

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2085
(Education Committee)
(At the request of the Board of University and School Lands)

AN ACT to amend and reenact sections 15-01-02.1, 15-02-08, 15-03-01.1, 15-03-02, 15-03-04, 15-03-05.1, and 15-06-40 of the North Dakota Century Code, relating to the management of the trust funds under the control of the board of university and school lands; to repeal sections 15-03-05.2 and 15-08-01 of the North Dakota Century Code, relating to distributions from trust funds under the control of the board of university and school lands; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

15-01-02.1. Board of university and school lands to set and establish fees - Collections. The board of university and school lands shall have authority to set and establish fees in amounts equal to the cost of the issuance of patents, deeds, leases, assignments, land contracts, holding land sales, furnishing documents, receiving and processing all loans made by the board, managing property acquired under chapter 15-08.1, and managing property for other state entities. All other fees provided for in this section must be deposited in the state lands maintenance fund.

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

15-02-08. Commissioner to keep record of permanent funds - Biennial report. The commissioner shall keep a record in suitable books showing a detailed quarterly statement of the condition of all of the permanent funds under the control of the board of university and school lands, the amount of each fund, how invested, when due, interest paid, and all acts connected with the management of such funds. All records and record books are open at all times for inspection by the public. The commissioner may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. If submitted, the report must show all investments of the several funds, the work done during the preceding fiscal biennium, the number of acres [hectares] of land sold or leased by the department, the amount received therefor, the amount of interest proceeds received to the credit of the several funds, the expense of administration of the department, and all other matters relating to the commissioner's office as are necessary to disclose fully the operation of the department.

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

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

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

15-03-02. ~~Interest and income~~ Proceeds from grant lands trust fund assets. ~~All moneys accumulating in the interest and income fund arising~~ proceeds from the sale or leasing and management of any lands granted by the state or by the Constitution of North Dakota for any institution

~~of higher education of the state assets under the control of the board of university and school lands must be deposited in the trust fund for which the assets were granted or earned and are pledged specifically for the maintenance of the institution for which such lands assets were granted after deducting the cost of administering such funds as provided in this chapter or earned. The cost of administering a trust fund may be paid out of the fund, in accordance with section 1 of article IX of the Constitution of North Dakota.~~

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

15-03-04. Legal investments. Subject to the provisions of section 15-03-05, the board of university and school lands shall apply the prudent investor rule in investing the permanent funds under its control. The "prudent investor rule" means that in making investments the board shall exercise the same judgment and care, under the circumstances then prevailing and limitations of North Dakota and federal law, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable ~~income~~ investment returns. Notwithstanding any investments made before July 1, 1997, the board may not use any funds entrusted to it to purchase, as sole owner, commercial or residential real property in North Dakota without prior approval of the legislative assembly or the budget section of the legislative council. The board may also lend securities held by the permanent funds, including the authority to pledge a security interest in the securities in the possession of a custodian agent. These securities must be collateralized as directed by the board.

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

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

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

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

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

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

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-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2085.

Senate Vote: Yeas 45 Nays 1 Absent 1

House Vote: Yeas 84 Nays 0 Absent 10

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State