

SENATE BILL NO. 2085

Introduced by

Education Committee

(At the request of the Board of University and School Lands)

1 A BILL for an Act to amend and reenact sections 15-01-02.1, 15-02-08, 15-03-01.1, 15-03-02,
2 15-03-04, 15-03-05.1, and 15-06-40 of the North Dakota Century Code, relating to the
3 management of the trust funds under the control of the board of university and school lands; to
4 repeal sections 15-03-05.2 and 15-08-01 of the North Dakota Century Code, relating to
5 distributions from trust funds under the control of the board of university and school lands; and
6 to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 15-01-02.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **15-01-02.1. Board of university and school lands to set and establish fees -**

11 **Collections.** The board of university and school lands shall have authority to set and establish
12 fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land
13 contracts, holding land sales, furnishing documents, receiving and processing all loans made by
14 the board, managing property acquired under chapter 15-08.1, and managing property for other
15 state entities. All other fees provided for in this section must be deposited in the state lands
16 maintenance fund.

17 **SECTION 2. AMENDMENT.** Section 15-02-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **15-02-08. Commissioner to keep record of permanent funds - Biennial report.**

20 The commissioner shall keep a record in suitable books showing a detailed quarterly statement
21 of the condition of all of the permanent funds under the control of the board of university and
22 school lands, the amount of each fund, how invested, when due, interest paid, and all acts
23 connected with the management of such funds. All records and record books are open at all
24 times for inspection by the public. The commissioner may submit a biennial report to the

1 governor and the secretary of state in accordance with section 54-06-04. If submitted, the
2 report must show all investments of the several funds, the work done during the preceding fiscal
3 biennium, the number of acres [~~hectares~~] of land sold or leased by the department, the amount
4 received therefor, the amount of interest proceeds received to the credit of the several funds,
5 the expense of administration of the department, and all other matters relating to the
6 commissioner's office as are necessary to disclose fully the operation of the department.

7 **SECTION 3. AMENDMENT.** Section 15-03-01.1 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15-03-01.1. Creation of maintenance fund ~~Income derived from state assets.~~**
10 ~~Ten percentum of the income derived from any state~~ There is created a special fund designated
11 as the state lands maintenance fund, which is funded by the trust fund assets under the control
12 of the board of university and school lands constitutes a fund to be known as the state lands
13 maintenance fund. All expenses paid out of the state lands maintenance fund are subject to
14 legislative appropriation.

15 **SECTION 4. AMENDMENT.** Section 15-03-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **15-03-02. Interest and income Proceeds from grant lands trust fund assets.** All
18 ~~moneys accumulating in the interest and income fund arising~~ proceeds from the sale ~~or leasing~~
19 and management of any ~~lands granted by the state or by the Constitution of North Dakota for~~
20 ~~any institution of higher education of the state~~ assets under the control of the board of university
21 and school lands must be deposited in the trust fund for which the assets were granted or
22 earned and are pledged specifically for the maintenance of the institution for which such lands
23 assets were granted ~~after deducting the cost of administering such funds as provided in this~~
24 ~~chapter~~ or earned. The cost of administering a trust fund may be paid out of the fund, in
25 accordance with section 1 of article IX of the Constitution of North Dakota.

26 **SECTION 5. AMENDMENT.** Section 15-03-04 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **15-03-04. Legal investments.** Subject to the provisions of section 15-03-05, the board
29 of university and school lands shall apply the prudent investor rule in investing the permanent
30 funds under its control. The "prudent investor rule" means that in making investments the
31 board shall exercise the same judgment and care, under the circumstances then prevailing and

1 limitations of North Dakota and federal law, that an institutional investor of ordinary prudence,
2 discretion, and intelligence exercises in the management of large investments entrusted to it,
3 not in regard to speculation but in regard to the permanent disposition of funds, considering
4 probable safety of capital as well as probable ~~income~~ investment returns. Notwithstanding any
5 investments made before July 1, 1997, the board may not use any funds entrusted to it to
6 purchase, as sole owner, commercial or residential real property in North Dakota without prior
7 approval of the legislative assembly or the budget section of the legislative council. The board
8 may also lend securities held by the permanent funds, including the authority to pledge a
9 security interest in the securities in the possession of a custodian agent. These securities must
10 be collateralized as directed by the board.

11 **SECTION 6. AMENDMENT.** Section 15-03-05.1 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **15-03-05.1. Calculation of fund income - Coal development trust fund.** At the end
14 of each fiscal year, the board shall calculate the income earned by the ~~permanent funds coal~~
15 development trust fund. The net gain or loss realized on the sale of investment securities for
16 the year must be amortized to fund income in equal annual installments over a ten-year period.

17 **SECTION 7. AMENDMENT.** Section 15-06-40 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **15-06-40. Application of income.** The state forester shall apply the income so derived
20 first to the payment of the cost of all care and development of such land, and, second, the net
21 annual income must be paid to the board of university and school lands for the credit of the
22 ~~interest and income fund of the permanent school funds~~, the same to be properly apportioned
23 among the several funds therein.

24 **SECTION 8. REPEAL.** Sections 15-03-05.2 and 15-08-01 of the North Dakota Century
25 Code are repealed.

26 **SECTION 9. EFFECTIVE DATE.** This Act becomes effective at the time the
27 constitutional amendments, approved as measure No. 1 at the 2006 general election, become
28 effective or July 1, 2009, whichever is later.