

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2042
(Legislative Council)
(Higher Education Committee)

AN ACT to amend and reenact sections 15-10-17, 15-11-15, 15-11-32, 15-11-35, 15-11-36, and 15-12-22 of the North Dakota Century Code, relating to the powers and duties of the state board of higher education, state mineral tests, the child welfare research bureau, the fetal alcohol syndrome center, and the economic feasibility institute; and to repeal sections 15-10-14, 15-10-15, 15-10-25, 15-11-03, 15-11-19, 15-11-27, 15-11-28, 15-11-34, 15-12-03, 15-12-04, and 15-13-04 and chapter 47-28 of the North Dakota Century Code, relating to university system faculty, accounts and records, budget requests, expenditure abstracts, patents, university presidents, the university law library, the university radio station, hockey admission receipts, and gifts and grants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-17 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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, ~~including~~. 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. To appoint~~ 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 ~~person or persons~~ individual involved ~~request~~ requests that the meeting ~~shall~~ be open to other ~~persons or individuals or~~ 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. ~~To control the grounds, buildings, and all other property of such institutions, regulate the conduct of students, staff, faculty, and visitors, and authorize~~ Authorize the employment of law enforcement officers, ~~with having~~ having concurrent jurisdiction with other law enforcement officers to enforce laws and regulations at its institutions.
3. ~~To adopt rules and regulations for the government of each of the institutions and of all their departments and branches.~~
4. ~~To determine the qualifications of applicants for admission to the various courses of instruction, to prescribe by rule criteria for the admission of students, and to ensure that the criteria for admission are applied to all applicants in a uniform and nondiscriminatory manner, regardless of the school or educational setting from which an applicant obtained a high school diploma or its equivalent. No instruction, either sectarian in religion or partisan~~

~~in politics, shall ever be allowed in any department of such institutions, and no sectarian or partisan test shall ever be allowed or exercised in the election of professors, teachers, or other officers of the institutions, or in the admission of students, or for any other purpose.~~

- ~~5. To prescribe courses of instruction and to confer such degrees and grant such certificates or diplomas for the work done as are usual or appropriate in similar institutions.~~
 - ~~6. To delegate to institution officers and faculty the power to suspend or expel students for misconduct or for other causes prescribed in such bylaws.~~
 - ~~7. To provide for the needs and proper development of each institution in harmony with the best interests of the people of the state, and to improve higher and technical education in the state.~~
 - ~~8. To coordinate and correlate the work in the different institutions to prevent wasteful duplication and to develop cooperation among the institutions.~~
 - ~~9. To fix Set tuition and fees.~~
 - ~~10. To make recommendations in regard to needed legislation for the institutions under its control.~~
44. ~~4.~~ a. ~~To establish~~ Establish a retirement program as an alternative to chapter 15-39.1 for university system employees ~~of institutions under its control~~ subject to the following guidelines:
- ~~a.~~ (1) Benefits under the program must be provided through annuity contracts purchased by the board but which become the property of the participants;
 - ~~b.~~ (2) The cost of the annuity contracts must be defrayed by contributions made pursuant to rules of the state board of higher education;
 - ~~c.~~ (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
 - ~~d.~~ (4) Employees of ~~institutions under the control of the state board of higher education~~ the university system who are members of the public employees retirement system 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 chapter 54-52.

- b. ~~The board shall provide~~ 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.
12. ~~5. To determine~~ Determine policy for purchasing by the ~~institutions of higher education university system~~ in coordination with the office of management and budget as provided by law.
13. ~~6. To establish~~ 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 ~~shall do~~ not apply to the early retirement program.
14. ~~7. To adopt~~ 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.
15. ~~8. To authorize~~ Authorize and encourage ~~institutions of higher education under its control 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.

SECTION 2. AMENDMENT. Section 15-11-15 of the North Dakota Century Code is amended and reenacted as follows:

15-11-15. Tests of state mineral and other resources - Duty of state board of higher education - Bulletins published. The state board of higher education shall provide at the university of North Dakota suitable means for experimentation and practical testing of the mineral and other allied resources of the state in order to demonstrate their fitness for mining and manufacturing industries. ~~The dean of the school of mines shall make, or cause to be made, as rapidly as may be, exhaustive and practical tests of all mineral and allied resources of the state. Investigations and practical tests must be made to obtain a cheap and efficient method of lignite coal briquetting and to show, by actual tests, the best methods of burning lignite, to determine the possibility of utilizing lignite as a gas producing material and for power and lighting, to determine the value of sandstones and other stones for building material, to test clays for tableware, earthenware, stoneware, sewer pipe, and other products, and to make practical tests of other resources as opportunity is afforded. Bulletins may be published from time to time by the school of mines announcing the progress and results of all tests and investigations and giving as much aid as possible relative to the best methods of mining, handling, treating, and manufacturing the various mineral products of the state. A biennial report must be issued.~~

SECTION 3. AMENDMENT. Section 15-11-32 of the North Dakota Century Code is amended and reenacted as follows:

15-11-32. Child welfare research bureau - Establishment - Director.

1. A child welfare research bureau is hereby established ~~to~~. The bureau must be administered and funded by and in conjunction with the university of North Dakota.
2. ~~A The university shall appoint a director must be appointed by the university. The director shall manage the bureau, hire necessary personnel, and prepare a biennial budget. The university shall fix the salaries of the director and bureau personnel, and may remove the director for cause.~~

SECTION 4. AMENDMENT. Section 15-11-35 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-11-35. Fetal alcohol syndrome center established.

1. There is established ~~in the department of neuroscience~~ at the university of North Dakota school of medicine a fetal alcohol syndrome center.
2. The state board of higher education shall appoint a ~~person from the department of neuroscience as~~ director of the fetal alcohol syndrome program ~~and that person~~. The director shall prepare an annual report on the status of fetal alcohol syndrome in North Dakota.
3. The fetal alcohol syndrome center shall develop prevention activities in groups that are at high risk for fetal alcohol syndrome. The center may enlist the aid of other agencies, persons, or organizations in its activities.
4. The responsibilities of the fetal alcohol syndrome program include:
 1. ~~a. To develop~~ Developing incidence and prevalence data on fetal alcohol syndrome in this state.
 2. ~~b. To conduct~~ Conducting research on prevention and management of fetal alcohol syndrome and maternal alcohol ingestion during pregnancy.
 3. ~~c. To develop~~ Developing a center for the evaluation of children with fetal alcohol syndrome from this state in cooperation with the child evaluation and treatment program at the ~~medical center rehabilitation hospital at the~~ university of North Dakota medical center and ~~to operate~~ operating followup clinics as funding allows.
 4. ~~d. To provide~~ Providing consultation and training across the state on fetal alcohol syndrome.
 5. ~~e. To conduct~~ Conducting other activities as may be directed by a state fetal alcohol syndrome task force.
5. The fetal alcohol syndrome center shall coordinate a study of the prevalence of fetal alcohol syndrome in school-age children in this state. The study must review the prevalence of fetal alcohol syndrome in both rural and urban North Dakota communities, including North Dakota Indian reservations.

SECTION 5. AMENDMENT. Section 15-11-36 of the North Dakota Century Code is amended and reenacted as follows:

15-11-36. Evaluation of children with fetal alcohol syndrome. The child evaluation and treatment program at the university of North Dakota medical center ~~rehabilitation hospital~~ shall develop

a clinic to provide both initial diagnostic assessment and reevaluation of children with fetal alcohol syndrome. The diagnostic assessment must include a comprehensive multidisciplinary assessment of psychological, speech and language, educational, occupational therapy, physical therapy, optometric, and audiological evaluations. Reevaluations must be individualized according to a child's needs. The center shall provide consultative services to schools, community agencies, and parents to assist in serving children diagnosed with fetal alcohol syndrome.

SECTION 6. AMENDMENT. Section 15-12-22 of the North Dakota Century Code is amended and reenacted as follows:

15-12-22. Economic feasibility institute - Establishment - Director.

1. ~~An~~ There is established an economic feasibility institute ~~is established~~ to be administered in conjunction with North Dakota state university of agriculture and applied science.
2. The university shall appoint a director of the economic feasibility institute. ~~However, the university shall appoint as the institute's first director the functioning professor in charge of the existing economic feasibility unit within the agricultural economics department of North Dakota state university of agriculture and applied science. The director shall manage the institute, hire and compensate necessary personnel within the limits of legislative appropriations and other funding sources, and prepare a biennial budget. The university shall fix the salary of the director, within the limits of legislative appropriations, and may remove the director for cause.~~

SECTION 7. REPEAL. Sections 15-10-14, 15-10-15, 15-10-25, 15-11-03, 15-11-19, 15-11-27, 15-11-28, 15-11-34, 15-12-03, 15-12-04, and 15-13-04 and chapter 47-28 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2042.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 95 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State