

# EDUCATION

## CHAPTER 153

### SENATE BILL NO. 2085

(Education Committee)

(At the request of the Board of University and School Lands)

AN ACT to amend and reenact sections 15-01-02.1, 15-02-08, 15-03-01.1, 15-03-02, 15-03-04, 15-03-05.1, and 15-06-40 of the North Dakota Century Code, relating to the management of the trust funds under the control of the board of university and school lands; to repeal sections 15-03-05.2 and 15-08-01 of the North Dakota Century Code, relating to distributions from trust funds under the control of the board of university and school lands; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-01-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**15-01-02.1. Board of university and school lands to set and establish fees - Collections.** The board of university and school lands shall have authority to set and establish fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land contracts, holding land sales, furnishing documents, receiving and processing all loans made by the board, managing property acquired under chapter 15-08.1, and managing property for other state entities. All ~~other~~ fees provided for in this section must be deposited in the state lands maintenance fund.

**SECTION 2. AMENDMENT.** Section 15-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-02-08. Commissioner to keep record of permanent funds - Biennial report.** The commissioner shall keep a record in suitable books showing a detailed quarterly statement of the condition of all of the permanent funds under the control of the board of university and school lands, the amount of each fund, how invested, when due, interest paid, and all acts connected with the management of such funds. All records and record books are open at all times for inspection by the public. The commissioner may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. If submitted, the report must show all investments of the several funds, the work done during the preceding fiscal biennium, the number of acres [~~hectares~~] of land sold or leased by the department, the amount received therefor, the amount of ~~interest~~ interest proceeds received to the credit of the several funds, the expense of administration of the department, and all other matters relating to the commissioner's office as are necessary to disclose fully the operation of the department.

**SECTION 3. AMENDMENT.** Section 15-03-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**15-03-01.1. Creation of maintenance fund - Income derived from state assets.** ~~Ten percentum of the income derived from any state~~ There is created a special fund designated as the state lands maintenance fund, which is funded by the trust fund assets under the control of the board of university and school lands ~~constitutes a fund to be known as the state lands maintenance fund.~~ All expenses paid out of the state lands maintenance fund are subject to legislative appropriation.

**SECTION 4. AMENDMENT.** Section 15-03-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-03-02. Interest and income Proceeds from grant lands trust fund assets.** All moneys accumulating in the interest and income fund arising proceeds from the sale or leasing and management of any lands granted by the state or by the Constitution of North Dakota for any institution of higher education of the state ~~assets~~ under the control of the board of university and school lands must be deposited in the trust fund for which the assets were granted or earned and are pledged specifically for the maintenance of the institution for which such ~~lands~~ assets were granted ~~after deducting the cost of administering such funds as provided in this chapter~~ or earned. The cost of administering a trust fund may be paid out of the fund, in accordance with section 1 of article IX of the Constitution of North Dakota.

<sup>82</sup> **SECTION 5. AMENDMENT.** Section 15-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-03-04. Legal investments.** Subject to the provisions of section 15-03-05, the board of university and school lands shall apply the prudent investor rule in investing the permanent funds under its control. The "prudent investor rule" means that in making investments the board shall exercise the same judgment and care, under the circumstances then prevailing and limitations of North Dakota and federal law, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable ~~income~~ investment returns. Notwithstanding any investments made before July 1, 1997, the board may not use any funds entrusted to it to purchase, as sole owner, commercial or residential real property in North Dakota without prior approval of the legislative assembly or the budget section of the legislative council. The board may also lend securities held by the permanent funds, including the authority to pledge a security interest in the securities in the possession of a custodian agent. These securities must be collateralized as directed by the board.

**SECTION 6. AMENDMENT.** Section 15-03-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**15-03-05.1. Calculation of fund income - Coal development trust fund.** At the end of each fiscal year, the board shall calculate the income earned by the ~~permanent funds~~ coal development trust fund. The net gain or loss realized on the sale of investment securities for the year must be amortized to fund income in equal annual installments over a ten-year period.

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<sup>82</sup> Section 15-03-04 was also amended by section 98 of House Bill No. 1436, chapter 482.

**SECTION 7. AMENDMENT.** Section 15-06-40 of the North Dakota Century Code is amended and reenacted as follows:

**15-06-40. Application of income.** The state forester shall apply the income so derived first to the payment of the cost of all care and development of such land, and, second, the net annual income must be paid to the board of university and school lands for the credit of the ~~interest and income fund of the~~ permanent school funds, the same to be properly apportioned among the several funds therein.

**SECTION 8. REPEAL.** Sections 15-03-05.2 and 15-08-01 of the North Dakota Century Code are repealed.

**SECTION 9. EFFECTIVE DATE.** This Act becomes effective at the time the constitutional amendments, approved as measure No. 1 at the 2006 general election, become effective or July 1, 2009, whichever is later.

Approved April 9, 2009  
Filed April 13, 2009

**CHAPTER 154****HOUSE BILL NO. 1139**

(Education Committee)

(At the request of the Board of University and School Lands)

AN ACT to amend and reenact section 15-05-07 of the North Dakota Century Code, relating to the board of university and school lands requesting the state geologist to determine the existence of coal.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**15-05-07. Board to ascertain and keep schedule of all State geologist to determine lands on which coal exists.** The board of university and school lands, ~~with the assistance of~~ may request that the state geologist, ~~shall ascertain and~~ determine the quantity and description of all lands under its control on which coal exists ~~and shall compile and keep a statement and schedule of all such lands.~~

Approved April 8, 2009

Filed April 9, 2009

**CHAPTER 155****SENATE BILL NO. 2389**

(Senator O'Connell)

(Representatives Froseth, Hunskor)

AN ACT to amend and reenact sections 15-10-01, 15-16-01, and 15-17-03 of the North Dakota Century Code, relating to a name change for the school of forestry at Bottineau.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-10-01. State board of higher education - Institutions administered by board.** The state board of higher education shall have the control and administration of the following state educational institutions:

1. The state university and the school of mines at Grand Forks, with their substations.
2. The North Dakota state university of agriculture and applied science and the agricultural experiment station at Fargo, with their substations or centers.
3. The school of science at Wahpeton.
4. The Valley City state university, Mayville state university, Minot state university, and Dickinson state university.
5. ~~The school of forestry at Bottineau.~~
6. The following colleges: Bismarck state college, Dakota college at Bottineau, Lake Region state college, and Williston state college.
7. ~~6.~~ And such other state institutions of higher education as may be established.

**SECTION 2. AMENDMENT.** Section 15-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-16-01. School of forestry - Location.** The school of forestry must be located at Dakota college, Bottineau, North Dakota.

**SECTION 3. AMENDMENT.** Section 15-17-03 of the North Dakota Century Code is amended and reenacted as follows:

**15-17-03. Limitations on powers of institutional holding association.** An institutional holding association is subject to the following limitations and restrictions:

1. Dormitories and their equipment and appurtenances must be erected and installed only according to plans and specifications therefor

approved by the state board of higher education and at a cost for site, building, and equipment to be fixed by the board within the maximum limit provided in this section.

2. Such dormitories and their equipment and appurtenances must be owned, managed, operated, and conducted at all times by the association, its successors or assigns, solely for the educational purpose provided in this chapter in connection with one of the state educational institutions and must be under the control and supervision of the state board of higher education, and operated according to such rules and regulations, including rental charges, as must be prescribed by the board, but such rental charges may not be less than an amount sufficient to pay the interest on the bonded indebtedness and the serial bonds of the association as they mature.
3. An institutional holding association must be nonprofit sharing, shall issue no corporate stock, and no member of the association may have or acquire any divisional or other share or interest in any of its property.
4. The income of such association must be applied only to the payment of its debts and operating expenses, including necessary repairs and upkeep of its properties.
5. When all of the debts against any site, dormitory, and equipment are paid, all of the right, title, and interest of the association or its successors or assigns therein terminates immediately, and the same becomes the property of and must be conveyed to the state.
6. Any transfer or encumbrance of the property of an institutional holding association, except as permitted in this chapter, is prohibited and is null and void.
7. The amount of money borrowed or debts contracted by an institutional holding association may not exceed the aggregate cost of the site, dormitory, and equipment as fixed by the state board of higher education, and the payment thereof may not extend over a period of more than fifty years. The terms and conditions of such loans or debts, except as herein provided, must be fixed and approved by the board.
8. Dormitories must be erected only at the state educational institutions herein named within the cost limits for site, building, and equipment herein specified:
  - a. One at or near the university at a cost of not more than two hundred thousand dollars.
  - b. One at or near the North Dakota state university of agriculture and applied science at a cost of not more than two hundred thousand dollars.
  - c. One at or near each of the normal schools located at Valley City, Mayville, Minot, and Dickinson at a cost of not more than one hundred fifty thousand dollars.
  - d. One at or near the state school of science at Wahpeton at a cost of not more than one hundred thousand dollars.

- e. One at or near ~~the state school of forestry at Dakota college,~~ Bottineau at a cost of not more than fifty thousand dollars.
9. No dormitory may be erected upon the campus of any state educational institution until a written permit therefor first is granted and issued to the association by the state board of higher education. Such permit must describe the ground to be used and must provide that the dormitory to be erected thereon must be erected, owned, and operated only by the association, its successors and assigns. The association and its successors and assigns shall acquire no right, title, or interest in and to the campus site, the dormitory erected thereon, or the equipment thereof, except the right to operate the dormitory solely for the educational purposes, in the manner, and upon the terms and conditions provided in this chapter.

Approved April 8, 2009

Filed April 9, 2009

**CHAPTER 156****HOUSE BILL NO. 1566**

(Representatives Kasper, R. Kelsch, L. Meier)  
(Senators Flakoll, Wardner)

AN ACT to require that the commissioner of higher education study the interplay between the North Dakota university system and tribally controlled community colleges.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:****SECTION 1. COMMISSIONER OF HIGHER EDUCATION - STUDY - HIGHER EDUCATION AND TRIBALLY CONTROLLED COMMUNITY COLLEGES.**

The state commissioner of higher education shall study during the 2009-10 interim, the interplay between the North Dakota university system and tribally controlled community colleges. Specifically, the commissioner shall address ways in which the North Dakota university system as a whole and the individual campuses can better interact with tribally controlled community colleges through improved communication, collaboration, and relationship-building activities. In addition, the commissioner shall focus on ways in which tribally controlled community colleges can encourage American Indians to pursue options in higher education, thereby bringing economic benefit to their families and communities and ways in which the university system and the individual campuses can work with tribally controlled community colleges to provide tutoring, mentoring, and other types of assistance necessary to ensure that the retention rates and graduation rates of American Indian students are increased. The commissioner shall report any findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 8, 2009  
Filed April 9, 2009



**CHAPTER 157****SENATE BILL NO. 2038**

(Legislative Council)  
(Higher Education Committee)

AN ACT to amend and reenact sections 15-10-12, 54-44.1-04, 54-44.1-06, and 54-44.1-11 of the North Dakota Century Code, relating to the appropriation of higher education institutions' special revenue funds; budget requests and block grant appropriations for the North Dakota university system; cancellation of unexpended appropriations of the North Dakota university system; to provide for a report; to provide for legislative council studies of higher education; to provide legislative intent for higher education accountability measures; and to provide an effective date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-10-12 of the North Dakota Century Code is amended and reenacted as follows:

**15-10-12. (Effective through June 30, 2009 ~~2011~~) Board may accept gifts and bequests - Deposit and appropriation of institutional funds.** Subject to the limitations of section 15-10-12.1, the state board of higher education may receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests must be used for the specific purpose for which they are donated or given. A special revenue fund, for each institution of higher education under the control of the board or subject to its administration, must be maintained within the state treasury. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the Constitution of North Dakota must be deposited in the special revenue fund of each institution and expended in accordance with section 1 of article IX of the Constitution of North Dakota. All other funds, unless restricted by the terms of a grant, donation, or bequest, received by the institutions from federal, state, and local grants and contracts, indirect cost recoveries, tuition, special student fees, room and board fees and other auxiliary enterprise fees, student activity fees, continuing education program fees, internal service fund revenues, and all other revenues must be deposited in the institution special revenue funds. The state treasurer shall immediately transfer the funds deposited in the special revenue funds to institution accounts in the Bank of North Dakota. Biennial estimates of revenue and expenditures of the other funds by source of funds must be presented at the same time biennial budget requests for appropriations from the special revenue fund and state general fund are prepared and submitted to the office of the budget. Payments from each institution's general fund appropriation must be made in amounts as may be necessary for the operation and maintenance of each institution. The funds in the institution accounts are appropriated on a continuing basis to the state board of higher education. All such appropriations are subject to proration in the same manner as other appropriations are prorated if insufficient funds are available to meet expenditures from the general fund. Sinking funds for the payment of interest and principal of institutional revenue bonds must be deposited pursuant to section 15-55-06.

**(Effective after June 30, 2009 2011) Board may accept gifts and bequests - Deposit of funds.** The state board of higher education may, subject to the limitations of section 15-10-12.1, receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests must be used for the specific purpose for which they are donated or given. A special revenue fund, for each institution of higher education under the control of the board or subject to its administration, must be maintained within the state treasury and all institutional income from tuition collections must be placed in the special fund for the use of the institution for which the money was raised. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the Constitution of North Dakota must be deposited in the special revenue fund of each institution and expended in accordance with section 1 of article IX of the Constitution of North Dakota. Moneys in the special revenue fund are subject to legislative appropriations. All other funds, unless restricted by the terms of a grant, donation, or bequest, received by the institutions from federal, state, and local grants and contracts, indirect cost recoveries, special student fees, room and board fees and other auxiliary enterprise fees, student activity fees, continuing education program fees, internal service fund revenues, and all other revenues must be deposited in the institution special revenue funds. The state treasurer shall immediately transfer the funds deposited in the special revenue funds to institution accounts in the Bank of North Dakota. Biennial estimates of revenue and expenditures of the other funds by source of funds must be presented at the same time biennial budget requests for appropriations from the special revenue fund and state general fund are prepared and submitted to the office of the budget. Payments from each institution's general fund appropriation must be made in amounts as may be necessary for the operation and maintenance of each institution, except that at the close of the biennium the balance of funds not paid from the general fund appropriation must be deposited in the special revenue funds of the institutions. All such appropriations are subject to proration in the same manner as other appropriations are prorated if insufficient funds are available to meet expenditures from the general fund. Sinking funds for the payment of interest and principal of institutional revenue bonds must be deposited pursuant to section 15-55-06.

**SECTION 2. AMENDMENT.** Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-04. (Effective through June 30, 2009 July 31, 2011) Budget estimates of budget units filed with the office of the budget - Deadline.** The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The budget estimates for the North Dakota university system must include block grants for the university system for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget in the director's discretion may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its

estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director designates shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

**(Effective after June 30, 2009 July 31, 2011) Budget estimates of budget units filed with the office of the budget - Deadline.** The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

**SECTION 3. AMENDMENT.** Section 54-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-06. (Effective through June 30, 2009 July 31, 2011) Preparation of the budget data - Contents.** The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
  - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
  - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or

deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.
5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.

7. Drafts of proposed general and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act. The draft of the proposed appropriations act for the North Dakota university system must include block grants for a base funding appropriation and for an initiative funding appropriation for specific strategies or initiatives and an appropriation for asset funding for renewal and replacement of physical plant assets at the institutions of higher education.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. Any other information as the director of the budget determines desirable or as is required by law.

**(Effective after June 30, 2009 July 31, 2011) Preparation of the budget data - Contents.** The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
  - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
  - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations

relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.

3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.
5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and

services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.

9. Any other information as the director of the budget determines desirable or as is required by law.

**SECTION 4. AMENDMENT.** Section 54-44.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-11. (Effective through ~~June 30, 2009~~ July 31, 2011) Office of management and budget to cancel unexpended appropriations - When they may continue.** Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

**(Effective after ~~June 30, 2009~~ July 31, 2011) Office of management and budget to cancel unexpended appropriations - When they may continue.** The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this

section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

**SECTION 5. STATE BOARD OF HIGHER EDUCATION - REQUIRED REPORTS.**

1. a. During the 2009-10 interim, the state board of higher education shall compile by campus information regarding the salaries, benefits, and total compensation of higher education instructional personnel having master's degrees.
- b. The state board of higher education shall compare the information required by subdivision a with the salaries, benefits, and total compensation of teachers who have master's degrees and who are employed by the school district headquartered in the same city as that in which each institution of higher education is located. The comparison should reflect a comparable nine- to ten-month employment contract.
2. During the 2009-10 interim, the state board of higher education shall compile by campus information regarding the number of students who are enrolled only in courses delivered electronically to a site not on the campus, the types of courses delivered in this manner, and demographic information regarding the students enrolled in such courses.
3. During the 2009-10 interim, the state board of higher education shall compile by campus information regarding the number of students who have not yet graduated from high school but who are enrolled in higher education courses offered for credit.



4. The state board of higher education shall provide the information required by this section to the legislative council at the time and in the manner directed by the council.

#### **SECTION 6. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION.**

1. The legislative council shall consider appointing a higher education committee for the 2009-10 interim. If appointed, the committee shall spend a majority of time studying the means by which the North Dakota university system can further contribute to developing and attracting the human capital to meet North Dakota's economic and workforce needs, and if time allows, the committee may visit select higher education institutions. If the legislative council appoints a committee to study issues related to higher education during the 2009-10 interim, the council shall include on the committee the chairman of the house education committee or the chairman's designee and the chairman of the senate education committee or the chairman's designee.
2. The study must focus on ways to increase postsecondary access, improve the quality of education, contain costs and other means, including productivity, to maximize the usage of the North Dakota university system in meeting the human capital needs of the state.
3. The study must include a review of policy recommendations, as appropriate, which address the postsecondary delivery system, including the mix of institutions, education attainment gaps, degree production gaps, recruitment and retention of students, and workforce training needs.
4. The study must include a review of the impact of the state's changing demographics on the university system's long-term financing plan.
5. The study must recommend goals for each of the higher education cornerstones.
6. The study may include the use of higher education roundtable format.
7. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.
8. The state board of higher education also shall take the recommendations into account and make appropriate changes to practices, board policy, and budget needs and allocation.

**SECTION 7. LEGISLATIVE INTENT - HIGHER EDUCATION ACCOUNTABILITY MEASURES.** It is the intent of the legislative assembly that the state board of higher education's performance and accountability report as required by section 15-10-14.2 include an executive summary and information regarding:

1. Education attainment, including:
  - a. Proportion of population, 25 to 34 years of age, with an associate's degree or higher benchmarked against the national average and best-performing country.

- b. Number of certificates, associate, and baccalaureate degrees awarded to the eighteen year-old population six years prior benchmarked against the national average and best-performing state.
2. Accessibility, including:
  - a. Proportion of recent high school graduates enrolled the following fall by county in two-year and four-year North Dakota university system institutions and nonpublic institutions to the extent information is available.
  - b. Proportion of population, 25 to 44 years of age, with at least a high school diploma, enrolled in a credit-bearing course by county at either a two-year or four-year North Dakota university system institution or nonpublic institution to the extent information is available.
3. Contributions to economic development, including:
  - a. Number of recent North Dakota university system graduates and graduates of nonpublic institutions, to the extent information is available, within the past three years employed in North Dakota benchmarked against historical trends.
  - b. Number of recent North Dakota university system graduates and graduates of nonpublic institutions, to the extent information is available, within the last three years employed in North Dakota in jobs paying at least twice the amount established as poverty level in the state benchmarked against historical trends.
  - c. Annual dollar amount of research expenditures by North Dakota institutions of funds received from federal, foundation, and business sponsors benchmarked against historical trends.
  - d. Number of certificates and associate degrees awarded in vocational and technical fields benchmarked against historical trends.
  - e. Number of baccalaureate degrees awarded in science, technology, engineering, and mathematics fields benchmarked against historical trends.
4. Affordability, including:
  - a. Tuition and fees relative to the lowest quintile per capita income in the state benchmarked against the national average and the state with the lowest ratio.
  - b. Percentage of family income (average of all income groups) needed to pay for college expenses after deducting grant aid benchmarked against the national average and the state with the lowest ratio.

- c. Average amount of student loan debt incurred each year by undergraduate students benchmarked against the national average and the state with the lowest ratio.
5. Education excellence, including:
  - a. Student performance on nationally recognized exams benchmarked against national averages.
  - b. First-time licensure pass rates benchmarked against the best performing states.
  - c. Alumni and student-reported satisfaction with preparation in selected major, acquisition of specific skills, and technology knowledge and abilities benchmarked against historical trends.
  - d. Employer-reported satisfaction with preparation of recently hired graduates benchmarked against historical trends.
6. Financial operations, including:
  - a. Appropriations for general operations plus net tuition revenue per full-time equivalent student benchmarked against the national average and the best-performing state.
  - b. Student share of funding for general operations benchmarked against the national average and historical trends.
  - c. Number of degrees and certificates produced relative to annual state appropriations for general operations plus net tuition revenue benchmarked against the best-performing state.
7. System functioning, including:
  - a. Number of student credit-hours delivered by North Dakota university system institutions to students attending another system institution benchmarked against historical data.
  - b. Results of a biennial survey of state leaders regarding the perceptions of the system's functionality benchmarked against historical data.

**SECTION 8. STATE BOARD OF HIGHER EDUCATION - REPORTS TO SIXTY-SECOND LEGISLATIVE ASSEMBLY.** Each institution under the control of the state board of higher education shall report to the appropriations committees of the sixty-second legislative assembly regarding:

1. A comparison of the budgeted amounts to actual expenditures by major expenditure type for the fiscal year ending June 30, 2010.
2. A comparison of the budgeted amounts to actual expenditures by major expenditure type through the most recent month available at the time the report is presented to the appropriations committees.

**SECTION 9. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION.**

1. During the 2009-10 interim, the legislative council chairman shall appoint an interim higher education committee to study issues affecting higher education.
2. The interim committee shall hold at least six education summit meetings to discuss topics that may include:
  - a. Alternative uses of institutions and changes to institutional missions;
  - b. Issues affecting two-year campuses;
  - c. Tuition affordability, including a review of tuition reciprocity agreements;
  - d. Accessibility of higher education;
  - e. Workforce needs;
  - f. Contributions to economic development;
  - g. Utilization and capacity of higher education institution facilities;
  - h. Quality of education being delivered; and
  - i. Revenue-neutral policies that would aid in the reduction of student loan debt.
3. The chairman of the interim higher education committee may invite summit topic experts, representatives of the North Dakota university system, the private sector, and students to participate in the summit meetings to provide information to the committee as determined necessary to assist the committee in conducting its study.
4. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved May 7, 2009  
Filed May 19, 2009

**CHAPTER 158****SENATE BILL NO. 2082**

(Education Committee)

(At the request of the State Board of Higher Education)

AN ACT to amend and reenact sections 15-10-18.2 and 15-10-19.1 of the North Dakota Century Code, relating to tuition and tuition waivers for veterans and their dependents at state institutions of higher education.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-10-18.2 of the North Dakota Century Code is amended and reenacted as follows:

**15-10-18.2. Definitions.**

1. "Dependent" for purposes of section 15-10-18.3 means:
  - a. A child, stepchild, spouse, widow, or widower of a resident veteran, as "veteran" is 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; ~~or~~
  - b. A child or a stepchild 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, provided the child's other parent has been a resident of this state and was a resident of this state at the time of death or determination of total disability of the veteran; or
  - c. A child or a stepchild 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, provided the child's other parent establishes residency in this state and maintains that residency for a period of five years immediately preceding the child's or stepchild's enrollment at an institution under the control of the state board of higher education.
2. "Resident veteran" means a veteran who:
  - a. Was born in and lived in this state until entrance into the armed forces of the United States;
  - b. Was born in, but was temporarily living outside this state, not having abandoned residence therein prior to entrance into the armed forces of the United States;

- c. Was born elsewhere but had resided within this state for at least six months prior to entrance into military service and had prior to or during such six-month period:
  - (1) Registered for voting, or voted in this state;
  - (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; or
  - (3) If not registered for voting in this state, not registered for voting in another state; or
- d. Has been a resident of this state for the ten years prior to the request for tuition waiver.

**SECTION 2. 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 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 ~~or~~, 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;
  - f. 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. A child, ~~spouse~~, 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 22, 2009

Filed April 23, 2009

**CHAPTER 159****SENATE BILL NO. 2266**  
(Senators J. Lee, Seymour, Warner)  
(Representatives Delmore, Klein, Kreidt)

AN ACT to amend and reenact section 15-11-39 of the North Dakota Century Code, relating to the nursing education consortium; to provide a statement of legislative intent; to provide an appropriation; and to provide a continuing appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>83</sup> **SECTION 1. AMENDMENT.** Section 15-11-39 of the North Dakota Century Code is amended and reenacted as follows:

**15-11-39. Nursing education consortium - Continuing appropriation.**

1. The university of North Dakota college of nursing shall establish and administer a nursing education consortium for the purpose of addressing common concerns in nursing education which produce obstacles in meeting the state's current and future nursing needs, with a focus on the specific needs of rural communities.
2. The consortium membership must include representation of the university of North Dakota college of nursing, the university of North Dakota center for rural health, and the board of nursing. In addition, each nursing program in this state which is approved by the board of nursing and each nursing program with approval pending which is located in this state must be invited to have representation in the consortium. The consortium members may invite interested persons to join the consortium membership or to participate in consortium activities. Interested persons may include the North Dakota nurses association nursing practice council leadership team; North Dakota hospital association; workforce partners, including job service North Dakota, the department of commerce division of workforce development, rural leadership of North Dakota, and the North Dakota workforce development council; employer partners; and other interested public and private parties. ~~The dean of the university of North Dakota college of nursing shall serve as chairman of the consortium from July 1, 2007, through December 31, 2009, during which the dean shall report to the legislative council. After 2009, consortium members shall select the chairman must be chosen by the members.~~
3. ~~If the consortium secures nonstate funds to cover the capital costs of a mobile clinical nursing simulation laboratory program, the consortium may establish a mobile clinical nursing simulation laboratory program to travel the state and provide clinical education for nursing students of~~

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<sup>83</sup> Section 15-11-39 was also amended by section 7 of House Bill No. 1436, chapter 482.



nursing education programs in the state and provide clinical education on current and emerging approaches to nursing excellence to medical facility staff.

4. ~~If the consortium establishes a mobile clinical nursing simulation laboratory program, the~~ The consortium shall ~~establish~~ advise university of North Dakota officials regarding strategies to address common concerns in nursing education which produce obstacles in meeting the state's current and future nursing needs, specific needs of rural communities, and development of a strategic plan for the ongoing activities of the simulation laboratory ~~program~~ initiative, including goals and benchmarks for the implementation of the simulation laboratory ~~program~~ initiative.
- 5- 4. The consortium may contract with a third party in conducting the duties of the consortium and may seek, receive, and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the consortium. Any money received by the consortium as gifts, grants, or donations is appropriated as a continuing appropriation for the purpose of funding the simulation laboratory program and the activities of the consortium.

**SECTION 2. LEGISLATIVE INTENT - SIMULATION LABORATORY INITIATIVE.** It is the intent of the sixty-first legislative assembly that the funds appropriated in section 3 of this Act must be used by the university of North Dakota to support a simulation laboratory initiative that provides for a meaningful geographical distribution of basic simulation centers at nursing education sites to allow for regional use by students in urban and rural communities across the state. The initiative is intended to include a basic simulation model, essential equipment, and staff to serve the simulation laboratory in an integrated manner.

**SECTION 3. APPROPRIATION.** There is appropriated out of any moneys from federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the university of North Dakota for the purpose of funding the costs of a simulation laboratory initiative under section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

Approved May 1, 2009  
Filed May 5, 2009

## CHAPTER 160

### HOUSE BILL NO. 1386

(Representatives Pinkerton, DeKrey, Kerzman)  
(Senators O'Connell, Taylor)

AN ACT to amend and reenact sections 15-12-20 and 23-36-03 of the North Dakota Century Code, relating to rabies determinations.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-12-20 of the North Dakota Century Code is amended and reenacted as follows:

**15-12-20. Veterinary diagnostic laboratory.** ~~There is hereby created and established a~~ The veterinary diagnostic laboratory to be is located at and is under the supervision and direction of the North Dakota state university of agriculture and applied science at Fargo. ~~Said veterinary diagnostic laboratory must be under the supervision and direction of the North Dakota state university. Said veterinary diagnostic.~~ The laboratory shall conduct diagnosis of farm and domestic animals and poultry suspected of having diseases and make reports thereon report the findings as directed. The laboratory also shall perform rabies tests as required by section 23-36-03.

**SECTION 2. AMENDMENT.** Section 23-36-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **23-36-03. Enforcement authority.**

1. The department, or an agency acting on the department's behalf, may promptly seize and humanely kill, impound at the owner's expense, or quarantine any animal if the state health officer, or the state health officer's designee, has probable cause to believe the animal presents clinical symptoms of rabies.
2. The department, or an agency acting on the department's behalf, may promptly seize and humanely kill, impound at the owner's expense, or quarantine any wild mammal that is not currently vaccinated for rabies by a vaccine approved for use on that species by the national association of state public health veterinarians, inc., or any stray or unwanted domestic animal, if the state health officer, or the state health officer's designee, determines the animal is a threat to human life or safety due to the possible exposure of an individual to rabies.
3. The department, or an agency acting on the department's behalf, may promptly seize and quarantine, or impound at the owner's expense, any dog, cat, or currently vaccinated ferret for a period of ten days, or any other domestic animal for a period not exceeding six months, if the state health officer, or the state health officer's designee, determines the animal is a threat to human life or safety due to the possible exposure of an individual to rabies.

4. If an animal is humanely killed under this section, then at the request of the state health officer, or the state health officer's designee, the animal's brain must be tested for rabies by the state microbiology laboratory of the department if ~~there is possible human exposure to rabies and~~ or by the North Dakota veterinary diagnostic laboratory ~~in any other case~~. The department may conduct a diagnosis of farm animals, domestic animals, and wildlife that are suspected of having rabies and report findings as appropriate.
5. If an animal that has bitten or otherwise exposed an individual or another animal is not seized for testing, a law enforcement officer with jurisdiction over the place where the animal is located may determine whether to impound or quarantine the animal under subsection 3 and which method of confinement to use.
6. A licensed veterinarian shall examine, at the owner's expense, a confined animal on the first and last day of the animal's confinement and, at the request of the department or a local public health unit, at any other time during confinement.

Approved April 8, 2009

Filed April 9, 2009

**CHAPTER 161****SENATE BILL NO. 2080**

(Education Committee)

(At the request of the State Board for Career and Technical Education)

AN ACT to create and enact a new section to chapter 15-20.4 of the North Dakota Century Code, relating to the operation of accreditation mills; to amend and reenact section 15-20.4-02, subsection 3 of section 15-20.4-03, subsection 1 of section 15-20.4-04, section 15-20.4-06, and subsection 1 of section 15-20.4-15 of the North Dakota Century Code, relating to authorizations to operate postsecondary educational institutions and false academic degrees; to repeal section 15-20.4-07 of the North Dakota Century Code, relating to negotiation of promissory instruments by postsecondary educational institutions; and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. 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 institutions are exempted from the provisions of this chapter:

1. 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 institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. 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.
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. Schools of cosmetology regulated under chapter 43-11.
10. Schools of nursing regulated under chapter 43-12.1.
11. ~~Schools instructing on the manner of conducting games of chance which are regulated under chapter 53-06.1~~ Native American colleges operating in this state, established by federally recognized Indian tribes.
12. ~~Schools instructing on the manner of conducting auction sales which are regulated under chapter 51-05.1.~~
43. Postsecondary educational institutions not operating in this state.

**SECTION 2. AMENDMENT.** Subsection 3 of section 15-20.4-03 of the North Dakota Century Code is amended and reenacted as follows:

3. Maintain a list of postsecondary educational institutions authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public ~~and must be sent to the superintendents of all school districts, county superintendents of schools, and guidance counselors certified by the department of public instruction.~~

**SECTION 3. AMENDMENT.** Subsection 1 of section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

1. 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. ~~Upon completion of the accreditation process, the institution shall submit evidence of accreditation, or~~ Institutions issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall an institution become eligible for a regular authorization to operate.

**SECTION 4. 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 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:
  - 4- 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, all tuition and other charges must be refunded to the student.

- ~~2.~~ 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.
- ~~3.~~ 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.
- 4. 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 for breach of contract or fraud.
- 3. A postsecondary educational institution 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 5. AMENDMENT.** Subsection 1 of section 15-20.4-15 of the North Dakota Century Code is amended and reenacted as follows:

- 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.

**SECTION 6.** A new section to chapter 15-20.4 of the North Dakota Century Code is created and enacted as follows:

**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 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 7. REPEAL.** Section 15-20.4-07 of the North Dakota Century Code is repealed.

Approved March 19, 2009  
Filed March 19, 2009

**CHAPTER 162****HOUSE BILL NO. 1080**

(Education Committee)

(At the request of the Teachers' Fund for Retirement)

AN ACT to amend and reenact subsection 9 of section 15-39.1-04, subsection 4 of section 15-39.1-10, section 15-39.1-10.6, subsection 1 of section 15-39.1-19.1, and sections 15-39.1-20 and 15-39.1-30 of the North Dakota Century Code, relating to incorporation of federal law changes, procedure relating to benefit limitations, annual hour limit for retiree reemployment, and disclosure of confidential records under the teachers' fund for retirement.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>84</sup> **SECTION 1. AMENDMENT.** Subsection 9 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a 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 ~~July~~ August 1, 2007 2009. "Salary" includes bonus amounts paid to members for performance, retention, experience, and other service-related bonuses, 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 ~~July~~ August 1, 2007 2009, as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) in effect on ~~July~~ August 1, 2007 2009. 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.

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<sup>84</sup> Section 15-39.1-04 was also amended by section 1 of House Bill No. 1360, chapter 163.

- 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. Recruitment bonuses.
- h. Other benefits or payments not defined in subdivisions a through g which the board determines to be ineligible teachers' fund for retirement salary.

**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 ~~July August 1, 2007~~ 2009, 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 ~~July August 1, 2007~~ 2009, 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, 2009. If a member's benefit is limited by these provisions at the time of retirement 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 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.** Subsection 1 of section 15-39.1-19.1 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Except as otherwise provided in section 15-39.1-19.2, a retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until thirty calendar days have elapsed from the member's retirement date. A retired member may then return to covered employment under an annual hour limit and continue receiving a monthly retirement benefit. The annual hour limit is based on the length of the reemployed retiree's contract as follows:
  - ~~a.~~ (1) Retiree reemployment of nine months or less, annual limit is seven hundred hours;
  - ~~b.~~ (2) Retiree reemployment of ten months, annual limit is eight hundred hours;
  - ~~c.~~ (3) Retiree reemployment of eleven months, annual limit is nine hundred hours; or
  - ~~d.~~ (4) Retiree reemployment of twelve months, annual limit is one thousand hours.
- b. Employment as a noncontracted substitute teacher does not apply to the annual hour limit. Professional development and extracurricular duties do not apply to the annual hour limit.
- c. The retired member and the retired member's employer must notify the fund office in writing within thirty days of the retired member's return to covered employment. Should the retired member's employment exceed the annual hour limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office results in the loss of one month's annuity benefit. The retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the annual hour limit.
- d. A retired member who returns to teaching shall pay the member contributions required by section 15-39.1-09 on those earnings received by the retired member after reaching the annual hour limit.
- e. A participating employer who employs a retired member under this section shall pay the employer contributions required by section 15-39.1-09 on the salary of the retired member both before and after the retired member reaches the annual hour limit.

**SECTION 5. AMENDMENT.** Section 15-39.1-20 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-20. Withdrawal from fund.** When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may,

after a period of one hundred twenty days, withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter, and by accepting the refund, the member is waiving any right to participate in the fund under the same provisions that existed at the time the refund was accepted regardless of whether the member later repurchases refunded service credit. A member may elect, at the time and under rules adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member as allowed under section 401(a)(31) of the Internal Revenue Code in effect on ~~July~~ August 1, 2007 ~~2009~~.

**SECTION 6. AMENDMENT.** Section 15-39.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-30. Confidentiality of records.** All records relating to the retirement benefits of a member or a beneficiary under this chapter are confidential and are not public records. The information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the teacher has given written consent to have the information disclosed.
2. A person legally representing the teacher, upon proper proof of representation, and unless the teacher specifically withholds consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit, years of age, employer and employee contribution amounts, and salary. The board may share other types of information as needed by the employer to validate the employer's compliance with existing state or federal law. Any information provided to the member's participating employer under this subsection must remain confidential except as provided in subsection 6.
5. The administrative staff of the public employees retirement system for purposes relating to membership and benefits determination.
6. State or federal agencies for the purpose of validating member eligibility or employer compliance with existing state or federal law.
7. Member interest groups approved by the board, limited to information concerning the member's death.
8. A government child support enforcement agency for purposes of establishing paternity or establishing, modifying, or enforcing a child support obligation of the member.
9. The member's spouse or former spouse, that individual's legal representative, and the judge presiding over the member's dissolution proceeding for purposes of aiding the parties in drafting a qualified domestic relations order under section 15-39.1-12.2. The information disclosed under this subsection must be limited to information necessary for drafting the order.

10. Beneficiaries designated by a participating member or a former participating member to receive benefits after the member's death, but only after the member's death. Information relating to beneficiaries may be disclosed to other beneficiaries of the same member.
11. The general public, but only after the board has been unable to locate the member for a period in excess of two years, and limited to the member's name and the fact that the board has been unable to locate the member.
12. Any person if the board determines disclosure is necessary for treatment, operational, or payment purposes, including the completion of necessary documents.
13. A person if the information relates to an employer service purchase, but the information must be limited to the member's name and employer, the retirement program in which the member participates, the amount of service credit purchased by the employer, and the total amount expended by the employer for that service credit purchase. Information identified under this subsection may only be obtained from the member's employer.

Approved April 15, 2009  
Filed April 15, 2009

**CHAPTER 163****HOUSE BILL NO. 1360**

(Representatives R. Kelsch, Porter, Rust)  
(Senators Flakoll, Freborg)

AN ACT to create and enact a new section to chapter 15.1-09.1 of the North Dakota Century Code, relating to the rights of regional education association employees; and to amend and reenact subsection 11 of section 15-39.1-04, section 15-39.1-23, subsection 17 of section 65-01-02, and section 65-04-04 of the North Dakota Century Code, relating to the rights of regional education association employees, the inclusion of teachers employed by regional education associations in the teachers' fund for retirement, to provide a date by which workforce safety and insurance premiums paid by regional education associations are due, and to reconcile references to other education entities.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>85</sup> **SECTION 1. AMENDMENT.** Subsection 11 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11. "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

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<sup>85</sup> Section 15-39.1-04 was also amended by section 1 of House Bill No. 1080, chapter 162.

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.

**SECTION 2. AMENDMENT.** Section 15-39.1-23 of the North Dakota Century Code is amended and reenacted as follows:

**15-39.1-23. Penalties for failure to make required reports and payments.**

Except for unintentional reporting errors, an employing body failing to file reports required by the board or failing to pay over for credit to the fund the amounts required to be paid by this chapter is subject to a civil penalty of two hundred fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the report was required to be filed or the payment became due. The board, if satisfied the delay or underpayment was unintentional and excusable, may waive, or if paid, refund all or part of the two hundred fifty dollar penalty and may reduce the interest rate charge to the investment return rate used in the most recent actuarial valuation, compounded annually, but may not waive the entire amount of the interest. The penalty must be paid to the fund and deposited in the same manner as other receipts under this chapter.

In addition, a school district, multidistrict special education unit, area career and technology center, and regional education association may not share in the apportionment of any money from the state for any year unless the school ~~board, or an officer thereof,~~ district, multidistrict special education unit, area career and technology center, or regional education association has made the reports required by the board as permitted by this chapter, and has paid over for credit to the fund the amounts required to be paid under this chapter.

**SECTION 3.** A new section to chapter 15.1-09.1 of the North Dakota Century Code is created and enacted as follows:

**Rights of employees.** Any individual employed by the board of a regional education association has the same statutory rights as those accorded to an individual employed by a public school district for the same purpose.

<sup>86</sup> **SECTION 4. AMENDMENT.** Subsection 17 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

17. "Employer" means a person who engages or received the services of another for remuneration unless the person performing the services is an independent contractor under the "common law" test. The term includes:

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<sup>86</sup> Section 65-01-02 was also amended by section 1 of House Bill No. 1061, chapter 607, and section 1 of House Bill No. 1151, chapter 608.

- a. The state and all political subdivisions thereof.
- b. All public and quasi-public corporations in this state.
- c. Every person, partnership, limited liability company, association, and private corporation, including a public service corporation.
- d. The legal representative of any deceased employer.
- e. The receiver or trustee of any person, partnership, limited liability company, association, or corporation having one or more employees as herein defined.
- f. The president, vice presidents, secretary, or treasurer of a business corporation, but not members of the board of directors of a business corporation who are not also officers of the corporation.
- g. The managers of a limited liability company.
- h. The president, vice presidents, secretary, treasurer, or board of directors of an association or cooperative organized under chapter 6-06, 10-12, 10-13, 10-15, 36-08, or 49-21.
- i. The clerk, assessor, treasurer, or any member of the board of supervisors of an organized township, if the person is not employed by the township in any other capacity.
- j. A multidistrict special education unit.
- k. An area career and technology center.
- l. A regional education association.

**SECTION 5. AMENDMENT.** Section 65-04-04 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-04. Employers obligated to pay premiums - Premium and certificates to be mailed.** Each employer subject to this title shall pay into the fund annually the amount of premiums determined and fixed by the organization for the employment or occupation of the employer. The amount must be determined by the classifications, rules, and rates made and published by the organization and must be based on a proportion of the annual expenditure of money by the employer for the service of persons subject to the provisions of this title. The organization shall mail to the employer a certificate specifying that the payment has been made. The certificate, attested by the seal of the organization, is prima facie evidence of the payment of the premium. Notwithstanding the provisions of section 65-04-15, the certificate may reflect the employer has paid the minimum premium and has no employees for the period indicated on the certificate. If an employer defaults on premium payments after a certificate has been issued, the organization may revoke that employer's certificate. The organization shall provide that premiums to be paid by school districts, multidistrict special education units, area career and technology centers, and regional education associations, townships, and all public corporations or agencies, except municipal corporations, fall due at the end of the fiscal year of that entity, and that premiums to be paid by all municipal corporations fall due at the end of the calendar year, and may make provisions so that premiums of other employers fall due on different or specified dates. For the purpose of effectuating

different or specified due dates the organization may carry new or current risks for a period of less than one year and not to exceed eighteen months, either by request of the employer or action of the organization. An employer subject to this chapter shall display in a conspicuous manner at the workplace and in a sufficient number of places to reasonably inform employees of the fact, a certificate of premium payment showing compliance with this chapter and the toll-free telephone number used to report unsafe working conditions and actual or suspected workforce safety and insurance fraud. Any employer subject to this chapter is liable to pay a civil penalty of two hundred fifty dollars for failure to display the notice of compliance and the toll-free telephone number as required by this section.

Approved May 1, 2009

Filed May 5, 2009

**CHAPTER 164****SENATE BILL NO. 2277**

(Senators O'Connell, Christmann, Oehlke)  
(Representatives Hawken, L. Meier, Schneider)

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to supplemental retiree benefit payments under the teachers' fund for retirement.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

**Supplemental retiree benefit payment.** An individual who retired before January 1, 2009, and is receiving monthly benefits from the fund on an account paid under this chapter or under former chapter 15-39 on December 1, 2009, is entitled to receive a supplemental payment from the fund. The supplemental payment is equal to an amount determined by taking twenty dollars multiplied by the member's number of years of service credit plus fifteen dollars multiplied by the number of years since the member's retirement as of January 1, 2009. The supplemental payment may not exceed the greater of ten percent of the member's annual annuity or seven hundred fifty dollars. The board shall make the supplemental payment in December 2009.

Approved May 7, 2009  
Filed May 19, 2009



**CHAPTER 165****SENATE BILL NO. 2079**

(Education Committee)

(At the request of the State Board of Higher Education)

AN ACT to amend and reenact sections 15-52-01, 15-52-02, 15-52-05, 15-52-07, 15-52-08, 15-52-09, 15-52-15, and 15-52-29 of the North Dakota Century Code, relating to the university of North Dakota school of medicine and health sciences.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-52-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-01. ~~Establishment~~ School of medicine and health sciences.** ~~There is hereby established at the university of North Dakota a North Dakota state medical center, the purpose of which must be to provide facilities for the coordination, improvement, expansion, and unification of health and welfare activities of the state and its agencies and its political subdivisions and private medical practitioners. The primary purpose of the university of North Dakota school of medicine and health sciences is to educate physicians and other health professionals and to enhance the quality of life in North Dakota. Other purposes include the discovery of knowledge that benefits the people of this state and enhances the quality of their lives.~~

**SECTION 2. AMENDMENT.** Section 15-52-02 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-02. Control and operation.** ~~The control and operation of the university of North Dakota state medical center~~ school of medicine and health sciences is the duty and responsibility of the administrative authorities of the university of North Dakota and its medical school under the policies of the state board of higher education or its successor in authority.

**SECTION 3. AMENDMENT.** Section 15-52-05 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-05. ~~Medical center facilities available to whom~~ Facilities.** ~~The university authorities shall make the facilities of such North Dakota state medical center~~ the university of North Dakota school of medicine and health sciences available to all agencies of the state, federal, and local governments engaged in health and welfare activities to the fullest extent possible within the limits of a complete and coordinated program for the use thereof on terms commensurate with the cost of services rendered and facilities furnished. ~~The work of the medical school and the North Dakota state medical center~~ school of medicine and health sciences must be coordinated with the work of the other departments of the university of North Dakota. Means must be provided whereby regularly enrolled students in other schools or departments of the university of North Dakota may, upon approval of the dean of such other school or department, enroll in elective courses in the medical school and receive credit therefor in the school or department in which they are regularly enrolled. Medical students may enroll in other departments and schools. Such action must be taken as may serve to make both the ~~North Dakota state~~

~~medical center~~ school of medicine and health sciences and the other departments and schools of the university of North Dakota more efficient and responsive to needs of the people through the mutual interchange of facilities, and service, wherever possible.

**SECTION 4. AMENDMENT.** Section 15-52-07 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-07. Political subdivisions shall use facilities of center.** All agencies of the state, counties, and municipalities in any way concerned with health, medical care, or public welfare, shall make the fullest possible use of the facilities and services of the ~~North Dakota state medical center~~ university of North Dakota school of medicine and health sciences and shall pay therefor the established fees and charges, and may contribute to the ~~North Dakota state medical center~~ school of medicine and health sciences specific fees or monthly payments for specific facilities and services furnished.

**SECTION 5. AMENDMENT.** Section 15-52-08 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-08. Center may accept grants, gifts, and rentals - Power to contract.** The ~~North Dakota state medical center~~ university of North Dakota school of medicine and health sciences or the university of North Dakota for the use and benefit of ~~said North Dakota state medical center~~ the school of medicine and health sciences is specifically authorized to accept and use for the purposes of ~~said North Dakota state medical center~~ the school of medicine and health sciences grants, gifts, contributions, fees, rentals, and other payments from any foundation, individual, firm, corporation, limited liability company, institution, public or private agency, or from the federal government or any of its departments, agencies, or bureaus; and may, within the limits of its funds available, enter into such agreements as may be necessary to secure buildings, supplies, maintenance, material, and equipment; and may contract with public or private agencies or persons for the rental or use of facilities, services, and equipment not owned by ~~such North Dakota state medical center~~ the school of medicine and health sciences.

**SECTION 6. AMENDMENT.** Section 15-52-09 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-09. Expenditure of proceeds of one-mill levy authorized - Limitation.** The proceeds of the one-mill tax levy established by section 10 of article X of the Constitution of North Dakota, together with any other funds that may be received by the state treasurer, from time to time, for the benefit of the North Dakota state medical center, must be expended to establish, develop, and maintain ~~said North Dakota state medical center~~ the university of North Dakota school of medicine and health sciences, as provided in this chapter, by the issuance of state warrants drawn on such funds by the director of the office of management and budget.

<sup>87</sup> **SECTION 7. AMENDMENT.** Section 15-52-15 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>87</sup> Section 15-52-15 was also amended by section 2 of Senate Bill No. 2077, chapter 167.

**15-52-15. Duties related to loan fund.** ~~It is the duty of the~~ The university to ~~shall~~ receive and pass upon, and ~~to~~ allow or disallow, all applications for loans submitted by qualified applicants who desire to complete an education in medicine or dentistry for the purpose of entering medical or dental practice in ~~the state of~~ North Dakota. ~~It is also the duty of the university to compile a list of cities, towns, and other municipalities in this state without a qualified physician or dentist or with an insufficient number of qualified physicians or dentists, and to endeavor to supply physicians or dentists to such cities, towns, and other municipalities.~~

**SECTION 8. AMENDMENT.** Section 15-52-29 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-29. Training of psychiatric personnel - Scholarships.** ~~The North Dakota state medical center~~ university of North Dakota school of medicine and health sciences, under the policies of the state board of higher education, ~~is hereby authorized and directed to~~ shall provide or encourage means for providing for the training of such psychiatrists and other psychiatric personnel as may be necessary to properly staff state institutions and agencies providing services in the field of mental health. ~~The North Dakota medical center is authorized to~~ school of medicine and health sciences may execute contracts with any suitable public or private agency providing such training services and facilities and to pay for such services from funds of the ~~medical center~~ school of medicine and health sciences as provided in section 15-52-09.

The board is specifically authorized and directed, acting through the medical center, to provide scholarships in such amounts as may be necessary for the use of qualified physicians during periods in which such physicians are in training in the field of psychiatry. Such scholarships must be conditioned upon service upon the staffs of state institutions and agencies by such psychiatrists after the completion of their formal training for such term as the board may prescribe.

Approved March 19, 2009  
Filed March 19, 2009

**CHAPTER 166****SENATE BILL NO. 2081**

(Education Committee)

(At the request of the State Board of Higher Education)

AN ACT to amend and reenact sections 15-52-03, 15-52-04, 15-52-30, and 15-52-31 of the North Dakota Century Code, relating to the university of North Dakota school of medicine and health sciences advisory council.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

<sup>88</sup> **SECTION 1. AMENDMENT.** Section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-03. ~~Medical center~~ School of medicine and health sciences advisory council - Members, terms, meetings.**

1. To assure the proper coordination ~~and integration~~ of the ~~North Dakota state medical center~~ university of North Dakota school of medicine and health sciences with all other health ~~and welfare~~ activities of the state, a permanent ~~medical center~~ school of medicine and health sciences advisory council is established to ~~advise, consult, and make recommendations~~ to the university administration, and to the several agencies represented on the council concerning the program of the North Dakota state medical center, the adaptation of the medical center to the needs of the state and to the requirements and facilities of the several agencies involved, and the use of the North Dakota state medical center and its facilities by the various institutions and agencies of the state and its political subdivisions ~~perform the duties in section 15-52-04.~~
2. The council consists of ~~fourteen~~ fifteen members:
  - a. (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative council; and
  - (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative council;
  - b. One member selected by each of the following:
    - (1) The department of human services;
    - (2) The state board of higher education;

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<sup>88</sup> Section 15-52-03 was also amended by section 97 of House Bill No. 1436, chapter 482.

- (3) The state department of health;
  - (4) The North Dakota medical association;
  - (5) The North Dakota healthcare association; ~~and~~
  - (6) The veterans administration hospital in Fargo; and
  - (7) The university of North Dakota center for rural health; and
- c. ~~One member~~ Four members selected by the dean of the university of North Dakota ~~medical school of medicine and health sciences,~~ one from each of the four ~~campus areas~~ campuses of the ~~medical school of medicine and health sciences~~ with headquarters in Bismarck, Fargo, Grand Forks, and Minot.
3. The representatives named by the state agencies and boards must be selected to serve as members of the ~~medical center~~ advisory council for periods of at least one year, but may not serve longer than their term of office on the public agency. The representatives from the North Dakota state medical association and the North Dakota healthcare association shall serve a term of three years or until their successors are named and qualified.
  4. The council shall name its own chairman and the dean of the university of North Dakota ~~medical school of medicine and health sciences~~ shall serve as executive secretary of the council. The council shall meet not less than twice each year, and, from time to time, on its own motion or upon request of the university administration, ~~to consider plans and programs of action for the North Dakota state medical center and make its recommendations to the several agencies of the state and political subdivisions involved and to the legislative assembly.~~

**SECTION 2. AMENDMENT.** Section 15-52-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-04. Duties of council.** ~~The medical center advisory council shall study, consider, and formulate plans for facilitating and implementing, through the North Dakota state medical center, a unified program for the improvement and maintenance of the health of the people of the state in all of its phases. The study must include specifically ways and means of bringing about the complete training of adequate numbers of qualified physicians and surgeons for the people of the state, both in the general practice of medicine and surgery and the field of public health, of allied health professionals, and all other personnel concerned with the improvement and preservation of the health of the people of this state.~~

1. The advisory council, in consultation with the school of medicine and health sciences and the other agencies, associations, and institutions represented on the advisory council, shall study and make recommendations regarding the strategic plan, programs, and facilities of the school of medicine and health sciences.
2. Biennially, the advisory council shall submit a report, together with its recommendations, to the agencies, associations, and institutions represented on the advisory council, to the university of North Dakota, and to the legislative council.

3. a. The report must describe the advisory council's recommendations regarding the strategic plan, programs, and facilities of the school of medicine and health sciences as developed under subsection 1. The recommendations for implementing strategies through the school of medicine and health sciences or other agencies and institutions must:
  - (1) Address the health care needs of the people of the state; and
  - (2) Provide information regarding the state's health care workforce needs.
- b. The recommendations required under subdivision a may address:
  - (1) Medical education and training;
  - (2) The recruitment and retention of physicians and other health care professionals;
  - (3) Factors influencing the practice environment for physicians and other health care professionals;
  - (4) Access to health care;
  - (5) Patient safety;
  - (6) The quality of health care and the efficiency of its delivery; and
  - (7) Financial challenges in the delivery of health care.
4. The council may consult with any individual or entity in performing its duties under this section.

**SECTION 3. AMENDMENT.** Section 15-52-30 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-30. Contracts or agreements authorized - Legislative intent.**

1. The state board of higher education ~~upon the recommendation of the medical center advisory council~~ is hereby authorized to enter into contracts or agreements, both interstate and intrastate, to provide medical education opportunities. These contracts and agreements must be made within the limits of available legislative appropriation and may be for such periods of time as the state board of higher education deems necessary.
2. It is ~~hereby declared to be~~ the intent of the legislative assembly that the state of North Dakota, through its state board of higher education, provide for a comprehensive program of medical education leading to a doctor of medicine degree.

**SECTION 4. AMENDMENT.** Section 15-52-31 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-31. Admission of students - Qualifications.** The faculty of the school of medicine and health sciences at the university of North Dakota may, with the ~~approval~~ advice of the ~~medical center~~ school of medicine and health sciences advisory council and with the approval of the state board of higher education, adopt such rules and regulations governing the education and residency qualifications of applicants for admission to the ~~medical~~ school of medicine and health sciences as it deems necessary and proper.

Approved April 22, 2009

Filed April 23, 2009

## CHAPTER 167

### SENATE BILL NO. 2077

(Education Committee)

(At the request of the State Board of Higher Education)

AN ACT to amend and reenact sections 15-52-10, 15-52-15, 15-52-16, 15-52-18, 15-52-20, 15-52-26, and 15-52-27 of the North Dakota Century Code, relating to the university of North Dakota school of medicine and health sciences revolving loan fund.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 15-52-10 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-10. Medical center School of medicine and health sciences revolving loan fund.** ~~There is hereby created a medical center~~ The school of medicine and health sciences loan fund ~~which~~ must be administered as a revolving loan fund by the university of North Dakota under the direction and control of the state board of higher education. As used ~~hereafter~~ in this chapter, the word "university" means the university of North Dakota under the direction and control of the state board of higher education. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans to qualified applicants.

<sup>89</sup> **SECTION 2. AMENDMENT.** Section 15-52-15 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-15. Duties related to loan fund.** ~~It is the duty of the~~ The university to ~~shall~~ receive and pass upon, and ~~to~~ allow or disallow, all applications for loans submitted by qualified applicants who desire to complete an education in medicine or dentistry for the purpose of entering medical or dental practice ~~in the state of North Dakota.~~ It is also the duty of the university to compile a list of cities, towns, and other municipalities in this state without a qualified physician or dentist or with an insufficient number of qualified physicians or dentists, and to endeavor to supply physicians or dentists to such cities, towns, and other municipalities.

**SECTION 3. AMENDMENT.** Section 15-52-16 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-16. Qualifications of loan applicants.** An applicant is deemed qualified only if the applicant:

1. ~~Has been a resident of this state at least one year before the date of entering medical school or dental school;~~

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<sup>89</sup> Section 15-52-15 was also amended by section 7 of Senate Bill No. 2079, chapter 165.



2. ~~Has successfully completed the first year of the curriculum in medicine at the university of North Dakota or has successfully completed the first year of the curriculum in dentistry in an accredited dental school Meets the criteria as a resident for tuition purposes as defined by section 15-10-19.1; and~~
- 3- 2. ~~Can~~ Is enrolled as a medical student of the university of North Dakota school of medicine and health sciences or can present to the university satisfactory proof that the applicant is enrolled as a student in the second, third, or fourth year of a school of medicine accredited by the liaison committee on medical education or of a school of dentistry accredited by the commission on dental accreditation, or will be enrolled upon payment of tuition.

**SECTION 4. AMENDMENT.** Section 15-52-18 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-18. Amount of loans.** Loans may be granted to qualified applicants by the university in amounts not in excess of ~~six ten~~ thousand dollars each year ~~for the purpose of completing the second, third, and fourth year of medical or dental study in an accredited school of medicine or dentistry.~~

**SECTION 5. AMENDMENT.** Section 15-52-20 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-20. Loan conditions.** A loan granted by the university under section 15-52-10 and sections 15-52-15 through 15-52-28 must be upon the condition that the full amount of the loan must be repaid in cash with interest not to exceed six percent annually from the date of each payment pursuant to a loan agreement. The ~~medical center~~ school of medicine and health sciences advisory council may annually establish an interest rate at a level lower than six percent. The repayment must be in yearly installments on a schedule set by the university with the first installment becoming due and payable one year from the date on which the applicant begins practice, but may not exceed ~~five six~~ years from the date of graduation or one year from the date of graduation from a dental school if a dental student.

**SECTION 6. AMENDMENT.** Section 15-52-26 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-26. Availability of funds.** The state board of higher education is hereby directed and authorized to make available to the university, from the portion of the proceeds of the one-mill levy provided by section 10 of article X of the Constitution of North Dakota as the state board of higher education shall have retained in its possession pursuant to the provisions of section 15-52-09 ~~for the purpose of establishing third-year and fourth-year courses of medicine at the university of North Dakota,~~ such funds as may be required for the operation of the ~~medical center~~ school of medicine and health sciences revolving loan fund, but not in excess of one hundred thousand dollars in any one year.

**SECTION 7. AMENDMENT.** Section 15-52-27 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-27. Purposes of loan fund.** The purposes of section 15-52-10 and sections 15-52-15 through 15-52-28 are hereby declared to be to develop and maintain the North Dakota state medical center school of medicine and health sciences by making it possible for all qualified students attending such center school to complete their education in medicine or in the case of dental students who are residents of the state of North Dakota to complete their education in dentistry.

Approved March 19, 2009  
Filed March 19, 2009

**CHAPTER 168****SENATE BILL NO. 2166**

(Senators J. Lee, Dever, Heckaman)  
(Representatives Grande, Keiser, Koppelman)

AN ACT to amend and reenact subsection 2 of section 15-62.2-00.1 and subsection 2 of section 15-62.2-01 of the North Dakota Century Code, relating to financial assistance for students; and to repeal chapter 15-62.3 of the North Dakota Century Code, relating to the tuition assistance grant program.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 2 of section 15-62.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

2. "Eligible institution" means an accredited public or ~~nonprofit~~ private postsecondary institution located in this state and offering a program of instruction at least equal in length to two academic years.

**SECTION 2. AMENDMENT.** Subsection 2 of section 15-62.2-01 of the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 3. REPEAL.** Chapter 15-62.3 of the North Dakota Century Code is repealed.

Approved April 8, 2009  
Filed April 9, 2009

**CHAPTER 169****HOUSE BILL NO. 1399**

(Representatives Onstad, Froelich, Vig)  
(Senators Heckaman, Marcellais, Warner)

AN ACT relating to the preservation of American Indian languages; to provide a legislative council report; to provide an appropriation; and to provide a continuing appropriation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:****SECTION 1. American Indian language preservation committee - Membership - Meetings.**

1. The American Indian language preservation committee consists of:
  - a. The executive director of the Indian affairs commission, who shall serve as the chairman;
  - b. The superintendent of public instruction or the superintendent's designee;
  - c. An individual employed as a faculty member at a tribal college, appointed by the governor;
  - d. The director of the state historical society;
  - e. The chairman of the North Dakota humanities council;
  - f. The chairman of the university of North Dakota department of Indian studies or the chairman's designee; and
  - g. One individual with experience in the development of curriculum pertaining to and the teaching of American Indian languages at the elementary or high school levels, appointed by the governor.
2. The committee shall meet at least quarterly, at the call of the chairman.

**SECTION 2. Duties.** The committee shall:

1. Develop a process for the orderly preservation of American Indian languages spoken by the members of tribes located in this state, including:
  - a. The creation or acquisition of audio recordings, picture dictionaries, and pronunciation guides;
  - b. The translation of existing materials; and
  - c. The acquisition, development, and dissemination of instructional materials for elementary and high school students, individuals enrolled in institutions of higher education, and other adults;

2. Pursue working relationships aimed at American Indian language preservation with public and private sector entities, including institutions of higher education, in this state and in other states and provinces; and
3. Seek the active participation of American Indians residing in this state on an individual and a tribal basis.

**SECTION 3. Powers - Continuing appropriation.**

1. The committee may:
  - a. Accept gifts, grants, and donations of money, property, and services to carry out this Act;
  - b. Expend moneys received under this section to carry out this Act; and
  - c. Contract with any person for any purpose related to this Act.
2. Any moneys received by the committee under this section are appropriated to the committee on a continuing basis.

**SECTION 4. APPROPRIATION.** There is appropriated out of any moneys from the federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$18,000, or so much of the sum as may be necessary, to the Indian affairs commission for the purpose of providing matching funds to the American Indian language preservation committee, for the biennium beginning July 1, 2009, and ending June 30, 2011. Each dollar provided to the committee under this section is contingent upon the committee demonstrating that it has matched each \$1 to be provided under this section with \$3, or the equivalent thereof in-kind, from nonstate sources for the purposes set forth in this Act.

**SECTION 5. LEGISLATIVE COUNCIL REPORT.** Before September 2010, the chairman of the American Indian language preservation committee shall provide a report to the legislative council regarding the work of the committee, together with any recommendations for ongoing preservation efforts.

Approved May 1, 2009  
Filed May 5, 2009

**CHAPTER 170****HOUSE BILL NO. 1394**

(Representatives Kasper, D. Johnson, R. Kelsch)  
(Senators Flakoll, Freborg, Wardner)

AN ACT to amend and reenact sections 15-70-01, 15-70-04, 15-70-05, and 57-51.1-07.4 of the North Dakota Century Code, relating to the provision of financial assistance to tribally controlled community colleges; to provide a statement of legislative intent; to provide an appropriation; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 15-70-01 of the North Dakota Century Code is amended and reenacted as follows:

**15-70-01. Definitions.** ~~In~~ As used in this chapter, unless the context otherwise requires:

1. "Full time" means that a student is enrolled for at least twenty-four semester hours during an academic year.
2. "Nonbeneficiary student" means a resident of North Dakota who is enrolled in a tribally controlled community college but is not an enrolled member of a federally recognized Indian tribe nor a biological child of a living or deceased member of an Indian tribe.
- ~~2.~~ 3. "Tribally controlled community college" means an institution of higher education in this state which is formally controlled or has been formally sanctioned or chartered by the governing body of an Indian tribe, or any combination of federally recognized Indian tribes.

**SECTION 2. AMENDMENT.** Section 15-70-04 of the North Dakota Century Code is amended and reenacted as follows:

**15-70-04. Submission of grant application - Distribution of grants.** In order to qualify for a grant under this chapter, an institution shall submit an application in the manner required by the state board of higher education. The application must document the enrollment status of each student on whose account financial assistance under this chapter is sought. If an application is approved, the board shall distribute to each tribally controlled community college, during each year of the biennium, ~~four~~ five thousand five hundred eighty-one ~~four~~ four dollars for each per full-time equivalent nonbeneficiary student ~~on a full-time equivalent basis.~~ If the amount appropriated is insufficient, the board shall distribute a prorated amount per full-time equivalent nonbeneficiary student ~~on a full-time equivalent basis.~~

**SECTION 3. AMENDMENT.** Section 15-70-05 of the North Dakota Century Code is amended and reenacted as follows:

**15-70-05. Reporting by recipient institutions - Failure to report.** Each institution receiving a grant under this chapter shall ~~annually provide to the state board of higher education an accurate and detailed account of~~ submit to the

legislative council a report detailing the expenditures of the grant funds received by the institution under this chapter ~~and~~, a copy of the institution's latest audit report, and documentation of the enrollment status ~~and ethnic status~~ of each student on whose account financial assistance under this chapter is sought. Any institution that fails to meet the requirements of this section is ineligible to receive future grants under this chapter until the institution submits the required information.

<sup>90</sup> **SECTION 4. AMENDMENT.** Section 57-51.1-07.4 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.4. Separate allocation of state share of collections from reservation development.** Notwithstanding any other provision of law, the state treasurer shall transfer to the permanent oil tax trust fund the first seven hundred thousand dollars of the state's share of tax revenues under this chapter from oil produced from wells within the exterior boundaries of the Fort Berthold Reservation ~~drilled and completed~~ after June 30, ~~2007~~ 2009.

**SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of \$700,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of providing grant assistance to tribally controlled community colleges, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 6. CONTINGENT MONEY.** If any money appropriated to the state board of higher education for grant assistance to tribally controlled community colleges remains after the board complies with all statutory payment obligations imposed under this Act, the state board shall distribute a prorated amount per full-time equivalent nonbeneficiary student.

**SECTION 7. LEGISLATIVE INTENT.** It is the intent of the sixty-first legislative assembly that the amendment of section 57-51.1-07.4 by section 4 of this Act is an independent law for purposes of section 1-02-09 and prevails over any repeal of section 57-51.1-07.4 enacted by the sixty-first legislative assembly.

**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2009  
Filed April 23, 2009

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<sup>90</sup> Section 57-51.1-07.4 was repealed by section 1 of Senate Bill No. 2088, chapter 582.