

2019 HOUSE EDUCATION COMMITTEE

HB 1324

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1324
1/15/2019
30792

- Subcommittee
 Conference Committee

Committee Clerk: Bev Monroe by Marjorie Conley
--

Explanation or reason for introduction of bill/resolution:

Relating to exemptions from postsecondary education institution minimum standards

Minutes:

Attachment 1, 2

Chairman Owens: Opened the hearing on HB 1324.

Tony Scheving, Pastor, Fargo Baptist Church: Speaking in favor of HB 1324.
(see attachment #1) (:41-6:18).

Rep. K. Koppelman: Dist. 13 representative. Sponsoring HB 1324. (6:40-9:57)

Chairman Owens: How long have you been doing this Mr. Scheving?

Tony Scheving: We started this as Dakota Baptist Bible Institute in 1992. Now we have people coming from across the country and other places.

Chairman Owens: Any other questions for Mr. Scheving?

Frank Wilson, Provost of Masters Baptist College: (see attachment #2) (11:21-21:22)

Chairman Owens: Are there any questions?

Rep. Hoverson: Is Jamestown College exempt? To be accredited displaces the authority of the church. I thought you were already exempt.

Frank Wilson: To be accredited, we resist those things.

Rep. Mary Johnson: Are you currently approved by the board of higher education?

Frank Wilson: We are not. Trying to find resolution to this issue.

Rep. Mary Johnson: Currently you are not authorized by the state and you have been operating without authority of the state board of higher education.

Frank Wilson: That is what we understand and that is the reason we are here.

Rep. Mary Johnson: That is normal because you are a religious organization, you wouldn't fall within the statute, but could you define or provide what you describe as tension.

Frank Wilson: It is the understanding as this statute is written, it doesn't exempt religious. If we look at the nine exemptions the closest we find is number two where it speaks to charitable organizations but under their conditions, so we don't find ourselves in here as exempted. According to the legal counsel that we got, they agree.

Rep. Mary Johnson: What legal counsel?

Frank Wilson: This would be the Christian Law Association.

Rep. M. Johnson: I am trying to pinpoint where the state comes in. The state is a factor of this tension that exists.

Frank Wilson: It's the Century Code 15-18.1. The minimum standards, this reads as if the state board of higher education, the standards that they set apply to us. We do not find ourselves in the exemption.

Rep. M Johnson: You have been operating all this time without the approval of the state board of higher education. I don't see that this even applies to you, without the exemption.

Frank Wilson: And the fact that we have not been operating under the approval is where we believe we learn that is where the tension is, because we were doing so without approval.

Vice Chairman Schreiber-Beck: Is there a legal interpretation from the Attorney General's office to indicate that you were not in compliance?

Frank Wilson: We are not aware that the Attorney General has offered an opinion. We didn't seek that opinion from them, we went to the Christian Law Association and that is why we are here.

Rep D. Johnston: Has it occurred in other states where their board of higher education has come into their realm and dictated what they do?

Frank Wilson: We are not operating in other states. We are sending graduates to other states to serve. I was in contact with a CLA lawyer who cited a case in Texas where their minimum statutes seem to be very similar to the ones in North Dakota and there was a tension there and the Supreme Court of Texas ruled that this statute was in violation of the First Amendment rights, so I know that these things happen in other states.

Rep. Mary Johnson: State doesn't have copyright on those terms.

Frank Wilson: The state doesn't have a monopoly on these terms. So that religious organizations engaged in postsecondary education could use those terms.

Chairman Owens: The Issue here exists under 18.1, you believe voluntary application for authorization to operate, the board powers and duties, you have to meet minimum standards about all postsecondary education to be accredited. You think you fall into that and you are not in the exemptions right now. The board in theory would have power over you.

Frank Wilson: That is the understanding of the statute. We are not approved and therefore the tension.

Chairman Owens: Going to check with Attorney General. Anyone else in favor Of HB1324? Opposition to HB1324? Any neutral position to HB1324?

Close hearing on HB1324.

2019 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Coteau A Room, State Capitol

HB 1324
2/12/2019
32586

- Subcommittee
 Conference Committee

Committee Clerk: Bev Monroe

Explanation or reason for introduction of bill/resolution:

Relating to exemptions from postsecondary education institution minimum standards

Minutes:

Chairman Owens: Committee work on HB 1324.

Rep. Mary Johnson: Was there an amended bill before this? This just leaves a partial sentence.

Vice Chairman Cynthia Schreiber-Beck: You have to go to Chapter 15-18.1-02, which are the exemptions and the chapter starts out 'the following education and educational schools or institutions are exempted from the provisions of this chapter' and then it would read 'religious postsecondary educational institutions established, operated and governed by a church, religious denomination or religious organization.'

As we learned during the testimony on this that this particular religious institution is a 501-3C, which is a charitable institution. I provided the amendments in the case that you wanted to use and list this, but essentially item 2 under exemptions list education offered by charitable institutions, organizations or agencies so recognized by the board provided the education is not advertised or promoted as leading toward the educational credentials, which was their issue. Higher Ed is not comfortable allowing them to advertise credentials when they aren't an accredited institution, which makes sense.

Rep. LaurieBeth Hager: (Inaudible)

Chairman Owens: Any further discussion? I'm not interested in putting their degrees in Century Code. The amendment takes that out.

Rep. Andrew Marschall: What would be the plusses or minuses of putting the credentials into the statutes.

Chairman Owens: Actual degrees?

Rep. Andrew Marschall: Yes, how they list it.

Chairman Owens: For one, it would suggest that we are limiting them to those two degrees and it highlights that we are saying that these are degrees. The state is supporting the fact that they are qualified degrees if we list them in Century Code. I don't know that we want to go there.

Rep. LaurieBeth Hager: Paying attention to what Mayville State did and what other places do for their credentialing, it is a three-year process. Even private institutions go through credentialing and I am sure the tribal institutions have a credentialing board as well. I didn't hear there was any credentialing process at this institution.

Chairman Owens: What this amendment does is restrict it. It cuts the bill down to simple exemption of religious organizations. It doesn't say anything about the quality of education or supportive of education or anything if you include the amendment. Right now, it suggests which issues educational credentials and if put in century code the state is saying we agree that's what they do and here are their degrees.

Vice Chairman Cynthia Schreiber-Beck: To explain that further, if you are enrolled in this program offered by this religious institution, the credits you are taking do not transfer to any other school. It's only what they are offering, it's not an accredited program. That is why Higher Ed isn't happy with the suggestion to list that, because it says they are validating that they are an accredited institution which they are not. I only offered proposed amendments so that we could look at them.

Representative Denton Zubke: I move a Do No Pass on HB 1324.

Rep. Ron Guggisberg: Seconded.

A **Roll Call Vote** was taken: **Yes 10, No 4, Absent 0**. Rep. Guggisberg will carry HB 1324.

Date: 2-12-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1324**

House Education Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Zubke Seconded By Rep. Guggisberg

Representatives	Yes	No	Representatives	Yes	No
Chairman M. Owens	✓		Rep. Guggisberg	✓	
V. Chair. Schreiber-Beck	✓		Rep. Hager	✓	
Rep. Heinert	✓				
Rep. Hoverson		✓			
Rep. D. Johnson	✓				
Rep. M. Johnson		✓			
Rep. Johnston		✓			
Rep. Longmuir	✓				
Rep. Marschall		✓			
Rep. Pyle	✓				
Rep. Strinden	✓				
Rep. Zubke	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Guggisberg

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

REPORT OF STANDING COMMITTEE

HB 1324: Education Committee (Rep. Owens, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1324 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1324

House Bill 1324

Testimony before House Education Committee

Pastor Tony Scheving ~ Fargo Baptist Church, Fargo ND

January 15, 2019; 10:30 a.m.

Mr. Chairman and esteemed committee members, I'm Tony Scheving and I've Pastored Fargo Baptist Church in south Fargo for the past 32 years. We have a Bible college; Masters Baptist College where I'm the Chancellor. I'm joined today by Pastor Brian Weiss, Chairman of our Doctrinal Exam Board, and Frank Wilson, Provost of Masters.

We are appearing before you today in support of HB 1324 on behalf of Fargo Baptist Church and other North Dakotans who value religious freedoms. We would like to thank Rep. Kim Koppelman and the other sponsors of this bill for being very receptive to our concerns and for their willingness to address our concerns through the proposed amendment; relating to *exemptions* from postsecondary education institution minimum standards.

We appreciate the opportunity to be heard today. I would like to share some of the history of Masters Baptist College to provide context for our concern.

- Fargo Baptist Church's purpose
 - o To carry out a mandate given by Jesus Christ
 - FBC wholly given to what is known as the Great Commission (Mt 28:18-20)
 - Teaching (gospel, Baptizing, and Teaching to observe all things)
 - o Building lives through faithful teaching, discipling and multiple ministries
 - Examples include Sunday School for all ages, Reformers Unanimous, Refugee Ministry, Bus ministry for children, Heaven 88.7FM, and Masters Baptist College
- Vision for Masters
 - o In accordance with II Timothy 2:2 and other scriptures, our purpose is to prepare the sincere servant of God for a life of effective Christian service in and through the New Testament church
 - All of the efforts of Masters Baptist College are for the sole purpose of equipping New Testament churches with trained believers to carry out the Great Commission
 - The church was commissioned by Jesus Christ, whose church it is, as he delegated his authority to the church to "teach" things pertaining to the Word of God
 - o As early as 1992 Fargo Baptist Church has sought to faithfully and deliberately fulfill this mandate by forming the *ministry* of Dakota Baptist Bible Institute - now Masters Baptist College offering pastoral, missions and church ministries educational programs of study (1, 2 and 4 year programs)
 - o Milestones
 - 60,000 sf of dedicated facilities for the purpose of perpetuating the cause of Christ
 - Training Center, Men's Dorm; Lady's Dorm
 - Cost/worth associated with these debt-free facilities is ~ \$7,000,000

- We are a 501(c)3 tax exempt organization also operating a 100,000 watt Christian radio station, Heaven 88.7 on an *education* band frequency, recognized by the FCC
- Masters is a tuition-free post-secondary educational institution born out of our vision to faithfully adhere to scriptural mandates by training like-minded men and women for ministry in and through New Testament churches around the world
 - We issue certificates and diplomas for ministry-related religious educational achievements (Associates of Biblical Studies – Church Ministries; Bachelor of Biblical Studies – Pastoral, etc...) so that receiving, like-minded churches have some sense of the level of preparation they have for ministry
- Impact of
 - Graduate count = 140 +/- a few (combination of 1 year, 2 year and 4 year programs)
 - Full time (pastors, missionaries, church staff, etc...) = over 20%

Our desire as a church is simply to be faithful to the cause of Christ, understanding that He commissioned His church to point people to Him. Masters Baptist College is one of many means whereby we strive to be faithful to that commission by preparing like-minded men and women to do the same.

We believe approving the proposed amendment to add an Exemption would be beneficial for the following reasons:

- An approved amendment would enable the state and church to live peaceably within separate and equally important jurisdictions; each acknowledging the other's unique contribution to the state of North Dakota
- An approved amendment would relieve a current tension between the state and church; as the proposed exemption carries out the spirit of the current N.D.C.C. § 15-18.1-02 by limiting its application to institutions and educational credentials which are only religious in nature and clearly identified as such to prevent consumer confusion

Mr. Chairman, members of the committee, if you have any questions of me I'll do my best to answer them along with Mr. Wilson and Pastor Weiss.

HB 1324
1/15/19
2
page 1

House Bill 1324

Testimony before House Education Committee

Frank D. Wilson, BBA ~ Fargo Baptist Church, Fargo ND

January 15, 2019; 10:30 a.m.

Mr. Chairman, members of the committee. My name is Frank Wilson. I am a retired Air Force veteran, a licensed minister and Provost of Masters Baptist College – a ministry of Fargo Baptist Church. Thank you for hearing my testimony today and for your careful consideration of the proposed amendment to the “Postsecondary Education Institution Minimum Standards”.

I am appearing before you today in support of HB 1324 on behalf of Fargo Baptist Church and others who value religious freedoms. I would like to thank the sponsors of this bill, especially Rep. Kim Koppelman for being receptive to our concerns from the moment he heard them. I appreciate the willingness of the sponsors to address our concerns through the proposed amendment to add an *exemption* to the postsecondary education institution minimum standards.

A careful read of ND Century Code 15-18.1 “Postsecondary Education Institution Minimum Standards”, as written, reveals a *tension* between the state (or this statute) and our efforts as a church to *freely exercise* our 1st amendment rights. We believe the tension is inadvertent, but seems to imply the following:

- The statute seems to imply, due to the *absence* of a more specific Exemption (15-18.1-02), that the state has authority over the church desiring to engage in religious postsecondary education; as it establishes state board authority over all postsecondary education institutions (15-18.1-04, 06)
- The statute, as written, seems to imply that the state’s authority extends to content and quality of religious education provided by a church; as the statute requires the state board of higher education to establish minimum standards and criteria, inspect and enforce compliance, and assess fees even on churches who engage in post-secondary *religious* education (15-18.1-04, 06)
- The statute, as written, denies our church (and possibly others) the ability to adhere to our religious mandate to commit the teachings of Christ to faithful people who “shall be able to teach others also” (II Tim 2:2) through postsecondary education - without violating our consciences regarding the legitimate head (authority) of the church – by requiring us to submit to an accrediting body (15-18.01-05) which we view as an unbiblical authority over things pertaining to the church
- The statute, as written, denies churches the opportunity to recognize levels of learning via educational credentials (15-18.1-06), even when the education is solely religious in nature and restricted to their beliefs and practices

Mr. Chairman, members of the committee, there appears to be two questions before the committee today:

- o Does a church or religious institution have a constitutional right to start and/or engage in postsecondary religious education?

HB 1324
1/15/19
#2
page 2

- Does a church or religious institution have a constitutional right to start and/or engage in postsecondary religious education - autonomously or without submitting to governmental oversight, licensure or approval?

Most states agree that the answer to these questions is “yes”, according to the Christian Law Association (CLA), Mason, OH, as they provide exemptions for state statutes similar to the North Dakota Postsecondary Education Institution Minimum Standard statute.

Mr. Chairman, members of the committee, as you consider *your* answers to these questions please consider why I believe approving the proposed amendment - the language for which provided by the CLA - to add the proposed exemption to the Postsecondary Education Institution Minimum Standards statute would be beneficial:

- The State of North Dakota would, according to the Christian Law Association, join the majority of states that already provide exemptions for churches and other religious organizations which operate schools of higher education dedicated solely to the education of religious leaders and workers for those religious organizations.
- The proposed exemption carries out the spirit of the current N.D.C.C. § 15-18.1-02 by limiting the exemption’s application to institutions and educational credentials which are only religious in nature and clearly identified as such to prevent consumer confusion.
- Amending the statute would enable the state to distance itself from the responsibility for the content and quality of religious education - and retain its ability to ensure quality of secular education and consumer confidence in the educational institutes under its purview.
- Amending the statute affords the state an opportunity to more obviously acknowledge the 1st amendment rights of churches and religious institutions or separation of church and state.

Finally, Mr. Chairman and members of the committee, since moving from Georgia to North Dakota almost four years ago, my wife and I have enjoyed getting to know those native to the state. We have observed a lingering pioneer spirit, a solid work ethic of down-to-earth people and a welcoming spirit of live-and-let-live. As invested members of Fargo Baptist Church, who uprooted from what we thought was our retirement home, a church family we loved, and a lucrative job in the defense industry to wholly dedicate our lives to Christian service, we seek only to enjoy our religious freedoms and further the cause of Fargo Baptist Church as we invest in the lives of like-minded young people preparing them for a life of service too. I ask you today to see HB 1324 as a straight-forward 1st amendment issue, easily resolved by approving the mutually beneficial proposed exemption in the live-and-let-live spirit we’ve come to enjoy in North Dakota.

19.0917.01001
Title.

Prepared by the Legislative Council staff for
Representative Schreiber-Beck
February 8, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1324

Page 1, line 8, remove ", which issue educational"

Page 1, remove lines 9 and 10

Page 1, line 11, remove "religious studies" or "bachelor of arts in biblical studies"

Page 1, line 11, remove the third underscored quotation mark

Renumber accordingly