

Presentation to the North Dakota Legislative Management Interim Higher Education Committee  
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# **History of the North Dakota University System 1938-2003; Higher Education Governance Models in the United States; and Best Recommended Governance Practices**

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# Section I.

## History of NDUS

# 1938 Constitutional Amendment

- Initiated measure of the citizens
- Response to political intrusion
  - NDSU President and staff fired
  - Loss of accreditation at NDSU
- State Board of Higher Education (SBHE) created...one governing board
- SBHE given broad authority/responsibility

# Key Provisions of Constitution Article

- SBHE “created for control and administration of the institutions”
- Governor appoints board members after a multi-step process
- Beginning of a unified system
  - Constitutional provision requiring SBHE to submit a unified budget is an early reference to “unified” as it applies to higher education

# Key Provisions *(continued)*

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

# Key Provisions *(continued)*

- “The Legislature shall provide adequate funds for the proper carrying out of the functions and duties of the SBHE.”
- “The SBHE shall have full authority over the institutions under its control....”
- “The SBHE shall have full authority to organize or reorganize **within** constitutional and statutory limitations, the work of each institution under its control....”

# 1939-1990

- Eight state institutions until 1984
- Seven board members serving 7-year terms
- Usually one board member from each campus region
- Board members were designated as campus liaisons
- Individual campus agendas dominate board agenda

# 1939-1990 *(continued)*

- Board and office focused on regulation of campuses(examples)
  - Approve hiring and salaries of deans and above
  - Heavy construction oversight:
    - Board approves architects, designs and contractors
    - Board office approves all change orders
  - All employment actions for every position approved by board office
  - Focus is on separate campus agendas and less on state public agenda

# 1939-1990 *(continued)*

- However, there are some steps in evolution of system:
  - Starting in late 60s, all campus budget requests are based on a formula primarily based on credit hour production (workload)
  - Establishment of Higher Education Computer Network (HECN) in late 70s
  - Establishment of statewide library system in 80s (ODIN). All campuses except NDSU.
  - In mid 80s board begins submitting prioritized capital construction budget request encompassing all campuses
  - Statewide interactive video network begins in late 80s

# 1939-1990 *(continued)*

- In 1984 the Legislature and vote of people place three additional two-year campuses under board governance
  - No more one board member per campus
  - New issues emerge
    - Collaboration
    - Different campus missions more evident
      - Went from 6 four year campuses, one two-year campus and one branch campus, to 6 four year campuses and five two year campuses

# 1939-1990 *(continued)*

- 1983-1984 legislative study of higher education budgeting:
  - Committee develops separate input formulas for:
    - Instruction (based on credit hour production/workload)
    - Student services
    - Academic Support
    - Institutional Support/administration
    - Physical plant operations
    - Physical plant repairs

# 1939-1990 *(continued)*

- 1986... first Bush Foundation study of higher education in North Dakota. Recommendations:
  - Create a cohesive system
  - Shared vision for higher education needed
  - Link higher ed to economic development
  - Board should focus on long-range planning
  - Create higher education centers
  - Flexible funding needed
  - Build coalitions

# 1939-1990 *(continued)*

- State University of North Dakota (SUND) created by Board in mid 80s in attempt to respond to Bush Foundation study
- However, 1987 legislature gives “university” status to four campuses and renames them, and makes community college in Devils Lake a branch of UND. Result is undoing of SUND
- In late 80s legislature enacts law requiring board to develop six year plans in line with earlier Bush Foundation study recommendations

# 1939-1990 *(continued)*

- During the 80s there are several interim reductions of appropriations because of state revenue shortfalls creating recurrent financial uncertainty
- During this time the board challenges in court the governor's authority to impose mid-biennium reductions, (allotments), based on the board's constitutional authority to manage appropriated funds belonging to the board, even though the board plans to voluntarily comply. Case is not resolved as governor writes a letter requesting the board to make the reductions.
- By early 1990, the budget formulas adopted in 1984 are not adhered to because of low state revenues

# December 1989

- Voters reject tax increases
- Major confidence and financial crisis
- Board holds meetings on creating a “true state system” as recommended in 1986 by Bush Foundation study
- Supported publicly by many legislators and governor
- Policy makers frustrated with no clear focused higher education agenda and spokesperson

*1990 Board Creates NDUS*

# Why the System was Created

- Board recognized that ND higher education is comprised of very diverse campuses and there was growing concern among policy makers about the need for a focused, coordinated, and collaborative higher education enterprise and for creating a public agenda for higher education
- Board believed that institutional diversity was a strength that can bring value to all North Dakota citizens through collaboration when needed and when it makes sense
- The system was created to use the diverse collective capacity of the campuses to serve citizens wherever they lived and provide administrative efficiency where it makes sense. i.e. nursing program, workforce training, technology, on-line programs, payroll, library system, purchasing, skills training center.
- The system was not created to make campuses “look alike”.

# Why the System was Created *(continued)*

- Board recognized that a system of diverse campuses is also major challenge requiring different approaches, policies, time and attention of board
  - Size (from 400 students to over 14,000 students)
  - Location (Small towns to cities)
  - Missions
  - Students
  - Focus was on collaboration, not regulation

# 1990 Board Creates NDUS

- SBHE policies defined on role of board, chancellor, presidents
- SBHE changes title from commissioner to chancellor as a result of new roles. Constitution states commissioner is CEO of the Board. Board policy says chancellor is CEO of the board and of the NDUS.
- Presidents now report directly to chancellor, instead of to the board through the commissioner (more on this later)
- Board retains presidential employment authority, but requires chancellor to make recommendations
- More responsibility given to presidents to manage institutional affairs
- New administrative and reporting systems recommended (seed of Connect ND)
- Collaboration on academic and administrative issues is stressed

# October 1990-June 1994

- Early turnover of NDUS leadership until 1994:
  - UND President is appointed chancellor from October 1990-June 1991 (9 months)
  - New chancellor from July 1991-February 1994 (32 months)
  - Several long-term presidents retire
  - 1994 Board appoints chancellor who serves nearly ten years

# 1991-1999

- Board member terms reduced from 7 to 4 years
- Student member becomes a voting member
- Legislature creates non-voting faculty representative to board
- Non-voting staff representative added
- Legislature and governor continue push for “focused” state higher education policy agenda

# 1991-1999 *(continued)*

- Atmosphere of collaboration and consistency takes hold:
  - More collaborative academic programs implemented
    - i.e Joint nursing program among two year institutions
  - Common course numbering system implemented
  - Interactive video network expands many programs from campus to campus sites.
  - Board creates College Tech. Ed. Council (CTEC)
  - Major workforce training effort begins in late 1990's
  - Skills Training Center established in Fargo

# 1991-1999 (continued)

- Board engages in major effort to focus campus missions by creating “principal participating institutions” to focus diverse campus missions to better serve all of North Dakota
- Board eliminates/streamlines many administrative policies
- Board establishes presidential goal and evaluation process
- NDUS is codified in statute

# 1991-1999 *(continued)*

- Second Bush Foundation governance study in 1996-1997
  - Board needs to elevate its role...enhance its leadership position...develop a public agenda
  - Board appointments process should change
  - Legislature should ensure oversight is focused on major policy items
  - Resolve number of institutions issue
  - Need better information infrastructure for decision making
  - Use collective resources to serve all of ND
  - Empower campus leaders
  - Change budget structure

# 1991-1999 *(continued)*

- 1998-voters reject constitutional amendment to remove campus names, locations and mission
- As a result of continuing different visions and expectations for the NDUS and the 1998 vote, the Legislature in 1999 creates the Higher Education Roundtable.

# 1999-2003

- Roundtable recommendations result in consensus about statutory and policy changes:
  - Board charged with helping define and connect to a public agenda
  - Recommits to unified system
  - Lump sum campus budgets
  - Accountability reporting defined linked to the report's six cornerstones

# 1999-2003 *(continued)*

- Major laws and policies change *(continued)*
  - Board has authority to set tuition
  - Legislature makes Lake Region and Williston independent campuses (no longer UND branches)
  - Board charged with developing new finance plan
    - Peer funding model developed
  - Board and campus alignment planning process tied to Roundtable goals (replaces six year planning process)
    - New System vision and mission statements developed (“The NDUS is the vital link to a brighter future”)

# 1999-2003 *(continued)*

- Major laws and policies change *(continued)*
  - Board reviews policies that are “barriers” for campuses
  - 2002 annual accountability report to the legislature begins
  - In 2003, Board redefines roles and responsibilities and system core values
  - Centers of Excellence established

# Section II.

## Higher Education Governance in the United States

# Higher Education Governance *(continued)*

- Examples of extensive constitutional autonomy:
  - University of California System
  - California State University System
  - University of Minnesota and its branch campuses
  - Michigan institutions

Source: Hutchens, N. H. (2010). Preserving the independence of public higher education: An examination of state constitutional autonomy provisions for public colleges and universities. *Journal of College and University Law*, 1-30; and State Constitutional Provisions and Higher Education Governance, *Midwestern Higher Education Compact*, May 2013

# Higher Education Governance *(continued)*

- Examples of moderate-limited, varying degrees of constitutional autonomy:
  - Idaho, Louisiana, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Kansas
- Examples of constitutional autonomy subject to extensive legislative control:
  - Nebraska, South Dakota
  - Source: Hutchens, N. H. (2010). Preserving the independence of public higher education: An examination of state constitutional autonomy provisions for public colleges and universities. *Journal of College and University Law*, 1-30; and State Constitutional Provisions and Higher Education Governance, Midwestern Higher Education Compact, May 2013

# Higher Education Governance *(continued)*

- Examples of low level of or no constitutional autonomy:
  - Arizona, Colorado, Missouri, Utah, Florida, Georgia, Alabama, Alaska, Hawaii, Mississippi, Wisconsin, Minnesota State Colleges and Universities, Ohio, Indiana
- Source: Hutchens, N. H. (2010). Preserving the independence of public higher education: An examination of state constitutional autonomy provisions for public colleges and universities. *Journal of College and University Law*, 1-30; and State Constitutional Provisions and Higher Education Governance, Midwestern Higher Education Compact, May 2013

# Higher Education Governance *(continued)*

- State approaches to governance:
  - Consolidated Governing Board.
    - Broad authority over finances, degrees, personnel, property. Authority over a state's system of public higher education.
    - 23 states have consolidated governing boards.
    - 9 states have one board overseeing all public institutions
    - 14 states have two boards to split authority between two and four year institutions

Source: *State Constitutional Provisions and Higher Education Governance*, Midwestern Higher Education Compact, May 2013

# Higher Education Governance *(continued)*

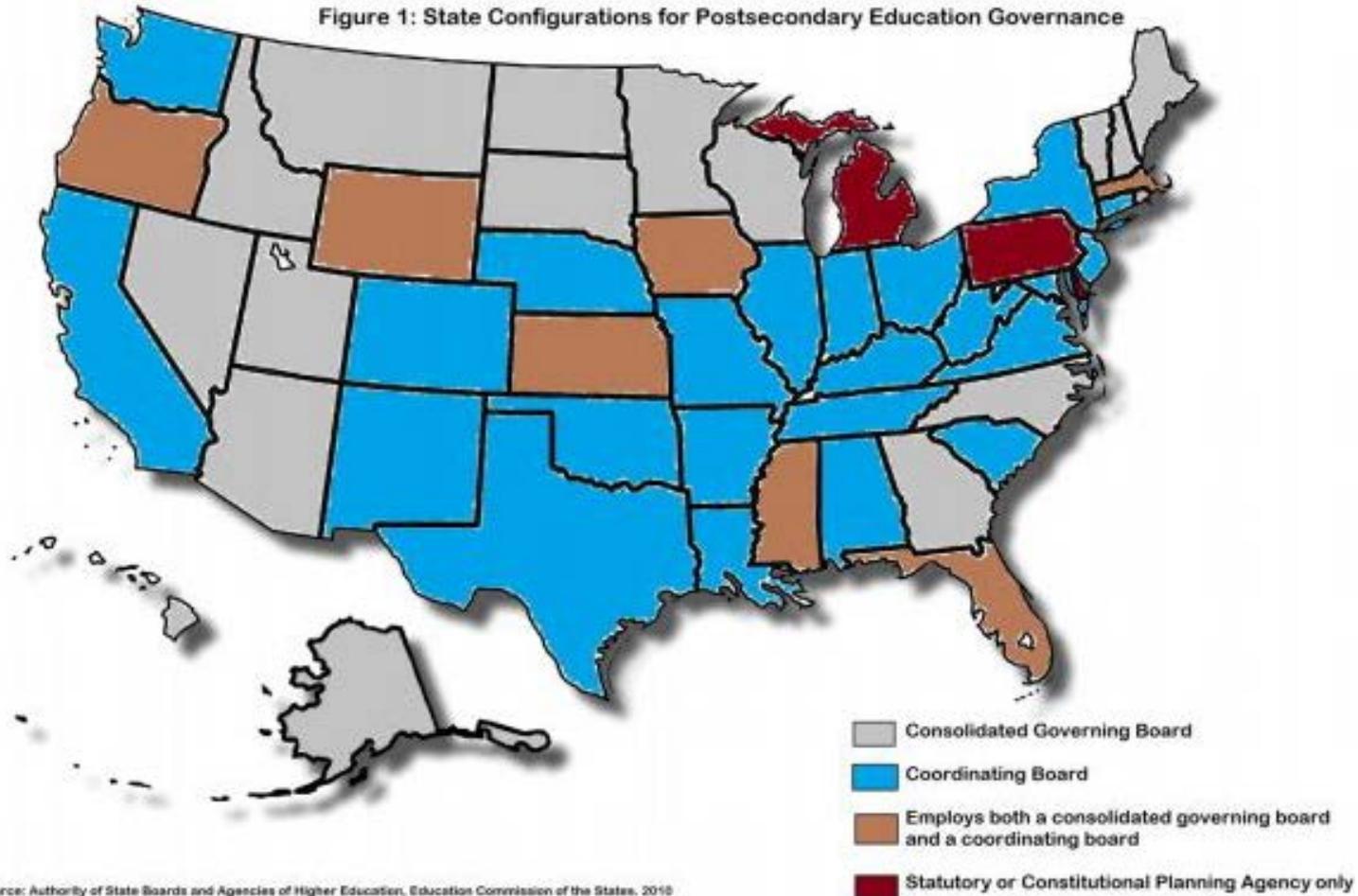
- Coordinating Boards work alongside governing boards:
  - These boards do not govern institutions
  - Many approve institution programs, submit budget requests to the governor and legislature, or may make recommendations on institutional budget requests.
  - Some may allocate lump sum appropriations from legislature, recommend tuition and fee levels, and/or develop statewide articulation and transfer agreements
  - Most are responsible for statewide strategic planning and information gathering and reporting
  - Several administer state financial aid programs, state approval process for out-state institutions and other functions.
  - Generally, states with coordinating boards have separate governing boards for each institution, (four year institutions and comm. colleges)
  - 24 states have coordinating boards

# Higher Education Governance *(continued)*

- One state (Michigan) has no state coordinating board or state governing board .
  - All four year institutions and community colleges have individual governing boards.
  - There is an independent non- profit President's Council comprised of four year institutional presidents, and a community college association
  -

# Higher Education Governance *(continued)*

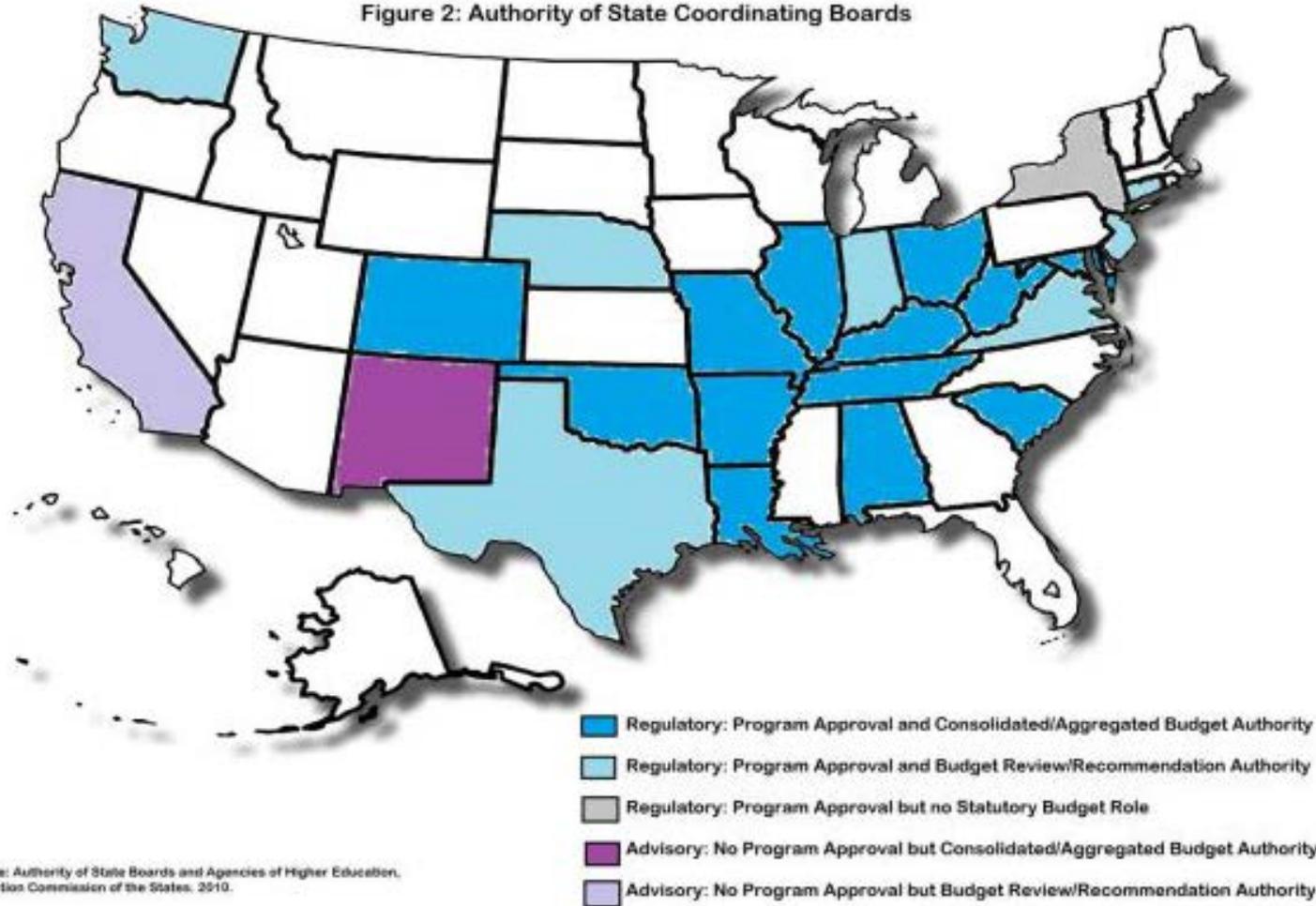
Figure 1: State Configurations for Postsecondary Education Governance



Source: Authority of State Boards and Agencies of Higher Education, Education Commission of the States, 2010

# Higher Education Governance *(continued)*

Figure 2: Authority of State Coordinating Boards



Source: Authority of State Boards and Agencies of Higher Education, Education Commission of the States, 2010.

# Section III.

## Governance Observations

## Governance Observations:

# General Attributes of Successful Systems

- Entire enterprise is student success focused plus focused on enhancing the economic and social vitality of the state
- Governing board is focused on state policy issues and developing public agenda
- Governing Board is charting system and institutions' paths
- System and institutions are flexible and responsive to changing conditions that present opportunities

## Governance Observations:

# General Attributes of Successful Systems

- Successful systems are based on structure and, as importantly, on relationships:
  - Clear and unambiguous reporting relationships are defined by the board (More on this later)
  - Open communication and input from Board, system CEO, campus CEO's, employees, students
  - Confidence of and communication with governor, legislative and business leaders is critical
  - The board(s), governor and legislative leaders meet regularly to understand respective roles and agree on a shared vision for the system

# General Attributes of Successful Systems

- Governing board provides leadership to create and communicate expectations and desired results
- Governing Board maintains its independence and is a safeguard to political and special interest intrusion
- Significant coalition building both internally and externally

# Higher Education Governance

- Association of Governing Boards (AGB) Report: Consequential Boards: Adding Value Where it Matters Most (2014), makes seven recommendations for boards:
  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.

# Higher Education Governance *(continued)*

## AGB recommendations *(continued)*

4. Boards must improve shared governance within their institutions through attention to board-president relationships and a reinvigoration of faculty shared governance

(All boards and presidents should have clear understanding of the respective roles and responsibilities.)

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.

# Higher Education Governance *(continued)*

## AGB recommendations *(continued)*

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 institution(s)

# Section IV.

## Best Recommended Practices

# Best Recommended Practices State/System Governing Boards

- State/system governing boards vs. separate institution boards:
  - A state/system governing board is common in small to medium populated states like ND, Montana, Utah, South Dakota, Kansas, Iowa, Minnesota, Wisconsin, Nevada, Arizona
  - In 2014 North Dakota citizens voted to not change governance
  - Thus, the focus through HCR3046, is on effective governance and best practices

# Best Recommended Practices *(continued)*

- Definition 1: Three components of authority:
  - Governance
  - Policy
  - Management
- Definition 2: “System”: The system is comprised of institutions which are comprised of students. The system is not the system office and/or the board. The system office is part of the system, it is not apart from the system.

# Best Recommended Practices *(continued)*

- Governors and Legislatures:
  - Ensure boards fulfill and comply with state law, the constitution and their (the board's) fiduciary responsibility
  - Ensure governors and legislatures comply with state law and constitution regarding higher education
  - Maintain and enact formal ways for collaboration with boards to pursue agreed upon ways in which the system can:
    - Meet state needs for human capital, relevant research and public service
    - Meet other defined state goals

# Best Recommended Practices *(continued)*

- Governors and Legislatures:
  - Appropriate adequate funds (stated in the constitution as it applies to ND)
  - Target some level of appropriations (examples)
    - Institutional incentives for completion based on need for a more highly educated workforce.
    - Link state financial aid grants to requirements for student completion (Indiana)
    - Target some measure of appropriations to specific state goals tied to major economic sectors (STEM workforce, energy workforce, agricultural workforce, healthcare workforce, others)

# Best Recommended Practices *(continued)*

- Governors and Legislatures:
  - Oversight: Define expectations for accountability measures along with the board. Get agreement among the governor, board, legislature. This strengthens institutions ability to deliver and should eliminate excessive reporting requirements.
    - Reasonable number focused on big goals, not regulation
  - If enacting tuition policy, the discussion encompasses all finance sectors...institution costs, financial aid, program costs, state appropriations

# Best Recommended Practices *(continued)*

- Governors and Legislatures:
  - Provide adequate support for Boards to effectively carry out their role.
  - Promote a strong relationship between K-12 and higher education focused on improving student success
  - Expect long term financial plan for the system
  - Expect long term capital plans for the system

# Best Recommended Practices *(continued)*

- Boards:
  - Because of its constitutional status in ND, the SBHE has primary responsibility for the success of the system and the system institutions. The board is responsible for the institutions.
  - Successful systems are comprised of successful institutions

# Best Recommended Practices *(continued)*

- Boards: Three major roles
  1. Identify key needs of state and its citizens (the public agenda) utilizing institutions to collectively respond
  2. Govern the institutions
  3. Buffer/safeguard to political and special interest influence/intrusion

# Best Recommended Practices *(continued)*

- Boards should establish the “what” is to be accomplished and “whether” it is being accomplished
- Boards delegate to system and campus leadership the “how” things are accomplished

# Best Recommended Practices *(continued)*

- Boards define clear and unambiguous roles, responsibilities and employment conditions for system CEO, and, for campus CEOs unless delegated to system CEO
  - The structure works best when board actions follow their own policies on these roles

# Defining Reporting Relationships

## Current SBHE Policy

- Current SBHE policy states:
  - that the Chancellor serves as the CEO of the Board and the NDUS.
  - *“The president reports and is responsible to the Chancellor for all matters concerning the institution.....”*
  - The Chancellor makes recommendations to the board on presidents’ appointments, compensation and other terms of employment
  - The Chancellor evaluates president’s performance
  - The Chancellor *“serves as the channel of communication between the Board and all subordinate administrative officers and personnel including presidents”, and “directs the activities of the presidents in a manner which promotes the general welfare of the NDUS while, at the same time, ensuring support for the approved mission of each institution”*

# Defining Reporting Relationships

## Current SBHE Policy *(continued)*

- SBHE adopts Roles and Responsibilities Report in January 2015. (Board states that these are not board policies)
- Adopted Report States:
  - *“The Chancellor is the CEO of the University System”*
  - *“The presidents work for the Board. However, through various policies the Board delegates authority to the Chancellor....”*
    - (This may leave the question of who the presidents report to open to interpretation since board policy says the presidents report to the chancellor, and this report says they “work” for the board.)

# Defining Reporting Relationships

## Current SBHE Policy *(continued)*

- The 2015 SBHE report also states:
  - *“The most common channel of communication with the Board is through the Chancellor to the Board”*; and
  - *“Any president who would like to brief the board on an item can request to have time on the Board agenda to do so; however, items requiring Board action must be coordinated with the chancellor”*.

(This appears to provide that presidents can discuss matters with the board at Board meetings without informing the chancellor. Does this create any misunderstanding with board policy or does it clarify board policy which states: *The Chancellor “serves as the channel of communication between the Board and all subordinate administrative officers and personnel including presidents”, and “directs the activities of the presidents in a manner which promotes the general welfare of the NDUS while, at the same time, ensuring support for the approved mission of each institution”*)

# Defining Reporting Relationships

## Current SBHE Policy *(continued)*

- The 2015 report adopted by the SBHE states in conclusion that *“major revisions to policies are required to streamline operations, define delegated authorities, and eliminate conflicting requirements”*

# Best Recommended Practices *(continued)*

- Boards:
  - Responsible for strategic planning for system and individual institutions (and that such plans are focused on student success)
  - Monitor institutional performance against institutional strategic plans
  - Define clear institutional missions, and expect institutional plans consistent with mission and state priorities
  - Define accountability measures for campuses (this is different than defining accountability measures for the system which was discussed earlier)

# Best Recommended Practices *(continued)*

- Boards:
  - To help institutions be successful, boards ensure that institutions have leadership, mission, infrastructure, policy, resources, and independence from political and special interests
  - Multi-campus systems can be very diverse in size and mission. Therefore, boards should understand and nurture the unique attributes that become the institutions' strengths
  - Oversee that educational quality is being delivered:
    - Understand accreditation
    - Ensure institutions are complying with accreditation
  - New academic program approval should undergo rigorous review and be performed in the context of all programs in the system. Consider a review of all programs over five years to determine relevancy and financial feasibility

# Best Recommended Practices *(continued)*

- Boards:
  - Develop budget requests to the governor/legislature
  - Establish tuition and fee policies
  - Establish budget polices for institution budget execution
  - Develop capital plans and policies (Institutions manage capital projects within board policy)

# Best Recommended Practices *(continued)*

- Boards
  - Review all policies and reporting requirements regularly to determine where policies and reports can be eliminated, streamlined or where new policies are necessary. (The same could be done by governors and legislatures with state statutes and reporting requirements.)
  - Regularly review student, faculty and employee governance at campuses to ensure there is an avenue to gather factual and relevant information about institutional policy and other issues.

# Best Recommended Practices *(continued)*

- Boards:
  - Develop human resource policies (Institutions are responsible for human resource management within board policy)
  - Review system and institutional plans for long term financial sustainability
  - Review long-term enrollment and demographic trends and enrollment plans of institutions
  - Monitor compliance with board policies and laws
    - Audit function
    - Fiduciary responsibility

# Best Recommended Practices *(continued)*

- Boards:
  - Boards have a legal fiduciary responsibility for the system and each institution (This is a very important role that boards sometime do not give enough attention). The board should have in-depth training and understanding of this role. This encompasses laws and policies on conflicts of interest, facilitating open discussion, open meetings/records, risk assessment, roles of an individual board member vs. that of the board as a whole, confidentiality, disciplining board members, and maintaining independence from political or special interest influence.

# Best Recommended Practices *(continued)*

- Boards:
  - Public boards are a buffer/safeguard for the institutions they govern to political and special interest influence/intrusion. This role is important to protect the academic integrity for the institutions' students and faculty, and to fulfill the board's statutory/constitutional obligations.
  - This is a difficult role at times but it is a board's responsibility even though it is difficult.
  - Effective communication with state leaders is key to carrying out this role effectively. But, it should not deter a board from doing what they believe is right and in the best interest of academic integrity for the faculty and students, and as required by their statutory/constitutional obligation.

# Best Recommended Practices *(continued)*

- Boards
  - Boards and system CEOs have effective and experienced staff advising them on academic and financial/administrative affairs who have credibility, experience and comparable standing with campus peers
  - Boards have frequent professional development on good governance practices and fiduciary responsibility (more than once per year)
  - Professional development is also important on a board's role in strategic planning, academic programs, budgeting, etc.
  - Boards should initiate annual meeting with governor and legislative leaders to understand and agree on state and system goals
  - Boards have a regular evaluation conducted of the board

# Questions

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**MIDWESTERN HIGHER EDUCATION COMPACT**

# **State Constitutional Provisions and Higher Education Governance**

## **Policy Report**

## State Constitutional Provisions and Higher Education Governance

A central challenge in public policy for higher education is to ensure that colleges and universities serve the public interest while providing institutions with sufficient autonomy to control their operations (Berdahl & McConnell, 2011). Policymakers have attempted to address this challenge in various ways, including the use of constitutional provisions and specific forms of governance. This report provides an overview of constitutional provisions for higher education and state approaches to higher education governance across the nation. Detailed summaries are then presented for the MHEC states.

### State Constitutional Provisions for Higher Education

While most states define the terms of higher education governance through statutes, some use constitutional provisions. Most prominently, constitutional provisions have been used to establish the constitutional autonomy of public colleges and universities to limit governmental interference in institutional operations. Constitutional autonomy has been defined as “a legal principle that makes a state university a separate department of government, not merely an agency of the executive or legislative branch. A university with this status is subject to judicial review and to the legislature’s policy power and appropriations power. However, its governing board has a significant degree of independent control over many university functions” (Hutchens, 2010, p. 2). Table 1 provides a categorization of states according to the degree to which the constitutional autonomy of public colleges and universities has been judicially recognized.

Table 1.

#### *Constitutional Autonomy of Public Colleges and Universities*

<i>Substantial Recognition, Extensive Constitutional Autonomy</i>	<i>Moderate-Limited Recognition, Varying Degrees of Constitutional Autonomy</i>	<i>Judicial Recognition, Constitutional Autonomy Subject to Extensive Legislative Control</i>	<i>Judicial Rejection of Constitutional Autonomy</i>	<i>Ambiguous Recognition</i>	<i>No Judicial Recognition/R Doubtful</i>
California <b>Michigan</b> <b>Minnesota</b>	Idaho Louisiana Montana Nevada New Mexico <b>North Dakota</b> Oklahoma	<b>Nebraska</b> <b>South Dakota</b>	Arizona Colorado <b>Missouri</b> Utah	Florida Georgia	Alabama Alaska Hawaii Mississippi

Source: Hutchens, N. H. (2010). Preserving the independence of public higher education: An examination of state constitutional autonomy provisions for public colleges and universities. *Journal of College and University Law*, 1-30.

## State Approaches to Higher Education Governance

The structure of higher education governance in most states can be characterized as (a) a consolidated governing board, (b) a coordinating board, or (c) a statutory or constitutional planning agency (e.g., Fowles, 2007; McGuinness, 2011). A consolidated governing board has coordinating functions as well as day-to-day management of public institutions as determined by legislative statutes and/or governing board policy. This management includes institutional finances, degrees, personnel, and property. They have complete authority over a state's system of public higher education. Twenty-three states use consolidated governing boards, where nine states have one board overseeing all public institutions and 14 states have two boards to split authority between two- and four-year institutions (see Figure 1).

A coordinating board works alongside institutional boards (e.g., Trustees, Regents) to advance state interests and agendas without governing individual institutions. These boards frequently promote statewide priorities by facilitating credit transfer and reducing program duplication across institutions. Moreover, some states have *regulatory* coordinating boards, which control the approval of institutional programs and occasionally the budgeting process. Regulatory boards can be distinguished as either strong or weak. Strong regulatory boards directly submit budget requests to the legislature and thus have ultimate control over institutional budgets. In contrast, weak regulatory boards simply review and make recommendations on budget requests. Generally, states with coordinating boards have separate governing boards for each institution whose members are either elected or appointed by the governor.

As indicated in Figure 1, 24 states currently have coordinating boards; seven states have both a coordinating board and a consolidated governing board. Figure 2 shows that 22 of these states have regulatory coordinating boards with approval authority for academic programs. Whereas one state coordinating board plays no role in the budgetary process, 15 state boards have significant budgetary authority and six boards have limited budgetary authority as well as program approval authority. Two states have advisory boards with only the authority to review and recommend budgets.

Statutory or constitutional planning agencies facilitate coordination among institutions, either formally or informally. Since this structure does not carry authority beyond institutional self-interest, only three states use it (see Figure 1). However, four states have these agencies in addition to their governing boards. Historically, more states employed this method but then established the formal governing boards seen today.

Figure 1: State Configurations for Postsecondary Education Governance

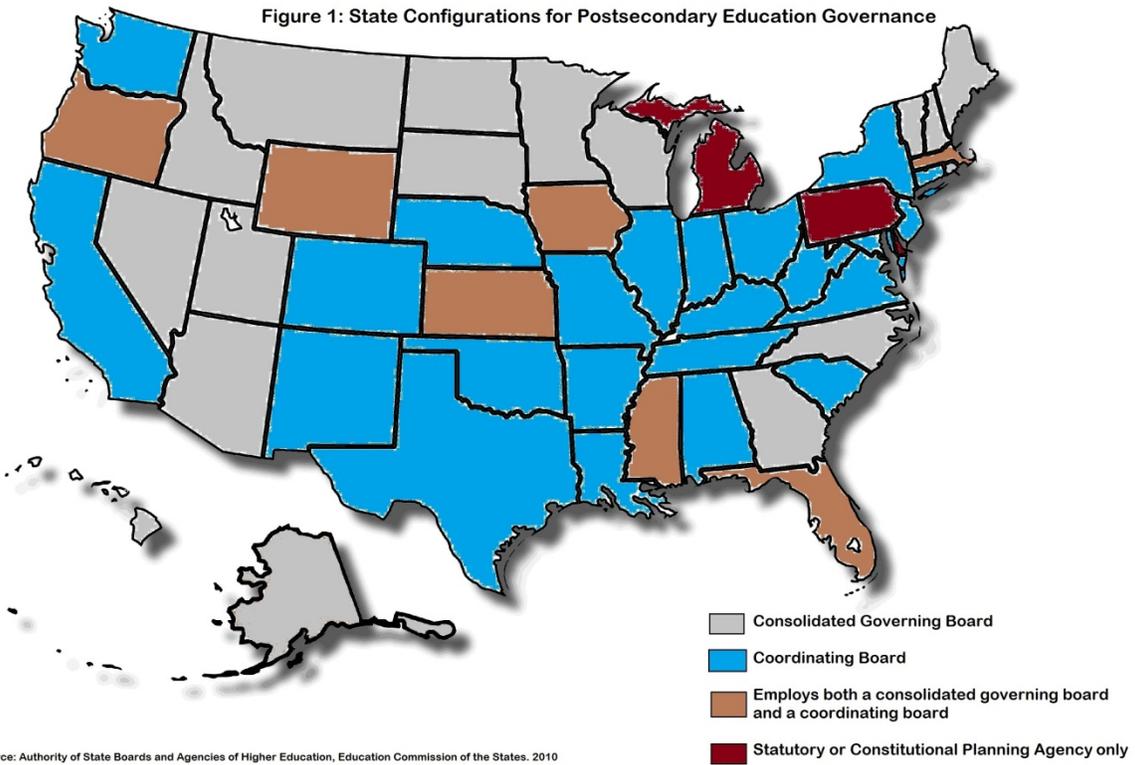
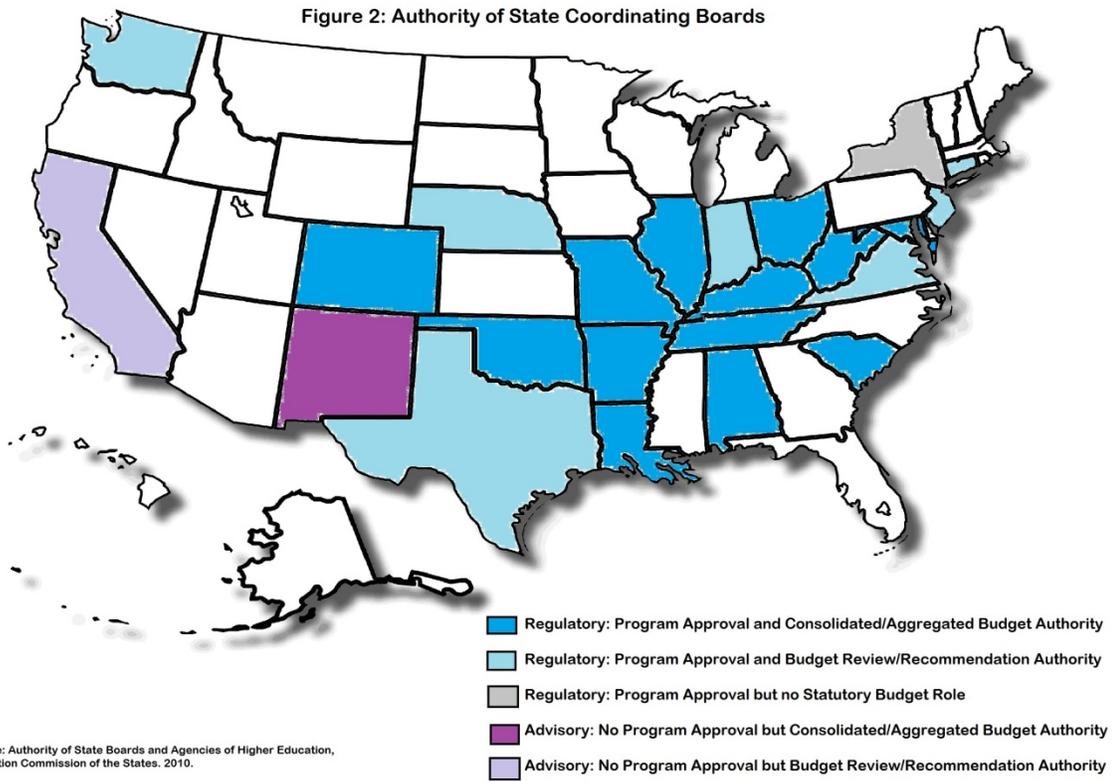


Figure 2: Authority of State Coordinating Boards



## MHEC State Constitutional Provisions and Governance Structures

This section summarizes constitutional provisions and descriptions of higher education governance structures in MHEC states. Each state's constitution was examined to identify provisions associated with higher education. As indicated in Table 2, all state constitutions contain provisions for higher education with the exception of Illinois and Indiana. Provisions associated with governance structures or functions appeared in over half of the state constitutions. Four state constitutions specified a dedicated fund to support a state university, and four state constitutions explicitly identify the state universities under consideration. Other provisions were observed with less frequency, including the guarantee of educational loan repayment, making adequate financial appropriations, and the location of institutions.

Following the summary of constitutional provisions, a description is provided of state-level coordinating and/or governing agencies, system/institutional governing boards, and statutory advisory committees. These descriptions were initially generated with the Education Commission of the States StateNotes Database.<sup>1</sup> Revisions were subsequently adopted to incorporate feedback from MHEC commissioners of three states.

Table 2.

*Content Analysis of Constitutional Provisions Associated with Higher Education.*

<i>MHEC State</i>	<i>Dedicated Fund</i>	<i>Educational Loan Guarantees</i>	<i>Governance Structure</i>	<i>Legislature is Required to Make Adequate Appropriations</i>	<i>Location</i>	<i>Specific Institution(s) Mentioned</i>	<i>None Identified</i>
Illinois	0	0	0	0	0	0	1
Indiana	0	0	0	0	0	0	1
Iowa	1	0	0	0	1	0	0
Kansas	0	0	1	0	0	0	0
Michigan	0	0	1	1	0	1	0
Minnesota	1	0	1	0	0	1	0
Missouri	0	0	1	0	0	0	0
Nebraska	0	0	1	0	0	1	0
North Dakota	0	0	1	0	1	1	0
Ohio	0	1	0	0	0	0	0
South Dakota	1	0	1	0	0	0	0
Wisconsin	1	0	0	0	1	0	0
Total	4	1	7	1	3	4	2
Percent	33%	8%	58%	8%	25%	33%	17%

<sup>1</sup> MHEC cannot guarantee the accuracy of the ECS information. Readers are encouraged to send requested revisions to MHEC's research staff.

## **Illinois**

### **Constitution of the State of Illinois**

“ARTICLE X - EDUCATION,” of the Illinois state constitution does not contain any particular statements about higher education.

<http://www.ilga.gov/commission/lrb/conmain.htm>

### **Governance**

#### **State-level coordinating and/or governing agency.**

The Illinois Board of Higher Education (IBHE) functions as a coordinating agency for public and private postsecondary education in Illinois. Established in 1961, IBHE’s structure and responsibilities have been amended periodically, most recently in 1995. IBHE consists of 15 members: 10 public members appointed by the governor with the consent of the Senate for six-year terms; a member representing public university governing boards and a member representing independent college and university trustees, both appointed by the governor for one-year terms; the chair of the Illinois Community College Board and the chair of the Illinois Student Assistance Commission, both of whom serve as ex-officio voting members by virtue of the office that they hold and serve at the pleasure of the governor; and a student board member who serves a one-year term.

Legislation enacted in 1995 reduced the membership of the board from 17 to 15 members, eliminating the chairs of the then four public university governing boards and adding two members, representing independent colleges and university boards of trustees. This same legislation abolished two of the four public university governing boards, the Board of Governors and the Board of Regents; transferred one of their campuses to the governance of the University of Illinois; and established individual institutional governing boards for the remaining seven institutions, formerly governed by the Board of Governors and Board of Regents.

IBHE has responsibility for planning and coordination of public universities, public community colleges, independent not-for-profit colleges and universities, and degree-granting proprietary institutions. Additionally, IBHE has statutory responsibilities for the state-level planning function, program review and approval, and development of budget recommendations for all public universities and community colleges. Statutory authority to grant operating and degree-granting authority to independent and out-of-state institutions also falls within IBHE’s responsibilities. IBHE is designated to administer a number of state and federal grant programs, and further, to establish and maintain a college and university information system.

IBHE is not a cabinet department, and Illinois does not have a secretary of education. The executive officer of the Board is appointed by and serves at the IBHE’s pleasure.

The Illinois Community College Board serves as the coordinating board for 39 public community college districts that have a combined total of 48 campuses. Each public community

college district is governed by a locally elected board of trustees. There are nine public university governing boards; seven govern a single campus and two govern multiple campuses.

**System/institutional governing boards.**

Each public university and community college has a governing board of trustees made up of seven members. The public university governing boards were established in January 1996 and are responsible for adopting budgets, setting institutional policies, establishing tuition and fees, personnel and student admissions.

**Statutory advisory committee.**

None.

**Indiana**

**Constitution of the State of Indiana**

“ARTICLE 8. Education,” does not contain any particular statements about higher education.

<http://www.law.indiana.edu/uslawdocs/inconst.html>

**Governance**

**State-level coordinating and/or governing agency.**

Established in 1971, the Commission of Higher Education (CHE) functions as the statutory coordinating agency for postsecondary education in the state. The commission has 14 members, 12 of whom are appointed by the governor for four-year terms and represent the general public; one student and one faculty member serve two-year terms. CHE is charged with seven major responsibilities by statute: 1) long-range planning for postsecondary education in Indiana; 2) defining institutional roles; 3) approving new campuses or extension sites; 4) approving new program requests; 5) reviewing existing programs; 6) reviewing budget requests and recommending consolidated requests to the executive and legislative branches of state government; and 7) recommending nonbinding tuition and mandatory fee increase targets. Indiana does not have an office of secretary of education and the coordinating agency is not a cabinet department. The executive officer of CHE is appointed by CHE and serves at its pleasure.

**System/institutional governing boards.**

Indiana has seven public institutional governing boards: 1) Ball State University Board of Trustees; 2) Indiana State University Board of Trustees; 3) Ivy Tech State College Board of Trustees with authority over 22 campuses and centers and the newly created Community College of Indiana in partnership with Vincennes University; 4) Indiana University Board of Trustees with authority over seven campuses; 5) Purdue University Board of Trustees responsible for four

campuses; 6) Vincennes University Board of Trustees with jurisdiction over the newly created Community College of Indiana in partnership with Ivy Tech State College; and 7) University of Southern Indiana Board of Trustees.

### **Statutory advisory committee.**

In 2000, the Indiana Commission for Higher Education created the Statewide Transfer and Articulation Committee (STAC), which is the focus of activity for improving transfer and articulation options statewide and includes representation from all public institutions and the independent sector. In 2003, the General Assembly codified STAC, and during the 2005 session, mandated the establishment of a Core Transfer Library (CTL) and statewide articulation of degree programs in 12 key areas. The CTL presently consists of 73 courses, all of which transfer among all state two- and four- year campuses. The 12 statewide program articulations will be completed October 2013. Beyond the legislatively mandated CTL and 12 program articulations, a number of other course equivalencies and program articulations that have been developed.

STAC has also developed a set of principles to guide transfer and articulation in Indiana, and will shortly unveil a statewide transfer website, which include, within the year, degree audit capabilities for all public institutions and any independent institution that wants to participate.

## **Iowa**

### **Constitution of the State of Iowa**

“ARTICLE IX. - Education and School Lands,” contains particular statements about higher education.

*State university.* Section 11. The State University shall be established at one place without branches at any other place, and the University fund shall be applied to that Institution and no other. (See Laws of the Board of Education, Act 10, December 25, 1858, which provides for the management of the state University by a Board of Trustees appointed by the Board of Education.)

*Seat of government established-state university.* Section 8. The seat of Government is hereby permanently established, as now fixed by law, at the City of Des Moines, in the County of Polk; and the State University, at Iowa City, in the County of Johnson.

<http://publications.iowa.gov/135/1/history/7-7.html>

### **Governance**

#### **State-level coordinating and/or governing agency.**

The State Board of Regents, established in 1909, serves as the statutory governing body for all public senior postsecondary education in the state. These institutions are University of Iowa, Iowa State University and Northern Iowa University. The Board is composed of nine members

appointed by the governor with the consent of the Senate; eight represent the general public and one student representative completes the Board, all of whom serve six-year terms. Additionally, the Board has statutory governing authority including program approval, planning and coordination, review and approval of institutional budgets, and recommendations for a consolidated budget.

The State Board of Education's Bureau of Community Colleges and Workforce Preparation has jurisdiction over the community colleges in Iowa. Community Colleges are governed by locally elected boards of directors. The State Board of Education, which has statutory oversight authority, is also made up of nine members appointed by the governor and confirmed by the Senate to serve six-year terms.

Iowa does not have an office of secretary of education, and the agency is not a cabinet department within the state. The executive officer of the Board of Regents is appointed by the Board and serves at its pleasure. The state director of education serves at the governor's pleasure.

#### **System/institutional governing boards.**

The State Board of Regents serves as the statutory governing body for all public postsecondary education in the state and the State Board of Education's Bureau of Community Colleges and Workforce Preparation has jurisdiction over the community colleges in Iowa.

For additional information, see the State-Level Coordinating and/or Governing Agency section.

#### **Statutory advisory committee.**

None.

### **Kansas**

#### **Constitution of the State of Kansas**

“Article 6.—Education,” contains particular statements about higher education.

§ 2: State board of education and state board of regents.

(a) The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.

(b) The legislature shall provide for a state board of regents and for its control and supervision of public institutions of higher education. Public institutions of higher education shall include universities and colleges granting baccalaureate or postbaccalaureate degrees and such other institutions and educational interests as may be provided by law. The state board of regents shall perform such other duties as may be prescribed by law.

(c) Any municipal university shall be operated, supervised and controlled as provided by law.”

§ 6: Finance.

(a) The legislature may levy a permanent tax for the use and benefit of state institutions of higher education and apportion among and appropriate the same to the several institutions, which levy, apportionment and appropriation shall continue until changed by statute. Further appropriation and other provision for finance of institutions of higher education may be made by the legislature. (b) The legislature shall make suitable provision for finance of the educational interests of the state. No tuition shall be charged for attendance at any public school to pupils required by law to attend such school, except such fees or supplemental charges as may be authorized by law.

The legislature may authorize the state board of regents to establish tuition, fees, and charges at institutions under its supervision.

(c) No religious sect or sects shall control any part of the public educational funds.

<http://www.kslib.info/Documents/Constitution.pdf>

## **Governance**

### **State-level coordinating and/or governing agency.**

Kansas employs a combined consolidated governing board for universities and a coordinating board for community colleges. The State Board of Regents, established in 1925, functions as the constitutional governing agency for six public universities in the state. The State Board of Regents has coordinating responsibility for the municipal university, as well as all other public postsecondary institutions in respect to budget requests and academic program approval. The structure and responsibilities of the agency were amended in 1966, 1970, 1975, 1976, 1978, 1991, and 1999. The nine members of the board, appointed by the governor subject to Senate confirmation, represent the general public and serve four-year terms. Nineteen community colleges are under individual governing boards that are supervised by the State Board of Regents. Six technical colleges and one Institute of Technology are under individual governing boards and are also supervised by the State Board of Regents. One municipal university has its own governing board. The Board of Regents also regulates private and out-of-state postsecondary institutions operating in the state.

The Board of Regents has statutory responsibility for planning and coordination, program approval, and institutional budget review, including consolidated budget recommendations for all public institutions. The agency does not serve as a cabinet department, and the director of the Board of Regents is appointed by and serves at the Board's pleasure.

The Legislative Education Planning Committee (LEPC), created in 1974, is a joint committee of the House and Senate. Its statutory charge is to "plan for postsecondary education in Kansas,

including both public and private institutions and vocational education." The committee considers specific legislative proposals, oversees data collection activities and conducts studies of postsecondary education issues. Study topics also may be assigned to the committee by the Legislative Coordinating Council (LCC). The LCC appoints the committee's membership, which consists of six members from the House of Representatives and five from the Senate.

### **System/institutional governing boards.**

(See State-Level Coordinating and/or Governing Agency.)

### **Statutory advisory committee.**

A statutory student advisory committee to the regents was established in 1975. The committee consists of the student-body president from each state university and serves in a policy advisory capacity to the Board of Regents.

## **Michigan**

### **Constitution of the State of Michigan**

"Article VIII Education," contains particular statements about higher education.

§ 3 State board of education; duties.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

*Superintendent of public instruction; appointment, powers, duties.*

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

*State board of education; members, nomination, election, term.*

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

*Boards of institutions of higher education, limitation.*

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

§ 4 Higher education institutions; appropriations, accounting, public sessions of boards.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public. History: Const. 1963, Art. VIII, § 4, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. XI, § 10.

§ 5 University of Michigan, Michigan State University, Wayne State University; controlling boards.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law. History: Const. 1963, Art. VIII, § 5, Eff. Jan. 1, 1964.

Former constitution: See Const. 1908, Art. XI, §§ 3, 4, 5, 7, 8, 16.

§ 6 Other institutions of higher education, controlling boards.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote.

The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of

eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

History: Const. 1963, Art. VIII, § 6, Eff. Jan. 1, 1964.

§ 7 Community and junior colleges; state board, members, terms, vacancies.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

History: Const. 1963, Art. VIII, § 7, Eff. Jan. 1, 1964.

[http://www.legislature.mi.gov/\(S\(uer1b1ijvuen2c45ab0ipe55\)\)/documents/mcl/pdf/mcl-Constitution.pdf](http://www.legislature.mi.gov/(S(uer1b1ijvuen2c45ab0ipe55))/documents/mcl/pdf/mcl-Constitution.pdf)

## **Governance**

### **State-level coordinating and/or governing agency.**

Michigan lacks an organized state-level coordinating or governing agency for postsecondary education. Under the 1963 state constitution, very limited state postsecondary coordinating functions are assigned to the State Board of Education, which has primary responsibility for elementary and secondary education. The Board's responsibilities are limited to: the coordination of services for public two-year and four-year colleges and universities through policy recommendations to the Legislature with regard to budgetary and programmatic matters; licensing authority for vocational and proprietary institutions; and charter approval and reimbursement authorization for private colleges awarding certain degrees.

### **System/institutional governing boards.**

All governance is undertaken by separate institutional governing boards which include: 1) Ten boards of control of trustees appointed by the governor for four-year public colleges and universities, each responsible for a single institution; 2) the elected Board of Regents of the University of Michigan, a constitutional board governing three branches of the university; 3) the elected Board of Governors of Wayne State University and the Board of Trustees of Michigan State University, both constitutional boards responsible for a single senior public institution. Additionally, the 29 public two-year community colleges each have regionally elected governing boards.

### **Statutory advisory committee.**

The State Board of Education regularly seeks input from a broad range of advisory committees on matters between the secondary and postsecondary sectors, although no present committees are specifically constituted for articulation purposes.

## **Minnesota**

### **Constitution of the State of Minnesota**

“Article VIII MISCELLANEOUS SUBJECTS,” contains a particular statement about higher education.

“Sec. 3. University of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred upon the University of Minnesota are perpetuated unto the university.”

<https://www.revisor.leg.state.mn.us/constitution/MN-Constitution.pdf>

Note: the University’s powers are outlined in Territorial Laws 1851, Chapter 3. Some main provisions include:

Sec. 2. The proceeds of all land that may hereafter be granted by the United States to the Territory for the support of a University, shall be and remain a perpetual fund, to be called the “University Fund,” the interest of which shall be appropriated to the support of a University, and no sectarian instruction shall be allowed in such a University.

Sec. 4. The government of this University shall be vested in a Board of twelve Regents, who shall be elected by the Legislature as hereinafter provided.

<http://www1.umn.edu/regents/polchart.html>

### **Governance**

#### **State-level coordinating and/or governing agency.**

There are currently two statewide, multi-campus governing boards in Minnesota: 1) the legislature-appointed, 12-member Board of Regents of the University of Minnesota with constitutional authority for the four public senior universities and 2) the statutorily governor-appointed, 15-member Board of Trustees of the Minnesota State Colleges and Universities (MnSCU). As of 1995, the former technical colleges, community colleges and state universities were consolidated under the newly merged MnSCU system. Both boards have responsibility for planning and coordination, institutional budget review and recommendation, and program approval.

In 1995 the Minnesota legislature abolished the Minnesota Higher Education Coordinating Board, which existed for 30 years and transferred many of its key duties to the new Minnesota Higher Education Services Office, since renamed the Minnesota Office of Higher Education. Functions of the new office include: administration of student financial aid programs; approval, registration and licensure of private collegiate and career schools; negotiation and administration of interstate tuition reciprocity programs; administration of the Minnesota Education Telecommunications Council; library planning; collection and maintenance of data on postsecondary education programs; information on students and parents; and administration of federal postsecondary education programs. In 2004, the Minnesota Office of Higher Education became a cabinet level agency with its director appointed by the governor.

### **System/institutional governing boards.**

The Board of Regents of the University of Minnesota and the Board of Trustees of the Minnesota State Colleges and Universities (MnSCU) serve as the institutional governing boards in the state.

### **Statutory advisory committee.**

MINN. STAT. §136A.031 Subd. 2 established the Higher Education Advisory Council (HEAC), composed of the president and senior vice-president for academic affairs of the University of Minnesota; the chancellor of the Minnesota State Colleges and Universities; the associate vice chancellors of the state universities, community colleges and technical colleges; the Commissioner of the Department of Education; the president of the Private College Council; and a representative from the Minnesota Career College Association. The council is charged with bringing to the attention of the Higher Education Services Council any matters deemed necessary and reviewing and commenting upon matters before the council.

§136A.031 Subd. 3 established a Student Advisory Council (SAC), comprised of a cross-section of students attending public and private universities, community colleges and public and private vocational-technical schools. The SAC reports quarterly to the HESC, bringing to attention any matter the SAC deems important. The HESC informs the SAC of all matters related to student issues and refers all proposals to the SAC before taking action.

Both the HESC and the SAC sunset every two-years and require legislative approval to continue operations.

## **Missouri**

### **Constitution of the State of Missouri**

“Article IV EXECUTIVE DEPARTMENT Section 52,” contains a particular statement about higher education.

#### **HIGHER EDUCATION**

Higher education, department of established--coordinating board for higher education established, members, terms, qualifications.

*Section 52.* There shall be established a department of higher education. A "Coordinating Board for Higher Education" which shall consist of nine members appointed by the governor by and with the advice and consent of the senate shall be established within the department. The qualifications and terms of the members of the board shall be fixed by law, but not more than five of its members shall be of the same political party. The coordinating board shall succeed the commission on higher education with all its powers and duties and shall have such other powers and duties as may be prescribed by law.

<http://www.moga.mo.gov/const/moconstn.htm>

## **Governance**

### ***State-level coordinating and/or governing agency***

The Coordinating Board for Higher Education (CBHE), staffed by the Department of Higher Education, was established in 1963 and functions as the constitutional coordinating agency for postsecondary education in the state. The board has nine members appointed by the governor with the consent of the senate. All nine members represent the general public and serve six-year terms of office. CBHE is a cabinet-level agency and its executive officer, the Commissioner of Higher Education, is appointed by CBHE and serves at its pleasure.

CBHE has statutory responsibility for planning and coordination of the state's system of postsecondary education, including public four-year institutions, community colleges and independent and proprietary schools, colleges and universities. Responsibilities include: conducting studies of population and enrollment trends affecting institutions of higher education in the state; identifying higher education needs in the state in terms of the requirements and potential of the young people and labor force requirements (commerce and industry) and of professional and public services; developing more effective and economical specialization among institutions in types of education programs offered and students served and for more effective coordination and mutual support in the utilization of facilities, faculty and other resources; coordinating reciprocal agreements with out-of-state institutions/entities; approval of new state-supported senior colleges or residence centers; establishing admission guidelines to facilitate transfer of students between institutions of postsecondary education in Missouri; institutional budget review and recommendations; and program approval for all public institutions, data collection and research. CBHE also administers the state's grant and scholarship programs and is the designated guaranty agency for the Federal Family Education Loan Program.

### **System/institutional governing boards.**

Institutional governing boards in the state are: 1) the Board of Curators of the University of Missouri comprised of nine members, established in 1839, with constitutional authority for four campuses; (2) the statutory Board of Curators of Lincoln University comprised of nine members, established in 1929 though Lincoln University was founded in 1879; (3) seven Boards of Regents of state colleges and universities, exercising authority over four public regional universities and three public state colleges, generally founded in 1939, with six or seven member

boards; (4) the Board of Governors of Truman State University (formerly Northeast Missouri State University) comprised of 10 members, established in 1879; (5) the Board of Regents of Linn State Technical College comprised of eight members, established in 1995; and (6) twelve locally elected Boards of Trustees for the state's 12 community college districts. The Boards of Trustees for the community college districts have six members serving on each of the boards and were generally established in 1963.

### **Statutory advisory committee.**

There are five statutory advisory committees in Missouri: the Proprietary School Advisory Committee, the Presidential Advisory Committee, the Missouri Advisory Council of Certification for Educators, the Video Advisory Committee, and the International Economic Development Exchange Program Advisory Committee. Information detailing who serves on these committees, who appoints members to the committees, the focus of the committees' work, the permanency of the committee, and the specific statute citation can be found in the Additional Information section.

## **Nebraska**

### **Constitution of the State of Nebraska**

“Article VII-10,” contains a particular statement about higher education.

VII-10. University of Nebraska; government; Board of Regents; election; student membership; terms.

The general government of the University of Nebraska shall, under the direction of the Legislature, be vested in a board of not less than six nor more than eight regents to be designated the Board of Regents of the University of Nebraska, who shall be elected from and by districts as herein provided and three students of the University of Nebraska who shall serve as nonvoting members. Such nonvoting student members shall consist of the student body president of the University of Nebraska at Lincoln, the student body president of the University of Nebraska at Omaha, and the student body president of the University of Nebraska Medical Center. The terms of office of elected members shall be for six years each. The terms of office of student members shall be for the period of service as student body president. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.

Defining the Coordinating Commission for Postsecondary Education:

Coordination shall mean:

(1) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (a) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (b) plans for facilities which utilize tax funds designated by the Legislature.

<http://nebraskalegislature.gov/laws/display-fullconst.php?print=false>

## **Governance**

### **State-level coordinating and/or governing agency.**

In November 1990, the people of Nebraska voted to amend their constitution, assigning comprehensive statewide planning for postsecondary education to a Coordinating Commission for Postsecondary Education (CCPE). CCPE replaced a previous coordinating commission, which lacked the actual authority to truly coordinate postsecondary education. The new CCPE, became effective January 1, 1991, and has statutory responsibility to review and recommend modification of public institutions' budgets to the Legislature and governor, and to review and approve capital construction projects and new academic programs at public postsecondary institutions. Other functions of CCPE include administering state student financial aid programs, coordinating the higher education portion of the Eisenhower Professional Development program, administering the Integrated Postsecondary Education Data System (IPEDS), and approving new two- and four-year postsecondary institutions.

CCPE is comprised of 11 members appointed by the governor from the general public. Six of the commissioners represent districts of the state and five are appointed at-large. Each serves a six-year term. The executive officer is appointed by and serves at the CCPE's pleasure. Nebraska does not have a secretary of education, and CCPE does not serve as a cabinet department.

### **System/institutional governing boards.**

Two constitutional governing boards for public institutions exist in the state: the Board of Regents of the University of Nebraska responsible for general governance of four public senior colleges, including a medical center, and the Board of Trustees of Nebraska State Colleges responsible for general governance of three public senior institutions. The Board of Regents of the University of Nebraska is comprised of eight regents and was established in 1875. The Board of Trustees of Nebraska State Colleges is comprised of seven trustees and was established in 1920. There are six community college areas, each governed by a locally elected board of 11 members.

### **Statutory advisory committee**

None.

## **North Dakota**

### **Constitution of the State of North Dakota**

“ARTICLE VIII - EDUCATION,” contains particular statements about higher education.

Section 6.

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

- a. The state university and school of mines, at Grand Forks, with their substations.
- b. The state agricultural college and experiment station, at Fargo, with their substations.
- c. The school of science, at Wahpeton.
- d. The state normal schools and teachers colleges, at Valley City, Mayville, Minot, and Dickinson.
- e. The school of forestry, at Bottineau.
- f. And such other state institutions of higher education as may hereafter be established.

2. a. The state board of higher education consists of eight members. The governor shall appoint seven members who are qualified electors and taxpayers of the state, and who have resided in this state for not less than five years immediately preceding their appointments. These seven appointments are subject to confirmation by the senate. The governor shall appoint as the eighth member of the board a full-time resident student in good academic standing at an institution under the jurisdiction of the state board. Except for the student member, no more than two persons holding a bachelor's degree from a particular institution under the jurisdiction of the state board of higher education may serve on the board at any one time. Except for the student member, no person employed by any institution under the control of the board shall serve as a member of the board and no employee of any such institution may be eligible for membership on the state board of higher education for a period of two years following the termination of employment.

The governor shall nominate from a list of three names for each position, selected by action of four of the following five persons: the president of the North Dakota education association, the chief justice of the supreme court, the superintendent of public instruction, the president pro tempore of the senate, and the speaker of the house of representatives and, with the consent of a majority of the members-elect of the senate, shall appoint from the list to the state board of higher education seven members. The governor shall ensure that the board membership is maintained in a balanced and representative manner. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for four years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled. A member may not be appointed to serve for more than two terms. If a member is appointed to fill a vacancy and serves two or more years of that term, the member is deemed to have served one full term.

b. In the event any nomination made by the governor is not consented to and confirmed by the senate, the governor shall again nominate a candidate selected from a new list. The nomination shall be submitted to the senate for confirmation and the proceedings shall continue until an appointee has been confirmed by the senate or the session of the legislature has adjourned.

c. If a term expires or a vacancy occurs when the legislature is not in session, the governor may appoint from a list selected as provided, a member who shall serve until the opening of

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

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

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

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

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

b. The said state board of higher education shall have full authority over the institutions under its control with the right, among its other powers, to prescribe, limit, or modify the courses offered at the several institutions. In furtherance of its powers, the state board of higher education shall have the power to delegate to its employees details of the administration of the institutions under its control.

The said state board of higher education shall have full authority to organize or reorganize within constitutional and statutory limitations, the work of each institution under its control, and do each and everything necessary and proper for the efficient and economic administration of said state educational institutions.

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

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

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

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

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

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

8. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action."

<http://www.legis.nd.gov/files/constitution/ArticleVIIIEducation.pdf?20130225151019>

## **Governance**

### **State-level coordinating and/or governing agency.**

The State Board of Higher Education (SBHE) was established in 1939 and functions as the constitutional governing body and the policy-setting body for North Dakota's six publicly supported universities, and five two-year colleges. In 1990, the SBHE created the North Dakota University System (NDUS) whereby all 11 institutions are accountable to a chancellor appointed by the SBHE. The chancellor is the chief executive officer of the North Dakota University System. The NDUS central office is responsible for recommending policy changes and ensuring that the policies set forth by the Board are carried out by the institutions.

SBHE consists of seven members appointed by the governor with the consent of the Senate; each serves four year terms. A voting student member was provided by statute in 1995. The voting student member is appointed by the governor and serves a one-year term. A non-voting faculty advisor is selected by the Council of College Faculties, and the NDUS Staff Senate selects the board's non-voting staff advisor.

### **System/institutional governing boards.**

SBHE functions as the constitutional governing body for North Dakota's six publicly supported universities and five two-year colleges.

### **Statutory advisory committee**

None.

## **Ohio**

### **Constitution of the State of Ohio**

“ARTICLE VI: EDUCATION,” contains a particular statement about higher education.

#### *Loans for higher education.*

§5 To increase opportunities to the residents of the state for higher education, it is hereby determined to be in the public interest and a proper public purpose for the state to guarantee the re payment of loans made to residents of this state to assist them in meeting the expenses of attending an institution of higher education. Laws may be passed to carry into effect such purpose including the payment, when required, of any such guarantee from moneys available for such payment after first providing the moneys necessary to meet the requirements of any bonds or other obligations heretofore or hereafter authorized by any section of the constitution. Such laws and guarantees shall not be subject to the limitations or requirements of Article VIII or of Section 11 of Article XII of the constitution. Amended Substitute House Bill No. 618 enacted by the General Assembly on July 11, 1961, and Amended Senate Bill No. 284 enacted by the General Assembly on May 23, 1963, and all appropriations of moneys made for the purpose of

such enactments, are hereby validated, ratified, confirmed, and approved in all respects, and they shall be in full force and effect from and after the effective date of this section, as laws of this state until amended or repealed by law.

<http://www.legislature.state.oh.us/constitution.pdf>

## **Governance**

### **State-level coordinating and/or governing agency.**

The Ohio Board of Regents, established in 1963, serves as the statutory coordinating agency in the state. The Board consists of nine members serving nine-year terms representing the general public and appointed by the governor with the consent of the Senate and two ex-officio members (chairpersons of the house and senate education committees) who serve by virtue of the elected office that they hold. The Board serves as an advisory entity to the Chancellor,. The Governor, with the advice and consent of the Senate, appoints members of the Board of Regents.

Responsibilities of the Board include, developing an independent annual report on the Condition of Higher Education in Ohio and issuing an annual performance review of the Chancellor. The Board is also responsible for advising the Chancellor on issues of statewide importance affecting higher education. The Chancellor of the Board is appointed by the governor and serves on the governor's cabinet.

### **System/institutional governing boards.**

The statutory institutional governing boards in the state are as follows: the Board of Trustees of Bowling Green State University; the Boards of Trustees of the University of Akron and Wright State University, each governing one public branch and one senior university; the Boards of Trustees of Central State University, Cleveland State University, Shawnee State University, the University of Toledo and Youngstown State University, each governing a single senior public institution; the Boards of Trustees of Ohio University and Ohio State University, each responsible for one senior institution and five public branches; the Board of Trustees of Kent State University with seven public branches and a single public senior institution; and the Boards of Trustees of the University of Cincinnati and Miami University with two public branches and a single public senior institution. The number of members of the institutions' governing boards varies. Six community colleges are governed by boards representing the state and county, and eight technical colleges are governed by boards representing the state-appointed boards of trustees. The Medical College of Ohio at Toledo is an independent institution with a separate governing board and the Northeastern Ohio Universities College of Medicine has a nine-member board of trustees reflecting its consortia nature.

The functions of the individual boards for each institutions and/or type of institutions are spelled out in Ohio Revised Code: ORC 3335-3362.

### **Statutory advisory committee.**

None.

## **South Dakota**

### **Constitution of the State of South Dakota**

“Article XIV State Institutions,” contains a particular statement about higher education.

§7. Perpetual trust fund from proceeds of grants and gifts.

All lands, money, or other property donated, granted, or received from the United States or any other source for a university, agricultural college, normal schools , or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diverted by legislative enactment for any other purpose, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses that may occur through any unconstitutional act or where required under the Enabling Act.

§3. Board to govern state educational institutions.

The state university, the agriculture college, the school of mines and technology, the normal schools, a school for the deaf, a school for the blind, and all other educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of five members appointed by the Governor and confirmed by the senate under such rules and restrictions as the Legislature shall provide. The Legislature may increase the number of members to nine.”

<http://www.citizensincharge.org/files/South%20Dakota%20Constitution.pdf>

### **Governance**

#### **State-level coordinating and/or governing agency.**

The South Dakota Board of Regents serves as the constitutional governing body for the six public universities, a school for the deaf, and a school for the blind and visually impaired. The Board, expanded by statute to nine voting members, appointed by the governor with Senate confirmation serves six-year office terms, including one student representative who serves a two-year term. There are no public junior colleges in the state. The executive officer of the Board of Regents is appointed by and serves at the Board's pleasure.

### **System/institutional governing boards.**

The Board of Regents serves as the constitutional governing body for the six public universities, a school for the deaf, and a school for the blind and visually impaired. See the State-Level Coordinating and/or Governing Agency section for additional information.

### **Statutory advisory committee.**

None.

## **Wisconsin**

### **Constitution of the State of Wisconsin**

“ARTICLE X. EDUCATION,” contains a particular statement about higher education.

*State university; support.* Section 6. Provision shall be made by law for the establishment of a state university at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the state for the support of a university shall be and remain a perpetual fund to be called "the university fund," the interest of which shall be appropriated to the support of the state university, and no sectarian instruction shall be allowed in such university. Vocational education is not exclusively a state function. *West Milwaukee v. Area Board of Vocational, Technical and Adult Education*, 51 Wis. 2d 356, 187 N.W.2d 387.

[http://legis.wisconsin.gov/rsb/unannotated\\_wisconst.pdf](http://legis.wisconsin.gov/rsb/unannotated_wisconst.pdf)

### **Governance**

#### **State-level coordinating and/or governing agency.**

The Board of Regents of the University of Wisconsin System was established in 1971 and serves as the statutory governing agency for the state's 13 public four-year universities and 13 freshman-sophomore university centers and university extension. The Board consists of 17 members: 14 appointed by the governor for seven-year terms, subject to Senate confirmation; two serve as ex-officio members (the superintendent of the department of public instruction and a representative of the Wisconsin Technical College System Board) by virtue of the office that they hold; and one student regent, appointed by the governor and confirmed by the Senate, serves a two-year term.

The Wisconsin Technical College System Board was also established in 1971 and is composed of 13 members. The governor appoints three employers, three employees, and three members-at-large for six-year terms, subject to Senate confirmation. A student member, appointed by the governor and confirmed by the Senate, serves a two-year term. The president of the Board of Regents, the superintendent of the Department of Public Instruction and the secretary of the

Department of Industry, Labor and Human Relations serve as ex-officio members by virtue of the offices that each holds. The state is divided into 16 technical college districts operating 42 campuses, with three offering a lower-division, college-level liberal arts program. The agency is charged with the statutory mission of providing programs in vocational, technical and short-term, and apprenticeship programs. The Board has statutory responsibility for program planning, coordinating, approval and evaluation, and accountability for the use of state and federal funds.

**System/institutional governing boards.**

The Board of Regents of the University of Wisconsin System governs the state's 13 public four-year universities, 13 freshman-sophomore university centers and university extension. The Wisconsin Technical College System Board functions as the governing board for 16 technical college districts operating 42 campuses. Each technical college also has a local district board.

**Statutory advisory committee.**

None.

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