

**2011 HOUSE EDUCATION**

**HB 1385**

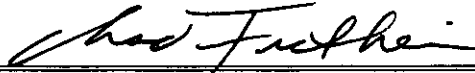
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1385  
01/25/11  
13357

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1385.

**Rep. Vicky Steiner:** Sponsor. Testimony attachment 1.

**Rep. Joe Heilman:** I'm thinking through a scenario. For an example during registration process a section can on hold 40 students and 38 enroll before class starts so there are 2 seats open Is that the point where a mature student would say there are two seats available. Are you expecting this to happen beforehand? The second part of my question would be, say a student wanted to shift their schedule around and wanted to add that class on day two or three of the class, and there were two mature students in those seats, would those students not have that opportunity to take it?

**Rep. Vicky Steiner:** We have a unique relationship with our state board of higher education. They can make policies and they would have to do some more work on how to deal with this. You'd probably have to leave this to the president to decide how to deal with this.

**Rep. Lyle Hanson:** What would happen if a student wanted the free class and tuition and then wanted to pay the tuition and fees to take another class would that work?

**Rep. Vicky Steiner:** You can always pay for the class. This just offers an different opportunity. They would still be able to take it as a normal university class.

**Rep. David Rust:** Can you tell me your logic for using the age 55?

**Rep. Vicky Steiner:** The original concept was that I would do a pilot program and I would start with 62 years old. What happened was through visiting with other institutions, an NDSU staffer said age 55 would be of good value. At the age of 55 there are opportunities for people.

**Chairman RaeAnn Kelsch:** It also offers that opportunity for a 55 year old that may have lost their job to pick up some courses, for example if they only need to pick up a few courses etc.

**Rep. David Rust:** I was one of those people that always wanted to get a Doctorate degree. Could you have someone that could complete a program like that using this? No I'm sorry it's limited to undergraduate.

**Chairman RaeAnn Kelsch:** But it's never too late to continue your education.

**Rep. Corey Mock:** On line 8 it says "may attend any undergraduate course or class offered by an institution of higher education" so it is not just undergraduate courses or am I misreading that?

**Rep. Vicky Steiner:** Course or class is legislative council's way of identifying undergraduate course or class. We didn't know how the university was going to define it. We could say no graduate to make it clear for the committee.

**Rep. Corey Mock:** I would like that clarification. Could a person get their private pilot's license using this?

**Rep. Vicky Steiner:** If it's an undergraduate program and there are open seats then yes.

**Rep. Corey Mock:** So a person over the age of 55, and meets the requirements set by the FAA, could get a roughly 60-100,000 dollar degree without having to pay?

**Rep. Vicky Steiner:** I didn't look at any of the specialty programs. This was for the basic undergrad at the universities. I don't know a reason to deny someone that access if there are open seats.

**Rep. Corey Mock:** In subsection 5, does this include lab fees? If there are program fees are those waived?

**Rep. Vicky Steiner:** I'm not familiar with their fee structure. The idea was just to buy books and materials. It was a way to restrict the university from charging tuition.

**Rep. Corey Mock:** I think this would be an area the committee needs to look at. I'm afraid we are not clear enough on this.

**Chairman RaeAnn Kelsch:** I think the intent of Rep. Steiner and she stated that was for traditional undergraduate coursework.

**Rep. Vicky Steiner:** We have some people here that from the State Board of Higher Education and the chancellor is here and one of the things they were concerned about is how do you calculate empty chairs. I think universities will have to determine the cut off point. I think it will end up with a waiting list of mature students waiting to get in to the class.

**Rep. Corey Mock:** If a student transfers late or enrolls late and is on the waiting list, and a mature student is already in that spot, then is the mature student bumped out of the class or what happens to the paying student?

**Rep. Vicky Steiner:** At sometime the university will not let that student in whether they are paying or not. I think the university system already accommodates that.

**Rep. Joe Heilman:** It says "may attend any undergraduate course or class." Does that limit that to only one course per semester?

**Rep. Vicky Steiner:** My interpretation is that if they can get on lists and get in empty chairs, then why would we restrict them?

**Chairman RaeAnn Kelsch:** And they don't have to take the test at the end and they don't have to get a credit for it. So if they are a lifelong learner and just interested in a subject, they can sit in the class.

**Vice Chair Lisa Meier:** The individual doing this can continue taking a course year after year? It's not just subject to one year?

**Rep. Vicky Steiner:** My idea wasn't that they would necessarily get a four year degree. I think you will end up with more auditing. I didn't know why we would deny them the credits if they can take the test and pass.

**Chairman RaeAnn Kelsch:** The chances are slim to none that someone is going to take this avenue to get a degree. College students taking full loads are having enough difficulty right now. I don't see how it would work for someone taking one class a year to get a four year degree. To plug away over the next 10 years at 55 for a 4-year degree would be pretty tough.

**Rep. Vicky Steiner:** You would have to pay for some classes to finish it out probably.

**Rep. Mark Sanford:** Looking at lines 9-11 compared with lines 17-19, I think there could be some further clarification that could say without having to demonstrate the achievement of certain academic thresholds normally required of students. I'm struggling with when you meet the requirements and when you don't.

**Rep. Vicky Steiner:** I think it's true you have an entrance exam to get in but if you require it at this age I think you will discourage the program.

**Rep. Mark Sanford:** I'm just thinking of a third year course for example in accounting. I mean there are some courses that have prerequisites.

**Rep. Corey Mock:** Bismarck State offers courses to the general public roughly about 125 dollars a credit for some of the specialty courses. How would this impact those courses that are restricted to just admitted students?

**Rep. Vicky Steiner:** I didn't include that because university presidents will probably have some discretion on this.

**Chairman RaeAnn Kelsch:** In response to Rep. Corey Mock, I don't see that affecting that at all. A lot of those classes are offered to people with full time jobs and those classes are

usually the classes you always wanted to take but couldn't. I think a lot of times, those of us that went to college and completed the classes we needed and moved on would have liked to have taken some of those specialty classes.

**Rep. Brenda Heller:** At the very end where you talk about not including the mature students in student count, but if I've ever been in a class with an older person I can say that they can really absorb a lot of time from that teacher.

**Rep. Vicky Steiner:** You can change that in the bill if you would like. It wasn't something that was a big deal for me. I just thought the universities could use those numbers and is a way that maybe the legislators didn't want but I agree with you.

**Chairman RaeAnn Kelsch:** We will ask chancellor what the difference is. Testimony in support? Opposition?

**William Goetz – Chancellor, NDUS:** Opposition. Testimony attachment 2.

**Rep. Lyle Hanson:** On lines 22-24, at present time if someone is not taking a full load are they considered full time?

**William Goetz – Chancellor, NDUS:** Are you addressing what's in the bill?

**Rep. Lyle Hanson:** Yes.

**Chairman RaeAnn Kelsch:** It is saying that they would not be included in the enrollment count. So when you report your enrollment are you reporting both fulltime and part time students? Or are you just recording those that are enrolled on your campus fulltime?

**William Goetz – Chancellor, NDUS:** Fulltime count and head count are two different things.

**Rep. Lyle Hanson:** In Jamestown a lot our kids take classes online. I understand that Wahpeton adds those to your total students enrolled.

**William Goetz – Chancellor, NDUS:** Correct.

**Chairman RaeAnn Kelsch:** So that would be both head count and it would be if they were enrolled fulltime, it would be fulltime equivalent. Correct?

**William Goetz – Chancellor, NDUS:** Correct.

**Rep. Lyle Hanson:** So that is not a true figure of kids that are on the campus?

**William Goetz – Chancellor, NDUS:** Correct.

**Chairman RaeAnn Kelsch:** A good example is at Bismarck State College. Their enrollment is close to 4,000 head count but that is not the number of the students physically on campus.

**Vice Chair Lisa Meier:** Do we currently have a cap on the tuition waivers we offer for ages 65 and above?

**William Goetz – Chancellor, NDUS:** No we do not.

**Rep. Brenda Heller:** Do you know how many people are taking advantage of that right now?

**William Goetz – Chancellor, NDUS:** This would be for the 2009 tuition waiver. For this age group 65+, we had 16 individuals in the system taking advantage of the waiver. I can break that down. Minot state 2, NDSU 4, UND 8, Valley City 1, and Williston 1.

**Chairman RaeAnn Kelsch:** Do we have any idea if those students just sitting in and not getting the credit or are they getting credit?

**William Goetz – Chancellor, NDUS:** My assumption is that they would be getting credit.

**Chairman RaeAnn Kelsch:** Would you have a number of those 65+ that are just sitting in on those classes?

**William Goetz – Chancellor, NDUS:** I will check if that info is available.

**Rep. Phillip Mueller:** A concern comes to mind having to do with the average student that is having a difficult time finding money to go to school and next to that individual is a 55+, would you envision some concerns about that or is that not an issue?

**William Goetz – Chancellor, NDUS:** Your question is focused on the financial question, if I understand correctly, and philosophically that is a concern. When it comes to individual 65+ that sits and audits a class is a whole different thing in my mind from a tuition waiver. In that respect I always found the older than average student to be an asset to the class. The financial issue is a difficult one to separate out.

**Rep. Phillip Mueller:** Just a comment. I think they appreciate older students but the other students usually indicated that they destroyed the curve.

**Rep. David Rust:** Earlier I asked why the age 55 was picked. Are you able to break down those 400 students between the age 55 and 64?

**William Goetz – Chancellor, NDUS:** I think we could do that.

**Chairman RaeAnn Kelsch:** I have a comment. I guess you could look at it as potentially one of those things where the university system and their budget issues would be less objectionable to the older citizens of our state if they felt they could get that from the university system down the road.

**Rep. David Rust:** Just another thought. I wondered about income. Are we doing something that is philosophical? Are we doing something to give people that are retired

something to do? Do we want to give people that are retired and paid taxes all their life some benefit? The thing I think about is that we have people 55 and older that fall into a variety of categories but I believe we have a lot of them that don't have a lot of extra money and that is where this would be great. At the same time I think we have a number of those people that are probably very wealthy that could afford that tuition at the drop of a hat. I wonder if there should be a difference here.

**William Goetz – Chancellor, NDUS:** There are a lot of things that go on that many times don't get a lot of focus or attention. One area is lifelong learning. This is critically important.

**Rep. Brenda Heller:** How is this policy advertised?

**William Goetz – Chancellor, NDUS:** It is really driven by each individual campus and I think this is an area that does require additional communication and public relations. I think more should be done in that direction.

**Rep. Mark Sanford:** If they fiscal note was not there or significantly reduced, it seems to me that some of the other issues you addressed are fixable.

**William Goetz – Chancellor, NDUS:** I would be very eager to work with you with some of these issues.

**Chairman RaeAnn Kelsch:** Opposition? We will close the hearing on HB 1385.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee  
Pioneer Room, State Capitol

HB 1385  
02/07/11  
14171

☐ Conference Committee

Committee Clerk Signature



## MINUTES:

**Chairman RaeAnn Kelsch:** We will open the hearing on HB 1385.

**Vice Chair Lisa Meier:** The amendment basically moves the age to 65 and by doing that it has very minimal fiscal impact. I would like to move the amendment.

**Rep. Phillip Mueller:** Second

**Chairman RaeAnn Kelsch:** The only thing you are changing is from 55 to 65 but you would not be changing anything about the fact that some of these people could go in and maybe get a pilot's license by going to the aviation center in Grand Forks or could potentially get an undergraduate degree. How was that addressed in your subcommittee?

**Vice Chair Lisa Meier:** My subcommittee hasn't addressed that and I felt this was sufficient.

**Rep. Brenda Heller:** I thought Chancellor Goetz said we already had it in place for 65. So how would this be different?

**Chairman RaeAnn Kelsch:** Currently they can audit the class. This would allow them to start auditing, take the test, and then receive a credit for taking the class without paying tuition.

**Rep. Joe Heilman:** If we amend this to 65 years or older and it negates the fiscal note are we able to hold on to this and address some of those issues?

**Chairman RaeAnn Kelsch:** It wouldn't have to go to appropriations although I think if we are fearful of some of these we should address them now.

**Rep. Phillip Mueller:** We do have for credit or audit issue here in a couple places. Are we resolved on that? At least the way it was discussed it would allow for credit to be given.

**Chairman RaeAnn Kelsch:** If you look at Rep. Steiner's amendment, it was not to include online courses. She also wanted to make it specific that if you chose to receive the credit you could and not have to pay for it. A couple of things you could do with the bill would be



to add the lines in there that says no one can receive a post secondary degree under this section. I think that takes care of it. The question is why would you do it then? If a 65 year old wanted to receive a degree and was one credit short they could potentially use this to receive the credits that they needed.

**Rep. Corey Mock:** Looking at UND and the aviation part, it is still a concern but I'm much more comfortable with the age now. This was originally drafted as a pilot project for Dickinson State University. Considering the complexities before us and the lack of understanding on how this would affect mandatory fees and program fees, I would be more comfortable opening the language to leave it at age 55 and doing it as a pilot project for a specific university that doesn't have the complex programs such as UND or NDSU.

**Vice Chair Lisa Meier:** I did have a chance to visit with the bill sponsor and what she wished was to have it amended to 65 and have it open to the whole state.

**Chairman RaeAnn Kelsch:** We would also have to add her amendment in as well.

**Rep. Karen Rohr:** I'd like to see some data once we start this to see in fact what volume of 65 and older.

**Vice Chair Lisa Meier:** I think we will have that data through higher education and with the longitudinal data system we will have it.

**Chairman RaeAnn Kelsch:** I think you'd want to know the number of students that audit and the number that do it for credit. We would like to receive the number of students that audit and the number that do it for credit. We have the motion made by Vice Chair Lisa Meier to adopt the amendment. We will do a voice vote. Motion carries.

*Voice vote:* Motion carries.

**Chairman RaeAnn Kelsch:** Now we have Rep. Steiner's amendment.

**Rep. Mike Schatz:** Move amendment.

**Rep. David Rust:** Second.

**Chairman RaeAnn Kelsch:** Any discussion on that amendment? We will try a voice vote. Motion carries.

*Voice vote:* Motion carries.

**Chairman RaeAnn Kelsch:** What are the wishes of the committee on HB 1385?

**Vice Chair Lisa Meier:** I move a do pass as amended.

**Rep. Phillip Mueller:** Second.

**Chairman RaeAnn Kelsch:** Questions? We will take the roll. We will close on HB 1385.

**15 YEAS 0 NAYS 0 ABSENT**  
**CARRIER: Vice Chair Lisa Meier**

**DO PASS as Amended**

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/11/2011

Amendment to: HB 1385

**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.*

|                | 2009-2011 Biennium |             | 2011-2013 Biennium |             | 2013-2015 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

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

| 2009-2011 Biennium |        |                  | 2011-2013 Biennium |        |                  | 2013-2015 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Requires waiver of tuition and fees for undergraduate students 65 years of age or older; provides exemption from academic requirements, while awarding academic credit for completion.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Will result in a minimal loss of current tuition and fee revenues, as the NDUS already provides a discount to those students 65 years of age or older who audit a course.

**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.*

**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.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

|                      |              |                       |                             |
|----------------------|--------------|-----------------------|-----------------------------|
| <b>Name:</b>         | Laura Glatt  | <b>Agency:</b>        | ND University System Office |
| <b>Phone Number:</b> | 701-328-4116 | <b>Date Prepared:</b> | 02/11/2011                  |

# FISCAL NOTE

Requested by Legislative Council  
01/19/2011

Bill/Resolution No.: HB 1385

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.*

|                | 2009-2011 Biennium |             | 2011-2013 Biennium |               | 2013-2015 Biennium |               |
|----------------|--------------------|-------------|--------------------|---------------|--------------------|---------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds   | General Fund       | Other Funds   |
| Revenues       |                    |             |                    | (\$1,800,000) |                    | (\$1,950,000) |
| Expenditures   |                    |             |                    |               |                    |               |
| Appropriations |                    |             |                    |               |                    |               |

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

| 2009-2011 Biennium |        |                  | 2011-2013 Biennium |        |                  | 2013-2015 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Requires waiver of tuition and fees for undergraduate students 55 years of age or older; provides exemption from academic requirements, while awarding academic credit for completion.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The mandatory waiver results in a loss of current tuition and fee revenues, with revenue losses increasing as participation levels increase as a result of the mandatory waiver.

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.*

Currently, it is estimated that the NDUS enrolls about 400 students between ages of 55-64, taking over 2,200 credit hours per semester. Based on this, the minimum tuition and fee loss would be about \$1,800,000, with increasing losses as participation levels grow due to the mandatory waiver provision.

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.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

|       |             |         |                             |
|-------|-------------|---------|-----------------------------|
| Name: | Laura Glatt | Agency: | ND University System Office |
|-------|-------------|---------|-----------------------------|

Phone Number: 701-328-4116

Date Prepared: 01/24/2011

Date: 02-07-11  
Roll Call Vote #: VOICE VOTE 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1385

House EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By VICECHAIR MEIER Seconded By REP. MUELLER

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Kelsch     |     |    | Rep. Hanson     |     |    |
| Vice Chairman Meier |     |    | Rep. Hunskor    |     |    |
| Rep. Heilman        |     |    | Rep. Mock       |     |    |
| Rep. Heller         |     |    | Rep. Mueller    |     |    |
| Rep. Johnson        |     |    |                 |     |    |
| Rep. Karls          |     |    |                 |     |    |
| Rep. Rohr           |     |    |                 |     |    |
| Rep. Rust           |     |    |                 |     |    |
| Rep. Sanford        |     |    |                 |     |    |
| Rep. Schatz         |     |    |                 |     |    |
| Rep. Wall           |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**VOICE VOTE 1 ON AMENDMENT**

**MOTION CARRIES**

Date: 02-07-11  
Roll Call Vote #: VOICE VOTE 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1385

House EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. SCHATZ Seconded By REP. RUST

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Kelsch     |     |    | Rep. Hanson     |     |    |
| Vice Chairman Meier |     |    | Rep. Hunsakor   |     |    |
| Rep. Heilman        |     |    | Rep. Mock       |     |    |
| Rep. Heller         |     |    | Rep. Mueller    |     |    |
| Rep. Johnson        |     |    |                 |     |    |
| Rep. Karls          |     |    |                 |     |    |
| Rep. Rohr           |     |    |                 |     |    |
| Rep. Rust           |     |    |                 |     |    |
| Rep. Sanford        |     |    |                 |     |    |
| Rep. Schatz         |     |    |                 |     |    |
| Rep. Wall           |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**VOICE VOTE 2 ON AMENDMENT**

**MOTION CARRIES**

February 7, 2011

V/K  
2/8/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1385

Page 1, line 7, after "1." insert "a."

Page 1, line 7, replace "fifty-five" with "sixty-five"

Page 1, line 7, after "attend" insert "for credit or audit"

Page 1, after line 11, insert:

"b. Subdivision a does not extend to any online course or class."

Page 1, line 18, after "attended" insert "for credit"

Renumber accordingly



Date: 02-07-11  
Roll Call Vote #: \_\_\_\_\_

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1385

House EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By VICE CHAIR MEIER Seconded By REP. KARLS

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Kelsch     | X   |    | Rep. Hanson     | X   |    |
| Vice Chairman Meier | X   |    | Rep. Hunskor    | X   |    |
| Rep. Heilman        | X   |    | Rep. Mock       | X   |    |
| Rep. Heller         | X   |    | Rep. Mueller    | X   |    |
| Rep. Johnson        | X   |    |                 |     |    |
| Rep. Karls          | X   |    |                 |     |    |
| Rep. Rohr           | X   |    |                 |     |    |
| Rep. Rust           | X   |    |                 |     |    |
| Rep. Sanford        | X   |    |                 |     |    |
| Rep. Schatz         | X   |    |                 |     |    |
| Rep. Wall           | X   |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total (Yes) 15 No 0

Absent 0

Floor Assignment VICE CHAIR MEIER

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

**REPORT OF STANDING COMMITTEE**

**HB 1385: 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 1385 was placed on the Sixth order on the calendar.

Page 1, line 7, after "1." insert "a."

Page 1, line 7, replace "fifty-five" with "sixty-five"

Page 1, line 7, after "attend" insert "for credit or audit"

Page 1, after line 11, insert:

"b. Subdivision a does not extend to any online course or class."

Page 1, line 18, after "attended" insert "for credit"

Renumber accordingly

**2011 SENATE EDUCATION**

**HB 1385**

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee  
Missouri River Room, State Capitol

HB 1385  
March 9, 2011  
15171

☐ Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

Relating to the attendance of mature students at institutions of higher education.

**Minutes:**

See "attached testimony."

**Vice Chair Schaible** opened the hearing on HB 1385; fiscal note attached with no amounts listed.

**Representative Steiner, District 37**, introduced the bill (#1 Testimony; #2 Sr. Citizen Audit Fee Waiver memo; #3 Other state education grants for elderly; #4 article; #5 Fiscal impact to the state) Bill was amended from 55 years of age to 65 years in the House. The fiscal note related to the 55 year olds and there is no fiscal note for the 65 year olds as amended. Representative Kelsch made a good point in the House hearing; there may be those 55 years old that have 3-3.5 years of college and would want to go back and finish their degree. They are invested in the state; live here and what an economic tool that would have been! The price tag for that was \$1.8 million; at this time in the House they said we can't do that but think it is worth noting that when looking at different ways of keeping people in North Dakota and helping them finish their education—glad she brought that forward as a point—as we look at 65 year olds it's probably someone that isn't going to finish a degree or get a free degree on the state. It is someone that is going to take a few classes of interest to them and there isn't any reason that she can see not to award them the credit, so that is what this bill does. The university system did say that they weren't sure how this would be administered, and understand they are here today. Think the university system would be wise to embrace a program like this, because as the older community grows in North Dakota would be one that could be their "champions" in the future. Think we need to bridge the gap between lifelong learning and our wonderful university systems.

**Senator Heckaman:** If a student is 65 years old and completes a class, are there any recording fees and are they able to access transcripts stating that? **Representative Steiner:** Her understanding from Legislative Council—do I need to write exactly how this will be administered? They said we have university presidents for a reason and they are paid a lot of money and can figure this out. She tried to list a few more "this is how to do this" and they said it was unnecessary.

**Senator Freborg:** This isn't a fiscal note, but shows a fiscal impact. If they believe this to be somewhat accurate, why is there no fiscal note? **Representative Steiner:** When it was voted on in the House, it said the fiscal note was miniscule so the North Dakota University System didn't feel there was a need for fiscal note. This is the reason given in committee why the age 55 would cost the system—the figure given by the Chancellor. **Senator Freborg:** If a 62 year old would have a supposed impact of \$300,000 only because they can audit now—is that why they feel this isn't going to change if they use age 65? **Representative Steiner:** She understands they can audit now at 65; you may have a few 62 year olds taking classes and paying for them. Think that is what it is.

**Senator Gary Lee:** Think he understands the audit piece and why we may want to allow them to audit if room. We hear things here all the time about student debt and how much there is and the cost of education and then we want to allow 65 year olds to go for free when there is going to be a cost for the paperwork, etc. Still have a place and something to contribute, but to give them continued free education at that age just because of age—need some more rational as to why he would want to support that. **Representative Steiner:** Question also asked on the House side; think we forget about how many millions of dollars we support our younger students with. Some of these 65 year olds have supported the university system all their lives with tax dollars, and are they really going to burden the system if we've paid for the building, the room, the teacher, the lights and the heat, and there are 10 people sitting in Art History with 20 chairs? If you have one or two 65 year olds how much burden is that on the university system?

**Senator Gary Lee:** Why don't we include graduate level courses? Would expect a fair number of these people may have a college degree already. Why not include graduate courses if we are going to do undergrad—why limit it to undergrad classes? **Representative Steiner:** She wouldn't be limiting it and you are welcome to add it if you think it is something the Senate would like.

No further testimony in favor; opposition:

**Michel Hillman, Vice Chancellor for Academic and Student Affairs, North Dakota University System** testified in opposition of HB 1385 (#6 Testimony) and offered some proposed amendments (#7 attachment) Answers to questions from previous testimony. For students in a degree credit course there would be no recording fee beyond the tuition charged. If tuition is waived then there would not be a fee. All students who complete a degree credit course would get a transcript, and this would be indicated on the transcript so not an issue. The fiscal note, as he tried to track down what happened there, in the official enrollment report the university system enrolled 48,000 students last fall but 66 were age 65 and above. Think the assumption in his office was that waiving tuition for 66 students, many of whom would be in one or two courses, would not be a huge number that would merit a fiscal impact report.

**Senator Gary Lee:** How does the process differ from enrolling in a course for credit versus as an audit student? **Michel Hillman:** The process is parallel; the audit does not end up being a degree credit notation on a transcript. Students are on the class roster, receive all notifications that go to other members of the class, they receive class schedule, etc. They can take the course without fear of not doing well. They are just sitting in and do not have

to take the final exam. Except for the official logging of the credits, it is pretty much exactly like a degree credit enrollment. **Senator Gary Lee:** Are those students counted in the number of students? **Michel Hillman:** We conform to federal IPSEDS enrollment reporting requirements and that says we can only report students that are in degree credit courses and can include students in remedial courses only if they are also in degree credit courses. **Senator Gary Lee:** Would the North Dakota University System change position on the bill if the amendments were added to it? **Michel Hillman:** That is his understanding; these are the two points that raise concerns about the bill. Obviously they would prefer if these students paid for credit courses; there is a cost that has to be covered somehow and the more students that do that make it easier. But these are the two technical reasons the board is objecting to the bill. The amendments would address these reasons.

**Mark Puppe, representing self** testified in opposition to HB 1385 (#8 Testimony); doesn't have a bias against seniors and don't wait until they are in a nursing home to invest time and money into a senior. They have paid their dues, have experiential wisdom that should not be taken for granted but it ought not be substantiated and codified in law of the state of North Dakota. There are a lot of grounds that he feels the House overlooked in passing the bill. He feels it is creating a *class* identified by age, beyond the 30 days of residency, before someone becomes a North Dakota resident—only someone over 65 years of age can be awarded free tuition. There IS a direct impact on the aggregate population, the general fund and especially the students of the university system. (See written testimony for further information regarding testimony) It creates a separate class, violates the 14<sup>th</sup> amendment of the constitution, there is no room for misinterpretation unless this bill is passed.

**Senator Freborg:** Did you give this very same testimony in the House hearing? **Mark Puppe:** No, he did not know when the bill was scheduled and no time to prepare to come then. **Senator Freborg:** Can you think of any other forms of discrimination in state law? Maybe even in the education—for instance, is it unconstitutional to have a varied fee or issue academic scholarships according to ability—is that constitutional? **Mark Puppe:** Yes, because there is a prerequisite, a qualification for achieving that. There has to be merit before being admitted; if someone is incapable, mentally or physically, of handling something as intense as graduate school, you need to qualify for that. In order to qualify under HB 1385 it is exclusively age and 30 days residency. **Senator Freborg:** What if they were charged--\$5? **Mark Puppe:** I'd call that favoritism as well; under this standard, because it does create a separate class, codified in Section 6 of what could be 15.10.06. Intent is irrelevant, cost is irrelevant.

No further testimony in opposition; hearing closed.

**Senator Freborg:** Spoke to a couple of attorneys over the lunch hour. From one he got almost total agreement with Mark Puppe's testimony. The other lawyer felt if the language was carefully crafted that it may be okay; said the federal law has nothing to do with this. He also didn't think that it made a difference whether credit was awarded or just audit the course. Do they pay the \$9 for a credit now or for audit? Line 19 of the bill, but thought there was a place they had to pay for something? That was in other testimony perhaps.

**Senator Heckaman:** Found the \$9; it is on Representative Steiner's testimony on the second page about 2/3 of the way down it talks about Minnesota. Don't see any reason why we couldn't charge a small fee in here if they take it for credit. If we did that, does it change any of the issues—probably not? **Senator Freborg:** According to Mark Puppe it would still be unconstitutional, and to one of the attorney's he talked to. The other one didn't think this was a big deal; worse that could happen is someone challenging it. **Senator Heckaman:** Bets if it is passed may be able to figure out someone that would challenge it right away. **Senator Freborg:** That's true; being as someone was here and interested in this issue. Don't know anything about him or what his interest was.

**Senator Heckaman:** Was our intern able to check on any of this information? **Ike Umannah:** Did some research over lunch; the state constitution does not allow giving or taking any rights that the federal constitution grants. Can't find in WestLaw where a state has been sued; the federal constitution is the supreme law of the land. **Senator Heckaman:** Could we have our intern pull some century code from some of the other states mentioned to see how theirs reads or if they just give all that authority to the Board of Higher Education in their state? Then we can see if they haven't been challenged at all and we pass a law like this, probably wouldn't get challenged either. Possible to do that? **Senator Freborg:** We can have Legislative Council or Ike search. Do you know of a state offhand? **Senator Heckaman:** Representative Steiner mentioned several in her testimony, and maybe our intern could search a couple of them. Would like to know how it is written into state law. If we approve it, we want to have it right. If we vote against it, doesn't matter how it is written.

**Ike Umannah:** (See attachments #9 Nevada, #10 Georgia) read from several state websites regarding other state policies.

**Senator Freborg:** Guess it is up to the committee; would be nice to have something. Not so sure that the institutions of higher education strongly oppose it. Doubt that there will be that many 65 year olds that want to go to college.

**Senator Gary Lee:** Have some discomfort with it; not sure what it is. Just seems like they are in the best position of anyone in terms of paying for credits and having the time to do these things. It is nice probably, but just has some degree of discomfort with doing it when we hear so much from our student population who complains about the cost and the debt and those things. Don't mind the auditing, that is a reasonable thing to do. But when granting credit it seems to be different; not for or against today.

**Senator Heckaman:** On lines 10 & 11 of the bill they can go into a class without having demonstrated the prerequisite knowledge for a class. That could take a professor's time explaining that more when someone doesn't have the prerequisites for a class. She feels they would ask more questions and whose time is wasted? The students in the class and the professor. There are some issues she has with looking at academic prerequisites on here, because when you get to college they are pretty stiff. Don't think there would be people going into Chemistry III right away, but still some prerequisites that would be important here.

**Senator Schaible:** . Agrees; totally in favor of auditing and maybe with instructors permission. Agree too that if we allow credit they can pay for it or can get funding to pay for credit.

**Senator Freborg:** They can audit now; if we clean this all up with no possibility of credit is it any different than leaving things the way they are and let them audit? Don't think there is an advantage to the bill then.

**Senator Heckaman:** If we allow them to audit right now at age 65, isn't that discrimination already? Are we discriminating right now against a 64 year old? Nevada law even has specific universities spelled out; would think that gets more . . . ages 62 or older, etc. Also mention of the National Guard; don't we do that already? Georgia constitution has similar provisions. There are currently 66 students enrolled now; if we pass this, will it change that number?

**Senator Freborg:** There may be 65+ that want to get some college courses, but don't think there are many—think they are younger than that. Probably not many 65-70 in college. Wondering if there is some kind of loophole somewhere; do you think all of these institutions would have this in law and never been challenged?

**Senator Heckaman:** Maybe preface it in some way and give the power to the North Dakota University System board; written into code in a separate chapter but with the power granted to the North Dakota University System. Maybe that would take the constitutionality issue off the plate. Still feels that there needs to be prerequisite knowledge before going into certain courses.

**Senator Freborg:** Wonders if this is worth the time; maybe 10 people would take advantage of it as the credits aren't worth much at age 65+.

**Senator Heckaman:** Unless it is for their own personal development/growth. Not many 65 year olds are looking for a career change. Would guess those people would be able to pay for a course, and if they can't could probably find financial aid somewhere in state.

**Senator Freborg:** In North Dakota senior citizens either have or control over (believes) 60% of the wealth in the state. Guess if they want to go to college they can.

**Senator Gary Lee:** Move a Do Not Pass on Engrossed HB 1385; second by **Senator Schaible**. Motion carried 6-0-1. **Senator Schaible** will carry the bill.



Roll Call Vote #

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1385

Senate Education Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations      ☐ Reconsider

Motion Made By Sen G. Lee Seconded By Sen. Schaible

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment Sen. Schauble

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

**REPORT OF STANDING COMMITTEE**

**HB 1385, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends**  
**DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1385 was placed on the Fourteenth order on the calendar.

**2011 TESTIMONY**

**HB 1385**

# TESTIMONY ATTACHMENT 1

Good morning, Education committee Chair Kelsch and members of the Education committee. My name is Vicky Steiner, District 37, Dickinson.

I support House Bill 1385.

I saw a presentation by a state researcher a few years ago that the average North Dakotan is 65 year old and lives in her own home east of Jamestown.

North Dakota is one of the states that has a growing population of older individuals in comparison to other states.

The baby boomers across the country are searching for meaningful ways to begin their retirements....choosing where to live and what to do with their time.

From an article on "Planning your Retirement the Right Way" I quote, "More than one person approaching retirement has chosen the place of their retirement because of the educational benefits available to instate residents."

There are many states that now offer programs for free or at reduced cost for lifelong learning. These retirement recruitment tools may help North Dakota as more of its own population reaches retirement age.

House bill 1385 begins to give retirees more options with our incredible university system.

This bill brings a new section to chapter 15-10 of the ND Century Code.

Beginning on line 7,

#1. that a North Dakota resident who is 55 years old may attend any undergraduate course or class without a charge of tuition or fees.

#2. It's offered on space available, empty chairs only.

#3. No additional staff will be hired because of this section.

#4. If the student completes the requirements, which means takes the tests and passes, the student receives the credit.

#5. Books and supplies are not included in this bill.

#6. Institutions may not count these students in their enrollment figures for student counts.

I have an amendment to clarify a couple points: it does not include online classes.

Students may elect to audit the class in which they do not receive the credit.

There are at least 28 states that have some type of tuition break for mature students.

In our region, Minnesota allows persons 62 years old to register on the second day of class in credit courses for \$9 per credit or audit courses free of charge on a space available basis.

Montana has any state resident at least 65 years of age receives a waiver of fees at state schools of higher education.

Wyoming has Eastern Wyoming school that state residents age 60 or older may enroll in courses at no charge.

On the list I provided for you, you'll find:

7 states – tuition free for 60 year olds

4 states- tuition free for 62 year olds

6 states- tuition free for 65 year olds

1 state- Louisiana offers one (1) 3 hourclass tuition free for 55 year olds

Currently, ND allows 65 year olds to audit. I've attached that information. I've attached information on the other states.

Please give this bill your consideration.



#### Online Degree Programs and Courses

There are many college and university online bachelors degree programs and other classes available on the web. For Internet-savvy or homebound seniors (or even for those hoping to save on gasoline costs, etc.), this can be a viable option. Scholarships, grants, discounts, college loans, or other financial aid may still apply. Today, complete online bachelor degree programs and graduate degree programs are offered online. When searching for online degree programs, one should find out if the college or university is accredited. To get more information on online distant education, check my blog Online MBA Study.

#### State education grants for elderly (by State)

**Alabama.** A free tuition program for senior citizens (persons aged 60 or over) who meet the admission requirements and attend public two-year post secondary institutions in Alabama.

**Alaska.** University of Alaska waives regular tuition for Alaska residents at the age of full Social Security retirement benefits who register on the first day the class meets on a space available basis when courses can accommodate such students in addition to other enrolled students.

**Arkansas.** University of Arkansas offers Arkansas residents free tuition. U of A is encouraging all Arkansas resident who are age 60 or older to sign up for credit courses, and even earn a degree, without paying anything.

**California.** While there is no centralized tuition waiver program for adult citizens of California, there are multiple colleges offering free classes. For example, Palo Alto College offers various courses for senior citizens at no cost where space is available.

**Connecticut.** Free tuition is offered for those who are 62 years old or older at the University of Connecticut, Connecticut State University and the 12 community colleges.

**Delaware.** The University of Delaware offers a Higher Education for Senior Citizens program whereby citizens of the State of Delaware who are 60 years of age or older, and are formal degree candidates may attend classes for credit tuition free. They must pay all applicable fees except the Admission Application, Readmission Application, Advance Standing, Student Teaching, and New Student Orientation Fee.

**Georgia.** Any resident of Georgia who is 62 or older may enroll in any state college or university for free.

**Indiana.** Purdue University has a tuition rebate program for seniors who are retired, at least 60 years old and citizens of the state.

**Kentucky.** The University of Louisville The University offers tuition remission to individuals who are classified by admissions as residents of Kentucky and are at least 65 years of age on, or before, the first day of classes for the semester.

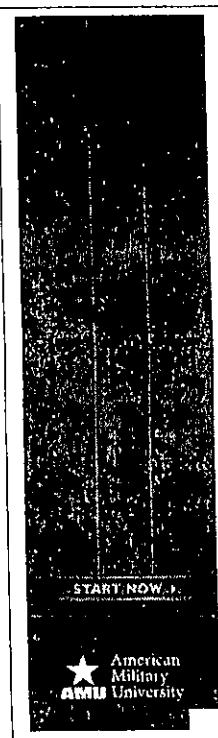
**Louisiana.** Louisiana Delta College - Students who are fifty-five years or older and are Louisiana residents may register for one three-hour course and be exempt from the payment of tuition.

**Maryland.** University of Maryland Maryland College . At late registration, seniors 60 years old, who are residents of Maryland, U.S. citizen or a legal permanent resident, not employed more than 20 hours a week and meet regular admissions requirements may register for up to 7 credits each semester--on a space available basis--without paying tuition.

**Michigan.** Lansing community college offers 50% tuition discount for those who are age 62 or older.

**Minnesota.** Minnesota state law allow persons 62 and older to register on the second day of the class in credit (degree, certificate) courses for \$9 per credit or audit courses free of charge on a space-available basis.

**Missouri.** State law states that state resident who is age 65 by August 1 of the school year, shall receive a full tuition scholarship at any state institution.



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**Montana.** Any state resident at least 65 years of age receives a waiver of fees at state schools of higher education.

**Nevada.** University of Nevada - Seniors 62 years of age or older may register without paying per-credit registration fees. Special course fees, nonresident tuition (if applicable) and deposits are not waived.

**New Hampshire.** University of New Hampshire - residents who are age 65 or older and are not enrolled in a degree program are eligible to take a maximum of two credit-bearing courses\* per academic year (Summer/Fall/Spring) tuition-free.

**New Jersey.** Rutgers University - Seniors who are 62 or older may attend courses on a space-available, non credit basis.

**New Mexico.** Each public post-secondary degree-granting institution in New Mexico must grant a reduction in tuition to senior citizens upon request by the student. The charge will be \$5 per credit hour. Students may take up to 2 courses per semester.

**New York.** Hostos College - Residents of New York City who are 60 years of age or older who are not pursuing a degree may study tuition-free at the college upon the payment of a \$65 fee on a space-availability basis.

**Ohio** - In Ohio, senior citizens are eligible to audit college courses at many local schools for free. Referred to as Program 60, any person 60 and older who has been a resident of Ohio for more than 1 year can apply to audit a college course.

#### **Pennsylvania**

- Bloomsburg University - Pennsylvania residents age 60 and older and retired are admitted to classes on a space-available basis. Tuition is free for credit-bearing courses
- Luzern University - Senior citizen status at the Community College is for those who have reached the age of 62 years. A senior citizen will be given a tuition waiver when the College meets the minimum number of paid enrollments for the class.
- Northampton Community College - In-county residents who are 65 years of age or older qualify for a tuition and fee waiver for Credit courses (noncredit does not qualify for a waiver). The waiver must be requested by the student at the time of registration.

**South Carolina** - University of South Carolina - Senior Citizens (age 60 and older) are entitled to enroll on a space-available basis without the required payment of tuition.

#### **Texas**

- University of Huston Downtown - Senior citizens 65 years or over may audit
- San Antonio college - San Antonio College offers tuition-free attendance to senior citizens on a space available basis. You need to apply with the instructor of the program you desire on the first day of class

**Utah** - University of Utah - If you're 62 or older and a resident of Utah, you may audit many regular University classes numbered 1000 or above for a mere \$25 per semester in addition to any special fee attached to the class.

**West Virginia University** - Senior citizens of West Virginia (age 65 and older) who meet WVU residency requirements may now take courses at West Virginia University for reduced tuition and fees. In addition, the courses can be taken for credit or no credit. Application available on line at Senior application

**Wisconsin** - University of Wisconsin Waukesha - Senior citizens may audit courses at no charge.

**Wyoming** - Eastern Wyoming University - State residents age 60 or older may enroll in courses at no charge.

#### **Sources and Additional Information:**

<http://www.anti-aging-articles.com/Scholarships-seniors.html>  
[http://aginggrandparents.suite101.com/article.cfm/senior\\_citizen\\_college\\_discounts](http://aginggrandparents.suite101.com/article.cfm/senior_citizen_college_discounts)  
<http://www.anti-aging-articles.com/Scholarships-older-women.html>  
<http://www.examiner.com/elder-care-in-cincinnati/cincinnati-elderly-can-attend-college-tuition-free>  
<http://www.seniorresource.com/seniorreducation.htm>

Labels: adult education, college programs for elderly, educational grants, free college degrees, Online Degree Programs, Senior Citizens College Scholarships, state funding

#### **Subscribe To**

**Steiner, Vicky L.**

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**From:** NDLA, Intern 10  
**Sent:** Wednesday, January 19, 2011 1:53 PM  
**To:** Steiner, Vicky L.  
**Subject:** Senior Citizen Audit Fee Waiver

Rep. Steiner:

I spoke with Pat Seaworth, he serves as general counsel for the SBHE, and he advised of the following policy:

"805.3 Application, Course, Program and Other Miscellaneous Fees

1 Institutions shall charge these fees:

...  
b. An audit fee for courses available for audit not less than one half of the per credit hour resident tuition charge for the course. Institutions shall waive the audit fee for on-campus courses for persons 65 years of age or older and may adopt policies providing for waiver of the fee under other circumstances defined by those policies."

The website where this can be found is: <http://www.ndus.edu/makers/procedures/sbhe/default.asp?PID=182&SID=9>

Please let me know if you have further questions.

**Jessica Braun**

**Legislative Intern**

**House Judiciary, House Political Subdivisions, and Constitutional Revision**

**Phone: 701-328-3590**

**Email: [intern10@nd.gov](mailto:intern10@nd.gov)**



11.0591.02001  
Title.

Prepared by the Legislative Council staff for  
Representative Steiner  
January 24, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1385

Page 1, line 7, after the underscored period insert "a."

Page 1, line 7, after "attend" insert "for credit or audit"

Page 1, after line 11, insert:

"b. Subdivision a does not extend to any online course or class."

Page 1, line 18, after "attended" insert "for credit"

Re-number accordingly

## North Dakota University System

### HB 1385 – House Education

January 25, 2011

William G. Goetz, Chancellor

---

Good morning, Madam Chair Kelsch and members of the House Education Committee. For the record, my name is Bill Goetz, Chancellor of the North Dakota University System. My comments will address specific reasons why the University System does not support HB 1385.

- First, I would like to emphasize that the University System encourages lifelong learning for all citizens of the state, and we are undertaking initiatives that benefit students of all ages. In fact, we are engaged in an initiative with WICHE (Western Interstate Commission on Higher Education) to reach out to North Dakota residents who have completed credits toward their college degree but for some reason never finished that degree and those who have never attended college.
- Current State Board of Higher Education policy provides tuition waivers for residents age 65 and above. Policy 805.3 states, "Institutions shall waive the audit fee for on-campus courses for persons 65 years of age or older." Policy 805.2 also provides institutions with the authority to waive student activity fees for these students.
- According to an Associated Press article, "financial arrangements vary widely by college or university and so do the age requirements." The majority of programs providing some type of tuition assistance to this age group benefit those who are age 60, 62, or 65 and above. We have not been able to identify any statewide program that guarantees courses at no cost to residents under the age of 60.
- NDUS policy supports our residents age 65 and above to audit courses, the issue focuses upon full participation in a class for academic credit at no charge. With no limit on the number of classes they may take or on years of attendance, it would be possible to earn a degree without paying tuition.
- It is critical that students of any age who enroll in courses for credit be well positioned to succeed. This bill provides that students could enroll "without having to demonstrate the achievement of certain academic thresholds normally required of students." This may be appropriate for some classes, but students who enroll in more advanced courses would be at a great disadvantage if they had not completed pre-requisites.
- Following the directive of subsection 6 that these students not be included in student counts would result in two different sets of enrollment numbers: one total that excludes this set of students and the official federally-reported total that includes them. Federal reporting definitions require collection of Fall enrollment data "for all students enrolled in credit-bearing courses/programs which could potentially lead to [degree]"

awards ranging from postsecondary certificates of less than one year to doctoral degrees."

- Finally, as indicated in the fiscal note, there is cost associated with this bill. The NDUS currently enrolls approximately 400 students between ages 55 and 64, and they are taking over 2,200 credit hours per semester. The loss of these tuition and fees would represent about \$1,800,000 to the institutions. The cost would increase further with the greater numbers of this growing segment of our population who could be expected to participate in this program.

Thank you for this opportunity to provide comments. I will be pleased to address any questions.

g:\terry\1100\11ses\hb 1385 testimony 1-25-11.docx.docx

*Testimony 3/9/11*

*Senate Education Committee*

*House Bill 1385- Mature students in the university*

Good morning, Education committee Chairman Senator Freborg and members of the Senate Education committee. My name is **Vicky Steiner, District 37**, Dickinson.

I support House Bill 1385. The fiscal note is minimal.

I saw a presentation by a state researcher a few years ago that the average North Dakotan is 65 year old and lives in her own home east of Jamestown.

North Dakota is one of the states with a growing population of older individuals in comparison to other states.

The baby boomers across the country are searching for meaningful ways to begin their retirements ....choosing where to live and what to do with their time.

From an article on "Planning your Retirement the Right Way" I quote, "More than one person approaching retirement has chosen the place of their retirement because of the educational benefits available to instate residents."

There are many states that now offer programs for free or at reduced cost for lifelong learning. These retirement recruitment tools may help North Dakota as more of its own population reaches retirement age.

1385 begins to give retirees more options with our incredible university system. Currently, ND allows 65 year olds to audit if the professor of a class is aware that they would like to take a class and agrees to admit them. Unfortunately, the state university system has not made this information readily available and the public isn't much aware of this option.

This bill brings a new section to chapter 15-10 of the ND Century Code.

#1 HB1385

Beginning on line 7,

#1. that a North Dakota resident who is 65 years old may attend any undergraduate course or class without a charge of tuition or fees.

#2. It's offered on space available, empty chairs only.

#3. No additional staff will be hired because of this section.

#4. If the student completes the requirements, which means takes the tests and passes, the student receives the credit.

#5. Books and supplies are not included in this bill.

#6. Institutions may not count these students in their enrollment figures for student counts.

It does not include online classes.

Students may also elect to audit the class which is also more likely to occur, but this bill says that if they do take the test and pass, the state will award them the credit for the class.

There are at least 28 states that have some type of tuition break for mature students.

In our region, Minnesota allows persons 62 years old to register on the second day of class in credit courses for \$9 per credit or audit courses free of charge on a space available basis.

Montana has any state resident at least 65 years of age receives a waiver of fees at state schools of higher education.

Wyoming has Eastern Wyoming school that state residents age 60 or older may enroll in courses at no charge.

On the list I provided for you, you'll find:

7 states – tuition free for 60 year olds

# 1 HB 1385

4 states- tuition free for 62 year olds

6 states- tuition free for 65 year olds

1 state- Louisiana offers one (1) 3 hour class tuition free for 55 year olds

As a state, we bring in students from all over the world and some of those international students receive scholarships. This bill, with space available, would give opportunity to our 65 and older residents so that they too have an opportunity for the incredible classes offered in our university system.

Please give this bill your consideration.

Vicky Steiner

290-1397 cell

#1 HB 1385

**Steiner, Vicky L.**

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**From:** NDLA, Intern 10  
**At:** Wednesday, January 19, 2011 1:53 PM  
**To:** Steiner, Vicky L.  
**Subject:** Senior Citizen Audit Fee Waiver

Rep. Steiner:

I spoke with Pat Seaworth, he serves as general counsel for the SBHE, and he advised of the following policy:

"805.3 Application, Course, Program and Other Miscellaneous Fees

1 Institutions shall charge these fees:

...  
b. An audit fee for courses available for audit not less than one half of the per credit hour resident tuition charge for the course. Institutions shall waive the audit fee for on-campus courses for persons 65 years of age or older and may adopt policies providing for waiver of the fee under other circumstances defined by those policies."

The website where this can be found is: <http://www.ndus.edu/makers/procedures/sbhe/default.asp?PID=182&SID=9>

Please let me know if you have further questions.

**Jessica Braun**  
**Legislative Intern**  
**House Judiciary, House Political Subdivisions, and Constitutional Revision**  
**Phone: 701-328-3590**  
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## **Resource for HB 1385**

### **State education grants for elderly (by State)**

**Alabama.** A free tuition program for senior citizens (persons aged 60 or over) who meet the admission requirements and attend public two-year post secondary institutions in Alabama.

**Alaska.** University of Alaska waives regular tuition for Alaska residents at the age of full Social Security retirement benefits who register on the first day the class meets on a space available basis when courses can accommodate such students in addition to other enrolled students.

**Arkansas.** University of Arkansas offers Arkansas residents free tuition. U of A is encouraging all Arkansas resident who are age 60 or older to sign up for credit courses, and even earn a degree, without paying anything.

**California.** While there is no centralized tuition waiver program for adult citizens of California, there are multiple colleges offering free classes. For example, Palo Alto College offers various courses for senior citizens at no cost where space is available.

**Connecticut.** Free tuition is offered for those who are 62 years old or older at the University of Connecticut, Connecticut State University and the 12 community colleges.

**Delaware.** The University of Delaware offers a Higher Education for Senior Citizens program whereby citizens of the State of Delaware who are 60 years of age or older, and are formal degree candidates may attend classes for credit tuition free. They must pay all applicable fees except the Admission Application, Readmission Application, Advance Standing, Student Teaching, and New Student Orientation Fee.

**Georgia.** Any resident of Georgia who is 62 or older may enroll in any state college or university for free.

**Indiana.** Purdue University has a tuition rebate program for seniors who are retired, at least 60 years old and citizens of the state.

**Kentucky.** The University of Louisville The University offers tuition remission to individuals who are classified by admissions as residents of Kentucky and are at least 65 years of age on, or before, the first day of classes for the semester.

**Louisiana.** Louisiana Delta College - Students who are fifty-five years or older and are Louisiana residents may register for one three-hour course and be exempt from the payment of tuition.

**Maryland.** University of Maryland Maryland College . At late registration, seniors 60 years old, who are residents of Maryland. U.S. citizen or a legal permanent resident, not employed more than 20 hours a week and meet regular admissions requirements may register for up to 7 credits each semester--on a space available basis--without paying tuition.



**Michigan.** Lansing community college offers 50% tuition discount for those who are age 62 or older.

**Minnesota.** Minnesota state law allow persons 62 and older to register on the second day of the class in credit (degree, certificate) courses for \$9 per credit or audit courses free of charge on a space-available basis.

**Missouri.** State law states that state resident who is age 65 by August 1 of the school year, shall receive a full tuition scholarship at any state institution.

**Montana.** Any state resident at least 65 years of age receives a waiver of fees at state schools of higher education.

**Nevada.** University of Nevada - Seniors 62 years of age or older may register without paying per-credit registration fees. Special course fees, nonresident tuition (if applicable) and deposits are not waived.

**New Hampshire.** University of New Hampshire - residents who are age 65 or older and are not enrolled in a degree program are eligible to take a maximum of two credit-bearing courses\* per academic year (Summer/Fall/Spring) tuition-free.

**New Jersey.** Rutgers University - Seniors who are 62 or older may attend courses on a space-available, non credit basis.

**New Mexico.** Each public post-secondary degree-granting institution in New Mexico must grant a reduction in tuition to senior citizens upon request by the student. The charge will be \$5 per credit hour. Students may take up to 2 courses per semester.

**New York -** Hostos College - Residents of New York City who are 60 years of age or older who are not pursuing a degree may study tuition-free at the college upon the payment of a \$65 fee on a space-availability basis.

**Ohio -** In Ohio, senior citizens are eligible to audit college courses at many local schools for free. Referred to as Program 60, any person 60 and older who has been a resident of Ohio for more than 1 year can apply to audit a college course.

### **Pennsylvania**

- Bloomburgh University - Pennsylvania residents age 60 and older and retired are admitted to classes on a space-available basis. Tuition is free for credit-bearing courses
- Luzern University - Senior citizen status at the Community College is for those who have reached the age of 62 years. A senior citizen will be given a tuition waiver when the College meets the minimum number of paid enrollments for the class.

- Northampton Community College - In-county residents who are 65 years of age or older qualify for a tuition and fee waiver for Credit courses (noncredit does not qualify for a waiver). The waiver must be requested by the student at the time of registration.

**South Carolina** - University of South Carolina - Senior Citizens (age 60 and older) are entitled to enroll on a space-available basis without the required payment of tuition.

#### **Texas**

- University of Huston Downtown - Senior citizens 65 years or over may audit
- San Antonio college - San Antonio College offers tuition-free attendance to senior citizens on a space available basis. You need to apply with the instructor of the program you desire on the first day of class

**Utah** - University of Utah - If you're 62 or older and a resident of Utah, you may audit many regular University classes numbered 1000 or above for a mere \$25 per semester in addition to any special fee attached to the class.

**West Virginia University** - Senior citizens of West Virginia (age 65 and older) who meet WVU residency requirements may now take courses at West Virginia University for reduced tuition and fees. In addition, the courses can be taken for credit or no credit. Application available on line at Senior application

**Wisconsin** - University of Wisconsin Waukesha - Senior citizens may audit courses at no charge.

**Wyoming** - Eastern Wyoming University - State residents age 60 or older may enroll in courses at no charge.

#### *Sources and Additional Information:*

<http://www.anti-aging-articles.com/Scholarships-seniors.html>

[http://aginggrandparents.suite101.com/article.cfm/senior\\_citizen\\_college\\_discounts](http://aginggrandparents.suite101.com/article.cfm/senior_citizen_college_discounts)

<http://www.anti-aging-articles.com/Scholarships-older-women.html>

<http://www.examiner.com/elder-care-in-cincinnati/cincinnati-elderly-can-attend-college-tuition-free>

<http://www.seniorresource.com/senioreducation.htm>

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CHICAGO — From continuing education and enrichment classes to graduate school, many of America's retirees are pursuing their interests at the college level.

It's a trend that is likely to grow as seniors' ranks swell with baby boomers, who by 2015 will represent some 35% of the U.S. population, looking to either acquire new job skills or simply enjoy new learning experiences. (Baby boomers are people born between 1946 and 1964)

Nearly six decades after graduating from college, Pete Shannon still can't get enough of lectures and homework assignments.

The 78-year-old Dallas retiree has taken dozens of classes at his local community college since he stopped working as a certified public accountant in 2004. This summer he studied music composition, and in the fall he plans to tackle philosophy and whatever else piques his interest.

Exams can be challenging, but one thing he doesn't sweat is tuition bills. In one of many such arrangements across the U.S., Dallas County residents age 65 and over get up to six hours' tuition free at Richland College every semester.

"It's a marvelous opportunity," Shannon says, calling the college his "candy store." "It's a wonderful place to go. The catalog is rich with all kinds of classes."

The prospect of having to pay for even moderately priced college classes might sound daunting to a retiree living on fixed income. But numerous discounts, tuition waivers and other deals make it possible.

"There are more opportunities than in the past for senior citizens to take college classes and get help paying for them," says financial aid expert Mark Kantrowitz, publisher of FinAid.org and Fastweb.com.

Many community colleges and some four-year colleges allow seniors to audit classes for free and significantly reduce tuition for those who take them for credit. The financial arrangements vary widely by school and so do the age requirements — generally 60, 62, or 65 and over.

Twenty-one states and Washington, D.C., offer free tuition for senior citizens at some or all of their public colleges, according to FinAid.org. The student still must buy textbooks and may have to pay fees.

Two relatively new opportunities offer even more help.

The Senior Scholarships program, created last year as part of the Edward M. Kennedy Serve America Act, provides \$1,000 education awards for people 55 or older who volunteer 350 or more hours a year. The money may be used for the volunteer's own education or transferred to a child, foster child or grandchild.

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And the American Opportunity tax credit can lower taxes for students of any age dollar-for-dollar for the first \$2,000 spent on tuition, fees and course materials. The credit also applies to 25% of the second \$2,000. Unless extended, the temporary credit expires at year's end.

More seniors might head back to school if they knew about the deep discounts and freebies — or lived near colleges. As it is, education remains an untapped resource for most.

According to data released in June by the Bureau of Labor Statistics, Americans from age 65 to 74 say they spend 6.77 hours on leisure and sports on a typical weekday, watch 3.58 hours of TV, spend 0.71 hour reading, 0.59 hour socializing and 0.03 hour on education. That's less than two minutes, compared to 0.46 hour or about 28 minutes for the population as a whole.

Shannon, who got his undergraduate degree in business economics from Rice University in 1953, is happy to stay in school for life. He says he takes college classes to get out of the house, at his wife's urging, and exercise his brain. The rest of him gets a workout, too, as he often bikes the 4 1/2 miles (6.4 kilometers) to campus.

A perfect 4.0 grade-point average through 114 credit hours shows he's not taking any mental shortcuts.

"I like writing the papers and doing the work," he says. "It's more complete than Googling a subject. And by the time you finish the semester, you've learned something."

Thanks to the tuition deals, he reckons he has spent no more than \$1,000 on education expenses since he retired. But he'd dig a little deeper into his retirement savings if he had to.

"Frankly, I'd go to college even if I had to pay up to \$1,000 a year for it," he says. "I'd consider it part of my personal entertainment budget."

If retirement-age students decide to borrow to pay for college, loans don't have to be as burdensome as they might expect.

Federal student loans are discharged on the borrower's death. That means the retiree student's heirs won't get shortchanged because of those late-in-life classes in history and Chinese. The senior can also choose the repayment plan with the longest payback period, thus the lowest monthly payment.

When finances aren't an issue, most any educational experience is still possible in retirement. Anne Carter Harrison-Clark of Williamsburg, Virginia, is thriving as a 71-year-old student at the William & Mary Law School.

Learning more about the law is something she long aspired to do during a career as a lobbyist and public policy lecturer at Georgetown University, among other roles. Now she has both the time and money to do it, thanks to she and her husband Bob selling property near the top of the market six years ago.

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Immersed in her third year of law classes, she is thrilled to be studying at the college where her great-great-grandfather, Benjamin Harrison V, a signer of the Declaration of Independence, was educated. She doesn't at all mind being the only white-haired student or getting constantly asked why she's there.

The short answer to that is she wants to keep the brain cells going with new information and new contacts. And she doesn't know where this educational "journey" will take her, although she does intend to get her law degree at some point, on her own schedule.

"This whole (college) experience has been like dessert, like double fudge icing on a cake. Just a wonderful experience," says Harrison-Clark, who already has a Ph.D. in politics. "I highly encourage it."

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# HB1385

Prepared at the request of House Education

Revised Fiscal Estimates

By the NDUS Office, February 2, 2011

|                                | Estimated Revenue Loss | No. of Students Impacted |
|--------------------------------|------------------------|--------------------------|
| 55 years older (original bill) | (\$1,800,000)          | 400                      |
| 62 years or older              | (\$300,000)            | 100                      |
| 65 years or older              | Minimal <sup>1/</sup>  |                          |

1/ It is believed that we would see little change in student behavior for those 65 years of age and over with the proposed legislation. In other words, those 65 years of age and over can currently "audit" a course (no credit) and the audit fee is waived. We do not believe there would be large influx of students 65 years of age or older who would instead pursue a postsecondary degree for credit simply because the tuition and fees are waived. So, while the fiscal impact may be minimal, other parts of the bill such as exempting them from academic requirements or administering on a space available basis would still be problematic.

Laura Glatt

328-4116

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# North Dakota University System

## HB 1385 – Senate Education

March 9, 2011

Michel Hillman

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Good morning, Chairman Freborg and members of the Senate Education Committee. For the record, my name is Mike Hillman, Vice Chancellor for Academic and Student Affairs with the North Dakota University System. The State Board of Higher Education is fully supportive of lifelong learning, but opposes HB 1385 for two specific reasons:

- It is critical that students of any age who enroll in courses for credit be adequately prepared to succeed. This bill provides that students could enroll "without having to demonstrate the achievement of certain academic thresholds normally required of students." Students may be successful in some classes, but students who enroll in other courses would be at a great disadvantage if they had not completed pre-requisites. Last year, at the request of the Commission on Education Improvement, the SBHE adopted mandatory developmental course and degree credit course placement policies. This is consistent with the national movement toward a secondary education Common Core in preparation for college and work. Adequate preparation for a course supports accelerated student achievement. By permitting underprepared students to enroll in courses, HB 1385 does not support appropriate education standards or student success, and, it conflicts with other recent state policy directions.
- Federal reporting definitions require collection of enrollment data "for all students enrolled in credit-bearing courses/programs which could potentially lead to [degree] awards ranging from postsecondary certificates of less than one year to doctoral degrees." The directive of HB 1385 subsection 6 that these students not be included in student counts would require each of the 11 NDUS institutions to violate either state law or federal regulations in enrollment reporting. At best perhaps, it would result in two different sets of enrollment numbers: one total that excludes this set of students for state reporting and the official federally-reported total that includes them.

For these two specific reasons the SBHE encourages a "Do Not Pass" vote on HB 1385. Alternatively, these concerns could be addressed by adopting the amendments on the attached page.

As additional background, the NDUS has implemented a number of policies, procedures and practices which encourage and support the enrollment of non-traditional age students:

- The University System encourages lifelong learning for all citizens of the state, and we are undertaking initiatives that benefit students of all ages. In fact, we are engaged in an initiative with WICHE (Western Interstate Commission on Higher Education) to reach out to North Dakota residents who have completed credits toward their college degree, but for some reason never finished that degree and, those who have never attended college.

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- Current State Board of Higher Education policy provides tuition waivers for residents age 65 and above. Policy 805.3 states, "Institutions shall waive the audit fee for on-campus courses for persons 65 years of age or older." Policy 805.2 also provides institutions with the authority to waive student activity fees for these students.
- NDUS policy supports residents age 65 and above to audit courses, HB 1385 focuses upon full participation in a class for academic credit at no charge. With no limit on the number of classes they may take or on years of attendance, it would be possible to earn a degree without paying tuition.
- By requiring admission of certain students, the bill conflicts with Article VIII of the state constitution which provides the SBHE with full authority of the institutions under its control.
- Finally, although currently not large, there is cost associated with this bill. The NDUS currently enrolled 66 students age 65 and over in the Fall 2010 term. There would be a loss of tuition and fees to the institutions for these credits. The cost would increase further as this segment of the population grows and as students take advantage of this program.

Thank you for this opportunity to provide comments. I will be pleased to address any questions.

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1385

Page 1, line 10, replace the comma with a period and remove "and without having to demonstrate the achievement of"

Page 1, remove line 11

Page 1, remove lines 18 through 20

Page 2, line 2, insert a period after "attendees" and remove "and may not include them in any other student counts for"

Page 2, remove line 3

Renumber accordingly

#7

# **HB 1385**

Mature Students

Attendance at institutions of higher education

## **Testimony in Opposition**

North Dakota Senate  
Education Committee  
March 9, 2011

**Mark Puppe**

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# GROUNDS

## I. SUBJECT LANGUAGE OF HB 1385 – 11.0591-03000

### **A. AGE IS THE GROUNDS FOR AN EXCLUSIVE PRIVILEGE, See page 1:**

4 SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created  
5 and enacted as follows:  
6 Mature students - Attendance at institutions of higher education.  
7 1. a. Any resident of this state who is at least sixty-five years of AGE may attend for  
8 credit or audit any undergraduate course or class offered by an institution of  
9 higher education under the control of the state board of higher education **without**  
10 **a charge of tuition or fees, and without having to demonstrate the achievement of**  
11 **certain academic thresholds NORMALLY required of students.**  
**(ALL Emphasis Added)**

### **B. HB 1385 CREATES SEPARATE CLASS BASED ON AGE, SEE PAGE 2:**

1 6. Each institution SHALL account for the students referenced in subsection 1 as a  
2 SEPARATE CLASS of attendees and may not include them in any other student counts for  
3 any other purposes. ALL Emphasis Added

## II. HB 1385 VIOLATES THE U.S. CONSTITUTION

Due process clause of the 14th Amendment PROHIBITS violation of privileges -- education is a  
“privilege” whose relevant text states..., See Amendment 14 - Citizenship Rights:

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are  
citizens of the United States and of the State wherein they reside. NO STATE SHALL make or  
enforce any law which shall abridge the privileges or immunities of citizens of the United  
States; nor shall ANY State deprive any person of life, liberty, or property, without due process of  
law; nor DENY to ANY PERSON within its jurisdiction the EQUAL PROTECTION of the  
laws. **(ALL Emphasis Added)**

**Puppe Comments:**

HB 1385 does not provide equal protection of law, instead it establishes a class based on an arbitrarily selected age, and bestows special privileges upon those "residents" (HB 1385, line 7) or, in the context of the US Constitution "citizens".

**III. HB 1385 VIOLATES U.S. SUPREME COURT JUDICIAL PRECEDENT**

See *Caldwell v. Texas*, 137 U.S. 692, 697 (1891) and by unanimous decision of the Court:

**"By the Fourteenth Amendment**, the powers of the states in dealing with crime within their borders are not limited, but **NO STATE CAN DEPRIVE PARTICULAR PERSONS OR CLASSES OF PERSONS OF EQUAL AND IMPARTIAL JUSTICE UNDER THE LAW**. Law, in its regular course of administration through courts of justice, is due process, and when secured by the law of the state, the constitutional requisition is satisfied." *Caldwell v. Texas*, 137 U.S. 692, 697 (1891) (**ALL Emphasis Added**)

**Puppe Comments:**

*Caldwell v. Texas* was a criminal case **BUT**, it PROHIBITS STATES FROM DEPRIVING EQUAL JUSTICE UNDER LAW according to CLASS. **HB 1385 CREATES A "CLASS"** See HB 1385 – 11.0591-03000 (page 2, lines 1 and 2)

**IV. HB 1385 VIOLATES NORTH DAKOTA LAW**

See NDCC ch. 14-02 The North Dakota Human Rights Act...

**14-02.4-01. State policy against discrimination.**  
**IT IS THE POLICY OF THIS STATE TO PROHIBIT DISCRIMINATION ON**

THE BASIS of race, color, religion, sex, national origin, AGE, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer; to prevent and eliminate discrimination in employment relations, public accommodations, housing, state and local government services, and credit transactions; and to deter those who aid, abet, or induce discrimination or coerce others to discriminate. (ALL Emphasis Added)

**14-02.4-15. Public services - Discriminatory practices.**

It is a discriminatory practice for a person engaged in the provision of PUBLIC SERVICES TO FAIL to provide to a person access to the use of and benefit thereof, or to give adverse or UNEQUAL TREATMENT to a person in connection therewith BECAUSE OF THE PERSON'S race, color, religion, sex, national origin, AGE, physical or mental disability, or status with respect to marriage or public assistance. (ALL Emphasis Added)

**14-02.4-02(2). Definition**

15. "PUBLIC SERVICE" MEANS A PUBLIC FACILITY, department, agency, BOARD, or commission OWNED, OPERATED, OR MANAGED BY OR ON BEHALF OF THIS STATE, a political subdivision thereof, or a public corporation. (ALL Emphasis Added)

**V. HB 1385 VIOLATES THE ND CONSTITUTION**

Per NDCC 14-02.4, The ND University System and all of its "institutions of higher education" (as cited in HB 1385 lines 8-9) ARE PUBLIC services because they are owned, operated, and managed on behalf of the State of North

Therefore, The ND University System is, and all its institutions of higher education are, in accordance with the **NORTH DAKOTA CONSTITUTION** owned, operated, and managed on behalf of the State of North Dakota. See the Constitution of North Dakota, Article VIII Education, Section 6(1)(a-f)

## **VI. HB 1385 VIOLATES THE ND UNIVERSITY SYSTEM NON-DISCRIMINATION POLICY**

See.....

### **NDSU Policy Section 100: Equal Opportunity and Non Discrimination Policy**

Source of Authority: NDSU President

SBHE Policy Manual §603.2

The following notice must be included in all departmental publication such as bulletins, announcements, manuals, publications, guidebooks, brochures, pamphlets, catalogs, application forms or recruitment materials describing or inviting participation in programs at North Dakota State University. (This notice is not required on departmental homepages.):

Non-Discrimination Policy:

**NORTH DAKOTA STATE UNIVERSITY DOES NOT DISCRIMINATE ON THE BASIS OF AGE**, color, disability, gender identity, marital status, national origin, public assistance status, sex, sexual orientation, status as a U.S. veteran, race or religion. Direct inquiries to the Vice President for Equity, Diversity and Global Outreach, 205 Old Main, (701)231-7708.

<http://www.ndsu.edu/policy/100.htm>

### **PUPPE comments:**

Practicality, intent, or resource availability are irrelevant to HB 1385 and ought not be considered when determining your vote.

Grounded these elements of the United States Constitution, judicial precedent of the United Supreme Court, the current North Dakota Century Code and policies of the North Dakota University System, **HB 1385 requires DO NOT PASS** from this committee and unanimous defeat by your colleagues in the Chamber.

## Special Reduced Tuition and Fees

1. In-state residents 62 years of age or older shall be permitted to register for credit or as auditors in any course without registration or application or admission fees except as noted below. A person must reach 62 years of age on the first day of the first scheduled class meeting to be eligible. If the individual registers for more than one (1) class within a semester or term, the earliest scheduled class meeting will determine eligibility. The consent of the course instructor may be required for all such registration. (B/R 2/95)
  - a. Only those courses where space is available may be taken. (B/R 2/95)
  - b. Such registration shall not entitle a person to any privileges usually associated with registration; e.g., student association membership, health service, intercollegiate athletic tickets. (B/R 2/95)
  - c. Persons 62 years of age or older may register in summer session or off-campus credit courses (independent study by correspondence and field study program excepted) and in non-credit continuing education courses at UNLV or UNR, or in community service courses at the community colleges, all of which are supported by registration fees, for one-half (1/2) the regular registration fee. Reduced fee benefits are always subject to programs being otherwise self-sustaining. (B/R 2/95)
2. Non-matriculated native speakers of any foreign language may be permitted to register without fee for credit or as auditors in literature courses in that language. The consent of the course instructor may be required for all such registration.
3. Nevada resident high school students may enroll in a distance learning, college-credit course delivered to an offcampus site for a \$25 registration fee per course if the course fee is approved by the institutional President. The term "high school students" includes students formally enrolled in a school district sponsored Adult Education High School Diploma programs. (B/R 8/06)
4. Nevada resident high school students may enroll in remedial and 100-level courses offered by an NSHE institution for a reduced registration fee per course if the course is delivered on the high school campus, excluding high schools located on an NSHE campus, and approved by the institutional President. The reduced registration fees shall be determined by the President. (B/R 8/06)
5. Any member of the active Nevada National Guard, including a Nevada National Guard recruit, may be permitted to register for credit without a registration fee, or except as otherwise provided, laboratory fee(s).
  - a. This policy is applicable during Fall and Spring terms only
  - b. Academic credit courses that will lead to the degree or certificate, 40 including state-supported distance education courses, independent learning, and continuing education courses are eligible for the fee waiver. Non-state-supported independent study and correspondence courses are not eligible for waiver under this policy. (B/R 10/07)
  - c. Laboratory fees associated with all courses numbered below the 300 level are eligible for waiver under this policy. Exceptions to the waiver of laboratory fees includes: 1) per semester fees, such as the Health Service fee; 2) special course fees for purposes other than class supplies—including individual instruction, third-party charges, and special transportation requirements; 3) fees for actual class cost in excess of \$100; and 4) technology fees.
  - d. A person to whom the fee waiver is awarded shall be deemed a bona fide resident of Nevada for tuition purposes.
  - e. To be eligible for the fee waiver, the person must be a member in good standing or a recruit of the active Nevada National Guard at the beginning of and throughout the entire semester for which the waiver is granted.
  - f. The member or recruit of the Nevada National Guard must achieve at least a minimum 2.00 semester grade point average in order to maintain subsequent eligibility for the fee waiver.
  - g. The institution may request the Adjutant General to verify the membership in the active Nevada National Guard of a person who is seeking or has been granted a fee waiver.
  - h. If a fee waiver is granted to a Nevada National Guard recruit and the recruit does not enter full-time National Guard duty within one (1) year after enlisting, the student shall reimburse the Board of Regents for all previously waived registration fees and laboratory fees if the failure to enter full-time National Guard duty is attributable to the recruit's own conduct.
  - i. If a fee waiver is granted to a member of the Nevada National Guard and the member does not achieve at least a minimum 2.00 semester grade point average and remain a member in good standing with the

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guard, the student shall reimburse the Board of Regents for the semester's waived registration fees and laboratory fees and will not be allowed to register for additional courses until the debt is paid in full.

6. Federally funded teacher training programs will carry an exception to instate and out-of-state and tuition rates for contiguous, WICHE and Good Neighbor States. UNLV may accept federally funded teacher training programs with mandated reduced per credit fees; undergraduate, minimum \$15 per credit; graduate, minimum \$30 per credit; all course offerings will be approved and delivery overseen through the usual academic processes. (B/R 6/04)

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#### **4.2.1.5 Persons Aged 62 or Over**

Pursuant to the provisions of the Georgia Constitution, the USG establishes the following rules with respect to enrollment of persons 62 years of age or older in USG programs. To be eligible for enrollment under this provision such persons:

1. Must be residents of Georgia, 62 years of age or older at the time of registration, and shall present a birth certificate or other comparable written documentation of age to enable the institution to determine eligibility.
2. May enroll as a regular or auditing student in courses offered for resident credit on a "space available" basis without payment of fees, except for supplies, laboratory or shop fees.
3. Shall meet all USG and institution undergraduate or graduate admission requirements. However, institutions may exercise discretion in exceptional cases where circumstances indicate that certain requirements such as high school graduation and minimum test scores are inappropriate. In those instances involving discretionary admission institutions will provide diagnostic methods to determine whether or not participation in Learning Support will be required prior to enrollment in regular credit courses. Reasonable prerequisites may be required in certain courses.
4. Shall have all usual student and institutional records maintained. However, institutions will not report such students for budgetary purposes.
5. Must meet all USG, institution, and legislated degree requirements if they are degree-seeking students.
6. May not enroll in dental, medical, veterinary, or law schools under the provisions of this policy.

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