

EDUCATION

CHAPTER 149

SENATE BILL NO. 2049

(State and Local Government Committee)
(At the request of the Department of Trust Lands)

AN ACT to amend and reenact sections 15-04-09, 15-04-19, 15-08-19.1, and 15-08-19.4 of the North Dakota Century Code, relating to the leasing and administration of lands managed by the board of university and school lands; and to repeal section 15-04-18 of the North Dakota Century Code, relating to the leasing and administration of lands managed by the board of university and school lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-04-09 of the North Dakota Century Code is amended and reenacted as follows:

15-04-09. Notice of leasing - Publication - Posting.

Each year at such time as in its judgment is for the best interests of the state, the board of university and school lands shall advertise and offer for lease the lands to be leased. All lands to be leased or offered for lease within the respective counties must be advertised for lease by the board by publication once each week for a period of three weeks prior to the day of leasing in the official county newspaper where said land is situated and in such other newspapers as the board deems appropriate. ~~A list of the lands to be offered for leasing must be filed with the county treasurer of the county wherein such lands are situated at least ten days prior to the day of leasing.~~ If, in the opinion of the board, the land that will be leased in any county will not be sufficient to warrant the expense of advertisement in a newspaper by description of each tract or parcel, the notice may be given by general advertisement.

SECTION 2. AMENDMENT. Section 15-04-19 of the North Dakota Century Code is amended and reenacted as follows:

15-04-19. Lessee not to break or plow uncultivated land - Penalty.

No lessee of land leased under the provisions of this chapter, or the lessee's heirs or assigns, may break, plow, or cultivate any unbroken land on any tract leased, nor cause nor permit it to be done by any other person. Any person who violates the provisions of this section ~~shall incur the forfeitures and liabilities provided in section 15-04-18~~ forfeits that person's lease and all rights and interests thereunder and is liable to the state for damages sustained by the state, and is guilty of a class B misdemeanor.

SECTION 3. AMENDMENT. Section 15-08-19.1 of the North Dakota Century Code is amended and reenacted as follows:

15-08-19.1. Organized event.

1. Upon written request, the commissioner of university and school lands may allow by written agreement or permit, an organized event involving public access or activity on trust lands if the event:
 - a. Is an appropriate use of trust lands;
 - b. Does not damage trust lands;
 - c. Does not have a negative impact on the value or financial return of the trust lands in violation of the board of university and school lands' fiduciary duty to the applicable trusts as determined by the commissioner;
 - d. Protects the state from liability and other claims for damage; and
 - e. Has been approved in writing by the ~~current surface land lessee, if the trust lands are leased~~ commissioner after consultation with the lessee if the lands are leased.
2. The commissioner may refuse to issue or renew a permit if the permit applicant has repeatedly violated the provisions of this chapter or rules or orders of the commissioner.

SECTION 4. AMENDMENT. Section 15-08-19.4 of the North Dakota Century Code is amended and reenacted as follows:

15-08-19.4. Prohibited activities - Penalty.

1. The following activities and items are prohibited on trust lands:
 - a. Target shooting, explosives, and exploding targets;
 - b. Camping, picnicking, or campfires;
 - c. Unattended trail cameras, hunting blinds, tree stands, and screw-in steps unless otherwise authorized by the commissioner of university and school lands;
 - d. Using bait to attract, lure, feed, or habituate wildlife for any purpose. For purposes of this subsection "bait" includes grains, screenings, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds, but not the use of lures, scents, or liquid attractants for hunting;
 - e. Disturbing or removing artifacts or any cultural, historical, archeological, or paleontological resources found on trust lands without written permission from the board of university and school lands;
 - f. Disposing of refuse, including garbage, bottles, cans, trees, branches, or other waste materials;
 - g. Dog training;
 - h. Metal detecting;
 - i. Guiding and outfitting;

- j. Collecting plant parts for sale or other commercial purposes;
 - k. Trapping, unless authorized in writing by the commissioner;
 - l. Tree cutting and firewood gathering, unless authorized in writing by the commissioner;
 - m. Beehives, unless specifically authorized in ~~a surface land lease~~writing by the commissioner; and
 - n. Organized events for which the commissioner has not issued a written agreement or permit in accordance with section 15-08-19.1.
2. An individual who violates subdivision n of subsection 1 is guilty of a class B misdemeanor.

SECTION 5. REPEAL. Section 15-04-18 of the North Dakota Century Code is repealed.

Approved March 22, 2023

Filed March 23, 2023

CHAPTER 150

HOUSE BILL NO. 1448

(Representatives Weisz, Dockter, Wagner)
(Senator Klein)

AN ACT to amend and reenact section 15-06-02, subsection 7 of section 15.1-11-04, and section 54-01-13.2 of the North Dakota Century Code, relating to the composition of the county board of appraisers, required annual training, and land appraisal requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-06-02 of the North Dakota Century Code is amended and reenacted as follows:

15-06-02. County board of appraisers - How composed.

~~The county superintendent of schools, the~~ chairman of the board of county commissioners; and the county auditor of each county constitutes the county board of appraisers of the original grant lands of the state in their respective counties. The county director of tax equalization shall serve as an assistant in making the appraisals.

SECTION 2. AMENDMENT. Subsection 7 of section 15.1-11-04 of the North Dakota Century Code is amended and reenacted as follows:

7. As secretary of the county committee:
 - a. Provide to the public information regarding the annexation of property to another school district;
 - b. Provide to the public all forms necessary for the annexation of property to another school district;
 - c. Compile information regarding school district annexations and dissolutions and provide such information to the appropriate county committees, at the time and in the manner directed by the state board of public school education; ~~and~~
 - d. Compile information regarding school district annexations, reorganizations, and dissolutions, and provide such information to the state board of public school education, at the time and in the manner directed by the state board; and
 - e. Attend annual training provided by the superintendent of public instruction and the North Dakota association of counties.

SECTION 3. AMENDMENT. Section 54-01-13.2 of the North Dakota Century Code is amended and reenacted as follows:

54-01-13.2. Appraisal.

The lands to be conveyed to the United States of America and also the lands to be taken in exchange therefor, under the provisions of section 54-01-13.1, must be appraised by ~~the county superintendent of schools, the county auditor, and the chairman of the board of county commissioners~~ in the county ~~wherein~~ which the land is situated, at ~~its~~ the land's fair market value, but ~~no~~ state school lands may not be appraised and valued at less than ten dollars per acre [.40 hectare]. The county director of tax equalization shall serve as an assistant in making the appraisals.

Approved March 23, 2023

Filed March 23, 2023

CHAPTER 151

HOUSE BILL NO. 1392

(Representatives D. Johnson, Richter, Sanford)
(Senators Bekkedahl, Meyer, Schaible)

AN ACT to create and enact two new sections to chapter 15-10 of the North Dakota Century Code, relating to the authority to deposit money into institution accounts at the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Affiliated nonprofit organization funds.

An affiliated nonprofit organization that provides support to and is organized and operated for the benefit of an institution under the control of the state board of higher education may deposit money into an institution account in the Bank of North Dakota for the purpose of benefiting the mission and objectives of the institution. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

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

Student organization funds.

Any student organization recognized by an institution under the control of the state board of higher education may deposit money into institution accounts in the Bank of North Dakota to be used for the benefit of students and student organizations or for charitable purposes. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 152

HOUSE BILL NO. 1241

(Representatives Schreiber-Beck, Hagert, D. Johnson, Jonas, Lefor, Mitskog, Murphy,
Nathe, Richter)
(Senators Burckhard, Hogan, Meyer)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the workforce education innovation program; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Workforce education innovation program - Report to legislative management.

1. The state board of higher education may provide award funds to institutions under its control to create or enhance educational programs that address the workforce needs of North Dakota business and industry. An award made under this section may be used for curriculum development, equipment and technology purchases, facility modifications and equipment installation, hiring and training new and existing instructors, educational program promotion, and enhancement of postsecondary partnerships with primary and secondary schools.
2. The state board of higher education shall provide a biennial program report to the legislative management by September first of each even-numbered year. The report must include information by institution regarding:
 - a. The number, amount, and type of awards;
 - b. The name of each educational program created, enhanced, or promoted;
 - c. The amount and percentage of funds used for leadership and coordination costs; and
 - d. Detailed expense reports, including the type of equipment and technology purchased and the number of instructors hired or trained.

Approved March 30, 2023

Filed April 3, 2023

CHAPTER 153

SENATE BILL NO. 2343

(Senators Lee, J. Roers, Schaible)
(Representatives Sanford, Stemen, Swiontek)

AN ACT to create and enact two new sections to chapter 15-10 of the North Dakota Century Code, relating to the state board of higher education, reporting by the state commissioner of higher education, and records of the state board of higher education; to amend and reenact section 15-10-17 of the North Dakota Century Code, relating to state board of higher education policy; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

1. a. Appoint and remove the president or other faculty head, and the professors, instructors, teachers, officers, and other employees of the several institutions under the board's control, fix the salaries for those positions within the limits of legislative appropriations; and fix the terms of office and prescribe the duties of the positions.
- b. Appoint and remove the commissioner of higher education, fix the commissioner's salary within the limits of legislative appropriations, and prescribe the commissioner's duties.
- c. Appoint and remove all university system office personnel, fix their salaries within the limits of legislative appropriations, fix their terms of office, and prescribe their duties.
- d. The board may hold an executive session to consider the appointment or removal of the commissioner of higher education, or a president or other faculty head, professor, instructor, teacher, officer, or other employee of an institution under the board's control unless the individual involved requests the meeting be open to other individuals or the public.

2. Authorize the employment of law enforcement officers having jurisdiction on property owned or leased by the state board of higher education to enforce laws and regulations at its institutions, or as otherwise provided in this subsection.
 - a. A law enforcement officer employed by North Dakota state university has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of nineteenth avenue north and Dakota drive south to eighth avenue north, eighth avenue north east to tenth street north, tenth street north north to nineteenth avenue north, nineteenth avenue north west to Dakota drive.
 - b. A law enforcement officer employed by the university of North Dakota has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of demers avenue and north fifty-fifth street, north fifty-fifth street north to university avenue, university avenue east to north forty-second street, north forty-second street north to gateway drive, gateway drive east to north columbia road, north columbia road south to tenth avenue north, tenth avenue north east to north twenty-fifth street, north twenty-fifth street south to sixth avenue north, sixth avenue north east to north twentieth street, north twentieth street south to fifth avenue north, fifth avenue north west to north twenty-third street, north twenty-third street south to university avenue, university avenue east to north twenty-first street, north twenty-first street south to dyke avenue, dyke avenue east to north washington street, north washington street south to demers avenue, and demers avenue west to north fifty-fifth street. Jurisdiction under this subdivision includes Grand Forks international airport.
 - c. A law enforcement officer employed by the North Dakota state college of science has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of seventh avenue north and eleventh street north, eleventh street north to sixteenth avenue north, sixteenth avenue north west to fourth street north, and fourth street north south to seventh avenue north.
 - d. A law enforcement officer employed by Bismarck state college has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the area delineated by the intersections of schaffer street and canary avenue, canary avenue and edwards avenue, edwards avenue and schaffer street, edwards avenue and ward road, ward road and college drive, and college drive and schaffer street.
 - e. A law enforcement officer employed by an institution under the control of the state board of higher education who is in "fresh pursuit" may continue beyond the jurisdictional boundaries of each institution to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subdivision, "fresh pursuit" has the same meaning as in section 29-06-07.
 - f. The state board of higher education may enter a joint powers agreement with a political subdivision to enable law enforcement from the political subdivision and law enforcement from the institution to provide secondary

- response to each other outside the jurisdictional boundaries provided in this subsection.
- g. Notwithstanding any other provision of law or joint powers agreement, any misdemeanor or felony violation of law occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction must be filed in district court unless the primary law enforcement officer involved is not employed by the state board of higher education. An infraction or noncriminal offense occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction may be filed in municipal court.
3. Set tuition and fees.
4. a. Establish a retirement program as an alternative to chapter 15-39.1 for university system employees subject to the following guidelines:
- (1) Benefits under the program must be provided through annuity contracts purchased by the board but which become the property of the participants;
 - (2) The cost of the annuity contracts must be defrayed by contributions made pursuant to rules of the state board of higher education;
 - (3) Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, the employee's assessments and employer's contributions together with interest credited at the current rate for one-year certificates then being paid by the Bank of North Dakota must be transferred to the employee's account in the alternate program. The election must be made before July 1, 1980, and shall relinquish all rights the eligible employee or the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2; and
 - (4) Employees of the university system who are members of the public employees retirement system under chapter 54-52 or 54-52.6 and who become entitled to participate in the alternate retirement program are entitled to a special annuity purchase in the alternate retirement program in accordance with this subdivision. An eligible employee who consents to have that employee's contribution included is entitled to have that employee's contribution and employer's contribution, with interest, in the public employees retirement system fund, used by the retirement board of the public employees retirement system to purchase for that employee an 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.

- b. Provide for the administration of the alternate retirement program and establish rules for the program consistent with this subsection. This subsection does not derogate any existing retirement programs approved by the board.
5. Determine policy for purchasing by the university system in coordination with the office of management and budget as provided by law.
6. Establish by rule an early retirement program for faculty and officers of the board as defined by the board. The limitations on severance pay pursuant to section 54-14-04.3 and on requiring the employee to pay contributions to continue on the state uniform group insurance program upon retirement or upon termination of employment pursuant to section 54-52.1-03 do not apply to the early retirement program.
7. Adopt rules to protect the confidentiality of student records, medical records, and, consistent with section 44-04-18.4, trade secret, proprietary, commercial, and financial information.
8. Authorize and encourage university system entities to enter into partnerships, limited liability companies, joint ventures, or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer.
9. Adopt rules promoting research, encouraging development of intellectual property and other inventions and discoveries by university system employees, and protecting and marketing the inventions and discoveries. The rules must govern ownership or transfer of ownership rights and distribution of income that may be derived from an invention or discovery resulting from research or employment in the university system. The rules may provide for transfer of ownership rights or distribution of income to a private, nonprofit entity created for the support of the university system or one of its institutions.

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

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

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

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

Records of the North Dakota university system and state board of higher education.

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

Approved April 26, 2023

Filed April 26, 2023

CHAPTER 154

HOUSE BILL NO. 1196

(Representatives Pyle, Heilman, Karls, Rohr, Schreiber-Beck)
(Senators Lemm, Rust)

AN ACT to amend and reenact section 15-10-18.3 of the North Dakota Century Code, relating to free tuition for dependents of disabled veterans or veterans killed in action.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-18.3 of the North Dakota Century Code is amended and reenacted as follows:

15-10-18.3. Free tuition in North Dakota institutions of higher education.

Any~~A~~ dependent, as defined in section 15-10-18.2, upon being duly accepted for enrollment into ~~any~~an undergraduate degree or certificate program of a North Dakota state institution of higher education, must be allowed to obtain a bachelor's degree or certificate of completion, for so long as the dependent is eligible, free of any tuition and fee charges ~~if the bachelor's degree or certificate of completion is earned within a forty-five month or ten-semester period or its equivalent and if tuition and fee charges do not include costs for aviation flight charges or expenses. Once an individual qualifies as a dependent under section~~section 15-10-18.2 and ~~15-10-18.3~~this section, the dependent may not be disqualified from the benefits of this section:

1. Due to the return of the prisoner of war;
2. Due to the return of the individual missing in action; or
3. Because the veteran through whom the benefit was obtained had a one hundred percent service-connected disability at the time of death.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 155

SENATE BILL NO. 2130

(Senators Vedaa, Dever, Larson)
(Representatives D. Anderson, Thomas)

AN ACT to amend and reenact subsection 2 of section 15-10-18.4 of the North Dakota Century Code, relating to the definition of peace officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 15-10-18.4 of the North Dakota Century Code is amended and reenacted as follows:

2. "Peace officer" means ~~any~~:
 - a. ~~Any person who is~~ employed by a state law enforcement agency or a political subdivision of the state who is charged with the prevention and detection of crime and the enforcement of the criminal laws of the state, and who has full power of arrest; or
 - b. A correctional officer employed by the state or a political subdivision of the state.

Approved March 22, 2023

Filed March 23, 2023

CHAPTER 156

HOUSE BILL NO. 1030

(Legislative Management)
(Higher Education Committee)

AN ACT to amend and reenact sections 15-10-38.4, 15-10-59, 15-62.5-01, and 15-62.5-03, subdivision a of subsection 1 of section 15-62.5-04, and sections 15-63-01, 15-63-02, 15-63-03, 15-63-04, 15-63-05, 15.1-21-02.6, and 15.1-21-02.8 of the North Dakota Century Code, relating to dual-credit tuition scholarships, the North Dakota scholars program, Indian scholarships, and academic and career and technical education scholarships; and to repeal section 15-63-07 of the North Dakota Century Code, relating to the use of Indian scholarship refunds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-38.4 of the North Dakota Century Code is amended and reenacted as follows:

15-10-38.4. Dual-credit courses - Tuition scholarship program - Administered by the board.

1. The state board of higher education shall administer a dual-credit tuition scholarship program to offer a tuition scholarship to students. The board shall adopt procedures to administer the program.
2. An eligible student may apply to the board to receive a scholarship toward the cost of tuition and fees at the accredited in-state public, private, or tribal institution of higher education at which the student is enrolled. To be eligible to receive a scholarship, an individual must:
 - a. Be enrolled and have completed at least one semester, quarter, or term at a public, private, or tribal institution of higher education with a physical presence in the state;
 - b. Have:
 - (1) Graduated from a high school in the state;
 - (2) Graduated from a high school in a bordering state under chapter 15.1-29;
 - (3) Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - (4) Completed a program of home education under chapter 15.1-23; and
 - c. Have successfully completed at least one dual-credit course provided by an accredited public, private, or tribal institution ~~under the control of the state board of higher education in the state~~ while enrolled in high school or a program of home education in the state.

3. The state board of higher education shall provide an eligible student with a tuition scholarship equal to ~~fifty percent of the cost of the~~ two hundred fifty dollars for one successfully completed dual-credit course, five hundred dollars for two successfully completed dual-credit courses, or seven hundred fifty dollars for three or more successfully completed dual-credit courses. ~~The dual-credit courses must be provided by an accredited public, private, or tribal institution under the control of the state board of higher education in the state, and completed by the student while in high school or a program of home education, in an amount up to seven hundred fifty dollars.~~ A scholarship received by a student during any semester, quarter, or term of enrollment under this section may not exceed the cost of tuition and fees for the semester, quarter, or term. ~~A student is not eligible to receive more than seven hundred fifty dollars under this section.~~

SECTION 2. AMENDMENT. Section 15-10-59 of the North Dakota Century Code is amended and reenacted as follows:

15-10-59. Annual report - Scholarships. (Effective through July 31, 20242030)

The state board of higher education shall provide to the legislative management an annual report regarding the number of North Dakota scholarships, North Dakota academic scholarships, and North Dakota career and technical education scholarships provided and demographic information pertaining to the recipients.

Annual report - Scholarships. (Effective after July 31, 20242030) The state board of higher education shall provide to the legislative management an annual report regarding the number of North Dakota scholarships provided and demographic information pertaining to the recipients.

SECTION 3. AMENDMENT. Section 15-62.5-01 of the North Dakota Century Code is amended and reenacted as follows:

15-62.5-01. Scholars program.

The state board of higher education shall administer the scholars program for the purpose of providing a merit-based scholarship to an individual who:

1. a. Graduated from a high school in this state;
 - b. Graduated from a high school in a bordering state, pursuant to chapter 15.1-29;
 - c. Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - d. Completed a program of home education supervised in accordance with chapter 15.1-23;
2. On the ACT ~~achieved a composite score of 30 or higher, or an equivalent score on an equivalent nationally recognized standardized test approved by the state board of higher education, achieved composite scores that ranked the individual at or above the ninety-fifth percentile among those who took the ACT or an equivalent nationally recognized standardized test approved by the state board of higher education,~~ prior to July first in the calendar year preceding the individual's post-secondary enrollment;

3. a. Is enrolled at an accredited institution of higher education with a physical presence in this state that offers a program of instruction equal to at least two academic years;
- b. Because of a medically certifiable disability is enrolled at an accredited institution of higher education outside of this state that offers the individual special services or facilities not available in this state, provided the institution offers a program of instruction equal to at least two academic years; and
4. Is pursuing a course of study determined by the board to be full-time.

SECTION 4. AMENDMENT. Section 15-62.5-03 of the North Dakota Century Code is amended and reenacted as follows:

15-62.5-03. Scholars program - Ranking and selection of recipients.

1. The state board of higher education shall rank scholars program applicants by their ACT composite scores or equivalent scores on a nationally recognized standardized test approved by the state board of higher education.
2. If two or more applicants have the same ~~composite scores~~ as determined in subsection 1, they must be ranked by the numeric sum of their four scale scores on the ACT or equivalent scores ~~on~~. If a nationally recognized standardized test approved by the state board of higher education does not calculate scale scores, the equivalent will be zero.
3. ~~If two or more applicants have the same composite scores and the same numeric sum of the four scale scores as determined in subsections 1 and 2, they must be ranked by the numeric sum of their English and mathematics scores. If a nationally recognized standardized test approved by the state board of higher education does not calculate equivalent English and mathematics scores, the equivalent will be zero.~~
4. The state board of higher education may establish additional criteria to rank applicants who have the same ~~numeric sum of their English and mathematics scores~~ as determined in subsections 1 through 3.
5. Scholarships must be offered to applicants in descending order according to this ranking until available funds have been expended or until the pool of applicants has been exhausted.

SECTION 5. AMENDMENT. Subdivision a of subsection 1 of section 15-62.5-04 of the North Dakota Century Code is amended and reenacted as follows:

- a. Each semester, the state board of higher education shall provide to an eligible student a scholarship in an amount not exceeding the tuition charged at the institution in which the student is enrolled, provided the amount ~~may~~does not exceed the highest undergraduate semester tuition charged at an institution of higher education under the control of the state board of higher education.

SECTION 6. AMENDMENT. Section 15-63-01 of the North Dakota Century Code is amended and reenacted as follows:

15-63-01. State board for ~~Indian~~Native American scholarships.

There is hereby established a state board for ~~Indian~~Native American scholarships consisting of an ~~Indiana Native American~~ appointed by the governor, the executive director of the state Indian affairs commission, and the commissioner of higher education or the commissioner's designee. The commissioner of higher education or the commissioner's designee shall serve as chairperson and the executive director of the state Indian affairs commission shall serve as secretary of the board for ~~Indian~~Native American scholarships. The state board of higher education shall request scholarship funds and staff to administer the ~~Indian~~Native American scholarship program in the board's biennial budget request.

SECTION 7. AMENDMENT. Section 15-63-02 of the North Dakota Century Code is amended and reenacted as follows:

15-63-02. Duties of board.

The state board for ~~Indian~~Native American scholarships shall:

1. Award ~~scholarship grants~~scholarships as provided in this chapter.
2. Direct the North Dakota university system in administration of awards under this chapter.
3. Make necessary rules and establish standards, requirements, and procedures for the administration of this chapter.
- 3-4. Encourage members of federally recognized Indian tribes to attend and be ~~graduated~~graduate from any accredited institution of higher learning or state accredited career and technical education program ~~within~~with a physical presence in this state, and to ~~make application~~apply for scholarships.

SECTION 8. AMENDMENT. Section 15-63-03 of the North Dakota Century Code is amended and reenacted as follows:

15-63-03. Number and nature of scholarships.

The state board for ~~Indian~~Native American scholarships shall provide scholarships each year for resident members of federally recognized Indian tribes to ~~entitle persons so selected to enter and~~ attend any accredited institution of higher learning or state accredited career and technical education program ~~within~~with a physical presence in this state upon compliance with all requirements for admission and to pursue any course or courses offered in such institutions or programs.

SECTION 9. AMENDMENT. Section 15-63-04 of the North Dakota Century Code is amended and reenacted as follows:

15-63-04. Eligibility of candidates - Determination.

~~The initial and continuing scholarship~~Scholarship eligibility of state residents who are enrolled members of federally recognized Indian tribes must be determined by the state board for ~~Indian~~Native American scholarships ~~after the candidate has gained admission to any institution of higher learning or state career and technical education program within this state and has had this fact certified to the board annually for applicants.~~ Factors to be considered in the award of these scholarships are the candidate's financial need and probable and continuing success as a student.

SECTION 10. AMENDMENT. Section 15-63-05 of the North Dakota Century Code is amended and reenacted as follows:

15-63-05. Scholarship payments - Conditions.

Upon the granting award of a scholarship and acceptance thereof, the recipient is eligible for a credit in fees at the enrolling institution of higher learning or state accredited career and technical education program to apply toward the cost of registration, health, activities, board, books, and other necessary items of with a physical presence in this state. The scholarship may be applied to tuition, fees, room and board, books and supplies, and other educational expenses not to exceed six hundred sixty-seven dollars per quarter for three quarters, or clock-hour term or one thousand dollars per semester for two semesters. Awards may not exceed two thousand dollars in any academic year. The board for Indian Native American scholarships may reduce the amount of any scholarship to accord with individual financial need or funds available. After the enrolling institution or program has deducted the amount due such institution, the remaining balance must be given to the recipient for necessary expenses during the quarter or semester. The board for Native American scholarships may set a priority application date. At the beginning of each quarter, clock-hour term, or semester of a regular academic year, the board for Indian scholarships shall certify to the director of the office of management and budget the name of each recipient and the amount payable, and the director of the office of management and budget shall issue a warrant to the state treasurer who shall pay the amount of the scholarship to the institution of higher learning or state career and technical education program in which the recipient is enrolled. Renewal of the scholarship award is subject to the maintenance of a minimum grade average of "C" in the courses taken, the North Dakota university system shall verify enrollment and other eligibility criteria set forth by the state board for Native American scholarships for awarded applicants before issuing payment to the enrolling institution. After the enrolling institution has deducted the amount due to the institution, the remaining balance must be distributed to the awarded applicant for necessary expenses during the quarter, clock-hour term, or semester.

⁸⁷ **SECTION 11. AMENDMENT.** Section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.6. North Dakota scholarship - Amount - Applicability. (Effective through July 31, 20242030)

1. a. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction a North Dakota scholarship, a North Dakota academic scholarship, or a North Dakota career and technical education scholarship in the amount of seven hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education with a physical presence in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward program completion.
- b. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction a North Dakota scholarship, a North Dakota academic scholarship, or a North Dakota career and technical education scholarship in the amount of five hundred dollars for each quarter or clock-hour term during which the student is enrolled full time at an accredited institution of higher education with a physical presence in this state or an accredited private career school with

⁸⁷ Section 15.1-21-02.6 was also amended by section 1 of House Bill No. 1382, chapter 190.

- a physical presence in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward program completion.
2. The state board shall monitor each scholarship recipient to ensure that the student meets the academic and other requirements of this section. Upon determining a recipient student has failed to meet the requirements of this section, the board shall provide notification to the student within ten business days.
 3. A student is not entitled to receive more than six thousand dollars under this section.
 4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
 5.
 - a. This section does not require a student to be enrolled in consecutive semesters, quarters, or clock-hour terms.
 - b. A scholarship under this section is valid only for six academic years after the student's graduation from high school and may be applied to a graduate or professional program.
 6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.4, section 15.1-21-02.5, or section 15.1-21-02.10 and who:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. Graduates from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - d. Completes a program of home education supervised in accordance with chapter 15.1-23.
 7.
 - a. For purposes of North Dakota scholarship eligibility under this section, "full-time" has the same meaning as the term is defined by the institution the student is attending.
 - b. A student who is enrolled less than full-time may retain scholarship eligibility if the student is in the final semester, quarter, or clock-hour term before program completion. The waiver of the full-time enrollment status requirement for scholarship eligibility may not apply to a student more than once.
 - c. For the purpose of North Dakota scholarship eligibility under this section, "progress toward program completion" means earning the following minimum number of credits after each semester, quarter, or clock-hour term disbursement to qualify for the subsequent disbursement:
 - (1) Twenty-four credits after disbursement two;
 - (2) Thirty-nine credits after disbursement three;

- (3) Fifty-four credits after disbursement four;
 - (4) Sixty-nine credits after disbursement five;
 - (5) Eighty-four credits after disbursement six; and
 - (6) Ninety-nine credits after disbursement seven.
8. For purposes of scholarship eligibility under this section, "clock-hour term" has the same meaning as the term is defined by the state board of higher education. The state board of higher education shall determine the conversion of:
- a. Clock hours to credit hours; and
 - b. Percentage-based grading to grade point average.

15.1-21-02.6. North Dakota scholarship - Amount - Applicability. (Effective after July 31, 20242030)

1. a. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction a North Dakota scholarship in the amount of seven hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education with a physical presence in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward program completion.
 - b. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction a North Dakota scholarship in the amount of five hundred dollars for each quarter or clock-hour term during which the student is enrolled full time at an accredited institution of higher education with a physical presence in this state or an accredited private career school with a physical presence in this state, maintains a cumulative grade point average of 2.75, and maintains progress toward program completion.
2. The state board shall monitor each scholarship recipient to ensure the student meets the academic and other requirements of this section. Upon determining a recipient student has failed to meet the requirements of this section, the board shall provide notification to the student within ten business days.
 3. A student is not entitled to receive more than six thousand dollars under this section.
 4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
 5. a. This section does not require a student to be enrolled in consecutive semesters, quarters, or clock-hour terms.
 - b. A scholarship under this section is valid only for six academic years after the student's graduation from high school and may be applied to a graduate or professional program.

6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.10 and who:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. Graduates from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - d. Completes a program of home education supervised in accordance with chapter 15.1-23.
7.
 - a. For purposes of North Dakota scholarship eligibility under this section, "full-time" has the same meaning as the term is defined by the institution the student is attending.
 - b. A student who is enrolled less than full-time may retain scholarship eligibility if the student is in the final semester, quarter, or clock-hour term before program completion. The waiver of the full-time enrollment status requirement for scholarship eligibility may not apply to a student more than once.
 - c. For the purpose of North Dakota scholarship eligibility under this section, "progress toward program completion" means earning the following minimum number of credits after each semester, quarter, or clock-hour term disbursement to qualify for the subsequent disbursement:
 - (1) Twenty-four credits after disbursement two;
 - (2) Thirty-nine credits after disbursement three;
 - (3) Fifty-four credits after disbursement four;
 - (4) Sixty-nine credits after disbursement five;
 - (5) Eighty-four credits after disbursement six; and
 - (6) Ninety-nine credits after disbursement seven.
8. For purposes of scholarship eligibility under this section, "clock-hour term" has the same meaning as the term is defined by the state board of higher education. The state board of higher education shall determine the conversion of:
 - a. Clock hours to credit hours; and
 - b. Percentage-based grading to grade point average.

SECTION 12. AMENDMENT. Section 15.1-21-02.8 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.8. North Dakota scholarship - Eligibility - One-time exception.
(Effective through July 31, 20242030)

1. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester, quarter, or clock-hour term is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next semester, quarter, or clock-hour term in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester, quarter, or clock-hour term is below 2.75 for a second time, the student is no longer eligible to receive a North Dakota, North Dakota academic, or North Dakota career and technical education scholarship.
2. For purposes of scholarship eligibility under this section, "clock-hour term" has the same meaning as the term is defined by the state board of higher education. The state board of higher education shall determine the conversion of:
 - a. Clock hours to credit hours; and
 - b. Percentage-based grading to grade point average.

15.1-21-02.8. North Dakota scholarship - Eligibility - One-time exception. (Effective after July 31, 20242030)

1. a. Notwithstanding section 15.1-21-02.6, if a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester, quarter, or clock-hour term is below 2.75, the board shall grant an exception and provide the North Dakota scholarship to which the student would otherwise be entitled for the next semester, quarter, or clock-hour term in which the student is enrolled full time. The exception provided by this section is applicable to a student only one time.
- b. If a student's cumulative grade point average as determined by the state board of higher education at the conclusion of a semester, quarter, or clock-hour term is below 2.75 for a second time, the student is no longer eligible to receive a North Dakota scholarship.
2. For purposes of scholarship eligibility under this section, "clock-hour term" has the same meaning as the term is defined by the state board of higher education. The state board of higher education shall determine the conversion of:
 - a. Clock hours to credit hours; and
 - b. Percentage-based grading to grade point average.

SECTION 13. REPEAL. Section 15-63-07 of the North Dakota Century Code is repealed.

Approved April 12, 2023

Filed April 13, 2023

CHAPTER 157

HOUSE BILL NO. 1226

(Representatives Kempenich, Pyle)
(Senators Rummel, Schaible)

AN ACT to amend and reenact section 15-10-44.3 of the North Dakota Century Code, relating to working papers of higher education internal auditors and compliance officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-44.3 of the North Dakota Century Code is amended and reenacted as follows:

15-10-44.3. Internal auditors' auditor and compliance officer working papers.

1. For purposes of this section, "higher":
 - a. "Compliance officer" means the compliance officer of the North Dakota university system.
 - b. "Higher education internal auditor" means an internal auditor of the North Dakota university system and the institutions under the control of the state board of higher education.
2. Working papers of a higher education internal auditor or compliance officer are not public records and are exempt from section 44-04-18. Working papers include records kept by a higher education internal auditor or compliance officer of the procedures applied, the tests performed, the information obtained, draft audit and compliance reports, and the pertinent conclusions reached in the audit engagement.
3. At the discretion of a higher education internal auditor or compliance officer, working papers ~~of a higher education internal auditor~~ may be made available for inspection. A draft audit or compliance report released to the governing body or management of the audited entity is confidential until the final audit report is issued or work ceases on the audit engagement. The issued audit or compliance report is public information. The working papers of an issued audit or compliance report are public except for any information designated as confidential or exempt from disclosure by state or federal law. At the discretion of a higher education internal auditor or compliance officer, all or a portion of the working papers ~~of the higher education internal auditor~~ of an issued audit or compliance report may be declared confidential. The declaration of confidentiality must state the reason for the confidentiality and the date, as reasonably may be determined at the time, when the working papers will be made public.

Approved March 15, 2023

Filed March 16, 2023

CHAPTER 158

HOUSE BILL NO. 1489

(Representatives Koppelman, Louser, Meier, Novak, S. Olson, Steiner, VanWinkle)
(Senators Estenson, Myrdal, Paulson, Wobbema)

AN ACT to create and enact chapter 15-10.6 of the North Dakota Century Code, relating to requiring institutions of higher education designating athletic teams and sports for male, female, or coed participation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁸ **SECTION 1.** Chapter 15-10.6 of the North Dakota Century Code is created and enacted as follows:

15-10.6-01. Definitions.

As used in this chapter:

1. "Institution" means an institution under the control of the state board of higher education or a private institution of higher education whose athletic teams compete against an institution under the control of the state board of higher education.
2. "Sex" means the biological state of being female or male, based on an individual's nonambiguous sex organs, chromosomes, and endogenous hormone profile at birth.
3. "Student" means an individual enrolled in at least one course offered by an institution.

15-10.6-02. Designation of athletic teams.

1. An intercollegiate or intramural athletic team or sport sponsored by an institution must be expressly designated as one of the following based on the sex of the intended participants:
 - a. "Males", "men", or "boys";
 - b. "Females", "women", or "girls"; or
 - c. "Coed" or "mixed".
2. An athletic team or sport designated for "females", "women", or "girls" may not be open to students of the male sex.
3. This section may not be construed to restrict the eligibility of a student to participate in interscholastic or intramural athletic teams or sports designated as "males", "men", or "boys" or designated as "coed" or "mixed".

⁸⁸ Section 15-10.6-01 was amended by section 3 of House Bill No. 1474, chapter 66.

15-10.6-03. Adverse action against institution prohibition.

A government entity, a licensing or accrediting organization, or an athletic association or organization may not entertain a complaint, open an investigation, or take any other adverse action against an institution for maintaining separate intercollegiate or intramural athletic teams or sports for students of the female sex.

15-10.6-04. Cause of action.

1. A student who is deprived of an athletic opportunity or who suffers direct or indirect harm as a result of an institution knowingly violating this chapter has a private cause of action for injunctive relief, damages, and any other relief available under law against the institution.
2. A student subject to retaliation or other adverse action by an institution or athletic association or organization as a result of reporting a violation of this chapter to an employee or representative of the institution or athletic association or organization, or to a state or federal agency with oversight of institutions in the state has a private cause of action for injunctive relief, damages, and any other relief available under law against the institution or athletic association or organization.
3. An institution that suffers direct or indirect harm as a result of a violation of this chapter has a private cause of action for injunctive relief, damages, and any other relief available under law against the government entity, licensing or accrediting organization, or athletic association or organization.
4. A civil action must be initiated within two years after the harm occurred. A person that prevails on a claim brought pursuant to this section is entitled to monetary damages, including for any psychological, emotional, and physical harm suffered, reasonable attorneys' fees and costs, and any other appropriate relief.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 159

SENATE BILL NO. 2247

(Senators Paulson, Lemm, Wobbema)
(Representatives Dyk, Satrom, Toman)

AN ACT to create and enact chapter 15-10.6 of the North Dakota Century Code, relating to specified concepts at institutions of higher education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-10.6 of the North Dakota Century Code is created and enacted as follows:

15-10.6-01. Definitions.

As used in this chapter:

1. "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to a member of a race or sex, because of their race or sex, and includes a claim that, consciously or subconsciously, and by virtue of an individual's race or sex, a member of a race is inherently racist or inclined to oppress others, or a member of a sex is inherently sexist or inclined to oppress others.
2. "Race or sex stereotyping" means ascribing a character trait, value, moral and ethical code, privilege, status, or belief to a race or sex, or to an individual because of the individual's race or sex.
3. "Specified concept" means a concept that:
 - a. One race or sex is inherently superior or inferior to another race or sex;
 - b. An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously;
 - c. An individual should be discriminated against or receive adverse treatment because of the individual's race or sex;
 - d. An individual's moral character is determined by the individual's race or sex;
 - e. An individual, by virtue of the individual's race or sex, bears responsibility for an action committed in the past by other members of the same race or sex;
 - f. An individual should feel discomfort, guilt, anguish, or another form of psychological distress solely because of the individual's race or sex;
 - g. A meritocracy is inherently racist or sexist, or designed by a particular race or sex to oppress another race or sex;

- h. This state or the United States is fundamentally or irredeemably racist or sexist;
 - i. Promotes or advocates the violent overthrow of the United States government;
 - j. Promotes division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people;
 - k. Ascribes a character trait, value, moral or ethical code, privilege, or belief to a race or sex, or to an individual because of the individual's race or sex;
 - l. The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;
 - m. All Americans are not created equal and are not endowed by their creator with certain unalienable rights, including life, liberty, and the pursuit of happiness;
 - n. Governments should deny to any person within the government's jurisdiction the equal protection of the law;
 - o. Includes race or sex stereotyping; or
 - p. Includes race or sex scapegoating.
4. "Training" includes a noncredit earning:
- a. Seminar;
 - b. Workshop; or
 - c. Orientation.

15-10.6-02. Specified concept - Prohibition on discrimination.

- 1. A student or employee of an institution under the control of the state board of higher education may not be:
 - a. Penalized, discriminated against, or receive adverse treatment due to the individual's refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to or oppose a specified concept.
 - b. Required to endorse or oppose a specific ideology or political viewpoint to be eligible for hiring, tenure, promotion, or graduation.
- 2. An institution under the control of the state board of higher education may not ask the ideological or political viewpoint of a student, job applicant, job candidate, or candidate for promotion or tenure.
- 3. An individual who believes a violation of this section has occurred may pursue all equitable or legal remedies that may be available to the individual in a state or federal court of competent jurisdiction.

15-10.6-03. Prohibition on specified concept training.

1. An institution under the control of the state board of higher education may not:
 - a. Conduct mandatory noncredit earning training of a student or employee if the training includes a specified concept.
 - b. Use a noncredit earning training program or training materials in a noncredit earning training for a student or employee if the program or material includes a specified concept.
 - c. Use funds appropriated by the state to incentivize, beyond payment of regular salary or other regular compensation, a faculty member to incorporate a specified concept into academic curriculum.
2. If an institution under the control of the state board of higher education employs an individual whose primary duties include diversity, the duties of that employee also must include efforts to strengthen and increase intellectual diversity among students and faculty of the institution at which the individual is employed.

15-10.6-04. Construction and purpose.

1. This chapter may not be interpreted to prohibit:
 - a. An individual who provides training from responding to a question regarding a specified concept so long as the response does not endorse, advocate, or oppose a specified concept;
 - b. An institution from considering the subject matter competency of a candidate for a faculty position or promotion if the subject matter is germane to the candidate's field of scholarship;
 - c. An institution from training students or employees on the nondiscrimination requirements of federal or state law, or from requiring a student, faculty member, or employee to comply with federal or state laws, including antidiscrimination laws, or from taking action against a student, professor, or employee for a violation of federal or state law; or
 - d. Limit or restrict the academic freedom of faculty or to prevent faculty members from teaching, researching, or writing publications about the specified concepts or related topics.
2. This chapter does not authorize an institution to infringe on the rights of freedom of speech protected by the First Amendment to the United States Constitution.

Approved April 24, 2023

Filed April 24, 2023

CHAPTER 160

SENATE BILL NO. 2161

(Senators Sickler, Bekkedahl, Patten, Sorvaag)
(Representatives Mitskog, Nathe)

AN ACT to amend and reenact sections 15-11-40 and 57-51.1-07.9 of the North Dakota Century Code, relating to the state energy research center and the center's funding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-11-40 of the North Dakota Century Code is amended and reenacted as follows:

15-11-40. State energy research center - Report. (~~Effective through June 30, 2027~~)

1. The state energy research center at the university of North Dakota energy and environmental research center is created ~~for the purpose of conducting to~~ conduct exploratory, transformational, and innovative research that advances future energy opportunities and benefits the state's economy and environment through:
 - a. Exploratory research of technologies and methodologies that facilitate the prudent development, and clean and efficient use, of the state's energy resources;
 - b. Greater access to energy experts for timely scientific and engineering studies to support the state's interests; and
 - c. Education and outreach related to the state's energy resources.
2. The state energy research center shall report all research activities and accomplishments annually to the interim legislative energy development and transmission committee and ~~to~~ the industrial commission. Upon request, the state energy research center shall report all research activities and accomplishments to the appropriations committees of the legislative assembly.
3. To ~~effectuate~~ carry out the purposes of this section, the energy and environmental research center may:
 - a. Select the research topics and projects to be pursued;
 - b. Enter contracts or agreements with other North Dakota institutions of higher education to support select research topics and projects;
 - c. Enter contracts or agreements with federal, private, and nonprofit organizations to carry out selected research topics and projects; and
 - d. ~~Accepting~~ Accept donations, grants, contributions, and gifts from any source to carry out the selected research topics and projects.

4. The state energy research center may not conduct research or pursue projects that will result in the exploration, storage, treatment, or disposal of high-level radioactive waste in North Dakota.

SECTION 2. AMENDMENT. Section 57-51.1-07.9 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.9. State energy research center fund - Continuing appropriation. (Effective through ~~June 30, 2027~~ June 30, 2029)

The state energy research center fund is a special fund in the state treasury. Before depositing oil and gas gross production tax and oil extraction tax revenues under section 57-51.1-07.5, one percent of the revenues must be deposited monthly into the state energy research center fund, up to ~~five~~seven million ~~five hundred thousand~~ dollars per biennium. All moneys deposited in the state energy research center fund and interest on all such moneys are appropriated on a continuing basis to the industrial commission for distribution to the state energy research center. The state energy research center shall use the funds in accordance with section 15-11-40.

Approved April 26, 2023

Filed April 27, 2023

CHAPTER 161

SENATE BILL NO. 2269

(Senators Davison, Schaible, Sorvaag)
(Representatives Bosch, Heinert, Monson)

AN ACT to amend and reenact sections 15-19-00.1, 15-19-01, 15-19-02, 15-19-06, 15-19-08, and 15-20.1-03 of the North Dakota Century Code, relating to the administration of the center for distance education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-19-00.1 of the North Dakota Century Code is amended and reenacted as follows:

15-19-00.1. Definitions.

In this chapter, unless the context otherwise requires:

1. "Administration" includes the leadership of the center for distance education.
2. "Board" means the ~~state board for career and technical education~~board of public school education.
- ~~3.2.~~ "Center" means the North Dakota center for distance education.
- ~~4.3.~~ "Director" means the ~~director and executive officer of the department of career and technical education~~of the center for distance education.

⁸⁹ **SECTION 2. AMENDMENT.** Section 15-19-01 of the North Dakota Century Code is amended and reenacted as follows:

15-19-01. North Dakota center for distance education courses - Establishment - Enrollment of students - Courses of instruction.

The state shall provide kindergarten through grade twelve courses, comprehensive educational support, and high school diplomas through the center for distance education under the following provisions:

1. A complete curriculum prescribed by state-mandated education accreditation entities which meets the requirements for digital education the superintendent of public instruction has determined to be appropriate.
2. A superintendent or an administrator of a school may deny the enrollment of a student in that district at the center for distance education except as provided in subsection 5.
3. The center for distance education may provide services to persons who are not North Dakota residents.

⁸⁹ Section 15-19-01 was also amended by section 1 of House Bill No. 1156, chapter 185, and section 1 of House Bill No. 1376, chapter 186.

4. Center for distance education students shall pay fees as may be prescribed by the ~~state board for career and technical education~~superintendent of public instruction.
5. Students exempt from the compulsory school attendance laws pursuant to subdivision e of subsection 1 of section 15.1-20-02 may enroll in distance education courses offered through the center for distance education. These students may study their center for distance education lessons in their learning environment under the supervision of a parent.

SECTION 3. AMENDMENT. Section 15-19-02 of the North Dakota Century Code is amended and reenacted as follows:

15-19-02. Administration Center for distance education - Appointment and duties.

The program of and all activities related to the center for distance education are the responsibility of the director of the center for distance education and under the authority of the ~~state board for career and technical education~~superintendent. ~~The director of the department of career and technical education shall hire administration and staff for the center for distance education of public instruction and the board. The director is appointed by and reports to the superintendent of public instruction. The center must have a separate budget and a separate staff from the department of public instruction who must be classified under the state personnel merit system. The administration of the center~~director shall carry out the responsibilities in operating the center for distance education in the manner approved by the state board for career and technical education, under the supervision of the director of the department of career and technical educationsuperintendent of public instruction, and compliant with requirements established by the superintendent of public instruction and the education standards and practices board for public school administrators and teachers. ~~The state board for career and technical education shall administer the responsibilities of the board of a school district relating to the center for distance education.~~

SECTION 4. AMENDMENT. Section 15-19-06 of the North Dakota Century Code is amended and reenacted as follows:

15-19-06. Special funds - Deposit of collections - Transfers from general fund appropriations.

1. A special operating fund for the center for distance education must be maintained within the state treasury and all income and fees collected by the center for distance education from any source must be remitted monthly by the ~~director~~superintendent of public instruction to the state treasurer and credited to the special operating fund. All expenditures from the fund must be within the limits of legislative appropriations and must be made upon vouchers, signed and approved by the director. Upon approval of the vouchers by the office of the budget, warrant-checks must be prepared by the office of management and budget.
2. The ~~state board for career and technical education~~superintendent of public instruction may establish an endowment and scholarship fund to provide financial grants to students enrolled in courses offered through the center for distance education. The endowment and scholarship fund may consist only of those funds specifically appropriated by the legislative assembly and property received by the center for distance education as a gift, devise, or bequest. Any

gift, devise, or bequest of property received by the center for distance education which is designated by the ~~state board for career and technical education~~ superintendent of public instruction and donor for the endowment and scholarship fund must be deposited in the scholarship fund at the Bank of North Dakota. The center for distance education may draw on the endowment and scholarship fund for the award of endowments and scholarships within the limits and rules adopted by the ~~state board for career and technical education~~ superintendent of public instruction.

SECTION 5. AMENDMENT. Section 15-19-08 of the North Dakota Century Code is amended and reenacted as follows:

15-19-08. Distance education support and services.

The amount of money appropriated by the legislative assembly for distance education support and services for a biennium, or so much thereof as may be necessary, must be expended first for work provided by distance education as determined by the center for distance education and approved by the ~~state board for career and technical education~~ superintendent of public instruction.

SECTION 6. AMENDMENT. Section 15-20.1-03 of the North Dakota Century Code is amended and reenacted as follows:

15-20.1-03. Powers and duties of state board relating to career and technical education.

The state board shall have all authority necessary to cooperate with the United States department of education or other department or agency of the United States of America in the administration of acts of Congress relating to career and technical education, including the following powers and duties:

1. To administer any legislation enacted by the legislative assembly of this state pursuant to or in conformity with acts of Congress relating to career and technical education.
2. To administer the funds provided by the federal government and by this state for the promotion of career and technical education and to contract with:
 - a. Any public or private institution or agency, board of trustees of any agricultural and training school, or school district of this state; or
 - b. Any public or private institution or agency, or political subdivision, of another state.
3. To formulate plans for the promotion of career and technical education in such subjects as are an essential and integral part of the public school system of education in this state.
4. To provide for the preparation of teachers.
5. To fix the compensation of such officers and assistants as may be necessary to administer the federal acts and the provisions of this chapter relating to career and technical education and to pay the same and other necessary expenses of administration from any funds appropriated for such purpose.
6. To make studies and investigations relating to career and technical education.

7. To promote and aid in the establishment of schools, departments, or classes, and to cooperate with local communities in the maintenance of career and technical education schools, departments, or classes.
8. To prescribe the qualifications and provide for the certification of teachers, directors, and supervisors.
9. To cooperate with governing bodies of school districts and with organizations and communities in the maintenance of classes for the preparation of teachers, directors, and supervisors of career and technical education, to maintain classes for such purposes under its own direction and control, and to establish and control, by general regulations, the qualifications to be possessed by persons engaged in the training of career and technical education teachers.
10. To coordinate new and existing farm management programs offered by any state agency or entity.
11. To create and expand marketing clubs as adjuncts to new and existing farm management programs.
- ~~12. To administer and supervise the program and all activities of the center for distance education.~~

Approved April 4, 2023

Filed April 5, 2023

CHAPTER 162

HOUSE BILL NO. 1348

(Representatives Richter, D. Johnson, Jonas, Schreiber-Beck)

AN ACT to amend and reenact sections 15-20.2-01, 15-20.2-04, 15-20.2-05, 15-20.2-06, and 15-20.2-07 of the North Dakota Century Code, relating to career and technology center boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-20.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-01. Area centers - Definition of terms.

In this chapter, unless the context otherwise requires:

1. "Area career and technology center" means a program of career and technical education conducted at one or more attendance centers by three or more participating public school districts.
2. "Center board" means the governing board of an area career and technology center.
3. "Participating district" means a public school district whose students are attending an area career and technology center.
4. "School board" means a participating public school district board.
5. "State board" means the state board for career and technical education.
6. "Virtual area career and technology center" means a career and technical education program approved by the department of career and technical education which is used by three or more school districts and which utilizes online or interactive television technology as the primary course content delivery method.

⁹⁰ **SECTION 2. AMENDMENT.** Section 15-20.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-04. Center boards - Appointment of members - Terms - Compensation - Vacancies.

1. An area career and technology center must be operated by a center board of not less than five members nor more than a total of one member for each participating district; provided, however, that each participating school district with three hundred or more high school students must be allowed one member for each three hundred high school students or fraction thereof with a

⁹⁰ Section 15-20.2-04 was also amended by section 1 of House Bill No. 1178, chapter 163.

limitation of not more than three members from any one school district. Center board members must be members of the school boards. If a school district has one center board member, that member must be a school board member. If a school district has more than one center board member, one member must be a school board member and any other center board member may be a designee. The terms of office of the members of center boards must be for at least one year and terminate upon the expiration of their terms on their respective school boards. Members are eligible for reappointment to center boards. Center board members shall receive the same compensation and expenses for attending center board meetings or for otherwise engaging in official business for the center as provided in section 15.1-09-06 for members of school boards. Compensation and expenses of center board members must be paid out of center funds.

2. Vacancies on a center board must be filled by the school board whose representation was lost when the vacancy occurred.

SECTION 3. AMENDMENT. Section 15-20.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-05. Special board plan for small center or large centers.

1. If four or fewer school districts comprise an area career and technology center and if enrollment within ~~such~~the school district is insufficient to provide five members in accordance with section 15-20.2-04, the boards of ~~such~~the school district shall agree upon the number and manner of selection of members of the center board and shall submit their plan of selection for approval by the state board pursuant to section 15-20.2-02.
2. If a center board is comprised of twenty or more members, the boards of those school districts may create a representative board with equitable representation from the school districts and shall submit the representative board for approval by the state board under section 15-20.2-02. A majority of the representative board must be school board members.

SECTION 4. AMENDMENT. Section 15-20.2-06 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-06. Meetings of center boards - Election of officers - Quorum.

The initial organizational meeting of a center board must be called and conducted by the chairman of the state board, and thereafter a center board shall meet monthly. Virtual area career and technology center boards shall meet at least quarterly. At the next meeting following the annual meeting of the school boards, the officers of a center board for the current school year must be selected. The officers of a center board must be a chairman and a vice chairman, who may not be from the same school district. The chairman shall preside at all meetings of a center board and in the chairman's absence the vice chairman shall preside. Each center board member is entitled to one vote. A majority of the members of a center board constitutes a quorum. Any motion or resolution may be adopted only by a majority vote of the members of the center board.

SECTION 5. AMENDMENT. Section 15-20.2-07 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-07. Powers and duties of center boards.

The powers and duties of a center board are as follows:

1. To supervise, manage, and control an area career and technology center established by the cooperating school districts pursuant to this chapter.
2. To provide career and technical education programs approved by the state board.
3. To contract with, employ, ~~and~~or pay personnel to administer the affairs and to teach in the area career and technology center, and to remove for cause any personnel when the interests of the area career and technology center may require it; provided, that personnel employed by a center board shall have the same statutory rights as provided by law for personnel employed by public school districts.
4. To lease, acquire, or purchase career and technical education equipment for an area career and technology center.
5. To lease, acquire, purchase, or sell career and technical education facilities, including real property, for an area career and technology center; provided, that any purchase or sale of real property must first be approved by two-thirds of the school boards of the participating school districts.
6. To receive and administer any private, local, state, or federal funds provided for the operation and maintenance of an area career and technology center.
7. To enter into contracts consistent with the other powers and duties provided for by this chapter.
8. To accept real or personal property available for distribution by the United States or any of its departments or agencies and also to accept federal grants that may be made available in the field of career and technical education.

Approved March 22, 2023

Filed March 23, 2023

CHAPTER 163

HOUSE BILL NO. 1178

(Representatives Lefor, Hatlestad, Kasper, McLeod, Novak, O'Brien, Steiner)
(Senators Bekkedahl, Cleary, Patten, Rummel)

AN ACT to amend and reenact section 15-20.2-04 of the North Dakota Century Code, relating to the appointment of additional community members to career and technology center boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹¹ **SECTION 1. AMENDMENT.** Section 15-20.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.2-04. Center boards - Appointment of members - Terms - Compensation - Vacancies.

1. ~~An area career and technology center must be operated by a center board of not less than at least five members per. No more than a total of one member for each participating district; provided, however, that each participating school district with three hundred or more high school students must be allowed one member for each three hundred high school students or fraction thereof with a limitation of not no more than three members from any one school district. Center board members must be members of the school boards. The terms of office of the school district members of center boards must be for at least one year and terminate upon the expiration of theirthe member's terms on theirthe member's respective school boards. Members are eligible for reappointment to center boards.~~
2. A center board may appoint up to five community board members in addition to the school district members permissible under subsection 1. The number of community board members appointed under this subsection must be fewer than the number of school district members permissible under subsection 1. Subject to the limitations in this subsection, the center board may appoint:
 - a. No more than one community board member from an institution of higher education, including an institution under the control of the state board of higher education, a North Dakota nonpublic accredited institution of higher education, or a tribally controlled community college.
 - b. No more than one community board member from a parochial or private school.
 - c. One or more community board members from a private sector entity, with each community board member representing a different private sector.
3. The terms of office of the community board members of center boards must be three years.

⁹¹ Section 15-20.2-04 was also amended by section 2 of House Bill No. 1348, chapter 162.

4. Center board members shall receive the same compensation and expenses for attending center board meetings or for otherwise engaging in official business for the center as provided in section 15.1-09-06 for members of school boards. Compensation and expenses of center board members must be paid out of center funds. ~~Vacancies~~
5. School district member vacancies on a center board must be filled by the school board whose representation was lost when the vacancy occurred. Community member vacancies on a center board may be filled by the center board pursuant to subsection 2.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 164

SENATE BILL NO. 2145

(Senators Davison, Sorvaag)
(Representatives Bosch, Strinden, Swiontek, Wagner)

AN ACT to amend and reenact section 15-20.4-04 of the North Dakota Century Code, relating to exceptions for postsecondary career school accreditation; to provide for a legislative management study; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-04. Minimum standards - Exceptions.

1. ~~Any~~ A postsecondary career ~~school~~ school must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board ~~may~~ may additionally ~~require such~~ require further evidence and ~~make such further investigation~~ investigate as in ~~its~~ the board's judgment may be necessary. ~~Any~~ A postsecondary career school operating in this state seeking ~~its~~ the school's first authorization to operate may be issued a provisional authorization to operate on an annual basis until the school becomes eligible for accreditation by a recognized accrediting agency. ~~Schools~~ A school issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward ~~such~~ accreditation status. Only upon accreditation ~~shall~~ may a school become eligible for a regular authorization to operate. A school shall give written notification to the board within thirty days of any change to the school's accreditation status.
2. This section does not apply to a postsecondary career ~~school~~ school operating in this state that ~~do~~ do:
 - a. Does not grant ~~degrees~~ a degree and that ~~offer~~ offers mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this ~~subsection~~ subdivision means a document that provides evidence or demonstrates completion of a course of instruction that results in the attainment of a rank or level of associate or higher.
 - b. Offers a full-stack software engineering course.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - POSTSECONDARY CAREER SCHOOL AUTHORIZATION. During the 2023-24 interim, the legislative management shall consider studying the statute for the authorization to operate postsecondary career schools. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 3. EXPIRATION DATE. This Act is effective through August 1, 2025, and after that date is ineffective.

SECTION 4. EMERGENCY. Section 1 of this Act is declared to be an emergency measure.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 165

HOUSE BILL NO. 1150

(Representatives Thomas, Heinert, O'Brien, Pyle, Richter, M. Ruby, Schreiber-Beck)
(Senators Bekkedahl, Meyer, Schaible, Vedaa)

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to an exception to membership in the teachers' fund for retirement for retired military personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

Membership in fund and assessment - Retired military personnel - Exception.

A teacher may choose not to be a member of the fund and pay the assessment on the teacher's salary under section 15-39.1-09 if the teacher is:

1. Contractually employed in teaching in this state;
2. In the teacher's first year of teaching; and
3. An individual who served at least twenty years in any branch of the armed forces of the United States on full-time active duty and retired with full military retirement benefits before becoming a licensed teacher.

Approved March 23, 2023

Filed March 23, 2023

CHAPTER 166

HOUSE BILL NO. 1219

(Representatives Kempenich, Conmy, Kreidt)
(Senator Schaible)

AN ACT to amend and reenact subsection 9 of section 15-39.1-04, subsection 7 of section 15-39.1-05.2, subsection 2 of section 15-39.1-12.2, sections 15-39.1-15 and 15-39.1-16, subsection 2 of section 15-39.1-18, and sections 15-39.1-19.1, 15-39.1-19.2, and 15-39.1-27 of the North Dakota Century Code, relating to the teachers' fund for retirement board authority and teachers' fund for retirement benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 9 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. "Retirement annuity" means the payments made by the fund to a member after retirement, ~~these payments beginning on the first or fifteenth day of the month following eligibility for a benefit.~~

SECTION 2. AMENDMENT. Subsection 7 of section 15-39.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

7. Shall, ~~through resolution,~~ inform the state investment board, which is the administrative board of the retirement and investment office, the levels of services, goals, and objectives expected to be provided through the retirement and investment office.

SECTION 3. AMENDMENT. Subsection 2 of section 15-39.1-12.2 of the North Dakota Century Code is amended and reenacted as follows:

2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of the teacher, which is made pursuant to a North Dakota domestic relations law, and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of the benefits payable to the teacher. A qualified domestic relations order may not require the board to provide any type or form of benefit, or any option, not otherwise provided under the fund, or to provide increased benefits as determined on the basis of actuarial value. However, a qualified domestic relations order may require the payment of benefits at the early retirement date notwithstanding that the teacher has not terminated eligible employment. ~~A qualified domestic relations order must specify:~~
 - a. ~~The name and last-known mailing address of the teacher and the name and mailing address of each alternate payee covered by the order;~~

- b. ~~The amount or percentage of the teacher's benefits to be paid by the board to each alternate payee;~~
- e. ~~The number of payments or period to which the order applies; and~~
- d. ~~Each retirement plan to which the order applies.~~

SECTION 4. AMENDMENT. Section 15-39.1-15 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-15. Withdrawal from fund - Return to teaching.

~~A teacher who has withdrawn from the fund as set forth in this chapter, by returning to teach in a public school or state institution of this state, may, by returning to teach in a public school or state institution of this state, regain service credit for prior teaching by making the required payment. The required payment, if made within five years of returning to teach in covered employment, is the amount that was withdrawn with interest. In all other cases, the purchase cost must be on an actuarial equivalent basis. If the teacher returns to teach in covered employment after June 30, 2008, the teacher becomes a tier two member regardless of whether the teacher repurchases service credit earned while the teacher was a tier one member.~~

SECTION 5. AMENDMENT. Section 15-39.1-16 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-16. Option of teachers eligible to receive annuities.

1. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
 - a. Option one. Upon the death of the teacher, the reduced retirement allowance must be continued throughout the life of, and paid to, the teacher's designated beneficiary named at the time of retirement. If the ~~person~~individual designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the ~~person~~individual designated died ~~prior to~~before July 1, 1989, must begin on July 1, 1989, or, if the ~~person~~individual designated dies on or after July 1, 1989, must begin on the first day of the month following the death of the ~~person~~individual designated.
 - b. Option two. Upon the death of the teacher, one-half of the reduced retirement allowance must be continued throughout the life of, and paid to, the teacher's designated beneficiary named at the time of retirement. If the ~~person~~individual designated to receive the teacher's reduced retirement allowance predeceases the teacher, the reduced retirement allowance must be converted to a single life retirement annuity under which benefit payments, if the ~~person~~individual designated died ~~prior to~~before July 1, 1989, must begin on July 1, 1989, or, if the designated beneficiary dies on or after July 1, 1989, must begin on the first day of the month following the death of the ~~person~~individual designated.
 - c. Option three. Upon the death of the teacher within twenty years of the commencement of annuity payments, the payments must be continued for the remainder of the twenty-year period to the teacher's designated

beneficiary. This payment option is available to teachers who retire after July 31, 2003.

- d. Option four. Upon the death of the teacher within ten years of the commencement of annuity payments, the payments must be continued for the remainder of the ten-year period to the teacher's designated beneficiary.
- e. ~~Option five. Level retirement income with social security option, which is available to teachers retiring before social security is payable.~~

~~Option six.~~ Partial lump sum distribution option. A member who is eligible for an unreduced service retirement annuity under section 15-39.1-10 and who retires after July 31, 2003, may make a one-time election to receive a portion of the retirement annuity paid in a lump sum distribution upon retirement, pursuant to rules adopted by the board.

- 4. (1) The eligible member may select a standard service retirement annuity or an optional service retirement annuity described in this ~~sections~~subsection, together with a partial lump sum distribution. ~~The partial lump sum distribution option is not available to members who have selected option five, the level income retirement option.~~ This option is not available to disabled members or beneficiaries of deceased members. The partial lump sum distribution option may be elected only once by a member and may not be elected by a retiree.
- 2. (2) The amount of the partial lump sum distribution under this ~~sections~~subdivision is twelve months of a standard service retirement annuity computed under section 15-39.1-10 and payable at the same time ~~that~~ the first monthly payment of the annuity is paid.
- 3. (3) The service retirement annuity selected by the member must be actuarially reduced to reflect the partial lump sum distribution option selected by the member.
- 4. (4) Before a retiring member selects a partial lump sum distribution under this ~~sections~~subdivision, the fund shall provide a written notice to the member of the amount by which the member's annuity will be reduced because of the selection.
- 2. The amount of the reduced retirement allowance payable upon the exercise of any of these options must be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and the teacher's designated beneficiary. A member's spouse, if designated as beneficiary, ~~must~~shall consent in writing to the member's choice of benefit payment option for any benefit payments commencing after June 30, 1999. The board may rely on the member's representations about that ~~person's~~member's marital status in determining the member's marital status. The spouse's written consent must be witnessed by a notary or a plan representative. If the spouse does not consent, or cannot be located, the member's annuity benefit must be paid using option two, the fifty percent joint and survivor option.

SECTION 6. AMENDMENT. Subsection 2 of section 15-39.1-18 of the North Dakota Century Code is amended and reenacted as follows:

2. The amount of the disability annuity is the amount computed by the retirement formula in section 15-39.1-10 without consideration of age. A member determined eligible for a disability annuity under this section may elect to receive an annuity under any of the options allowed in section 15-39.1-16, ~~except the level retirement income with social security option or the partial lump sum option.~~

SECTION 7. AMENDMENT. Section 15-39.1-19.1 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-19.1. Retired teachers return to active service - Annuities discontinued on resumption of teaching over annual hour limit.

1. a. Except as otherwise provided in section 15-39.1-19.2, a retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may not return to covered employment until thirty calendar days have elapsed from the member's retirement date. A retired member may then return to covered employment under an annual hour limit and continue receiving a monthly retirement benefit. The annual hour limit is based on the length of the re-employed retiree's contract as follows:
 - (1) Retiree ~~reemployment~~re-employment of nine months or less, annual limit is seven hundred hours;
 - (2) Retiree ~~reemployment~~re-employment of ten months, annual limit is eight hundred hours;
 - (3) Retiree ~~reemployment~~re-employment of eleven months, annual limit is nine hundred hours; or
 - (4) Retiree ~~reemployment~~re-employment of twelve months, annual limit is one thousand hours.
- b. Employment as a noncontracted substitute teacher ~~does not apply to the annual hour limit.~~ Professional, professional development, and extracurricular duties do not apply to the annual hour limit. The fund may not collect contributions for these activities.
- c. The retired member and the retired member's employer must notify the fund office in writing within thirty days of the retired member's return to covered employment.
- d. A retired member who returns to teaching shall pay the member contributions required by section 15-39.1-09 on the salary received by the retired member. The member contributions must be included in the retired member's account value and may not be refunded except as provided under subdivision a of subsection 2 of section 15-39.1-19.1 and section 15-39.1-17.
- e. A participating employer who employs a retired member under this section shall pay the employer contributions required by section 15-39.1-09 on the salary of the retired member.
- f. A retired teacher who returns to teaching and does not exceed the annual hour limit must be treated as retired for all other purposes under this chapter. A retired teacher may not earn any additional service during the

period of re-employment. The retired teacher's benefits may not be adjusted to reflect changes in the retired teacher's age or final average monthly salary at the end of the period of re-employment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of re-employment, and additional benefits normally available to an active member, such as disability benefits, are not available to a retired teacher re-employed under this section.

- g. A retired teacher who returns to teaching and exceeds the annual hour limit must immediately notify the fund office in writing. Failure to notify the fund office results in the loss of one month's annuity benefit for the member. The retired member's monthly benefit must be discontinued the first of the month following the date the member reaches the annual hour limit.
2. Upon the retired teacher's subsequent retirement of a member who returns to teach and whose monthly benefit is discontinued, the member's benefit must be resumed as follows:
 - a. ~~If the teacher subsequently retires with less than two years of additional earned credited service, the teacher's contributions paid to the fund after the member's benefit was suspended must be refunded in accordance with section 15-39.1-20 and the teacher is entitled to receive the discontinued annuity, plus any postretirement benefit adjustments granted during the period of re-employment, the first day of the month following the teacher's re-retirement.~~
 - b. ~~If the teacher subsequently retires with two or more but less than five years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity, plus an additional annuity computed according to this chapter based upon years of service and average salaries earned during the period of re-employment plus any postretirement benefit adjustments granted during the period of re-employment, or a recalculated annuity computed according to this chapter based on total years of service credit earned during both employment periods offset by the actuarial value of payments already received. The new annuity is payable the first day of the month following the member's re-retirement.~~
 - c. ~~If the teacher subsequently retires with five or more years of additional earned credited service, the retired person's annuity is the greater of the sum of the discontinued annuity plus an additional annuity based upon years of service and average salaries earned during the period of re-employment plus any postretirement benefit adjustments granted during the period of re-employment, or a recalculated annuity based on all years of service computed under subsection 2 of section 15-39.1-10. The new annuity is payable the first day of the month following the member's re-retirement.~~The member must have selected the same benefit option as the option selected at initial retirement.
 - b. The member's total benefit upon subsequent retirement must equal the original benefit plus the calculated benefit for the return to work period.

- c. The member's benefit attributable to any return to work must be based upon service and earnings attributable to the return to work period only and be calculated as follows:
- (1) The member's calculated benefit must be based on the benefit provisions in effect at subsequent retirement and must include the salary earned during the period of re-employment, total service credits earned after re-employment, and actuarial factors in effect at subsequent retirement.
 - (2) If a member dies during subsequent employment, the member's initial retirement benefit option election applies and the date of death is considered the subsequent retirement date.

SECTION 8. AMENDMENT. Section 15-39.1-19.2 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-19.2. Retired teachers return to active service - Critical shortage areas and disciplines -Rules.

1. A retired teacher who is receiving a retirement annuity under chapter 15-39, 15-39.1, or 15-39.2 may elect to return to teaching without losing any benefits under the provisions of this section or elect to return to teaching under the provisions of section 15-39.1-19.1. To return to teaching under this section, a retired teacher must:
 - a. ReturnShall return to teach in a critical shortage geographical area or subject discipline as determined by the education standards and practices board by rule;
 - b. If retired after January 1, 2001, must have been receiving a retirement annuity for at least one year. A retired teacher may perform noncontracted substitute teaching duties but may not engage in full-time or part-time teaching duties during the one-year separation from service; and
 - c. NotifyShall notify the fund office in writing within thirty days of the retired member's return to covered employment. The retired member's employer must also shall notify the fund office in writing within thirty days of the retired member's return to covered employment.
2. A retired teacher who returns to teaching under this section shall pay the member contributions required by section 15-39.1-09 on the salary of the retired member. The member contributions must be included in the retired member's account value and may not be refunded except as provided under section 15-39.1-17. A retired teacher who returns to teaching under the provisions of this section must be treated as retired for all other purposes under this chapter. A retired teacher may not earn any additional service during the period of re-employment. The retired teacher's benefits may not be adjusted to reflect changes in the retired teacher's age or final average monthly salary at the end of the period of re-employment, any optional form of payment elected under section 15-39.1-16 remains effective during and after the period of re-employment, and additional benefits normally available to an active member, such as disability benefits, are not available to a retired teacher re-employed under this section.

3. A participating employer ~~whethat~~ employs a retired member under this section shall pay the employer contributions required by section 15-39.1-09 on the salary of the retired member.

SECTION 9. AMENDMENT. Section 15-39.1-27 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-27. Computation of years of service.

In computing the terms of service of a member under this chapter, ~~for a member employed full time, a year is deemed to be one who receives compensation for at least seven hundred seventy-five days of compensation~~hours in a fiscal year earns one year of service. ~~Employment~~A member who receives compensation for less than one~~seven hundred seventy-five days of compensation is not deemed to be a full year but only as the proportion of a year as the number of~~hours of service earns fractional credit equal to the number of compensated hours employed~~worked in each a fiscal year of service bears to~~divided by seven hundred hours. A member may not earn more than one year of service in a fiscal year.

Approved April 10, 2023

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