

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1312
(Representatives Martinson, Svedjan, Wentz, Keiser)
(Senators Robinson, St. Aubyn)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to authorization for board of higher education institutions to borrow from the Bank of North Dakota; and to amend and reenact sections 15-10-08 and 44-04-18.4 of the North Dakota Century Code, relating to compensation of state board of higher education members and confidentiality of information regarding grants and contracts of institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-10-08. Compensation of board members - Expenses - Legislative appropriations. Each appointive member of the state board of higher education ~~shall, except the student member, be entitled to receive fifty dollars per day compensation per day in the same amount provided for members of the legislative council for the time each calendar day actually spent devoted to the duties of his office, and, in addition, shall receive his necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of his office. The legislative assembly shall provide adequate funds to carry out the functions and duties of the board. The compensation and expense payments provided by this section are retroactive to January 1, 1977.~~ shall, except the student member, be entitled to receive fifty dollars per day compensation per day in the same amount provided for members of the legislative council for the time each calendar day actually spent devoted to the duties of his office, and, in addition, shall receive his necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of his office. The legislative assembly shall provide adequate funds to carry out the functions and duties of the board.

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

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

SECTION 3. 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. Trade secret, proprietary, commercial, and financial information is confidential if it is of a privileged nature and it has not been previously publicly disclosed.
2. "Trade secret" includes:
 - a. A computer software program and components of a computer software program which are subject to a copyright or a patent, and any formula, pattern, compilation, program, device, method, technique, or process supplied to any state agency, institution, department, or board which is the subject of efforts by the supplying person or organization to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons or organizations that might obtain economic value from its disclosure or use; and

- b. A discovery or innovation which is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, method, technique, or process supplied to or prepared by any state agency, institution, department, or board which is the subject of efforts by the supplying person, business, or industry to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, any person who might obtain economic value from its disclosure or use.
- 3. "Proprietary information" includes information received from a sponsor of research conducted by an institution, as well as any discovery or innovation generated by that research, technical, financial, and marketing information and other documents related to the commercialization, and any other discovery or innovation produced at the institution which an employee, institution, or the board intends to commercialize.
- 4. This section does not limit or otherwise affect a record pertaining to any rule of the state department of health or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.
- 5. ~~An institution of higher education shall include justification for maintaining the confidentiality of information as to each grant or contract involving confidential information in the institution's regular report to the board of higher education of grants and contracts received. The justification must contain general information required by the board and must include at least the following nonconfidential information:~~
 - a. ~~A general description of the nature of the information sought to be protected;~~
 - b. ~~A general explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;~~
 - c. ~~A general explanation of why the information is not readily ascertainable through proper means by other persons;~~
 - d. ~~A general description of the persons or entities that would obtain economic value from disclosure or use of the information, and how they would obtain this value; and~~
 - e. ~~A general description of the efforts used to maintain the secrecy of the information.~~

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1312.

House Vote: Yeas 79 Nays 15 Absent 3

Senate Vote: Yeas 47 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State