

EDUCATION

CHAPTER 119

HOUSE BILL NO. 1080

(Representative Dockter)

AN ACT to amend and reenact sections 15-05-10 and 47-16-39.1 of the North Dakota Century Code, relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁷ **SECTION 1. AMENDMENT.** Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

15-05-10. Royalties from oil leases - Obligation to pay - Rents from other leases - Breach - Rules.

1. Oil leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty ~~shall be~~ may not be less than twelve and one-half percent of the gross output of oil from the lands leased. Oil leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays must be made by the board in such annual payments as are determined by the board.
2. The obligation arising under an oil and gas lease to pay oil or gas royalties to the board of university and school lands, to deliver oil or gas to a purchaser to the credit of the board, or to pay the market value thereof is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in any case in which it is determined by the court that the equities of the case require cancellation. If the lessee or the lessee's representative or assignee under an oil and gas lease fails to pay oil or gas royalties to the board within the time prescribed by administrative rule and cancellation of the lease is not sought, the lessee or the lessee's representative or assignee thereafter shall pay interest on the unpaid royalties at a rate of three-quarters of one percent per month, not to exceed nine percent per annum. The commissioner may waive all or a portion of the interest under this subsection for good cause.
3. If a lessee or the lessee's representative or assignee fails to respond or refuses to file an amended royalty statement and pay the royalty owed within

⁴⁷ Section 15-05-10 was also amended by section 2 of Senate Bill No. 2065, chapter 277.

ninety days of receiving written notice by mail of an underpayment, as provided by rule 4 of the North Dakota Rules of Civil Procedure, the board may impose a penalty of one-half percent per month, not to exceed six percent per annum. A party is deemed to have failed to respond if the party has not responded within ninety days of receipt of the written notice, or the party in response to the notice affirmatively indicates the intent not to pay the royalty or amounts due. The commissioner may waive all or a portion of the interest under this subsection for good cause.

4. If a lessee or the lessee's representative or assignee disputes a royalty assessment or demand by the board, the lessee or the lessee's representative or assignee may tender full payment of the disputed amount under protest any time after an assessment or demand is made by the board. Upon payment of the disputed amount under protest, all interest and penalties must cease to accrue. If it is determined that the payment of the disputed amount resulted in an overpayment, the party that made the payment is entitled to a refund of the overpayment amount plus interest at the rate established under section 28-20-34.
5. If a lessee or the lessee's representative or assignee fails or refuses to comply with demands by the board to pay royalties, interest, or penalties under this chapter, the board may file an action to cancel the lease, recover unpaid royalties, and recover interest and penalties on the unpaid royalties. Notwithstanding chapter 28-01, an action under this subsection must be commenced within seven years of the date oil or gas was produced under a lease. An action to cancel a lease, recover unpaid royalties, or recover interest or penalties on unpaid royalties may not be filed for production that occurred under a lease before August 1, 2013.
6. The board may adopt rules regarding annual payments and royalties under this section.

SECTION 2. AMENDMENT. Section 47-16-39.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-39.1. Obligation to pay royalties - Breach.

1. The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee, or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's assignee, or to pay the market value thereof is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in cases wherein which it is determined by the court that the equities of the case require cancellation. If the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's assignee within one hundred fifty days after oil or gas produced under the lease is marketed and cancellation of the lease is not sought or if the operator fails to pay oil or gas royalties to an unleased mineral interest owner within one hundred fifty days after oil or gas production is marketed from the unleased mineral interest owner's mineral interest, the operator thereafter shall pay interest on the unpaid royalties, without the requirement that the mineral owner or the mineral owner's assignee request the payment of interest, at the rate of eighteen percent per annum until paid, ~~except that the commissioner of university and school lands may negotiate a rate to be no less than the prime rate as established by the Bank of North Dakota plus four percent per annum with a maximum of eighteen percent per annum, for unpaid royalties on~~

~~minerals owned or managed by the board of university and school lands. Provided, that if the aggregate amount is less than fifty dollars, the operator may remit semiannually to a person entitled to royalties the aggregate of six months' monthly royalties where the aggregate amount is less than fifty dollars. The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings any proceeding brought pursuant to under this section. The prevailing party in any proceeding brought pursuant to under this section is entitled to recover any court costs and reasonable attorney's fees. This section does not apply when if mineral owners or their assignees elect to take their proportionate share of production in kind, in the event of a dispute of title existing that would affect distribution of royalty payments, or when if a mineral owner cannot be located after reasonable inquiry by the operator; however, the operator shall make royalty payments to those mineral owners whose title and ownership interest is not in dispute.~~

2. This section does not apply to obligations to pay oil and gas royalties under an oil and gas lease on minerals owned or managed by the board of university and school lands.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 120

HOUSE BILL NO. 1081

(Representative Zubke)

AN ACT to create and enact sections 15-08-28, 15-08-29, 15-08-30, 15-08-31, and 15-08-32 of the North Dakota Century Code, relating to access to and activities on trust lands; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15-08-28 of the North Dakota Century Code is created and enacted as follows:

15-08-28. Vehicular access.

The use of vehicles on trust lands is prohibited, except:

1. Within thirty-three feet [10.06 meters] of section lines;
2. As allowed by the terms of a lease, permit, or easement issued by the board of university and school lands;
3. When used for travel on a public road easement issued by the board;
4. When used by government personnel in the performance of official duties; or
5. When hunting under a special permit issued by the director of the game and fish department to shoot from a stationary vehicle and with written permission from the lessee and commissioner.

SECTION 2. Section 15-08-29 of the North Dakota Century Code is created and enacted as follows:

15-08-29. Public access.

1. Nonvehicular public access to leased and unleased trust lands is allowed if in the best interests of the trusts, unless:
 - a. Specifically prohibited by the commissioner; or
 - b. A lessee of any lands under the control of the board of university and school lands posts the land with signage issued by the department, which:
 - (1) Requires notification to the lessee before entry by the public; or
 - (2) Closes the trust lands to all public access.
2. A lessee of any lands under the control of the board may not lease, sell, or otherwise be compensated for access to, on, across, or over leased trust lands.

SECTION 3. Section 15-08-30 of the North Dakota Century Code is created and enacted as follows:

15-08-30. Prohibited activities - Penalty.

1. The following activities and items are prohibited on trust lands:
 - a. Target shooting, explosives, and exploding targets;
 - b. Camping, picnicking, or campfires;
 - c. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
 - d. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
 - e. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
 - f. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
 - g. Dog training;
 - h. Metal detecting;
 - i. Guiding and outfitting;
 - j. Collecting plant parts for sale or other commercial purposes;
 - k. Trapping, unless authorized in writing by the commissioner;
 - l. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
 - m. Beehives, unless specifically authorized in a surface land lease; and
 - n. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-31.
2. An individual who violates subdivision n of subsection 1 is guilty of a class B misdemeanor.

SECTION 4. Section 15-08-31 of the North Dakota Century Code is created and enacted as follows:

15-08-31. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:

- a. Is an appropriate use of trust lands;
 - b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved by the current surface land lessee, if the trust lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 5. Section 15-08-32 of the North Dakota Century Code is created and enacted as follows:

15-08-32. Penalty.

An individual who violates any provision of this chapter, for which another penalty is not specifically provided for a substantially similar offense, is guilty of a noncriminal offense for which a fee of one hundred dollars must be assessed.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 121

HOUSE BILL NO. 1220

(Representatives Sanford, Hanson, D. Johnson, Martinson, Monson, Stemen)
(Senators Bekkedahl, Krebsbach)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to exemptions from open meetings requirements for the state board of higher education; and to amend and reenact subsection 1 of section 15-10-17 of the North Dakota Century Code, relating to exemptions from open meetings requirements for the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

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~~the board's control, ~~and to fix their~~fix the salaries for those positions 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 of the positions.~~
- 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.
- d. The board may hold an executive session to consider the appointment or removal of the commissioner of higher education, or a president or other faculty head, professor, instructor, teacher, officer, or other employee of an institution under the board's control unless the individual involved requests the meeting be open to other individuals or the public.

SECTION 2. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Quorums of state board of higher education committees.

1. The state board of higher education may create committees comprised of voting members of the board. The scope of authority for a committee created

⁴⁸ Section 15-10-17 was also amended by section 1 of Senate Bill No. 2167, chapter 122, and section 1 of Senate Bill No. 2168, chapter 123.

under this section must be defined in a policy adopted by the board, and the committee's actions may not exceed that scope.

2. If a committee comprised of voting members of the board constitutes a quorum of the board, a properly noticed meeting of the committee does not constitute a meeting of the board. Actions of the committee do not constitute actions of the board.
3. If a committee comprised of voting members of the board constitutes, in whole or in part, a quorum of another committee of the board, a properly noticed meeting of one committee's meeting does not constitute a meeting of the other committee, unless the meeting of the other committee also is properly noticed. Actions taken at the meeting are limited to the scope of authority of the committee for which the meeting was noticed properly.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 122

SENATE BILL NO. 2167

(Senators Oban, Larson)
(Representatives Dockter, Heinert, Klemin, Martinson)

AN ACT to amend and reenact subsection 2 of section 15-10-17 of the North Dakota Century Code, relating to jurisdiction of law enforcement officers employed by Bismarck state college.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁹ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

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

⁴⁹ Section 15-10-17 was also amended by section 1 of House Bill No. 1220, chapter 121, and section 1 of Senate Bill No. 2168, chapter 123.

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 Bismarck state college has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the area delineated by the intersections of schaffer street and canary avenue, canary avenue and edwards avenue, edwards avenue and schaffer street, edwards avenue and ward road, ward road and college drive, and college drive and schaffer street.
- e. 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-f. 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-g. 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.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 123

SENATE BILL NO. 2168

(Senators Kreun, Larson, J. Roers)
(Representatives Ista, O'Brien)

AN ACT to amend and reenact subsection 2 of section 15-10-17 of the North Dakota Century Code, relating to jurisdiction and authority of law enforcement officers employed by institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁰ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

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

⁵⁰ Section 15-10-17 was also amended by section 1 of House Bill No. 1220, chapter 121, and section 1 of Senate Bill No. 2167, chapter 122.

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~~fresh 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~~fresh pursuit" means the immediate pursuit of a person who is endeavoring to avoid arrest has the same meaning as in section 29-06-07.
- 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.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 124

HOUSE BILL NO. 1125

(Representatives Pyle, Mock, Roers Jones)
(Senators Bekkedahl, Dever)

AN ACT to amend and reenact section 15-10-18.2 of the North Dakota Century Code, relating to definitions used to determine the eligibility of certain dependents of veterans to receive free tuition in institutions of higher education in the state.

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, 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, 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, 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 spouse, widow, or widower, or the child's or stepchild'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, 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, 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 spouse, widow, or widower, or the child's or stepchild's other parent, establishes residency in this state and maintains that residency for a period of five years immediately preceding the spouse's, widow's,

widower's, 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~~five years prior to the request for tuition waiver.
3. "Stepchild's other parent" means the spouse, widow, or widower of a veteran.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 125

HOUSE BILL NO. 1107

(Representatives Pyle, Cory, M. Ruby)
(Senators Bekkedahl, Dwyer)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A "nonresident student" for tuition purposes means any student other than a resident student.
2. A "resident student" for tuition purposes means:
 - a. 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~~;

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- (4) A veteran, as defined in section 37-01-40, ~~provided the~~including a 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~~including a 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, 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; 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.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 126

SENATE BILL NO. 2272

(Senators Schaible, Wanzek)
(Representatives Dockter, Headland, Nathe)

AN ACT to create and enact section 15-10-38.3 of the North Dakota Century Code, relating to administrative fees retained by the state board of higher education; to amend and reenact sections 15-10-38.1 and 15-10-38.2 of the North Dakota Century Code, relating to the skilled workforce student loan repayment program and skilled workforce scholarship program; to amend and reenact section 15-10-38.3 of the North Dakota Century Code, relating to scholarship and loan forgiveness administrative costs; to repeal sections 15-10-38.1 and 15-10-38.2 of the North Dakota Century Code, relating to the skilled workforce student loan repayment program and the skilled workforce scholarship program; to provide a continuing appropriation; to provide for a transfer; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵¹ **SECTION 1. AMENDMENT.** Section 15-10-38.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.1. Skilled workforce student loan repayment program - Skilled workforce student loan repayment program fund - Continuing appropriation - Report.

1. There is created in the state treasury the skilled workforce student loan repayment program fund. The fund consists of moneys transferred into the fund by the legislative assembly, matching funds received, and loan repayments. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for the purpose of distributing student loan repayment grants directly to the Bank of North Dakota or other participating lender to repay outstanding student loan principal balances for eligible applicants.
2. The state board of higher education shall adopt policies and procedures to develop, implement, promote, and administer a skilled workforce student loan repayment program in cooperation with the Bank of North Dakota and the North Dakota workforce development council with the intent of attracting and retaining individuals for professional or technical skills in high demand in this state.
3. The North Dakota workforce development council in cooperation with job service North Dakota shall use available labor market information to determine annually the eligible high-demand professional and technical skills and emerging occupations in this state.

⁵¹ Section 15-10-38.1 was repealed by section 5 of Senate Bill No. 2272, chapter 126.

- ~~4. The state board of higher education and the North Dakota workforce development council shall compile a list of qualifying educational programs annually. Qualifying educational programs must pertain to the professional and technical skills and emerging occupations in high demand in this state, as determined under subsection 3. Qualifying educational programs may include degree or certificate programs.~~
5. Graduates of qualifying educational degree or certificate programs from institutions or entities in this any state may apply for the skilled workforce student loan repayment program. To be eligible to receive student loan repayment grants under the program, the applicant:
 - a. Must have successfully completed a qualifying an educational program from an eligible institution of higher education;
 - b. Must have a student loan with the Bank of North Dakota or other participating lender;
 - c. Following completion of a qualifying an educational program, must reside and work in this state in an eligible high-demand or emerging occupation; and
 - d. Must have met and shall continue to meet any requirements established by rule in applicable state board of higher education procedures.
- ~~6.5.~~ The state board of higher education shall adopt rules procedures to ensure compliance with residency and occupation requirements after completion of the qualifying educational program.
- ~~7.6.~~ The state board of higher education shall distribute student loan repayment grants from the skilled workforce student loan repayment program fund directly to the Bank of North Dakota or other participating lender to repay outstanding student loan principal balances for eligible applicants. The maximum annual student loan repayment grant amount for which an applicant may qualify is five thousand six hundred sixty-seven dollars, or one-third of the applicant's outstanding student loan principal balance upon initial application for the program, whichever is less. The maximum total student loan repayment grant amount for which any applicant may qualify is seventeen thousand dollars.
- ~~8.7.~~ If an individual is receiving loan forgiveness under any other provision state program, the individual may not receive a student loan repayment grant under this section during the same application year. An individual who received a skilled workforce scholarship under section 15-10-38.2 is not eligible for loan forgiveness under this section.
8. An individual may receive a combined total of no more than seventeen thousand dollars under this section and the skilled workforce scholarship program under section 15-10-38.2.
9. The skilled workforce student loan repayment program must be a joint public and private effort. The state board of higher education shall provide one dollar of funding for each one dollar of funding raised from the private sector. Any matching funds received must be deposited in the skilled workforce student loan repayment program fund.

10. The state board of higher education shall provide a biennial program report to the legislative management by September first of each even-numbered year. The report must include information regarding:
 - a. The eligible high-demand professional and technical skills and emerging occupations;
 - b. ~~The qualifying educational programs;~~
 - e. The number of applicants, eligible applicants, and applicants receiving awards;
 - ~~d-c.~~ The amount of private funding raised; and
 - e-d. The average and total amounts awarded under the program.

⁵² **SECTION 2. AMENDMENT.** Section 15-10-38.2 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.2. Skilled workforce scholarship program - Skilled workforce scholarship fund - Continuing appropriation - Report.

1. There is created in the state treasury the skilled workforce scholarship fund. The fund consists of moneys transferred into the fund by the legislative assembly, matching funds received, and scholarship repayments. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for the purpose of providing grants to institutions of higher education related to skilled workforce scholarships. Institutions of higher education include institutions under the control of the state board of higher education, North Dakota nonpublic accredited institutions of higher education, ~~and tribally controlled community colleges, state-approved educator training programs, and North Dakota institutions approved to operate by the North Dakota board of career and technical education.~~
2. The state board of higher education shall adopt policies and procedures to develop, implement, promote, and administer a skilled workforce scholarship program in cooperation with the Bank of North Dakota and the North Dakota workforce development council with the intent of attracting and retaining individuals for professional or technical skills in high demand in this state.
3. The North Dakota workforce development council in cooperation with job service North Dakota shall use available labor market information to determine annually the eligible high-demand professional and technical skills and emerging occupations in this state.
4. The state board of higher education and the workforce development council shall compile a list of qualifying educational programs annually. ~~Qualifying A qualifying educational program must be able to program is a program resulting in attainment of an associate's degree or lower credential upon successful completion or a program that may be completed within four semesters or six quarters and must. A qualifying educational program also must~~ pertain to the professional and technical skills and emerging occupations

⁵² Section 15-10-38.2 was repealed by section 5 of Senate Bill No. 2272, chapter 126.

in high demand in this state, as determined under subsection 3. Qualifying educational programs may include degree or certificate programs.

5. Individuals enrolled in a qualifying educational program in this state may apply for a scholarship under this section. Scholarships are limited to the amount charged each quarter, semester, or term by the educational institution for the tuition, fees, books, and supplies required for the qualifying educational program. The scholarships are intended to supplement any other scholarship or financial aid grant received by a student to assist the student with the costs of the qualifying educational program. An individual may not receive ~~more than a combined total exceeding~~ seventeen thousand dollars in total under this section and the skilled workforce loan repayment program under section 15-10-38.1.
6. To be eligible for a scholarship and payment under this section, a student must be enrolled full time in an eligible program and ~~maintain~~ have at least a 2.5 cumulative grade point average, based on a 4.0 grading system, or maintain academic progress in the program according to program requirements. A student may not receive scholarships under this section for more than the equivalent of four semesters of full-time enrollment or six quarters of full-time enrollment.
7. Upon completion of a qualifying educational program, a student who received a scholarship under this section must reside and work in this state in an eligible high-demand or emerging occupation for a minimum of three years.
8. An individual shall repay the scholarship pursuant to the terms in the individual's scholarship award agreement if the individual fails to maintain either a 2.5 cumulative grade point average or academic progress according to program requirements while enrolled, ~~discontinues attendance~~ withdraws voluntarily or involuntarily before the completion of ~~any semester or quarter~~ the program for which a scholarship has been received, or fails to reside and work in this state in an eligible high-demand or emerging occupation for at least three years following degree or certificate completion.
9. The state board of higher education, in conjunction with the Bank of North Dakota, may allow an individual who received payment under this section to delay or cancel repayment under this section due to financial difficulty, military service, death, or total disability.
10. Each quarter, semester, or term, the state board of higher education shall distribute grants to institutions of higher education to provide the amounts necessary for the scholarships awarded to the students enrolled in each institution.
- 40-11. The skilled workforce scholarship program must be a joint public and private effort. The state board of higher education may distribute grants only to the extent that the private sector has provided one dollar of matching funds for each dollar of funding provided by the state. Any matching funds received must be deposited in the skilled workforce scholarship fund.
- 44-12. The state board of higher education shall provide a biennial program report to the legislative management by September first of each even-numbered year. The report must include information regarding:

- a. The eligible high-demand professional and technical skills and emerging occupations;
- b. The qualifying educational programs;
- c. The number of applicants, eligible applicants, and applicants receiving awards;
- d. The amount of private funding raised; and
- e. The average and total amounts awarded under the program.

⁵³ **SECTION 3.** Section 15-10-38.3 of the North Dakota Century Code is created and enacted as follows:

15-10-38.3. Scholarship and loan forgiveness administrative costs - Continuing appropriation.

The state board of higher education shall retain up to one and one-half percent of any funds appropriated to the board under subsection 1 of section 15-10-38.1 and subsection 1 of section 15-10-38.2. The retained funds must be used for promotion and administration of the programs under those sections.

⁵⁴ **SECTION 4. AMENDMENT.** Section 15-10-38.3 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.3. Scholarship and loan forgiveness administrative costs - Continuing appropriation.

The state board of higher education shall retain up to one-half of one percent of any funds appropriated to the board under subsection 1 of section 15-10-38.1 and subsection 1 of section 15-10-38.2. The retained funds must be used for ~~promotion~~ and administration of the programs under those sections.

⁵⁵ **SECTION 5. REPEAL.** Sections 15-10-38.1 and 15-10-38.2 of the North Dakota Century Code are repealed.

SECTION 6. TRANSFER - BANK OF NORTH DAKOTA - SKILLED WORKFORCE STUDENT LOAN REPAYMENT PROGRAM FUND. The Bank of North Dakota shall transfer the sum of \$2,250,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the skilled workforce student loan repayment fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 7. TRANSFER - BANK OF NORTH DAKOTA - SKILLED WORKFORCE SCHOLARSHIP FUND. The Bank of North Dakota shall transfer the sum of \$2,250,000, or so much of the sum as may be necessary, from the Bank's

⁵³ Section 15-10-38.3 was amended by section 4 of Senate Bill No. 2272, chapter 126.

⁵⁴ Section 15-10-38.3 was created by section 3 of Senate Bill No. 2272, chapter 126.

⁵⁵ Section 15-10-38.1 was amended by section 1 of Senate Bill No. 2272, chapter 126; section 15-10-38.2 was amended by section 2 of Senate Bill No. 2272, chapter 126.

current earnings and undivided profits to the skilled workforce scholarship fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 8. EFFECTIVE DATE. Sections 1, 2, 3, 6, and 7 of this Act become effective on July 1, 2021.

SECTION 9. EFFECTIVE DATE. Section 5 of this Act becomes effective on July 1, 2023.

SECTION 10. EFFECTIVE DATE. Section 4 of this Act becomes effective on August 1, 2023.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 127

HOUSE BILL NO. 1375

(Representatives Pyle, Howe, Mitskog, O'Brien, Roers Jones, Schreiber-Beck, Stemen)

(Senators Bekkedahl, Davison, Luick, Weber)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to a tuition scholarship program for students taking dual-credit courses while in high school; to provide a statement of legislative intent; to provide for a legislative management study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Dual-credit courses - Tuition scholarship program - Administered by the board.

1. The state board of higher education shall administer a dual-credit tuition scholarship program to offer a tuition scholarship to students. The board shall adopt procedures to administer the program.
2. An eligible student may apply to the board to receive a scholarship toward the cost of tuition and fees at the in-state public, private, or tribal institution of higher education at which the student is enrolled. To be eligible to receive a scholarship, an individual must:
 - a. Be enrolled and have completed at least one semester, quarter, or term at a public, private, or tribal institution of higher education in the state;
 - b. Have:
 - (1) Graduated from a high school in the state;
 - (2) Graduated from a high school in a bordering state under chapter 15.1-29;
 - (3) Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - (4) Completed a program of home education under chapter 15.1-23; and
 - c. Have completed at least one dual-credit course provided by an institution under the control of the state board of higher education while enrolled in high school or a program of home education in the state.
3. The state board of higher education shall provide an eligible student with a tuition scholarship equal to fifty percent of the cost of the dual-credit courses provided by an institution under the control of the state board of higher

education, and completed by the student while in high school or a program of home education, in an amount up to seven hundred fifty dollars. A scholarship received by a student during any semester, quarter, or term of enrollment under this section may not exceed the cost of tuition and fees for the semester, quarter, or term. A student is not eligible to receive more than seven hundred fifty dollars under this section.

SECTION 2. APPROPRIATION - BANK OF NORTH DAKOTA PROFITS. There is appropriated out of any moneys from the Bank of North Dakota's current earnings and undivided profits, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of providing tuition scholarships to eligible students participating in the program under this Act, for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. LEGISLATIVE INTENT - DUAL-CREDIT TUITION SCHOLARSHIP PROGRAM. It is the intent of the sixty-seventh legislative assembly that if there are any dollars in the skilled workforce scholarship fund and the skilled workforce student loan repayment fund which have not been committed as of December 31, 2022, the state board of higher education may award up to fifty percent of the uncommitted balance for dual-credit tuition scholarships under section 1 of this Act.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - SCHOLARSHIP PROGRAMS. During the 2021-22 interim, the legislative management shall consider studying all scholarship programs in the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 128

SENATE BILL NO. 2140

(Senators Erbele, Heckaman, Lemm)
(Representatives Fisher, D. Johnson, Schreiber-Beck)

AN ACT to create and enact section 15-10-43.2 of the North Dakota Century Code, relating to professional student exchange program repayment; to repeal section 15-10-43.1 of the North Dakota Century Code, relating to professional student exchange program repayment; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15-10-43.2 of the North Dakota Century Code is created and enacted as follows:

Professional student exchange programs - Repayment waiver.

The state board of higher education shall waive repayment requirements for individuals participating in a professional student exchange program in veterinary medicine, dentistry, or optometry who entered an agreement with the state board of higher education pursuant to repealed section 15-10-43.1 during the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 2. REPEAL. Section 15-10-43.1 of the North Dakota Century Code is repealed.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PROFESSIONAL STUDENT EXCHANGE PROGRAM. During the 2021-22 interim, the legislative management shall consider studying the professional student exchange program. The study must include:

1. The number of program participants enrolled in each discipline;
2. The tuition support provided for students enrolled in each discipline;
3. The rate at which students participating in the program return to the state;
4. The procedures necessary to implement a payback provision and their associated costs;
5. An appropriate grace period to allow program participants to return to the state; and
6. The educational disciplines to which the payback provision should be applied.

The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 129

HOUSE BILL NO. 1346

(Representative Kempenich)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to working papers of higher education internal auditors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Internal auditors' working papers.

For purposes of this section, "higher education internal auditor" means an internal auditor of the North Dakota university system and the institutions under the control of the state board of higher education. Working papers of a higher education internal auditor are not public records and are exempt from section 44-04-18. Working papers include records kept by a higher education internal auditor of the procedures applied, the tests performed, the information obtained, draft audit reports, and the pertinent conclusions reached in the audit engagement. At the discretion of a higher education internal auditor, working papers of a higher education internal auditor may be made available for inspection. A draft audit report released to the governing body or management of the audited entity is confidential until the final audit report is issued or work ceases on the audit. The issued audit report is public information. The working papers of an issued audit report are public except for any information designated as confidential or exempt from disclosure by state or federal law. At the discretion of a higher education internal auditor, all or a portion of the working papers of the higher education internal auditor of an issued audit report may be declared confidential. The declaration of confidentiality must state the reason for the confidentiality and the date, as reasonably may be determined at the time, when the working papers will be made public.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 130

SENATE BILL NO. 2030

(Legislative Management)
(Higher Education Committee)

AN ACT to provide an appropriation to the state board of higher education for the higher education challenge matching grant program; to create and enact paragraph 3 of subdivision b of subsection 1 of section 15-10-48 and paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North Dakota Century Code, relating to institution eligibility for a matching grant for the advancement of academics; to amend and reenact subdivision c of subsection 1 of section 15-10-48 and section 15-18.2-05 of the North Dakota Century Code, relating to matching grants for the advancement of academics and state aid for institutions of higher education; to repeal subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code, relating to the eligibility of the university of North Dakota school of medicine and health sciences to receive a matching grant for the advancement of academics; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$11,150,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of awarding matching grants for student scholarships and the advancement of academics at institutions of higher education, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding provided in this section is considered a one-time funding item.

⁵⁶ **SECTION 2.** Paragraph 3 of subdivision b of subsection 1 of section 15-10-48 of the North Dakota Century Code is created and enacted as follows:

(3) The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.

⁵⁶ Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 31, section 17 of Senate Bill No. 2003, chapter 31, section 3 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

⁵⁷ **SECTION 3. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

- c. The board may award up to one million seven hundred thousand dollars in matching grants to each institution to the university of North Dakota and North Dakota state university; and up to one million five hundred thousand dollars in matching grants for projects at the university of North Dakota school of medicine and health sciences.

SECTION 4. Paragraph 3 of subdivision b of subsection 1 of section 15-10-49 of the North Dakota Century Code is created and enacted as follows:

- (3) The institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs, or promotes the performance of, an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization, that between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. This paragraph does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.

***SECTION 5. AMENDMENT.** Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid - Penalty.

1. Except as provided under ~~subsections~~subsections 2 and 3, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.

⁵⁷ Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 31, section 17 of Senate Bill No. 2003, chapter 31, section 2 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

3. An institution must certify to the state board of higher education that the institution is not sponsoring, partnering with, applying for grants with, or providing a grant subaward to any person or organization that performs or promotes the performance of an abortion unless the abortion is necessary to prevent the death of the woman, and not participating in or sponsoring any program producing, distributing, publishing, disseminating, endorsing, or approving materials of any type or from any organization which, between normal childbirth and abortion, do not give preference, encouragement, and support to normal childbirth. If an institution violates this subsection, the state board of higher education shall reduce the product determined in subsection 1 for that institution by two million eight hundred thousand dollars. This subsection does not apply to agreements entered into with medical hospitals and clinics by the university of North Dakota school of medicine and health sciences or by any nursing education program at an institution under the control of the state board of higher education.
4. Any individual who signs a contract in violation of subsection 3 is guilty of a class B misdemeanor. The state's attorney shall prosecute an offense under this subsection.

⁵⁸ **SECTION 6. REPEAL.** Subdivision d of subsection 1 of section 15-10-48 of the North Dakota Century Code is repealed.

Approved May 7, 2021

Filed May 10, 2021

⁵⁸ Section 15-10-48 was also amended by section 10 of Senate Bill No. 2003, chapter 31, section 17 of Senate Bill No. 2003, chapter 31, section 2 of Senate Bill No. 2030, chapter 130, and section 6 of Senate Bill No. 2030, chapter 130.

* Section 5 of Senate Bill No. 2030 was vetoed, see chapter 507.

CHAPTER 131

HOUSE BILL NO. 1503

(Representatives K. Koppelman, Becker, M. Johnson, Satrom)
 (Senators Dever, Dwyer, Holmberg)
 (Approved by the Delayed Bills Committee)

AN ACT to amend and reenact section 15-10.4-02 of the North Dakota Century Code, relating to free speech policies of institutions under the control of the state board of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10.4-02 of the North Dakota Century Code is amended and reenacted as follows:

15-10.4-02. Adoption of campus free speech policy.

By August 27, 2019, the

The state board of higher education and each institution shall adopt a policy that:

1. Protects students' rights to free speech, assembly, and expression;
2. Permits institutions to establish and enforce reasonable and constitutional time, place, and manner restrictions on free speech, assembly, and expression;
3. ~~Permits students, faculty, or student organizations to invite guest speakers or groups to present regardless of the viewpoint or content of the anticipated speech of the guest speaker or group; and~~
4. ~~Protects the academic freedom and free speech rights of faculty while adhering to guidelines established by the American association of university professors.~~

~~Upon adoption of the policies under this section, the state board of higher education shall provide a copy of the policies to the legislative management by guaranteeing, at a minimum, no faculty member will face adverse employment action for classroom speech, unless the speech is not reasonably germane to the subject matter of the class as broadly construed and comprises a substantial portion of classroom instruction;~~

4. Prohibits student-on-student discriminatory harassment consistent with the following requirements:
 - a. An institution may not enforce the student-on-student discriminatory harassment policy by disciplining or otherwise imposing any sanction on a student for a violation of the policy stemming from expression unless:
 - (1) The speech or expression is unwelcome, targets the victim on a basis protected under federal, state, or local law, and is so severe,

pervasive, and objectively offensive that a student effectively is denied equal access to educational opportunities or benefits provided by the institution; or

- (2) The speech or expression explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances or requests for sexual favors;
 - b. An institution may sanction or discipline student-on-student speech or expression that does not meet the definition of student-on-student harassment only when the speech or expression is not protected under the First Amendment to the United States Constitution or section 4 of article I of the Constitution of North Dakota; and
 - c. An institution may respond to student-on-student speech that is not discriminatory harassment by taking nonpunitive actions designed to promote a welcoming, inclusive environment; and
5. Complies with the following principles of free speech:
- a. An institution shall maintain the generally accessible, open, outdoor areas of the institution's campus as traditional public forums for free speech by students, faculty, and invited guests, subject to reasonable time, place, and manner restrictions on free speech, assembly, and expression which are applicable to the publicly accessible outdoor areas of campus, do not violate the First Amendment to the United States Constitution or section 4 of article I of the Constitution of North Dakota, and are clear, published, reasonable, content-neutral, viewpoint-neutral, and narrowly tailored to satisfy a significant institutional interest, and leave open alternative channels for the communication of information or a message;
 - b. An institution may not restrict students' free speech to particular areas of campus, sometimes known as "free speech zones";
 - c. An institution may not deny student activity fee funding to a student organization based on the viewpoints the student organization advocates;
 - d. An institution may not establish permitting requirements prohibiting spontaneous outdoor assemblies or outdoor distribution of literature, except an institution may maintain a policy granting an individual or organization the right to reserve the exclusive use of certain outdoor spaces, and may prohibit spontaneous assemblies or distribution of literature inside reserved outdoor spaces;
 - e. An institution may not charge students or student organizations security fees based on the content of the student's or student organization's speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to the speech. Any security fees charged to a student or student organization may not exceed the actual costs incurred by the institution, and the institution shall refund any overpayment. Institutions shall set forth empirical and objective criteria for calculating security fees and shall make the criteria available to the public;

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- f. An institution shall allow students, student organizations, and faculty to invite guest speakers to campus to engage in free speech regardless of the views of the guest speakers or viewpoint or content of the anticipated speech:
 - g. An institution may not retract or compel a student, student organization, or faculty member to retract a guest speaker's invitation to speak at the institution based on the guest speaker's viewpoints or the content of the anticipated speech; and
 - h. An institution may not discriminate against a student organization with respect to a benefit available to any other student organization based on a requirement of the organization that leaders or voting members of the organization:
 - (1) Adhere to the organization's viewpoints or sincerely held beliefs; or
 - (2) Be committed to furthering the organization's beliefs or religious missions.

Approved April 16, 2021

Filed April 19, 2021

CHAPTER 132

SENATE BILL NO. 2032

(Legislative Management)
(Higher Education Committee)

AN ACT to amend and reenact section 15-18.2-05 of the North Dakota Century Code, relating to the base funding rate of the higher education funding formula.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁹ **SECTION 1. AMENDMENT.** Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid.

1. Except as provided under ~~subsection 2~~subsections 2 through 4, in order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:
 - a. \$60.87 in the case of North Dakota state university and the university of North Dakota;
 - b. \$90.98 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
 - c. \$97.06 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, North Dakota state college of science, and Williston state college.
2. An institution is entitled to an amount equal to seventy-five percent of the product determined under subsection 1 for credits completed by students receiving a tuition waiver pursuant to section 54-12-35.
3. For institutions under subdivision b of subsection 1, the state board of higher education shall multiply the product determined under section 15-18.2-04 for credits completed in instructional programs under subdivision k of subsection 1 of section 15-18.2-02 by the base amount under subdivision c of subsection 1.
4. For institutions under subdivision c of subsection 1, the state board of higher education shall multiply the product determined under section 15-18.2-04 for upper division credits completed in instructional programs under subdivisions a through j of subsection 1 of section 15-18.2-02 by the base amount under subdivision b of subsection 1.

Approved April 12, 2021

⁵⁹ Section 15-18.2-05 was also amended by section 13 of Senate Bill No. 2003, chapter 31.

Filed April 13, 2021

CHAPTER 133

HOUSE BILL NO. 1174

(Representatives Kempenich, Kreidt)
(Senator Klein)

AN ACT to amend and reenact subsection 4 of section 15-39.1-10 of the North Dakota Century Code, relating to teachers' fund for retirement eligibility benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

- ~~Retirement benefits must begin~~For a member who attains age seventy and one-half before January 1, 2020, the member's required beginning date is 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. For a member who attains age seventy and one-half after December 31, 2019, the member's required beginning date is no later than April first of the calendar year following the year the member attains age seventy-two 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, as amended, and the regulations issued under that section, as applicable to governmental plans.

Approved March 15, 2021

Filed March 15, 2021

CHAPTER 134

SENATE BILL NO. 2033

(Legislative Management)
(Higher Education Committee)

AN ACT to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to the university system capital building fund; to provide for a transfer; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁰ **SECTION 1.** A new chapter to title 15 of the North Dakota Century Code is created and enacted as follows:

University system capital building fund - Creation - Continuing appropriation.

There is created in the state treasury the university system capital building fund. The university system capital building fund consists of moneys transferred to the fund and any interest and earnings of the fund. The state board of higher education may provide for the fund to be invested under the supervision of the state investment board. Moneys in the fund are appropriated to the state board of higher education on a continuing basis for allocations to the institutions under the control of the state board of higher education for capital projects as directed by the legislative assembly and in accordance with this chapter. Any interest or earnings of the fund must be allocated to the capital building fund pool within the university system capital building fund.

Capital building funds - Uses - Reports.

Subject to tier II and tier III capital building fund matching requirements under this chapter, each institution may use its allocation of funds from the university system capital building fund for projects specifically authorized by the legislative assembly to use university system capital building fund moneys. In addition, after an institution has matched and committed seventy-five percent of the funding appropriated for the institution's tier I extraordinary repairs and subject to state board of higher education approval and matching requirements under this chapter, each institution may use its allocation of funds from the university system capital building fund for extraordinary repairs and deferred maintenance projects that do not increase the overall square footage of a building. The state board of higher education shall report biennially to the legislative management and to the appropriations committees of the legislative assembly on the use of funding in the university system capital building fund, the source of matching funds, and each institution's five-year plan for capital construction spending.

⁶⁰ Section 15-54.1-01 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-02 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-03 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-04 was also created by section 14 of Senate Bill No. 2003, chapter 31; section 15-54.1-05 was also created by section 14 of Senate Bill No. 2003, chapter 31.

Tier II capital building funds - Matching requirements.

The state board of higher education may allocate tier II capital building fund moneys to an institution for a project only after the institution provides one dollar of matching funds from operations or other sources for each one dollar from the university system capital building fund for the project. An institution may not use tier I extraordinary repairs funding, tier III capital building fund moneys, or state funding appropriated for a specific capital project as matching funds under this section.

Tier III capital building funds - Matching requirements.

The state board of higher education may allocate tier III capital building fund moneys to an institution only after the institution provides two dollars of matching funds from operations or other sources for each one dollar from the university system capital building fund for the project. An institution may not use tier I extraordinary repairs funding, tier II capital building fund moneys, or state funding appropriated for a specific capital project as matching funds under this section.

Capital building fund pool.

If the state board of higher education has not allocated capital building fund moneys to an institution by January first of the third biennium after the funding was appropriated or transferred to the fund, the board shall reallocate the funds to a pool within the university system capital building fund. Any institution under the control of the state board of higher education that has fully matched and committed its university system capital building fund allocation may apply for and be allocated funding from the capital building fund pool, subject to state board of higher education approval and tier III capital building fund matching requirements under this chapter.

SECTION 2. UNSPENT FUNDS - TRANSFER - BANK OF NORTH DAKOTA PROFITS - GENERAL FUND - UNIVERSITY SYSTEM CAPITAL BUILDING FUND.

Any amounts from the \$17,000,000 from the current earnings and accumulated profits of the Bank of North Dakota for the tier II and tier III capital building fund program and any amounts from the \$2,000,000 from the general fund for the tier III capital building fund program appropriated in section 1 of chapter 3 of the 2019 Session Laws which are not matched and committed for a project by June 30, 2021, must be transferred to the university system capital building fund at the end of the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 3. CAPITAL BUILDING FUNDS - USES. The institutions listed may use funding from the respective institution's university system capital building fund allocation for the following projects authorized by the sixty-sixth legislative assembly:

North Dakota state university - Dunbar Hall	\$51,200,000
North Dakota state university - Agriculture products development center	60,000,000
University of North Dakota - Gamble Hall	<u>70,000,000</u>
Total	<u>\$181,200,000</u>

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 135

SENATE BILL NO. 2317

(Senator Bell)
(Representative Porter)

AN ACT to create and enact chapter 15-72 of the North Dakota Century Code, relating to the establishment of a coal mine reclamation trust utilizing private assets; to provide a continuing appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-72 of the North Dakota Century Code is created and enacted as follows:

15-72-01. Trust establishment.

The coal mine reclamation trust is established to reclaim coal mines at the direction of the public service commission by utilizing private assets pledged as collateral which may be used to fulfill the performance bond obligations under section 38-14.1-16 and North Dakota Administrative Code chapter 69-05.2-12. The coal mine reclamation trust may be used to fulfill the requirement of a qualified third party and the requirements of a collateral bond.

15-72-02. Powers and duties of the board - Transfer.

The board of university and school lands shall set up a coal mine reclamation trust. The coal mine reclamation trust may receive and accept assets as directed by the public service commission which are held in the public service commission's custody under North Dakota Administrative Code section 69-05.2-12-04 as collateral in a security agreement with any person as defined in section 38-14.1-02. The commissioner of university and school lands shall consult with the public service commission in carrying out the powers and duties of administering the coal mine reclamation trust. Any expenses incurred by the board of university and school lands or the public service commission under this section must be reimbursed by the permit applicant or qualified third party.

15-72-03. Assets and custody.

1. Any person proposing to pledge assets to the public service commission's custody under North Dakota Administrative Code chapter 69-05.2-12 shall certify to the public service commission:
 - a. The trust will have first priority security interest in the pledged assets in accordance with North Dakota Administrative Code chapter 69-05.2-12.
 - b. The person has authority to place the assets in custody under all applicable federal and state law.
 - c. All other requirements of North Dakota Administrative Code chapter 69-05.2-12 have been satisfied.

2. Real property posted as a collateral bond by the person must:
 - a. Grant the regulatory authority a first mortgage, first deed of trust, or perfected first-lien security interest in the real property with a right to sell or dispose of the real property in the event of forfeiture; and
 - b. Include a schedule, submitted by the applicant, of the real property mortgaged or pledged to secure the obligations under the indemnity agreement. The schedule of the real property must allow the regulatory authority to evaluate the adequacy of the real property offered to satisfy collateral requirements. The schedule must include:
 - (1) A description of the property;
 - (2) The fair market value of the property, as determined by an independent appraisal conducted by a certified appraiser; and
 - (3) Proof of possession and title to the real property.

15-72-04. Trust management.

The board of university and school lands must be reimbursed from trust proceeds for all reasonable costs and expenses incurred in the management of trust assets and the investment of trust proceeds. Reimbursements to the board must be deposited in the trust fund account from which the expenses were incurred. The net income derived from the assets held in trust must be used for trust purposes. Any assets placed in the trust may be sold, leased, invested, managed, or otherwise disposed of by the board to fulfill the reclamation activities and obligations related to the performance bond. If any of the trust assets include real property, net income from the trust assets must be used in part to pay to the county where the real property is located the same amount that would have been assessed against the real property for real property taxes if the real property was privately owned. The board may maintain separate accounts in the trust if necessary. The board shall manage all assets in the trust in the same manner that the board manages the board's other trust assets or as otherwise may be required to satisfy the purposes of this chapter.

15-72-05. Continuing appropriation for trust management.

There is appropriated annually the amounts necessary to pay expenses for assets held in trust under this chapter and managed by the board of university and school lands, including expenses for survey costs, surface lease refunds, weed and insect control, cleanup costs, capital improvement rent credits, in lieu of tax payments, or other expenses necessary to manage, preserve, and enhance the value of trust assets, as determined by the board. Payments under this section must be made from the trust fund account for which the asset is held. Upon completion of all reclamation activities and obligations, all remaining assets held by the coal mine reclamation trust must be transferred to the common schools trust fund.

Approved April 12, 2021

Filed April 13, 2021