

CHAPTER 15-10
THE STATE BOARD OF HIGHER EDUCATION

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 following colleges: Bismarck state college, Dakota college at Bottineau, Lake Region state college, and Williston state college.
6. And such other state institutions of higher education as may be established.

15-10-01.1. Board of higher education to assume jurisdiction over junior colleges and off-campus educational centers.

Repealed by S.L. 1999, ch. 154, § 2.

15-10-01.2. North Dakota university system - Unified system of higher education.

The institutions of higher education under the control of the state board of higher education are a unified system of higher education, as established by the board, and are designated as the North Dakota university system.

15-10-02. Membership of state board of higher education - Advisers.

1. The state board of higher education consists of eight members, all of whom must be appointed by the governor in accordance with section 6 of article VIII of the Constitution of North Dakota.
2. The council of college faculties shall annually appoint one individual to serve as an adviser to the state board. The adviser may attend and participate in all meetings of the state board but may not vote.
3. The staff senate annually shall appoint one individual to serve as an adviser to the state board. The adviser may attend and participate in all meetings of the state board but may not vote.

15-10-03. Terms of office.

Repealed by S.L. 1999, ch. 154, § 2.

15-10-04. Failure of senate to confirm nomination to board - Procedure.

Repealed by S.L. 1999, ch. 154, § 2.

15-10-05. Appointments to fill vacancies when legislative assembly not in session.

Repealed by S.L. 1999, ch. 154, § 2.

15-10-06. Removal - Impeachment only.

Repealed by S.L. 1999, ch. 154, § 2.

15-10-07. Oath of office - Quorum.

Before entering upon the duties of their offices, the members appointed to the state board of higher education shall take and subscribe the oath required of civil officers. A majority of the members appointed to the board constitutes a quorum for the transaction of business.

15-10-08. Compensation of board members - Expenses - Legislative appropriations.

Each member of the state board of higher education, except the student member, is entitled to receive as compensation one hundred forty-eight dollars per day for each calendar day actually spent devoted to the duties of office, and necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of office. The legislative assembly shall provide adequate funds to carry out the functions and duties of the board.

15-10-09. President and secretary of board - Appointment - Term.

The state board of higher education shall elect one of its members annually to serve as president of the board for a term of one year. It shall elect a competent person as secretary, who shall hold office at the will of the board and shall reside, during the secretary's term of office, in the city of Bismarck.

15-10-10. State commissioner of higher education - Qualification - Appointment - Term - Removal.

The state board of higher education, as soon as practicable, shall appoint, for a term of not to exceed three years, a state commissioner of higher education whose principal office must be at the state capitol. The commissioner of higher education is responsible to the board and is removable by the board for cause. The commissioner must be a graduate of some reputable college or university who by training and experience is familiar with the problems peculiar to higher education. The commissioner must be the chief executive officer of the board and shall perform such duties as must be prescribed by it.

15-10-11. Authority and general powers of board.

The state board of higher education has full authority over the institutions under its control with the right to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the board has the power to delegate to its employees details of the administration of the institutions under its control. The board has authority to organize or reorganize, within constitutional and statutory limitations, the work of each institution under its control, and to do everything necessary and proper for the efficient and economical administration thereof.

15-10-12. (Effective after June 30, 2013) 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.

15-10-12.1. Acceptance of buildings and campus improvements - Legislative approval.

The state board of higher education may authorize campus improvements and building maintenance on land under the control of the board which are financed by donations, gifts, grants, and bequests if the cost of the improvement or building maintenance is not more than seven hundred thousand dollars. The consent of the legislative assembly is required for construction of any building or any addition to a building on land under the control of the board which is financed by donations, gifts, grants, and bequests. The consent of the legislative assembly is required for campus improvements or building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvements or maintenance is more than seven hundred thousand dollars. During the time the legislative assembly is not in session, except for the six months preceding the convening of a regular session and the three months following the close of a regular session, and unless otherwise restricted by previous legislative action or other law, the state board of higher education, with the approval of the budget section of the legislative management, may authorize campus improvements and building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvement or maintenance is more than seven hundred thousand dollars. The budget section approval must include a specific dollar limit for each campus improvement project or maintenance project. The state board of higher education may authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. The board shall prescribe such conditions for the sale of the property as it determines necessary. The conditions must include requiring an appraisal and public auction or advertisement for bids, unless the gift instrument requires a different process. If the state board of higher education submits a request for campus improvements or building maintenance under this section to the budget section for approval, the legislative council shall notify each member of the legislative assembly of the date of the budget section meeting at which the request will be considered and provide a copy of the meeting agenda to each member of the legislative assembly. The chairman of the budget section shall allow any member of the legislative assembly an opportunity to present testimony to the budget section regarding any such request.

15-10-12.2. College and university investment income.

All income earned on college and university funds not deposited in the state treasury must be retained by those funds.

15-10-12.3. Capital construction projects - Local fund sources - Local matching funds - Report to budget section.

If any institution under the control of the state board of higher education undertakes a capital construction project, including any renovation or expansion, with the approval of the legislative assembly, all local funds to be used for the project must be derived from sources that have been presented to and approved by the legislative assembly or the budget section pursuant to section 15-10-12.1. The source of any local matching funds required for state-funded or bonded projects must be funds raised and designated for the project and may not include funding from the state general fund, state and federal grant and contract funds, tuition or fees, endowment or investment income, institutional sales and services income including indirect and administrative costs, or transfers or loans from other institutions' funds or

agency funds unless the institution has received prior approval from the legislative assembly or from the budget section pursuant to section 15-10-12.1. Each institution undertaking a capital construction project that was approved by the legislative assembly and for which local funds are to be used shall present a biennial report to the budget section of the legislative management detailing the source of all funds used in the capital construction project, including local funds. This section applies to projects approved after July 1, 2001.

15-10-13. Faculties of institutions under supervision of state board of higher education - Rules and regulations.

In each institution of higher education under the control and subject to the administration of the state board of higher education, the faculty shall consist of the president, instructors, teachers, and assistants. The faculty shall adopt, subject to such rules and regulations as the state board of higher education may establish, all necessary rules and regulations for the government of the school.

15-10-13.1. Faculty - English language proficiency.

Any professor, instructor, teacher, assistant, or graduate assistant at a state institution of higher education must exhibit written and verbal proficiency in the English language. Any deficiency must be remedied by special training or coursework provided by the institution.

15-10-13.2. Public institutions of higher education - Faculty members - Oath or affirmation.

1. Before entering upon the discharge of duties, every faculty member employed by an institution of higher education under the control of the state board of higher education shall take the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the state of North Dakota, and that I will faithfully discharge the duties of my position, according to the best of my ability.

2. The faculty member shall execute the oath or affirmation in duplicate. One copy of the oath or affirmation must be filed with the state board of higher education. The faculty member shall retain the other copy.

15-10-13.3. Public institutions of higher education - Alien faculty members - Oath or affirmation.

Before entering upon the discharge of duties, an individual who is not a citizen of the United States but who is a faculty member employed by an institution of higher education under the control of the state board of higher education shall take an oath or affirmation to support the institutions and policies of the United States during the period of the individual's employment within the state.

15-10-14. Accounts and records of institutions - Examination and audit.

Repealed by S.L. 2001, ch. 162, § 7.

15-10-14.1. Higher education reports.

The state board of higher education shall submit the reports required pursuant to section 15-10-14.2 and such other reports as may be requested by the legislative assembly or governor.

15-10-14.2. Higher education system strategic plan - Reports.

1. The state board of higher education shall adopt a strategic planning process and develop a strategic plan to define and prioritize university system goals and objectives. The board shall provide an annual performance and accountability report regarding performance and progress toward the goals outlined in the university system's strategic plan and accountability measures.
2. The state board of higher education shall report to the legislative assembly during each regular legislative session regarding the status of higher education in this state.

15-10-15. Budget requests - Duties of institution heads.

Repealed by S.L. 2001, ch. 162, § 7.

15-10-16. Control of funds and appropriations of educational institutions.

The state board of higher education has the control of the expenditure of the funds belonging and allocated to the institutions under its control and also of those appropriated by the legislative assembly for such institutions, but funds appropriated by the legislative assembly and specifically designated for any one or more of such institutions may not be used for any other institution.

15-10-16.1. Loans from Bank of North Dakota.

Institutions under the board of higher education are authorized to borrow, and the Bank of North Dakota is authorized to loan to those institutions, amounts not to exceed ninety percent of the value of an institution's certificate of deposit held by the Bank. The term of the loan may not exceed the term of the certificate of deposit offered as security for the loan. The loans are subject to such additional terms and conditions as may be established by the Bank.

15-10-17. Specific powers and duties of the state board of higher education.

The state board of higher education has all the powers and shall perform all the duties necessary to the control and management of the institutions described in this chapter. In addition to the powers and duties specified in section 6 of article VIII of the Constitution of North Dakota, the board may:

1. a. Appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under its control, and to fix their salaries within the limits of legislative appropriations therefor, and to fix the terms of office and to prescribe the duties thereof, provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the individual involved requests that the meeting be open to other individuals or to the public.
- b. Appoint and remove the commissioner of higher education, fix the commissioner's salary within the limits of legislative appropriations, and prescribe the commissioner's duties.
- c. Appoint and remove all university system office personnel, fix their salaries within the limits of legislative appropriations, fix their terms of office, and prescribe their duties.
2. Authorize the employment of law enforcement officers having jurisdiction on property owned or leased by the state board of higher education to enforce laws and regulations at its institutions, or as otherwise provided in this subsection.
 - a. A law enforcement officer employed by North Dakota state university has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of nineteenth avenue north and Dakota drive south to eighth avenue north, eighth avenue north east to tenth street north, tenth street north north to nineteenth avenue north, nineteenth avenue north west to Dakota drive.
 - b. A law enforcement officer employed by the university of North Dakota has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of demers avenue and north fifty-fifth street, north fifty-fifth street north to university avenue, university avenue east to north forty-second street, north forty-second street north to gateway drive, gateway drive east to north columbia road, north columbia road south to tenth avenue north, tenth avenue north east to north twenty-fifth street, north twenty-fifth street south to sixth avenue north, sixth avenue north east to north twentieth street, north twentieth street south to fifth avenue north, fifth avenue north west to north twenty-third street, north twenty-third street south to

university avenue, university avenue east to north twenty-first street, north twenty-first street south to dyke avenue, dyke avenue east to north washington street, north washington street south to demers avenue, and demers avenue west to north fifty-fifth street. Jurisdiction under this subdivision includes Grand Forks international airport.

- c. A law enforcement officer employed by the North Dakota state college of science has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of seventh avenue north and eleventh street north, eleventh street north to sixteenth avenue north, sixteenth avenue north west to fourth street north, and fourth street north south to seventh avenue north.
 - d. A law enforcement officer employed by an institution under the control of the state board of higher education who is in "hot pursuit" may continue beyond the jurisdictional boundaries of each institution to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subdivision, "hot pursuit" means the immediate pursuit of a person who is endeavoring to avoid arrest.
 - e. The state board of higher education may enter a joint powers agreement with a political subdivision to enable law enforcement from the political subdivision and law enforcement from the institution to provide secondary response to each other outside the jurisdictional boundaries provided in this subsection.
 - f. Notwithstanding any other provision of law or joint powers agreement, any misdemeanor or felony violation of law occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction must be filed in district court unless the primary law enforcement officer involved is not employed by the state board of higher education. An infraction or noncriminal offense occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction may be filed in municipal court.
3. Set tuition and fees.
 4. a. Establish a retirement program as an alternative to chapter 15-39.1 for university system employees subject to the following guidelines:
 - (1) Benefits under the program must be provided through annuity contracts purchased by the board but which become the property of the participants;
 - (2) The cost of the annuity contracts must be defrayed by contributions made pursuant to rules of the state board of higher education;
 - (3) Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates then being paid by the Bank of North Dakota must be transferred to the employee's account in the alternate program. The election must be made before July 1, 1980, and shall relinquish all rights the eligible employee or the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2; and
 - (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an

annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system before March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapters 54-52 and 54-52.6.

- b. Provide for the administration of the alternate retirement program and establish rules for the program consistent with this subsection. This subsection does not derogate any existing retirement programs approved by the board.
5. Determine policy for purchasing by the university system in coordination with the office of management and budget as provided by law.
6. Establish by rule an early retirement program for faculty and officers of the board as defined by the board. The limitations on severance pay pursuant to section 54-14-04.3 and on requiring the employee to pay contributions to continue on the state uniform group insurance program upon retirement or upon termination of employment pursuant to section 54-52.1-03 do not apply to the early retirement program.
7. Adopt rules to protect the confidentiality of student records, medical records, and, consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial information.
8. Authorize and encourage university system entities to enter into partnerships, limited liability companies, joint ventures, or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer.
9. Adopt rules promoting research, encouraging development of intellectual property and other inventions and discoveries by university system employees, and protecting and marketing the inventions and discoveries. The rules must govern ownership or transfer of ownership rights and distribution of income that may be derived from an invention or discovery resulting from research or employment in the university system. The rules may provide for transfer of ownership rights or distribution of income to a private, nonprofit entity created for the support of the university system or one of its institutions.

15-10-17.1. Conduct of students and others and use of facilities of state colleges and universities.

Repealed by S.L. 1999, ch. 157, § 4.

15-10-17.2. Claims against institutions of higher education - Continuing appropriation.

Repealed by S.L. 1995, ch. 329, § 14.

15-10-17.3. Political advertising - Student housing.

A state institution of higher education may not include in student housing leases provisions that prohibit lessees from placing political advertisements on the leased property. A political advertising sign placed on student housing property must be placed in compliance with any applicable city ordinance relating to signs.

15-10-17.4. Contract - Preparation and provision of meals - Policy.

1. An institution under the control of the state board of higher education may enter a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the institution and may provide catering services for an event if the event is organized predominantly for persons affiliated with the institution, the event is held predominantly for persons enrolled in the institution, or the event is held under the auspices of the institution, provided the institution first establishes a policy regarding such services and specifically addresses issues related to competition with private sector entities.
2. The limitations provided under subsection 1 do not apply to an institution under the control of the state board of higher education if no private sector entity located in the same city as the institution is capable and willing to meet the facility or personnel requirements necessary to:
 - a. Prepare and provide the meals, snacks, or other food services for a specific event; or
 - b. Provide the catering services for a specific event.
3. An institution under the control of the state board of higher education may not advertise to the general public its willingness to provide the services permitted under this section.
4. Nothing in this section may be construed to limit the activities of a private sector entity that provides meals, snacks, or other food services to an institution of higher education under the provisions of a contract.

15-10-18. Tuition of nonresidents at schools under control of state board of higher education.

At all state institutions of higher education, tuition must be charged and collected from each nonresident student in such amount as must be determined by the state board of higher education.

15-10-18.1. Waiver of tuition at state institutions for North Dakota youth correctional center graduates.

Repealed by S.L. 1999, ch. 157, § 4.

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, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action;
 - 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, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, 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, has a one

hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, 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.

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

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

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

15-10-18.4. Definitions.

For purposes of section 15-10-18.5:

1. "Firefighter" means a person who is a member of a paid or volunteer fire department that is a part of, or administered by, this state, any political subdivision of this state, or a rural fire protection district.
2. "Peace officer" means any person who is employed by a state law enforcement agency or a political subdivision of the state who is charged with the prevention and detection of crime and the enforcement of the criminal laws of the state, and who has full power of arrest.
3. "Stepchild" means a child of the decedent's spouse or predeceased spouse, and not of the decedent.
4. "Survivor" means, at the time of the firefighter's or peace officer's death, the firefighter's or peace officer's biological or adopted child under the age of twenty-one, stepchild under the age of twenty-one, and spouse.

15-10-18.5. Free tuition in North Dakota institutions of higher education for survivor of firefighter, emergency medical services personnel, or peace officer.

If a firefighter, an emergency medical services personnel as defined under section 23-27-04.3, or a peace officer dies as a direct result of injuries received while engaged in the performance of official duties under circumstances dangerous to human life, the survivor, upon being duly accepted for enrollment into any undergraduate degree or certificate program of a North Dakota state institution of higher education, must be allowed to obtain a bachelor's degree or certificate of completion, for so long as the dependent is eligible, free of any tuition and fee charges; provided, however, that the bachelor's degree or certificate of completion is earned within a forty-five-month or ten-semester period or its equivalent; and further provided that tuition and fee charges may not include costs for aviation flight charges or expenses.

15-10-19. Nonresident student for tuition purposes defined - Exceptions.

Repealed by S.L. 1993, ch. 166, § 2.

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. An individual whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. An individual of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. An individual who graduated from a North Dakota high school;
 - d.
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state; or
 - (4) A veteran, as defined in section 37-01-40;
 - e. A benefited employee of the North Dakota university system;
 - f. The spouse of:
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301];
 - (5) A benefited employee of the North Dakota university system; or
 - (6) Any other individual who is a resident for tuition purposes;
 - g. A dependent of:
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301]; or
 - (5) A benefited employee of the North Dakota university system;
 - h. An individual who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term;
 - i. A child, widow, or widower of a veteran as defined in section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from

service-connected disabilities, was a prisoner of war, or was declared missing in action; or

- j. A covered individual as defined by section 702 of Public Law No. 113-146 [128 Stat. 1797; 38 U.S.C. 3679].
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.

15-10-20. Tuition at model schools in higher educational institutions - Attendance authorized by district school board.

Repealed by S.L. 1999, ch. 157, § 4.

15-10-21. Military instruction required.

Repealed by S.L. 1991, ch. 162, § 1.

15-10-22. Course in cooperatives required.

Repealed by S.L. 1991, ch. 162, § 1.

15-10-23. Lease of building sites on educational institution grounds.

Repealed by S.L. 1999, ch. 157, § 4.

15-10-24. Monthly statements of institutional expenditures and payroll to board of higher education.

Repealed by S.L. 1973, ch. 132, § 6.

15-10-25. Abstracts of expenditures and payroll to the office of management and budget.

Repealed by S.L. 2001, ch. 162, § 7.

15-10-25.1. Out-of-state travel by persons employed by the institutions under the control of the board of higher education.

Repealed by S.L. 1999, ch. 157, § 4.

15-10-26. Appropriations.

Repealed by S.L. 1965, ch. 120, § 6.

15-10-27. Appropriations for specific purposes - Payment.

Repealed by S.L. 1965, ch. 120, § 6.

15-10-28. Agreements with other states' institutions of higher learning and regional education compacts.

The state board of higher education may enter into agreements with institutions of higher learning in other states and regional education compacts. The board, subject to the limits of legislative appropriations, may make such expenditures as are necessary for the purpose of utilizing the educational facilities of such institutions for teaching North Dakota students. In addition, the board may enter into agreements with institutions of higher learning in other states and regional education compacts for the acceptance of students from other states in North Dakota institutions of higher learning.

15-10-28.1. Board of higher education to require note from veterinary medicine, optometry, or dental student - Repayment.

Repealed by S.L. 1983, ch. 198, § 1.

15-10-28.2. Regional veterinary medical education program - Authority to enter agreements - Limitations.

1. The state board of higher education may enter into agreements with the university of Nebraska board of regents and with the appropriate governing boards or institutions of higher education in other states to provide a program of regional veterinary medical education and services.
2. Any agreements entered pursuant to subsection 1 may provide for the following:
 - a. Service by the university of Nebraska as the degree-granting institution.
 - b. Assumption by the university of Nebraska of final responsibility for the overall governance and administration of the educational aspects of the program.
 - c. Cooperation by the North Dakota state university of agriculture and applied science in providing input in the establishment of policies relating to curriculum, academic standards, student admissions, and other matters.
3. Within the limits of legislative appropriations, any agreements entered pursuant to subsection 1 may provide for the payment by the state board of higher education of North Dakota's share of the cost of facility construction in Nebraska based upon the proportion of North Dakota students in the program, provided any such payment is based upon a per student annual facilities use charge.
4. Within the limits of legislative appropriations, any agreements entered pursuant to subsection 1 may provide for the payment by the state board of higher education of North Dakota's share of the operating costs during the planning, startup, and full operational phases, based upon the proportion of North Dakota students in the program.

15-10-29. Higher education facilities commission - Membership - Appointment - Term - Vacancies.

Repealed by S.L. 1977, ch. 158, § 4.

15-10-30. Powers and duties.

Repealed by S.L. 1977, ch. 158, § 4.

15-10-31. Federal money received by commission - Where deposited - How appropriated - How expended.

Repealed by S.L. 1977, ch. 158, § 4.

15-10-32. Compensation of commission members - Travel expenses.

Repealed by S.L. 1977, ch. 158, § 4.

15-10-33. Granting easements to state-owned land by the state board of higher education.

Repealed by S.L. 1973, ch. 406, § 2.

15-10-34. Authorization of contingency funds at institutions under the board of higher education.

Repealed by S.L. 1999, ch. 157, § 4.

15-10-35. Investment of endowment funds by the institutions under the control of the board of higher education.

Repealed by S.L. 1975, ch. 182, § 10.

15-10-36. Student registration with selective service system.

No person who is required by the Military Selective Service Act [Pub. L. 759; 62 Stat. 604; 50 U.S.C. App. 451 et seq.] to register with the selective service system may receive student financial aid funds from the state until that person has registered. The state board of higher education may adopt rules to achieve the purpose of this section.

15-10-37. Technology occupations student loan program.

1. The state board of higher education shall administer a science, technology, engineering, and mathematics occupations student loan program that encourages college students to pursue studies in these fields, to participate in internship programs, and to remain in the state after graduation. The board shall adopt rules to implement the program, including internship requirements, guidelines to determine which technology-related courses of study are eligible under the program, and standards for eligibility.
2. Graduates of board-approved colleges may apply for the technology occupations student loan program. To be eligible to receive student loan grants under the program, the applicant:
 - a. Must have graduated from a board-approved college;
 - b. Must have successfully completed the board-approved technology-related courses;
 - c. Must have maintained at least a 2.5 grade point average, based on a 4.0 grading system, at a board-approved college;
 - d. Must have a student loan with the Bank of North Dakota or other participating lender;
 - e. Following graduation must be employed in the state in a board-approved technology occupation with a salary or equivalent hourly wage of sixty thousand dollars or less per year; and
 - f. Must have met and shall continue to meet any requirements established by rule.
3. The state board of higher education shall distribute student loan grants directly to the Bank of North Dakota or other participating lender to repay outstanding student loan principal balances for eligible applicants. The maximum student loan grant amount for which an applicant may qualify is one thousand five hundred dollars per year and a total of six thousand dollars, or a lesser amount established by rule adopted by the state board of higher education.
4. If an individual is receiving loan forgiveness under any other provision, the individual may not receive loan forgiveness under this section during the same application year.

15-10-38. Loans - Teacher shortages - Loan forgiveness.

1. The state board of higher education shall administer a student loan forgiveness program for individuals teaching at grade levels, in content areas, and in geographical locations identified as having a teacher shortage or critical need. The board may approve loan forgiveness for no more than two teachers per year in a school district. The board shall adopt rules to implement the program.
2. The superintendent of public instruction annually shall identify grade levels, content areas, and geographical locations in which a teacher shortage or critical need exists.
3. To be eligible for loan forgiveness under this section, an individual:
 - a. Must have graduated from an accredited teacher preparation program and signed a contract to teach at a grade level or in a content area and in a geographical location identified by the superintendent of public instruction as having an existing teacher shortage or critical need; and
 - b. Must have an existing student loan.
4. For purposes of this section, the definitions of rural school district and remote town school district have the same meaning as the definitions under the national center for education statistics locale codes.
5. If an individual is receiving loan forgiveness under any other provision, the individual may not receive loan forgiveness under this section during the same application year.
6. An eligible individual may receive loan forgiveness under the program as follows:
 - a. If the individual accepts one of up to five positions of critical need in a nonrural school district or nonremote town school district, the individual may receive up to three thousand dollars per year for a maximum of four years.
 - b. If the individual accepts a position in a rural school district or remote town school district with an enrollment of fewer than one thousand students, the individual

may receive up to four thousand five hundred dollars per year for a maximum of four years.

- c. If the individual accepts one of up to five positions of critical need in a rural school district or remote town school district with an enrollment of fewer than one thousand students, the individual may receive up to six thousand five hundred dollars per year for a maximum of four years.
7. The superintendent of public instruction shall consider all applications under this section based on the number of unfilled school vacancies, prioritized by critical need and geographic location.
8. Upon notification the individual has completed a full year of teaching in a school district, state-supported school, or nonpublic school in this state at a grade level or in a content area and in a geographical location identified by the superintendent of public instruction as one in which a teacher shortage or critical need exists, the board shall distribute funds directly to the lending institution of the individual to repay outstanding loan principal balances on behalf of eligible applicants. The board shall terminate loan forgiveness payments to eligible individuals when the loan principal balance of the eligible individual is paid in full.

15-10-39. Fees - Room and meals - Authorization.

An institution of higher education may charge a fee for room and meals when provided by the institution in connection with summer programs at the institution for which high school credit is awarded. If a student or the student's parent or guardian is unable to pay the fee for room and meals, the institution shall waive the fee.

15-10-40. Long-term lease and leaseback transaction revenue.

The board shall use revenue earned from long-term lease and leaseback transactions under chapter 54-01 for the repair and upkeep of campus buildings commonly referred to as deferred maintenance projects.

15-10-41. Centers of excellence.

Repealed by S.L. 2005, ch. 151, § 16.

15-10-42. Faculty - English pronunciation - Policy - Report.

The state board of higher education shall create a policy for all institutions under its control, relating to the assessment of faculty and teaching assistant communication skills, including the ability to speak English clearly and with good pronunciation, the notification to students of opportunities to file complaints, the process for responding to student complaints, and the resolution of reported communication problems.

15-10-43. Veterinary medical education program - Kansas state university - Contract.

1. In addition to any contracts under section 15-10-28.2, the state board of higher education may contract with Kansas state university to provide an opportunity for up to five eligible students to enroll in the veterinary medical education program at Kansas state university.
2. Eligible students must be residents of this state and must have been selected for enrollment by an admissions committee consisting of one faculty member from the department of veterinary and microbiological sciences at North Dakota state university, one veterinarian practicing in this state, one member of the legislative assembly, and one livestock producer, all of whom must be appointed by the legislative management, and the chairman of the admissions committee at the Kansas state university school of veterinary medicine. The legislative management and the chairman of the admissions committee at the Kansas state university school of veterinary medicine may select an alternative for each of the designated positions to serve as necessary.

3. The admissions committee shall determine the criteria to be used in the selection of eligible students, with eligible students interested in large animal veterinary medicine receiving a priority.

15-10-44. Higher education information technology - Board duties - Reports.

1. The state board of higher education shall manage and regulate information technology planning and services for institutions under its control, including:
 - a. Development of information technology policies, standards, and guidelines in coordination with the information technology department.
 - b. Implementation of a process for project management oversight and reporting.
 - c. Integration of higher education information technology planning and reporting with the board's strategic planning process and annual performance and accountability report required by section 15-10-14.2.
 - d. Participation in internet2 or other advanced higher education or research-related networking projects as provided in section 54-59-08.
 - e. Development of an annual report concerning higher education information technology planning and services.
 - f. Requiring utilization by each institution under the control and supervision of the board of systemwide electronic mail services provided by the board for all public business electronic correspondence.
 - g. Development and implementation of an electronic mail retention policy for the board and institutions under the supervision and control of the board which requires retention of nonstudent employee electronic mail messages for at least two years after the creation or receipt of the message.
2. The state board of higher education shall collaborate with the information technology department to coordinate higher education information technology planning with statewide information technology planning.
3. The state board of higher education shall provide advice to the information technology department regarding the development of policies, standards, and guidelines relating to access to or use of wide area network services as provided by section 54-59-09.
4. The state board of higher education shall present information regarding higher education information technology planning, services, and major projects to the information technology committee on request of the committee.

15-10-44.1. Required use of electronic mail, file server administration, database administration, application server, and hosting services.

Each institution and entity under the control of the state board of higher education shall obtain electronic mail, file server administration, database administration, research computing, storage, application server, and hosting services through a delivery system established by the board. The board shall establish policies and guidelines for the delivery of services, including the transition from existing systems to functional consolidation, with consideration given to the creation of efficiencies, cost-savings, and improved quality of service.

15-10-44.2. Audits of computer systems - Penalty.

1. Any auditor hired to conduct audits of the state board of higher education and the entities under the control and supervision of the board may:
 - a. Conduct a review and assessment of any computer system or related security system of the state board of higher education or any entity under the control and supervision of the board. A review and assessment under this section may include an assessment of system vulnerability, network penetration, any potential security breach, and the susceptibility of the system to cyber attack or cyber fraud.
 - b. Disclose the findings of a review and assessment to an individual or committee designated by the state board of higher education or to the board. Any record relating to a review and assessment, including a working paper or preliminary

draft of a review and assessment report and a report of the findings of a review and assessment, and any record that may cause or perpetuate vulnerability of a computer system or related security system which is obtained or created during a review and assessment is an exempt record.

- c. In conjunction with the state board of higher education or a committee designated by the board, procure the services of a specialist in information security systems or any other contractor deemed necessary in conducting a review and assessment under this section.
2. Any person hired or contracted to provide services in relation to a review and assessment under this section is subject to the privacy and confidentiality provisions of subsection 1 and any other section of law, including section 44-04-27, and for the purposes of section 12.1-13-01, is a public servant.

15-10-45. Telecommunications and information services competition prohibited - Report.

1. The northern tier network, part of a national research network infrastructure, serves entities within and outside this state. The North Dakota university system may use the northern tier network infrastructure only for the purpose of supporting the research and education missions of the North Dakota university system. The North Dakota university system may not use the northern tier network infrastructure for traditional internet, voice, video, or other telecommunications services beyond those required for research networks.
2. The North Dakota university system or any entity associated with the university system may not resell any portion of the northern tier network infrastructure to nonuniversity entities other than research collaborators.
3. The northern tier network may not replace any wide area network services to any city, county, or school district which are provided by the information technology department under section 54-59-08.
4. The North Dakota university system shall provide a comprehensive biennial report of northern tier network activities for the 2007-09 biennium and must submit to a biennial audit of the northern tier network activities beginning with the 2009-11 biennium.

15-10-46. University of North Dakota fighting Sioux nickname and logo.

Repealed by S.L. 2011, ch. 580, § 2.

15-10-46.1. University of North Dakota athletic nickname and logo.

Neither the state board of higher education nor the university of North Dakota may adopt or implement an athletic nickname or corresponding logo before January 1, 2015.

15-10-47. Construction projects at institutions of higher education - Variance reports.

1. Whenever any new construction, renovation, or repair, valued at more than two hundred fifty thousand dollars is underway on the campus of an institution of higher education under the control of the state board of higher education, the board shall provide semiannual project variance reports to the director of the office of management and budget. Each report must include:
 - a. The name or a description of the project;
 - b. The expenditure authorized by the legislative assembly;
 - c. The amount of the original contract;
 - d. The amount of any change orders;
 - e. The amount of any potential or anticipated change orders;
 - f. The sum of subdivisions c through e and the amount by which that sum varies from the expenditure authorized by the legislative assembly;
 - g. The total expended for the project to date; and
 - h. The scheduled date of completion as noted in the original contract and the latest available scheduled date of completion.

2. The state board of higher education also shall provide to the director of the office of management and budget, at the same time as the project variance report required by subsection 1:
 - a. A brief description of each change order included in subdivision d of subsection 1; and
 - b. A list of each public and nonpublic entity that has a contractually reflected financial obligation with respect to the project.
3. The office of management and budget shall review the information received under this section and provide reports to the budget section of the legislative management upon request.

15-10-48. Advancement of academics - Matching grants - University of North Dakota and North Dakota state university.

1. a. Subject to legislative appropriations, each biennium during the period beginning July first of each odd-numbered year and ending December thirty-first of each even-numbered year, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of the university of North Dakota and North Dakota state university for projects dedicated exclusively to the advancement of academics.
 - b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least fifty thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
 - c. The board may award up to two hundred thousand dollars in matching grants to each institution.
 - d. Projects at the university of North Dakota school of medicine and health sciences are not eligible to receive a grant under this section.
2. a. If any available dollars have not been awarded by the board before January first of each odd-numbered year, in accordance with subsection 1, either the university of North Dakota or North Dakota state university may apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.
 - d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
3. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process.

15-10-49. Advancement of academics - Matching grants - Two-year and four-year institutions of higher education.

1. a. Subject to legislative appropriations, each biennium during the period beginning July first of each odd-numbered year and ending December thirty-first of each even-numbered year, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of Bismarck state college, Dakota college at Bottineau, Lake Region state college, Mayville state university, Minot state university, North Dakota state college of science, Valley City state university, and Williston state college for projects dedicated exclusively to the advancement of academics.
 - b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least twenty-five thousand dollars in cash or monetary pledges for a qualifying project; and

- (2) The project has been approved by the grant review committee established in section 15-10-51.
 - c. The board may award up to two hundred thousand dollars in matching grants to each institution.
- 2.
 - a. If any available dollars have not been awarded by the board before January first of each odd-numbered year, in accordance with subsection 1, any institution listed in subsection 1 may apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.
 - d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
- 3. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process.

15-10-50. Liability for pledged amount.

If in accordance with section 15-10-48 or 15-10-49, the state board of higher education provides grant funds to an institution, on the basis of a monetary pledge, and if the amount forthcoming is less than the amount pledged, the institutional foundation is liable to the institution for any shortfall.

15-10-51. Grant review committee.

- 1. There is created a grant review committee consisting of:
 - a. The governor, or the governor's designee, who shall serve as the chairman;
 - b. Two members of the house of representatives appropriations committee, selected by the majority leader of the house of representatives;
 - c. Two members of the senate appropriations committee, selected by the majority leader of the senate;
 - d. Two members appointed by the governor, with the consent of the legislative management; and
 - e. Two members appointed by the state board of higher education, with the consent of the legislative management.
- 2. The gubernatorial appointees must have an understanding of higher education's role in advancing agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.
- 3. The grant review committee shall establish its rules of operation and procedure and shall develop and publish the criteria upon which all requests for matching grants will be reviewed.
- 4.
 - a. A request for a matching grant may be presented to the committee by:
 - (1) The president of the institution; or
 - (2) A designee of the president.
 - b. Either presenter may be accompanied by other individuals having an expertise with respect to the project.
 - c. If the request is to be presented by a designee of a president, the designee must provide to the committee a written statement signed by the president and certifying that the president has full knowledge of all aspects of the request, as it is presented.

15-10-52. Grant review committee - Compensation.

Each member of the grant review committee is entitled to receive compensation in the amount of one hundred thirty-five dollars per day plus reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the

committee. The compensation provided for in this section may not be paid to any member of the committee who receives a salary or other compensation as an employee or official of this state if the individual is serving on the committee by virtue of the individual's state office or state employment.

15-10-53. Definition.

For purposes of sections 15-10-48 through 15-10-52, projects dedicated to the advancement of enhanced academics include investments in research, scholarships, technology, endowed chairs, and investments in educational infrastructure, but exclude scholarships intended solely for the benefit of athletics, campus facility repair projects, and new capital construction projects.

15-10-54. Assessment of institutions.

Expired under S.L. 2013, ch. 135, § 2.

15-10-55. Student journalists - Freedom of expression - Civil remedy.

1. As used in this section:
 - a. "Protected activity" means an expression of free speech or freedom of the press.
 - b. "School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public institution of higher education, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
 - c. "Student journalist" means a student of a public institution of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
 - d. "Student media adviser" means an individual employed, appointed, or designated by a public institution of higher education to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the institution or by use of facilities of the institution or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists. A student media adviser may not be dismissed, suspended, or disciplined for acting to protect a student journalist engaged in a protected activity or for refusing to infringe on a protected activity.
3. This section does not authorize or protect expression by a student that:
 - a. Is libelous, slanderous, or obscene;
 - b. Constitutes an unwarranted invasion of privacy;
 - c. Violates federal or state law; or
 - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.
4. An expression of free speech or freedom of the press made by a student journalist under this section may not be construed as an expression of school policy. A school, school official, employee, or parent or legal guardian of a student journalist may not be liable in any civil or criminal action for an expression of free speech or freedom of the press made by a student journalist, except in the case of willful or wanton misconduct.

15-10-56. Disciplinary proceedings - Right to counsel for students and organizations - Appeals.

1. Any student enrolled at an institution under the control of the state board of higher education has the right to be represented, at the student's expense, by the student's choice of either an attorney or a nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by that institution to address an alleged violation of the institution's rules or policies. This right applies to both the student who has been accused of the alleged violation and to the student who is the accuser or victim. This right only applies if the disciplinary proceeding involves a violation that could result in a suspension or expulsion from the institution. This right does not apply to matters involving academic misconduct. Before the disciplinary proceeding is scheduled, the institution shall inform the students in writing of the students' rights under this section.
2. Any student organization officially recognized by an institution under the control of the state board of higher education has the right to be represented, at the student organization's expense, by the student organization's choice of either an attorney or nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by the institution to address an alleged violation of the institution's rules or policies. This right only applies if the disciplinary proceeding involves a violation that could result in the suspension or the removal of the student organization from the institution. This right applies to both the student organization that has been accused of the alleged violation and to the accuser or victim.
3.
 - a. Any student who is suspended or expelled from an institution under the control of the state board of higher education for a violation of the rules or policies of that institution and any student organization that is found to be in violation of the rules or policies of that institution must be afforded an opportunity to appeal the institution's initial decision to an institutional administrator or body that did not make the initial decision for a period of one year after receiving final notice of the institution's decision. The right to appeal the result of the institution's disciplinary proceeding also applies to the student who is the accuser or victim.
 - b. The right of the student or the student organization under subsection 1 or 2 to be represented, at the student's or the student organization's expense, by the student's or the student organization's choice of either an attorney or a nonattorney advocate, also applies to the appeal.
 - c. The issues that may be raised on appeal include new evidence, contradictory evidence, and evidence that the student or student organization was not afforded due process. The institutional body considering the appeal may consider police reports, transcripts, and the outcome of any civil or criminal proceeding directly related to the appeal.
4. Upon consideration of the evidence, the institutional body considering the appeal may grant the appeal, deny the appeal, order a new hearing, or reduce or modify the suspension or expulsion. If the appeal results in the reversal of the decision or a lessening of the sanction, the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension or expulsion which had not been previously refunded.
5. For purposes of this section, "fully participate" includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the accuser or accused with support, guidance, and advice. This section does not require an institution to use formal rules of evidence in institutional disciplinary proceedings. The institution, however, shall make good faith efforts to include relevant evidence and exclude evidence which is neither relevant or probative.
6. This section does not affect the obligation of an institution to provide equivalent rights to a student who is the accuser or victim in the disciplinary proceeding under this section, including equivalent opportunities to have others present during any institutional disciplinary proceeding, to not limit the choice of attorney or nonattorney

advocate in any meeting or institutional disciplinary proceeding, and to provide simultaneous notification of the institution's procedures for the accused and the accuser or victim to appeal the result of the institutional disciplinary proceeding.

15-10-57. Unified workforce, vocational, and technical education program system.

The state board of higher education shall establish and maintain a unified system to offer workforce training, vocational education, and technical education programs at institutions under its control. The board shall periodically review programs offered by institutions under its control and revise program offerings based on the workforce needs of the state identified by the workforce education advisory council. The board shall develop administrative arrangements that make possible the efficient use of facilities and staff. The board shall limit administrative costs by eliminating duplicative administrative positions.

15-10-58. Workforce education advisory council - Membership - Duties.

The state board of higher education shall establish a workforce education advisory council to advise the board regarding skills and qualifications needed for workforce training, vocational, and technical education programs offered at institutions under the control of the board. The council is composed of a representative of the department of career and technical education, a representative of job service North Dakota, a representative of the department of commerce, and eight members representing business and industry in the state. The eight members representing business and industry shall be appointed by the chairman of the legislative management. The North Dakota university system office shall provide staff services for the advisory council and members of the council who are not employees of the state are entitled to expense reimbursement from the board, as provided by law for state officers, for attending meetings of the council.

15-10-59. Annual report - Scholarships.

The state board of higher education shall provide to the legislative management an annual report regarding the number of North Dakota academic scholarships and career and technical education scholarships provided and demographic information pertaining to the recipients.

15-10-60. Scholarship endowment fund - Rules.

Repealed by S.L. 2017, ch. 368, § 9.

15-10-61. Dual-credit courses - Pilot program.

1. The state board of higher education shall establish a four-year pilot program to offer a credit incentive to instructors teaching dual-credit courses in core subject matter areas at public or private high schools in the state. An instructor who participates in the program is entitled to receive a credit-for-credit coupon that may be used toward graduate level classes at a public or private postsecondary education institution in the state. The board shall provide a qualified participant with a coupon that covers the cost of tuition for one graduate level credit in an amount not exceeding the tuition charged for the credit at the institution in which the participant is enrolled, except the amount may not exceed the highest tuition for a graduate level credit charged at an institution of higher education under the control of the state board of higher education, for every credit-hour of a dual-credit course the individual teaches. An individual is eligible for the program if the individual teaches a concurrent dual enrollment class at a public or private high school in the state and the class includes at least four students receiving dual credit.
2. If an individual eligible for a credit coupon offered under this section has met accreditation qualification standards, the individual may transfer a credit coupon to a family member or to a student being taught by the individual.
3. The state board of higher education shall develop a long-term sustainability plan for the program and, if determined necessary, continue the program for up to five additional years.

15-10-62. Nickel trophy.

To promote national recognition and statewide enthusiasm, the legislative assembly encourages the university of North Dakota and the North Dakota state university of agriculture and applied science to play for the nickel trophy during the course of a national collegiate athletic association football game. If the athletic director or president of either institution elects not to play for the nickel trophy, the nickel trophy must be permanently displayed in the heritage center.

15-10-63. Capital project and capital lease requests - Maintenance reserve account.

1. Notwithstanding any existing agreements, an institution under the control of the state board of higher education shall obtain approval from the legislative assembly before the institution acquires any additional facility space to be used by the institution for any purpose, if the acquisition would result in additional operating costs funded from any source. This subsection does not apply to operating lease agreements that preclude the ownership of the leased facility.
2. Notwithstanding any existing agreements, an institution under the control of the state board of higher education shall obtain approval from the legislative assembly before an institution purchases, rents, occupies, or otherwise utilizes a building or any portion of a building for a purpose that directly or indirectly supports or relates to the institution's educational or administrative functions if the building is located more than ten miles from the campus of the institution. This subsection does not apply to buildings utilized by an institution to offer dual-credit courses, buildings utilized by the agricultural experiment station and research extension centers, and buildings utilized by the North Dakota state university extension service. For purposes of this section, "campus" means the campus of the institution under the Federal Clery Act [Pub. L. 105-244; 20 U.S.C. 1092(f)].
3. An institution under the control of the state board of higher education may undertake a facility renovation project only if the project will reduce the deferred maintenance amount of the facility by no less than seventy five percent of the total cost of the renovation. The institution shall maintain documentation that demonstrates the cost and scope of the deferred maintenance reduction that results directly from the renovation. This subsection does not apply to projects undertaken solely to correct building code deficiencies or to installations of infrastructure determined by the board to be essential to the mission of the institution.
4. Facility construction and renovation projects undertaken by an institution under the control of the state board of higher education must conform to campus master plan and space utilization requirements approved by the state board of higher education.
5. An institution that obtains legislative approval under subsection 1 must establish a maintenance reserve fund of three percent of the total construction cost or replacement value, whichever is greater, of the acquired space. The institution's plans for funding the maintenance reserve fund must be included in the request for legislative approval under subsection 1. Maintenance reserve funds must be deposited in an account under the control of the state board of higher education before the acquired space may be occupied, and the funds may be used for maintenance repairs after the total deferred maintenance of the space exceeds thirty percent of its replacement value. The funds may not be used for any other purpose. This subsection does not apply to additional space acquired through the sale of revenue bonds that require by covenant the establishment of maintenance reserve funds.

NOTE: Section 6 of chapter 28, S.L. 2017, pertaining to capital project and capital lease requests was vetoed by the Governor. Chapter 450, S.L. 2017.

In letter opinion 2017-L-04, the Attorney General opined the Governor's veto of subsections 1, 2, and 5 of Section 6 of chapter 28, S.L. 2017 is authorized by law; and the Governor's veto of subsections 3 and 4 of Section 6 of chapter 28, S.L. 2017 is not authorized by the Constitution of North Dakota and is not effective.

A final determination on the validity of the Governor's veto of Section 6 of chapter 28, S.L. 2017 has not been made.