

EDUCATION

CHAPTER 151

HOUSE BILL NO. 1171

(Representatives Kerzman, Froelich, N. Johnson)
(Senators Krauter, Lyson)

TRUST LAND SERVICE FEES

AN ACT to amend and reenact section 15-04-23 of the North Dakota Century Code, relating to service fee payments to counties by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-04-23 of the North Dakota Century Code is amended and reenacted as follows:

15-04-23. County services benefiting school trust lands - Payment - Continuing appropriation. On or before March first of each year, the board of university and school lands shall pay a fee to the board of county commissioners of each county in which the state retains original grant lands if that county has requested payment under this section and included certification of the number of mills levied for county road and bridge purposes. The board of county commissioners shall forward a prorated portion of any fee received under this section to the organized townships in which the original grant lands are located for use in the repair, maintenance, and construction of roads and bridges and shall use the remainder of the fee for the repair, maintenance, and construction of roads and bridges in unorganized townships in which original grant lands are located. The total fees paid under this section ~~may not exceed five percent of the net revenue generated from the original grant lands in that county during the year preceding the payment.~~ For purposes of this section, net revenue means the gross revenue from surface management, less any administrative and operating expenses, but does not include any moneys that must be deposited in a permanent trust fund may not be in an amount greater than the amount of property taxes that would have been payable if the original grant lands in the county had been subject to property tax levies. There is appropriated annually the amounts necessary to pay all fees under this section. Each payment must be made from the trust fund for which the land is held.

Approved April 5, 2007

Filed April 5, 2007

CHAPTER 152

HOUSE BILL NO. 1030

(Legislative Council)
(Higher Education Committee)

HIGHER EDUCATION FUNDS APPROPRIATION

AN ACT to amend and reenact section 15-10-12 of the North Dakota Century Code, relating to the appropriation of higher education institutions' special revenue funds; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-10-12. (Effective through June 30, 2007 2009) Board may accept gifts and bequests - Deposit and appropriation of institutional funds. Subject to the limitations of section 15-10-12.1, the state board of higher education may receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests must be used for the specific purpose for which they are donated or given. A special revenue fund, for each institution of higher education under the control of the board or subject to its administration, must be maintained within the state treasury. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the Constitution of North Dakota must be deposited in the special revenue fund of each institution and expended in accordance with section 1 of article IX of the Constitution of North Dakota. All other funds, unless restricted by the terms of a grant, donation, or bequest, received by the institutions from federal, state, and local grants and contracts, indirect cost recoveries, tuition, special student fees, room and board fees and other auxiliary enterprise fees, student activity fees, continuing education program fees, internal service fund revenues, and all other revenues must be deposited in the institution special revenue funds. The state treasurer shall immediately transfer the funds deposited in the special revenue funds to institution accounts in the Bank of North Dakota. Biennial estimates of revenue and expenditures of the other funds by source of funds must be presented at the same time biennial budget requests for appropriations from the special revenue fund and state general fund are prepared and submitted to the office of the budget. Payments from each institution's general fund appropriation must be made in amounts as may be necessary for the operation and maintenance of each institution. The funds in the institution accounts are appropriated on a continuing basis to the state board of higher education. All such appropriations are subject to proration in the same manner as other appropriations are prorated if insufficient funds are available to meet expenditures from the general fund. Sinking funds for the payment of interest and principal of institutional revenue bonds must be deposited pursuant to section 15-55-06.

(Effective after June 30, 2007 2009) Board may accept gifts and bequests - Deposit of funds. The state board of higher education may, subject to the limitations of section 15-10-12.1, receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its

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

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

Approved March 7, 2007
Filed March 8, 2007

CHAPTER 153

SENATE BILL NO. 2344

(Senators G. Lee, Klein)
(Representatives Belter, Carlson, DeKrey)

EDUCATION FOOD AND CATERING SERVICES

AN ACT to amend and reenact sections 15-10-17.4 and 15.1-35-08 of the North Dakota Century Code, relating to the provision of food and catering services by institutions of higher education and school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-17.4 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 2. AMENDMENT. Section 15.1-35-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-35-08. Contract - Preparation and provision of meals.

1. The board of a school district may prepare and provide meals, snacks, or other food services for any events or programs occurring on or off school property, provided the events or programs:
 - a. Are hosted by or under the auspices of the school district; or
 - b. Involve child care centers participating in the Child and Adult Care Food Program [Pub. L. 108-265; 118 Stat. 729; 42 U.S.C. 1766 et seq.].
2. a. ~~The board of a school district may enter into a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the school district other than those in subsection 1, provided any person that wishes to enter a contract with the board under this section~~ subdivision first demonstrates to the satisfaction of the board that there are no private entities able and willing to enter into such a contract.
2. b. ~~The board of a school district may not advertise to the general public its willingness to provide meals, snacks, or other food services for persons or programs not affiliated with the district under this section.~~
3. ~~An institution under the control of the state board of higher education may not advertise to the general public its willingness to provide meals, snacks, or other food services for persons or programs not affiliated with the institution.~~

Approved May 4, 2007

Filed May 4, 2007

CHAPTER 154

HOUSE BILL NO. 1461

(Representatives Skarphol, Monson)
(Senators Grindberg, Robinson, Wardner)

HIGHER EDUCATION INFORMATION TECHNOLOGY SERVICES

AN ACT to create and enact two new sections to chapter 15-10 and a new subsection to section 54-35-15.2 of the North Dakota Century Code, relating to higher education information technology, telecommunications and information services competition, and powers and duties of the information technology committee; and to amend and reenact sections 54-59-05, 54-59-09, and 54-59-11 of the North Dakota Century Code, relating to the information technology department, information technology standards, and information technology plans.

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:

Higher education information technology - Board duties - Reports.

1. The state board of higher education shall manage and regulate information technology planning and services for institutions under its control, including:
 - a. Development of information technology policies, standards, and guidelines in coordination with the information technology department.
 - b. Implementation of a process for project management oversight and reporting.
 - c. Integration of higher education information technology planning and reporting with the board's strategic planning process and annual performance and accountability report required by section 15-10-14.2.
 - d. Participation in internet2 or other advanced higher education or research-related networking projects as provided in section 54-59-08.
 - e. Development of an annual report concerning higher education information technology planning and services.
2. The state board of higher education shall collaborate with the information technology department to coordinate higher education information technology planning with statewide information technology planning.

3. The state board of higher education shall provide advice to the information technology department regarding the development of policies, standards, and guidelines relating to access to or use of wide area network services as provided by section 54-59-09.
4. The state board of higher education shall present information regarding higher education information technology planning, services, and major projects to the information technology committee on request of the committee.

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

Telecommunications and information services competition prohibited - Report.

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

⁸³ **SECTION 3.** A new subsection to section 54-35-15.2 of the North Dakota Century Code is created and enacted as follows:

Receive information from the state board of higher education regarding higher education information technology planning, services, and major projects.

⁸³ Section 54-35-15.2 was also amended by section 10 of House Bill No. 1021, chapter 21, section 2 of Senate Bill No. 2037, chapter 491, and section 1 of Senate Bill No. 2038, chapter 490.

⁸⁴ **SECTION 4. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

54-59-05. Powers and duties of department. The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council or the legislative assembly before executing a financing agreement. If the budget section or the legislative assembly does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.

⁸⁴ Section 54-59-05 was also amended by section 3 of Senate Bill No. 2037, chapter 491.

6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request information on or review information technology, applications, system development projects, and application development projects of executive branch agencies.
8. Shall study emerging technology and evaluate its impact on the state's system of information technology.
9. Shall develop guidelines for reports to be provided by each agency of the executive branch agency, institution, or department, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
10. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
11. Shall review the information technology management of executive branch agencies or institutions.
- 44- 12. Shall perform all other duties necessary to carry out this chapter.
- 42- 13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.
- 43- 14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
- 44- 15. Notwithstanding subsection 42 13, ~~the department~~ may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

⁸⁵ **SECTION 5. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

54-59-09. Information technology standards. Based on information from state agencies and institutions, the department and the office of management and budget shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be reviewed by the state information technology advisory committee. Unless an exemption is granted by the chief information officer, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education ~~with respect to academic and research uses of information technology~~, shall comply with the policies and standards developed by the department and the office of management and budget. Unless an exemption is granted by the chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

⁸⁶ **SECTION 6. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

54-59-11. Information technology plans. Each executive branch state agency or institution, ~~including~~ excluding the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to approval by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include information regarding the information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. Each state entity shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the

⁸⁵ Section 54-59-09 was also amended by section 4 of Senate Bill No. 2038, chapter 490.

⁸⁶ Section 54-59-11 was also amended by section 4 of Senate Bill No. 2037, chapter 491.

legislative council or its designee. The statewide information technology plan must be developed with emphasis on long-term strategic goals and objectives.

Approved April 11, 2007

Filed April 13, 2007

CHAPTER 155

SENATE BILL NO. 2379

(Senators J. Lee, Krauter, Warner)
(Representatives Delmore, Price, Svedjan)

NURSING EDUCATION CONSORTIUM

AN ACT to provide for a nursing education consortium to establish a mobile clinical nursing simulation laboratory; to provide statements of legislative intent; to provide for a report to the legislative council; to provide an appropriation; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Nursing education consortium - Continuing appropriation.

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

goals and benchmarks for the implementation of the simulation laboratory program.

5. The consortium may contract with a third party in conducting the duties of the consortium and may seek, receive, and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the consortium. Any money received by the consortium as gifts, grants, or donations is appropriated as a continuing appropriation for the purpose of funding the simulation laboratory program and the activities of the consortium.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the university of North Dakota for the purpose of funding the costs of a simulation laboratory program under section 1 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 3. STATE BOARD OF HIGHER EDUCATION - LEGISLATIVE INTENT. It is the intent of the legislative assembly that the state board of higher education establish and implement a policy and procedure for institutions of higher education under the control of the board to participate in systemwide initiatives.

SECTION 4. COMPETITIVE GRANT ELIGIBILITY - LEGISLATIVE INTENT. It is the intent of the legislative assembly that the nursing education consortium apply for public and private grants to assist in financing section 1 of this Act and that state agencies interpret grant application guidelines broadly to allow the nursing education consortium to be eligible to apply for grants.

Approved May 4, 2007
Filed May 4, 2007

CHAPTER 156

SENATE BILL NO. 2127

(Education Committee)

(At the request of the Division of Independent Study)

CENTER FOR DISTANCE EDUCATION

AN ACT to amend and reenact sections 15-19-01, 15-19-02, 15-19-03, 15-19-04, 15-19-06, and 15-19-08, subsection 11 of section 15-39.1-04, section 15.1-21-02.1, subsections 1 and 2 of section 15.1-23-17, and subsection 8 of section 54-59-18 of the North Dakota Century Code, relating to renaming the division of independent study the center for distance education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-19-01 of the North Dakota Century Code is amended and reenacted as follows:

15-19-01. ~~Correspondence~~ Distance education courses - Establishment - Enrollment of students - Courses of instruction. The state shall provide ~~correspondence~~ distance education courses through the ~~division of independent study~~ center for distance education under the following provisions:

1. A complete curriculum by ~~correspondence~~ distance education which has been specifically determined by the superintendent of public instruction as proper and suitable for instruction under ~~correspondence~~ distance education methods, such determination and approval to be made not less than once in each school year, must be maintained upon the campus of one of the state institutions of higher education.
2. Unless specifically excused in writing upon the course application forms by the superintendent or an administrator of the school approving the enrollment application, or as provided in subsection 5, all students under the age of sixteen taking advantage of the provisions of this chapter must be required to attend their local district schools and to study their ~~correspondence~~ distance education lessons under the supervision of a local supervisor. If not required to attend their local schools, their work may be done at a place designated by the state director. If in attendance at a local school, students must be supplied with desk space in their respective school without charge and shall attend school regularly and be under the same disciplinary supervision of the teachers as the other school students.
3. The ~~division of independent study~~ center for distance education may provide services to persons who are not North Dakota residents.
4. ~~Correspondence~~ Distance education students shall pay for books and materials used by them, postage required to mail reports to the ~~division~~ center, and other fees as may be prescribed by the state director.
5. Students exempt from the compulsory school attendance laws pursuant to subdivision e of subsection 1 of section 15.1-20-02 may enroll in ~~correspondence~~ distance education courses offered through the

~~division of independent study center for distance education.~~ These students may study their ~~correspondence distance education~~ lessons in their learning environment under the supervision of a parent. The tests for the ~~correspondence distance education~~ study must be administered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board and employed either by the public school district in which the parent resides or a state-approved private or nonpublic school.

SECTION 2. AMENDMENT. Section 15-19-02 of the North Dakota Century Code is amended and reenacted as follows:

15-19-02. Administration - Director of ~~division of independent study center for distance education~~ - Appointment and duties. The program of and all activities related to the ~~division of independent study center for distance education~~ are the responsibility of and under the supervision of the educational technology council. The educational technology council shall hire a state director of the ~~division of independent study center for distance education~~ who must be classified under the state personnel merit system. The director shall carry out the director's responsibilities in the administration of the ~~division of independent study center for distance education~~ in the manner approved by the educational technology council.

SECTION 3. AMENDMENT. Section 15-19-03 of the North Dakota Century Code is amended and reenacted as follows:

15-19-03. Duties of superintendents of schools - Authorization of enrollments. All applications for enrollment of persons under the age of sixteen years must be approved by the superintendent or an administrator of a school in the district prior to acceptance of enrollment by the ~~division of independent study center for distance education~~. All applications for enrollment of persons under the age of sixteen not residing in a high school district must be approved by the county superintendent of schools prior to the acceptance of such enrollment.

SECTION 4. AMENDMENT. Section 15-19-04 of the North Dakota Century Code is amended and reenacted as follows:

15-19-04. Duty of superintendent - Advertising. The superintendent or an employee of the department of public instruction designated by the superintendent shall ensure that the courses offered by the ~~division of independent study center for distance education~~ meet state content standards and shall monitor compliance with sections 15.1-18-02 and 15.1-18-03. The ~~division of independent study center for distance education~~ may advertise its ~~correspondence distance education~~ program.

SECTION 5. AMENDMENT. Section 15-19-06 of the North Dakota Century Code is amended and reenacted as follows:

15-19-06. Special funds - Deposit of collections - Transfers from general fund appropriations.

1. A special operating fund for the ~~division of independent study center for distance education~~ must be maintained within the state treasury and all income and fees collected by the ~~division of independent study center for distance education~~ from any source must be remitted monthly by the director to the state treasurer and credited to the special operating fund. All expenditures from the fund must be within the limits of legislative

appropriations and must be made upon vouchers, signed and approved by the technology director appointed by the educational technology council. Upon approval of the vouchers by the office of the budget, warrant-checks must be prepared by the office of management and budget. The state treasurer shall make periodic transfers upon order of the director of the office of management and budget from the division of independent study center for distance education general fund appropriation to the special operating fund whenever its balance falls so low as to require supplementation.

2. The educational technology council may establish an administrative operational fund, of not to exceed ten thousand dollars, out of the special operating fund for the division of independent study center for distance education. The administrative operational fund must be deposited in the Bank of North Dakota and may be drawn upon by the state director of the division of independent study center for distance education for the payment of necessary expenses in the administration and operation of the division of independent study center for distance education within the limits and rules prescribed by the educational technology council. The director shall submit a full, minute, and itemized statement of every expenditure made during the month to the council in accordance with the rules adopted by the council, and thereafter the council may periodically authorize additional transfers to the administrative operational fund, but the balance in the fund may never exceed ten thousand dollars, and any unencumbered balance at the end of any biennium must revert to the state treasury. The administrative operational fund may not be used to pay salaries or expenses of the director.
3. The educational technology council may establish a scholarship fund to provide financial grants to students enrolled in courses offered through the division of independent study center for distance education. The scholarship fund may consist only of those funds specifically appropriated by the legislative assembly and property received by the council or the division of independent study center for distance education as a gift, devise, or bequest. Any gift, devise, or bequest of property received by the council or division of independent study center for distance education which is designated by the council and donor for the scholarship fund must be deposited in the scholarship fund at the Bank of North Dakota. The state director of the division of independent study center for distance education may draw only on the interest earned by the scholarship fund for the award of scholarships within the limits and rules adopted by the educational technology council. The interest earned by the scholarship fund is appropriated to the division of independent study center for distance education.

SECTION 6. AMENDMENT. Section 15-19-08 of the North Dakota Century Code is amended and reenacted as follows:

15-19-08. Correspondence Distance education work. The amount of money appropriated by the legislative assembly for correspondence distance education work for a biennium, or so much thereof as may be necessary, must be expended first for work by correspondence distance education.

⁸⁷ **SECTION 7. AMENDMENT.** Subsection 11 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11. "Teacher" means:

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

⁸⁸ **SECTION 8. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. High school coursework requirements. Before a school district, a nonpublic high school, or the ~~North Dakota division of independent study center for distance education~~ issues a high school diploma to a student, the student must have successfully completed at least twenty-one units of high school coursework from the minimum required curriculum offerings established by section 15.1-21-02.

⁸⁷ Section 15-39.1-04 was also amended by section 1 of Senate Bill No. 2046, chapter 157, and section 2 of Senate Bill No. 2046, chapter 157.

⁸⁸ Section 15.1-21-02.1 was also amended by section 1 of Senate Bill No. 2309, chapter 177.

SECTION 9. AMENDMENT. Subsections 1 and 2 of section 15.1-23-17 of the North Dakota Century Code are amended and reenacted as follows:

1. A child's school district of residence, an approved nonpublic high school, or the ~~North Dakota division of independent study center for~~ distance education may issue a high school diploma to a child who, through home education, has met the issuing entity's requirements for high school graduation provided the child's parent submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve.
2. In the alternative, a high school diploma may be issued by the child's school district of residence, an approved nonpublic high school, or the ~~North Dakota division of independent study center for~~ distance education provided the child, through home education, has completed at least twenty-one units of high school coursework from the minimum required curriculum offerings established by law for public and nonpublic schools and the child's parent or legal guardian submits to the issuing entity a description of the course material covered in each high school subject, a description of the course objectives and how the objectives were met, and a transcript of the child's performance in grades nine through twelve. The issuing entity may indicate on a diploma issued under this subsection that the child was provided with home education.

SECTION 10. AMENDMENT. Subsection 8 of section 54-59-18 of the North Dakota Century Code is amended and reenacted as follows:

8. Hire the director of the ~~division of independent study center for~~ distance education.

Approved March 2, 2007
Filed March 2, 2007

CHAPTER 157

SENATE BILL NO. 2046

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

TFFR CONTRIBUTIONS AND BENEFITS

AN ACT to create and enact two new subsections to section 15-39.1-04 of the North Dakota Century Code, relating to definitions under the teachers' fund for retirement; to amend and reenact subsection 9 of section 15-39.1-04, subsection 1 of section 15-39.1-09, section 15-39.1-10, subdivision c of subsection 1 of section 15-39.1-10.3, sections 15-39.1-10.6, 15-39.1-11, 15-39.1-12, and 15-39.1-15, subsection 1 of section 15-39.1-19.1, sections 15-39.1-19.2 and 15-39.1-20, and subsection 2 of section 15-39.1-33 of the North Dakota Century Code, relating to the incorporation of federal law changes, employer contributions and service credit purchases, eligibility for and determination of benefits, vesting, early retirement, returning to teaching, and accepting a refund from the fund under the teachers' fund for retirement; to provide for application; to provide an appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁹ **SECTION 1. AMENDMENT.** Subsection 9 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a school year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457 in effect on ~~August July 1, 2005~~ July 1, 2007. "Salary" includes bonus amounts paid to members for performance, retention, experience, and other service-related bonuses, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B) in effect on ~~August July 1, 2005~~ July 1, 2007, as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) in effect on ~~August July 1, 2005~~ July 1, 2007. A salary maximum is not applicable to members whose participation began before July 1, 1996. "Salary" does not include:

- a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation allowances, housing

⁸⁹ Section 15-39.1-04 was also amended by section 2 of Senate Bill No. 2046, chapter 157, and section 7 of Senate Bill No. 2127, chapter 156.

- allowances, meals, lodging, or expense allowances, or other benefits provided by a member's employer.
- b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.
 - c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.
 - d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.
 - e. Teacher's aide pay, referee pay, busdriver pay, or janitorial pay.
 - f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.
 - g. Recruitment bonuses.
 - h. Other benefits or payments not defined in subdivisions a through g which the board determines to be ineligible teachers' fund for retirement salary.

⁹⁰ **SECTION 2.** Two new subsections to section 15-39.1-04 of the North Dakota Century Code are created and enacted as follows:

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

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

⁹¹ **SECTION 3. AMENDMENT.** Subsection 1 of section 15-39.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided ~~in subsection 2 of section 15-39.1-10.3 and subsection 3 by law~~, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. ~~Every~~ Except as otherwise provided by law, every governmental body employing a teacher shall pay to the fund ~~seven eight and seventy-five~~ twenty-five hundredths percent per annum of the salary of each teacher employed by it. The disbursing official of the governmental body shall certify the

⁹⁰ Section 15-39.1-04 was also amended by section 1 of Senate Bill No. 2046, chapter 157, and section 7 of Senate Bill No. 2127, chapter 156.

⁹¹ Section 15-39.1-09 was also amended by section 1 of House Bill No. 1078, chapter 483.

governmental body payments and remit the payments monthly to the fund.

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

15-39.1-10. Eligibility for normal retirement benefits.

1. The following members are eligible to receive monthly lifetime normal retirement benefits under this section:
 - a. All tier one members who have earned three years of teaching service credit and who have attained the age of sixty-five years.
 - b. All tier one members who have earned three years of teaching service credit and who have a combined total of years of service credit and years of age which equals or exceeds eighty-five.
 - c. All tier two members who have earned five years of teaching service credit and who have attained the age of sixty-five years.
 - d. All tier two members who have earned five years of teaching service credit and who have a combined total of years of service credit and years of age which equals or exceeds ninety.
2. The amount of retirement benefits is two percent of the final average monthly salary of the member multiplied by the number of years of credited service. For the purposes of this subsection, final average monthly salary for a tier one member means one thirty-sixth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any three years of service credit under the fund. For purposes of this subsection, final average monthly salary for a tier two member means one sixtieth of the total of the member's highest annual salaries earned between July first of a calendar year and June thirtieth of the subsequent calendar year for any five years of service credit under the fund.
3. Notwithstanding any other provision of this section, no member who retired on July 1, 1993, or after and is eligible to receive benefits under former chapter 15-39, chapter 15-39.1, or section 15-39.2-02, may receive benefits which are less than:
 - a. Ten dollars per month per year of teaching to twenty-five years.
 - b. Fifteen dollars per month per year of teaching over twenty-five years.
4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code in effect on August

July 1, ~~2005~~ 2007, and the regulations issued under that section, as applicable to governmental plans.

SECTION 5. AMENDMENT. Subdivision c of subsection 1 of section 15-39.1-10.3 of the North Dakota Century Code is amended and reenacted as follows:

- c. Pursuant to rules adopted by the board, a teacher who has service credit in the fund and in any number of the alternate plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter.
- (1) A ~~teacher tier one member~~ may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
- (~~1~~) (a) Using the three highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
- (~~2~~) (b) Using the three highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.
- (2) A tier two member may elect to have benefits calculated using the benefit formula in subsection 2 of section 15-39.1-10 under either of the following calculation methods:
- (a) Using the five highest certified fiscal year salaries of this plan in the computation of final average salary and all service credit earned in this plan; or
- (b) Using the five highest certified fiscal year salaries of this plan combined with the alternate plan in the computation of final average salary and service credit not to exceed one year in any fiscal year when combined with the service credit earned in the alternate retirement plan.

SECTION 6. AMENDMENT. Section 15-39.1-10.6 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10.6. Benefit limitations. Benefits with respect to a member participating under former chapter 15-39 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] in effect on ~~August~~ July 1, ~~2005~~ 2007, for governmental plans. ~~This section does not constitute an election under section 415(b)(10)(C) of the Internal Revenue Code [26 U.S.C. 415(b)(10)(C)] in effect on August 1, 2005.~~

SECTION 7. AMENDMENT. Section 15-39.1-11 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-11. Vesting of rights. When ~~any~~ a tier one member has paid assessments and earned three years of service credit in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12. When a tier two member has paid assessments and earned five years of service credit in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12.

SECTION 8. AMENDMENT. Section 15-39.1-12 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-12. Early retirement. ~~Any teacher~~ A tier one member who has acquired a vested right to a retirement annuity as set forth in section 15-39.1-11 and who has attained age fifty-five may retire prior to the normal retirement age as set forth ~~herein~~ in section 15-39.1-10 but the benefits to which the member is then entitled must be reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement from the earlier of age sixty-five or the age at which current service plus age equals eighty-five. A tier two member who has acquired a vested right to a retirement annuity as set forth in section 15-39.1-11 and who has attained age fifty-five may retire prior to the normal retirement age as set forth in section 15-39.1-10 but the benefits to which the member is then entitled must be reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement from the earlier of age sixty-five or the age at which current service plus age equals ninety.

SECTION 9. AMENDMENT. Section 15-39.1-15 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-15. Withdrawal from fund - Return to teaching. ~~Any~~ A teacher who has withdrawn from the fund as set forth in this chapter may, by returning to teach in a public school or state institution of this state, regain service credit for prior teaching by making the required payment. The required payment, if made within five years of returning to teach in covered employment, is the amount that was withdrawn with interest. In all other cases, the purchase cost must be on an actuarial equivalent basis. If the teacher returns to teach in covered employment after June 30, 2008, the teacher becomes a tier two member regardless of whether the teacher repurchases service credit earned while the teacher was a tier one member.

SECTION 10. AMENDMENT. Subsection 1 of section 15-39.1-19.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in section 15-39.1-19.2, a retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until thirty calendar days have elapsed from the member's retirement date. A retired member may then return to covered employment under an annual hour limit and continue receiving a monthly retirement benefit. The annual hour limit is based on the length of the reemployed retiree's contract as follows:
 - a. Retiree reemployment of nine months or less, annual limit is seven hundred hours;
 - b. Retiree reemployment of ten months, annual limit is eight hundred hours;

- c. Retiree reemployment of eleven months, annual limit is nine hundred hours; or
- d. Retiree reemployment of twelve months, annual limit is one thousand hours.

Employment as a substitute teacher does not apply to the annual hour limit. Professional development and extracurricular duties do not apply to the annual hour limit.

The retired member and the retired member's employer must notify the fund office in writing within thirty days of the retired member's return to covered employment. Should the retired member's employment exceed the annual hour limit, the retired member must immediately notify the fund office in writing. Failure to notify the fund office results in the loss of one month's annuity benefit. The retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the annual hour limit.

A retired member who returns to teaching shall pay the ~~required member contributions required by section 15-39.1-09~~ on those earnings received by the retired member after reaching the annual hour limit. ~~The employer shall pay the required contributions in a like manner.~~

A participating employer who employs a retired member under this section shall pay the employer contributions required by section 15-39.1-09 on the salary of the retired member both before and after the retired member reaches the annual hour limit.

SECTION 11. AMENDMENT. Section 15-39.1-19.2 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-19.2. Retired teachers return to active service - Critical shortage areas and disciplines - Rules.

1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may elect to return to teaching without losing any benefits under the provisions of this section or elect to return to teaching under the provisions of section 15-39.1-19.1. To return to teaching under this section, a retired teacher must:
 - a. Return to teach in a critical shortage geographical area or subject discipline as determined by the education standards and practices board by rule; and
 - b. If retired after January 1, 2001, have been receiving a retirement annuity for at least one year. A retired teacher may perform noncontracted substitute teaching duties but may not engage in full-time or part-time teaching duties during the one-year separation from service.
 - c. Notify the fund office in writing within thirty days of the retired member's return to covered employment. The retired member's employer must also notify the fund office in writing within thirty days of the retired member's return to covered employment.

2. A retired teacher who returns to teaching under this section is not required to pay the employee assessment required by section 15-39.1-09. A retired teacher who returns to teaching under the provisions of this section must be treated as retired for all other purposes under this chapter. A retired teacher may not earn any additional service during the period of reemployment. The retired teacher's benefits may not be adjusted to reflect changes in the retired teacher's age or final average monthly salary at the end of the period of reemployment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of reemployment, and additional benefits normally available to an active member, such as disability benefits, are not available to a retired teacher reemployed under this section.
3. A participating employer who employs a retired member under this section shall pay the employer contributions required by section 15-39.1-09 on the salary of the retired member.

SECTION 12. AMENDMENT. Section 15-39.1-20 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-20. Withdrawal from fund. When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may, after a period of one hundred twenty days, withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter, and by accepting the refund, the member is waiving any right to participate in the fund under the same provisions that existed at the time the refund was accepted regardless of whether the member later repurchases refunded service credit. The accumulated assessments of a member who ceases to be eligible to participate in the fund before becoming vested must be automatically refunded. The assessments plus interest earned, if not claimed by the member, must be returned in the fiscal year following the date of termination. The automatic refund must be waived provided the member presents the board with a statement of intent to return to teach in North Dakota within thirty-six months after eligibility to participate in the fund ceases. The board may waive the automatic refund for members who present to the board a statement of intent to return to teach in North Dakota within a period exceeding thirty-six months after eligibility to participate in the fund ceases. A member may elect, at the time and under rules adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member as allowed under section 401(a)(31) of the Internal Revenue Code in effect on ~~August July 1, 2005~~ 2007.

SECTION 13. AMENDMENT. Subsection 2 of section 15-39.1-33 of the North Dakota Century Code is amended and reenacted as follows:

2. The member must meet one of the following conditions at the time the purchase is made:
 - a. The tier one member's age plus service credit must be equal to or greater than seventy-seven; ~~or~~
 - b. The tier one member's age must be at least fifty-five and the member must have at least three years of service credit; or

- c. The tier two member's age plus service credit must be equal to or greater than eighty-two; or
- d. The tier two member's age must be at least fifty-five and the member must have at least five years of service credit.

SECTION 14. APPLICATION. Sections 1, 6, 10, 11, 12, and 15 of this Act apply to salaries earned on and after July 1, 2007, and sections 2, 3, 4, 5, 7, 8, 9, and 13 apply to salaries earned on and after July 1, 2008.

SECTION 15. APPROPRIATION. There is appropriated out of any moneys in the teachers' fund for retirement, not otherwise appropriated, the sum of \$5,000, or so much of the sum as may be necessary, to the teachers' fund for retirement for the purpose of implementing this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 16. EFFECTIVE DATE. Sections 1, 6, 10, 11, 12, 14, and 15 of this Act become effective on July 1, 2007, and sections 2, 3, 4, 5, 7, 8, 9, and 13 of this Act become effective on July 1, 2008.

SECTION 17. EXPIRATION DATE. Section 3 of this Act is effective until the ratio of the actuarial value of assets to the actuarial accrued liability of the teachers' fund for retirement increases to ninety percent based upon the actuarial value of assets and expires on the July first that follows the first valuation that shows a ninety percent funded ratio. The board of trustees of the teachers' fund for retirement shall notify the legislative council of the expiration date of section 3 of this Act.

Approved April 30, 2007
Filed May 1, 2007

CHAPTER 158

HOUSE BILL NO. 1487

(Representatives Carlson, Dahl, Glassheim, Thoreson)
(Senator Hacker)

STUDENT LOAN INTEREST RATES

AN ACT to amend and reenact section 15-62.1-03 of the North Dakota Century Code, relating to rates of interest for student loans; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-62.1-03 of the North Dakota Century Code is amended and reenacted as follows:

15-62.1-03. Rates of interest permissible for guaranteed loans. All loans guaranteed by the agency and coinsured by the federal government must bear interest at rates which are no greater than those provided under the federally coinsured loan programs. In the event that the agency guarantees student loans without federal coinsurance pursuant to section 15-62.1-02, the interest rate on such loans may ~~not be more than two percentage points above the base participation rate as established by the Bank of North Dakota which is in effect on the date the loan is made~~ be fixed or variable. Any prohibition on the capitalization of interest does not apply to loans guaranteed under this chapter. A loan guaranteed under this chapter may provide for interest which remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

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

Approved April 18, 2007
Filed April 19, 2007

CHAPTER 159

HOUSE BILL NO. 1235

(Representatives R. Kelsch, Drovdal, Hanson)
(Senators Flakoll, O'Connell, Wardner)

SCHOLARS PROGRAM PARTICIPATION

AN ACT to amend and reenact sections 15-62.2-00.1 and 15-62.2-01 of the North Dakota Century Code, relating to participation in the North Dakota scholars program by students in cross-border attendance programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-62.2-00.1. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Applicant" means an individual ~~who~~:
 - a. (1) Who has graduated from a high school in this state;
 - (2) Who has graduated from a high school in a bordering state pursuant to chapter 15.1-29; or ~~who~~
 - (3) Who is a resident of this state for tuition purposes; and ~~whose~~
 - b. Whose assessment composite scores on the test of academic achievement administered by ACT, Inc., place the individual in at least the ninety-fifth percentile of all students taking the test by July first of the year preceding the year in which the individual is enrolled as a full-time resident student in an eligible institution.
2. "Eligible institution" means an accredited public or nonprofit private postsecondary institution in this state.
3. "Full-time resident student" means an individual who ~~has~~:
 - a. (1) Has graduated from a high school in this state;
 - (2) Has graduated from a high school in a bordering state pursuant to chapter 15.1-29; or ~~who is~~
 - (3) Is a resident of this state for tuition purposes; and ~~who is~~
 - b. Is enrolled at an eligible institution carrying a course of study which is "full time" as defined by the eligible institution.
4. "Scholar" means a full-time resident student who is awarded a scholarship or who has previously received a scholarship.

5. "Scholarship" means a financial award granted to a state scholar as determined by this chapter.

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

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

1. The North Dakota student financial assistance and scholars programs are established to provide grants or scholarships, or both, to assist the following students:
 - ~~4-~~ a. Resident undergraduate students pursuant to section 15-10-19.1.
 - ~~2-~~ b. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to ~~section 15-40.2-10, chapter 15.1-29~~ and who are attending qualified institutions of postsecondary education within North Dakota.
 - ~~3-~~ c. North Dakota resident students who, because of a physical or mental ~~handicap~~ as disability certified by a physician, are attending postsecondary institutions out of state due to the lack of special services or facilities, ~~or both,~~ necessary to meet the postsecondary educational needs of ~~the handicapped~~ disabled students within North Dakota.
 - ~~4-~~ d. Scholars who qualify and are selected for scholarships pursuant to sections 15-62.2-00.1 and 15-62.2-03.1 through 15-62.2-03.5.
2. A student must be in substantial need of financial assistance to receive grants under the student financial assistance program.
3. The state board of higher education shall administer the student financial assistance program and the scholars program.
4. At least twenty-three and one-half percent of the funds appropriated for the student financial assistance program must be allocated to students at private baccalaureate degree-granting institutions with the remaining funds allocated to students at public and American Indian institutions.

Approved March 9, 2007

Filed March 12, 2007

CHAPTER 160

HOUSE BILL NO. 1395

(Representatives Kasper, Boe, Charging, D. Johnson)
(Senators Flakoll, Wardner)

TRIBAL COLLEGE ASSISTANCE

AN ACT to provide financial assistance to tribally controlled community colleges; to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to the allocation of collections from reservation oil development; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. In this Act, unless the context otherwise requires:

1. "Nonbeneficiary student" means a resident of North Dakota who is enrolled in a tribally controlled community college but is not an enrolled member of a federally recognized Indian tribe.
2. "Tribally controlled community college" means an institution of higher education in this state which is formally controlled or has been formally sanctioned or chartered by the governing body of an Indian tribe, or any combination of federally recognized Indian tribes.

SECTION 2. Institutions eligible for grant assistance. Any tribally controlled community college located in this state is eligible to receive supplemental grant assistance for nonbeneficiary students.

SECTION 3. Grant authorization. The state board of higher education shall make grants to tribally controlled community colleges to defray the costs of education associated with enrollment of nonbeneficiary students. Grants made pursuant to this section must go directly to the recipient institutions.

SECTION 4. Submission of grant application - Distribution of grants. In order to qualify for a grant under this Act, an institution shall submit an application in the manner required by the state board of higher education. If an application is approved, the board shall distribute to each tribally controlled community college, during each year of the biennium, four thousand five hundred eighty-one dollars for each nonbeneficiary student on a full-time equivalent basis. If the amount appropriated is insufficient, the board shall distribute a prorated amount per nonbeneficiary student on a full-time equivalent basis.

SECTION 5. Reporting by recipient institutions. Each institution receiving a grant under this Act shall annually provide to the state board of higher education an accurate and detailed account of the expenditures of the grant funds received by the institution under sections 1 through 5 of this Act and a copy of the institution's latest audit report and documentation of the enrollment status and ethnic status of each student on whose account financial assistance under this Act is sought.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of \$700,000, or so much of the sum as may be necessary, to the state board of

higher education for the purpose of providing grant assistance payments to tribally controlled community colleges, for the biennium beginning July 1, 2007, and ending June 30, 2009. No more than \$350,000 may be expended for this purpose during the first year of the biennium.

SECTION 7. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

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

Approved May 10, 2007

Filed May 11, 2007