

FISCAL NOTE
Requested by Legislative Council
02/06/2019

Amendment to: HCR 3039

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HCR 3039 indicates that the state of North Dakota may not levy a tax on the assessed value of land to pay for its constitutional obligations.

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

Currently the state of North Dakota does not levy a property tax to pay for education. Property taxes are levied by local school districts.

The foundation aid formula calculates contribution from property taxes as part of the funding for school districts. The projected contribution from property taxes for the 2019-21 biennium are \$262.5 million in 2020 and \$273.5 million in year 2021. There is also \$58 million projected for the contribution from in lieu of property taxes each year of the next biennium.

School district levy roughly \$150 million dollars per year for purposes other than their general fund levy, which include building fund, debt payments, reserve fund, tuition payments, and others.

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

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

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Adam Tescher

Agency: Department of Public Instruction

Telephone: 701-328-3291

Date Prepared: 02/06/2019

FISCAL NOTE
Requested by Legislative Council
01/25/2019

Bill/Resolution No.: HCR 3039

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$953,435,769			
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

HCR 3039 eliminates the use of property taxes and in lieu of property taxes for the foundation aid formula payment to public schools.

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

HCR 3039 would prohibit the state from directly or indirectly levying property taxes to pay for the operation and maintenance of public schools in the state.

School districts have the ability to levy mills on property for the general fund which supports the foundation aid formula payment. Other levy authority for the school districts include the tuition levy, miscellaneous levy, special reserve fund levy, building fund levy, special assessments levy, sinking and interest levy, and a judgment levy.

The integrated formula payments are currently funded by local dollars, the general fund, the common schools trust fund, and the foundation aid stabilization fund.

New building projects and renovations would increase the fiscal impact of this bill.

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

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

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

The projections for the contribution of property tax for the 2019-21 biennium are roughly \$262.5 million in 2020 and \$273.5 million in year 2021 in the foundation aid formula.

The projections for contribution from in-lieu of property taxes are just under \$59 million each year of the biennium.

There is additional \$150 Million per year levied by school districts for purposes other than the general fund.

- C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

Name: Adam Tescher

Agency: Department of Public Instruction

Telephone: 701-328-3291

Date Prepared: 01/30/2019

2019 HOUSE FINANCE AND TAXATION

HCR 3039

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HCR 3039
2/4/2019
32086

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A concurrent resolution to prohibit the unconstitutional use of property taxes to fund North Dakota's legal obligations.

Minutes:

Attachments 1-2

Chairman Headland: Opened hearing on HCR 3039.

Representative Hoverson: Introduced bill. Distributed written testimony from the Constitution, see attachments 1-2. On Finance and Public Debt under 2b the fiscal note states "Fiscal impacts rate" in the center paragraph beginning with "School districts" and in Article X section 1 in the Constitution says "The legislative assembly shall be prohibited from raising revenue to defray the expenses of the state through the levying of a tax on the assessed value of real or personal property." The fiscal note indicates about \$900 million which is the cost of all the education in North Dakota and the projections are between \$200-\$300 million.

Representative Kading: Has this issue been litigated under the North Dakota Supreme Court?

Representative Hoverson: No.

Chairman Headland: You state in one of your documents the legislature is prohibited from levying mills against the assessed value of property. They don't generally except for the 1 mill for the State Hospital. Do you know if the people put the 1 mill levy on for the medical school or was it done legislatively through statute?

Representative Hoverson: It was the Constitution but I don't know how it got there.

Chairman Headland: It had to get there somehow. The legislature couldn't do it themselves so the people had to put it there.

Representative Hoverson: I think you're right.

Chairman Headland: Is there further testimony in support?

Charles Tuttle, Minot: The only place the Constitution states that the legislature can use monies to defray education is when it comes to higher education you can charge tuition. When you look at the Constitution it tells you it is self-executed. I think it's really important you understand that unless it's expressed when it comes to higher education but it's not when it comes to K-12. When looking at the fiscal note we're spending billions of dollars to get families to come to our higher education. Yet we're looking at \$265 million and the Constitution says the State Legislature is obligated but it's using to defray. The schools have taxing power. It shouldn't be used for the things the legislature is responsible for. When we became a state we were given two million or more acres and it was called the School Lands Trust. It was used to stop the influence from the British and the French that was in the western part of our country. These lands were used to start supporting your schools. The Constitution says that it's 100% the responsibility of the State Legislature to provide for a free system of public education. We are also paying for the buildings and maintenance in higher ed. When the legislature says we can't do that for K-12 we obviously have the funds and the resources to do what is mandated by our Constitution. That's all this resolution does. This resolution isn't about schools or property tax; it's simply about the responsibility of the legislature. It does come to property taxes and schools but it comes down to the Constitution. This is self-explanatory. We've gone from 60% to 80% funding in the schools. We've done buy downs of \$843 million the last time. We've tried to give the property tax back but the local subdivisions absorbed all of that. In Minot our property taxes have gone up 20%; they've always gone up except in 2009. This is the way to get this done, by following the Constitution and then it will take care of itself.

Representative Kading: What is stopping some interested party from filing a lawsuit and forcing this to be heard in front of the Supreme Court?

Charles Tuttle: There was a lawsuit filed by Williston Public School District 1. It never got to fruition because the state settled on it. They would have been responsible for 100% of the formula. There hasn't been a lawsuit since.

Representative Kading: I would imagine anyone in North Dakota is standing and could sue and force the issue.

Charles Tuttle: Standing is an issue. In District 1 Williston has considered a lawsuit. They claim they went to an attorney who told them they didn't have standing.

Representative B. Koppelman: If we were currently executing our practice by the words of the Constitution would the local school districts cease to have authority over the amount of money necessary to educate their kids?

Charles Tuttle: You have to follow the Constitution and there is an equitable formula they receive. If they went over and above that formula, you would go to the taxpayers and ask for the money. That's what makes school districts a political subdivision.

Representative B. Koppelman: The political subdivisions have no authority to tax for that purpose. The only authority they would have in the authority by statute that gives them the

authority to administer a property tax system. They used to fund a large part of their education that way. I'm not sure the Constitution is intending us, as a legislature, giving them that taxing authority at all. I think it's saying the state is going to provide the school and whether you like it or not, that's what you're going to get. Do you think there is some inherent local property taxing authority in the Constitution?

Charles Tuttle: I still believe there is the local control issue. The only two people in our educational system that have to take an oath to uphold the Constitution are school board members and the DPI superintendent. The number one topic at school boards across the state is money, not education.

Chairman Headland: Is there further support? Is there opposition? Seeing none we will close the hearing on HCR 3039.

Representative Blum: MADE A MOTION FOR A DO NOT PASS

Representative Dockter: SECONDED

Chairman Headland: Discussion.

Representative B. Koppelman: Do we believe that the words of the Constitution give us the authority to assess local property tax? What's the motivation for us voting this down? It seems pretty straight forward with what the Constitution says.

Chairman Headland: I think that's the million-dollar question. I'm sure there is quite an argument that could be made that the legislature is not levying our assessing property taxes though they give that authority away the Constitution is silent on the mechanism of funding the public education. I think that would be up to interpretation.

Representative Ertelt: We're not actually giving authority away. We're simply giving the political subdivisions the authority to levy a property tax. I think the state is becoming closer to a position to fully fund. We can leave that authority with the political subdivisions. If they want all these additional things that were brought up in testimony, then let them do it completely and take off all restrictions on how much they can tax for these additional things. Let's get back to the state funding the basics of education and let the school districts compete for students.

Chairman Headland: I don't know that I understand but the way I read this resolution is that if it passes the House of Representatives supports the fact that they cannot indirectly. I'm assuming that speaks to us giving the political subdivisions the ability to levy a property tax. I don't know how we can support this resolution in good conscience and move it forward.

Representative B. Koppelman: When I brought up the authority to tax I was asking for the speaker's view of whether or not the Constitution was saying we must allow locals to assess property tax or not. When you read the second page of the resolution is where all the meat of this is. We are more in violation now because we are forcing them to do the 60 mills. I think it's a worthwhile debate to be had. Whether it's the best place in the tax committee I'm not sure. It's hard for us to argue against that.

Chairman Headland: That's a debate we should have had when discussing the change in formula. I don't know that it ever became part of the discussion but probably should have.

Representative Kading: It's a good conversation to start. Mr. Tuttle could file a lawsuit, get it to Supreme Court, and then we could all be forced to do this anyway.

Chairman Headland: Is there anything else?

ROLL CALL VOTE: 6 YES 7 NO 1 ABSENT
MOTION FAILED

Representative B. Koppelman: MADE A MOTION FOR A DO PASS

Representative Kading: SECONDED

Chairman Headland: Discussion. Someone needs to get Representative Mitskog as she is needed for this vote.

ROLL CALL VOTE: 6 YES 8 NO 0 ABSENT
MOTION FAILED

Representative Ertelt: MADE A MOTION TO offer an amendment on line 1 page 2 to strike "directly or indirectly."

Representative B. Koppelman: SECONDED

Chairman Headland: Does everybody understand the amendment?

VOICE VOTE: MOTION CARRIED

Representative B. Koppelman: MADE A MOTION TO FURTHER AMEND on page 1 line 2 and on page 2 line 2 strike out the word "legal" and replace it with "constitutional."

Representative Ertelt: SECONDED

Chairman Headland: Does everybody understand why we're doing this? Any further discussion?

VOICE VOTE: MOTION CARRIED

Chairman Headland: We have amended HCR 3039 before us.

Representative B. Koppelman: MADE A MOTION FOR A DO PASS AS AMENDED

Representative Kading: SECONDED

Chairman Headland: Discussion.

Representative Ertelt: The striking of directly and indirectly as heard in testimony those words are not part of the Constitution. By striking those words we are simply restating what is in the Constitution.

Representative B. Koppelman: When you look at legal obligations it could mean anything that happens after the fact of what the Constitution requires. By saying constitutional obligations it's strictly talking to the issue at hand which is whether the state should be requiring a political subdivision to levy property tax.

Chairman Headland: Is there anything else?

ROLL CALL VOTE: 7 YES 7 NO 0 ABSENT

MOTION FAILED

Chairman Headland: We're going to send this out WITHOUT COMMITTEE RECOMMENDATION

Representative B. Koppelman will carry this bill.

19.3079.01001
Title.02000

Adopted by the Finance and Taxation
Committee

DP 2/4/19
February 4, 2019

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3039

Page 1, line 2, replace "legal" with "constitutional"

Page 2, line 1, remove "directly or indirectly"

Page 2, line 2, replace "legal" with "constitutional"

Renumber accordingly

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

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3039

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

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

Other Actions: _____

Motion Made By Rep. Blum Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson		✓
Vice Chairman Grueneich	✓		Representative Mitskog	A	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt		✓			
Representative Fisher		✓			
Representative Hatlestad	✓				
Representative Kading		✓			
Representative Koppelman		✓			
Representative Steiner	✓				
Representative Toman		✓			
Representative Trottier		✓			

Total (Yes) b No 7

Absent 1

Floor Assignment f

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

FAILED

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

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3039**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description:

Recommendation:	<input type="checkbox"/> Adopt Amendment <input checked="" type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass <input type="checkbox"/> As Amended <input type="checkbox"/> Place on Consent Calendar <input type="checkbox"/> Reconsider	<input type="checkbox"/> Without Committee Recommendation <input type="checkbox"/> Rerrefer to Appropriations
Other Actions:	<input type="checkbox"/>	

Other Actions: Reconsider _____

Motion Made By Rep. Koppelman Seconded By Rep. Kading

Total (Yes) 6 No 8

Absent

Floor Assignment

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

FAILED

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

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3039

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: strike "directly or indirectly"

Recommendation: Adopt Amendment

Do Pass Do Not Pass Without Committee Recommendation

As Amended Rerefer to Appropriations

Place on Consent Calendar

Reconsiderer

Other Actions:

Motion Made By Rep. Ertelt Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion carried

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

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3039

House Finance and Taxation Committee

Subcommittee

^{line 2 pg. 1 and line 2 pg. 2}

Amendment LC# or Description: Strike "legal" to "constitutional"

Recommendation: Adopt Amendment

Do Pass Do Not Pass

As Amended

Without Committee Recommendation

Rerrefer to Appropriations

Place on Consent Calendar

Reconsider

Other Actions: _____

Motion Made By Rep. Koppelman Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland			Representative Eidson		
Vice Chairman Grueneich			Representative Mitskog		
Representative Blum					
Representative Dockter					
Representative Ertelt					
Representative Fisher					
Representative Hatlestad					
Representative Kading					
Representative Koppelman					
Representative Steiner					
Representative Toman					
Representative Trottier					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote = Motion Carried

Date: 2-4-19
Roll Call Vote #: 5

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3039

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

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

Other Actions: _____

Motion Made By Rep. Koppelman Seconded By Rep. Kading

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Eidson	✓	
Vice Chairman Grueneich	✓		Representative Mitskog	✓	
Representative Blum	✓				
Representative Dockter	✓				
Representative Ertelt	✓				
Representative Fisher	✓				
Representative Hatlestad		✓			
Representative Kading	✓				
Representative Koppelman	✓				
Representative Steiner		✓			
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 7 No 7

Absent 0

Floor Assignment Rep. Koppelman

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

REPORT OF STANDING COMMITTEE

HCR 3039: Finance and Taxation Committee (Rep. Headland, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **BE PLACED**
ON THE CALENDAR WITHOUT RECOMMENDATION (7 YEAS, 7 NAYS,
0 ABSENT AND NOT VOTING). HCR 3039 was placed on the Sixth order on the
calendar.

Page 1, line 2, replace "legal" with "constitutional"

Page 2, line 1, remove "directly or indirectly"

Page 2, line 2, replace "legal" with "constitutional"

Renumber accordingly

2019 TESTIMONY

HCR 3039

#1
HCR 3039
2-4-19
P. 1/1

ARTICLE X FINANCE AND PUBLIC DEBT

Section 1. The legislative assembly shall be prohibited from raising revenue to defray the expenses of the state through the levying of a tax on the assessed value of real or personal property. *direct or indirect*

Section 2. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporation shall be a party.

Section 3. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied. Notwithstanding the foregoing or any other provisions of this constitution, the legislative assembly, in any law imposing a tax or taxes on, in respect to or measured by income, may define the income on, in respect to or by which such tax or taxes are imposed or measured or may define the tax itself by reference to any provision of the laws of the United States as the same may be or become effective at any time or from time to time, and may prescribe exceptions or modifications to any such provision.

Section 4. All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in a manner prescribed by such state board or commission as may be provided by law. But should any railroad allow any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway, while so used shall be assessed in a manner provided for the assessment of other real property.

Section 5. Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. The legislative assembly may by law exempt any or all classes of personal property from taxation and within the meaning of this section, fixtures, buildings and improvements of every character, whatsoever, upon land shall be deemed personal property. The property of the United States, to the extent immunity from taxation has not been waived by an act of Congress, property of the state, county, and municipal corporations, to the extent immunity from taxation has not been waived by an act of the legislative assembly, and property used exclusively for schools, religious, cemetery, charitable or other public purposes shall be exempt from taxation. Real property used for conservation or wildlife purposes is not exempt from taxation unless an exemption is provided by the legislative assembly. Except as restricted by this article, the legislative assembly may provide for raising revenue and fixing the situs of all property for the purpose of taxation. Provided that all taxes and exemptions in force when this amendment is adopted shall remain in force until otherwise provided by statute.

Section 6. Repealed.

Section 7. The legislature may by law provide for the levy and collection of an acreage tax on lands within the state in addition to the limitations specified in article X, section 1, of the

ARTICLE VIII EDUCATION

#2
HCR 3039
2-4-19

Section 1. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

Section 2. The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Section 3. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

Section 4. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

Section 5. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

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