

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE CONCURRENT RESOLUTION NO.

Introduced by

Representative Vig

1 A concurrent resolution for the amendment of section 6 of article VIII of the Constitution of North  
2 Dakota, relating to the creation of an elected state commission of higher education.

### 3 STATEMENT OF INTENT

4 This measure replaces the state board of higher education with an elected state commission of  
5 higher education and provides for a transition of power and authority on December 15, 2012.

6 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**  
7 **SENATE CONCURRING THEREIN:**

8 That the following proposed amendment to section 6 of article VIII of the Constitution of  
9 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at  
10 the general election to be held in 2010, in accordance with section 16 of article IV of the  
11 Constitution of North Dakota.

12 **SECTION 1. AMENDMENT.** Section 6 of article VIII of the Constitution of North  
13 Dakota is amended and reenacted as follows:

#### 14 Section 6.

- 15 1. A ~~board of higher education, to be officially known as the state board~~ state  
16 commission of higher education, is hereby created for the control and  
17 administration of the following state ~~educational~~ institutions, ~~to-wit:~~  
18 a. The state university and school of mines, at Grand Forks, with their  
19 substations;  
20 b. The North Dakota state ~~agricultural college~~ university of agriculture and  
21 applied science and experiment station, at Fargo, with their substations;  
22 c. The school of science, at Wahpeton;  
23 d. The state ~~normal schools and teachers colleges~~ universities, at Valley City,  
24 Mayville, Minot, and Dickinson;  
25 e. The school of forestry, at Bottineau; and

f. ~~And such~~ Any other state institutions of higher education as that may hereafter be established.

2. a. ~~The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate.~~

~~The governor shall appoint as the eighth member of the board a full time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.~~

~~The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is~~

1                   ~~appointed to fill a vacancy and serves two or more years of that term, the~~  
2                   ~~member is deemed to have served one full term.~~

3                   ~~b. In the event any nomination made by the governor is not consented to and~~  
4                   ~~confirmed by the senate, the governor shall again nominate a candidate~~  
5                   ~~selected from a new list. The nomination shall be submitted to the senate for~~  
6                   ~~confirmation and the proceedings shall continue until an appointee has been~~  
7                   ~~confirmed by the senate or the session of the legislature has adjourned.~~

8                   ~~e. If a term expires or a vacancy occurs when the legislature is not in session,~~  
9                   ~~the governor may appoint from a list selected as provided, a member who~~  
10                  ~~shall serve until the opening of the next session of the legislature, at which~~  
11                  ~~time the appointment must be certified to the senate for confirmation. If the~~  
12                  ~~appointee is not confirmed by the thirtieth legislative day of the session, the~~  
13                  ~~office shall be deemed vacant and the governor shall nominate another~~  
14                  ~~candidate for the office. The same proceedings shall be followed as are set~~  
15                  ~~forth in this section. If the legislature is in session at any time within six~~  
16                  ~~months prior to the date of the expiration of the term of any member, the~~  
17                  ~~governor shall nominate a successor from a list selected as above set forth,~~  
18                  ~~within the first thirty days of the session and upon confirmation by the senate~~  
19                  ~~the successor shall take office at the expiration of the incumbent's term. No~~  
20                  ~~person who has been nominated and whose nomination the senate has failed~~  
21                  ~~to confirm is eligible for an interim appointment. On or before July first of~~  
22                  ~~each year, beginning in 1995, the governor shall appoint a student member~~  
23                  ~~from a list of names recommended by the executive board of the North~~  
24                  ~~Dakota student association for a term of one year, beginning on July first. A~~  
25                  ~~student member may not serve more than two consecutive terms.~~

26                  ~~3. The members of the state board of higher education may only be removed by~~  
27                  ~~impeachment for the offenses and in the manner and according to the procedure~~  
28                  ~~provided for the removal of the governor by impeachment proceedings.~~

29                  ~~4. The state commission of higher education consists of three members elected from~~  
30                  ~~the state at large. The initial terms must be staggered by lot so that the term of~~  
31                  ~~one commissioner is two years, the term of one commissioner is four years, and~~

1           the term of one commissioner is six years. Each commissioner shall serve until a  
2           successor is duly qualified. The term of each commissioner after the initial  
3           commissioners are elected is six years and begins on December fifteenth following  
4           the commissioner's election.

5           b. Each appointive member of the state board of higher education, except the  
6           student member, shall commissioner is entitled to receive compensation set  
7           in an amount established by the legislative assembly for the time actually  
8           spent devoted to the duties of the member's commissioner's office. All  
9           members shall receive necessary expenses in the same manner and amounts  
10           as other state officials for and reimbursement for expenses as provided by  
11           law for state officers if the commissioner is attending meetings and or  
12           performing other functions of their duties of the office.

13       5- 3.   The legislature legislative assembly shall prescribe the powers and duties of the  
14           state commission of higher education and shall provide adequate funds for the  
15           proper carrying out of the functions the commission's powers and duties of the  
16           state board of higher education.

17       6- 4.   a.   The state board commission of higher education shall hold its first meeting at  
18           the office of the state board of administration at Bismarck, on the 6th day of  
19           July, 1939 on December 15, 2012, or as soon thereafter as practicable, and  
20           shall organize and elect one of its members as president of such board for a  
21           term of one year. At that meeting, or as soon thereafter as practicable, the  
22           commission shall also at said meeting, or as soon thereafter as may be  
23           practicable, elect a competent person as secretary, who shall reside during  
24           his term of office in the city of Bismarck, North Dakota. Said secretary shall  
25           hold office at the will of the board. As soon as said board is established and  
26           organized, it provide for the employment and compensation of necessary  
27           personnel and shall assume all the powers and perform all the duties now  
28           conferred by law upon the state board of administration higher education in  
29           connection with the several institutions hereinbefore mentioned, and the said  
30           board of administration shall immediately upon the under the control of the  
31           board. Upon organization of said state board of higher education, the

1 commission, the terms of all members of the state board of higher education  
2 terminate and the state board of higher education shall surrender and transfer  
3 to ~~said state board of higher education~~ the commission all duties, rights, and  
4 powers granted to it under the existing laws of this state concerning the  
5 institutions ~~hereinbefore mentioned~~ under the control of the board, together  
6 with all property, deeds, records, reports, and appurtenances of every kind  
7 belonging or appertaining to ~~said~~ the institutions.

8 b. The ~~said state board~~ commission of higher education ~~shall have~~ has full  
9 authority over the institutions under its control with the right, among its other  
10 powers, to prescribe, limit, or modify the courses offered at the ~~several~~  
11 institutions. ~~In furtherance of its powers, the~~ The state board commission of  
12 higher education ~~shall have the power to~~ may delegate to its employees  
13 details of the administration of the institutions under its control. The ~~said state~~  
14 ~~board~~ commission of higher education ~~shall have full authority to~~ may  
15 organize or reorganize within constitutional and statutory limitations; the work  
16 of each institution under its control; and do ~~each and~~ everything necessary  
17 and proper for the efficient and economic administration of ~~said state~~  
18 ~~educational institutions~~ each institution.

19 c. ~~Said board~~ The commission shall prescribe for all of ~~said~~ the institutions  
20 standard systems of accounts and records and ~~shall biennially, and~~ within six  
21 ~~(6)~~ months immediately preceding the regular session of the ~~legislature~~  
22 legislative assembly, make a report to the governor; covering in detail the  
23 operations of the ~~educational~~ institutions under its control.

24 d. ~~It shall be the duty of the heads of the several state institutions hereinbefore~~  
25 ~~mentioned, to~~ Each president of a state institution under the control of the  
26 commission shall submit to the commission the budget ~~requests for the~~  
27 ~~biennial appropriations for said institutions to said state board of higher~~  
28 ~~education; and said state board of higher education~~ request for that institution.  
29 The commission shall consider ~~said budgets and shall~~ the requests and  
30 revise the same as in its judgment shall be for the best interests of requests in  
31 the manner the commission determines best serves the educational system of

1 the state; ~~and thereafter the state board of higher education.~~ Thereafter, the  
2 commission shall prepare and present to the ~~state budget board and to the~~  
3 ~~legislature~~ legislative assembly a single unified budget covering the needs of  
4 all the institutions under its control. ~~"Said budget shall be prepared and~~  
5 ~~presented by the board of administration until the state board of higher~~  
6 ~~education organizes as provided in subsection 6a."~~ The appropriations for all  
7 of ~~said~~ the institutions ~~shall~~ must be contained in one legislative measure.

8 The budgets and appropriation measures for the agricultural experiment  
9 stations and their substations and the extension division of the North Dakota  
10 state university of agriculture and applied science may be separate from those  
11 of state educational institutions.

- 12 e. The ~~said state board of higher education~~ commission shall have the control of  
13 ~~the expenditure of the funds over all moneys~~ belonging to; and allocated to  
14 ~~such the~~ institutions and ~~also these over all moneys~~ appropriated by the  
15 ~~legislature;~~ legislative assembly for the institutions of higher education in this  
16 state; provided, however, that ~~funds~~ moneys appropriated by the ~~legislature~~  
17 legislative assembly and specifically designated for any one or more of ~~such~~  
18 the institutions, ~~shall~~ may not be used for any other institution.

- 19 ~~7.—~~a. The ~~state board of higher education~~ shall, as soon as practicable, appoint for  
20 a term of not to exceed three (3) years, a ~~state commissioner of higher~~  
21 ~~education, whose principal office shall be at the state capitol, in the city of~~  
22 ~~Bismarck.~~ ~~Said commissioner of higher education shall be responsible to the~~  
23 ~~state board of higher education and shall be removable by said board for~~  
24 ~~cause.~~

- 25 b. The ~~state commissioner of higher education~~ shall be a graduate of some  
26 reputable college or university, and who by training and experience is familiar  
27 with the problems peculiar to higher education.  
28 e. Such ~~commissioner of higher education~~ shall be the chief executive officer of  
29 ~~said state board of higher education, and shall perform such duties as shall be~~  
30 ~~prescribed by the board.~~

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- 1           8- ~~This constitutional provision shall be self-executing and shall become effective~~  
2           ~~without the necessity of legislative action.~~