

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

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.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2343.

Senate Vote: Yeas 30 Nays 16 Absent 1

House Vote: Yeas 71 Nays 21 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State