

EDUCATION

CHAPTER 129

HOUSE BILL NO. 1338

(Representatives Brandenburg, Froseth, Heller, Kasper,
Kreidt, Kretschmar, Rohr, Schmidt, Onstad)
(Senators Schaible, Unruh, Warner)

AN ACT to provide for a board of university and school lands study of private lands owned adjacent to lands under the control of the United States army corps of engineers and a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STUDY BY BOARD OF UNIVERSITY AND SCHOOL LANDS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2013-14 interim, the board of university and school lands shall study options to address the concerns of landowners adjacent to land under the control of the United States army corps of engineers surrounding Lake Sakakawea and Lake Oahe. The study must include consideration of control of noxious weeds, protecting public access for hunting and fishing, the costs of possible transition of land from the United States army corps of engineers, and the costs associated with maintaining any property that may become a responsibility of the state. The study must also include consideration of the interests of North Dakota Indian tribes. The board may establish a task force consisting of landowners, hunting and fishing organizations, the game and fish department, the parks and recreation department, the North Dakota national guard, and other parties that utilize the land for access. Before October 1, 2014, the board shall provide to the legislative management a report on the outcome of this study.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 130

SENATE BILL NO. 2312

(Senators Anderson, Hogue, Klein, Triplett)
(Representatives Heller, Laning)

AN ACT to amend and reenact section 15-05-01 of the North Dakota Century Code, relating to coal leases on state land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-05-01 of the North Dakota Century Code is amended and reenacted as follows:

15-05-01. Coal lands or coal in tracts - Leases - Term.

The board of university and school lands may lease any lands or coal in tracts that may be contained in lands sold with a reservation of coal deposits under its control for coal mining purposes. Any lease made under this chapter must be for ~~such~~ a period of time as the board may determine. Lands or coal in tracts that may be contained in lands sold with a reservation of coal deposits must be leased for coal mining purposes for ~~such~~ a royalty upon the coal as the board may deem fair and in the best interest of the state; ~~provided, that the minimum royalty may not be less than fifteen cents per ton [907.18 kilograms], or six percent of the price per ton [907.18 kilograms] of coal, whichever is greater.~~ The royalty applies only to coal actually mined and saved from the leased premises. If the board owns or controls a smaller interest than the entire and undivided coal estate, the royalty must be paid to it only in proportion to which its interest bears to the entire undivided fee. The board may lease land or coal in tracts for the purpose of prospecting for and mining coal for an annual rental of not less than one dollar per acre [.40 hectare] per year. The rental paid for any year may not be deducted from the royalties as they accrue. The board may adjust the royalty of existing coal leases as the board determines fair and in the best interest of the state.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 131

SENATE BILL NO. 2160

(Senators J. Lee, Grindberg, Heckaman)
(Representatives Heilman, J. Nelson, Sanford)

AN ACT to provide for a North Dakota university system study of professional student exchange programs; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STUDY OF PROFESSIONAL STUDENT EXCHANGE PROGRAMS - REPORT TO THE LEGISLATIVE MANAGEMENT. The North Dakota university system shall study the out-of-state programs in veterinary medicine, optometry, and dentistry, and in particular the accessibility of North Dakota students to the programs; the provision of state funding for students attending the programs; the amount of debt incurred by students attending the programs; and the state's short-term and long-term needs for dentists, optometrists, and veterinarians. Before November 15, 2013, the North Dakota university system shall report its findings to the legislative management.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 132

HOUSE BILL NO. 1219

(Representatives Brandenburg, Froseth, Thoreson, Trottier, Wieland)
(Senators Hogue, Lyson)

AN ACT to amend and reenact section 15-10-18.3 of the North Dakota Century Code, relating to tuition for dependents of disabled veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-18.3 of the North Dakota Century Code is amended and reenacted as follows:

15-10-18.3. Free tuition in North Dakota institutions of higher education.

Any dependent, as defined in section 15-10-18.2 upon being duly accepted for enrollment into any undergraduate degree or certificate program of a North Dakota state institution of higher education, must be allowed to obtain a bachelor's degree or certificate of completion, for so long as the dependent is eligible, free of any tuition and fee charges; ~~provided, however, that if~~ the bachelor's degree or certificate of completion is earned within a forty-five-month or ten-semester period or its equivalent; and ~~further provided that~~ if tuition and fee charges ~~shall~~ do not include costs for aviation flight charges or expenses. Once ~~a person~~ an individual qualifies as a dependent under sections 15-10-18.2 and 15-10-18.3, the dependent may not be disqualified from the benefits of this section ~~due to such an occurrence as:~~

1. Due to the return of the prisoner of war or person;
2. Due to the return of the individual missing in action; or
3. Because the veteran through whom the benefit was obtained had a one hundred percent service-connected disability at the time of death.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 133

HOUSE BILL NO. 1272

(Representatives Mock, Amerman, Beadle, Fehr, Gruchalla)
(Senator Dever)

AN ACT to amend and reenact section 15-10-19.1 of the North Dakota Century Code, relating to resident tuition for spouses and dependents of veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁸ **SECTION 1. AMENDMENT.** Section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-19.1. Nonresident and resident student for tuition purposes defined.

1. A "nonresident student" for tuition purposes means any student other than a resident student.
2. A "resident student" for tuition purposes means:
 - a. ~~A person~~An individual whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. ~~A person~~An individual of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. ~~A person~~An individual who graduated from a North Dakota high school;
 - d. (1) A full-time active duty member of the armed forces;~~a;~~
(2) A member of the North Dakota national guard unit;~~or a;~~
(3) A member of the armed forces reserve component stationed in this state; or
(4) A veteran, as defined in section 37-01-40;
 - e. A benefited employee of the North Dakota university system;
 - f. The spouse or dependent of a;
 - (1) A full-time active duty member of the armed forces ~~or a;~~

⁴⁸ Section 15-10-19.1 was also amended by section 1 of House Bill No. 1104, chapter 134.

-
- (2) A member of ~~at~~the North Dakota national guard ~~unit or of an~~;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301];
 - (5) A benefited employee of any institution of higher education in this state, and a spouse of anythe North Dakota university system; or
 - (6) Any other individual who is a resident for tuition purposes;
- f.g. A persondependent of:
- (1) A full-time active duty member of the armed forces;
 - (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301]; or
 - (5) A benefited employee of the North Dakota university system;
- h. An individual who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term; or
- g.i. A child, widow, or widower of a veteran as defined in section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.
3. A temporary absence from the state for vacation or other special or temporary purposes may not be considered an abandonment of residency in this state, provided a residence is maintained in this state during the temporary absence. However, a student who leaves the state and resides in another state for a period of months is not considered a resident of this state during those months if the student does not maintain a place of residence in this state during the student's absence.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 134

HOUSE BILL NO. 1104

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to amend and reenact subsection 2 of section 15-10-19.1 of the North Dakota Century Code, relating to the definition of nonresident and resident student for tuition purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁹ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A "resident student" for tuition purposes means:
 - a. A person whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. A person of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. A person who graduated from a North Dakota high school;
 - d. A full-time active duty member of the armed forces, a member of a North Dakota national guard unit, or a veteran as defined in section 37-01-40;
 - e. ~~A spouse or dependent of a full-time active duty member of the armed forces or a member of a North Dakota national guard unit or of an employee of any institution of higher education in this state, and a spouse of any other resident for tuition purposes~~A benefited employee of the North Dakota university system;
 - f. The spouse of:
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of a North Dakota national guard unit;
 - (3) A benefited employee of the North Dakota university system; or
 - (4) Any other individual deemed a resident for tuition purposes;

⁴⁹ Section 15-10-19.1 was also amended by section 1 of House Bill No. 1272, chapter 133.

g. A dependent of:

(1) A full-time active duty member of the armed forces;

(2) A member of a North Dakota national guard unit; or

(3) A benefited employee of the North Dakota university system;

f-h. A person who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term; or

g-i. A child, widow, or widower of a veteran as defined in section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 135

HOUSE BILL NO. 1281

(Representatives Heilman, Beadle, Dockter,
Looyen, Mock, Porter, Thoreson, Vigesaa)
(Senators Grindberg, J. Lee, Sorvaag)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the assessment of institutions of higher education; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Assessment of institutions.

1. Before the state board of higher education may impose an assessment on or otherwise require that individual institutions of higher education pay for any goods or services provided by or through the university system office, the state board must seek approval from the budget section of the legislative management.
2. This section does not apply to any assessments or payment obligations for goods or services in effect before the effective date of this Act.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 136

SENATE BILL NO. 2094

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to amend and reenact section 15-10.3-03 of the North Dakota Century Code, relating to mandatory fees assessed by institutions of higher education; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10.3-03 of the North Dakota Century Code is amended and reenacted as follows:

15-10.3-03. (~~Effective through June 30, 2013~~) Mandatory fees - Limitation on increases - Exemption.

1. The total amount of mandatory fees, other than program-specific fees, which an institution under the control of the state board of higher education assesses each full-time and part-time student, may not increase from one academic year to the ensuing academic year by more than one percent of the latest available average full-time, resident, on-campus, undergraduate tuition rate at that institution, unless the state board determines that an exemption from the requirements of this section is necessitated as a result of:
 4. ~~Documented extraordinary circumstances; or~~
 2. ~~Student~~ student demand, as evidenced by a campuswide student election or formal action by an institution's student governing board or committee.
 2. a. Before mandatory fees on students may be increased to support the construction or renovation of a campus building valued at more than one million dollars, the use must be approved by a majority of the students voting on the question at a campuswide election.
 - b. This subsection does not apply to any construction or renovation for which the use of mandatory fees was authorized before July 1, 2013.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 137

HOUSE BILL NO. 1103

(Education Committee)

(At the request of the Department of Career and Technical Education)

AN ACT to create and enact chapter 15-18.1 of the North Dakota Century Code, relating to authority of the state board of higher education to provide authorizations to operate postsecondary educational institutions offering instruction at the associate in arts level or higher and to false academic degrees and accreditation mills; to amend and reenact subsections 1, 4, 7, and 10 of section 15-20.4-01, sections 15-20.4-02 and 15-20.4-02.1, subsections 1, 2, 3, 4, 5, and 8 of section 15-20.4-03, sections 15-20.4-03.1 and 15-20.4-04, subsections 1 and 2 of section 15-20.4-05, sections 15-20.4-06, 15-20.4-08, 15-20.4-09, and 15-20.4-13, and subsection 1 of section 15-20.4-14 of the North Dakota Century Code, relating to authority of the state board for career and technical education to provide authorizations to operate private postsecondary career schools offering instruction at the level of no higher than the associate of applied science level; to repeal sections 15-20.4-15, 15-20.4-16, 15-20.4-17, and 15-20.4-18 of the North Dakota Century Code, relating to false academic degrees and accreditation mills; to require reports to the legislative management; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

15-18.1-01. Definitions.

As used in this chapter:

1. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a postsecondary educational institution in this state.
2. "Board" means the state board of higher education.
3. "Education" or "educational services" or like term includes any class, course, or program of training, instruction, or study.
4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution operating in this state.
5. "Postsecondary educational institution" means an academic, technical, home study, business, professional or other school, college, or university, or other person, operating in this state, offering educational credentials or offering instruction or educational services, primarily to any individual who has completed or terminated secondary education or who is beyond the age of

compulsory high school attendance, for attainment of educational, or professional objectives at the associate in arts level or higher.

6. "To grant" includes awarding, selling, conferring, bestowing, or giving.
7. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any individual, directly or indirectly, in any form, to perform the act described.
8. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person to perform any such act.

15-18.1-02. Exemptions.

The following education and educational schools or institutions are exempted from the provisions of this chapter:

1. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
2. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
3. Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.
4. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
5. Schools of nursing regulated under chapter 43-12.1.
6. Native American colleges operating in this state, established by federally recognized Indian tribes.
7. Postsecondary educational institutions not operating in this state.
8. Institutions whose only physical presence in this state consists of students enrolled in practicums, internships, clinicals, or student teaching in this state.
9. Postsecondary career schools regulated under chapter 15-20.4.

15-18.1-03. Voluntary application for authorization to operate.

Although a postsecondary educational institution not operating in this state is exempt from this chapter by section 15-18.1-02, the institution may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary

educational institution not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

15-18.1-04. Board powers and duties.

The board shall:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate shall meet:
 - a. Before such authorization may be issued; and
 - b. To continue such authorization in effect.
2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions.
3. Maintain a list of postsecondary educational institutions authorized to operate in this state.
4. Consider entering interstate reciprocity agreements with similar agencies in other states.
5. Receive and maintain a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution required to have an authorization to operate under this chapter proposes to discontinue its operation.
6. Adopt policies for the conduct of its work and the implementation of this chapter.
7. Adopt policies to investigate on its own initiative or in response to any complaint lodged with it, any person subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter. The board may, after hearing, revoke or suspend authorizations to operate.
8. Require fees or bonds from postsecondary educational institutions in such sums and under such conditions as it may establish.
9. Apply fees received under this chapter to implement and manage its duties under this chapter.
10. Take any action necessary to carry out the provisions of this chapter.

15-18.1-05. Minimum standards.

All postsecondary educational institutions must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the

institution becomes eligible for accreditation by a recognized accrediting agency. Institutions issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation may an institution become eligible for a regular authorization to operate.

15-18.1-06. Prohibition - Penalty.

1. A person may not:
 - a. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless the institution has a currently valid authorization to operate issued under this chapter.
 - b. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board and the policies adopted by the board.
 - c. Use the term "university", "institute", or "college" without authorization to do so from the board.
 - d. Grant, or offer to grant, educational credentials, without authorization to do so from the board.
2. A person who violates this section, or who fails or refuses to deposit with the board the records required by the board under this chapter, is subject to a civil penalty not to exceed one hundred dollars for each violation. Each day's failure to comply with these provisions is a separate violation. The fine may be imposed by the board in an administrative proceeding or by any court of competent jurisdiction.
3. A person who willfully violates this section, or who willfully fails or refuses to deposit with the board the records required by the board under this chapter, is guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15-18.1-12.

15-18.1-07. Refund of tuition fees.

Postsecondary educational institutions shall refund tuition and other charges, other than a reasonable application fee, in accordance with the schedule determined by the board.

15-18.1-08. Cancellation of contract for instrument.

A person has the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary educational institution within seven days after entering the contract without incurring any tort or contract liability.

15-18.1-09. Remedy of defrauded student - Treble damages.

A person defrauded by an advertisement or circular issued by a postsecondary educational institution, or by a person who sells textbooks to the institution or to the pupils thereof, may recover from the institution or person three times the amount paid.

15-18.1-10. Board review.

A person aggrieved by a decision of the board respecting denial or revocation of an authorization to operate, or the placing of conditions thereon, whether on initial application or on application for renewal may appeal to the board in the manner provided by the board.

15-18.1-11. Jurisdiction of courts - Service of process.

A postsecondary educational institution not exempt from this chapter, which has a place of business in this state, and which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether the instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards educational credentials to a resident of this state, submits the institution, and if an individual, the individual's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-18.1-12. Service of process upon the institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state.

15-18.1-12. Enforcement - Injunction.

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary educational institution is found, at the request of the board or on the attorney general's own motion, may bring any appropriate action or proceeding, including injunctive proceedings or criminal proceedings, in any court of competent jurisdiction for the enforcement of the provisions of this chapter.
2. Whenever it appears to the board that a person is about to, or has been violating any of the provisions of this chapter or any policies or orders of the board, the board may, on its own motion or on the written complaint of any individual, file a petition for injunction in the name of the board in any court in this state against a person, for the purpose of enjoining such violation or for an order directing compliance with this chapter, and any policies or orders issued by the board. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has, and is in addition to any right of criminal prosecution provided by law; provided, however, the board may not obtain a temporary restraining order without notice to the person affected.

15-18.1-13. Unlawful to issue, manufacture, or use false academic degrees - Penalty.

1. It is unlawful for a person to knowingly advertise to sell, issue, or manufacture a false academic degree. A person that violates this subsection is guilty of a class C felony. This subsection does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the advertisement.
2. a. It is unlawful for an individual to knowingly use or claim to have a false academic degree:
 - (1) To obtain employment;
 - (2) To obtain a promotion or higher compensation in employment;
 - (3) To obtain admission to an institution of higher learning; or
 - (4) In connection with any business, trade, profession, or occupation.
- b. An individual who violates this subsection is guilty of a class A misdemeanor.
3. As used in this section, "false academic degree" means a document such as a degree or certification of completion of a degree, coursework, or degree credit, including a transcript, that provides evidence or demonstrates completion of a course of instruction or coursework that results in the attainment of a rank or level of associate or higher which is issued by a person that is not a duly authorized institution of higher learning.
4. As used in this section, "duly authorized institution of higher learning" means an institution that:
 - a. Has accreditation recognized by the United States secretary of education or has the foreign equivalent of such accreditation;
 - b. Has an authorization to operate under this chapter or under chapter 15-20.4;
 - c. Operates in this state, and is exempt from this chapter under section 15-18.1-02 or is exempt from chapter 15-20.4 under section 15-20.4-02;
 - d. Does not operate in this state and is:
 - (1) Licensed by the appropriate state agency; and
 - (2) An active applicant for accreditation by an accrediting body recognized by the United States secretary of education; or
 - e. Has been found by the state board of higher education or the state board for career and technical education to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation recognized by the United States secretary of education to offer degrees of the type and level claimed.

15-18.1-14. Unlawful to use degree or certificate when coursework not completed - Penalty.

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

15-18.1-15. Consumer protection - False academic degrees.

The North Dakota university system, in collaboration with the state board for career and technical education, shall provide via internet websites, information to protect students, businesses, and others from persons that issue, manufacture, or use false academic degrees.

15-18.1-16. Unlawful to operate accreditation mill - Penalty.

1. A person may not operate an accreditation mill in North Dakota.
2. As used in this section:
 - a. "Accreditation mill" means an accrediting entity that is not recognized by the United States department of education, the state board of higher education, or the state board for career and technical education.
 - b. "Operate" includes to use an address, telephone number, facsimile number, or other contact point located in North Dakota.
3. A person that violates this section is guilty of a class C felony.

SECTION 2. AMENDMENT. Subsections 1, 4, 7, and 10 of section 15-20.4-01 of the North Dakota Century Code are amended and reenacted as follows:

1. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a private postsecondary educational institution~~career school~~ in this state.
4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary ~~educational institution~~career school operating in this state.

7. ~~"Postsecondary educational institution"~~ "career school" ~~includes an academic~~ means a private, vocational, technical, home study, business, professional, or other private school, or college, or university, or other private organization or person, operating in this state, offering educational credentials, or offering instruction or educational services ~~(, primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance),~~ for attainment of educational, professional, or vocational objectives at a level no higher than the associate of applied science level.
10. "To operate" ~~an educational institution~~ a career school, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

SECTION 3. AMENDMENT. Section 15-20.4-02 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-02. Exemptions.

The following education and educational schools or institutions are exempted from the provisions of this chapter:

1. ~~Institutions~~ Schools or institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and schools or institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. Education offered by charitable schools or institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. ~~Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.~~
7. ~~Private four year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.~~
8. Schools of barbering regulated under chapter 43-04.
- 9-7. Schools of cosmetology regulated under chapter 43-11.
10. ~~Schools of nursing regulated under chapter 43-12.1.~~

- ~~44-8.~~ Native American colleges operating in this state, established by federally recognized Indian tribes.
- ~~42-9.~~ Postsecondary ~~educational institutions~~career schools not operating in this state.
- ~~43-10.~~ ~~Institutions~~Postsecondary career schools whose only physical presence in this state consists of students enrolled in practicums; or internships; ~~clinicals; or student teaching~~ in this state.
11. Postsecondary educational institutions regulated under chapter 15-18.1.

SECTION 4. AMENDMENT. Section 15-20.4-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-02.1. Voluntary application for authorization to operate.

Although a postsecondary ~~educational institution~~career school not operating in this state is exempt from this chapter by section 15-20.4-02, the ~~institution~~school may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary ~~educational institution~~career school not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

SECTION 5. AMENDMENT. Subsections 1, 2, 3, 4, 5, and 8 of section 15-20.4-03 of the North Dakota Century Code are amended and reenacted as follows:

1. Establish and require compliance with minimum standards and criteria for postsecondary ~~educational institutions~~career schools under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate shall meet:
 - a. Before such authorization may be issued; and
 - b. To continue such authorization in effect.

The criteria and standards developed will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary ~~educational institutions~~. ~~Authorization to operate an academic or professional postsecondary educational institution offering educational credentials may be issued only upon approval of the executive officer and the commissioner of the state board of higher education or the commissioner's designee~~career schools.
3. Maintain a list of postsecondary ~~educational institutions~~career schools authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public.
4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this chapter; provided, however, that nothing contained in any such reciprocity agreement may be construed as limiting the board's powers, duties, and responsibilities with

respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary ~~educational institution~~career school, or with respect to the enforcement of any provision of this chapter, or any of the rules or regulations promulgated hereunder.

5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary ~~educational institution~~career school required to have an authorization to operate under this chapter proposes to discontinue its operation.
8. Require fees and bonds from postsecondary ~~educational institutions~~career schools in such sums and under such conditions as it may establish; provided, that fees established may not exceed the reasonable cost of the service being provided.

SECTION 6. AMENDMENT. Section 15-20.4-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-03.1. ~~Authorization~~Career school fee fund.

There is created an ~~authorization~~career school fee fund into which fees provided to the board upon application for authorization to operate a postsecondary ~~educational institution~~career school under section 15-20.4-03 must be deposited. The fund and interest earned on the fund may be spent by the board pursuant to legislative appropriation exclusively to carry out the intent and purpose of this chapter. This fund is not subject to section 54-44.1-11.

SECTION 7. AMENDMENT. Section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-04. Minimum standards - Exceptions.

1. All postsecondary ~~educational institutions~~career schools must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary ~~educational institution~~career school operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the ~~institution~~school becomes eligible for accreditation by a recognized accrediting agency. ~~Institutions~~Schools issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall an ~~institution~~school become eligible for a regular authorization to operate.
2. This section does not apply to postsecondary ~~educational institutions~~career schools operating in this state that do not grant degrees and that offer mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this subsection means a document that provides evidence or demonstrates completion of a course of instruction that results in the attainment of a rank or level of associate or higher.

SECTION 8. AMENDMENT. Subsections 1 and 2 of section 15-20.4-05 of the North Dakota Century Code are amended and reenacted as follows:

1. Operate, in this state, a postsecondary ~~educational institution~~ career school not exempted from the provisions of this chapter, unless said ~~institution~~ school has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any ~~institution~~ school or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.

SECTION 9. AMENDMENT. Section 15-20.4-06 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-06. Refund of tuition fees.

1. Postsecondary ~~educational institutions~~ career schools shall refund tuition and other charges, other than a reasonable application fee, when written notice of cancellation is given by the student in accordance with the following schedule:
 - a. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the ~~institution~~ school, all tuition and other charges must be refunded to the student.
 - b. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the educational services, all tuition and other charges except twenty-five percent thereof must be refunded to the student.
 - c. When notice is received upon or after completion of one-fourth of the educational services, but prior to the completion of one-half of the educational services, all tuition and other charges except fifty percent thereof must be refunded to the student.
 - d. When notice is received upon or after the completion of fifty percent of the educational services, no tuition or other charges may be refunded to the student.
2. The provisions of this section do not prejudice the right of any student to recovery in an action against any postsecondary ~~educational institution~~ career school for breach of contract or fraud.
3. A postsecondary ~~educational institution~~ career school may implement a refund schedule that deviates from subsection 1 if the proposed refund schedule is more favorable to the student than the schedule described in subsection 1.

SECTION 10. AMENDMENT. Section 15-20.4-08 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-08. Cancellation of contract for instrument.

Any person has the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary ~~educational institution~~ career school within seven days after entering into such contract without incurring any tort or contract

liability. In such event, the postsecondary ~~educational institution~~career school may retain the amount of tuition and other charges as set forth in subsection 1 of section 15-20.4-06.

SECTION 11. AMENDMENT. Section 15-20.4-09 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-09. Remedy of defrauded student - Treble damages.

Any person defrauded by any advertisement or circular issued by a postsecondary ~~educational institution~~career school, or by any person who sells textbooks to the ~~institutionschool~~ or to the pupils thereof, may recover from such ~~institutionschool~~ or person three times the amount paid.

SECTION 12. AMENDMENT. Section 15-20.4-13 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-13. Jurisdiction of courts - Service of process.

Any postsecondary ~~educational institution~~career school not exempt from this chapter, which has a place of business in this state, and which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, submits such ~~institutionschool~~, and if a natural person, the person's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-20.4-14. Service of process upon any such ~~institutionschool~~ subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section limits or affects the right to serve any process as prescribed by the North Dakota Rules of Civil Procedure.

SECTION 13. AMENDMENT. Subsection 1 of section 15-20.4-14 of the North Dakota Century Code is amended and reenacted as follows:

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary ~~educational institution~~career school is found, at the request of the board or on the attorney general's own motion, may bring any appropriate action or proceeding ~~{ including injunctive proceedings, or criminal proceedings pursuant to section 15-20.4-12}~~, in any court of competent jurisdiction for the enforcement of the provisions of this chapter.

SECTION 14. REPEAL. Sections 15-20.4-15, 15-20.4-16, 15-20.4-17, and 15-20.4-18 of the North Dakota Century Code are repealed.

SECTION 15. REPORTS TO LEGISLATIVE MANAGEMENT. During the 2013-14 interim, the state board of higher education shall provide periodic reports to an interim committee designated by the legislative management which provide status updates on the progress of the board in implementing and administering the provisions of section 1 of this Act.

CHAPTER 138

SENATE BILL NO. 2200

(Senators Flakoll, Holmberg, O'Connell)
(Representatives Nathe, Sanford, Boe)

AN ACT to create and enact chapter 15-18.1 of the North Dakota Century Code, relating to the determination of funding for institutions of higher education; to provide an appropriation; to provide for a legislative management study; to provide for legislative intent; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

15-18.1-01. Credit-hours - Determination.

1. For each institution under its control, the state board of higher education shall determine the number of credit-hours completed by students during the two-year period ending June thirtieth of each odd-numbered year.
2. For purposes of this section, a completed credit-hour is one for which a student met all institutional requirements and obtained a passing grade.

15-18.1-02. Weighted credit-hours - Determination - Instructional program classification factors - Submission to legislative management.

1. In order to determine the weighted credit-hours for each institution under its control, the state board of higher education shall multiply each of an institution's completed credit-hours, as determined under section 15-18.1-01, by an instructional program classification factor, as set forth in this section.
 - a. The factors for credits completed in agriculture are:
 - (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
 - b. The factors for credits completed in architecture are:
 - (1) 1.8 for lower division credits;
 - (2) 3.6 for upper division credits;
 - (3) 5.4 for professional level credits; and
 - (4) 7.2 for graduate level credits.

- c. The factors for credits completed in aviation are:
- (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- d. The factors for credits completed in the biological and physical sciences are:
- (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- e. The factors for credits completed in business are:
- (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- f. The factors for credits completed in education are:
- (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- g. The factors for credits completed in engineering are:
- (1) 2.5 for lower division credits;
 - (2) 5.0 for upper division credits;
 - (3) 7.5 for professional level credits; and
 - (4) 10.0 for graduate level credits.
- h. The factors for credits completed in the health sciences are:
- (1) 3.0 for lower division credits;
 - (2) 6.0 for upper division credits;

- (3) 9.0 for professional level credits;
 - (4) 12.0 for graduate level credits; and
 - (5) 38.0 for medical school credits.
 - i. The factors for credits completed in legal studies are:
 - (1) 3.5 for lower division credits;
 - (2) 7.0 for upper division credits;
 - (3) 10.5 for professional level credits; and
 - (4) 14.0 for graduate level credits.
 - j. The factors for credits completed in the core disciplines are:
 - (1) 1.0 for lower division credits;
 - (2) 2.0 for upper division credits;
 - (3) 3.0 for professional level credits; and
 - (4) 4.0 for graduate level credits.
 - k. The factor for credits completed in career and technical education is 2.0.
 - l. The factor for completed remedial credits is 2.3.
- 2. a. The state board of higher education shall ensure that all delineations in this section reflect the requirements of a nationally recognized and standardized instructional program classification system.
- b. Before adopting any changes to the delineations implemented in accordance with this section, the state board of higher education shall present the proposed changes to and receive the approval of the legislative management.

15-18.1-03. Credit completion factor - Determination.

1. For each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.1-02 by a factor of:
 - a. 1.00 if the number of credit-hours is at least 100,000;
 - b. 1.05 if the number of credit-hours is at least 95,000 but less than 100,000;
 - c. 1.10 if the number of credit-hours is at least 90,000 but less than 95,000;
 - d. 1.15 if the number of credit-hours is at least 85,000 but less than 90,000;
 - e. 1.20 if the number of credit-hours is at least 80,000 but less than 85,000;
 - f. 1.25 if the number of credit-hours is at least 75,000 but less than 80,000;

- g. 1.30 if the number of credit-hours is at least 70,000 but less than 75,000;
 - h. 1.35 if the number of credit-hours is at least 65,000 but less than 70,000;
 - i. 1.40 if the number of credit-hours is at least 60,000 but less than 65,000;
 - j. 1.45 if the number of credit-hours is at least 55,000 but less than 60,000;
 - k. 1.50 if the number of credit-hours is at least 50,000 but less than 55,000;
 - l. 1.55 if the number of credit-hours is at least 45,000 but less than 50,000;
 - m. 1.60 if the number of credit-hours is at least 40,000 but less than 45,000;
 - n. 1.65 if the number of credit-hours is at least 35,000 but less than 40,000;
 - o. 1.70 if the number of credit-hours is at least 30,000 but less than 35,000;
 - p. 1.75 if the number of credit-hours is at least 25,000 but less than 30,000;
 - q. 1.80 if the number of credit-hours is at least 20,000 but less than 25,000;
 - r. 1.85 if the number of credit-hours is at least 15,000 but less than 20,000;
 - s. 1.90 if the number of credit-hours is at least 10,000 but less than 15,000;
 - t. 1.95 if the number of credit-hours is at least 5,000 but less than 10,000;
and
 - u. 2.00 if the number of credit-hours is less than 5,000.
2. For purposes of this section, the number of credit-hours must be those determined by the state board of higher education in accordance with section 15-18.1-01.

15-18.1-04. Institutional size factor - Determination.

1. For each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.1-03 by a size factor of:
- a. 1.0 if the square footage of the institution, when divided by the institution's weighted credit-hours results in a quotient of less than 5.00; or
 - b. 1.8 if the square footage of the institution, when divided by the institution's weighted credit-hours results in a quotient of 5.00 or more.
2. For purposes of this section, an institution's square footage:
- a. Includes all real property owned by the state within an institution's perimeter, except for agricultural experiment stations, agricultural research extension centers, technology parks, and state agencies; and
 - b. Is determined as of June thirtieth in each odd-numbered year.

15-18.1-05. Base funding - Determination of state aid.

In order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.1-04 by a base amount of:

1. \$66.35 in the case of North Dakota state university and the university of North Dakota;
2. \$95.57 in the case of Dickinson state university, Mayville state university, and Valley City state university;
3. \$98.75 in the case of Minot state university;
4. \$101.73 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, and North Dakota state college of science; and
5. \$104.88 in the case of Williston state college.

15-18.1-06. Base funding - Minimum amount payable.

Notwithstanding any calculations required by this chapter, during each fiscal year, beginning with 2014-15, an institution may not receive less than ninety-six percent of the state aid to which the institution was entitled under this chapter during the previous fiscal year.

15-18.1-07. Funding - Distribution.

The state aid to which each institution is entitled under this chapter must be forwarded at the time and in the manner agreed to by the institution and the office of management and budget.

SECTION 2. LEGISLATIVE INTENT. In order to maintain the integrity of the funding formula established under this chapter, it is the intent of the legislative assembly that any proposed increases in the funding of institutions be achieved through the amendment of section 15-18.1-05.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION FUNDING. During the 2013-14 interim, the legislative management shall appoint an interim committee to study higher education funding methods.

1. The committee shall review higher education funding methods and recommend for the North Dakota university system a new funding method that is not based on existing levels of funding.
2. The committee shall consult with representatives of the state board of higher education, the North Dakota university system office, higher education institutions, and other appropriate entities.
3. The committee shall consider:
 - a. The inclusion of tuition revenue as a component of the funding method;
 - b. The level of nonresident tuition rates, including whether the rates charged should provide for the entire cost of a student's education and whether

- state funding should be provided to offset the educational costs of nonresident students;
- c. Options to address unique institution needs due to program facility requirements, local costs of goods and labor, and other extraordinary needs;
 - d. The appropriateness of including remedial education and dual-credit course completions in the funding method and which entity should be responsible for paying course costs;
 - e. Facilities required to meet an institution's mission, including the utilization of existing institution facilities and additional facilities needs as identified in the university system campus master plan and space utilization study;
 - f. Administrative costs at institutions, including the appropriateness of providing separate funding allocations to institutions for instructional and administrative costs;
 - g. Options to provide enhanced funding for programs that address state priorities and workforce needs;
 - h. Options to provide performance funding distributions to campuses for meeting specified goals such as on-time graduation rates and job placements; and
 - i. Any other issues the committee deems appropriate.
4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the legislative council for the purpose of defraying expenses associated with the study of higher education funding as provided for in section 3 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. EXPIRATION DATE. Section 15-18.1-06 of this Act is effective through June 30, 2017, and after that date is ineffective.

Approved May 14, 2013
Filed May 15, 2013

CHAPTER 139

HOUSE BILL NO. 1228

(Representatives Meier, Dosch, Monson, Schatz, Steiner)
(Senators Flakoll, Grindberg, Heckaman, Robinson)

AN ACT to create and enact a new section to chapter 15-20.1 of the North Dakota Century Code, relating to science, technology, engineering, and mathematics advancement grants; to provide an appropriation; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-20.1 of the North Dakota Century Code is created and enacted as follows:

Science - Technology - Engineering - Mathematics - Grants - Continuing appropriation - Report.

1. The department of career and technical education may accept gifts, grants, and donations for the purpose of providing science, technology, engineering, and mathematics advancement grants.
2. Grant recipients shall focus on facilitating, coordinating, and advancing science, technology, engineering, and mathematics initiatives in this state, and shall work with representatives of elementary and secondary education, tribal schools, higher education, and private sector industries to strengthen educational opportunities, align the educational opportunities with economic development and workforce needs, and ensure the existence of a creative and productive workforce with the skills and knowledge to be globally competitive.
3. All moneys received under this section are appropriated on a continuing basis to the department of career and technical education for the purpose of providing science, technology, engineering, and mathematics advancement grants. The department of career and technical education shall report to the appropriations committees of each legislative assembly on funds received and the use of the funds.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000, or so much of the sum as may be necessary, to the department of career and technical education for the purpose of providing a science, technology, engineering, and mathematics advancement grant, for the biennium beginning July 1, 2013, and ending June 30, 2015. The grant recipient must focus on facilitating, coordinating, and advancing science, technology, engineering, and mathematics initiatives in this state, and must work with representatives of elementary and secondary education, tribal schools, higher education, and private sector industries to strengthen educational opportunities, align the educational opportunities with economic development and workforce needs, and ensure the existence of a creative and productive workforce with the skills and knowledge to be globally competitive.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 140

HOUSE BILL NO. 1229

(Representatives Meier, Rohr, Rust)
(Senator Heckaman)

AN ACT to amend and reenact section 15-20.1-23 of the North Dakota Century Code, relating to the North Dakota elementary student entrepreneurship program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-20.1-23 of the North Dakota Century Code is amended and reenacted as follows:

15-20.1-23. North Dakota elementary student entrepreneurship program.

1. There is created a North Dakota elementary student entrepreneurship program under the authority of the state board. The state board shall adopt policies to create a program of grants to support entrepreneurship education that is coordinated with classroom curriculum, standards, and activities encouraging and showcasing entrepreneurial activities at the elementary education level.
2. The grants must be ~~administered through local~~ awarded to school districts and require matching funds of up to fifty percent of the curriculum and activity costs.
3. At the request of a school district, the state board may forward the district's grant directly to an entity providing services in accordance with this section.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 141

SENATE BILL NO. 2061

(Government and Veterans Affairs Committee)
(At the request of the Teachers' Fund for Retirement)

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to plan modifications to the teachers' fund for retirement required to maintain compliance with federal statutes or rules; and to amend and reenact section 15-39.1-04, subsection 4 of section 15-39.1-10, and sections 15-39.1-10.6 and 15-39.1-11 of the North Dakota Century Code, relating to the definition of normal retirement age and revising the definitions of actuarial equivalent and salary, incorporation of federal law changes, and modification of vesting of rights provisions under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-04. Definitions.

For purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Actuarial equivalent" means the ~~annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age~~ calculated to be of equal actuarial value to the benefit otherwise payable when computed on the basis of actuarial assumptions and methods adopted by the board.
2. "Beneficiary" means a person, estate, trust, or organization designated in writing by a participating member to receive benefits provided by this plan, in receipt of benefits, or otherwise provided under section 15-39.1-17.
3. "Board" means the board of trustees of the teachers' fund for retirement.
4. "Contract" means a written agreement with a school board or other governing body of a school district or special education unit of this state or a letter of appointment by a state institution, state agency, or other employer participating in the fund.
5. "Fund" means the teachers' fund for retirement.
6. "Interest" as applied to member assessments is an annual rate of six percent compounded monthly and as applied to the repurchase of credit for withdrawn years is six percent compounded annually.
7. "Normal retirement age" means the age at which a member becomes eligible for monthly lifetime normal unreduced retirement benefits as provided in subsection 1 of section 15-39.1-10.

8. "Retirement" means cessation of covered employment and acceptance of a benefit under former chapter 15-39, or chapter 15-39.1 or 15-39.2.
- 8-9. "Retirement annuity" means the payments made by the fund to a member after retirement, these payments beginning on the first or fifteenth day of the month following eligibility for a benefit.
- 9-10. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a ~~school~~school year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457 in effect on August 1, ~~2011~~2013. "Salary" includes amounts paid to members for performance of duties, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B) in effect on August 1, ~~2011~~2013, as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) in effect on August 1, ~~2011~~2013. A salary maximum is not applicable to members whose participation began before July 1, 1996. "Salary" does not include:
- a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation allowances, housing allowances, meals, lodging, or expense allowances, or other benefits provided by a member's employer.
 - b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.
 - c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.
 - d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.
 - e. Teacher's aide pay, referee pay, busdriver pay, or janitorial pay.
 - f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.
 - g. Signing bonuses as defined under section 15.1-09-33.1.
 - h. Other benefits or payments not defined in this section which the board determines to be ineligible teachers' fund for retirement salary.
- 10-11. "State institution" includes North Dakota vision services - school for the blind, the school for the deaf, and the North Dakota youth correctional center.

44-12. "Teacher" means:

- a. All persons licensed by the education standards and practices board who are contractually employed in teaching, supervisory, administrative, or extracurricular services by a state institution, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers. For purposes of this subdivision, "teacher" includes persons contractually employed by one of the above employers to provide teaching, supervisory, administrative, or extracurricular services to a separate state institution, state agency, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state under a third-party contract.
- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, the professional staff of the department of career and technical education, the professional staff of the center for distance education, the executive director and professional staff of the North Dakota education association who are members of the fund on July 1, 1995, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association who are members of the fund on July 1, 1995.
- c. The executive director and professional staff of the North Dakota council of school administrators who are members of the fund on July 1, 1995, and licensed staff of teachers centers, but only if the person was previously a member of and has credits in the fund.
- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

42-13. "Tier one grandfathered member" for purposes of sections 15-39.1-10 and 15-39.1-12 means a tier one member who, as of June 30, 2013, is vested as a tier one member in accordance with section 15-39.1-11; and

- a. Is at least fifty-five years of age; or
- b. Has a combined total of years of service credit in the plan and years of age which equals or exceeds sixty-five.

43-14. "Tier one member" means a teacher who has credit in the system on July 1, 2008, and has not taken a refund pursuant to section 15-39.1-20 after June 30, 2008.

44-15. "Tier one nongrandfathered member" for purposes of sections 15-39.1-10 and 15-39.1-12 means a tier one member who does not qualify as a tier one grandfathered member.

45-16. "Tier two member" means a teacher who is not a tier one member.

SECTION 2. AMENDMENT. Subsection 4 of section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code in effect on August 1, 2013, and the regulations issued under that section, as applicable to governmental plans.

SECTION 3. AMENDMENT. Section 15-39.1-10.6 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10.6. Benefit limitations.

Benefits with respect to a member participating under former chapter 15-39 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] in effect on August 1, 2013, for governmental plans. The maximum dollar benefit applicable under section 415(b)(1)(A) of the Internal Revenue Code must reflect any increases in this amount provided under section 415(d) of the Internal Revenue Code subsequent to August 1, 2013. If a member's benefit is limited by these provisions at the time of retirement or termination of employment, or in any subsequent year, the benefit paid in any following calendar year may be increased to reflect all cumulative increases in the maximum dollar limit provided under section 415(d) of the Internal Revenue Code for years after the year employment terminated or payments commenced, but not to more than would have been payable in the absence of the limits under section 415 of the Internal Revenue Code. If an annuitant's benefit is increased by a plan amendment, after the commencement of payments, the member's benefit may not exceed the maximum dollar benefit under section 415(b)(1)(A) of the Internal Revenue Code, adjusted for the commencement age and form of payment, increased as provided by section 415(d) of the Internal Revenue Code. If this plan must be aggregated with another plan to determine the effect of section 415 of the Internal Revenue Code on a member's benefit, and if the benefit must be reduced to comply with section 415 of the Internal Revenue Code, then the reduction must be made pro rata between the two plans, in proportion to the member's service in each plan.

SECTION 4. AMENDMENT. Section 15-39.1-11 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-11. Vesting of rights.

When a tier one member has ~~paid assessments and~~ earned three years of service credit in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12. When a tier two member has ~~paid assessments and~~ earned five years of service credit in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12. When a tier one or tier two member has attained normal retirement age that member has a vested right to a retirement annuity under this chapter.

SECTION 5. A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 142

HOUSE BILL NO. 1230

(Representatives Louser, Boehning, Brabandt, Steiner)
(Senator Dever)

AN ACT to amend and reenact subsection 1 of section 15-39.1-09 of the North Dakota Century Code, relating to expiration of the increase in teachers' fund for retirement member and employer contributions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-39.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided by law, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. Member contributions increase to nine and seventy-five hundredths percent per annum beginning July 1, 2012, and increase thereafter to eleven and seventy-five hundredths percent per annum beginning July 1, 2014. Except as otherwise provided by law, every governmental body employing a teacher shall pay to the fund eight and seventy-five hundredths percent per annum of the salary of each teacher employed by it. Contributions to be paid by a governmental body employing a teacher increase to ten and seventy-five hundredths percent per annum beginning July 1, 2012, and increase thereafter to twelve and seventy-five hundredths percent per annum beginning July 1, 2014. The required amount of member and employer contributions must be reduced to seven and seventy-five hundredths percent per annum effective on the July first that follows the first valuation showing a ratio of the actuarial value of assets to the actuarial accrued liability of the teachers' fund for retirement that is equal to or greater than ninety one hundred percent. The disbursing official of the governmental body shall certify the governmental body payments and remit the payments monthly to the fund.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 143

SENATE BILL NO. 2361

(Senators Schneider, Poolman, Sinner)
(Representatives Beadle, Heilman, Oversen)

AN ACT to create and enact a new section to chapter 15-62.1 of the North Dakota Century Code, relating to a student loan consolidation program at the Bank of North Dakota; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-62.1 of the North Dakota Century Code is created and enacted as follows:

Student loan consolidation program - Requirements - Authority to expand.

1. The agency shall develop and administer a student loan consolidation program under which the agency may refinance state, federal, and alternative education loans for eligible physicians. In order to be eligible under this subsection, a physician must:
 - a. Be licensed in accordance with chapter 43-17; and
 - b. Be a resident of and practice in a North Dakota city having a population that does not exceed four thousand five hundred.
2. The agency may expand the student loan consolidation program to serve individuals other than those referenced in subsection 1.

SECTION 2. STUDENT LOAN CONSOLIDATION PROGRAM - REPORT. The Bank of North Dakota shall provide a written report regarding the implementation of the student loan consolidation program to the legislative management at the biennial meeting during which interim committee reports are presented.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 144

HOUSE BILL NO. 1102

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to amend and reenact section 15-62.2-01 of the North Dakota Century Code, relating to the student financial assistance and scholars program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-62.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-62.2-01. Student financial assistance and scholars programs - Establishment - Administrative responsibility.

1. The North Dakota student financial assistance and scholars programs are established to provide grants or scholarships, or both, to assist the following students:
 - a. Resident undergraduate students pursuant to section 15-10-19.1.
 - b. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to chapter 15.1-29 and who are attending qualified institutions of postsecondary education within North Dakota.
 - c. North Dakota resident students who, because of a physical or mental disability certified by a physician, are attending postsecondary institutions out of state due to the lack of special services or facilities necessary to meet the postsecondary educational needs of disabled students within North Dakota.
 - d. Scholars who qualify and are selected for scholarships pursuant to sections 15-62.2-00.1 and 15-62.2-03.1 through 15-62.2-03.5.
2. A student must be in substantial need of financial assistance to receive grants under the student financial assistance program. A grant must be paid directly to an eligible institution on behalf of a student.
3. The state board of higher education shall administer the student financial assistance program and the scholars program.
4. ~~At least twenty three and one half percent of the funds appropriated for the student financial assistance program must be allocated to students at private baccalaureate degree-granting institutions with the remaining funds allocated to students at public and American Indian institutions.~~

Approved April 24, 2013

Filed April 24, 2013

CHAPTER 145

SENATE BILL NO. 2095

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to repeal section 15-62.2-04 of the North Dakota Century Code, relating to state board of higher education deposits and expenditures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 15-62.2-04 of the North Dakota Century Code is repealed.

Approved April 24, 2013
Filed April 24, 2013