2011 HOUSE CONSTITUTIONAL REVISION

HCR 3046

2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee
Prairie Room, State Capitol

HCR 3046
March 23, 2011
Job #15908

☐ Conference Committee

Committee Clerk Signature Mary Main

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the creation of a department of education; to the superintendent of public instruction and creation of a department of education; and to the state board of higher education; and to provide an effective date.

Minutes: Attachment #1 - #10

Chairman Koppelman: We'll open the hearing on HCR 3046. Testimony in support of HCR 3046?

Representative Al Carlson, District 41, South Fargo: I did request this be a joint hearing because I think it's important to have the people that have the educational background that deal with all of these issues on a daily basis be involved in this hearing so you know what it does. I am a former teacher and I received my degree at NDSU in education. I do believe that I have a little understanding of the system having served in it and participating in it during my teaching years. This is different than the other bills that you hear because this bill with a simple passing in the House and the Senate would go to the ballot. It would be voted on by the citizens of North Dakota in the fall election of 2012. My testimony is really a summary of the bill and I think it's important to understand what the Constitutional measure does. (Refer to attachment #1, pages 1-12)

Years ago when the Board of Higher Ed came into being, there was thought that the legislature was micromanaging higher education. An initiative was put forward and was passed. What it did do was created a system that we are not allowed to do much talking about because we do not have the statutory authority to deal with it. I don't think that's accountability to the citizens. (Continue on attachment #1, page 13)

I feel very strongly that we have, over the years, been asked to give more and more and more and we haven't asked "what are we getting in return?" Are our existing systems in place doing a stellar job? Why did the legislature and the Governor office have to step in to examine adequacy and equity? I believe that in our higher education enhanced funding, and we've had a lot of discussion in the House, about what we did to higher educational funding and why we removed some of that large increase that they got this time, and why we addressed the issue or took some of that out. The solution is not just spending more

money. We are not prepared to talk about what education could and should be. Our discussions just centered on money.

You're going to hear testimony from the other side saying 'it's going well, there's no reason to change and the people like what we're doing'. I would beg to differ with that and I say that the people would love to have an opportunity to have an alternative to provide a better system of education to the citizens of this state. (Continue on attachment #1, page 14 – 15)

I know there are a lot of people here that work for the systems that want to have their say about why we shouldn't put this forward to the people. Remember, this is a vote of the people. They can say no but if it never gets to them, they'll never have the opportunity to say whether they want to change the delivery system that they have for education. I will yield to any questions.

Representative Mueller: Have you had a chance to talk to the Governor about the resolution? Does he think this is a pretty good plan?

Representative Carlson: No, I did not go to the Governor office. He has obviously seen this the first day it was introduced. We've had many conversations on many issues and it has never come up as a topic. I believe this is a legislative initiative, not an executive branch initiative. He, in the end, has to execute whatever we pass. No, I haven't asked him about if he would like to appoint a commissioner of education or would you like to be involved in appointing the 11 people? His answer would be 'I don't get to pick the DPI but I do get a little influence on who gets to be the chancellor but I get a lot of influence on who gets to be on the board of higher ed'. It might be a different makeup but no, I have not talked to him.

Representative Holman: Does Florida have such a plan in place or is there another precedent in state government that does what you're proposing?

Representative Carlson: They have modified and they have altered, but that's part of what's still in their statute but they have made some statutory adjustments over the years. I did not look for a whole bunch of states that have done things.
I do have a handout on governance that I can hand out. (See attachment #2). This one gives you an example of what other states have done. I believe that a cabinet level position would provide us some real efficiency to our educational system and to have one counsel and one person in charge would be a good step forward for the state. I know there's going to be lots of testimony but just watch where they all come from and who they represent. There are probably not a lot of private citizens here but there are going to be a lot representing educational agencies and administrative offices that we as legislators help fund. I want you to hear what they say. This is stepping out of the box a bit and I think it's time to do that.

Representative Kasper: In this resolution, is there going to be enough legislative oversight? If this bill would be passed by the people on the ballot, are we going to have the legislative oversight that we need to have so that some of the frustrations that some of us have had over the years would be solved with a legislative process?

Representative Carlson: Yes it does because we would have to come back and establish the guidelines in the next legislative session. It creates much more legislative oversight that we have today especially on the higher education side of the issues.

Representative Heller: I have always been a fan of the voucher system. Could this be an option for North Dakota schools thereby creating more competition in the schools and a greater level of excellence in delivering our instruction or is that not a possibility?

Representative Carlson: This bill does not address that but it does not say you can or cannot do it. It deals more with governance. I have supported vouchers over the years when they've come up on the floor. There's an alternative. The private schools have a role to play in our system with all those kids being in our school system, it might look a little different in a few places. It's a hot topic. This would never eliminate that from being a discussion.

Chairman Koppelman: Further questions for Representative Carlson?

Representative Carlson: I thought I had to carry the ball here because a lot of the citizens are not involved and engaged as they should be even though they are paying for the system.

Chairman Koppelman: Further testimony in support of HCR 3046.

Lynn Bergman, UND alumni, Taxpayer: (See attached testimony and information #3)

Representative Hunskor: You talked about a lot of issues, but I didn't hear anything about the kids. This is what this is all about is the young people who attend our schools and walk off in life hopefully equipped to meet the challenges that are out there. I'd like to hear your thoughts regarding why you feel this would be a better system and enhance the chances of the young people of North Dakota entering life after they finish high school and college.

Lynn Bergman: I want a system that focuses on kids, not professors, teachers, administrators, and their salaries and their benefits. I want a system that makes our kids education better every year which is not happening. As a citizen of North Dakota, I want change and to try something new because what we are doing is not working well enough for me.

Representative Mueller: You reference the longevity of the current Superintendent of Public Instruction 3 times in your testimony. As we all know that happened because people voted for that particular individual in that particular position. Are we to do away with the auditor's office, the tax commissioner, the treasure, and others and have it be a Governor's appointment? Do you not see that flying in the face of the people who do the voting in this state?

Lynn Bergman: I struggled with that over the last 3 days while preparing my testimony. I believe the difference between the Department of Public Instruction superintendent position and the others is that position along with the Board of Education is almost a fore

branch of government. I don't think that promotes accountability to the Governor or to the presidents of the 11 institutions. In this rare circumstance, I would take away the right of the voters to take away the Superintendent of Public Instruction and the right of the Governor to appoint people to the board in return for a system that much more promotes accountability from those presidents and communication between them. They should be looking at the overall economic picture instead of just focusing on their institution, the quality of their teachers, and the quality of their professors. They are focusing too much on the little details about looking at the whole picture.

Dustin Gawrylow, Executive Director of the ND Taxpayers Assoc: (See attached testimony #4.)

Representative Kasper: If you were to define an ideal college education, what would that be?

Dustin Gawrylow: We need to insure that the system is providing up to date education that is applicable to the modern market and can be used in North Dakota. I think sometimes we think that the system has to be all things to all people and North Dakota's needs need to be addressed by that education system, both to address the workforce situation and to increase the future entrepreneurial potential of the state. All these things have to be done within a cost parameter that is both affordable to taxpayers and does not leave students with 30 to 50 thousand dollars worth of debt when they leave college. That's an unacceptable situation where our marketplace does not have the wage and salary levels that Minnesota or other states have and so we cannot rest on the idea that it's ok to send graduates off with the same debt load as other states. They are not going to make as much money here so if we want them to stay here, we have to create a situation where they can get a job, use their education here, and pay their debts.

Representative Kasper: Would you say the college education would have to equip that person with the skills necessary to succeed in the occupation or trade or profession that that person has his degree in?

Dustin Gawrylow: That should be an obvious goal of the system and also whether the system is focusing on the areas where there are those needs and whether we are creating graduates with credentials that are not usable either here or in other economies. Our focus should be creating graduates that are functional and can be a contributor to North Dakota's economy. Those aren't the goals.

Representative Winrich: You were critical of the mission to assign the university a few years ago by the legislature of pursuing economic development goals. One of the best examples of that is the University of Texas at Austin. About 20 years ago, Texas decided to increase the funding to the University based on their oil revenue. The result is there is a concentration of high tech progressive companies around Austin that rival Silica Valley in California or the Route 128 corridor around Boston. We have been increasing university budgets for a much shorter period of time in North Dakota but we are seeing results in terms of the Red River Valley research corridor and some of the new growth companies that are coming along out there. Why are you so critical of this growth?

Dustin Gawrylow: The role of the university system should be to create graduates who can build the economy, the university systems role should not be to build the economy. Those are two different things. We should be funding the students and their potential success not trying to centrally manage and plan operations to figure out what the best economy for North Dakota is. The state should not be involved in determining the direction of the economy. The state should be involved in allowing and insuring that the graduates can do that in the best way because that will create more entrepreneurship and more private investment and more demand for the human capital knowledge base of companies. If we do that, that economic development will happen automatically. If we do it in that way, we will save a considerable amount of money from the state level which can be applied towards reducing the student debt load by controlling those student costs. In the end, the economy is going to grow and in a more natural rather than synthetic way.

Representative Winrich: You see no connection between the two?

Dustin Gawrylow: The only connection that I would see is that when the state focuses on trying to develop the economy on its own, it's going to created something different than what would happen naturally. When you do that, the allegory is the broken window theory. Somebody breaks your window and you're the shop owner, it will cost you $100 dollars to fix it, some would say the guy that fixed your window just came out well because he made $100. It doesn't take into account what you would have spent that $100 on naturally. If we don't account for where the money would have gone if it had not gone to the places that we are putting it now, we're not doing a proper cost analysis of what we're getting. Spending $100, you might get a new window but you could have gotten something else. You could have purchased more inventory or whatever. The focus needs to be on getting the state out of the way and allowing the economy to develop in its own natural way because in the end, that growth is going to be stronger than the idea of the state directing it in a certain direction.

Tammy Ibach, UND graduate, Parent and concerned citizen: (See attached testimony #5).

Chairman Koppelman: Further testimony is support.

Chairman Kelsch: Testimony in opposition of HCR 3046.

Dr. Sanstead, Superintendent of Dept. of Public Instruction: (See attached testimony #6)

Representative Kasper: In your 44 years in office, could you site 3 of the more important changes that you've personally been involved to initiate to better the educational system in North Dakota.

Dr. Sanstead: In my legislative role, I was very instrumental in making sure that we had the availability of educational services and particularly in the areas of curriculum. In my role as state superintendent I've advocated long and hard for an equitable education system. We've achieved that and I'm very happy to say that the state has one of the more equitable systems in the nation. My service in the education commission and through my

responsibilities as superintendent, I'm very pleased that this state has moved forward to move now in the adequacy of education. In January, the National Association of Educational Progress placed our students first in the nation in both 4th and 8th grade science scores. We can be very proud of the kind of achievement that we have from our students. I take great pleasure in announcing that and making sure citizens know about it.

Chairman Koppelman: You stated your opposition to the resolution primarily based upon the change of your office from an elected one to a different appointed one. If that were not part of the resolution, do you see other problems with the reforms as suggested?

Dr. Sanstead: I had 8 years in the House and 2 years in the Senate. I firmly believe the legislators are here to make policy. As a state agency official, I want to follow that policy. I want to be there when it's being formed and have been positive in making sure that my staff has every opportunity to serve as a legislative branch because it's a people's branch and it does represent the voice and the action of the citizenry. The executive branch officials administer and manage and I think that separation is really important. There are three systems, the executive, the legislative, and the judicial.

Chairman Koppelman: You know of the potentially greater legislative oversight which has been discussed, but some of the other reform deals with reformatting the structure of education in North Dakota with a goal to make it more efficient. Is that something you favor?

Dr. Sanstead: I certainly do favor a look to the future. I think this piece of legislation has many flaws. I find them to be disturbing and wrongheaded. In section 4, the superintendent of public instruction is being replaced by the director of education who would be appointed by the Governor on the State Land Board. The Governor would have two votes on that land board. I see that as a mistake in every sense of the word and I don't think a lot of thought was given to this section as an example. That is a board that is taking on ever increasing responsibilities with the tremendous movement of energy across the state and the availability of the State Land Board can make a difference because it is funding source for North Dakota education.

Representative Holman: The difficulty that might be created by putting higher education and elementary and secondary education all under one umbrella. Would you answer that from your position?

Dr. Sanstead: While K-12 provides the kinds of student success that makes a difference for students to enter the higher education system and move on to a career, the fact is there is a major difference in the kind of activity that higher ed performs and this bill encompasses a wide range from kindergarten to graduate school. To have all of that in one place I find disturbing and challenging.

Representative Hunskor: I go back to the kids again. It's all about them. These other issues are important but if we don't do what's right for the kids, something is lost along the way. I heard earlier that educational progress preparation for the future has been rather flat from year to year. I'd like to have you address that.

Dr. Sanstead: Certainly there are challenges in educational success. We've been impacted by many federal regulations and requirements that have been somewhat of a burden on our districts but there has also been great improvement. The accountability that goes with that improvement has been one of the main stays of what I've been participating in during my years of leadership.
We don't do as well in early childhood these days. Those first three years make all the difference in the ability for those youngsters to move forward. We need to do more of that. Our elementary system remains our soundest part of the system. When we get to middle school and high school, we see other factors enter into students' lives and attentions. That means we have a greater responsibility to try to keep them in the curriculum and in an effort to prepare themselves for higher education. My staff and I are out in the districts working with the schools on a firing line basis with teachers and students. We are known across the country for that kind of activity. Some of that I attach to the nature of being elected because you can't ask people to vote for you if you haven't been there and they don't know who you are; if you have to spend millions to tell them who you are. That has not been my case in public life. I think that most citizens of this state have a high regard for the fact that we've been out there and we've been with them in their schools, in their cities and communities, in their 4th of July parades, in their Memorial Day services. All of those aspects in public leadership I think are exemplified in the Office of State Superintendent of North Dakota.

Representative Kasper: Representative Carlson talked about the need for remedial reading, writing, and arithmetic when our high school graduates get to college. Many of them can't read, write, or add. That's happened under your watch. It appears to me that it's been getting worse and not better. If I look at the ACT scores back in history, it appears to me that the highest level that the North Dakota students achieved was in the mid 60's. Since then the test scores have come down and we're still going down. Why is that happening and what would you see that needs to be done to change that?

Dr. Sanstead: I would challenge the conclusion that education has not moved forward and there has not been positive improvement in the North Dakota system. We are under a much tougher economic situation and a challenging situation in terms of parent responsibility and all of that since the 60's. It's a whole new day. Our schools are moving in every direction possible to try to engage and involve students. From that perspective, there are initiatives and some of it involves the need for remediation. Some of it is because we have a lot tougher tests. Student achievement and I acknowledge the ACT scores have been flat lining. That's been a great concern with educators across the state. We've seen great momentum coming from the new scholarship program which this legislative assembly has enacted for our students. All of those kinds of things are going to mean that we're going to have a better practice.

Representative Kasper: You've been the head of the helm over all these years. I don't see the achievement increasing and getting better. What are you going to do to change some of the things that seem to be systemic and not getting better under your watch.

Dr. Sanstead: We meet monthly now throughout the education system in an agency sponsored and involved seamless coalition between career and tech ed and higher ed and the education standards and practices board and my staff. We are addressing each and

every one of those concerns that we find not just in North Dakota. This is a nationwide concern, the improvement and investment of education. From that perspective, I think that we have made progress.

Representative Kasper: Competition, from my perspective, is really good. With all the athletics that we have in our high school system and grade school system down to 4 to 5 year olds wrestling. What is your position on encouraging the opportunity for public education to compete with private education so that we can see who can build a better mousetrap?

Dr. Sanstead: This department has supported involvement of the non public sector of schools in every way possible. We include all of the non public schools within our programs for improvement and expansion of opportunities for students. We feel that they are citizens of North Dakota and they have every right and responsibility to be served by the department of public instruction.

Representative Kasper: Do you support a voucher system?

Dr. Sanstead: No I do not. I do not want to see the opportunity for public funds to go to sectarian schools for example or non public schools.

Representative Heller: The executive budget recommendation for 2011 – 2013 for the department of public instruction is 1.695 billion dollars. How is your department working to reduce duplication and what is your strategy to reduce that burden on the taxpayers?

Dr. Sanstead: I'm mindful of the increases in educational expenditure. I've advocated for those increases over the years and feel that the State of North Dakota has made significant progress not just in the area of equity but in quantity of resources available to our school districts. It is the role of not just those of us who serve in state government but those who lead the local districts to make improvements. We have a whole host of improvements underway within the districts. I know the House Education Committee has been hearing about many of those ventures. We have some that I am sad to say are not being funded and have not been included in the legislative agenda.

Representative Heilman: Could you explain to the committee why the costs of education have increased so much throughout the years and also with special education. We've seen an exponential increase in the number of students who need special education. Explain the differences in cost of educating a special education child to that of a typical child for example.

Dr. Sanstead: The cost of special education has increased. A lot of that is due to regulations and requirements imposed by the federal government without a resulting federal increase in funding. That's always been a problem for our districts and for our schools. The cost of education these days is heavily impacted by high costs of technology. We are moving more and more and a real emphasis on the ability of on line and extended technology in education opportunities for our students. That's costing a great deal of money and it's a burden in the increases for the amount of money.

Bill Goetz, Chancellor for the NDUS: (See attached testimony #7.) Mr. Jon Backes, President of the State Board of Higher Education had every intent of being here today but because of the weather and the roads; he was unable to meet that expectation. I have his testimony as well as other testimony that I will pass to the committee for your review. (See attached testimony #9 and #10)
I would like to approach this in a little different way. We have a HCR resolution that has been introduced asking for a reorganization of the education in the State of North Dakota and the fact that it would address both higher education as well as K-12.
The point needs to be made that we do not leverage change in reorganization in state government solely due to cost. There's been a lot of discussion that because we have seen increases in spending in higher education and as a result is a reason why we should reorganize an organizational structure such as higher ed and K-12 as a basis is a mistake in terms of policy. If we are going to address something as important as education in terms of organization is concerned, then let's look at it as true policy makers. When we go back into the late 80's and early 90's, and we were dealing with energy issues in this state, we did not at approach it on a piece meal basis. We looked at the big picture and vision and approached it accordingly in terms of reclamation laws and tax laws and so forth with vision. We brought all the pieces together. The same thing is true of water development in this State. We did not move forward until we had an overall policy and objective that was made and met in a nonpartisan basis with what was important in terms of the future of the state of North Dakota. If we cannot approach education in the same manner, in terms of K-12 and higher education, we are making a terrible mistake based upon the value of education in the state of North Dakota and to its citizens as we know today. We have had several interims in terms of higher education the duration of the last 4 years. This last interim we had volumes of information that was provided to the interim committee hoping that we could talk policy. One piece of legislation came out of that interim committee, but where did we end up with policy decisions. We came out with one piece of legislation to help that dealt with remediation after a year and a half of dialogue discussion and tons of information provided to the interim committee.
The Education Commission of the States is a national organization to help states develop effective policy practice in public education and promotes the exchange of ideas among states and long range strategic planning. An ECS policy brief offers some crucial advice to you as State leaders before you can consider enacting changes to higher education government structure. In most states, leaders have made governance changes without first making a thorough evaluation of how well their existing policies and structures aligned with the states agenda and public interest. Consequently, one can find numerous examples of governance changes that failed to meet the expectations of the people that proposed them. What we have before us today is exactly that. If we're going to look at the future of education in this state, we better take a close look at how processes and how we're going to take the steps to accomplish it. This should not be a matter of political vindication. It should not be criticism of the state board of higher education which in turn our citizens of the State of North Dakota just like you and I are who serve at the will of the people and the system. They are citizens just as you and I are spending hours and days in service to higher education. At a minimum, let's look at a process with vision and responsibility.

Reference was made to Florida. Look at what has taken place in Florida in terms of almost a decade of undergoing this particular issue of governance. Look at the state of Ohio where the chancellor is responsible to the Governor. With a change in governorship, the

chancellor resigned within a few weeks of the Governor taking office. Is that what we want to subject our governance to in terms of risk factors? I don't think so. When we travel around the country and talk to other legislators as I have and talk to other higher education people, they say we are the envy in terms of higher education and of progress that we are making.

We are working hard with K-12 to improve preparation for college. We have had many meetings where we are dealing with adequate preparation for college. We have seen results already in policy. It also speaks to the responsibility of the legislature to support curriculum change to be in line in terms of legislative statutorily changes that speak to better addressing student preparation for college. The responsibility rests on all of our shoulders to make that possible.

Promoting college awareness. Better serving adults. Serving the underrepresented students. Within the last two years we have had several bi cabinet meetings with the Tribal college presidents. That speaks to integrating the many issues that prevail in our Tribal colleges and joining together and finding efficient ways to deliver education. Flexible delivery and distance learning. Reference has been made that we have an environment of teaching that is 50 years old. I would be to differ. We find way to enhance student support services. We have to because the profile of our students is changing. Improved student retentions and completions speaks to student services and how we deal with students on a personal basis. Maintaining affordability. The reference has been made today that we've had sizeable increases in our higher education budget as a way to rationalize support for the resolution. Forty percent of the general fund budget is a result, for the most part, of legislative action. When you increase salaries, support for health insurance, sharing the costs of higher utility costs, that is a recommendation of the board and it's your decision in the end. When we look at the good things that you have done in the last two biennium such as increasing the state grant program for students who are in financial need. When you created the scholarship program to encourage students to take courses with greater academic rigor and to remain in college, which was a legislative action. That's a part of our budget. We can peel away the pieces of the budget we need to ask ourselves, what are those increased dollars a result of? We share in that responsibility because you have spoken to the need of student support and the needs of students. It's not all about all those professors and those administrators that are receiving the kind of remuneration that they should be receiving not only because of the work that they are doing but also because of the market that we compete in. Another factor is that of maximizing economic impact and those who advocate a separate view of this in terms of higher education apart from economic development really are not part of the real world. We look at the increased workforce training that higher education is involved in. There's a tremendous amount of research that is going on at our campuses as a pro activity that the higher education system has melded with and partnered with other state agencies such as the commerce department.

I answer to the Board of Higher Education but it is not in this context that I make my comments. I spent a number of years in the Governor's office and became very much aware of how difficult it is to get people to serve on boards and commissions. There isn't a board or a commission that requires as much as to serve on the State Board of Higher Education. To get people to serve is a challenge. Those that serve do so with great sacrifice. They are people who are dedicated to doing what is right. It's not self gratification. They are there serving at their convictions. It is not about gouging the public. It's about the students of all ages and all kinds of profiles. When the 3 people are brought

before the committee, it is that committee that selects the final choice of one and submits it to the Governor. When we look at process and we look at how we ask the public to serve in this regard, we need to recognize, as we should recognize you, the public service and what is required, and the tough decisions that need to be made. When it's all said and done, I think we are doing a pretty good job and if we are going to move forward, let's not do it on the basis of a resolution that tears apart the education system of North Dakota. Let's do it with vision and responsibility and without political vindication and reasons as exorbitant spending as a rationale. That is not responsive. Thanks you very much.

Representative Mueller: It would appear that one of the stated reasons for the resolution is the costs are getting too high. If this resolution passes, do we see a significant lower cost to higher education and K-12?

Bill Goetz: When you look at the university system budget, and you look at its components and the expectations of the public meeting the student needs and your high emphasis upon meeting the needs of our citizens as you as legislators, I cannot see how we can suddenly be looking at any kind of reduction in budgets. I would be remiss if I didn't say that priorities would change in certain areas but they would be at the expense of something else. When we looked at the necessity to invest in technology and initiatives in terms of making education much more readily available, students being prepared for a job, it also speaks to the other side in that we have to have our programs built up with good laboratories and expensive equipment. A full understanding of the budget equal to reorganization for the sake of rationalize on the basis of saving money, it's a matter of where our priorities are going to be.

Chairman Koppelman: Representative Carlson said that his motivation in introducing this resolution was not about vindictiveness or criticizing the structure that exists but about looking toward the future in a constructive way and it might be a better approach. You say it shouldn't be about money. When we talked about K-12 education in this building, it's all about the money. You say it should be policy but yet whether it's K-12 or higher ed, you don't seem to want much input from the legislature it seems to me on policy. Looking at my time on the Appropriations Committee and since, we just passed a budget in the House that added 82 million dollars in the general fund spending to the higher ed system. It added 40 some million dollars in special funds and it was referred to in the media as a draconian cut. That seemed to be all about the money. Explain how we can get together on this and have a dialog that's constructive for education in North Dakota.

Bill Goetz: We look at legislative partnership and dealing with decisions that need to be made, mainly policy issues, we've had interim committees the last four years at least of which I've been very much a part of. I would assume these would fall under the category of policy discussions. As I indicated, the question remains, what was the outcome of that? That's a matter of record. When it comes to a budget, a budget is policy. When you develop a budget, you should be talking policy. The same thing is true with the Board of Higher Education and the presidents of our institutions. When we put that budget together which takes a great deal of effort and input, it's about policy. Do we want a policy of affordability? Four years ago we said yes. That's why we came in with the tuition levels we did. You cannot talk about a budget; you cannot talk about money without talking about policy.

Representative Kasper: You mentioned the attributes that you believe the current members of the Board of Higher Education have and you gave praise to them in a number of areas which I agree. There was one that I was waiting for and you did not so I just wanted to put this on the record. Would you agree with me that in addition to the attributes that you sighted that our current board has, they also are capable of high character?

Bill Goetz: Absolutely.

Representative Holman: You work with a Governor appointed board overseeing the university system and now this proposed constitutional amendment proposes adding in the entire K-12 system under that similar type of board structure although our K-12 tends to be governed quite a bit by local entities as opposed to the higher ed system which is governed at a state level. Could you address that complexity as one board trying to deal with all of that?

Bill Goetz: When you look at K-12, what's near and dear to the public and those people involved in K-12 education is the local aspects and input which North Dakota values dearly. We have many of the characteristics of operation and the objective goals of K-12 which subjectively are different. In today's day in age, we do see more and more of greater importance, a seamless aspect in terms of policy between higher education and K-12. In terms of reorganization, I think it would require an in depth look understanding and study if we go down this path. Having said that, I can assure the entire committee that there is a lot of work going on in terms of seamless issues that has never in years past been dealt with. There is a greater hand in hand working relationship with K-12 as we address many of the issues that relate to education total in the state of North Dakota. The matter of higher education is unique in many ways as you know. I think we need to be more seamless in many areas but I think we need to have high identity of each of the two in very separate ways.

Robert Vallie, Executive Commissioner of Governmental Relations in Collegiate Affairs and NDSU Student Government: On behalf of the 48,000 students in the NDUS, I'm here to stand in opposition for passage of this piece of legislation. It's been asked, what are the affects to the students? I hope to give you a little idea and be able to give you something to work with as you consider this piece of legislation. The passage of such a Constitutional measure would detriment the ability of students to be able to affectively try to implement change within the university system. Currently the State Board of Higher Education has a student member on the board that was authorized by the legislature in 1991 and given full voting member status in 1993. It was because of those actions that allowed students to have a greater role in order to be involved in the higher educational system in this state. Removal of that system limits the ability of the students to not only take active action but also to help promote change where we can help to create it as such. You've asked for ideas as to what can you do in order to solve some of the problems that we are seeing in both K-12 and higher education. I'm not an expert nor would claim to be but I do have a few ideas for your consideration.

1. Continue to promote real world experiences inside the classroom to promote opportunities for internships, opportunities for economic development in order to allow students the opportunity to not just be able to sit in a classroom to gain a degree but

also to have real world experience. To give them the opportunities to really know what it's like to work in that field and to give opportunities for students like me whose attempting to go into social science education and political science and instead of sitting in a classroom learning about state and local politics is taking an active role in that process.

2. Continue to promote those ideas such as HB 1106 in order to provide funds for students who prove themselves in the means of academic rigor as well as helping to attempt to promote the best possible ways of college affordability, of helping to insure that students understand the best possible ways in order to deal with finance. To promote classes that deal with teaching students what it is that they're going to be dealing with in the real world such as dealing with credit card offers, dealing with loans, dealing with all these type of things that sometimes we don't understand.
3. With those ideas, also to give me ideas. I know for each and every one of you, you have those things that you feel that higher education may be doing well and those things that higher education could certainly be doing better. We as students agree. We everyday attempt to change the system both at the campus level and the university systems level but I cannot do that without your help.

I would ask, when you have a few minutes, sometime between now and then, I'm here every day of the week, take a minute and write down on a piece of paper or an e-mail what you would like to see change within higher education, whether it's a campus, whether it's with administration, whether its n the university systems office, whether it's something that you think someone should pursue, put that down and let me know about it. Also, let me know what our campuses are doing well, what students are doing well so that I am able on behalf of students in order to better able to help to attempt to promote that change but also able to work with you in order to insure that your tax payer dollars are being spent the best possible ability and also to show that higher education is that worthwhile investment and that students like me are not just a dollar sign but we are the future. Thank you for your time and consideration and allowing me to speak here today and I hope that what I've said here is something that you will take to heart and I hope that I will be able to work with you in time to come. (See attached testimony #8 from William Woodworth who was unable to be here).

Representative Kasper: How many members are there on the North Dakota Student Association and do they pay dues and if so how much?

Robert Vallie: All of the 48,000 plus students of North Dakota University Systems are members of the North Dakota Student Association. The fees that they pay in order to be in that membership is 40 cents per semester.

Representative Kasper: Are you funded by those fees or are you here because you want to be involved in politics or do you have official capacity?

Robert Vallie: It's a little bit of both. I am here on behalf of the student body of North Dakota State University. The position I hold in student government on legislative gears acts in this capacity. What I'm doing here today has been the most active that we've been for some time. Being here at the full session and attempting to purse the agenda that we have. But I am also here in order to be able to do one of the few things that I can really do well and that is serving others and attempting to try to create a better world for others.

Representative Kasper: Did you poll your 48,000 students on this issue and if so what were the results?

Robert Vallie: Within the means of the North Dakota Student Association, while I am a member, it is within the student government entities within the various 11 campuses that believe that the current action that's being taken at this point in time is not appropriate at this moment. The delegations that come to the North Dakota Student Association for monthly meetings do vote on these issues and it is within our belief that at this point in time until we can find a better solutions to insure an integration of K-12 and higher education to be effective and reasonable, that this is not the appropriate action at this time.

Representative Kasper: So there are very few involved in the decision making.

Robert Vallie: We try to do the very best we can to insure that all students have the chance if they have concerns one way or another; they are given the ability to have that.

Chairman Koppelman: We all value the quality of education in North Dakota not only on a K-12 level but on the higher ed level as well. On the testimony that you passed out from Mr. Woodworth, he reference when Representative Poolman introducing HCR 3014 in 1993 where he talked about quote "student tuition has increased so much in the past years". He went on to talk about the need for student representation. We just talked about the exponential increases in tuition in recent years. During my legislative tenure, I remember the time when the legislature controlled the amount of tuition. We quit doing that with the higher education round table but it's gone up exponentially since then. My concern is whenever, we talk about budgets, what we are told by the board of higher ed or by the chancellor's office or by others requesting dollars, is that if you don't give us everything that we want, that just means tuition is going to go up. That presupposes that they must spend what they want to spend and there's no way to tighten the belt. From a student's perspective, I'd like to know what the folks you represent think about what it's costing them.

Robert Vallie: When looking at the overall system and myself as a student, no matter which way you look at it or how you attempt to make it affordable, there's the old stereotype that college students live off of ramen noodles and pop tarts. For some individuals, that is very much the case and for others, not so much. It all depends about what you want to attempt to get out of your education. I think of it as even though it is an expensive proposition, at the end of the day, if I want to be able to do anything with my life and insure that I'm not going to forever live off of ramen noodles and pop tarts, I have to make this sacrifice now in order to be able to achieve success in the future. Students, depending on who you ask, very as to what those costs should be or should I even be paying this fee or that fee but at the end of the day, if we are able to achieve that and build that better future, then no matter how you look at it or how much you think they should pay, that it becomes a worthwhile proposition at the end.

Chairman Kelsch: If anyone has written testimony that could be submitted and I know that the committee members will take the time to read through all of them.

Chairman Koppelman: Chairman Kelsch and I have discussed the procedure as well as the disposition of this measure. It is a Constitutional amendment and does fall under the Constitutional Revision Committee to act upon it but we do want input from the Education Committee so members of that committee, if you have input and advice you'd like to share, we'd certainly welcome that. We will probably be appointing a subcommittee on this and it will be working quickly. We will close the hearing on HCR 3046.

2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee
Prairie Room, State Capitol

HCR 3046
March 28, 2011
Job #16084

☐ Conference Committee

Committee Clerk Signature May Mau

Minutes: Attachment #1 – proposed amendments

Chairman Koppelman: We have a subcommittee that has been appointed on HCR 3046.

Representative Schatz: The subcommittee met twice on Thursday when we went through the bill and didn't change anything. We met again on Friday and made a couple of changes. (Refer to attached proposed amendments). Those are the two proposed changes to this piece of legislation that we came up with. We had unanimous consent amongst the subcommittee.

Representative Meier: I don't have any addition comments. I would like to move the amendments.

Representative Schatz: Second.

Representative Winrich: On the second change, it talks about four and then there are six people mentioned. Are we envisioning a formal committee chosen by the Governor from those six or does that just mean he has to talk to four? I'm not sure what that means.

Representative Schatz: The eleven member educational counsel must be appointed by the Governor with the advice and consent of the four out of the six. I would assume that there's agreement.

Chairman Koppelman: The reason for the change is if you look at the original resolution, it had 5 people to be consulted and 3 of the 5 had to agree. The intent is that the majority of that group of people whether they meet formally and vote or whether they are consulted, it doesn't specify and it wouldn't in the Constitution. I suppose it would be up to the legislative assembly to have that in statutory language to say exactly how that consent is spelled out.

Representative Winrich: So four of those have to agree?

Chairman Koppelman: It's a majority. If it's three of the six it would be a deadlock obviously so that's the intent.

Representative Kasper: What is the definition of the legislative assembly?

Representative Schatz: I believe that would be the House and the Senate.

Representative Kasper: Is it a vote? Is it a debate or do we have to define anything?

Representative Schatz: I believe yes, it is a confirmation vote. That's how I'm interpreting it.

Chairman Koppelman: I think the intent there again is to say the entire legislative assembly just like the legislative assembly passes a bill; it implies that it passes both chambers. I'm assuming it's the same kind of thing. The Constitution is the skeleton and the statutes are the meat and the bones. That would maybe be defined whether it be in special session or whether it would be provided by a bill or in some other fashion. The legislature could determine that.

Representative Conklin: The second amendment basically says the majority party.

Chairman Koppelman: I think the only change from the way that it was originally presented to us is that the Speaker of the House is added. The original resolution reads 'the majority and minority leader of the house of representatives, the majority and minority leader of the senate and the president pro tempore of the senate'. This simply adds the speaker of the house. The intent is to give equal representation to the house and senate otherwise the senate would have 3 people representing and the house would have 2.

Representative Conklin: But basically the majority party does it.

Chairman Koppelman: The speaker of the house is traditionally a member of the majority party as is the president pro tempore of the senate. I don't think that's the intent. I think the intent is to give equal representation to both houses. The minority leader is in both versions in both chambers. The question is would the senate have a one vote majority which would be the case as originally written. This way it's equal from the house and senate. I'm going to support the amendment because in the house the speaker has been diminished in terms of the role he or she plays. If you look at the president pro tempore of the senate, that individual does not preside over the senate whereas our speaker does preside over the house. To eliminate them is perhaps disrespectful to that official. I think this is a wise amendment but vote as you will.

We'll do a voice vote on the amendment.

Voice vote carries.

Chairman Koppelman: We have the amended resolution before us. What are the wishes of the committee?

Representative Streyle: I move a do pass as amended.

Representative Schatz: Second.

Representative Holman: I'm not going to support this and my reason is that I think its overkill to accomplish something that maybe needs to be done. I have no problem with a study of how we do things in higher ed or K-12. The discussion of these issues is important but reverting to a constitutional amendment to create that discussion goes way too far and probably has some very significant ramifications toward the control of K-12 which is typically controlled at the school board level as opposed to higher education being controlled at the state or board level. By putting them both under one level and going into something like that without a formal study to see where it's going and the possibilities and the unintended consequences would be a serious mistake. I think this means of creating a discussion, should it pass and become part of the Constitution, is seriously flawed. For that reason I am not going to support this motion.

Representative Kasper: When we had our joint hearing and I asked Superintendent Sanstead his response to the kids going into college today need remedial reading, writing and arithmetic and it seems to be getting worse instead of better. I also mentioned the fact that the ACT and SAT test scores have down since the 60's. If you go back and look at the tests that were administered in the 60's compared to today, they are much simpler and still our scores have been flat. Our kids aren't' learning, we're spending more money, the system isn't working, the higher ed and secondary ed come and ask for more money and that's always the solution. We need more money but we're not getting the results and the people are paying the bill. I would think the people will decide if we give them a chance. I would hope we let the people vote on this and let them tell us what they would like.

Representative Holman: Much of the discussion at the hearing centered on money. This bill does not limit the oversight or the fixing to just money. This bill could return us to 1933 when we had a Governor intruding into faculty appointments and as a result, we ended up with an independent higher ed board. It also could involve legislative intrusion into research influence. If you like that than I guess you should like this but I think there are things in higher education, faculty appointments, research, curriculum that are already under the guides of an independent board. Because we are upset with the way the higher ed board manages financial things is not a good enough reason to change the way we manage those other extremely important areas in our educational system.

Representative Winrich: I'm not sure that all of the members of the committee know this but I have ended up with article VIII of the Constitution. I had requested that some time ago and had already asked legislative counsel to give me some background material. One of the things they came up with is an article from the North Dakota law review entitled 'Constitutional Autonomy and the North Dakota State Board of Higher Education'. The article begins with an interesting statement'. It says 'the principle of legal autonomy in higher education dates back at least to the famed Dartmouth College case in 1819 in which the United States Supreme Court held that any action by the New Hampshire legislature inconsistent with the college charter granted by the British Crown in 1769 would be an impairment of the obligation of contract in violation of article I, section 10 of the United States Constitution'. Unfortunately the British Crown didn't have the foresight to establish a university in North Dakota at that time. We have an interesting history. Representative Holman alluded to what the Grand Forks Herald referred to as the massacre of 1937. Prior to that time the university system, the universities were controlled by a board of administration. This board was appointed by the Governor in much the same way as this

amendment proposes. In 1937, for political reasons, a Governor who was known as Wild Bill Langer had 3 of the 5 board members were his appointees was upset with something that happened at NDSU (North Dakota Agricultural College at that time). The board fired 7 faculty and staff members and accepted the resignation of the college president. The North Central Accreditation Association withdrew accreditation of that college. That's the kind of games we're playing here. As a result, the current system with an independent board of higher education was established by an initiated constitutional amendment passed by the people in 1938. I hope that we remember the history and aren't condemned to repeat it as the saying goes. I think this amendment should not be passed.

Representative Owens: I am a big fan of history and learning from our past. I view this amendment as much higher than the board of higher education and what happened in 1938. I was doing research on an initiated measure from 1938 separate from this myself. Apparently there were some initiated measures done back then from groups of people. They were never debated, they were never discussed, there wasn't even a public outcry over the discussion between them, they just went on the ballot and they were voted for. I'm not saying that this one did. I haven't researched this one so I don't know if this one was the case or not. I know my other one was though. There was not even an article written about it. Oddly enough it was section 12 of article X dealing with refund of tax dollars. This constitutional amendment is something much greater. The times have changed since 1938. We are now in a world rather than just a country. The world is extremely small. This gives us the ability as a state to manage the education and the future of the education in this state from K through 16, the whole package. There's so many times I have heard how we don't know how many of our own high school students are going to school between the two colleges. If they start off in a two year college, we can't trace them to a four year college. We don't know how well we're doing or if we're doing it right at all. It allows us to build a curriculum across the whole span and be managed concisely and completely from one location. While I realize there has been a lot of discussion about money and there may be a small cost savings in administration, there may not be. That's yet to be seen. I'm more concerned with education in the state and how it's managed from now and to the future as a complete package for each and every one of the students from here on out.

Vice Chairman Kretschmar: I cannot support this resolution. I think we're trying to bite off more than we can chew. It's a massive change in our educational system in North Dakota and if that is needed, I think there should be a two or four year study to see what happens. In the past 20 or 30 years, when long measures go on the ballot, there're often times not successful. I'll sight the Constitution of 1972 when 37% of the people supported it and 63% didn't. Later on the legislature would put on the ballot short versions of parts of that Constitution, many of which were successful and were passed. This resolution is almost 4 pages long as printed and most of the other resolutions that we had before us this session are maybe 1 to 1 ½ pages. The longer the resolution, the less chance it has for passage by the people because it's more difficult to understand and if you don't understand something, who knows what to do. Based on the hearing that we heard, if it does get to the ballot, there will be 48,000 college students working against it and they can be quite a force. I don't think we should even try to put this on the ballot. The next legislative session should maybe start a study of our educational system to see where we'd need to improve it.

Representative Schatz: One of the things that I think is important; do the people want our educational system changed? This is going to be the people voting on something. Our policies and funding of education have become so complicated. If the people don't want a change, this would become nothing more than a vote of confidence. Is education doing a good job? Then they have nothing to worry about having this put on the ballot. They should welcome it. I'm in favor of this resolution and I think it would be good for the state and good for education.

Chairman Koppelman: I wish we had more time because this is a long proposed amendment. We had a very good hearing but this is a bold move. The question before the committee today is whether we move this idea forward for further discussion. We have discussed why that should be done and why it should not be done. A study has been suggested. The question before us today is whether to move this forward. If we recommend against passage and the House follows our recommendation, the idea dies there. If we recommend for passage and the House follows our recommendation and it goes on to the Senate, where it might be passed or defeated, it might be turned into a study. If the Senate decides to do something different, it will likely end up in a conference committee with members of this committee involved. If both houses of the legislature pass this in one form or the other, it will go on the ballot for the people to decide. We could be in the early stages of this or in the final stages depending on what this committee does. This would be a bold move for the future of this state. Call the roll on a do pass as amended recommendation on HCR 3046.

7 Yes, 4 No, 0 Absent **Do Pass as Amended** **Carrier: Representative Schatz**

FISCAL NOTE

Requested by Legislative Council
03/11/2011

Bill/Resolution No.: HCR3046

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This resolution proposes a constitutional amendment to eliminate the elected office of superintendent of public instruction, the state board of higher education, and the commissioner of higher education.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The fiscal impact cannot be determined. This resolution would create a new department of education, with a director appointed by the governor, to oversee early childhood, elementary and secondary education. The frequency of meetings and the related expenses of the proposed education council is unknown. Expenses of the proposed department of education are unknown and may differ from the current combined expenses for the university system board office and the department of public instruction. Actual costs would be subject to appropriation limits set by the legislature. Although this resolution provides for constitutional changes, statutory references to the superintendent of public instruction, board of public school education, department of public instruction, state board of higher education, commissioner of higher education and university system board office are unchanged by this resolution and would have to be addressed by a subsequent legislature.

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, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

Name:	Joe Morrissette/Tammy Dolan	**Agency:**	OMB
Phone Number:	328-1024/328-4947	**Date Prepared:**	03/14/2011

HCR 3046

Page 2 Line 27 and 28

2. The governor shall appoint the director of the department of education **subject to confirmation of the Legislative Assembly, the Director shall.....**

Page 3 Lines 7,8, 9

Appointed by the governor, with the advice and consent of **four** from among the following: the majority and minority leader of the house of representatives, the majority and minority leader of the senate, the president pro tempore of the senate, **and the Speaker of the House.**

Date: March 28, 2011
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3046

House Constitutional Revision Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Meier Seconded By Rep. Schatz.

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			**Representative Conklin**		
Vice Chairman Kretschmar			**Representative Holman**		
Representative Kasper			**Representative Winrich**		
Representative Louser					
Representative Meier					
Representative Owens					
Representative Schatz					
Representative Streyle					

Total (Yes) 11 No 0

Absent 0

Floor Assignment —

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

Voice vote carries Amendment adopted.

VK
3/28/11

11.3095.01001
Title.02000

Adopted by the Constitutional Revision Committee

March 28, 2011

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3046

Page 2, line 27, replace "The" with"Subject to confirmation by the legislative assembly, the"

Page 3, line 7, replace "three" with "four"

Page 3, line 9, remove the second "and"

Page 3, line 9, after "senate" insert ", and the speaker of the house"

Renumber accordingly

Date: March 28, 2011
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3046

House Constitutional Revision Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conklin		✓
Vice Chairman Kretschmar		✓	Representative Holman		✓
Representative Kasper	✓		Representative Winrich		✓
Representative Louser	✓				
Representative Meier	✓				
Representative Owens	✓				
Representative Schatz	✓				
Representative Streyle	✓				

Total (Yes) 7 No 4

Absent 0

Floor Assignment Representative Schatz

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

REPORT OF STANDING COMMITTEE

HCR 3046: Constitutional Revision Committee (Rep. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HCR 3046 was placed on the Sixth order on the calendar.

Page 2, line 27, replace "The" with"Subject to confirmation by the legislative assembly, the"

Page 3, line 7, replace "three" with "four"

Page 3, line 9, remove the second "and"

Page 3, line 9, after "senate" insert ", and the speaker of the house"

Renumber accordingly

2011 SENATE EDUCATION

HCR 3046

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HCR 3046
April 4, 2011
16325

☐ Conference Committee

Committee Clerk Signature T. Gorg

Explanation or reason for introduction of bill/resolution:
Relating to the superintendent of public instruction and creation of a department of education; relating to the state board of higher education; and to provide an effective date.

Minutes: See "attached testimony."

Chairman Freborg opened the hearing; fiscal note attached with no amounts listed.

Representative Carlson, District 41 introduced the bill; (#1 Testimony) there are three parts to the bill—one dealing with the board of higher education; one dealing with the Superintendent of Public Instruction; combining the two entities into one department. This is a Constitutional measure and would go to the voting public and allow them to vote and decide if they feel we are spending their money wisely. It deals with the governance of K-16 education. He reviewed the cost of education over the 2011-2013 biennium in handouts (#2 K-12 Funding Chart & #3 Higher Education Funding Chart). Feels it is time to take a new look at the governance structure for K-12 education and higher education; need a system that is seamless from top to bottom. Not easy for us to make changes, but thinks it is about the governance—not about personalities, dislike for one of the two institutions—it is about a better education for our kids and system for the 21st Century.

Senator Luick: Is this program modeled after another state? **Representative Carlson:** There are different versions in other states; Texas and Florida have made major changes in their structure. No pattern in this bill after any state. **Senator Luick:** Do you know how many other states have tried something like this? **Representative Carlson:** Some have called it a state board of education; had various names for one entity. Florida, Idaho, New York, Pennsylvania, partial consolidation in Iowa and Michigan, Texas.

Senator Heckaman: Did you receive concerns from K-12 administrators and 11 institutions of higher education for the need for this bill? **Representative Carlson:** Not really . . .most that will testify are from those systems. Not sure how many private citizens are here in favor or against. **Senator Heckaman:** (graphs) How does the increase in funding for education relate to other state agencies? **Representative Carlson:** Doesn't have that information but could provide it.

Senator Flakoll: On page 2 of the bill, there are cities named in the bill; seems to be some question or discussion about how this plays out. In the Constitution currently there are eight out of the eleven campuses listed; does this expand that list of communities that must

have an institution of higher education or does it take that mandate away? **Representative Carlson:** The missions for those eight schools were listed in the Constitution; this bill is not intended to eliminate any institutions. It probably gives the flexibility in the future to change the mission if you have something to grow or expand. Not specifically called out in the language. **Senator Flakoll:** How will this insure more accountability, when you replace an elected official (Superintendent of Public Instruction) with an appointee? **Representative Carlson:** This allows for more legislative involvement; everything will be governed by legislative . . the Governor has the appointment process, but all of the laws that will govern the two institutions will be passed legislatively. Legislature needs more involvement than just bringing the checkbook. 680 million reasons to be involved on the higher ed side. He feels there will be more accountability (legislative oversight) without micromanaging. **Senator Flakoll:** Currently those on the board of higher education have three hurdles before they are allowed to be on the board: meeting the selection process criteria, appointment by the Governor and a hearing by the legislature. The bill has them only to be approved by four of five people—is that a better way? **Representative Carlson:** Thinks if you read the qualifications of what they must have, he would say it is a better process the way the bill is written. **Senator Flakoll:** With the confirmation, it says in the bill it is required by the legislative assembly—does that mean both chambers? **Representative Carlson:** We didn't address that yet; thought about amending it in the House but if it is passed by the people that would be addressed later instead of fighting over whom is going to get the confirmation process.

Senator Heckaman: When looking at the duties of the council and the caveat that the Governor can remove this director at any time, what happens if the Governor removes the person at nine months; will there be a new person hired midstream? **Representative Carlson:** Not the councils' opportunity to remove the director; it would be that of the Governor. The position would have complete oversight by the Governor to approve or disapprove that person staying. **Senator Heckaman:** Will the director's Ph.D. degree be required in Education or Educational Leadership? **Representative Carlson:** Doesn't have the answer for that. It lists all the things the person must know about education; assuming it could be either one of those.

Senator Andrist, District 2 has gotten many e-mails and letters of frustration from constituents. They don't feel there is any focus on restraint in higher ed. Biggest frustration for him is the growth in out of state subsidized students. He likes the idea of voters having a look at what we are doing. Would like an amendment to repeal Section 6 as it creates a huge insecurity by institutions—removes all the colleges from the Constitution (#4 Attachment); this would list the eight cities "and such institutions as may hereafter be established". Don't think there is any movement to close these institutions; don't think it is practical approach to dealing with problems on higher education.

No further testimony in favor; opposition:

Representative Holman, District 20 opposed it in committee; feels this resolution enters a process that is probably premature. We look at the educational process all the time and we do as a state with the many organizations that are involved. This bill makes major changes in the way we deliver education without a formal study. His issues with it: K-12 is primarily governed at the local level (financial decisions) and higher education at the state level. 25-

35% of their funding is managed at the state level with other funds coming from tuition and fees, grants, etc. If we want to create greater efficiency this needs to be examined; which jobs change, eliminate, combine, etc. He doesn't believe there are people out there drawing a full time paycheck but not working full time.

Senator Flakoll: There is no requirement for a student member, faculty or staff members to be on the education council. Any discussion in the House? **Representative Holman:** That was not discussed in the House. **Senator Flakoll:** Current Constitution requires that a member of the board of higher education be a qualified elector and tax payer in the state of North Dakota and have lived here for five years. Any discussion on the House side? **Representative Holman:** Not discussed. **Senator Flakoll:** Current law says that a person may not be employed by an institution of higher education. Any discussion in the House about that or couldn't be superintendent of a public school? **Representative Holman:** Not specified and not discussed. **Senator Flakoll:** The three year terms of the director and board members does not currently align with the four year term of the Governor. Any discussion about that? **Representative Holman:** Was not discussed; another issue is the appointment of the director and the choosing of the board is pretty much that the Governor appoints and selects, but all done with the approval with the legislature. Really is the legislature making the initial choices and the Governor appoints from that pool—as he understands the bill.

Senator Heckaman: Page 2, line 9 says the Department oversees "public"; is that a generic term and covers non-public also? **Representative Holman:** Assume that it would not have authority over the non-public other than what is done at this time.

Wayne Sanstead, Superintendent, Department of Public Instruction testified in opposition to the bill (#5 Testimony)

John Backes, President, North Dakota University System testified in opposition to the bill (#6 Testimony). Florida started this idea but added back a board of higher education. This resolution would create a bigger bureaucracy. The growth in funding education is not outpacing other organizations in the state. The North Dakota University System board members are not in this for money.

Senator Flakoll: on page 2 (since you are a practicing attorney), what does "for cause" mean when it states the Governor may remove the Director for cause? **John Backes:** Generally means a felony committed or crimes of moral turpitude or absconding with corporate funds. It can't be because of personality or that he doesn't like something done. **Senator Flakoll:** One positive of the bill would be the creation of a more seamless education system. What is currently being done in that area between K-12 and higher ed? **John Backes:** We currently meet in joint board meetings with North Dakota School Boards Association, North Dakota Education Association and North Dakota Council of Educational Leaders to discuss issues of what K-12 is preparing for and what higher education expects. Aligning those expectations and those realities is a significant challenge, but is one that is undertaken by all members of the joint boards. This is a critical issue and he doesn't believe that they are doing a bad job of it now.

David Fuller, President, Minot State University and Dakota College at Bottineau since 2004; came here from Nebraska. (#8 Testimony) He explained the governing system in Nebraska and did research on North Dakota before coming here. Works well for MSU and DC at Bottineau to share staff and payroll on many issues.

Chancellor Bill Goetz, North Dakota University System (#9 Testimony) testified in opposition to the bill.

William Woodworth, NDSA legislative lobbyist testified in opposition (#10 Testimony); students will lose part of their voice and there is no provision for even an advisory position on the council.

Robert Vialle, Executive Commissioner for Governmental Relations & Intercollegiate Affairs, NDSU Student Government testified in opposition to the bill. Has spent the last 12 months working on issues, trying to help students get what they need for that quality education and to show that the students appreciate the situations that happen within state government, the concerns of your constituents and all citizens of North Dakota about higher education, and to show the students are there with too—and want to provide that voice, provide that input both in constructive criticism and providing solutions to the problems our state has. For the last two years he has attempted to do that; has seen a lot of progress and a lot of things that he had to question. He represents over 14,000 students, and is frustrated on behalf of the students. Would like someone to tell what is wrong with the system, be specific and we can work on how to fix it. Also, tell us what is being done right! Students want to be seen as an investment, not part of the problem and a gaping black hole that sucks up state dollars. In the end, students have to live with the results.

Dakota Draper, President, North Dakota Education Association testified in opposition to the resolution (#11 Testimony)

Doug Johnson, North Dakota Council of Educational Leaders testified in opposition to the resolution (#12 Testimony). He has a significant concern in finding one person capable of meeting the demands and criteria of this position.

No further testimony; hearing closed.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

Committee Work & Vote HCR 3046
April 5, 2011
16341

☐ Conference Committee

Committee Clerk Signature T. Jorgen

Minutes: No "attached testimony."

Senator Heckaman: Has a hard time supporting the resolution in this form. It would merge two systems that have unique needs. Thinks they should stay independent and work—think there is a P-20 committee that has been working on some issues. Thinks it is too vast of a system for one individual. Her main concern is if we start with this system/agency, is it going to happen with other state agencies. These are constitutional agencies and looking at the votes on the Department of Public Instruction, Mr. Sanstead has won unanimous re-election several times in a row. If there was some difficulty with that position we would have seen a change in leadership. Feels the higher education board has gotten the message this session that both the House and Senate are concerned and it is time to address those issues. Those are her reasons for not supporting the bill.

Senator Luick: Just some comments; there is obviously a serious problem with our educational system in North Dakota (e-mails and letters). Also in conversations with "higher ups" in the educational field, they understand a problem whether handled by an individual or something changes – something has to happen. One person on top could be a director, and the ones underneath could be "lieutenants", but do feel there is a way to save money on this proposition but whether it can be ironed out in time? Very disappointed that SB 2300 died in the House; had high hopes for that working out. Maybe this is another avenue to look at that.

Senator Flakoll: Conceptually, idealistically one or two things that could occur as an advantage for this. Maybe some streamlining between K-12 and higher education; particularly remediation. Sometimes a "one stop shop" is helpful. For him to like the bill better it would take at least twelve amendments.

1. Never showed any efficiency gained; can't just talk in big terms—cite examples.
2. Concern that it takes away the people's right to vote for the elected position of Superintendent of Public Instruction. Would be more supportive if it was an elected position.
3. Concerns because it is confirmed in the bill by the Legislative Assembly and not by the Senate who is the body that should "advise and consent" to appointees.
4. Concern that the director has a three year term, but the Governor who appoints them has a four year term. Can only get rid of the person for cause; not because of their

position on education issues, or don't like what they have done or the party they represent.

5. Seems like a less rigorous process to get on the council board. Right now there are a lot of hoops they have to jump through. Approved by the five member board from a list of nominees, the top three go to the Governor for consideration and one name is forwarded to the Senate for an interview and "advise and consent". Could still end up with the same type of group and people just mad at another group of people.
6. Campuses being in or out of the Constitution.
7. Have questions because he thinks it is better in law as it currently stands that there is no limitation in HCR 3046 for the number of people on the council from a specific campus which is limited by current law. No one campus was dominating . . .
8. There is no student member, nor input from faculty or staff from either higher education or K-12 community.
9. In the bill there is no requirement for council members to be a resident of North Dakota. Always has a problem with that—can put people from out of state on our decision making bodies.
10. Constitution requires that a member may not be employed by any of the institutions within the system. There is no provision for that; could also have the Superintendent of the Bismarck Public Schools on there.
11. Duties for the director—too many duties or knowledge needed to service areas in addition to K-12 and higher ed; Agriculture Research Station, Cooperative Extension Service, Northern Crops Institute, State Forrest Service, and Upper Great Plains Transportation Institute. The person picked may have some of those interests or capacities or backgrounds, it makes more of a challenge to fully service K-12, higher education and these "subgroups" effectively.

Senator Gary Lee: Agrees with the comments; also agrees that people need to vote on issues but we should have some consensus here before sending to the people. They expect that we have researched the issues constructively to see what they really do before presenting to the people to vote on. This resolution is fraught with problems at least in terms of the governance if no other area. Don't support it at all.

Senator Marcellais: He tends to agree with everyone; main concern is the education of our students, whether K-12 or higher education. That is what is important to him—their education. Can't support the resolution based on that.

Senator Flakoll: Think sometimes we hear people testify to support their position, but it is always interesting how people say "let's send it to the people for their vote" but yet the House spent a good deal of their first half trying to repeal something that went to a vote of the people. Sometimes those comments are interesting; had a number of issues to filter through. We are more studied on these issues; hear information in greater depth than the general population can do as that is what we have to do.

Senator Heckaman: The duties of the educational council would be a full time job for those people. Sees few things to support in the resolution and questions the term "public".
Senator Luick moved a Do Not Pass; second by **Senator Heckaman.** Motion carried 7-0-0. **Senator Heckaman** will carry the bill.

Date: 4/5/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3046

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Luick Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Heckaman

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

REPORT OF STANDING COMMITTEE

HCR 3046, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3046 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HCR 3046

Attachment #1

11.9245.01000

Prepared by the North Dakota Legislative Council staff

March 2011

HOUSE CONCURRENT RESOLUTION NO. 3046 SUMMARY

Section	Subsection	
1		Removes a constitutional reference to the Superintendent of Public Instruction (effective on January 1, 2015)
2		Provides that the individual elected to serve as the Superintendent of Public Instruction will serve a term of only two years because that position will expire as of January 1, 2015
3	1	**Creates a department of education** for the purpose of overseeing and administering the provision of public education in this state, including: • Early childhood education; • Elementary and high school education; and • Higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.
	2	**Creates the position of director - Department of education.** The director: • Is appointed by the Governor; • Is given a term of three years; • May be reappointed for like terms; and • Is removable by the Governor for cause.
	3	**Establishes qualifications of the director.** These are: • Holding a doctoral degree from an accredited institution; • Being uniquely familiar with the broad spectrum of educational delivery and administration; and • Being committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.
	4	**Creates an educational council.** Each of the 11 members must be appointed by the Governor, with the advice and consent of three from among the following: the majority and minority leader of the House of Representatives, the majority and minority leader of the Senate, and the President Pro Tempore of the Senate. The council must be a balanced and representative group of individuals who by training and experience each have a profound knowledge and understanding of the purpose and mission of education at all levels, and collectively understand the function of education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.
	5	**Sets the term of office** for each member of the educational council at three years, beginning January 1, and limits individuals to two consecutive terms. **Initial appointments** must be staggered by lot so that no more than four positions terminate at any one time.
	6	**Chairman** is to be annually appointed by the Governor from the council members. A chairman may be reappointed but may not serve more than two consecutive terms in that role.
	7	**Chairman is to call all meetings** of the educational council and to call a special meeting of the council within seven days when petitioned to do so by five council members. The council is required to meet at least once every calendar quarter.
	8	**Per diem compensation** is provided for in the same amount as that given to members of the Legislative Assembly plus reimbursement for expenses.
	9	**Duties of the educational council** are to provide advice and guidance to the director of the department of education in all matters pertaining to the delivery and administration of education in this state, including: • Academic standards; • Accountability; • Budgetary and financial matters; • Managerial and operational matters; and • Regulatory and legislative matters. **Workgroups, task forces, and subcommittees** are authorized if there is a need to seek additional information and outside expertise in order to fully and adequately perform the functions with which the council is charged.
4		Replaces the Superintendent of Public Instruction with the director of the department of education on the Board of University and School Lands
5		Repeals Article VIII, Section 6, of the Constitution of North Dakota, which pertains to the State Board of Higher Education.
6		Provides that Section 2 becomes effective upon approval and the remaining sections become effective on January 1, 2015

REFERENCES IN THE NORTH DAKOTA CONSTITUTION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Article V. Section 2.
[Election of State Officials Duties]

The qualified electors of the state shall choose a Superintendent of Public Instruction when they choose members of the Legislative Assembly, the Governor, and other state officials.

The powers and duties of the Superintendent of Public Instruction must be prescribed by law.

Article VIII. Section 6.
[Board of Higher Education]

In nominating an individual to serve on the State Board of Higher Education, the Governor must select from a list of three names put forth by the following:

- The president of the North Dakota Education Association;
- The Chief Justice of the North Dakota Supreme Court;
- The President Pro Tempore of the Senate;
- The Speaker of the House of Representatives; and
- The Superintendent of Public Instruction.

Article IX. Section 3.
[Board of University and School Lands]

The Board of University and School Lands consists of:

- The Governor;
- The Attorney General;
- The Secretary of State;
- The State Treasurer; and
- The Superintendent of Public Instruction.

REFERENCES IN THE NORTH DAKOTA CONSTITUTION TO THE STATE BOARD OF HIGHER EDUCATION

Article VIII. Section 6.
[Board of Higher Education]

A State Board of Higher Education is created. It consists of:

- Seven appointed members confirmed by the Senate; and
- One student member.

Members of the State Board of Higher Education are removable by impeachment.

The State Board of Higher Education is given full authority over the institutions and full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution.

The State Board of Higher Education is to:

- Prescribe standard systems of accounts and records for the institutions;
- Prepare a single unified budget covering the needs of all the institutions; and
- Appoint a commissioner of Higher Education who:

  Is a graduate of some reputable college or university; and

  By training and experience is familiar with the problems peculiar to higher education.

11.9164.02000

Prepared by the North Dakota Legislative Council staff for Representative Carlson
March 2011

ESTIMATED 2011-13 BIENNIUM STATE AND LOCAL EDUCATION FUNDING

The table below details funding included in the 2011-13 executive budget recommendation for education-related state agencies.

State Funding for Education			
Agency	General Fund	Other Funds	Total
North Dakota University System	$648,214,406	$89,237,204	$737,451,610
Department of Public Instruction (DPI)	902,064,740	450,718,423	1,352,783,163
Property tax relief - DPI		341,790,000	341,790,000
Department of Career and Technical Education	28,148,803	10,766,888	38,915,691
State Library	5,263,975	2,134,610	7,398,585
School for the Deaf	6,718,772	2,088,007	8,806,779
North Dakota Vision Services - School for the Blind	4,080,240	835,091	4,915,331
Total	$1,594,490,936	$897,570,223	$2,492,061,159

The table below provides an estimate of local property tax funding for education for the 2011-13 biennium.

Estimated Local Property Tax Funding for Education	Total
Property taxes estimated to be levied by school districts during the 2011-13 biennium[1]	$685,300,000[1]

[1]School districts levy taxes based on property to provide school district general fund revenue. In addition, taxes based on property may be levied by the school districts to provide revenue for other funds, including special reserve, capital projects, and debt service. Property tax information provided by the Tax Commissioner includes property taxes levied for all school district funds. The Tax Commissioner's office reported property taxes levied for schools in 2009 and payable in 2010 (2009-10 school year) totaled $315 million. Based on preliminary taxable valuation and mill levy data, the Department of Public Instruction estimates local property tax assessments will total $325.8 million for the 2010-11 school year (taxes levied in 2010 and payable in 2011), including $278.6 million of general fund assessments and $47.2 million of other school district-related assessments. The estimated property tax assessments provided by the Department of Public Instruction for the 2010-11 school year represent an increase of approximately $10.8 million or 3.4 percent from the 2009-10 school year. Using this percentage increase as a basis for future increases, local property tax assessments for school districts are estimated to total $336.9 million for the 2011-12 school year and $348.4 million for the 2012-13 school year. The 2010-11 assessment data used to prepare these estimates does not include property that is alternatively assessed which, if included, would result in higher estimated assessments.

Total 2011-13 State Funding and Estimated Local Property Tax Funding for Education	Total
Total 2011-13 biennium state funding for education based on the executive recommendation and estimated local property tax funding for education	$3,177,361,159

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NORTH DAKOTA DEPARTMENT OF EDUCATION - CREATION

House Concurrent Resolution No. 3046 would create a department of education to oversee and administer the provision of public education in this state, including early childhood education, elementary and high school education, and higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.

BACKGROUND

Currently, elementary and high school education is administered within an executive branch agency, headed by an independently elected Superintendent of Public Instruction.

Currently, higher education is administered by a constitutionally created State Board of Higher Education which, according to the Constitution of North Dakota, has full control and authority over its institutions.

Neither the Superintendent nor the board is answerable to the Governor or to the Legislative Assembly. Yet, they receive and expend 48.4 percent of the state's budget. 27.9% of all spending

North Dakotans have been very generous when it comes to supporting education. In fact, state appropriations for education amount to $3388 for every man, woman, and child. This dollar amount does not include what our residents are contributing locally through property taxes and federally through income taxes. It does not include what families are contributing to support nonpublic education, and it does not include tuition, fees, and the multitude of other costs that families incur when sending their children to our institutions of higher education.

Each legislative session, the education sector continues to seek (and receive) significant increases in financial support. And yet (LIST THE PROBLEMS YOU WISH TO ADDRESS), e.g.:

- Student test scores are at best flat;
- Truancy and dropout rates are high;
- Property taxes continue to climb; 2362 student
- Enrollment in remedial courses is increasing;
- Tuition and fees are soaring;
- Technology is underutilized; and
- Students are not graduating with the knowledge or skills desired by employers.

Our current system of educational delivery and administration was created for a simpler time and place. Much of what we did or wanted to do was limited by distance and communication. Today, we are limited only by our imagination. Not all that long ago, a trip from the farm to the county seat was a major excursion. Today, we have instant communication with friends and colleagues around the world. We are no longer functioning within township and county lines or even regional borders. Our arena is global.

While we might still yearn for that simpler time and place, that is no longer our world and it certainly is not that of our children and grandchildren. The education that they need and deserve is one that is governed by a vision of the future. It is an education that will allow them to stand shoulder to shoulder with the best in this nation and the best in this world.

House Concurrent Resolution No. 3046 is creating an administrative structure that will allow us to define and address the needs of 21st century students, whether traditional or nontraditional, and deliver a world class, seamless education at the time and in the manner that allows them to meet their intellectual needs and their career pursuits. K-16

100's of millions of dollars spent to retrain our workforce after education

DIRECTOR OF THE DEPARTMENT OF EDUCATION - APPOINTMENT

House Concurrent Resolution No. 3046 would require the Governor to appoint a director of the department of education. The appointment must be for a term of three years and may be renewed for like terms. The director is removable by the Governor for cause.

The director must hold a doctoral degree from an accredited institution, be uniquely familiar with the broad spectrum of educational delivery and administration, and committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.

Why require a doctoral degree? The individual who is ultimately selected to fulfill the role of director will have to interact with a wide array of individuals, including those from business and industry, the halls of Congress, and the world of academia. A doctoral degree is an internationally recognized level of achievement that provides a platform from which to initiate discussions, interactions, relationships, and collaboration.

Why is the appointment for a period of three years? In order to attract appropriately educated and talented candidates for the position of director, it is necessary to provide some assurance that the appointment will not be subject to political vagaries in a matter of weeks or months.

Why is the appointment not synchronous with the Governor's term of office? The individual who heads the department of education will have to focus on creating educational opportunities and ultimately career opportunities for all of this state's students. That will require the individual to work collaboratively with the Governor, the Legislative Assembly, and the people of this state in building a vision of the future, in

ensuring sufficient financial support for all levels of education, in establishing standards that will give students the skills and knowledge necessary to compete nationally and internationally in any field or career they choose, and most importantly, in being accountable for results. These goals are apolitical and should remain in place regardless of the party to which the Governor belongs.

Potential statutory concepts. Ultimately, the selection of the individual to head the department of education falls to the Governor. However, the North Dakota Century Code could include provisions requiring the Governor to establish a search committee and perhaps reduce the number of potential candidates from which the Governor might make the ultimate selection.

DIRECTOR OF THE DEPARTMENT OF EDUCATION - DUTIES AND POWERS

House Concurrent Resolution No. 3046 directs that the director of the department of education serve as the chief executive officer of the department and be committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.

Potential statutory concepts. Just as with any other agency head, the duties and powers of the individual in that position should be articulated in the North Dakota Century Code. While many of the director's duties and powers would be directly transferable from either the Superintendent of Public Instruction or the State Board of Higher Education, the Legislative Assembly might wish to take this opportunity and determine whether the duties and powers are adequately articulated and appropriate to achieving the desired results.

In the case of the Superintendent of Public Instruction, the statutory duties established in Section 15.1-02-04 include:

- Supervising the provision of elementary and secondary education to the students of this state;
- Supervising the establishment and maintenance of schools and providing advice and counsel regarding the welfare of the schools;
- Supervising the development of course content standards;
- Supervising the assessment of students;
- Serving as an ex officio member of the Board of University and School Lands;
- Keeping a complete record of all official acts and appeals;
- Determining the outcome of appeals regarding education matters, as appropriate; and
- Directing school district annexation, reorganization, and dissolution and employing and compensating personnel necessary to enable the State Board of Public School Education to carry out its powers and duties regarding school district annexation, reorganization, and dissolution.

Section 15-10-17 sets forth the following powers and duties of the State Board of Higher Education:

- Appointing and removing the president or other faculty head and the professors, instructors, teachers, officers, and other employees of the institutions and fixing their salaries;
- Authorizing the employment of law enforcement officers at the institutions;
- Setting tuition and fees;
- Establishing a retirement program;
- Determining purchasing policies;
- Establishing an early retirement program for faculty and officers of the board;
- Adopting rules to protect the confidentiality of student records; medical records; and, consistent with Section 44-04-18.4, trade secret, proprietary, commercial, and financial information;
- Authorizing and encouraging North Dakota University System entities to enter partnerships or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer; and
- Adopting rules promoting research, encouraging development of intellectual property and other inventions and discoveries by University System employees, and protecting and marketing the inventions and discoveries.

Should the director of the department of education be responsible for appointing university presidents and other faculty members and fixing their salaries? Precedent exists in that the director of the Department of Human Services is required to "appoint a superintendent for each of the institutions under its control, except for the state hospital, where the supervising officer shall appoint a superintendent in consultation with a state hospital governing body." (see Section 25-01-03(1)). Search, interview, and appointment processes could be included in the North Dakota Century Code. However, as the Century Code becomes more prescriptive, there is an equal loss of flexibility. For example, the makeup of a search committee charged with considering presidential candidates for either of the two flagship institutions might not be the ideal makeup of a search committee considering presidential candidates for one of the state's community colleges.

Should the director of the department of education be responsible for setting tuition and fees? Because the department of education would be an executive branch agency, statutorily requiring it to set the rate of tuition and establish fees could be

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viewed as an unlawful delegation of legislative authority.

EDUCATIONAL COUNCIL

House Concurrent Resolution No. 3046 would establish an 11-member educational council. Each member must be appointed by the Governor, with the advice and consent of three from among the following: the majority and minority leader of the House of Representatives, the majority and minority leader of the Senate, and the President Pro Tempore of the Senate.

The council must be a balanced and representative group of individuals who by training and experience each have a profound knowledge and understanding of the purpose and mission of education at all levels and collectively understand the function of education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.

Why is there a constitutionally created advisory board? Instantaneous global communications, increased public consciousness and awareness, and diverse values are shaping the 21st century and requiring rapid changes in all organizations and institutions. Education is not exempt.

In order to ensure that our educational delivery system can meet the demands of the 21st century, it is necessary to provide our decisionmakers with access to insightful individuals who are knowledgeable not only about education but about the global environment in which we now operate and who are equally able to assist in positioning our elementary and secondary schools and our institutions of higher education so that they are able to address the needs of our students and the needs of our state both in the short term and in the longer term.

How will the board be selected? Beyond requiring that the advisory committee consist of a balanced and representative group of individuals who understand the purpose and mission of education and bring to their function a broad collective understanding of agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions, the Governor is free to select those individuals who are best suited to provide the necessary guidance and insight. For this reason, House Concurrent Resolution No. 3046 does not require the inclusion of individuals by virtue of their public office or their private position.

With a three-year staggered term and a limitation on two consecutive terms, the Governor will also be able to ensure that the expertise of the board is reflective of the issues being addressed.

The only limitation on the Governor is that an appointee must be consented to by three from among the following: the majority and minority leader of the House of Representatives, the majority and minority leader of the Senate, and the President Pro Tempore of the Senate.

Prepared by the North Dakota Legislative Council
staff for Representative Carlson
March 2011

#1, pg 7

DEPARTMENT OF PUBLIC INSTRUCTION AND NORTH DAKOTA UNIVERSITY SYSTEM EXECUTIVE PAY

DEPARTMENT OF PUBLIC INSTRUCTION

The 2011-13 biennium executive budget recommendation for the Department of Public Instruction provides funding of $1.695 billion, of which $902.1 million is from the general fund, $347.8 million from federal funds, $341.8 million from the property tax relief sustainability fund, $101.6 million from the state tuition fund, and $1.3 million from other funds.

The 2011-13 biennium executive budget recommendation for the Department of Public Instruction includes $14.4 million, of which $4.7 million is from the general fund, for salaries and wages. The organizational chart for the department, attached as Appendix A, identifies the directors and assistant directors of the agency. The chart below identifies these positions and the 2011-13 biennium salaries and fringe benefits for each position:

Administrative Position	Total Position Funding Included in the 2011-13 Executive Recommendation (for 2 yrs.)
State Superintendent	
State superintendent	$256,226
School Finance	
Director	185,640
Education Improvement	
Assistant superintendent	259,980
Special education director	196,448
Standards and achievement director	211,437
Title I director	210,238
Administrative Services	
Division manager	209,603
Fiscal management assistant director	174,251
Human resources assistant director	165,967
Management information systems director	164,480
Education and Community Support	
Assistant superintendent	212,413
Child nutrition and food distribution director	172,328
Coordinated school health and adult education director	188,036
Counselor programs assistant director	143,543
School approval and accreditation director	172,476
Total - 15 full-time equivalent positions	$2,923,066

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE

The 2011-13 biennium executive budget recommendation for the North Dakota University System office includes funding of $103.9 million, of which $100.2 million is from the general fund and $3.7 million is from other funds.

The 2011-13 biennium executive budget recommendation for the University System office includes $5.2 million, of which $5.1 million is from the general fund, for salaries and wages. In addition, the University System office has a federally funded college access grant position and plans to add a director of internal audit that is not included in the executive recommendation. The University System has a continuing appropriation for its special funds; therefore, positions paid from special funds are not included in the amounts recommended in the executive budget. For the 2011-13 biennium, the college access grant position is estimated to receive $128,266 of salary and benefits from federal funds, and the director of internal audit position is estimated to receive $269,523 for salary and benefits from assessments charged to each campus. The table below lists major administrative positions included in the 2011-13 executive recommendation or identified above for the University System office and the amount of funding provided for the salary and benefits of each position:

#1, pg 8
2 for 4 year

Administrative Position	Total Position Funding Included in the 2011-13 Executive Recommendation
Chancellor	$609,328[1]
Vice chancellor for administrative affairs	428,198
Vice chancellor for academic and student affairs	439,116
Vice chancellor for strategic planning	395,906
General counsel	330,943
Director of finance	272,174
Director of internal audit and risk assessment[2]	269,523
Director of financial reporting	226,601
Director of financial aid	199,794
Director of public affairs	193,209
Director of articulation and transfer	191,205
Office manager	168,367
Director of Higher Education Consortium for Substance Abuse Prevention	164,600
Director of the college access challenge grant[3]	128,266
Director of state approving agency	124,858
Total - 15 full-time equivalent positions	$4,142,088

[1]Includes an annual housing allowance of $20,000 and an annual vehicle allowance of $11,000.

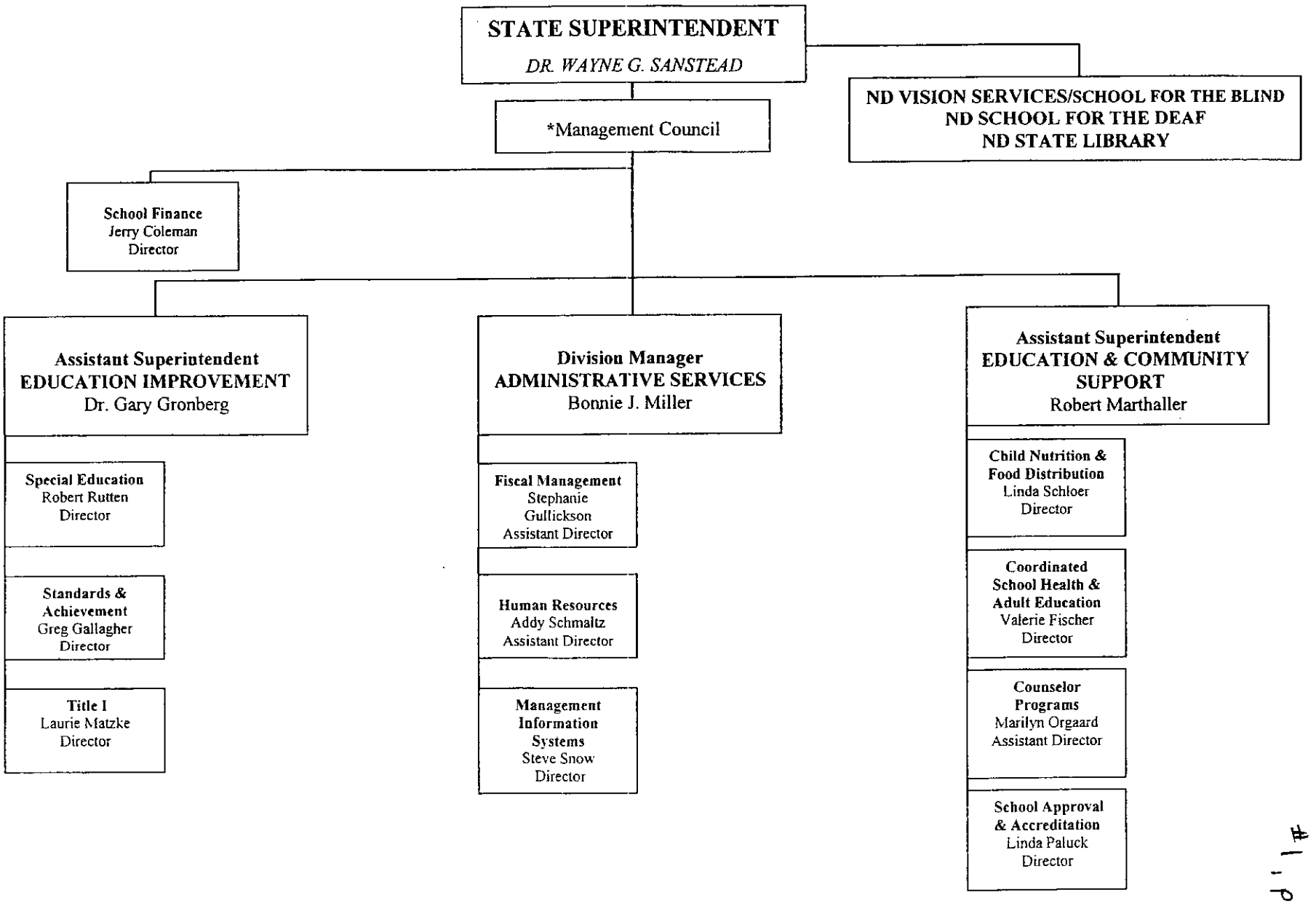
[2]Position was not included in the 2011-13 executive budget recommendation but is expected to be added by the University System office for the 2011-13 biennium and will be paid from assessments charged to each campus.

[3]Position is federally funded and not included in the executive recommendation. The University System has a continuing appropriation for special funds.

Attached as Appendix B is a description of all University System office positions.

ATTACH:2

NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION
ORGANIZATIONAL CHART – MARCH 2010



*Management Council consists of the State Superintendent, the Assistant Superintendents, the Administrative Services Division Manager, and with the Human Resources Assistant Director serving as advisor.

APPENDIX A

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NDUS Office Staffing Overview

Chancellor serves as the chief executive officer of the Board and chief executive officer of the University System.

Vice Chancellor for Academic and Student Affairs oversees all academic and student affairs functions within the North Dakota University System through policy development, implementation management and multi-agency coordination.

Vice Chancellor for Administrative Affairs oversees all administrative, financial, and information technology functions within the North Dakota University System through policy development, implementation management and multi-campus coordination in the following areas: financial, accounting, budgeting, purchasing, capital construction, audit, financial aid, human resources, and information technology.

Vice Chancellor for Strategic Planning and Executive Director of the College Technical Education Council (CTEC) is responsible for developing and implementing a comprehensive strategic plan, and related accountability; coordination of Roundtable on Higher Education activities, in cooperation with legislative leadership; focuses on statewide workforce issues; and, coordination for the two-year colleges in the University System through CTEC.

CIO is responsible for providing overall leadership, vision, strategy, management, and accountability for systemwide information technology services. In carrying out these responsibilities, the CIO must ensure that the infrastructure and applications provide an environment that is cost-effective and responsive to student needs and addresses the mission of the NDUS and its institutions. *(Currently a contract position)*

General Counsel/SBHE Exec. Sec. provides a broad range of legal services to the SBHE, chancellor and chancellor's staff (including SITS employees located in Grand Forks and Fargo) and 9 of the 11 NDUS colleges and universities and their officers and employees (NDSU and UND have separate legal counsel offices), including legal research and advice, drafting or reviewing legislation, policies and procedures, drafting and reviewing all contracts and other legal documents for the system and 9 institutions, legal or policy analysis, assistance with HR functions and advice regarding personnel matters, representation of institution officers at disciplinary and other hearings and responsibility for loss control and risk management functions. The General Counsel also serves as SBHE Secretary (a constitutionally-mandated position).

Director of Internal Audit and Risk Assessment is responsible for managing and conducting financial, operational, compliance and IT audits to assess the adequacy and effectiveness of systems, processes, and controls within the NDUS to ensure accuracy of financial records and efficiencies of operations. Evaluate and manage risk assessment and assist in the design and administration of related policy and procedure.

Director of public affairs and marketing is responsible for coordinating, preparing and disseminating information to the public, the legislature, the media, prospective students and other constituencies of the State Board of Higher Education and the North Dakota University System.

Director, College Access Challenge Grant, fosters partnerships aimed at increasing the number of low-income students prepared to enter and succeed in college through administration of a federal grant.

Asst. Director of Financial Aid assists the Director of Financial Aid in the general administration of student financial aid programs administered by the NDUS Office, especially the Career/Technical Education and Academic Scholarship Program and STEM Loan Forgiveness program, in compliance with state and federal laws and regulations.

Financial Aid Assistant provides support in administering several financial aid programs administered by the North Dakota University System Office in compliance with state and federal regulations.

Secretary/Legal Asst. provides secretarial support to the Vice Chancellor for Strategic Planning/ Executive Director of the College Education Technical Council (CTEC) and General and Assistant General Counsel.

Secretary/Computer and Network Support provides computer support for the NDUS Office and members of the SBHE, assists the office manager in keeping the web site updated, and assists the director of public affairs with major publications produced by the office.

Secretary/Academic and Articulation-Transfer Assistant provides secretarial support to the Vice Chancellor for Academic and Student Affairs, Director of Articulation and Transfer and the Academic Affairs Associate/Director of Research.

Secretary, Tuition Reciprocity Processor provides high-level support to the Vice Chancellor for Administrative Affairs, provides assistance to the Coordinator of Multicultural Education on the ND Indian Scholarship Program, and is responsible processing reciprocity applications.

Administrative Secretary to SBHE provides secretarial support to the State Board of Higher Education (SBHE), SBHE Subcommittees, Chancellor's Cabinet and NDUS Office staff.

Office Accountant is responsible for the administration and maintenance of office accounting, payroll, financial and budget monitoring for the North Dakota University System Office.

Graduate Research Assistant for Project ND Partners in Prevention is responsible for all phases of research project, administration of survey and/or evaluation materials and identification of evidence-based events and/or delivery of programming with participants for this grant project (0.5 FTE position).

Prepared by the North Dakota Legislative Council staff

February 2011

#1, pg 12

REORGANIZATION OF EDUCATIONAL ADMINISTRATION IN NORTH DAKOTA

TALKING POINTS

Multiple Jobs

An individual used to graduate from college, take a job with a company, and expect to receive a gold watch from that company upon retirement. Today, the average commitment to a particular job is not 40 years, but 15 to 36 months.

Continuous Retraining

Today, we operate in a knowledge-based economy. Students have to be well-educated even for entry-level jobs. As they move through their careers or transition through career changes, they will need to be retrained continuously.

Different Type of Student

Increasingly, many students are no longer willing or able to commit 4+ years to a classroom away from home.

Four-Year Baccalaureate Versus Certificates

In today's outcome-oriented world, standard baccalaureate degrees are less sought after than they were even a few short years ago. They are being replaced by certificate programs. Employers are defining the knowledge base and the skill-sets that they need in their employees and they are looking for demonstrable proof that an individual has acquired that knowledge base or skill-set. The certificate is that proof.

Schools - Intellectual Space Not Buildings

Schools at all levels used to be rooted in their communities. Today, largely because of transportation and communication, schools are state, regional, national, and even global in scope. Schools are no longer a specific set of buildings or physical space, but rather intellectual space.

Manage Schools Like Business

Globalization is driving businesses to restructure and reengineer themselves in order to be competitive in the marketplace. So too must education.

Educational institutions, whether elementary and secondary or higher education, are no longer isolated nor insulated. They need to be managed using modern day business principles that include clearly articulated policies, a comprehensible management structure, freedom from duplication, fiscal accountability, and anticipated results.

Responsiveness and Accountability

Education must be responsive to the needs of students and the wishes of the workplace. It must be responsive to competition within the 21st century marketplace, and without exception, it must be accountable to the taxpayers of this state.

Cost

The people of North Dakota have always placed a high value on education and continue to do so. In fact, the current state-level expenditures for elementary and secondary education, as well as higher education, amount to $_____ for every man, woman, and child in this state. That gives the people of North Dakota the right to expect certain things in return. These include:

- Educational opportunities that are second-to-none and include access to gifted instructors, world-class curricula, and cutting-edge technology.
- Educational opportunities that are flexible in their form and delivery. (While this might include continued use of the traditional classroom and the traditional school year, it will most certainly include technology-based learning that can be delivered to a student at the time and in the manner that best meets the student's needs.)
- Educational opportunities that are created and administered within a governance structure that is accountable to each and every North Dakotan.

Why Is This Constitutional Resolution Being Introduced?

- Not to criticize the past, but to set the stage for the future.
- To ensure that the values we have placed on education will continue to create timely opportunities for our children and grandchildren.
- During the last 100 years, American ingenuity, coupled with American education, has taken us from Model Ts to men on the moon, Mars landings, and Motorola droids--we cannot even begin to imagine the world of the next generation. We can, however, create an environment in which education will be governed with a view to the future--one in which North Dakota students of all ages will have the ability to thrive intellectually, acquire the knowledge and skills necessary to meet the demands of their everyday lives, and their civic and personal responsibilities in a 21st century world.

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Why Can't Our Current Governance Structure Continue to Lead Education in the 21st Century?

- The current system of educational governance was established when the challenges of transportation and communication necessarily limited what was possible.
- Learning was defined by seat time and it was segmented into two phases--the first being the elementary and high school grades and the second being higher education.
- To this day, the two systems remain separate and apart.
- Each maintains its own focus with respect to its self-defined responsibilities.
- Neither views cooperation as being in its best interest and neither encourages academic or fiscal accountability.
- We are more than a decade into the 21st century.
- We are spending more on education than ever before.
- In response to a lawsuit, we have explored equity and adequacy with respect to elementary and secondary education (see 2007 Senate Bill No. 2200 and 2009 Senate Bill No. 1400) and we are now poised to begin discussing various methods of enhancing funding for our existing system of higher education (see 2011 Senate Bill No. 2300).
- We are not, however, willing or prepared to talk about what education could be and should be.
- The principal focus of our education system should not be stagnant self-perpetuation.
- Representatives of elementary and secondary education must be directed to work in concert with representatives of higher education so that the entire spectrum is one seamless, efficient, effective, responsive, and productive system that is committed to preparing and supporting our students and our citizens in all they elect to do.
- The dual system of educational governance under which we currently operate, with its independent elections and its independent appointments, does not have the ability to bring about such a result.
- A unified system of educational governance, which is both gubernatorially and legislatively accountable, will be able to accomplish this.

Prepared by the North Dakota Legislative Council
staff for Representative Carlson
March 2011

#1, pg 14

ONE-TIME FUNDING FOR THE DEPARTMENT OF PUBLIC INSTRUCTION AND NORTH DAKOTA UNIVERSITY SYSTEM

The table below details one-time funding provided to the Department of Public Instruction for the 2007-09 and 2009-11 bienniums and one-time funding included in the 2011-13 executive budget recommendation. The Legislative Assembly began designating funding as "one-time" in the 2007-09 biennium.

Public Instruction - One-Time Funding			
	General Fund	Other Funds	Total
2007-09 biennium			
None			
Total	$0	$0	$0
2009-11 biennium			
State automated reporting system (STARS) school data collection system rewrite	$500,000		$500,000
North Dakota Geographic Alliance	226,000		226,000
National board certification fund	500,000		500,000
Develop personal finance schoolbook	25,000		25,000
Total	$1,251,000	$0	$1,251,000
2011-13 executive recommendation			
STARS school data collection system rewrite	$384,000		$384,000
Education Standards and Practices Board approval and accreditation mainframe rewrite	200,000		200,000
Total	$584,000	$0	$584,000

The table below details one-time funding provided to the University System for the 2007-09 and 2009-11 bienniums and one-time funding included in the 2011-13 executive budget recommendation. The Legislative Assembly began designating funding as "one-time" in the 2007-09 biennium.

University System - One-Time Funding			
	General Fund	Other Funds	Total
2007-09 biennium			
Northern Tier Network infrastructure (permanent oil tax trust fund)		$2,773,800	$2,773,800
ConnectND system	$2,300,000		2,300,000
Common information system pool	420,000		420,000
Deferred maintenance	10,893,033		10,893,033
Capital projects (general fund)	13,808,235		13,808,235
Capital projects (permanent oil tax trust fund)		4,809,515	4,809,515
Campus initiatives	960,800		960,800
Nursing Education Consortium	200,000		200,000
Total	$28,582,068	$7,583,315	$36,165,383
2009-11 biennium			
Capital projects and master plan development (general fund)	$39,008,248		$39,008,248
Capital projects (permanent oil tax trust fund)		$10,400,000	10,400,000
Deferred maintenance	20,000,000		20,000,000
University of North Dakota School of Medicine and Health Sciences electronic medical records project	225,000		225,000
Total	$59,233,248	$10,400,000	$69,633,248
2011-13 executive recommendation			
Capital projects (general fund)	$37,651,000		$37,651,000
Capital projects (permanent oil tax trust fund)		$2,320,000	2,320,000
Special assessment payments	4,302,624		4,302,624
Mental health services	156,000		156,000
Forest Service - Emerald ash borer program	250,000		250,000
Total	$42,359,624	$2,320,000	$44,679,624

DEPARTMENT OF EDUCATION

"TAKEN FROM FLORIDA LAW"

To achieve within existing resources true systemic change in education governance by establishing a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for our citizens.

To promote enhanced academic success and funding efficiency by centralizing the governance of educational delivery systems and aligning responsibility with accountability.

To provide consistent education policy focusing on the needs of those receiving education, not those providing education.

To provide substantially improved articulation across all educational delivery systems while ensuring that nonpublic education institutions and home education programs maintain their independence, autonomy, and nongovernmental status.

To provide for devolution of authority to the schools, community colleges, universities, and other education institutions that are the actual deliverers of educational services in order to provide student-centered education services within the clear parameters of the overarching education policy established by the Legislature.

The guiding principles new education governance are:

(a) A coordinated, seamless system for kindergarten through graduate school education.
(b) A system that is student-centered in every facet.
(c) A system that maximizes education access and academic success.
(d) A system that safeguards equity.
(e) A system that refuses to compromise academic excellence.

Attachment #2

StateNotes

P-16, P-20

Education Commission of the States • 700 Broadway, Suite 810 • Denver, CO 80203-3442 • 303.299.3600 • Fax: 303.296.8332 • www.ecs.org

P-20 Governance

By Jennifer Dounay Zinth

January 2011

Better coordination among higher education, K-12 and early learning, as well as reducing bureaucracy and streamlining services for taxpayers are of concern to many state policymakers. To address these concerns, some states have consolidated most or all authority for K-12 and postsecondary education (and in some cases, early learning) in a single entity.

Full Consolidation

Florida (includes "P")

Constitutional amendments approved by voters in 1998 authorized the reorganization of Florida's education system. These changes were codified in 2000 as the Florida Education Governance Reorganization Act of 2000. The act requires the governor to appoint a seven-member state board of education with authority for education from pre-kindergarten through graduate school education, as well as authority to appoint the commissioner of education. Effective January 7, 2003, the act additionally eliminated numerous commissions and boards (including the Board of Regents) and reassigned their authority to the Florida Board of Education. The 2002 rewrite of the education code created the K-20 Education Code. However, a successful 2002 constitutional amendment created the **Board of Governors to oversee the State University System**; these changes were codified in 2003 and subsequent legislation.

Subsequent disputes over the relative authority of the Legislature and the Board of Governors were resolved under a "State University System Governance Agreement" entered into between the legislative leadership and the Board of Governors on March 24, 2010. (A copy of the agreement is available from ECS upon request.) The agreement provides a framework for the collaborative exercise of joint authority by the Board and the Legislature for the State University System of Florida in accordance with their respective state constitutional responsibilities.

Idaho (no "P")

The Idaho State Board of Education oversees both K-12 and postsecondary education (K-20).

New York (includes "P")

Statute charges the education department with "the general management and supervision of all public schools and all of the educational work of the state, including the operations of The University of the State of New York and the exercise of all the functions of the education department, of The University of the State of New York, of the regents of the university and of the commissioner of education and the performance of all their powers and duties[.]" Elsewhere in statute, the commissioner of education is identified as "the chief executive officer of the state system of education and of the board of regents" and directed to "enforce all general and special laws relating to the educational system of the state and execute all educational policies determined upon by the board of regents."

Pennsylvania (includes "P")

The Pennsylvania State Board of Education, by statute, has authority over P-12 and postsecondary education. According to the Pennsylvania Department of Education Web site, "The Board is comprised of 22 members, ten of whom serve as the Board's Council of Basic Education and ten of whom serve on the Board's Council of Higher Education.... The 22 members of the board also serve as the State Board for Vocational Education." The Secretary of Education leads the Department of Education and serves as the state board's chief executive officer.

Partial Consolidation

Iowa (includes "P")

The state board of education oversees early childhood, K-12, community colleges, and all teacher and administrator preparation programs in the state.

Michigan (includes "P")

According to the state constitution, "Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education[.]"

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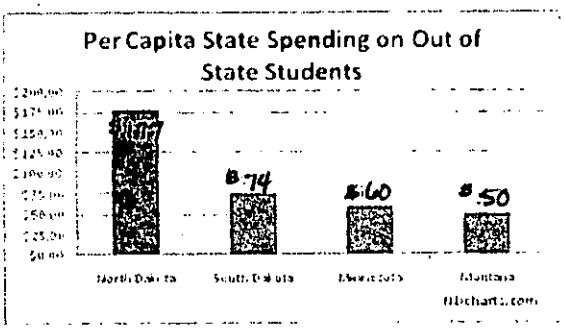
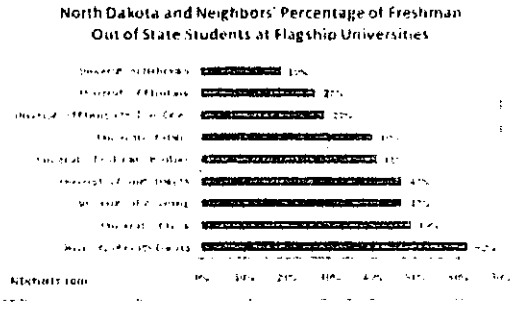
Equipping Education Leaders, Advancing Ideas

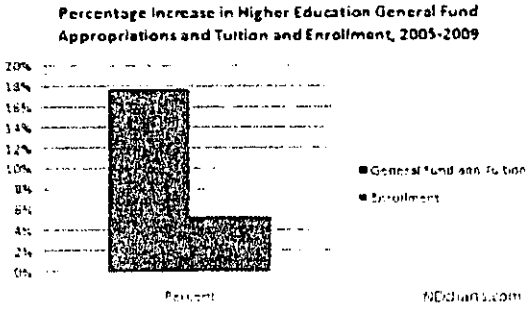
Attachment #3,

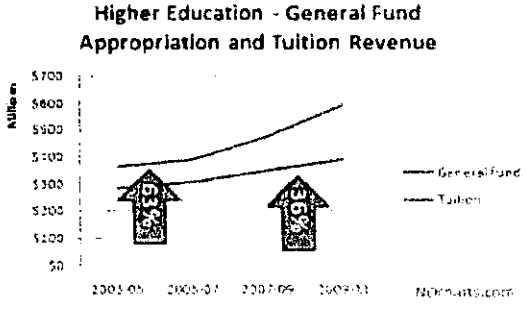
Testimony of Lynn Bergman, HCR 3046, March 23, 2011 2:15 PM

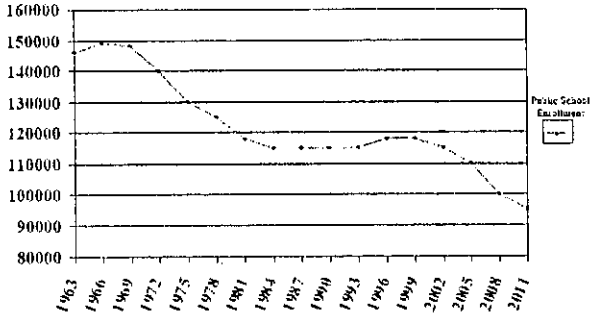
Background Information:











North Dakota Public School Enrollment 1963-2011

Changes in K-12 Education over the last 10 years

	2000	2009	Change	Percent
K-12 Administration Employees	552*	554	+2	+0.36%
K-12 Instructional Employees	10,382	10,671	+289	+2.78%
K-12 Other Employees	3,693	3,878	+186	+5.04%
K-12 Public School Students	105,993	92,556	-13,440	-12.68%
K-12 School Districts	231	185	-45	-19.57%

* 2001-2002 was oldest data available on DPI website

Higher Education

Per capita North Dakota spending on out-of-state students is currently about $177. The contrasting numbers for South Dakota and Minnesota are $74 and $60. So North Dakota spends 2.4 times as much per capita as South Dakota and 3 times as much per capita as Minnesota on out-of-state students.

62% of freshman at UND are out-of-state students as compared with 47% and 29% for USD and the U of M respectively.

North Dakota higher education received about 18% more revenue from the general fund and tuition combined from 2005 to 2009, while enrollment increased about 5%. So spending is increasing at a rate 3.6 times enrollment.

North Dakota general fund appropriations to higher education increased 63% between 2003 and 2011, while tuition revenue rose 36% over the same time period, both far exceeding the rise in the inflation rate (Midwest CPI-U) of 18.7%.

North Dakota has more four-year public colleges in relation to the population than any other American state, including such other low population density states as Montana, Wyoming, South Dakota and Alaska.

Summarizing, we spend 2.4 to 3 times more per capita than our neighbors on out-of-state students, spending is increasing 3.6 times increases in enrollment and 3.4 times the rate of inflation, and tuition is increasing at near twice the rate of inflation. And we have more four year institutions per capita than any other state.

K-12 Education

K-12 enrollment in North Dakota in the mid 1960's was near 150,000. Projected K-12 enrollment for the 2010-11 school year is about 95,000 students. So we have about 37% less K-12 students than we did in the mid 1960s.

The number of administrators has held constant at just over 550 while enrollment fell from around 118,000 to around 95,000 during the last decade.

Summarizing, during last decade, the number of administrators has held constant while the number of students enrolled fell by 20%.

Testimony:

Chairman Koppelman & members of the House Constitutional Revision Committee.

My name is Lynn Bergman. I am a UND alumni and a retired civil engineer residing in Bismarck. I am testifying today as a taxpaying citizen. I first would like to place some emphasis on North Dakota higher education and K-12 economic parameters.

North Dakota Education Facts

Regarding higher education in North Dakota, we spend 2.4 to 3 times more per capita than our neighbors on out-of-state students, spending is increasing 3.6 times increases in enrollment and 3.4 times the rate of inflation, and tuition is increasing at 2 times the rate of inflation.

Regarding K-12 education in North Dakota, during last decade, the number of K-12 administrators has held constant while the number of students enrolled fell by 20%.

These facts are troubling to me and should be of concern to every taxpayer in North Dakota. *They point out serious economic mismanagement of both K-12 and higher education. So I applaud this effort to change the status quo regarding the administering of education services to the citizens of North Dakota. And I have a few suggestions to make this ballot measure more palatable to the legislature as a whole.*

Economic Mismanagement of Education in North Dakota

The causes of the economic mismanagement are not quite so clear and transparent as the facts I have shared with you.

The "structural" problems inherent in North dakota's education system begin, I believe, with the oligarchic nature of the Board of Higher Education and the excessive tenure of the Superintendent of Public Instruction.

Board of higher education members are appointed by the governor, are generally re-appointed when they desire to continue on the board, and are curiously immune to removal by the governor. Three members are attorneys, two are professors, one is a student representative, and one is a realtor. Only two of the members have legitimate management experience, one as a bank administrator and another with the North Dakota National Guard. So it should be to no-one's surprise that the board has tended to ignore big picture issues such as extravagant out-of-state student subsidies, tuition increases that greatly exceed the cost of living, and excessive spending on brick and mortar, as perhaps best exemplified by the competition between the two research universities to build the most opulent "presidential palace".

While the current structure of the Board of Higher Education is likely intended to provide direct representatives of the "people of North Dakota" a voice in the affairs of higher education, I believe that the structure only provides a voice to the "higher education oligarchy". Members of the board are "courted" by the "education oligarchy" in a manner that would be seen as "unseemly" to most ordinary citizens of our great state.

The Superintendent of Public Instruction, while an elected position, has been filled by the same individual for 26 years.

A Taxpayer's Suggestion for Structural Change

It would be very beneficial to good government if ALL communications between the governor and his cabinet, the university system chancellor, and the university system presidents would be public. For that reason alone, I believe that the current outmoded "citizen representation" on the Board of Higher Education should be abolished. But it is at this point that I part ways with this legislation.

An Updated Structure for the Board of Higher Education

I believe a far more effective and accountable Board of Higher Education would consist of each of the university system presidents as directed and coordinated by the chancellor of the university system. Meetings would be quarterly at a minimum, preferably monthly, and very open to the public, providing space for up to 50-100 interested citizen observers. Detailed committee assignments could be assigned to the appropriate subordinates of the system presidents either working together or individually, depending on circumstances.

This transformation from a "citizen board" to an "optimally accountable board" would, I believe, promote the transparent and open discussion of issues such as costs, growth, and viability of individual educational programs as well as very public discussions toward paring down "wants" and "needs" to what taxpayers desire...only the bare "essentials" necessary to provide the highest quality of education that is in line with the expenditure of a minimum of our state's fiscal resources while limiting tuition increases to the cost of living.

I believe the Presidents of the two research universities to be overpaid under the current system but that they would likely earn their current pay with the new responsibility to replace the citizen members of the current board of higher education, holding themselves up to public scrutiny in a very transparent public format.

Regarding the chancellor position, I do not believe this position to be best served by a lawyer. The pay provided the position should allow the selection of the highest level of education administrator to oversee the new board consisting of the presidents of the various institutions. Over the years, I would envision the chancellor position being filled by the most effective and respected of the individual institution presidents on the board.

I also believe the Department of Public Instruction should not be "over politicized" as it has been for so many decades, causing undue polarity between school boards and teachers. So I do agree with dissolving the elected superintendent of public instruction position and making the job a cabinet level one with direct accountability to the governor and in direct partnership with the higher education chancellor.

With these few changes to this proposed ballot measure... and with the passage of separate legislation to prohibit the use of state resources "in opposition to" or "in support of" ballot measures, I believe that North Dakotans will welcome these changes in the methods of administration of education in our state. Thank you for your attention.

Attachment #4

NORTH DAKOTA
TAXPAYERS ASSOCIATION

Subject: Dept. of Ed Consolidation **Bill: HCR 3046**

Testimony Provided By: Dustin Gawrylow **Lobbyist #160**

Presented To: House Ed and Con.Rev Joint Committee **March 24th, 2011**

To be frank, the North Dakota University System suffers from two critical defects which have historically hindered it: mission creep and the lack of management continuity.

For decades the Board of Higher Ed has been a rubber stamp to the desires and wants of those within the university system. It is my opinion that the role of the State Board of Higher Education is no different than any other executive branch agency – which is to implement the policies and intent of the legislature, not of the agency.

This rubber-stamping process has resulted in a constant and repetitive duplication of programs and services - situation that goes back decades, but one that has never been addressed for fear of upsetting the status quo.

While the constitution gives the Board of Higher Ed clear autonomy, the legislature as always plays the policymaking, oversight, and appropriation role in the process. The degree to which the legislature has chosen to apply itself to the university system has changed over the years. In the late 90's, the legislature handed off much of the policymaking to the Education Roundtable, while simply fulfilling the appropriations role.

This blank check approach to governance has failed miserably.

Lately, members of the Board and university system officials have taken to questioning the character of the governor when it comes to the Fighting Sioux debate, and the motives of the legislature on shifting funding priorities.

In many ways, the Board of Higher Education has gotten too big for its britches.

The legislature must take action to bring the Board and the system under control and return to the core focus which should be EDUCATION.

This refocusing will hopefully reduce the need for Board and university system officials to attack and question the credibility of legislators. At some point the legislature will have to do something about the situation in Higher Ed. Whether this bill is that something, I do not know.

The North Dakota Taxpayers' Association is a membership-funded advocacy group designed to get taxpayers a voice in legislative matters. NDTA is 100% in-state funded, and counts over 500 North Dakotans as current members. NDTA is the only organization with a full time lobbyist dedicated to advocating on behalf of the taxpayer.

North Dakota Taxpayers' Association
NDTaxpayers.com • 1720 Burnt Boat Drive Suite 102 • Bismarck, ND 58503• (701) 751-2530

NORTH DAKOTA
TAXPAYERS ASSOCIATION

The situation has been snowballing for many years, and has now reached a level that could be called insubordination with regard to how it treats legislators and the will of the legislature.

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Attachment #5

Chairman Koppelman & members of the House Constitutional Revision Committee.

My name is Tammy Ibach. I am a graduate of the University of North Dakota and today I am here representing more than 3,000 tax paying citizens across the state that are active voices within the Citizens for Responsible Government organization.

Representative Carlson's intentions to mandate that the Department of Higher Education and Pubic Instruction synchronize their missions is worthy of discussion and I believe this is the method of thinking we need to embrace to move the State's education system forward. With all the controversy lingering on the State Board of Higher Ed, I expect this committee would welcome ideas on how to resolve the controversy and address what needs addressing. For many people, change is a good thing and today presents the opportunity for change.

For all of us to sit back and believe the Board of Higher Education or the Department of Public Instruction are functioning well in their original format is short sightedness and we are doing a great injustice to the future of our entire education system and to our children. As the mother of a 9, 11 and 23 year old who will be attending college in the fall upon completion of his tour in Afghanistan as a Corporal in the U.S. Marines, we view our education system as an option and not an entitlement.

While none of us are perfect and perfectionism is not something we should strive for in education, we should allow the citizens of North Dakota to have an active voice in education. Let's admit it; the primary problem that has driven our legislature to look at alternative options in the structure of education is the State Board of Higher Education and frivolous spending and lack of oversight that has occurred within the State Board of Higher Education. Instead of proactively seeking creative and fiscally responsible solutions, the Board has proven itself to be reactionary, continually picking the pockets of North Dakota payers without having to provide a strategic vision that adequately provides an acceptable return on our investment. In the real world, that is a business model that is sure to fail. And we're seeing that now. I do not need to use this time to read you all the headlines or sound bytes from talk radio – you and this audience are well informed.

You have heard many numbers today and I wish to reiterate only a few. According to the North Dakota Legislative Council's quick reference guide called "2010 North Dakota Financial Facts" general fund spending for higher education has grown from $364 million in 2003-05 to $593 million in 2009-11, an increase of 62% in just six years. In that same time, tuition collections have increased from $258 million to $387 million, an increase of 50%. Nearly 40% of students attending colleges and universities in North Dakota are from out of state and are highly subsidized by North Dakota tax paying dollars.

If we believe our higher education system is so precious and valuable that our legislators would vote for a 62% increase within a six year time frame, we should market the systems as a precious metal and ask for tuition rates that meet precious metal standards. If our university system is so valuable, why do we discount tuition for out of state students? Dr. Dennis Albers in the UND Business School says it best in his classroom, "if there is such a demand for a product, you need it to increase production or increase the price. We have falsely increased the demand to fill the capacity at the cost to the ND taxpayer. It is wrong.

As a parent who has embraced technology in our household, I seriously question the need for more chairs, more beds or additional brick and mortar at any college or university in the state. We are telling our children to customize their education – find the best professor and the best class and take it on line. Perhaps one day we can customize a degree. Many parents I know have a household saying, if you need to be at your game at 6pm, you best have your butts in the seat by 5:45 – makes me wonder how many actual butts in seats we have inside our classrooms or are those seats empty and butts are in seats in the comforts of a students home at a time that is convenient for the student.

It is time for an intervention. Lawmakers have watched as the SBHE and University officials ignore their concerns, and then criticize and even ridicule those very lawmakers who authorize their budgets. At some point, lawmakers and the public at large have to realize that what we have been watching is high-level and systematic insubordination.

Do I stand before you today with a perfect solution? No. What all of us in this room do know is this, it is time for an intervention. It is time to think and it is time for a change. The Citizens for Responsible Government are asking for it and so are the ND taxpayers.

TESTIMONY ON HCR 3046 Attachment #6

Constitutional Revision Committee
March 23, 2011
By Dr. Wayne G. Sanstead, State Superintendent
701-328-4572
Department of Public Instruction

Good afternoon Chairman Koppelman and members of the Constitutional Revision Committee and Chairman Kelsch and members of the House Education Committee.

For the record, my name is Dr. Wayne G. Sanstead and I am the State Superintendent of the North Dakota Department of Public Instruction. I am here to oppose HCR 3046 and to address my concerns relating to K-12 education in North Dakota as they pertain to HCR 3046.

Importantly HCR 3046 fails to identify the need to change the constitution or to provide an explanation of what it seeks to correct. I am unaware of any request from the Office of the Governor, the Board of Public School Education, or the Board of Higher Education to reorganize all educational agencies under a single director, appointed by the governor and "guided" by an educational council comprised of high-level legislator vetted governor appointees. In fact, more than any other time in our history, DPI along with other state educational agencies, including Higher Education, Education Standards and Practices, and the Department of Career and Technical Education, are working closely with the Joint Boards of Education to foster a seamless system of education in North Dakota.

I note that Rep. Al Carlson, a prime sponsor of the resolution, cites a large existing educational bureaucracy as primary motivation for the proposal, yet the legislation, if enacted, would clearly bury education within an even greater bureaucracy. Citizens would not have a clear path to voice their opinions. Major educational initiatives, attempts at opposition, or support of a policy, could be silenced.

In my view, passage of HCR 3046 would represent an over-reach by the legislative branch to remove the elected executive branch Superintendent of Public Instruction from the Constitution of North Dakota. I believe the governance of public education, as set forth in North Dakota's Constitution, by the founding fathers in providing a non-partisan ballot has served, and continues to serve, the public well. The elected superintendent acts as the primary representative of K-12 education in North Dakota. Discourse and disagreement is welcomed. Citizen input into the affairs of state education policy are not lost among all the other statewide policy issues that must be weighed and decided upon by the governor.

It is my firm belief that the election of the superintendent should continue to be protected from undue political influence and be directly responsible to the people. It should not be subservient to either an educational council or to the governor. As it stands today, the Superintendent's office is a non-partisan office directly responsible to the citizens of North Dakota and thereby serves to establish and administer our system of public education. In my personal and professional view encompassing legislative and executive branch experience of 44 years, I believe accountability for K-12 education belongs in the hands of North Dakota citizens - it should not be removed from their grasp, but rather, strengthened.

This completes my testimony. Thank you for your kind attention.

#7

North Dakota University System

HCR 3046 – Joint Meeting of House Constitutional Revision and Education Committees

March 23, 2011

Bill Goetz, Chancellor, North Dakota University System

Good afternoon, Mr. Chairman, and members of the House Constitutional Revision and Education Committees. For the record, my name is Bill Goetz, Chancellor, North Dakota University System.

- The mission of the North Dakota University System is to enhance the quality of life for all those we serve and the economic and social vitality of North Dakota through the discovery, sharing and application of knowledge. Our focus is on serving students and the state.
- The critical question we must ask is: Will consolidating the governance of North Dakota education in the structure proposed by HCR 3046 – or any other model - significantly enhance the education of our students across North Dakota and produce a greater return on the state's investment?
- If we look to other states, the answer is clearly No.
- One state that has made repeated changes in the way colleges and universities are governed is West Virginia. For many years, West Virginia had a single Board of Regents like our State Board of Higher Education. In 1989, legislation replaced that Board with two governing boards (and two Chancellors). In 2000, the governance structure changed again, with the legislature dissolving the two boards and creating a new coordinating agency. One year later, another board was established specifically for coordination of community and technical college education.
- The lesson we can take from this continuing search for a better model is that changing the board structure does not resolve underlying educational issues that face the legislative and executive branches. Several years later, state policymakers find the governance issues before them again in a different form.
- There is no evidence that higher education delivery, service to students, or transparency is improved by rearranging a state's higher education board. There are several reasons for this:
    - In states that have a department of education, elementary and secondary education tends to get the most attention because of the far greater number of K-12 schools and students.
    - The cultures of K-12 and higher education are very different. For example,
        - K-12 education requires compulsory attendance whereas higher education does not
        - Funding models for both are - and should be - much different
        - K-12 and postsecondary education have very different structures for governance and coordination
        - They are staffed differently
        - Their expected outcomes are greatly different
        - Because of these important differences, consolidating the governance of K-12 and higher education does not, in itself, guarantee high levels of collaboration across sectors
    - In fact, none of the states that have made the most progress on P-20 issues (for example Georgia, Maryland, Indiana, and Oklahoma) has a single statewide governance model.

  - Governance changes shift the focus away from teaching and learning to organizational issues. This distracts from the institutions' mission of serving students.
  - Governance changes consume a significant amount of resources in staff time and funding for "rebuilding" that would otherwise be directed to educating students. New policies are required; departments must be reorganized; and responsibilities and/or positions change requiring staff to learn new roles. The reorganization of higher education in Florida has taken over a decade and the transition is still continuing. This is not an effective or efficient use of taxpayer funds.
- Instead our current University System structure promotes sharing of resources and collaboration among the 11 institutions. Just a few examples include
  - The LRSC-UND Launch and the NDSCS-NDSU Pathways programs that enable students to successfully complete credits taught by community colleges on university campuses and move into a university program; the four-year programs that are available on the Bismarck State College campus; and the recent VCSU-NDSCS agreement that will allow for transfer of credits from the NDSCS Journeyworker Track to a Bachelor of Science degree in Career and Technical Education at VCSU.
  - The Alcohol and Other Drug Abuse Consortium that Coordinates programs and shares resources across all institutions.
  - Efficiencies resulting from joint purchases and shared or coordinated services in areas such as technology.
- These types of partnerships are what we as a system should be focusing on. That is one of the University System's four strategic goals and represents an effective and efficient use of taxpayer funds.

Mr. Chairman, today, North Dakota higher education stands at a crossroads. We can spend our time, money and energy rearranging boards and governance or we can invest those resources where they truly belong – on teaching and learning and increasing our state's economic development through research and outreach.

Attachment #8

NDSA
The Voice of the Students

Chairman Koppelman, Chairman Kelsch, and members of the Constitutional Revision and Education committees, my name is William Woodworth. I am currently the Legislative Lobbyist for the North Dakota Student Association. We are here to testify in opposition to HCR 3046. The 48,000 students of the North Dakota University System will be negatively affected by Section 6 of this bill, the repeal of the constitutional provision that provides for the State Board of Higher Education.

The students of the North Dakota Student Association have historically worked hard for a voice with the governing body of their universities. In 1976, David Paulson wrote a thesis regarding the early history of NDSA. As Paulson wrote, "The chairman of the State Board of Higher Education in the 1969-1970 academic year was Elvira Jestrab. She was quite reluctant to recognize the students who attended State Board meetings." Over time the State Board became more friendly toward students who were voicing their concerns. By 1991, students had earned an advisory position to the State Board of Higher Education.

In 1993, HCR 3014 was introduced. It submitted an amendment of the Constitution to the people of North Dakota that would add a student voting member to the SBHE. One of the co-sponsors of this bill was Sen. Stenehjem. Rep. Poolman testified, "The students are the most important interest group there is. Without the students, there would be no institutions." He went on to testify, "Student tuition has increased so much in the past years. This could be called an issue of taxation without fair representation."

The people of North Dakota voted to give students voting representation on the State Board of Higher Education.

Under HCR 3046, there is only one "voting member": the director of the department of education. Thus, students lose part of their voice by no longer being able to vote about issues concerning them. There is also an 11 educational council which "shall provide advice and guidance". Students will no longer even have an advisory position in the new structure. When students pay 45% of the total cost for their education, they will make up 0% of the decision making. The Legislature pays 29% of the cost of education, but would have 100% of the decision making authority, since the Governor would only need the approval of three of the Leaders of the Legislature.

The North Dakota Student Association is asking the committees to give a do-not-pass

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recommendation to HCR 3046. Our reason is simple. Students should have a voice in the administration of their university system in a country where "the government of the people, by the people, for the people shall not perish from the earth."

Comment [01]: Is that too much?

Thank you for your time.

William Woodworth

North Dakota Student Association, Legislative Lobbyist

Attachment # 9

North Dakota University System

HCR 3046 – Joint Meeting of House Constitutional Revision and Education Committees

March 23, 2011

Jon Backes, President, State Board of Higher Education

Good afternoon, Mr. Chairman, and members of the House Constitutional Revision and Education Committees. For the record, my name is Jon Backes, President, State Board of Higher Education. I am here to request your "do not pass" recommendation on HCR 3046.

HCR 3046 proposes a significant change in the governance and management structure for education in North Dakota. Before we either embrace change merely for the sake of change or decry change because change is often difficult, we have a duty to understand the system we have, its strengths and weaknesses and compare those strengths and weaknesses to those anticipated under the proposed system.

So first let us look at the management structure we have under the current constitutionally mandated system. As I am sure all of you are aware, that system was established by constitutional mandate in 1938 as a result of then governor William Langer's political interference with the instructional staff and President of NDSU. That political interference resulted in NDSU losing its accreditation. In my service on the board, I have had the opportunity to meet one of the NDSU graduates who did not receive an accredited degree when he graduated from NDSU. To say that it is an issue that remains clear in his memory would be an understatement.

At any rate, following that debacle in which NDSU lost its accreditation due to political interference, the citizens of the state amended the constitution to provide for a board that would take the politics out of higher education governance. The result was the governance structure we have today. Under the current structure, three candidates for each board position are nominated by legislative and governmental leaders. One of those three is then appointed by the governor and that appointment is approved by the senate. The board has:

> [F]ull authority over the institutions under its control....the state board shall have the power to delegate to its employees details of administration....the board shall have full authority to organize and reorganize the work of each institution....and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. ND Constitution at Article VIII.

For the past decade, the board of higher education has endeavored to treat the 11 institutions under its direction as a unified system, with a unified budget and uniform governance. That direction was set primarily as the result of the roundtable on higher education. As you know, the roundtable was a legislative initiative to work with the private sector and the board to improve the state's economic and demographic picture. While the nomenclature reflected in

the roundtable seems to have fallen on disfavor by some, when we look at cornerstones on which the roundtable was based: Education Excellence; Connection to the Diversification and Development of our Economy; Flexibility in how we educate North Dakota; Funding and Rewards; those tenets are what education leaders should be focused on as we move forward. Those tenets continue to drive the board's vision and strategic goals for higher education in North Dakota. By almost any measure or account, higher education through the collaborative efforts of the legislative branch, the executive branch and the board, has contributed significantly to the progress the great state of North Dakota has made in diversifying our economy and providing for North Dakota a future that is different than its past.

The Board understands that the citizens of North Dakota value access to high-quality, affordable higher education. They understand that education has the power to change lives – the lives of students in our classrooms and the lives of everyone in the state. They understand that an increasing level of education will contribute to the development of North Dakota's targeted industries and the quality of life in our communities.

The board of higher education has defined its mission, and the mission of the 11 institutions of higher education in North Dakota around that understanding. So when we look at our history and process of decision making and governance with our present system, some of the positive attributes include:

- The ability of the state's higher education system to successfully accomplish its mission depends upon a long-range vision for higher education in North Dakota. While we need to plan for tomorrow, next year and the next biennium, we also need to plan for the next decade as well. North Dakota's colleges and universities have been around for over one hundred years. If we want to succeed for the next one hundred, we must think and plan in the long term as well. That planning needs to be strategic, based on data and geared toward the future. Establishing a vision, a strategic plan and policies for the system are important responsibilities of higher education governing boards like the State Board of Higher Education and are responsibilities that can only be accomplished by board that is authorized to set policy with respect to higher education.
- In addition, only through a board authorized to set policy can the interaction and collaboration of the institutions within the system be encouraged, both thorough policy and budgetary means. Although these functions could be done by a single bureaucrat or education czar, having a true governing board with representation from across the state to actually make such policy decisions rather than merely "advise and consult" provides for a far greater range and depth of input. Further, the tasks of developing and approving a budget, hiring presidents and a chancellor, setting compensation for the presidents and chancellor, approving academic programs, and approving capital project requests are best achieved with input and action from a board which has cross state representation and is not monetarily vested in the outcome, rather than a single bureaucrat empowered to act without any constraint by a governing board. This is true for both higher education governing boards across the nation as well as corporations across the nation. In fact, I would challenge you to find one example in corporate America where the stakeholders directly elect the CEO of an entity without having a board of directors to establish institutional policy and maintain overall governance.

- North Dakota's State Board of Higher Education represents one of the most streamlined and coordinated structures in the nation because in North Dakota, the state board of higher education is responsible for the complete range of postsecondary education opportunities in the state – workforce training, one- and two-year programs, four-year programs, graduate programs, and professional programs. While there will undoubtedly be legitimate disagreements over decisions made by any governing board, the question is not really about the decisions that are made, but rather whether the decision making process by a governing board, rather than a single "education czar" selected by the governor, is more appropriate for institutions with stakeholders made up of every student, parent, employer, voter and taxpayer in the state of North Dakota.

With respect to the governance model proposed by HCR 3046 the following questions are apparent:

- Under the model proposed by HR 3046, there would be no governing board – no group or entity directly charged with management and policy-making for higher education. There would only be an 11-member educational council, without governance or management authority, to provide "advice and guidance."
- Replacing a 8 member governing board with an 11 member advisory board would hardly seem to reduce the size of government.
- What governance process would apply to North Dakota's higher education institutions under the new "education czar"? Some of the questions raised by the proposed model include:
    - Where does overall accountability for higher education rest?
    - How would any modicum of transparency be established? When the board acts under the current system it must do so at an open meeting. Presumably an education czar would not have any requirement to have an open meeting with himself when setting policy that affects higher education stakeholders.
    - Who would develop and implement policies relating to academics, students and personnel, finance, and facilities? What process would be in place to provide for access to the decision making process and input into that process?
    - Who would hire the institutions' presidents? Would presidents and senior staff become essentially political appointees such that when a new governor was elected, he or she would hire a new education czar, and direct the hiring of new presidents and vice presidents who are politically aligned with the governor?
    - How would system-wide planning take place?
    - Who would determine the missions and programs of the colleges and universities?
    - Who would develop and approve budget requests?
- One individual – an "education czar" – cannot possibly be solely responsible for all of the functions of higher education and also oversee pre-kindergarten and K-12 education. Certainly vice directors for P-12 and higher education would be necessary, again creating greater, not less, bureaucracy and bigger, not smaller, government.
- The proposed model would be the only one of its kind in the nation. Every state, along with the District of Columbia and Puerto Rico, assigns higher education governance responsibility to one or more boards. Without a precedent, the proposed structure is untested. There is

no means to assess how effective it would be in practice or whether it would lead to improved education policy and planning.

- In 2001, Florida became the only state in recent decades to adopt a governance structure covering pre-kindergarten through graduate education. However, this experiment was short-lived. In 2002 another constitutional amendment added a Board of Governors to oversee the State University System.
    - Over a decade has been required to implement this structure. Three governors later, Florida is still working to transition education. This structure raised disputes over relative authority and responsibility for higher education. There is continued turbulence and lack of system coordination.
    - The reality of this model is that it is not working well for postsecondary education in Florida and "has led to substantial politicization of the leadership of the higher education system."
- Ohio offers another recent example of how higher education can become politicized. When the state's political leadership changed, the Chancellor stepped down, resulting in a loss of continuity and stability for system policy and long-term planning.
- The bottom line is – Are the distractions and uncertainty created by the reorganization of these systems of K-12 and higher education in the best interest of North Dakota's stakeholders: its parents, students, employers and taxpayers?
- The Education Commission of the States (ECS) is a national organization that helps states develop effective policy and practice for public education and promotes the exchange of ideas among the states and long-range strategic thinking. An ECS policy brief offers some crucial advice to state leaders before they consider enacting changes to their higher education governance structure:

  "In most states, leaders have made governance changes without first making a thorough evaluation of how well their existing policies and structures align with the state's agenda and the public interest. Consequently, one can find numerous examples of governance changes that failed to meet the expectations of the people who proposed them. . . . **States that fail to assess these contextual factors risk seriously hampering the capacity of the state and its postsecondary education system to compete in the new environment.**" (emphasis added)

Chairman and members of the committee, North Dakota's education system, including its system of public colleges and universities is one of our state's greatest assets. It continues to be a significant contributor to the state's economic development, economic diversification and workforce goals. We cannot entrust the governance of our institutions to an untested model. I again urge you to recommend "Do not pass" on HCR 3046.

Attachment #10

Testimony in Response to HCR 3046

March 23, 2011

Good afternoon. I am David Fuller, president of Minot State University and Dakota College at Bottineau, and I come before you to offer testimony in opposition to HCR 3046.

While I appreciate efforts to improve education, and I assume this is the purpose of this resolution, this proposal will not lead to improvement to the way that education is currently supported and managed in North Dakota. Instead, it will create significant governance problems.

I am opposed to this resolution for a number of essential reasons: 1) there is no rationale for such a radical change to a system that has proven to work well, efficiently, and responsibly; 2) the proposed structure is unrealistic and unworkable based on no clear educational rationale, precedent or understandable purpose; 3) the envisioned governance structure would fail to oversee a complex of educational functions that are inherently different in mission, focus, compliance, and outcomes; 4) the authority for this multiplicity of functions would rest unrealistically with a superintendent who would necessarily have to be well versed in the educational culture and demands of P-12 and higher education—two widely disparate and diverse cultures and systems; 5) there would be virtually no effective governance, oversight, and reasonable direction provided by a single superintendent and an advisory council; and 6) the impractical nature of this model would necessitate a predictable revamping of institutional governance and authority and the creation of new levels of local governance and oversight.

No Clear Purpose or Precedent for Such a Significant Change

As there are no workable precedents or clear reasons for such a change to North Dakota's educational system, there are no systems with which to judge the effectiveness of such a model. The proposed combination of P-12 systems and higher education under one superintendent and an advisory council is impractical. I base this observation on 30 years of experience as a faculty member and administrator in higher education, from a Research 1 university, three regional public universities, a private college, and more recently as president of a university and a long-time consultant evaluator for the Higher Learning Commission with multiple evaluation visits to a variety of institutions in many states. Governance, oversight, coordination, planning, and a host of other distinct higher education needs cannot be accomplished effectively by a superintendent and an advisory council that is required to oversee higher education and P-12.

The resolution calls for a council with members who have "profound knowledge and understanding of the purpose and mission of education at all levels." I respectfully question if this is possible to find advisory council members or even a superintendent who possess such a profound knowledge and understanding, if such an understanding depends on in-depth experience. But even if they were to possess such a knowledge and understanding, it is highly unlikely that they would be able to exercise appropriate and responsible governance and guidance to both entities. I have worked with many educational professionals with profound knowledge of education; but it is a rare individual whose "profound" knowledge comes from in-depth experience and training at all levels to carry out the primary functions of P-12 and higher education, which are to ensure quality learning of students.

Higher Education Governance Systems

I spent 13 years in South Dakota and worked under the guidance of the SD Board of Regents and a central office that provided support and guidance to the regents. That Board did not oversee the technical colleges, just the universities. For four years I worked at a regional university in Nebraska. Nebraska had developed a variety of

governance boards and systems. One, in which I served, was the Nebraska State College System with a Board of Trustees appointed by the governor to govern three colleges: Wayne State, Peru State, and Chadron State. Nebraska also had a separate governance board called the Board of Regents, the members of which were elected by state-wide vote to their seats. The Board of Regents governed the university system of the state's universities, including the Research 1 University and two regional universities (i.e., the University of Nebraska at Lincoln, Omaha, and Kearney). All community and technical colleges had local governance boards elected by their respective communities. All of these boards and systems had virtually no coordination or interaction. Nebraska developed what they called a Coordinating Commission—another board-- to oversee all of these boards and systems, including the college system, the university system, and the community colleges. With all of these levels of systems and boards, there was little focus, efficiency, or unified direction. In fact, at the time I was there the various institutions and systems worked separately and competitively, vying separately for public support.

Nebraska solved their oversight and governance needs by creating separate boards to oversee separate institutional categories in higher education. Those distinctive boards focused on the governance, direction, planning, fiscal management, academic oversight, and personnel oversight for their respective university/college system. And those systems didn't have anything to do with P-12.

Predictable Need to Restructure this System if Adopted

In all due respect, appointing a superintendent and an advisory council with task forces will be fraught with problems and confusion. I suspect that if this model is adopted, the system would need to immediately begin restructuring and reframing itself to handle the complex of oversight and individual demands that will be inherent in this design. The idealism of this design and its lack of defined purpose would create, I predict, immediate logistical problems, lack of oversight, campuses vying separately for support and recognition, and, most serious, a need to create new governance systems for individual institutions.

Another potential outcome of the restructuring to address this problems would be to develop another system similar to the one we have right now that oversees and governs the community colleges, four-year regional universities, and the research universities. One board, composed of appointed people with knowledge and interest, that could offer coordination, appropriate oversight of programming, opportunities for collaboration, assurances of compliance and accreditation oversight, assistance to the campuses in financial and academic needs, and a clear and well-tested precedent that is efficient, accountable, and, most important, effective in the quality learning and the career opportunities provided to the students. It would not be able, because of the demands and differences in the P-12 systems, to provide additional oversight for those systems and to usurp the authority of local boards of education.

What we would eventually have is a system similar to our current State Board of Higher Education and the North Dakota University system, which is proven to be efficient and highly effective. That effectiveness and efficiency is well documented in the annual accountability reports and other reports providing in-depth analyses and data about the system and the individual institutions. And I should add that the efficiencies and effectiveness documented in those reports can be easily accessed, but the most telling proof of that effectiveness is to talk to students and to visit our individual campuses.

If It Isn't Broken, Why Fix it?

I hear a lot from people outside of higher education, who don't have a profound knowledge and understanding of higher education, pointing to our inefficiencies and ineffectiveness. Working at Minot State and Dakota College at Bottineau, and remaining aware of what my colleagues are doing at the other NDUS institutions, I do not see how

we are broken. Perhaps I should rephrase that adage and question to express more accurately in this case: if something works exceptionally well why replace it with a model that lacks a purpose and any precedent, one that is not practical or well tested? That is what we're dealing with here unfortunately. I would hope that this resolution was intended to improve our current system. But upon a close review, the model doesn't appear to have the potential for anything more than harming what we already have that is working well.

We have an highly effective system and set of institutions that are not broken. The puzzling question for me is then why is it necessary to fix it and replace it with a model that appears unworkable and ineffective?

My sense is that this proposed model would have serious and long-lasting negative impacts on the quality of education that our North Dakota University System institutions now provide the state. And my original concern about the lack of a rationale for such a radical change makes a consideration of this model even more disturbing and questionable in light of a strongly defined rationale and the proven successes of our current institutions. Instead of revamping our current system, I suggest that we work together to address our essential purposes, which are to ensure quality learning, support student growth, and provide strong guidance for student persistence toward graduation. All of us in higher education are focused on those goals and our student successes. We do not to throw out a system that works; we need to work together for what all of us believe are our essential goals in education.

With that, Mr. Chairman, I respectfully oppose HCR 3046 and urge you and other honored legislators to vote against it.

Thank you.

David Fuller

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Prepared by the North Dakota Legislative Council staff

March 2011

HOUSE CONCURRENT RESOLUTION NO. 3046 SUMMARY

Section	Subsection	
1		Removes a constitutional reference to the Superintendent of Public Instruction (effective on January 1, 2015)
2		Provides that the individual elected to serve as the Superintendent of Public Instruction will serve a term of only two years because that position will expire as of January 1, 2015
3	1	**Creates a department of education** for the purpose of overseeing and administering the provision of public education in this state, including: • Early childhood education; • Elementary and high school education; and • Higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.
	2	**Creates the position of director - Department of education.** The director: • Is appointed by the Governor; • Is given a term of three years; • May be reappointed for like terms; and • Is removable by the Governor for cause.
	3	**Establishes qualifications of the director.** These are: • Holding a doctoral degree from an accredited institution; • Being uniquely familiar with the broad spectrum of educational delivery and administration; and • Being committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.
	4	**Creates an educational council.** Each of the 11 members must be appointed by the Governor, with the advice and consent of three from among the following: the majority and minority leader of the House of Representatives, the majority and minority leader of the Senate, and the President Pro Tempore of the Senate. The council must be a balanced and representative group of individuals who by training and experience each have a profound knowledge and understanding of the purpose and mission of education at all levels, and collectively understand the function of education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.
	5	**Sets the term of office** for each member of the educational council at three years, beginning January 1, and limits individuals to two consecutive terms. **Initial appointments** must be staggered by lot so that no more than four positions terminate at any one time.
	6	**Chairman** is to be annually appointed by the Governor from the council members. A chairman may be reappointed but may not serve more than two consecutive terms in that role.
	7	**Chairman is to call all meetings** of the educational council and to call a special meeting of the council within seven days when petitioned to do so by five council members. The council is required to meet at least once every calendar quarter.
	8	**Per diem compensation** is provided for in the same amount as that given to members of the Legislative Assembly plus reimbursement for expenses.
	9	**Duties of the educational council** are to provide advice and guidance to the director of the department of education in all matters pertaining to the delivery and administration of education in this state, including: • Academic standards; • Accountability; • Budgetary and financial matters; • Managerial and operational matters; and • Regulatory and legislative matters. **Workgroups, task forces, and subcommittees** are authorized if there is a need to seek additional information and outside expertise in order to fully and adequately perform the functions with which the council is charged.
4		Replaces the Superintendent of Public Instruction with the director of the department of education on the Board of University and School Lands
5		Repeals Article VIII, Section 6, of the Constitution of North Dakota, which pertains to the State Board of Higher Education.
6		Provides that Section 2 becomes effective upon approval and the remaining sections become effective on January 1, 2015

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REFERENCES IN THE NORTH DAKOTA CONSTITUTION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Article V. Section 2.
[Election of State Officials Duties]

The qualified electors of the state shall choose a Superintendent of Public Instruction when they choose members of the Legislative Assembly, the Governor, and other state officials.

The powers and duties of the Superintendent of Public Instruction must be prescribed by law.

Article VIII. Section 6.
[Board of Higher Education]

In nominating an individual to serve on the State Board of Higher Education, the Governor must select from a list of three names put forth by the following:

- The president of the North Dakota Education Association;
- The Chief Justice of the North Dakota Supreme Court;
- The President Pro Tempore of the Senate;
- The Speaker of the House of Representatives; and
- The Superintendent of Public Instruction.

Article IX. Section 3.
[Board of University and School Lands]

The Board of University and School Lands consists of:

- The Governor;
- The Attorney General;
- The Secretary of State;
- The State Treasurer; and
- The Superintendent of Public Instruction.

REFERENCES IN THE NORTH DAKOTA CONSTITUTION TO THE STATE BOARD OF HIGHER EDUCATION

Article VIII. Section 6.
[Board of Higher Education]

A State Board of Higher Education is created. It consists of:

- Seven appointed members confirmed by the Senate; and
- One student member.

Members of the State Board of Higher Education are removable by impeachment.

The State Board of Higher Education is given full authority over the institutions and full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution.

The State Board of Higher Education is to:

- Prescribe standard systems of accounts and records for the institutions;
- Prepare a single unified budget covering the needs of all the institutions; and
- Appoint a commissioner of Higher Education who:

  Is a graduate of some reputable college or university; and

  By training and experience is familiar with the problems peculiar to higher education.

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Prepared by the North Dakota Legislative Council staff for Representative Carlson
March 2011

ESTIMATED 2011-13 BIENNIUM STATE AND LOCAL EDUCATION FUNDING

The table below details funding included in the 2011-13 executive budget recommendation for education-related state agencies.

State Funding for Education			
Agency	General Fund	Other Funds	Total
North Dakota University System	$648,214,406	$89,237,204	$737,451,610
Department of Public Instruction (DPI)	902,064,740	450,718,423	1,352,783,163
Property tax relief - DPI		341,790,000	341,790,000
Department of Career and Technical Education	28,148,803	10,766,888	38,915,691
State Library	5,263,975	2,134,610	7,398,585
School for the Deaf	6,718,772	2,088,007	8,806,779
North Dakota Vision Services - School for the Blind	4,080,240	835,091	4,915,331
Total	$1,594,490,936	$897,570,223	$2,492,061,159

The table below provides an estimate of local property tax funding for education for the 2011-13 biennium.

Estimated Local Property Tax Funding for Education	Total
Property taxes estimated to be levied by school districts during the 2011-13 biennium[1]	$685,300,000[1]

[1]School districts levy taxes based on property to provide school district general fund revenue. In addition, taxes based on property may be levied by the school districts to provide revenue for other funds, including special reserve, capital projects, and debt service. Property tax information provided by the Tax Commissioner includes property taxes levied for all school district funds. The Tax Commissioner's office reported property taxes levied for schools in 2009 and payable in 2010 (2009-10 school year) totaled $315 million. Based on preliminary taxable valuation and mill levy data, the Department of Public Instruction estimates local property tax assessments will total $325.8 million for the 2010-11 school year (taxes levied in 2010 and payable in 2011), including $278.6 million of general fund assessments and $47.2 million of other school district-related assessments. The estimated property tax assessments provided by the Department of Public Instruction for the 2010-11 school year represent an increase of approximately $10.8 million or 3.4 percent from the 2009-10 school year. Using this percentage increase as a basis for future increases, local property tax assessments for school districts are estimated to total $336.9 million for the 2011-12 school year and $348.4 million for the 2012-13 school year. The 2010-11 assessment data used to prepare these estimates does not include property that is alternatively assessed which, if included, would result in higher estimated assessments.

Total 2011-13 State Funding and Estimated Local Property Tax Funding for Education	Total
Total 2011-13 biennium state funding for education based on the executive recommendation and estimated local property tax funding for education	$3,177,361,159

$2,279,790,9

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NORTH DAKOTA DEPARTMENT OF EDUCATION - CREATION

House Concurrent Resolution No. 3046 would create a department of education to oversee and administer the provision of public education in this state, including early childhood education, elementary and high school education, and higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.

BACKGROUND

Currently, elementary and high school education is administered within an executive branch agency, headed by an independently elected Superintendent of Public Instruction.

Currently, higher education is administered by a constitutionally created State Board of Higher Education which, according to the Constitution of North Dakota, has full control and authority over its institutions.

Neither the Superintendent nor the board is answerable to the Governor or to the Legislative Assembly. Yet, they receive and expend percent of the state's budget.

North Dakotans have been very generous when it comes to supporting education. In fact, state appropriations for education amount to $ for every man, woman, and child. This dollar amount does not include what our residents are contributing locally through property taxes and federally through income taxes. It does not include what families are contributing to support nonpublic education, and it does not include tuition, fees, and the multitude of other costs that families incur when sending their children to our institutions of higher education.

Each legislative session, the education sector continues to seek (and receive) significant increases in financial support. And yet **(LIST THE PROBLEMS YOU WISH TO ADDRESS)**, e.g.:

- Student test scores are at best flat;
- Truancy and dropout rates are high;
- Property taxes continue to climb;
- Enrollment in remedial courses is increasing;
- Tuition and fees are soaring;
- Technology is underutilized; and
- Students are not graduating with the knowledge or skills desired by employers.

Our current system of educational delivery and administration was created for a simpler time and place. Much of what we did or wanted to do was limited by distance and communication. Today, we are limited only by our imagination. Not all that long ago, a trip from the farm to the county seat was a major excursion. Today, we have instant communication with friends and colleagues around the world. We are no longer functioning within township and county lines or even regional borders. Our arena is global.

While we might still yearn for that simpler time and place, that is no longer our world and it certainly is not that of our children and grandchildren. The education that they need and deserve is one that is governed by a vision of the future. It is an education that will allow them to stand shoulder to shoulder with the best in this nation and the best in this world.

House Concurrent Resolution No. 3046 is creating an administrative structure that will allow us to define and address the needs of 21st century students, whether traditional or nontraditional, and deliver a world class, seamless education at the time and in the manner that allows them to meet their intellectual needs and their career pursuits.

DIRECTOR OF THE DEPARTMENT OF EDUCATION - APPOINTMENT

House Concurrent Resolution No. 3046 would require the Governor to appoint a director of the department of education. The appointment must be for a term of three years and may be renewed for like terms. The director is removable by the Governor for cause.

The director must hold a doctoral degree from an accredited institution, be uniquely familiar with the broad spectrum of educational delivery and administration, and committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.

Why require a doctoral degree? The individual who is ultimately selected to fulfill the role of director will have to interact with a wide array of individuals, including those from business and industry, the halls of Congress, and the world of academia. A doctoral degree is an internationally recognized level of achievement that provides a platform from which to initiate discussions, interactions, relationships, and collaboration.

Why is the appointment for a period of three years? In order to attract appropriately educated and talented candidates for the position of director, it is necessary to provide some assurance that the appointment will not be subject to political vagaries in a matter of weeks or months.

Why is the appointment not synchronous with the Governor's term of office? The individual who heads the department of education will have to focus on creating educational opportunities and ultimately career opportunities for all of this state's students. That will require the individual to work collaboratively with the Governor, the Legislative Assembly, and the people of this state in building a vision of the future, in

ensuring sufficient financial support for all levels of education, in establishing standards that will give students the skills and knowledge necessary to compete nationally and internationally in any field or career they choose, and most importantly, in being accountable for results. These goals are apolitical and should remain in place regardless of the party to which the Governor belongs.

Potential statutory concepts. Ultimately, the selection of the individual to head the department of education falls to the Governor. However, the North Dakota Century Code could include provisions requiring the Governor to establish a search committee and perhaps reduce the number of potential candidates from which the Governor might make the ultimate selection.

DIRECTOR OF THE DEPARTMENT OF EDUCATION - DUTIES AND POWERS

House Concurrent Resolution No. 3046 directs that the director of the department of education serve as the chief executive officer of the department and be committed to the development and maintenance of an educational system that provides opportunities for students, through academic pursuits and technical training, to meet the educational and workforce challenges of the current century and beyond.

Potential statutory concepts. Just as with any other agency head, the duties and powers of the individual in that position should be articulated in the North Dakota Century Code. While many of the director's duties and powers would be directly transferable from either the Superintendent of Public Instruction or the State Board of Higher Education, the Legislative Assembly might wish to take this opportunity and determine whether the duties and powers are adequately articulated and appropriate to achieving the desired results.

In the case of the Superintendent of Public Instruction, the statutory duties established in Section 15.1-02-04 include:

- Supervising the provision of elementary and secondary education to the students of this state;
- Supervising the establishment and maintenance of schools and providing advice and counsel regarding the welfare of the schools;
- Supervising the development of course content standards;
- Supervising the assessment of students;
- Serving as an ex officio member of the Board of University and School Lands;
- Keeping a complete record of all official acts and appeals;
- Determining the outcome of appeals regarding education matters, as appropriate; and
- Directing school district annexation, reorganization, and dissolution and employing and compensating personnel necessary to enable the State Board of Public School Education to carry out its powers and duties regarding school district annexation, reorganization, and dissolution.

Section 15-10-17 sets forth the following powers and duties of the State Board of Higher Education:

- Appointing and removing the president or other faculty head and the professors, instructors, teachers, officers, and other employees of the institutions and fixing their salaries;
- Authorizing the employment of law enforcement officers at the institutions;
- Setting tuition and fees;
- Establishing a retirement program;
- Determining purchasing policies;
- Establishing an early retirement program for faculty and officers of the board;
- Adopting rules to protect the confidentiality of student records; medical records; and, consistent with Section 44-04-18.4, trade secret, proprietary, commercial, and financial information;
- Authorizing and encouraging North Dakota University System entities to enter partnerships or other contractual arrangements with private business and industry for the purpose of business or industrial development or fostering basic and applied research or technology transfer; and
- Adopting rules promoting research, encouraging development of intellectual property and other inventions and discoveries by University System employees, and protecting and marketing the inventions and discoveries.

Should the director of the department of education be responsible for appointing university presidents and other faculty members and fixing their salaries? Precedent exists in that the director of the Department of Human Services is required to "appoint a superintendent for each of the institutions under its control, except for the state hospital, where the supervising officer shall appoint a superintendent in consultation with a state hospital governing body." (see Section 25-01-03(1)). Search, interview, and appointment processes could be included in the North Dakota Century Code. However, as the Century Code becomes more prescriptive, there is an equal loss of flexibility. For example, the makeup of a search committee charged with considering presidential candidates for either of the two flagship institutions might not be the ideal makeup of a search committee considering presidential candidates for one of the state's community colleges.

Should the director of the department of education be responsible for setting tuition and fees? Because the department of education would be an executive branch agency, statutorily requiring it to set the rate of tuition and establish fees could be

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viewed as an unlawful delegation of legislative authority.

EDUCATIONAL COUNCIL

House Concurrent Resolution No. 3046 would establish an 11-member educational council. Each member must be appointed by the Governor, with the advice and consent of three from among the following: the majority and minority leader of the House of Representatives, the majority and minority leader of the Senate, and the President Pro Tempore of the Senate.

The council must be a balanced and representative group of individuals who by training and experience each have a profound knowledge and understanding of the purpose and mission of education at all levels and collectively understand the function of education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.

Why is there a constitutionally created advisory board? Instantaneous global communications, increased public consciousness and awareness, and diverse values are shaping the 21st century and requiring rapid changes in all organizations and institutions. Education is not exempt.

In order to ensure that our educational delivery system can meet the demands of the 21st century, it is necessary to provide our decisionmakers with access to insightful individuals who are knowledgeable not only about education but about the global environment in which we now operate and who are equally able to assist in positioning our elementary and secondary schools and our institutions of higher education so that they are able to address the needs of our students and the needs of our state both in the short term and in the longer term.

How will the board be selected? Beyond requiring that the advisory committee consist of a balanced and representative group of individuals who understand the purpose and mission of education and bring to their function a broad collective understanding of agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions, the Governor is free to select those individuals who are best suited to provide the necessary guidance and insight. For this reason, House Concurrent Resolution No. 3046 does not require the inclusion of individuals by virtue of their public office or their private position.

With a three-year staggered term and a limitation on two consecutive terms, the Governor will also be able to ensure that the expertise of the board is reflective of the issues being addressed.

The only limitation on the Governor is that an appointee must be consented to by three from among the following: the majority and minority leader of the House of Representatives, the majority and minority leader of the Senate, and the President Pro Tempore of the Senate.

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Prepared by the North Dakota Legislative Council
staff for Representative Carlson
March 2011

DEPARTMENT OF PUBLIC INSTRUCTION AND NORTH DAKOTA UNIVERSITY SYSTEM EXECUTIVE PAY

DEPARTMENT OF PUBLIC INSTRUCTION

The 2011-13 biennium executive budget recommendation for the Department of Public Instruction provides funding of $1.695 billion, of which $902.1 million is from the general fund, $347.8 million from federal funds, $341.8 million from the property tax relief sustainability fund, $101.6 million from the state tuition fund, and $1.3 million from other funds.

The 2011-13 biennium executive budget recommendation for the Department of Public Instruction includes $14.4 million, of which $4.7 million is from the general fund, for salaries and wages. The organizational chart for the department, attached as Appendix A, identifies the directors and assistant directors of the agency. The chart below identifies these positions and the 2011-13 biennium salaries and fringe benefits for each position:

Administrative Position	Total Position Funding Included in the 2011-13 Executive Recommendation
State Superintendent	
State superintendent	$256,226
School Finance	
Director	185,640
Education Improvement	
Assistant superintendent	259,980
Special education director	196,448
Standards and achievement director	211,437
Title I director	210,238
Administrative Services	
Division manager	209,603
Fiscal management assistant director	174,251
Human resources assistant director	165,967
Management information systems director	164,480
Education and Community Support	
Assistant superintendent	212,413
Child nutrition and food distribution director	172,328
Coordinated school health and adult education director	188,036
Counselor programs assistant director	143,543
School approval and accreditation director	172,476
Total - 15 full-time equivalent positions	$2,923,066

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE

The 2011-13 biennium executive budget recommendation for the North Dakota University System office includes funding of $103.9 million, of which $100.2 million is from the general fund and $3.7 million is from other funds.

The 2011-13 biennium executive budget recommendation for the University System office includes $5.2 million, of which $5.1 million is from the general fund, for salaries and wages. In addition, the University System office has a federally funded college access grant position and plans to add a director of internal audit that is not included in the executive recommendation. The University System has a continuing appropriation for its special funds; therefore, positions paid from special funds are not included in the amounts recommended in the executive budget. For the 2011-13 biennium, the college access grant position is estimated to receive $128,266 of salary and benefits from federal funds, and the director of internal audit position is estimated to receive $269,523 for salary and benefits from assessments charged to each campus. The table below lists major administrative positions included in the 2011-13 executive recommendation or identified above for the University System office and the amount of funding provided for the salary and benefits of each position:

Administrative Position	Total Position Funding Included in the 2011-13 Executive Recommendation
Chancellor	$609,328[1]
Vice chancellor for administrative affairs	428,198
Vice chancellor for academic and student affairs	439,116
Vice chancellor for strategic planning	395,906
General counsel	330,943
Director of finance	272,174
Director of internal audit and risk assessment[2]	269,523
Director of financial reporting	226,601
Director of financial aid	199,794
Director of public affairs	193,209
Director of articulation and transfer	191,205
Office manager	168,367
Director of Higher Education Consortium for Substance Abuse Prevention	164,600
Director of the college access challenge grant[3]	128,266
Director of state approving agency	124,858
Total - 15 full-time equivalent positions	$4,142,088

[1]Includes an annual housing allowance of $20,000 and an annual vehicle allowance of $11,000.

[2]Position was not included in the 2011-13 executive budget recommendation but is expected to be added by the University System office for the 2011-13 biennium and will be paid from assessments charged to each campus.

[3]Position is federally funded and not included in the executive recommendation. The University System has a continuing appropriation for special funds.

Attached as Appendix B is a description of all University System office positions.

ATTACH:2

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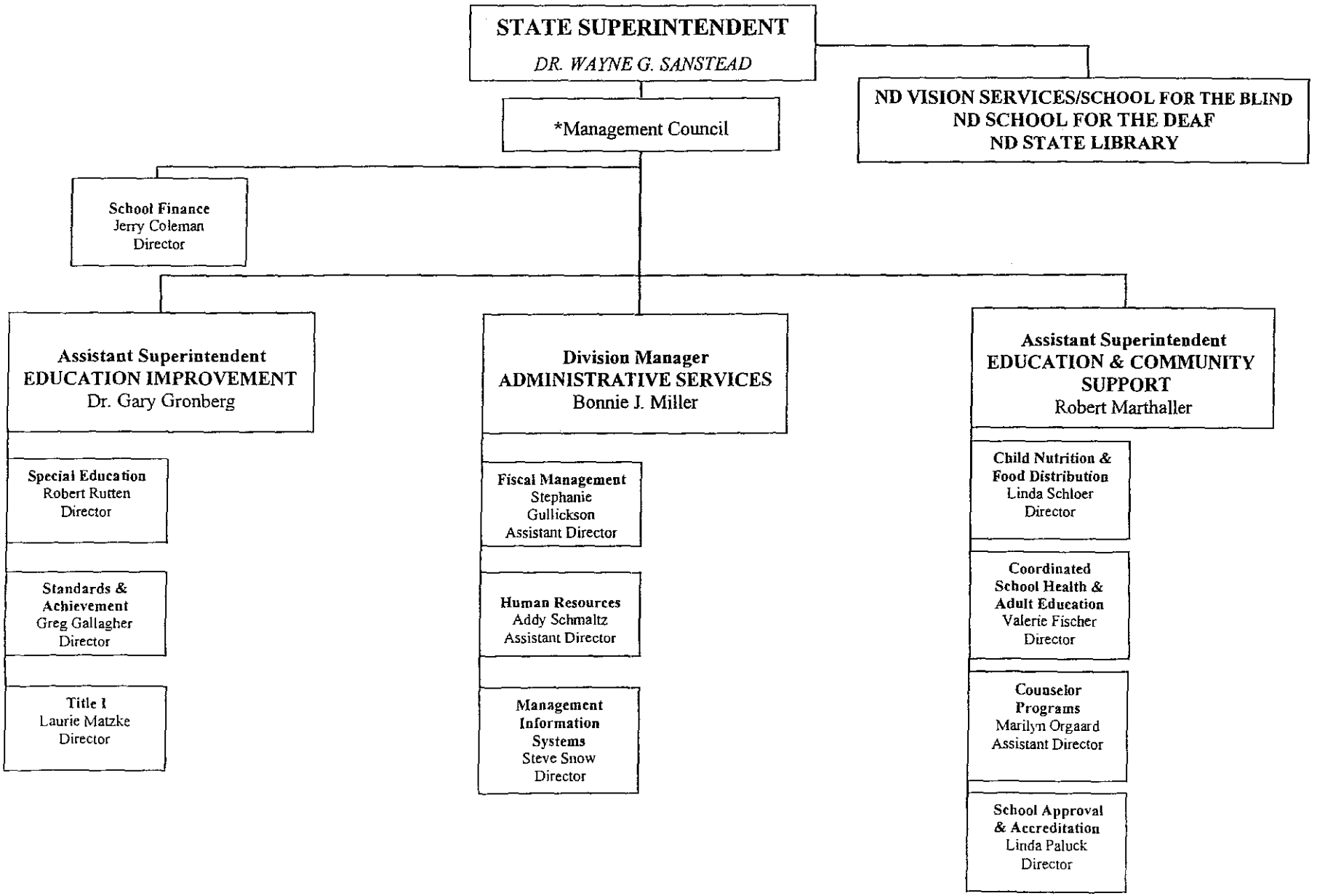
NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION
ORGANIZATIONAL CHART – MARCH 2010



*Management Council consists of the State Superintendent, the Assistant Superintendents, the Administrative Services Division Manager, and with the Human Resources Assistant Director serving as advisor.

APPENDIX A

NDUS Office Staffing Overview

Chancellor serves as the chief executive officer of the Board and chief executive officer of the University System.

Vice Chancellor for Academic and Student Affairs oversees all academic and student affairs functions within the North Dakota University System through policy development, implementation management and multi-agency coordination.

Vice Chancellor for Administrative Affairs oversees all administrative, financial, and information technology functions within the North Dakota University System through policy development, implementation management and multi-campus coordination in the following areas: financial, accounting, budgeting, purchasing, capital construction, audit, financial aid, human resources, and information technology.

Vice Chancellor for Strategic Planning and Executive Director of the College Technical Education Council (CTEC) is responsible for developing and implementing a comprehensive strategic plan, and related accountability; coordination of Roundtable on Higher Education activities, in cooperation with legislative leadership; focuses on statewide workforce issues; and, coordination for the two-year colleges in the University System through CTEC.

CIO is responsible for providing overall leadership, vision, strategy, management, and accountability for systemwide information technology services. In carrying out these responsibilities, the CIO must ensure that the infrastructure and applications provide an environment that is cost-effective and responsive to student needs and addresses the mission of the NDUS and its institutions. *(Currently a contract position)*

General Counsel/SBHE Exec. Sec. provides a broad range of legal services to the SBHE, chancellor and chancellor's staff (including SITS employees located in Grand Forks and Fargo) and 9 of the 11 NDUS colleges and universities and their officers and employees (NDSU and UND have separate legal counsel offices), including legal research and advice, drafting or reviewing legislation, policies and procedures, drafting and reviewing all contracts and other legal documents for the system and 9 institutions, legal or policy analysis, assistance with HR functions and advice regarding personnel matters, representation of institution officers at disciplinary and other hearings and responsibility for loss control and risk management functions. The General Counsel also serves as SBHE Secretary (a constitutionally-mandated position).

Director of Internal Audit and Risk Assessment is responsible for managing and conducting financial, operational, compliance and IT audits to assess the adequacy and effectiveness of systems, processes, and controls within the NDUS to ensure accuracy of financial records and efficiencies of operations. Evaluate and manage risk assessment and assist in the design and administration of related policy and procedure.

Director of public affairs and marketing is responsible for coordinating, preparing and disseminating information to the public, the legislature, the media, prospective students and other constituencies of the State Board of Higher Education and the North Dakota University System.

Director, College Access Challenge Grant, fosters partnerships aimed at increasing the number of low-income students prepared to enter and succeed in college through administration of a federal grant.

Asst. Director of Financial Aid assists the Director of Financial Aid in the general administration of student financial aid programs administered by the NDUS Office, especially the Career/Technical Education and Academic Scholarship Program and STEM Loan Forgiveness program, in compliance with state and federal laws and regulations.

Financial Aid Assistant provides support in administering several financial aid programs administered by the North Dakota University System Office in compliance with state and federal regulations.

Secretary/Legal Asst. provides secretarial support to the Vice Chancellor for Strategic Planning/ Executive Director of the College Education Technical Council (CTEC) and General and Assistant General Counsel.

Secretary/Computer and Network Support provides computer support for the NDUS Office and members of the SBHE, assists the office manager in keeping the web site updated, and assists the director of public affairs with major publications produced by the office.

Secretary/Academic and Articulation-Transfer Assistant provides secretarial support to the Vice Chancellor for Academic and Student Affairs, Director of Articulation and Transfer and the Academic Affairs Associate/Director of Research.

Secretary, Tuition Reciprocity Processor provides high-level support to the Vice Chancellor for Administrative Affairs, provides assistance to the Coordinator of Multicultural Education on the ND Indian Scholarship Program, and is responsible processing reciprocity applications.

Administrative Secretary to SBHE provides secretarial support to the State Board of Higher Education (SBHE), SBHE Subcommittees, Chancellor's Cabinet and NDUS Office staff.

Office Accountant is responsible for the administration and maintenance of office accounting, payroll, financial and budget monitoring for the North Dakota University System Office.

Graduate Research Assistant for Project ND Partners in Prevention is responsible for all phases of research project, administration of survey and/or evaluation materials and identification of evidence-based events and/or delivery of programming with participants for this grant project (0.5 FTE position).

Prepared by the North Dakota Legislative Council staff

February 2011

REORGANIZATION OF EDUCATIONAL ADMINISTRATION IN NORTH DAKOTA

TALKING POINTS

Multiple Jobs

An individual used to graduate from college, take a job with a company, and expect to receive a gold watch from that company upon retirement. Today, the average commitment to a particular job is not 40 years, but 15 to 36 months.

Continuous Retraining

Today, we operate in a knowledge-based economy. Students have to be well-educated even for entry-level jobs. As they move through their careers or transition through career changes, they will need to be retrained continuously.

Different Type of Student

Increasingly, many students are no longer willing or able to commit 4+ years to a classroom away from home.

Four-Year Baccalaureate Versus Certificates

In today's outcome-oriented world, standard baccalaureate degrees are less sought after than they were even a few short years ago. They are being replaced by certificate programs. Employers are defining the knowledge base and the skill-sets that they need in their employees and they are looking for demonstrable proof that an individual has acquired that knowledge base or skill-set. The certificate is that proof.

Schools - Intellectual Space Not Buildings

Schools at all levels used to be rooted in their communities. Today, largely because of transportation and communication, schools are state, regional, national, and even global in scope. Schools are no longer a specific set of buildings or physical space, but rather intellectual space.

Manage Schools Like Business

Globalization is driving businesses to restructure and reengineer themselves in order to be competitive in the marketplace. So too must education.

Educational institutions, whether elementary and secondary or higher education, are no longer isolated nor insulated. They need to be managed using modern day business principles that include clearly articulated policies, a comprehensible management structure, freedom from duplication, fiscal accountability, and anticipated results.

Responsiveness and Accountability

Education must be responsive to the needs of students and the wishes of the workplace. It must be responsive to competition within the 21st century marketplace, and without exception, it must be accountable to the taxpayers of this state.

Cost

The people of North Dakota have always placed a high value on education and continue to do so. In fact, the current state-level expenditures for elementary and secondary education, as well as higher education, amount to $_____ for every man, woman, and child in this state. That gives the people of North Dakota the right to expect certain things in return. These include:

- Educational opportunities that are second-to-none and include access to gifted instructors, world-class curricula, and cutting-edge technology.
- Educational opportunities that are flexible in their form and delivery. (While this might include continued use of the traditional classroom and the traditional school year, it will most certainly include technology-based learning that can be delivered to a student at the time and in the manner that best meets the student's needs.)
- Educational opportunities that are created and administered within a governance structure that is accountable to each and every North Dakotan.

Why Is This Constitutional Resolution Being Introduced?

- Not to criticize the past, but to set the stage for the future.
- To ensure that the values we have placed on education will continue to create timely opportunities for our children and grandchildren.
- During the last 100 years, American ingenuity, coupled with American education, has taken us from Model Ts to men on the moon, Mars landings, and Motorola droids--we cannot even begin to imagine the world of the next generation. We can, however, create an environment in which education will be governed with a view to the future--one in which North Dakota students of all ages will have the ability to thrive intellectually, acquire the knowledge and skills necessary to meet the demands of their everyday lives, and their civic and personal responsibilities in a 21st century world.

#1

Why Can't Our Current Governance Structure Continue to Lead Education in the 21st Century?

- The current system of educational governance was established when the challenges of transportation and communication necessarily limited what was possible.
- Learning was defined by seat time and it was segmented into two phases--the first being the elementary and high school grades and the second being higher education.
- To this day, the two systems remain separate and apart.
- Each maintains its own focus with respect to its self-defined responsibilities.
- Neither views cooperation as being in its best interest and neither encourages academic or fiscal accountability.
- We are more than a decade into the 21st century.
- We are spending more on education than ever before.
- In response to a lawsuit, we have explored equity and adequacy with respect to elementary and secondary education (see 2007 Senate Bill No. 2200 and 2009 Senate Bill No. 1400) and we are now poised to begin discussing various methods of enhancing funding for our existing system of higher education (see 2011 Senate Bill No. 2300).
- We are not, however, willing or prepared to talk about what education could be and should be.
- The principal focus of our education system should not be stagnant self-perpetuation.
- Representatives of elementary and secondary education must be directed to work in concert with representatives of higher education so that the entire spectrum is one seamless, efficient, effective, responsive, and productive system that is committed to preparing and supporting our students and our citizens in all they elect to do.
- The dual system of educational governance under which we currently operate, with its independent elections and its independent appointments, does not have the ability to bring about such a result.
- A unified system of educational governance, which is both gubernatorially and legislatively accountable, will be able to accomplish this.

#1

Prepared by the North Dakota Legislative Council
staff for Representative Carlson
March 2011

ONE-TIME FUNDING FOR THE DEPARTMENT OF PUBLIC INSTRUCTION AND NORTH DAKOTA UNIVERSITY SYSTEM

The table below details one-time funding provided to the Department of Public Instruction for the 2007-09 and 2009-11 bienniums and one-time funding included in the 2011-13 executive budget recommendation. The Legislative Assembly began designating funding as "one-time" in the 2007-09 biennium.

Public Instruction - One-Time Funding			
	General Fund	Other Funds	Total
2007-09 biennium			
None			
Total	$0	$0	$0
2009-11 biennium			
State automated reporting system (STARS) school data collection system rewrite	$500,000		$500,000
North Dakota Geographic Alliance	226,000		226,000
National board certification fund	500,000		500,000
Develop personal finance schoolbook	25,000		25,000
Total	$1,251,000	$0	$1,251,000
2011-13 executive recommendation			
STARS school data collection system rewrite	$384,000		$384,000
Education Standards and Practices Board approval and accreditation mainframe rewrite	200,000		200,000
Total	$584,000	$0	$584,000

The table below details one-time funding provided to the University System for the 2007-09 and 2009-11 bienniums and one-time funding included in the 2011-13 executive budget recommendation. The Legislative Assembly began designating funding as "one-time" in the 2007-09 biennium.

University System - One-Time Funding			
	General Fund	Other Funds	Total
2007-09 biennium			
Northern Tier Network infrastructure (permanent oil tax trust fund)		$2,773,800	$2,773,800
ConnectND system	$2,300,000		2,300,000
Common information system pool	420,000		420,000
Deferred maintenance	10,893,033		10,893,033
Capital projects (general fund)	13,808,235		13,808,235
Capital projects (permanent oil tax trust fund)		4,809,515	4,809,515
Campus initiatives	960,800		960,800
Nursing Education Consortium	200,000		200,000
Total	$28,582,068	$7,583,315	$36,165,383
2009-11 biennium			
Capital projects and master plan development (general fund)	$39,008,248		$39,008,248
Capital projects (permanent oil tax trust fund)		$10,400,000	10,400,000
Deferred maintenance	20,000,000		20,000,000
University of North Dakota School of Medicine and Health Sciences electronic medical records project	225,000		225,000
Total	$59,233,248	$10,400,000	$69,633,248
2011-13 executive recommendation			
Capital projects (general fund)	$37,651,000		$37,651,000
Capital projects (permanent oil tax trust fund)		$2,320,000	2,320,000
Special assessment payments	4,302,624		4,302,624
Mental health services	156,000		156,000
Forest Service - Emerald ash borer program	250,000		250,000
Total	$42,359,624	$2,320,000	$44,679,624

#1

DEPARTMENT OF EDUCATION

"TAKEN FROM FLORIDA LAW"

To achieve within existing resources true systemic change in education governance by establishing a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for our citizens.

To promote enhanced academic success and funding efficiency by centralizing the governance of educational delivery systems and aligning responsibility with accountability.

To provide consistent education policy focusing on the needs of those receiving education, not those providing education.

To provide substantially improved articulation across all educational delivery systems while ensuring that nonpublic education institutions and home education programs maintain their independence, autonomy, and nongovernmental status.

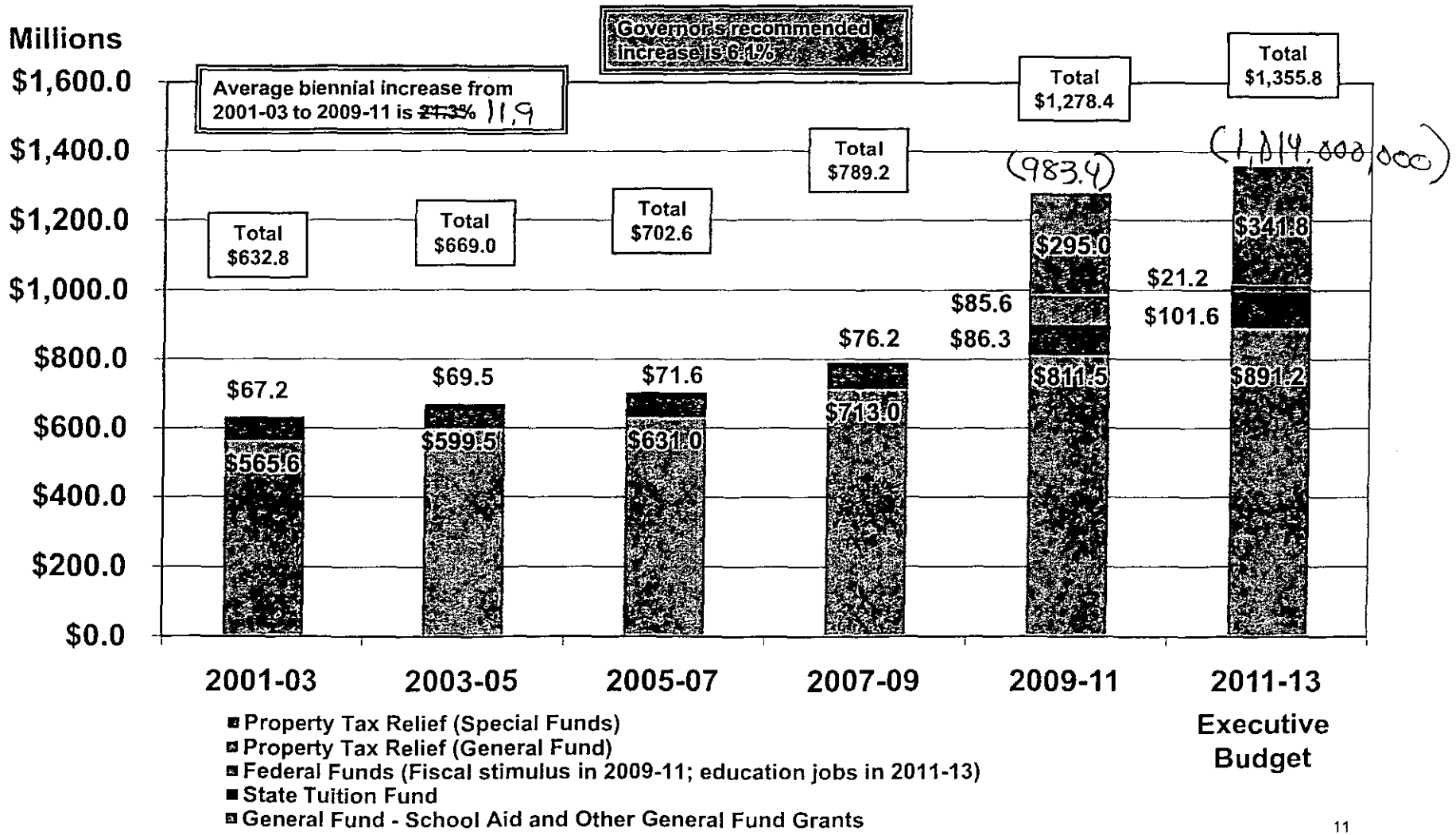
To provide for devolution of authority to the schools, community colleges, universities, and other education institutions that are the actual deliverers of educational services in order to provide student-centered education services within the clear parameters of the overarching education policy established by the Legislature.

The guiding principles new education governance are:

(a) A coordinated, seamless system for kindergarten through graduate school education.
(b) A system that is student-centered in every facet.
(c) A system that maximizes education access and academic success.
(d) A system that safeguards equity.
(e) A system that refuses to compromise academic excellence.

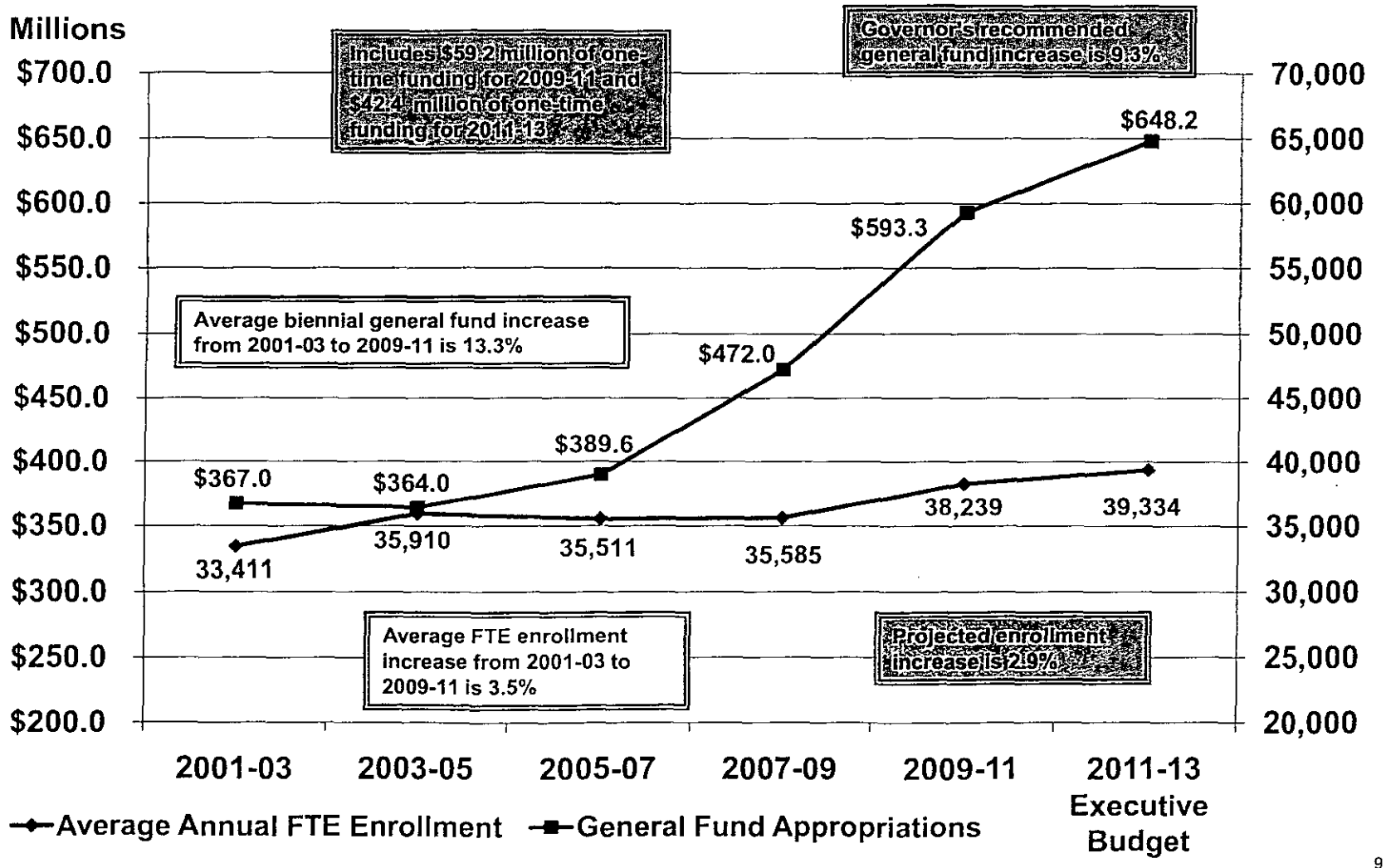
#1

Kindergarten Through Grade 12 – State School Aid and Other Grant Funding



#2

Higher Education – General Fund Appropriations and Full-Time Equivalent (FTE) Enrollments



#3

Andrist, John M.

Subject: Freborg, Layton W.
3046

Included in 3046 is the repeal of Section 6, article 8 of the constitution. My suggestion to the committee is that if the bill is passed it would get more serious consideration by the voters if we left in the language specifying names of colleges. Subsection 1 of Section 6 could be left in and changed:

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

   (add the remaining part which is Grand Forks, Fargo, Wahpeton, Valley City, Mayville, Minot, Dickinson, Bottineau and such other institutions as may hereafter be established.)

#4 HCR 3046

TESTIMONY ON HCR 3046
Senate Education Committee
April 4, 2011
By Dr. Wayne G. Sanstead, State Superintendent
701-328-4572
Department of Public Instruction

Good afternoon Chairman Freeborg and members of the Senate Education Committee.

For the record, my name is Dr. Wayne G. Sanstead and I am the State Superintendent of the North Dakota Department of Public Instruction. I am here to oppose HCR 3046 and to address my concerns relating to K-12 education in North Dakota as they pertain to HCR 3046.

Importantly HCR 3046 fails to identify the need to change the constitution or to provide an explanation of what it seeks to correct. I am unaware of any request from the Office of the Governor, the Board of Public School Education, or the Board of Higher Education to reorganize all educational agencies under a single director, appointed by the governor and "guided" by an educational council comprised of high-level legislator vetted governor appointees. In fact, more than any other time in our history, DPI along with other state educational agencies, including Higher Education, Education Standards and Practices, and the Department of Career and Technical Education, are working closely with the Joint Boards of Education to foster a seamless system of education in North Dakota.

I note that Rep. Al Carlson, a prime sponsor of the resolution, cites a large existing educational bureaucracy as primary motivation for the proposal, yet the legislation, if enacted, would clearly bury education within an even greater bureaucracy. Citizens would not have a clear path to voice their opinions. Major educational initiatives, attempts at opposition, or support of a policy, could be silenced.

#5

In my view, passage of HCR 3046 would represent an over-reach by the legislative branch to remove the elected executive branch Superintendent of Public Instruction from the Constitution of North Dakota. I believe the governance of public education, as set forth in North Dakota's Constitution, by the founding fathers in providing a non-partisan ballot has served, and continues to serve, the public well. The elected superintendent acts as the primary representative of K-12 education in North Dakota. Discourse and disagreement is welcomed. Citizen input into the affairs of state education policy are not lost among all the other statewide policy issues that must be weighed and decided upon by the governor.

It is my firm belief that the election of the superintendent should continue to be protected from undue political influence and be directly responsible to the people. It should not be subservient to either an educational council or to the governor. As it stands today, the Superintendent's office is a non-partisan office directly responsible to the citizens of North Dakota and thereby serves to establish and administer our system of public education. In my personal and professional view encompassing legislative and executive branch experience of 44 years, I believe accountability for K-12 education belongs in the hands of North Dakota citizens - it should not be removed from their grasp, but rather, strengthened.

This completes my testimony. Thank you for your kind attention.

North Dakota University System

HCR 3046 – Senate Education Committee

April 4, 2011

Jon Backes, President, State Board of Higher Education

Good morning, Mr. Chairman, and members of the Senate Education Committee. For the record, my name is Jon Backes, President, State Board of Higher Education. I am here to request your "do not pass" recommendation on HCR 3046.

HCR 3046 proposes a significant change in the governance and management structure for education in North Dakota. Before we either embrace change merely for the sake of change or decry change because change is often difficult, we have a duty to understand the system we have, its strengths and weaknesses and compare those strengths and weaknesses to those anticipated under the proposed system.

So first let us look at the management structure we have under the current constitutionally mandated system. As I am sure all of you are aware, that system was established by constitutional mandate in 1938 as a result of then governor William Langer's political interference with the instructional staff and President of NDSU. That political interference resulted in NDSU losing its accreditation. In my service on the board, I have had the opportunity to meet one of the NDSU graduates who did not receive an accredited degree when he graduated from NDSU. To say that it is an issue that remains clear in his memory would be an understatement.

At any rate, following that debacle in which NDSU lost its accreditation due to political interference, the citizens of the state amended the constitution to provide for a board that would take the politics out of higher education governance. The result was the governance structure we have today. Under the current structure, three candidates for each board position are nominated by legislative and governmental leaders. One of those three is then appointed by the governor and that appointment is approved by the senate. The board has:

> [F]ull authority over the institutions under its control....the state board shall have the power to delegate to its employees details of administration....the board shall have full authority to organize and reorganize the work of each institution....and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions. ND Constitution at Article VIII.

For the past decade, the board of higher education has endeavored to treat the 11 institutions under its direction as a unified system, with a unified budget and uniform governance. That direction was set primarily as the result of the roundtable on higher education. As you know, the roundtable was a legislative initiative to work with the private sector and the board to improve the state's economic and demographic picture. While the nomenclature reflected in the roundtable seems to have fallen on disfavor by some, when we look at cornerstones on

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which the roundtable was based: Education Excellence; Connection to the Diversification and Development of our Economy; Flexibility in how we educate North Dakota; Funding and Rewards; those tenets are what education leaders should be focused on as we move forward. Those tenets continue to drive the board's vision and strategic goals for higher education in North Dakota. By almost any measure or account, higher education through the collaborative efforts of the legislative branch, the executive branch and the board, has contributed significantly to the progress the great state of North Dakota has made in diversifying our economy and providing for North Dakota a future that is different than its past.

The Board understands that the citizens of North Dakota value access to high-quality, affordable higher education. They understand that education has the power to change lives – the lives of students in our classrooms and the lives of everyone in the state. They understand that an increasing level of education will contribute to the development of North Dakota's targeted industries and the quality of life in our communities.

The board of higher education has defined its mission, and the mission of the 11 institutions of higher education in North Dakota around that understanding. So when we look at our history and process of decision making and governance with our present system, some of the positive attributes include:

- The ability of the state's higher education system to successfully accomplish its mission depends upon a long-range vision for higher education in North Dakota. While we need to plan for tomorrow, next year and the next biennium, we also need to plan for the next decade as well. North Dakota's colleges and universities have been around for over one hundred years. If we want to succeed for the next one hundred, we must think and plan in the long term as well. That planning needs to be strategic, based on data and geared toward the future. Establishing a vision, a strategic plan and policies for the system are important responsibilities of higher education governing boards like the State Board of Higher Education and are responsibilities that can only be accomplished by board that is authorized to set policy with respect to higher education.
- In addition, only through a board authorized to set policy can the interaction and collaboration of the institutions within the system be encouraged, both thorough policy and budgetary means. Although these functions could be done by a single bureaucrat or education czar, having a true governing board with representation from across the state to actually make such policy decisions rather than merely "advise and consult" provides for a far greater range and depth of input. Further, the tasks of developing and approving a budget, hiring presidents and a chancellor, setting compensation for the presidents and chancellor, approving academic programs, and approving capital project requests are best achieved with input and action from a board which has cross state representation and is not monetarily vested in the outcome, rather than a single bureaucrat empowered to act without any constraint by a governing board. This is true for both higher education governing boards across the nation as well as corporations across the nation. In fact, I would challenge you to find one example in corporate America where the stakeholders directly elect the CEO of an entity without having a board of directors to establish institutional policy and maintain overall governance.

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- North Dakota's State Board of Higher Education represents one of the most streamlined and coordinated structures in the nation because in North Dakota, the state board of higher education is responsible for the complete range of postsecondary education opportunities in the state – workforce training, one- and two-year programs, four-year programs, graduate programs, and professional programs. While there will undoubtedly be legitimate disagreements over decisions made by any governing board, the question is not really about the decisions that are made, but rather whether the decision making process by a governing board, rather than a single "education czar" selected by the governor, is more appropriate for institutions with stakeholders made up of every student, parent, employer, voter and taxpayer in the state of North Dakota.

With respect to the governance model proposed by HCR 3046 the following questions are apparent:

- Under the model proposed by HR 3046, there would be no governing board – no group or entity directly charged with management and policy-making for higher education. There would only be an 11-member educational council, without governance or management authority, to provide "advice and guidance."
- Replacing a 8 member governing board with an 11 member advisory board would hardly seem to reduce the size of government.
- What governance process would apply to North Dakota's higher education institutions under the new "education czar"? Some of the questions raised by the proposed model include:
    - Where does overall accountability for higher education rest?
    - How would any modicum of transparency be established? When the board acts under the current system it must do so at an open meeting. Presumably an education czar would not have any requirement to have an open meeting with himself when setting policy that affects higher education stakeholders.
    - Who would develop and implement policies relating to academics, students and personnel, finance, and facilities? What process would be in place to provide for access to the decision making process and input into that process?
    - Who would hire the institutions' presidents? Would presidents and senior staff become essentially political appointees such that when a new governor was elected, he or she would hire a new education czar, and direct the hiring of new presidents and vice presidents who are politically aligned with the governor?
    - How would system-wide planning take place?
    - Who would determine the missions and programs of the colleges and universities?
    - Who would develop and approve budget requests?
- One individual – an "education czar" – cannot possibly be solely responsible for all of the functions of higher education and also oversee pre-kindergarten and K-12 education. Certainly vice directors for P-12 and higher education would be necessary, again creating greater, not less, bureaucracy and bigger, not smaller, government.
- The proposed model would be the only one of its kind in the nation. Every state, along with the District of Columbia and Puerto Rico, assigns higher education governance responsibility to one or more boards. Without a precedent, the proposed structure is untested. There is

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no means to assess how effective it would be in practice or whether it would lead to improved education policy and planning.

- In 2001, Florida became the only state in recent decades to adopt a governance structure covering pre-kindergarten through graduate education. However, this experiment was short-lived. In 2002 another constitutional amendment added a Board of Governors to oversee the State University System.
    - Over a decade has been required to implement this structure. Three governors later, Florida is still working to transition education. This structure raised disputes over relative authority and responsibility for higher education. There is continued turbulence and lack of system coordination.
    - The reality of this model is that it is not working well for postsecondary education in Florida and "has led to substantial politicization of the leadership of the higher education system."
- Ohio offers another recent example of how higher education can become politicized. When the state's political leadership changed, the Chancellor stepped down, resulting in a loss of continuity and stability for system policy and long-term planning.
- The bottom line is – Are the distractions and uncertainty created by the reorganization of these systems of K-12 and higher education in the best interest of North Dakota's stakeholders: its parents, students, employers and taxpayers?
- The Education Commission of the States (ECS) is a national organization that helps states develop effective policy and practice for public education and promotes the exchange of ideas among the states and long-range strategic thinking. An ECS policy brief offers some crucial advice to state leaders before they consider enacting changes to their higher education governance structure:

  "In most states, leaders have made governance changes without first making a thorough evaluation of how well their existing policies and structures align with the state's agenda and the public interest. Consequently, one can find numerous examples of governance changes that failed to meet the expectations of the people who proposed them. . . . **States that fail to assess these contextual factors risk seriously hampering the capacity of the state and its postsecondary education system to compete in the new environment.**" (emphasis added)

Chairman and members of the committee, North Dakota's education system, including its system of public colleges and universities is one of our state's greatest assets. It continues to be a significant contributor to the state's economic development, economic diversification and workforce goals. We cannot entrust the governance of our institutions to an untested model. I again urge you to recommend "Do not pass" on HCR 3046.

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#6

History of General Fund Appropriations by Function

(Millions of Dollars)

	(1) Health & Human Services	(2) Elementary, Secondary and Other Education	(3) North Dakota University System	(4) NDSU Research & Extension	(5) All Other State Agencies	(6) Total General Fund Approp.
A. 1981-83	$191.90	$254.08 [1]	$218.25	$29.86	$209.51	$903.60
% of Total Budget	21.2%	28.1%	24.2%	3.3%	23.2%	100.0%
B. 1983-85	$197.21	$402.60	$196.29	$32.42	$176.59	$1,005.11
% of Total Budget	19.6%	40.1%	19.5%	3.2%	17.6%	100.0%
C. 1985-87	$257.66	$423.94	$221.22	$35.28	$195.45	$1,133.55
% of Total Budget	22.7%	37.4%	19.5%	3.1%	17.3%	100.0%
D. 1987-89	$233.01	$410.16	$211.92	$32.57	$169.51	$1,057.17
% of Total Budget	22.0%	38.8%	20.0%	3.1%	16.1%	100.0%
E. 1989-91 - Post Referral	$236.18	$398.72	$227.48	$33.99	$132.25	$1,028.62
% of Total Budget	23.0%	38.7%	22.1%	3.3%	12.9%	100.0%
F. 1991-93	$274.12	$449.11	$263.73	$38.29	$173.38	$1,198.63
% of Total Budget	22.9%	37.5%	22.0%	3.2%	14.4%	100.0%
G. 1993-95	$297.42	$467.96	$252.12	$36.82	$198.12	$1,251.23
% of Total Budget	23.8%	37.4%	20.1%	3.0%	15.8%	100.0%
H. 1995-97	$329.40	$500.53	$268.45	$38.90	$211.06	$1,346.84
% of Total Budget	24.3%	37.2%	19.9%	2.9%	15.7%	100.0%
I. 1997-99	$355.11	$546.28	$302.24	$44.15	$241.46	$1,489.24
% of Total Budget	23.8%	36.7%	20.3%	3.0%	16.2%	100.0%
J. 1999-01	$366.46	$569.95	$327.41	$47.13	$283.09	$1,594.04
% of Total Budget	23.0%	35.8%	20.5%	3.0%	17.8%	100.0%
K. 2001-03	$390.30	$596.36	$366.95	$51.74	$341.63	$1,746.98
% of Total Budget	22.3%	34.1%	21.0%	3.0%	19.6%	100.0%
L. 2003-05	$430.10	$629.63	$362.89 [2]	$50.77	$330.28	$1,803.67
% of Total Budget	23.9%	34.9%	20.1%	2.8%	18.3%	100.0%
M. 2005-07	$505.57	$663.33	$388.51 [2]	$56.61	$375.43	$1,989.45
% of Total Budget	25.4%	33.3%	19.5%	2.8%	18.9%	100.0%
N. 2007-09	$621.70	$746.51	$471.65 [2]	$76.29	$545.82	$2,461.97
% of Total Budget	25.3%	30.3%	19.2%	3.1%	22.2%	100.0%
O. 2009-11	$698.94	$852.34	$597.87 [2]	$97.61	$1,002.60	$3,249.36
% of Total Budget	21.5%	26.2%	18.4%	3.0%	30.9%	100.0%
P. Percent increase from 1981-83 to 2009-11	264%	235%	174%	227%	379%	260%

North Dakota University System Fall Headcount enrollment	1980 = 31,184
North Dakota University System Fall Headcount enrollment	2008 = 43,442
Percent change in enrollment - North Dakota University System	+ 39.3%
K-12 public enrollment	1980 = 117,225
K-12 public enrollment	2008 = 93,396
Percent change in enrollment - K-12	- 20.3%

NOTES:

1 A larger portion of Foundation Aid funding was from special funds in 1981-83 since a portion of oil and gas taxes were dedicated funds from Foundation Aid in 1981-83.

2 Column 3 includes $1.35 million in both 2003-05 and 2005-07, and $3 million in 2007-09 and 2009-11, for Workforce Training, that was appropriated to the Dept of Career and Technical Education. In addition, column 3 includes the following for 2009-11: $1 million appropriated to Dept of Commerce for Workforce Training Quadrants; $200,000 appropriated to School for the Deaf for grants to NDUS institutions; and $369,900 appropriation to Dept of Health for grant to the ND Fetal Alcohol Syndrome Center at UND SMHS.

Includes capital projects funded from general fund cash (excludes state bonded projects).

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7 #

Testimony in Response to HCR 3046

April 4, 2011

Good morning. I am David Fuller, president of Minot State University and Dakota College at Bottineau, and I come before you to offer testimony in opposition to HCR 3046.

While I appreciate efforts to improve education, and I assume this is the purpose of this resolution, this proposal will not lead to improvement to the way that education is currently supported and managed in North Dakota. Instead, it will create significant governance problems.

I am opposed to this resolution for a number of essential reasons: 1) there is no rationale for such a radical change to a system that has proven to work well, efficiently, and responsibly; 2) the proposed structure is unrealistic and unworkable based on no clear educational rationale, precedent or understandable purpose; 3) the envisioned governance structure would fail to oversee a complex of educational functions that are inherently different in mission, focus, compliance, and outcomes; 4) the authority for this multiplicity of functions would rest unrealistically with a superintendent who would necessarily have to be well versed in the educational culture and demands of P-12 and higher education—two widely disparate and diverse cultures and systems; 5) there would be virtually no effective governance, oversight, and reasonable direction provided by a single superintendent and an advisory council; and 6) the impractical nature of this model would necessitate a predictable revamping of institutional governance and authority and the creation of new levels of local governance and oversight.

No Clear Purpose or Precedent for Such a Significant Change

As there are no workable precedents or clear reasons for such a change to North Dakota's educational system, there are no systems with which to judge the effectiveness of such a model. The proposed combination of P-12 systems and higher education under one superintendent and an advisory council is impractical. I base this observation on 30 years of experience as a faculty member and administrator in higher education, from a Research 1 university, three regional public universities, a private college, and more recently as president of a university and a long-time consultant evaluator for the Higher Learning Commission with multiple evaluation visits to a variety of institutions in many states. Governance, oversight, coordination, planning, and a host of other distinct higher education needs cannot be accomplished effectively by a superintendent and an advisory council that is required to oversee higher education and P-12.

The resolution calls for a council with members who have "profound knowledge and understanding of the purpose and mission of education at all levels." I respectfully question if this is possible to find advisory council members or even a superintendent who possess such a profound knowledge and understanding, if such an understanding depends on in-depth experience. But even if they were to possess such a knowledge and understanding, it is highly unlikely that they would be able to exercise appropriate and responsible governance and guidance to both entities. I have worked with many educational professionals with profound knowledge of education; but it is a rare individual whose "profound" knowledge comes from in-depth experience and training at all levels to carry out the primary functions of P-12 and higher education, which are to ensure quality learning of students.

Higher Education Governance Systems

I spent 13 years in South Dakota and worked under the guidance of the SD Board of Regents and a central office that provided support and guidance to the regents. That Board did not oversee the technical colleges, just the universities. For four years I worked at a regional university in Nebraska. Nebraska had developed a variety of

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governance boards and systems. One, in which I served, was the Nebraska State College System with a Board of Trustees appointed by the governor to govern three colleges: Wayne State, Peru State, and Chadron State. Nebraska also had a separate governance board called the Board of Regents, the members of which were elected by state-wide vote to their seats. The Board of Regents governed the university system of the state's universities, including the Research 1 University and two regional universities (i.e., the University of Nebraska at Lincoln, Omaha, and Kearney). All community and technical colleges had local governance boards elected by their respective communities. All of these boards and systems had virtually no coordination or interaction. Nebraska developed what they called a Coordinating Commission—another board-- to oversee all of these boards and systems, including the college system, the university system, and the community colleges. With all of these levels of systems and boards, there was little focus, efficiency, or unified direction. In fact, at the time I was there the various institutions and systems worked separately and competitively, vying separately for public support.

Nebraska solved their oversight and governance needs by creating separate boards to oversee separate institutional categories in higher education. Those distinctive boards focused on the governance, direction, planning, fiscal management, academic oversight, and personnel oversight for their respective university/college system. And those systems didn't have anything to do with P-12.

Predictable Need to Restructure this System if Adopted

In all due respect, appointing a superintendent and an advisory council with task forces will be fraught with problems and confusion. I suspect that if this model is adopted, the system would need to immediately begin restructuring and reframing itself to handle the complex of oversight and individual demands that will be inherent in this design. The idealism of this design and its lack of defined purpose would create, I predict, immediate logistical problems, lack of oversight, campuses vying separately for support and recognition, and, most serious, a need to create new governance systems for individual institutions.

Another potential outcome of the restructuring to address this problem would be to develop another system similar to the one we have right now that oversees and governs the community colleges, four-year regional universities, and the research universities. One board, composed of appointed people with knowledge and interest, that could offer coordination, appropriate oversight of programming, opportunities for collaboration, assurances of compliance and accreditation oversight, assistance to the campuses in financial and academic needs, and a clear and well-tested precedent that is efficient, accountable, and, most important, effective in the quality learning and the career opportunities provided to the students. It would not be able, because of the demands and differences in the P-12 systems, to provide additional oversight for those systems and to usurp the authority of local boards of education.

What we would eventually have is a system similar to our current State Board of Higher Education and the North Dakota University system, which is proven to be efficient and highly effective. That effectiveness and efficiency is well documented in the annual accountability reports and other reports providing in-depth analyses and data about the system and the individual institutions. And I should add that the efficiencies and effectiveness documented in those reports can be easily accessed, but the most telling proof of that effectiveness is to talk to students and to visit our individual campuses.

If It Isn't Broken, Why Fix it?

I hear a lot from people outside of higher education, who don't have a profound knowledge and understanding of higher education, pointing to our inefficiencies and ineffectiveness. Working at Minot State and Dakota College at Bottineau, and remaining aware of what my colleagues are doing at the other NDUS institutions, I do not see how

we are broken. Perhaps I should rephrase that adage and question to express more accurately in this case: if something works exceptionally well why replace it with a model that lacks a purpose and any precedent, one that is not practical or well tested? That is what we're dealing with here unfortunately. I would hope that this resolution was intended to improve our current system. But upon a close review, the model doesn't appear to have the potential for anything more than harming what we already have that is working well.

We have an highly effective system and set of institutions that are not broken. The puzzling question for me is then why is it necessary to fix it and replace it with a model that appears unworkable and ineffective?

My sense is that this proposed model would have serious and long-lasting negative impacts on the quality of education that our North Dakota University System institutions now provide the state. And my original concern about the lack of a rationale for such a radical change makes a consideration of this model even more disturbing and questionable in light of a strongly defined rationale and the proven successes of our current institutions. Instead of revamping our current system, I suggest that we work together to address our essential purposes, which are to ensure quality learning, support student growth, and provide strong guidance for student persistence toward graduation. All of us in higher education are focused on those goals and our student successes. We do not need to throw out a system that works; we need to work together for what all of us believe are our essential goals in education.

With that, Mr. Chairman, I respectfully oppose HCR 3046 and urge you and other honored legislators to vote against it.

Thank you.

David Fuller

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North Dakota University System
HCR 3046 – Senate Education Committee
April 4, 2011

Chairman Freborg and members of the Senate Education Committee. For the record, my name is Bill Goetz, Chancellor of the North Dakota University System.

I testify today in opposition to HCR 3046.

The North Dakota State Board of Higher Education is the governing body for North Dakota's 11 publicly supported colleges and universities; the SBHE also oversees the Agricultural Research Stations, North Dakota Cooperative Extension Service, Northern Crops Institute, State Forest Service and the Upper Great Plains Transportation Institute.

The SBHE is the policy-setting and advocacy body for the North Dakota University System. Decisions on issues with system-wide implications are made by the board and chancellor in consultation with the chancellor's cabinet (composed of the chancellor, presidents, executive dean, vice-chancellors and chief information officer). The CEO's of the institutions retain authority in managing campus affairs.

The chancellor's office supports the SBHE in developing policy for the system's governance and in advocating on its behalf.

We, inclusive of the university system, the legislature, executive branch and the general public of the State of North Dakota share in the ever changing dynamics of higher education. It is through the citizen members of the SBHE that leadership has positively influenced recognition of the challenges and opportunities that exist within the system today.

The vision today is one of providing access, innovation, excellence and affordability.

Attaining this vision is that the vision must be shared. It is the basis upon which:

1. Strategic plan which melds the entire system with common objectives

2. Collaboration between our colleges and universities. There exists an environment of team work and partnerships.

3. Collaboration with K-12 in regard to academic expectations, curriculum requirements and the delivery of education. Improving preparation for college.

4. Immediacy to response in meeting the needs of workforce training.

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5. Development of cost efficiencies and the incorporation of cost performance measures that address resulting outcomes.

6. Incorporating multiple delivery systems of education thus improving upon accessibility.

These points are but a few of the outcomes that are results of a governance structure that speaks to the quality of education which characterizes the State of North Dakota and is recognized nationally. It is evidenced based in multiple examples.

It is my strong conviction that we are currently on the right path in meeting the demanding dynamic change that is occurring in higher education today through the existing governance structure.

Consistency of how we conduct the business of higher education and K-12 should always be the order of the day. In doing so, we in leadership positions have a responsibility, owed to the citizens we represent, in conducting and evaluation and change in a responsible way. We owe that to the citizens of this state, our students of all ages who learn in the classroom and on-line.

Mr. Chairman, we can rearrange the chairs on the deck or with greater relevancy the chairs in the classroom or the chairs in the office of governance – the question remains, "How will this impact the quality of education in this state and really what is the end game?"

I ask for consideration of a DNP on HCR 3046.

Thank you kindly.

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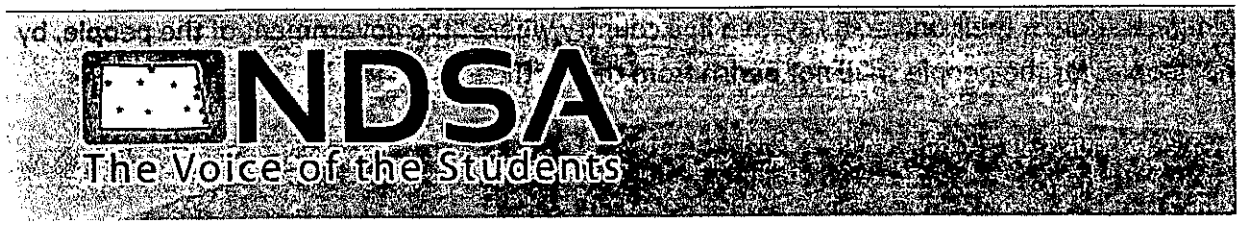

Chairman Freborg, and members of the committee, my name is William Woodworth. I am the current Legislative Lobbyist and President-Elect of the North Dakota Student Association. We are here to testify in opposition to HCR 3046. The 48,000 students of the North Dakota University System will be negatively affected by Section 6 of this bill, the repeal of the constitutional provision that provides for the State Board of Higher Education.

The students of the North Dakota Student Association have historically worked hard for a voice with the governing body of their universities. In 1976, David Paulson wrote a thesis regarding the early history of NDSA. As Paulson wrote, "The chairman of the State Board of Higher Education in the 1969-1970 academic year was Elvira Jestrab. She was quite reluctant to recognize the students who attended State Board meetings." Over time the State Board became more friendly toward students who were voicing their concerns. By 1991, students had earned an advisory position to the State Board of Higher Education.

In 1993, HCR 3014 was introduced. It submitted an amendment of the Constitution to the people of North Dakota that would add a student voting member to the SBHE. One of the co-sponsors of this bill was Sen. Stenehjem. Rep. Poolman testified, "The students are the most important interest group there is. Without the students, there would be no institutions." He went on to testify, "Student tuition has increased so much in the past years. This could be called an issue of taxation without fair representation."

The people of North Dakota voted to give students voting representation on the State Board of Higher Education.

Under HCR 3046, there is only one "voting member": the director of the department of education. Thus, students lose part of their voice by no longer being able to vote about issues concerning them. There is also an 11 educational council which "shall provide advice and guidance". Students will no longer even have an advisory position in the new structure. When students pay 45% of the total cost for their education, they will make up 0% of the decision making. The Legislature pays 29% of the cost of education, but would have 100% of the decision making authority, since the Governor would only need the approval of four of the Leaders of the Legislature.

The North Dakota Student Association is asking the committee to give a do-not-pass recommendation to HCR 3046. Our reason is simple. Students should have a voice in the

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administration of their university system in a country where "the government of the people, by the people, for the people shall not perish from the earth."

Thank you for your time.

William Woodworth

North Dakota Student Association, Legislative Lobbyist

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North Dakota Education Association

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Senate Education Committee
Testimony in Opposition of HCR 3046
April 4, 2011

Dakota Draper – 701-223-0450 -- comments@ndea.org

Chairman Freborg, members of the Senate Education Committee, for the record my name is Dakota Draper. I am President of the North Dakota Education Association (NDEA). On behalf of our 8,800 members, I rise in opposition of HCR 3046 and offer a suggestion.

House Concurrent Resolution 3046 asks the voters of North Dakota to greatly alter the North Dakota Constitution, by combining the Department of Public Instruction and the North Dakota State Board of Higher Education into a single body. Instead of two, uniquely different entities, we would have one single Department of Education, headed by what would amount to be an education czar, controlling all aspects of education, pre-k through higher education.

We believe taking the direction of education out of the hands of the voters would not serve the parents of our state's public school children very well. No evidence has been presented that indicates voters want to relinquish the choice they now enjoy; choosing to vote for a Governor and then voting for the Superintendent of Public Instruction for their children's education. HCR 3046 brings about an appointed director, not an elected Superintendent of Public Instruction.

Instead, we would like to suggest that many of the issues brought forward in testimony could be addressed and possibly resolved in a setting very similar to the North Dakota Commission on Education Improvement. Having worked with the Commission the last number of years, I have been very impressed how diverse points of view and interests have been able to work together to move education forward. This is evident by the how the issues of equity and adequacy have been resolved.

We believe that something of a hybrid commission could make well-founded recommendations about changing our system of education, instead of completely altering our current constitutional structure, with no clear direction in place.

Therefore, we ask that you give HCR 3046 a DO NOT PASS recommendation.

Thank you very much for your consideration and I will now take questions.

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HCR3046
Testimony by Dr. Doug Johnson
Executive Director NDCEL

Chairman Freeborg, members of the Senate Education Committee the NDCEL is opposed to **HCR3046** as it is currently written. We believe that this resolution if adopted and goes to the vote of the people and as a result our ND Constitution is a changed it could significantly erode the public's voice in both K-12 education and higher education. Here are some of the issues that we believe are of great concern to the members of our association:

- Concern about the public's loss of voice for K-12 education. The provision in **HCR3046** is extremely weak. Section 3, subsection 4. Lines 9-14 (pg 3 lines 6-15) provides for an eleven member council, all appointed by the governor and approved by the majority and minority leaders of the House and Senate, president pro-temp of the senate and the speaker of the House.
  - The members of the council must be "balanced and representative" and have "training and experience" which gives them "profound knowledge and understanding of the purpose and mission of education at all levels, and collectively understand the function of education with respect to agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions."
  - The question is – how does the described functioning of education listed above ensure that the individuals will have "a profound knowledge and understanding of the purpose and mission of education at the K12 level? The language in this subsection only describes skills most applicable to higher ed.
  - You may want to add language "from pre-school to post graduate studies" after the word "education" on line 13 of page 3.

- It is important to have elected representation for K-12 – we are opposed to removing the election of the Superintendent of Public Instruction from the Constitution but would be open to looking at other ways that this position could be accomplished as along it was done through some sort of election process – perhaps of the State Board of Education.

- One should consider the political nature of the appointment process to the council outlined in **HCR3046** and the appointment of a "commissioner of education". Currently

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there is one party which would be in control of all aspects of the appointments, including council members as well as the "commissioner of education" provided for in this bill. However, this balance of control could and will more likely than not will change at some point in the future. Once the changes proposed in HCR3046 are voted in by the people in our State's Constitution it would be extremely difficult the legislature to change the Constitution back to the current requirements for the election of a Superintendent of Public Instruction and the appointment of a State Board of Higher Education.

- One should also consider **SB2300** which sets up a Commission on higher education to study funding issues related to higher education could be expanded to consider the implications of the adoption of **HCR3046**. This would closely parallel the work of the Commission on Education Improvement which took nearly six years to address funding equity, adequacy, and student academic improvement.

Vision for the Future:

- Consider current work on the states K-20 Longitudinal Data System (LDS) and the current efforts of the P-20 agency study group which include members of Higher Ed, DPI, ESPB, and CTE as a starting point.
    - The LDS will provide information provide data which will track North Dakota students from their entry to the K-12 system through their exit from the higher education system and/or work and needed articulation between K-12 and Higher Ed for whatever commission, council, or legislative study is initiated to study the issues being addressed by HCR3046.
    - The P-20 agency study group has been meeting for at least five years and has developed considerable insight to the current issues addressing the articulation issues and communication needs between K-12 and Higher Education.

- While many similarities and responsibilities exist between K-12 education and Higher Ed there are many more differences which are unique to each level that must be recognized and addressed.
    - Would the appointed council members have the "training and experience" which gives them "profound knowledge and understanding of the purpose and mission of education at all levels and the time to dedicate to serving on such a council?
    - Based on personal experience of the time commitment for serving as a non-voting member of the Commission on Education Improvement (CEI)there was a

considerable amount of time invested the work of the CEI over the past 6 years. One can almost be certain that the current State Board of Higher Education spends 10 to 15 days per year (had 15 official meetings in 2010) in meetings just to address issue of Higher Ed. Add to that the time commitment dedicate by members of the CEI the question that one must ask is if it would be possible to find individuals who would be willing to serve and give up a significant amount of their time to do the work of the proposed Council on Education?

- A recommendation that you may wish to consider would be to establish a "Commission", similar to that of the Commission on Education Improvement to study the issues that are outlined in **HCR3046** over the next biennium.
    - This "Commission" which could be made up of legislators and individuals who would have a profound knowledge and understanding of the purpose and mission of education at all levels in our state and could:
        - Develop recommendations for addressing the delivery and education in the state and would include academic standards, budgetary and financial matters, managerial and operations matters as well as regulatory and administrative matters.
        - Use workgroups, task forces, and subcommittees to seek additional information and outside expertise in determining the recommendation seen as important to address
        - Work closely with but independently of the Commission on Higher Education that would be established in **SB2300** whose assignment is to develop recommendations wh0ich address the funding issues of Higher Education.

Chairman Freeborg, members of the Senate Education Committee the NDCEL is opposed to **HCR3046** as it is currently written. However, it could support a study as is described above as it would be truly a win-win situation for all. This concludes my testimony and I'll be glad to answer any questions that you may have at this time.

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