

1999 SENATE EDUCATION

SB 2215

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2215

Education Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
2		x	260-1245
Committee Clerk Signature <i>Jinda Christman</i>			

Minutes:

SENATOR FREBORG opened the hearing on SB2215: RELATING TO STATE BOARD OF HIGHER EDUCATION; RELATING TO ASSUMPTION OF JURISDICTION OVER JUNIOR COLLEGES, APPOINTMENTS AND MEMBERSHIP OF THE STATE BOARD OF HIGHER EDUCATION, AND TAX LEVIES FOR THE FINANCING OF RESIDUAL OR OTHER JUNIOR COLLEGE FISCAL OBLIGATIONS.

SENATOR HOLMBERG was unable to attend the hearing but submitted testimony in favor of the bill. (See attached testimony)

SENATOR FREBORG asked for testimony either for or against SB2215. There being no response, Senator Freborg closed the hearing.

SENATOR FREBORG reopened the hearing and called on Senator Holmberg.

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Education Committee

Bill/Resolution Number SB 2215-Education

Hearing Date January 25, 1999

SENATOR HOLMBERG stated the sections of the code presented to this committee are being changed and also attached is a copy of the constitution for the carrier of the bill.

A motion for a DO PASS was made by SENATOR COOK, seconded by SENATOR REDLIN.

Vote indicated 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING. SENATOR REDLIN

volunteered to carry the bill.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2215 Amendment to: _____

Requested by Legislative Council _____ Date of Request: 1-13-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative:

No fiscal impact anticipated. SB2215 merely updates state statute to be consistent with constitutional requirements as they relate to the Board of Higher Education selection and composition.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:


a. For rest of 1997-99 biennium: None
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)

b. For the 1999-2001 biennium: None
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)

c. For the 2001-03 biennium: None

4. **County, city, and school district** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

Signed: 

Typed Name: Laura Glatt

Department: North Dakota University System

Phone Number: 328-4116

Date Prepared: 1-13-99

Date: 1/25
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2215

Senate EDUCATION Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to Do Pass SB 2215

Motion Made By Cook Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator Freborg, Chairman	✓				
Senator Cook, Vice Chairman	✓				
Senator Flakoll	✓				
Senator Wanzek	✓				
Senator Kelsh	✓				
Senator O'Connell	✓				
Senator Redlin	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Sen. Redlin

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

REPORT OF STANDING COMMITTEE (410)
January 29, 1999 5:25 p.m.

Module No: SR-19-1519
Carrier: Redlin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2215: Education Committee (Sen. Freborg, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2215 was placed on the
Eleventh order on the calendar.

1999 HOUSE EDUCATION

SB 2215

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2215

House Education Committee

Conference Committee

Hearing Date 3-8-99

Tape Number	Side A	Side B	Meter #
Tape # 2		x	23.8 to 26.4
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

Chairman R Kelsch , Vice Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep Haas , Rep Johnson , Rep Nelson , Rep Nottestad , Rep L Thoreson , Rep Grumbo , Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R Kelsch : We will open the hearing on SB 2215 and not read the title.

Senator Holmberg: (See attached testimony)

Chairman R Kelsch : Anyone wishing to testify in support of Sb 2215, anyone wishing to testify in opposition to SB 2215. Seeing none we will close the hearing on SB 2215.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2215-3-15-99

House Education Committee

Conference Committee

Hearing Date 3-8-99

Tape Number	Side A	Side B	Meter #
Tape # 3	x		12.3 to 13.6
Committee Clerk Signature <i>Joan Diers</i>			

Minutes:

Chairman R Kelsch , Vice Chair Drovdal , Rep Brandenburg , Rep Brusegaard , Rep Haas , Rep Johnson , Rep Nelson , Rep Nottestad , Rep L Thoreson , Rep Grumbo , Rep. Lundgren , Rep. Mueller , Rep. Nowatzki , Rep. Solberg .

Chairman R Kelsch : We will take up SB 2215, what are the wishes of the committee?

Vice Chair Drovdal : Move a DO PASS .

Rep Brusegaard : seconded the motion. .

Chairman R Kelsch : Committee discussion. Hearing none, ask the clerk to call the roll. The DO PASS motion passes 14 YES 0 NO 1 Absent. Floor assignment Rep L Thoreson .

Date: 3-8-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2215

House Education Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Drovdal Seconded By Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Rep. ReaAnn Kelsch-Chairperson	✓		Rep. Dorvan Solberg	✓	
Rep. David Drovdal-Vice Chair	✓				
Rep. Michael D. Brandenburg	✓				
Rep. Thomas T. Brusegaard	✓				
Rep. C. B. Haas	✓				
Rep. Dennis E. Johnson	✓				
Rep. Jon O. Nelson	✓				
Rep. Darrell D. Nottestad	✓				
Rep. Laurel Thoreson	✓				
Rep. Howard Grumbo	✓				
Rep. Lyle Hanson					
Rep. Deb Lundgren	✓				
Rep. Phillip Mueller	✓				
Rep. Robert E. Nowatzki	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Thoreson

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

REPORT OF STANDING COMMITTEE (410)
March 8, 1999 5:25 p.m.

Module No: HR-41-4290
Carrier: L. Thoreson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2215: Education Committee (Rep. R. Kelsch, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2215 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY

SB 2215

Senator Ray Holmberg
SB 2215

I apologize for not being in attendance. I am speaking on the budget of the department of public instruction to the North Dakota association of school administrators winter meeting this morning.

SB 2215 is a technical corrections bill. The voters have amended the state constitution to provide for a voting student member of the board of higher education. Section 1, of 2215 changes statute to conform to the new constitutional provision. In keeping with modern style, provisions which are in the constitution are not repeated in statute. That is the reason for the deletion of language in the rest of section 1. Subsection 2 continues the statutory provision of a non voting faculty advisor to the state board.

Section 2. Repeal. The sections repealed are obsolete references to terms of office for board members, and a series of provisions regarding financing junior colleges. These colleges became part of the state system years ago and these provisions are no longer necessary. Copies of all the repealers is attached.

Thank you for your favorable consideration of 2215.

Repealed in 2215

15-10-03. Terms of office. The term of office of each member of the state board of higher education is seven years, and members must be appointed so that their terms are staggered, with the term of one member expiring each year. If a vacancy occurs otherwise than by the expiration of the term of office of a member of the board, the appointment to fill the same must be made for the balance of the term only.

Source: N.D. Const. Amd. Art. 54, § 2, S.L. 1938, p. 499; R.C. 1943, § 15-1003.

continuing beyond the expiration of their terms. State ex rel. Langer v. Scow (1917) 38 ND 246, 164 NW 939.

DECISIONS UNDER PRIOR LAW

Expiration of Terms.

The provisions of the Board of Regents Act, empowering the governor to appoint regents during the session of the assembly at which the act creating the offices was enacted, did not vest title to the offices in the appointees

Vacancy Appointees.

Where officers continue in office after their right to hold the office has ceased, the governor may declare the offices vacant and appoint successors who will hold as vacancy appointees. State ex rel. Langer v. Scow (1917) 38 ND 246, 164 NW 939.

15-10-04. Failure of senate to confirm nomination to board — procedure. If any nomination made by the governor pursuant to the provisions of this chapter is not confirmed by the senate, another nomination must be made from a new list prepared in the manner specified in section 15-10-02 and submitted to the senate for confirmation, and such procedure must be repeated until the appointment has been confirmed by the senate or until the session of the legislative assembly has adjourned.

15-10-01.1. Legislative intent on reciprocity. It is the intent of the legislative assembly that the board of higher education thoroughly investigate the possibility of entering into appropriate reciprocal agreements with the appropriate institutions in the states of South Dakota, Montana, and Minnesota, and that such agreements, if found feasible, be entered into by the board. It is further declared to be the intent of the legislative assembly that before entering into any such agreement which necessitates the expenditure of state funds, the state board of higher education return to the legislative assembly for approval of such expenditures.

Source: S.L. 1975, ch. 137, § 2.

15-18-03. School district tax levy authorized to finance residual or other junior college fiscal obligations. A public school district which maintained a junior college pursuant to this chapter as it existed on June 30, 1984, may levy a tax of not to exceed sixteen mills, the proceeds of which must be used to finance any residual or other fiscal obligations of the school district under the terms of an agreement between the district and the state board of higher education pursuant to section 15-10-01.1. Of the sixteen mills which may be levied pursuant to this section, the first eight mills must be levied upon the resolution of the local school board. Any mills

15-10-05. Appointments to fill vacancies when legislative assembly not in session. When the legislative assembly shall be in session at any time within six months prior to the date of the expiration of the term of any member of the state board of higher education, the governor shall nominate his successor within the first thirty days of such session from a list selected as provided in section 15-10-02, and upon the confirmation of such nomination by the senate, such successor shall take office on the date of the expiration of the term of the incumbent. When a vacancy occurs upon the board otherwise than by the expiration of the term of office of a member thereof when the legislative assembly is not in session, or when the term of a member of the board expires more than six months after the adjournment of the session of the legislative assembly held prior to the date of the expiration of such term, the governor may appoint, from a list selected as provided in section 15-10-02, a member to fill such vacancy who shall serve until the opening of the next session of the legislative assembly succeeding such interim appointment, at which time such appointment must be carried to the senate for confirmation as provided in this chapter. If the appointment is not confirmed by the thirtieth legislative day of such session, the office so filled by interim appointment must be deemed vacant, and the governor shall nominate another candidate for such office from a new list selected as provided in section 15-10-02, and the same proceedings must be followed as provided in this chapter until a nomination has been confirmed by the senate. No person who has been nominated by the governor in accordance with this chapter and whose nomination the senate has failed to confirm is eligible for an interim appointment.

Source: N.D. Const. Amd. Art. 54, § 2, subs. c, June 28, 1938, S.L. 1939, p. 500; R.C. 1943, § 15-1005.

15-10-06. Removal — Impeachment only. The members of the state board of higher education may be removed only by impeachment for the offenses, in the manner, and according to the procedure provided for the removal of the governor by impeachment proceedings.

Source: N.D. Const. Amd. Art. 54, § 3, June 28, 1938, S.L. 1939, p. 500; R.C. 1943, § 15-1006.

Cross-References.
Impeachment, see N.D. Const., art. 5, §§ 8 to 15, and ch. 44-09.

15-18-04.2. School district tax levy authorized to finance residual or other off-campus educational center obligations. A public school district which maintained an off-campus educational center pursuant to this chapter as it existed on June 30, 1984, may levy a tax not to exceed sixteen mills to finance any residual or other fiscal obligations remaining in the school district under the terms of an agreement between the district and the state board of higher education pursuant to section 15-10-01.1. Of the sixteen mills which may be levied pursuant to this section, the first eight mills must be levied upon the resolution of the local school board. Any mills to be levied above the initial eight mills must first be approved by the voters of the district. When submitting the question at an election, the board may specify a levy of less than the additional eight-mill limit authorized, and if such a limited levy is approved by the voters, subsequent levies may not exceed the limited levy without another election authorizing a greater levy, but no election may ever authorize a greater levy under this section than sixteen mills. Such levy shall be in addition to all other mill levy limitations provided by law, and expenditures from this levy may be made by the school board without going through the institution of higher education with whom an agreement has been entered.

Source: S.L. 1961, ch. 154, § 2; 1979, ch. 17, § 2; 1983, ch. 192, § 7; 1983, ch. 606, § 10; 1983, ch. 608, § 1.

15-18-05. County levy to aid in the financing of residual or other fiscal obligations of a junior college or educational center authorized. The board of county commissioners of any county, or part of a county, in which a junior college or off-campus educational center of a state-supported institution of higher education has been established, or any county, or part of a county, adjacent thereto, may upon approval of the qualified electors of such county at a countywide election, levy a tax of not exceeding five mills upon all property in such county, to aid any special school district which maintained a junior college or off-campus educational center of a state-supported institution of higher education. The mill levy herein authorized shall be over and above any mill levy limitation provided by law, and must be for the purpose of financing any residual or other fiscal obligations of the school district under the terms of an agreement between the district and the state board of higher education pursuant to section 15-10-01.1. At any time after the approval of such levy, upon petition of five percent of the qualified electors voting in the last preceding countywide election, the county commissioners shall submit the question of the continuance of such levy to the next countywide election, and if the majority of the qualified electors votes to discontinue such levy, the levy must be discontinued in subsequent years.

15-55-18. School district retirement of bonds for junior colleges and off-campus educational centers. The school board of a school district which maintained a junior college or off-campus educational center pursuant to chapter 15-18 as it existed on June 30, 1984, may use proceeds from the mill levies provided for in sections 15-18-03, 15-18-04.2, and 15-18-05 to retire tax-exempt bonds sold pursuant to this section as it existed on June 30, 1984.

15-55-19. Powers and procedure. In issuing and selling the bonds and carrying out the provisions of section 15-55-18, the board of education of such school district shall proceed under the same procedure, powers, limitations, and conditions provided for the state board of higher education in chapter 15-55, so that the provisions of chapter 15-55 are applicable to this issue, sale, and construction except that references therein to state, state treasury, state treasurer, and state auditor must be construed to mean such school district, school district treasury, and business manager of the school district, respectively, the business manager of the school district acting as treasurer.

Source: S.L. 1961, ch. 142, § 2; 1975, ch. 144, § 19.

57-15-06.7. Additional levies — Exceptions to tax levy limitations in counties. The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. Counties supporting airports or airport authorities may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. Counties levying an additional tax as provided in section 4-02-27.2 may levy a tax not exceeding two mills for a period of not to exceed ten years.
3. Counties levying a tax for the purchase or lease price of land according to section 4-02-32 may levy a tax not exceeding one-half mill.
4. Counties levying a tax for county agent work as provided in section 4-08-15 may levy a tax not exceeding two mills.
5. Counties levying a tax for county agent work as provided for in section 4-08-15.1 may levy a tax not exceeding two mills.
6. Counties levying a tax for gopher, rabbit, and crow destruction as provided in section 4-16-02 may levy a tax not exceeding one-half of one mill.
7. Counties levying a tax for payment of a judgment obtained by the state or a state agency against the county in accordance with section 11-11-46 may levy a tax not exceeding one mill.
8. Counties levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one quarter of one mill, except that if sixty percent of the qualified electors voting on the question of an increase levy as provided in section 11-11-53 shall approve, a tax may be levied not exceeding three quarters of one mill.
9. A county levying a tax for a booster station in accordance with section 11-11-60 may levy a tax not exceeding two mills.
10. A county levying a tax to pay expenses of the board of county park commissioners in accordance with section 11-28-06 may levy a tax not exceeding one mill.
11. A county levying a tax in aid of a junior college or off-campus educational center of a state-supported institution of higher education in accordance with section 15-18-05 may, upon approval of the electors

ON
11-11-60
part
↑

Senator Ray Holmberg
SB 2215

SB 2215 is a technical corrections bill. The voters amended the higher education section of the state constitution twice in recent years. In 1996 the voters reduced the term of office of board members from seven to four years, changed the membership of the nominating committee, and provided that no more than one person with a bachelors degree from a particular university may serve on the board at any time. In 1994 the voters made the student a voting member of the board.

Section 1, of 2215 changes statute to conform to the new constitutional provision. In keeping with modern style, provisions which are in the constitution are not repeated in statute. That is the reason for the deletion of language in the rest of section 1. Subsection 2 continues the statutory provision of a non voting faculty advisor to the state board.

Section 2. Repeal. The sections repealed are obsolete references to terms of office for board members, and a series of provisions regarding financing junior colleges. These colleges became part of the state system years ago and these provisions are no longer necessary. Copies of all the repealers is attached.

Thank you for your favorable consideration of 2215.