

SENATE BILL NO. 2087

Introduced by

Education Committee

(At the request of the State Board of Higher Education)

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota
2 Century Code, relating to exempting information regarding individuals applying for certain
3 university system positions from open records requirements.

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

5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Commissioner and higher education institution president employment**
8 **applications - Exempt records.**

- 9 1. Records that would identify an individual applying for or under consideration for
10 employment or appointment as the commissioner of higher education or president
11 of an institution under the control of the state board of higher education are exempt
12 from the provisions of section 44-04-18 and section 6 of article XI of the
13 Constitution of North Dakota as provided in this section.
- 14 2. If a search process for commissioner of higher education or president of an
15 institution under the control of the state board of higher education requires
16 selection by the board or board search committee of five or more semifinalists
17 followed by selection of finalists from among the semifinalists, records of all
18 applicants or candidates under consideration are exempt prior to selection of the
19 semifinalists. Selection of semifinalists means the board or a board search
20 committee selects at least five applicants or candidates for public interviews by the
21 board or board search committee, followed by public interviews by the board of
22 finalists selected from the semifinalists. The requirement to select at least five
23 semifinalists is satisfied if five applicants or candidates are selected and publicly

- 1 identified as semifinalists, even if one or more of the semifinalists subsequently
2 withdraws from consideration.
- 3 3. Prior to selection of the semifinalists, all records relating to all candidates are
4 exempt, except the board or board search committee upon request must disclose
5 information regarding the number of applicants or candidates. Following selection
6 of the semifinalists, all records relating to applicants or candidates not selected as
7 semifinalists are exempt.
- 8 4. Following selection of a group of five or more semifinalists, all records relating to
9 the semifinalists and final candidates must be deemed to be public records.
- 10 5. The process adopted by the board under this section may include an opportunity
11 for the board to consider an additional candidate or candidates not selected as a
12 semifinalists if all records relating to a candidate are deemed open records
13 immediately upon action by the board to consider a candidate and the action is not
14 taken for the purpose of avoiding the requirements of this section.
- 15 6. The board or a board search committee may go into executive session according
16 to the process established in section 44-04-19.2 to consider or discuss exempt
17 records or the identity of an applicant or candidate whose records are exempt
18 under this section.