

**1999 HOUSE EDUCATION**

**HB 1151**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1151

House Education Committee

Conference Committee

Hearing Date 1-12-99

| Tape Number                                 | Side A | Side B | Meter #      |
|---|--------|--------|--------------|
| #1  | x      |        | 21.1 to 49.8 |
|   |        |        |              |
|   |        |        |              |
| Committee Clerk Signature <i>Joan Diets</i> |        |        |              |

Minutes:

CHAIRMAN KELSCH: Open the hearing on HB 1151 and ask the clerk to read the title. Ask for testimony in support of HB 1151.

MEL OLSON: see written testimony attached.

CHAIRMAN KELSCH: Rep Drovdal

REP DROVDAL: Firms or individuals cannot offer courses in technology unless authorized by the board within the state. Firms outside are exempt. Do we have any way to control and protect our students.

OLSON: That is the issue, we have no way of tracking.

REP DROVDAL: This bill does not give you the authority to do that.

OLSON: At the present time we have the authority, we have the requirement. This bill is removing that requirement. So we only deal with those actually operate in the state of North Dakota.

CHAIRMAN KELSCH: Rep Brusegaard, then Rep Mueller

REP MUELLER: Has there been any consideration to a "buyer beware" warning? Some thing to make the students aware this is not a legitiment course.

OLSON: We did not talk about a warning.

REP BRUSEGAARD: This legislation removes any ability of your board to authorize without having an institution in the state.

OLSON: That's correct.

REP BRUSEGAARD: Wouldn't it make more sense to remove the requirement to guard everybody that's offering and offer people to take approved courses over the Internet.

OLSON: I took that proposal to the board, they thought it would be best if we went this direction.

REP DROVDAL: My concern is for the people of the state of North Dakota that may get scamed . This seems to be taking out our ability to say that this is illegal.

OLSON: The way the law currently reads, the citizens may believe that we are checking on these courses. We can't do that. We don't want to misrepresent what we can accomplish.

REP DROVDAL: If this legislation is passed, someone does that, and files a complaint, are they going to file that complaint and have it thrown out?

OLSON: I believe they would go to the Attorney Generals Office.

REP HAAS: If that's the case, we are trying to exclude outside Internet providers from your jurisdiction.

OLSON: Yes

REP HAAS: The legislation was suitable for instate institutions and add a clause at the end of the bill that this law does not include out of state firms.

OLSON: Yes, that is what we have done.

REP BRUSEGAARD: What are the other states doing?

OLSON: Yes, we have conducted a survey, but didn't have the survey with him.

CHAIRMAN KELSCH: Are there any other questions, thank you Mel. Anyone else who wishes to testify in support of HB 1151?

MARK JOHNSON: see written testimony attached.

CHAIRMAN KELSCH: Are there any questions for Mr Johnson? Being none is there anyone else wishing to testify in support of HB 1151? Anyone who wishes to testify in opposition of HB 1151? CLOSE THE HEARING ON HB 1151.

CHAIRMAN KELSCH: Leah Ann Schneider from the Attorney Generals office to come forward and answer a few questions in regards to HB 1151. A discussion was held.

COMMITTEE ACTION HB 1151 1-13-99

CHAIRMAN KELSCH: Hb 1151 Rep Brandenburg has something he would like to pass around.

REP BRANDENBURG: see written note attached of Mel Olson with concerns if amendment would be needed. Does this answer the questions?

CHAIRMAN KELSCH: Won't act on the bill today.

REP BRANDENBURG: If you have concerns please talk to me.

REP NOTTESTAD: Looking at what is written, I'm not sure we need an amendment.

REP BRUSEGAARD: There is going to be a lot over the Internet.

REP DROVDAL: Make a tool available for the honest businesses.

REP BRUSEGAARD: For a technical occupation this would give them more options.

CHAIRMAN KELSCH: have HB 1186 - 1181 and 1151 look at them if you have concerns. HB 1064 where are we at.

REP HANSON: Amendments are being prepared.

COMMITTEE ACTION HB 1151 1-20-99 tape side b meter no 1.9 to 5.0

Chairman R. Kelsch : Open the hearing on HB 1151. We have amendments for HB 1151.

Rep Brandenburg : Move the amendments for HB 1151 for purpose of discussion

Vice-Chair Drovdal : second.

Chairman R. Kelsch : I now have the amendments for discussion on HB 1151.

Rep Brusegaard : HB 1151 dealt with the State Board of Vocational Techniquial Education. My concern we were shutting off a variety of education by not allowing anyone who did not own a business in the State of North Dakota. After meeting with Mel and Leah Ann we came up with these set of amendments. Allows the board to approve a voluntary authorization for out of state

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House Education Committee  
Bill/Resolution Number Hb 1151  
Hearing Date 1-13-99

companies who want to provide education . They would have an opportunity to apply to the state board for approval.

Mel Johnson: I work for the state board of vocational industrial technical education, and we discussed the bill and the amendments, the board needs to get rid of the liability under the current law.

Chairman R. Kelsch : Any further discussion on HB 1151. All those in favor of the amendments for HB 1151 -- voice vote motion carried.

Rep Brusegaard : Move for a DO PASS as amended on HB 1151.

Rep. Johnson : second

Chairman R. Kelsch : Discussion. The clerk will call the role on a DO PASS as amended on HB 1151. The bill passed 15 Yes 0 No 0 Absent Floor Assignment Rep Haas.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1151 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-4-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative: *There will be no fiscal note required*

- 2. State fiscal effect in dollar amounts:

| 1997-99 Biennium |               | 1999-2001 Biennium |               | 2001-03 Biennium |               |
|------------------|---------------|--------------------|---------------|------------------|---------------|
| General Fund     | Special Funds | General Fund       | Special Funds | General Fund     | Special Funds |

Revenues:

Expenditures:

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \_\_\_\_\_
- b. For the 1999-2001 biennium: \_\_\_\_\_
- c. For the 2001-03 biennium: \_\_\_\_\_

- 4. County, City, and School District fiscal effect in dollar amounts:

| 1997-99 Biennium |        |                  | 1999-2001 Biennium |        |                  | 2001-03 Biennium |        |                  |
|------------------|--------|------------------|--------------------|--------|------------------|------------------|--------|------------------|
| Counties         | Cities | School Districts | Counties           | Cities | School Districts | Counties         | Cities | School Districts |

If additional space is needed, attach a supplemental sheet.

Signed *Mel Olson*

Typed Name Mel Olson

Department State Bd for Vo-tech Ed.

Phone Number 328-2259

Date Prepared: 1-4-99

VK

1/22/99

**HOUSE** AMENDMENTS TO HOUSE BILL NO. 1151 **Edu 1-25-99**

Page 1, line 1, after "to" insert "create and enact a new section to chapter 15-20.4 of the North Dakota Century Code, relating to a voluntary application for an authorization to operate a postsecondary educational institution; to"

**HOUSE AMENDMENTS TO HOUSE BILL NO. 1151 Edu 1-25-99**

Page 7, after line 4, insert:

**"SECTION 6.** A new section to chapter 15-20.4 of the North Dakota Century Code is created and enacted as follows:

**Voluntary application for authorization to operate.** Although a postsecondary educational institution not operating in this state is exempt from this chapter by section 15-20.4-02, the institution may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary educational institution not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials."

Renumber accordingly



Date: 1-20-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1151

House Education Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken DO Pass as amended

Motion Made By Brusegaard Seconded By Johnson

| Representatives                | Yes | No | Representatives     | Yes | No |
|--------------------------------|-----|----|---------------------|-----|----|
| Rep. ReaAnn Kelsch-Chairperson | ✓   |    | Rep. Dorvan Solberg | ✓   |    |
| Rep. David Drovdal-Vice Chair  | ✓   |    |                     |     |    |
| Rep. Michael D. Brandenburg    | ✓   |    |                     |     |    |
| Rep. Thomas T. Brusegaard      | ✓   |    |                     |     |    |
| Rep. C. B. Haas                | ✓   |    |                     |     |    |
| Rep. Dennis E. Johnson         | ✓   |    |                     |     |    |
| Rep. Jon O. Nelson             | ✓   |    |                     |     |    |
| Rep. Darrell D. Nottestad      | ✓   |    |                     |     |    |
| Rep. Laurel Thoreson           | ✓   |    |                     |     |    |
| Rep. Howard Grumbo             | ✓   |    |                     |     |    |
| Rep. Lyle Hanson               | ✓   |    |                     |     |    |
| Rep. Deb Lundgren              | ✓   |    |                     |     |    |
| Rep. Phillip Mueller           | ✓   |    |                     |     |    |
| Rep. Robert E. Nowatzki        | ✓   |    |                     |     |    |

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Pass

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

**REPORT OF STANDING COMMITTEE**

**HB 1151: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1151 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 15-20.4 of the North Dakota Century Code, relating to a voluntary application for an authorization to operate a postsecondary educational institution; to"

Page 7, after line 4, insert:

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Renumber accordingly

**1999 SENATE EDUCATION**

**HB 1151**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1151

Senate Education Committee

Conference Committee

Hearing Date March 2, 1999

| Tape Number                                      | Side A | Side B | Meter #   |
|--|--------|--------|-----------|
| 1  | x      |        | 0-3261    |
| 2  | x      |        | 3357-4648 |
| 3/3/99 2   | x      |        | 2212-3093 |
| Committee Clerk Signature <i>Jinda Christman</i> |        |        |           |

Minutes:

SENATOR FREBORG opened the hearing on HB 1151. Committee members present included:

Sens. Freborg, Cook, Flakoll, Wanzek, Kelsh, O'Connell, and Redlin.

MEL OLSON, STATE DIRECTOR FOR VOCATIONAL AND TECHNICAL EDUCATION

testified in support of HB 1151 (see testimony).

SENATOR O'CONNELL: Can you summarize?

MEL OLSON: Our agency is required by law to authorize post secondary educational

institutions that operate in North Dakota unless it is exempt from that list of thirteen exemptions.

We are required to authorize any school that wants to offer education in the state of ND. In order

to offer education in ND you have to go through our office. We can't do that. We're asking that

we get out of the business of trying to authorize those who are offering education in North

Dakota but still stay in the business of authorizing those who are actually operating in the state of North Dakota.

SENATOR COOK: BSC offers a vocational school on a chef, some private school could come in and offer a school on becoming a chef. Right now they would have to seek authorization from your board, correct? If a student goes to that private school that has been authorized, do they receive any credits that can be transferable to another school?

MEL OLSON: Yes, they might be transferable to another school. A university might be very careful about accepting those credits.

SENATOR COOK: How many post secondary vocational classes are involved in dual credit courses in high schools?

MEL OLSON: I wouldn't have the number. It is rapidly expanding.

SENATOR COOK: I would assume that the only post secondary schools that can be involved in dual credit are state post secondary vocational schools.

MEL OLSON: Would have to look that up. The only ones I'm aware of right now are part of the university system.

SENATOR O'CONNELL: You're the first to come in and want limited powers. Under 1520-4, why would they want to have exemptions in 1520 ?

MEL OLSON: There are a great number of exemptions. The reason they occurred was because there was no concern about consumer protection regarding these rules.

SENATOR COOK: This pertains to the amendment. Are you allowed to charge a fee at all for one of these applications?

MEL OLSON: We do charge a fee. I believe it is \$50.

SENATOR COOK: I assume that is through administrative rules. Do you have the power to raise that fee if you need to?

MEL OLSON: It is through administrative rules.

SENATOR KELSH: What business do we have contacting these schools out of state? Why would we have to exempt them?

MEL OLSON: The law makes us liable. If somebody was offering education in the state of North Dakota, that student has a right to believe that we have investigated them and authorized them to operate. We generally check a number of areas in the school and then we keep a list of schools that have our authorization and we send that list to the superintendents at our schools.

SENATOR KELSH: Are you talking about if students go out of state to those institutions? We are still responsible?

MEL: We are still responsible to authorize any school that operates in North Dakota or offers education in North Dakota, authorized or not authorized. We cannot do all of this.

SENATOR O'CONNELL: Can you explain why there is an elimination of the agent or agents on all nine pages?

MEL OLSON: In the past, if there was a school offering education in the state from out of state, they had to have registered agents in order to offer education. We're trying to get out of that business.

SENATOR WANZEK: You're asking for this because it is hard to keep a handle on all of the information.

MEL OLSON: That is exactly it.

SENATOR REDLIN: What do you have left to do?

MEL OLSON: We're the State Board for Vocational and Technical Education and our responsibility is in vocational and technical education. This was just another responsibility that was given to our agency.

SENATOR REDLIN: Do you look into BSC here and into what their vocational tech school is or any other vo tech school?

MEL OLSON: We're responsible for vocational tech schools whether they are at the secondary level, post secondary level and the adult level. Our main function is to provide assistance and professional development and move programs to a higher level. We also work with business administration to validate curriculum for schools out there. We also administer the Carl Perkins Federal Program that provides funding for those programs.

SENATOR REDLIN: You're dealing with publicly supported institutes?

MEL OLSON : Yes. Our job is to provide technical assistance and leadership.

SENATOR REDLIN: The Perkins Program is quite active.

MEL OLSON: We get \$4 million per year transferred to school districts.

BETSY DALRYMPLE, MEMBER OF VOCATIONAL BOARD testified in support of HB 1151. One thing that really bothered me this year and since then every year when we annually review the post secondary organizations is all we know about the ones from out of state is whether they are accredited and what their financial statements are. I would rather be accountable for the ones in the state where we can hear news articles or people can call our agents to find out to answer any questions they have. We don't have the man power to go after these and make sure they are accredited by our state. There is an implied statement that the ones

we do accredit are better than the other ones. I don't like that liability because we don't know what is really going on.

SENATOR O'CONNELL: How will this affect the students and is it taking some protection away from them?

BETSY DALRYMPLE: I don't know that we have any tracking mechanisms to know how many students have gone to these schools.

SENATOR COOK: Are there institutions out there that can educate students under TANF that would not be allowed to at this time?

BETSY DALRYMPLE: I would like to have you take out the amendment that the house put in because that puts us back into the business because they voluntarily come to us already.

SENATOR KELSH: Do you see this as restricting the availability because your taking out the responsibility of saying a company is all right?

BETSY DALRYMPLE: I don't believe so. On the Internet you can take any course available. They have to find out how legitimate these courses are.

SENATOR REDLIN: The amendments deal with outside institutions applying to you so they can market their services, right?

BETSY DALRYMPLE: They are supposed to apply to us now. The amendment just says that they may but to me that is still putting us back into the business of having the staff review their financial statements for approval. I don't want that. I want students to tell me to keep track of the ones who operate in the state.

SENATOR REDLIN: This would say that they can apply on their own and be awarded authorization to operate by the board.



BETSY DALRYMPLE: Yes, before the law said we had to do it but now it says that we can do it if they want to apply.

SENATOR REDLIN: You're feeling that too many of them are going to do that.

BETSY DALRYMPLE: Yes.

SENATOR FLAKOLL: Going back to the money issue, do you recoup any kind of fee for them to go through the process of applying for evaluation and a ruling?

BETSY DALRYMPLE: I don't know what that amount is.

MEL OLSON: Each application on authorization to operate should be accompanied by a non-refundable fee of \$100 and each application for a renewal should be accompanied by a nonrenewable fee of \$25. So once they initially apply it is \$100 and then \$25 a year after that. Post secondary institutions accredited by a regional crediting organization are eligible for dual credits.

SENATOR COOK: Let's look at Interstate Business College. They used to take in students who were working through the TANF program and there was the availability of dollars going in through tuition to IBC. I assume there could be others. By not being under your control, does that remove their opportunity to be a part of this program?

MEL OLSON: I don't believe so. I don't think they would or could not fund programs because they weren't accredited by us.

LEAH ANN SCHNEIDER, ASSISTANT ATTORNEY GENERAL answered any questions.

SENATOR O'CONNELL: Would you explain your interpretation of what changes you made and how you did it?

LEE ANN SCHNEIDER: Under the current law all schools that operate in this state have to get approval from the state board to do that. The law also provides that any educational institution that so much as offers training or any kind of education and advertises it including any institution throughout the United States and the world, they have to get approval from the state board for their institution and get approval of those agents that are offering that education. The board felt they did not have the capacity to be approving those educational institutions that are outside of the state that do not have a place for training in the state. The main purpose of this bill is to limit the board's duties to approve the institutions to operate within the state. It still applies to entities who operate in this state. It removes the agent permit idea for the entities operating out of state. We got rid of the nonprofessional and nonacademic wording. It just referred to post secondary education institutions.

SENATOR O'CONNELL: The House amendment on page 7, Section 6, does that change the bill to take care of it?

LEAH ANN SCHNEIDER: The House amendment-currently the law says the entities who offer education in this state have to get approval from the state board. That just does not happen. There are so many of them. The bill as originally drafted required only those institutions that operate within the state to get approval. This amendment allows entities who offer education within this state to apply and get approval from the state board. I don't know the reason why entities would want to get approval if they don't have to. They may think of it as a marketing tool. The reason the board does not like this amendment is because it doesn't change anything from the current situation. They are already doing it voluntarily.

SENATOR KELSH: Would you consider that quite a number of those advertising in North Dakota may be a scam?

LEAH ANN SCHNEIDER: I really don't know. Some of the means of advertising should itself maybe raise questions for people whether it is a legitimate entity or not. It really is a "buyer beware" but if you really don't know you should contact the state where it is based.

SENATOR REDLIN: Under the present law, there is an inference that all of these institutions are being looked at and practically it can't happen and doesn't happen. The amendment actually shows what is going on.

LEAH ANN SCHNEIDER: Yes, the amendment does remove the inference that all are being looked at.

SENATOR REDLIN: I understand that this bill deals with the institutions that are incorporated within the state of ND.

LEAH ANN SCHNEIDER: The bill as originally drafted was dealing just with the entities who have a site here who are operating in the site here. They have to get approval from the state board. The amendment offers more entities.

SENATOR FREBORG: We will close the hearing on HB1151.

SENATOR COOK : The sponsors of the bill would like the amendments that the house put on removed.

SENATOR FREBORG : That was the amendment on page 7, voluntary application.

SENATOR COOK : I like the bill and there has got to be some reason why those amendments were put on there. Maybe someone else was there to testify in the house that understands the

reasons. Most of my questions about the problems that the amendments would cause are not answered.

SENATOR FREBORG : I thought I understood it so don't confuse me. If we pass it out with this amendment we won't be doing anything different than they are doing today. Because the only way they are getting most of these out of state organizations or anyone on Internet is when they apply because they don't know who they are. So people are applying now and if we attach this amendment they will still be applying. Exactly the same situation.

SENATOR COOK : I believe even with these amendments there is a difference, they are still required to try to find all of these other places of vocational education. By passing this bill even as amended they would no longer be required to do that and they have all the tools in place to charge a fee to cover their expenses. There has got to be a reason why someone out there would want to be underneath this governing umbrella.

SENATOR FREBORG : There are two ways we can find out. We can either hold the bill and you can do some digging if you wish or take the amendments off, pass the bill and settle it in conference committee. I'll honor the request to hold it if you wish.

SENATOR COOK : I agree with the second option that is fine with me. We'll find out if there is a reason.

SENATOR REDLIN : The point needs to be made that the way the law stands there is an inference that can be drawn. That all of these outside people have gotten an approval. If we don't do anything else with this bill including the amendments we get rid of that inference. I think that is the vital thing of importance. I hate to see it go down even with the amendment which might happen in the conference committee. Rather not have a conference committee and

hopefully convince the full senate and then we are all done with it. Don't believe there is going to be an over use of this, I don't get the opinion from the testimony that there has been a big rush with these outfits coming in to get the approval. But the way the law stands now you can assume that they have gotten it because that is their duty but they won't have that duty anymore if we pass this bill even with the amendments.

SENATOR COOK : The vast majority of my post secondary education was from these type of places. None of it in ND, it has been all over the United States.

SENATOR FLAKOLL : I 'm fine with the amendments that came over from the house because they do improve it. Again the liability is not assumed by that, I like it from the standpoint if I was one of those companies or a person who choose to use one of those companies. Either as a selling point or buying point would have the opportunity to pay the fee and have it tacked on as a selling point. If it is such a burden then they should reflect it in their fee. Good from the consumer point that when you are buying in on something like that its been approved by their board. Greater assurance that it not a fly by night operation.

SENATOR WANZEK : I'm not troubled by the amendments and think we are still getting rid of the inference. As I read the amendment the board has the authority to refuse to grant. Some latitude on their part to refuse to offer an endorsement. Might want it simply for promotional reasons.

SENATOR O'CONNELL : I move to remove the house amendment on page 7.

SENATOR COOK : 2nd

Vote: 2 Yes 5 No

SENATOR COOK : I would like to hold this bill for one day.

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Senate Education Committee  
Bill/Resolution Number HB1151  
Hearing Date March 2, 1999

3/3/99

SENATOR COOK : Yesterday we had a motion to remove the amendment, from HB1151.

I voted against such a motion. I have since talked to the sponsor of those amendments and I would be perfectly willing to change and vote to remove those amendments.

SENATOR COOK : I so move that we remove the house amendments on HB1151.

SENATOR WANZEK : 2nd

Vote: 6 Yes 1 No

SENATOR KELSH : I move a DO PASS.

SENATOR COOK : 2nd

SENATOR FREBORG : Motion has been made and seconded for a Do Pass on HB1151,

there are no amendments on the bill.

Vote: 7 Yes 0 No

CARRIER: SENATOR WANZEK

Date: 3/2/99  
 Roll Call Vote #: 1

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1151**

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Remove Amendment on Page 7

Motion Made By O'Connell Seconded By Cook

| Senators                    | Yes | No | Senators | Yes | No |
|-----------------------------|-----|----|----------|-----|----|
| Senator Freborg, Chairman   | ✓   |    |          |     |    |
| Senator Cook, Vice Chairman |     | ✓  |          |     |    |
| Senator Flakoll             |     | ✓  |          |     |    |
| Senator Wanzek              |     | ✓  |          |     |    |
| Senator Kelsh               |     | ✓  |          |     |    |
| Senator O'Connell           | ✓   |    |          |     |    |
| Senator Redlin              |     | ✓  |          |     |    |
|                             |     |    |          |     |    |
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|                             |     |    |          |     |    |
|                             |     |    |          |     |    |

Total (Yes) 2 No 5

Absent \_\_\_\_\_

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

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

Date: 3/3/99  
 Roll Call Vote #: 2

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1151**

Senate EDUCATION Committee

- Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Moved to remove all of the amendments on page 741

Motion Made By Cook Seconded By Wanzek

| Senators                    | Yes | No | Senators | Yes | No |
|-----------------------------|-----|----|----------|-----|----|
| Senator Freborg, Chairman   | ✓   |    |          |     |    |
| Senator Cook, Vice Chairman | ✓   |    |          |     |    |
| Senator Flakoll             |     | ✓  |          |     |    |
| Senator Wanzek              | ✓   |    |          |     |    |
| Senator Kelsh               | ✓   |    |          |     |    |
| Senator O'Connell           | ✓   |    |          |     |    |
| Senator Redlin              | ✓   |    |          |     |    |
|                             |     |    |          |     |    |
|                             |     |    |          |     |    |
|                             |     |    |          |     |    |
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|                             |     |    |          |     |    |
|                             |     |    |          |     |    |

Total (Yes) 6 No 1

Absent \_\_\_\_\_

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

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



Date: 3/3/99  
 Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1151

Senate EDUCATION Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Do Pass plaw on 6<sup>th</sup> order

Motion Made By Kelsh Seconded By Cook

| Senators                    | Yes | No | Senators | Yes | No |
|-----------------------------|-----|----|----------|-----|----|
| Senator Freborg, Chairman   | ✓   |    |          |     |    |
| Senator Cook, Vice Chairman | ✓   |    |          |     |    |
| Senator Flakoll             | ✓   |    |          |     |    |
| Senator Wanzek              | ✓   |    |          |     |    |
| Senator Kelsh               | ✓   |    |          |     |    |
| Senator O'Connell           | ✓   |    |          |     |    |
| Senator Redlin              | ✓   |    |          |     |    |
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Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Wanzek

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

**REPORT OF STANDING COMMITTEE**

**HB 1151, 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 1151 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 15-20.4 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove "postsecondary educational institution; to"

Page 7, remove lines 9 through 17

Renumber accordingly

**1999 HOUSE EDUCATION**

**HB 1151**

**CONFERENCE COMMITTEE**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB-1151-Conference Committee

House Education Committee

Conference Committee

Hearing Date 3-26-99

| Tape Number                                 | Side A | Side B | Meter #     |
|---|--------|--------|-------------|
| Tape # 1                                    | x      |        | 0.1 to 27.6 |
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| Committee Clerk Signature <i>Joan Diers</i> |        |        |             |

Minutes:

Chair Drovdal, Rep Brandenburg , Rep Grumbo , Sen Wanzek, Sen Flakoll, Sen Kelsh.

Chair Drovdal : Called the conference committee meeting to order on HB 1151 and have the clerk call the roll. The difference of opinion on the purposed amendments that the house put on and the Senate rescinded those amendments. The amendments were in section 6 , the voluntary application for authorization to operate. The amendment that the House put in read although a post secondary education institution not operating in the state is exempt from this chapter by section 18-20.04-02, the institution may subject itself to the requirements of this chapter by applying for or being awarded an authorization to operate by the board. An authorization to operate, as applied to a post secondary educational institution not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

Sen Wanzek: As I recall the concern, let me start this way, I first thought that this was fair, but in visiting with the state board people it puts them at somewhat a liability. The board does not want to put themselves in the position to be sued. They prefer not to create confusion. They only really want to be responsible for the institutions that are offering within the state.

Rep Brandenburg : I visited with Betsy Dalrymple, who works with vo tech who gave a list of people who are authorized to operate. This amendment is for the consumer, to look to the state to see if they are authorized. This is optional and not a required .

Sen Kelsh: Sen Wanzek pretty well explains why we did it. The board felt they would be open to law suits. How come this is operating in the state and you weren't, you didn't help that. The people who are using that would have to take some responsibility. Buyer beware.

Sen Wanzek: I think it was mainly the concern that it sent a mixed message. I think the board wanted it perfectly clear that they were dealing with only those within the state. At first I did support leaving it in there. Businesses could use it as a marketing tool. I think they will have a problem with that, because some will and some won't be approved. The board wanted it to be very clear.

Chair Drovdal : It certainly appears that we heard the same testimony. We understood that, that was the intent. The reason the amendment was put on was for consumer protection. It gave consumer some way to judge if the firm was legitimate. If a firm is in business, they would want to get all the credentials, because that is a selling tool. The board would set guidelines, and it is totally optional. It still comes down to buyer beware.

Sen Wanzek: Why do my reasons sound so good until you say.

Sen Kelsh: I think part of the program, this is only a partial list. I don't know if we have given them the resources to check all this. If the board has the responsibility and mess up because they don't have the resources, they are still liable.

Chair Drovdal: Most of them probably will not asked to be certified.

Sen Flakell: The small amount of money that they are paying to have it done. To have the board review them, for the little amount of money that they are getting out if, seems a little tough. I didn't like it from the stand point of the optional ability that as a consumer there would be some protection to know that they are approved.

Rep Brandenburg : Looking at this list from Betsy, they can already do that.

Chair Drovdal : I believe the purpose of the original bill was to release the board from doing that. They have to do it right now, with this amendment it would be optional.

Rep Brandenburg : Who is going to be controlling them at all.

Rep Grumbo : I am looking for the protection of the consumer, and I feel if it is possible at all, then we should do it.

Sen Flakoll: This list is the ones that are authorized to operate.

Rep Brandenburg : This is the list that Becky gave me that are now listed with vo tech. They have been authorized to operate under this chapter.

Sen Flakoll: The reason I ask, you kind of wonder about the composition, and is it our job to do that.

Rep Brandenburg : If we at least do this optional, it we look further down the road in education.., especially at the smaller schools in the computer in technology and if we end up with schools

with small classes of five or less, a lot of these on line class could be a part of the educational system in the future.

Sen Kelsh: This is post secondary.

Rep Brandenburg : I know, but it starts the process.

Sen Wanzek: Couldn't the potential problem be, that there is no way of knowing, it would be hard to monitor. Is there going to be enough resources , or if they start, I would think they would have to base their approval or authorized---they would have little recourse to turn people away.

Chair Drovdal : that is a valid point, the board is setting the guidelines, and they are not going to approve until they have time to check it out. If they don't have the resources, then we would expect them to be back next session to ask for additional resources. And in the mean they would not be granting authority.

Sen Wanzek: Are we ready for the motion? I would move the House accede to the Senate amendments.

Sen Kelsh: seconded the motion.

Chair Drovdal : Discussion on the motion. If not we will call the roll on the House acceding to the Senate amendments.Motion failed. Any other discussions or motions.

Rep Brandenburg : I would move the Senate recede from the Senate amendments

Rep Grumbo : seconded the motion.

Chair Drovdal : Discussion.

Sen Wanzek: Is there any middle ground.

Chair Drovdal : I see it with all the options in there, I lean on the favor of the consumer. The board is currently doing that with the resource they have and I don't see why they can't continue when it is a volunteer program.

Sen Wanzek: In the bill we did take away the mandatory requirement. This amendment only puts it on a voluntary basis. So in a way we have taken some of the responsibility away already. That is where the confusion comes in, some will some won't, I suppose he could call in and find out.

Chair Drovdal : If I was a business person, and I had an accreditation on the back of my name I would certainly put that accreditation on my advertising.

Rep Brandenburg : We already have a section in code dealing with this issue. We already have a beginning of some way to track on line courses are offered. I hate to see us going back to doing nothing and everybody is doing what they want.

Sen Wanzek: Do you believe that the educational institution that comes in is going to voluntarily apply.

Chair Drovdal : If they are out to scam the consumer, they will not ask for accreditation. It is buyer beware anyway. As a consumer I would go for the business that is accredited.

Sen Wanzek: Is the state board in favor of this?

Rep Brandenburg : No they are not. They have no way of monitoring if they are doing a good job or not.

Sen Flakoll: I disagree, if I was going to scam, I would apply.

Rep Grumbo : If the school that got into trouble a while back had been out of state, that is a strong reason someone should be in control.



Sen Wanzek: How are we going to expect our board to monitor this?

Sen Kelsh: I think with the testimony, I agreed with the board, but how are going to protect the people who want to use it. I am going to support the motion basically for consumer protection.

Chair Drovdal : Currently if they are required to do out of state they have the resources to do it.

Sen Wanzek: In committee I voted against the amendments.

Sen Flakoll: I can go along with the motion, we are migrating towards what the board wants. Maybe we should give them the situation where they can set their own levels what they charge to review the applications.

Chair Drovdal : What do they charge?

Sen Flakoll: I thought they said one hundred the first time and then twenty five dollars per year thereafter.

Chair Drovdal: Is that set in code?

Sen Kelsh: It is discretionary.

Chair Drovdal: The question has been called for. The Senate recede from their amendments. Motion passes with 6 YES votes. Chairman Drovdal will be the carrier if needed.Meeting is adjourned.







(Bill Number) HB-1151 (, as (re)engrossed):

Your Conference Committee

For the Senate:

For the House:

Sen Wanzek  
Sen Alakoll  
Sen Kelsch

Rep Drovodal  
Rep Brandenburg  
Rep Trumbo

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      S724/H726      S723/H725

the (Senate/House) amendments on (SJ/HJ) page(s) 708 - \_\_\_\_\_

and place 1151 on the Seventh order.  
727

*HJ-851  
SD-750*

, adopt (further) amendments as follows, and place  
\_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

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

DATE: 1/1/

CARRIER: Chr Drovodal

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

Insert LC: .

**REPORT OF CONFERENCE COMMITTEE**

**HB 1151, as engrossed:** Your conference committee (Sens. Wanzek, Flakoll, Kelsh and Reps. Drovdal, Brandenburg, Grumbo) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 851 and place HB 1151 on the Seventh order.

Engrossed HB 1151 was placed on the Seventh order of business on the calendar.

**1999 TESTIMONY**

**HB 1151**

From: Mel C. Olson/ISD/NoDak@Hub on 01/12/99 05:19 PM  
To: Michael D. Brandenburg/NDLC/NoDak@NoDak  
cc:  
Subject: HB 1151

Asst. Attorney General Lee Ann Schnieder has informed me that the Consumer Fraud Division would not get involved in problems with an out of state institution providing educational services in North Dakota unless there were numerous complaints. In view of that information do you believe the bill needs to be amended to secure approval from your committee? The State Board for Vocational Technical Education meets on Tuesday, January 19, and I could present an amendment to them allowing out of state institutions to voluntarily seek authorization to offer education in North Dakota.

My phone number and e-mail address is listed below. Please feel free to contact me at any time.

Mel Olson, State Director  
ND State Board for Vocational and Technical Education  
600 E. Boulevard Ave. 15th Floor  
Bismarck, ND 58505-0610  
Phone (701) 328-2259  
Fax (701) 328-1255  
molson@pioneer.state.nd.us  
<http://www.voteched.state.nd.us>



## HOUSE BILL 1151

Madam Chairperson and members of the committee, my name is Mel Olson. I am the State Director for Vocational and Technical Education. The State Board for Vocational and Technical Education is the body that is responsible to provide authorization for any postsecondary educational institution to “operate” or “offer” education in this state unless the institution is exempted in 15-20.4-04 or other provisions of this chapter.

The purpose of this bill is to amend the law to limit the scope of the Board’s responsibility to only the postsecondary institutions that are actually “operating” in this state. The current law also applies to non-exempt postsecondary institutions who “offer” instruction or enrollment in the state. The law also requires that all persons representing those institutions hold a currently valid agent’s permit issued by the State Board for Vocational and Technical Education.

Because of the rapidly expanding use of technology in providing educational opportunities, the law, in its present form, is almost impossible to enforce. We provide agent’s permits to those who apply, however, we have no idea how many programs or courses are being offered over the Internet and through other forms of technology. I believe that providing a degree of consumer protection is important, however, we are no longer carrying out the responsibilities of the law.

Please turn to page 6, SECTION 5 of the bill. Section 15-20.4-05 addresses the actions that are prohibited by the law. Under 15-20.4-05 Prohibition we propose to remove all of item 2 and item 3 dealing with offering and agents. The bill also proposes to remove all references to “agents” and all references to offering of education by out of state institutions.

The remainder of the proposed changes were made by our attorney to make the language more consistent.

Testimony of *Mark L. Johnson, M.A., ABD*, before the House Education Committee in reference to HB 1151.

Tuesday, January 12, 1998

Madam Chairwoman, Mister Vice-Chairman, Members of the Committee:

My name is Mark Johnson, I am an independent educational consultant, prep-school instructor, and part-time college lecturer from Oakes, ND. I teach History and Politics for the Scholars' Online Academy and Regina Coeli Academy, a pair of internet-based high schools offering advanced courses to students around the country. I have also served as an instructor at the Louisiana State University, where I did my doctoral work, and most recently at the University of North Dakota in Grand Forks as a temporary lecturer. I am a native North Dakotan, and am an alumnus of UND.

I come before you today to voice my general support for HB 1151. When my wife and I first began considering our family's move back to North Dakota in 1996, I started researching the possibility of opening a private college here in my native state. Specifically, this college would have provided a "Great Books" or classical trivium-quadrivium curriculum along the lines of St. John's College in Annapolis, Maryland, Thomas More College in Merrimack, New Hampshire, Gutenberg College in Eugene, Oregon, Rose Hill College in Aiken, South Carolina, St. Thomas Aquinas College in Santa Paula, California, or one of the half-dozen others colleges of that type in the United States. All of these schools, with the exception of St. John's in Maryland, are recent additions to the list of American colleges within the last thirty years, and three of them (Gutenberg, Rose Hill, and New St. Andrew's College in Moscow, Idaho) were only started within the last five years. All of these institutions, while perhaps founded for different sectarian or denominational reasons, have a common goal: to re-orient American education back towards its original purpose, which was to imbue to its students the cultural, historical, literary, philosophical, and scientific achievements of Western and American Civilization. Considering the fact that the Upper Midwest had no college of this type, North Dakota, with its long history of entrepreneurship and the frontier spirit, seemed like a logical place in which to found an institution which could have challenged some of the assumptions that those in the "mainstream" of higher education seem to hold in our own day and age.

However, even before my family and I located back in North Dakota, this plan was dead, at least for the time being. It seems that the state government of North Dakota, and especially some of the educational institutions and agencies of that government, had erected a variety of barriers which make educational experimentation of the type that I was proposing almost an impossibility. The most onerous of these requirements was the "agency" provision, which treated private academic institutions as the equivalent of any other private business under state law, regardless of whether or not the institution in question was affiliated with a non-profit corporation or a for-profit company. I am grateful to the Board of Vocational and Technical Education for their foresight in seeing this difficulty, and for proposing this bill before the committee today, which would eliminate the agency provision. I am also encouraged by the fact that section 15-20.4-03 of this proposed bill appears to preclude the Chancellor of the University System and the

Board of Higher Education from having direct approval authority over private institutions which would then potentially compete with the state university system for students, faculty, and donations. Under the existing law, the Chancellor shares authorization with the Board of Vocational and Technical Education, and I would definitely agree that a change in that authority, which this bill would provide, is needed to ensure the independent integrity of private educational institutions. By the same token, I still question the appropriateness of the Board of Vocational and Technical Education having approval authority over academic colleges which are not necessarily in the business of technical or vocational training, but I remain hopeful that that authority will eventually be reduced in either this session or a future session.

With that specific observation in mind, I should like to make a more general point. Private education, both at the post-secondary level as well as at the elementary and secondary levels, should not be viewed as a threat to the state system, but as a complement to the system. Ultimately, students and parents (at least when we're talking about those lower levels) should have as much influence and choice as possible, and private institutions only help to expand those choices. Although HB 1151 does not completely address this most fundamental question as to the proper balance between state authority and the creativity of private institutions, it is an excellent first step towards insuring that North Dakotans will continue to have a variety of quality choices when considering post-secondary education. I strongly urge a "do-pass" recommendation on HB 1151. Madam Chairwoman, Mister Vice-Chairman, and members of the Committee, I thank you for the opportunity to speak to you today on this issue, and I would be glad to answer any questions that you may have on this topic.

## HOUSE BILL 1151

Mr. Chairman and members of the committee, my name is Mel Olson. I am the State Director for Vocational and Technical Education. The State Board for Vocational and Technical Education is the body that is responsible to provide authorization for any postsecondary educational institution to "operate" or "offer" education in this state unless the institution is exempted in 15-20.4-04 or other provisions of this chapter.

The purpose of this bill is to amend the law to limit the scope of the Board's responsibility to only the postsecondary institutions that are actually "operating" in this state. The current law also applies to non-exempt postsecondary institutions who "offer" instruction or enrollment in the state. The law also requires that all persons representing those institutions hold a currently valid agent's permit issued by the State Board for Vocational and Technical Education.

Because of the rapidly expanding use of technology in providing educational opportunities, the law, in its present form, is almost impossible to enforce. We provide agent's permits to those who apply, however, we have no idea how many programs or courses are being offered over the Internet and through other forms of technology. I believe that providing a degree of consumer protection is important, however, we are no longer carrying out the responsibilities of the law.

Please turn to page 3 you can see that #13 was added to the list of exemptions to the law exempting post secondary institutions not operating in this state. Then please turn to page 6, SECTION 5 of the bill. Section 15-20.4-05 addresses the actions that are prohibited by the law. Under 15-20.4-05 Prohibition we propose to remove all of item 2 and item 3 dealing with offering and agents. The bill also proposes to remove all references to "agents" and all references to offering of education by out of state institutions.

The remainder of the proposed changes were recommended by our attorney to make the language more consistent.

The House Education Committee amended the bill to allow for the voluntary application for authorization to operate for those post secondary educational institutions not operating in this state but who want to offer to students in this state educational services.