

Fifty-fifth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1312

Introduced by

Representatives Martinson, Svedjan, Wentz, Keiser

Senators Robinson, St. Aubyn

1 A BILL for an Act to create and enact four new sections to chapter 15-10 of the North Dakota  
2 Century Code, relating to higher education appropriations and budgets, unexpended general  
3 fund appropriations, accountability reports, and authorization for board of higher education  
4 institutions to borrow from the bank of North Dakota; to amend and reenact sections 15-10-08,  
5 15-10-12, 15-10-12.1, 15-10-14.1, 15-10-17, 15-10.1-02, 15-10.1-03, 15-62.2-01, 15-62.3-01,  
6 and 44-04-18.4 of the North Dakota Century Code, relating to compensation of state board of  
7 higher education members, acceptance of gifts and bequests and deposit of funds by the state  
8 board of higher education, acceptance of buildings and campus improvements, reports required  
9 of the board of higher education, higher education system review, and powers and duties of the  
10 board of higher education; and to repeal sections 15-10-15, 15-10-17.1, 15-10-18, 15-10-18.1,  
11 15-10-19.1, 15-10-20, 15-10-23, 15-10-25, 15-10-25.1, and 15-10-34 of the North Dakota  
12 Century Code, relating to budget requests, conduct of students and use of facilities of state  
13 colleges and universities, tuition of nonresidents, waiver of tuition for youth correctional center  
14 graduates, definitions of nonresident and resident students, tuition at model schools, lease of  
15 building sites, out-of-state travel, and authorization of contingency funds.

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

17 **SECTION 1. AMENDMENT.** Section 15-10-08 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **15-10-08. Compensation of board members - Expenses - Legislative**  
20 **appropriations.** Each ~~appointive~~ member of the state board of higher education ~~shall, except~~  
21 ~~the student member, is entitled to receive fifty dollars per day compensation per day in the~~  
22 ~~same amount provided for members of the legislative council for the time each calendar day~~  
23 ~~actually spent devoted to the duties of his office, and, in addition, shall receive his necessary~~  
24 ~~expenses in the same manner and amounts as other state officials for attending meetings and~~

1 performing other functions of his office. The legislative assembly shall provide adequate funds  
2 to carry out the functions and duties of the board. ~~The compensation and expense payments~~  
3 ~~provided by this section are retroactive to January 1, 1977.~~

4 **SECTION 2. AMENDMENT.** Section 15-10-12 of the 1995 Supplement to the North  
5 Dakota Century Code is amended and reenacted as follows:

6 **15-10-12. Board may accept gifts and bequests - State treasurer to have custody**  
7 **of school funds - Deposit of funds.** The state board of higher education may, ~~subject to the~~  
8 ~~limitations of section 15-10-12.1,~~ receive donations, gifts, grants, and bequests offered or  
9 tendered to or for the benefit of any institution of higher education under its control or subject to  
10 its administration, and all moneys coming into the hands of the board as donations, gifts,  
11 grants, and bequests must be used for the specific purpose for which they are donated or  
12 given. ~~A special revenue fund, for each institution of higher education under the control of the~~  
13 ~~board or subject to its administration, must be maintained within the state treasury and all~~  
14 ~~institutional income from tuition collections must be placed in the special fund for the use of the~~  
15 ~~institution for which the money was raised. All rent, interest, or income from land, money, or~~  
16 ~~property, donated or granted by the United States and allocated to specific institutions of higher~~  
17 ~~learning under the terms of the Enabling Act and the Constitution of North Dakota and general~~  
18 ~~funds specifically appropriated to an institution must be deposited in the a special revenue fund~~  
19 ~~of each institution in the state treasury and expended in accordance with section 1 of article IX~~  
20 ~~of the Constitution of North Dakota. Moneys in the special revenue fund are subject to~~  
21 ~~legislative appropriations. All Tuition and other funds, unless restricted by the terms of a grant,~~  
22 ~~donation, or bequest, received by the institutions, including funds allocated by the state board~~  
23 ~~of higher education, revenue from federal, state, and local grants and contracts, indirect cost~~  
24 ~~recoveries, special student fees, room and board fees and other auxiliary enterprise fees,~~  
25 ~~student activity fees, continuing education program fees, internal service fund revenues, and all~~  
26 ~~other revenues must be deposited in the institutions' accounts at the Bank of North Dakota.~~  
27 ~~Biennial estimates of revenue and expenditures of the other funds by source of funds must be~~  
28 ~~presented at the same time biennial budget requests for appropriations from the special~~  
29 ~~revenue fund and state general fund are prepared and submitted to the office of the budget~~  
30 ~~pursuant to section 15-10-15. Payments from each institution's general fund appropriation must~~  
31 ~~be made in amounts as may be necessary for the operation and maintenance of each~~

1 ~~institution, except that at the close of the biennium the balance of funds not paid from the~~  
2 ~~general fund appropriation must be deposited in the special revenue funds of the institutions.~~  
3 ~~All such appropriations~~ Funds deposited in the institutions' accounts at the Bank of North  
4 Dakota, except general funds appropriated to the board of higher education, are funds  
5 belonging to the institutions and are not public funds subject to legislative appropriation.  
6 General funds appropriated to the state board of higher education or its institutions are subject  
7 to proration in the same manner as other appropriations are prorated if insufficient funds are  
8 available to meet expenditures from the general fund. ~~Sinking funds for the payment of interest~~  
9 ~~and principal of institutional revenue bonds~~ Proceeds and earnings from the sale of revenue  
10 bonds or income and revenues derived from the operation of buildings or improvements  
11 financed by revenue bonds or pledged in the manner provided in chapter 15-55 must be  
12 deposited pursuant to section 15-55-06.

13 **SECTION 3. AMENDMENT.** Section 15-10-12.1 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **15-10-12.1. Acceptance of buildings and campus improvements** ~~—Approval of~~  
16 ~~budget section.~~ The state board of higher education may, ~~with the approval of the budget~~  
17 ~~section of the legislative council,~~ authorize the use of land under the control of the board and  
18 construct buildings and campus improvements thereon which are financed by donations, gifts,  
19 grants, and bequests. ~~The budget section may establish guidelines regarding the types of gifts~~  
20 ~~for minor improvements which do not require the approval of the budget section based upon the~~  
21 ~~financial impact of such construction projects upon the state of North Dakota.~~ The state board  
22 of higher education may, ~~with the approval of the budget section,~~ authorize the sale, at public  
23 auction or by sealed bid to the highest bidder pursuant to procedures adopted by the board, of  
24 any real property or buildings which an institution of higher learning has received by gift or  
25 bequest. ~~The budget section may prescribe such conditions for the sale of the property as it~~  
26 ~~deems necessary, including, but not limited to, requiring an appraisal and the advertisement for~~  
27 ~~bids.~~ Details concerning building construction or improvements and sale of real property  
28 authorized pursuant to this section must be included in information submitted with the board's  
29 biennial budget request.

30 **SECTION 4. AMENDMENT.** Section 15-10-14.1 of the 1995 Supplement to the North  
31 Dakota Century Code is amended and reenacted as follows:

1           **15-10-14.1. Biennial report Higher education reports.** The state board of higher  
2 education ~~may shall~~ submit a biennial report to the governor and to the secretary of state for  
3 the educational institutions under its control as provided by law. If submitted, the report must  
4 cover enrollments, major functions and programs, and major goals and objectives, and the  
5 extent of achievement of those goals and objectives. The report must also include summaries  
6 of financial reports, a narrative explaining the significance of that data, and other information the  
7 board may choose the reports required pursuant to section 15-10-14.2 and such other reports  
8 as may be requested by the legislative assembly or governor.

9           **SECTION 5. AMENDMENT.** Section 15-10-17 of the 1995 Supplement to the North  
10 Dakota Century Code is amended and reenacted as follows:

11           **15-10-17. Specific powers and duties of board of higher education.** The state  
12 board of higher education has all the powers and shall perform all the duties necessary to the  
13 control and management of the institutions described in this chapter, including:

- 14           1. To appoint and remove, fix the terms of office and prescribe the duties of the  
15           president or other faculty head, and the professors, instructors, teachers, officers,  
16           faculty, and other employees of the ~~several~~ institutions under its control, and to fix  
17           their salaries within the limits of legislative appropriations ~~therefor~~, and to fix the  
18           ~~terms of office and to prescribe the duties thereof, provided that the.~~ The  
19           consideration of personnel actions by the board, including the appointment or  
20           removal of any ~~such personnel shall~~ employee, must be in executive session if  
21           upon majority vote of the board chooses in an open meeting, unless the ~~person or~~  
22           persons involved request employee requests that the meeting shall be open to  
23           ~~other persons or the public.~~ Personnel actions taken during executive session  
24           must be recorded in the official minutes available for public access following the  
25           meeting.
- 26           2. To ~~have supervision and control of the grounds, buildings, and all other property of~~  
27           such institutions, and to ~~authorize such institutions to maintain confidential records~~  
28           containing personal information regarding their prospective, current, or former  
29           students or regarding patients at the medical center rehabilitation hospital at the  
30           university of North Dakota, with the information in such records subject to release  
31           by the institution only upon a court order or the express or implied consent of the

1           ~~student or patient involved. A prospective, current, or former student shall be~~  
2           ~~deemed to have consented to the release of all records to a prospective employer~~  
3           ~~upon application for employment to that employer, provided the position is of such~~  
4           ~~a nature as to require security clearance. The board may procure all necessary~~  
5           ~~apparatus, instruments, and appurtenances for instruction in said schools within~~  
6           ~~the limits of legislative appropriations therefor~~ regulate the conduct of students,  
7           ~~staff, faculty, and visitors, and authorize the employment of law enforcement~~  
8           ~~officers, with concurrent jurisdiction with other law enforcement officers to enforce~~  
9           ~~laws and regulations at its institutions.~~

10          3. To adopt; rules; and regulations , ~~and bylaws~~ for the government of each of ~~such~~  
11          the institutions and of all ~~the~~ their departments and branches ~~thereof~~.

12          4. To determine the ~~moral and educational~~ qualifications of applicants for admission  
13          to the various courses of instruction, to prescribe by rule criteria for the admission  
14          of students, and to ensure that the criteria for admission are applied to all  
15          applicants in a uniform and nondiscriminatory manner, regardless of the school or  
16          educational setting from which an applicant obtained a high school diploma or its  
17          equivalent. No instruction, either sectarian in religion or partisan in politics, shall  
18          ever be allowed in any department of such institutions, and no sectarian or partisan  
19          test shall ever be allowed or exercised in the election of professors, teachers, or  
20          other officers of the institutions, or in the admission of students, or for any other  
21          purpose ~~whatsoever~~.

22          5. ~~To prescribe rules and regulations for the management of the libraries, cabinets,~~  
23          ~~museums, laboratories, and all other property of the institutions under its control,~~  
24          ~~and for the care and preservation thereof, with suitable penalties and forfeitures by~~  
25          ~~way of damages for their violation, which may be collected by action in the name of~~  
26          ~~the board in any court having jurisdiction.~~

27          6. To prescribe ~~the books or works to be used in the several~~ courses of instruction;  
28          and ~~to~~ confer such degrees and ~~to~~ grant such certificates or diplomas for the work  
29          done as are usual or appropriate in similar institutions.

- 1       ~~7.~~ 6.   To ~~confer upon the~~ delegate to institution officers and faculty, through bylaws, the  
2                   power to suspend or expel students for misconduct or for other causes ~~prescribed~~  
3                   ~~in such bylaws.~~
- 4       ~~8.~~ 7.   To ~~act in consultation with the president of each institution to minister to~~ provide for  
5                   the needs and proper development of each institution in harmony with the best  
6                   interests of the people of the state, and to improve higher and technical education  
7                   in the state.
- 8       ~~9.~~ 8.   To coordinate and correlate the work in the different institutions to prevent wasteful  
9                   duplication and to develop cooperation among the institutions ~~in the exchange of~~  
10                  ~~instructors and students.~~
- 11      ~~40.~~ 9.   To fix ~~registration or matriculation~~ tuition and fees and other incidental fees to be  
12                  ~~paid by students in the various institutions under its control or in any department~~  
13                  ~~thereof when not otherwise provided by law.~~
- 14      ~~41.~~   To ~~fix and charge fees for instruction furnished in the professional schools and~~  
15                  ~~colleges and for extra studies.~~
- 16      ~~42.~~ 10.   To make recommendations in regard to needed legislation for the institutions under  
17                  its control.
- 18      ~~43.~~ 11.   To establish a retirement program as an alternative to chapter 15-39.1 for  
19                  employees of institutions under its control subject to the following guidelines:
- 20           a.   Benefits under the program shall be provided through annuity contracts  
21                  purchased by the board but which shall become the property of the  
22                  participants;
- 23           b.   The cost of the annuity contracts shall be defrayed by contributions made  
24                  pursuant to rules of the state board of higher education;
- 25           c.   Eligible employees appointed before July 1, 1973, shall participate in the  
26                  alternate retirement program only by their individual election. When the  
27                  electing eligible employee is a member of the teachers' fund for retirement,  
28                  the employee's assessments and employer's contributions together with  
29                  interest credited at the current rate for one-year certificates then being paid by  
30                  the Bank of North Dakota shall be transferred to the employee's account in  
31                  the alternate program. Such election shall be made prior to July 1, 1980, and

- 1 shall relinquish all rights the eligible employee or the employee's beneficiary  
2 may have to benefits provided in chapters 15-39 and 15-39.2; and
- 3 d. ~~Employees of Bismarck state college and university of North Dakota—Lake~~  
4 ~~Region coming under the jurisdiction of the board who are members of the~~  
5 ~~teachers' fund for retirement may elect prior to July 1, 1985, to continue~~  
6 ~~membership in the teachers' fund for retirement in lieu of the alternate~~  
7 ~~retirement program. If an employee does not elect to continue membership in~~  
8 ~~the teachers' fund for retirement, membership in that fund will terminate and~~  
9 ~~the employee will become a member of the alternate retirement program~~  
10 ~~established by the board effective July 1, 1985. An employee of the~~  
11 ~~above named colleges who becomes a member of the alternate retirement~~  
12 ~~program may elect prior to July 1, 1985, to have the employee's assessments~~  
13 ~~and employer's contributions in the teachers' fund for retirement with interest~~  
14 ~~transferred by the board of trustees of the teachers' fund for retirement to the~~  
15 ~~employee's account in the alternate retirement program. If an employee~~  
16 ~~elects to transfer the employee's assessment and employer's contributions~~  
17 ~~together with interest to the alternate retirement program, the employee~~  
18 ~~relinquishes all rights the employee or the employee's beneficiary may have~~  
19 ~~to benefits provided in chapters 15-39, 15-39.1, and 15-39.2; and~~
- 20 e. Employees of institutions under the control of the state board of higher  
21 education who are members of the public employees retirement system and  
22 who become entitled to participate in the alternate retirement program are  
23 entitled to a special annuity purchase in the alternate retirement program in  
24 accordance with this subdivision. An eligible employee who consents to have  
25 that employee's contribution included is entitled to have that employee's  
26 contribution and employer's contribution, with interest, in the public employees  
27 retirement system fund, used by the retirement board of the public employees  
28 retirement system to purchase for that employee an annuity in the alternate  
29 retirement program in lieu of any other rights under the public employees  
30 retirement fund. However, before the employer's contribution may be used for  
31 an annuity purchase, the employee's combined years of service with the

1 public employees retirement system and the alternate retirement program  
2 must equal or exceed the years of service necessary to be eligible for  
3 retirement benefits under the public employees retirement system. An  
4 employee who transferred from the public employees retirement system prior  
5 to March 30, 1987, and who received a refund of that employee's contribution  
6 is entitled to have the employer's contribution, with interest, used to purchase  
7 an annuity even if that employee did not purchase an annuity in the alternate  
8 employee program with the employee's contribution. If an employee makes  
9 the election allowed under this subdivision, that employee relinquishes all  
10 rights the employee or any of the employee's beneficiaries may have had to  
11 benefits provided under chapter 54-52.

12 The board shall provide for the administration of the alternate retirement program  
13 and establish rules therefor consistent with the foregoing guidelines. Nothing in  
14 this subsection shall be construed in derogation of any existing retirement  
15 programs approved by the board.

16 ~~44.~~ 12. To determine policy for purchasing by the institutions of higher education in  
17 coordination with the office of management and budget as provided by law.

18 ~~45.~~ 13. To establish by rule an early retirement program for faculty and officers of the  
19 board as defined by the board. The limitations on severance pay pursuant to  
20 section 54-14-04.3 and on requiring the employee to pay contributions to continue  
21 on the state uniform group insurance program upon retirement or upon termination  
22 of employment pursuant to section 54-52.1-03 shall not apply to the early  
23 retirement program.

24 ~~46.~~ 14. To adopt rules to protect the confidentiality of ~~proprietary information received from~~  
25 ~~sponsors of research conducted by the institutions as well as information~~  
26 ~~generated by that research. No rule promulgated by the board may in any way~~  
27 ~~limit or otherwise affect the applicability or implementation of any rule or regulation~~  
28 ~~of the state department of health. Each grant or contract involving confidential~~  
29 ~~information must be explained in the institution's report to the board of grants and~~  
30 ~~contracts received and must be reviewed at the board's public meeting~~ student



records, medical records, and, consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial information.

~~47.~~ 15. To authorize and encourage institutions of higher education under its control 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.

16. To delegate its powers to its officers, faculty, and employees to enable them to manage the institutions and facilities and carry out their duties efficiently.

**SECTION 6.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Board of higher education budget request and appropriations.** Notwithstanding any other provision of law, the appropriations and budget requests for the state board of higher education and its institutions are subject to the following:

1. The appropriations for the board and its institutions, including all their entities, must be in one legislative measure. The measure must contain a single line appropriation of general funds, to be allocated by the board to the institutions and their entities. The measure must include guidelines to be followed by the board in making the allocations. The guidelines must be based on the board's comprehensive plan, including the prioritized long-term goals and specific directions for pursuing those goals. Funding must be adequate to enable the institutions to fulfill their missions as established in the Constitution of North Dakota and state statutes. The measure may also include appropriations for special projects at one or more institution. In the event funds are specifically appropriated for one or more institution, those funds may not be used for any other institution.
2. Pursuant to section 6 of article VIII of the Constitution of North Dakota, the board shall submit to the office of management and budget, on forms and at the time prescribed by that office, a single unified budget request covering the needs of all the institutions under its control, as in the board's judgment is in the best interests of the educational system of the state. The board may submit alternative budget requests.

3. The budget request must be accompanied by:

- a. A summary of the board's comprehensive plan developed pursuant to section 15-10-14.2, including the prioritized long-term goals, specific directions for pursuing those goals, criteria for measuring progress toward achieving those goals, and specific timelines.
- b. Sufficient specific and quantifiable information concerning progress toward goals, including institution-specific data, to enable the governor to recommend and the legislative assembly to formulate a general fund appropriations policy concerning the board and its institutions.
- c. A summary of all revenues from all sources and expenditures and fund balances for all funds at all institutions.

**SECTION 7.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Unexpended general fund appropriations - Continuing appropriation.** General funds appropriated to the board of higher education or its institutions that are unexpended at the end of a biennium must be deposited in a special fund in the state treasury administered by the board. The funds may thereafter be allocated and spent, as directed by the board, for repairs or improvements, equipment, scholarships, grants, tuition waivers, and other purposes not requiring an increase in future general fund appropriations. The funds may not be used to fund new buildings or additions, base salary adjustments, or other uses resulting in increased requests for general fund appropriations. If funds are specifically appropriated for one or more institution, those funds may not be used for any other institution. Funds deposited in the special fund are hereby appropriated for the purposes specified in this section.

**SECTION 8.** A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

**Higher education accountability reports.** The board of higher education shall, no later than the end of 1998, develop and submit to the legislative council for review formats for accountability reporting by the board, including content and form of the comprehensive plan and annual progress reports required of the board pursuant to section 15-10-14.2. The reports must be designed to enable the legislative assembly to determine whether the board and its institutions are making satisfactory progress toward its goals and whether funds are allocated

1 and spent in a responsible and prudent manner to achieve those goals. To the extent feasible,  
2 information must be based on objective data and reported using standardized formats. The  
3 reports must be implemented beginning with the board's 1999 annual progress report and must  
4 be revised, subject to legislative council review, as necessary.

5 **SECTION 9.** A new section to chapter 15-10 of the North Dakota Century Code is  
6 created and enacted as follows:

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

13 **SECTION 10. AMENDMENT.** Section 15-10.1-02 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **15-10.1-02. Agreements - Reciprocal basis.** ~~Notwithstanding the provisions of~~  
16 ~~section 15-10-18, the~~ The state board of higher education is hereby authorized to ~~may~~ enter  
17 into agreements with public or private institutions of higher education, or the governing boards  
18 thereof, in this state and in contiguous states on a reciprocal basis in order to accomplish the  
19 following:

- 20 1. To enable a student at any institution party to such an agreement to take a  
21 specialized course or courses at a different institution from that in which ~~he~~ the  
22 student is enrolled, with or without the payment of tuition charges at the other  
23 institution.
- 24 2. To enable a student enrolled in any of the institutions party to the agreement to  
25 attend another institution party to such agreement without being required to pay  
26 nonresident tuition fees and in accordance with the terms of ~~such~~ the agreement.

27 **SECTION 11. AMENDMENT.** Section 15-10.1-03 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **15-10.1-03. Remission of nonresident tuition - Agreements.** ~~Notwithstanding the~~  
30 ~~provisions of section 15-10-18, the~~ The state board of higher education may enter into  
31 agreements for the remission of nonresident tuition for designated categories of students at

1 state institutions of higher education. ~~Such~~ The agreements must have as their purpose the  
2 mutual improvement of educational advantages for residents of this state and such other states  
3 or institutions of other states with whom agreements are made.

4 **SECTION 12. AMENDMENT.** Section 15-62.2-01 of the 1995 Supplement to the North  
5 Dakota Century Code is amended and reenacted as follows:

6 **15-62.2-01. Student financial assistance and scholars programs - Establishment -**  
7 **Administrative responsibility.** The North Dakota student financial assistance and scholars  
8 programs are established to provide grants or scholarships, or both, to assist the following  
9 students:

- 10 1. Resident undergraduate students ~~pursuant to section 15-10-19.1.~~
- 11 2. North Dakota resident students who have attended and graduated from a high  
12 school in a bordering state pursuant to section 15-40.2-10, who are attending  
13 qualified institutions of postsecondary education within North Dakota.
- 14 3. North Dakota resident students who, because of physical or mental handicap as  
15 certified by a physician, are attending postsecondary institutions out of state due to  
16 the lack of special services or facilities, or both, necessary to meet the  
17 postsecondary educational needs of the handicapped students within North  
18 Dakota.
- 19 4. Scholars who qualify and are selected for scholarships pursuant to sections  
20 15-62.2-00.1 and 15-62.2-03.1 through 15-62.2-03.5.

21 A student must be in substantial need of financial assistance to receive grants under the  
22 student financial assistance program. The state board of higher education shall administer the  
23 student financial assistance program and the scholars program.

24 **SECTION 13. AMENDMENT.** Section 15-62.3-01 of the 1995 Supplement to the North  
25 Dakota Century Code is amended and reenacted as follows:

26 **15-62.3-01. Definitions.** As used in this chapter, unless the context otherwise  
27 requires:

- 28 1. "Accredited private institution" means an institution of higher learning located in  
29 North Dakota which is operated privately and not controlled or administered by any  
30 state agency or subdivision of the state, and which is accredited by the north

central association of colleges and secondary schools or the accrediting association of bible colleges.

2. "Agency" means the state board of higher education.

3. "Baccalaureate degree" means the degree customarily granted upon completion of a course of study normally requiring four academic years of college work.

4. "Final unmet financial need" means that need which remains after deducting any amounts available from the United States department of education in the form of a basic educational opportunity grant, or from the state of North Dakota in the form of a North Dakota student assistance grant or a tuition assistance grant, or both.

5. "Financial need" means the difference between (a) the student's financial resources available, including those available from the student's parents as determined by a need analysis as defined in the 1977-78 student financial aid handbook issued by the United States department of education, and (b) the student's anticipated annual expense while attending the accredited private institution. Financial need for each student must be calculated each year.

6. "Full-time resident student" means a North Dakota resident, ~~pursuant to section 45-10-19.1,~~ who is enrolled at an accredited private institution in a course of study including at least one hundred eighty instructional hours per semester.

7. "Half-time resident student" means a North Dakota resident who is enrolled at an accredited private institution in a course of study including at least ninety instructional hours per semester.

8. "Qualified student" means a full-time or half-time resident student who has established financial need and who is making satisfactory progress towards graduation.

9. "Tuition assistance grant" means a grant by the state of North Dakota to a qualified student.

**SECTION 14. AMENDMENT.** Section 44-04-18.4 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.4. Confidentiality of trade secret, proprietary, commercial, and financial information.**

- 1           1. Trade secret, proprietary, commercial, and financial information is confidential if it
- 2           is of a privileged nature and it has not been previously publicly disclosed.
- 3           2. "Trade secret" includes:
- 4           a. A computer software program and components of a computer software
- 5           program which are subject to a copyright or a patent, and any formula,
- 6           pattern, compilation, program, device, method, technique, or process supplied
- 7           to any state agency, institution, department, or board which is the subject of
- 8           efforts by the supplying person or organization to maintain its secrecy and that
- 9           may derive independent economic value, actual or potential, from not being
- 10          generally known to, and not being readily ascertainable by proper means by,
- 11          other persons or organizations that might obtain economic value from its
- 12          disclosure or use; and
- 13          b. A discovery or innovation which is subject to a patent or a copyright, and any
- 14          formula, pattern, compilation, program, device, method, technique, or process
- 15          supplied to or prepared by any state agency, institution, department, or board
- 16          which is the subject of efforts by the supplying person, business, or industry to
- 17          maintain its secrecy and that may derive independent economic value, actual
- 18          or potential, from not being generally known to, and not being readily
- 19          ascertainable by proper means by, any person who might obtain economic
- 20          value from its disclosure or use.
- 21          3. "Proprietary information" includes information received from a sponsor of research
- 22          conducted by an institution, as well as any discovery or innovation generated by
- 23          that research, technical, financial, and marketing information and other documents
- 24          related to the commercialization, and any other discovery or innovation produced
- 25          at the institution which an employee, institution, or the board intends to
- 26          commercialize.
- 27          4. This section does not limit or otherwise affect a record pertaining to any rule of the
- 28          state department of health or to any record pertaining to the application for a permit
- 29          or license necessary to do business or to expand business operations within this
- 30          state, except as otherwise provided by law.

1           5- ~~An institution of higher education shall include justification for maintaining the~~  
2           ~~confidentiality of information as to each grant or contract involving confidential~~  
3           ~~information in the institution's regular report to the board of higher education of~~  
4           ~~grants and contracts received. The justification must contain general information~~  
5           ~~required by the board and must include at least the following nonconfidential~~  
6           ~~information:~~

- 7           a- ~~A general description of the nature of the information sought to be protected;~~  
8           b- ~~A general explanation of why the information derives independent economic~~  
9           ~~value, actual or potential, from not being generally known to other persons;~~  
10          e- ~~A general explanation of why the information is not readily ascertainable~~  
11          ~~through proper means by other persons;~~  
12          d- ~~A general description of the persons or entities that would obtain economic~~  
13          ~~value from disclosure or use of the information, and how they would obtain~~  
14          ~~this value; and~~  
15          e- ~~A general description of the efforts used to maintain the secrecy of the~~  
16          ~~information.~~

17          ~~The board of higher education shall review the justification at a public meeting of~~  
18          ~~the board and shall decide if the confidential status should be maintained for the~~  
19          ~~project. If the board decides against granting the confidential status, the~~  
20          ~~justification may be resubmitted at the next meeting of the board and the~~  
21          ~~confidential status may be maintained until that time. If the board again decides,~~  
22          ~~upon reconsideration, not to grant confidentiality, the information becomes public.~~

23          **SECTION 15. REPEAL.** Sections 15-10-15, 15-10-17.1, 15-10-18, 15-10-20, 15-10-23,  
24          15-10-25, 15-10-25.1, and 15-10-34 of the North Dakota Century Code and sections 15-10-18.1  
25          and 15-10-19.1 of the 1995 Supplement to the North Dakota Century Code are repealed.