

HOUSE CONCURRENT RESOLUTION NO. 3046

Introduced by

Representatives Carlson, R. Kelsch, Skarphol, Vigesaa

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

7 **STATEMENT OF INTENT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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