

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

HOUSE BILL NO. 1186
(Education Committee)
(At the request of the State Board of Higher Education)

AN ACT to amend and reenact sections 15-10-14.1, 15-10-17, and 15-62.3-01 of the North Dakota Century Code, relating to higher education reports, powers and duties of the state board of higher education, and definitions for the tuition assistance grant program; and to repeal sections 15-10-17.1, 15-10-18.1, 15-10-20, 15-10-23, 15-10-25.1, 15-10-34, 15-11-02, 15-11-05, 15-11-07, 15-11-21, 15-11-23, 15-11-24, 15-11-25, 15-11-31, 15-12-05, 15-12-13, 15-12-14, 15-12-15, 15-12-16, 15-12-17, 15-12-19, 15-13-05, 15-13-06, 15-13-07, 15-13-08, 15-13-09, 15-13-10, 15-13-11, and 15-13-12 of the North Dakota Century Code, relating to conduct of students, waiver of tuition for youth correctional center graduates, tuition at model schools, lease of building sites, out-of-state travel, authorization of contingency funds, colleges that may be united with the state university, courses of instruction, persons eligible as students, furnishing of supreme court reports to the law school, location of the university of North Dakota alumni building, control over the alumni building, contract for heat and light at the alumni building, assembly hall at the university, annual faculty report to state board of higher education, economic survey, state director of economic survey, collection of mineral samples, publishing of economic maps, publishing of agricultural experiment station reports, name of economic survey, annual report of normal school president, normal school degrees, separate funds for normal schools, normal schools' students' loan funds, administration of students' loan funds, participation in students' loan funds, rules governing students' loan funds, authorization to pledge rentals from residential units, and a dormitory at Mayville state university.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-14.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 2. AMENDMENT. Section 15-10-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. To appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under its control, and to fix their salaries within the limits of legislative appropriations therefor, and to fix the terms of office and to prescribe the duties thereof, provided that the consideration of the appointment or removal of any such personnel shall be in executive session if the board chooses unless the person or persons involved request that the meeting shall be open to other persons or the public.

2. ~~To have supervision and control of the grounds, buildings, and all other property of such institutions, and to authorize such institutions to maintain confidential records containing personal information regarding their prospective, current, or former students or regarding patients at the medical center rehabilitation hospital at the university of North Dakota, with the information in such records subject to release by the institution only upon a court order or the express or implied consent of the student or patient involved. A prospective, current, or former student shall be deemed to have consented to the release of all records to a prospective employer upon application for employment to that employer, provided the position is of such a nature as to require security clearance. The board may procure all necessary apparatus, instruments, and appurtenances for instruction in said schools within the limits of legislative appropriations therefor regulate the conduct of students, staff, faculty, and visitors, and authorize the employment of law enforcement officers, with concurrent jurisdiction with other law enforcement officers to enforce laws and regulations at its institutions.~~
3. To adopt rules, and regulations, ~~and bylaws~~ for the government of each of ~~such~~ the institutions and of all ~~the~~ their departments and branches ~~thereof~~.
4. To determine the ~~moral and educational~~ qualifications of applicants for admission to the various courses of instruction, to prescribe by rule criteria for the admission of students, and to ensure that the criteria for admission are applied to all applicants in a uniform and nondiscriminatory manner, regardless of the school or educational setting from which an applicant obtained a high school diploma or its equivalent. No instruction, either sectarian in religion or partisan in politics, shall ever be allowed in any department of such institutions, and no sectarian or partisan test shall ever be allowed or exercised in the election of professors, teachers, or other officers of the institutions, or in the admission of students, or for any other purpose ~~whatsoever~~.
5. ~~To prescribe rules and regulations for the management of the libraries, cabinets, museums, laboratories, and all other property of the institutions under its control, and for the care and preservation thereof, with suitable penalties and forfeitures by way of damages for their violation, which may be collected by action in the name of the board in any court having jurisdiction.~~
6. To prescribe ~~the books or works to be used in the several~~ courses of instruction; and to confer such degrees and ~~to~~ grant such certificates or diplomas for the work done as are usual or appropriate in similar institutions.
7. ~~6.~~ To ~~confer upon the~~ delegate to institution officers and faculty, ~~through bylaws~~, the power to suspend or expel students for misconduct or for other causes prescribed in such bylaws.
8. ~~7.~~ To ~~act in consultation with the president of each institution to minister to~~ provide for the needs and proper development of each institution in harmony with the best interests of the people of the state, and to improve higher and technical education in the state.
9. ~~8.~~ To coordinate and correlate the work in the different institutions to prevent wasteful duplication and to develop cooperation among the institutions ~~in the exchange of instructors and students.~~
10. ~~9.~~ To fix ~~registration or matriculation~~ tuition and fees and other incidental fees ~~to be paid by students in the various institutions under its control or in any department thereof when not otherwise provided by law.~~
11. ~~To fix and charge fees for instruction furnished in the professional schools and colleges and for extra studies.~~
12. ~~10.~~ To make recommendations in regard to needed legislation for the institutions under its control.

- ~~43.~~ 11. To establish a retirement program as an alternative to chapter 15-39.1 for employees of institutions under its control subject to the following guidelines:
- a. Benefits under the program shall be provided through annuity contracts purchased by the board but which shall become the property of the participants;
 - b. The cost of the annuity contracts shall be defrayed by contributions made pursuant to rules of the state board of higher education;
 - c. Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates then being paid by the Bank of North Dakota shall be transferred to the employee's account in the alternate program. Such election shall be made prior to July 1, 1980, and shall relinquish all rights the eligible employee or the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2; and
 - d. ~~Employees of Bismarck state college and university of North Dakota—Lake Region coming under the jurisdiction of the board who are members of the teachers' fund for retirement may elect prior to July 1, 1985, to continue membership in the teachers' fund for retirement in lieu of the alternate retirement program. If an employee does not elect to continue membership in the teachers' fund for retirement, membership in that fund will terminate and the employee will become a member of the alternate retirement program established by the board effective July 1, 1985. An employee of the above-named colleges who becomes a member of the alternate retirement program may elect prior to July 1, 1985, to have the employee's assessments and employer's contributions in the teachers' fund for retirement with interest transferred by the board of trustees of the teachers' fund for retirement to the employee's account in the alternate retirement program. If an employee elects to transfer the employee's assessment and employer's contributions together with interest to the alternate retirement program, the employee relinquishes all rights the employee or the employee's beneficiary may have to benefits provided in chapters 15-39, 15-39.1, and 15-39.2; and~~
 - e. Employees of institutions under the control of the state board of higher education who are members of the public employees retirement system and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an annuity in the alternate retirement program in lieu of any other rights under the public employees retirement fund. However, before the employer's contribution may be used for an annuity purchase, the employee's combined years of service with the public employees retirement system and the alternate retirement program must equal or exceed the years of service necessary to be eligible for retirement benefits under the public employees retirement system. An employee who transferred from the public employees retirement system prior to March 30, 1987, and who received a refund of that employee's contribution is entitled to have the employer's contribution, with interest, used to purchase an annuity even if that employee did not purchase an annuity in the alternate employee program with the employee's contribution. If an employee makes the election allowed under this subdivision, that employee relinquishes all rights the employee or any of the employee's beneficiaries may have had to benefits provided under chapter 54-52.

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

- 44. 12. To determine policy for purchasing by the institutions of higher education in coordination with the office of management and budget as provided by law.
- 45. 13. To establish by rule an early retirement program for faculty and officers of the board as defined by the board. The limitations on severance pay pursuant to section 54-14-04.3 and on requiring the employee to pay contributions to continue on the state uniform group insurance program upon retirement or upon termination of employment pursuant to section 54-52.1-03 shall not apply to the early retirement program.
- 46. 14. To adopt rules to protect the confidentiality of ~~proprietary information received from sponsors of research conducted by the institutions as well as information generated by that research. No rule promulgated by the board may in any way limit or otherwise affect the applicability or implementation of any rule or regulation of the state department of health. Each grant or contract involving confidential information must be explained in the institution's report to the board of grants and 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.

SECTION 3. AMENDMENT. Section 15-62.3-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

- 1. "Accredited private institution" means an institution of higher learning located in North Dakota which is operated privately and not controlled or administered by any 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~~ completed according to United States department of education regulations, 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 15-10-19.1, 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 4. REPEAL. Sections 15-10-17.1, 15-10-20, 15-10-23, 15-10-25.1, 15-10-34, 15-11-02, 15-11-05, 15-11-07, 15-11-21, 15-11-23, 15-11-24, 15-11-25, 15-11-31, 15-12-05, 15-12-13, 15-12-14, 15-12-15, 15-12-16, 15-12-17, 15-12-19, 15-13-05, 15-13-06, 15-13-07, 15-13-08, 15-13-09, 15-13-10, 15-13-11, and 15-13-12 of the North Dakota Century Code and section 15-10-18.1 of the 1997 Supplement to the North Dakota Century Code are repealed.

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-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1186.

House Vote: Yeas 91 Nays 3 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State