

HB 1064
Senate Education Committee
March 12, 2025
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Chair Beard and members of the Senate Education Committee, my name is Claire Gunwall. I serve as the Director of Academic Affairs for the North Dakota University System. I am here to present testimony on behalf of the North Dakota University System (NDUS) and the State Board of Higher Education (SBHE) regarding House Bill 1064. This bill proposes significant amendments to chapter 15-18.1 of the North Dakota Century Code, relating to postsecondary education institution standards. The NDUS and SBHE support House Bill No. 1064, which aligns with our mission to uphold rigorous academic standards and provide increased educational opportunities in North Dakota. The bill introduces crucial changes aimed at strengthening the regulatory framework governing postsecondary education, particularly distance education, to ensure better accountability, student protection, and educational quality. As a roadmap, I would like the committee to keep these three key points in mind:

- All out-of-state institutions should be held to the same rigorous standards as institutions within the NDUS.
- The NDUS should not be devoted nearly one full day a week to vetting out-of-state institutions.
- There are hundreds of available seats in healthcare programs for students within the NDUS. Adopting these proposed amendments does not compound any type of workforce crisis in nursing or other healthcare programs because the NDUS has the capacity to teach these students.

Some of the key provisions include:

1. **Clear Definitions and Clarifications:** By amending section 15-18.1-01, the bill offers clearer definitions, such as "distance education" and "educational credentials," making the language more reflective of current practices and ensuring proper regulation of both physical and online institutions.
2. **Enhanced Accreditation and Financial Responsibility Standards:** The bill stresses the importance of accreditation by agencies recognized by the [U.S. Department of Education](#) and ensures that the parent company and institutions maintain a [federal financial responsibility composite score](#) of 1.5 or higher. A score greater than or equal to 1.5 indicates the institution is considered financially responsible. These measures ensure the financial stability of institutions, reducing risks associated with unexpected closures or financial instability, thus protecting students.

3. **Enhanced Consumer Protections Against Unauthorized Institutions:** The bill strengthens protections for students by prohibiting institutions that do not meet the required authorization or accreditation standards from operating in the state. This provision ensures that students are not misled by institutions that may offer substandard education or lack proper accreditation. It also allows the State Board of Higher Education to enforce these standards, ensuring that only authorized institutions are allowed to operate within North Dakota. This creates a safer educational environment for students and ensures that they receive valid and recognized credentials upon completion of their programs.
4. **National Council for State Authorization Reciprocity Agreements (NC-SARA)**
Membership Requirement: One of the most important aspects of this bill is the introduction of the requirement for all postsecondary institutions offering distance education to students in North Dakota to be members of NC-SARA. NC-SARA is an [agreement](#) among states, districts, and territories in the U.S. to make it easier for students to take online courses offered by postsecondary institutions based in another state. The NC-SARA membership streamlines state authorization, providing a standardized set of regulations ensuring student consumer protection. This membership allows out-of-state institutions to operate in all participating states without needing separate approval from each state. More than 2,400 [institutions](#) voluntarily participate. In Fall 2023, 513 institutions offered distance education to 5,478 North Dakota students. Currently, fourteen ND institutions are members of NC-SARA. We do recognize that some institutions may be [ineligible](#) or may choose not to join, reducing student access to out-of-state institutions. However, the NC-SARA membership would ensure consistent consumer protection and provide transparency and consistent processes for institutions to adhere to. To put it simply, NC-SARA offers an objective measurement of consumer protection to protect students.

During the House Education hearing, an out-of-state institution testified against the amendments, citing its inability to apply for NC-SARA membership due to the parent company's federal financial responsibility composite score not meeting the minimum requirement. The institution expressed a preference for using the institutional composite score rather than the parent company's score as the basis for eligibility and recommended the removal of the NC-SARA membership requirement altogether. Additionally, the institution indicated this bill could hinder the education of healthcare professionals in North Dakota. Chair Heinert requested NDUS, SBHE, and the institution to meet and discuss an amendment to the original bill proposal. After discussions, the SBHE agreed to include in Section 7, subsection 2:

2. A postsecondary institution that is denied membership of the national council for state authorization reciprocity agreements, or if its membership is revoked or otherwise changes in a manner that impacts its eligibility to participate, may request an exemption to the requirement of subsection 1 for good cause. The state board of

higher education shall adopt a policy to implement this statute, which may include a fee for such requests.

Notably, this amendment, which was approved by the SBHE, created an exemption to NC-SARA membership, but the application would be reviewed by the SBHE and granted for good cause. However, the House Education Committee approved the following amendment:

2. A postsecondary educational institution that is ineligible to participate in national council for state authorization reciprocity agreements due to composite score requirements is exempt from the requirements under subsection 1 if the postsecondary educational institution:

a. Is an eligible participant in student financial aid programs under title IV of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1219; 20 U.S.C. 1001 et seq.]; and

b. At the institution level, has a financial responsibility score calculated by an independent auditor using the methodology prescribed by the United States department of education greater than one and one-half.

3. The state board of higher education shall adopt a policy to implement this section, which may include a fee.

The SBHE and NDUS were **not** provided with the amendments approved by the House Education Committee. Therefore, we must express our concerns related to Section 7, specifically subsections 2 and 3. These subsections, allowing institutions to bypass NC-SARA membership requirements and bypass SBHE review based on eligibility for federal student aid programs and institutional financial responsibility composite scores, create significant risks. We recommend all institutions providing distance education in North Dakota must be held to the same rigorous standards as our North Dakota institutions to protect students and ensure educational integrity.

Granting an exemption to an institution with a low parent company financial composite score, simply because it participates in Title IV financial aid, is risky for students. Receiving Title IV financial aid is not the gold standard of consumer protection for our students. There are times where an institution may be receiving Title IV financial aid, but the U.S. Department of Education is engaging in heightened review and oversight. Institutions that receive Title IV financial aid, may still be subject to concerns over administrative capabilities, program review, false advertising, and predatory practices. Many of these concerns have resulted in litigation and multi-million-dollar settlements. Meanwhile, these institutions still receive Title IV financial aid. Additionally, if this amendment, which would exempt an institution from NC-SARA membership and SBHE review because they receive Title IV

funding, is passed, it could increase the risk of delayed or disrupted financial aid for students if the Department of Education is engaging in [Heightened Cash Monitoring](#) (HCM) with an institution. Financial instability could lead to school closures or operational failures, leaving students with debt but no degree. HCM exists to protect students by ensuring funds are managed responsibly, and bypassing these safeguards would undermine protections, leaving students vulnerable to unnecessary financial and academic setbacks.

Furthermore, NC-SARA [requires](#) the federal composite score of the parent company, not the individual institution's score, for several important reasons, all of which are crucial for upholding educational quality and ensuring student protection:

- The parent company often oversees multiple institutions and using its federal composite score ensures that all associated institutions are evaluated under the same umbrella.
- The parent company typically has overarching control over its affiliated institutions. It governs critical aspects such as resources, budgets, staffing, and strategic direction. Given this centralized control, it is logical for the parent company's composite score to reflect the financial health of all its institutions.
- Evaluating each institution separately could lead to fragmented or inconsistent financial assessments. Some institutions may appear financially sound, while others may be struggling, which could mask the overall health of the parent organization. The parent company's financial health is a more accurate reflection of its ability to provide continued support across all its institutions, ensuring that all affiliated institutions, whether offering physical or distance education, operate within a financially secure framework.
- NC-SARA uses the parent company's composite score to help guarantee the financial stability of the entire network of institutions, which is critical for protecting students. If a parent company is financially unstable, that instability can affect all of its institutions, potentially leaving students with unfulfilled educational promises and burdens.

In light of these reasons, the federal composite score of the parent company plays a vital role in ensuring the integrity and financial health of the entire educational network. Allowing an exemption for institutions based on their individual score, rather than holding the parent company accountable, could undermine the very purpose of ensuring financial responsibility and student consumer protection.

Furthermore, North Dakota institutions, along with those holding NC-SARA membership, play a crucial role in addressing the state's healthcare workforce needs by providing accessible, high-quality education and training for aspiring healthcare professionals. NC-SARA membership ensures that these institutions meet rigorous academic and operational

standards, enabling them to offer students a wide variety of accredited programs. This membership also promotes collaboration between institutions across states, enhancing North Dakota's ability to produce a well-trained healthcare workforce to meet both local and regional demands.

We respectfully recommend a removal or revision of these subsections to ensure that the bill fulfills its goal of creating a transparent, reliable, and high-quality educational environment for North Dakota students. By doing so, the bill will better align with our mission of upholding both academic excellence and strong student consumer protections for students.

5. **Streamlining authorization processes:** The repeal of Section 15-18.1-03, which relates to the authorization of postsecondary educational institutions not operating in the state, is an important step in streamlining the regulatory framework. This section is no longer necessary with the expanded provisions related to out-of-state institutions offering distance education, particularly given the new NC-SARA membership requirement. This change will reduce the time and effort for staff to review out-of-state institutions.

Currently, the NDUS Office's total hours spent processing state authorization applications for out-of-state institutions that are not NC-SARA members vary depending on the complexity of the application and the need for additional reviews. This process typically includes the following activities: evaluating the institution's compliance with N.D.C.C. ch. 15-18.1, reviewing the institution's accreditation status, assessing composite scores to ensure alignment with the 1.5 requirements, verifying professional licensure requirements for relevant academic programs, and collecting applicable fees. Generally, within a year, the NDUS Office reviews approximately 40 to 50 applications, which are mostly institutions from California. On average, approximately 2-8 hours a week are dedicated to reviewing and processing out-of-state applications. Putting this in perspective, what this means is that the State of North Dakota is devoting, at times, one entire day a week of a state employee's time processing out-of-state applications who have undergone less rigorous vetting than our state institutions.

The SBHE felt strongly that to better protect North Dakota students and to better utilize NDUS staff time, they supported using an objective measurement, such as NC-SARA membership, was the most appropriate way to proceed.

In conclusion, the SBHE and NDUS fully support House Bill 1064 with the proposed amendments to chapter 15-18.1 of the North Dakota Century Code. We believe that these changes will significantly strengthen the standards and accountability of postsecondary education in North Dakota, benefiting students and institutions alike. By requiring NC-SARA membership, enhancing financial and accreditation standards, and ensuring robust student consumer protection, this bill will help create a more transparent, reliable, and high-quality educational environment for students across the state. These amendments: 1. Require out-of-state institutions be held to the same rigorous standards as NDUS institutions, 2. Create a logical business approach by setting an objective



standard for consumer protection and eliminating the need for an NDUS employee to dedicate a full day each week to vet out-of-state institutions and 3. Do not cause a healthcare workforce shortage, as NDUS institutions have the capacity to educate and graduate all interested students. We respectfully urge the committee to recommend a “Do Pass” for House Bill 1064, with the removal or revision of ***Section 7, subsections 2-3*** to ensure that all institutions providing distance education meet the necessary national standards.

Thank you for considering our position, and I’d be happy to answer any questions you may have.

Support of HB 1064
Senate Education Committee
March 12, 2025
Kevin Black, Member, State Board of Higher Education

Honorable members of the Senate Education Committee,

As a member of the State Board of Higher Education, I respectfully submit this testimony of support for House Bill 1064, which is designed to establish a level playing field for educational institutions and protect North Dakota students from financial and educational risks. The bill encompasses several key provisions that I believe are essential for upholding high academic standards, financial stability, and the integrity of distance education.

House Bill 1064 ensures that out-of-state institutions are held to the same academic and financial standards as those within the North Dakota University System (NDUS). This is a crucial step in maintaining the quality of education provided to our students. Specifically, the bill leverages the National Council for State Authorization Reciprocity Agreements (NC-SARA) membership as a nationally recognized benchmark for student consumer protection. This membership guarantees that institutions meet consistent standards to offer distance education, thereby fostering transparency and accountability.

One of the most significant concerns is the potential financial distress faced by institutions receiving Title IV federal student aid. Despite this aid, many institutions have encountered heightened oversight, lawsuits, and even sudden closures, leaving students burdened with debt and without a degree. HB 1064 aims to mitigate these risks by enforcing a robust regulatory framework that ensures only institutions with proven financial stability and accredited programs can operate within North Dakota. This framework is instrumental in reducing the chances of fraud, misrepresentation, and predatory practices.

NC-SARA membership provides a standardized process for approving distance education providers, ensuring consistency and clarity across states. This standardization is vital for maintaining educational integrity and protecting student consumers. Without such benchmarks, students may enroll in institutions with inadequate oversight, leading to poor educational outcomes, unrecognized credentials, or loss of tuition if institutions close unexpectedly.

Currently, NDUS staff spend up to one full day per week reviewing out-of-state institution applications—a process that is both time-consuming and unnecessary given that NC-SARA membership provides a reliable and efficient vetting system. By adopting the NC-SARA requirement, NDUS can streamline operations, redirect valuable staff time to initiatives that directly support North Dakota students and institutions, and deliver more efficient government to the taxpayers.

In conclusion, House Bill 1064 represents a comprehensive approach to protecting the educational landscape in North Dakota. By establishing rigorous standards for out-of-state institutions, protecting students from financial and educational risks, and strengthening consumer protections, we can ensure that our students receive the highest quality education in a safe and stable environment. Furthermore, by efficiently utilizing NDUS resources and maintaining robust

healthcare education programs, we can secure a brighter future for North Dakota's students. I urge the Senate Education Committee to support this bill and help achieve these goals.

Thank you for your attention and consideration.

Sincerely,

Kevin Black

Member, State Board of Higher Education