

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1182

2001 HOUSE EDUCATION

HB 1182

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1182

House Education Committee

Conference Committee

Hearing Date 02/⁰⁵~~15~~/01

Tape Number	Side A	Side B	Meter #
#1		X	1 to 2944
Committee Clerk Signature <i>Lisa Albrite</i>			

Minutes:

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

Chairman Kelsch: We will now open the hearing on HB1182.

Chancellor Larry Isaak: *Please refer to written testimony*

Mike Schnell: (ND Student Association) *Please refer to written testimony*

Jason Bernhardt: (Student Government of UND) Reads the testimony of Jason Matthews

Chairman Kelsch: Are you familiar with the amendments?

Bernhart: Yes, and I believe that the UND students would reject those amendments. We accept the bill only as it is originally written, and that's because at UND, we provide telecommunications services to Greek houses and we also provide telecommunication services to business who are in our unions and also in incubators. Would any of those things be there if it

weren't for UND? And it's our opinion that the telecommunications company should probably just say thank you for providing 3,000 or 4,000 employees and 6000 off campus students that have to pay for phone lines. The telecommunication services at UND are very responsive to the students needs. They've been very willing to work with students who have a hard time paying their bills. They've been willing to work with us to try to get high speed Internet into the residence halls, they've been willing to work with all of our student organizations to make sure they have access, and the students seriously doubt that those things would have been done with somebody other than UND telecommunications.

Rep. Haas: So, these services have been provided all along on campus. What has changed to make this bill necessary now?

Bernhardt: That's our question, as far as we can see, the only thing that's changed is the telecommunications companies want a piece of the pie, and that's basically what it comes down to. I believe there's a \$1.5 million fiscal note attached. It's our belief that, if telecommunications companies go into our campuses, it's not going to make or break them, but I will guarantee you that they will not be nearly as responsive to the student needs on campuses. When you're just another account number, it's not necessarily their fault, but it's more difficult to be responsive.

Chairman Kelsch: Anyone who wishes to appear in opposition to HB1182?

Dan Kuntz: (Quest Corporation) Quest corporation provides telephone service in a number of the communities where universities are located in ND. Right now, a telephone company such as Quest corporation are required to comply with certain regulatory requirements. One of the big ones is, you have to allow dialing parity, so somebody can pick their own long distance company, you can't dictate anymore who's going to carry long distance to your customers.

There's number of others in the law that every telephone system is required to comply with. Part of the bill problem with universities providing their own service, the concern is when the state supported network is expanded, you start competing with the telephone companies and serving other types of businesses and offices or even residences outside the university system without complying with the same kind of requirements as the other companies have. What this bill is this university is exempt from all of the other necessary requirements to provide anybody else.

There'd be no restrictions on who they could serve. We've worked with the university systems, we've worked on some amendments over the last couple of weeks. Basically the amendments that were proposed to you represents some discussion between us and the institution. I think we're in agreement with most of the amendments. There are a few things that have come up in the last couple of days, and with a couple of changes on here, I think the Quest Corporation could accept the amendments to the bill. If you have the amendments in front of you, and if you go up four lines from the bottom of the first paragraph, the lines begin, 'they could serve these companies in the incubator systems for four years and then the language was added, if comparable service has comparable rates is not available from the private sector, we would be OK with taking out the term 'at a competitive rate', because I'm not sure who's going to define what a competitive rate is, and every time that somebody would want to stay beyond the four years, the automatic response will be that the rates weren't competitive. The other change that we would suggest. Two lines up from that same paragraph, we don't have a problem with people coming onto the campus sites for educational, governmental or even nonprofit uses, but what we think you need to add after the word 'nonprofit users of' add 'the systems or institutions' and then we would take out the rest of that sentence. We're not exactly sure what's intended by the words

'bridging and gateways' there. I think that if you added the language that we suggested, it would clarify, as long as the people are coming to the university sites to use the campuses, IVAN network for educational, governmental or non-profit purposes, that's fine, but we don't want it to extend outside the campus and start inner connecting with other businesses, e.g. Hospitals and others are non profits as well.

Chairman Kelsch: Can Chancellor Isaak come back up here? Can you respond to the proposed amendment by Mr. Kuntz.

Isaak: 'at competitive rates': we have a situation on one of our campuses, and there is some concern that if there isn't some language in there, they have business that is incubated on that campus, and they're concerned about having available service there at competitive rates, because if not, they're concerned that the store will start looking for other locations. I would want to look at that very carefully before saying that we would agree to eliminating 'at competitive rates'. Secondly, in terms of IVAN, I think the thing that we have to be careful with is that we are connected to some hospitals and so forth through different alliances. The medical school is with hospitals in rural areas and all over the state providing service either satellite or some other way, so I'd have to take a closer look at that so those things could continue to happen, because that's part of our outreach program into those areas.

Rich Legg: (UND) The information regarding bridge ways and gateways, what that does, it allows multiple sites to connect into IVAN. Some of the hospitals connect currently through this kind of equipment in order to have an action between continuing education functions at the other hospitals and the students that are located out there doing field work.

Rep. Brusegaard: This Con Mart in Mayville, how long have they been incubated?

Isaak: I'm not sure, I think it's been going on three to five years.

Rep. Brusegaard: When you do use the IVAN network to connect other hospitals, that's strictly used in fulfilling your mission as an educational institution with students you have working there.

Isaak: Correct, and also in outreach and continuing education for positions and so forth.

Rep. Nelson: At NDSU, with some of the extension branches, by definition, if they're using the IVAN network, would that meet the definition of on campus?

Isaak: In my view it would and it would certainly be covered in Section A here.

Rep. Nelson: That's the meaning that I would grab, but what would happen in a situation where a ND grain growers would set up some type of a seminar, or some type of a meeting that used that IVAN network. Would that be allowed?

Pat Seworth: The purpose of the subdivision F on the amendments would permit continued use to education, governmental and nonprofit users, so the example that you used with a non profit group would be able to continue to use the system.

Chairman Kelsch: Is the Barnes and Nobles bookstore covered under this amendment?

Seworth: Yes it would be, because that would be covered under C, in the amendment. Barnes and Nobles is located on UND.

Rep. Mueller: Would you walk us through how we go about identifying the providers that we currently have?

Rich Lean: The vendors that we currently use for our trunking would be Quest etc. We do all of our directory listing information, ATT is our provider for the state long distance network, so there are others who are involved. We also have some contracts with MCI for terminating services on the campus. So, we do use the vendors to bring services to the campus.

Rep. Mueller: With the passage of HB1182, do you see a different range of competition being involved here, are we going to see those folks having to adjust their rates somewhat to accommodate this?

Lean: I would think not, because we currently serve the students.

Isaak: Why do we need this bill now? Someone asked this. I'd like to ask Ilona Jeffcoat Sacco.

Jeffcoat-Sacco: (Public Service Commission) The face of regulation is changing. UND for twenty years or so has held a resellers certificate, and was a certified reseller of telecommunication services and that's because they were purchasing in blocks from AT&T and then reselling to their students. What happened in the last couple of years with the federal telecommunications act was there became a list of obligations on phone companies to open to competition. In UNDs situation, having a mandatory dial parity would mean a person in the dorm buying service from UND, everyone of those dorm units would be able to pick MCI to Sprint. There are some other interconnection type obligations. A competitor may want to use some of UNDs lines to interconnect and resell bits or pieces of that. As these obligations were becoming more apparent, we at the commission realized that we had these little phone companies out there on the university campuses. We gathered information and we began to realize there was question of whether they were truly a real phone company or something else. Whether they were exempt or not, and basically we produced a body of information, didn't come up with really any conclusion. When they talk about the financial impact, I think that it's the taking of all of these steps that don't exist yet. They're trying to preserve the status quo somewhat.

Chairman Kelsch: We will now open HB1182.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1182 A

House Education Committee

Conference Committee

Hearing Date 02/07/01

Tape Number	Side A	Side B	Meter #
#2		X	20 to 581
Committee Clerk Signature <i>[Signature]</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 take up HB1182.

Rep. Brusegaard: I move the amendments.

Rep. Nottestad: Second.

Chairman Kelsch: What are the wishes of the committee?

Rep. Hawken: I move a DO PASS AS AMENDED

Rep. Brusegaard: Second.

Chairman Kelsch: Committee discussion.

The motion of DO PASS AS AMENDED passes with 15 YAY 0 NAY 0 ABSENT.

Floor Assignment: Rep. Hunskor

FISCAL NOTE

Requested by Legislative Council
01/11/2001

REVISION

Bill/Resolution No.: HB 1182

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would exempt higher education so that the campuses are not considered to be telecommunications services providers. Without this exemption, campuses will no longer be able to continue providing telecommunications services to students who reside in campus apartments, fraternity and sorority housing or affiliated entities, and also may no longer be able to serve students in residence halls. Examples of affiliated entities are those residing in campus facilities (e.g. food providers such as Subway in the student union food court) and technology incubator companies located on campus. Telecommunications services would be provided to these students and affiliated entities by local telecommunications providers, rather than by the campus.

If campuses are no longer able to provide telecommunications services to these students and affiliated organizations the current telecommunications costs (e.g. equipment, trunk lines from the telephone companies, cable plant and billing systems), will have to be spread over the remaining users. This will result in a much higher per unit cost as the number of subscribers declines.

If campuses are no longer able to serve residence halls, campus apartments, fraternity and sorority housing and affiliated entities, all telecommunications costs will need to be absorbed by the remaining campus administrative users (i.e. faculty and staff). Thus, campus operating costs will increase an estimated \$1.5 million per biennium. This will require an additional \$1.5 million general fund appropriation to cover these increased operating costs.

If the campuses are able to serve administrative users and residence halls, but not campus apartments, fraternity and sorority housing and affiliated entities, costs for students in the residence halls and administrative users would increase by approximately \$500,000 per biennium as the costs are spread over fewer users.. Again, an additional state general fund appropriation of roughly \$335,000 would be required to offset that portion of the \$500,000 associated with administrative users. Student residence hall fees would have to increase to pay for the remaining increased costs of roughly \$165,000.

In addition, local telecommunications providers would have to install new services, creating another additional expense for the students and other users who no longer are provided services by the campus.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Campuses would lose between \$500,000-\$1,500,000 in revenues (used mid-point of \$1,000,000) from current telecommunication users who would be required to seek services from elsewhere if this bill does not pass.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Costs for the remaining users (administrative and/or residence halls) would increase as fixed costs are spread over fewer users if this bill does not pass. Roughly, two-thirds of the increased costs would be allocated to administrative users and one-third to residence halls. Campus operating costs for administrative users would increase from \$335,000-\$1,500,000 (used midpoint of \$917,500) depending on the inclusion or exclusion of residence halls. Student costs would increase from \$0-\$165,000 (used midpoint of \$82,500).

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the*

executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

State general fund appropriations to the campuses would have to increase from \$335,000-\$1,500,000 (used midpoint of \$917,500) to cover increased administrative user telecommunication costs if this bill does not pass.

Name:	Laura Glatt	Agency:	North Dakota University System
Phone Number:	328-4116	Date Prepared:	01/12/2001

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: HB 1182

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	(\$1,000,000)	\$0	(\$1,000,000)
Expenditures	\$0	\$0	\$917,500	\$82,500	\$917,500	\$82,500
Appropriations	\$0	\$0	\$917,500	\$0	\$917,500	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would exempt higher education so that the campuses are not considered to be telecommunications services providers. Without this exemption, campuses will no longer be able to continue providing telecommunications services to students who reside in campus apartments, fraternity and sorority housing or affiliated entities, and also may no longer be able to serve students in residence halls. Examples of affiliated entities are those residing in campus facilities (e.g. food providers such as Subway in the student union food court) and technology incubator companies located on campus. Telecommunications services would be provided to these students and affiliated entities by local telecommunications providers, rather than by the campus.

If campuses are no longer able to provide telecommunications services to these students and affiliated organizations the current telecommunications costs (e.g. equipment, trunk lines from the telephone companies, cable plant and billing systems), will have to be spread over the remaining users. This will result in a much higher per unit cost as the number of subscribers declines.

If campuses are no longer able to serve residence halls, campus apartments, fraternity and sorority housing and affiliated entities, all telecommunications costs will need to be absorbed by the remaining campus administrative users (i.e. faculty and staff). Thus, campus operating costs will increase an estimated \$1.5 million per biennium. This will require an additional \$1.5 million general fund appropriation to cover these increased operating costs.

If the campuses are able to serve administrative users and residence halls, but not campus apartments,

fraternity and sorority housing and affiliated entities, costs for students in the residence halls and administrative users would increase by approximately \$500,000 per biennium as the costs are spread over fewer users. Again, an additional state general fund appropriation of roughly \$335,000 would be required to offset that portion of the \$500,000 associated with administrative users. Student residence hall fees would have to increase to pay for the remaining increased costs of roughly \$165,000.

In addition, local telecommunications providers would have to install new services, creating another additional expense for the students and other users who no longer are provided services by the campus.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Campuses would lose between \$500,000-\$1,500,000 in revenues (used mid-point of \$1,000,000) from current telecommunication users who would be required to seek services from elsewhere.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Costs for the remaining users (administrative and/or residence halls) would increase as fixed costs are spread over fewer users. Roughly, two-thirds of the increased costs would be allocated to administrative users and one-third to residence halls. Campus operating costs for administrative users would increase from \$335,000-\$1,500,000 (used midpoint of \$917,500) depending on the inclusion or exclusion of residence halls. Student costs would increase from \$0-\$165,000 (used midpoint of \$82,500).

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

State general fund appropriations to the campuses would have to increase from \$335,000-\$1,500,000 (used midpoint of \$917,500) to cover increased administrative user telecommunication costs.

Name:	Laura Glatt	Agency:	North Dakota University System
Phone Number:	328-4116	Date Prepared:	01/08/2001

Date: 2/7/01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1182

House House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Hawken Seconded By Rep. Brusegaard

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 Hunskor	✓	
Rep. C.B. Haas	✓		Rep. Phillip Mueller	✓	
Rep. Kathy Hawken	✓		Rep. Dorvan Solberg	✓	
Rep. Dennis E. Johnson	✓				
Rep. Lisa Meler	✓				
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. Hunskor

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

REPORT OF STANDING COMMITTEE

HB 1182: 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 1182 was placed on the Sixth order on the calendar.

Page 2, line 4, replace "An institution of higher education." with "Services or facilities provided by a system or institution of higher education to:

- a. Institution employees or students at institution facilities or housing owned or leased by the institution;
- b. Affiliated organizations, including alumni operations and research foundations, formed for the purpose of supporting the institution or leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests;
- c. Casual users using the institution's facilities for conferences, seminars and other similar special events, and broadcasters of athletic events;
- d. Occupants of technology parks, or business incubators receiving secretarial or business start-up support in facilities owned or leased by the institution during a business start-up phase for a term not to exceed four years or until August 1, 2005, whichever is later; and
- e. Educational, governmental and nonprofit users of system or institution interactive video conferencing site facilities and associated network services.

Institutions may not unreasonably restrict access by a telecommunications company to institution facilities for the purpose of furnishing telecommunications services to residents in institution housing or to other persons or entities leasing institution facilities, except institutions may limit access to residence halls. Institutions may require reasonable payment for and adopt reasonable restrictions on the use of institution telecommunications infrastructure to avoid service interruptions or increased maintenance or administrative burdens."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1182

Page 2, after line 10, insert:

- c. other persons or entities located on property owned or leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests;

Page 2, line 11, replace "c" with "d"

Page 2, line 13, replace "d" with "e"

Page 2, line 17, replace "e" with "f"

Date: 2/19/01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1 B1182

House House Education Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Nottestad 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 Hunskor	✓	
Rep. C.B. Haas	✓		Rep. Phillip Mueller	✓	
Rep. Kathy Hawken	✓		Rep. Dorvan Solberg	✓	
Rep. Dennis E. Johnson	✓				
Rep. Lisa Meler	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Hunskor

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

REPORT OF STANDING COMMITTEE

HB 1182: 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 1182 was placed on the Sixth order on the calendar.

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"c. Other persons or entities located on property owned or leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests;"

Page 2, line 11, replace "c" with "d"

Page 2, line 13, replace "d" with "e"

Page 2, line 17, replace "e" with "f"

Renumber accordingly

2001 SENATE EDUCATION

HB 1182

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1182

Senate Education Committee

Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
1	x		29.1 - 49.0
1		x	41.0 - 55.0
Committee Clerk Signature <i>Anden Johnson</i>			

Minutes: CHAIRMAN FREBORG called the hearing on HB 1182 which relates to the definition of telecommunications service for purposes of telecommunications regulation.

Testimony in support of HB 1182:

LAURA GLATT, Vice Chancellor ND University Systems, presented testimony. (see attached).

The amendment was necessary due to a transcription error. SENATOR COOK asked if the fiscal note is correct in that if the bill does not pass, there will be a \$1.5 million increase in cost to higher education per biennium. She stated that is correct. Currently the costs are spread among all the users, and if the users decrease, the costs would increase per unit (user). If this bill passes, there is no fiscal impact to anyone. SENATOR O'CONNELL asked if there would be a choice of long-distance carriers. RICH LANE, Telecommunication Director University Sys., stated that currently the first choice would be the university carrier, but students can choose another carrier. SENATOR O'CONNELL asked why the IVN system wouldn't work for this. He stated IVN currently does not tie in with the long distance carriers. SENATOR FLAKOLL

asked if a private building on campus would be considered a "government entity" and be included in this exemption. PAT SEAWORTH, counsel for ND University Sys., stated that private buildings would be exempt if intended primarily for the benefit of students and institution employees.

MIKE SCHNELL, ND Student Assn., presented testimony. (see attached).

ALANA JEFFCOAT-SACO, Public Service Commission, stated that if the legislation passes, no certification would be needed by the University System.

There was no opposition to HB 1182.

Hearing no further testimony, the hearing on HB 1182 was closed.

Tape 1, Side B, 41.0 - 55.0

SENATOR FLAKOLL moved the amendment brought by Laura Glatt. (see attached testimony, last page). Seconded by SENATOR COOK.

Roll Call Vote: 7 YES. 0 NO. 0 Absent. Amendment Adopted.

SENATOR KELSH moved a DO NOT PASS as Amended. Seconded by SENATOR O'CONNELL. SENATOR KELSH feels the students are already paying and he feels we should not have to exempt the oversights of others.

Roll Call Vote: 3 YES. 4 NO. 0 Absent. Motion Failed.

SENATOR COOK moved a DO PASS as Amended. Seconded by SENATOR FLAKOLL.

Roll Call Vote: 4 YES. 3 NO. 0 Absent. Motion Carried.

Carrier: Senator Flakoll

REPORT OF STANDING COMMITTEE (410)
March 12, 2001 3:08 p.m.

Module No: SR-42-5403
Carrier: Flakoll
Insert LC: 18238.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1182, as reengrossed: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1182 was placed on the Sixth order on the calendar.

Page 2, line 8, replace "leased by" with "institution functions."

Page 2, remove lines 9 and 10

Renumber accordingly

2001 HOUSE EDUCATION

CONFERENCE COMMITTEE

HB 1182

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1182 conf

House Education Committee

Conference Committee

Hearing Date 3-27-01

Tape Number	Side A	Side B	Meter #
1	xx		1-1300
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: Rep. Brysegaard opened the conference committee on HB1182. Others present: Rep. Nelson, Rep. Mueller, Sen. Flakoll, Sen. Wanzek, and Sen. O'Connell. I'll ask the senate to explain their amendments.

Sen. Flakoll : Explained the amendments. They were at the request of higher education. These were originally intended to be in the bill, they thought. Missed in the rewrite.

Rep. Mueller : Why take out line 9 and 10?

Sen. Flakoll : I don't know the answer to that.

Sen. Wanzek : I'm trying to recall from memory. Can't really tell you about this bill.

Sen. O'Connell : They left an opening for the broadcasters.

Rep. Mueller : We've taken out "leased by" and is this significant in the mix?

Sen. Flakoll : It does show a relationship to higher education.

Rep. Mueller : It seems to me that the difference between the senate and the house version is the house is more specific. The senate used broad terminology. That is the question before us. Do

Page 2
House Education Committee
Bill/Resolution Number SB1182 conf
Hearing Date 3-27-01

we have it be as broad as institutional functions would allow or do we want to be more defined then that.

Sen. Flakoll : Do you think it would help if whoever drafted this could come and tell us the difference?

Rep. Nelson : I don't think L.C. drafted this.

Sen. Flakoll : I think the amendments were because of a drafting error. We are exempting a governmental agency from rules that private corporations have to follow. I think we must limit them as much as we can in that exemption. **I move that the senate recede from their amendment.**

Rep. Nelson : **I second.**

VOTE: 5 YES and 1 NO PASSED.

REPORT OF CONFERENCE COMMITTEE (420)
March 26, 2001 1:22 p.m.

Module No: HR-52-6731

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

HB 1182, as reengrossed: Your conference committee (Sens. Flakoll, Wanzek, O'Connell and Reps. Brusegaard, Nelson, Mueller) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 799 and place HB 1182 on the Seventh order.

Reengrossed HB 1182 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) HB1182 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Brusegaard
Nelson
Mueller

For the House:

Flakoll
Wanzek
O'Connell

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 8724/H726 8723/H725
the (Senate/House) amendments on (SJ/HJ) page(s) 199 - _____

and place HB1182 on the Seventh order.
727

, 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) HB1182 was placed on the Seventh order of business on the
calendar.

DATE: ____/____/____

CARRIER: _____

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.

2001 TESTIMONY

HB 1182

**TESTIMONY ON HB 1182
HOUSE EDUCATION COMMITTEE**

**Presented by Larry Isaak, Chancellor
North Dakota University System
February 5, 2001**

Madame Chair and members of the House Education Committee. HB 1182 is a bill for college students.

This bill creates an exemption for higher education from telecommunications regulation. Without the exemption, ND university system institutions will not be able to continue to provide telecommunications services to students in residence halls and other institution housing, to affiliated organizations (alumni and research foundations) and to student union food court vendors and other entities that provide goods and services on our campuses primarily to students and employees.

If the institutions are not able to continue to provide telecommunications services to student housing, affiliated organizations, etc., the institution administration, faculty and staff would end up paying all of the costs for equipment, trunk lines, cable plant, billing, etc. With fewer users, the per unit costs would go up and NDUS institution operating costs would increase by an estimated \$1.5 million per biennium.

As introduced, HB 1182 would provide an unqualified exemption for higher education institutions. Telecommunications providers have expressed concerns about this broad exemption. It is not our intent to expand telecommunications services beyond that now being provided by NDUS institutions. Accordingly, we have prepared an amendment to limit the scope of the exemption to the services now being provided by the institutions, which include: (a) institution offices and facilities and student housing; (b) affiliated organizations; (c) entities providing goods and services to students and employees on campus (food vendors, etc.); (d) conference and seminar participants and broadcasters of athletic events; (e) technology park lessees or incubated businesses during a limited start-up phase; and (f) educational, governmental and nonprofit users of IVN facilities.

One group not covered by the amendment is Greek housing. UND (but not other campuses) now provides services to UND fraternities and sororities; UND would no longer provide that service under these amendments.

I will try to answer committee members' questions. There are also telecommunication professionals from our campuses in attendance who can assist the committee. Thank you for your consideration of this important issue, especially to students.

PROPOSED AMENDMENTS TO HB 1182

Page 2, line 4, replace "An institution of higher education" with:

"Services or facilities provided by a system or institution of higher education to: (a) institution employees or students at institution facilities or housing owned or leased by the institution; (b) affiliated organizations, including alumni operations and research foundations, formed for the purpose of supporting the institution or institution functions; (c) other persons or entities located on property owned or leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests; (d) casual users using the institution's facilities for conferences, seminars and other similar special events, and broadcasters of athletic events; (e) occupants of technology parks or business incubators receiving secretarial or business start-up support in facilities owned or leased by the institution during a business start-up phase for a term not to exceed four years or, if comparable service at competitive rates is not available from the private sector, until such service is available; and (f) educational, governmental and nonprofit users of interactive video conferencing site facilities and associated network services including scheduling, bridging, and gateways.

Institutions may not unreasonably restrict access by a telecommunications company to institution facilities for the purpose of furnishing telecommunications services to residents in institution housing or to other persons or entities leasing institution facilities, except institutions may limit access to residence halls. Institutions may require reasonable payment for and adopt reasonable restrictions on use of institution telecommunications infrastructure in order to avoid service interruptions or increased maintenance or administrative burdens."

Madam Chair, members of the education committee, thank you for allowing me to speak today.

My name is Mike Schnell and I am the lobbyist for the North Dakota Student Association. NDSA is a group made up of student leaders from across the state and represents the students of all eleven statewide institutions. The students of North Dakota stand in support of House Bill 1182.

This year much of the debate surrounding higher education will focus on the recent higher education roundtable report. This report calls for allowing schools to chart their own course, focus on the needs of their specific students, and to be entrepreneurial. The report then concludes that higher education will be a key factor in expanding North Dakota's economy, which will stabilize and increase our population as well as bringing in more revenue to our state which will make our institutions more fiscally independent. The institutions will gain flexibility, still be held accountable for their actions, and continue to focus on student-centered programs and liberal arts education.

On December 3rd, a Bismarck Tribune Editorial stated the future of higher education is the most important issue in this upcoming legislative session. This statement is entirely true, in order for North Dakota to move forward we need to have a system that is allowed the flexibility it needs to play a leadership role in the states economic development. Higher education is the key to economic development in the state, and has the capability of bringing in thousands of new jobs to North Dakota. A focus on the recommendations of the roundtable report will help grow North Dakota, and the failure of HB 1182 would run counter to those same recommendations.

Many of our campuses, need new buildings and infrastructure and because of the limited resources of our own states budget they need to find alternative funding sources for the needs facing their campuses. Alumni donations and donations from friends of the university are some of the ways our campuses fill these needs. Alumni foundations would be negatively impacted if HB 1182 was not passed and it is important that we do not hinder these university organizations with excess regulations.

Last, and most importantly, if HB 1182 were to fail, the campuses will have to find a way to make up for their lost revenue. The question the University System puts before you is how would the lost revenue be made up and the answer to that question is simple, the students of North Dakota will be left footing the bill.

NDSA understands that we are not the most powerful lobbying group that is going to step in front of you today, but we can say with absolute certainty that we have the most to lose and the least to win. With the passage of HB 1182 we gain nothing more than the quality education that we are promised and that we deserve, if HB 1182 fails, it is not only our pocketbooks that are impacted, it is also the worth of the degrees that will hang on our walls. It is not the intent of our institutions to compete with our telecommunication companies, they only want to serve their constituents.

The students of North Dakota look forward to working with you to face our current challenges, as well as conquering the challenges that we will face in the future. The direction taken this legislative session will decide the future of higher education for years to come. Your hard work is improving North Dakota. If you have any questions please feel free to contact me.

Thank you, I would be happy to answer any questions.

OFFICE OF STUDENT GOVERNMENT
MEMORIAL UNION
P O BOX 8385
GRAND FORKS, NORTH DAKOTA 58202-8385
(701) 777-4377
FAX (701) 777-6235

Good morning Madam Chair and members of the committee. The University of North Dakota Student Government regrets that we are unable to attend today's hearings but we sincerely wish to thank the committee for the opportunity to submit our testimony in writing for the record.

Let us be clear. The students of UND are in strong support of House Bill 1182. On January 28, 2001 the Student Senate, acting on behalf of not only the students of UND but of college students across the state, voted unanimously in support of a resolution that states unequivocally our support for HB 1182, and the continuation of the current telecommunications system. If it would please the chair, we kindly ask that the attached copy of our resolution be submitted into the record.

We support HB 1182 for a number of reasons. First, and foremost among these, is the concern of the burdens and costs that a new system would impose directly on the state, and indirectly on the limited budgets of college students. Second, a new telecommunications system would only guarantee confusion and creates unnecessary difficulty for students. Third, we believe that if students are expected to pay for the current fees that area providers charge many student organizations and individuals will not use their UND lines; and will opt instead to use cellular services – an occurrence that is already becoming a common practice at our campus, therefore making the telecommunications companies' main argument ring hollow.

We base our opposition to a new system on the belief that the telecommunications companies and the state are not in direct competition with one another. Furthermore, we take contention with the fact that UND, and other state institutions, spent many hours and dollars installing lines – lines that area providers will tap into and use at little to no cost to their budgets. There is a principle here that begs the question: where do we draw the line? Today it is the telecommunication providers, but what about tomorrow? The electric companies, cable companies? Failure to pass 1182 will push the states' institutions down a slippery slope with no end in sight. Madam Chair, members of the committee, House Bill 1182 is not a bill that upholds a "loophole" but rather is a bill that maintains a needed wall that prevents our institutions from being economically exploited.

Again, we thank the chair and the committee for your attention to this matter.

Sincerely,


Jason Matthews, State Affairs Coordinator
UND Student Government

Senate Resolution

To: UND Student Senate
From: Michael Cleveland Off-Campus senator
Dan Wellcome Residence Hall Senator
CC: North Dakota Legislature, Berly Nelson, Kristy Berger, Mary Anne Lustgraaf
Date: January 26, 2001
Re: North Dakota House Bill 1182

Whereas, the state's colleges and universities are continually challenged fiscally; and

Whereas, the growing demands facing our institutions continue to mount; and

Whereas, one of these demands is the improvements of the telecommunications at our universities through high speed Internet and Ethernet connections; and

Whereas, Greek houses, University apartments and off-campus facilities rely heavily on the current system and a new system would greatly complicate and hinder further advancements; and,

Whereas, telecommunication technologies are continually advancing increasing prices beyond the means of the average college students' budgets; and

Therefore, be it resolved that the University of North Dakota Student Senate strongly support passage of House Bill 1182 and urges the North Dakota Legislature to do the same.

**TESTIMONY ON HB 1182
SENATE EDUCATION COMMITTEE**

**Presented by Laura Glatt, Vice Chancellor
North Dakota University System
March 12, 2001**

Chairman Freborg and members of the Senate Education Committee. HB 1182 is a bill for college students.

This bill creates an exemption for higher education from telecommunications regulation. Regulations governing telecommunications providers have changed in recent years. At the same time, colleges and universities have expanded services available to students and other customers to meet demands for those services. However, ND university system institutions are unable to meet all regulatory requirements for telecommunications companies.

Without the exemption, the institutions will not be able to continue to provide telecommunications services to students in residence halls and other institution housing, to affiliated organizations (alumni and research foundations) and to student union food court vendors and other entities that provide goods and services on our campuses primarily to students and employees. If the institutions are not able to continue to provide telecommunications services to student housing, affiliated organizations, etc., the institution administration, faculty and staff would end up paying all of the costs for equipment, trunk lines, cable plant, billing, etc. With fewer users, the per unit costs would go up and NDUS institution operating costs would increase by an estimated \$1.5 million per biennium.

As introduced, HB 1182 would have provided for an unqualified exemption for higher education institutions. Telecommunications providers expressed concerns about this broad exemption. It is not our intent to expand telecommunications services beyond that now being provided by NDUS institutions. Accordingly, at the request of the House Education Committee, we met with representatives of the telecommunications providers and reached agreement on amendments to limit the scope of the exemption to the services now being provided by the institutions, which include: (a) institution offices and facilities and student housing; (b) affiliated organizations; (c) entities providing goods and services to students and employees on campus (food vendors, etc.); (d) conference and seminar participants and broadcasters of athletic events; (e) technology park lessees or incubated businesses during a limited start-up phase; and (f) educational, governmental and nonprofit users of IVN facilities.

One group not covered by the amendment is Greek housing. UND (but not other campuses) now provides services to UND fraternities and sororities; UND would no longer provide that service under these amendments.

Due to a transcription error (followed by a second error when the House tried to correct the first error), language in Reengrossed House Bill No. 1182 is different than what was intended. On page 2, lines 8-10, the words "leased by the institution and offering products and services intended primarily for the benefit of institution employees, students, or guests" should be removed and replaced with the words "institution functions." I have attached to my prepared testimony proposed amendments to do that.

I will try to answer committee members' questions. Thank you for your consideration of this important issue, one that is especially important to students.

PROPOSED AMENDMENTS TO REENGROSSED HB 1182

Page 2, line 8, replace "leased by" with "institution functions;"

Page 2, remove lines 9 and 10

Remember accordingly

Mr. Chairman, members of the education committee, thank you for allowing me to speak today.

My name is Mike Schnell and I am the lobbyist for the North Dakota Student Association. NDSA is a group made up of student leaders from across the state and represents the students of all eleven statewide institutions. The students of North Dakota stand in support of House Bill 1182.

This year much of the debate surrounding higher education will focus on the recent higher education roundtable report. This report calls for allowing schools to chart their own course, focus on the needs of their specific students, and to be entrepreneurial. The report then concludes that higher education will be a key factor in expanding North Dakota's economy, which will stabilize and increase our population as well as bringing in more revenue to our state which will make our institutions more fiscally independent. The institutions will gain flexibility, still be held accountable for their actions, and continue to focus on student-centered programs and liberal arts education.

On December 3rd, a Bismarck Tribune Editorial stated the future of higher education is the most important issue in this upcoming legislative session. This statement is entirely true, in order for North Dakota to move forward we need to have a system that is allowed the flexibility it needs to play a leadership role in the state's economic development. Higher education is the key to economic development in the state, and has the capability of bringing in thousands of new jobs to North Dakota. A focus on the recommendations of the roundtable report will help grow North Dakota, and the failure of HB 1182 would run counter to those same recommendations.

Last, and most importantly, if HB 1182 were to fail, the campuses will have to find a way to make up for their lost revenue. The question the University System puts before you is how would the lost revenue be made up and the answer to that question is simple, the students of North Dakota will be left footing the bill.

When voting on HB 1182 it is extremely important to remember it is not the intent of our institutions to compete with telecommunication companies, they only want to serve their constituents.

The students of North Dakota look forward to working with you to face our current challenges, as well as conquering the challenges that we will face in the future. The direction taken this legislative session will decide the future of higher education for years to come. Your hard work is improving North Dakota. If you have any questions please feel free to contact me.

Thank you, I would be happy to answer any questions.