

2001 SENATE EDUCATION

SB 2042

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

Conference Committee

Hearing Date 01-16-01

Tape Number	Side A	Side B	Meter #
1	x		34.3 - end
1		x	0 - 17.0
1(02-13-01)	x		43.9 - end
1(02-13-01)		x	0 - 9.9
Committee Clerk Signature <i>Andee Johnson</i>			

Minutes:CHAIRMAN FREBORG opened the hearing on SB 2042 which relates to Higher Education statutory responsibility.

Testimony in support of SB 2042.

ROXANNE HUBZA, Legislative Council staff, explained sections of the bill. She also handed out explanations for parts of the ND Century Code (see attached) which are referred to in SB 2042 in Section 7, to repeal..

SENATOR O'CONNELL has concerns over repeals and asked if the repeals in this bill are in some other part of NDCC or in the ND Constitution. She referred to Larry Isaac to answer.

RICHARD KUNKEL, State Board of Higher Education, spoke in support of SB 2042. (see attached).

PAT SEAWORTH, General Counsel, North Dakota University System, spoke in support of SB 2042.(see attached). SENATOR KELSH asked with these changes would there still be accountability. He referred to Chancellor Isaac.

CHANCELLOR ISAAC stated that part of the roundtable process defined very specific accountability measures that would be used by the Legislature that the Board would report on both in the fiscal and non-fiscal area. The audit process would remain the same with an audit of the universities by the Auditor's office. All of the funds of the campuses would be included in the statewide comprehensive financial report. It also lays out specific things the Board is to report on on an annual basis, regarding funds and revenues, etc. The report speaks to the "spirit" in which the universities go about their business in auditing. They need to look at "results and ends" more than they have been in the past. The audit process is to be more positive.

SENATOR O'CONNELL asked if this affects patents and inventions that faculty brings up.

PAT SEAWORTH answered:

1. This gives the Board additional flexibility in providing the rules
2. This makes sure the Board has the authority to apply the rules to patents and all forms of intellectual property
3. This specifically permits the Board to transfer ownership rights to a foundation that is created to support the institution.

The purpose of these changes is to give the institution greater flexibility in responding to needs and requests of the sponsors of research.

SENATOR KELSH asked if this allows the Board to go into executive session to hire a Chancellor. MR. SEAWORTH responded yes. This allows the Board to use the same procedures for a chancellor as they now use for a president. CHANCELLOR ISAAC stated the search process is open. The only time the Board can go into executive session is after it has done the interviews of the finalists and then to discuss pros and cons of candidates. Then the recommendation and hiring process is open.

Testimony in opposition to SB 2042.

JACK MCDONALD, North Dakota Newspaper Association, appeared in opposition to SB 2042. (see attached). SENATOR FLAKELL asked how this might differ from the process used in appointments made by the governor. He stated there is a similarity, but feels the Chancellor is a Constitutional Officer in as he/she is hired by the Board which is created in the Constitution. He also feels the process now being used is fine and doesn't see a need to change.

Having no further testimony on SB 2042, the hearing was closed.

↙ **02-13-01, Tape 1, Side A, 43.9 - end, Side B, 0 - 9.9**

The committee discussed who was in opposition to the bill and why. Discussion followed on the amendment offered by Jack McDonald (see attached testimony). This basically would not allow the Board of Higher Education to hire or fire the Chancellor in closed hearings/Executive Session. The bill does include all university employees, but the Board only hires the college Presidents and the Chancellor. This process would have to remain public, which has been the policy for many years. This bill also addresses patents. SENATOR COOK stated that in today's world, if you want to be able to be involved in some of the research that the campuses are involved in, and be able to lure some private dollars that come to finance that research, the one investing the private dollars wants some assurance that there is going to be some ownership for the patents. Discussion continued.

SENATOR COOK moved to adopt the McDonald amendment. Seconded by SENATOR CHRISTENSON. Discussion continued. Senator Cook feels the Chancellor and college Presidents have a lot of decision making authority that affects people in North Dakota and the people are concerned about those decisions.

Roll Call Vote: 6 YES. 0 NO. 1 Absent. Amendment adopted.

Page 4
Senate Education Committee
Bill/Resolution Number SB 2042
Hearing Date ~~01-16-01~~

2-13-01

SENATOR FLAKOLL moved a DO PASS as Amended. Seconded by SENATOR CHRISTENSON.

Roll Call Vote: 6 YES. 0 NO. 1 Absent. Motion Carried.

Carrier: SENATOR FLAKOLL

FISCAL NOTE

Requested by Legislative Council
12/14/2000

Bill/Resolution No.: SB 2042

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

No fiscal impact.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Laura Glatt	Agency:	North Dakota University System
Phone Number:	328-2960	Date Prepared:	12/18/2000

Date: 2/13/01
 Roll Call Vote #: 21

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

Senate Education Committee

- Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken moved McDonald amendments

Motion Made By Sen. Cook Seconded By Sen. Christenson

Senators	Yes	No	Senators	Yes	No
Senator Freborg - Chairman	✓		Senator Christenson	✓	
Senator Flakoll - Vice Chairman	✓		Senator Kelsh	✓	
Senator Cook	✓		Senator O'Connell	A	
Senator Wanzek	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: does not allow The Bd of Higher Ed to hire or fire chancellor in Executive session -

Date: 2/13/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2042

Senate Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By Sen Flakoll Seconded By Sen. Christenson

Senators	Yes	No	Senators	Yes	No
Senator Freborg - Chairman	✓		Senator Christenson	✓	
Senator Flakoll - Vice Chairman	✓		Senator Kelsh	✓	
Senator Cook	✓		Senator O'Connell	A	
Senator Wanzek	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen Flakoll

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2042: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2042 was placed on the Sixth order on the calendar.

Page 1, line 18, after "~~appoint~~" insert "Appoint" and remove the overstrike over "~~and remove the president or other faculty head, and the professors,~~"

Page 1, remove the overstrike over lines 19 through 22

Page 1, line 23, remove the overstrike over "~~be~~", remove "Meet", remove the overstrike over "~~if the board chooses~~", and remove "to consider the appointment or"

Page 1, line 24, remove "removal of a university system employee."

Renumber accordingly

2001 HOUSE EDUCATION

SB 2042

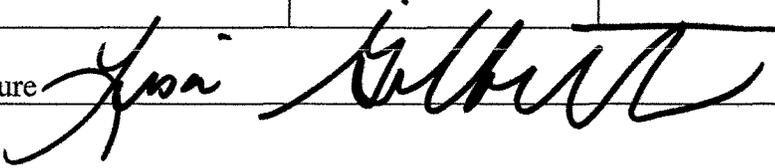
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2042

House Education Committee

Conference Committee

Hearing Date 03/12/01

Tape Number	Side A	Side B	Meter #
#1	X		1960 to 4467
#1	X		4635 to 4727
Committee Clerk Signature 			

Minutes:

Chairman R. Kelsch, Vice-Chair T. Brusegaard, Rep. Bellew, Rep. Grumbo, Rep. Haas, Rep. Hanson, Rep. Hawken, Rep. Hunsakor, Rep. Johnson, Rep. Meier, Rep. Mueller, Rep. Nelson, Rep. Nottestad, Rep. Solberg, Rep. Thoreson

Chairman Kelsch: We will open the hearing on SB2042.

Roxanne Hubsas: (Legislative Council) *Explained the bill, refer to written testimony*

Dick Kunkel: (Board of Higher Education) *Please refer to written testimony*

Rep. Nelson: How do you look at this flexibility that's offered as an opportunity for a school that size, or is there any reason that one would feel threatened of the future... Where the role of the Lake Region State gets into the work force development program. What area fits?

Kunkel: It will definitely help schools like Lake Region. Just recently, we had a new firm move into Devil's Lake. They feel that those small campuses which have a lot of the technology programs will be able to provide them with the resources they need.

Rep. Nelson: Will the role of that college continue to add a liberal arts beginning, or do you see that some of these programs become the priority of institutions of institutions like this?

Kunkel: I see working both ways, because there's definitely a need for the liberal arts portion of that to go along with the technologies.

Larry Isaak: (Chancellor of ND University Systems) In response to Rep. Nelson's question, I think that flexibility with accountability provides an opportunity for all of our campuses to flourish. The whole idea was not a big campus/small campus issue. It's to create an environment for all of our campuses to be successful.

Rep. Hawken: In the sections that are being repealed, would that too be something that is sent to each of them, and then would go back to one of your objectives you have outlined here?

Isaak: I believe the section that's being repealed there relates to a section that was a tuition assistance grant program for private colleges, and it was put on the books many years ago, and then about fifteen years ago, that was collapsed into one state assistance program including those private colleges.

Chairman Kelsch: I noted that in UND's plan, they discussed in here expanded the epscore. Why the focus on UND and not in NDSU?

Isaak: I really couldn't tell you, but epscore is something that has received high priority.

Pat Seaworth: (General Counsel ND University Systems) *Please refer to written testimony*

Rep. Mueller: You referred to what is retained to this sort of authority not found in the constitution including authority to meet in an executive session and remove institution employees. Can you talk a little bit about what's currently happening with that? What were we

doing before in regards to those executive sessions regarding the hiring and removal of employees.

Isaak: The bill that is now before you would not change the current law governing the executive session. Right now the law provides that the board may go into executive session to consider the appointment or removal of institution employees. As introduced, we put an amendment to change that language, replace institution employees to university system employees. The Senate took that amendment out. The only employees the board now appoints or would remove are the chancellor and the institution president.

Chairman Kelsch: Why did the Senate amend the first section, because you must have written it that way, or the interim committee must have felt comfortable with the language, and I was curious as to why it was such a big issue in the Senate.

Isaak: That particular amendment wasn't something that the round table or the interim committee specifically discussed, it was something that the board proposed. They thought that it made sense.

Chairman Kelsch: We will close the hearing on SB2042.

Chairman Kelsch: We will now take up SB2042. What are the wishes of the committee?

Rep. Nelson: I move a DO PASS.

Rep. Hawken: Second.

Chairman Kelsch: Committee discussion.

The motion of DO PASS passes with 14 YAY 0 NAY 1 ABSENT.

Floor assignment: Rep. Hawken

Date: 3/12/01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Nelson Seconded By Rep. Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman-RaeAnn G. Kelsch	✓		Rep. Howard Grumbo	✓	
V. Chairman-Thomas T. Brusegaard			Rep. Lyle Hanson	✓	
Rep. Larry Bellew	✓		Rep. Bob Hunsakor	✓	
Rep. C.B. Haas	✓		Rep. Phillip Mueller	✓	
Rep. Kathy Hawken	✓		Rep. Dorvan Solberg	✓	
Rep. Dennis E. Johnson	✓				
Rep. Lisa Meier	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Hawken

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 12, 2001 12:33 p.m.

Module No: HR-42-5335
Carrier: Hawken
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2042, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2042 was placed on the Fourteenth order on the calendar.

2001 HOUSE APPROPRIATIONS

SB 2042

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2041 & SB2042

House Appropriations Committee
Education and Environment Division

Conference Committee

Hearing Date April 06, 2001

Tape Number	Side A	Side B	Meter #
2 of 2	x		2,110
Committee Clerk Signature <i>Judy Schock</i>			

Minutes:

Representatives Aarsvold, Gulleson, Martinson, Monson, Wald, Wentz.

Representative Wentz: We do not have to amend this to conform to SB2003. The full committee wants us to look at it. It does not conflict with SB2003. These bills had their hearing in the house education committee. They were simply held back because we want to be sure they were consistent with what we did with SB2003.

Some of the committee feels they needed time to read over and time to study this. If there isn't time, Rep Martinson feels, when in doubt don't vote for the bill.

Pat Seaworth: Council for ND University System. (225- 1045) Goes through repeals and why. Some are outdated, and goes through those.

The committee, Mr. Seaworth, and Laura Glatt have a question and answer period. (1060-1450)
Rep Martinson made a motion for a do pass, seconded by Rep Monson. Chairman Wentz offers discussion. Vote was taken 6 yes, 0 no and 1 absent.

Page 2

Education and Environment Division

Bill/Resolution Number SB2041 & SB2042

Hearing Date April 06, 2001

Rep Wald wants to further amend. A vote needed to be taken to reconsider our actions. A motion was taken to reconsider our actions by Rep Martinson, seconded by Rep Wald. Pass by verbal vote. Rep Wald makes a motion to further amend on line 21 of page 1 after the word control, put a coma, including System Office personnel, and than continue on and renumber. Seconded by Rep Martinson. Chairman Wentz asks for discussion. Voice vote was taken and passes. Rep Wald makes a motion to do pass as amended. Rep Monson seconds the motion. Seeing no discussion the vote was taken. 6 yes, 0 no, and 1 absent. Rep Wentz will take to the full committee.

Representative Wentz: Lets consider SB2041 now. Rep Wald makes a motion for a do pass.

Seconded by Rep Martinson. Chairman Wentz asks for discussion. Vote was taken with 6 yes, 0 no, and 1 absent. Rep Wentz will present to the full committee. We are adjourned.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

House Appropriations Committee

Conference Committee

Hearing Date April 10, 2001

Tape Number	Side A	Side B	Meter #
04-10-01 tape #1	2597 - 6088	0 - 6230	
04-10-01 tape #2	0 - 824		
Committee Clerk Signature <i>Kelli Hall</i>			

Minutes:

The committee was called to order, and opened committee work on SB 2042.

Rep. Wald: We amended this bill in the subsection, but we have to withdraw the amendment because it is in the wrong section of the bill.

Rep. Skarphol: Moves to amend the bill with amendment no. 10159.0304. Seconded by Rep. Wald. It was felt by the subcommittee that this amendment was needed, and his concern was the location of the amendment, to make this an open meeting when these issues are discussed with regard to the university system office.

Rep. Wentz: That is correct, that was out intent, and it was placed in the wrong location in the bill in the subcommittee.

Rep. Svedjan: If that's what the goal of this amendment, I don't think it accomplishes what you are setting out. I understand Rep. Skarphol to say they want the university system

office employees. This looks to me like the state board of higher education is in charge of all university system employees.

Rep. Skarphol: This was discussed at some length with Jim Smith of Legislative Council. He felt that it accomplished just the university system employees aspect of it, not the employees at each university. They are covered under subsection 1 of this.

Rep. Svedjan: The new language says university system employees, it doesn't say university system office employees. That tells me that the state board is in charge of all university system employees and it takes the presidents and everyone else out of that picture.

Rep. Skarphol: We could further amend to include "office" in the amendment proposed. Amends his motion to amend.

Rep. Glassheim: Not quite sure what this is all supposed to accomplish, but as he reads this, its purpose was to allow for closed meetings when considering system office personnel. Thinks the purpose was to include university system office personnel to the closed meetings. By moving it up above as in Rep. Skarphol's amendment, it just says in general the state board has control over these employees.

Rep. Skarphol: Historically, the chancellor's office has never been included in the closed session portion of this. That's the whole idea, that we want that to remain as open as it is in the discussions.

Rep. Glassheim: The purpose of this amendment, whether you like it or not, is to allow that to be closed. If you don't want it to be closed, you defeat the amendment.

Chairman Timm: Questions LC staff as to the proposed amendment on the table.

Roxanne, LC: Reads the language of the proposed amendment and how it fits into the bill.

Rep. Delzer: Amendment .0302 is not on the bill currently, right?

Chairman Timm: Yes.

Rep. Aarsvold: If he understands this amendment, it will open the proceedings to the public.

Rep. Skarphol: Relative only to the university system office personnel.

Rep. Aarsvold: That would include the chancellor down to the secretaries.

Rep. Monson: If we are trying to open up the proceedings where the board may decide whether to hire or fire someone in the office system, and make that totally public, that would be quite different than the norm. When you try to dismiss someone, whether it be a president or instructor, even at the K-12 level, you have the right to have an executive session, to protect the privacy of some of those people. Not sure that's what we want to do.

Rep. Skarphol: He had some discussions with Jack McDonald about this and he assured me that it was the current practice to do this, and all I want to do is to insure we continue current practice. He's not trying to open up anything that hasn't been open in the past. He just wants this in the proper place so we don't close something.

Rep. Monson: Looking at this, and thinking about this, he thinks where the subsection put this is in the proper place, because we are not opening up all discussions about hiring and firing. We would want evaluations to be open. But not all the hiring and firings. I don't think that is the current practice. Maybe we could have Mr. McDonald address this.

Jack McDonald, ND Newspaper Association: Right now the current situation is that the hiring and firing of the chancellor has to be done in a public meeting. That is because of subsection 1. The hiring and firing of university personnel, including instructors and teachers can be in closed session. The university system employees are not the university instructors,

teachers or professors. Currently all the hiring and firing of the chancellor's office is done in public meeting. The decisions to hire and fire teachers in K-12 are done in public meeting also, but the teacher has the chance to ask for a closed meeting to talk it over, and ask for reconsideration. All Rep. Skarphol is asking is that the current situation stay current. The intent of the amendment, is to include this department of the chancellor or university system in state law.

Rep. Wald: The subsection on the amendment .0302 was the language on line 21 to affix their salaries. Thinks that was their concern more than open or closed.

Jack McDonald: Understands that. But by putting it in section 1, they have included them in the closed sessions. By putting them in there, you have added them to the closed sessions. The Senate changed it from that way, to the current way.

Rep. Glassheim: Understands that currently you cannot close sessions for presidents and teachers in terms of salaries and terms of office and duties, but you can close for hiring and firing. That's his understanding of the law now. What .0302 does is add the university system to that list. So now you can close sessions for hiring and firing presidents, teachers, and officers at each institution. The reason we allow that is because these are very sensitive matters and you are going to get a fuller discussion of the board if the session is closed. We allow it for the president of the schools to be closed, but we are saying for the chancellor or other university system employees that it has to be open. This is a very sensitive issue, and you need an honest discussion. Thinks .0302 takes into account the realities of the situation and gives the same protections that others have.

He moves a substitute motion to adopt amendment 10159.0302. Seconded by Rep. Gulleeson.

Rep. Monson: Would like Jack McDonald to answer another question. Leaving it as in .0302, all negotiations and salary discussions would still be wide open.

Jack McDonald: Believes so, yes.

Rep. Monson: By passing .0302, we would be saying if there was firing or hiring sessions, they could go into executive sessions, but not when talking salary increases, etc.

Jack McDonald: Believes so, yes.

Rep. Skarphol: He would like to hear Legislative Council's opinion.

Roxanne, LC: Does not profess to be in the legal field. But that subsection does speak to fix their salaries as to legislative appropriations.

Rep. Skarphol: That section also goes on to say, unless the individual requests that the meeting be open. So its closed, unless it's asked to be open. It is a substantive change as to the chancellor's office, and cannot support the amendment.

Rep. Delzer: There is a comma, but I see this as saying it shall be an executive session unless the individual requests otherwise. It doesn't give them the option to fix salaries in open session. It says it must be closed unless that one person asks for it to be open.

Rep. Glassheim: Needs to read the words here now. (Reads the bill) The commas do make a difference. (Reads some more)

Voice Vote adopts amendment 10159.0302.

Rep. Byerly: Would hope that we don't send this back to the floor as a do pass. The thing that bothers him about this whole bill is section 7. If you take the time to look at what we are repealing in this bill, there are some significant things in there. He has looked at the law books, and gave an example of what is being repealed - 47-28, dealing with patents and copyrights as they are recorded and shared with the inventor. That is major legislation that is

being repealed right there. It's going to leave it up to the board to decide how those are going to be shared. Then there is section 15, and he explains some various sections in this area. Has a real problem doing blanket repeals of law like this without spending more time looking at these.

Rep. Monson: 47-28, as they explained it to us, is being done to hopefully get more grant money to the universities. A lot of private companies will not give a lot of money for grants if they know the university and the professor is going to have a royalty. He understands that if they repeal this they might get more grant and research money coming into the state, but at the same time we are giving up rights to these private companies. That was what was requested of the subcommittee.

Rep. Wentz: Rep. Monson is correct. The law now requires 30% of the revenue from any patents to go to the institution. The companies do want faculty to do research and they are willing to share ownership, but they want to be able to negotiate the percentage, and not have it mandated at 30% by law. We had Pat Seaworth testify in our subcommittee who explained every one of the repealers to us. We could have him come down and have him explain them to the full committee.

Rep. Delzer: Suggests that the committee members review page 5, subsection 9 of the bill. It seems way too broad based to him.

Pat Seaworth, Counsel for the University System: He handed out copies of the testimony that was presented to the House Education committee and the EE subcommittee. Part of this documentation is explanation of the repeals.

(Pat Seaworth explained what was being repealed and there were numerous questions and answers by the committee members).

Rep. Martinson: Moves to adopt amendment to remove repeal of 15-11-37. Seconded by Rep. Carlisle.

Voice vote adopts the amendment.

Rep. Martinson: Moves to further amend to adopt amendment to remove repeal of 15-62.3. Seconded by Rep. Carlisle.

Rep. Byerly: He believes on 15-62.3 it was the testimony that that program had been rolled into the regular grant program and thought that SB 2003 said something somewhat different.

Pat Seaworth: But we don't know if that's going to stay.

Rep. Byerly: But this program doesn't exist anymore as such, because it's rolled into the other grant program already.

Voice vote adopts the amendment.

Rep. Byerly: Moves to further adopt and remove the repealer of 47-28. Seconded by Rep. Thoreson.

Rep. Huether: Would oppose that because the two research universities that we have plan on searching out more opportunities to do research and graduate opportunities.

Rep. Byerly: Then he would argue that when this was put in there were a lot of people who felt the university was putting up everything and realizing nothing out of a lot of the research. That was the reason for the law. It may be outdated now in certain aspects, but the basis of the law is just as sound as before. Argues that the board of education should come back next session with a comprehensive change to this law, rather than just repealing it now.

Rep. Svedjan: Opposes the amendment too. He gave some personal examples of why he opposes the amendment. He has faith in the university system in that they will do the right thing as to research.

Rep. Wald: We were told during a different hearing that the university at NDSU took about 41% off the top of research grants that went into the ag community, not the university. They took that money off before it went to the extension or experiment station. So Rep. Svedjan is right that there is a whole lot of cash flow. We had better be careful, and not detriment research.

Rep. Monson: Has a problem taking that section out, and then not knowing what section 1, subsection 9 would do. This language is in assuming we would repeal this section. We could be creating a conflict, by removing the repealer.

Rep. Byerly: Nothing is going to change if we don't change existing law as far as skimming grant money. He had said he wanted to remove the repealer and encourage higher education to come back with a comprehensive approach toward intellectual property rights. The reason he didn't want to remove section 9 is because it does talk about intellectual property. The only part that would be left in current law would be in regard to patents. Doesn't disagree that they need some latitude but the change like this does not include a comprehensive plan.

Rep. Gulleson: If we pass this and the rules that would be adopted in subsection 9, would they have to come before the administrative rules committee for final decision.

Roxanne, LC: Cannot say.

Pat Seaworth: No they would not. The board is excluded from the administrative rules.

Voice vote to adopt amendment fails.

Rep. Skarphol: Had a discussion as to the amendment we did earlier as to university system personnel. This amendment was drafted by counsel staff. She would be more comfortable with this language than the prior. It makes things more clear. Moves to adopt the amendment 10159.0305. Seconded by Rep. Wald.

Voice vote adopts the amendment.

Rep. Byerly: Moves DO NOT PASS AS AMENDED. Seconded by Rep. Martinson.

Rep. Monson: Can we go over what was amended?

Rep. Timm: Verifies the various amendments made.

Rep. Wald: Thinks we should resist Rep. Byerly's motion. He has great judgment in the board and if we need to update language in the code, we should do that.

Rep. Svedjan: Having adopted amendment .0305, it appears to me that decisions in the hiring and firing of the commissioner and university system office personnel would be done out in the open.

Rep. Skarphol: That is correct. If you want to allow them executive session, then you need to further amend it.

Rep. Svedjan: Makes a substitute motion to amend subsections b and c of amendment .0305. Wants to amend both sections b & c. Seconded by Rep. Kliniski.

Rep. Skarphol: Opposes this motion, and gives his opinion why.

Vote on substitute motion : 8 yes, 10 no, 3 absent and not voting.

Rep. Byerly: Moves DO NOT PASS AS AMENDED. Seconded by Rep. Martinson.

Vote on Do Not Pass as Amended : 5 yes, 13 no, 3 absent and not voting. Motion fails.

Rep. Wald: Moves DO PASS AS AMENDED. Seconded by Rep. Boehm.

Vote on Do Pass as Amended : 16 yes, 2 no, 3 absent and not voting. Motion passes.

Page 10
House Appropriations Committee
Bill/Resolution Number SB 2042
Hearing Date April 10, 2001

Rep. Wald is assigned to carry this bill to the floor.

Date: April 6, 01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Appropriations Education and Enviroment Division

House _____ Committee _____

Subcommittee on SB 2042
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass

Motion Made By Rep Martinson Seconded By Rep Monson

Representatives	Yes	No	Representatives	Yes	No
Rep. Janet Wentz -Chairman	✓				
Rep. James Boehm - Vice Chairman					
Rep. Ole Aarsvold	✓				
Rep. Pam Gulleason	✓				
Rep. Bob Martinson	✓				
Rep. David Monson	✓				
Rep. Francis J. Wald	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: April 6
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Appropriations Education and Enviroment Division

House _____ Committee _____

Subcommittee on SB 2042
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider 1st Vote

Motion Made By Rep Martinian Seconded By Rep. Wald

Representatives	Yes	No	Representatives	Yes	No
Rep. Janet Wentz -Chairman					
Rep. James Boehm - Vice Chairman					
Rep. Ole Aarsvold					
Rep. Pam Gulleason					
Rep. Bob Martinson					
Rep. David Monson					
Rep. Francis J. Wald					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Vote

Date: April 6, 2001
Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Appropriations Education and Environment Division

House _____ Committee _____

Subcommittee on SB 2042
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Further Amend

Motion Made By Rep Wald Seconded By Rep Martinson

Representatives	Yes	No	Representatives	Yes	No
Rep. Janet Wentz -Chairman					
Rep. James Boehm - Vice Chairman					
Rep. Ole Aarsvold					
Rep. Pam Gulleson					
Rep. Bob Martinson					
Rep. David Monson					
Rep. Francis J. Wald					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice

Date: April 6, 01
Roll Call Vote #: 4

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Appropriations Education and Environment Division

House _____ Committee _____

Subcommittee on HB 2042
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken As passed as amended

Motion Made By Rep. Wald Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Rep. Janet Wentz -Chairman	✓				
Rep. James Boehm - Vice Chairman					
Rep. Ole Aarsvold	✓				
Rep. Pam Gulleason	✓				
Rep. Bob Martinson	✓				
Rep. David Monson	✓				
Rep. Francis J. Wald	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Rep. Janet Wentz

If the vote is on an amendment, briefly indicate intent:

10159.0304
Title.

Prepared by the Legislative Council staff for
Representative Skarphol
April 10, 2001

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2042

Page 1, line 16, after "of" insert "university system employees and of"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 215 - North Dakota University System Office

This amendment clarifies State Board of Higher Education powers and duties as listed in North Dakota Century Code Section 15-10-17 by including University System office personnel in the list of positions under the control of the board.

Date: 4-10-01
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 10159.0304 + changed language from 0302

Action Taken motion to amend.

Motion Made By Rep Skarphol Seconded By Rep. Wald.

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleason			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*NO VOTE
see substitution
motion*

10159.0302
Title.

Prepared by the Legislative Council staff for
House Appropriations - Education and
Environment

April 6, 2001

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2042

Page 1, line 21, after "control" insert ", including system office personnel"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 215 - North Dakota University System Office

This amendment clarifies State Board of Higher Education powers and duties as listed in North Dakota Century Code Section 15-10-17 by including University System office personnel in the list of positions under the control of the board.

Date: 4-10-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House APPROPRIATIONS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 10159.0302

Action Taken substitute motion to amend.

Motion Made By Rep. Glassheim Seconded By Rep. Gulleason

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleason			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*includes system
office personnel*

passed

Date: 4-10-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2042

House APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken motion to amend

Motion Made By Rep. Martinson Seconded By Rep. Carlisle

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleeson			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Remove repealer 15-11-37

passed

Date: 4-10-01
Roll Call Vote #: 3

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken motion to amend

Motion Made By Rep. Martinson Seconded By Rep. Carlisle

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleason			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Remove
repeal 15-62.3 grants

passed

Date: 4-10-01
Roll Call Vote #: 4

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 5B 2042

House APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken motion to amend.

Motion Made By Rep. Byerly Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleason			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

remove
repealer 47-28

10159.0305
Title.

Prepared by the Legislative Council staff for
Representative Skarphol
April 10, 2001

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2042

Page 1, line 19, after "appoint" insert:

"a."

Page 2, after line 2, insert:

- "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."

Renumber accordingly

Date: 4-10-01
 Roll Call Vote #: 5

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 10159.0305

Action Taken to adopt amendment

Motion Made By Rep. Skarphol Seconded By Rep. Wald

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleon			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Passes

If the vote is on an amendment, briefly indicate intent:

*changes Roll call
 vote #1 - .0302*

Date: 4-10-01
 Roll Call Vote #: 6

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2042

House APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Substitute Motion to Amend.

Motion Made By Rep. Svedjan Seconded By Rep. Kliniske

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman		✓			
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman		✓
Rep - Boehm	✓		Rep - Martinson		✓
Rep - Byerly		✓	Rep - Monson	✓	
Rep - Carlisle		✓	Rep - Skarphol		✓
Rep - Delzer		✓	Rep - Svedjan	✓	
Rep - Glassheim			Rep - Thoreson		✓
Rep - Gulleston		✓	Rep - Warner		
Rep - Huether	✓		Rep - Wentz		✓
Rep - Kempenich		✓			
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 8 No 10

Absent 3

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

pg 1, line 23
amend both sections B & C
of amendment .0305

fails

Date: 4-10-01
 Roll Call Vote #: 7

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS AS AMENDED

Motion Made By Rep. Byerly Seconded By Rep. Martinson

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman		✓			
Wald - Vice Chairman		✓			
Rep - Aarsvold		✓	Rep - Koppelman	✓	
Rep - Boehm		✓	Rep - Martinson	✓	
Rep - Byerly	✓		Rep - Monson		✓
Rep - Carlisle		✓	Rep - Skarphol	✓	
Rep - Delzer	✓		Rep - Svedjan		✓
Rep - Glassheim			Rep - Thoreson		✓
Rep - Gulleeson		✓	Rep - Warner		
Rep - Huether		✓	Rep - Wentz		✓
Rep - Kempenich					
Rep - Kerzman		✓			
Rep - Kliniske		✓			

Total (Yes) 5 No 13
 Absent 3

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Failed

Date: 4-10-01
 Roll Call Vote #: 8

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2042

House APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 10159.0306

Action Taken DO PASS AS Amended

Motion Made By Rep. Wald Seconded By Rep. Boehm

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman	✓	
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byerly		✓	Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol	✓	
Rep - Delzer		✓	Rep - Svedjan	✓	
Rep - Glassheim			Rep - Thoreson	✓	
Rep - Gulleeson	✓		Rep - Warner		
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich					
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 16 No 2

Absent 3

Floor Assignment Rep. Wald

If the vote is on an amendment, briefly indicate intent:

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

- SB 2004: Reps. Kliniske; Kempenich; Kerzman
- SB 2011: Reps. B. Thoreson; Skarphol; Glassheim
- SB 2016: Reps. Svedjan; Deizer; Warner
- SB 2285: Reps. Nelson; DeKrey; Solberg
- SB 2380: Reps. Price; Devlin; Sandvig

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)
MR. PRESIDENT: The House does not concur in the Senate amendments to HB 1407 and HB 1444 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

- HB 1407: Reps. Berg; Kasper; Lemieux
- HB 1444: Reps. Brusegaard; Haas; Grumbo

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 11, 2001: HB 1008, HB 1010, HB 1019, HB 1026, HB 1109, HB 1160, HB 1162, HB 1202, HB 1208, HB 1249, HB 1349, HB 1400, HB 1472.

REPORT OF STANDING COMMITTEE

SB 2023, as engrossed: Appropriations Committee (Rep. Timm, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2023 was placed on the Sixth order on the calendar.

Page 1, line 5, after "appropriation" insert "; to provide a statement of legislative intent"

Page 2, line 1, replace "\$6,656,000" with "\$6,356,000"

Page 2, line 6, replace "2,599,000" with "2,299,000"

Page 2, after line 6, insert:

"The Minot state university local responsibility of \$2,299,000 must be paid in ten annual payments with each of the first two annual payments being \$315,000 and each of the remaining eight annual payments being \$208,625."

Page 2, line 27, after "renovation" insert "and expansion"

Page 3, line 7, after "renovation" insert "and expansion"

Page 3, after line 10, insert:

SECTION 6. LEGISLATIVE INTENT - STATE COLLEGE OF SCIENCE - STUDENT UNION RENOVATION AND EXPANSION. It is the intent of the fifty-seventh legislative assembly that the state college of science local responsibility of \$1,300,000, as provided in section 4 of this Act, must be collected and the renovation and expansion plans must be approved by the state architect before the state college of science may begin on the renovation and expansion of the student union.

SECTION 7. STATE FACILITY ENERGY IMPROVEMENT PROJECT - REPORT TO THE FIFTY-EIGHTH LEGISLATIVE ASSEMBLY. The agencies and institutions receiving authorization for energy improvement projects pursuant to section 3 of this Act shall monitor the resulting energy savings and the cost-effectiveness of the projects and shall report the results to the house and senate appropriations committees of the fifty-eighth legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2023 - Summary of House Action

EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
------------------	----------------	---------------	---------------

University of North Dakota				
Total all funds	\$3,990,785	\$7,490,785	\$0	\$7,490,785
Less estimated income	3,990,785	7,490,785		7,490,785
General fund	\$0	\$0	\$0	\$0
North Dakota State University				
Total all funds	\$296,348	\$11,296,348	\$0	\$11,296,348
Less estimated income	296,348	11,296,348		11,296,348
General fund	\$0	\$0	\$0	\$0
State College of Science				
Total all funds	\$0	\$4,300,000	\$0	\$4,300,000
Less estimated income		4,300,000		4,300,000
General fund	\$0	\$0	\$0	\$0
Minot State University				
Total all funds	\$5,076,000	\$7,850,000	\$0	\$7,850,000
Less estimated income	5,076,000	7,850,000		7,850,000
General fund	\$0	\$0	\$0	\$0
State Department of Health				
Total all funds	\$2,700,000	\$2,700,000	\$0	\$2,700,000
Less estimated income	2,700,000	2,700,000		2,700,000
General fund	\$0	\$0	\$0	\$0
Job Service North Dakota				
Total all funds	\$2,302,000	\$2,302,000	\$0	\$2,302,000
Less estimated income	2,302,000	2,302,000		2,302,000
General fund	\$0	\$0	\$0	\$0
Department of Transportation				
Total all funds	\$352,600	\$352,600	\$0	\$352,600
Less estimated income	352,600	352,600		352,600
General fund	\$0	\$0	\$0	\$0
Bill Total				
Total all funds	\$14,717,733	\$36,291,733	\$0	\$36,291,733
Less estimated income	14,717,733	36,291,733		36,291,733
General fund	\$0	\$0	\$0	\$0

Senate Bill No. 2023 - House Action

This amendment makes the following changes:

- The required local match for the Minot State University Old Main renovation project is reduced by \$300,000, from \$2,599,000 to \$2,299,000. The local match must be paid in 10 annual payments. The first two payments will be \$315,000 and the remaining eight payments will be \$208,625. The amount of bonds issued for the project remains unchanged from the Senate version of \$7,850,000; however, the portion of bonds repaid from the general fund is increased by \$300,000 to reflect the decrease in local repayment responsibility.
- A section is added providing that the required local match of \$1.3 million for the State College of Science Student Union renovation and expansion project must be raised by the college and the project plans must be approved by the state architect before the project is started.
- A section is added providing that the Department of Transportation, North Dakota State University, and the University of North Dakota must report to the House and Senate Appropriations Committees of the Fifty-eighth Legislative Assembly regarding the cost-effectiveness of the energy improvement projects authorized in Section 3 of the bill.

REPORT OF STANDING COMMITTEE

SB 2042, as engrossed: Appropriations Committee (Rep. Timm, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2042 was placed on the Sixth order on the calendar.

Page 1, line 5, remove "15-11-37,"

Page 1, line 6, replace "chapters 15-62.3 and" with "chapter"

Page 1, line 9, after the second comma insert "and" and replace ", and the tuition assistance grant" with a period

Page 1, remove line 10

Page 1, line 19, after the period insert "a."

Page 2, after line 2, insert:

"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.

Page 8, line 4, remove "15-11-37," and replace "chapters" with "chapter"

Page 8, line 5, remove "15-62.3 and"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

HOUSE - This amendment clarifies State Board of Higher Education powers and duties as listed in North Dakota Century Code (NDCC) Section 15-10-17 in regard to the chancellor of higher education and University System office personnel and removes the repeal of NDCC Section 15-11-37 and Chapter 15-62.3, relating to acceptance of gifts and grants by the dean of the medical school and the tuition assistance grant program, respectively.

REPORT OF STANDING COMMITTEE

SCR 4052, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends DO PASS (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed SCR 4052 was placed on the Fourteenth order on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1024, as reengrossed: Your conference committee (Sens. Bowman, Solberg, Tomac and Reps. Wald, Boehm, Aarsvold) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1167-1169, adopt further amendments as follows, and place HB 1024 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1167-1169 of the House Journal and pages 1010-1012 of the Senate Journal and that Reengrossed House Bill No. 1024 be amended as follows:

Page 1, line 2, replace "amend and reenact section 3 of chapter 548 of the 1999 Session" with "authorize and provide an appropriation for additional full-time equivalent positions for the workers compensation bureau; to create and enact a new section to chapter 65-02 of the North Dakota Century Code, relating to the creation of a building maintenance account; and to amend and reenact sections 65-02-03.2 and 65-05.1-06.2 of the North Dakota Century Code, relating to workers compensation board members and workers' compensation vocational rehabilitation services"

Page 1, remove line 3

Page 1, line 4, remove "and to provide for retroactive application"

Page 1, remove lines 11 through 14

Page 1, line 16, replace "AMENDMENT. Section 3 of chapter 548 of the 1999 Session Laws is" with "NORTH DAKOTA WORKERS COMPENSATION BUREAU FULL-TIME EQUIVALENT EMPLOYEE POSITIONS AUTHORIZATION - APPROPRIATION - REPORT TO BUDGET SECTION. The North Dakota workers compensation board of directors may authorize the workers compensation bureau to hire, upon a determination that employees are needed to facilitate the economic and efficient administration of the bureau, up to ten full-time equivalent employee positions in addition to the full-time equivalent employee positions authorized in section 1 of this Act for the biennium beginning July 1, 2001, and ending June 30, 2003. There is appropriated out of any moneys in the workers' compensation fund, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the workers compensation bureau for the purpose of providing wages, salaries, and benefits for any additional full-time equivalent positions authorized under this section. The workers compensation board of directors shall report to the budget section of the legislative council on any additional full-time equivalent employee positions and related funding authorized.

SECTION 3. PROJECT AUTHORIZATION. The industrial commission, acting as the North Dakota building authority, may, at the request of the workers compensation board of directors, arrange for funding of an office building project authorized by this section, declared to be in the public interest, through the issuance of evidences of indebtedness under chapter 54-17.2, during the biennium beginning July 1, 2001, and ending June 30, 2003. The proceeds of the evidences of indebtedness and other

available funds are appropriated during the period beginning July 1, 2001, and ending July 31, 2003, for a workers compensation bureau office building.

The industrial commission may issue evidences of indebtedness in the principal amount requested plus costs of issuance, capitalized interest, and any reasonable required reserves under this section with the condition that lease rental payments r... not begin until July 1, 2003. This authority of the industrial commission to issue evidences of indebtedness ends June 30, 2003, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act and to comply with any covenants entered into before that date.

SECTION 4. BOND ISSUANCE REPAYMENT RESPONSIBILITY. Funding must be made available by the workers compensation bureau from non-general fund sources to be appropriated to the industrial commission to retire the evidences of indebtedness issued for the project costs associated with the construction of the project authorized by this Act.

SECTION 5. LEGISLATIVE INTENT - WORKERS COMPENSATION BUREAU BUILDING - OTHER STATE AGENCIES LEASING. It is the intent of the legislative assembly that if a new facility is built to house the operations of the workers compensation bureau that the facility be built to include rental space for other state agencies and that the workers compensation bureau work with the office of management and budget to identify which agencies will lease space in the workers compensation bureau building and report to the budget section of the legislative council on plans for leasing to other agencies. The bureau shall have exclusive responsibility for setting and collecting rental amounts and for the maintenance and control of the building and its grounds.

SECTION 6. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Building maintenance account - Continuing appropriation. There is a building maintenance account within the workers' compensation fund, to which the workers compensation bureau shall deposit all building rental proceeds if the workers compensation bureau builds a building that includes rental space for other state entities. The moneys in the account are appropriated on a continuing basis to the workers compensation bureau to pay bond principal and interest payments, operating, maintenance, repair, and payments in lieu of taxes expenses of the building and grounds. This account may be used only for the purposes identified in this section. The workers compensation bureau may either hire or contract for building maintenance and repair services anticipated by this section. The bureau shall report to the budget section of the legislative council on a biennial basis on all revenues deposited into this account and expenditures made from the account.

SECTION 7. AMENDMENT. Section 65-02-03.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-02-03.2. Compensation of board members. A board member is entitled to receive compensation in the amount of sixty-two dollars and fifty cents per day as determined by the board for days spent in attendance at board meetings or other business as approved by the board. A board member is entitled to reimbursement for mileage and expenses as provided for state officers.

SECTION 8. AMENDMENT. Section 65-05.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-06.2. Bids Contract for vocational rehabilitation services. The bureau shall solicit bids from may contract with vocational rehabilitation vendors to provide vocational rehabilitation services relative to vocational rehabilitation of claimants. The bureau shall contract with the lowest and best bidders to provide these services on a biennial basis. The bureau shall determine the criteria that render a vocational rehabilitation vendor qualified. The request for bids must contain a detailed outline of services each vendor will be expected to provide. The accepted bid is binding upon both the bureau and the rehabilitation vendor. If additional services are determined to be necessary as a result of failed or inappropriate rehabilitation of an injured employee through no fault of the employee, the bureau may contract with the vendor for additional services. If the failure or inappropriateness of the rehabilitation of the injured employee is due to the vendor's failure to provide the necessary services to fulfill the contract, the bureau is not obligated to use that vendor for additional services

2001 SENATE EDUCATION

CONFERENCE COMMITTEE

SB 2042

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2042

Senate Education Committee

Conference Committee

Hearing Date 04--18-01

Tape Number	Side A	Side B	Meter #
1	X		0 - 7.2
Committee Clerk Signature <i>Arendia Johnson</i>			

Minutes: CONFERENCE COMMITTEE minutes on SB 2042.

MEMBERS: SENATOR FLAKOLL REPRESENTATIVE KELSCH
 SENATOR WANZEK REPRESENTATIVE SKARPHOL
 SENATOR KELSH REPRESENTATIVE GRUMBO

SENATOR FLAKOLL called the conference committee to order. Roll Call was taken with all (6) members present.

REPRESENTATIVE SKARPHOL presented the amendment from the Appropriations Committee. This is not a change from the current practice, but in current statute there is nothing that puts the Commissioner of Higher Education under the auspices of the Board of Higher Education. The Appropriations Committee felt there should be some reference in statute to what actually is being done. The Appropriations Committee thought the repealers of two (2) sections of law should be removed. One references the acceptance of gifts and grants by the dean of the medical school and the other references the tuition assistance grant program.

Page 2
Senate Education Committee
Bill/Resolution Number SB 2042
Hearing Date 04-18-01

CHANCELLOR LARRY ISAAK explained that the term chancellor is, as of 1989,
interchangeable with commissioner.

SENATOR WANZEK moved the SENATE ACCEDE TO THE HOUSE AMENDMENTS.

Seconded by REPRESENTATIVE R. KELSCH. Roll Call Vote: 6 YES. 0 NO. 0 Absent.

Motion Carried.

Carrier: SENATOR FLAKOLL/REPRESENTATIVE R. KELSCH

REPORT OF CONFERENCE COMMITTEE (420)
April 18, 2001 10:53 a.m.

Module No: SR-69-8779

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2042, as engrossed: Your conference committee (Sens. Flakoll, Wanzek, Kelsh and Reps. R. Kelsch, Skarphol, Grumbo) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1326 and place SB 2042 on the Seventh order.

Engrossed SB 2042 was placed on the Seventh order of business on the calendar.

2001 TESTIMONY

SB 2042

SB 2042 TESTIMONY
SENATE EDUCATION COMMITTEE
Presented by Dr. Richard Kunkel, Member
State Board of Higher Education
January 16, 2001

Good morning Mr. Chairman and members of the Senate Education Committee. On behalf of the State Board of Higher Education, I request your favorable consideration of SB 2042. This legislation is intended to update statutes defining board powers and duties and remove outdated or unnecessary laws. With two exceptions, the bill is not intended to make substantive changes.

This bill is a result of the work of the Higher Education Roundtable and Legislative Council Committee on Higher Education. Their efforts were the result of a study resolution passed by the 1999 Legislature directing a study be made to *"...address the expectations of the North Dakota University System in meeting the state's needs in the twenty-first century, the funding methodology needed to meet these expectations and needs and an accountability system and reporting methodology for the University System."*

The Roundtable Executive Summary states that both the University System and state government must change the ways in which they carry out their necessary and different responsibilities. The basis of this new relationship as stated in the Roundtable Report is "flexibility with accountability." The specific steps recommended by the roundtable and embraced by the interim committee are numerous, more than 90 in all. Taken together, however, they send the message about "flexibility with accountability." The roundtable and interim committee adopted a set of accountability measures that provide the basis for this relationship to work.

The report made recommendations to the Board of Higher Education, campuses, executive branch, Legislature, and private sector. The board has enthusiastically endorsed the roundtable recommendations and is implementing them.

The interim Legislative Council Committee on Higher Education reviewed the work of the roundtable and recommended six bills. Senate Bill 2042 is one of those bills.

The purpose of SB2042 is to streamline statutes that are redundant with the board's powers in the state constitution, eliminate out-dated references to certain activities, eliminate internal campus specified organizational arrangements in statute and make statutes consistent.

I will discuss two substantive changes and then ask Chancellor Isaak and his staff to present further testimony.

One substantive change is to subsection 1, at the bottom of page 1. The law now provides that the board may go into executive session to consider the appointment or removal of institution employees. This bill gives the board authority to go into executive session to consider the appointment or removal of any employee. The only employees the board hires or terminates are institution presidents and the chancellor, so the effect of this change would be to enable the board to use the same procedures in hiring a chancellor that it now uses when it hires a president. We understand there may be some objection to this change, however, we ask you to recognize that

what is recommended by the interim committee and supported by the board is consistency in the statutes applying to the board's responsibilities. There were no objections to this bill presented to the interim committee. There is no other purpose for this proposed change as some may suggest.

The only other substantive change is on page 5, where a new subsection 9 is added to section 15-10-17. Current chapter 47-28 provides that patents obtained on inventions resulting from research at board institutions belong to the institution, and the institution and inventor or inventors share royalties or other income. This bill repeals chapter 47-28. The new subsection 9 under section 15-10-17 would replace that chapter. The new subsection gives the board authority to adopt rules promoting research and discoveries. The board rules would govern ownership, transfer of ownership rights, distribution of income, etc., not just for patents, but also for all forms of intellectual property (including copyrights, trademarks, etc.). This will give the board and its institutions additional flexibility to respond to demands and requests made by research sponsors concerning disposition of income derived from the products of that research. Also, institutions will have authority to transfer ownership rights to private foundations established to support the institutions and promote research, which will make it easier to market and promote such discoveries.

Research and development are becoming more important in the twenty-first century. This was recognized in the Roundtable Report. The roundtable Economic Development Connection Task Force said the University System should actively pursue strategic alliances and partnerships with primary sector businesses and industries which have the strongest potential for expanding the economy of the state and region. The task force report states that the campuses need to identify research and development opportunities which have strong potential for positive economic impacts including new product development, technology transfer, etc. Providing the board and campuses with the flexibility to design appropriate policies in an extremely rapid development arena will create a more positive environment for this to take place. The board has made research and development part of its objectives; there is a system-wide committee reviewing board policies in this area.

Mr. Chairman, thank you for your consideration of this bill. The Board of Higher Education is working hard to implement the recommendations of the roundtable and also of the interim Committee on Higher Education. We ask for your favorable consideration of this bill to continue to allow us to move forward in the direction recommended.



NORTH DAKOTA UNIVERSITY SYSTEM

SB 2042 TESTIMONY

SENATE EDUCATION COMMITTEE

Presented by Pat Seaworth, General Counsel

North Dakota University System

January 16, 2001

As Dr. Kunkel has explained, one purpose of SB 2042 is to remove unnecessary language in laws that apply to the state board of higher education. As you know, the state constitution grants to the board the power to administer the state institutions of higher education. Included within the grant of constitutional authority is the power to hire and fire employees, control the institution grounds and buildings, adopt necessary rules, determine admission requirements, prescribe courses of instruction, etc. There is no need to restate these powers in state statutes. Section 1 of the bill removes from NDCC section 15-10-17 language that restates board of higher education powers that are stated or implied in the constitution. What is retained is necessary authority not found in the constitution, including authority to: meet in executive session to consider appointment or removal of employees; appoint campus law enforcement officers; set tuition rates and establish fees; establish and maintain an alternative retirement system; adopt purchasing policies; establish an early retirement program; adopt rules to protect confidential information; and, authority to enter into agreements to promote development or research.

Sections 2, 3, 4, 5 and 6 amend statutes relating to several bureaus or centers established by law at state universities and remove from those laws unnecessary language about operational details or organization. Although the legislature certainly may establish these operations at state universities, the board should decide how to carry out these functions, who reports to whom, etc. Accordingly, in section 2 specific details concerning testing of mineral resources is removed; section 3 removes unnecessary language concerning administration of the child welfare research bureau; section 4 removes a requirement that the fetal alcohol syndrome center be located in a specific department at UND; section 5 removes an obsolete reference to the rehabilitation hospital; and section 6 removes unnecessary language concerning the economic feasibility institute.

Finally, section 7 repeals several outdated or unnecessary laws, including laws relating to: accounts and records at institutions; budget requests; abstracts of expenditures and payroll; powers of the UND president and faculty; supervision of the law library; transfer of a UND radio license; disposition of hockey admission receipts; gifts and grants to the child welfare research bureau and medical school; duties of the NDSU president and faculty; and duties of the normal school presidents. Also, chapter 15-62.3, relating to the tuition assistance grant program, is repealed because it was replaced by the state grant program. Attached to my testimony are copies of the repealed statutes.

State Capitol - 600 E. Boulevard Ave. Dept. 215, Bismarck, North Dakota 58505-0230 - (701) 328-2960
Fax (701) 328-2961 - E-mail NDUS_office@ndus.nodak.edu - Web www.ndus.nodak.edu

STATUTES REPEALED

15-10-14. Accounts and records of institutions - Examination and audit. The state board of higher education shall prescribe for all of the institutions under its control standard systems of accounts and records. The board shall require financial statements on a quarterly basis from each institution, which must be in such form as the board shall prescribe and the board has the authority to examine, review, and audit the books and records of the institutions under its control. Such institutions shall provide such financial information and such assistance in the conduct of the board's reviews and audits as the board may request.

15-10-15. Budget requests - Duties of institution heads. The heads of the several institutions under the control of the state board of higher education shall submit to the board budget requests for the biennial appropriations for said institutions, respectively, and the board shall consider the budgets and shall revise the same as in its judgment shall be for the best interests of the educational system of the state. Thereafter, the board shall prepare and present to the director of the budget a single unified budget request covering the needs of all of the institutions under its control. The appropriations for all of the institutions must be contained in the same legislative measure.

15-10-25. Abstracts of expenditures and payroll to the office of management and budget. An officer designated by the state board of higher education for each educational institution under its control shall prepare an abstract of expenditures and payroll, each month, or at such other times as may be necessary, showing the name and amount due each claimant, and the fund from which the payment must be made, and shall certify that all expenditures were incurred in accordance with law. The abstract must be submitted to the office of management and budget and a warrant-check must be prepared for the total amount claimed in the abstract against each fund. The funds disbursed must be deposited in the Bank of North Dakota to the credit of the appropriate institution and are subject to individual checks by such institution. One copy of the abstract must be kept on file by the office of management and budget, one copy must be retained by the officer making the abstract, and one copy must be filed with the treasurer of the institution. Mileage and travel expense payments for employees of institutions of higher learning must be made upon the submission of vouchers or abstracts approved by the board of higher education or an officer designated by the board for each educational institution under its control. Payments may not exceed the amounts allowed for other state officials and employees.

15-11-03. Powers of president and faculty. The president of the university is president of the several faculties, and the executive head of the instructional force in all its departments. He shall have authority, subject to the power of the state board of higher education, to give general directions respecting the instruction and scientific investigation of the several colleges. The immediate government of the several colleges is entrusted to their respective faculties.

15-11-19. Library of law college - Supervision. The dean of the college of law of the university shall direct the management of the university law library. The law library must be a reference library only and must be for the use of students attending the college of law and of others who may desire to consult the same during such hours as must be prescribed by the dean. The dean shall make suitable rules for the use of the law library.

15-11-27. Transfer of license of university radio station authorized. The state board of higher education, with the approval and consent of the governor, may transfer the license of radio station KFJM, located at the university of North Dakota, to private persons on condition that they continue to operate the station at the university with the power station located on the university campus, and that perpetual rights be retained for the use of the station for observation by the students taking courses in radio communication at the university. No discrimination shall be shown as between individuals, corporations, limited liability companies, copartnerships, associations, societies, or political parties by the persons owning or operating the station following a transfer of the license. Any violation of the provisions contained in this section shall be sufficient ground for cancellation of the transfer of the license.

15-11-28. Hockey admission receipts may be pledged for purchase of artificial ice equipment. The university of North Dakota is authorized to pledge future hockey admission receipts to repay any loan or loans made for the purpose of remodeling buildings and purchasing and installing artificial ice equipment for hockey and skating purposes at the university.

15-11-34. Gifts and grants. The child welfare research bureau may contract for and benefit from private contributions, gifts, and grants from the federal government, private organizations, and other sources pursuant to section 15-10-12.

15-11-37. Acceptance of gifts by dean of medical school. Notwithstanding any other provisions of law, the dean of the university of North Dakota medical school may accept and receive gifts, grants, bequests, and donations that are hereby appropriated for use by the university of North Dakota medical school.

15-12-03. President - Duties. The president is the chief executive officer of the North Dakota state university of agriculture and applied science and shall see that all rules and regulations are executed. The subordinate officers, members of the faculty, and employees are under his direction and supervision.

15-12-04. Faculty - Rules and regulations. The faculty shall consist of the president, teachers, and instructors. It shall adopt all necessary rules and regulations for the government and discipline of the North Dakota state university of agriculture and applied science, for the regulation of the routine labor, study, meals, duties, and exercises, and for the preservation of morals, decorum, and health.

15-13-04. President - Duties. The president of each normal school is the chief executive of the school and shall see that all rules and regulations made by the state board of higher education and by the faculty are enforced. All teachers and employees of the school are under his supervision. At such times as the board may designate, he shall recommend suitable persons for the various positions in the school after making a careful investigation as to their qualifications. He may be the accounting officer and the purchasing agent for the school under such regulations as the board may make.

CHAPTER 15-62.3 TUITION ASSISTANCE GRANT PROGRAM

15-62.3-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Accredited private institution" means an institution of higher learning located in North Dakota which is operated privately and not controlled or administered by any state agency or subdivision of the state, and which is accredited by the north central association of colleges and secondary schools or the accrediting association of Bible colleges.
2. "Agency" means the state board of higher education.
3. "Baccalaureate degree" means the degree customarily granted upon completion of a course of study normally requiring four academic years of college work.
4. "Final unmet financial need" means that need which remains after deducting any amounts available from the United States department of education in the form of a basic educational opportunity grant, or from the state of North Dakota in the form of a North Dakota student assistance grant or a tuition assistance grant, or both.
5. "Financial need" means the difference between (a) the student's financial resources available, including those available from the student's parents as determined by a need analysis completed according to United States department of education regulations, and (b) the student's anticipated annual expense while attending the accredited private institution. Financial need for each student must be calculated each year.
6. "Full-time resident student" means a North Dakota resident, pursuant to section 15-10-19.1, who is enrolled at an accredited private institution in a course of study including at least one hundred eighty instructional hours per semester.
7. "Half-time resident student" means a North Dakota resident who is enrolled at an accredited private institution in a course of study including at least ninety instructional hours per semester.
8. "Qualified student" means a full-time or half-time resident student who has established financial need and who is making satisfactory progress towards graduation.
9. "Tuition assistance grant" means a grant by the state of North Dakota to a qualified student.

15-62.3-02. Administration of tuition assistance grant program. The agency shall:

1. Administer the North Dakota tuition assistance grant program, and may adopt rules pursuant to chapter 28-32 with respect to program administration.
2. Receive from the accredited private institutions a computation of financial need for each eligible student, to which must be attached a copy of a corroborating needs analysis from an agency authorized by the United States department of education to process family financial statements.
3. Disburse tuition assistance grants.
4. Annually report to the legislative assembly on funds distributed to students of each accredited private institution, including the amounts disbursed, the number of full-time and part-time students assisted, the final unmet need of each student, if any, and funds returned because of discontinued student attendance.

15-62.3-03. Tuition assistance grant eligibility - Application. Any full-time resident student or half-time resident student who is admitted to and attends an accredited private institution and who establishes financial need is eligible for a tuition assistance grant upon application to the agency.

15-62.3-04. Tuition assistance grant maximum. The maximum amount of a tuition assistance grant to a qualified full-time resident student for each academic year consisting of two semesters is the lesser of (a) the amount of the student's financial need for that period, (b) the difference between the tuition charged by the accredited private institution and the highest undergraduate tuition charged by state colleges or universities, or (c) one thousand five hundred dollars. The maximum amount of a tuition assistance grant to a qualified half-time resident student is one-half the amount which would be paid to a qualified full-time resident student.

15-62.3-05. Tuition assistance grant duration. A qualified full-time resident student may receive tuition assistance grants for not more than eight semesters of undergraduate study or until the attainment of a baccalaureate degree, whichever comes first. A qualified half-time resident student may receive tuition assistance grants for not more than sixteen semesters of undergraduate study or until the attainment of a baccalaureate degree, whichever comes first.

15-62.3-06. Distribution of grant funds. Subject to the maximum amount of a tuition assistance grant pursuant to section 15-62.3-04, each eligible student shall receive a grant in an amount which, for the first year of each biennium, is the product of the student's financial need and the quotient obtained by dividing one-half of the tuition assistance funds available for the biennium by the aggregate financial needs of all qualified students, and for the second year of each biennium, the amount of the grant for each eligible student is the product of the student's financial need and the quotient obtained by dividing the funds available for that year by the aggregate financial needs of all qualified students. The agency shall pay one-half of the tuition assistance grant to the student at the beginning of the fall semester and one-half to the student at the beginning of the spring semester upon receipt of certification by the accredited private institution that the student is enrolled and is in attendance. If the student discontinues attendance before the completion of any term, any refund to the student, repayment to the tuition assistance grant fund, or both, must be governed by the published refund or repayment policy of the institution. The distribution of tuition assistance grant funds must be by warrant-check prepared by the office of management and budget upon vouchers submitted by the agency.

CHAPTER 47-28 PATENTS BY INSTITUTIONS OF HIGHER LEARNING

47-28-01. Patenting inventions and discoveries by faculty, officials, and employees of state institutions of higher learning. All letters patent on inventions or discoveries resulting from research sponsored by a state institution of higher learning and conducted by faculty, officials, or employees of a state institution of higher learning shall inure to and be taken out by or assigned to the respective state institution of higher learning in accordance with a general policy established by each institution of higher learning with the approval of the state board of higher education. Ownership, control, management, and disposal of such inventions or discoveries by faculty, officials, or employees of each institution of higher learning shall be vested in each respective institution, or in an independent foundation created for the purpose of obtaining patents or inventions, receiving gifts, administering or disposing of such patents, and promoting research at the respective institution by every proper means.

47-28-02. Sharing of income from patents with inventor or discoverer. Each faculty member, official, or employee of a state institution of higher learning who conceives any inventions or makes any discovery as a result of research sponsored by the faculty member's, official's, or employee's respective institution, and discharges any obligations to the institution is entitled to share in any net proceeds that may be derived from the assignment, grant, license, or other disposal of the invention or discovery. The amount of the net proceeds must be computed by or with the approval of the state board of higher education, with reasonable promptness after collection thereof, and after deducting from gross proceeds the costs and expenses as may be reasonably allocated to the particular invention or discovery. The amount of the net proceeds paid to the faculty member, official, or employee of the institution must be determined by the institution as a general policy determination with the approval of the state board of higher education. A minimum of thirty percent of the net proceeds must be paid to a faculty member, official, or employee of a state institution of higher learning who solely conceived or made the invention or discovery, and must be paid in shares to two or more faculty members, officials, or employees who jointly made the invention or discovery in such respective proportions as each institution may determine.

47-28-03. Disclaimer by state institutions of higher learning of inventions and discoveries by faculty, officials, and employees. Where it is deemed inexpedient for a state institution of higher learning, or its authorized agency, to hold letters patent on an invention or discovery of a faculty member, official, or employee, it will then be permissible for the staff member to personally secure a patent and to license or dispose of the same.

47-28-04. Cooperating agencies to have an equity in inventions or discoveries resulting from cooperative research. While the results of experimental work, including patentable discoveries, carried on under the direction of the staff of the state institution of higher learning, belong to the state institution of higher learning and to the public, it is recognized that the party who originates a research problem, brings it to the state institution of higher learning for solution, and pays the cost of the research has an equity in the fruits of that investigation: in the case of cooperative investigations, special agreements for preferential licensing may be made with the cooperating interests, with a view to compensating in part for the financial assistance rendered in the investigation. It is recognized, also, that the state institution of higher learning has an obligation to use its facilities to the best interest of industry as a whole and of the general public, and should, therefore, employ the most suitable and practical methods to have its laboratory discoveries made available as speedily as possible, safeguarding the public from undue exploitation while recognizing the interest of the originator and supporter of the research.

January 16, 2001

SENATE EDUCATION COMMITTEE
SB 2042

SENATOR FREBORG AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We oppose the provisions of SB 2042 on page one, lines 23 & 24, that will allow the Board to hire or fire the chancellor in closed and secret sessions.

This law, and its predecessors, has been on the books for more than 100 years. And, for more than 100 years, the board has chosen its executive in public meetings. This executive is one of the highest paid state employees. He runs the largest state agency, the university system. He is the chief executive of the most powerful and prestigious board or commission in the state, the Board of Higher Education.

What has been the problem? There has been no shortage of highly qualified and competent commissioners. The state, and the public, has been served well these past 100 years with this method of selection. Can we say the same about going behind closed doors to select...or dis-select...education leaders? One only has to remember the turmoil surrounding former UND President Baker to answer that question.

The leaders of the other branches of government are all elected or appointed in very public fashion. There is no reason to make this radical change now.

We respectfully request that you adopt the amendments listed below in considering this bill. If you have any questions, I'd be glad to try to answer them.
THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2042

Page 1, line 18, delete "~~To appoint~~" and insert "Appoint," and delete the overstrikes

Page 1, lines 19 through 22, delete the overstrikes

Page 1, line 23, delete the overstrikes and delete the words "Meet" and "to consider the appointment or"

Page 1, line 24, delete "removal of a university system employee,"

Renumber accordingly

Roxanne
SB2042

1

15-10-14. Accounts and records of institutions - Examination and audit.

The state board of higher education shall prescribe for all of the institutions under its control standard systems of accounts and records. The board shall require financial statements on a quarterly basis from each institution, which must be in such form as the board shall prescribe and the board has the authority to examine, review, and audit the books and records of the institutions under its control. Such institutions shall provide such financial information and such assistance in the conduct of the board's reviews and audits as the board may request.



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Tuesday, January 16, 2001

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Board must mend fences, draw lines

[Obituaries](#)

OUR VIEW The Board of Higher Education must define its relationships with the UND president and a big donor.

[Business](#)

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Mike Jacobs for the Herald

[IceTime](#)

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Let's put the best face on the latest incident in UND's relationship with Ralph Engelstad. Let's accept the argument that his ultimatum about the nickname and logo was coincidental. Let's believe board members who say they didn't consider Engelstad's letter in making their decision about the nickname.

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Then what do we have?

[Calendar](#)

We have a wretched example of governance, that's what we have.

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If the Board of Higher Education had determined long in advance that it would force UND President Charles Kupchella to continue using the Sioux nickname and to adopt a new logo, it should have acted. Instead, acting in good faith, Kupchella developed a process involving the entire campus community and Native American leaders throughout the region. That's the process that irritated Engelstad, and he laid the blame on Kupchella. That he chose to do so in vindictive language is beside the point. His interference is bad enough.

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Now the board must manage the perception that it was willing to sell the name to Engelstad.

[Health](#)

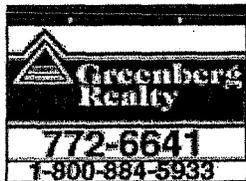
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It also must make clear where it stands on Engelstad's criticism of Kupchella.

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It also must figure out a way to manage its relationship with Engelstad, who has pretty much demanded his way from the beginning, and gotten it.

North Dakotans are entitled to wonder where the board would draw the line. And the board has to answer that question.

Then, there's the damage that's been done to governance on campus. After the board short-circuited his fact-finding process, Kupchella bravely tried to chart a course that would gain him credibility on campus. The chancellor of the university system sidetracked that.

So, putting the best face on it, we have a university system -- the board and chancellor -- that's hellbent on interfering on campus. That's a bad system of governance, just about everybody would agree.

And we have the perception that the board's enthusiasm to make this decision is driven by greed.

This is abetted by the haste and the secrecy with which the board acted. It could have diminished this appearance if it had acknowledged receipt of Engelstad's ultimatum and had a frank discussion of it. Instead, board members went ahead with a formulaic recitation of the reasons the Sioux name should stay -- without ever approaching what now appears to have been the biggest reason of all. This badly damages the credibility of the board and the chancellor, its chief staff person.

Give Engelstad his due. He is a businessman. His impatience is understandable.

His behavior isn't acceptable, however. The university is not a business proposition. It is an institution that represents all of the people associated with it, not only those who give it a lot of money. The people who made representations to Engelstad about the nickname issue should have made that clear to him. The board should have made clear that Engelstad's efforts to push his own agenda were out of place and unwelcome.

Putting the best face on it, what we have is an awful mess that needs to be cleaned up. The chore goes to the Board of Higher Education and its leadership, which must make clear whether or not it has confidence in Kupchella and how much it will tolerate from Engelstad.

[Back to top](#)

SB 2042 TESTIMONY
HOUSE EDUCATION COMMITTEE
Presented by Dr. Richard Kunkel, Member
State Board of Higher Education
March 12, 2001

Good morning Madame Chair and members of the House Education Committee. On behalf of the State Board of Higher Education, I request your favorable consideration of SB 2042. This legislation is intended to update statutes defining board powers and duties and remove outdated or unnecessary laws. With one exception, the bill is not intended to make substantive changes.

This bill is a result of the work of the Higher Education Roundtable and Legislative Council Committee on Higher Education. Their efforts were the result of a study resolution passed by the 1999 Legislature directing a study be made to "*...address the expectations of the North Dakota University System in meeting the state's needs in the twenty-first century, the funding methodology needed to meet these expectations and needs and an accountability system and reporting methodology for the University System.*"

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The report made recommendations to the Board of Higher Education, campuses, executive branch, Legislature, and private sector. The board has enthusiastically endorsed the roundtable recommendations and is implementing them.

The interim Legislative Council Committee on Higher Education reviewed the work of the roundtable and recommended six bills. Senate Bill 2042 is one of those bills.

The purpose of SB2042 is to streamline statutes that are redundant with the board's powers in the state constitution, eliminate out-dated references to certain activities, eliminate internal campus specified organizational arrangements in statute and make statutes consistent.

I will discuss one substantive changes and then ask Chancellor Isaak and his staff to present further testimony.

That substantive change is on page 5, where a new subsection 9 is added to section 15-10-17. Current chapter 47-28 provides that patents obtained on inventions resulting from research at board institutions belong to the institution, and the institution and inventor or inventors share royalties or other income. This bill repeals chapter 47-28. The new subsection 9 under section 15-10-17 would replace that chapter. The new subsection gives the board authority to adopt rules promoting research and discoveries. The board rules would govern ownership, transfer of ownership rights, distribution of income, etc., not just for patents, but also for all forms of

intellectual property (including copyrights, trademarks, etc.). This will give the board and its institutions additional flexibility to respond to demands and requests made by research sponsors concerning disposition of income derived from the products of that research. Also, institutions will have authority to transfer ownership rights to private foundations established to support the institutions and promote research, which will make it easier to market and promote such discoveries.

Research and development are becoming more important in the twenty-first century. This was recognized in the Roundtable Report. The roundtable Economic Development Connection Task Force said the University System should actively pursue strategic alliances and partnerships with primary sector businesses and industries which have the strongest potential for expanding the economy of the state and region. The task force report states that the campuses need to identify research and development opportunities which have strong potential for positive economic impacts including new product development, technology transfer, etc. Providing the board and campuses with the flexibility to design appropriate policies in an extremely rapid development arena will create a more positive environment for this to take place. The board has made research and development part of its objectives; there is a system-wide committee reviewing board policies in this area.

Madame Chair, thank you for your consideration of this bill. The Board of Higher Education is working hard to implement the recommendations of the roundtable and also of the interim Committee on Higher Education. We ask for your favorable consideration of this bill to continue to allow us to move forward in the direction recommended.

SB 2042 TESTIMONY
HOUSE EDUCATION COMMITTEE
Pat Seaworth, General Counsel
North Dakota University System
March 12, 2001

As Dr. Kunkel has explained, one purpose of SB 2042 is to remove unnecessary language in laws that apply to the state board of higher education. The state constitution grants to the board the power to administer the state institutions of higher education. Included within the grant of constitutional authority is the power to hire and fire employees, control the institution grounds and buildings, adopt necessary rules, determine admission requirements, prescribe courses of instruction, etc. There is no need to restate these powers in state statutes. Section 1 of the bill removes from NDCC section 15-10-17 language that restates board of higher education powers that are stated or implied in the constitution. What is retained is necessary authority not found in the constitution, including authority to: meet in executive session to consider appointment or removal of institution employees; appoint campus law enforcement officers; set tuition rates and establish fees; establish an alternative retirement system; adopt purchasing policies; establish an early retirement program; adopt rules to protect confidential information; and, authority to enter into agreements to promote development or research.

Sections 2, 3, 4, 5 and 6 amend statutes relating to several bureaus or centers established by law at state universities and remove from those laws unnecessary language about operational details or organization. Although the legislature certainly may establish these operations at state universities, the board should decide how to carry out these functions, who reports to whom, etc. Accordingly, in section 2 specific details concerning testing of mineral resources is removed; section 3 removes unnecessary language concerning administration of the child welfare research bureau; section 4 removes a requirement that the fetal alcohol syndrome center be located in a specific department at UND; section 5 removes an obsolete reference to the rehabilitation hospital; and section 6 removes unnecessary language concerning the economic feasibility institute.

Finally, section 7 repeals several outdated or unnecessary laws, including laws relating to: accounts and records at institutions; budget requests; abstracts of expenditures and payroll; powers of the UND president and faculty; supervision of the law library; transfer of a UND radio license; disposition of hockey admission receipts; gifts and grants to the child welfare research bureau and medical school; duties of the NDSU president and faculty; and duties of the normal school presidents. Also, chapter 15-62.3, relating to the tuition assistance grant program, is repealed because it was replaced by the state grant program. I have attached a document summarizing reasons for these repeals.

SB 2042: STATUTES REPEALED AND EXPLANATION

15-10-14. Accounts and records of institutions - Examination and audit.

This section is unnecessary because authority concerning financial statements, audits, budget requests and other fiscal matters is found in language in the state constitution granting to the SBHE full control over the state colleges and universities.

15-10-15. Budget requests - Duties of institution heads.

This section is unnecessary because authority concerning financial statements, audits, budget requests and other fiscal matters is found in language in the state constitution granting to the SBHE full control over the state colleges and universities. Further, this section is outdated because details concerning budgets requests are set out in other statutes.

15-10-25. Abstracts of expenditures and payroll to the office of management and budget.

This section is unnecessary because authority concerning financial statements, audits, budget requests and other fiscal matters is found in language in the state constitution granting to the SBHE full control over the state colleges and universities. Further, this section is outdated because other statutes or OMB rules govern necessary reports concerning payroll. The language concerning expense reimbursement is unnecessary because another statute governs expense reimbursements for all state agencies, including board of higher education institutions.

15-11-03. Powers of president and faculty.

This section is unnecessary because the state constitution grants to the SBHE full authority over the state colleges and universities.

15-11-19. Library of law college - Supervision.

This section is unnecessary because the state constitution grants to the SBHE full authority over the state colleges and universities.

15-11-27. Transfer of license of university radio station authorized.

This statute was enacted many years ago and is no longer needed. KFJM is now operated at UND as Northern Lights Public Radio.

15-11-28. Hockey admission receipts may be pledged for purchase of artificial ice equipment.

This statute is outdated and unnecessary.

15-11-34. Gifts and grants.

This section is unnecessary, since a general statute concerning receipt of gifts applies to all SBHE institutions and entities.

15-11-37. Acceptance of gifts by dean of medical school.

This section is unnecessary, since a general statute concerning receipt of gifts applies to all SBHE institutions and entities.

15-12-03. President - Duties.

This section is unnecessary because the state constitution grants to the SBHE full authority over the state colleges and universities.

15-12-04. Faculty - Rules and regulations.

This section is unnecessary because the state constitution grants to the SBHE full authority over the state colleges and universities.

15-13-04. President - Duties.

This section is unnecessary because the state constitution grants to the SBHE full authority over the state colleges and universities.

**CHAPTER 15-62.3
TUITION ASSISTANCE GRANT PROGRAM**

This chapter is unnecessary because the tuition assistance grant program has not been funded since it was replaced some years ago by the state grant program.

**CHAPTER 47-28
PATENTS BY INSTITUTIONS OF HIGHER LEARNING**

This chapter is replaced by a new subsection in section 15-10-17 authorizing the SBHE to adopt rules governing ownership of, distribution of royalties from and marketing of all forms of intellectual property. Language in this chapter is inconsistent in some respects with requests made by research sponsors. Further, this chapter applies only to patents and not other forms of intellectual property; the SBHE needs rules governing all forms of intellectual property. Finally, the new subsection authorizes the SBHE to provide for transfer of ownership to associated foundations in order to more aggressively market discoveries.