively impact students, and ultimately, employers. While we acknowledge that there may be consumer issues associated with clinicals or practicums, we have not fielded any complaints by students related to this issue to date. We do not believe students should be negatively impacted by those who would "protect" them, and believe there is more potential for harm due to the demands of the authorization procedure than to issues arising from an established clinical or practicum.

Finally, we are seeking to put an amendment on HB1092 to restore some original language to Chapter 15-20.4-03. Attached is a blue handout of Chapter 15-20.4-03 "Board powers and duties" with the amendment language underlined in subsection 2 as it would appear. I have also attached a copy of the amendment.

The amendment would add this language, "Authorization to operate an academic or professional postsecondary institution offering educational credentials shall be issued only upon approval of the executive officer and the commissioner of the Board of Higher Education or his designee."

This language was removed during the 1999 legislative session for reasons which remain unclear. Restoring this language will ensure that Higher Education will retain a critical role in quality assurance for programs culminating in academic and professional degrees.

To explain the importance, Career and Technical Education's scope of concern is CTE programing in grades 7 – 14. Higher Education, on the other hand, is responsible for degree programs at the associate level on up through doctoral levels. When this law was originally passed in the seventies,

the intent was for CTE and Higher Education to share oversight responsibility. In the years since 1999, CTE has maintained a voluntary partnership with Higher Education for this purpose but without clear authority in the law, Higher Education was reluctant to provide a recommendation or approval of programs and institutions.

Today the private postsecondary landscape is very different from what it was in 1999, when most of the requests for authorization to operate came from entities seeking to operate career schools in the state. The overwhelming numbers of requests we currently receive are from institutions wishing to offer degree programs in the state. The data collected from the last fiscal year on private postsecondary institutions clarifies the issue. From June 30, 2009, to July 1, 2010, only four percent of the authorized programs and only four percent of the gross tuitions were reported by private career schools. Ninety-six percent of all programs and gross tuitions, approximately \$20 million, were reported by private institutions conferring bachelors, masters and doctorate degrees.

To add to the mix, the new federal rules slated to go into effect on July 1, 2011, are resulting in an unprecedented number of inquiries from out-of-state schools wishing to offer online degree programs in the state. Therefore, with the interests of North Dakota consumers of private postsecondary education in mind, it is essential to restore in law the oversight role of higher education with respect to these degree-granting institutions.

Mr. Chairman and members of the committee, the increase in online degree granting institutions and the more recent involvement of the US Dept. of Education and Congress is stepping up the level of state responsibility as it relates to private postsecondary institutions. HB1092 along with the offered amendment will provide some of the legislation we need to help us carry out our responsibilities. I would be glad to answer any questions you may have.

**15-20-4-03: Board powers and duties.** The board has, in addition to the powers and duties now vested in it by law, the following powers and duties to:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions under this chapter. The standards and criteria shall include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate, or for an agent's permit, shall meet.
  - a. Before such authorization may be issued; and
  - b. To continue such authorization in effect.

The criteria and standards developed will effectuate the purposes of this chapter but will not unreasonably hinder legitimate educational innovation.

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions. Authorization to operate an academic or professional postsecondary educational institution offering educational credentials shall be issued only upon approval of the executive officer and the commissioner of the board of higher education or his designee.
3. Maintain a list of postsecondary educational institutions and agents authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public, and must be sent to the superintendents of all school districts, county superintendents of schools, and guidance counselors certified by the department of public instruction.
4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this chapter, provided, however, that nothing contained in any such reciprocity agreement may be construed as limiting the board's powers, duties, and responsibilities with respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary educational institution, or with respect to the enforcement of any provision of this chapter, or any of the rules or regulations promulgated hereunder.
5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution required to have an authorization to operate under this chapter proposes to discontinue its operation.
6. Promulgate such rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter, and to hold such hearings as it may deem advisable in accordance with chapter 28-32 or as required by law in developing such rules, regulations, and procedures, or in aid of any investigation or inquiry.
7. Investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter, and in connection therewith, to subpoena any persons, books, records, or documents pertaining to such investigation. The board may require answers in writing under oath to questions propounded by the board, and may administer an oath or affirmation to any person in connection with any investigation. The board may, after hearing, revoke or suspend authorizations to operate. Subpoenas issued by the board are enforceable by any district court.

#2 HB 1092

8. Require fees and bonds from postsecondary educational institutions in such sums and under such conditions as it may establish; provided, that fees established may not exceed the reasonable cost of the service being provided.
9. Exercise other powers and duties implied but not enumerated in this section but in conformity with the provisions of this chapter which, in the judgement of the board, are necessary in order to carry out the provisions of this chapter.

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1092

Page 1, line 3, after "reenact" insert "subsection 2 of section 15-20.4-03, and"

Page 1, line 4, after "to" insert "authorization to operate academic or professional postsecondary educational institutions and"

Page 1, after line 10, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 15-20.4-03 is amended and reenacted as follows:

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions. Authorization to operate an academic or professional postsecondary educational institution offering educational credentials shall be issued only upon approval of the executive officer and the commissioner of the board of higher education or his designee."

Renumber accordingly

# 3

**CTE**

**Private postsecondary Exemptions**

**15-20-4-02. Exemptions.** The following education and educational institutions are exempted from the provisions of this chapter:

1. Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.
7. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
8. Schools of barbering regulated under chapter 43-04.
9. Schools of cosmetology regulated under chapter 43-11.
10. Schools of nursing regulated under chapter 43-12.1.
11. Native American colleges operating in this state, established by federally recognized Indian tribes.
12. Postsecondary educational institutions not operating in this state.

#4 HB 1092



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## NORTH DAKOTA BOARD OF NURSING

919 S 7th St., Suite 504, Bismarck, ND 58504-5881  
Telephone: (701) 328-9777 Fax: (701) 328-9785  
Web Site Address: <http://www.ndbon.org>

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Workplace Impairment Program: (701) 328-9783

To: ND Senate Education Committee  
Senator Layton Freborg, Chairman

From: ND Board of Nursing  
Buzz Benson RN, President  
Constance Kalanek PhD, RN, Executive Director

RE: HB 1092 relating to exemption of certain institutions from regulation by the state board for career and technical education and to amend exemptions from the Nurse Practices Act.

Date: March 22, 2011

Chairman Freborg and members of the Committee, thank you for the opportunity to provide information regarding the HB 1092 related to the exemption of certain institutions from regulation by the state board for career and technical education and to amend exemptions from the Nurse Practices Act.

The Board currently licenses approximately: Registered Nurses (RNs) 10,736; Licensed Practical Nurses (LPNs) 3,611; Advanced Practice Registered Nurses (APRNs) 753; Unlicensed Assistive Persons (UAPs) and Medication Assistants 4,591. The Board of Nursing is currently a nine member board appointed by the governor. Three of the Board Members are masters prepared RNs, two of which are APRNs; one is a nurse anesthetist and the other is a nurse practitioner. The third masters prepared RN is director of the Dakota Nurse Program. We have just received notification that former Representative Clara Sue Price has been appointed as a public member due to the recent resignation of the public member. See the attached list of members. Lastly, the Board is a member of the Nurse Licensure Compact which encompasses 24 states.

The North Dakota Board of Nursing supports the passage of HB 1092 for the following reasons:

- The ND Board of Nursing reviews and approves the eighteen nursing programs in the State including Concordia College in Minnesota.
- ND Nursing Programs students do not have the ability to cross state lines for clinical practice without approval from the specific state nursing board.
- The Board of Nursing **has not** regulated nursing students from out of state nursing programs since 2003. Therefore, out of state students have "poured" in to the state. See attached tables.

#5 HB1092

In closing, removing the requirement for CTE regulation without the addition of the exemptions in the Nurse Practices Act would further impact the clinical sites and ND Board approved nursing programs.

Thank you for your time. I am now open to questions.

#5 HB1092

NORTH DAKOTA BOARD OF NURSING  
 919 SOUTH SEVENTH STREET, SUITE 504  
 BISMARCK, ND 58504-5881  
 (701) 328-9777

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| <b>Vice President</b>  |  |  |
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| Melisa Frank LPN<br>1055 Lincoln St<br>Dickinson, ND 58601                               | 483-7997(H)<br>456-7387(W)<br>260-4974 (C) | <a href="mailto:mfrank@northlandhealth.com">mfrank@northlandhealth.com</a>   |
| Daniel Rustvang RN<br>3324 Primrose Court<br>Grand Forks, ND 58201                       | 795-1047(H)<br>780-6941(W)<br>740-5954(C)  | <a href="mailto:drustvang@altru.org">drustvang@altru.org</a>   |
| Deborah Smith RN<br>3111 Bay Shore Bend SE<br>Mandan ND 58554                            | 530-6252(W)<br>258-0466(H)<br>391-0849(C)  | <a href="mailto:dasmith@primecare.org">dasmith@primecare.org</a>   |
| Angela Levi LPN<br>817 2 <sup>nd</sup> Street North<br>PO Box 108<br>Hettinger, ND 58639 | 567-4711(H)<br>567-4561(W)                 | <a href="mailto:raklevi@ndsupernet.com">raklevi@ndsupernet.com</a>   |

#5 HB 1092

**Out of State Students Practicing in North Dakota  
2010 – 2011\***

| Type of Program/Student | Numbers of students |            |             |            | Percentage for program type | Change from 2009-10 |
|-------------------------|---------------------|------------|-------------|------------|-----------------------------|---------------------|
|                         | Summer 2010         | Fall 2010  | Spring 2011 | Total      |                             |                     |
| Certificate PN          | 0                   | 0          | 0           | 0          |                             |                     |
| ASPN/AASPN              | 88                  | 173        | 203         | 464        |                             |                     |
| ADN                     | 0                   | 77         | 67          | 144        |                             |                     |
| BSN                     | 64                  | 42         | 53          | 159        |                             |                     |
| CRNA                    | 3                   | 0          | 2           | 5          |                             |                     |
| FNP/CNS                 | 5                   | 8          | 4           | 17         |                             |                     |
| CNM                     | 0                   | 1          | 0           | 1          |                             |                     |
| DNP                     | 0                   | 0          | 0           | 0          |                             |                     |
| <b>TOTAL</b>            | <b>160</b>          | <b>301</b> | <b>329</b>  | <b>790</b> |                             |                     |

\*Figures and Totals for *Spring 2011* are as of March 1, 2011

**Spring Semester 2011**

| Program   | Type and # of students | Clinical Placement Site(s)   |
|---|------------------------|--|
| Rasmussen (Moorhead)                                | ASPN – 44 students     | Lisbon Health Center   |
| MN Community & Technical                            | ADN – 33 students      | Acute care & home health agencies – Fargo                                      |
| MN Community & Technical                            | ASPN – 54 students     | Acute & long-term care agencies – Fargo  |
| College of St. Scholastica                          | FNP – 2 students       | Sanford Medical – Fargo  |
| College of St. Scholastica                          | BSN – 1 student        | First Care Health Center- - Park River, ND                                     |
| Northland Community & Technical (Thief River Falls) | ADN – 30 students      | Greater Grand Forks/East Grand Forks areas                                     |
| MN State Univ – Moorhead                            | BSN – 30 students      | Greater Fargo and Grand Forks areas  |
| MN State Univ – Moorhead                            | FNP – 2 students       | Sanford Health System – Fargo  |
| Univ of SD – Vermillion                             | ADN – 4 students       | West River Health Systems – Hettinger plus sites in Bowman, Dickinson, & Minot |
| Presentation College                                | BSN – 21 students      | Fargo – multiple sites<br>Bismarck – St. A's & Burleigh Public Health          |
| SD State University                                 | BSN – 1 student        | Sanford – Fargo  |
| Northland Community & Technical (E Grand Forks, MN) | ASPN – 107 students    | Altru Health Systems - - multiple sites  |
| Lake Area Technical College<br>Watertown, SD        | ASPN – 1 student       | Oakes Community Hospital   |
| Texas Wesleyan University                           | CRNA – 2 students      | Saint Alexius Medical Center   |

(Total of 329 students - - as of March 1, 2011)

#5 HB 1092

**NDCC 43-12.1-04. PERSONS EXEMPT FROM PROVISIONS OF CHAPTER.**

NDCC 43.12.1-04(12). Upon written notification to the board by an out-of-state nursing program, a student practicing nursing as a part of a nursing education program preparing for initial or advanced licensure as a registered nurse or licensed practical nurse which is approved by a board of nursing and is located in an institution of higher education that offers transferable credit.

| Type of Program | Number of Students |            |             |            | Percentage For Type of Program | Change in Numbers from FY 2008-2009 |
|-----------------|--------------------|------------|-------------|------------|--------------------------------|-------------------------------------|
|                 | Summer 2009        | Fall 2009  | Spring 2010 | Total      |                                |                                     |
| Certificate PN  | 0                  | 0          | 1           | 1          | 0.1%                           | No Change                           |
| AASPN           | 60                 | 112        | 244         | 416        | 51%                            | -24                                 |
| ADN             | 0                  | 70         | 71          | 141        | 17.3%                          | +6                                  |
| BSN             | 75                 | 44         | 110         | 229        | 28%                            | +19                                 |
| CRNA            | 2                  | 5          | 3           | 10         | 1.3%                           | -8                                  |
| FNP             | 2                  | 6          | 11          | 19         | 2.3%                           | +14                                 |
| <b>Total</b>    | <b>139</b>         | <b>237</b> | <b>440</b>  | <b>816</b> | <b>100%</b>                    | <b>+7</b>                           |

2009-2010

**Clinical Placement of Out-of-State Students Practicing in ND for 2009-2010**

*\* Note that Concordia College is approved by the ND Board of Nursing, therefore Concordia College nursing students are not counted in this count.*

#5 HB 1092

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| Type of Program | Number of Students |            |             |            | Percentage For Type of Program | Change in Numbers from FY 2007-2008 |
|-----------------|--------------------|------------|-------------|------------|--------------------------------|-------------------------------------|
|                 | Summer 2007        | Fall 2007  | Spring 2008 | Total      |                                |                                     |
| Certificate PN  | 1                  | 0          | 0           | 1          | 0.1%                           | No Change                           |
| AASPN           | 72                 | 134        | 181         | 387        | 49.9 %                         | + 20                                |
| ADN             | 0                  | 60         | 66          | 126        | 16.2 %                         | + 4                                 |
| BSN             | 97                 | 42         | 83          | 222        | 28.6 %                         | + 69                                |
| CRNA            | 6                  | 11         | 6           | 23         | 3.0 %                          | + 1                                 |
| FNP             | 2                  | 14         | 1           | 17         | 2.2 %                          | + 15                                |
| <b>Total</b>    | <b>178</b>         | <b>261</b> | <b>337</b>  | <b>776</b> | <b>100%</b>                    | <b>+ 109</b>                        |

**Clinical Placement of Out-of-State Students Practicing in ND  
2008-2009**

*\* Note that Concordia College is approved by the ND Board of Nursing, therefore Concordia College nursing students are not counted in this count.*

#5 HB 1092