Sixty-third
Legislative Assembly
of North Dakota

HOUSE CONCURRENT RESOLUTION NO. 3042

Introduced by

Representatives Becker, Beadle, Dockter, Looysen, Rohr, Schatz

Senator Poolman

A concurrent resolution to amend and reenact sections 2 and 5 of article V and section 6 of article VIII of the Constitution of North Dakota, relating to the election of a higher education commissioner; and to provide an effective date.

STATEMENT OF INTENT

This measure would provide for the election of a higher education commissioner at the general election in 2016 and provide for the creation of a higher education advisory council.

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

That the following proposed amendments to sections 2 and 5 of article V and section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

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

The powers and duties of the agriculture commissioner, attorney general, auditor, higher education commissioner, insurance commissioner, public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer must be prescribed

by law. If the legislative assembly establishes a labor department, the powers and duties of the officer administering that department must be prescribed by law.

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

Section 5. The qualified electors shall choose the elected state officials at a time designated by the legislative assembly. The elected state officials shall serve until their successors are duly qualified. Terms of office of the elected officials except the public service commissioners are four years, except that in 2004 the agriculture commissioner, attorney general, secretary of state, and tax commissioner are elected to a term of two years. The terms of the public service commissioners are six years, so arranged that one of them is elected every two years. The higher education commissioner may not serve more than two full terms. The terms of the governor and lieutenant governor begin on December fifteenth following their election.

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

SECTION 3. AMENDMENT. Section 6 of article VIII of the Constitution of North Dakota is amended and reenacted as follows:

Section 6.

~~1. A board of higher education, to be officially known as the state board of higher education, is hereby created for the control and administration of the following state educational institutions, to wit:~~

~~a. The state university and school of mines, at Grand Forks, with their substations.~~

~~b. The state agricultural college and experiment station, at Fargo, with their substations.~~

~~c. The school of science, at Wahpeton.~~

~~d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.~~

~~e. The school of forestry, at Bottineau.~~

~~f. And such other state institutions of higher education as 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 appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.~~

~~b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation~~

and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

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

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

4. Each appointive member of the state board of higher education, except the student member, shall receive compensation set by the legislative assembly for the time actually spent devoted to the duties of the member's office. All members shall receive necessary expenses in the same manner and amounts as other state officials for attending meetings and performing other functions of their office.

5. The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education.

~~6. a. The state board of higher education shall hold its first meeting at the office of the state board of administration at Bismarck, on the 6th day of July, 1939, and shall organize and elect one of its members as president of such board for a term of one year. It shall also at said meeting, or as soon thereafter as may be practicable, elect a competent person as secretary, who shall reside during his term of office in the city of Bismarck, North Dakota. Said secretary shall hold office at the will of the board. As soon as said board is established and organized, it shall assume all the powers and perform all the duties now conferred by law upon the board of administration in connection with the several institutions hereinbefore mentioned, and the said board of administration shall immediately upon the organization of said state board of higher education, surrender and transfer to said state board of higher education all duties, rights, and powers granted to it under the existing laws of this state concerning the institutions hereinbefore mentioned, together with all property, deeds, records, reports, and appurtenances of every kind belonging or appertaining to said institutions.~~

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

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

~~d. It shall be the duty of the heads of the several state institutions hereinbefore mentioned, to submit the budget requests for the biennial appropriations for said institutions to said state board of higher education; and said state board of higher~~

~~education shall consider said budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state; and thereafter the state board of higher education shall prepare and present to the state budget board and to the legislature a single unified budget covering the needs of all the institutions under its control. "Said budget shall be prepared and presented by the board of administration until the state board of higher education organizes as provided in subsection 6a." The appropriations for all of said institutions shall be contained in one legislative measure. The budgets and appropriation measures for the agricultural experiment stations and their substations and the extension division of the North Dakota state university of agriculture and applied science may be separate from those of state educational institutions.~~

~~e. The said state board of higher education shall have the control of the expenditure of the funds belonging to, and allocated to such institutions and also those appropriated by the legislature, for the institutions of higher education in this state; provided, however, that funds appropriated by the legislature and specifically designated for any one or more of such institutions, shall not be used for any other institution.~~

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

~~b. The state commissioner of higher education shall be a graduate of some reputable college or university, and who by training and experience is familiar with the problems peculiar to higher education.~~

~~c. Such commissioner of higher education shall be the chief executive officer of said state board of higher education, and shall perform such duties as shall be prescribed by the board.~~

1. a. The higher education commissioner shall hold a graduate degree from an accredited institution of higher education, be familiar with higher education

delivery and administration, and be committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet current and future educational and workforce challenges.

b. The higher education commissioner shall oversee and administer the provision of public higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.

c. The higher education commissioner shall:

(1) Appoint and remove the president of each institution;

(2) Prescribe a uniform system for the accounting, budgeting, and reporting of data, by each institution; and

(3) Do all things necessary and proper for the effective and efficient administration of the North Dakota university system, subject to statutory requirements and limitations.

2. a. The higher education advisory council consists of seven, nine, or eleven members, appointed by the governor, with the advice and consent of four from among the following: the majority and minority leader of the house of representatives, the majority and minority leader of the senate, and the president pro tempore of the senate.

b. The higher education advisory council must be a balanced and representative group of individuals who by training and experience each have a profound knowledge and understanding of the purpose and mission of higher education and collectively understand the function of higher education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions. One member of the council must be a full-time student in good standing at a public institution under the control of the commissioner.

c. The term of office for each member of the higher education advisory council begins on January first and has a duration of two years. The initial appointments must be staggered by lot so that no more than four positions terminate at any one

time in the case of a seven-member council, no more than five positions terminate at any one time in the case of a nine-member council, and no more than six positions terminate at any one time in the case of an eleven-member council. An individual may not serve more than two consecutive terms. If an individual is appointed to fill a vacancy, that service is not counted as a term for purposes of this section unless that service exceeds one year.

d. Annually, the governor shall designate one member of the higher education advisory council to serve as chairman. The individual may be reappointed as chairman but may not serve more than two consecutive terms in that role. The chairman shall call all meetings of the council and shall call a special meeting of the council within seven days when petitioned to do so by at least half of the council members. The council shall meet at least once every calendar quarter.

e. Each member of the higher education advisory council, except the student, is entitled to receive per diem compensation in the amount provided to members of the legislative assembly. Each member of the council is entitled to receive reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the council.

f. The higher education advisory council shall provide advice and guidance to the higher education commissioner in all matters pertaining to the delivery and administration of higher education in this state, including academic standards, accountability, budgetary and financial matters, managerial and operational matters, and regulatory and legislative matters.

~~8.~~3. This constitutional provision ~~shall be~~is self-executing and ~~shall become~~becomes effective without ~~the necessity of~~ legislative action.

SECTION 4. EFFECTIVE DATE. If approved by the electors, sections 1 and 2 of this Act become effective January 1, 2016, and the higher education commissioner is to be first elected at the general election in 2016. The commissioner will take office January 1, 2017. Section 3 of this Act becomes effective January 1, 2017.