

23.0931.04000

Sixty-eighth  
Legislative Assembly  
of North Dakota

Introduced by

Senators Lee, J. Roers, Schaible

Representatives Sanford, Stemen, Swiontek

**SENATE BILL NO. 2343**  
**with Conference Committee Amendments**  
**SENATE BILL NO. 2343**

1 A BILL for an Act to create and enact two new sections to chapter 15-10 of the North Dakota  
2 Century Code, relating to the state board of higher education, reporting by the state  
3 commissioner of higher education, and records of the state board of higher education; to amend  
4 and reenact section 15-10-17 of the North Dakota Century Code, relating to state board of  
5 higher education policy; and to provide for a legislative management report.

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

7 **SECTION 1. AMENDMENT.** Section 15-10-17 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **15-10-17. Specific powers and duties of the state board of higher education.**

10 The state board of higher education has all the powers and shall perform all the duties  
11 necessary to the control and management of the institutions described in this chapter. The state  
12 board of higher education shall establish a policy ensuring transparent communication between  
13 members of the board on all topics relating to the specific powers and duties under section 6 of  
14 article VIII of the Constitution of North Dakota and this section. Each member must have equal  
15 access to all current and historic information relating to the specific powers and duties under  
16 section 6 of article VIII of the Constitution of North Dakota and this section. In addition to the  
17 powers and duties specified in section 6 of article VIII of the Constitution of North Dakota, the  
18 board may:

19 1. a. Appoint and remove the president or other faculty head, and the professors,  
20 instructors, teachers, officers, and other employees of the several institutions  
21 under the board's control, fix the salaries for those positions within the limits of  
22 legislative appropriations; and fix the terms of office and prescribe the duties of  
23 the positions.

Sixty-eighth  
Legislative Assembly

- 1           b. Appoint and remove the commissioner of higher education, fix the  
2           commissioner's salary within the limits of legislative appropriations, and prescribe  
3           the commissioner's duties.
- 4           c. Appoint and remove all university system office personnel, fix their salaries within  
5           the limits of legislative appropriations, fix their terms of office, and prescribe their  
6           duties.
- 7           d. The board may hold an executive session to consider the appointment or  
8           removal of the commissioner of higher education, or a president or other faculty  
9           head, professor, instructor, teacher, officer, or other employee of an institution  
10          under the board's control unless the individual involved requests the meeting be  
11          open to other individuals or the public.
- 12         2. Authorize the employment of law enforcement officers having jurisdiction on property  
13          owned or leased by the state board of higher education to enforce laws and  
14          regulations at its institutions, or as otherwise provided in this subsection.
  - 15           a. A law enforcement officer employed by North Dakota state university has  
16           jurisdiction on all property owned or leased by the state board of higher education  
17           and property on and within the boundaries of the intersection of nineteenth  
18           avenue north and Dakota drive south to eighth avenue north, eighth avenue north  
19           east to tenth street north, tenth street north north to nineteenth avenue north,  
20           nineteenth avenue north west to Dakota drive.
  - 21           b. A law enforcement officer employed by the university of North Dakota has  
22           jurisdiction on all property owned or leased by the state board of higher education  
23           and property on and within the boundaries of the intersection of demers avenue  
24           and north fifty-fifth street, north fifty-fifth street north to university avenue,  
25           university avenue east to north forty-second street, north forty-second street  
26           north to gateway drive, gateway drive east to north columbia road, north  
27           columbia road south to tenth avenue north, tenth avenue north east to north  
28           twenty-fifth street, north twenty-fifth street south to sixth avenue north, sixth  
29           avenue north east to north twentieth street, north twentieth street south to fifth  
30           avenue north, fifth avenue north west to north twenty-third street, north  
31           twenty-third street south to university avenue, university avenue east to north

Sixty-eighth  
Legislative Assembly

- 1                   twenty-first street, north twenty-first street south to dyke avenue, dyke avenue  
2                   east to north washington street, north washington street south to demers avenue,  
3                   and demers avenue west to north fifty-fifth street. Jurisdiction under this  
4                   subdivision includes Grand Forks international airport.
- 5                   c. A law enforcement officer employed by the North Dakota state college of science  
6                   has jurisdiction on all property owned or leased by the state board of higher  
7                   education and property on and within the boundaries of the intersection of  
8                   seventh avenue north and eleventh street north, eleventh street north to sixteenth  
9                   avenue north, sixteenth avenue north west to fourth street north, and fourth street  
10                  north south to seventh avenue north.
- 11                  d. A law enforcement officer employed by Bismarck state college has jurisdiction on  
12                  all property owned or leased by the state board of higher education and property  
13                  on and within the boundaries of the area delineated by the intersections of  
14                  schafer street and canary avenue, canary avenue and edwards avenue, edwards  
15                  avenue and schafer street, edwards avenue and ward road, ward road and  
16                  college drive, and college drive and schafer street.
- 17                  e. A law enforcement officer employed by an institution under the control of the state  
18                  board of higher education who is in "fresh pursuit" may continue beyond the  
19                  jurisdictional boundaries of each institution to make an arrest, in compliance with  
20                  a warrant or without a warrant under the conditions of section 29-06-15, if  
21                  obtaining the aid of peace officers having jurisdiction beyond that limit would  
22                  cause a delay permitting escape. As used in this subdivision, "fresh pursuit" has  
23                  the same meaning as in section 29-06-07.
- 24                  f. The state board of higher education may enter a joint powers agreement with a  
25                  political subdivision to enable law enforcement from the political subdivision and  
26                  law enforcement from the institution to provide secondary response to each other  
27                  outside the jurisdictional boundaries provided in this subsection.
- 28                  g. Notwithstanding any other provision of law or joint powers agreement, any  
29                  misdemeanor or felony violation of law occurring in or on property owned or  
30                  leased by the state board of higher education or within the extraterritorial  
31                  jurisdiction must be filed in district court unless the primary law enforcement

Sixty-eighth  
Legislative Assembly

1                   officer involved is not employed by the state board of higher education. An  
2                   infraction or noncriminal offense occurring in or on property owned or leased by  
3                   the state board of higher education or within the extraterritorial jurisdiction may  
4                   be filed in municipal court.

5                 3. Set tuition and fees.

6                 4. a. Establish a retirement program as an alternative to chapter 15-39.1 for university  
7                   system employees subject to the following guidelines:

8                   (1) Benefits under the program must be provided through annuity contracts  
9                   purchased by the board but which become the property of the participants;  
10                  (2) The cost of the annuity contracts must be defrayed by contributions made  
11                  pursuant to rules of the state board of higher education;  
12                  (3) Eligible employees appointed before July 1, 1973, shall participate in the  
13                  alternate retirement program only by their individual election. When the  
14                  electing eligible employee is a member of the teachers' fund for retirement,  
15                  the employee's assessments and employer's contributions together with  
16                  interest credited at the current rate for one-year certificates then being paid  
17                  by the Bank of North Dakota must be transferred to the employee's account  
18                  in the alternate program. The election must be made before July 1, 1980,  
19                  and shall relinquish all rights the eligible employee or the employee's  
20                  beneficiary may have to benefits provided in chapters 15-39 and 15-39.2;  
21                  and

22                  (4) Employees of the university system who are members of the public  
23                  employees retirement system under chapter 54-52 or 54-52.6 and who  
24                  become entitled to participate in the alternate retirement program are  
25                  entitled to a special annuity purchase in the alternate retirement program in  
26                  accordance with this subdivision. An eligible employee who consents to  
27                  have that employee's contribution included is entitled to have that  
28                  employee's contribution and employer's contribution, with interest, in the  
29                  public employees retirement system fund, used by the retirement board of  
30                  the public employees retirement system to purchase for that employee an  
31                  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 before 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 chapters 54-52 and 54-52.6.

- 15           b. Provide for the administration of the alternate retirement program and establish  
16           rules for the program consistent with this subsection. This subsection does not  
17           derogate any existing retirement programs approved by the board.

18        5. Determine policy for purchasing by the university system in coordination with the office  
19           of management and budget as provided by law.

20        6. Establish by rule an early retirement program for faculty and officers of the board as  
21           defined by the board. The limitations on severance pay pursuant to section 54-14-04.3  
22           and on requiring the employee to pay contributions to continue on the state uniform  
23           group insurance program upon retirement or upon termination of employment  
24           pursuant to section 54-52.1-03 do not apply to the early retirement program.

25        7. Adopt rules to protect the confidentiality of student records, medical records, and,  
26           consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial  
27           information.

28        8. Authorize and encourage university system entities to enter into partnerships, limited  
29           liability companies, joint ventures, or other contractual arrangements with private  
30           business and industry for the purpose of business or industrial development or  
31           fostering basic and applied research or technology transfer.

Sixty-eighth  
Legislative Assembly

1       9. Adopt rules promoting research, encouraging development of intellectual property and  
2           other inventions and discoveries by university system employees, and protecting and  
3           marketing the inventions and discoveries. The rules must govern ownership or transfer  
4           of ownership rights and distribution of income that may be derived from an invention or  
5           discovery resulting from research or employment in the university system. The rules  
6           may provide for transfer of ownership rights or distribution of income to a private,  
7           nonprofit entity created for the support of the university system or one of its  
8           institutions.

9       **SECTION 2.** A new section to chapter 15-10 of the North Dakota Century Code is created  
10      and enacted as follows:

11      **State commissioner of higher education - Board member information access - Report**  
12      **to the legislative management.**

13      The state commissioner of higher education shall provide a report to the legislative  
14      management on state board of higher education policies regarding communications between  
15      board members and board member access to current and historic board information.

16       **SECTION 3.** A new section to chapter 15-10 of the North Dakota Century Code is created  
17      and enacted as follows:

18      **Records of the North Dakota university system and state board of higher education.**  
19      The North Dakota university system and the state board of higher education may not deny a  
20      member of the governing body access to a record that is closed or confidential, as defined in  
21      chapter 44-04, including a meeting record, whether written or recorded, unless otherwise  
22      prohibited by law.