

2019 SENATE EDUCATION

SCR 4016

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

SCR 4016
2/27/2019
32944

- Subcommittee
 Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

Minutes:

Att. #1 & 2-Heckaman; #3-Burgum; #4-Skogen; #5-Melville; #6-Varvel; #7-Sickler

Chairman Schaible: Committee we'll be looking at SCR 4016.

(0:31) **Senator Wardner, Dist. 37:** Introduced and reviewed the resolution.

(11:08) **Senator Heckaman Dist. 23: See Att. #1, #2.**

(18:53) **Chairman Schaible:** Is there a time limit for how long they have to be off the board – is it just one year or –

Senator Heckaman: I don't think it is listed in the bill. It would probably have to be a two-year span because there are two year terms.

Chairman Schaible: Thank you.

(19:50) **Governor Doug Burgum: See Att. #3.**

(32:25) **Chairman Schaible:** You are asking us to amend this to a version that was soundly defeated in the House, my question is what do you think the possible outcome if we do that? Is that a realistic path?

Governor Burgum: We are looking ahead to getting something on the ballot in November 2020. I have been consistent in suggesting that I think a two board mission focused concurrent resolution on the ballot can pass with the citizens of ND. We have seen other attempts to modify the current model at the ballot box and I think – there are two questions – what can pass the legislature and what can pass the voters box. Unfortunately, they may be two different things, but, I would ask this committee and the legislature to look ahead to November 2020 and say – can we put something together that would have broad support across students, private sector, institutions, current board members, legislature, the task

force to help ND be more competitive going forward. That is why I would look forward to the two board model. I also think in the House that 1500 was a 140-page bill. It contained 80-years of cleanup language going back to 1939 – I think it was overwhelming and it was the cart before the horse. I think we have to get the resolution out first and there would be time and after – if a two board were to pass in November of 2020, the legislature would have the opportunity in that next legislative session to do the cleanup language that was included in 1500 to match whatever concurrent resolution was passed.

Chairman Schaible: So you feel an amended version of this with the two board version would pass the House?

Governor Burgum: I am not saying that. I am saying I think a two board version will pass at the ballot box. I don't believe a modified one board will because I think that by November of 2020, it is going to be very apparent that making incremental changes to the current system is not moving quick enough to keep up with the huge forces that are driving change in education.

Chairman Schaible: With that thought in mind the, is it possible to increase the board number enough to do everything we want to do – like this in subcommittees?

Governor Burgum: Generally, I think the answer is no – even if you have a bigger board – 11 or take it up to 13, you still run into the issue of the mission focus challenge. I think that is a challenge to do that – to get it done.

Chairman Schaible: We have talked about the two governance models. After being interviewed by some stuff by the early part of your taskforce, my passion for dual credit and career and tech, it seems to me that a governance for two year institutions would also serve a very good purpose. Which I believe we have some very good things that we could do for our critical job issues and our certificated professions. Wouldn't that seem like a good way to do two – have a board for the two year institutions with that aspect in mind?

Governor Burgum: There is a lot of strong support for having a separate board for two-year institutions and there are many states that do that and very effectively. During the taskforce, as the taskforce was going on, we saw Bismarck State adding four year degrees, we saw Dickinson State taking on a polytechnic mission and adding two year degrees. I think that there was a sense that in that changing environment with twos becoming fours and fours becoming twos, that they might be better served under one board. I want to go back to your prior question, when I was – I don't want to be hesitant – if we add more members to the current board, it doesn't increase the amount of governance time in the same mathematical way than if we had two boards. If you have two boards that can go to different places at different times and drive that, you are actually creating – it's the number of board members times the number of boards – and so if you take a two board model, each with eleven or thirteen, we are really talking about getting up to 22 or more board members across those two boards and that gives you the surface area and band width to cover all the complexity more than going from eleven or thirteen and having subcommittees. You just don't get enough time – not enough physical time to cover everything in the depth you need to – particularly when this model would have this board of trustees actually doing the assessments of their presidents and doing the hiring of those presidents. There is a direct

interaction between the presidents and the provost and the vice presidents and the board of directors versus today's current model where there is a lot of layers between them.

Chairman Schaible: I guess my last question would be there are a lot of things we would like to take bigger steps in all the bills that we introduce and try to do, and sometimes we have the accept smaller steps – is that worthwhile going down that approach? There are a lot of things I would like to do more at and better at, but in reality it doesn't work that way, so is it worth taking smaller steps?

Governor Burgum: Well, I'm not a small step guy, so I am probably the wrong guy to ask that question. I would say that – with the full support with all the changes I'm really excited the senate is trying to pick this up and trying to move the dialog forward. I am deeply grateful, but you would take a look at an incremental change to the current model and say that that might have been a great idea 20-years ago, because we have had this model since 1939. There were plenty of chances along the way to do incremental changes, but now when we are in a world again with these cultural, demographic, technological and economic challenges that are coming, we are in a completely new world for higher education. We have competition coming everywhere. I look, today in ND, we price our online classes today higher than what we price our on premise classes. This morning the numbers are almost unregistor able. You type in free online courses in any search engine and the answer comes back in millions. There is a website out there that is called 380 high quality ivy league courses that you can take. This is not a university you have never heard of – the completion coming from people that are taking their content and putting it online is changing this forever – and not in a small way. We need to have boards – the board work in the coming decade is going to be harder than it has been in the 80 years because there has never be a time in the last 80 years where we have this amount of disruptive change. Higher Education business models are being totally disrupted and we need boards that can get down and grapple with these issues – and they will be different for each kind of institution. What is going on in a two-year is going to be different than what is going on in a med school and we have to get people that can get close to it – high quality people that are dedicated and can get close to the problems and help drive change.

Chairman Schaible: Other questions.

Senator Oban: As someone not a part of the taskforce and followed the conversations based on what the press was following, you came out with a three board model – why have you settled in at two now?

Governor Burgum: Leader Heckaman did a super job of describing the closing minutes of the day where the first vote was two – we had a couple of members that left early that day with an hour we might have ended up with two at the end of that, so, it was teetering back and forth and I think there is – as time is enveloped since November, I think there is a coalescing of support around the two board model. I think people see that it would provide enormous synergies. I think some people had concerns about the three board model because they thought that the two research university might compete with each other too much. I think having them under one board brings in another body of support for this proposal that would help it win at the ballot box. I think that is why I am a strong believer that the two board model would –

Senator Oban: So, you were on board with the two board model from the beginning.

Governor Burgum: I went into the whole process completely open minded, because we had a taskforce say, what are we going to learn, but I am a supporter of the two board model.

Senator Oban: I know this is where you are coming from – I hope that – although politics plays a role in all of this and trying to figure what can pass not only at the legislature, but at the ballot box, I hope we would be pushing forward a governance model that we think is best for doing the job and not based on the process it has to go through. I want to make sure that if two is what you are pushing, and that is where this is going, that we have done our homework in determining that is really what we think is going to be the best model to move forward not just because it might be the most convenient to get passed.

Governor Burgum: I do think it is the best model. I think it going to get it out of the legislature, but I think it will make more sense to voters. I would also say, too, as an employer – up until two-years ago I was an employer, I have hired from all eleven public institutions in the **state** of ND and the two private ones. We need to have every one of these institutions firing on all cylinders, they all have to stand up to the challenges. The way they reach their potential is – you have great leaders and the way you have great leaders is you have great governance that is evaluating and hiring those leaders. We have dedicated board of higher education members that have been trying to keep their nose above water in the deep end for a long time and I mean we have vice chairman Hacker is hear, but I mean these guys have been working their tail off and as leader Wardner said, it is an impossible job right now. We have to have a change, but as Nick (Hacker) and I have talked about and the taskforce talked about – if you have two boards, there is all sorts of opportunities for collaboration and some of those can be really hard wired – the legislature could say – you don't get any funding from the legislature unless you have common course numbering, course transferability, unified budgeting approach – so that only one budget comes from the two boards to the legislature. You can still have all of the elements that we like can be retained in a two board model in terms of how it interfaces with the legislature and how the dollars are – and going the other way, when they are out there in the meetings, meeting with presidents and vice presidents and students and partners in the private sector, then we have the bandwidth and focus to go out and get partnerships done and moving forward. It is not just – what we are doing and being a little bit better – I'm talking to the governor of Arizona this weekend - the University of Arizona has 330 partnerships just with companies that provide online education. They have over a thousand partnerships with other stuff – it is like – we are behind in where we need to be relative to how the changes are going, so to the chairman's question – I think the time for incremental change is passed and we need to take a step forward to give ourselves a chance to catch up if we are going to continue to spend \$2.7 billion – then we need to make sure we have a governance model that is in position to actually be successful managing that in a way that we get the best return on those – that investment.

Chairman Schaible: Other questions. Thank you.

Governor Burgum: Mr. Chairman and Senators, thank you for your time today and thank you for keeping this dialog going. I appreciate it. Way to go Senate!

Chairman Schaible: Any other testimony in favor of the resolution.

(46:03) **Larry Skogen, Bismarck State College President: See Att. #4.**

(50:00) **Senator Rust:** You are in favor of increasing the number of members. Listing to Governor Burgum, is eleven the number is it something like maybe 15? If you want three committees, let's say you want one for two research institutions, one for the others, and one for CTE, you'd have five which would be better than three or four. Is the number – would like to speculate on that?

Larry Skogan: I don't believe that eleven is a magic number. I believe we need to get to an odd number – right now we are at eight. I don't have to tell this crowd, you are the deciders and I think through your deliberations in what you decide to take back to your colleagues for floor vote, I think that is an excellent question you are asking. That number in my mind if Senator Wardner and Senator Heckaman had proposed 17 members, I would be standing here saying that 17 members is the right number. If they had said 23 members, I think the governor mentioned that number between two boards at 22, I don't believe it is a magic number, so I think it needs to be increased – how big of increase is certainly open for your discussion.

Chairman Schaible: Not so long ago, you were the interim chancellor. We had several governance bills going through those sessions at that time. Is this the solution to the problems we are trying to fix?

Larry Skogan: I think that the State Board of Higher Education (SBHE) has done a really good job. I was here at a time that people would disagree with that statement. I understand that, but from general governance position, they have done a great job. It has been very difficult under two conditions – their numbers and because the second term that they could get after a very short four years. If there is a problem then, and to answer your question Mr. Chairman, does this fix the problem – the problem is there aren't enough of them. I do believe that if we acknowledge that there needs to be more than eight; if we acknowledge the chancellor is absolutely correct in his move towards making subcommittees that can focus on different institutions – that do have different missions – and I agree with that – but the board collectively is the governing board. I think even if you set up those subcommittees – whether you have 15 members and five people on each of the different category of institutions, they still govern as a total body and they come back together and govern as a body. Yes, there is a problem in that the board works very, very hard and I believe there should be more members to it. This particular resolution does fix that.

Chairman Schaible: Another assumption that has been made is that whether it is the chancellor or the governance with the board, do they have enough power over the individual universities to direct or cause change or fix things we are trying to do? Does our chancellor or our board have enough power to do what we are trying to do?

Larry Skogan: The SBHE has all the power they need to do whatever they want to do and they can delegate anything they want to the chancellor. Though board policies, many things have been delegated to the chancellor and other things have been held by the board. It is certainly well above my pay grade as to whether or not they have made the right choices in

that area. In the 12-13 years I have been here, I have seen a variance in that, but really, it depends on the people involved. It depends who is sitting on that board. I think today, we have the strongest board that I have ever seen – making a lot of really tough decisions and good decisions. Does the SBHE have the power that it needs to govern, yes – absolutely. Does the chancellor have the power he needs - or someday we could say he or she needs – absolutely. The board can delegate whatever power – they are the governing board and they can delegate to the chancellor whatever authority they want in the governance of the institution.

Chairman Schaible: It seems that the legislature is accountable to the people and we don't have a lot of control over the that and who is the chancellor and the governance really accountable to and how do we hold them accountable to that aspect.

Larry Skogan: Right and of course, Mr. Chairman, the current resolution that you are looking at has the confirmation still in there, so you still have that piece to it. Obviously, there is still the impeachment process that can be used on board members – which is in the constitution as well. You do have some leverage for things like that, but I agree with you, this is a process that involves everybody – the governor, the committee that goes through the applications and they submit that to the governor, it involves the governor doing his due diligence and making his best decision and making that appointment, and the senate confirmation process and it is all still in there.

Chairman Schaible: Other questions. Thank you.

(58:21) **Jared M. Melville, President ND Student Association(NDSA): See Att. #5.**

(1:07:45) **Chairman Schaible:** Do you have any perspective on the governor's comments that this isn't a step fast enough and probably not worthwhile?

Jared Melville: While the governor has concerns about incremental change, I think that there are a lot of different ways that we can reach the same target. If we want to have the best higher education system in the US, that is a goal, but there are a lot of ways we can reach that goal. The NDSA has not endorsed one governance model over another. We have looked at certain features of different governance models, but we haven't endorsed one specific model. We believe there are a lot of ways to reach this common goal.

Chairman Schaible: If we increased the number of board members, which this resolution wants to do, then we would add a student representative. A lot of times when you go onto a board, it takes a certain amount of experience before you are an effective board member. Would that deter from – say we take a student population and replacing a regular board member, would that deter from the board?

Jared Melville: In a lot of cases when we – as a student association – nominate someone for this position, they have already had a good amount of experience by working with university affairs. Our students that are nominated to the board have attended our student association meetings where we do talk about issues in higher ed. governance, legislation, etc. They do come equipped with a certain level of exposure to governance in higher education.

Chairman Schaible: My assumption that some of the heartache that the bill that was defeated had was the part that changing the membership from out of state. If that is a heartache for a lot of people, would you think that changing the student membership from out of state would also have that same adverse effect and might even jeopardize the passage of this?

Jared Melville: I do not necessarily believe it would jeopardize the passage of this concurrent resolution and the initiative that's brought to the voters primarily because we can see that there would be a difference between the student members serving on the board and then the regular board members who have six year terms. When we think about the student members, a lot of their entire exposure to the world around them is through their time in the ND university system. Their interests could be more strongly correlated towards the best interests of higher education. If we looked at the other board members who would be appointed by the governor, I assume some of the heartbreak that people are feeling is could people from out of state influence university governance in the state of ND for interests that are not aligned with the interests of higher education. Since the students are very focused on higher education, and motivated by the opportunity to enhance the educational outcomes of their peers I don't view this as an equivalency.

Chairman Schaible: Other questions. What would you consider if we increased the number of student memberships, but not being voting members? Is that better than not having additional members?

Jared Melville: If you look again at almost incremental change, it is better than the status quo because the student representative would still be present on the board, providing that we still maintained our one voting student at least.

Chairman Schaible: Other questions. Thank you Jared.

(1:12:35) **Nick Hacker, ND SBHE:** My testimony today is on my own behalf and does not represent the position of the board as we haven't reviewed in depth and voted on this current resolution. The ND university system is unique – but not that unique compared to even some of our neighbors, such as Minnesota state system. It has 37 institutions and 128,000 students. ND has 11 institutions ranging – just like the Minnesota state – from two year to four year to research institutions. Their largest institution is larger than any of our institutions – Mankato State. We are a little unique, but not that unique – pretty similar in fact. What is unique is that Minnesota state has 15 board members compared to the ND university system which has eight voting members. Based on my experience, it takes about 12 months to understand the wide range of complexity of not only our system, but the differences between different types of institutions. I continue to learn more every single day. With eight members – and considering the time it takes to become acquainted, we end up in a situation in which four to five members are doing their best to carry a heavy load. If we want to maintain the status quo, and continue to govern as well as we can within our means, do nothing. If we want to take advantage of a rapidly changing higher education environment and we move not only the system, but our institutions forward, then we need more help and a little bit of improved structure. I was appointed and confirmed by you and my confirmation chairman – I see stepped out of the room – thank you so much for that. I am supportive of our board and

I am proud of the many accomplishments we have been able to achieve as well as our service. We can and will continue to strive to make higher education in ND the best it can be. If governance changes are on the horizon and can improve higher education in ND, then we should do as much as necessary to make needed changes with a thoughtful discussion of our elected leaders – such as yourselves and ultimately the voters of ND. I am very supportive of the extension of the term from four years to six. I believe it is appropriate that we have a sufficient amount of turnover – like any board and so, hence, a year off after six before you could continue to serve is a positive thing. Also, I am supportive of more members. However, the current structure – and I would reference section six of article eight of our constitution – not only sets the table, but provides the direction by which we govern higher education. We look to statutes; we look to funding – there is lots of authority within the legislature over higher education through the century code. But when we look at the table and how it is set, it is set based on section six of article eight which is the education article of the constitution. When we follow that and we begin to look at how that article works, we end up with a commissioner of higher education which is referred to as a CEO. A CEO implies oversight of those that report to that CEO which would be our institutional presidents. However, at the same time, the board hires and fires. Effectively, we end up with a CEO with limited authority. We don't have the bandwidth or the expertise to as board members today engage with deeply and review our current presidents. We are not involved in the review of those presidents. We get a report, we make a decision to extend their contract, but ultimately, we are hiring and firing, but not reviewing and not engaging as deeply as I think we should as board members. Increasing board members helps, but that doesn't ensure that we are close to those institutions. Two boards would have the ability, as set forth in the constitution, to engage deeply with those types of institutions, so that we can not only engage in the review, but also we will engage deeply with the institutions – the provosts, and many other things to ensure that that institution is really leaning forward. Today, when issues are arisen to the board level, we simple say, "that is the CEO's problem, not our problem, we hire and fire." I don't think that is doing justice for the ND taxpayers. However, as we noticed in the House, that bill was soundly defeated. So, I come to you today – I testified neutral over there, too – is that it is not really a two board structure that I feel is needed and that the citizens of ND want, I believe the citizens of ND and the legislative branch want a unified governance structure. I think that is what we are after – how do we make sure we are unified as a system in our global governance, but how do we govern well at the institution level as well. I am here to just throw an idea out ultimately, is there a way to create a single board or roles that a single board – effectively a joint board – would have to ensure that governance in higher education meets the needs of the citizens. However, in that board be split into two sub boards and authorized the ability to not only hire, fire, but review and engage deeply with those different types of institutions which have very different missions. Things we want to make sure work in a unified manner – funding. How do we ensure that the higher education system is approaching the legislature with one funding request? Not eleven institutions asking for their own dollars and cents. How do we ensure that we maintain things that are positive such as core technology services that should not be split out; but should be governed by a uniform board. How do we ensure dual credit and common course catalogs work and work well? Currently, they don't work that well. We have them, which is unique to many other states, but I would tell you after speaking with many students at Legacy High School that are trying to take dual credit – four point 0 kids and they can't get the credit out of a certain institution – I would tell you from a user standpoint it is not working that well and we have improvement to be made. We are focused on that improvement and we will continue to improve those things

like dual credit and common course catalogs. We can only do that in a unified structure. I am here to just ask that we contemplate is there a way that we can set the table with a unified governance structure which may have two boards so that we can lean in on the institutions where we need to provide more oversight and a different kind of oversight understanding the two research institutions deeply is very challenging to do. And yes, NDSU and UND are big institutions in our system and it takes lots of time and lots of focus to really understand what their needs and wants are for those are for those institutions which are going to be very different than say our technical colleges.

Chairman Schaible: Can our subcommittees – I mean you have subcommittees now – can our subcommittees do – I mean can they hire, fire – what you were talking about the governance systems – they can't do that now?

Nick Hacker: The subcommittees cannot do that today.

Chairman Schaible: So that part would have to be changed anyway?

Nick Hacker: Yes, full board.

Chairman Schaible: Do you feel the SBHE has enough power over schools or the chancellor now?

Nick Hacker: I absolutely believe we do. The issue is we don't have very many of us. Number is an important part of this measure.

Chairman Schaible: You talked about limited authority and review of presidents. You have the authority and the power now, it is just not the expertise and timing or enough minds to do that?

Nick Hacker: We do have that authority today, we don't have the fire power – enough members to be able to provide an appropriate review of a research institutional president and we haven't had time to engage and understand what providing appropriate review would look like. What say a research or even a two-year school president – so we don't bring enough because we are trying to catch everything that is flying at us as board members.

Chairman Schaible: So in your neutral capacity, is eleven the right answer or is fifteen a better answer?

Nick Hacker: In my neutral capacity, I would say fifteen is a probably a better number. It would allow us to break into subgroups better or subcommittees, if you will.

Chairman Schaible: And I think you understand our dilemma of what we think is realistic and what we think we can pass, so it is kind of that compromise.

Senator Oban: Can I get your take on the residency discussion.

Nick Hacker: I think it is important to have a vast majority or a significant majority of our members vested taxpayers of the state of ND, but I don't believe we should leave great talent

out there that may have very deep roots to the state of ND hanging out on the sidelines because they live in Moorhead.

Senator Rust: You understand that by going out of state that you immediately alienate a certain number of people in that decision making process. Do you think that might be one of the things that might cause individuals oppose it – if you had people from out of state represented on that board?

Nick Hacker: I think if it is a minor amount of the number of seats that would be available, I don't think it is really a talking point that should hold up the greater conversation.

Chairman Schaible: Thank you Nick. Other testimony in favor of. Other testimony in opposition to.

(1:23:52) **Andrew Varvel: See Att. #6.**

Chairman Schaible: Questions? I think it will take a while to look at it before we have questions.

Andrew Varvel: I tried to send it a couple of days ago – online – I know - this is a bit out of left field vis a vie what at the legislature are usually accustomed to seeing. We are accustomed to very, very incremental change and this is a bit, well, this is the kind of big step Governor Burgum has been talking about except in a different direction.

Chairman Schaible: Yes, we will certainly take a look at it and if we have questions we will contact you. Any other questions? Thank you. Other testimony in opposition to the resolution.

(1:30:37) **Jonathan Sickler, Chief Legal officer of AE2S, former SBHE Board Member and served on the taskforce for Higher Education Governance: See Att. #7.**

(1:39:45) **Chairman Schaible:** Do you think the current board model or chancellor model – do they have enough power to do they need to do?

Jonathan Sickler: Yes, the constitution grants very broad authority to the state board in all different facets. I don't think it is necessarily an issue that they don't have enough authority, it is just they don't use it in ways from a structural standpoint that are most beneficial.

Chairman Schaible: If we would go to an out of state membership – allow membership from out of state members, would they have to be a alumni to serve?

Jonathan Sickler: I would say yes and the reason for that is you want a proxy to somebody that has a connection to the state, who knows something about the state, who cares about the state. If they have a degree from a ND public institution, that represents that they spent, most likely, sometime in the state. That would be my proxy to determine they care about their institution and the state of ND.

Senator Rust: Thank you for coming today. I appreciate the fact that you have had an experience here that we can draw upon. How is it different that from what happens in K12 education? A superintendent brings to the board a recommendation that maybe a principal

should be released. How is this different? It is a system that has been working at K12, thought it was working at higher ed. as well. Can you expand on why I am wrong here?

Jonathan Sickler: I can't speak intelligently if that is working or not in K12. I certainly take your point that there is some similarity there. For higher ed. I think we have a couple of experiences in the past 12 years where a chancellor has tried to reign in a university president and politics has stepped in and that is where my comments – the political base, political resources don't lie with the chancellor. The chancellor doesn't have a political constituency and that is a key difference maybe from K12. We have instances where there have been disputes between a chancellor and one or more campus presidents and typically, it is the campus presidents who win.

Senator Rust: Those things happen at a local level also. There are times when superintendents have conflicts with board members and principals – or maybe teachers, so I mean, that does happen there. I can understand it happening at that level as well. It is just a little more sophisticated because there are a lot more people involved and you have the press there and everything.

Jonathan Sickler: There certainly is a high degree of interest in higher education. From my experience in the private sector, as an attorney over my practice, I have counseled a number of boards so in private sector, certainly having a board that hires a CEO that than is responsible all of his or her subordinates is certainly much more the norm so that in this case applying it to higher education, you don't have a university president that is able to kind of – that ultimately is having their job determined whether they are going to stay or not by the board. It would be that CEO, so, that is where I say when the lines are muddled, when you have campus leadership that in theory is incentivized to go around the chancellor – and that is how the system is set up – that is kind of a deficiency that when the university system was created in the early 90s – I wasn't around quite that long, but I suspect the issue was there was some desire for more of a unified system. Campus presidents were willing to give up some authority with the expansion of the commissioner of higher education to a chancellor of higher education, but didn't want to go so far as to have the president's report or be hired or fired by a chancellor. So they came up with this middle ground, but I think over the last 15 or 20 years it has had some issues.

Senator Rust: Looking at the number in the SCR 4016, it is at eleven. Do you have any thoughts if this was to move forward and we did not go to your ideas about increasing that number to say 15 or do you have a number that you think would be better than eleven – or is eleven a good number?

Jonathan Sickler: Based on board member Hacker's comments and some of the other comments that have been made about and seeing what the board is doing in using committees and the move to really study that, they have made comments that having 15 – five, five, and five might be something. Would I be hesitant - and I think there was a comment about eleven institutions - as you can tell from my comments that I am hesitant to move towards any type of system that has this one campus one vote kind of model. I am not suggesting that essentially why eleven was used, but I defer to the existing board and the chancellor and his team that is looking at this and suggest maybe fifteen is right, but I trust them.

Senator Rust: I have a feeling eleven was a palatable number to get something passed. I am not sure that fifteen doesn't become a little bit more unpalatable. I am not privy to why eleven was picked, but we have talked about what can get passed – the legislature, and for that matter, what can get passed the voters. Big ideas are good, but we live in a pretty conservative state. Big ideas take a while to grow, or do you think that you just go out and give it a shot?

Jonathan Sickler: Well, maybe this is the positive side with public interest in higher education being as extensive as it is. I think voters have a sense that there are some issues – they have seen it and they have paid for it over the past ten to fifteen years. When reference is made to what the legislature suggested back in 2014 about the three commissioner model, that failed by a large amount, I don't interpret that as a ringing endorsement for the higher education system that existed at that point. I think it was more that North Dakotans didn't want to centralize power in a three-person commission. I don't think they were necessarily saying that they really have a lot of confidence of the board structure at that time. To your question, I have faith in North Dakotans that if there is an argument made and there is a rational behind why fifteen is a better number than eleven, especially when we are dealing with a volunteer board over a multibillion dollar set of institutions that they could get comfortable with that.

Senator Rust: Thank you for your time and your input.

(1:49:04) **Senator Davison:** Chancellor, would you come forward and provide some thoughts.

Chancellor Hagerott: Chairman Schaible said he did want to ask a couple of questions and have me comment on anything that was said so far and something about what we are doing internally, so I can stick to those things. I appreciate member Sickler talking about the role of the chancellor. I will stick to factual insights. Certainly it is a layer – an additional layer, but it is a major integrator. The chancellor convenes what is called the chancellor's cabinet. It is the main advisory body for my boss Vice Chair Hacker and Chair Morton. Eleven presidents come together and produce policies in five out of six studies – governance, mission, tuition policies, shared services, software relating to retention attainment. One study fell off and that was the administrative bloat issue because the budget cuts took care of that. The chancellor's office, my staff were here and convened these study groups with leadership by presidents providing subsistent policy changes that we now have. The other function is that it does help reduce – in some cases – just the cost. If you take the logical conclusion – the most direct lines would be to have boards for each institution and have no integrated function that would reduce, so there is a cost to having an integrator layer there, but it does reduce the number of boards you need to have because the integration function is happening in my staff and my role and then can inform the board. The other comment I just wanted to make – the governor had some very good points and he should get credit for what has been done already – he is batting three out of four – the subcommittee structure got the impetus from him pushing a lot of reform. We tried this a couple of years ago and we didn't get any traction. Once he started his taskforce, adding more board members, we broached that before – no traction. Single longer terms – everybody knows Doctor Melicher was terrible humiliation when he was not renewed. He found out when he was driving with his granddaughter when his name came

out on the radio. Very suboptimal way to recruit people when they think that may happen, but the governor pushed those three. The only one he is not getting yet is the multiple boards thing. I can offer this observation. It is much easier to disintegrate things than to put them back together. Back to Chairman Schaible's point – is it better to evolve a little bit. Unlike the corporate world where you can merge, reestablish, reform, but an education system doesn't just merge back that there is an argument that Chairman Schaible is saying you might want to take the three out of four – not the fourth and take a little while and think about how it went. All going in the same direction of trying to get better. I think those were some of the key things that were said that I wanted to respond to. As far as Chairman Schaible's specific question, "What were we doing internally?", again giving the governor some credit, but also my board leader here is that the board is now in the third meeting on establishing a subcommittee structure to better get to that idea of accountability and expertise. The board seems to be so firmly behind that that they are going to push forward to establish at least one of these committees or subcommittees with the existing number of people. That is for the research tier because member Hacker said the research enterprise is so complex – they have things called herd surveys and NSF and EPSCoR (Established Program to Stimulate Competitive Research), it is a whole language in that it is overwhelming to many of the board members to really get their hands around it. That is moving forward – we have had multiple meetings on that – I think that will be established as early as this June during our retreat. There is on the docket to have a subcommittee for Workforce. Dr. Richmond pushed that again – that workforce was so important to have his own committee dedicated to workforce. The board has already done work on that – we have a fall retreat with the two year presidents – they have focused evals and metrics broken off, so the board has already done something with that with existing manpower. So, we are moving down that road to better reform how we do work internally. The last point I would make is examples of how we are innovating and adapting. There is some radical change happening – the board approved in June a thing called the dual mission model at Dickinson – this is something that is happening nationally. Liberal arts colleges are having to become both community college and workforce training schools as well as liberal arts. Dickinson faculty supported the president with that initiative. They are now adopting that – the board approved that prototype in June. I would think that would be a model – quite frankly – for Minot which lacks a community college. Minot merges a lot of programs with Bottineau downtown and become a de facto dual mission. That experience is happening – of course the polytechnic experiment is happening. It has gotten attention from all the way from California. We just had a conference call – the CEO of the biggest digital privacy companies in the world that is investing \$2 million in this polytechnic model here in Bismarck. Two of our two-year colleges have now broken in the top 25 by the Chronicle in the nation – Wahpeton and Lake Region. One of our UAS programs was the first in the nation undergrad degree and we have a top twenty online university in the nation, and my own vice-chancellor for finance was recognized by what is called the state higher education executive officers and ranked with Ohio State as the number one, number two well run, most transparent university system. We are innovative with the existing board, it isn't easy because they are worked pretty hard, but we do respect the governors desire to get better and more adaptive and we are working in that direction and we will follow whatever direction you and the voters come up with.

Senator Rust: If the number of board members were increased, would increasing that number to say fifteen, would that help spread that workload out and make those

subcommittees having a few more members in them, rather than three, probably having five would that lessen the load and make things work more efficiently?

Chancellor Hagerott: It could – then you get the question “how fast could you populate fifteen?” The reason eleven resonates with me is in the proposals that we have been working on our own self reforms would be three committees dedicated to the three tiers – the two year/polytechnic model, the four-year dual mission – in case other four-years do a dual mission, and the research one. I could have three members on each and that would be nine and then leave two members that have no loyalties to any tier and they could be the tie breakers because things statutorily would eventually have to come to the board. The chair and the vice chair wouldn’t serve on any of those and we have even talked about the idea that you would need a super majority to overturn a subcommittee. Like if a subcommittee says this is crucial, we have to do this, you couldn’t just have a six to five vote and stop it. You would have to have eight to three or something. Eleven works pretty well and the again, the idea may evolve as we go along. I found the proposal to have more students – because the governor is right – things are changing so fast, they are using language about things that older members including me are like, “run that by me, what are you guys doing? What is happening on the campus?” That is important that we are staying ahead of these things and not always behind. Having another student member – even if they are just non-voting, but advising, I think can be something that can be considered of value here – as an amendment – having more young people –or even adult learner students on here – not necessarily young in age. Does that help answer your question?

Senator Rust: Helps about eleven.

Vice-Chairman Fors: Any other questions? That concludes the hearing on SCR 4016.

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

SCR 4016
3/4/2019
33083

- Subcommittee
 Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

Minutes:

Att. #1-Schaible(19.3140.01001)

Chairman Schaible: See Att. #1. I passed out a copy of an amendment to SCR 4016. I wanted you to be able to look at this amendment before we act on it this afternoon. What the amendment does is increases the number of State Board of Higher Education Board members to fifteen as we talked about. The other change is replacing the Secretary of State from the Attorney General – the reason for that change is we took off the Supreme Court Justice – who is a lawyer and deals with the law – I thought a better fit would be the Attorney General’s office would have some expertise in the law and what happened. These changes were discussed with both prime sponsors and I received their input on that. They were both in favor of the changes in conversations I had with them. The logic behind increasing the number of members to fifteen is that if they wanted to do subcommittees and divide up the workload, it makes more sense to divide up the group into three subcommittees of five each, fifteen is the most logical number. Three people on a subcommittee is unworkable. We can discuss this, but I don’t want to act on this until this afternoon.

Senator Rust: One of the things of going to eleven and dividing into subcommittees three-three-three and two extra. The problem with having three on a subcommittee is that anytime you have two together, you have a quorum.

Chairman Schaible: Yes, and I had an opportunity to talk with some of the board members about the logistics of what this is and I don’t think we want to get into the weeds and delegate what it has to be. I prefer not to; they can do that. It wouldn’t need to be just three subcommittees, they could have subcommittees on different kinds of items, also. It seems to me that the overwhelming message we got was the task was too vast, the expertise was too much, the timing was too draining on them. It seems to me that increasing the membership made the most sense. I think it is also something that would have buy in from the other chamber and it would have doing the intent of the higher ed. commission was trying to do with the governance taskforce, but yet in a workable format that would be acceptable to the state.

Senator Oban: Did you put any thought into the suggestion that we move it from eleven to fifteen – I don't have super feelings about this, but the idea that the student member is pretty significantly – their voice is significantly reduced by doubling the size of the board and keeping the student member just one.

Chairman Schaible: I did do some thinking on that and visited with a lot of people on this. I didn't want to put a lot of time and effort into something that was going to die anyways, so I tried to do a little feel of where people were at. My opinion on student membership is that their voice is valuable and their insight is great. The problem – thing I have about them being a voting board member is they are only on for a year – maybe two. Quite frankly, in my opinion, I don't think you are a valuable board member until you have some experience and I think that takes at least two years before you are effective. By creating more voting members to taking other members from that, I think you are depleting the value of the board. In my world, I think maybe having three nonvoting student members for each subcommittee would be more valuable. The voting part – I am not so sure about – I don't have the format we have? I just thought – are you an effective board member with one year. The other thing is so that if you are from NDSU and you are the student board member and the president calls you in the week before the board meeting, and says let's talk about this board meeting, I think that is a lot of pressure for a student to be put under. I had some reservations about expanding that and for that reason, I did not.

Senator Oban: How about the residency discussion? I think there are some valid points and keeping it to a minority of the full board makes sense to me. Making sure that the individual has very clear and direct ties to ND makes sense.

Chairman Schaible: There again, I did consider that – having three subcommittees – I thought maybe three board members that would have to be – from out of the state, but they would have to be alumni – that's very unreceived in the House. I thought if we get to a conference committee, I think they could have greater discussions at that point. Right now, it is just trying to see if this is something to pursue and move forward. The details – are we going to delegate what kind of subcommittees, the membership and where they should be and that kind of stuff – I think is conference committee stuff or after that or even legislation. This is constitutional stuff. If we wanted to tweek that a little bit in legislation, I thought that is a step further. For the residency, I think that is going to raise opposition.

Senator Rust: I also thought the alumni have some real – there is some real benefit there. On the other side of that coin – depending on what part of the country they might be from, how could they attend all the meetings and the SBHE meets a lot of times. Maybe they could do it through other means using technology and conferencing. I would think that would be difficult to have a lot of personal contact – especially if they might be working yet to be able to get in here and get to the meetings.

Chairman Schaible: Some of the opposition I heard to that thought was that might be good for a university or for a foundation, but for the general what is best for the state it really didn't have a lot of effect. If you have an alumnus that graduated from UND, for example, that probably would be a really good champion for UND, but I think part of the problem we have now is I think we need board members and a chancellor that will say what is best for the

students of ND – what is best for ND first and then go down that path second. That seemed to – didn't seem to promote that. Several people that I talked to mentioned that. As I said, if we get to the point of a conference committee, those will become greater conversations. I do want to move this out tomorrow.

Senator Rust: I am not so sure how well that would be received by our general population. To have board members from out of state, somehow or another, in my area at least, I would have people saying – what? You can't find people from ND serve on these things? I am not sure that in my area that that would go over very well. I don't think it would have any problem with input from them and things, but I think that North Dakotans are still pretty jealous about having people that represent them live where they are supposed to live in their minds.

Chairman Schaible: So, think about it. We will talk about it this afternoon if we have time. I do want to move this bill one way or the other tomorrow. If it does pass, they can get it scheduled on the other side quickly. With that, we will recess until this afternoon.

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

SCR 4016
3/4/2019
33138 (18:04)

- Subcommittee
 Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

Minutes:

No Attachments.

Chairman Schaible: I passed out an amendment this morning. Does anyone have questions on the amendment?

Senator Rust: I move a do pass on the amendment 19.3140.01001.

Senator Elkin: Second.

Senator Rust: The only discussion I would have is that in looking at going from eleven to fifteen, you could have three subgroups of five. Where you could have one subgroup of five deal with the two research institutions, another subgroup of five deal with the four-years, and the third group of five dealing with the two-years who I think are being slighted right now because all of the students, all of the money, all of the what have you is with those research institutions. This way, I think if you had three subgroups of five then maybe instead of the attention being paid to where the dollars are and the students are, we might be paying more attention to what the missions are.

Chairman Schaible: Any other discussion. If not clerk take the roll on the amendment.

Roll Call Vote taken: 7 Yeas; 0 Nays; 0 Absent. Amendment 19.3140.01001 is adopted.

Senator Rust: Motion to Do Pass SCR 4016 as amended.

Senator Oban: Second.

Chairman Schaible: Any discussion on the bill?

Senator Oban: Throughout all of the years of SBHE, I think this is still about the people who serve, not the number, not the number of boards; governance is a good as the people that

are governing. I understand that this is a lot of work and I don't know that this responds to all of those challenges. I think this is a lot of work to ask of a volunteer. If you expect to have a diversity of thought in the people serving, then you need to have a diversity of people in places in their life. I think, we as legislators, even understand how hard this job is if you are still in the midst of trying to work and raise a family and all of those things, so I feel for the people that are doing this – it is not an easy job. I hope this can help alleviate some of the challenges in it. But, I also hope the people responsible for putting people on the board look for the highest quality of people they can find and not just place whoever tends to be whispering in your ear on who might be good to put on there.

Chairman Schaible: I would have to agree with you. All boards are as good as the people. Boards do a fantastic job and people need to do their job – not worry about how they look or who they are trying to impress.

(5:15) **Senator Rust:** Out of respect to the governor, he would like to have two boards. He has been very vocal about having two boards. He has good reasons for wanting them. He makes a good case for wanting them. At the same time, in view of the fact that the house rejected that idea overwhelmingly, I think for us to go and say, let's change this back to two boards, it is kind of like talking to the third brick on the right. I don't think it is going to fly. Another part of this is determining what can pass and get to a vote of the people. I believe the same thing is true with the people in my area. Might be different in different parts of the state, but in my area, when the talk was to go to three boards, the questions I got was "Tell me how three boards are more efficient than one." The sentiment to increase the number of boards wasn't there in my area.

Senator Fors: Senator Rust, what makes you think that any board will work if right now don't you have some questions as to whether the board right now is working?

(7:17) **Senator Rust:** Senator Fors: I know it is overly simplistic to equate the State Board of Higher Education (SBHE) with local school boards, but for the most part, our citizenry has liked local boards and boards to manage things. They do not want a commissioner of higher ed. who is appointed – who has all kinds of authority. I don't think they want that they want people they can go to from different walks of life and probably from different areas. Just like local school boards don't want a superintendent to have all that power. They want those local people that they can go to. I think it is incumbent upon those boards to hire some good people. As I recall, school boards when they went to the School Boards Association, they were told they had they had two functions: 1) Hire you chief administrator; 2) policy. Once you set policy, then things should go pretty much according to that policy. I think the same thing is true of the SBHE. I think they need to hire somebody who is their chief administrator. Somebody they are going to have to rely on – somebody they are not always going to agree with. As far as end run around people, where you have certain college profs that have this high constituency that can do an end around the commissioner and go to the board. The same thing happens in your small school districts, just not quite as sophisticated a level. The same thing happens there. You learn really well as an administrator at one point in time I was an administrator of a school that had five board members and four of them had relatives that were teachers. Sometimes in the negotiations process they weren't always listening to me because there might have been an end run. That's okay. That is the way the system works. It is an undaunting task, but the big thing is you have a board that hires a chief administrator

and then you have those people hire college presidents. They are going to run those institutions knowing full well that all of them are going to be jealous for their institution and really push for their institution, but now it is part of that chief person and the board to keep those things in check and in perspective. I am not sure that two boards are going to make it run any better – I don't think that three boards are going to make it run any better. It is kind of a beast and in all due respect, beasts sometimes take on their own lives and got to be checked. It hasn't worked too badly for us either. When you really think about it, there is so much, because it is a nice political football. It is one that we can all kick around and everybody is pretty safe in kicking that football around. I mean because who is going to fight you? You have one college/university president that is maybe going to fight you, so it is a political football that is easy to kick around. I think, remarkably, I am a product of our public schools. I went K-12. I went college here. I am a product of our public schools and I believe in our public schools. Knowing full well that with public schools you have things that deal with first amendment rights and things that deal with discrimination and you have so many things that private schools don't have to deal with – “no, I am sorry, we are not doing that.” They can get by with that. Public schools can't. When I think about our public schools and our public universities, I think remarkably we have done a pretty good job.

(11:51) **Senator Fors:** That would include Dickinson then?

Senator Rust: I can tell you that in my time as a superintendent I hired a number of Dickinson State University graduates. I never had a bad teacher come out of there. Our president of our bank – a very proactive person – Dickinson State University graduate. Now sometimes these places will go awry but, that is when you have this person at the top and a board that brings the hammer down and says this will get better or else. I have got to tell you that my experience with Dickinson State University was very, very good.

Senator Fors: I don't think I am talking about the quality of the education, as the administration of the college itself.

Senator Rust: The same thing can be said about schools. We all know that there have been some schools that, for one reason or another, have probably not had the best of luck in a time or two where they have hired the best administrators. That has happened. That happens in hospitals, too. I was on a hospital board and sometimes you can have an administrator that is not very good and you end up firing that one only to get somebody who is worse. I've done that, too, as a superintendent. I have fired teachers who were marginal only to hire somebody that was a lot worse than what I had and I had to fire that one, too. You can have that happen. This is a problem of having public things. Public institutions operate under a different set of rules than private ones do. Let's face it, private ones sometimes don't have any better luck either. We have seen private schools who have had – one not so long ago where the administrator left under questionable circumstances after a building burned down. Those things do happen, but again, I would say that the SBHE is set up with a board who hires a chancellor. Who hires college presidents, who I think go out and hire deans and vice presidents. That chain should work and most of the time it does work. It is embarrassing because everything that we do is in the sunshine. It is embarrassing because sometimes we are bound by some laws where it isn't as immediate to replace people as it is in the private sector. In the private sector, if a guy owns a business walks up and says, “You are fired.” In the public, that is not the way it is done. I would like it but, because we keep making laws on

how to do it. I still think that what we have hasn't served us that badly. Now, does it mean it is without fail, no. Do I think this would help it, yes, because you could have five subcommittees that could deal with the different sizes and it is as important with the different missions. I do believe the research universities have a different mission than the four-years do, which have a different mission than two-years. I think it can work that way.

Chairman Schaible: I would have to agree. I think the board system is a good system if everybody understands their role and know what job description is and follow it. In the case of what we are talking about, it seems that their job description and their duties have exploded past their capability. I think, if nothing else, having more members and a subcommittee structure would help that.

Senator Oban: There is only one more thing that I heard during the hearing with respect to the resolution. That was from Jonathan Sickler when we are adding members to the board, but we are not expanding the pool. I think that is a fair concern. I can respect your point that maybe that is something that will work out down the road. I think it was a fair concern expressed.

Chairman Schaible: I thought the governor did a good job of explaining the out of state process, too. Hopefully, it goes to conference committee and we can get that and if it doesn't, then it doesn't matter.

Senator Oban: Not just with respect to out of state people, but we limit it that no more than two bachelor degree holders can be from any single institution. There are restrictions on that might limit really quality people from it.

Chairman Schaible: I agree, and I think the more detail you put into this, the more opposition you run into. If we get into a place where we have a discussion on both sides, I am certainly think we can go to there on some of that. Other discussion? Seeing none, we'll have the clerk take the roll.

Roll Call Vote taken: 7 Yeas, 0 Nays, 0 Absent.

Senator Schaible will carry the bill.

2019 SENATE STANDING COMMITTEE MINUTES

Education Committee
Sheyenne River Room, State Capitol

SCR 4016
3/6/2019
33323 (4:53)

- Subcommittee
 Conference Committee

Committee Clerk: Lynn Wolf

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

Minutes:

No Attachments.

Chairman Schaible: Committee, the reason that SCR 4016 was brought back was because we had an amendment that was sent upstairs and it got fixed up there. The thing is what I have is the amendment that you voted on didn't have that included on there. What was fixed was the last line of the amendment. The bill said originally that we can only replace board members two per year. If there is a six-year term, and there are fifteen board members, you can't do it in twelve years. It is impossible. They found that upstairs and fixed it, but, I didn't know that because that was not the version that we had. It is my intention if the committee is okay with that, we will leave it as is and proceed unless we have to re-refer unless we have to reconsider our action and vote on the bill. If you are okay with the fix that is there – which is exactly what we would do.

Senator Rust: Mr. Chairman, do we need to revote on the bill?

Chairman Schaible: We don't have to because nothing is going to change. I just wanted to make sure that the committee's members knew what we were voting on and that was included. As Chairman, I felt it was appropriate to do. If there is no dissention on that –

Senator Oban: Mr. Chairman, where is that again?

Chairman Schaible: It is the very last of the amendment – page 5, line 29. With that, I need to go testify on something, so I will turn the gavel over to the Vice-Chairman Fors. He will start the hearing at 2:00 pm.

March 1, 2019

82
3/4
127

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4016

Page 1, line 6, replace "eleven" with "fifteen"

Page 1, line 18, replace "eleven" with "fifteen"

Page 1, line 19, replace "ten" with "fourteen"

Page 1, line 21, replace "ten" with "fourteen"

Page 1, line 23, replace "eleventh" with "fifteenth"

Page 2, line 17, replace "secretary of state" with "attorney general"

Page 2, line 21, replace "ten" with "fourteen"

Page 5, line 25, replace "July 1" with "June 30"

Page 5, line 26, replace "July 1" with "June 30"

Page 5, line 27, replace "three" with "seven"

Page 5, line 29, replace "two" with "three"

Renumber accordingly

Date: 3-4-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4016

Senate Education Committee

Subcommittee

Amendment LC# or Description: 19.3140.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider

Motion Made By Sen. Rust Seconded By Sen. Elkin

Senators	Yes	No	Senators	Yes	No
Chairman Schaible:	✓		Senator Marcellais:	✓	
Vice-Chairman Fors:	✓		Senator Oban:	✓	
Senator Davison	✓				
Senator Elkin:	✓				
Senator Rust:	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Amendment adopted

Date: 3-4-19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4016

Senate Education Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen Rust Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible:	✓		Senator Marcellais:	✓	
Vice-Chairman Fors:	✓		Senator Oban:	✓	
Senator Davison	✓				
Senator Elkin:	✓				
Senator Rust:	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Schaible

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

REPORT OF STANDING COMMITTEE

SCR 4016: Education Committee (Sen. Schaible, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4016 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "eleven" with "fifteen"

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Renumber accordingly

2019 HOUSE JUDICIARY

SCR 4016

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SCR 4016
3/19/2019
33998

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

Minutes:

1,2,3,4,5,6

Chairman Koppelman: Opened the hearing on SCR 4016.

Senator Heckaman: (Attachment #1) Went over the testimony and ND Task Force for Higher Education Governance. (:17-6:22)

Rep. Rick Becker: What was the rational moving from the original 11-member committee to 15?

Senator Heckaman: That came from the Senate education committee as they worked on this bill. It was more about the work they have to do. This would allow more subcommittees to be assigned different portfolios to carry forward. Right now with the number of members they have on it is hard to break up into subcommittees. We moved it up from 8 to 11 by adding 3 and that was the task force recommendation and then the Senate felt they should move that up a little bit more.

Rep. Rick Becker: Was there discussion that each board would have in their portfolio a specific institution, and therefore each institution being represented specifically by a board member. Is there talk of that?

Senator Heckaman: I wasn't in on all the discussion that the Senate education committee did in their deliberation and committee work. Maybe somebody wants to check with them on that. Senator Schaible felt there was sufficient amount of work for the additional members.

Chairman K. Koppelman: Discussed why this bill was before our committee is because years ago we had a Constitutional Revision Committee which was a joint committee of House and Senate members and later the Senate they didn't want to participate in it anymore so it became a House committee. The House decided to dissolve the committee as well but merged it into the judiciary committee under the pretense that whatever is going to amend

the constitution would probably best be dealt with here. In the last couple of sessions some of these resolutions have been assigned topically instead; which can lead to some confusion. We have some going around to amend the Constitution in different ways that are scattered in different committees so we are trying to get our heads together. What about the term of the members? What is the advantage of that?

Senator Heckaman: That was something that came from the task for itself. If you are on a four-year term it takes you a little while to gather steam. If you feel like you want to make changes you may feel it difficult to make changes if you are going to run for another four-year term and may not ruffle too many feathers. I think if you are on a six years you may bring some expertise back if you want to run again.

Rep. Paur: Wasn't the board at seven members; and then it was changed; so we are basically trying to return to that?

Senator Heckaman: The terms have been there awhile. I am not sure of the history on that.

Senator Wardner: Why did we bring this forward? When the two boards; one died in the house; then we did look to house members that were involved and people in the Senate that had been on the task force so that we could come up with something. We knew the three and the two were out; so we went with the one. We have the duty of confirming the higher Ed members over in our chamber so we had to do four of them this time; and we asked the ones that had experience what would you do? We feel we need a few more members. This was two of them that had been serving for a while. We took that into consideration and took some of the material that had come out of the task force. One six-year term; however, they can come back after they have been out for a while. We think it takes the politics out of it. We want you to be independent and make good decisions. We thought eleven was probably the number so when it was written and introduced it had eleven members to be on the board. Then Senator Schaible said why don't we go to fifteen members and then they can break down into subcommittees. That is a flexible number. Would we assign them to different schools? I asked that question; and he said no we are going to leave them flexible so that the board can organize itself into the most effective way. I thought that made sense to me so that is the way it sits. We would appreciate you taking a look at it and maybe you have some good ideas too.

Larry Skogen, President of BSC: (Attachment #2) Went over the testimony. (16:00-20:30) Yes it used to be a seven-year term and there also used to be seven members on the board. Then the student member was added. At that same time the constitutional amendment was made and there were two four year terms for board members as opposed to the one longer term.

Rep. McWilliams: How often does the board meet and is every member generally present?

Larry Skogen: I have seen where they meet quarterly and they meet face to face. More recently it has been quarterly and it has been done over the telephone or skype so it has changed a lot over time.

Chairman K. Koppelman: Traditionally we try to have boards an odd number because of the concern of a deadlock. Has that been an issue on the board?

Larry Skogen: I have not seen that as an issue.

Chairman K. Koppelman: So an odd number is not a factor?

Larry Skogen: It is always advisable to have an odd number so you don't have that problem but I have never seen that as an issue.

Rep. Paur: The student member votes?

Larry Skogen: There are ten members that sit on the board. There are seven members appointed by the governor. There is the student member who is also appointed by the governor, but is selected by the ND Student Governor Association and then there are two advisors on the board that do not vote. One is a faculty member that is non-voting and one is a member of the state staff senate.

Chairman K. Koppelman: What is broken by the current system?

Larry Skogen: It is not broken. I was invited during that period to a national conference to talk about how the wheels fall off. The reason I was invited to that conference was because in 2000 and 2004 and 2006 the rest of the nation thought ND had this right. We had two things going for us; we had a single state board of higher education, which meant if you go to school in Bismarck State College and you take English 110; that transfers to NDSU as English 110. This is a huge problem in the US. Before coming back to ND I was in New Mexico and we had 21 boards, 21 different institutions and it was almost impossible unless you had a course by course agreement between institutions to transfer credit in. Terrible disservice to citizens of the state and to the students. We have that figured out. The second thing we had was the round table; which brought together industry, government and higher education into meetings where they talked about what the needs were and the educational needs were. Other states were looking at that too. We have had issues with the chancellor, but prior to that issue no one saw it as broken. It boils down to leadership. Student loan defaults nationally last year ND had the lowest loan default in the nation. We break out even Massachusetts which had MIT and Harvard and the rest of them. Students are leaving and paying off their debt by getting jobs. I think we do a marvelous job.

Rep. McWilliams: If it is not broken why do we have this bill?

Larry Skogen: The governor would have to speak for himself. The governor wanted to look at higher education. Anything can be improved so the governor chose that and he would have to answer why he chose that.

Rep. McWilliams: But if it is not broken, why do we need to increase the number of those on the board and change the terms?

Larry Skogen: These people work very hard. If we are going to make some changes to 1; defuse the work if the board was expanded; 2. Improve for the board members to know they

don't have to look over their shoulder in making decisions if you expand the number of years. That doesn't mean it is broken. It can enhance it.

Rep. McWilliams: I meant to say if it is not broken then why do we need to try and fix it?

Opposition:

Jace Beehler: Governor's Office Policy Advisor: (Attachment #3) Went over testimony. (31:51-40:00). There wasn't one type of government structure that was identified as providing the most success for the students, faculty, staff, or the state, which is absolutely true. It was identified that the people on the board is what makes the success. In order to attract the right people to the board you have to have a board that is built to attract people from all over the state and attract the quality alumni and citizens to respond to those needs. We agree that there isn't one system that will for sure work or provide greater results, but we do know having a system that will attract better higher quality candidates is needed as we move forward. There were problems identified that we needed to change. These were some of the pieces that are being addressed. We are proposing it be amended to a two board with the amendment I have. I haven't given those out yet.

Rep. Rick Becker: You are not in favor of the Attorney General being on the board. Are you in favor of the Secretary of State which is in the original version?

Jace Beehler: We are in favor of taking the Chief Justice off the board. It could put the Attorney General in a difficult position and we believe the Secretary of State not having to represent the universities from a legal standpoint would provide a little bit more clarity and separation.

Rep. Rick Becker: You are referencing that to the committee and what the recommendations were and how it is important etc. We heard there were three options on the table; two board, three board and four board. Within one day the committee voted on two, four board, three board. They voted on every single option they had before them. One could argue that if the one board was on the table they would have voted for that too. Having them bounce around shows that there is no idea of what is best for a change and would underscore the idea this is not right to go to an amendment of a two board. There is nothing to suggest that is the best. How do account for that argument?

Jace Beehler: We had discussions on each of these eight models started in June, 2018. Throughout the year we reduced the amount of structures that we were considering leaving up to our last meeting with the three models. We also spent three months on those three options. I do agree with Senator Heckaman; there was a tally taken during the last meeting. If the three models were voted on then where would people stand. There was a difference of opinion. The four model had the most votes; two board the second and the third board the least amount of votes. It was the three board model that succeeded. There were various concerns about all the models.

Rep. Bob Paulson: Explain specifically relative to a board and how that would provide more accountability; one versus two?

Jace Beehler: There are several members here that may be able to touch this better. One thing we looked at is simply having enough members to dive deeply into the institutions. As you are well aware; 80 days to tackle the problems that you tackle is challenging. When it comes to this eight-person board, diving into institutions that range from multibillion dollar institutions without thousands of faculty and staff and thousands of students to a much smaller institution that have different challenges and different problems, that is specific band was not there. The challenge we viewed is it is not solving the problem of the responsibility of each of the board members. They all have to know the in depth institutions from the research all the way down to the two-year community colleges.

Rep. Bob Paulson: You are saying there is not enough people relative to specific universities.

Jace Beehler: That is a portion of it. Simply the number is not enough. It is not changing the responsibility. You are adding additional representation, but one thing that hasn't been brought up in the current resolution; it requires that there is a maximum of two individuals with a background from a certain institution. If there are two individuals from BSC that have graduated from there; we cannot have an additional individual represented on the board. There is a certain disparaging between the amount of students per institution and their representation as well.

Chairman K. Koppelman: You are here opposing the resolution before us. Wouldn't more members be preferable to the current structure. What we heard today about the possibility of subcommittees etc. focusing upon specific institutions or specific missions; wouldn't that bring some better structure. When people on the board come from different perspectives and it would be true of a multi person board as well. Wouldn't this be an improvement based upon all the work the task force did?

Jace Beehler: Increasing membership is an improvement we want to see. Without packaging the rest of the changes we don't believe it will solve the problems that we are facing. Right now we have a difficult time attracting a high number of board members. We are able to get quality board members, but there isn't a pool we would like to see. By changing the structure; you would be able to entice individuals who maybe have a deeper focus in two-year campus's in regional institutions that really want to dive into that and have a vested interest. We also need to look at the voters and what may or may not be willing to move forward. This would be taking the current structure and simply taking and changing the numbers and not really looking at what is the responsibility and how do we expand that; so a two board system would be something new that we could bring to the voters and we think that it would be supported.

Chairman K. Koppelman: What has failed in the past has been a radical change versus a more modest change.

Rep. McWilliams: Would you say that more people need to be involved in the higher education committees. Would you say that would be a unifying idea?

Jace Beehler: I would say attracting a greater number of board members would be the single most unifying idea that we had. The term lengths were also a unifying idea; which is

a piece of this resolution. Increasing the board membership was a unifying idea with the correct structure.

Rep. Magrum: What is the compensation to a board member? Is there a fiscal note to this proposal?

Jace Beehler: I don't know the yearly cost. The university system helped us to analyze the cost of governing. It was approximately \$169,000 a year for the current board so you would see an increase in costs there. We believe and the Governor believes we would be able to find savings as we would be collaborating in a very short period of time. We could even write that into code that they would have to have a meeting a year that has to show what they are collaborating on and how are they savings costs and being more efficient with their work they are doing.

Chairman K. Koppelman: There has been a rumor that the Governor's office intends to support or initiate a measure that would be a multi board initiative. Is that accurate?

Jace Beehler: That certainly is a rumor. We are actively working to change the resolution within the legislative process and will continue to do that so you can expect me bugging you over the next couple of days.

Chairman K. Koppelman: If that is the plan, the legislatures only opportunity to weigh in was to put something like this on the ballot so the people would at least have a choice.

Jace Beehler: If the two board model amended resolution is not what the committee would prefer today, we would hope we could continue discussions over the next biennium with the legislature.

Don Morton, Former Football coach: Great discussion. The discussion and work you do is with great humility for the commitment you make. I think we can address the complexity with two boards. The system is not broken. The heavy lifting is done on the campus. As a board we have been trying to give our campus leaders as much ability as possible and the work is very good. Why not be the best. We did have diversity of opinion and you don't want group think. It was one of the best boards that I have ever worked on. The Governor was really engaged and we kept having these discussions and we were trying to get to some type of consensus that we could walk away with. I think we can address the complexity with the two boards. I really think it becomes more attractive to a person in the community and alumni and they will have a passion and commitment. Discussed university needs over this critical time. (1:02:50) I am not representing that State Board of Higher Education. I am representing Don Morton taskforce member.

Rep. Bob Paulson: One of the concerns I heard when we were considering the multi board option was that you have a couple of universities that take the lion's share of the pie so to speak and then you have the rest. The folks at Minot State were very diplomatic on how they addressed this issue when we were talking to them. We definitely got a concern that at least with a one board model when there is a fight over resources; at least all those people on that board were fighting for the resources of NDSU and UND and they are also responsible for Minot. If you break it up into multiple boards there is this sense that there will be these two

and anyone else. And then everyone else could come out on the losing end of the stick. Could you address the concern?

Don Morton: I think that is where leadership should come in and do what is best for the state of ND. We are still dealing with people and personalities and we have to make that very clear. If the state of ND doesn't win no one wins.

Rep. Buffalo: Is this endeavor of the two board model. Is this the first time it has been done in the US?

Don Morton: There are numerous models. There is another state that has the two research universities reporting to one board and that is Iowa. We are not breaking new ground. We have had discussions with Iowa and learned how they are doing it.

Rep. McWilliams: Mr. Morton you were talking about football a little bit; when you have a winning team you also have offense and defense and they are part of the same team. Why would you want to split up a team if it is a winning team?

Don Morton: They are two separate teams. Defense focuses on stopping the opponent; offense focuses on moving the ball against your opponent; and they have both different missions and different goals; but they are still one team.

Chairman K. Koppelman: Is the potential for increased parochialism? That is one of the main concerns we heard about.

Don Morton: To be successful as a state our two year schools have turn out that workforce like they are doing very well. We need an educated public along with our research schools also turn out teachers. We all have to win; and it has to be a we culture.

Chairman K. Koppelman: I have not heard specifically what you don't like about the bill? Are you favoring an expansion of the current board?

Don Morton: Yes we go deeper and prefer the two board model. If you ask the campus presidents a majority would be excited about the two board.

Chairman K. Koppelman: If the legislature is not amiable for a multi board structure we have another idea before us here. You are standing in opposition. Is this better than the status quo; if we took the other option off the table. Would this be an improvement over the status quo?

Don Morton: Yes. Once the decision is made then we would go with it.

Jeffrey Volk, West Fargo: (Attachment #4) Went over testimony. (1:13:22-1:17) I like the way Mr. Morton presented that concept of making good better and better best. What do we think the public would approve? That became the conversation and my opinion is we quit talking about what's best for ND's education and we went to what do we think we can get approved. I challenge the task force with let's come out of the task force with what we think is best. Then figure out what we should present to the public and that is how to challenge

you on how you should be thinking. I am not here wanting four boards because I would be the lone ranger. I still think it is the right answer because of what it does in the leadership for the boards. How powerful would it be if everybody on the board had the same focus instead of two of eleven or three? Whatever the number might be. I was irritated when the legislatures in the room reminded us that we needed to get them happy? I said no; I came here for what I think is best for ND and then we will talk to the legislature and then we will talk to the public; in that order. I am convinced the current model is broken and my testimony is getting into why I think it is broken. My comment today is neutral; it isn't about a person; it is about the model. Funding is the biggest thing today and it doesn't say anything more than adequate funding for the board to do its duties as aligned in the constitution. We have had the current system with the chancellor for thirty years. It is not in the constitution and I think inserting that role again between the board and the presidents was a terrible mistake. I understand what the goal was but I don't think it has been accomplished. That is part of what needs to change. Go back to what the constitution says; and it says we have a commissioner who serves the board and the presidents to administer but not be the intermarried between the board and the university presidents. Give the presidents a board the is focused on that university and you are going to increase the strength of the universities across the state. When the task force applications were opened for it over 200 people applied. One of the task force members is a former Senator who was on the committee picking the nominations to go to the Governor. Our first order of business was zip code; and if there were too many positions open we could run out of nominations. You have to ask why doesn't anyone want to be on the board? I think it is because of the nature of how the decisions are made and how their decisions get challenged. We need to figure out how more people want to be laser focused on that board for a purpose. You can't have people who are knowledgeable for the two year schools to also help advise presidents at the medical school and law school and land grant school. How many people have that capacity? That is why multi boards is the answer. Two is far better than the model we have now.

Rep. Rick Becker: I disagree with most of what you said. You asked us to harken back on our own personal experience with being on boards etc. this is not like a board with another business. You don't have another business where by the liability side of the ledger is not part of the concern. In this case you have tax payers footing the bill. The good reason for having a single board in my opinion and a good reason having the president's report to the chancellor and chancellor reporting to the board. When we look at breaking up the board, you are looking at being much more selective. We over the last ten years have increased the amount of state spending per student in higher education more than any other state. We have had a combination of per student increase of both state spending and tuition per student than any other state. We are at \$4000 when the national average is \$800. That is with one board. I can't imagine what it would be if we had boards divided up. I think it is a brilliant idea of boards for each school, if they were self-funded. Then you become laser focused.

Jeffrey Volk: I am not suggesting a board for each school. The piece of the funding formula. We can't put together a system where each of the campus is responsible for their own budget to the legislature. When the funding formula got approved and used; the chatter died down dramatically. That was such a stabilizing force. The task force recognized it and recommends can we get something like that in the constitution? The concept of how the formula works. If you don't fiddle with that there is no reason for one board to come in and try take the money because they can't. If it gets looked at as one budget you are going to

have all the boards coming together for supporting funding. What comes out of the bottom for their institution is not under their control. One of the task force concerns is; we are going to have all those people in our budget meetings. I think that is OK. I asked the question; who is representing the students best interest for the percentage they are paying for their higher education. Who is representing the private money that is being brought into higher education? Where is their seat at the table with this model? I would argue they don't have a seat. That is why we need to refocus to who is on the board. It is not all funded by the state legislature. There are all kinds of interests.

Rep. Rick Becker: What do you think would happen when you have a board specifically for NDSU, which is going to be much more favorable to what the request and wishes of NDSU president are. I hope there is not much disagreement about that. Over the past years we have had requests for tuition increases over and over. Year after year of tuition increases now the NDSU president along with Wapheton, comes and says we need to slash the out of state tuition rates to our now increased tuition rates. Both of which are detrimental to ND students and two to ND tax payers. When you look at separating the boards out, what you are going to do is make it worse.

Jeffry Volk: I would suggest we not assume the boards are cow tied to the presidents. If they are it is a disaster. But the president doesn't appoint the board. We talked about how do you remove a board member who is not doing the right job? It needs to be easier than it is today. How does a member get on this board? The decision making comes through the Governor's office through this panel that can veto the Governor's appointments. You have to trust that oversight is going to make good decisions. If it doesn't make good decisions it doesn't matter what type of model you have it will not work. We have heard a lot of potential stories that are concerns. Oregon recently changed similar to what the task force recommended and several years after that change occurred the newspaper did an article and said none of the perceived challenges that were out there happened.

Vice Chairman Karls: Where does the chancellor fit into the picture?

Jeffry Volk: I believe the chancellor's office reverts back to the commission office. The chancellor's title was created jointly with the board and the legislature.

Vice Chairman Karls: Would he be for both boards or one board?

Jeffry Volk: I would suggest a commissioner role office could serve both boards. I applaud her in taking the initiative to bring forward a monster bill to demonstrate this is what it means to change higher education governance. That became a problem because it seemed like it was overwhelming and it was. If this passes there will be bills in front of you next session to clean up the statutes so it works around the constitution if it gets amended.

Chairman K. Koppelman: Mr. Skogen said North Dakota was doing so good. What has changed and why can't with this kind of proposal to expand the board; have more eyes on things with subcommittee etc.; why can't that be successful versus the two board model?

Jeffry Volk: I can't speak to Mr. Skogen's experience. I have talked to others on higher education who haven't heard that story. I don't think that is a uniform thing I am hearing. The

only thing the task force agreed on was the current system needs to be made better. I don't think the current system is not even good. I think the multiple boards will make it better. We have to do something pretty quick. I like out of state students because they may stay and grow the economy.

Chairman K. Koppelman: Your earlier comment; most of the testimony we have heard it is testimony supporting another idea, which isn't contemplated in this resolution. Is this resolution as it stands is not where the legislature wants to go with this today; is this resolution an improvement over the status quo?

Jeffry Volk: That alone is not going to solve the problem. Adding more people to a dysfunctional system does not make it functional. There are pieces that the task force thought was good for a multiple board; six-year term.

Rep. Jones: Who is driving the ship. You fund 25% and you have 75% coming from others. What is going to determine efficiency. We have a serious problem with higher education because we have a changing world around us and there is going to have to be a lot of changes in the higher education. It doesn't do anyone any good to have a whole bunch of kids graduating from a school with degrees that don't do them any good. Somebody has to be making critical decisions about focuses on education; and where the programs are going; and how we are meeting the needs of industry; and the world that we are dealing with.

Jeffry Volk: I can't answer who is driving the ship? The business community needs to come together with higher education so that students understand what opportunities are for them in the workforce. I don't fault higher education for that. they didn't tell those students what to enroll in.

Chairman K. Koppelman: I posed that question to the Governor the other day and he indicated and others have indicated that idea of more people having the ability to focus on specific institutions perhaps might be an improvement. The idea of the six-year non-consequent term, might be an improvement; do they have merit.

Rep. Jones: I went to a two-year school and I do understand the responsibility goes back to the home; parents and to the foundational organization. I can still remember the counselors that I worked with helped me make a selection. I think if they are responsive and do a good job the kids are going to be graduating and doing well and they will succeed as an institution. If they don't serve the students well; then the institution fails and everybody starts pointing fingers but we need to figure out how to craft a solution to get higher education sensitive to the needs of the students. I worry we have a lot of money in this state and we are pumping a lot of into higher education and I don't know if we are actually doing them a favor or disservice by enabling them.

Jeffry Volk: When you talk to elementary and secondary, high school counselors; they are not career counselors anymore. They are psychiatrist. That is what they are doing. The business community has to insert itself somehow into elementary and secondary education to help those kids understand what the career paths are or opportunities when they get into a university. I don't look at higher education as a cost; I look at it as an investment.

Rep. Rick Becker: You said you were a chair of economic development. I think that is where the disconnect is from my vantage point versus yours. As a legislator I see the mission of the institutions of higher education as educating our ND students first. Whereas many people see the economic development as its primary mission. As we go to great number of boards that psychologically is going to become predominate. For you as a business owner and community organizer for economic development it seems like a great deal if out of state students are being subsidized by ND tax payers because they are more likely to stay in state than if they had never come here. The numbers show in four years it is about 20% of graduates stay. We know there is about a 20% drop rate at freshman year and there is only a 50% graduation rate within six years for a four-year degree so if you add all that up and how much it costs the state tax payers for each students for all of those six years it is in excess of \$200,000 for every out of state person that comes here and stays here for four years. With your economic development model do you think that is a good idea and should we as a state start offering people from out of state \$200,000 paid over four years to just come here?

Jeffry Volk: I am not into the numbers enough to follow the math you are doing. I do know we hire out of state students. I do know ND's workforce needs to grow faster than we are raising families and to fill our slates in the business community we need people to come outside the state to come here. I am not suggesting the main purpose of higher education is economic development. This is a piece of economic development that is critical to the success of business in our workforce. We can disagree on how we deal with it.

Rep. Rick Becker: That underscores the need and importance of the legislature being involved. You by your admission you don't know what the cost is to subsidize out of state students to hope they stay because the cost isn't your concern. I think in your business there isn't any costs you don't know about. We as a legislature; a single board for the entire state, can't afford to be oblivious to costs because that is one of their primary motivating factors; hence the need for one board.

Jeffry Volk: I don't accept your comment that I don't care? I didn't say that. I said I don't know the numbers. I am concerned about economics.

Rep. McWilliams: I know I am the only college student on this committee. I consider the investment a good one at 35 years old. At 18 I did not and I think that is a big difference. A single board of higher education can bring all those views together. If you split those views up; and they aren't heard across multiple boards, I think you are doing the citizens of the state a great disservice because you are not having a unified voice. Everyone on that committee is not able to hear each individual thought. Now there is a shift and getting a trade is very important. If you split that voice up; we don't end up with a very good representation. In the legislature I learned we have so many different points of view from plumbers to electricians; doctors and attorneys and those views give you the opportunity here in this bill to do this.

Rep. Jones: You are involved with the Bismarck College?

Jeffry Volk: I am involved in civil engineering schools. We hire students from NDSU, UND, Bismarck and Wahpeton. That was my point as a business person. If I was on one of these

boards it would be crazy of me to try to squelch the success of other boards in other campuses because I need that.

Chairman K. Koppelman: Mr. Volk is the CEO of More Engineering which is headquartered in West Fargo.

Neutral:

Chancellor Mark Hagerott, University System: (Attachment 5) We do appreciate the input from the legislatures and thank the governor for his input. Several things we are doing is because of the Governor's input. Within the board itself we are establishing a committee on research. We need to put focus on some of the unique focuses. There is a time when universities can cause fragmentation. Within the board itself we are establishing with our eight-member board, a committee on research. Doctor Ryan has already agreed to lead it. We need people to focus on some of the unique missions, but still have an integrated board. There were several references about the quality of the board. This has been an incredible board and I Rep. McWilliams honored to work for a guy like this who has been an outstanding national championship football coach; Microsoft executive and former CEO of Ultra on the board and a member of the Minneapolis Federal Reserve on the board which has created a very successful geology company. We have a multibillion dollar bank. Investment board Hacker and the youngest state Senator in ND history; now CEO is vice chair. These are all very creative people doing creative stuff, but they are worked very hard. There is a time when universities can cause fragmentation and the board has had to reintegrate. The board must submit optional and several other things on scholarships.

Rep. Satrom: How would the prioritized list be done?

Chancellor Hagerott: That is the lose type principals you are dealing with here. We do recognize the benefit of having subcommittee that can focus on tier. Ten states do have a unitary board so this is not a crazy model that ND has. We want them to run their campuses and be accountable. One benefit of a single board so you have to care about what is happening everywhere. Discussed problem with Dickinson.

Chairman K. Koppelman: We understand that very well because we are elected to make judgement for the whole state.

Rep. Paur: You mentioned the six-year term. I have been in here eight years and I still haven't figured out the system. Is a six-year term sufficient for a single term?

Chancellor Hagerott: People burn out. Six year terms would allow them? The reason we have for the subcommittees is that when you are recruiting applicants you might be able to say; we see your unique skills and we could see you being on the research board? You still would vote on the whole state.

Chairman K. Koppelman: You said you think more members would be helpful and that is the resolution before us. You also said the six-year term with the lack of ability to succeed immediately is a good idea? Sounds like you like the resolution rather than being neutral. Are you neutral because of your position?

Chancellor Hagerott: There are people who do admire the system we have here. The navy is trying to copy the ND system. They want a strong board and a weak chancellor.

Chairman K. Koppelman: What about the cost of the board? What is the compensation?

Chancellor Hagerott: They get per diem.

Rep. McWilliams: When there is a board meeting is it typical that all the board members are there and how often do they meet?

Chancellor Hagerott: We have a meeting every month. There are committees that meet as well as whole boards.

Jared Melville, President, ND Student Association: (Attachment #6) Went over testimony. (2:14:54-2:20)

Chairman K. Koppelman: Do you believe that students do have an opportunity to bring their input somehow to the board? Are they responsive to that?

Jared Melville: Yes we do react to the board.

Hearing closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SCR 4016
3/27/2019
34262 & 34272

- Subcommittee
 Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to the membership and meeting requirements of the state board of higher education; to provide for transition; and to provide an effective date.

Minutes:

--

Chairman Koppelman: Opened the meeting on SCR 4016.

Rep. Rick Becker: (Mike not on)

Chairman K. Koppelman: The governor's office has asked we changed that to Secretary of State. It was proposed as Attorney General somewhere else. He asked to be removed because he feels there is a conflict there. The Governor's office asked for Secretary of State.

Rep. Rick Becker: The original bill did delete the Supreme Court Chief and put in Secretary of State and then in the Senate they struck Secretary of State and added Attorney General.

Chairman K. Koppelman: Double check your versions because we had version 01000 and it should be 02000. You are on page 2, line 17.

Motion Made to amend the bill on page 2, line 17 to Secretary of State by Rep. Rick Becker; Seconded by Rep. Vetter

Discussion:

Rep. Rick Becker: The only reason is because there seems to be some concern with the Attorney General being on other boards and being the litigator of a board that he sets on. That is the only reason.

Voice Vote Carried.

Chairman K. Koppelman: There has been discussion that someone mentioned the number on the board and wanting to have some discussion on that. I don't have a strong feeling on the number.

Rep. Paur: (Mike not on)

Rep. Roers Jones: Thirteen members; or fifteen members, I don't think we are solving the issue that the task force set out to solve. As a member of the task force we spent almost a year working on studying the model that we have right now and then the other models that are available in other states. It was pointed out there was a lot luxation between two board, three board or four board at the end. The one thing that the tax force agreed on right away that the current model we have is not working. I would hope we would not spend time arguing over amending to more board members and rather just kill this bill.

Rep. Hanson: One of the experts who came in to provide advice to the task force was it almost doesn't matter what your structure is; it matters who the people are in the leadership positions. If you have good people in those positions or people who are not willing or able to make the necessary, work get done; that is what is going to determine your success. Not the actual structure.

Rep. Roers Jones: If we put this on the ballot and we increase the number of members on the State Board of Higher Education at this time, then the public's willingness to make additional change in the future is going to go away. Rather than passing something that is hasty, I would rather we don't pass anything and we continue to study the issue for another interim and come back with a better proposal next legislative session.

Rep. Hanson: Was there any discussion during the hearing about the added costs because there is no fiscal note. If we are almost doubling the size of the board you would think there would be some added costs?

Chairman K. Koppelman: It would be minimal because they meet quarterly anyway and sometimes it is by phone or link. It wasn't something people objected to.

Rep. Vetter: They get some type of stipend but it is not much. In lowering that down to eleven or thirteen; I think it just waters it down more. I would be opposed to that. if we put something on the ballot let's have something that is at least going to change something. At least with fifteen you could break into subcommittees and kind of accomplish what they were trying to accomplish with looking at the different types of schools.

Rep. McWilliams: I would be opposed to lowering that. We have fourteen committee members here and I think we work very well. If the goal is to home in on the research institutions and the other; and if they wanted to have three or four boards at one time; how many board members per board? That would end up with more board members than we have here right now?

Chairman K. Koppelman: I had visited with the chancellor briefly at his request before we took it up in the committee hearing and my initial reaction reading the measure was what are more board members going to do? He made two points. One was subcommittees; it was recommended to go to different board structures whether it is two, three boards or whatever. The whole focus there according to what they shared with us it then you could focus on the institutions under that umbrella. If we are not going to do that and the House has already

nixed the multiple board idea once, if we were to amend the bill to that I Rep. McWilliams not sure it would fare better on the House floor. Secondly, if we are not going to do that our choices are do nothing and look at this over the interim or to do this and put this idea before the voters. The chancellor indicated the idea of forming these subcommittees that could focus upon specific types of institutions is leaning toward the direction of the multiple board idea, but then those same subcommittees being able to come together in a full board to look at the overall system was a benefit and you need more members to do that.

Rep. McWilliams: Regarding the six year terms. Are all board members appointed at the same time or is it staggered?

Chairman K. Koppelman: Normally it is staggered and I assume that would continue. If this passes we would probably come back and pass a bill that says two will be appointed in this year or we would have to add a number immediately so we would appoint the number to fill out the number up to fifteen and then we might stagger those terms.

Rep. McWilliams: My worry would be if we don't do that then of course you have a lot of board members appointed by previous Governors.

Motion Made to amend that on line 18, we change 15 members to 13 members, line 19, 14 members to 12; line 21 14 to 12; line 23, 15 to 13 by Rep. Paur; Seconded by Rep. Rick Becker

Discussion:

Voice Vote Failed

Do Pass as Amended Motion Made by Rep. McWilliams; Seconded by Rep. Rick Becker

Discussion:

Rep. Jones: I am going to resist the motion because I listened to the testimony and I heard a lot of confusion about what the best course was to be. At the end they said other states are looking at or model and saying we have the best and they are trying to duplicate it. I did not hear a compelling reason for doing this change. I think it needs to be developed more.

Rep. Vetter: I am going to echo Rep. Jones comments.

Chairman K. Koppelman: I did ask the question of the representative of the Governor's that there has been a rumor floated that the governor is going to float an initiative measure for a multiple board structure and asked him if that is true and he said that is a rumor.

Rep. Bob Paulson: I am going to support this. I think the biggest change we would make is going to the six-year term. Taking the politics out of it is huge.

Chairman K. Koppelman: I think the reference to our model was an answer to a question about multiple boards versus one.

Rep. Rick Becker: Essentially we have established the direction of things. If you are in favor of multiple boards you would vote no because 1. The governor's office is likely to do an initiated measure; not letting this rest for multiple boards to take to the voters or you are not in favor of multiple boards in which case it does make sense to get some change with the six years and with the additional people so that you can break down. My biggest concern with multiple boards is we get prologists and we lose the accountability to the tax payer so I encourage a green vote on this motion.

Chairman K. Koppelman: There might be a third premise and that is even if you do support the multiple board idea but realize it has failed in the House so we while we are here have an opportunity to do something that might move us closer to that concept by allowing subcommittees and then having the full board overreach?

Roll Call Vote: 8 Yes 6 No 0 Absent Carrier: Rep. Rick Becker

Closed.

Tape: 24272

Representative Simons: Changed his vote from No to Yes after the meeting so recorded this on tape.

So the roll call vote was changed to: 9 Yes 5 No 0 Absent Carrier: Rep. Rick Becker

Closed.

19.3140.02001
Title.03000

Adopted by the House Judiciary Committee

DO 3/27/19

March 27, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE CONCURRENT RESOLUTION NO.
4016

Page 2, line 17, replace "attorney general" with "secretary of state"

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 SCR 4016**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: Page 2, Line 17 change to Secretary of State

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Becker Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 SCR 4016**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: line 18, we change 15 members to 13 members, line 19, 14 members to 12; line 21 14 to 12; line 23, 15 to 13.

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Paur Seconded By Rep. Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Raised Hands Failed

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 SCR 4016**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Rep. McWilliams Seconded By Rep. Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker	X				
Rep. Terry Jones		X			
Rep. Magrum		X			
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur	X				
Rep. Roers Jones		X			
Rep. Satrom		X			
Rep. Simons	X				
Rep. Vetter		X			

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Becker

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

REPORT OF STANDING COMMITTEE

SCR 4016, as engrossed: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4016 was placed on the Sixth order on the calendar.

Page 2, line 17, replace "attorney general" with "secretary of state"

Renumber accordingly

2019 TESTIMONY

SCR 4016

SCR 4016
2-27-19
Att #1
p1 of 3

SENATE EDUCATION COMMITTEE

SCR 4016

Chairman and Members of the Committee: I am Senator Joan Heckaman, D-23, and I am here to speak in favor of SCR 4016.

This resolution comes forward after HB 1500, to implement the recommendations of the Governor's Higher Education Governance Task Force, was defeated in the House.

The resolution before you is a Constitutional amendment, so it will have to go to a vote of the people in the 2020 election if passed in this session.

I will walk you through this resolution after I provide a little background for you on the Task Force and my role in the Task Force.

I was selected as one of the 15 members out of around 250 people who applied to become a member of the Task Force. We met 10 times between January and November of 2018. The Task Force directives are outlined on page 2 on the handout I am providing to you.

The Task Force started by hearing a lot of background information on the current system. We found that there are some aspects of the current system that should be retained (bottom of p.6).

The Task Force also heard from several individuals and organizations on what other states are doing concerning their governance models. In the second paragraph on page 8, you will see that AGB (Association of Governing Boards of Universities and Colleges) states that no one type of governance structure guarantees student, faculty, and/or staff success. They reported that it depends on the people within the model that makes all the difference. That basically points to the fact that there are NO facts to select one model over another. There is no data that indicates one model is better to use than another. In fact, AGB reported that some states with 1,2, 3 or multiple board models are looking for a change.

On pages 9-12 you will find summaries of the monthly meetings. In August, we viewed 7 different board models. At the end of that meeting, the Task Force selected 4 models to consider at the next meeting. One was the current model

SCR 4016
2-27-19
Att #1
p. of 3

with modifications, a two-board model, a three-board model, and a four-board model. Options considered for oversight was a coordinating board and a higher education administrator.

At the September meeting, there were many questions posed at this meeting and it was agreed to park the current model to look at more significant changes.

In October, only the 2, 3, and 4 board models were discussed with the understanding that someone may bring a 1 board model forward during the session. There was discussion on the system office and options to move that leadership role forward.

November was the last meeting date at which the Task Force needed to make its final determination to bring forward to the legislature. There was unanimous agreement that there need to be changes to the current structure. The first vote was taken with a 2-board model as the choice. Following a brief break, members came back and started discussing that choice. Another vote ensued with a 4-board model being selected that time. I pointed out that we had been meeting for a year and 15 of us could not make up our minds. How would we expect 141 legislators or 525,000 voters to know which model to select? Finally, there was a motion to advance the 3-board model. I did second that motion but qualified my second that I reserved the right to determine my final vote at a later date.

Fast forward to this 66th Legislative Session. A 3-board model was drafted, assigned a hearing date in the House Education Committee, and then was amended immediately upon introduction to a 2-board model. That eventually failed in the House.

So, before you, the Majority Leader and I have joined hands with other Senate and House members to bring SCR 4016 to you.

This model retains many of the current structures and practices on the North Dakota University System Board. What it does change are the following:

1. Adds 3 members to the board to cover the need expressed by many who say that there is too much for this "Citizen Board" to oversee.
2. Changes the selection committee membership charged with forwarding 3 names for prospective members to the Governor by removing the Chief

Justice and replacing that individual with the Secretary of State. The Chief Justice stated it is unconstitutional for him to serve on this committee.

3. It changes terms to one six-year term instead of 2 consecutive 4-year terms with the option to serve a second six-year term if terms are not consecutive.
4. There is a directive for the Board to meet at least annually with the head of each institution.

Chairman, I join the Majority Leader in supporting SCR 4016 and ask for your support moving it forward as the best option to improve the concerns expressed to the Task Force about the needs of the North Dakota Board of Higher Education.

That completes my testimony and I would stand for any questions.

SCR 4016
2-27-19
A# #2

NORTH DAKOTA
TASK FORCE FOR
HIGHER
EDUCATION
GOVERNANCE

December 27, 2018

Final Report

Table of Contents

HISTORY OF TASK FORCE FOR HIGHER EDUCATION GOVERNANCE ..	2
PURPOSE.....	2
Task Force Members.....	2
EXECUTIVE SUMMARY	4
KEY FEATURES OF SUCCESSFUL GOVERNANCE STRUCTURES	8
OVERVIEW OF TASK FORCE MEETINGS	9
<i>January</i>	9
<i>February</i>	9
<i>March</i>	10
<i>April</i>	10
<i>May</i>	10
<i>June</i>	10
<i>August</i>	11
<i>September</i>	11
<i>October</i>	12
<i>November</i>	12
RECOMMENDATION FOR NORTH DAKOTA GOVERNANCE.....	13
CONCLUSION AND NEXT STEPS.....	22
APPENDIX TABLE OF CONTENTS	23

A History of the Task Force for Higher Education Governance

On November 7, 2017, Governor Doug Burgum, by means of Executive Order 2017-19, created the Task Force for Higher Education Governance (Task Force). The Task Force consisted of 15 members, appointed by the Governor, representing the interests of students, faculty, business leaders, community members and all branches of state government. The Task Force was selected from a state-wide applicant pool of over 230 citizens. This record number indicated the strong level of interest in improving on the current governance system.

Beginning January 2018, the Task Force met 10 times to review the history of North Dakota's university system, research the structure of higher education **governance systems** across the country and determine how governance of the North Dakota University System (NDUS) could be improved to better meet the needs of the 21st century. While there are many aspects of higher education that could have been reviewed, this Task Force was directed to review only the governance structure. The work of this Task Force was difficult, and the state shares its gratitude for the time, energy and thoughtfulness of each Task Force member.

Purpose of the Governance Task Force

As outlined within the executive order, the purpose of the Task Force was to:

- a. Assess the strengths and weaknesses of the current higher education governance structure and determine whether the current structure promotes optimal efficiency, effective operations and desired results;
- b. Determine whether the current governance structure complies with Article VIII, Section 6 of the North Dakota Constitution;
- c. Identify best practices for governance of a higher education system;
- d. Provide written recommendations outlining proposed changes to the governance structure that promote effective operations and desired results, focused on educational and workforce needs of North Dakota in the 21st century.

The full executive order can be found in appendix A

Task Force Members (Listed alphabetically by last name)

Brad Bekkedahl, ND State Senator
Doug Burgum, Governor
Dr. Debora Dragseth*
Thomas Erickson
Tim Flakoll, Provost
Joan Heckaman, ND State Senator
Dr. Angie Koppang
Dr. Paul Markel
Katie Mastel, Student Representative
Don Morton, Chair of the State Board of Higher Education
Mike Nathe, ND State Representative
Shannon Roers Jones, ND State Representative

Jonathan Sickler

Gerald VandeWalle, ND Supreme Court Chief Justice

Jeffrey Volk

*Dr. Dragseth was preceded by Dr. Ellie Shockley. Dr. Shockley resigned her appointment after accepting a position as an Institutional Researcher within the NDUS.

The titles and additional background information for each Task Force member can be found in appendix B.

Executive Summary

The Task Force held 10 meetings over the span of 11 months to better understand the needs and challenges of the NDUS and the State Board of Higher Education (SBHE). There are many challenges facing higher education today, and the Task Force was created to focus on governance because it is the key to making a positive impact across all facets of higher education. With the correct governance structure, many challenges will be resolved, and new and innovative goals will be set and achieved.

Current Governance Structures

With research support and meeting facilitation provided by the Association of Governing Boards of Universities and Colleges (AGB), the consulting firm hired by the Task Force, the Task Force members were able to compare and contrast higher education governance structures from across the country. Throughout the United States:

- 9 states have a single, consolidated statewide governance system like the current North Dakota system;
- 13 states have multiple higher education governance systems;
- 11 states have separate governing boards for each of their senior institutions;
- 17 have a combination of these governance structures.

It became evident that there is no single governance approach that can be universally applied in higher education; a governance system must be based on the specific needs of a state at a given point in time. To accomplish this, Dr. Thomas Meredith of AGB challenged Task Force members to ask themselves, “What form of a university governance system will best allow higher education in North Dakota to thrive during a digital and economic disruption, among other challenges?”

Goals and Recommendation

In addition to seeking a governance structure to meet the specific needs of North Dakota and improving accountability, the Task Force identified seven features of a high-functioning governance structure: nimbleness, an innovative spirit, an enterprising culture, technologically advanced, institutional autonomy, partnership-oriented and cost-conscious. When reviewing these key features and the current structure, the Task Force voted unanimously (15-0) to recommend the current governance structure be changed to meet the needs of 21st century higher education.

To accomplish the goals of North Dakota, add improved accountability for higher education and provide the seven key features of a high-functioning governance structure, the Task Force recommended, by an 11-1 vote, with three members absent, a three-board governing structure: one board serving the community/regional institutions and one board each for the state’s two research institutions. Under a three-board governance structure, institutional leaders are held more accountable by board members focused on the institutions’ specific missions and roles within the state. These multiple boards would provide expanded capability to serve each North Dakota institution and its students, faculty and staff, as well as the citizens of North Dakota. Under our current system, university presidents have a dual

reporting system to both the North Dakota SBHE and the Chancellor. Under the proposed governance system, each university president would report directly to their respective boards. Lastly, the new structure would provide even greater expertise and breadth to each board, specific to the institutions they represent.

Challenges Identified to Current Approach

Task Force discussions identified several challenges within the current governance structure.

One of the challenges identified was attracting large, diverse pools of candidates for board membership. The three-board structure would better align with the missions of the institutions, attracting greater numbers of passionate board members dedicated to the specific goals of each board. In addition, the Task Force recommended that the existing appointment process be made less cumbersome and more efficient and expedited, thus removing barriers for potential board members.

A second challenge identified was managing the responsibilities, oversight and scope of an eight-member board. When the current structure was created in 1938, the entire system enrolled only approximately 7,000 students; today it is responsible for approximately 45,000 students, 2,600 faculty and 5,800 staff, with a combined biennial budget of approximately \$2.6 billion. Today, board members are expected to possess expertise and in-depth knowledge of institutions with a wide array of missions and of widely varying sizes in terms of students, faculty, staff, budgets, endowments and academic offerings, making the process for onboarding difficult.

Using North Dakota school districts as an example, providing a more localized approach would help hold North Dakota institutional leadership more accountable. When the system was put in place in 1938, the board member to student ratio was approximately 1:1000 and today it stands at 1:6,555. This contrasts with North Dakota school districts, where representation is more equally disbursed, with the largest district, Bismarck School District, having a ratio of 1:2,590. The proposed three-board recommendation would change the ratio to 1:1,824 for the Community and Regional Institution Board and approximately 1:1,728 for each of the research institutions. Figure one, on page six, highlights the enrollments of the top 16 school districts in North Dakota and how the current NDUS and institutional enrollments, as well as the proposed three-board enrollments would compare.

Moving to the three-board structure and increasing the total board membership would narrow board members' responsibility and provide more distributed representation for students, faculty and staff. Under this new structure, 40 percent of students would be governed by the Community/Regional Institutional board, 30 percent by the North Dakota State University board and 30 percent by the University North Dakota board. In addition to student representation more evenly distributed, so too would representation for faculty, distributed almost equally at 33 percent under each board.

Figure 1.

School Districts and NDUS Institutions Ranked by 2018-2019 Headcount Enrollment		
District/Institution	Number of Board Members	Number of Students
Existing NDUS	7	45882
Proposed Community/Regional Board	10	18239
Proposed North Dakota State University Board	8	13796
Proposed University of North Dakota Board	8	13847
North Dakota State University (NDSU)		13796
University of North Dakota (UND)		13847
Bismarck 1	5	12948
Fargo 1	9	11373
West Fargo 6	7	10799
Minot 1	5	7523
Grand Forks 1	9	7342
Williston 1	5	4349
Mandan 1	9	3890
Bismarck State College (BSC)		3778
Dickinson 1	5	3759
Minot State University (MiSU)		3189
North Dakota State College of Science (NDSCS)		2957
Jamestown 1	9	2138
Lake Region State College (LRSC)		2072
McKenzie Co 1	7	1802
Devils Lake 1	6	1668
Belcourt 7	7	1620
Valley City State University (VCSU)		1547
Dickinson State University (DSU)		1392
Wahpeton 37	9	1188
Mayville State University (MaSU)		1184
Williston State College (WSC)		1124
Valley City 2	5	1078
New Town 1	5	1015
Dakota College at Bottineau (DCB)		996
Central Cass 17	7	928

Retaining Positive Elements of the Current Higher Education System

While the Task Force was able to identify challenges, it also confirmed aspects of the system that are working well. The current transferability of students between institutions is one of the best of any system in the country, largely due to the use of common course numbering. Continuing that success, the Task Force recommended requiring that transferability of

credits and common course numbering be maintained moving forward. The group also recommended maintaining a single statewide funding formula, basing general fund higher education investments on credit hour production. In addition, the Task Force recommended maintaining some shared technology services across all eleven institutions. To manage and maintain these critical pieces of the current system, the Task Force recommended the current NDUS office be transformed to an Office of Higher Education led by a Higher Education Administrator. In addition to these duties, the administrator would serve as a liaison between the three governing boards, supporting collaborative efforts and board staff. Finally, the Task Force recommends the three boards maintain full authority over the institutions under their control as currently outlined within Article VIII, Section 6 (6)(B) of the North Dakota Constitution for the current SBHE.

Concerns

Large-scale change, such as what is being proposed for North Dakota higher education governance, is bound to be met with some skepticism and concern. Some believe replacing one governing board with three boards would minimize response to state-wide public needs. However, state-wide needs may more easily be represented through a more localized approach, much like the existing K-12 governance structures, by allowing governing boards to respond quickly to the needs of businesses seeking trained professionals from state institutions. Others have expressed concern over the research institutions being separated and potentially influencing the budgeting process for their individual gain. However, the funding formula and the legislature retain the power to drive the budget and require accountability. The guardrails proposed in this report would manage these concerns by maintaining what is working and increasing collaboration.

Closing

The Task Force advances this report as a tool for the Governor and the 66th Legislative Assembly during the 2019 session to make positive changes for the future of North Dakota higher education. This report should be utilized for detail, explanation and understanding when the people of North Dakota have an opportunity to vote on potential constitutional changes. This recommendation would create three boards that hold institutions more accountable; create a system that can attract a greater number of high-quality board members while creating more balanced expectations; develop stronger mission focused boards to enhance effectiveness of governance for students, faculty, staff and tax payers. Today, we need these boards to navigate their way through external forces that are impacting higher education around the world.

The Task Force encourages all with a vested interest in higher education to be open-minded, bold in their thinking and focused on the needs of students when considering these recommendations. These recommendations would improve the governance structure of North Dakota higher education, allowing it to serve as a nimble and effective structure for decades to come.

Key Features of Successful Governance Structures Across the U.S.

The Task Force reviewed benefits and challenges of higher education governance structures across the United States. As shared by Larry Isaak, President of the Midwestern Higher Education Compact and former Chancellor of the NDUS, at the February Task Force meeting, according to the State Constitutional Provisions and Higher Education Governance Document (2013), 23 states have governing structures with a mixture of types and numbers of governing and coordinating boards, 14 states have two boards to split authority between two-year, and four-year institutions and nine states have one board overseeing all public institutions.

AGB provided greater detail in that nine states have a single, consolidated statewide system, 13 states have multiple higher education systems of various styles, 11 states have separate governing boards for each of their senior institutions, and the remaining 17 states have a combination of these structures. As shared by AGB, these various models underscore that no one type of governance structure guarantees student, faculty and/or staff success. A state must develop its own structure to best meet its needs in the 21st century.

An AGB report titled “Consequential Boards: Adding Value Where It Matters Most” (2014), provides seven recommendations to consider when discussing governance structures

1. Boards must **improve value in their institutions** and lead a **restoration of public trust** in higher education itself;
2. Boards must **add value to institutional leadership decision making** by focusing on their **role as institutional fiduciaries**;
3. Boards must act to **ensure the long-term sustainability** of their institutions by addressing changed finances and the imperative to **deliver high quality education at a lower cost**;
4. Boards must **improve shared governance within their institutions** through attention to board-president relationships and a reinvigoration of faculty shared governance;
5. Boards must **improve their own capacity** and functionality through **increased attention to the qualifications and recruitment of members, board orientation, committee composition and removal of members for cause**;
6. Boards must **focus their time on issues of greatest consequence** to the institution by reducing time spent reviewing routine reports and redirecting attention to cross-cutting and strategic issues not addressed elsewhere;
7. Boards must **hold themselves accountable for their own performance** by modeling the same behaviors and performance they expect from others in their institutions(s).

Overview of Task Force Meetings

January Task Force Meeting

The Task Force was provided a presentation by Legislative Council on past legislation related to higher education governance within the state. Following are highlights of historical information provided by Legislative Council:

At the creation of the state in 1889, the constitution required there be seven institutions within the state: a “state university and school of mines” in Grand Forks, an “agricultural college” in Fargo, normal schools in Valley City and Mayville, a “Scientific School” in Wahpeton, a school of forestry, and an “industrial school and school for manual training” in Ellendale. At this time, governance of higher education was placed under the “absolute control of the state” until the creation of the Board of Education in 1913.

Since the Board of Education, governance of higher education within the state has evolved through constitutional amendments, legislative changes, and internal board policies. Of the changes, three have been exceptionally significant: the creation of the Board of Regents in 1916; the creation of the new Board of Administration with governing authority over higher education; and the 1938 constitutional amendment to create the SBHE. While the overall structure has remained largely unchanged since the first meeting of the SBHE, on July 6, 1939, the board composition, duties and authorities have evolved to present day. One of the significant evolutions of the board was the creation of the North Dakota University System as a unified system of higher education under the leadership of a system leader known as the chancellor.

In addition to Legislative Council, Isaak provided a presentation on the governance structure of North Dakota and how it compared to structures across the country. The Task Force also heard an NDUS overview presentation from Tammy Dolan, Vice Chancellor for Administrative Affairs/CFO. The meeting concluded with the first presentation by AGB to assist in the facilitation of task force meetings and in the exploration and development of recommendations for North Dakota. For January meeting materials see appendix C.

February Task Force Meeting

Two presentations were provided. Pat Traynor, the President of the Dakota Medical Foundation, shared how higher impact boards can dramatically increase the productivity of foundations and organizations across a variety of spectrums. Dr. Thomas Meredith of AGB provided a framework for thinking within the Task Force and challenged the members to ask themselves, “What form of a university governance system will best allow higher education in North Dakota to thrive during digital and economic disruption, among other challenges?” Dr. Meredith shared that knowledge in 1900 was doubled every 100 years, by 1945 knowledge doubled every 25 years and today, knowledge doubles every 12 months. Through this discussion, AGB urged the group to think about how this massive knowledge change may be altering higher education in North Dakota. The Task Force was encouraged

to identify the barriers, if any, to creating the most effective higher education governance structure for the state. For February meeting materials see appendix D.

March Task Force Meeting

Chancellor Mark Hagerott of the NDUS concluded the presentation that was started at the February Task Force meeting. During this presentation there was a focus on enrollment numbers, with an understanding of full-time and part-time as well as online or traditional student types. Additionally, the Chancellor provided an update on the Envision 2030 effort led by the NDUS. The meeting concluded with a presentation by the governor's staff on the mission of the Task Force, what the report could include, as well as the timeline for the work for the Task Force. For March meeting materials see appendix E.

April Task Force Meeting

AGB consultants presented an overview of the proposed timeline for the Task Force work to be completed within the year. Throughout April and May, AGB consultants conducted interviews with stakeholders including business leaders, Task Force members, members of the SBHE, legislators, faculty, staff, students and North Dakota citizens. The April Task Force meeting served as an opportunity to gather information requests from Task Force members, research that information and report back. The NDUS provided information during the April meeting based on the requests highlighted in March. For April meeting materials see appendix F.

May Task Force Meeting

AGB prepared an overview of governance structures across all 50 states. AGB concluded that nine states have a single, consolidated statewide system, 13 states have multiple higher education systems of various styles, 11 states have institution-level governing boards, and the remaining 17 states have a combination of structures. For May meeting materials see appendix G.

June Task Force Meeting

Over a 60-day time frame, AGB consultants interviewed over 60 North Dakota citizens to understand their perspectives of the NDUS. In addition to these interviews, the public was invited to provide input through a newly created feedback mechanism by the Governor's Office from which the Task Force received 67 responses. Responses provided a variety of opinions and recommendations ranging from the creation of 11 boards to keeping the current structure with large modifications. Of the 67 online responses, 44 of the respondents indicated that they were current or former NDUS employees and at least 10 were NDUS alumni. For June meeting materials see appendix H.

No task force meeting was held in the month of July

August Task Force Meeting

The Task Force held discussion related to the goals of the higher education governance and the need for a focus on accountability. Within the umbrella of accountability, AGB provided an overview of the goals identified by Task Force members for a high-functioning governance structure as compiled from discussions over the past six Task Force meetings. While greater detail was provided, seven key features of a high functioning 21st century governance structure were identified:

- Nimbleness
- Innovative spirit
- Enterprising cultures
- Technologically advanced
- Institutional autonomy
- Partnership-oriented
- Cost-conscious

Following discussion on these features, AGB consultants developed, with Task Force input, seven possible governance structures that could be utilized within North Dakota. The options were as follows: the current structure; improvements to the current structure; a four-board option (two-year Community College Board, Regional University Board, NDSU Board and a UND Board); a three-board option (Community/Regional Institution Board, NDSU Board and UND Board); retaining the SBHE as a coordinating board and adding 11 institutional governing boards; a three-board option (Research Institution Board, a Community/Regional Institution Board and a coordinating Board); and a two-board option (Research Institution Board and a Community/Regional Institution Board).

At the conclusion of the August meeting, a consensus of the Task Force members, moved forward with four options: the current system with modifications, a two-board system (Research and Community/Regional), a three-board system (Community/Regional board, NDSU board, UND board) and a four-board option (Community board, regional board, NDSU board, UND board). The Task Force also requested that the coordinating board option and higher education administrator option be kept on the table, to assist with collaboration and shared services, in conjunction with each of the potential governance structures. The Task Force also requested that additional details on each of the options be provided at the next meeting. For August meeting materials see appendix I.

September Task Force Meeting

The September meeting was the final meeting at which AGB consultants provided a full presentation. During this presentation, AGB consultants shared further details regarding each of the four models moved forward by the Task Force at the August meeting. In addition to discussing the models, they shared the differences between a potential coordinating board and higher education administrator structure. Throughout the meeting, the Task Force requested further details to assist in making decisions about potential reductions of options at the October task force meeting. The Task Force also requested information regarding student enrollment, as well as the amount of faculty and staff that

would be represented by each board configuration. In addition, potential duties and responsibilities for each proposed option were requested. The Task Force agreed to put “in the parking lot,” or set aside, the option of retaining the current system with modifications. The task force decided a more significant change could be made to create more impactful results and thus decided to study further options. The Task Force was confident that many of the discussions regarding board make up and terms could be transferred to that of the current model and there would certainly be conversations regarding modifications on the current model by others during the legislative session. For September meeting materials see appendix J.

October Task Force Meeting

The Task Force was presented with three potential governance structures with details requested at the September meeting. Discussion took place regarding term lengths, requirements to serve on the various boards, responsibilities of the boards, aspects of the current system that could remain in place based on historical success and the enrollment, faculty, staff and budget totals for the institutions that each board would govern. There was additional discussion and comparison between a coordinating board and a higher education administrator. After much deliberation, the Task Force recommended removing a separate coordinating board as a potential option. It was decided that having a full coordinating board would add unnecessary bureaucracy and slow down the work of the governing boards. To assist with collaboration for the various multiple board options, the Task Force agreed that an advisory committee, created with representation from the existing governing boards, would satisfy the need. In addition, the Task Force advanced a recommendation to adjust the current system office with an office, administrator and staff to continue the successful aspects of the current system and to assist the governing boards. The Task Force recommended that all three remaining governance structure proposals (two-board, three-board and four-board) remain for consideration and that further demographic details be provided at the November meeting. For October meeting materials see appendix K.

November Task Force Meeting

The November meeting was the final formal meeting of the Task Force. During this meeting, additional demographic information was shared for each of the three potential governance structure recommendations. At the beginning of the meeting, the Task Force unanimously supported (15-0) the need to change the current structure of higher education governance to meet the needs of 21st Century higher education in North Dakota. Throughout the discussions there were members present who indicated support for the four-board alternative and two-board alternative, however at the conclusion of the meeting, a motion was made to advance the three-board governance structure (one board for the community and regional institutions and one board each for the two research institutions). This motion passed 11-1, with three members having departed prior to the vote. For November meeting materials see appendix L.

Governance Structure Recommended

Following 11 months of research, learning and deliberation, the Task Force unanimously (15-0) agreed that the current system of governance needs to be altered to meet the changing needs of the state. While opinions varied on the specific structure that should be recommended to the Governor, Legislature and the people, the Task Force voted 11-1, with three members absent, to advance a three-board structure with the community and regional institutions governed under one board and the two research institutions each governed under their own board. In conjunction with the three-board model, the Task Force recommended a Higher Education Administrator serve as a leader of a higher education office to maintain collaboration and shared services, and that a small advisory committee be created to assist with collaboration.

According to the AGB consultants, with a three-board governance structure, North Dakota would join four states that combine the four-year (non-research) institutions with the community and/or technical colleges under the same board: the Minnesota State Colleges and Universities, under the MinSCU Board of Trustees; the Connecticut State Colleges and Universities, under the Connecticut Board of Regents; the Vermont State Colleges System under its Board of Trustees; and the Massachusetts community colleges and state universities under the Massachusetts Board of Higher Education.

During the August Task Force meeting, AGB consultants provided advantages and disadvantages of a three-board governance structure. Advantages included attracting greater number of qualified board members, providing greater accountability through a more narrowed board focus, moving responsibility closer to the individual institutions, empowering institutional executives to develop solutions with their boards and balancing enrollment size thus creating greater equity of governance for students with their respective boards.

Additional details within the recommendation are outlined to follow:

Board Structure: Three-Board Governance Structure

Community and Regional Institutions Governing Board

- 14 total members, of which 11 would be voting members and 3 non-voting members
- Presidents of BSC, DCB, LRSC, NDSCS, WSC, DSU, MaSU, MiSU and VCSU would report to the Board with advisement and support from the executive director.

NDSU Governing Board

- 12 total members, of which nine would be voting members and three non-voting members
- President of NDSU would report to the Board.

UND Governing Board

- 12 total members, of which nine would be voting members and three non-voting members
- President of UND would report to the Board.

Term Number and Length (Six- year term with a maximum of two non-consecutive)

For all boards, the Task Force recommends a six-year term with a maximum of two non-consecutive full terms per lifetime across all governing boards. A full term must be fulfilled within one board and may not be divided among the three governing boards. A one-year student, faculty or staff appointment would not count toward the two-term-per-lifetime limit. At the creation of the three-board system, the terms would be staggered. Additionally, individuals selected for the first appointments may hold one full term consecutive to the initial term according to the following schedule:

Initial Staggering of Appointments (Graph of creation stagger can be found in appendix M)

- One member appointed to each board for 1 year, with the ability to hold two full terms again in lifetime
- Two members appointed to each board for 2 years, with the ability to hold two full terms again in lifetime
- Two members appointed to the Community/Regional Institution Board and one member appointed to each of the research institution boards for 3 years, with the ability to hold two full terms again in lifetime
- One member appointed to each board for 4 years, with the ability to hold one full term again in lifetime
- Two members appointed to each board for 5 years, with the ability to hold one full term again in lifetime
- Two members appointed to the Community/Regional Institution Board and one member appointed to each of the research institution boards for 6 years, with the ability to hold one full term again in a lifetime

Vacancy of Positions

Should a vacancy arise during an unfulfilled term, the new member would be appointed utilizing the normal appointment process. If the new member is appointed to fulfill three years or less of a previous board member's term, the appointment would not count toward the limit of two full terms per lifetime and may be consecutive to one full term.

Support Staff to the Governing Boards

The Community and Regional Institution Board would have an executive director as well as four staff to support the required work of the board. Both the NDSU and UND Governing Boards would be responsible for providing support staff, utilizing current full-time positions within the institutions. The duties of the executive director and support staff are discussed on page 17.

Requirements to be a Board Member

Voting Members

- Each board would be required to have a minimum of five voting members who reside within the state.
- Each board would be required to have one full-time student, in good academic standing, as a voting member, appointed; process discussed in *selection of student voting members* section on page 17. A student may not hold more than two consecutive student appointments.
- Remaining voting positions may be filled by any of the following:
 - Residents of the state of North Dakota
 - Out-of-state residents based on the following requirements:
 - Out-of-state residents holding an undergraduate degree from a North Dakota public higher education institution governed by one of the three boards or
 - A maximum of two voting members may be out-of-state residents without a degree from a North Dakota public higher education institution
- No board member may be a full-time employee of any higher education institution within the state, including tribal and private institutions, or be a full-time employee of the state office of higher education while serving on the board or for a period of two years following completion of employment.

Non-voting Members

- One faculty member would be appointed as a non-voting member to each governing board; appointment process discussed on page 18.
- One staff member would be appointed as a non-voting member to each governing board; appointment process discussed on page 18.
- The North Dakota Superintendent of Public Instruction or designee shall serve as a non-voting member on each of the three governing boards.

Additional Requirements for Community/Regional Institution Board

- There may be no more than two voting members holding an associates or bachelor's degree from one of the Community or Regional Institutions, excluding the student member.
- The student members may not be attending the same institution for more than two consecutive years
- Both the faculty and staff representatives of a single board may not be representatives of the same institution during the same term
- The faculty and staff members may not be representatives of the same institution for more than two consecutive years

During discussions of the Task Force, consideration was given to having faculty and staff serving as voting members rather than non-voting members on their respective boards.

Though much discussion was had, there was not a consensus recommendation for having those two positions as voting or non-voting. To proceed with the recommendation, the Task Force has included faculty and staff as non-voting members, as aligned with the current process today. Further discussion should be encouraged on this topic.

Responsibilities of each board

- Appoint one member of the board to serve as chair for one year
- Represent the full educational value and intent of students and the state within the mission of each individual institution
- Maintain high-quality academic programs
- Ensure excellence in programs, faculty, staff and students
- Provide responsible policies and procedures for proper governance and to hold each institution's leadership accountable
- Undertake periodic strategic planning to guide institutions overseen by the board and to advance the needs of the state and compete within the global higher education market
- Appoint, monitor, advise, motivate, support, evaluate and if necessary or advisable, replace an institution president
- Ensure collaboration and partnership with other public institutions within the state and the private sector
- Serve as a court of appeals when appropriate
- Regularly evaluate the board member's performance
- Ensure regular and proper training of board members
- Receive proposed budgets, tuition modifications and ranked capital construction projects from campus presidents to promote equity and appropriate investment of state resources through each institution
- Approve tuition levels, within the framework of the Century Code, of institutions represented by the board
- Provide a final budget recommendation to the executive and legislative branches for consideration
- Approve new and discontinued programs
- Engage with, listen to and deliver value to stakeholders who provide direct financial support such as students, the state, alumni and the private sector
- Shield institutions from direct political and other outside interference
- Ensure there is an ongoing reporting mechanism for accountability in research enterprise, collaboration and student learning.
- NDSU and UND boards would also be required to hold one joint meeting per year, dedicated to reviewing current collaboration efforts and determining where additional collaboration could be advanced
- Ensure academic freedom, as defined by AAUP is followed

Responsibilities of the Executive Director and Support Staff (Community College and Regional University Board)

- Provide administrative support to the Community College and Regional University Board
- Coordinate with the board chair, to develop agendas and supporting material for board meetings
- Support the institutional presidents in advancing educational opportunities within the state
- Administer presidential searches
- Support the board in administrative duties as assigned, including evaluations of institution presidents
- Serve as the liaison to the Higher Education Administrator (outline of responsibilities for administrator to follow), the legislature and the executive branch
- Draft, maintain and coordinate procedures and policies for the boards

Selection of Board Members

Selection of Voting Members

The Task Force did not formally advance a specific recommendation for appointment of voting members. However, the Task Force did recommend that the appointment process be expedited and made more efficient. An informal recommendation was shared with the Task Force, while no formal action was taken.

Potential for Appointment Process Identified

The following potential option could be utilized to create an appointment process that is more efficient and streamlined than the current process: The Governor would accept applications from the general public to fill vacant board positions. The Governor would then nominate one individual per open board position to a review committee. The committee would then be required to provide consent of the nomination within 30 days of receiving the notification from the Governor's Office.

The review committee would be chaired by the Superintendent of Public Instruction or designee, with other members being the President Pro Tempore of the Senate or designee, the Speaker of the House or designee, the Secretary of State or designee and a representative from North Dakota United or successor organization. To consent to a nomination, four of the five review committee members must approve the appointment. If a nomination is not approved, the Governor would be required to submit another nomination for remaining vacancies.

The Governor and the review committee shall ensure that the board membership is maintained in a balanced, equitable and representative manner.

Selection of Student Voting Member

Each year, by a date determined by the Governor, the North Dakota Student Association or successor organization must submit a minimum of two names and a maximum of four names of students, for nomination to the Community and

Regional Institution Governing Board, attending the respective institutions governed by that board, to the Governor.

Each institution's student government organization from the community colleges and regional institutions, may also submit a maximum of one name to the Governor for consideration by a date determined by the Governor. This student does not need to be an official member of the institution's student government. The Governor would then appoint one student member from the list(s) provided for the respective governing board. Student appointments would begin every year on July 1 and end on June 30th of the following year.

Each year, by a date determined by the Governor, both NDSU's and UND's student governments must submit a minimum of two names and a maximum of four student names to the Governor for consideration of appointment on their respective board. These students do not need to be an official member of the institution's student government. The Governor would then appoint a student member from the list provided to the respective governing board. Student appointments would begin every year on July 1 and end on June 30th of the following year.

Appointment of Faculty and Staff Non-voting Members

Each year, on or before July 1, the North Dakota Council of College Faculties and the North Dakota Staff Senate or successor organizations would appoint one faculty and one staff member, respectively, to the Community and Regional Institution Governing Board. The faculty and staff members must be in a benefited position within their institution.

Each year, on or before July 1st, the NDSU and UND faculty and staff organizations would appoint one faculty and one staff member, to the institution's respective governing board. The faculty and staff members must be in a benefited position within their institution.

Faculty and staff appointments would begin every year on July 1 and end on June 30th of the following year.

Office of Higher Education and Higher Education Administrator

Over the course of the last 11 months, the Task Force identified aspects of the North Dakota University System that have been successful in the past and would be beneficial to maintain in the future. To accomplish these tasks, the university system would be transformed to the Office of Higher Education and be led by a Higher Education Administrator. The Higher Education Administrator would be selected using the same process as the appointment process for voting members to the governing boards.

Below are the recommended duties and responsibilities of the Higher Education Administrator and the office staff, as identified by the Task Force. Additionally, the Task Force encouraged consideration of having state general funds contingent on institutions and governing boards complying with certain shared service requirements such as common course numberings, transferability of credits and shared technology. Finally, the Task Force recommends the three boards maintain full authority over the institutions under their control as currently outlined for the SBHE within article VIII, section 6 (6)(B) in the North Dakota Constitution.

Responsibilities of the Higher Education Administrator and Staff

- Represent, articulate and advocate the needs of the state to the respective boards as outlined by the executive and legislative branches
- Support the executive director and staff of the respective boards
- Maintain common course numbering across boards and institutions
- Maintain student transferability agreements across boards and institutions
- Administer state scholarship programs (including tribal scholarships)
- Serve as the administrator of federal grant monies to North Dakota colleges and universities when required by federal law, such as programs of the U.S. Department of Education and the National Science Foundation
- Manage State Authorization Reciprocity Agreements (SARA)
- Manage loan forgiveness programs for teachers and North Dakota residents in STEM fields
- Administer student exchange/reciprocity programs with WICHE States, Minnesota and Midwest student exchange for veterinary medicine, dentistry and optometry
- Administer student health insurance program
- Manage participation in the MHEC
- Manage the Challenge Fund program
- Administer data support and research support for the Department of Public Instruction
- Provide institutional data to the boards, state and federal entities (i.e. IPEDS) and for longitudinal studies
- Implement statewide higher education studies
- Administer the TIAA retirement plan
- Administer the tele-mental health services
- Administer the fraud hotline
- Administer the interactive video network
- Maintain a data warehouse
- License in-state higher education providers and provide assurance that out-of-state providers follow reciprocity agreements
- Prepare the consolidated financial reports

- Maintain Core Technology Services (CTS)
- Other tasks deemed necessary by governing boards, executive branch, legislative branch and higher education office.

In addition to the duties outlined above, the Higher Education Administrator would serve as the chair of the higher education advisory committee. The committee purpose, responsibilities and structure are defined in the following section.

Higher Education Advisory Committee

Structure of the Advisory Committee

The Higher Education Advisory Committee is comprised of representatives from the three governing boards overseeing the state institutions within North Dakota. The chair of each governing board would serve on the advisory committee as well as an additional representative appointed by the Community and Regional Institution Governing Board.

If the chair of the Community and Regional Institution Governing Board and the additional representative are both alumni of a North Dakota institution, the additional appointed member must have a degree from the opposite type of institution as the chair of the Community and Regional Institution Governing board. For example, if the chair holds an undergraduate degree from a four-year regional institution, the second appointed representative must have a degree from a two-year community college.

Purpose and Responsibilities of the Advisory Committee

The advisory committee would serve as an official collaboration and communication point for the three governing boards, outside of the organic partnerships and collaboration formed directly by the boards. The responsibilities of the advisory committee are as follows:

- Seek and advance efficiencies and shared service opportunities to all governing boards
- Assist the Higher Education Administrator in coordination of collaboration between boards
- Manage program petitions as defined below
- Other duties as assigned by the legislative and executive branches, as well as duties agreed upon by the representatives of the advisory committee

Program Petitions:

- To meet the education and economic needs of the state and region, an institution could propose a new program addition, cancellation or change, that would result in new majors. These proposed program changes must be submitted to their respective board for approval
- A simple majority of the individual governing board must approve the program for implementation

- Each public North Dakota institution can submit a protest petition to the board in which a program is being reviewed. The petition must be received within 30 calendar days of the first reading of the program to the governing board of the institution seeking program addition, cancelation or change.
- If a protest is delivered, each involved institution must first make a reasonable effort to design a plan for program collaboration. If all involved institutions are satisfied and the program is approved, then the protest is satisfied.
- If the protest is not satisfied and the program change is approved by the governing board, the approval moves to the Higher Education Advisory Committee. A program would be denied only if at least 3 of 5 members of the advisory committee vote no.

Removal of Board Members

The Task Force spent little time discussing the removal of board members, but it was suggested that a process for removal be considered. In addition to the current process, a second potential removal process is provided for consideration.

Two Forms of Removal Recommended

1. The members of the Community/Regional Institution Governing Board, NDSU Governing Board and UND Governing Board may be removed by impeachment for the offenses, in the manner and according to the procedure provided for the removal of the Governor by impeachment proceedings.
2. Additionally, should a board member in any of the three governing boards not fulfill the duties and responsibilities assigned to them through the Constitution, Century Code and internal policy, the Governor may recommend removal of said board member. Upon recommendation of removal from the Governor, the review committee, as defined in the *selection of voting members* section on page 17, must research the claims and vote within 30 days of the recommendation of approval or denial of the recommendation. If 4 out of 5 agree with the removal, the removal is finalized and takes effect immediately.

Conclusion and Next Steps

The Task Force on Higher Education Governance has provided a comprehensive framework to advance the higher education governance structure in North Dakota. This report serves as a framework for enhancing governance based on research, expert testimony and deliberation among representatives from all three branches of government, as well as faculty, students, business leaders and education experts.

The Task Force encourages the executive, legislative and judicial branches to work together to determine how these recommendations best fit within the North Dakota Constitution, the Century Code and/or internal higher education policy. Most notably the Task Force recommends maintaining that each board have full authority over the institutions under each boards control, as currently provided to the SBHE within the North Dakota Constitution.

The Task Force advances this report as a tool for the Governor and the 66th Legislative Assembly during the 2019 session to make positive changes for the future of North Dakota Higher Education. Lastly, this report should be utilized for detail, explanation and understanding when the people of North Dakota have an opportunity to vote on constitutional changes. The Task Force believes that these recommendations would improve the governance structure of North Dakota higher education, allowing it to serve as a nimble and effective structure for decades to come.

APPENDIX TABLE OF CONTENTS

APPENDIX A

Executive Order 2017-19, Task Force for Higher Education Governance

APPENDIX B

December 21, 2017, Office of the Governor Press Release for the Task Force for Higher Education Governance

APPENDIX C

January Higher Education Governance Task Force Meeting Materials

APPENDIX D

February Higher Education Governance Task Force Meeting Materials

APPENDIX E

March Higher Education Governance Task Force Meeting Materials

APPENDIX F

April Higher Education Governance Task Force Meeting Materials

APPENDIX G

May Higher Education Governance Task Force Meeting Materials

APPENDIX H

June Higher Education Governance Task Force Meeting Materials

APPENDIX I

August Higher Education Governance Task Force Meeting Materials

APPENDIX J

September Higher Education Governance Task Force Meeting Materials

APPENDIX K

October Higher Education Governance Task Force Meeting Materials

APPENDIX L

November Higher Education Governance Task Force Meeting Materials

APPENDIX M

Initial Staggering of Three Board Governance Appointments

SCR 4016
2-27-19
A# #3
p.1 of 4

**GOVERNOR DOUG BURGUM TESTIMONY ON SCR 4016
FEBRUARY 27, 2019
SENATE EDUCATION COMMITTEE
SHEYENNE RIVER ROOM
SENATOR SCHAIBLE, CHAIRMAN**

Doug Burgum – Governor of North Dakota

Chairman Schaible, members of the committee, for the record, my name is Doug Burgum.

Thank you for the opportunity to be with you today. I am deeply grateful that the Senate is taking up discussion of a concurrent resolution to seek much-needed and long-overdue changes to the state's current outdated form of higher education governance.

However, I am testifying today in opposition to Senate Concurrent Resolution (SCR) 4016 in its current form.

This opposition testimony is consistent with the majority of the members of the Governor's Higher Education Governance Task Force, who favored moving to a mission-focused, multi-board model.

As each of you know, our state needs a strong and high-performing higher education system to enable our citizens and our state to reach its fullest potential.

And our strong investments in higher education reflect this commitment with our overall higher education budgets (including tuition and grants) nearing \$2.7 billion.

Our current model of higher ed governance was created in 1939, a time when our state had fewer institutions and roughly 7,000 students. Today we are trying to govern 45,000 students, 11 campuses, a tremendous diversity of degrees and programs, and a medical school, with a single eight-person board, which includes one student.

Yet today, like no time before, higher education is facing unstoppable forces of change across four main areas: demographics, technology, culture and economics. These competitive forces will apply themselves differently across our different types of institutions, and the challenges and decisions facing our Board of Higher Education members will be greater than ever.

The traditional higher education business model has been primarily based on a residential model, with 2- or 4-year courses of study, with students mostly 18-22 years of age. The model centered around physical campuses, with high fixed costs associated with lots of bricks and mortar, high non-teaching administration and staff costs, tenured faculty, and physical libraries and other facilities.

The federal government has played a huge role in growing and sustaining this increasingly uneconomic education model by taking over the student loan program in 2010 and driving student loan debt to today's astonishing level of \$1.5 trillion (yes with a T).

Debt to a student has been revenue to higher education. We have a higher education bubble in our country, just as we had a housing bubble.

Historically, many institutions had some natural economic security based on location near sources of new high school graduates, or distance from other institutions. Today online courses erode the barriers of distance, create massive new competitive alternatives with free high-quality offerings, and disrupt our NDUS current pricing models.

Multiple career paths exist today that allow students to achieve economic success with targeted certificates vs. general college degrees. The cultural allure of higher education is fading behind this mountain of debt and the reality that depending on their degree, graduates may earn less than those with technical degrees or certificates.

Over the past year we have had an opportunity to work with 14 other dedicated task force members who were focused exclusively on our higher education governance structure within the state of North Dakota. We are grateful to all task force members for their dedicated service on this important project.

Over our 10 in-depth meetings, we heard presentations from the NDUS, former chancellors and nonprofit consultants, and retained the expertise of the Association of Governing Boards of Universities and Colleges (AGB), a consulting firm comprised of former college presidents, chancellors and professors.

The resolution before you today utilizes several of the key features identified by the task force to enhance the structure of governance. These features include increasing the number of board members from eight to 11 and the term lengths from four years to six years.

Additionally, the resolution alters the selection committee by replacing the Chief Justice of the Supreme Court with the Secretary of State, per the request of the Chief Justice. We support these changes.

There is no problem more common in our state than the shortage of qualified workforce. Today in North Dakota, there are over 12,000 online job postings. We believe the actual overall number of job openings is likely closer to 30,000 or more. Workforce attraction, retention and development is the No. 1 barrier to economic growth in our state.

The governance recommendations put forth by the task force were based on a mission-focused governance structure. This mission focus will help North Dakota remain competitive with other states that are rapidly leveraging billions of state dollars spent on education to more directly equip our citizens with the skills they need to thrive in a 21st century economy.

Under a two-board, mission-focused model, our two research institutions and the medical school would be governed by one board. Our medical school at UND has a budget of \$210 million. This is a larger dollar amount than BSC and Minot combined.

Our community and regional institutions would be governed by a second full mission-focused board. We have two-year schools becoming four-year schools, and a four-year school adding associate degrees. All schools will likely need to consider adding certificate programs in the future to serve market demands. Having their own mission-focused board will enable them to thrive and respond in this rapidly changing environment.

In addition, a mission-focused, two-board system will create more balanced representation for the students, faculty and staff of the state.

Today, the two research institutions enroll approximately 60 percent of the students and employ 66 percent of the faculty and 74 percent of the staff.

Our nine community and regional institutions enroll approximately 40 percent of the students and employ approximately 33 percent of the faculty and 26 percent of the staff.

Boards filled with high-quality members, dedicated to the missions of community and regional institutions, will be able to dive deeper into the inner workings of the institutions, their financials, operations and programs.

Institutional leaders – presidents and their VPs – will be afforded more time directly with these Boards of Trustees. And board members will get more time on campuses.

Under a one-board model, visiting a different campus each quarter, it would take three years to visit each school. With the capacity and focus of two mission-focused boards, this interaction would increase tremendously.

For example, the research/medical school board would be on each campus twice each year, surfacing areas of collaboration across the \$2 billion of higher education spending that is related to our research universities. I am confident that a mission-focused board model will identify savings well beyond any suggested fiscal note, just in additional synergies found between our two research institutions.

With this greater alignment between missions and greater bandwidth of the governing boards, the university and college presidents and their leadership teams will both be held more accountable and be able to respond more quickly to powerful external market forces. Every school and every president will have an opportunity to shine and flourish under this model.

Attracting a greater number of high-quality board members was identified as one of the greatest challenges the current State Board of Higher Education is facing.

Increasing the term length and requiring the terms to be nonconsecutive will enhance attraction.

The task force also recommended allowing alumni of North Dakota institutions living out of state to apply to serve on a board. By allowing some of our most successful North Dakota alumni an opportunity to serve on the boards of our higher education institutions, the pool of high-quality applicants will significantly increase. (3 examples)

The task force identified that the current board appointment process was cumbersome and outdated. To enhance and create a more efficient process, the task force recommended that the Governor be required to seek applications and nominate board members with the consent of at least four of the five appointment committee members. While the committee membership was changed within the resolution, the process changes to create efficiencies were not also included.

By developing a modern, mission-focused, two-board structure, North Dakota can enhance localized control and provided greater accountability for taxpayers. Only with strong and effective governance, with the appropriate focus and bandwidth, will we be able to navigate the tremendous challenges and opportunities that lie ahead.

Simply put, the current resolution for the modified one-board model does not go far enough to meet the needs of higher education within the 21st century. For these reasons I ask the committee to consider amending this resolution to a mission-focused, two-board resolution to empower our institutions and their leaders, provide greater representation to our tuition-paying students, and create additional accountability for our taxpayers.

Thank you for your time and I am happy to answer any questions that you may have.

SCR 4016
2-27-19
AH #4
p.1084

Mr. Chairman and members of the committee,

I am Larry Skogen and it's my great fortune to be president of Bismarck State College. I'm here to testify in support of SCR 4016.

I approach this topic with a background as president of BSC since 2007, and, as some of you might remember, for two years I served as your chancellor. During that time there was a movement afoot to destroy the State Board of Higher Education and replace it with a three-person commission. 75% of North Dakota voters did the right thing then by resoundingly defeating that attempt. Now four years later, your House colleagues just reviewed legislation again aimed at getting rid of the State Board of Higher Education. As you know, that was also resoundingly defeated in the House.

I'm delighted today to be addressing you not about another attempt to get rid of the State Board of Higher Education, but to enhance it. Here's where I believe this legislation and potential changes to the North Dakota Constitution get it right:

- Increasing the number of Board members. As one who has worked for the Board since 2007 I can tell you that your State Board of Higher Education members work very hard. Not only do they have multiple meetings during the year, but they also serve on committees that hold multiple meetings a year. They read voluminous materials to prepare for meetings. They are inundated with communications from institutions, state officials, and constituents. They travel to national conferences and conventions on behalf of our state. The list goes on. They work very, very hard. And all of their work is incredibly important. They serve us well. What they need is some relief. Increasing the number of Board members will help diffuse the workload across more Board members. This current legislation would increase the Board from eight to eleven members. That's a 28% increase in the number of Board members who can participate in the work of the Board, thus diffusing required labor.

- Increasing the number of Board members also will enhance the current Board's move toward assigning subcommittees to focus on different categories of institutions, and reflects, in an existing model, the Governor's desire to see more focus on the different institutions. My interests as a four-year polytechnic institution are understandably different from the interests of a research institution. A research institution's interests are different from a two-year community college or a regional university focused on teacher education. The chancellor has recognized these differences and is leading the effort to create subcommittees within the Board that can address those different interests. Increasing the number of Board members will increase the ability of the Board to create those subcommittees.
- This legislation also gets it right in creating a longer term of office for a Board member. Since I've been serving the Board, I've seen Board members resign when they have learned that they will not be confirmed for a second

appointment after their current, shorter four-year term. If you want Board members making the best decisions during their terms, do not require them to question how their decisions as board members will affect their second confirmation.

In conclusion, the legislation before you is important to the long-term health of our state's higher education. I fervently believe that a single State Board of Higher Education is the right governance model for our state, but I also believe that Board members need some help in carrying out their duties.

Adjustments to the number of Board members serving on that Board and the length of time they can serve without having to go through re-nomination and confirmation processes are positive steps for our state. Thus, I encourage you to send this to your colleagues with a Do Pass recommendation.

Thank you for your time.



North Dakota Student Association

Testimony for SCR 4016
Prepared by Jared M. Melville, President
Wednesday, February 27, 2019

Chairman Schaible, members of the Senate Education Committee, for the record my name is Jared Melville and I serve as the President of the North Dakota Student Association, a statewide organization that represents the voice of North Dakota's 45,000 public college and university students. Today I am here to provide testimony in support of Senate Concurrent Resolution 4016.

Since this is the first time I am testifying in front of the committee this session, I would like to begin with a brief note about how NDSA represents the voice of the students. Students from across the state meet monthly as a General Assembly at one of our state's 11 public institutions to discuss student concerns and higher education policy. We discuss, debate, and educate ourselves about the issues of the day. Throughout this last year, we have frequently discussed higher education governance and the State Board of Higher Education, and during our most recent meeting at the North Dakota State College of Science, students unanimously approved a resolution in consideration of SCR 4016.

SCR 4016 modifies the membership and meeting requirements of the North Dakota State Board of Higher Education, expanding the number of members and their term lengths. As a student who has spent the last four years in the North Dakota University System, I can speak from personal experience that certain trends tend to emerge among Board members.

Members largely volunteer their time and expertise in service to higher education, and they are happy to do so. However, some members find that the demands of the job ask more from them than what they are able to provide. This contributes to turnover within the Board. This is problematic right now, but this complication could be exacerbated as the general public continues to demand more from the State Board. Every other day you see articles in the *Bismarck Tribune* or the *Grand Forks Herald* scrutinizing the State Board and suggesting it ought to take a more active role in administration and governance.

If the State Board ever hopes to meet these demands from the public, then it needs additional membership so it can distribute its workload across a wider base of agents. Suggesting the Board ought to do more with its restricted resources may be considered an impossible task.

Moreover, expanded term lengths and a provision prohibiting members from serving concurrent terms could support members in making independent decisions free from political considerations. In the status quo, members may hesitate to speak their mind out of fear they will not be reappointed for a second term. These features create an environment that enables divergent thinking. If the State Board does not invite new perspectives, then the same old problems it faces today will continue to persist in the future.

The Student Association is supportive of SCR 4016 as proposed; however, we ask this committee to consider two amendments in service of students and higher education.

First, NDSA requests an amendment to eliminate the in-state residency requirement for the student member to serve on the State Board of Higher Education.

A significant number of students enrolled in the North Dakota University System are originally



SCR 4016
2-27-19
Att # 5
p. 2 of 4

North Dakota Student Association

Testimony for SCR 4016
Prepared by Jared M. Melville, President
Wednesday, February 27, 2019

from other states. As of 2017, the ratio of out-of-state students to in-state residential students was three-to-one (3.00:1.00). For every North Dakota resident who stayed in-state to receive an education, three students came from out-of-state. While many out-of-state students choose to become in-state residents while in North Dakota, many others do not.

Each year, the Governor appoints a student member to the State Board from a list of names recommended by the North Dakota Student Association. One of the requirements to serve is that the student must be an in-state resident. This provision complicates our ability to select the best talent for the position. Many of our student leaders from across the state serve their campuses and communities exceptionally well, but they are not in-state residents and therefore are ineligible to serve on the State Board. This is tremendously unfortunate.

While it is understandable the legislature may have concerns about removing the residency requirement for all Board members, removing the requirement for the student member should not invite hesitation. They serve because they want experience in university governance. They serve because they are deeply invested in North Dakota and its higher education system. And above all else, they want to serve on the Board of Higher Education to better serve students.

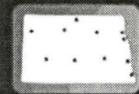
Provided that two out-of-students are equally qualified to serve on the State Board, the fact that one of them is not a North Dakota resident should not disqualify them.

Ultimately, the in-state residency requirement prevents well-informed, qualified students from serving on the State Board of Higher Education. **The Student Association respectfully asks you to eliminate this requirement, which is located on page one, line 23 of the originally proposed resolution.**

Second, while students see benefits in this proposal, they are concerned that increasing the number of members on the State Board without increasing the number of voting student members will dilute and diminish the student voice.

As the primary stakeholders, consumers, and products of higher education, it is critical for students to be an influential voice throughout the formation of higher education policy. On the last page of this testimony is a letter written by the past three Student Members of the State Board of Higher Education: Brett Johnson, Nick Evans, and Jacob Dailey. While this letter was originally written for Governor Burgum's Task Force for Higher Education Governance, I believe it does a wonderful job communicating the sheer value student members bring to the Board. I highly recommend you read it.

Voting student representation is necessary for ensuring the student voice is given equal consideration alongside every other Board member. Voting rights for students encourage other Board members to actively seek out the input of the student member, especially when voting on contentious issues and a single vote matters. Increasing the number of Board members without increasing student representation weakens this important link. Students could be disregarded entirely from decision-making.



North Dakota Student Association

Testimony for SCR 4016

Prepared by Jared M. Melville, President
Wednesday, February 27, 2019

NDSA requests this committee to consider an amendment to increase the number of voting student members who serve on the State Board from one to two. Preserving a comparable level of student representation is imperative for the SBHE to understand the student perspective.

We have often heard there is a desire for higher education to be more nimble, responsive, and diverse. Students agree, and we believe one way to achieve this is by increasing the number of voting student members.

Last year, when the Student Association nominated three students to serve on the State Board, all three candidates were students who have received some level of education from multiple campuses, which I would consider to be an incredibly rare opportunity. While the University System certainly stands to benefit from this frankly refreshing perspective, there is one caveat: a traditional student with traditional experiences is not currently represented within the Board. I would like to note that the Student Association does not believe this is problematic. Instead, it highlights an opportunity.

Increasing the number of student members serving on the Board would greatly expand the diversity of the perspectives brought to the Board, because now students from different schools, pursuing different degrees, and who have different experiences can concurrently serve to actively enhance the educational outcomes of their peers. For instance, the way a law student from the University of North Dakota may approach a problem could look incredibly different from the way it is approached by a student from the State College of Science in Wahpeton. These students may have two different perspectives, but both would provide incredible insight to the State Board and its decisions.

Additionally, since student members only serve one-year terms, you would see an increase in the number of perspectives flowing in and out of the governance ecosystem. This diversity would benefit the State Board, because its members - who will now be serving six-year terms under this proposal - will receive more exposure from students on a more frequent basis. Here is the impact: during their six-year term, a Board member will have the opportunity to collaborate and form a working relationship with twelve different student members, each with their own unique story and experience. In the long-run, increasing the number of voting student members will provide Board members with the opportunity to learn and understand the student perspective, aiding the State Board of Higher Education in its mission.

Chairman Schaible and members of the Senate Education Committee, I thank you for your time and your service to higher education and the state of North Dakota. The Student Association urges a do pass recommendation for Senate Concurrent Resolution 4016. By amending the legislation to remove the in-state residency requirement for students and by increasing the number of voting student members on the Board, we believe the University System will be more effective and even more equipped to serve students. I welcome any questions you have.

Members of the Task Force for Higher Education Governance:

We write to you today as three former Student Members of the North Dakota State Board of Higher Education to emphasize the importance of preserving the full voting rights of the Student Member in any form of higher education governance. While we understand this Task Force is considering many different proposals at this time, we believe that student input at the highest level of governance is essential for the State of North Dakota's higher education institutions to continue to serve the students to the best of their abilities.

The very nature of the Student Member position on the current State Board of Higher Education is a testament to the value the current system places on student input. As Student Members, we were each nominated by the North Dakota Student Association to the Governor's Office for consideration. The way in which our nomination process differed from the process for other board members allowed the students to have a direct say in who would represent them and ensure their concerns were heard.

Certainly, a board or other governing institution comprised of qualified and diverse members is essential to success in higher education governance. We believe a voting student member not only fits that mission, but also provides a critical perspective to the decision making-process. The Student Member provides informed insight that Members not currently enrolled in a higher education institution may not have. Further, by possessing full voting rights, the Student Member's input is given equal consideration alongside every other Board Member. These voting rights also encourage the other Board Members to not only consider, but also actively seek out the input of the Student Member prior to voting on potentially contentious issues.

While some may suggest that the relative inexperience of the Student Member and the short-duration of the term served means that they should only have non-voting status (status currently held by the Staff and Faculty Representatives), we believe any decision to remove the Student Member's vote would be a mistake. Students must remain the focus of higher education governance, and we believe that a Student Member with voting rights ensures this goal. Each of us can recall actively seeking out student input on countless issues faced by the State Board during our respective tenures. We firmly believe that this input would not otherwise have been solicited or provided to the Board if not for the Student Member position.

Higher education in North Dakota now faces more challenges than ever before. The increasing influence of technology is changing the way students learn in ways that could not have been imagined even by our own parents. We believe the work of this Task Force is essential to ensuring that North Dakota continues to provide top-tier educational opportunities to the students of our state. However, as this Task Force considers many different approaches to higher education governance, we would urge you all to continue to ensure the students are represented in the form of a Student Member who has an equal vote in the future of higher education.

Sincerely,

Nick Evans
Student Member 2016-2017

Jacob Dailey
Student Member 2017-2018

Brett Johnson
Student Member 2015-2016

SCR 4016
2-27-19
Att #6
P1056

Testimony for the Senate Education Committee

Senate Concurrent Resolution 4016

Andrew Alexis Varvel

February 27, 2019

Chairman Schaible and Members of the Committee:

My name is Andrew Alexis Varvel. I live in Bismarck, District 47.

I would like to thank Governor Burgum for putting reform of higher education governance onto our state's agenda. Whatever disagreements one may have with his task force, this will remain a major achievement for Governor Burgum.

I am not here to simply say no. Rather, I am here to present an alternative vision for where I think higher education ought to be headed, an alternative vision for how I think higher education ought to be governed, and especially an alternative vision that I would like this committee to adopt as replacement language for Senate Concurrent Resolution 4016.

My principal disagreement with the Governor's Task Force for Higher Education Governance is that the range of reforms discussed by it has been too narrow.

For example, the Task Force focused on higher education governance structure while ignoring the selection process. Michigan, Nevada, Colorado, and Nebraska elect their university board members. Depending on the state, members are elected by district or at large. The Higher Learning Commission has not revoked accreditation for universities in Michigan, Colorado, or Nebraska because of this.

We should expand our idea of the possible. Idaho has one board for kindergarten through graduate school. At the University of Illinois, the student trustees are elected by student referendums. The American Museum of Natural History maintains a graduate school in its own right. In several foreign countries, a government ministry is responsible for the governance of higher education.

The Governor's Task Force for Higher Education Governance has variously considered one, two, three, and four boards to govern higher education.

SCR 4016
2-27-19
AH #6
p.2 of 6

In contrast, I think the optimal number of boards is zero.

Just as our elected superintendent of public instruction supervises primary and secondary education, we should have an elected commissioner of higher education to supervise higher education. There have been frequent complaints about how local concerns get ignored by the present system, whether it is small campuses feeling ignored or large campuses feeling hamstrung. Requiring the commissioner of higher education to be elected would encourage him or her to communicate regularly with people throughout the state. A commissioner who remains holed up in Bismarck – or Fargo – rather than functioning as a circuit rider would be unlikely to get reelected in a state such as North Dakota.

This alternative amendment also proposes to finally redress the present lack of regional equilibrium in higher education. In the long run, it should be easier to convince North Dakota voters to finance four research campuses sited throughout this state than to finance two research campuses in the Red River Valley.

I say this as someone who grew up in Grand Forks. And voted yes in 1989.

Although this alternative amendment keeps the locations of higher education intact, it separates the educational missions from the locations. An early hope for the North Dakota University System during the early 1990's was that it would provide an opportunity to streamline higher education administration. This amendment takes this idea further with the establishment of North Dakota University – one university, listed statewide faculties, four major campuses, seven minor campuses, reporting to an elected commissioner of higher education.

I hope the Senate Education Committee adopts this language for SCR 4016.

Thank you. I welcome questions from the committee.

Andrew Alexis Varvel
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SGR 4016
2-27-19
A# #6
R3 of 6

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4016

Page 1, line 1, replace "subsections" with "section"

Page 1, line 1, after "2" insert "of article V,"

Page 1, line 1, replace "and 6 of" with "repeal"

Page 1, line 1, after "VIII" insert ", create and enact section 7 of Article VIII, and repeal sections 12 and 13 of Article IX"

Page 1, line 2, after "to" remove "the membership and meeting requirements of the"

Page 1, line 3, replace "board" with "governance"

Page 1, line 3, after "education" remove "; to provide for transition; and to provide an effective date"

Page 1, line 5, replace "increases the number of individuals who serve on the state board" with "organizes the institutions"

Page 1, replace lines 6 through 9 with "education into a unified university with four major campuses and seven minor campuses under the administration of an elected commissioner."

Page 1, line 12, after "proposed" replace the remainder of page 1 with "amendment to section 2 of article V, repeal of section 6 of article VIII, creation of section 7 of article VIII, and repeal of sections 12 and 13 of article IX of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2020, in accordance with section 16 of article IV of the Constitution of North Dakota.

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

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

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

Page 2, line 1, replace the remainder of the resolution with the following:

"SECTION 2. REPEAL. Section 6 of Article VIII of the Constitution of North Dakota is repealed.

SCR 4016
2-27-19
Att # 6
p.4 of 6

SECTION 3. Section 7 of Article VIII of the Constitution of North Dakota is created and enacted as follows:

A commissioner of higher education shall be elected on a no party ballot in the general election to be held in 2020. If no candidate for this office has won a majority of votes during the general election, the winner shall be determined by an instant runoff. The commissioner shall take the oath of office on December 10, 2020. The state board of higher education shall dissolve on December 11, 2020, when its responsibilities shall be transferred to the commissioner of higher education.

The commissioner of higher education shall earn the same salary as the superintendent of public instruction. The commissioner shall cooperate with the superintendent to ensure smooth transitions of students from secondary education into higher education, cooperate with faculty to ensure high ethical standards and freedom of inquiry, and negotiate affiliation agreements with private colleges and tribal colleges.

The several state institutions of higher education shall be known as North Dakota University. Deans of statewide faculties shall report to the commissioner of higher education. These statewide faculties shall include but not be limited to liberal arts, engineering, education, agriculture, business, law, graduate studies, medicine, nursing, fine arts, aviation, and vocational training. North Dakota University shall have four major campuses with graduate work in Bismarck, Fargo, Grand Forks, and Minot. Its seven minor campuses shall be in Bottineau, Devils Lake, Dickinson, Mayville, Valley City, Wahpeton, and Williston.

The entire appropriation for North Dakota University shall be contained in one legislative measure. The legislative assembly shall not reduce the appropriation by the amount of any gift. The budgets and appropriation measures for experiment stations and their substations and the extension division of North Dakota University may be separate.

SECTION 4. REPEAL. Section 12 of Article IX of the Constitution of North Dakota is repealed.

SECTION 5. REPEAL. Section 13 of Article IX of the Constitution of North Dakota is repealed.”

Renumber accordingly

SCR 4016
2-27-19
A#6
p.5 of 6

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MODEL FIRST ENGROSSMENT

Sixty-sixth
Legislative Assembly
of North Dakota

**ENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4016**

Introduced by

Senators Wardner, Bekkedahl, Heckaman
Representatives Mock, Nathe, Roers Jones

1 A concurrent resolution to amend and reenact section 2 of article V, repeal section 6 of article
2 VIII, create and enact section 7 of Article VIII, and repeal sections 12 and 13 of article IX of the
3 Constitution of North Dakota, relating to state governance of higher education.

STATEMENT OF INTENT

4
5 This measure organizes the institutions of higher education into a unified university with four
6 major campuses and seven minor campuses under the administration of an elected
7 commissioner.

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

9
10 That the following proposed amendment to section 2 of article V, repeal of section 6 of article
11 VIII, creation of section 7 of article VIII, and repeal of sections 12 and 13 of article IX of the
12 Constitution of North Dakota are agreed to and must be submitted to the qualified electors of
13 North Dakota at the primary election to be held in 2020, in accordance with section 16 of article
14 IV of the Constitution of North Dakota.

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

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

24 The powers and duties of the agriculture commissioner, attorney general auditor, insurance

1 commissioner, public service commissioners, secretary of state, superintendent of public
2 instruction, commissioner of higher education, tax commissioner, and treasurer must be
3 prescribed by law. If the legislative assembly establishes a labor department, the powers and
4 duties of the officer administering that department must be prescribed by law.

5 **SECTION 2. REPEAL.** Section 6 of Article VIII of the Constitution of North Dakota is
6 repealed.

7 **SECTION 3.** Section 7 of Article VIII of the Constitution of North Dakota is created and
8 enacted as follows:

9 A commissioner of higher education shall be elected on a no party ballot in the general
10 election to be held in 2020. If no candidate for this office has won a majority of votes during
11 the general election, the winner shall be determined by an instant runoff. The commissioner
12 shall take the oath of office on December 10, 2020. The state board of higher education shall
13 dissolve on December 11, 2020, when its responsibilities shall be transferred to the
14 commissioner of higher education.

15 The commissioner of higher education shall earn the same salary as the
16 superintendent of public instruction. The commissioner shall cooperate with the
17 superintendent to ensure smooth transitions of students from secondary education into higher
18 education, cooperate with faculty to ensure high ethical standards and freedom of inquiry, and
19 negotiate affiliation agreements with private colleges and tribal colleges.

20 The several state institutions of higher education shall be known as North Dakota
21 University. Deans of statewide faculties shall report to the commissioner of higher education.
22 These statewide faculties shall include but not be limited to liberal arts, engineering, education,
23 agriculture, business, law, graduate studies, medicine, nursing, fine arts, aviation, and
24 vocational training. North Dakota University shall have four major campuses with graduate
25 work in Bismarck, Fargo, Grand Forks, and Minot. Its seven minor campuses shall be in
26 Bottineau, Devils Lake, Dickinson, Mayville, Valley City, Wahpeton, and Williston.

27 The entire appropriation for North Dakota University shall be contained in one
28 legislative measure. The legislative assembly shall not reduce the appropriation by the amount
29 of any gift. The budgets and appropriation measures for experiment stations and their
30 substations and the extension division of North Dakota University may be separate.

31 **SECTION 4. REPEAL.** Section 12 of Article IX of the Constitution of North Dakota is
32 repealed.

33 **SECTION 5. REPEAL.** Section 13 of Article IX of the Constitution of North Dakota is
34 repealed.

SCR 4016
2-27-19
Att # 7
p 1 of 5

SCR 4016
Senate Education Committee
Testimony of Jonathan Sickler in Opposition
February 27, 2019

Mr. Chair and Members of the Committee:

SCR 4016 proposes important and necessary changes to North Dakota's public higher education governance model. However, as currently drafted, the proposed changes, by themselves, are insufficient to address critical deficiencies in the current governance model. Because opportunities to reform higher education governance via constitutional amendments are rare, I oppose this resolution in the hope that a more comprehensive plan is put to a vote of the people.

1. The proposed changes fail to address the misaligned division of authority and responsibility between board and management.

It has become evident over the past 15 years that our experiment with the Chancellor position has not worked. Significant management responsibility is vested with the Chancellor and the North Dakota University System office but the support necessary to fulfill those responsibilities, both financial and political, lie elsewhere. Presidents report to the Chancellor but are hired and fired by the State Board of Higher Education. The current structure enshrines a fundamental conflict that has resulted in unnecessary conflict, wasted resources, and lost momentum. We are all too familiar with instances of Chancellors and Presidents engaged in public disputes that are exaggerated by muddled lines of authority and are too often resolved by political means, undermining the original reason for the State Board of Higher Education – limiting political influence in the management of our colleges and universities. These episodes

SCR 4016
2-27-19
AH #7
p. 2 of 5

demoralize faculty and staff and undermine public confidence in critical state institutions. Governance model reform needs to establish a clear line of authority and responsibility between college presidents and the governing board - no middle man. SCR 4016 does not address this critical issue.

2. The proposed changes are unlikely to increase interest in Board service for an important pool of potential candidates.

Any governance model's success depends on the people who serve. However, the underlying governance model significantly influences who has interest to serve in the first place. As currently structured, the Board attracts few applicants and of those, even fewer have the breadth of experience necessary for a well-functioning board. This is not meant as a critique on the expertise of the current Board. As a former Board member, I appreciate the dedication of Board members and the commitment that is required to do the job well. The relatively low interest in Board service is simply a fact that cannot be ignored. The Governor's Task Force on Higher Education Governance discussed why interest in service on the Board is not greater. At least two reasons were identified.

First, as has been widely identified, the workload of the Board is too extensive for eight volunteer members. To its credit, this resolution attempts to address that concern. However, I suggest that 11 members is too few to allow the Board to fully perform its governance duties considering the variety of institutions under its mandate, particularly as the Board increases its use of committees.

Second, and perhaps more importantly, many potential qualified Board candidates have a specific interest or expertise in the curriculum offered only at two-year colleges, regional

universities, or research institutions. This group could include employers who are most interested in the institutions whose graduates populate their employee pool. Similarly, engineers, surveyors, lawyers, educators, doctors, agricultural producers, and others may have a professional expertise that is most suited to a particular type of college or university. These candidates want to interact in sustained and meaningful ways with campus leadership, students, and faculty; they want to be on campuses; they want to become necessarily familiar with the institutions they govern so they can govern best. Service on the Board, with its limited ability to focus on any single type of institution, is less attractive to this group of candidates. The resolution's requirement that the Board meet annually with each campus head, while a recognition of this problem, is insufficient. A well-functioning Board would not need such a constitutional mandate – such contacts would happen frequently during the ordinary course of healthy interactions between those who govern and those who manage. SCR 4016 does not provide a structure for the type of Board interaction and involvement that many potential candidates seek.

3. SCR 4016 fails to expand the pool of potential Board candidates.

The resolution expands the number of Board members without expanding the pool of candidates. The unintended consequence may be that the inability of the Board to attract significant numbers of qualified candidates will only be exacerbated with more Board seats to fill.

In particular, the resolution does not address the most restrictive of the artificial limitations placed on Board membership – that no more than two bachelors degree holders from any single institution can serve on the Board at the same time. This limitation, particularly in relation to a larger 11-person Board, disproportionately restricts the alumni of our two largest institutions,

SCR 4016
2-27-19
AH #7
P4 of 5

who each comprise roughly one-third of the University System's students and faculty. SCR 4016 would result in a higher education governance model that is more unequally represented than it currently is and could distance more Board members from two-thirds of our students and faculty. Meanwhile, the state would further limit its ability to benefit from the expertise of a substantial part of its own population. These are self-inflicted restrictions that governance model reform should alleviate.

Related, SCR 4016 does not allow the possibility of participation by highly accomplished and talented alums of North Dakota public colleges who live outside of North Dakota. To expand the quantity and quality of Board candidates, the state could allow a small number of Board seats, a minority, to be filled by alums who do not currently live in-state. This group of potential candidates would be subject to the same vetting and appointment process as other Board members. Other states have adopted similar board membership criteria (i) in recognition of the important role alumni, in-state or otherwise, play in the health of public higher education, and (ii) to take advantage of the skills of highly talented alumni living around the country. Such a change could meaningfully expand the pool of qualified candidates to meet the increased number of Board seats.

The proposed resolution does not address critical deficiencies in the existing governance model.

The flaws in our current model have long been recognized by many, including the Legislature who proposed a comprehensive overhaul in 2013 with a three-commissioner model to replace the Board and the Chancellor. Voters rejected this idea. Nonetheless, the structural problems of our existing model continue to fester. I credit both the Legislature and the Governor for taking on this necessary governance task. Any reform of higher education

SCR 4016
2-27-19
AH #7
P.5 of 5

governance must address the lack of interest in Board service to ensure that all Board positions, whether eight or 11, are filled from a large pool of qualified candidates. Finally, a reformed governance model must address the muddled lines of authority caused when the Board expanded the role of the Commissioner of Higher of Education to a Chancellor in the early 1990s. SCR 4016 advances important changes but more are needed.

19.3140.01001

Title.

Prepared by the Legislative Council staff for
Senator Schaible

March 1, 2019

SCR 4016

3-4-19

A# #1

p.1 of 1

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4016

Page 1, line 6, replace "eleven" with "fifteen"

Page 1, line 18, replace "eleven" with "fifteen"

Page 1, line 19, replace "ten" with "fourteen"

Page 1, line 21, replace "ten" with "fourteen"

Page 1, line 23, replace "eleventh" with "fifteenth"

Page 2, line 17, replace "secretary of state" with "attorney general"

Page 2, line 21, replace "ten" with "fourteen"

Page 5, line 27, replace "three" with "seven"

Renumber accordingly

House
~~SENATE~~ EDUCATION COMMITTEE

#1
SCR 4016
3-19-19
P.1

SCR 4016

Chairman and Members of the Committee: I am Senator Joan Heckaman, D-23, and I am here to speak in favor of SCR 4016.

This resolution comes forward after HB 1500, to implement the recommendations of the Governor's Higher Education Governance Task Force, was defeated in the House. There were some amendments made to the original resolution by the Senate and I support those amendments.

The resolution before you is a Constitutional amendment, so it will have to go to a vote of the people in the 2020 election if passed in this session.

I will provide a little background for you on the Task Force and my role in the Task Force.

I was selected as one of the 15 members out of around 250 people who applied to become a member of the Task Force. We met 10 times between January and November of 2018. The Task Force directives are outlined on **page 2** on the handout I am providing to you.

The Task Force started by hearing a lot of background information on the current system. We found that there are some aspects of the current system that should be retained (**bottom of p.6**).

The Task Force also heard from several individuals and organizations on what other states are doing concerning their governance models. In the second paragraph **on page 8**, you will see that AGB (Association of Governing Boards of Universities and Colleges) states that no one type of governance structure guarantees student, faculty, and/or staff success. They reported that it depends on the people within the model that makes all the difference. That basically points to the fact that there are NO facts to select one model over another. There is no data that indicates one model is better to use than another. In fact, AGB reported that some states with 1, 2, 3 or multiple board models are looking for a change.

On **pages 9-12** you will find summaries of the monthly meetings. In August, we viewed 7 different board models. At the end of that meeting, the Task Force

51 /
SCR 4016
3-19-19

selected 4 models to consider at the next meeting. One was the current model with modifications, a two-board model, a three-board model, and a four-board model. Options considered for oversight was a coordinating board and a higher education administrator. P-2

At the September meeting, there were many questions posed at this meeting and it was agreed to park the current model to look at more significant changes.

In October, only the 2, 3, and 4 board models were discussed with the understanding that someone may bring a 1 board model forward during the session. During the remaining meetings, only the 2,3, and 4 board models were discussed. There was discussion on the system office and options to move that leadership role forward.

November was the last meeting date at which the Task Force needed to make its final determination to bring forward to the legislature. There was unanimous agreement that there need to be changes to the current structure. Those unanimous structure changes addressed the number of board members, removal of the Chief Justice from the selection committee, and the terms in office. The first vote was taken with a 2-board model as the choice. Following a brief break, members came back and started discussing that choice. Another vote ensued with a 4-board model being selected that time. I pointed out that we had been meeting for a year and 15 of us could not make up our minds. How would we expect 141 legislators or 525,000 voters to know which model to select? Finally, there was a motion to advance the 3-board model. I did second that motion but qualified my second that I reserved the right to determine my final vote at a later date.

Fast forward to this 66th Legislative Session. A 3-board model was drafted, assigned a hearing date in the House Education Committee, and then was amended immediately upon introduction to a 2-board model. That eventually failed in the House.

So, before you, the Majority Leader and I have joined hands with other Senate and House members to bring SCR 4016 to you.

This model retains many of the current structures and practices on the North Dakota University System Board. What it does change are the following:

#1
SCR 4016
3-19-19
P. 3

1. Adds 7 members to the board to cover the need expressed by many who say that there is too much for this "Citizen Board" to oversee.
2. Changes the selection committee membership charged with forwarding 3 names for prospective members to the Governor by removing the Chief Justice and replacing that individual with the Attorney General. The Chief Justice stated it is unconstitutional for him to serve on this committee.
3. It changes terms to one six-year term instead of 2 consecutive 4-year terms with the option to serve a second six-year term if terms are not consecutive.
4. There is a directive for the Board to meet at least annually with the head of each institution.

Chairman, I join the Majority Leader in supporting SCR 4016 and ask for your support moving it forward as the best option to improve the concerns expressed to the Task Force about the needs of the North Dakota Board of Higher Education.

That completes my testimony and I would stand for any questions.

NORTH DAKOTA
TASK FORCE FOR
HIGHER
EDUCATION
GOVERNANCE

December 27, 2018

#1
SERVOIL
3-19-19
P.4

Final Report

#1
SCR 4016
3-19-19
P. 5

Table of Contents

HISTORY OF TASK FORCE FOR HIGHER EDUCATION GOVERNANCE ..	2
PURPOSE.....	2
Task Force Members.....	2
EXECUTIVE SUMMARY	4
KEY FEATURES OF SUCCESSFUL GOVERNANCE STRUCTURES	8
OVERVIEW OF TASK FORCE MEETINGS.....	9
<i>January</i>	9
<i>February</i>	9
<i>March</i>	10
<i>April</i>	10
<i>May</i>	10
<i>June</i>	10
<i>August</i>	11
<i>September</i>	11
<i>October</i>	12
<i>November</i>	12
RECOMMENDATION FOR NORTH DAKOTA GOVERNANCE.....	13
CONCLUSION AND NEXT STEPS.....	22
APPENDIX TABLE OF CONTENTS	23

#1
SCR 4016
3-19-19
P. 6

A History of the Task Force for Higher Education Governance

On November 7, 2017, Governor Doug Burgum, by means of Executive Order 2017-19, created the Task Force for Higher Education Governance (Task Force). The Task Force consisted of 15 members, appointed by the Governor, representing the interests of students, faculty, business leaders, community members and all branches of state government. The Task Force was selected from a state-wide applicant pool of over 230 citizens. This record number indicated the strong level of interest in improving on the current governance system.

Beginning January 2018, the Task Force met 10 times to review the history of North Dakota's university system, research the structure of higher education **governance systems** across the country and determine how governance of the North Dakota University System (NDUS) could be improved to better meet the needs of the 21st century. While there are many aspects of higher education that could have been reviewed, this Task Force was directed to review only the governance structure. The work of this Task Force was difficult, and the state shares its gratitude for the time, energy and thoughtfulness of each Task Force member.

Purpose of the Governance Task Force

As outlined within the executive order, the purpose of the Task Force was to:

- a. Assess the strengths and weaknesses of the current higher education governance structure and determine whether the current structure promotes optimal efficiency, effective operations and desired results;
- b. Determine whether the current governance structure complies with Article VIII, Section 6 of the North Dakota Constitution;
- c. Identify best practices for governance of a higher education system;
- d. Provide written recommendations outlining proposed changes to the governance structure that promote effective operations and desired results, focused on educational and workforce needs of North Dakota in the 21st century.

The full executive order can be found in appendix A

Task Force Members (Listed alphabetically by last name)

Brad Bekkedahl, ND State Senator
Doug Burgum, Governor
Dr. Debora Dragseth*
Thomas Erickson
Tim Flakoll, Provost
Joan Heckaman, ND State Senator
Dr. Angie Koppang
Dr. Paul Markel
Katie Mastel, Student Representative
Don Morton, Chair of the State Board of Higher Education
Mike Nathe, ND State Representative
Shannon Roers Jones, ND State Representative

#1
SCR 4016
3-19-19
Pg 7

Jonathan Sickler
Gerald VandeWalle, ND Supreme Court Chief Justice
Jeffry Volk

*Dr. Dragseth was preceded by Dr. Ellie Shockley. Dr. Shockley resigned her appointment after accepting a position as an Institutional Researcher within the NDUS.

The titles and additional background information for each Task Force member can be found in appendix B.

#1
SCR 4014
3-19-19
P.B

Executive Summary

The Task Force held 10 meetings over the span of 11 months to better understand the needs and challenges of the NDUS and the State Board of Higher Education (SBHE). There are many challenges facing higher education today, and the Task Force was created to focus on governance because it is the key to making a positive impact across all facets of higher education. With the correct governance structure, many challenges will be resolved, and new and innovative goals will be set and achieved.

Current Governance Structures

With research support and meeting facilitation provided by the Association of Governing Boards of Universities and Colleges (AGB), the consulting firm hired by the Task Force, the Task Force members were able to compare and contrast higher education governance structures from across the country. Throughout the United States:

- 9 states have a single, consolidated statewide governance system like the current North Dakota system;
- 13 states have multiple higher education governance systems;
- 11 states have separate governing boards for each of their senior institutions;
- 17 have a combination of these governance structures.

It became evident that there is no single governance approach that can be universally applied in higher education; a governance system must be based on the specific needs of a state at a given point in time. To accomplish this, Dr. Thomas Meredith of AGB challenged Task Force members to ask themselves, “What form of a university governance system will best allow higher education in North Dakota to thrive during a digital and economic disruption, among other challenges?”

Goals and Recommendation

In addition to seeking a governance structure to meet the specific needs of North Dakota and improving accountability, the Task Force identified seven features of a high-functioning governance structure: nimbleness, an innovative spirit, an enterprising culture, technologically advanced, institutional autonomy, partnership-oriented and cost-conscious. When reviewing these key features and the current structure, the Task Force voted unanimously (15-0) to recommend the current governance structure be changed to meet the needs of 21st century higher education.

To accomplish the goals of North Dakota, add improved accountability for higher education and provide the seven key features of a high-functioning governance structure, the Task Force recommended, by an 11-1 vote, with three members absent, a three-board governing structure: one board serving the community/regional institutions and one board each for the state’s two research institutions. Under a three-board governance structure, institutional leaders are held more accountable by board members focused on the institutions’ specific missions and roles within the state. These multiple boards would provide expanded capability to serve each North Dakota institution and its students, faculty and staff, as well as the citizens of North Dakota. Under our current system, university presidents have a dual

#1
SCRIBBL
3-19-19

P. 9 reporting system to both the North Dakota SBHE and the Chancellor. Under the proposed governance system, each university president would report directly to their respective boards. Lastly, the new structure would provide even greater expertise and breadth to each board, specific to the institutions they represent.

Challenges Identified to Current Approach

Task Force discussions identified several challenges within the current governance structure.

One of the challenges identified was attracting large, diverse pools of candidates for board membership. The three-board structure would better align with the missions of the institutions, attracting greater numbers of passionate board members dedicated to the specific goals of each board. In addition, the Task Force recommended that the existing appointment process be made less cumbersome and more efficient and expedited, thus removing barriers for potential board members.

A second challenge identified was managing the responsibilities, oversight and scope of an eight-member board. When the current structure was created in 1938, the entire system enrolled only approximately 7,000 students; today it is responsible for approximately 45,000 students, 2,600 faculty and 5,800 staff, with a combined biennial budget of approximately \$2.6 billion. Today, board members are expected to possess expertise and in-depth knowledge of institutions with a wide array of missions and of widely varying sizes in terms of students, faculty, staff, budgets, endowments and academic offerings, making the process for onboarding difficult.

Using North Dakota school districts as an example, providing a more localized approach would help hold North Dakota institutional leadership more accountable. When the system was put in place in 1938, the board member to student ratio was approximately 1:1000 and today it stands at 1:6,555. This contrasts with North Dakota school districts, where representation is more equally disbursed, with the largest district, Bismarck School District, having a ratio of 1:2,590. The proposed three-board recommendation would change the ratio to 1:1,824 for the Community and Regional Institution Board and approximately 1:1,728 for each of the research institutions. Figure one, on page six, highlights the enrollments of the top 16 school districts in North Dakota and how the current NDUS and institutional enrollments, as well as the proposed three-board enrollments would compare.

Moving to the three-board structure and increasing the total board membership would narrow board members' responsibility and provide more distributed representation for students, faculty and staff. Under this new structure, 40 percent of students would be governed by the Community/Regional Institutional board, 30 percent by the North Dakota State University board and 30 percent by the University North Dakota board. In addition to student representation more evenly distributed, so too would representation for faculty, distributed almost equally at 33 percent under each board.

#1
 SCR4013
 3-19-19
 p. 10

Figure 1.

School Districts and NDUS Institutions Ranked by 2018-2019 Headcount Enrollment		
District/Institution	Number of Board Members	Number of Students
Existing NDUS	7	45882
Proposed Community/Regional Board	10	18239
Proposed North Dakota State University Board	8	13796
Proposed University of North Dakota Board	8	13847
North Dakota State University (NDSU)		13796
University of North Dakota (UND)		13847
Bismarck 1	5	12948
Fargo 1	9	11373
West Fargo 6	7	10799
Minot 1	5	7523
Grand Forks 1	9	7342
Williston 1	5	4349
Mandan 1	9	3890
Bismarck State College (BSC)		3778
Dickinson 1	5	3759
Minot State University (MiSU)		3189
North Dakota State College of Science (NDSCS)		2957
Jamestown 1	9	2138
Lake Region State College (LRSC)		2072
McKenzie Co 1	7	1802
Devils Lake 1	6	1668
Belcourt 7	7	1620
Valley City State University (VCSU)		1547
Dickinson State University (DSU)		1392
Wahpeton 37	9	1188
Mayville State University (MaSU)		1184
Williston State College (WSC)		1124
Valley City 2	5	1078
New Town 1	5	1015
Dakota College at Bottineau (DCB)		996
Central Cass 17	7	928

Retaining Positive Elements of the Current Higher Education System

While the Task Force was able to identify challenges, it also confirmed aspects of the system that are working well. The current transferability of students between institutions is one of the best of any system in the country, largely due to the use of common course numbering. Continuing that success, the Task Force recommended requiring that transferability of

#1
SCR 4016
3-19-19

P. 11

credits and common course numbering be maintained moving forward. The group also recommended maintaining a single statewide funding formula, basing general fund higher education investments on credit hour production. In addition, the Task Force recommended maintaining some shared technology services across all eleven institutions. To manage and maintain these critical pieces of the current system, the Task Force recommended the current NDUS office be transformed to an Office of Higher Education led by a Higher Education Administrator. In addition to these duties, the administrator would serve as a liaison between the three governing boards, supporting collaborative efforts and board staff. Finally, the Task Force recommends the three boards maintain full authority over the institutions under their control as currently outlined within Article VIII, Section 6 (6)(B) of the North Dakota Constitution for the current SBHE.

Concerns

Large-scale change, such as what is being proposed for North Dakota higher education governance, is bound to be met with some skepticism and concern. Some believe replacing one governing board with three boards would minimize response to state-wide public needs. However, state-wide needs may more easily be represented through a more localized approach, much like the existing K-12 governance structures, by allowing governing boards to respond quickly to the needs of businesses seeking trained professionals from state institutions. Others have expressed concern over the research institutions being separated and potentially influencing the budgeting process for their individual gain. However, the funding formula and the legislature retain the power to drive the budget and require accountability. The guardrails proposed in this report would manage these concerns by maintaining what is working and increasing collaboration.

Closing

The Task Force advances this report as a tool for the Governor and the 66th Legislative Assembly during the 2019 session to make positive changes for the future of North Dakota higher education. This report should be utilized for detail, explanation and understanding when the people of North Dakota have an opportunity to vote on potential constitutional changes. This recommendation would create three boards that hold institutions more accountable; create a system that can attract a greater number of high-quality board members while creating more balanced expectations; develop stronger mission focused boards to enhance effectiveness of governance for students, faculty, staff and tax payers. Today, we need these boards to navigate their way through external forces that are impacting higher education around the world.

The Task Force encourages all with a vested interest in higher education to be open-minded, bold in their thinking and focused on the needs of students when considering these recommendations. These recommendations would improve the governance structure of North Dakota higher education, allowing it to serve as a nimble and effective structure for decades to come.

#1
SLR 4016
3-19-19
P. 12

Key Features of Successful Governance Structures Across the U.S.

The Task Force reviewed benefits and challenges of higher education governance structures across the United States. As shared by Larry Isaak, President of the Midwestern Higher Education Compact and former Chancellor of the NDUS, at the February Task Force meeting, according to the State Constitutional Provisions and Higher Education Governance Document (2013), 23 states have governing structures with a mixture of types and numbers of governing and coordinating boards, 14 states have two boards to split authority between two-year, and four-year institutions and nine states have one board overseeing all public institutions.

AGB provided greater detail in that nine states have a single, consolidated statewide system, 13 states have multiple higher education systems of various styles, 11 states have separate governing boards for each of their senior institutions, and the remaining 17 states have a combination of these structures. As shared by AGB, these various models underscore that no one type of governance structure guarantees student, faculty and/or staff success. A state must develop its own structure to best meet its needs in the 21st century.

An AGB report titled “Consequential Boards: Adding Value Where It Matters Most” (2014), provides seven recommendations to consider when discussing governance structures

1. Boards must **improve value in their institutions** and lead a **restoration of public trust** in higher education itself;
2. Boards must **add value to institutional leadership decision making** by focusing on their **role as institutional fiduciaries**;
3. Boards must act to **ensure the long-term sustainability** of their institutions by addressing changed finances and the imperative to **deliver high quality education at a lower cost**;
4. Boards must **improve shared governance within their institutions** through attention to board-president relationships and a reinvigoration of faculty shared governance;
5. Boards must **improve their own capacity** and functionality through **increased attention to the qualifications and recruitment of members, board orientation, committee composition and removal of members for cause**;
6. Boards must **focus their time on issues of greatest consequence** to the institution by reducing time spent reviewing routine reports and redirecting attention to cross-cutting and strategic issues not addressed elsewhere;
7. Boards must **hold themselves accountable for their own performance** by modeling the same behaviors and performance they expect from others in their institutions(s).

FFI
SCR 4016
3-19-19
P. 13

Overview of Task Force Meetings

January Task Force Meeting

The Task Force was provided a presentation by Legislative Council on past legislation related to higher education governance within the state. Following are highlights of historical information provided by Legislative Council:

At the creation of the state in 1889, the constitution required there be seven institutions within the state: a “state university and school of mines” in Grand Forks, an “agricultural college” in Fargo, normal schools in Valley City and Mayville, a “Scientific School” in Wahpeton, a school of forestry, and an “industrial school and school for manual training” in Ellendale. At this time, governance of higher education was placed under the “absolute control of the state” until the creation of the Board of Education in 1913.

Since the Board of Education, governance of higher education within the state has evolved through constitutional amendments, legislative changes, and internal board policies. Of the changes, three have been exceptionally significant: the creation of the Board of Regents in 1916; the creation of the new Board of Administration with governing authority over higher education; and the 1938 constitutional amendment to create the SBHE. While the overall structure has remained largely unchanged since the first meeting of the SBHE, on July 6, 1939, the board composition, duties and authorities have evolved to present day. One of the significant evolutions of the board was the creation of the North Dakota University System as a unified system of higher education under the leadership of a system leader known as the chancellor.

In addition to Legislative Council, Isaak provided a presentation on the governance structure of North Dakota and how it compared to structures across the country. The Task Force also heard an NDUS overview presentation from Tammy Dolan, Vice Chancellor for Administrative Affairs/CFO. The meeting concluded with the first presentation by AGB to assist in the facilitation of task force meetings and in the exploration and development of recommendations for North Dakota. For January meeting materials see appendix C.

February Task Force Meeting

Two presentations were provided. Pat Traynor, the President of the Dakota Medical Foundation, shared how higher impact boards can dramatically increase the productivity of foundations and organizations across a variety of spectrums. Dr. Thomas Meredith of AGB provided a framework for thinking within the Task Force and challenged the members to ask themselves, “What form of a university governance system will best allow higher education in North Dakota to thrive during digital and economic disruption, among other challenges?” Dr. Meredith shared that knowledge in 1900 was doubled every 100 years, by 1945 knowledge doubled every 25 years and today, knowledge doubles every 12 months. Through this discussion, AGB urged the group to think about how this massive knowledge change may be altering higher education in North Dakota. The Task Force was encouraged

#1
SCR4016
3-19-19
P. 14

to identify the barriers, if any, to creating the most effective higher education governance structure for the state. For February meeting materials see appendix D.

March Task Force Meeting

Chancellor Mark Hagerott of the NDUS concluded the presentation that was started at the February Task Force meeting. During this presentation there was a focus on enrollment numbers, with an understanding of full-time and part-time as well as online or traditional student types. Additionally, the Chancellor provided an update on the Envision 2030 effort led by the NDUS. The meeting concluded with a presentation by the governor's staff on the mission of the Task Force, what the report could include, as well as the timeline for the work for the Task Force. For March meeting materials see appendix E.

April Task Force Meeting

AGB consultants presented an overview of the proposed timeline for the Task Force work to be completed within the year. Throughout April and May, AGB consultants conducted interviews with stakeholders including business leaders, Task Force members, members of the SBHE, legislators, faculty, staff, students and North Dakota citizens. The April Task Force meeting served as an opportunity to gather information requests from Task Force members, research that information and report back. The NDUS provided information during the April meeting based on the requests highlighted in March. For April meeting materials see appendix F.

May Task Force Meeting

AGB prepared an overview of governance structures across all 50 states. AGB concluded that nine states have a single, consolidated statewide system, 13 states have multiple higher education systems of various styles, 11 states have institution-level governing boards, and the remaining 17 states have a combination of structures. For May meeting materials see appendix G.

June Task Force Meeting

Over a 60-day time frame, AGB consultants interviewed over 60 North Dakota citizens to understand their perspectives of the NDUS. In addition to these interviews, the public was invited to provide input through a newly created feedback mechanism by the Governor's Office from which the Task Force received 67 responses. Responses provided a variety of opinions and recommendations ranging from the creation of 11 boards to keeping the current structure with large modifications. Of the 67 online responses, 44 of the respondents indicated that they were current or former NDUS employees and at least 10 were NDUS alumni. For June meeting materials see appendix H.

No task force meeting was held in the month of July

#1
SCR 4014
3-19-19
P. 15

August Task Force Meeting

The Task Force held discussion related to the goals of the higher education governance and the need for a focus on accountability. Within the umbrella of accountability, AGB provided an overview of the goals identified by Task Force members for a high-functioning governance structure as compiled from discussions over the past six Task Force meetings. While greater detail was provided, seven key features of a high functioning 21st century governance structure were identified:

- Nimbleness
- Innovative spirit
- Enterprising cultures
- Technologically advanced
- Institutional autonomy
- Partnership-oriented
- Cost-conscious

Following discussion on these features, AGB consultants developed, with Task Force input, seven possible governance structures that could be utilized within North Dakota. The options were as follows: the current structure; improvements to the current structure; a four-board option (two-year Community College Board, Regional University Board, NDSU Board and a UND Board); a three-board option (Community/Regional Institution Board, NDSU Board and UND Board); retaining the SBHE as a coordinating board and adding 11 institutional governing boards; a three-board option (Research Institution Board, a Community/Regional Institution Board and a coordinating Board); and a two-board option (Research Institution Board and a Community/Regional Institution Board).

At the conclusion of the August meeting, a consensus of the Task Force members, moved forward with four options: the current system with modifications, a two-board system (Research and Community/Regional), a three-board system (Community/Regional board, NDSU board, UND board) and a four-board option (Community board, regional board, NDSU board, UND board). The Task Force also requested that the coordinating board option and higher education administrator option be kept on the table, to assist with collaboration and shared services, in conjunction with each of the potential governance structures. The Task Force also requested that additional details on each of the options be provided at the next meeting. For August meeting materials see appendix I.

September Task Force Meeting

The September meeting was the final meeting at which AGB consultants provided a full presentation. During this presentation, AGB consultants shared further details regarding each of the four models moved forward by the Task Force at the August meeting. In addition to discussing the models, they shared the differences between a potential coordinating board and higher education administrator structure. Throughout the meeting, the Task Force requested further details to assist in making decisions about potential reductions of options at the October task force meeting. The Task Force also requested information regarding student enrollment, as well as the amount of faculty and staff that

#1
SCR 4016
3-19-19
P. 16

would be represented by each board configuration. In addition, potential duties and responsibilities for each proposed option were requested. The Task Force agreed to put “in the parking lot,” or set aside, the option of retaining the current system with modifications. The task force decided a more significant change could be made to create more impactful results and thus decided to study further options. The Task Force was confident that many of the discussions regarding board make up and terms could be transferred to that of the current model and there would certainly be conversations regarding modifications on the current model by others during the legislative session. For September meeting materials see appendix J.

October Task Force Meeting

The Task Force was presented with three potential governance structures with details requested at the September meeting. Discussion took place regarding term lengths, requirements to serve on the various boards, responsibilities of the boards, aspects of the current system that could remain in place based on historical success and the enrollment, faculty, staff and budget totals for the institutions that each board would govern. There was additional discussion and comparison between a coordinating board and a higher education administrator. After much deliberation, the Task Force recommended removing a separate coordinating board as a potential option. It was decided that having a full coordinating board would add unnecessary bureaucracy and slow down the work of the governing boards. To assist with collaboration for the various multiple board options, the Task Force agreed that an advisory committee, created with representation from the existing governing boards, would satisfy the need. In addition, the Task Force advanced a recommendation to adjust the current system office with an office, administrator and staff to continue the successful aspects of the current system and to assist the governing boards. The Task Force recommended that all three remaining governance structure proposals (two-board, three-board and four-board) remain for consideration and that further demographic details be provided at the November meeting. For October meeting materials see appendix K.

November Task Force Meeting

The November meeting was the final formal meeting of the Task Force. During this meeting, additional demographic information was shared for each of the three potential governance structure recommendations. At the beginning of the meeting, the Task Force unanimously supported (15-0) the need to change the current structure of higher education governance to meet the needs of 21st Century higher education in North Dakota. Throughout the discussions there were members present who indicated support for the four-board alternative and two-board alternative, however at the conclusion of the meeting, a motion was made to advance the three-board governance structure (one board for the community and regional institutions and one board each for the two research institutions). This motion passed 11-1, with three members having departed prior to the vote. For November meeting materials see appendix L.

#1
SCR 4016
3-19-19
P. 17

Governance Structure Recommended

Following 11 months of research, learning and deliberation, the Task Force unanimously (15-0) agreed that the current system of governance needs to be altered to meet the changing needs of the state. While opinions varied on the specific structure that should be recommended to the Governor, Legislature and the people, the Task Force voted 11-1, with three members absent, to advance a three-board structure with the community and regional institutions governed under one board and the two research institutions each governed under their own board. In conjunction with the three-board model, the Task Force recommended a Higher Education Administrator serve as a leader of a higher education office to maintain collaboration and shared services, and that a small advisory committee be created to assist with collaboration.

According to the AGB consultants, with a three-board governance structure, North Dakota would join four states that combine the four-year (non-research) institutions with the community and/or technical colleges under the same board: the Minnesota State Colleges and Universities, under the MinSCU Board of Trustees; the Connecticut State Colleges and Universities, under the Connecticut Board of Regents; the Vermont State Colleges System under its Board of Trustees; and the Massachusetts community colleges and state universities under the Massachusetts Board of Higher Education.

During the August Task Force meeting, AGB consultants provided advantages and disadvantages of a three-board governance structure. Advantages included attracting greater number of qualified board members, providing greater accountability through a more narrowed board focus, moving responsibility closer to the individual institutions, empowering institutional executives to develop solutions with their boards and balancing enrollment size thus creating greater equity of governance for students with their respective boards.

Additional details within the recommendation are outlined to follow:

Board Structure: Three-Board Governance Structure

Community and Regional Institutions Governing Board

- 14 total members, of which 11 would be voting members and 3 non-voting members
- Presidents of BSC, DCB, LRSC, NDSCS, WSC, DSU, MaSU, MiSU and VCSU would report to the Board with advisement and support from the executive director.

NDSU Governing Board

- 12 total members, of which nine would be voting members and three non-voting members
- President of NDSU would report to the Board.

A f
SER 4016
3-19-19
P. 18

UND Governing Board

- 12 total members, of which nine would be voting members and three non-voting members
- President of UND would report to the Board.

Term Number and Length (Six-year term with a maximum of two non-consecutive)

For all boards, the Task Force recommends a six-year term with a maximum of two non-consecutive full terms per lifetime across all governing boards. A full term must be fulfilled within one board and may not be divided among the three governing boards. A one-year student, faculty or staff appointment would not count toward the two-term-per-lifetime limit. At the creation of the three-board system, the terms would be staggered. Additionally, individuals selected for the first appointments may hold one full term consecutive to the initial term according to the following schedule:

Initial Staggering of Appointments (Graph of creation stagger can be found in appendix M)

- One member appointed to each board for 1 year, with the ability to hold two full terms again in lifetime
- Two members appointed to each board for 2 years, with the ability to hold two full terms again in lifetime
- Two members appointed to the Community/Regional Institution Board and one member appointed to each of the research institution boards for 3 years, with the ability to hold two full terms again in lifetime
- One member appointed to each board for 4 years, with the ability to hold one full term again in lifetime
- Two members appointed to each board for 5 years, with the ability to hold one full term again in lifetime
- Two members appointed to the Community/Regional Institution Board and one member appointed to each of the research institution boards for 6 years, with the ability to hold one full term again in a lifetime

Vacancy of Positions

Should a vacancy arise during an unfulfilled term, the new member would be appointed utilizing the normal appointment process. If the new member is appointed to fulfill three years or less of a previous board member's term, the appointment would not count toward the limit of two full terms per lifetime and may be consecutive to one full term.

Support Staff to the Governing Boards

The Community and Regional Institution Board would have an executive director as well as four staff to support the required work of the board. Both the NDSU and UND Governing Boards would be responsible for providing support staff, utilizing current full-time positions within the institutions. The duties of the executive director and support staff are discussed on page 17.

#1
SCR402L
3-19-19
P. 19

Requirements to be a Board Member

Voting Members

- Each board would be required to have a minimum of five voting members who reside within the state.
- Each board would be required to have one full-time student, in good academic standing, as a voting member, appointed; process discussed in *selection of student voting members* section on page 17. A student may not hold more than two consecutive student appointments.
- Remaining voting positions may be filled by any of the following:
 - Residents of the state of North Dakota
 - Out-of-state residents based on the following requirements:
 - Out-of-state residents holding an undergraduate degree from a North Dakota public higher education institution governed by one of the three boards or
 - A maximum of two voting members may be out-of-state residents without a degree from a North Dakota public higher education institution
- No board member may be a full-time employee of any higher education institution within the state, including tribal and private institutions, or be a full-time employee of the state office of higher education while serving on the board or for a period of two years following completion of employment.

Non-voting Members

- One faculty member would be appointed as a non-voting member to each governing board; appointment process discussed on page 18.
- One staff member would be appointed as a non-voting member to each governing board; appointment process discussed on page 18.
- The North Dakota Superintendent of Public Instruction or designee shall serve as a non-voting member on each of the three governing boards.

Additional Requirements for Community/Regional Institution Board

- There may be no more than two voting members holding an associates or bachelor's degree from one of the Community or Regional Institutions, excluding the student member.
- The student members may not be attending the same institution for more than two consecutive years
- Both the faculty and staff representatives of a single board may not be representatives of the same institution during the same term
- The faculty and staff members may not be representatives of the same institution for more than two consecutive years

During discussions of the Task Force, consideration was given to having faculty and staff serving as voting members rather than non-voting members on their respective boards.

Hi
J-R
3-19-19
p. 20

Though much discussion was had, there was not a consensus recommendation for having those two positions as voting or non-voting. To proceed with the recommendation, the Task Force has included faculty and staff as non-voting members, as aligned with the current process today. Further discussion should be encouraged on this topic.

Responsibilities of each board

- Appoint one member of the board to serve as chair for one year
- Represent the full educational value and intent of students and the state within the mission of each individual institution
- Maintain high-quality academic programs
- Ensure excellence in programs, faculty, staff and students
- Provide responsible policies and procedures for proper governance and to hold each institution's leadership accountable
- Undertake periodic strategic planning to guide institutions overseen by the board and to advance the needs of the state and compete within the global higher education market
- Appoint, monitor, advise, motivate, support, evaluate and if necessary or advisable, replace an institution president
- Ensure collaboration and partnership with other public institutions within the state and the private sector
- Serve as a court of appeals when appropriate
- Regularly evaluate the board member's performance
- Ensure regular and proper training of board members
- Receive proposed budgets, tuition modifications and ranked capital construction projects from campus presidents to promote equity and appropriate investment of state resources through each institution
- Approve tuition levels, within the framework of the Century Code, of institutions represented by the board
- Provide a final budget recommendation to the executive and legislative branches for consideration
- Approve new and discontinued programs
- Engage with, listen to and deliver value to stakeholders who provide direct financial support such as students, the state, alumni and the private sector
- Shield institutions from direct political and other outside interference
- Ensure there is an ongoing reporting mechanism for accountability in research enterprise, collaboration and student learning.
- NDSU and UND boards would also be required to hold one joint meeting per year, dedicated to reviewing current collaboration efforts and determining where additional collaboration could be advanced
- Ensure academic freedom, as defined by AAUP is followed

#1
SCR 4016
3-19-19
P 21

Responsibilities of the Executive Director and Support Staff (Community College and Regional University Board)

- Provide administrative support to the Community College and Regional University Board
- Coordinate with the board chair, to develop agendas and supporting material for board meetings
- Support the institutional presidents in advancing educational opportunities within the state
- Administer presidential searches
- Support the board in administrative duties as assigned, including evaluations of institution presidents
- Serve as the liaison to the Higher Education Administrator (outline of responsibilities for administrator to follow), the legislature and the executive branch
- Draft, maintain and coordinate procedures and policies for the boards

Selection of Board Members

Selection of Voting Members

The Task Force did not formally advance a specific recommendation for appointment of voting members. However, the Task Force did recommend that the appointment process be expedited and made more efficient. An informal recommendation was shared with the Task Force, while no formal action was taken.

Potential for Appointment Process Identified

The following potential option could be utilized to create an appointment process that is more efficient and streamlined than the current process: The Governor would accept applications from the general public to fill vacant board positions. The Governor would then nominate one individual per open board position to a review committee. The committee would then be required to provide consent of the nomination within 30 days of receiving the notification from the Governor's Office.

The review committee would be chaired by the Superintendent of Public Instruction or designee, with other members being the President Pro Tempore of the Senate or designee, the Speaker of the House or designee, the Secretary of State or designee and a representative from North Dakota United or successor organization. To consent to a nomination, four of the five review committee members must approve the appointment. If a nomination is not approved, the Governor would be required to submit another nomination for remaining vacancies.

The Governor and the review committee shall ensure that the board membership is maintained in a balanced, equitable and representative manner.

Selection of Student Voting Member

Each year, by a date determined by the Governor, the North Dakota Student Association or successor organization must submit a **minimum** of two names and a maximum of four names of students, for nomination to the Community and

#1
SLR 4016
3-19-19
P. 22

Regional Institution Governing Board, attending the respective institutions governed by that board, to the Governor.

Each institution's student government organization from the community colleges and regional institutions, may also submit a maximum of one name to the Governor for consideration by a date determined by the Governor. This student does not need to be an official member of the institution's student government. The Governor would then appoint one student member from the list(s) provided for the respective governing board. Student appointments would begin every year on July 1 and end on June 30th of the following year.

Each year, by a date determined by the Governor, both NDSU's and UND's student governments must submit a minimum of two names and a maximum of four student names to the Governor for consideration of appointment on their respective board. These students do not need to be an official member of the institution's student government. The Governor would then appoint a student member from the list provided to the respective governing board. Student appointments would begin every year on July 1 and end on June 30th of the following year.

Appointment of Faculty and Staff Non-voting Members

Each year, on or before July 1, the North Dakota Council of College Faculties and the North Dakota Staff Senate or successor organizations would appoint one faculty and one staff member, respectively, to the Community and Regional Institution Governing Board. The faculty and staff members must be in a benefited position within their institution.

Each year, on or before July 1st, the NDSU and UND faculty and staff organizations would appoint one faculty and one staff member, to the institution's respective governing board. The faculty and staff members must be in a benefited position within their institution.

Faculty and staff appointments would begin every year on July 1 and end on June 30th of the following year.

Office of Higher Education and Higher Education Administrator

Over the course of the last 11 months, the Task Force identified aspects of the North Dakota University System that have been successful in the past and would be beneficial to maintain in the future. To accomplish these tasks, the university system would be transformed to the Office of Higher Education and be led by a Higher Education Administrator. The Higher Education Administrator would be selected using the same process as the appointment process for voting members to the governing boards.

#1
SCR 4616
3-19-19
P. 23

Below are the recommended duties and responsibilities of the Higher Education Administrator and the office staff, as identified by the Task Force. Additionally, the Task Force encouraged consideration of having state general funds contingent on institutions and governing boards complying with certain shared service requirements such as common course numberings, transferability of credits and shared technology. Finally, the Task Force recommends the three boards maintain full authority over the institutions under their control as currently outlined for the SBHE within article VIII, section 6 (6)(B) in the North Dakota Constitution.

Responsibilities of the Higher Education Administrator and Staff

- Represent, articulate and advocate the needs of the state to the respective boards as outlined by the executive and legislative branches
- Support the executive director and staff of the respective boards
- Maintain common course numbering across boards and institutions
- Maintain student transferability agreements across boards and institutions
- Administer state scholarship programs (including tribal scholarships)
- Serve as the administrator of federal grant monies to North Dakota colleges and universities when required by federal law, such as programs of the U.S. Department of Education and the National Science Foundation
- Manage State Authorization Reciprocity Agreements (SARA)
- Manage loan forgiveness programs for teachers and North Dakota residents in STEM fields
- Administer student exchange/reciprocity programs with WICHE States, Minnesota and Midwest student exchange for veterinary medicine, dentistry and optometry
- Administer student health insurance program
- Manage participation in the MHEC
- Manage the Challenge Fund program
- Administer data support and research support for the Department of Public Instruction
- Provide institutional data to the boards, state and federal entities (i.e. IPEDS) and for longitudinal studies
- Implement statewide higher education studies
- Administer the TIAA retirement plan
- Administer the tele-mental health services
- Administer the fraud hotline
- Administer the interactive video network
- Maintain a data warehouse
- License in-state higher education providers and provide assurance that out-of-state providers follow reciprocity agreements
- Prepare the consolidated financial reports

#1
SCR 46/4
3-19-19
P. 24

- Maintain Core Technology Services (CTS)
- Other tasks deemed necessary by governing boards, executive branch, legislative branch and higher education office.

In addition to the duties outlined above, the Higher Education Administrator would serve as the chair of the higher education advisory committee. The committee purpose, responsibilities and structure are defined in the following section.

Higher Education Advisory Committee

Structure of the Advisory Committee

The Higher Education Advisory Committee is comprised of representatives from the three governing boards overseeing the state institutions within North Dakota. The chair of each governing board would serve on the advisory committee as well as an additional representative appointed by the Community and Regional Institution Governing Board.

If the chair of the Community and Regional Institution Governing Board and the additional representative are both alumni of a North Dakota institution, the additional appointed member must have a degree from the opposite type of institution as the chair of the Community and Regional Institution Governing board. For example, if the chair holds an undergraduate degree from a four-year regional institution, the second appointed representative must have a degree from a two-year community college.

Purpose and Responsibilities of the Advisory Committee

The advisory committee would serve as an official collaboration and communication point for the three governing boards, outside of the organic partnerships and collaboration formed directly by the boards. The responsibilities of the advisory committee are as follows:

- Seek and advance efficiencies and shared service opportunities to all governing boards
- Assist the Higher Education Administrator in coordination of collaboration between boards
- Manage program petitions as defined below
- Other duties as assigned by the legislative and executive branches, as well as duties agreed upon by the representatives of the advisory committee

Program Petitions:

- To meet the education and economic needs of the state and region, an institution could propose a new program addition, cancelation or change, that would result in new majors. These proposed program changes must be submitted to their respective board for approval
- A simple majority of the individual governing board must approve the program for implementation

#1
SCR 4016
3-19-19
p. 25

- Each public North Dakota institution can submit a protest petition to the board in which a program is being reviewed. The petition must be received within 30 calendar days of the first reading of the program to the governing board of the institution seeking program addition, cancellation or change.
- If a protest is delivered, each involved institution must first make a reasonable effort to design a plan for program collaboration. If all involved institutions are satisfied and the program is approved, then the protest is satisfied.
- If the protest is not satisfied and the program change is approved by the governing board, the approval moves to the Higher Education Advisory Committee. A program would be denied only if at least 3 of 5 members of the advisory committee vote no.

Removal of Board Members

The Task Force spent little time discussing the removal of board members, but it was suggested that a process for removal be considered. In addition to the current process, a second potential removal process is provided for consideration.

Two Forms of Removal Recommended

1. The members of the Community/Regional Institution Governing Board, NDSU Governing Board and UND Governing Board may be removed by impeachment for the offenses, in the manner and according to the procedure provided for the removal of the Governor by impeachment proceedings.
2. Additionally, should a board member in any of the three governing boards not fulfill the duties and responsibilities assigned to them through the Constitution, Century Code and internal policy, the Governor may recommend removal of said board member. Upon recommendation of removal from the Governor, the review committee, as defined in the *selection of voting members* section on page 17, must research the claims and vote within 30 days of the recommendation of approval or denial of the recommendation. If 4 out of 5 agree with the removal, the removal is finalized and takes effect immediately.

#1
SCR 4616
3-19-19
P. 26

Conclusion and Next Steps

The Task Force on Higher Education Governance has provided a comprehensive framework to advance the higher education governance structure in North Dakota. This report serves as a framework for enhancing governance based on research, expert testimony and deliberation among representatives from all three branches of government, as well as faculty, students, business leaders and education experts.

The Task Force encourages the executive, legislative and judicial branches to work together to determine how these recommendations best fit within the North Dakota Constitution, the Century Code and/or internal higher education policy. Most notably the Task Force recommends maintaining that each board have full authority over the institutions under each boards control, as currently provided to the SBHE within the North Dakota Constitution.

The Task Force advances this report as a tool for the Governor and the 66th Legislative Assembly during the 2019 session to make positive changes for the future of North Dakota Higher Education. Lastly, this report should be utilized for detail, explanation and understanding when the people of North Dakota have an opportunity to vote on constitutional changes. The Task Force believes that these recommendations would improve the governance structure of North Dakota higher education, allowing it to serve as a nimble and effective structure for decades to come.

#1
SCR401L
3-19-19
P.27

APPENDIX TABLE OF CONTENTS

APPENDIX A
Executive Order 2017-19, Task Force for Higher Education Governance

APPENDIX B
December 21, 2017, Office of the Governor Press Release for the Task Force for Higher Education Governance

APPENDIX C
January Higher Education Governance Task Force Meeting Materials

APPENDIX D
February Higher Education Governance Task Force Meeting Materials

APPENDIX E
March Higher Education Governance Task Force Meeting Materials

APPENDIX F
April Higher Education Governance Task Force Meeting Materials

APPENDIX G
May Higher Education Governance Task Force Meeting Materials

APPENDIX H
June Higher Education Governance Task Force Meeting Materials

APPENDIX I
August Higher Education Governance Task Force Meeting Materials

APPENDIX J
September Higher Education Governance Task Force Meeting Materials

APPENDIX K
October Higher Education Governance Task Force Meeting Materials

APPENDIX L
November Higher Education Governance Task Force Meeting Materials

APPENDIX M
Initial Staggering of Three Board Governance Appointments

#2
SCR 4016
3-19-19
P.1

Mr. Chairman and members of the committee,

I am Larry Skogen and it's my good fortune to be president of Bismarck State College. I'm here to testify in support of SCR 4016.

I approach this topic with a background as president of BSC since 2007, and, as some of you might remember, for two years I served as your chancellor. During that time there was a movement afoot to destroy the State Board of Higher Education and replace it with a three-person commission. 75% of North Dakota voters did the right thing then by resoundingly defeating that attempt. Now four years later, you just reviewed legislation again aimed at getting rid of the single State Board of Higher Education. As you know, that was also resoundingly defeated in your chamber.

I'm delighted today to be addressing you not about another attempt to get rid of the State Board of Higher Education, but to enhance it. Here's where I believe this legislation and potential changes to the North Dakota Constitution get it right:

#2
SCR 4016
3-19-19
P. 2

- Increasing the number of Board members. As one who has worked for the Board since 2007 I can tell you that your State Board of Higher Education members work very hard. Not only do they have multiple meetings during the year, but they also serve on committees that hold multiple meetings a year. They read voluminous materials to prepare for meetings. They are inundated with communications from institutions, state officials, and constituents. They travel to national conferences and conventions on behalf of our state. The list goes on. They work very, very hard. And all of their work is incredibly important. They serve us well. What they need is some relief. Increasing the number of Board members will help diffuse the workload across more Board members. I don't know that 15 is a magic number, but any increase in the size of the Board will increase those who can participate in the work of the Board, thus diffusing required labor.
- Increasing the number of Board members also will enhance the current Board's move toward assigning

#2
SQ 4016
3-19-19
P. 3

subcommittees to focus on different categories of institutions, and reflects, in an existing model, the Governor's desire to see more focus on the different institutions. My interests as a four-year polytechnic institution are understandably different from the interests of a research institution. A research institution's interests are different from a two-year community college or a regional university focused on teacher education. The chancellor has recognized these differences and is leading the effort to create subcommittees within the Board that can address those different interests. Increasing the number of Board members will increase the ability of the Board to create those subcommittees.

- This legislation also gets in right in creating a longer term of office for a Board member. Since I've been serving the Board, I've seen Board members resign when they have learned that they will not be confirmed for a second appointment after their current, shorter four-year term. If you want Board members making the best decisions

FRZ
SCRIBL
3-19-19
P. 4

during their terms, do not require them to question how their decisions as board members will affect their second confirmation.

In conclusion, the legislation before you is important to the long-term health of our state's higher education. I fervently believe that a single State Board of Higher Education is the right governance model for our state, but I also believe that Board members need some help in carrying out their duties.

Adjustments to the number of Board members serving on that Board and the length of time they can serve without having to go through re-nomination and re-confirmation processes are positive steps for our state. Thus, I encourage you to send this to your colleagues with a Do Pass recommendation.

Thank you for your time.

#3
SCR 4016
3-19-19
P.1

TESTIMONY IN OPPOSITION TO SCR 4016 IN CURRENT FORM
Jace Beehler, Governor's Office Policy Advisor
Tuesday, March 19, 2019
House Judiciary Committee
Prairie Room
Representative K. Koppelman, Chairman

Chairman Koppelman, members of the committee, for the record my name is Jace Beehler and I am here on behalf of Governor Doug Burgum in opposition to SCR 4016 in its current form and to recommend amendments. Without changes to the current resolution, we recommend a do not pass and to continue discussions over the next biennium.

This opposition testimony is consistent with the majority of the members of the governor's Task Force for Higher Education Governance, who favored moving to a mission-focused, multi-board model. For this reason, we recommended amending SCR 4016 to a two-board resolution: one board for the research institutions and one board for the community and regional institutions.

North Dakota needs a strong and high-performing higher education system to enable our citizens and our state to reach its fullest potential.

Our current model of higher education governance was created in 1939, at a time when our state had fewer institutions and roughly 7,000 students. Today we are trying to govern 45,000 students, 11 campuses, a medical and law school, and a tremendous diversity of degrees and programs, with a single eight-person board, which includes one student.

Yet today, like no time before, higher education is facing unstoppable forces of change across four main areas: demographics, technology, culture and economics. These competitive forces will apply themselves differently across our various types of institutions, and the challenges and decisions facing our Board members will be greater than ever.

Over the past year the Governor has had an opportunity to work with 14 dedicated task force members who were focused exclusively on our higher education governance structure in North Dakota. We are grateful to all task force members for their dedicated service on this important project.

Over our 10 in-depth meetings, we heard presentations from the NDUS, former chancellors and nonprofit consultants, and retained the expertise of the Association of Governing Boards of Universities and colleges (AGB), a consulting firm comprised of former college presidents, chancellors and professors.

The current engrossed SCR 4016 utilizes several of the key features identified by the task force to enhance the structure of governance. The engrossed version increases the number of board members from eight to 15 members, the term lengths from four years to six years and alters the selection committee by replacing the Chief Justice with the Attorney General, which in the original resolution was the Secretary of State. While we support the increase in term lengths, we

#3
SCR 4016
3-19-19
P. 2

do not support the changes in the engrossed resolution from 11 to 15 members or the change from the Secretary of State to the Attorney General.

While we appreciate the intent of SCR 4016, we believe that these changes alone will not solve our challenges within the State Board of Higher Education. By simply expanding the current structure, we are growing a state-wide centralized board that will not bring representation closer to the constituents or hold the campus leadership more accountable.

There is no problem more common in our state than the shortage of qualified workforce. Today in North Dakota, there are over 14,000 online job postings. We believe the real number of job opening is likely closer to 30,000 or more. Workforce attraction, retention and development is the No. 1 barrier to economic growth in our state.

The governance recommendation put forth by the task force was based on a mission-focused governance structure. This mission focus would help North Dakota remain competitive with other states. Under a two-board, mission-focused model, our two research institutions would be governed by one board.

Our community and regional institutions would be governed by a second mission-focused board. At the current time we have two-year schools adding the ability to obtain four-year degrees such as BSC with their move to polytechnic and we have four-year school adding associate degrees, such as DSU with their move to dual missioned. All schools will likely need to consider adding certificate programs in the future to serve market demands. Having their own mission-focused board will enable them to thrive and respond in this rapidly changing environment.

In addition, a mission-focused, two-board system will create more balanced representation for the students, faculty and staff of the state.

Today, the two research institutions enroll approximately 60 percent of the students and employ 66 percent of the faculty and 74 percent of the staff.

Our nine community and regional institutions enroll approximately 40 percent of the students and employ approximately 33 percent of the faculty and 26 percent of the staff.

These boards will be filled with members dedicated to the missions of community and regional institutions as well as members dedicated to the mission of our research institutions. With focused boards the members will be able to dive deeper into the inner workings of the institutions, their financials, operations and programs.

For example, the research/medical school board could be on each campus two times each year, surfacing areas of collaboration across the nearly \$2 billion of higher education spending that is related to our research universities. We are confident that a mission-focused board model will identify savings well beyond any fiscal note, just in additional synergies found between our two research institutions.

#3
SCR 4016
3-19-19
P. 3

With this greater alignment between missions and greater bandwidth of the governing boards, the university and college presidents and their leadership teams will be held more accountable and be able to respond more quickly to powerful external market forces. Every school and every president will have an opportunity to shine and flourish under this model.

Attracting a greater number of high-quality board members was identified as one of the greatest challenges the current State Board of Higher Education is facing.

Increasing the term length and requiring the terms to be nonconsecutive will enhance attraction.

The task force also recommended allowing alumni of North Dakota institutions living out of state to apply to serve on a board. By allowing some of our most successful North Dakota alumni an opportunity to serve on the boards of our higher education institutions, the pool of high-quality applicants will significantly increase.

The task force identified that the current board appointment process was cumbersome and outdated. To enhance and create a more efficient process, the task force recommended that the governor be required to seek applications and nominate board members with the consent of at least four of the five appointment committee members. While the committee membership was changed within the resolution, the process changes to create efficiencies were not included.

By developing a modern, mission-focused, two-board structure, North Dakota can enhance local control and provided greater accountability for taxpayers. Just as we strive for local control within the K12 system, we need to move the board representation closer to our institutions and their leaders. Only with strong and effective governance, with the appropriate focus and bandwidth, will we be able to navigate the tremendous challenges and opportunities that lie ahead.

For these reasons I ask the committee to consider amending this resolution to a mission-focused, two-board resolution to empower our institutions and their leaders, provide greater representation to our tuition paying students, and create additional accountability for our taxpayers. If a two-board amendment is not considered, we respectfully request a do not pass on SCR 4016 and look forward to continuing discussions on governance over the next biennium.

Thank you for your time, and I am happy to answer any questions that you may have.

House Judiciary Committee
Testimony in opposition to of SRC 4016 presented on 2019-03-19
by: Jeffry Volk, West Fargo

#4
SRC 4016
3-19-19
P-1

Chairman Koppelman and Judiciary Committee members

With your permission Mr. Chairman, I would like to ask your committee three questions.

- 1) How many of you serve on a board that has an executive, president, or CEO report to it?
- 2) How many of you serve or have served as the chief executive, president or CEO of an organization that reported to a board?
- 3) How well do you think those organizations would function if the chief executive, president or CEO did not have direct unfiltered access to the board?

My comments today are not intended to speak favorably or unfavorably of any individuals. I present them only to try to demonstrate the very difficult position the current governance model places the SBHE, the Chancellor and the campus presidents in.

Think about it – the current governance model for higher education in ND consists of a board that has direct access to a Chancellor who has direct access to the 11 campus presidents. Add to this governance model 141 legislators when collectively a majority instruct, or attempt to instruct, the board, the Chancellor, the university presidents, and/or campus administrators how to manage or administer various functions for the delivery of higher education. Gee - what part of good governance for higher education could possibly go wrong?

As best I can tell, nearly 40 bills were introduced this session relating to higher education, without even trying to count how many separate bill sections this is. I would argue that less than 10 of these bills deal with funding - the legislatures' primary responsibility as prescribed in paragraph 5 of Article ^{Section 6} ~~6~~ of the constitution, which reads – “The legislature shall provide adequate funds for the proper carrying out of the functions and duties of the state board of higher education”.

Now I would like to discuss the current unified system with a Chancellor model, which we all know is not in the constitution. This unified system has been utilized for nearly 30 years. While I believe I understand why it was implemented, I would suggest it has never delivered as envisioned.

#4
SCR 4016

3-19-19

P. 2

You as legislators are already in one of the four roles I referenced earlier. Now put yourself in any one of the three other roles, a board member, the Chancellor or a campus president, and ask the question - Is it an effective position for good governance? Is a good governance relationship between a board and a president being accomplished? The answer is a resounding NO. SCR 4016 as written now instructs the SBHE to meet at least annually with the head of each institution under its control. Does that alone not clearly demonstrate how the current governance model is dysfunctional?

Think about the board you serve on and ask how functional it would be if it seldom met with the organizations executive, president or CEO in a true board to executive relationship. Now increase seldom to once a year. Would that be the definition of good governance? Simply insert the SBHE and campus presidents in this scenario. Today that board to executive relationship can only occur between the board and the Chancellor. Forcing an annual meeting with the SBHE and the campus leaders, with today's Chancellor style governance model, will not create an effective board to campus leader relationship.

In my opinion, SRC 4016 will not change the ineffectiveness of the existing governance model for higher education. The drama and conflict surrounding the higher education system over the past 30 years has clearly shown the one board governance model with a chancellor does not serve ND higher education well. Doubling the number of members to an already dysfunctional governance model will not make the governance model functional.

Amending SCR 4016 per the governor's proposal is a step in the right direction. While I strongly supported a 4 board model as a member of the governor's Task Force for Higher Education Governance, I can support the governors proposed amendment for two boards and moving back to a governance system where the campus presidents report directly to a board. The two boards and campus presidents would then be supported with a commissioner of higher education. I firmly believe these amendments, when approved by the citizens, will remove many of the challenges I outlined earlier.

I ask that you amend SRC 4016 to allow the citizens to vote for a 2 board governance system and give it a Do Pass recommendation or move SRC 4016 out of committee with a Do Not Pass recommendation.

Thank you for your consideration.

SCR 4016

House Judiciary

March 19, 2019

Mark Hagerott, Chancellor, NDUS

701.328.2963 | mark.hagerott@ndus.edu

Chair Koppelman and Committee Members: My name is Mark Hagerott, and I am the Chancellor of the North Dakota University System. I'm here to provide brief testimony on Senate Concurrent Resolution 4016.

The State Board of Higher Education recognized the value that expanding Board membership would bring, and has been discussing possibilities along those lines under its governance committee throughout the last year. Additionally, Board members have noted that changing the term length from shorter terms to a longer term could allow Board members expanded versatility in the future.

The Board and NDUS acknowledge that an expansion of Board size could prove beneficial. It could enhance the wealth of experience already represented by the Board, as well as increasing the available knowledge base made possible through increased membership.

Action to make the Board larger could also result in the availability of additional Board members to take up expanded committee work and become more responsive. All this could encourage further nimbleness, flexibility and strength while also fostering both unity and accountability.

Thank you.



77.6
SCR
4016
3-19-19

North Dakota Student Association

Testimony for **Engrossed SCR 4016**
Prepared by Jared M. Melville, President
Tuesday, March 19, 2019

Chairman Koppelman, members of the House Judiciary Committee, for the record my name is Jared Melville and I serve as the President of the North Dakota Student Association, a statewide organization that represents the voice of North Dakota's 45,000 public college and university students. Today I am here to provide testimony regarding Engrossed Senate Concurrent Resolution 4016. SCR 4016 modifies the membership and meeting requirements of the North Dakota State Board of Higher Education, expanding the number of members and their term lengths.

Since this is the first time I am testifying in front of the committee this session, I would like to begin with a brief note about how NDSA represents the voice of the students. Students from across the state meet monthly as a General Assembly at one of our state's 11 public institutions to discuss student concerns and higher education policy. We discuss, debate, and educate ourselves about the issues of the day. Over the last 12 months, we have frequently discussed higher education governance and the State Board of Higher Education, and during our most recent meeting at the North Dakota State College of Science, students unanimously approved a resolution requesting two amendments to SCR 4016.

INCREASE THE NUMBER OF VOTING STUDENT MEMBERS

NDSA first requests this committee to consider an amendment to increase the number of voting student members who serve on the State Board from one to two. We provide three reasons for you to consider in support of this amendment.

First, while some students see benefits in this proposal, they are concerned that increasing the number of members on the State Board without increasing the number of voting student members will dilute and diminish the student voice.

As the primary stakeholders, consumers, and products of higher education, it is critical for students to be an influential voice throughout the formation of higher education policy. When this resolution was being considered in the Senate Education Committee, there was some discussion about whether the student member actually adds value to the Board, since the student only serves a one-year term. It is critical for us to understand that the student member plays a very different role on the State Board than regular members. On the last page of this testimony is a letter written by the past three student members of the State Board of Higher Education: Brett Johnson, Nick Evans, and Jacob Dailey. While this letter was originally written for Governor Burgum's Task Force for Higher Education Governance, I believe it does a respectful job communicating the value student members bring to the Board. I highly recommend you read it.

Voting student representation is necessary for ensuring the student voice is given equal consideration alongside every other Board member. Voting rights for students encourage other Board members to actively seek out the input of the student member, especially when voting on contentious issues and a single vote matters. Increasing the number of Board members without increasing student representation weakens this important link. Students could be disregarded entirely from decision-making, especially when the proposal on the



North Dakota Student Association

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table is to double the size of the Board without increasing student representation. *Second, we have often heard there is a desire for higher education to be more nimble, responsive, and diverse. Students agree, and we believe one way to achieve this is by increasing the number of voting student members.*

Last year, when the Student Association nominated three students to serve on the State Board, all three candidates were students who have received some level of education from multiple campuses, which I would consider to be an incredibly rare opportunity.

Increasing the number of student members serving on the Board would greatly expand the diversity of the perspectives available to the Board, because now students from different schools, pursuing different degrees, and who have different experiences can jointly serve to actively enhance the educational outcomes of their peers. For instance, the way a law student from the University of North Dakota may approach a problem could look incredibly different from the way it is approached by a student from the State College of Science in Wahpeton. These students may have two different perspectives, but both would provide incredible insight to the State Board and its decisions.

Furthermore, since student members only serve one-year terms, you would see an increase in the number of perspectives flowing in and out of the governance ecosystem. This diversity would benefit the State Board, because its members - who will now be serving six-year terms under this proposal - will receive more exposure from students on a more frequent basis. Here is the impact: during their six-year term, a Board member will have the opportunity to collaborate and form a working relationship with up to twelve different student members, each with their own unique story and experience. In the long-run, increasing the number of voting student members will provide Board members with the opportunity to learn and understand the student perspective, aiding the State Board of Higher Education in its mission.

Third, a decision to increase the number of voting student members is aligned with the direction in which the SBHE is evolving.

With more members, the State Board hopes to create additional committees that may be better equipped to respond to the needs of the campuses. Although the Board has not made a decision yet, there was discussion during its February meeting that with additional membership it could create two new committees: one focused on our state's two research universities and a second for the other nine institutions. The Student Association contends it is vital each of these new committees include student representation, especially if these committees are given the authority to make decisions without confirmation from the State Board of Higher Education. Therefore, we request this committee to amend SCR 4016 to add a second voting student member and to include a provision requiring that one of these students comes from a research university and that the second student comes from a non-research university.



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North Dakota Student Association

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REMOVE THE IN-STATE RESIDENCY REQUIREMENT FOR THE STUDENT MEMBER

NDSA requests a second amendment to the resolution to eliminate the in-state residency requirement for the student member to serve on the State Board of Higher Education. Each year, the Governor appoints a student member to the State Board from a list of names recommended by the North Dakota Student Association. One of the requirements to serve is that the student must be an in-state resident. This provision complicates our ability to select the best talent for the position. Many of our student leaders from across the state serve their campuses and communities exceptionally well, but they are not in-state residents and therefore are ineligible to serve on the State Board. This is tremendously unfortunate.

While it is understandable the legislature may have concerns about removing the residency requirement for all Board members, removing the requirement for the student member should not invite hesitation. They serve because they want experience in university governance. They serve because they are deeply invested in North Dakota and its higher education system. And above all else, they want to serve on the Board of Higher Education to better serve students.

Provided that two out-of-state students are equally qualified to serve on the State Board, the fact that one of them is not a North Dakota resident should not disqualify them.

Ultimately, the in-state residency requirement prevents well-informed, qualified students from serving on the State Board of Higher Education. The Student Association respectfully asks you to eliminate this requirement or to create an exemption for the student member.

Chairman Koppelman and members of the House Judiciary Committee, I thank you for your time and your service to higher education and the state of North Dakota. The Student Association urges you to amend SCR 4016 to increase the number of voting student members who serve on the Board and to remove the in-state residency requirement for students. I welcome any questions you have.

F.6
SCR 4016
3-19-19

Members of the Task Force for Higher Education Governance:

We write to you today as three former Student Members of the North Dakota State Board of Higher Education to emphasize the importance of preserving the full voting rights of the Student Member in any form of higher education governance. While we understand this Task Force is considering many different proposals at this time, we believe that student input at the highest level of governance is essential for the State of North Dakota's higher education institutions to continue to serve the students to the best of their abilities.

The very nature of the Student Member position on the current State Board of Higher Education is a testament to the value the current system places on student input. As Student Members, we were each nominated by the North Dakota Student Association to the Governor's Office for consideration. The way in which our nomination process differed from the process for other board members allowed the students to have a direct say in who would represent them and ensure their concerns were heard.

Certainly, a board or other governing institution comprised of qualified and diverse members is essential to success in higher education governance. We believe a voting student member not only fits that mission, but also provides a critical perspective to the decision making-process. The Student Member provides informed insight that Members not currently enrolled in a higher education institution may not have. Further, by possessing full voting rights, the Student Member's input is given equal consideration alongside every other Board Member. These voting rights also encourage the other Board Members to not only consider, but also actively seek out the input of the Student Member prior to voting on potentially contentious issues.

While some may suggest that the relative inexperience of the Student Member and the short-duration of the term served means that they should only have non-voting status (status currently held by the Staff and Faculty Representatives), we believe any decision to remove the Student Member's vote would be a mistake. Students must remain the focus of higher education governance, and we believe that a Student Member with voting rights ensures this goal. Each of us can recall actively seeking out student input on countless issues faced by the State Board during our respective tenures. We firmly believe that this input would not otherwise have been solicited or provided to the Board if not for the Student Member position.

Higher education in North Dakota now faces more challenges than ever before. The increasing influence of technology is changing the way students learn in ways that could not have been imagined even by our own parents. We believe the work of this Task Force is essential to ensuring that North Dakota continues to provide top-tier educational opportunities to the students of our state. However, as this Task Force considers many different approaches to higher education governance, we would urge you all to continue to ensure the students are represented in the form of a Student Member who has an equal vote in the future of higher education.

Sincerely,

Nick Evans
Student Member 2016-2017

Jacob Dailey
Student Member 2017-2018

Brett Johnson
Student Member 2015-2016