

Sixty-second  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1128

Introduced by

Education Committee

(At the request of the State Board for Career and Technical Education)

1 A BILL for an Act to create and enact sections 15-20.4-01.1 and 15-20.4-01.2 of the North  
2 Dakota Century Code, relating to a commission on private postsecondary education; and to  
3 amend and reenact sections 15-20.4-01, 15-20.4-02, 15-20.4-02.1, 15-20.4-03, 15-20.4-03.1,  
4 and 15-20.4-04, subsections 2, 3, and 4 of section 15-20.4-05, sections 15-20.4-10, 15-20.4-11,  
5 15-20.4-12, and 15-20.4-14, subsection 4 of section 15-20.4-15, section 15-20.4-17,  
6 subsection 2 of section 15-20.4-18, and subsection 1 of section 54-07-01.2 of the North Dakota  
7 Century Code, relating to authorizations to operate private postsecondary educational  
8 institutions in this state and resignation of commission members at the beginning of a  
9 governor's four-year term.

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

11 **SECTION 1. AMENDMENT.** Section 15-20.4-01 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **15-20.4-01. Definitions.**

14 As used in this chapter:

- 15 1. "Authorization to operate" or like term means approval of the ~~board~~commission to  
16 operate or to contract to operate a private postsecondary educational institution in this  
17 state.
- 18 2. "~~Board~~Commission" means the ~~state board for career and technical~~  
19 ~~education~~commission on private postsecondary education.
- 20 3. "Education" or "educational services" or like term includes any class, course, or  
21 program of training, instruction, or study.
- 22 4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports,  
23 documents, or letters of designation, marks, appellations, series of letters, numbers, or  
24 words which signify, purport, or are generally taken to signify enrollment, attendance,

1 progress, or satisfactory completion of the requirements or prerequisites for education  
2 at a postsecondary educational institution operating in this state.

3 5. "Entity" includes any company, firm, society, association, partnership, corporation,  
4 limited liability company, and trust.

5 6. ~~"Executive officer" means the director of career and technical education.~~

6 7. "Postsecondary educational institution" includes an academic, vocational, technical,  
7 home study, business, professional, or other school, college, or university, or other  
8 organization or person, operating in this state, offering educational credentials, or  
9 offering instruction or educational services, (primarily to persons who have completed  
10 or terminated their secondary education or who are beyond the age of compulsory  
11 high school attendance), for attainment of educational, professional, or vocational  
12 objectives.

13 ~~8-7.~~ "To grant" includes awarding, selling, conferring, bestowing, or giving.

14 ~~9-8.~~ "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting,  
15 or encouraging any person, directly or indirectly, in any form, to perform the act  
16 described.

17 ~~10-9.~~ "To operate" an educational institution, or like term, means to establish, keep, or  
18 maintain any facility or location in this state where, from, or through which, education  
19 is offered or given, or educational credentials are offered or granted, and includes  
20 contracting with any person, group, or entity to perform any such act.

21 **SECTION 2.** Section 15-20.4-01.1 of the North Dakota Century Code is created and  
22 enacted as follows:

23 **15-20.4-01.1. Commission on private postsecondary education - Composition.**

24 1. The commission on private postsecondary education consists of:

25 a. Two individuals representing business and industry in this state, recommended  
26 by the North Dakota chamber of commerce and appointed by the governor.

27 b. One individual representing the state's public universities offering four-year  
28 degrees and graduate degrees, recommended by the state board of higher  
29 education and appointed by the governor.

- 1           c. One individual representing the state's public colleges offering two-year degrees.  
2           recommended by the state board of higher education and appointed by the  
3           governor.
- 4           d. One individual representing the department of career and technical education,  
5           recommended by the state board for career and technical education and  
6           appointed by the governor.
- 7           e. One individual representing job service North Dakota, recommended by the  
8           executive director of job service North Dakota and appointed by the governor.
- 9           f. One individual representing the private, nonprofit colleges and universities in this  
10          state, recommended by the private, nonprofit college or university whose turn it is  
11          to make the recommendation, and appointed by the governor. The private,  
12          nonprofit colleges and universities shall take turns, in alphabetical order, in  
13          recommending individuals to the governor.
- 14          g. One individual representing the private, for-profit colleges and schools in this  
15          state, recommended by the private, for-profit college or school whose turn it is to  
16          make the recommendation, and appointed by the governor. The private, for-profit  
17          colleges and schools shall take turns, in alphabetical order, in recommending  
18          individuals to the governor.
- 19          2. Appointees serve for six-year terms, staggered so that the terms of two or three  
20          members expire on June thirtieth of each odd-numbered year. This results in the initial  
21          terms of two members being two years, and the initial terms of three other members  
22          being four years. If a vacancy occurs, the governor shall appoint an individual to serve  
23          for the duration of the unexpired term, in the same manner as the individual whose  
24          unexpired term is being filled, was appointed.
- 25          3. Commission members are entitled to receive compensation at the rate of sixty-two  
26          dollars and fifty cents per day and reimbursement for expenses, from the biennial  
27          appropriation for the North Dakota university system, as provided by law for state  
28          officers, if they are attending commission meetings or performing duties directed by  
29          the commission. However, no compensation may be paid under this section to a  
30          member who receives compensation or salary as a state employee or official.
- 31          4. The commission shall annually elect one member to serve as the chairman.

1       **SECTION 3.** Section 15-20.4-01.2 of the North Dakota Century Code is created and  
2 enacted as follows:

3       **15-20.4-01.2. Commission on private postsecondary education - Staff.**

4       The North Dakota university system shall employ and compensate personnel necessary to  
5 enable the commission to carry out its duties under this chapter. The commission shall be  
6 administered by and housed within the North Dakota university system, facilitating access to  
7 consultation and expertise possessed by the North Dakota university system with regard to  
8 higher education administration and instruction.

9       **SECTION 4. AMENDMENT.** Section 15-20.4-02 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       **15-20.4-02. Exemptions.**

12       The following education and educational institutions are exempted from the provisions of  
13 this chapter:

- 14       1. Institutions exclusively offering instruction at any or all levels from preschool through  
15       the twelfth grade.
- 16       2. Education sponsored by a bona fide trade, business, professional, or fraternal  
17       organization, so recognized by the ~~board~~commission, solely for that organization's  
18       membership, or offered on a no-fee basis.
- 19       3. Education solely avocational or recreational in nature, as determined by the  
20       ~~board~~commission, and institutions offering such education exclusively.
- 21       4. Certain education provided through short-term programs as determined by the  
22       ~~board~~commission.
- 23       5. Education offered by charitable institutions, organizations, or agencies, so recognized  
24       by the ~~board~~commission, provided the education is not advertised or promoted as  
25       leading toward educational credentials.
- 26       6. Postsecondary educational institutions established, operated, and governed by this or  
27       any other state or its political subdivisions, as determined by the ~~board~~commission  
28       and any educational consortium that includes one or more of the institutions.
- 29       7. Private four-year institutions chartered or incorporated and operating in the state prior  
30       to July 1, 1977, so long as the institutions retain accreditation by national or regional  
31       accrediting agencies recognized by the United States office of education.

- 1       8.   Schools of barbering regulated under chapter 43-04.
- 2       9.   Schools of cosmetology regulated under chapter 43-11.
- 3       10.   Schools of nursing regulated under chapter 43-12.1.
- 4       11.   Native American colleges operating in this state, established by federally recognized
- 5           Indian tribes.
- 6       12.   Postsecondary educational institutions not operating in this state.

7       **SECTION 5. AMENDMENT.** Section 15-20.4-02.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **15-20.4-02.1. Voluntary application for authorization to operate.**

10       Although a postsecondary educational institution not operating in this state is exempt from  
11 this chapter by section 15-20.4-02, the institution may subject itself to the requirements of this  
12 chapter by applying for and being awarded an authorization to operate by the  
13 ~~board~~commission. An authorization to operate, as applied to a postsecondary educational  
14 institution not operating in this state, means approval of the ~~board~~commission to offer to  
15 students in this state educational services leading to educational credentials.

16       **SECTION 6. AMENDMENT.** Section 15-20.4-03 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18       **15-20.4-03. BoardCommission powers and duties.**

19       The ~~board~~commission has, in addition to the powers and duties now vested in it by law, the  
20 following powers and duties to:

- 21       1.   Establish and require compliance with minimum standards and criteria for  
22           postsecondary educational institutions under this chapter. The standards and criteria  
23           must include quality of education, ethical and business practices, health and safety  
24           and fiscal responsibility, which applicants for authorization to operate shall meet:
  - 25           a.   Before such authorization may be issued; and
  - 26           b.   To continue such authorization in effect.
- 27           The criteria and standards developed will effectuate the purposes of this chapter, but  
28           will not unreasonably hinder legitimate educational innovation.
- 29       2.   Prescribe forms and conditions for, receive, investigate as it may deem necessary, and  
30           act upon applications for authorization to operate postsecondary educational  
31           institutions.

- 1       3.    Maintain a list of postsecondary educational institutions authorized to operate in this  
2           state under the provisions of this chapter. The list must be available for the information  
3           of the public.
- 4       4.    Negotiate and enter into interstate reciprocity agreements with similar agencies in  
5           other states, if in the judgment of the boardcommission such agreements are or will be  
6           helpful in effectuating the purposes of this chapter; provided, however, that nothing  
7           contained in any such reciprocity agreement may be construed as limiting the  
8           board'scommission's powers, duties, and responsibilities with respect to independently  
9           investigating or acting upon any application for authorization to operate, or any  
10          application for renewal of such authorization to operate, a postsecondary educational  
11          institution, or with respect to the enforcement of any provision of this chapter, or any of  
12          the rules or regulations promulgated hereunder.
- 13      5.    Receive and cause to be maintained as a permanent file, copies of academic records  
14          specified by the boardcommission in the event any postsecondary educational  
15          institution required to have an authorization to operate under this chapter proposes to  
16          discontinue its operation.
- 17      6.    Promulgate such rules, regulations, and procedures necessary or appropriate for the  
18          conduct of its work and the implementation of this chapter, and to hold such hearings  
19          as it may deem advisable in accordance with chapter 28-32 or as required by law in  
20          developing such rules, regulations, and procedures, or in aid of any investigation or  
21          inquiry.
- 22      7.    Investigate as it may deem necessary, on its own initiative or in response to any  
23          complaint lodged with it, any person, group, or entity subject to, or reasonably believed  
24          by the boardcommission to be subject to, the jurisdiction of this chapter; and in  
25          connection therewith to subpoena any persons, books, records, or documents  
26          pertaining to such investigation. The boardcommission may require answers in writing  
27          under oath to questions propounded by the boardcommission and may administer an  
28          oath or affirmation to any person in connection with any investigation. The  
29          boardcommission may, after hearing, revoke or suspend authorizations to operate.  
30          Subpoenas issued by the boardcommission are enforceable by any district court.

1           8.    Require fees and bonds from postsecondary educational institutions in such sums and  
2                    under such conditions as it may establish; provided, that fees established may not  
3                    exceed the reasonable cost of the service being provided.

4           9.    Exercise other powers and duties implied but not enumerated in this section but in  
5                    conformity with the provisions of this chapter which, in the judgment of the  
6                    ~~board~~commission, are necessary in order to carry out the provisions of this chapter.

7           **SECTION 7. AMENDMENT.** Section 15-20.4-03.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9           **15-20.4-03.1. Authorization fee fund.**

10           There is created an authorization fee fund into which fees provided to the ~~board~~commission  
11 upon application for authorization to operate a postsecondary educational institution under  
12 section 15-20.4-03 must be deposited. The fund and interest earned on the fund may be spent  
13 by the ~~board~~commission pursuant to legislative appropriation exclusively to carry out the intent  
14 and purpose of this chapter. This fund is not subject to section 54-44.1-11.

15           **SECTION 8. AMENDMENT.** Section 15-20.4-04 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **15-20.4-04. Minimum standards - Exceptions.**

- 18           1.    All postsecondary educational institutions must be accredited by national or regional  
19                    accrediting agencies recognized by the United States department of education. The  
20                    ~~board~~commission may additionally require such further evidence and make such  
21                    further investigation as in its judgment may be necessary. Any postsecondary  
22                    educational institution operating in this state seeking its first authorization to operate  
23                    may be issued a provisional authorization to operate on an annual basis until the  
24                    institution becomes eligible for accreditation by a recognized accrediting agency.  
25                    Institutions issued a provisional authorization to operate must demonstrate a  
26                    substantial good-faith showing of progress toward such status. Only upon  
27                    accreditation shall an institution become eligible for a regular authorization to operate.
- 28           2.    This section does not apply to postsecondary educational institutions operating in this  
29                    state that do not grant degrees and that offer mainly hands-on training in low census  
30                    occupations, as determined by the ~~board~~commission. "Degree" as used in this  
31                    subsection means a document that provides evidence or demonstrates completion of

1 a course of instruction that results in the attainment of a rank or level of associate or  
2 higher.

3 **SECTION 9. AMENDMENT.** Subsections 2, 3 and 4 of section 15-20.4-05 of the North  
4 Dakota Century Code are amended and reenacted as follows:

5 2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for  
6 such purpose, enroll or offer to enroll, contract or offer to contract with any person for  
7 such purpose, or award any educational credential, or contract with any institution or  
8 party to perform any such act, at a facility or location in this state unless such person,  
9 group, or entity observes and is in compliance with the minimum standards and criteria  
10 established by the ~~board~~commission pursuant to subsection 1 of section 15-20.4-03,  
11 and the rules and regulations adopted by the ~~board~~commission pursuant to subsection  
12 6 of section 15-20.4-03.

13 3. Use the term "university", "institute", or "college" without authorization to do so from  
14 the ~~board~~commission.

15 4. Grant, or offer to grant, educational credentials, without authorization to do so from the  
16 ~~board~~commission.

17 **SECTION 10. AMENDMENT.** Section 15-20.4-10 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **15-20.4-10. BoardCommission review.**

20 Any person aggrieved by a decision of the ~~board~~commission respecting denial or revocation  
21 of an authorization to operate, or the placing of conditions thereon, whether on initial application  
22 or on application for renewal, and any person aggrieved by the imposition of a penalty by the  
23 ~~board~~commission under section 15-20.4-12, has the right to a hearing and review of such  
24 decision by the ~~board~~commission and to judicial review in accordance with chapter 28-32.

25 **SECTION 11. AMENDMENT.** Section 15-20.4-11 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **15-20.4-11. Violations - Civil penalty.**

28 Any person, group, or entity, or any owner, officer, or employee thereof, who violates the  
29 provisions of section 15-20.4-05, or who fails or refuses to deposit with the ~~board~~commission  
30 the records required by the ~~board~~commission under this chapter, is subject to a civil penalty not  
31 to exceed one hundred dollars for each violation. Each day's failure to comply with the

1 provisions of said sections is a separate violation. Such fine may be imposed by the  
2 ~~board~~commission in an administrative proceeding or by any court of competent jurisdiction.

3 **SECTION 12. AMENDMENT.** Section 15-20.4-12 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **15-20.4-12. Violations - Criminal penalty.**

6 Any person, group, or entity, or any owner, officer, or employee thereof, who willfully  
7 violates the provisions of section 15-20.4-05, or who willfully fails or refuses to deposit with the  
8 ~~board~~commission the records required by the ~~board~~commission under this chapter, is guilty of a  
9 class B misdemeanor. The criminal sanctions may be imposed by a court of competent  
10 jurisdiction in an action brought by the attorney general of this state or a state's attorney  
11 pursuant to section 15-20.4-14.

12 **SECTION 13. AMENDMENT.** Section 15-20.4-14 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **15-20.4-14. Enforcement - Injunction.**

- 15 1. The attorney general of this state, or the state's attorney of any county in which a  
16 postsecondary educational institution is found, at the request of the ~~board~~commission  
17 or on the attorney general's own motion, may bring any appropriate action or  
18 proceeding, (including injunctive proceedings, or criminal proceedings pursuant to  
19 section 15-20.4-12), in any court of competent jurisdiction for the enforcement of the  
20 provisions of this chapter.
- 21 2. Whenever it appears to the ~~board~~commission that any person, group, or entity is, is  
22 about to, or has been violating any of the provisions of this chapter or any of the lawful  
23 rules, regulations, or orders of the ~~board~~commission, the ~~board~~commission may, on its  
24 own motion or on the written complaint of any person, file a petition for injunction in the  
25 name of the ~~board~~commission in any court of competent jurisdiction in this state  
26 against such person, group, or entity, for the purpose of enjoining such violation or for  
27 an order directing compliance with the provisions of this chapter, and all rules,  
28 regulations, and orders issued hereunder. It is not necessary that the  
29 ~~board~~commission allege or prove that it has no adequate remedy at law. The right of  
30 injunction provided in this section is in addition to any other legal remedy which the  
31 ~~board~~commission has, and is in addition to any right of criminal prosecution provided

1 by law; provided, however, the ~~board~~commission may not obtain a temporary  
2 restraining order without notice to the person, group, or entity affected. The existence  
3 of ~~board~~commission action with respect to alleged violations of this chapter does not  
4 operate as a bar to an action for injunctive relief pursuant to this section.

5 **SECTION 14. AMENDMENT.** Subsection 4 of section 15-20.4-15 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 4. As used in this section, "duly authorized institution of higher learning" means an  
8 institution that:
- 9 a. Has accreditation recognized by the United States secretary of education or has  
10 the foreign equivalent of such accreditation;
  - 11 b. Has an authorization to operate under this chapter;
  - 12 c. Operates in this state and is exempt from this chapter under section 15-20.4-02;
  - 13 d. Does not operate in this state and is:
    - 14 (1) Licensed by the appropriate state agency; and
    - 15 (2) An active applicant for accreditation by an accrediting body recognized by  
16 the United States secretary of education; or
  - 17 e. Has been found by the ~~state board for career and technical education~~commission  
18 to meet standards of academic quality comparable to those of an institution  
19 located in the United States that has accreditation recognized by the United  
20 States secretary of education to offer degrees of the type and level claimed.

21 **SECTION 15. AMENDMENT.** Section 15-20.4-17 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **15-20.4-17. Consumer protection - False academic degrees.**

24 The ~~state board for career and technical education, in collaboration with the North Dakota~~  
25 ~~university system,~~commission shall provide via internet web sites, information to protect  
26 students, businesses, and others from persons that issue, manufacture, or use false academic  
27 degrees.

28 **SECTION 16. AMENDMENT.** Subsection 2 of section 15-20.4-18 of the North Dakota  
29 Century Code is amended and reenacted as follows:

- 30 2. As used in this section:

- 1           a. "Accreditation mill" means an accrediting entity that is not recognized by the  
2           United States department of education or the ~~state board for career and technical~~  
3           ~~education~~commission.
- 4           b. "Operate" includes to use an address, telephone number, facsimile number, or  
5           other contact point located in North Dakota.

6           **SECTION 17. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8           1. Notwithstanding sections 2-05-01, 4-18.1-04, 4.1-05-02, 6-01-03, 6-09-02.1,  
9           12-55.1-02, 12-59-01, 15-20.4-01.1, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23,  
10           23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, 50-06.1-16, 54-34.3-10,  
11           54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following  
12           boards and commissions must, subject to the limitations of this section, be considered  
13           to have resigned from such boards and commissions effective January first of the first  
14           year of each four-year term of the governor:
- 15           a. The aeronautics commission.
- 16           b. The milk marketing board.
- 17           c. The dairy promotion commission.
- 18           d. The state banking board.
- 19           e. The state credit union board.
- 20           f. The advisory board of directors to the Bank of North Dakota.
- 21           g. The pardon advisory board.
- 22           h. The state parole board.
- 23           i. The commission on private postsecondary education.
- 24           j. The state board of public school education.
- 25           j-k. The education standards and practices board.
- 26           k-l. The board of trustees for the teachers' fund for retirement.
- 27           l-m. The state game and fish advisory board.
- 28           m-n. The health council.
- 29           n-o. The air pollution control advisory council.
- 30           o-p. The board of animal health.
- 31           p-q. The administrative committee on veterans' affairs.

Sixty-second  
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- 1            q-r.    The committee on aging.
- 2            r-s.    The committee on employment of people with disabilities.
- 3            s-t.    The commission on the status of women.
- 4            t-u.    The North Dakota council on the arts.
- 5            u-v.    The state historical board.
- 6            v-w.    The Yellowstone-Missouri Rivers confluence commission.
- 7            w-x.    The state water commission.
- 8            x-y.    The state water pollution control board.