

2009 SENATE EDUCATION

SB 2080

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. sb 2080

Senate Education Committee

Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6792

Committee Clerk Signature

Minutes:

*Troy Schuchard*

**Chairman Freborg** opened the hearing on SB 2080. All senators present.

**Debra Huber** appeared before the committee, in favor of SB 2080, and handed out testimony.

(See attachment #1)

**Julie Schoepp**, representing the University Systems office, testified in support of SB 2080.

**Jack McDonald** testified on behalf of the North Dakota Newspaper Association and North Dakota Broadcasters Association, not necessarily opposed, and yet expressed concern in who would be guilty of the crime. Asked to consider an amendment to specify newspapers, televisions, or radio stations, or other commercial medium to be exempted. "Newspapers are the source of everything good"

**Chairman Freborg** closed the hearing.

**Senator Taylor** asked for an amendment to be presented, and **Chairman Freborg** noted the Intern draw up the amendment.

**Senator Taylor** read the amendment made a motion to move the bill.

**Chairman Freborg** called a vote on the amendment to SB 2080. 5-0

**Chairman Freborg** called for a vote on SB 2080 as amended. 5-0 with **Senator Taylor** to carry.

PROPOSED AMENDMENT TO SENATE BILL NO. <sup>2080</sup>~~2081~~

Page 4, after line 5, insert:

- "2. This section does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the advertisement."

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

SB 2080, as amended, Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2080, as amended, was placed on the Sixth order on the calendar.

Page 4, line 5, after the period insert "This subsection does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the advertisement."

Renumber accordingly

2009 HOUSE EDUCATION

SB 2080

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2080

House Education Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10057

Committee Clerk Signature

*Carmen Hart*

Minutes:

**Debra Huber, Administrator for Educational Equity, Special Populations and Private Postsecondary Institutions, Dept. of Career and Technical Education**, appeared in support. **(See Attachment 1.)**

**Vice Chair Lisa Meier:** I just wanted to bring to the committee's attention that Chairman Kelsch had actually sponsored the bill to stand against degree mills three sessions ago.

**Michel Hillman, North Dakota University System**, provided the attached testimony even though he was not present. **(See Attachment 2.)**

There was no opposition.

The hearing was closed.



## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2080

House Education Committee

Check here for Conference Committee

Hearing Date: March 3, 2009

Recorder Job Number: 10059

Committee Clerk Signature

*Carmen Hart*

Minutes:

**Rep. Mike Schatz:** I am going to oppose this one. The more I am looking at this, I didn't like what I was seeing there. I see too much regulation and more government that is necessary. I guess I don't see the need for that bill.

**Chairman Kelsch:** For adding the additional language in there regarding accreditation mills and regulating the use of newspaper to advertise for these diploma mills?

**Rep. David Rust:** They are out there—those diploma mills and places. I know of at least one person who had a doctorate degree in the state practicing that was highly questionable as far as the doctorate. The thing is you have these places that advertise for \$2,000 or whatever it is that you can get this degree. With these fancy printers we have, we can make things look so official that it just scares the living daylights out of you that you are getting somebody who isn't that. I think I disagree with Rep. Schatz. I think it probably is something that we need.

**Chairman Kelsch:** When we passed this piece of legislation in 2003 when it was working its way in the house and senate for outlawing the diploma mills, I would print out every day, because I would get three, four, or five e-mails talking about degrees that I could get online. We would bring them in and looked at them. Maybe one was legitimate but all the rest of them were fraud.

**Rep. Mike Schatz:** Why are Native American colleges operating in the state eliminated from this? Why are they an exemption?

**Chairman Kelsch:** These are the federal tribal colleges and CTE doesn't have oversight over their responsibilities. They basically provide the tribal colleges with the supervision of technical assistance, but they don't have actual authority over to them. That is why they have those listed as exempt from the regulation under that chapter.

**Rep. Mike Schatz:** But we do accept them when it comes time to getting your license with the ESPB? We do accept what the Native colleges give us, right?

**Chairman Kelsch:** Right.

**Rep. Phillip Mueller:** With reference to a few years back—I think the idea then was we have 11 institutions of higher education that are state sponsored and some private institutions that are outstanding institutions and going back at least the part for me to the integrity of the process of North Dakota and we could be taken for granted. But I think we do a pretty nice job in lot of areas of education, certainly in higher education in providing degrees for all kinds of things. To send a message loud and clear to those who like to do diploma mills, you can do that but you aren't going to do it in our state. I think that is appropriate, and I think this bill tightens what we did in 2003 and is good legislation.

**Rep. Mike Schatz:** One of the things I have noticed about accreditation and licensure is that we have grandfather clauses in. We have people who are accredited and are practicing having been grandfathered in.

**Rep. David Rust:** Rep. Schatz, when I went out teaching you could get a life teaching certificate and there are probably a few of us in this room that have that. They did not eliminate the life certificate for those who had it. They just eliminated it for those in the future.

On the other side of that coin was as an administrator, I had to renew my credential every five years.

**Rep. Mike Schatz:** So administrators do have to have a recertification?

**Rep. John Wall** moved a **Do Pass**. **Rep. Phillip Mueller** seconded the motion.

**Rep. Karen Karls:** I had a question about the auctioneering part. I know that when you have a problem with an auctioneer, you file a complaint with the PSC, but if this law goes into effect if some school wants to establish an auctioneering school in this state—I don't think we have one right now—will this impede them? Will this make them jump through a lot more hoops?

**Chairman Kelsch:** In her testimony she says that because the PSC who does the regulating, that it would be up to them to determine the content of the course or the program. My guess is you wouldn't open an actual school. One of the schools would probably offer a program and then it would be up to the PSC to determine what is the appropriate program content because they are the regulatory board.

**Rep. Karen Karls:** You would also have to face CTE as well as the PSC?

**Chairman Kelsch:** No, because the PSC has the regulatory authority over auctioneers. In order to set up an auctioneering program, it would have to go through the PSC. Auctioneers are licensed through the PSC. They are not licensed through CTE or anybody else. Right now you have PSC determining the course approval and CTE is saying okay go ahead and do it. Now you would be putting it so that it was the PSC regulating it. I think if the Public Service Commission would have an issue with this, moving that authority over to them, I can guarantee you that they would have been down here screaming about it.

**DO PASS. 13 YEAS, 1 NAY.** **Rep. John Wall** is the carrier of this bill.

Date: 3-3-09  
Roll Call Vote #: \_\_\_\_\_

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
BILL/RESOLUTION NO. 8080

House Education Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Rep Wall Seconded By Rep Mueller

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson	✓	
Vice Chairman Lisa Meier	✓		Rep. Bob Hunsakor	✓	
Rep. Brenda Heller	✓		Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Corey Mock	✓	
Rep. Karen Karls	✓		Rep. Phillip Mueller	✓	
Rep. Mike Schatz		✓	Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep Wall

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

REPORT OF STANDING COMMITTEE (410)  
March 3, 2009 2:40 p.m.

Module No: HR-39-3970  
Carrier: Wall  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2080, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2080 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2080

Testimony Before the Senate Education Committee regarding SB 2080 on  
January 12, 2009

Mr. Chairman, Members of the Committee,

My name is Debra Huber and I am employed by the North Dakota Department of Career and Technical Education as Administrator for Educational Equity and Private Postsecondary Institutions. 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 postsecondary educational institutions in the state. The purpose of the chapter is to establish and maintain educational standards and quality business practices for the protection of the citizens of North Dakota. Protections for North Dakota consumers include the State Board for Career and Technical Education's requirement for private institutions and career schools to maintain a performance bond, offer students a statutory refund policy, and adhere to the Board's standards and criteria for school operations.

At its meeting on December 15, 2008, the State Board for Career and Technical Education endorsed the changes to the law proposed for your consideration as described in Senate Bill 2080.

Section 1: The first three proposed changes found on page 2, lines 10 to 14 of the bill, amend the section on Exemptions by eliminating two existing institutional exemptions and adding one new one.

The first exemption to be eliminated is “schools instructing on the manner of conducting games of chance which are regulated under chapter 53-06.1”.

The only Century Code section that relates to schools instructing on games of chance is NDCC section 54-12-01.2 which states: “The attorney general shall regulate schools offering training and methods of conducting games of chance and shall adopt any rules necessary.” (Exhibit 1)

The Attorney General’s Office has no rules regulating schools that offer training on games of chance. There have apparently been no such schools in this state since the 1980’s. Today, should any gaming school seek to establish a physical presence in North Dakota, there would be no mechanism in place to provide oversight of gaming school operations or for the protection of North Dakota student tuition money.

By eliminating the exemption for “Schools instructing on the manner of conducting games of chance,” owners of such schools seeking to establish a physical presence in North Dakota would be compelled to seek an authorization to operate from the State Board for Career and Technical Education, which requires that private career schools obtain a performance bond and adhere to the Board’s standards and criteria for operations, just as other private career schools must do to operate in this state.

The second proposed change to this section would eliminate the exemption for “Schools instructing on the manner of conducting auction sales which are regulated under chapter 51-05.1.” (Exhibit 2)

As it turns out, auctioneering schools are not regulated under chapter



51-05.1. This chapter assigns the responsibility for licensing auctioneers to the Public Service Commission, and describes the standards that must be met by applicants for the auctioneers' license. These standards include a requirement that applicants have either one year's experience, or proof of satisfactory completion of an *approved course of study* for auctioneering. See NDCC section 51-05.1-02(2). The Public Service Commission maintains the list of approved courses in auctioneering, and sets the standards for such a course, but does not regulate auction schools, per se.

Therefore, to ensure consumer protections for North Dakota students in the event such a school seeks to establish a physical location in North Dakota, this exemption should also be eliminated.

It should be noted that the State Board for Career and Technical Education does not in any way seek to alter or interfere with the PSC's authority to establish the standards for an approvable auctioneering program. Rather, the Board would treat this situation the same as it does with all programming leading to state licensure provided at authorized schools.

As part of the procedure for application for an authorization to operate in North Dakota, the State Board for Career and Technical Education would defer decisions on whether or not the program content met state standards to the appropriate licensing board. In the case of auctioneering training, the Board would seek the PSC's opinion as to whether the proposed course of study meets the PSC's standards while also determining that the remainder of the school's operations meet the State Board for Career and Technical

Education's standards for quality of education, ethical business practices, health and safety and fiscal responsibility.

This procedure ensures that the interests of North Dakota students enrolled in programs leading to licensable occupations are dually served: by the appropriate licensing board for matters pertaining to approvable coursework and by the State Board for Career and Technical Education on matters pertaining to school operations.

In a recent example of this practice, Rasmussen College sought to implement a program to train medical laboratory technicians. Consequently, contact was made with the State Board of Clinical Laboratory Practice to ensure the proposed program would meet this licensing board's standards.

Rasmussen College immediately dedicated the resources necessary to ensure the proposed program passed muster with the State Board of Clinical Laboratory Practice. Upon completion of the necessary steps, which included becoming a candidate for national accreditation as well as meeting the State Board for Career and Technical Education's requirements, Rasmussen College subsequently received an authorization to operate this program.

The final proposed change to the section on Exemptions, referred to on page 2, lines 11 and 12, adds "Native American Colleges operating in this state, established by federally recognized Indian Tribes" to the list of exemptions.

Adding an exemption for tribal colleges will reflect current practice. The State Board for Career and Technical Education does not have general oversight responsibility for the state's tribal colleges, nor does it authorize existing tribal colleges to operate in this state. At present, the Department of Career and Technical Education provides the tribal colleges with supervision and technical assistance for specific Career and Technical Education Programs (CTE) offered at the colleges. These CTE programs have been approved for funding by the State Board of Career and Technical Education. Program approval, technical assistance and monitoring for select CTE programs describes the extent of authority held by the State Board for Career and Technical Education with regard to the tribal colleges. Therefore, it is appropriate to list the tribal colleges among the institutions exempt from regulation under this chapter.

Section 2: The next proposed change listed on page 2, lines 20-22 would amend the section on Board Powers and Duties, by eliminating a requirement that the State Board for Career and Technical Education send superintendents and guidance counselors lists of authorized institutions, as that information is readily available to the public online on the Career and Technical Education website.

Section 3: The next proposed change, found on page 3, lines 1-3, amends the section on Minimum Standards required by the state for authorization to operate. It is this section that establishes the requirement for accreditation for postsecondary institutions seeking to operate in the state.

Basically, this change more precisely reflects the original intent of the law with regard to provisionally authorized institutions vs. institutions holding regular status. The difference between the two is that provisionally authorized institutions have not achieved recognized accreditation, whereas, those with regular status, have. Provisionally authorized institutions must demonstrate a “substantial good faith showing” of progress towards accreditation, and schools with regular authorization must retain accreditation.

Section 4: The next proposed change, listed on page 3, beginning with line 29, adds language to the section on Refund of tuition fees. This proposed change would allow institutions to deviate from the statutory refund policy found on lines 9 – 25 of page 3 if the institution’s refund policy offers a more favorable refund schedule to the student.

Section 5: The next proposed change, found on page 4, line 3, amends the section, Unlawful to issue, manufacture or use false academic degrees. It adds the act of “advertising to sell” a false academic degree to the other prohibited acts.

Following the 2003 passage of North Dakota’s anti- degree mill law, contained in sections 15-20.4-15 through 17 of this chapter (Exhibit 3), I was contacted by a Valley City State University professor, who reported that a degree mill was soliciting North Dakota students by advertising in the Valley City newspaper. He was dismayed to find that our new anti-degree mill statute did not specifically outlaw advertising for the sale of false academic

degrees – just their use, manufacture and issuance. Adding the phrase “advertise to sell” to the current language will close the loophole in the law that allows soliciting of North Dakota residents by operators of degree or diploma mills.

Section 6: The next proposed change, listed on page 4, lines 8 – 16, establishes a new section to the statute that would make it unlawful to operate an accreditation mill in North Dakota, and to establish a penalty. Accreditation mills are a newer fraud invention by the operators of degree or diploma mills. Because accreditation is a complex and confusing concept, not readily understood by the average citizen, operators of degree mills take advantage of consumers by inventing fake accrediting agencies, complete with fake logos, accreditation standards and lists of “accredited institutions” to paint a veneer of legitimacy on their false credentials.

I have enclosed, for your reference (Exhibit 4), a copy of the homepage from the website for the Association for Online Academic Excellence, a totally bogus accreditation body, likely invented by the individuals who wanted to bring the degree mill, Ashington University, to Butte, North Dakota. You can observe in the upper left corner of this page, the logo designed to lend a cloak of legitimacy to this fake operation.

I have also enclosed in Exhibit 5 a copy of the first of 8 pages of bogus accrediting organizations identified in the book, Accreditation Mills, by Mr. Allen Ezell. Ezell, the former leader of the FBI’s Operation Dipscam (or Diploma Scam), is currently an international expert on degree mills and

accreditation mills.

Recently, all states received correspondence by Dr. Judith Eaton, Director of the Council for Higher Education Accreditation (CHEA) asking that states get busy and pass anti-degree mill language if they have not already done so, and to pass anti-accreditation mill language, as well.

North Dakota is a national leader in taking a stand against degree mills, and was the first state to demand the felony penalty for issuance and manufacture of false credentials – a sign that North Dakotans take educational fraud seriously. This paved the way for other states to pass anti-degree mill laws carrying the felony penalty, as well. The felony penalty contained in this proposed anti-accreditation mill language is totally justified: accreditation mills are a fraud perpetrated upon the public by the same sophisticated white collar criminal organizations that profit from the sale of degree mill products: fake degrees, fake transcripts, and fake letters of reference.

Although many of these organizations prefer to hide out in the on-line environment, some list addresses in the United States. Passage of this new section, and particularly with the felony penalty, should keep accreditation mills from seeking to establish any kind of presence – even a computer network server – in our state.

The final change, referred to on page 4, line 17-18 of the bill, eliminates Section 15-20.4-07, on Negotiation of Promissory Instruments, (Exhibit 6) which prohibits a school from cashing a tuition check unless a student has finished half of his or her educational program.

While this may have been useful during an era when folks paid cash for tuition, it is problematic, today. Now, most students receive some kind of federal financial aid to assist with their tuition expenses, and the federal student aid program contains strict disbursement guidelines that conflict with this section. Therefore, we are asking that this section be eliminated.

Thank you. I will be happy to try to answer any questions you may have.

Same exhibits to House.

15. Attend to and perform any other duties which from time to time may be required by law.
16. Appoint the state fire marshal and supervise the operation of the state fire marshal department.
17. Give written opinions, when requested by the governing body or city attorney of a city in the state of North Dakota.
18. Repealed by S.L. 1991, ch. 637, § 9.
19. Give written opinions to public entities as defined in subdivision a or b of subsection 12 of section 44-04-17.1, when requested by an interested person under section 44-04-21.1.

**54-12-01.1. Attorney general to prepare eminent domain pamphlets - Copy to landowner.** The attorney general, with the cooperation of appropriate state agencies, shall prepare pamphlets in readable format describing the eminent domain laws of this state. The pamphlets must include the reasons for condemnation, the procedures followed by condemnors as defined by section 32-15-01, how citizens may influence the condemnation process, and the rights of property owners and citizens affected by condemnation. The attorney general shall make copies of the pamphlets available to all condemnors who must be charged a price for the pamphlets sufficient to recover the costs of production. A condemnor shall present a copy of the pamphlet to a property owner prior to making an offer to purchase and initiating a condemnation action.

**54-12-01.2. Regulation of gaming schools.** The attorney general shall regulate schools offering training and methods of conducting games of chance and shall adopt any rules necessary.

**54-12-01.3. Judicial officers - Legal defense - Indemnification.** The attorney general shall appear and defend any supreme court justice, supreme court surrogate justice, district court judge, district court surrogate judge, judicial referee, or director of juvenile court of this state in any action founded upon an act or omission arising out of performance of an official duty. If the attorney general determines that the attorney general or an assistant attorney general is unable to defend the judicial officer, the attorney general shall employ a special assistant attorney general to represent the judicial officer. The state shall indemnify the supreme court justice, supreme court surrogate justice, district court judge, district court surrogate judge, judicial referee, or director of juvenile court of this state for all reasonable costs, including attorney's fees, incurred by or awarded against the judicial officer in the action.

**54-12-01.4. Limitation of effect of certain opinions of attorney general.** Any opinion of the attorney general, or any other public official other than a court of competent jurisdiction, that sections 16.1-01-13, 16.1-01-13.1, and 16.1-01-14 are unconstitutional, is not binding on any other public official, and all other public officials are free to act in accordance with the wishes of the people of North Dakota as expressed in sections 16.1-01-13, 16.1-01-13.1, and 16.1-01-14.

**54-12-02. Attorney general may institute action in which state is a party.** The attorney general and the attorney general's assistants are authorized to institute and prosecute all cases in which the state is a party, whenever in their judgment it would be for the best interests of the state so to do.

**54-12-03. Attorney general may make investigation in county - How expenses paid.** The attorney general may make an investigation in any county in this state to the end that the laws of the state shall be enforced therein and all violators thereof brought to trial, when:

1. The attorney general deems it necessary for the successful enforcement of the laws of the state in such county;



## CHAPTER 51-05.1 AUCTIONEERS' AND CLERKS' LICENSES

**51-05.1-01. Auctioneering or clerking without a license prohibited.** No person may conduct a sale as an auctioneer or clerk unless licensed by the public service commission.

### **51-05.1-01.1. Auctioneer's license - Clerk's license - Fees - Bonds.**

1. The initial application for an annual auctioneer's or clerk's license must be in writing, verified, and must show the name, residence, and address of the applicant. An application must be filed at least ten days prior to the first auction sale the applicant is to conduct or clerk. Application for renewal of an annual license must be on forms designated by the commission. The fee for the annual license or renewal is thirty-five dollars and must accompany the application. The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk. Renewals that are not received by January thirty-first must be assessed an additional twenty-five dollar fee.
2. Before a license is issued to an auctioneer or clerk, the applicant must file a corporate surety bond with the commission. This bond must provide annual coverage of not less than five thousand dollars for an auctioneer or ten thousand dollars for a clerk, must run to the state of North Dakota, and must be for the benefit of any person injured by the licensee's improper conduct. Bonds may not be canceled on less than sixty days' written notice to the commission. When notice of cancellation is received by the commission, the commission, without hearing, shall revoke the license for which the bond was issued effective with the effective date of the cancellation, unless the licensee files a new bond or evidence that the bond will be reinstated before the effective date of the cancellation. The size of the licensee's bond must be clearly and prominently stated in all contracts with sellers.

**51-05.1-01.2. Exemptions.** A license under this chapter is not required for the following:

1. Sale of an estate by an executor or an administrator.
2. Sale by a sheriff or other person under court order.
3. Sale by a public official acting in an official capacity.
4. Sale of purebred or registered livestock.

A bond is not required for a federally insured financial institution to clerk a sale. Persons exempt from licensing or bonding under this section shall comply with all other provisions of this chapter.

### **51-05.1-02. License standards.**

1. Licenses may be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of an auctioneer or a clerk.
2. An applicant for a license must be at least eighteen years of age. Every applicant for a license as an auctioneer shall:
  - a. Have been actively engaged as a licensed auctioneer for a period of at least one year preceding the date of application; or
  - b. Furnish proof of satisfactory completion of an approved course of study relating to auctioneers.

written complaint of any person, file a petition for injunction in the name of the board in any court of competent jurisdiction in this state against such person, group, or entity, for the purpose of enjoining such violation or for an order directing compliance with the provisions of this chapter, and all rules, regulations, and orders issued hereunder. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has, and is in addition to any right of criminal prosecution provided by law; provided, however, the board may not obtain a temporary restraining order without notice to the person, group, or entity affected. The existence of board action with respect to alleged violations of this chapter does not operate as a bar to an action for injunctive relief pursuant to this section.

**15-20.4-15. Unlawful to issue, manufacture, or use false academic degrees - Penalty.**

1. It is unlawful for a person to knowingly issue or manufacture a false academic degree. A person that violates this subsection is guilty of a class C felony.
2. a. It is unlawful for an individual to knowingly use or claim to have a false academic degree:
  - (1) To obtain employment;
  - (2) To obtain a promotion or higher compensation in employment;
  - (3) To obtain admission to an institution of higher learning; or
  - (4) In connection with any business, trade, profession, or occupation.
- b. An individual who violates this subsection is guilty of a class A misdemeanor.
3. As used in this section, "false academic degree" means a document such as a degree or certification of completion of a degree, coursework, or degree credit, including a transcript, that provides evidence or demonstrates completion of a course of instruction or coursework that results in the attainment of a rank or level of associate or higher which is issued by a person that is not a duly authorized institution of higher learning.
4. As used in this section, "duly authorized institution of higher learning" means an institution that:
  - a. Has accreditation recognized by the United States secretary of education or has the foreign equivalent of such accreditation;
  - b. Has an authorization to operate under this chapter;
  - c. Operates in this state and is exempt from this chapter under section 15-20.4-02;
  - d. Does not operate in this state and is:
    - (1) Licensed by the appropriate state agency; and
    - (2) An active applicant for accreditation by an accrediting body recognized by the United States secretary of education; or
  - e. Has been found by the state board for career and technical education to meet standards of academic quality comparable to those of an institution located in

the United States that has accreditation recognized by the United States secretary of education to offer degrees of the type and level claimed.

**15-20.4-16. Unlawful to use degree or certificate when coursework not completed - Penalty.**

1. An individual may not knowingly use a degree, certificate, diploma, transcript, or other document purporting to indicate that the individual has completed an organized program of study or completed courses when the individual has not completed the organized program of study or the courses as indicated on the degree, certificate, diploma, transcript, or document:
  - a. To obtain employment;
  - b. To obtain a promotion or higher compensation in employment;
  - c. To obtain admission to an institution of higher learning; or
  - d. In connection with any business, trade, profession, or occupation.
2. An individual who violates this section is guilty of a class A misdemeanor.

**15-20.4-17. Consumer protection - False academic degrees.** The state board for career and technical education, in collaboration with the North Dakota university system, shall provide via internet web sites, information to protect students, businesses, and others from persons that issue, manufacture, or use false academic degrees.



# The Association for Online Academic Excellence

## FRAUD ALERTS

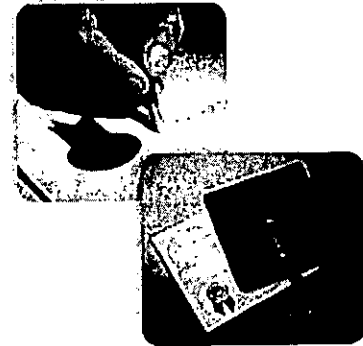
About Us



## About Us

Founded in 1997, the Association for Online Academic Excellence (AOAEX) is a professional accrediting association established to uphold and maintain high standards for all levels of online postsecondary education.

Though distance learning is thought by some to be significantly changing higher education, it is not a new phenomenon. Its predecessors are the correspondence courses that have spanned this century, providing education for those learners who could not pursue a traditional education. Yesterday's correspondence courses depended on written materials transmitted between teacher and learner by mail; today's education courses depend on the multitude of constantly changing communication technologies that can transmit instruction and relay materials between learner and teacher.



These technologies have taken shape at a very rapid pace, erasing traditional barriers of time, space and place and represent the capacity to fundamentally change the standard for transmitting knowledge and skills from master to learner. For reasons of access, economy, effectiveness and convenience, online learning is sweeping higher education and, in the view of some, changing the role of traditional learning to a marketplace that some institutions would prefer not to enter. Whether one is for or against distance learning, one cannot escape its impact.

Nearly half of the college students in this country are of the age group once thought of as non-traditional. They are adults, 80% of whom work full-time and they are primarily coming to college for many reasons, including economic advancement, accomplishment of educational degree goals and personal enrichment. Many of these students are attracted by the convenience and flexibility of online education programs -- a perfect fit for their busy lives. They are not alone, however; evidence indicates that many students of a more "traditional" age find distance learning attractive and that the population seeking postsecondary education is growing faster than the current institutions ability to meet the demand.

Since the accrediting process serves to validate an institution's commitment to quality assurance and continuous improvement, the purpose of the AOAEX is to provide a level of acceptability of college degrees which will undergo much of the same scrutiny as the evaluation of conventional campus-based programs.

Accreditation by the AOAEX provides assurance to the public, in particular to prospective students, that an institution has been found to meet the association's requirements and criteria and that there are reasonable grounds for believing that it will continue to meet them.

Accreditation provides certification of acceptable institutional quality as well as an opportunity and incentive for self-improvement in the accredited institutions. The

Mission Statement

Code of Ethics

Equal Educational  
Opportunity

Accreditation

Accreditation  
Criteria

Accreditation  
Process

Become a Member

Order Form for  
Application Manual

Fully Accredited  
Members

AOAEX reaches the conclusion that an institution meets its requirements and criteria only after the institution opens itself to examination. Moreover, for the accredited institution, the process of accreditation provides an opportunity for critical self-analysis leading to improvement in quality.

The colleges and universities that gain accreditation by the AOAEX are committed to provide qualified degreed students that meet or exceed the qualifications of traditionally accredited universities.

To be accredited by the AOAEX, an institution must provide full degree programs by online learning. Whether or not the institution offers traditional campus-based learning is not relevant.

The integrity, reliability and opportunities for student career advancement are of primary concern when evaluating a school for possible accreditation.

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it is my opinion that the following unrecognized entities should be considered accreditation mills, or substandard organizations, and their “recognition” or “accreditation” academically worthless:

- ◆ Academy for Contemporary Research
- ◆ Academy for the Promotion of International Cultural and Scientific Exchange
- ◆ Accelerated Degree Program
- ◆ Accreditation Agency for European Non-Traditional Universities
- ◆ Accrediting Association of American (sic) College (sic) and Universities
- ◆ Accreditation Association of American Colleges and Universities
- ◆ Accreditation Association of Christian Colleges and Universities
- ◆ Accreditation Governing Commission of the United States of America
- ◆ Accrediting Commission for Colleges and Universities
- ◆ Accrediting Commission for Specialized Colleges
- ◆ Accrediting Commission International
- ◆ Accrediting Commission International for Schools, Colleges and Theological Seminaries
- ◆ Accrediting Council for Colleges and Schools
- ◆ Accrediting Commission of Independent Colleges and Schools
- ◆ Accrediting Commission for Specialized Colleges
- ◆ Advanced Online Business Education Society
- ◆ *Akademie fuer Internationale Kultur und Wissenschaftsfoerderung*
- ◆ Alternative Institution Accrediting Association
- ◆ American Accrediting Association of Theological Institutions
- ◆ American Alternative Medical Association
- ◆ American Association of Accredited Colleges and Universities
- ◆ American Association of Collegiate Officers and Registrars
- ◆ American Association of Drugless Practitioners Commission on Accreditation
- ◆ American Association of International Medical Graduates
- ◆ American Association of Independent Colleges and Universities
- ◆ American Association of Non-Traditional Colleges and Universities
- ◆ American Association of Nontraditional Private Postsecondary Education

2. This section does not apply to postsecondary educational institutions operating in this state that do not grant degrees and that offer mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this subsection means a document that provides evidence or demonstrates completion of a course of instruction that results in the attainment of a rank or level of associate or higher.

**15-20.4-05. Prohibition.** A person, group, or entity of whatever kind, alone or in concert with others, may not:

1. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.
3. Use the term "university", "institute", or "college" without authorization to do so from the board.
4. Grant, or offer to grant, educational credentials, without authorization to do so from the board.

**15-20.4-06. Refund of tuition fees.** Postsecondary educational institutions shall refund tuition and other charges, other than a reasonable application fee, when written notice of cancellation is given by the student in accordance with the following schedule:

1. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the institution, all tuition and other charges must be refunded to the student.
2. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the educational services, all tuition and other charges except twenty-five percent thereof must be refunded to the student.
3. When notice is received upon or after completion of one-fourth of the educational services, but prior to the completion of one-half of the educational services, all tuition and other charges except fifty percent thereof must be refunded to the student.
4. When notice is received upon or after the completion of fifty percent of the educational services, no tuition or other charges may be refunded to the student.

The provisions of this section do not prejudice the right of any student to recovery in an action against any postsecondary educational institution for breach of contract or fraud.

**15-20.4-07. Negotiation of promissory instruments.** No postsecondary educational institution may negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the educational services. Any instrument negotiated in violation of this section is voidable by the maker, drawer, or endorser of the instrument.

Testimony Before the House Education Committee regarding SB 2080 on

March 3, 2009

Chairperson Kelsch and Members of the Committee,

My name is Debra Huber and I am employed by the North Dakota Department of Career and Technical Education as Administrator for Educational Equity, Special Populations and Private Postsecondary Institutions. 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 postsecondary educational institutions in the state. The purpose of the chapter is to establish and maintain educational standards and quality business practices for the protection of the citizens of North Dakota. Protections for North Dakota consumers include the State Board for Career and Technical Education's requirement for private institutions and career schools to maintain a performance bond, offer students a statutory refund policy, and adhere to the Board's standards and criteria for school operations.

At its meeting on December 15, 2008, the State Board for Career and Technical Education endorsed the changes to the law proposed for your consideration in Senate Bill 2080.

Section 1: The first three proposed changes found on page 2, lines 10 to 14 of the bill, amend the section on Exemptions by eliminating two existing institutional exemptions and adding one new one.



The first exemption to be eliminated is "schools instructing on the manner of conducting games of chance which are regulated under chapter 53-06.1". The only Century Code section that relates to schools instructing on games of chance is NDCC section 54-12-01.2 which states: "The attorney general shall regulate schools offering training and methods of conducting games of chance and shall adopt any rules necessary." (Exhibit 1)

The Attorney General's Office has no rules regulating schools that offer training on games of chance. There have apparently been no such schools in this state since the 1980's. Today, should any gaming school seek to establish a physical presence in North Dakota, there would be no mechanism in place to provide oversight of gaming school operations or for the protection of North Dakota student tuition money.

By eliminating the exemption for "Schools instructing on the manner of conducting games of chance," owners of such schools seeking to establish a physical presence in North Dakota would be compelled to seek an authorization to operate from the State Board for Career and Technical Education, which requires that private career schools obtain a performance bond and adhere to the Board's standards and criteria for operations, just as other private career schools must do to operate in this state.

The second proposed change to this section would eliminate the exemption for "Schools instructing on the manner of conducting auction sales which are regulated under chapter 51-05.1." (Exhibit 2)

As it turns out, auctioneering schools are not regulated under chapter

51-05.1. This chapter assigns the responsibility for licensing auctioneers to the Public Service Commission, and describes the standards that must be met by applicants for the auctioneers' license. These standards include a requirement that applicants have either one year's experience, or proof of satisfactory completion of an *approved course of study* for auctioneering. See NDCC section 51-05.1-02(2). The Public Service Commission maintains the list of approved courses in auctioneering, and sets the standards for such a course, but does not regulate auction schools, per se.

Therefore, to ensure consumer protections for North Dakota students in the event such a school seeks to establish a physical location in North Dakota, this exemption should also be eliminated.

It should be noted that the State Board for Career and Technical Education does not in any way seek to alter or interfere with the PSC's authority to establish the standards for an approvable auctioneering program. Rather, the Board would treat this situation the same as it does with all programming leading to state licensure provided at authorized schools.

As part of the procedure for application for an authorization to operate in North Dakota, the State Board for Career and Technical Education would defer decisions on whether or not the program content met state standards to the appropriate licensing board. In the case of auctioneering training, the Board would seek the PSC's opinion as to whether the proposed course of study meets the PSC's standards while also determining that the remainder of the school's operations meet the State Board for Career and Technical

Education's standards for quality of education, ethical business practices, health and safety and fiscal responsibility.

This procedure ensures that the interests of North Dakota students enrolled in programs leading to licensable occupations are dually served: by the appropriate licensing board for matters pertaining to approvable coursework and by the State Board for Career and Technical Education on matters pertaining to school operations.

In a recent example of this practice, Rasmussen College sought to implement a program to train medical laboratory technicians. Consequently, contact was made with the State Board of Clinical Laboratory Practice to ensure the proposed program would meet this licensing board's standards.

Rasmussen College immediately dedicated the resources necessary to ensure the proposed program passed muster with the State Board of Clinical Laboratory Practice. Upon completion of the necessary steps, which included becoming a candidate for national accreditation as well as meeting the State Board for Career and Technical Education's requirements, Rasmussen College subsequently received an authorization to operate this program.

The final proposed change to the section on Exemptions, referred to on page 2, lines 11 and 12, adds "Native American Colleges operating in this state, established by federally recognized Indian Tribes" to the list of exemptions.

Adding an exemption for tribal colleges will reflect current practice. The State Board for Career and Technical Education does not have general oversight responsibility for the state's tribal colleges, nor does it authorize existing tribal colleges to operate in this state. At present, the Department of Career and Technical Education provides the tribal colleges with supervision and technical assistance for specific Career and Technical Education Programs (CTE) offered at the colleges. These CTE programs have been approved for funding by the State Board of Career and Technical Education. Program approval, technical assistance and monitoring for select CTE programs describes the extent of authority held by the State Board for Career and Technical Education with regard to the tribal colleges. Therefore, it is appropriate to list the tribal colleges among the institutions exempt from regulation under this chapter.

Section 2: The next proposed change listed on page 2, lines 20-22 would amend the section on Board Powers and Duties, by eliminating a requirement that the State Board for Career and Technical Education send superintendents and guidance counselors lists of authorized institutions, as that information is readily available to the public online on the Career and Technical Education website.

Section 3: The next proposed change, found on page 3, lines 1-3, amends the section on Minimum Standards required by the state for authorization to operate. It is this section that establishes the requirement for accreditation for postsecondary institutions seeking to operate in the state.

Basically, this change more precisely reflects the original intent of the law with regard to provisionally authorized institutions vs. institutions holding regular status. The difference between the two is that provisionally authorized institutions have not achieved recognized accreditation, whereas, those with regular status, have. Provisionally authorized institutions must demonstrate a "substantial good faith showing" of progress towards accreditation, and schools with regular authorization must retain accreditation.

Section 4: The next proposed change, listed on page 3, beginning with line 29, adds language to the section on Refund of tuition fees. This proposed change would allow institutions to deviate from the statutory refund policy found on lines 9 – 25 of page 3 if the institution's refund policy offers a more favorable refund schedule to the student.

Section 5: The next proposed change, found on page 4, line 3, amends the section, Unlawful to issue, manufacture or use false academic degrees. It adds the act of "advertising to sell" a false academic degree to the other prohibited acts.

Following the 2003 passage of North Dakota's anti- degree mill law, contained in sections 15-20.4-15 through 17 of this chapter (Exhibit 3), I was contacted by a Valley City State University professor, who reported that a degree mill was soliciting North Dakota students by advertising in the Valley City newspaper. He was dismayed to find that our new anti-degree mill statute did not specifically outlaw advertising for the sale of false academic

degrees – just their use, manufacture and issuance. Adding the phrase “advertise to sell” to the current language will close the loophole in the law that allows soliciting of North Dakota residents by operators of degree or diploma mills.

Section 6: The next proposed change, listed on page 4, lines 8 – 16, establishes a new section to the statute that would make it unlawful to operate an accreditation mill in North Dakota, and to establish a penalty. Accreditation mills are a newer fraud invention by the operators of degree or diploma mills. Because accreditation is a complex and confusing concept, not readily understood by the average citizen, operators of degree mills take advantage of consumers by inventing fake accrediting agencies, complete with fake logos, accreditation standards and lists of “accredited institutions” to paint a veneer of legitimacy on their false credentials.

I have enclosed, for your reference (Exhibit 4), a copy of the homepage from the website for the Association for Online Academic Excellence, a totally bogus accreditation body, likely invented by the individuals who wanted to bring the degree mill, Ashington University, to Butte, North Dakota. You can observe in the upper left corner of this page, the logo designed to lend a cloak of legitimacy to this fake operation.

I have also enclosed in Exhibit 5 a copy of the first of 8 pages of bogus accrediting organizations identified in the book, Accreditation Mills, by Mr. Allen Ezell. Ezell, the former leader of the FBI’s Operation Dipscam (or Diploma Scam), is currently an international expert on degree mills and

accreditation mills.

Recently, all states received correspondence by Dr. Judith Eaton, Director of the Council for Higher Education Accreditation (CHEA) asking that states get busy and pass anti-degree mill language if they have not already done so, and to pass anti-accreditation mill language, as well.

North Dakota is a national leader in taking a stand against degree mills, and was the first state to demand the felony penalty for issuance and manufacture of false credentials – a sign that North Dakotans take educational fraud seriously. This paved the way for other states to pass anti-degree mill laws carrying the felony penalty, as well. The felony penalty contained in this proposed anti-accreditation mill language is totally justified: accreditation mills are a fraud perpetrated upon the public by the same sophisticated white collar criminal organizations that profit from the sale of degree mill products: fake degrees, fake transcripts, and fake letters of reference.

Although many of these organizations prefer to hide out in the on-line environment, some list addresses in the United States. Passage of this new section, and particularly with the felony penalty, should keep accreditation mills from seeking to establish any kind of presence – even a computer network server – in our state.

The final change, referred to on page 4, line 17-18 of the bill, eliminates Section 15-20.4-07, on Negotiation of Promissory Instruments, (Exhibit 6) which prohibits a school from cashing a tuition check unless a student has finished half of his or her educational program.

While this may have been useful during an era when folks paid cash for tuition, it is problematic, today. Now, most students receive some kind of federal financial aid to assist with their tuition expenses, and the federal student aid program contains strict disbursement guidelines that conflict with this section. Therefore, we are asking that this section be eliminated.

Thank you. I will be happy to try to answer any questions you may have.



**Testimony Offered to  
House Education Committee on HB 2080**

**By Michel Hillman  
North Dakota University System**

*March 3, 2009*

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Madame Chair and members of the House Education Committee, for the record I am Mike Hillman, Vice Chancellor for Academic Affairs with the North Dakota University System.

The State Board of Higher Education is in support of SB 2080. The State Board of Higher Education, along with the Career and Technical Education Board, recognizes the importance of establishing and maintaining educational standards and quality business practices for citizens of North Dakota. The proposed change to SB 2080 makes it unlawful to operate an accreditation mill in North Dakota and provides a penalty. Passage of this bill will help protect North Dakota higher education consumers from fraudulent accreditation mill operations.