

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2038

Introduced by

Legislative Council

(Higher Education Committee)

1 A BILL for an Act to amend and reenact sections 15-10-12, 54-44.1-04, 54-44.1-06, and
2 54-44.1-11 of the North Dakota Century Code, relating to the appropriation of higher education
3 institutions' special revenue funds; budget requests and block grant appropriations for the North
4 Dakota university system; cancellation of unexpended appropriations of the North Dakota
5 university system; to provide for a legislative council study of higher education; to provide
6 legislative intent for higher education accountability measures; and to provide an effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

10 **15-10-12. (Effective through June 30, ~~2009~~ 2011) Board may accept gifts and**
11 **bequests - Deposit and appropriation of institutional funds.** Subject to the limitations of
12 section 15-10-12.1, the state board of higher education may receive donations, gifts, grants,
13 and bequests offered or tendered to or for the benefit of any institution of higher education
14 under its control or subject to its administration, and all moneys coming into the hands of the
15 board as donations, gifts, grants, and bequests must be used for the specific purpose for which
16 they are donated or given. A special revenue fund, for each institution of higher education
17 under the control of the board or subject to its administration, must be maintained within the
18 state treasury. All rent, interest, or income from land, money, or property, donated or granted
19 by the United States and allocated to specific institutions of higher learning under the terms of
20 the Enabling Act and the Constitution of North Dakota must be deposited in the special revenue
21 fund of each institution and expended in accordance with section 1 of article IX of the
22 Constitution of North Dakota. All other funds, unless restricted by the terms of a grant,
23 donation, or bequest, received by the institutions from federal, state, and local grants and
24 contracts, indirect cost recoveries, tuition, special student fees, room and board fees and other

1 auxiliary enterprise fees, student activity fees, continuing education program fees, internal
2 service fund revenues, and all other revenues must be deposited in the institution special
3 revenue funds. The state treasurer shall immediately transfer the funds deposited in the special
4 revenue funds to institution accounts in the Bank of North Dakota. Biennial estimates of
5 revenue and expenditures of the other funds by source of funds must be presented at the same
6 time biennial budget requests for appropriations from the special revenue fund and state
7 general fund are prepared and submitted to the office of the budget. Payments from each
8 institution's general fund appropriation must be made in amounts as may be necessary for the
9 operation and maintenance of each institution. The funds in the institution accounts are
10 appropriated on a continuing basis to the state board of higher education. All such
11 appropriations are subject to proration in the same manner as other appropriations are prorated
12 if insufficient funds are available to meet expenditures from the general fund. Sinking funds for
13 the payment of interest and principal of institutional revenue bonds must be deposited pursuant
14 to section 15-55-06.

15 **(Effective after June 30, ~~2009~~ 2011) Board may accept gifts and bequests -**

16 **Deposit of funds.** The state board of higher education may, subject to the limitations of
17 section 15-10-12.1, receive donations, gifts, grants, and bequests offered or tendered to or for
18 the benefit of any institution of higher education under its control or subject to its administration,
19 and all moneys coming into the hands of the board as donations, gifts, grants, and bequests
20 must be used for the specific purpose for which they are donated or given. A special revenue
21 fund, for each institution of higher education under the control of the board or subject to its
22 administration, must be maintained within the state treasury and all institutional income from
23 tuition collections must be placed in the special fund for the use of the institution for which the
24 money was raised. All rent, interest, or income from land, money, or property, donated or
25 granted by the United States and allocated to specific institutions of higher learning under the
26 terms of the Enabling Act and the Constitution of North Dakota must be deposited in the special
27 revenue fund of each institution and expended in accordance with section 1 of article IX of the
28 Constitution of North Dakota. Moneys in the special revenue fund are subject to legislative
29 appropriations. All other funds, unless restricted by the terms of a grant, donation, or bequest,
30 received by the institutions from federal, state, and local grants and contracts, indirect cost
31 recoveries, special student fees, room and board fees and other auxiliary enterprise fees,

1 student activity fees, continuing education program fees, internal service fund revenues, and all
2 other revenues must be deposited in the institution special revenue funds. The state treasurer
3 shall immediately transfer the funds deposited in the special revenue funds to institution
4 accounts in the Bank of North Dakota. Biennial estimates of revenue and expenditures of the
5 other funds by source of funds must be presented at the same time biennial budget requests for
6 appropriations from the special revenue fund and state general fund are prepared and
7 submitted to the office of the budget. Payments from each institution's general fund
8 appropriation must be made in amounts as may be necessary for the operation and
9 maintenance of each institution, except that at the close of the biennium the balance of funds
10 not paid from the general fund appropriation must be deposited in the special revenue funds of
11 the institutions. All such appropriations are subject to proration in the same manner as other
12 appropriations are prorated if insufficient funds are available to meet expenditures from the
13 general fund. Sinking funds for the payment of interest and principal of institutional revenue
14 bonds must be deposited pursuant to section 15-55-06.

15 **SECTION 2. AMENDMENT.** Section 54-44.1-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **54-44.1-04. (Effective through ~~June 30, 2009~~ July 31, 2011) Budget estimates of**
18 **budget units filed with the office of the budget - Deadline.** The head of each budget unit,
19 not later than July fifteenth of each year next preceding the session of the legislative assembly,
20 shall submit to the office of the budget, estimates of financial requirements of the person's
21 budget unit for the next two fiscal years, on the forms and in the manner prescribed by the
22 office of the budget, with such explanatory data as is required by the office of the budget and
23 such additional data as the head of the budget unit wishes to submit. The budget estimates for
24 the North Dakota university system must include block grants for the university system for a
25 base funding component and for an initiative funding component for specific strategies or
26 initiatives and a budget estimate for an asset funding component for renewal and replacement
27 of physical plant assets at the institutions of higher education. The estimates so submitted
28 must bear the approval of the board or commission of each budget unit for which a board or
29 commission is constituted. The director of the budget in the director's discretion may extend
30 the filing date for any budget unit if the director finds there is some circumstance that makes it
31 advantageous to authorize the extension. If a budget unit has not submitted its estimate of

1 financial requirements by the required date or within a period of extension set by the director of
2 the budget, the director of the budget shall prepare the budget unit's estimate of financial
3 requirements except the estimate may not exceed ninety percent of the budget unit's previous
4 biennial appropriation. The director of the budget or a subordinate officer as the director
5 designates shall examine the estimates and shall afford to the heads of budget units
6 reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the
7 heads of budget units a hearing thereon which must be open to the public.

8 **(Effective after ~~June 30, 2009~~ July 31, 2011) Budget estimates of budget units filed**
9 **with the office of the budget - Deadline.** The head of each budget unit, not later than July
10 fifteenth of each year next preceding the session of the legislative assembly, shall submit to the
11 office of the budget, estimates of financial requirements of the person's budget unit for the next
12 two fiscal years, on the forms and in the manner prescribed by the office of the budget, with
13 such explanatory data as is required by the office of the budget and such additional data as the
14 head of the budget unit wishes to submit. The estimates so submitted must bear the approval
15 of the board or commission of each budget unit for which a board or commission is constituted.
16 The director of the budget may extend the filing date for any budget unit if the director finds
17 there is some circumstance that makes it advantageous to authorize the extension. If a budget
18 unit has not submitted its estimate of financial requirements by the required date or within a
19 period of extension set by the director of the budget, the director of the budget shall prepare the
20 budget unit's estimate of financial requirements except the estimate may not exceed ninety
21 percent of the budget unit's previous biennial appropriation. The director of the budget or a
22 subordinate officer as the director shall designate shall examine the estimates and shall afford
23 to the heads of budget units reasonable opportunity for explanation in regard thereto and, when
24 requested, shall grant to the heads of budget units a hearing thereon which must be open to the
25 public.

26 **SECTION 3. AMENDMENT.** Section 54-44.1-06 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **54-44.1-06. (Effective through ~~June 30, 2009~~ July 31, 2011) Preparation of the**
29 **budget data - Contents.** The director of the budget, through the office of the budget, shall
30 prepare budget data which must contain and include the following:

- 1 1. Summary statements of the financial condition of the state, accompanied by the
2 detailed schedules of assets and liabilities as the director of the budget determines
3 desirable, which must include the following:
 - 4 a. Summary statements of fund balances and assets showing in detail for each
5 fund the surplus or deficit at the beginning of each of the two fiscal years of
6 the previous biennium and the first fiscal year of the present biennium, the
7 actual revenue for those years, the total appropriations for the previous and
8 present biennium, and the total expenditures for those fiscal years; and
 - 9 b. Similar summary statements of the estimated fund balances and assets for
10 the current fiscal year and each of the fiscal years of the next biennium.
- 11 Summary statements may include a comparative consolidated balance sheet
12 showing all the assets and liabilities of the state and the surplus or deficit, as the
13 case may be, at the close of the first fiscal year of the current biennium.
- 14 2. Statements of actual revenue for the previous biennium, the first year of the
15 present biennium, and the estimated revenue of the current fiscal year and of the
16 next biennium, and a statement of unappropriated surplus expected to have
17 accrued in the state treasury at the beginning of the next fiscal year. The
18 statement of unappropriated surplus for the general fund must reflect any projected
19 deficiency appropriations relating to expenditures from the general fund for the
20 present biennium. The statements of revenue and estimated revenue must be
21 classified by sources and by budget unit collecting them. Existing sources of
22 revenue must be analyzed as to their equity, productivity, and need for revision,
23 and any proposed new sources of revenue must be explained.
- 24 3. Summary statements of expenditures of the previous biennium and first year of the
25 present biennium, itemized by budget units and classified as prescribed by the
26 director of the budget.
- 27 4. Detailed comparative statements of expenditures and requests for appropriations
28 by funds, budget units and classification of expenditures, showing the expenditures
29 for the previous biennium, the first fiscal year of the present biennium, the budget
30 of the current biennium, and the governor's recommendation for appropriations for
31 each budget unit for the next biennium, all distributed according to the prescribed

1 classification of expenditures. Following the lists of actual and proposed
2 expenditures of each budget unit there must be a brief explanation of the functions
3 of the unit and comments on its policies and plans and on any considerable
4 differences among the amounts recommended, with any descriptive, quantitative,
5 comparative, and other data as to work done, unit costs, and like information as
6 may be considered necessary or desirable. For capital outlay expenditures
7 involving construction projects to be completed in two or more fiscal years, there
8 must be shown the total estimated cost of each such project and the amount
9 thereof recommended to be appropriated and expended in each ensuing fiscal
10 year until completion of the project. Capital outlay needs may be projected for at
11 least two years beyond the period covered by the budget.

12 5. A detailed statement showing the estimate of all moneys required to be raised or
13 appropriated for the payment of interest upon the funded debt of the state and its
14 other obligations bearing interest, and the amount of money required to be
15 contributed in the two next ensuing fiscal years to the general sinking funds
16 maintained for the redemption and payment of the debts of the state.

17 6. A summary statement of the unappropriated fund balance estimated to be
18 available at the beginning of the next biennium, and the estimated revenue of the
19 next biennium, as compared with the total recommended amounts of appropriation
20 for all classes of expenditures for the next biennium, and if the total of the
21 recommended expenditures exceeds the total of the estimated resources,
22 recommendations as to how the deficiency is to be met and estimates of any
23 proposed additional revenue.

24 7. Drafts of proposed general and special appropriations acts embodying the budget
25 data and recommendations of the governor for appropriations for the next biennium
26 and drafts of such revenues and other acts recommended by the governor for
27 putting into effect the proposed financial plan. The recommended general
28 appropriation for each budget unit must be specified in a separate section of the
29 general appropriations act. The draft of the proposed appropriations act for the
30 North Dakota university system must include block grants for a base funding
31 appropriation and for an initiative funding appropriation for specific strategies or

1 initiatives and an appropriation for asset funding for renewal and replacement of
2 physical plant assets at the institutions of higher education.

- 3 8. A list of every individual asset or service, excluding real estate, with a value of at
4 least fifty thousand dollars and every group of assets and services comprising a
5 single system with a combined value of at least fifty thousand dollars acquired
6 through a capital or operating lease arrangement or debt financing arrangement by
7 a state agency or institution. The list must include assets or services acquired in
8 the current biennium and anticipated assets or services to be acquired in the next
9 biennium.

- 10 9. Any other information as the director of the budget determines desirable or as is
11 required by law.

12 **(Effective after ~~June 30, 2009~~ July 31, 2011) Preparation of the budget data -**

13 **Contents.** The director of the budget, through the office of the budget, shall prepare budget
14 data which must contain and include the following:

- 15 1. Summary statements of the financial condition of the state, accompanied by the
16 detailed schedules of assets and liabilities as the director of the budget determines
17 desirable, which must include the following:

- 18 a. Summary statements of fund balances and assets showing in detail for each
19 fund the surplus or deficit at the beginning of each of the two fiscal years of
20 the previous biennium and the first fiscal year of the present biennium, the
21 actual revenue for those years, the total appropriations for the previous and
22 present biennium, and the total expenditures for those fiscal years; and
23 b. Similar summary statements of the estimated fund balances and assets for
24 the current fiscal year and each of the fiscal years of the next biennium.

25 Summary statements may include a comparative consolidated balance sheet
26 showing all the assets and liabilities of the state and the surplus or deficit, as the
27 case may be, at the close of the first fiscal year of the current biennium.

- 28 2. Statements of actual revenue for the previous biennium, the first year of the
29 present biennium, and the estimated revenue of the current fiscal year and of the
30 next biennium, and a statement of unappropriated surplus expected to have
31 accrued in the state treasury at the beginning of the next fiscal year. The

statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.

3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.

4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.

- 1 6. A summary statement of the unappropriated fund balance estimated to be
2 available at the beginning of the next biennium, and the estimated revenue of the
3 next biennium, as compared with the total recommended amounts of appropriation
4 for all classes of expenditures for the next biennium, and if the total of the
5 recommended expenditures exceeds the total of the estimated resources,
6 recommendations as to how the deficiency is to be met and estimates of any
7 proposed additional revenue.
- 8 7. Drafts of a proposed general appropriations act and special appropriations acts
9 embodying the budget data and recommendations of the governor for
10 appropriations for the next biennium and drafts of such revenues and other acts
11 recommended by the governor for putting into effect the proposed financial plan.
12 The recommended general appropriation for each budget unit must be specified in
13 a separate section of the general appropriations act.
- 14 8. A list of every individual asset or service, excluding real estate, with a value of at
15 least fifty thousand dollars and every group of assets and services comprising a
16 single system with a combined value of at least fifty thousand dollars acquired
17 through a capital or operating lease arrangement or debt financing arrangement by
18 a state agency or institution. The list must include assets or services acquired in
19 the current biennium and anticipated assets or services to be acquired in the next
20 biennium.
- 21 9. Any other information as the director of the budget determines desirable or as is
22 required by law.

23 **SECTION 4. AMENDMENT.** Section 54-44.1-11 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-44.1-11. (Effective through ~~June 30, 2009~~ July 31, 2011) Office of management**
26 **and budget to cancel unexpended appropriations - When they may continue.** Except as
27 otherwise provided by law, the office of management and budget, thirty days after the close of
28 each biennial period, shall cancel all unexpended appropriations or balances of appropriations
29 after the expiration of the biennial period during which they became available under the law.
30 Unexpended appropriations for the state historical society are not subject to this section and the
31 state historical society shall report on the amounts and uses of funds carried over from one

1 biennium to the appropriations committees of the next subsequent legislative assembly.
2 Unexpended appropriations for the North Dakota university system are not subject to this
3 section and the North Dakota university system shall report on the amounts and uses of funds
4 carried over from one biennium to the next to subsequent appropriations committees of the
5 legislative assembly. The chairmen of the appropriations committees of the senate and house
6 of representatives of the legislative assembly with the office of the budget may continue
7 appropriations or balances in force for not more than two years after the expiration of the
8 biennial period during which they became available upon recommendation of the director of the
9 budget for:

- 10 1. New construction projects.
- 11 2. Major repair or improvement projects.
- 12 3. Purchases of new equipment costing more than ten thousand dollars per unit if it
13 was ordered during the first twelve months of the biennium in which the funds were
14 appropriated.
- 15 4. The purchase of land by the state on a "contract for deed" purchase if the total
16 purchase price is within the authorized appropriation.
- 17 5. Purchases by the department of transportation of roadway maintenance equipment
18 costing more than ten thousand dollars per unit if the equipment was ordered
19 during the first twenty-one months of the biennium in which the funds were
20 appropriated.
- 21 6. Authorized ongoing information technology projects.

22 **(Effective after ~~June 30, 2009~~ July 31, 2011) Office of management and budget to**
23 **cancel unexpended appropriations - When they may continue.** The office of management
24 and budget, thirty days after the close of each biennial period, shall cancel all unexpended
25 appropriations or balances of appropriations after the expiration of the biennial period during
26 which they became available under the law. Unexpended appropriations for the state historical
27 society are not subject to this section and the state historical society shall report on the
28 amounts and uses of funds carried over from one biennium to the appropriations committees of
29 the next subsequent legislative assembly. The chairmen of the appropriations committees of
30 the senate and house of representatives of the legislative assembly with the office of the budget
31 may continue appropriations or balances in force for not more than two years after the

1 expiration of the biennial period during which they became available upon recommendation of
2 the director of the budget for:

- 3 1. New construction projects.
- 4 2. Major repair or improvement projects.
- 5 3. Purchases of new equipment costing more than ten thousand dollars per unit if it
6 was ordered during the first twelve months of the biennium in which the funds were
7 appropriated.
- 8 4. The purchase of land by the state on a "contract for deed" purchase if the total
9 purchase price is within the authorized appropriation.
- 10 5. Purchases by the department of transportation of roadway maintenance equipment
11 costing more than ten thousand dollars per unit if the equipment was ordered
12 during the first twenty-one months of the biennium in which the funds were
13 appropriated.
- 14 6. Authorized ongoing information technology projects.

15 **SECTION 5. LEGISLATIVE COUNCIL STUDY - HIGHER EDUCATION.**

- 16 1. The legislative council shall consider appointing a higher education committee for
17 the 2009-10 interim. If appointed, the committee shall spend a majority of time
18 studying the means by which the North Dakota university system can further
19 contribute to developing and attracting the human capital to meet North Dakota's
20 economic and workforce needs, and if time allows, the committee may visit select
21 higher education institutions.
- 22 2. The study must focus on ways to increase postsecondary access, improve the
23 quality of education, contain costs and other means, including productivity, to
24 maximize the usage of the North Dakota university system in meeting the human
25 capital needs of the state.
- 26 3. The study must include a review of policy recommendations, as appropriate, which
27 address the postsecondary delivery system, including the mix of institutions,
28 education attainment gaps, degree production gaps, recruitment and retention of
29 students, and workforce training needs.
- 30 4. The study must include a review of the impact of the state's changing
31 demographics on the university system's long-term financing plan.

5. The study must recommend goals for each of the higher education cornerstones.
6. The study may include the use of higher education roundtable format.
7. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.
8. The state board of higher education also shall take the recommendations into account and make appropriate changes to practices, board policy, and budget needs and allocation.

SECTION 6. LEGISLATIVE INTENT - HIGHER EDUCATION ACCOUNTABILITY

MEASURES. It is the intent of the legislative assembly that the state board of higher education's performance and accountability report as required by section 15-10-14.2 include an executive summary and information regarding:

1. Education attainment, including:
 - a. Proportion of population, 25 to 34 years of age, with an associate's degree or higher benchmarked against the national average and best-performing country.
 - b. Number of certificates, associate, and baccalaureate degrees awarded to the eighteen year-old population six years prior benchmarked against the national average and best-performing state.
2. Accessibility, including:
 - a. Proportion of recent high school graduates enrolled the following fall by county in two-year and four-year North Dakota university system institutions and nonpublic institutions to the extent information is available.
 - b. Proportion of population, 25 to 44 years of age, with at least a high school diploma, enrolled in a credit-bearing course by county at either a two-year or four-year North Dakota university system institution or nonpublic institution to the extent information is available.
3. Contributions to economic development, including:
 - a. Number of recent North Dakota university system graduates and graduates of nonpublic institutions, to the extent information is available, within the past three years employed in North Dakota benchmarked against historical trends.

- 1 b. Number of recent North Dakota university system graduates and graduates of
2 nonpublic institutions, to the extent information is available, within the last
3 three years employed in North Dakota in jobs paying at least twice the amount
4 established as poverty level in the state benchmarked against historical
5 trends.
- 6 c. Annual dollar amount of research expenditures by North Dakota institutions of
7 funds received from federal, foundation, and business sponsors benchmarked
8 against historical trends.
- 9 d. Number of certificates and associate degrees awarded in vocational and
10 technical fields benchmarked against historical trends.
- 11 e. Number of baccalaureate degrees awarded in science, technology,
12 engineering, and mathematics fields benchmarked against historical trends.
- 13 4. Affordability, including:
 - 14 a. Tuition and fees relative to the lowest quintile per capita income in the state
15 benchmarked against the national average and the state with the lowest ratio.
 - 16 b. Percentage of family income (average of all income groups) needed to pay for
17 college expenses after deducting grant aid benchmarked against the national
18 average and the state with the lowest ratio.
 - 19 c. Average amount of student loan debt incurred each year by undergraduate
20 students benchmarked against the national average and the state with the
21 lowest ratio.
- 22 5. Education excellence, including:
 - 23 a. Student performance on nationally recognized exams benchmarked against
24 national averages.
 - 25 b. First-time licensure pass rates benchmarked against the best performing
26 states.
 - 27 c. Alumni and student-reported satisfaction with preparation in selected major,
28 acquisition of specific skills, and technology knowledge and abilities
29 benchmarked against historical trends.
 - 30 d. Employer-reported satisfaction with preparation of recently hired graduates
31 benchmarked against historical trends.

- 1 6. Financial operations, including:
 - 2 a. Appropriations for general operations plus net tuition revenue per full-time
 - 3 equivalent student benchmarked against the national average and the
 - 4 best-performing state.
 - 5 b. Student share of funding for general operations benchmarked against the
 - 6 national average and historical trends.
 - 7 c. Number of degrees and certificates produced relative to annual state
 - 8 appropriations for general operations plus net tuition revenue benchmarked
 - 9 against the best-performing state.
- 10 7. System functioning, including:
 - 11 a. Number of student credit-hours delivered by North Dakota university system
 - 12 institutions to students attending another system institution benchmarked
 - 13 against historical data.
 - 14 b. Results of a biennial survey of state leaders regarding the perceptions of the
 - 15 system's functionality benchmarked against historical data.