

**HOUSE CONCURRENT RESOLUTION NO. 3046**

Introduced by

Representatives Carlson, R. Kelsch, Skarphol, Vigesaa

1 A concurrent resolution to create and enact a new section to article VIII of the Constitution of  
2 North Dakota, relating to the creation of a department of education; to amend and reenact  
3 sections 2 and 5 of article V and section 3 of article IX of the Constitution of North Dakota,  
4 relating to the superintendent of public instruction and creation of a department of education; to  
5 repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of  
6 higher education; and to provide an effective date.

7 **STATEMENT OF INTENT**

8 This measure would create a department of education beginning on January 1, 2015, with the  
9 charge that the department oversee and administer the provision of all public education in this  
10 state.

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

13 That the following proposed new section to article VIII, the proposed amendments to  
14 sections 2 and 5 of article V and section 3 of article IX, and the repeal of section 6 of article VIII  
15 of the Constitution of North Dakota are agreed to and must be submitted to the qualified  
16 electors of North Dakota at the general election to be held in 2012, in accordance with  
17 section 16 of article IV of the Constitution of North Dakota.

18 **SECTION 1. AMENDMENT.** Section 2 of article V of the Constitution of North Dakota is  
19 amended and reenacted as follows:

20 **Section 2.** The qualified electors of the state at the times and places of choosing members  
21 of the legislative assembly shall choose a governor, lieutenant governor, agriculture  
22 commissioner, attorney general, auditor, insurance commissioner, three public service  
23 commissioners, secretary of state, ~~superintendent of public instruction~~, tax commissioner, and  
24 treasurer. The legislative assembly may by law provide for a department of labor to be  
25 administered by a public official who may be either elected or appointed.

1 The powers and duties of the agriculture commissioner, attorney general, auditor, insurance  
2 commissioner, public service commissioners, secretary of state, ~~superintendent of public~~  
3 ~~instruction~~, tax commissioner, and treasurer must be prescribed by law. If the legislative  
4 assembly establishes a labor department, the powers and duties of the officer administering that  
5 department must be prescribed by law.

6 **SECTION 2. AMENDMENT.** Section 5 of article V of the Constitution of North Dakota is  
7 amended and reenacted as follows:

8 **Section 5.** The qualified electors shall choose the elected state officials at a time  
9 designated by the legislative assembly. The elected state officials shall serve until their  
10 successors are duly qualified. Terms of office of the elected officials except the public service  
11 commissioners are four years, except that in 2004 the agriculture commissioner, attorney  
12 general, secretary of state, and tax commissioner are elected to a term of two years and that  
13 the term of the superintendent of public instruction elected in 2012 expires as of January 1,  
14 2015. The terms of the public service commissioners are six years, so arranged that one of  
15 them is elected every two years. The terms of the governor and lieutenant governor begin on  
16 December fifteenth following their election.

17 If two or more candidates for any executive office other than for governor and lieutenant  
18 governor receive an equal and highest number of votes, the legislative assembly in joint session  
19 shall choose one of them for the office.

20 **SECTION 3.** A new section to article VIII of the Constitution of North Dakota is created and  
21 enacted as follows:

- 22 1. The department of education is created for the purpose of overseeing and  
23 administering the provision of public education in this state, including early childhood  
24 education, elementary and high school education, and higher education at sites that  
25 include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville,  
26 Minot, Valley City, Wahpeton, and Williston.
- 27 2. The ~~Subject to confirmation by the legislative assembly, the~~ governor shall appoint the  
28 director of the department of education, who shall serve as the chief executive officer  
29 of the department. The appointment must be for a term of three years and may be  
30 renewed for like terms. The director is removable by the governor for cause.

- 1       3. The director must hold a doctoral degree from an accredited institution, be uniquely  
2       familiar with the broad spectrum of educational delivery and administration, and  
3       committed to the development and maintenance of an educational system that  
4       provides opportunities for students, through academic pursuits and technical training,  
5       to meet the educational and workforce challenges of the current century and beyond.
- 6       4. There is created an eleven-member educational council. Each member must be  
7       appointed by the governor, with the advice and consent of ~~three~~four from among the  
8       following: the majority and minority leader of the house of representatives, the majority  
9       and minority leader of the senate, ~~and~~ the president pro tempore of the senate, ~~and~~  
10       the speaker of the house. The council must be a balanced and representative group of  
11       individuals who by training and experience each have a profound knowledge and  
12       understanding of the purpose and mission of education at all levels, and collectively  
13       understand the function of education with respect to agriculture, the arts, commerce  
14       and finance, manufacturing, mineral extraction, natural resources, and the  
15       professions.
- 16       5. The term of office for each member of the educational council begins on January first  
17       and has a duration of three years. The initial appointments must be staggered by lot  
18       so that no more than four positions terminate at any one time. An individual may not  
19       serve more than two consecutive terms. If an individual is appointed to fill a vacancy,  
20       that service is not counted as a term for purposes of this section unless that service  
21       exceeds one year.
- 22       6. Annually, the governor shall appoint one member to serve as chairman of the  
23       educational council. The individual may be reappointed as chairman but may not serve  
24       more than two consecutive terms in that role.
- 25       7. The chairman shall call all meetings of the educational council and shall call a special  
26       meeting of the council within seven days when petitioned to do so by five council  
27       members. The council shall meet at least once every calendar quarter.
- 28       8. Each member of the educational council is entitled to receive per diem compensation  
29       in the amount provided to members of the legislative assembly plus reimbursement for  
30       expenses as provided by law for state officers if the member is attending meetings or  
31       performing duties directed by the council.

1       9. The educational council shall provide advice and guidance to the director of the  
2       department of education in all matters pertaining to the delivery and administration of  
3       education in this state, including academic standards, accountability, budgetary and  
4       financial matters, managerial and operational matters, and regulatory and legislative  
5       matters. The council may form workgroups, task forces, and subcommittees to seek  
6       additional information and outside expertise in order to fully and adequately perform  
7       the functions with which the council is charged.

8       **SECTION 4. AMENDMENT.** Section 3 of article IX of the Constitution of North Dakota is  
9       amended and reenacted as follows:

10       **Section 3.** ~~The superintendent of public instruction, governor, attorney general, secretary of~~  
11       ~~state and, state treasurer, and the director of education~~ comprise a board of commissioners, to  
12       ~~be denominated the "board of university and school lands"~~ the board of university and school  
13       lands. Subject to the provisions of this article and any law that may be passed by the legislative  
14       assembly, the board has control of the appraisement, sale, rental, and disposal of all school and  
15       university lands, and the proceeds from the sale of such lands shall be invested as provided by  
16       law.

17       **SECTION 5. REPEAL.** Section 6 of article VIII of the Constitution of North Dakota is  
18       repealed.

19       **SECTION 6. EFFECTIVE DATE.** If approved by the voters, section 2 of this measure  
20       becomes effective upon approval, and sections 1, 3, 4, and 5 of this measure become effective  
21       on January 1, 2015.