

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1068

2001 HOUSE EDUCATION

HB 1068

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1068

House Education Committee

Conference Committee

Hearing Date 01/22/01

Tape Number	Side A	Side B	Meter #
#1	X		2451 to 3128
#1		X	1 to 45
#3	X		207 to
Committee Clerk Signature <i>Lisa Albertson</i>			

Minutes:

Chairman R. Kelsch, Vice-Chair T. Brusegaard, Rep. Bellew, Rep. Grumbo, Rep. Haas, Rep. Hanson, Rep. Hawken, Rep. Hunskor, Rep. Johnson, Rep. Meier, Rep. Mueller, Rep. Nelson, Rep. Nottestad, Rep. Solberg, Rep. Thoreson

Chairman Kelsch: We will now open the hearing on HB1068.

Wayne Kutzer: (SBUTE) \*Please refer to attached testimony\*

Clara Jenkins: (Director of Business services in the Secretary of State's office) \*Please refer to attached testimony\*

Chairman Kelsch: We will close the hearing on HB1068.

Chairman Kelsch: We'll take up HB 1068, what are the wishes of the committee?

Rep. Hawken: I move a do pass.

Rep. Solberg: Second.

Chairman Kelsch: Committee Discussion? Committee clerk will call the roll.

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House Education Committee  
Bill/Resolution Number HB1068  
Hearing Date 01/22/01

The motion DO PASS passes with 15 YES 0 NO 0 ABSENT.

Floor Assignment: Rep. Solberg

Date: 1/22/01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1068

House House Education Committee

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

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

Action Taken Do Pass

Motion Made By Rep. Hawken Seconded By Rep. Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch	✓		Rep. Howard Grumbo	✓	
V. Chairman-Thomas T. Brusegaard	✓		Rep. Lyle Hanson	✓	
Rep. Larry Bellew	✓		Rep. Bob Hunsakor	✓	
Rep. C.B. Haas	✓		Rep. Phillip Mueller	✓	
Rep. Kathy Hawken	✓		Rep. Dorvan Solberg	✓	
Rep. Dennis E. Johnson	✓				
Rep. Lisa Meier	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				

Total (Yes) 15 *Click here to type Yes Vote* No 0 *Click here to type No Vote*

Absent 0

Floor Assignment Click here to type Floor Assignment Rep. Solberg

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

**REPORT OF STANDING COMMITTEE (410)**  
January 22, 2001 4:20 p.m.

**Module No: HR-10-1410**  
**Carrier: Solberg**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1068: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS**  
**(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).** HB 1068 was placed on the  
Eleventh order on the calendar.

2001 SENATE EDUCATION

HB 1068

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1068

Senate Education Committee

Conference Committee

Hearing Date 02-20-01

Tape Number	Side A	Side B	Meter #
1		x	1.7 - 12.5
1	x		0 - 18.0
Committee Clerk Signature <i>Sandra Johnson</i>			

Minutes: CHAIRMAN FREBORG called the hearing on HB 1068 which relates to authorization and incorporation of private post secondary educational institutions.

**Testimony in support of HB 1068:**

WAYNE KUTZER, State Director of the State Board for Vocational Technical Education, presented testimony in support of HB 1068. (see attached) SENATOR KELSH asked for an explanation of part 2. MR. KUTZER explained that this states the party would have to go to the Secretary of State's office first and begin the process of incorporation. Then they would go to the State Board with their request. There was discussion on which schools they have authority over and which ones they don't. The Board felt it was within their jurisdiction to keep records of the schools they had authorized when they close. However, for the ones they don't authorize, they felt they should not be required to keep those records. SENATOR KELSH asked if anyone keeps the records of the schools that the Board does not have authority over. MR. KUTZER is



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Senate Education Committee

Bill/Resolution Number HB 1068

Hearing Date 02-20-01

not aware of it. They are supposed to keep their own records, but since they are outside the Board's authority, the Board can't enforce it.

CLARA JENKINS, Secretary of State's Office, presented testimony in support of HB 1068. (see attached).

SENATOR COOK asked MR. KUTZER about colleges not under their authorization. He further asked about using the term "college" or "university" or "institute" without authorization. MR. KUTZER feels this is for consumer protection. Even if their name includes "college" there is consumer protection through the licensing agency.

**Having no opposition the hearing was closed on HB 1068.**

**02-21-01, Tape 1, Side A, 0 - 18.0**

**CHAIRMAN FREBORG called the committee to order. Roll Call taken with 6 members present and 1 absent.**

CHAIRMAN FREBORG announced that SENATOR WANZEK was the proud father of a baby girl.

Discussion on the records of schools. If they are kept, where they are kept and who is in charge of them. Do the records just disappear or what. SENATOR FLAKOLL stated that last session legislation was passed limiting how out-of-state schools could advertise themselves. How many schools use the name (college, university, or institute) without authorization. This legislation will require a group to incorporate with the Secretary of State's office and then select a name. More discussion on Article of Incorporation, record keeping, etc.

**SENATOR COOK moved a DO PASS. Seconded by SENATOR KELSH. Roll Call Vote: 6 YES. 0 NO. 1 Absent. Motion Carried.**

**Carrier: SENATOR CHRISTENSON**

Date: 2-21-01  
 Roll Call Vote #: 1

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1068**

Senate Education Committee

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

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

Action Taken DP

Motion Made By Sen. Cook Seconded By Sen. Kelsh

Senators	Yes	No	Senators	Yes	No
Senator Freborg - Chairman	✓		Senator Christenson	✓	
Senator Flakoll - Vice Chairman	✓		Senator Kelsh	✓	
Senator Cook	✓		Senator O'Connell	✓	
Senator Wanzek	A				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen. Christenson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 21, 2001 10:57 a.m.

**Module No: SR-32-4190**  
**Carrier: Christenson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1068: Education Committee (Sen. Freborg, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1068 was placed on the**  
**Fourteenth order on the calendar.**

2001 TESTIMONY

HB 1068

State Board for Vocational Technical Education  
Testimony on HB 1068  
January 19, 2001

Wayne  
Kutzer  
HB 1068

The State Board for Vocational Technical Education has the responsibility to authorize to operate private/postsecondary institutions in the state.

This bill addresses offers two amendments. The first in Section 1, starting on line 7 of the bill requires the State Board to maintain as permanent records, copies of academics records for those institutions that are required to have an authorization to operate who propose to discontinue its operation. Currently the law says any institution that has operated in the state. We feel that we should only be responsible for those academics records from institutions that we have authority over.

The second amendment addresses the procedure in the application process that an institution must follow. It is on page two of the bill starting with line seven. Private schools are businesses and as such must be registered with the Secretary of State. Currently an institution must get our board approval to operate before they seek to incorporate with the Secretary of State's office. This amendment would allow us to ask for the Articles of Incorporation as part of the approval process which would enable us to make a more informed decision on the applicant. In our conversation with the Secretary of State's Office they agreed that this would make for a better process.

We ask that you recommend a do pass on this bill.

ALVIN A. JAEGER  
SECRETARY OF STATE



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SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 100  
BISMARCK ND 58505-0600

January 22, 2001

TO: Rep. Kelsch and Members - House Education Committee  
FR: Al Jaeger, Secretary of State (presented by Clara Jenkins, Director, Business Division)  
RE: HB 1068 - Authorization and Incorporation of Private Postsecondary Educational Institutions

My comments are directed only to Section 2 of this bill.

The deletion of subsection 5 of section 15-20.4-05 of the North Dakota Century Code is appropriate because it is inconsistent with the requirements of the state's corporate statutes for the following reasons.

- Corporate statutes specify requirements to file articles of incorporation. The attachment of a valid authorization to operate an educational institution is not one of the requirements specified in corporate law.
- Corporate statutes further specify reasons why the Secretary of State may deny a filing of articles of incorporation. Under those statutes, a denial of a filing on the basis of subsection 5 of Section 15-20.4-05 would not be permissible.
- The statutes for business corporations and nonprofit corporations allow for filing articles of incorporations listing "general purposes" as the reason the corporation is being organized. Therefore, if articles of incorporation were submitted for filing, which listed general purposes, the Secretary of State would not recognize that the purpose of the corporation was to establish an educational institution. Furthermore, the Secretary of State has no record of ever receiving an authorization from the board as currently required under this subsection.
- Finally, according to state statutes, a corporate existence first commences when articles of incorporation are filed with the Secretary of State. If the board first issued an authorization, prior to an organization's filing of articles of incorporation with the Secretary of State's office, the board would be granting the authorization to a non-existent entity. An entity, which has not yet been chartered under the provisions of North Dakota law.

