

HIGHER EDUCATIONAL
INSTITUTIONS IN THE SCHEME
OF STATE GOVERNMENT

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FOREWORD

The Office of Education through its Division of Higher Education is engaged in conducting a series of studies on the general subject of the relation of the State to higher education. Under the following titles, five studies have already been completed and published in bulletin-form:

1. The State and Higher Education. Phases of their Relationship.
2. Privately Controlled Higher Education in the United States.
3. Supervision Exercised by States over Privately Controlled Institutions of Higher Education.
4. The Problem of Duplication as Attacked in Certain State Surveys of Higher Education.
5. Authority of State Executive Agencies over Higher Education.

The fifth bulletin consisted of a series of diagrams showing schematically for each of the 48 States the legal powers vested in State officials or agencies over the governing boards of State institutions of higher education. At the time of its issuance, the announcement was made that a more comprehensive study, analyzing in detail the authority of such officials over the boards, would be published later by the Office.

The present bulletin comprises the first phase of the more comprehensive study. This phase concerns the fundamental status of the governing boards of the institutions in the general scheme of State government. Upon this status is determined largely the effect of recent reorganizations of State governments on the boards. It also has a bearing on the underlying relationships between the boards and the regularly constituted State executive officials. Other phases of the comprehensive study being undertaken by the Office include the specific legal powers conferred on State executive officials or agencies over the financial affairs, personnel, property, and purchasing of State universities and colleges. The results of the study of these questions will be published in the future.

As a consequence of the evolution taking place in State governmental organization, new problems are arising in the administration of State higher education. It is believed that information contained in this bulletin will prove of value in contributing to their ultimate solution.

BESS GOODYKÖONTZ,
Assistant Commissioner of Education.

HIGHER EDUCATIONAL INSTITUTIONS IN THE SCHEME OF STATE GOVERNMENT

CHAPTER I. INTRODUCTION

A fundamental principle followed in the organization of State universities and colleges throughout the United States has been their detachment from the executive branch of the government responsible for administering the other functions of the State.

For this purpose special boards were established to govern and administer them. The governing boards, in general, were given an independent position within the State governmental structure. Members of the boards serving without compensation were endowed with exclusive jurisdiction over all the internal affairs of the institutions. The primary purpose of this segregation was to take the management of the institutions out of the hands of the changing elective officials of the executive branch of the State government, thus freeing them from any possibility of political control or influence.

State governments, however, have undergone a gradual metamorphosis. In almost every State in the Union alterations have occurred in governmental organization and machinery. The major cause of these changes has been the phenomenal growth of State governments. Existing functions have been expanded on an extensive scale and many new responsibilities have been assumed by the States. State officials, bureaus, departments, divisions, boards, commissions, and institutions, including State universities and colleges¹ have multiplied at a rapid rate.

An outstanding feature of this development was the lack of any systematic planning on the part of the States. With the inauguration from time to time of additional governmental undertakings in response to public exigencies, little effort was apparently made to fit them into the prevailing government framework. New agencies were commonly established to administer these enterprises regardless of whether existing State agencies were performing analogous or related functions. An outcome was that duplication, overlapping, and conflict of operations developed among many of the State agencies with consequent waste and inefficiency. State universities and colleges were not immune from the development, their educational programs in many States duplicating and overlapping each other.²

¹ A comparison of the 1900 and 1936 Educational Directories issued by the Office of Education shows that the number of State universities and colleges increased by 143 during the past 36 years. Most of the new institutions established by the States during this period were State teachers colleges, normal schools, and junior colleges.

² See The Problem of Duplication as Attacked in Certain State Surveys, by John H. McNeely, Office of Education Bulletin 1934, No. 19.

Within recent years this situation became so acute that radical steps have been taken to remedy it. Some States have completely reorganized their governments through the consolidation of innumerable offices, bureaus, boards, and other agencies. Other States concentrated on a thorough alteration and integration of their administrative machinery. Varying in the individual States, the underlying plan consisted of the centralization of authority over the various units of the State in the executive branch of the government or in the governor as its supreme head. As integral parts of the entire State government system, the governing boards of State universities and colleges have been affected by these changes.

To what extent has the traditional separation of the control of State universities and colleges from the executive branch of the State government been maintained? Has the independent position of the governing boards of the institutions in the State governmental organization been altered? To what degree have officials of the executive branch been vested with supervision over the institutions, thereby limiting the authority of the governing boards?

To answer these and relevant questions necessitates an analysis of the present relationship between the executive branch of the government and State universities and colleges. Involved in the analysis are the following major points:

First: Present legal status of the governing boards of the institutions of various types upon which hinges their position in the State governmental organization.

Second: Changes in position of the governing boards of the institutions in the governmental organization as a result of State government reorganizations and alterations in State administrative machinery.

Third: Effects of such changes and alterations in subordinating the governing boards in one way or another to the executive branch of the government and in transferring authority over the internal affairs of the institutions from the boards to State executive officials.

Fourth: General powers at present vested in officials of the executive branch for the operation of the State government as a whole applicable to the governing boards directly or indirectly, such as supreme executive authority of governor, veto power of governor over appropriations, appointment or removal of members of the boards by governor, certain duties of the attorney general, State treasurer, State auditor, and the like.

It is the purpose of this inquiry to study the various aspects of this entire problem. These several major points which form the crux of the problem will be considered *seriatim*. To conduct the study on a Nation-wide scale entails the presentation of the situation as it exists at present in each of the 48 States. Only by this means is it possible

to obtain a conception of the extent of the movement for the entire country. Accordingly, information was collected on the existing situation in the individual States. The information was obtained by examining the legal systems of the different States. Such legal systems include the State constitutions and State statutes at present in force. Constitutional and statutory provisions dealing with State government organization in each State, status of the governing boards of the State universities and colleges, and legal duties imposed on the various officials of the executive branch applicable to the institutions were examined to secure the needed material.

A study of this character necessarily consists in the main of the presentation of factual data. It is not intended, however, to confine the study to such a formal plan of treatment. An attempt will be made to indicate the underlying philosophy and basic theory behind the changed policies of the States. Certain legal distinctions which have a fundamental bearing on the various aspects of the problem will be pointed out. Upon them are determined in a large measure the independence of the institutions from the executive branch of the government.

The organization of the governing boards varies in the different States. A single board has been designated in a number of States to administer all the institutions or a particular group of them rather than separate boards for each individual institution. The primary purpose was through unified control to avoid duplication and overlapping of their educational programs. The fact that the institutions within a State are governed by a single board instead of separate boards has in some cases a significant influence in determining the extent to which they have been brought under the jurisdiction of the executive branch of the government. Special attention, therefore, will be devoted to an appraisal of this phase of the problem.

Most of the States operate several types of institutions. Among them are such institutions as State university, agricultural and mechanic arts college, technical or technological school, women's college, teachers college or normal school, and Negro college. The policy has been adopted by many of the States to make differentiations between types of institutions. As a consequence, the governing boards of institutions of certain types occupy a position in the governmental organization and have a different relationship with the executive branch of the government than those of other types. It is planned to classify the institutions as far as possible with a view to revealing these differentiations.

State legal systems are intricate and complex. The lines of authority within the State governmental organization frequently follow devious routes and have wide ramifications. Through the interlinking of powers, the governor and other officials of the executive

branch exercise an indirect supervision over the governing boards and over the internal affairs of State universities and colleges that is sometimes as effective as direct control. A special effort will be made to trace the lines of authority and interlinking of powers for the purpose of showing such indirect supervision.

Constitutional and statutory provisions comprising the State legal systems are not static, but are undergoing alteration. Amendments to State constitutions are made after submission to and approval by the people of the State. State legislatures meet in regular sessions at fixed intervals of time³ and occasionally in special sessions. Through the enactment of new laws, repeal or amending of existing laws at these sessions, statutory provisions are being changed periodically. In order to make certain that this study is based on constitutional and statutory provisions at present in force, all revisions of constitutions and statutes were examined for each of the States up to and including the legislative sessions of 1937.

In addition to the examination of the legal systems, field trips were made in 15 States. During the trips executive officials at State capitals vested with powers over governing boards were visited as well as administrative officers of the universities and colleges. Through personal interviews, first-hand evidence was gathered regarding the application of government reorganizations and changes in administrative machinery to the institutions.

The particular States to which field trips were made were specially selected. These included not only States in which a highly centralized plan of supervisory authority had been established over the governing boards but also States in which the boards continued to exercise more or less complete autonomy over the institutions. Among the States visited were: Alabama, Connecticut, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and Wisconsin.

In the interpretation of the contents of this bulletin a certain precaution should be taken. The material is based on the constitutional or statutory provisions of the several States solely as they appear on the statute books. No assumption should be made that in every instance the legal provisions are being made effective according to the strict letter of the law. It was beyond the scope of this study to attempt to discover for each of the States the exact extent to which the particular officials at present holding office are enforcing them.

³ The legislatures of 42 States meet biennially, of 5 States annually, and of 1 State quadrennially.

CHAPTER II. LEGAL STATUS OF GOVERNING BOARDS

The legal status of the governing boards of State universities and colleges constitutes a basic issue in the study of this problem.

Upon their legal status rests in a large sense the impregnability of the independent position of the boards within the State governmental organization against change. Upon it depends also the degree to which the boards have been affected by State government reorganizations and revisions in State administrative machinery, which in turn have resulted in limiting the autonomy of the boards and in vesting authority over the internal affairs of the institutions in officials of the executive branch.

The legal status of the governing boards is determined by several fundamental factors. One is their legal origin. Another is the legal source of their powers. Boards created by or deriving their powers from the State constitution, have a wholly different legal status from that of boards established by or deriving their powers from statutory enactments of the State legislature. The fact that a governing board has been made a corporate body gives it a certain legal standing. On a basis of differences in legal status, the boards may be grouped in the following three classes:

- (1) Constitutional governing boards, including those having their origin in or deriving their powers from the State constitution.
- (2) Incorporated governing boards, including those created as corporate bodies and deriving certain powers from the fact of incorporation.
- (3) Nonincorporated statutory governing boards, including those having their origin in and deriving their powers from statutes enacted by the State legislature.

Due to their origin and source of powers, constitutional boards are not subject to the regular administrative procedure of State governments to the same extent as the other two classes of boards. This has far-reaching significance and meaning in the control of the institutions. Incorporated boards are likewise endowed with special legal privileges and franchises. On the other hand, nonincorporated statutory boards in general do not possess these attributes.

It must be understood that the three classes of governing boards are not mutually exclusive. Certain boards are classified as constitutional boards, and are also included under the classification of incorporated boards. This is due to the fact that the boards after having been created by the State constitution were later made cor-

porate bodies by the State legislature.¹ Likewise, a large number of the incorporated boards had their origin in and derived their corporate powers from the State legislature. In that sense, therefore, they are statutory boards although their legal status for the purpose of this classification is based upon the fact of incorporation.

In order to present in detail the distinction in legal status of the three classes of boards each will be treated separately. At the same time the States in which constitutional, incorporated, or nonincorporated statutory boards govern the State universities and colleges will be shown. Some States have adopted the policy of creating constitutional boards to govern institutions of particular types within the State while those of other types are governed by incorporated or nonincorporated statutory boards. The institutions will be so segregated as to show such variations.

CONSTITUTIONAL GOVERNING BOARDS

The constitution is the supreme and organic law of the State. One of its innate characteristics is that its provisions stand above all other State laws and are mandatory. Having its genesis in the people of the State, the constitution can only be changed by the will of the people. The amendment or repeal of any of its provisions is frequently a difficult and prolonged undertaking requiring popular approval.

Constitutional governing boards of State universities and colleges, therefore, are those having their origin in or deriving their powers from a constitutional mandate. In the case of such boards having their origin alone in the constitution, they are created by the supreme and organic law of the State. As a result they are separate entities within the State governmental structure. It is beyond the jurisdiction of the State legislature to enact statutes abolishing the boards. The legislature is in general without authority to make the boards a part of the executive branch, thereby modifying their detached position within the State governmental organization.

In the case of boards deriving their powers from the constitution, they have been made coordinate with the legislative and executive branches of the government. The direct powers conferred upon them by constitutional mandate pertaining to the management of the internal affairs of the institutions are not readily susceptible to annulment or change by legislative enactments. The legislature as a rule does not possess the authority either to limit these powers or to transfer them to officials of the executive branch through consolidation of

¹ An example is the boards governing the State university and the State agricultural and mechanic arts college in Alabama. These boards are constitutional boards both having their origin in and deriving their powers from the State constitution without reference to corporate existence. However, the legislature has expressly designated them as corporate bodies.

governmental functions or alteration of State administrative machinery. Since these powers are vested exclusively in the boards by the State constitution, officials of the executive branch are likewise precluded from exercising them.

As already indicated, constitutional governing boards comprise two kinds. One consists of boards which have only their origin in the State constitution and do not derive any of their powers from the constitution. The other includes boards both having their origin in and deriving their powers from the constitution.

Boards having only their origin in State constitution.—Boards having only their origin in the constitution without deriving any powers from this source may be regarded as partially constitutional and partially statutory. They are independent of the legislature with respect to those provisions in the constitution specifically creating them or prescribing their organization. In other respects they are subject to statutes enacted by the legislature.

The very fact, however, that these boards have been established and organized in one way or another by the supreme and organic law of the State adds to their legal dignity. The consequence is that the State legislature hesitates to alter the powers already granted them to administer the institutions under their control. Similarly, the legislature is likely to refrain from vesting authority over the boards in officials of the executive branch of the government.

In table 1 are shown the States having constitutional boards of this kind together with the institutions of particular types governed by them in the State. The specific prescriptions of the provisions in the State constitution creating the boards are listed in abbreviated form. Attention must be called to the fact that only boards expressly designated by name or title in the State constitution to govern institutions are included in the table. In a number of States the constitution mentions in general terms the governing board of certain institutions or authorizes the legislature to establish the board with stipulations regarding their organization. Such boards have not been classified as constitutional boards.

As indicated by table 1, there are 9 of the 48 States with constitutional boards having only their origin in the State constitution. Eight of these States have 1 board of this description while the remaining State has 2 of them. Of the States having 1 board the particular types of institutions governed by the board include the State university in 2 States, teachers colleges as a group in 1 State, institutions of all types except the State university as a group in 1 State, and institutions of all types as a group in 4 States. In the State with 2 boards, one governs the State university and the other the teachers colleges as a group.

HIGHER EDUCATIONAL INSTITUTIONS

TABLE 1.—States with constitutional boards having only their origin in the State constitution, institutions of particular type governed by the boards, and constitutional provisions creating them

State	Type of institution governed by board	Provisions in State constitution creating board prescribe
1	2	3
Arizona.....	State university.....	1. Title or name. 2. Method of selecting members.
Florida.....	Institutions of all types (governed as group by single board).	1. Title or name. 2. Composition.
Louisiana.....	Institutions of all types except the State university (governed as group by single board).	1. Title or name. 2. Method of selecting members. 3. Term of office of members. 4. Geographical distribution of members.
Michigan.....	All teachers colleges (governed as group by single board).	1. Title or name. 2. Composition. 3. Method of selecting members. 4. Term of office of members.
Missouri.....	State university.....	1. Title or name. 2. Composition. 3. Method of selecting members.
Montana.....	Institutions of all types (governed as group by single board).	1. Title or name. 2. Composition. 3. Method of selecting members.
Nebraska.....	State university.....	1. Title or name. 2. Composition. 3. Method of selecting members. 4. Term of office of members. 5. Geographical distribution of members.
	All teachers colleges (governed as group by single board).	1. Title or name. 2. Composition. 3. Method of selecting members.
New York.....	Institutions of all types (governed as group by single board).	1. Title or name. 2. Composition.
South Dakota.....	do.....	1. Composition. 2. Method of selecting members.

The constitutional boards governing a group of institutions have a special legal status. In addition to creating them, the constitution has set up a plan of complete or partial unified control of the institutions by a single board within the State rather than by separate boards.

The State legislature in consequence is prohibited from changing the detached position of the board in the State governmental organization and also from establishing separate boards to govern each institution and thereby replacing the single board.

Boards both having their origin in and deriving their powers from State constitution.—Of the several classes of governing boards, those which both have their origin in and derive their powers from the State constitution possess the greatest degree of legal independence in the administration of the institutions under their jurisdiction. These boards are largely autonomous, self-governing units within the State. They are in most respects free from interference by the executive

branch of the government. Except for their dependence on the legislative branch for appropriations for their support, they are exempt to a large extent from regulatory control by the State legislature.

Table 2 gives the States with constitutional boards of this kind. The individual institutions classified as to type governed by the boards are also shown. Provisions of the State constitutions creating the boards and vesting powers in them together with the particular powers are outlined in the case of each board.

TABLE 2.—States with constitutional boards both having their origin in and deriving their powers from the State constitution, institutions of particular type governed by the boards, and constitutional provisions creating and vesting power in them

State	Type of institution governed by board	Provisions of constitution	
		Creating board prescribe—	Vesting power in board prescribe board shall—
1	2	3	4
Alabama.....	State university.....	1. Title or name..... 2. Composition..... 3. Method of selecting members. 4. Term of office of members. 5. Geographical distribution of members.	1. Manage and control institution.
	Agricultural and mechanic arts college.	1. Title or name..... 2. Composition..... 3. Method of selecting members. 4. Term of office of members. 5. Geographical distribution of members.	Do.
California.....	State university.....	1. Title or name..... 2. Composition..... 3. Method of selecting members. 4. Term of office of members.	1. Administer, organize, and govern institution. 2. Manage real and personal property of institution.
Colorado.....	do.....	1. Title or name..... 2. Composition..... 3. Method of selecting members.	1. Exercise general supervision of institution. 2. Direct and control exclusively all funds of and appropriations to institution. 3. Elect and remove president of institution.
Idaho.....	do.....	1. Title or name.....	1. Exercise general supervision of institution. 2. Control and direct all funds of and appropriations to institution.
Michigan.....	do.....	1. Title or name..... 2. Composition..... 3. Method of selecting members. 4. Term of office of members.	1. Exercise general supervision of institution. 2. Direct and control all expenditures of institution's funds. 3. Elect as often as necessary president of institution. 4. Take private property for use of institution according to law.

4 TABLE 2.—States with constitutional boards both having their origin in and deriving their powers from the State constitution, institutions of particular type governed by the boards, and constitutional provisions creating and vesting power in them—Continued

State	Type of institution governed by board	Provisions of constitution	
		Creating board prescribe—	Vesting power in board prescribe board shall—
1	2	3	4
Michigan.....	Agricultural and mechanic arts college.	1. Title or name..... 2. Composition..... 3. Method of selecting members. 4. Term of office of members.	1. Exercise general supervision of institution. 2. Direct and control all funds of institution. 3. Elect as often as necessary president of institution.
Minnesota.....	State university	1. Title or name	1. Exercise rights, immunities, franchises and endowments heretofore granted.
Oklahoma.....	All agricultural and mechanic arts colleges (governed as group by single board).	1. Title or name 2. Composition.....	1. Govern institutions.
Utah.....	State university	1. Title or name.....	1. Exercise rights, immunities, franchises and endowments heretofore granted.
	Agricultural and mechanic arts college.	do.....	Do.

According to the information presented in table 2, there are eight States with constitutional boards both having their origin in and deriving their powers from the State constitution. Five of these States have only one such board while three States have two boards. Of the States with one board, the types of institutions governed by the board are the State university in four States and all the agricultural and mechanic arts colleges as a group in one State. In the States with two boards, one governs the State university and the other governs the State agricultural and mechanic arts college. It will be noticed that the particular types of institutions governed by constitutional boards of this kind are State universities and State agricultural and mechanic arts colleges entirely.

Powers vested in the boards by the State constitutions endowing them with exclusive and independent control of the institutions are broad in scope. In most cases the provisions of the constitution prescribe in general terms that the board shall manage, control, or exercise supervision over the institutions.² Additional powers, more specific in nature, are conferred on the board in several instances. The constitutional provisions prescribe that the board in the case of

² Decisions of State supreme courts have interpreted constitutional provisions worded in these terms as giving the boards sole management of all the functions performed by the institutions and all phases of their internal affairs.

four institutions shall direct and control the expenditures of their funds and appropriations. The boards of two institutions are specifically empowered by the constitution to elect a president as often as necessary.

The manner in which the constitutional boards in Minnesota, Oklahoma, and Utah derive their constitutional powers is of special interest. The State constitutions of Minnesota and Utah instead of conferring powers directly on the boards provide that the rights, immunities, franchises, and endowments heretofore granted the institutions shall be perpetuated. The State university in Minnesota and both the State university and the State agricultural and mechanic arts college in Utah were established by acts of territorial legislatures before these States entered statehood. The acts in each instance creating governing boards for the institutions prescribed their name or title, composition, method of selecting members, and term of office of members.

The acts also specifically vested the government or management of the institutions in the boards outlining in detail the powers to be exercised by them over property, moneys or funds, officers, faculty, educational functions, and other affairs. The fact that the constitutions provide for the perpetuation of the provisions of territorial acts gives the boards a constitutional status. The statutory powers conferred on them by the territorial legislatures also become in reality constitutional powers.

A similar situation is found with respect to the board governing the Oklahoma institutions. The constitution of that State prescribed that the State's board of agriculture should also be the board of regents of all the State's agricultural and mechanic arts colleges. Before Oklahoma became a State the territorial legislature had by statute established this board. Under the terms of the original statute the board had been vested with the government, direction, and management of the State's agricultural and mechanic arts colleges.

In addition, specific powers had been conferred upon the board by the statute over the properties of the institutions, disposition of appropriated moneys and funds, employment of officers and staffs, educational programs, and other activities. The provision of the State constitution by which the State's board of agriculture is made the board of regents automatically transfers all these powers to the State board of agriculture. At the same time they are converted into constitutional powers vested in a constitutional board.

An exemplification of the real intention behind the creation of constitutional boards of this character is presented in a paragraph contained in the California constitution. This paragraph stipulates

that the State university shall be entirely free and independent of all political influences in the appointment of its board of regents and in the administration of its affairs.

INCORPORATED GOVERNING BOARDS

Incorporated governing boards have a special legal standing. Corporate powers expressly conferred upon a governing board has a tendency to vest it with a degree of separate legal entity and freedom, especially in carrying on its internal affairs and also its fiscal and business relations with agencies and individuals. For example, in their corporate capacity they usually possess certain proprietary, custodial, contractual, administrative, managerial, and financial rights. A virtual trusteeship over the institution has frequently been vested in such boards as agents of the State. However, in the case of boards having the right to sue in their own name, such boards do not as a rule enjoy the same degree of immunity from suits as is generally enjoyed by nonincorporated boards or agencies.

Although varying in the several States corporate powers conferred on the boards in general consist of such prerogatives as: Use a common seal; own property both real and personal in the corporate name; acquire by purchase or receive by bequest or devise, convey or otherwise dispose of such property; sue and be sued; appoint and employ officers, staff members, and employees necessary to operate the institution; make bylaws and regulations for its government and management; and perform any other acts or transact any other business required to carry out its purposes.

Vested with powers of this nature, incorporated boards in theory have a legal existence separate and distinct in certain respects from other agencies in the State governmental structure. As bodies corporate they have been given a field of independent action less subject to impingement by the officials of the executive branch of the government. Within the sphere of their corporate powers and corporate field of action, the boards exercise their own discretion.

In the organization of incorporated boards by the States, differences are found in the extent of the corporate powers vested in them. Full corporate powers have been conferred on the boards of some institutions. Other boards have been vested with partial or limited corporate powers. Boards with full corporate powers have more or less complete freedom of action covering all phases of corporate control. The freedom of action of boards with partial or limited corporate powers are confined to the specific corporate powers granted to them.

A further distinction of fundamental importance among incorporated boards is the source of their incorporation. The boards are made corporate bodies either by the State constitution or by statutes enacted by the State legislature.

Boards incorporated by State constitution.—A distinguishing characteristic of boards incorporated by the State constitution is their permanency. Having been made corporate bodies by the State's supreme and organic law, they cannot be changed except by constitutional amendment approved by the people. The corporate powers conferred upon them as in the case of the general powers vested in constitutional boards, cannot be revoked, altered, or transferred by legislative enactments.

In table 3 are presented the States having boards incorporated by the State constitution together with the institutions of particular type governed by them. The specific provisions of the State constitution making the boards corporate bodies and fixing their corporate powers are paraphrased for each of the boards.

TABLE 3.—States with governing boards incorporated by State constitution, institutions of particular type governed by the boards, and constitutional provisions prescribing their corporate powers

State	Type of institution governed by board	Provisions of constitution prescribe board shall—
1	2	3
California.....	State university.....	1. Constitute corporation and public trust. 2. Have legal title to property of institution. 3. Manage and dispose of property. 4. Take property by purchase, gift, or donation. 5. Have all necessary powers to administer trust. 6. Use a seal 7. Sue and be sued. 8. Delegate authority to committee of board or faculty.
Colorado.....	do.....	1. Constitute body corporate.
Florida.....	Institutions of all types (governed as group by single board)	Do
Idaho.....	State university.....	1. Continue to be body corporate as heretofore established.
Michigan.....	do.....	1. Be body corporate.
Minnesota.....	Agricultural and mechanic arts college.	Do.
Minnesota.....	State university.....	1. Continue to be body corporate as heretofore established.
New York.....	Institutions of all types (governed as group by single board).	1. Continue to be corporation as previously created
Oklahoma.....	All agricultural and mechanic arts colleges (governed as group by single board).	1. Continue as same body corporate.
Utah.....	State university.....	1. Continue to be body corporate as heretofore established.

As the information in table 3 discloses, nine States have governing boards incorporated by their State constitutions. In the case of two of the States, Florida and New York, these incorporated board

governing institutions of all types as a group within the State are the same constitutional boards having their origin only in the State constitution shown in table 1. In the remaining States the incorporated boards governing either the State university or the State agricultural and mechanic arts colleges are likewise the same constitutional boards both having their origin in and deriving their powers from the State constitution shown in table 2. This means that in addition to the creation of the boards by the State constitution, these particular States further guaranteed their independent legal status by making them corporate bodies and conferring upon them corporate powers through constitutional mandate.

Provisions of the State constitutions incorporating the boards are much alike in most of the States. The constitutions in four States prescribe that the boards shall constitute a body corporate or corporation. The effect of this legal terminology is that these boards are endowed with all the rights and privileges vested in corporate bodies or corporations under the general corporation laws of the State. They have, therefore, full corporate powers. In one of the States, California, the State constitution not only makes the board governing the State university a corporation and public trust, but also enumerates in detail the specific powers to be exercised by the board in its corporate capacity.

The language in the constitution of four other States provides that the boards shall continue to be a body corporate as heretofore established. These boards were incorporated under statutes enacted by the territorial legislatures prior to the adoption of the State constitution. It has already been shown that where a State constitution specifically confirms rights contained in former statutes, the terms of such statutes become legally a part of the constitution. The statutory provisions originally making the boards bodies corporate or corporations are consequently constitutional provisions. The particular corporate powers vested in them by the statutes comprise their constitutional corporate powers.

In the statute enacted by the territorial legislature of Idaho incorporating the State university, the corporate powers conferred on the board were limited in scope and consisted of the custody of buildings and property, control of moneys, enactment of bylaws, and exercise of other powers necessary to accomplish its objects as prescribed by law. On the other hand the territorial statute of Minnesota incorporating the State university granted the board full corporate powers. In the same manner the act of the territorial legislature of Oklahoma incorporating the board to govern all the State's agricultural and mechanical colleges as a group vested it with full corporate powers enjoyed commonly by corporations under the laws of Oklahoma.

Full corporate powers were likewise conferred on the board governing the State university by the original statute of the Utah territorial legislature in incorporating the institution.

Of special interest are the provisions of the constitution of New York which provide for the incorporation of the board governing the institutions of all types as a group in that State. The constitution prescribes that the board shall continue to be the corporation previously created. In the original law creating the board as a corporation, it was endowed with full corporate powers. An additional clause in the New York constitution, however, authorizes the State legislature to increase, modify, or diminish the corporate powers of the board. Hence, while the board is incorporated by the constitution, it is dependent on the State legislature for the extent of its corporate powers.

Boards incorporated by State legislature.—Boards incorporated by the State legislature in contradistinction to boards incorporated by the State constitution are subject to the will of the State legislature. Having organized the boards as corporate bodies by one of its own acts, the legislature possesses the authority to repeal or amend the act. Furthermore, the legislature has the authority by general or specific laws to rescind wholly or partially the corporate powers conferred on the boards and to transfer such powers to officials of the executive branch of the government.

In certain instances, however, a question arises as to the legal right of the State legislature to annul or modify the corporate status of the boards unless the right is specifically reserved in the statute creating them.³ This is particularly true where vested property rights are involved. A number of State universities and colleges were originally privately owned institutions. At the time of their conversion into State institutions, the property was donated to the State with the understanding that the governing boards of the newly created colleges were to be independent corporate bodies. Title to the property was transferred to the incorporated boards rather than to the State.

Other State universities and colleges came into existence as a result of gifts of property or money by private citizens. The gifts were frequently made conditional that a trusteeship in the form of a corporate body be established to manage the donated property.

Many of the State institutions have also received bequests, devises, and deeds of property, both real and personal, from private sources. Such endowments were often made on the assumption that they were

³ In the case of a number of institutions, the right has been reserved in the State legislature to revise and amend the provisions of the statute incorporating the board and granting it corporate powers.

to be administered in trust permanently by the legally incorporated boards controlling the institutions at that particular time.⁴

At this point special attention must be called to the fact that the distinction or difference between the legal status of governing boards incorporated by the State legislature and that of statutory governing boards not incorporated by the State legislature is in general frequently slight. Both of these types of boards are susceptible to change by the State legislature at any time. In some instances, nonincorporated statutory boards have had powers conferred upon them by the State legislature which are equivalent to the corporate powers vested in incorporated statutory boards. It must be emphasized, therefore, that a far greater distinction exists between constitutional and non-constitutional governing boards than between incorporated and nonincorporated statutory boards.

Table 4 shows the States having governing boards incorporated by statutes enacted by the State legislature together with the institutions governed by them classified according to type. The provisions of the statutes making them corporate bodies often go into considerable detail in prescribing their corporate powers. Because of the difficulty of presenting this detailed information in tabular form, the table is limited to showing whether full corporate powers, all corporate powers with the exception of certain rights, or partial or limited corporate powers have been vested in the individual boards by the statutes.

As is evident from the data contained in table 4, there are 28 States having governing boards incorporated by statutes enacted by the State legislature. A very large number of institutions representing every type is governed by such boards. In most instances the boards were originally incorporated and vested with corporate powers by the State legislature at the time of the founding of the institutions. The boards as corporate bodies have never been legally dissolved. General laws reorganizing the State governments or modifying their administrative machinery have subsequently been enacted by the State legislature. The effect has been to withdraw certain powers from the incorporated boards and transfer them to officials of the executive branch of the State government.

Boards incorporated by legislative statutes in six of the States—Arizona, Louisiana, Michigan, Missouri, Nebraska, and South Dakota—are the same constitutional boards having their origin only in the State constitution shown in table 1. These boards occupy the legal status of having been created by the State constitution, and at the same time of having been made corporate bodies by the State legislature. In one State, Alabama, the incorporated boards, one of which governs the State university and another the State agricultural

⁴ The legal question of the right of the State legislature to repeal or alter the corporate status of governing boards can in such cases only be solved through an appeal to the courts by each individual institution. The boards hesitate to take such a step since the State legislatures control the amounts of State appropriations made to the institutions.

and mechanic arts college, are the same constitutional boards shown in table 2 as both having their origin in and deriving their powers from the State constitution. The State legislature by endowing them with a corporate personality still further buttressed the authority already conferred upon the boards by the State constitution to administer the institutions under their control.

TABLE 4.—States with governing boards incorporated by statutes of State legislature, institutions of particular type governed by the boards, and statutory provisions vesting corporate powers in them.

State	Type of institution governed by board	Provisions of statutes ¹ vest in board
1	2	3
Alabama.....	State university	Full corporate powers with right reserved by legislature to revise or amend them.
	Agricultural and mechanic arts college.	All corporate powers except right to borrow money by mortgage.
	Women's college.....	Do.
Arizona.....	State university.....	Do.
Arkansas.....	do.....	Full corporate powers subject to laws of State.
	Each agricultural college (governed by separate board).	Do.
	Each teachers college (governed by separate board).	All corporate powers except right to borrow money by mortgage.
	Negro college.....	Full corporate powers subject to laws of State.
Colorado.....	Agricultural and mechanic arts college.	All corporate powers except right to contract indebtedness in excess of income.
	All teachers colleges (governed as group by single board).	All corporate powers except right to sell property or contract indebtedness.
	Technical school (School of Mines).....	Do.
Delaware.....	State university.....	Full corporate powers.
	Negro college.....	Do.
Illinois.....	State university.....	All corporate powers subject to limitations in incurring indebtedness.
Indiana.....	State university (Indiana University).....	All corporate powers under certain limitations of law.
	State university (Purdue University).....	Full corporate powers with right reserved by legislature to amend or repeal certain of them.
	All teachers colleges (governed as group by single board).	Partial or limited corporate powers.
Kentucky.....	State university.....	Full corporate powers.
	Each teachers college (governed by separate board).	Do.
	All Negro colleges (governed as group by single board).	Do.
Louisiana.....	State university.....	All corporate powers except right to hold title to property.
	Institutions of all types except State university (governed as group by single board).	Partial or limited corporate powers.
Maine.....	State university.....	Full corporate powers with right reserved by legislature to alter, limit, or restrain any of them.

¹ No attempt is made here to show the full extent or limits of corporate powers vested in the particular boards mentioned. Rather the aim of this column is to indicate the general nature of powers conferred. Hence, the term "Full corporate powers" as referred to under this heading dealing with public corporations should not be understood as implying all the corporate privileges common to private corporations.

TABLE 4.—States with governing boards incorporated by statutes of State legislatures, institutions of particular type governed by the boards, and statutory provisions vesting corporate powers in them—Continued

State	Type of institution governed by board	Provisions of statutes vest in board
1	2	3
Maryland	State university	All corporate powers except right to acquire, sell, or mortgage property.
Massachusetts	Each textile school (governed by separate board).	Partial or limited corporate powers.
Michigan	All teachers colleges (governed as group by single board).	Full corporate powers subject to limitations contained in certain statutes.
Missouri	State university	All corporate powers subject to limitations in incurring indebtedness.
	Negro college	Do.
Nebraska	State university	All corporate powers except right to borrow money by mortgage and sell property without consent of legislature.
New Hampshire	do.	All corporate powers except right to buy or sell property and borrow on credit of institution.
New Mexico	do.	Partial or limited corporate powers.
	Agricultural and mechanic arts college.	Do.
	Each teachers college (governed by separate board).	Do.
	Technical school (School of mines)	Do.
North Carolina	State university	All corporate powers subject to limitation in creating debt.
	Each teachers college (governed by separate board).	All corporate powers except right to sell property and borrow money by mortgage.
	Each Negro college or normal school and Indian normal school (governed by separate board).	Partial or limited corporate powers.
Oklahoma	State university	Do.
	Women's college	Do.
	Negro college	Do.
Pennsylvania	Agricultural and mechanic arts college.	Full corporate powers.
Rhode Island	Institutions of all types (governed as group by single board).	Partial or limited corporate powers subject at any time to action of State legislature.
South Carolina	State University	All corporate powers except right to sell property or borrow money by mortgage.
	Agricultural and mechanic arts college.	Full corporate powers.
	Military college	All corporate powers except right to create liability against State.
	Medical college	Full corporate powers.
	Women's college	All corporate powers except right to hold title to property and borrow money by mortgage.
South Dakota	Institutions of all types (governed as group by single board).	All corporate powers except right to borrow by mortgage.
Tennessee	State university	Full corporate powers.
Vermont	do.	Do.
Virginia	do.	Partial or limited corporate powers subject to control by State legislature.
	Agricultural and mechanic arts college.	Do.
	Military college	Do.
	Medical college	Full corporate powers.
	State college	Full corporate powers subject to limitations of law.
Wisconsin	State university	Partial or limited corporate powers.
	All teachers colleges (governed as group by single board).	All corporate powers except right to sell property and borrow money by mortgage.
Wyoming	State university	Partial or limited corporate powers.

Corporate powers vested in the boards by provisions of the statutes vary considerably among the States. Of the incorporated boards shown in table 4, approximately one-third have full corporate powers reposed in them by the State legislature. A slightly larger proportion of the boards possess all corporate powers with the exception of the right to borrow money by mortgage, incur liabilities against the State, dispose of property, and the like. About one-fourth of the boards have only partial or limited corporate powers.

In the case of a number of the boards, the State legislature has specifically reserved the right to revise and repeal the corporate powers or has stipulated that they should be subject to the laws of the State. It is noticeable that limitations on the corporate powers of incorporated boards relate principally to safeguarding State property rather than restricting the boards in the management of the internal affairs of the institutions.

Another State not shown in the table, West Virginia, has a board incorporated by statutes of the State legislature controlling the financial affairs of institutions of all types in that State. Provisions of the statutes vest partial or limited corporate powers in the board. At the same time another board has been established by the State legislature to control the educational affairs of the State university and still another board to control the educational affairs of the other institutions of all types as a group. Neither of the latter boards is a corporate body.

NONINCORPORATED STATUTORY GOVERNING BOARDS

Nonincorporated governing boards having their origin in and deriving their powers from statutes enacted by the State legislature constitute the third group.

As compared with constitutional boards or constitutionally incorporated boards, such boards have a relatively unstable legal status. By the simple process of the enactment of a law it is possible for the legislature to abolish these boards, create new boards in their place, or combine them with other boards. The fact that a board of this character was originally established as a detached unit of the general State government is no guarantee of its continuance as such a unit as in the case of constitutional boards. It is within the authority of the State legislature to modify the position of the board by consolidating it in the executive branch of the State government and subordinating it to the regular officials of that branch.

In contrast with constitutional boards and constitutionally incorporated boards, the powers of nonincorporated statutory boards are subject to constant revision by the State legislature. With or without fundamentally changing the position of the boards in the governmental structure, the legislature has the right to deprive them of

their powers to administer all or part of the internal affairs of the institutions. This may be accomplished directly through a specific statute applicable to particular boards and institutions or indirectly through a general statute applicable to all boards, institutions, offices, departments, bureaus, and other agencies of the State government.

Comparing nonincorporated statutory boards and boards incorporated by legislative enactment, a different situation is found. Both of these types of boards are subject to the will of the successive sessions of the State legislature. At the same time, nonincorporated statutory boards do not possess certain privileges and prerogatives inherent in incorporated boards as corporate bodies. They are, therefore, at a disadvantage. This applies particularly to the custodianship, administration, and management of the property or funds of the institutions under their control.

Incorporated boards usually hold the title to the property of the institutions as agents for the State in their own name while the title of the property of institutions governed by nonincorporated statutory boards is vested in the State itself. The incorporated boards are empowered to administer funds, bequests, endowments, and gifts of the institutions. On the other hand, nonincorporated statutory boards do not enjoy such powers unless specifically authorized by law. Funds, bequests, endowments, and gifts of institutions controlled by nonincorporated statutory boards are usually held and administered by regularly constituted State executive agencies, such as State land commission, State treasurer, a special State board composed of designated executive officials, or the like.

A further distinction is that incorporated boards are vested with the right to sue and be sued while nonincorporated statutory boards do not possess this power. In such instance, however, nonincorporated statutory boards have a certain advantage over incorporated boards since they as a rule enjoy immunity from suits, as previously stated.

Nonincorporated statutory governing boards include all those not previously listed as being constitutional or incorporated boards. A considerable number of States which have been shown as having constitutional or incorporated boards governing certain institutions also have nonincorporated statutory boards governing other institutions. The institutions of particular type governed by nonincorporated statutory boards vary in the different States. In six States—Georgia,⁵ Iowa, Kansas, Mississippi, North Dakota, and Oregon—the single board governing the institutions of all types as a group in the State is a nonincorporated statutory board. State universities are governed by a nonincorporated statutory board in three States—

⁵ The single board governing the institutions of all types as a group in Georgia was an incorporated board until 1935, when the State legislature modified its corporate powers and converted the board into a statutory board.

Ohio, Texas, and Washington. There are four States--Connecticut, Massachusetts, Texas, and Washington--with nonincorporated statutory boards governing their agricultural and mechanic arts colleges. By far the greater majority of nonincorporated statutory boards govern teachers colleges or normal schools.

CHAPTER III. EFFECT OF STATE GOVERNMENT REORGANIZATIONS ON GOVERNING BOARDS

The primary purposes of the reorganizations of State governments were the reduction of governmental costs and the removal of unnecessary duplications in the operations of the varied activities of the State.¹

The general scheme of the reorganizations consisted of the integration of the numerous State units and agencies responsible for administering the activities within the executive branch of the government. Under this arrangement a centralized system of authority or supervision was established over them.

More or less far-reaching changes in the internal structure and administrative machinery of the States have resulted from reorganizations. Included among them were such changes as the complete reconstruction of the governmental framework, abolishment or combination of existing governmental units, redistribution of powers and duties among State officials and agencies, and initiation of new lines of authority and channels of administrative procedure.

The effect of the government reorganizations on the governing boards of State universities and colleges varied according to the particular plan adopted by the individual States. In some States the plan was followed of including in one way or another the governing boards in the reorganization along with the various other governmental units and agencies. In other States the boards were specifically excluded.

Involved in this question also were certain legal aspects of the government reorganizations. As shown by the previous chapter, the basic legal status of the governing boards of the institutions was influential in determining the applicability of the reorganizations to them. Of equal importance were the legal processes by which the reorganizations were effected. Whether the reorganizations were instituted through provisions included in new or amended State constitutions or by statutory enactments of the State legislature had an important bearing on the extent to which they were legally applicable to the governing boards.

¹ The statutes enacted by a number of State legislatures providing for the reorganization of State governments stated their purposes in the preamble. For example, the Indiana statute enacted in 1933 specifically declared that its purposes were to simplify the operation of the executive including the administrative departments; to eliminate duplications of activities; to effect economical reductions in personnel of officers, employees, and servants; to concentrate responsibilities in the elective officers; and to reduce the costs of executive and administrative government.

State government reorganizations may be classified into two general types as follows:

First: Department type of government organization consisting of the consolidation either fully or partially of the existing offices, bureaus, divisions, boards, and commissions in a limited number of administrative departments under the governor as supreme head of the executive branch.

Second. Retention of the old-type form of government organization with the centralization of financial supervision over the existing offices, bureaus, divisions, institutions, boards, and commissions in the governor or some other State executive officer or board under his immediate direction.

In addition to these two types of reorganization the States have made changes in administrative machinery through the enactment of isolated statutes from time to time. Under their provisions newly created or existing central executive officials or agencies were designated to exercise supervision over specific phases of State affairs such as finance, personnel, property, purchasing, or printing and binding, and were given blanket authority over all State units with respect to them.

Special attention must be called to the fact that the States in reorganizing their governments did not follow any one type in its entirety. A number of States adopting the department type of organization retained in part the old-type form of government and in some instances also designated newly created or existing officials or agencies to supervise certain specific phases of State affairs. Other States following the second type of centralized supervision over State financial affairs likewise made isolated changes in their State administrative machinery.

For the purpose of showing the extent to which the governing boards of State universities and colleges have been affected by these types of government reorganizations, it is necessary to describe them separately. The States in which such reorganizations have taken place will be shown. At the same time any changes in the original independent and detached position of the boards governing the institutions of several types in the particular State will be indicated. Special attention will be devoted to analyzing phases of the reorganizations which resulted in subordinating the boards to the jurisdiction of the executive branch of the government.

DEPARTMENT TYPE OF GOVERNMENT REORGANIZATION

The main principle followed in the reorganization of governments into administrative departments was the division of the State's activities and services along major functional lines, such as finance,

education, health, agriculture, public works, law, treasury, and the like. A limited number of administrative departments were organized to administer each of these major functions. Existing State governmental units with a few exceptions were consolidated in one or another of the administrative departments. The department with which a particular unit was consolidated was determined on the basis of whether the unit was performing the same, similar, or related functions as the department with which it was to be made a part.

An important feature of the reorganization was that the administrative departments as a whole comprised the executive branch of the government. The governor as supreme head of the executive branch was vested with authority over all the departments. Heads of the departments consisting either of single officials or boards were made responsible to or controlled by the governor. The result was that the governmental units formerly existing as independent and detached agencies became a part of the executive branch of the government upon being consolidated with the administrative departments. Moreover, they came either directly or indirectly under the authority of the department heads and the governor.

Another feature resulting from the reorganizations along functional lines was the arrangement by which one administrative department exercised powers over all other departments or units of the government with respect to its particular function. For example, the department in charge of State finances was empowered to administer the financial affairs of all departments and units. In a corresponding manner, authority was conferred on the department responsible for public works to control matters relating to the property of all departments and units. Some States in addition to the establishment of administrative departments created central executive boards, councils, and agencies vesting powers in them with respect to certain phases of the affairs of all departments and units.

Since education was one of the major functions of the State, a department of education was commonly included as one of the administrative departments. The purpose was to consolidate within this department the governmental units controlling the State's educational activities and services. These units included generally the governing boards of the State universities and colleges, State board of education, State superintendent of public instruction, and other educational agencies. A department of agriculture was also frequently established as one of the administrative departments. As the work of the State agricultural and mechanic arts colleges was intimately related to agriculture, their governing boards in a few cases were consolidated with this department instead of the department of education. The policies of the States varied widely with respect to organizing the administrative departments.

The effect of the department type of government reorganization on the governing boards of State universities and colleges involves two highly significant points: First, the particular position assigned the governing boards among the administrative departments and, second, the extent to which the governing boards were made subject to the authority or jurisdiction of the governor administrative departments, or other executive agencies.

Position assigned governing boards among administrative departments.—The reorganization plans of the States provided for the assignment of different positions to the governing boards among the administrative departments. One plan consisted of the outright consolidation of the boards in one of the administrative departments. Under another plan the governing boards were attached to or associated with an administrative department. According to a third plan the governing boards were allowed to remain entirely detached from any of the administrative departments.

Table 5 gives the States which have reorganized their governments into administrative departments. The plan followed in assigning positions to the boards of the institutions of several types in each State is shown. In the table is likewise indicated the year in which the reorganization took place and the number of administrative departments established for each State.

As shown by table 5, 21 States have reorganized their governments into administrative departments. The first State to adopt this type of reorganization was Illinois in the year 1917. Many of the reorganizations in the other States occurred in the years immediately succeeding. Between 1930 and 1935, approximately one-third of these States reorganized their governments. During the same period a rather large proportion of the States in which reorganizations had previously taken place made further changes in the original reorganizations. The number of administrative departments established by the different States varied greatly, ranging from 2 to 20 departments.

The government reorganizations in two of the States—Massachusetts and New York—had their legal origin in the State constitution. Having been instituted by constitutional mandate, the reorganizations are not subject to repeal by the State legislature. The constitution in the case of both States specified the number of administrative departments to be established with certain exceptions and also provided that all the existing State offices, boards, and commissions were to be included in one or another of the departments. In Massachusetts the constitutional provision reorganizing the government was adopted in the form of an amendment to the State constitution in 1921. In New York a similar procedure was followed, the constitutional amendment being adopted in 1925. Reorganizations in the

other 19 States were effected through statutes enacted by the State legislature.²

TABLE 5.—States reorganizing governments into administrative departments with position assigned boards governing institutions of particular type

State	Year in which reorganization took place	Number of administrative departments established	Position assigned governing boards of institutions of particular type		
			Consolidated with one of the administrative departments	Attached to or associated with an administrative department	Allowed to remain entirely detached from any administrative department
1	2	3	4	5	6
California.....	1921	15	All teachers colleges (governed as group by single board).		State university.
Colorado.....	1933	6			Do. Agricultural and mechanic arts college. Technical school. All teachers colleges (governed as group by single board).
Georgia.....	1931	13	Institutions of all types (governed as group by single board).		
Idaho.....	1919	8			Institutions of all types (governed as group by single board).
Illinois.....	1917 1933	10	All teachers colleges (governed as group by single board).		State university.
Indiana.....	1933	8		Each State university (governed by separate board). All teachers colleges (governed as group by single board).	
Kentucky.....	1934 1936	16	All Negro colleges (governed as group by single board).	State university. Each teachers college (governed by separate board).	
Maine.....	1931	5	All normal schools (governed as group by single board).		Do.
Maryland.....	1932	20	State university. All teachers colleges (governed as group by single board).		

²The legal titles of the statutes included such designations as Executive Administrative Code, Civil Administrative Code, and the like.

States reorganizing governments into administrative departments with position assigned boards governing institutions of particular type—Continued

State	Year in which reorganization took place	Number of administrative departments established	Position assigned governing boards of institutions of particular type		
			Consolidated with one of the administrative departments	Attached to or associated with an administrative department	Allowed to remain entirely detached from any administrative department
1	2	3	4	5	6
Massachusetts.....	1921	20	All teachers colleges (governed as group by single board).	Agricultural college. Each textile school (governed by separate board). Nautical school.	
Minnesota.....	1925	15			State university. All teachers colleges (governed as group by single board).
Nebraska.....	1929	8			State university. All teachers colleges (governed as group by single board).
New York.....	1925	18	Institutions of all types (governed as group by single board).		
Ohio.....	1921 1928 1929	9			Each State university (governed by separate board).
Pennsylvania.....	1929	18	Each teachers college (governed by separate board).		Agricultural and mechanic arts college.
Rhode Island.....	1935	11		Institutions of all types (governed as group by single board).	
South Dakota.....	1925	2			Institutions of all types (governed as group by single board).
Tennessee.....	1928 1933 1937	8	Institutions of all types except State university (governed as group by single board).		State university.
Vermont.....	1923 1933	8	All normal schools (governed as group by single board).		Do.
Virginia.....	1927	11	All teachers colleges and Negro college (governed as group by single board).	State university. Agricultural and mechanic arts college. Military institute. State college. Medical college.	
Washington.....	1927 1929 1933	11			Do. Agricultural and mechanic arts college. Each normal school (governed by separate board).

In the assignment of governing boards of the institutions among the administrative departments, the States followed diverse policies. All boards regardless of the type of institutions governed by them in three States were consolidated with one of the administrative departments. In two States all boards were attached to or associated with a department. Seven States allowed all boards to remain entirely detached from any department.

Distinctions were made between types of institutions in the remaining nine States. Certain boards governing institutions of a particular type in three of these States were consolidated with a department while boards governing institutions of another type within the State were attached to or associated with a department. Correspondingly, in six States boards governing institutions of a particular type were consolidated with a department and at the same time boards governing institutions of another type within the State were allowed to remain entirely detached from any department.

Boards consolidated with one of administrative departments.—The effect of the consolidation of the boards with one of the administrative departments was to change fundamentally the place occupied by them in the State governmental organization. By their consolidation with an administrative department, they became integral parts of the executive branch of the government. Special attention is called to the fact that all such boards with one exception were statutory boards having been created by statutes enacted by the State legislature. For this reason, the State legislatures possessed the power through statutory enactment to change their legal status at will, as pointed out in the preceding chapter.

Of the 12 States in which boards were consolidated with an administrative department, the boards in most cases governed teachers colleges or normal schools. This would seem to indicate a strong tendency on the part of the States to include institutions of these particular types in the departmental set-up while excluding those of other types. In only 1 State was the separate board governing the State university consolidated with a department. The boards governing institutions of all types were consolidated with a department in 2 States and the boards governing Negro colleges in 4 States.³

As disclosed by table 5, the boards consolidated with a department in 11 States governed groups of institutions. At the time of the reorganization in 6 of these States, the institutions were actually governed by separate boards. Simultaneously with the reorganization, the existing separate boards were abolished and the control of the institutions transferred to a single board to govern the institutions as a

³ In addition to Kentucky and Virginia, as recorded in table 5, the State Negro college in Tennessee was consolidated with an administrative department along with institutions of other types except the State university. In Maryland the State Negro college as a branch of the State university was likewise consolidated with a department.

group. This single board at the same time was consolidated with an administrative department. Thus in these particular States not only were the institutions incorporated in the executive branch of the government but unified boards were established to control them. In the other 5 States the institutions as a group were already governed by a single board. The reorganization in such cases provided for the consolidation of this single board with a department.

Of special significance are the particular department with which the boards were consolidated and the legal status given the boards upon being consolidated with the department. This department was the department of education or one bearing a similar title in all except 2 States. Under the reorganization plan in 1 State, Georgia, the board governing institutions of all types as a group, itself, was designated as one of the State's 13 administrative departments. In another State, Maryland, the governing board of the State university was consolidated with the department of agriculture.

The legal status given the boards upon consolidation varied. In eight of the States the boards were made the head of the department of education upon being consolidated with it. This board was the regular State board of education or one of like character. The State's chief educational officer, such as the State superintendent of public instruction or commissioner of education, was generally designated as the executive officer of the department. In addition to governing the institutions, the department was charged with the administration of the State's public-school system and other related educational functions. The eight States adopting this plan were California, Kentucky, Maryland (for the board governing all teachers colleges as a group), Massachusetts, New York, Tennessee, Vermont, and Virginia.

It will be noticed that New York is included in the above list. The New York board governing institutions of all types as a group was shown in the preceding chapter as being a constitutional board having its origin in the State constitution. Having been created by the State constitution, the legal status of the board could not be changed except by constitutional amendment. The government reorganization in New York, however, was effected by a constitutional amendment. One of its provisions specifically prescribed that this board should be consolidated with and made the head of the department of education as an administrative department.

Instead of being made the head of the department of education upon being consolidated with it, the governing boards were given a different legal status in three of the other States. A single official, such as the State director of registration and education, superintendent of public instruction, or commissioner of education, was made the

head of the department in Illinois,⁴ Maine, and Pennsylvania.⁵ The boards in these States were made more or less dependent agencies within the department and subordinate to its head with respect to the supervision of certain phases of their affairs.

In Maryland the board governing the State university became the head of the department of agriculture upon being consolidated with that department. The board was given the title of the State board of agriculture. Beside governing the university, the department administered the various governmental activities dealing with agriculture.

Boards attached to or associated with an administrative department.—The effect on the boards of attaching them to or associating them with an administrative department was entirely different from that where the boards were consolidated with a department. While the detached position of the boards in the State governmental structure was definitely altered, no fundamental change in nearly all cases occurred in their legal status. The statutes reorganizing the governments in most of these States either specifically provided or indirectly implied that the existing independent legal status of the boards should be continued. Apparently, the boards were attached to or associated with a department for the purpose of convenience in formulating a complete government organization which would include all State units and agencies.

One of the influences operating against any modification of the legal status of these boards at the time of the reorganization was the fact that they were incorporated boards. As corporate bodies they had been made legal personalities with proprietary, contractual, and managerial rights inherent in trusteeships. Any attempt to alter their status might have resulted in legal complications because of the property rights vested in the boards.

As recorded in table 5, most of the boards attached to or associated with an administrative department governed individual institutions rather than groups of institutions. The single board governing institutions of all types as a group in one State, Rhode Island, and the single board governing all teachers colleges as a group in another State, Indiana, were assigned such a position. In the former State at the time of the reorganization the institutions were governed by separate boards which were abolished and supplanted by a single board. The boards in all the remaining States governed individual institutions of various types including State universities, agricultural

⁴ In Illinois the official made the head of the department was a different State officer from the State superintendent of public instruction responsible for administering the State's public-school system. As head of the department he was given the title, "State director of registration and education," and was also made chairman of the teachers college board.

⁵ The State superintendent of public instruction in Pennsylvania as head of the department was also president and chief executive officer of the State council of education, an administrative board serving within the department. Certain powers were conferred on this council over the separate boards governing the individual teachers colleges in this State.

and mechanic arts colleges, or technical schools. In all of these cases the particular administrative department to which the boards were attached or with which they were associated was the department of education.

Boards allowed to remain entirely detached from any administrative department.—A large number of governing boards were allowed to remain entirely detached from any administrative department. No change occurred in their legal status as a result of the government reorganization. The boards were continued as isolated units occupying positions in the State governmental organization, separate and distinct from the executive branch.

Of these boards, the majority governed individual institutions. In 2 States, however, the boards governed institutions of all types as a group and in 3 other States all teachers colleges as a group. It is of significance that in 10 out of 13 States the board governing the State university was allowed to remain detached from any administrative department thereby maintaining its originally independent existence. In 3 of the States the board governing the State agricultural and mechanical arts college was similarly continued as a detached governmental unit.

Special attention is called to the fact that the basic legal status of a considerable number of these boards, as shown in the previous chapter, was primarily responsible for their remaining detached from any administrative department. The separate boards governing the State universities in California, Colorado, Idaho,⁶ Minnesota, and Nebraska were constitutional boards having been created by the State constitution. Similarly, the single board governing all teachers colleges as a group in Nebraska and the single board governing institutions of all types as a group in South Dakota had their legal origin in the State constitution. Since these boards were established as independent entities by the State constitution, the statutes enacted by the legislatures reorganizing the State governments into administrative departments were not applicable to them. Many of the other boards were incorporated boards having the legal status of corporate bodies.

In four of the States—Idaho, Nebraska, South Dakota, and Washington—which allowed all governing boards to remain entirely detached from any administrative department, an unusual situation existed. None of these States in reorganizing their governments established a department of education as one of the administrative departments. The State educational functions, therefore, continued to be administered on an independent basis outside the new governmental set-up. In the case of Idaho, Nebraska, and South Dakota,

⁶ The board governing the State university in Idaho was combined with another board governing the normal schools. Under the name of the State board of education and board of regents of the University of Idaho, this unified board governs institutions of all types in the State. The board of regents of the State university, nevertheless, still retained its constitutional status.

this was due to the fact that the governing boards including in some instances other State educational boards had been made independent governmental units by the State constitution, as just indicated. As it was impossible without a constitutional amendment to include them, no department administering education was established. In the other State, Washington, the omission of a department of education as one of the administrative departments was the result of a definite policy adopted by the State legislature against such a plan.

Extent to which governing boards were made subject to authority or jurisdiction of governor, administrative departments, or other executive agencies as result of reorganizations.—The effect of the reorganizations in altering or changing the fundamental legal position of the governing boards as detached units within the State governmental organization has just been shown.

Regardless of whether any change occurred in this position, the boards in many States were made subject in certain respects to the authority or jurisdiction of the governor, administrative departments, or other executive agencies. The reorganizations established new lines of authority centering in the governor as supreme head of the executive branch and extending down through the administrative departments or other executive agencies to the different governmental units. Likewise, powers and duties were redistributed among officials and departments. Administrative departments designated to control or supervise certain State functions were vested with jurisdiction over all other departments and units with respect to their particular functions.

The reorganizations differed in the individual States both with regard to the extension of lines of authority to the boards governing institutions of several types and to the inclusion of the boards among the governmental units over which the administrative departments were given jurisdiction. In general, the heads of most of the administrative departments were placed in direct line of authority under the governor. They were appointed by the governor for a term of office coextensive with that of the governor and were subject in many instances to removal at his pleasure.

In a number of States, however, there were certain administrative departments, the heads of which were not placed in direct line of authority under the governor. Such department heads in some cases consisted of permanent boards, the members of which served for fixed terms of office that not only overlapped each other but also overlapped the term of office of the governor. In others the heads were single officials who were either not appointed by the governor or were elected directly by the people under the provisions of the State constitution. Of the heads of administrative departments not placed in the governor's direct line of authority, the most common was the department

of education. Others were the departments of justice, audit, and treasury headed by the State's attorney general, auditor, and treasurer; respectively.

Governing boards of institutions, as previously pointed out, were consolidated with the department of education as an administrative department in 11 States. An important question, therefore, is whether the heads of the department of education in these particular States were placed in direct line of authority under the governor in the same manner as the heads of other administrative departments.

Department heads placed in direct line of authority under governor.-- According to the plan of reorganization in eight of these States—California, Kentucky, Maryland, Massachusetts, New York, Tennessee, Vermont, and Virginia—a board was placed at the head of the department of education. This board comprised the regular State board of education or one of similar description with the State's chief educational official serving as the department's administrative officer. In the three other States—Illinois, Maine, and Pennsylvania—a single official was designated to head the department.

In all of the eight States in which the State board of education or one of similar character was placed at the head of the department, the reorganization provided that the board should be of the permanent type. Its members were appointed for fixed and overlapping terms of office, and consequently were without the governor's direct line of authority. A similar situation applied to the State's chief educational official serving as the department's administrative officer in most of the States.

This officer in California and Kentucky was a constitutional official elected by the people at the regular State elections in the same manner as the Governor and, therefore, responsible to the people rather than the Governor. In Maryland and New York he was appointed by the board and thus placed in its direct line of authority rather than that of the Governor. In Vermont he was also appointed by the board, but his appointment was made subject to the approval of the Governor. However, in this instance, he was more or less outside the Governor's direct line of authority since he could be removed from office only by the board. In Massachusetts, this officer was appointed by the Governor with the consent of the council for a term of 5 years. Inasmuch as his term of office was of such length as to overlap that of the Governor, he was likewise not within direct line of authority of the Governor.

The department's administrative officer was placed in a slightly different category in two of the other States—Tennessee and Virginia. This officer in both States was appointed by the Governor with the consent of the senate or general assembly for a term coetaneous and coterminous with that of the Governor. In Tennessee the Governor

was specifically empowered to remove him for cause. In Virginia his term of office was made coetaneous and coterminous with that of the Governor for the specific purpose of permitting each succeeding Governor to select his own appointee for this position. The result was that this officer in each of these States was placed in some degree at least in direct line of authority under the Governor.

In the three States in which the plan of reorganization provided that the department of education be headed by a single official, the governor's line of authority was extended more or less directly to this official. The director of registration and education⁷ as head of the department in Illinois and the superintendent of public instruction in Pennsylvania were both appointed by the Governor with the consent of the senate for a term coetaneous and coterminous with his own. It was specified in Maine that the State commissioner of education heading the department, although appointed by the governor and council for a term of 3 years, should serve during the pleasure of the governor and council.

The governing boards of institutions in two States were consolidated with an administrative department other than the department of education. In Georgia the board governing institutions of all types as a group, itself, was designated as one of the State's administrative department. This board was of a permanent character and placed out of Governor's direct line of authority. The members served for 6-year terms, which overlapped each other and the term of the governor. Similarly, in Maryland the governing board of the State university consolidated with the State board of agriculture as an administrative department was not placed in direct line of authority under the Governor. The board was made a permanent one, its members serving for overlapping terms of 9 years in length which extended far beyond the term of the Governor.

Administrative departments or other executive agencies given jurisdiction over governing boards.—In the general redistribution of powers and duties resulting from the reorganizations, governing boards of institutions with respect to certain phases of their affairs were made subject to the jurisdiction of one or more administrative departments or other executive agencies. This was true regardless of whether the boards were consolidated with an administrative department.

The most common administrative departments vested with jurisdiction over the boards were the departments of finance, public works, property, justice, treasury, and audit. Having been given blanket authority over all State functions relating to finance, public works, property, legal affairs, custody of funds, or auditing, the powers of the departments extended over these particular functions of the governing boards. Among other executive agencies given jurisdiction over

⁷ See footnote 4 on p. 30.

certain phases of the affairs of the boards were State executive councils, budget directors, purchasing bureaus, or printing boards. In a few States an executive department was organized along with the other administrative departments. The governor was made the head of this department into which were frequently incorporated special agencies to handle the State budget, finance, personnel, and the like under his immediate direction.

It is proposed to show here only the number of administrative departments or other executive agencies that were vested with jurisdiction over boards governing institutions of different types in each State. No attempt will be made to specify the particular department or agency. Neither will any effort be made to indicate the particular phase of the board's affairs placed under the jurisdiction of the department or agency. In subsequent bulletins to be published by the Office of Education will be analyzed in detail the authority over the financial affairs, personnel, property, and purchasing and printing of the institutions which is vested in State officials, administrative departments, or agencies.

Table 6 gives the States in which boards were made subject to the jurisdiction of administrative departments or other executive agencies. The number of such departments or agencies are shown for each State, together with the boards governing institutions of particular type. In the States in which boards were consolidated with an administrative department, this department is included in the number shown in the table.

As presented in table 6, the reorganizations in the different States made governing boards subject to the jurisdiction of from one to six administrative departments or other executive agencies with respect to certain phases of their affairs. Boards were placed under the jurisdiction of six departments or agencies in three States, five departments or agencies in three States, four departments or agencies in eight States, three departments or agencies in three States, two departments or agencies in eight States, and one department or agency in four States.

A decided tendency prevailed in the reorganizations to make boards governing groups of institutions subject to the jurisdiction of a larger number of departments or agencies than separate boards governing individual institutions. This was due chiefly to the fact that a considerable proportion of them had been consolidated with the department of education as an administrative department and were thus a part of the departmental organization. Boards governing the State university or State agricultural and mechanic arts college as detached units of the governmental set-up were placed under the jurisdiction of a smaller number of departments or agencies in most States as compared with boards governing other types of institutions, such as teachers colleges or normal schools.

TABLE 6.—States in which administrative departments or other executive agencies were vested with jurisdiction over certain phases of affairs of boards governing institutions of particular type

State	Governing boards of institutions of particular type made subject to jurisdiction of						
	1 administrative department or other executive agency	2 administrative departments or other executive agencies	3 administrative departments or other executive agencies	4 administrative departments or other executive agencies	5 administrative departments or other executive agencies	6 administrative departments or other executive agencies	7 administrative departments or other executive agencies
California		All teachers colleges (governed as group by single board). State university					
Colorado							
Georgia							
Idaho	State university						
Illinois							
Indiana							
Kentucky			State university Each teachers college (governed by separate board).				

	All normal schools (governed as group by single board).	State university Agricultural college	All teachers colleges (governed as group by single board).	All teachers colleges (gov- erned as group) by sin- gle board). Each textile school (gov- erned by separate board). Nautical school.
Maine				
Maryland				
Massachusetts				
Minnesota		State university All teachers colleges (governed as group by single board)		
Nebraska		State university All teachers colleges (gov- erned as group by single board).		
New York		Each State university (gov- erned by separate board).		Institutions of all types (governed as group by single board).
Ohio				Each teachers college (governed by separate board).
Pennsylvania		Agricultural and me- chanic arts college		
Rhode Island				
South Dakota				
Tennessee				Institutions of all types except State univer- sity (governed as group by single board)

TABLE 6.—States in which administrative departments or other executive agencies were vested with jurisdiction over certain phases of affairs of boards governing institutions of particular type—Continued

State	Governing boards of institutions of particular type made subject to jurisdiction of—						
	1 administrative department or other executive agency	2 administrative departments or other executive agencies	3 administrative departments or other executive agencies	4 administrative departments or other executive agencies	5 administrative departments or other executive agencies	6 administrative departments or other executive agencies	7
Vermont	State university	All normal schools (governed as group by single board). State university Agricultural and mechanic arts college Military institute State college Medical college State university Agricultural and mechanic arts college Each normal school (governed by separate board)					
Virginia			All teachers colleges and Negro college (governed as group by single board).				
Washington							

One phase of the affairs of the boards over which a department or agency was given jurisdiction in all of the 21 States was that relating to the State budgetary system. In some of the States the department of finance was designated to control the State budgetary system. In others control of the State budget was vested in an executive officer or bureau. Of the States in which the boards were made subject to the jurisdiction of only one department or agency, this particular department or agency controlled the State budgetary system in all cases. Similarly, in the other States in which boards were placed under the jurisdiction of two or more departments or agencies, one of them was the department or agency having responsibility over the State budgetary system.

The principal reason for the boards being made subject to the jurisdiction of a large number of departments or agencies in certain States was that the reorganizations provided for the establishment of departments of law, treasury, or audit among the administrative departments. The departments were headed by the State attorney general, treasurer, or auditor, respectively, with jurisdiction over State legal affairs, custodianship of State funds, and auditing of accounts. Since these officials as regular State executive officers prior to the reorganization had in many cases already exercised jurisdiction over the boards with respect to these affairs, no actual change in the status of the boards occurred as a result of being placed under the jurisdiction of such departments.

This was true in 11 States—Colorado, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and Tennessee. For example, the boards governing different institutions in Indiana were made subject to the jurisdiction of 4 administrative departments, 3 of which were the departments of law, treasury, and audit and control. In a similar way, 3 of the 4 to 6 departments or agencies given jurisdiction over boards in Massachusetts and Pennsylvania consisted of such departments. A like situation applied to the remainder of the 11 States except that the reorganization provided for establishing 1 or 2 of such departments rather than all 3 of them.

One of the more important administrative departments included in the governmental reorganization of some States was the department of finance. Instead of distributing the different State functions, including State finance, auditing, property, and purchasing among several departments or agencies, the reorganization concentrated all of them within the department of finance. As a result, governing boards placed under this particular department were made subject to its jurisdiction with respect to all these various functions.

A department of finance of this type was given jurisdiction over the boards governing the teachers colleges or normal schools as a

group in California, Connecticut, Illinois, Minnesota, and Vermont. Such was also the case with the board governing institutions of all types as a group in South Dakota and the board governing institutions of all types except the State university as a group in Tennessee. Boards governing either groups of institutions or separate institutions in Kentucky, Virginia, and Washington were likewise placed under the department of finance in which were concentrated a number of different State functions.

Governing boards under supervision of regular executive officers of State.—Although not related to the department type of government reorganization, an unusual arrangement has been adopted in two States by which governing boards of institutions have been placed under the supervision of regular executive officers of the State.

Instead of being composed of appointive members, the State board of education in these States has been organized to include State executive officers, such as the governor, secretary of State, attorney general, treasurer, superintendent of public instruction, or auditor. In addition to exercising powers over the State's public schools and investment of its educational funds, the board has been vested with supervision of the governing boards of certain institutions. It occupies, therefore, the status of a sort of superboard over the governing boards. At the same time, the governing boards being subjected to direct supervision of regularly constituted executive officers of the State became in reality component parts of the executive branch of the government. States which have adopted such an arrangement are Florida and North Carolina:

In Florida the State board of education had its origin in the State constitution. Under the constitutional provisions, the governor as president, secretary of state, attorney general, and superintendent of public instruction as secretary, were designated to compose the board. The constitution further provided that the board should have such supervision of the institutions of higher learning as the State legislature might prescribe by law.

In accordance with this authority, the Florida Legislature placed the single board governing the State university, women's college, and Negro agricultural and mechanic arts college as a group under the direct supervision of the State board of education. Under statutes enacted by the legislature, the board was made a corporate body. As such, it was empowered to hold title to the lands, property, and assets of each institution in the name of the State. All acts performed by the governing board in administering the affairs of the institutions were to be made in conjunction with and subject to the supervision of the State board of education.

An arrangement very similar to that of Florida has been adopted in North Carolina except that the State board of education was vested

with supervision over the governing boards of certain State Negro institutions rather than all the institutions. The State board of education in North Carolina was likewise created by the State constitution. Its members included the governor as president, lieutenant governor, secretary of state, treasurer, auditor, attorney general, and superintendent of public instruction as secretary.

Through statutes enacted by the State legislature this constitutional board was made a corporate body. Powers were conferred upon it to supervise the separate boards governing three State Negro institutions. In exercising its supervision the State board of education was authorized to approve the budgets, expenditures, and all acts of the governing boards in the administration of these institutions. The board was also given the right to change their organizations whenever it was deemed needful and advantageous.

OLD TYPE OF GOVERNMENT ORGANIZATION WITH CENTRALIZED FINANCIAL SUPERVISION

Under the second type of government reorganization, the basic principle followed was the establishment of a system of centralized financial supervision while at the same time retaining the old type form of governmental organization. The theory underlying the plan was that the conduct of the various functions of the State was dependent on finances. Supervision over finances, therefore, constituted authority to regulate the conduct of the functions in a large measure.

The predominating feature of the reorganization was the investment of direct supervision over the financial affairs of the different State units including offices, bureaus, departments, divisions, institutions, boards, and commissions in the governor, some other central State officer or special board. This financial supervision consisted in general not only of restricting the amounts of State appropriations for the several units under certain contingencies, but also of controlling the expenditure of the appropriations after they had been made. It applied alike to funds appropriated to or collected by the governmental units.⁸

A considerable number of the States in adopting this type of organization designated the governor to exercise the direct supervision over the State financial affairs. In the States in which some other central State officer was vested with this power, an entirely new fiscal officer, such as State comptroller or commissioner of finance, was created for this purpose. The special board upon which the financial supervision was conferred in other States consisted of regular State executive

⁸ Some State legislatures in enacting statutes providing for this type of reorganization specifically stated their purpose. In Alabama, for instance, the statute declared that its intent was to vest in the governor a direct and effective financial supervision over all agencies, departments, institutions, bureaus, boards, commissions, and every State agency of whatsoever name, with respect to any funds either appropriated by or collected for the State.

officers serving ex officio, such as the governor, secretary of State, treasurer, auditor, attorney general, or superintendent of public instruction. In one State, this special board was composed entirely of appointive members serving for a term coetaneous and coterminous with that of the governor. Its members were subject to removal by the governor. The special boards were given such titles as State board of finance, administrative board, or board of public works.

The extent of the powers conferred on the central authority in supervising State financial affairs varied among the several States. The powers commonly were closely related to the administration of the State budgetary system. Some States limited the supervisory powers to recommending the amount of appropriations to be made to the different State governmental units by the State legislature. Other States extended the powers to include the right to reduce the appropriations after they had been made by the legislature in case of insufficient revenues and to approve or disapprove expenditures in advance.⁹

The effect of this second type of government reorganization on the governing boards of State universities and colleges involved the question of whether the boards were included among the different governmental units placed under centralized financial supervision. Table 7 gives the States which adopted this type of reorganization. For each of the States are also presented the boards governing institutions of particular type made subject to the financial supervision of the governor, newly created fiscal officer, and special board. In addition, the table shows the year in which the reorganization took place in each State.

As recorded in table 7, 16 States have reorganized their governments by establishing a system of centralized financial supervision. The first States to institute this type of reorganization were Michigan and Oklahoma in 1921. By far a greater majority of the States instituted their reorganizations between 1929 and 1935. A few States also amended their original plan during these latter years. Although based in part on provisions in the State constitution in 3 States—Alabama, Missouri, and West Virginia—the government reorganizations in all the States were effected through statutes enacted by the State legislature.¹⁰

Governing boards were made subject to the financial supervision of the governor in seven States. Boards in five other States were made subject to the supervision of a newly created State fiscal officer serving under the immediate direction of the governor. In the four remaining States the boards were placed under the financial supervision of a

⁹ A later bulletin will be issued by the Office of Education, describing in detail the supervisory authority over the financial affairs of the institutions vested in State executive officers and agencies resulting not only from this type of government reorganization but also the department type.

¹⁰ Different titles given the statutes by the legislature were: Budgetary and Financial Control Act, Finance and Budget Relief Act, and Financial Emergency Relief Act.

special board. Of the latter States this special board consisted of regular State executive officers serving ex officio in Michigan, New Mexico, and West Virginia. It was composed of appointive members in Oklahoma.

TABLE 7.—States reorganizing governments by centralizing financial supervision in governor, newly created fiscal officer, or special board together with boards governing institutions of particular type made subject to supervision

State	Year in which reorganization took place	Boards governing institutions of particular type made subject to financial supervision of—		
		Governor	Newly created State fiscal officer serving under immediate direction of governor	Special board composed either of regular State executive officers serving ex officio or of appointive members
1	2	3	4	5
Alabama.....	1932		State university. Agricultural and mechanic arts college. All teachers colleges, normal schools, and Negro colleges (governed as group by single board).	
Arkansas.....	1933	State university..... Each agricultural and mechanic arts college (governed by separate board). Each teachers college (governed by separate board). Negro college.		
Connecticut.....	1927 1937		State college. All teachers colleges (governed as group by single board).	
Iowa.....	1933		Institutions of all types (governed as group by single board).	
Michigan.....	1921 1929 1933			Technical school. All teachers colleges (governed as group by single board)
Mississippi.....	1932	Institutions of all types (governed as group by single board).		
Missouri.....	1933	State university..... Each teachers college (governed by separate board). Negro university.		
New Hampshire.....	1931	All teachers colleges (governed as group by single board).		
New Jersey.....	1933		All teachers colleges (governed as group by single board).	

HIGHER EDUCATIONAL INSTITUTIONS

TABLE 7.— States reorganizing governments by centralizing financial supervision in governor, newly created fiscal officer, or special board together with boards governing institutions of particular type made subject to supervision—Continued

State	Year in which reorganization took place	Boards governing institutions of particular type made subject to financial supervision of—		
		Governor	Newly created State fiscal officer serving under immediate direction of governor	Special board composed either of regular State executive officers serving ex officio or of appointive members
1	2	3	4	5
New Mexico	1923 1933 1935			State university Agricultural and mechanic arts college. Technical school. Military institute. Each teachers college and normal school (governed by separate board).
North Carolina	1929	State university. Each teachers college (governed by separate board). Each Negro college and normal school (governed by separate board). Indian normal school.		
Oklahoma	1921			State university. All teachers colleges (governed as group by single board). Women's college. Military institute. Negro college. Each junior college (governed by separate board).
Oregon	1935	Institutions of all types (governed as group by single board).		
Utah	1933	State university. Agricultural and mechanic arts college. All junior colleges (governed as group by single board).		
West Virginia	1935			State university. All institutions except State university (governed as group by 2 boards jointly).
Wisconsin	1929 1931		State university. All teachers colleges (governed as group by single board).	

With the exception of three States—Michigan, New Hampshire, and Oklahoma—no distinction was made between boards governing groups of institutions or particular types of institutions in the reorganizations. All boards governing any State institution of higher education within the State were included under the central financial authority. In Michigan, the boards governing the State university and the agricultural and mechanic arts college were excluded because they were constitutional boards beyond the reach of statutory enactments by the State legislature. The board governing the State's agricultural and mechanic arts colleges as a group in Oklahoma was also a constitutional board and a similar situation applied. In New Hampshire the board governing the State university was exempted largely because it occupied a special legal status as a corporate body.

CHAPTER IV. GENERAL POWERS OF STATE EXECUTIVE OFFICIALS OVER GOVERNING BOARDS

Under the American form of democracy, certain general powers are vested in the principal officials of the executive branch of the government for the operation of the State governmental mechanism as a whole.

Regardless of their legal status and regardless of the effect of recent State government reorganizations on them, governing boards of State universities and colleges are subject for the most part to the general powers of such officials in the same manner as the other units of the government.

In a large measure, these general powers are derived from the State constitution and consequently are basic powers. Most of them are contained in the particular provisions of the organic law which set up the State governmental organization into its main divisions, the executive, legislative, and judicial branches, and at the same time prescribe the functions to be performed by each of them. Many State legislatures, however, have enacted statutes amplifying further the general powers conferred on executive officials.

Involved in these powers are fundamental relationships of the governing boards to the officials of the executive branch in the operation of the government as a whole. Through them the officials are endowed with certain overhead regulatory or restrictive authority over the boards. The powers provide in a number of States for the participation of one or more of the officials in an ex officio capacity in the management of the institutions. They also provide for the appointment of the governing boards by the officials in many States. In addition, they vest other responsibilities in the officials applicable to the boards.

Among the principal executive officials upon whom such powers are conferred are the governor, treasurer, auditor or comptroller, attorney general, secretary of state and others.¹ A description of the general powers at present vested in each of the officials will be presented separately. The extent to which the governing boards in each State are subject to the powers will likewise be indicated.

GENERAL POWERS OF GOVERNOR

As chief executive officer of the State, a far greater number of general powers are conferred on the governor than on any of the other executive officials. These powers may be classified into two types:

¹ The State's chief educational officer, such as the superintendent of public instruction, commissioner of schools, or director of education, is one of the principal executive officials in 22 States being elected by the people.

Those applying indirectly to the governing boards and those applying directly to them.

Governor's powers applicable indirectly to governing boards.—Of the powers applicable indirectly to the boards, probably the most comprehensive is the supreme executive power or authority vested in the governor. This power clothes him with a superior prestige throughout the State governmental organization. In consequence of this prestige, the governor frequently exercises large influence over the policies adopted by governing boards, even though he may be acting without specific legal authority.²

Another general power, similar in character, provides that the governor shall take care to see that the laws are faithfully executed. The extent to which this power applies to the governing boards is somewhat indeterminate. A third general power indirectly affecting the governing boards authorizes the governor to transact all necessary executive business with officers of the government. Since members of governing boards are commonly regarded as State officers, they come within the purview of this general power of the governor. Other legal provisions of all the States, however, prescribe in most instances the procedures which the governor must follow in his transaction of various aspects of executive business with the boards. The authority vested in him over the boards under this power, therefore, is more or less superficial in its application.

Governor's powers applicable directly to governing boards:—Of major importance are the general powers of the governor applying directly to the governing boards. By virtue of these powers the governor is enabled frequently to exert an influence on the policies and affairs of the institutions. He is in a position in some cases to participate in their management and government. Through these powers he is clothed with certain regulatory and restrictive authority over the boards. General powers of this type conferred on the governor comprise the following:

1. To recommend through messages to the State legislature the enactment of new statutes dealing with the institutions.
2. To approve bills enacted by the State legislature regarding the institutions before they become law.
3. To veto bills passed by the legislature relating to the institutions.
4. To veto separate items in the appropriations for the support of the institutions.
5. To serve as ex officio president or member of the governing boards.

²The Indiana statutes provide that the "governor alone shall constitute the executive department being the chief executive thereof in individual capacity."

6. To appoint members of the governing boards and to fill vacancies.
7. To remove members of the governing boards.
8. To conduct investigations of the institutions including the requirement of information and reports concerning them.

The States vary as to the number of these general powers vested in the governor. In some States the governor possesses all these powers; in others, only a part of them. Similarly, the States vary as to the application of the powers to the individual boards governing institutions of different types within the same State. Of paramount significance, however, is the degree to which the governor is vested with a superior authority or is enabled to exercise an influence over the boards in the several States as a result of each of the powers.

Governor's power to recommend legislation.—By express constitutional provisions, the governor is empowered to recommend the enactment of laws by the legislature that he deems expedient in all the States. Such recommendations may be included either in the governor's message to the legislature at the beginning of each session of the legislature or in special messages during the progress of the session.

Applied to the governing boards of the institutions, this power is broad in scope. It grants to the governor the prerogative of proposing legislation of any character respecting the boards and the institutions. The governor has made use of the privilege in many States. The recent reorganization of the State's higher educational system in Georgia furnishes an example. In 1931, the Governor recommended to the legislature the enactment of a law abolishing the separate boards governing the 25 institutions of the State and creating a single unified board of regents to control all the institutions as a State university system. The legislature acted favorably upon the recommendations. This change in the State's organization of higher education subsequently resulted in the reduction of the number of institutions from 25 to 17. In line with recommendations made by the Governor, the 3 principal institutions of North Carolina were consolidated in a single university in the same year.

An example of more far-reaching effect is found in the reorganizations of the different State governments described in the preceding chapter. It was due largely to the recommendations of the governors that statutes were enacted by the legislatures providing for such reorganizations, which in turn have deprived many of the governing boards of their independent legal status, incorporated them within administrative departments, and vested supervision over the various internal affairs of the institutions in the governor or other State officials and agencies. Special attention should be called to the fact that the governor does not possess the right to recommend legislation affecting constitutional governing boards nor does the State legislature

have the authority to enact the legislation, if recommended. Such boards have their origin in and derive their powers from the State constitution in the same manner as the governor.

Governor's approval or veto power over legislation.—The constitutions of all the States except North Carolina confer on the governor the power to approve or veto bills passed by the legislature before they become laws. This means that every legislative measure respecting the status of the governing boards, the imposition of new duties upon them, the amendment or repeal of their existing powers, and various institutional functions must first be approved by the governor before it becomes legally effective.

Through his veto power the governor thus exercises a restrictive authority over all legislation relating to the institutions. The passage of bills over the governor's veto requires two-thirds of the votes of the members of each house in all except 13 States. There are 5 States—Delaware, Maryland, Nebraska, Ohio, and Rhode Island—in which a three-fifths vote is required. In 8 States—Alabama, Arkansas, Connecticut, Indiana, Kentucky, New Jersey, Tennessee, and West Virginia—only a majority vote is necessary. In the latter States, therefore, bills relating to the institutions may be repassed by the legislature with less difficulty over the governor's veto.

Governor's power to veto separate appropriation items.—Probably the most potent instrument of control in the hands of the governor is his power to veto separate items in appropriation bills. This power consists of two types: (1) The right to veto separate items only and (2) the right to veto not only separate items but parts of items. Under the latter power the governor may reduce as well as eliminate appropriation items.

The governor is empowered to veto separate items in appropriation bills in the following States:

Alabama.	Louisiana.	Oklahoma.
Arizona.	Maryland.	Oregon.
Arkansas.	Michigan.	Pennsylvania.
Colorado.	Minnesota.	South Carolina.
Connecticut.	Missouri.	South Dakota.
Delaware.	Montana.	Texas.
Florida.	Nebraska.	Utah.
Georgia.	New Jersey.	Virginia.
Idaho.	New York.	Washington.
Kansas.	Ohio.	West Virginia.

The States in which the governor is empowered to veto not only separate items but also parts of items by reducing them are: California, Illinois, Kentucky, Massachusetts, Mississippi, New Mexico, North Dakota, Wisconsin, and Wyoming. In the case of these nine States the governor derives this power from the State constitution.

The remaining nine States which do not confer power on the governor to veto separate appropriation items are: Indiana, Iowa, Maine, Nevada, New Hampshire, North Carolina, Rhode Island, Tennessee, and Vermont.

The appropriations for State universities and colleges are divided and subdivided into a large number of items in many of the States. The amount represented by each item is expendable only for a specific purpose. By vetoing separate items or parts of items the governor is enabled often to upset the plans of the governing boards for the financial administration of the institutions in the ensuing annual or biennial period. It is also possible for him to wield an influence over the educational functions of the institutions by the selection for veto of particular items appropriating sums to be expended for such activities. The two houses of the State legislature, of course, may overcome the governor's veto of separate appropriation items in the same manner as regular bills are repassed over the executive veto.

Because of the unusual regulatory authority conferred upon the governor through this power, it is proposed to show the extent to which it has been applied recently to the appropriations of the institutions in the several States. Information on this question was obtained by examining the appropriation acts of all States enacted during 4 years including 1934, 1935, 1936, and 1937. In table 8 are given the States in which the governor vetoed separate items of appropriations made to the institutions during this period. The names of the institutions in each State, the number of items vetoed, and total amount of appropriations eliminated are also contained in the table. Special attention must be called to the fact that in no instance did the State legislature reenact the appropriation items over the governor's veto.

As evidenced by table 8, the governors of 8 States have vetoed separate items or parts of items in appropriation bills within the 4-year period. The amounts of the individual items vetoed ranged from as low as \$100 to as high as \$497,500. Of the total amount of appropriations eliminated, approximately \$1,215,000, or about one-fifth, was for construction and capital improvements at the institutions. The remainder consisted of items devoted to physical plant maintenance, equipment, or educational functions. Included among those directly affecting the educational functions were items for salaries of staff members, teaching supplies, summer session, library books, research, agricultural and home economics extension, and the like. The Governors in 2 of the States—North Dakota and Wyoming—took advantage of their right to veto parts of appropriation items, thereby reducing the items. In North Dakota, 29 items were reduced, the amounts varying from \$175 to \$10,728. In Wyoming the Governor decreased 1 item by \$10,000.

TABLE 8.—States in which governor vetoed separate items in appropriations for support of State universities and colleges during 1934, 1935, 1936, and 1937, together with number of items and total amount

State and institution	Number of items vetoed by governor	Total amount of appropriations eliminated
1	2	3
CALIFORNIA		
Chico State College.....	1	\$11,500
Fresno State college.....	1	11,500
Humboldt State College.....	1	11,500
San Diego State College.....	1	11,500
San Francisco State College.....	1	12,800
San Jose State College.....	1	12,000
Santa Barbara State College.....	1	497,500
Total.....	7	556,800
ILLINOIS		
University of Illinois.....	3	650,000
Illinois State Normal University.....	1	40,000
Eastern Illinois State Teachers College.....	1	40,000
Western Illinois State Teachers College.....	1	40,000
Northern Illinois State Teachers College.....	1	40,000
Southern Illinois State Normal University.....	1	40,000
Total.....	8	850,000
MISSOURI		
University of Missouri.....	20	203,610
Missouri School of Mines.....	1	2,250
Northeast Missouri Teachers College.....	5	39,500
Central Missouri Teachers College.....	7	48,000
Southeast Missouri Teachers College.....	7	80,000
Northwest Missouri Teachers College.....	5	45,000
Southwest Missouri Teachers College.....	6	111,000
Total.....	51	529,360
NEW MEXICO		
University of New Mexico.....	2	12,000
New Mexico College of Agriculture and Mechanic Arts.....	2	15,000
New Mexico School of Mines.....	2	5,000
Eastern New Mexico Normal School.....	10	11,000
Spanish-American Normal School.....	6	8,000
New Mexico Military Institute.....	10	10,000
Total.....	32	61,000
NORTH DAKOTA		
University of North Dakota.....	1	6,700
North Dakota Agricultural College.....	4	24,736
State Teachers College, Dickinson.....	6	4,675
State Teachers College, Mayville.....	3	3,500
State Teachers College, Minot.....	7	10,800
State Teachers College, Valley City.....	11	12,700
State School of Science.....	4	2,800
Total.....	36	66,911

TABLE 8.—States in which governor vetoed separate items in appropriations for support of State universities and colleges during 1934, 1935, 1936, and 1937, together with number of items and total amount—Continued

State and Institution	Number of items vetoed by governor	Total amount of appropriations eliminated
1	2	3
OHIO		
Ohio State University	74	\$1,382,200
Bowling Green State University	30	116,900
Kent State University	29	123,200
Miami University	34	214,500
Ohio University	39	267,300
Wilberforce University	40	125,850
Agricultural Experiment Station	20	216,000
Total	266	2,445,950
PENNSYLVANIA		
Pennsylvania State College	3	548,468
Total	3	548,468
WYOMING		
University of Wyoming	1	10,000
Total	1	10,000
Grand total	404	5,067,489

Reasons advanced by the several governors for vetoing items were similar in character. The Governors of Missouri, North Dakota, Ohio, and Pennsylvania based their vetoes on insufficient State revenues or shortage of available funds in the State treasury. In the case of one item for agricultural research stricken from the appropriations to the University of Missouri, the Governor stated that it duplicated work already being done by the United States Department of Agriculture. The Governors of California, Illinois, New Mexico, and Wyoming vetoed the items without any explanation.

Governor as ex officio head or member of governing boards.—Under the legal provisions of a number of States, the governor has been made head or member ex officio of the governing boards. As head the governor has been designated as either president or chairman. In this capacity he is empowered to preside over the meetings of the board. As member, he is authorized to participate in its proceedings.

The governor's headship or membership of the governing boards places him in a position to exert a direct influence over the management and administration of the institutions. Due to his responsibilities as chief executive of the government, the governor is frequently prevented from exercising his legal right of serving as head or member

of the board. In many instances, however, the governor attends the meetings of the board, taking part in the deliberations of the body in the same manner as the regular members. Such is especially true when the board does not meet more than once or twice a year.

An important point is whether the governor in his ex officio capacity is entitled to vote on official business before the board. Three different policies have been adopted by the States. Under the first the governor is entitled to vote, under the second he may vote only in case of a tie, and under the third he is not entitled to vote.

Table 9 gives the States in which the governor serves ex officio on one or more of the governing boards. Whether the governor has been designated as ex officio head or member is indicated. The board governing institutions of particular type in each State upon which he serves in either capacity is likewise presented together with the information as to whether he is entitled to vote. Attention is called to the fact that the governor in some of the States has been designated as a regular president or member of the board, the term "ex officio" not being used. Since no legal difference apparently exists between the two designations, no effort has been made to distinguish them in the table.

TABLE 9.—States in which Governor is ex officio president or chairman and ex officio member of boards governing institutions of particular type

State	Board governing institutions of particular type of which Governor is—		Governor entitled to vote
	Ex officio president or chairman	Ex officio member	
1	2	3	4
Alabama.....	State university.....		Yes.
	Agricultural and mechanic arts college.....		Do.
	Women's college.....		Do.
	All teachers colleges, normal school, and Negro college (governed as group by single board).....		Do.
Arizona.....		State university.....	Do.
Arkansas.....	State university.....		In case of tie.
	Negro college.....		Do.
California.....		State university.....	Yes.
Colorado.....		Agricultural and mechanic arts college.....	Do.
Connecticut.....	Agricultural and mechanic arts college.....		Do.
Delaware.....		State university.....	Do.
Florida.....	Institutions of all types (governed as group by single board). ¹		Do.

¹ The governor is president of State board of education which has supervisory authority over governing board.

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TABLE 9.—States in which Governor is ex officio president or chairman and ex officio member of boards governing institutions of particular type—Continued

State	Board governing institutions of particular type of which Governor is—		Governor entitled to vote
	Ex officio president or chairman	Ex officio member	
1	2	3	4
Georgia		Institutions of all types (governed as group by single board).	Yes.
Illinois		State university	Do.
Kentucky	State university		Do.
Louisiana	do.		Do.
Massachusetts		Agricultural college	Do.
Mississippi	Institutions of all types (governed as group by single board).		Do.
Montana	do.		Do.
New Hampshire		State university	Do.
		All teachers colleges (governed as group by single board).	Do.
New Mexico		State university	No.
		Agricultural and mechanic arts college.	Do.
		Technical school	Do.
		Military institute	Do.
		Each teachers college and normal school (governed by separate board).	Do.
North Carolina	State university		Yes.
	3 Negro normal schools (each governed by separate board)		Do.
Oklahoma		3 junior colleges (each governed by separate board).	Do.
Pennsylvania		Agricultural and mechanic arts college.	Do.
Rhode Island		Institutions of all types (governed as group by single board).	Do.
South Carolina	State university		Do.
	Women's college		Do.
	Negro college		Do.
Tennessee		Military college	Do.
		Medical college	Do.
		State university	Do.
		Institutions of all types except State university (governed as group by single board).	Do.
Vermont		State university	Do.
Wyoming		do.	No.

The governor is ex officio head or member of one or more boards in 25 States, or slightly more than half of the States, according to table 9. There are 10 States in which the governor holds the position of ex officio president or chairman.

Of the latter States the governor is ex officio president or chairman of the single board governing institutions of all types as a group in three States. This means that he is authorized to preside over the meetings of the board responsible for the management and administration of all the State's universities and colleges. In two other States, the governor is president or chairman of single boards governing certain types of institutions as a group, such as teachers colleges or Negro colleges. The governor occupies this position on the board governing the State university in six States and the State agricultural and mechanic arts college in two States.

There are 15 States in which the governor is a member ex officio of governing boards. In 2 States, the board upon which the governor serves as a member governs institutions of all types as a group; in 1 State, institutions of all types except the State university as a group; and in 1 State, all teachers colleges as a group. The governor is a member of the governing board of the State university in 8 States and of the State agricultural and mechanic arts college in 3 States.

As head or member of the governing boards, the privilege of voting is vested in the governor in all except three States. Thus, the governor has the right to take a hand in the transaction of the business of most of the boards on the same footing as the regular members.³ The governor is expressly denied the right to vote as an ex officio member in two States. In the third State, the governor as president of two boards may cast the deciding ballot in case of a tie vote.

Of the 10 States in which the governor has been designated as president or chairman of governing boards, there are only 3 in which other powers have been conferred upon him in conjunction with his ex officio position on the board. As president of the separate boards governing the State university and the agricultural and mechanic arts college in Alabama, the governor is authorized to call all special meetings of the board upon written request by four members. This power may be exercised by the governor only in the event that the extempore chairman is absent or incapacitated.

Great authority is vested in the governor as president of the governing board of the State University in North Carolina. No annual meeting or special meeting of the board may be held unless called by the governor. This also applies to any meeting of the board's executive committee. The governor is authorized also to fix the time and place of the meetings. Another legal requirement is that the governor in person preside at all meetings. In the event of his inability to be present, he must appoint in writing a person to act in his stead.

³ The legal provisions of the States do not actually specify that the governor is entitled to vote. This power is interpreted as legally belonging to the governor in the absence of any provisions to the contrary.

Of special significance is the question of whether the governor has been made ex officio head or member of the boards by constitutional or statutory provisions. In three States—Alabama, Florida, and Montana—the State constitution has designated the governor as ex officio president or chairman of the boards. In two other States—Arizona and California—the State constitution has designated the governor as ex officio member.

The governor derives his right to serve in an ex officio capacity on the boards in all the remaining States listed in table 9 through statutes enacted by the State legislature. Although not serving as a member, the governor is empowered to appoint one or more persons to attend meetings of the governing boards in Maryland. The representatives of the Governor have no right to vote. They may, however, express their views upon questions under discussion by the boards. So far as is known, no Governor of Maryland has ever exercised this power.

Governor's appointive power.—The appointive power of the governor has wide ramifications in its application to the governing boards of the State universities and colleges. Involved in this power is the appointment by the governor not only of members of the governing boards, themselves, but also of various State officials exercising supervisory authority over internal affairs of the institutions.

Some States have not vested appointive power in the governor over certain governing boards. These boards are either elected by the people, chosen at joint sessions of the State legislature, or selected by the board itself. Members of the boards are thus in a position of independence of the governor since they are not obligated to him for their appointment. There is a contingency, however, when the governor may even appoint a member of such boards in some instances. This is in the event of a vacancy during the term of a member due to death, resignation, or other cause. In such case the governor may be empowered to fill the vacancy either for the unexpired term, until the next election, or until the next meeting of the State legislature.

It is proposed to show the governing boards not appointed by the governor before presenting information on those appointed by him. In table 10 are listed the States having such boards together with the institutions of particular type governed by them. The table also indicates the number of members, both ex officio and elective, of each of the boards, length of their term of office in years, and when they are elected. The method of filling vacancies during a term is likewise given, including information as to whether the governor appoints the successor and under what conditions.

TABLE 10.—States in which members of governing boards are elected by people, by State legislature, or by board rather than appointed by governor, together with number of members, length of term, time of election, and method of filling vacancies

State	Board governing institution of particular type, the members of which are elected			Number of members of board		Length of term in years of elective members	When members are elected	How vacancy during term is filled					
	By people	By State legislature	By board	Ex-officio	Elective			Total	(over-not appointed successor until next election term)	(over-not appointed successor until next session of legislature)	Board elects successor for unexpired term	Legislature elects successor at its next session	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
Alabama			State university ¹	2	10	12	12	3 every 4th year except 12th when 4 are elected.				X ¹	
Colorado	State university			1	6	7	6	2 every other year		X			
Illinois	do.			2	9	11	6	3 every other year		X			
Michigan	do.			2	8	10	8	2 every other year	X				
	Agricultural and mechanic arts college.			1	6	7	6	do.	X				
	All teachers colleges (governed as group by single board).			1	3	4	6	1 every other year.	X				
Minnesota	State university	State university		1	12	13	6	4 every other year			X		
Nebraska	do.				6	6	6	2 every other year.		X			
Nevada					5	5	10	1 every other year.	X				
New York		Institutions of all types (governed as group by single board).			12	12	12	1 every year.					X

¹ Subject to confirmation by senate.



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TABLE 10.—States in which members of governing boards are elected by people, by State legislature, or by board rather than appointed by governor, together with number of members, length of term, time of election, and method of filling vacancies—Continued

State	Board governing institution of particular type, the members of which are elected—			Number of members of board	Length of term in years of elective members	When members are elected	How vacancy during term is filled							
	By people	By State legislature	By board				Ex-officio	Elective	Total	Governor appoints successor until next election	Governor appoints successor until next session of legislature	Board elects successor for unexpired term	Legislature elects successor at its next session	
North Carolina		State university Negro agricultural and mechanic arts college.	State university	2	100 15	8 6	25 every other year 5 every other year	X						
South Carolina		State university	State university	4	7	6	2 every other year except 6th year when 3 are elected. 3 every other year		X					
Utah		Agricultural and mechanic arts college. Women's college.	Agricultural and mechanic arts college. Junior colleges (governed as group by single board). State university	4 4 1 1	7 11 10	6 6 7	2 every other year except 6th year when 3 are elected. do. 4 every other year 2 every other year 1 every year except 7th year when 3 are elected.		X X X					
Vermont		State university	State university	2	18	20	3 every other year			X				X

Members elected by board serve for life. 1 6 for 4 years; 7 for life 2 Members elected by 7 regional district public-school board conventions. 3 9 for 6 years; 9 for life.



Governing boards not appointed by governor.—The practice of electing governing boards rather than having them appointed by the governor has been adopted by 12 States, according to table 10. Certain boards are elected by the people in 5 States, by the legislature in 4 States, by both the legislature and the board in 2 States, by the board with the approval of the Senate in 1 State, and by regional district public school board conventions in 1 State.⁴ Ten of these boards govern State universities. This would seem to indicate a definite policy of freeing the members of the State university boards from dependence on the governor for their appointment. There are three of the boards which govern a group of institutions. In 1 State, South Carolina, all boards regardless of the type of institution governed by them are elected by the State legislature excepting the board governing the agricultural and mechanic arts college. This board is elected partially by the legislature and partially by the board.

The State constitution provides for the election of the members of the governing boards by the people in Colorado, Michigan, Nebraska, and Nevada. Similarly, the board members of the State university in Minnesota are elected by the legislature and of the State university in Alabama by the board with the consent of the senate on a basis of constitutional provisions. Accordingly, in these States such methods of designating them may not be altered except through an amendment to the constitution.

The governor is empowered to appoint members of the boards to fill vacancies during a term in nine of the States, as disclosed by columns 10, 11, and 12 of table 10. In three of the States, the governor makes the appointment of a successor for the unexpired term. Since the length of the term of the members varies from 6 to 10 years in these States, it is possible for the governor's appointed members to serve on the boards for a considerable time, dependent on whether the vacancy occurred early or late during the term.⁵ In the case of boards in three States, the governor appoints a successor until the next election. Such members serve only for a brief period as a regular election is held biennially.

The governor in three other States fills vacancies by appointing a successor until the next session of the State legislature. These appointees of the governor likewise serve on the board for a short time, the legislature in two of the States meeting biennially and in one State annually.⁶ No authority is vested in the governor to fill va-

⁴ This plan of electing the members of the State board of education which governs the junior colleges of Utah as a group by regional district public school board conventions is unique. It provides that all members of the city or county school boards in each of the seven judicial districts of the State shall be members of a regional convention within their particular district. In succession over a period of 7 years each of the regional conventions meets and elects a member of the State board of education with the exception of one of the regional conventions which elects three members.

⁶ The State Legislature of South Carolina meets every year.

cancies occurring on five boards in the three remaining States, as indicated by columns 13 and 14 of table 10. A successor for the unexpired term is elected in the same manner as the member was originally designated, either by the board or by the State legislature at its next session.

Governing boards appointed by governor.—By far the greater majority of the governing boards are appointed by the governor. The power of the governor to make the appointments is either unlimited or limited. When the appointive power is unlimited, the governor alone appoints the members of the boards. When the appointive power is limited, the governor appoints the members subject to the consent or confirmation of the State senate.

A question of vital concern is whether a single governor is able to appoint the majority of the members of the boards. Several factors enter into the determination of the question. Among them is the length of term of the governor and his eligibility for a succeeding term. It is evident that the governor serving for two terms of office has the opportunity of appointing a greater proportion of the board than one serving for a single term.

Another factor is the length of term of the members of the board in relation to the length of term of the governor. If the term of all the appointive members of the board is coetaneous and coterminous with that of the governor, that is, begins and ends at the same time, the governor is in a position to appoint not only the majority but the entire board with the exception of the ex officio members. If, on the contrary, the term of the members is of such length as to overlap that of the governor or to overlap each other, he may not be able to appoint the majority. This again is conditional on when the members are appointed by the governor, such as every year, every other year, or every third year, etc., and on the number he is empowered to appoint at the different intervals of time.

Still another factor is the governor's power to fill vacancies occurring during a term. In the contingency that one or more members through death, resignation, or other cause vacate their positions on the board, the appointees of the governor to fill such vacancies together with the regular members already appointed by him may constitute a majority of the board.

Table 11 presents the States in which members of boards governing institutions of different types are appointed by the governor alone or by the governor with the consent of the senate. The table also shows the length of term of the governor and his eligibility to succeed himself, number of members of the boards, length of term of members, when members are appointed, and how vacancies in the boards are filled. With these data it is possible to discover whether the governor may appoint a majority of each of the boards under particular conditions.

TABLE 11.—States in which governor appoints members of governing boards with and without consent of the senate together with length of term of governor, of board members, number, time of appointment, and method of filling vacancies

State	Length in years of term of governor	Governor eligible for succeeding term	Board governing institutions of the members of which are appointed by—		Number of members of board		Length in years of term of appointive members of board	When members of board are appointed by governor	How vacancies during term are filled			
			Governor alone	Governor with consent of senate	Ex-officio	Appointive			Governor alone appoints successor for unexpired term	Governor appoints successor until next meeting of senate	Governor appoints successor with consent of senate	
1	2	3	4	5	6	7	8	9	10	11	12	13
Alabama	4	No		Agricultural and mechanic arts college Women's college	2	10	12	3 every 4th year except 12th year when 4 are appointed. 4 every 4th year except 12th year when 3 are appointed.		X	X	
Arizona	2	Yes	Each teachers college (governed by separate board).	All teachers colleges, normal schools, and Negro college - (governed as group by single board). State university	2	9	11	4, 3, and 2 members every other year.		X	X	
Arkansas	2	do		State university Each agricultural college (governed by separate board).	2	7	9	2 every other year except 6th year when 3 are appointed. 1 every other year		X	X	

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TABLE 11.—States in which governor appoints members of governing boards with and without consent of the senate together with length of term of governor, of board members, number, time of appointment, and method of filling vacancies—Continued

State	Length in years of term of governor	Governor eligible for succeeding term	Board governing institutions of particular type, the members of which are appointed by—		Number of members of board			Length in years of term of appointive members of board	When members of board are appointed by governor	How vacancies during term are filled			
			Governor alone	Governor with consent of senate	Ex-officio	Appointive	Total			Governor alone appoints successor until next meeting of senate	Governor appoints successor until meeting of senate	Governor appoints successor with consent of senate	
Arkansas—Con	2	Yes	Governor alone	Governor with consent of senate	3	4	7	8	5	10	11	13	13
California	4	Yes	State university	Each teachers college (governed by separate board). Negro college	2	7	9	9	2 every other year	2 every other year except 6th year when 3 are appointed.	X	X	X
Colorado	2	do		All teachers colleges (governed as group by single board). Agricultural and mechanic arts college. All teachers colleges (governed as group by single board). Technical school	8	16	24	24	2	2 every other year	X	(1)	(1)
Connecticut	2	do	All teachers colleges (governed as group by single board). Negro college		5	9	9	9	1 or 2 every other year	6 or 3 every other year	X	X	X
Delaware	2	For 2d term not for 3d			6	6	6	6	4 every 4th year		X		X

State	4	No.	Institutions of all types (governed as group by single board). ¹	Institutions of all types (governed as group by single board).	Institutions of all types (governed as group by single board).	5	5	6 and 2	4	2 every 1st year and 3 every 3d year.	X
Florida											
Georgia	2	For 2d term not for 3d or 4th.			Institutions of all types (governed as group by single board).	1	15	6 and 2	4	1, 2, 3, or 4 every year.	X
Idaho	2	Yes		Institutions of all types (governed as group by single board).	1	5	6	5	6	1 every year.	X
Illinois	4	do.			All teachers colleges (governed as group by single board).	2	9	11	6	3 every other year.	X
Indiana	4	No.			do.	1	4	5	4	2 every other year.	X
Iowa	2	Yes			Institutions of all types (governed as group by single board).	1	9	9	6	3 every other year.	X
Kansas	2	do.		Institutions of all types (governed as group by single board).		0	0	0	4	2 every year except 4th year when 3 are appointed.	X
Kentucky	4	No.		State university. Each teachers college (governed by separate board). All Negro colleges (governed as group by single board).		8	12	15	6	4 every other year.	X
						1	4	5	4	2 every other year.	X
Louisiana	4	do		State university.		1	14	15	7	2 every year.	X
Maine	2	Yes			do.	1	8	9	7 and 3	1 every year except 3d year when 2 are appointed.	X
						1	4	5	4	4 every 4th year.	X

See footnotes at end of table.

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TABLE 11.—States in which governor appoints members of governing boards with and without consent of the senate together with length of term of governor, of board members, number, time of appointment, and method of filling vacancies—Continued

State	Length in years of term of governor	Governor eligible for succeeding term	Board governing institutions of particular type, the members of which are appointed by—		Number of members of board		Length in years of term of appointive members of board	When members of board are appointed by governor	How vacancies during term are filled			
			Governor alone	(Governor with consent of senate)	Ex-officio	Appointive			Total	(Governor alone appoints successor for unexpired term)	Governor appoints successor until next meeting of senate	(Governor appoints successor with consent of senate)
1	2	3	4	5	6	7	8	9	10	11	12	13
Maryland	4	Yes	All teachers colleges (governed as group by single board).	State university	1	7	8	9	1 every year	X		
Massachusetts	2	do.		Agricultural colleges All teachers colleges and art school (governed as group by single board). Each textile school (governed by separate board). Nautical school Technical school	4 1 3 or 2	14 6 15	18 7 18	7 3 3	2 every year do. 5 every year		X X X	
Michigan	2	do.		All teachers colleges (governed as group by single board).	1	8	9	3	1 every year		X	
Minnesota	2	do.			1	8	9	4	2 every other year 8 every 4th year		X	
Mississippi	4	No		Institutions of all types (governed as group by single board).	1	13	14	12 and 1	1 every 4th year			X

State	4	do		1	9	6	3 every other year	X
Missouri	4	do	State university. Each teachers college (governed by separate board).	1	6	7	2 every other year	X
Montana	4	Yes	Negro college. Institutions of all types (governed as group by single board).	1	6	7	3 every other year.	X
Nebraska	2	do	All teachers colleges (governed as group by single board).	1	6	7	2 every other year	X
New Hampshire	2	do	All teachers colleges (governed as group by single board).	1	7	8	1 every year except 6th year when 3 are appointed	X
New Jersey	3	No	All teachers colleges (governed as group by single board).	10	10	8	1 every year except 8th year when 3 are appointed	X
New Mexico	2	For 2d term not for 3d.	State university. Agricultural and mechanic arts college. Technical school. Military institute. Each teachers college and normal school (governed by separate board).	2	5	7	4 5 every 4th year	X
North Carolina	4	No	Teachers college (governed by separate board). do 1 teachers college and 1 Negro normal school (each governed by separate board). Negro normal school. Negro college. Indian normal school. Institutions of all types (governed by single board).	1	12	13	6 1 every other year	X
North Dakota	2	Yes		1	9	10	2 9 every other year	X
					9	9	4 9 every 4th year	X
					12	12	4 3 every year	X
					15	15	6 5 every other year	X
					11	11	4 11 every 4th year	X
					7	7	1 every year	X

See footnotes at end of table.

TABLE 11.—States in which governor appoints members of governing boards with and without consent of the senate together with length of term of governor, of board members, number, time of appointment, and method of filling vacancies—Continued

State	Length in years of term of governor	Governor eligible for succeeding term	Board governing institutions of particular type, the members of which are appointed by—		Number of members of board			Length in years of term of appointive members of board	When members of board are appointed by governor	How vacancies during term are filled		
			Governor alone	Governor with consent of senate	Ex officio	Appointive	Total			Governor alone appoints successor for unexpired term	Governor appoints successor until next meeting of senate	Governor appoints successor with consent of senate
1	2	3	4	5	6	7	8	9	10	11	12	13
Ohio	2	Yes		State University (Ohio State University). State University (Ohio University). State university (Miami University). 2 State universities (Bowling Green and Kent, each governed by separate board)	1	7	8	7	1 every year			X
Oklahoma	4	No		State university All agricultural and mechanic arts colleges (governed as group by single board). Women's college All teachers colleges (governed as group by single board). Negro college	1	5	6	5	1 every year	X		
					1	4	5	5	2 every 2d year and 2 every 5th year	X		X
					1	6	7	6	2 every other year	X		X

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TABLE 11.—States in which governor appoints members of governing boards with and without consent of the senate together with length of term of governor, of board members, number, time of appointment, and method of filling vacancies—Continued

State	Length in years of term of governor	Governor eligible for succeeding term	Board governing institutions of particular type, the members of which are appointed by—		Number of members of board			Length in years of term of appointive members of board	When members of board are appointed by governor	How vacancies during term are filled		
			Governor alone	Governor with consent of senate	Ex-officio	Appointive	Total			Governor alone appoints successor for unexpired term	Governor appoints successor until next meeting of senate	Governor appoints successor with consent of senate
1	2	3	4	5	6	7	8	9	10	11	12	13
Utah	4	Yes	State university		2	12	14	4	6 every other year.		X	
Vermont	2	do	Agricultural and mechanic arts college. All normal schools (governed as group by single board).		1	12	13	4	do		X	
Virginia	4	No	State university		2	9	11	4	1 every other year.		X	
			Agricultural and mechanic arts college.		2	8	10	4	4 every 2d year and 5 every 4th year.		X	
			All teachers colleges (governed as group by single board.)		7	7	7	4	2 every other year except 6th year when 3 are appointed.		X	
			Military institute		2	9	11	4	4 every 2d year and 5 every 4th year.		X	
			State college.		1	10	11	4	5 every other year.		X	
			Medical college.		19	19	19	(9)	Whenever vacancy occurs.		X	
Washington	4	Yes	State university		7	7	7	6	2 every other year except 6th year when 3 are appointed.		X	

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
West Virginia	4	No			3	3	6	1	1	2 or 4 every 1st and 2d year and 2 every 4th year.	2 every other year except 6th year when 1 is appointed.				X
Wisconsin	2	Yes			8	8	4	1	6	Institutions of all types except State university (governed as group by single board). ¹⁰	2 every year except 5th and 6th when 3 are appointed.				X
Wyoming	4	Yes			10	11	5	1	10	All teachers colleges (governed as group by single board).	2 every year				X

1 Board elects member for unexpired term.
 2 The State board of education, composed of State executive officials, exercises supervision over board governing institutions.
 3 With consent of council instead of senate.
 4 Upon recommendation of State board of education.
 5 The Governor of North Dakota is greatly restricted in his appointive power. In submitting his appointment of each member of the governing board to the senate for its consent, he is required to select 1 from 3 names nominated to him by the president of the North Dakota Educational Association, chief justice of State supreme court, and State superintendent of public instruction.
 6 10 additional members serve for life, but with death of any such member no successor is appointed.
 7 President of board is elected by people every fourth year.
 8 With consent of standing committee of senate serving between sessions for this specific purpose.
 9 For life.
 10 The financial affairs are governed by a second board composed of 3 members appointed by the governor with the consent of the senate for overlapping terms of 6 years, 1 being appointed every other year.

The governor either alone or with the consent of the senate is empowered to appoint the members of one or more governing boards in 45 States, according to table 11. There are 8 States in which the governor alone appoints the members of the boards and 32 States in which the governor appoints them with the consent of the senate. In 5 States, the governor alone appoints the members of boards governing a certain type of institution while those governing another type within the same State are appointed by the governor with the consent of the senate.

What particular boards are appointed by the governor alone in the different States is a matter of interest. Members of the single board governing institutions of all types as a group in four States are appointed by the governor alone. In such cases the governor possesses unlimited appointive power over the board responsible for the administration of all the State's universities and colleges. Similarly, the governor alone appoints the board governing institutions of all types except the State university as a group in one State, the board governing all teachers colleges as a group in two States, and the board governing all Negro colleges as a group in one State. Members of the separate board governing the State university in three States are appointed by the governor alone.

In filling vacancies on one or more boards during a term, the governor alone appoints the successor for the unexpired term in 18 States. The original members of the boards in 8 of these States are appointed by the governor with the consent of the senate. This means that in such instances the governor's appointive power over the boards is limited, but he enjoys an unlimited power to fill vacancies. Such is the case with respect to the boards governing the State universities in 4 States. The governor fills vacancies on certain of the boards in 27 States by appointing a successor until the next meeting of the senate.

There are five States in which the governor fills vacancies by appointing a successor with the consent of the senate in the same manner as the original appointment. The governor in these cases is restricted in his power to fill vacancies, being required first to obtain the senate's consent. In six States the governor alone appoints the successor for the unexpired term in filling vacancies on boards governing institutions of one type while he appoints the successor until the next meeting of the senate or with the consent of the senate in the case of boards governing institutions of other types.

Appointment of majority of governing board by governor.—The governor is able to appoint a majority of the members of the governing boards in a considerable number of States. This is true even when the governor serves for a single term. It is especially true in the event that the governor serves for a succeeding term. A few illustrations will be presented from the different columns of table 11. Similar information

on each of the boards is readily ascertainable by analyzing the data in a corresponding manner.

The Governor of Arizona's term of office consists of 2 years. In the case of the separate board governing each State teachers college, there are three members composing the board, one ex officio and two appointed by the Governor alone. The term of the two appointive members is coetaneous and coterminous with that of the Governor. The majority of each of these boards, therefore, is appointed by the Governor, no consent of the senate being required.

In Pennsylvania the Governor serves for a term of 4 years. The term of office of the members of the separate boards governing the teachers colleges of that State is also 4 years in length being coetaneous and coterminous with that of the Governor. Each board consists of 10 members, 1 serving ex officio. The Governor with the consent of the senate appoints the 9 members every 4 years. In this case, he not only appoints the majority, but the entire board with the exception of its ex officio member.

Among the boards with members whose terms overlap that of the governor and also that of each other, the governor likewise appoints the majority in certain cases. In Florida, the Governor serves for 4 years. The single board governing institutions of all types as a group in that State consists of five members serving for 4 years and appointed by the governor alone. Two of the members are appointed every first year and three every third year of the Governor's term. The Governor thus appoints the entire board during his 4-year term.

Similarly, the Governor of Montana serves for a term of 4 years and the term of the members of the single board governing institutions of all types as a group is of the same length. With 11 members on the board, (3 being ex officio) 6 constitute a majority. Two members are appointed every year so that the Governor by the third year of his term has appointed 6 members, or the majority of the board. The appointments are made with the consent of the senate.

Attention may be called to the governing boards of State universities, the majority of the members of which are appointed by the governor. Kentucky furnishes an example. The term of the Governor is 4 years in length while the members of the board serve for a term of 6 years. There are 15 members on the board, 8 representing a majority. Four members are appointed every other year by the Governor or 8 in the first and third years of his term. The Governor's appointive power is unlimited, the consent of the senate not being required.

Another example is the board governing the State university in Missouri. The Governor again serves for 4 years and the board members for 6 years. Three are appointed every other year by the Governor or six in the first and third years of his term. The board

is composed of nine members, a majority consisting of five members. Hence, the Governor appoints more than a majority in the year prior to the end of his term of office. The consent of the senate is required to the Governor's appointments.

The appointment of a majority of the members of many governing boards hinges on whether the governor is eligible and serves for a succeeding term. This applies particularly to the States in which the governor's term is 2 years in length. Such is the case in Connecticut. The single board governing all teachers colleges as a group in that State is comprised of nine members serving for a term of 6 years. Three are appointed by the Governor alone every other year. During the Governor's first 2-year term he appoints three members. In the event of his reelection for a second term he is enabled to appoint three additional members, making a total of six, or one more than a majority of the board.

An analogous situation is found with respect to the single board governing all institutions as a group in Idaho. This board consists of five members, five appointive and one ex officio. The term of the appointive members is 5 years in length. The Governor alone appoints one member every year. In the course of his first 2-year term, he appoints two members. Should the Governor succeed himself, two additional members are appointed by him. By serving two terms, therefore, the Governor appoints the necessary three members constituting a majority of the board.

The contingency of vacancies among the members during a term frequently furnishes the governor with an opportunity to appoint the majority of the boards. Kansas provides an illustration. The term of the Governor of Kansas is 2 years and that of the members of the single board governing institutions of all types as a group is 4 years. Nine appointive members compose the board, five representing a majority. The Governor alone appoints two members every year excepting the fourth year, when three are appointed, so that during his 2-year term he appoints four members, one short of a majority. Should a fifth member vacate his office at any time during the Governor's first term, the Governor would fill the vacancy and thus appoint the majority of the board.

A further example is found in the case of the board governing the State university in Wisconsin. The Governor serves for a term of 2 years and the members of the board for a term of 6 years. There are all told 16 members of the board, of whom 2 are ex officio and 14 appointive. A majority consists of 9 members. The Governor alone appoints 2 members every year except the fifth and sixth years, when 3 are appointed by him. Should the Governor's term happen to fall in the years when 3 members are appointed, he would appoint 6 members during his first term. By serving a second term, he would

appoint 2 additional members making a total of 8, or 1 fewer than a majority. In the event that a vacancy occurred in one membership during either the first or second term of the Governor, he would appoint still another member to complete the 9 members required for a majority of the board.

Particular attention is called to some of the boards which are so organized that it is impossible for the governor to appoint a majority of the members. One is the board governing the agricultural and mechanic arts college in Alabama. The members serve for a term of 12 years. The Governor's term is 4 years and he is not eligible to succeed himself. The board consists of 2 ex officio and 10 appointive members, or a total of 12 members. Seven represent a majority of the board. With 3 members appointed by the Governor with the consent of the senate every fourth year except the twelfth year when 4 are appointed, the Governor during his single 4-year term has no opportunity to appoint the majority.

Another board is that governing the State University in California. The Governor serves for a term of 4 years and he is eligible for a succeeding term. Members of the board serve for a term of 16 years. There are 24 members, 8 ex officio and 16 appointive. Hence, a majority consists of 13 members. The Governor with the consent of the senate is empowered to appoint 2 members every other year. In his first term he appoints 4 members. If elected to succeed himself, he would appoint 4 additional members in his second term, or a total of 8 members in the 2 terms. This number falls far short of a majority of the board.

Still another is the board governing the State University in Tennessee. Members of the board serve for a term of 14 years, while the Governor's term is 2 years in length. The Governor may succeed himself for a second and third term but not for a fourth. He is consequently eligible to be Governor for a period of 6 years. The board is composed of 18 members, 4 ex officio and 14 appointive. Two members are appointed every other year by the Governor with the consent of the senate. In the event that the Governor serves for 3 terms, he would appoint 6 members or 3 fewer than the 9 members constituting a majority of the board.

From this presentation, it is evident that the term of the members of the boards must be of considerable length in order to avoid the appointment of a majority by a single governor. The mere fact that the terms of the board members overlap that of the governor and also overlap each other is not sufficient. Neither is the arrangement by which the appointments are made in alternate years any guaranty against the governor appointing a majority of the board. The term of the members must be of such length as to overlap by far not only a

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TABLE 12.—States in which members of governing boards are partially appointed by governor and partially elected by other agencies, together with number of members, length of term, time of selection, and method of filling vacancies

State	Board governing institutions of particular type, the members of which are partially appointed by—						Number of members of board			Length of term in years of appointive and elective members	When members are appointed or elected	How vacancies during term are filled					
	Governor alone and partially elected by alumni	Governor alone and partially elected by agricultural and industrial societies	Governor with consent of state and partially elected by people	Governor with consent of council and partially elected by alumni	Governor with consent of senate and partially elected by board with consent of senate	Ex officio	Appointed	Elected	Total			Governor alone appoints successor for unexpired term	Governor appoints successor until next session of senate	Governor appoints successor with consent of council	Governor appoints successor until next election	Alumni elects successor for unexpired term	Board elects successor until next session of senate
1	3	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	X
Connecticut	State agricultural college						8	2	13	4	5 every other year	X				X	
Delaware							8	20	32	(1)	2, 3 or 7 every year except 5th, when none is appointed or elected.	X					
Indiana	State university (Indiana University)						5	3	8	3	1, 3, or 4 every year	(1)				X	
	State university (Purdue University)						6	3	9	3	3 every year	X				X	
Louisiana			Institutions of all types except State university (governed as group by single board).				3	8	11	4, 8	2 every other year except 4th when 5 are appointed or elected.						X

single term of the governor but also a second term and in some instances a third term.

A significant question with respect to the boards in the 45 States shown in table 11 is whether the governor derives his appointive power from the State constitution. In such cases, his power is of a basic character from a legal standpoint and is not susceptible to repeal by statutory enactments of the State legislature. In six States—Arizona, California, Louisiana, Missouri, Washington, and Wyoming—the Governor's power to appoint the members of the board governing the State university is contained in provisions of the State constitution. This is also true of the governing boards of the State Agricultural and Mechanic Arts College in Alabama and Washington.

The State constitutions of Montana, North Dakota, and South Dakota confer the power on the Governor with the consent of the senate to appoint the members of the single board governing institutions of all types as a group in these States. Likewise, it is under constitutional mandate that the Governor with the consent of the senate appoints members of the single board governing all teachers colleges as a group in Nebraska. A similar situation exists in the case of the separate boards governing each normal school in Washington.

Governing boards appointed partially by the governor.—Governing boards are partially appointed by the governor and partially elected by other agencies in some States. The particular agency electing a part of the membership varies among the individual boards and includes either the alumni, the people, the board, or certain societies.

In table 12 are given the States with boards whose members are designated according to this plan. Institutions of particular types governed by each of the boards are indicated. The table is so arranged as to show the number of members of each board appointed by the governor and the number elected by other agencies together with the number serving *ex officio*. In addition, data on the length of the term of the members, when appointed or elected, and the method of filling vacancies are included.

There are six States in which one or more boards are partially appointed by the governor and partially elected by other agencies, the information contained in table 12 discloses.

The particular members of boards subject to the appointive power of the governor are appointed by him alone in three States. The governor is required to obtain the consent of the senate or council in appointing the members in the three other States. The particular members of boards chosen by other agencies are elected by the alumni of the institution in three States, by the alumni and by agricultural and industrial societies in one State, by the people in one State, and by the board with the consent of the senate in one State.

Comparing the number of appointive and elective members on the individual boards, it is found that more are appointed by the governor in four cases while the greater proportion is elected by the other agencies in the three others. Only the most unusual eventualities permit the governor to appoint the majority of any of these boards. The institutions governed by boards whose members are chosen by this plan consist of five State universities and two State agricultural and mechanic arts colleges. One board governs institutions of all types except the State university as a group. The board in one State, Louisiana, is a constitutional board, the State constitution expressly providing that its members shall be partially appointed by the Governor and partially elected by the people. In all the other States statutory enactments of the State legislature are responsible for this method of selecting the board members.

Governor's removal power.—Governors of the several States have rarely taken advantage of their power to remove members of governing boards of State universities and colleges. Nevertheless, the governor legally possesses removal power over boards in many States so that he is in a position to employ it, should he so desire. As in the case of the appointive power, the removal power of the governor not only applies to the members of governing boards, but also to central State executive officials who exercise authority over the boards. Only the applicability of the governor's removal power to members of boards will be presented here.

According to the various legal provisions of the States, the governor has been vested with either unconditional or conditional removal power. Where the governor possesses unconditional removal power, he is at liberty to remove a board member without cause or at his pleasure, will, or discretion. In cases where he possesses conditional removal power, he may remove a member only for cause, that is, conditional on the member having given the governor cause for his removal. The legal provisions fixing cause for removal vary from State to State, but commonly involve malfeasance, misconduct in office, neglect of duty, or incompetency. The fact that members of governing boards represent a high type of citizenship unlikely to commit such an offense has, in general, given the governor no cause for removing them, thus accounting for his infrequent use of the power.

In exercising his removal power for cause, the governor may or may not be subject to certain limitations. In some States, the governor is empowered to remove a board member for cause without presenting charges and giving him an opportunity for a hearing. In others the governor must first present the member with the charges and permit him an opportunity for a hearing. A significant point, however, is that even after the member has been allowed to present evidence in

refutation of the charges at a hearing, the governor is the sole judge as to whether his charges justify the member's removal. In still other States the governor may remove a member for cause with the consent of the senate only, that is, the removal power is vested jointly in the governor and the senate.

Table 13 presents the States which have empowered the governor to remove members of boards without cause and for cause according to these several limitations. The institutions of particular types governed by the boards in each State are given.

There are altogether 34 States in which the governor possesses power of removal of one or more boards either without cause or for cause, according to the data in table 13. This means, of course, that in the other 14 States the governor has no authority whatever to remove members of any of the boards. These latter States are: Alabama, Arizona, California, Delaware, Georgia, Kansas, Minnesota, Mississippi, Montana, Nevada, New Jersey, New York, Pennsylvania, and Tennessee.

The governor's power to remove members of certain boards in a number of States seems to depend upon whether he appoints them in the first place. Hence, a more or less definite relationship exists between the governor's appointive and removal power. The extent of the relationship is ascertainable by comparing the boards in the different States appointed by the governor as given in table 11 with those subject to his removal power as shown in table 13. Special attention must be called to the fact that with one exception the governor does not possess power to remove members of any of the boards elected by the people, the legislature, or the board as indicated in table 10.

In 7 of the 34 States, or about one-fifth, the governor is empowered to remove members of certain boards at his pleasure, will, or discretion. This power has been vested in the governor in 5 of the States by general statutes providing for the reorganization of the State governments and centralizing extraordinary authority in him over various State departments, boards, commissions, bureaus, and other agencies. Among these States are Indiana, Kentucky, Missouri, Rhode Island, and Vermont. Specific statutes confined to individual institutions confer the power on the governor in the 2 other States—North Carolina and Oklahoma. The Governor in none of these particular States has attempted to exercise his power by summarily removing members of boards.

The governor is empowered to remove members of certain boards for cause without presenting charges and giving an opportunity for a hearing in 16 States while he is required to present charges and permit a hearing in 7 States. There are 6 States in which the governor must first obtain the consent of the senate before removing members of

certain boards. In 3 States the governor has unlimited removal power over boards governing institutions of particular type and limited removal power over those governing institutions of other types.

TABLE 13.—States in which governor is empowered to remove members of governing boards with or without cause

State	Board governing institutions of particular type, the members of which may be removed by governor			
	At his pleasure, will, or discretion	For cause without presenting charges and giving opportunity for hearing	For cause after presenting charges and giving opportunity for hearing	For cause with consent of senate
1	2	3	4	5
Arkansas		Each agricultural college (governed by separate board).		
Colorado		Agricultural and mechanic arts college. Technical college. All teachers colleges (governed as group by single board).		
Connecticut			Agricultural and mechanic arts college. All teachers colleges (governed as group by single board).	
Florida				Institutions of all types (governed as group by single board). ¹
Idaho		Institutions of all types (governed as group by single board). ¹		
Illinois		All teachers colleges (governed as group by single board).		
Indiana	Each State university (governed by separate board). ² All teachers colleges (governed as group by single board). ²			
Iowa				Institutions of all types (governed as group by single board). ¹
Kentucky	State university. Each teachers college (governed by separate board). All Negro colleges (governed as group by single board).			

See footnotes at end of table.

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TABLE 13.—States in which governor is empowered to remove members of governing boards with or without cause—Continued

State	Board governing institutions of particular type, the members of which may be removed by governor			
	1 At his pleasure, will, or discretion	2	3 For cause without presenting charges and giving opportunity for hearing	4 For cause after presenting charges and giving opportunity for hearing
Louisiana			State university.	
Maine				State university. All normal schools (governed as group by single board).
Maryland			State university	All teachers colleges (governed as group by single board).
Massachusetts				Agricultural colleges. All teachers colleges and schools of art (governed as group by single board). Each textile school (governed by separate board). Nautical school.
Michigan			Technical school	
Missouri	State university. Each teachers colleges (governed by separate board). Negro college.			
Nebraska			All teachers colleges (governed as group by single board).	
New Hampshire				All teachers colleges (governed as group by single board).
New Mexico	State university. Agricultural and mechanic arts college. Military institute. Technical school. Each teachers college and normal school (governed by separate board).			
North Carolina	Teachers college (East Carolina Teachers College). Each Negro college and normal school (governed by separate board). Indian normal school.			
North Dakota				Institutions of all types (governed as group by single board).

See footnotes at end of table.

TABLE 13.—States in which governor is empowered to remove members of governing boards with or without cause—Continued

Board governing institutions of particular type, the members of which may be removed by governor				
State	At his pleasure, will, or discretion	For cause without presenting charges and giving opportunity for hearing	For cause after presenting charges and giving opportunity for hearing	For cause with consent of senate
1	2	3	4	5
Ohio		State university (Bowling Green State University). State university (Kent State University).		State university (Ohio State University). State university (Ohio University). State university (Miami University).
Oklahoma	Each junior college (governed by separate board).	State university All agricultural and mechanic arts colleges (governed as group by single board). Women's college All teachers colleges (governed as group by single board).		
Oregon			Institutions of all types (governed as group by single board).	
Rhode Island	Institutions of all types (governed as group by single board).			
South Carolina			State university. ⁶ Agricultural and mechanic arts college. ⁶ Women's college. ⁶ Military college. ⁶ Medical college. ⁶ Negro college. ⁶	
South Dakota		Institutions of all types (governed as group by single board).		
Texas		State university. All agricultural and mechanic arts colleges (governed as group by single board). All teachers colleges (governed as group by single board). Each technical college (governed by separate board).		

See footnotes at end of table.

HIGHER EDUCATIONAL INSTITUTIONS

TABLE 13.—States in which governor is empowered to remove members of governing boards with or without cause—Continued

State	Board governing institutions of particular type, the members of which may be removed by governor			
	At his pleasure, will, or discretion	For cause without presenting charges and giving opportunity for hearing	For cause after presenting charges and giving opportunity for hearing	For cause with consent of senate
1	2	3	4	5
Utah.....		State university. Agricultural and mechanic arts college. All junior colleges (governed as group by single board).		
Vermont.....	All normal schools (governed as group by single board).			
Virginia.....				State university. ¹ Agricultural and mechanic arts college. ¹ All teachers colleges and Negro colleges (governed as group by single board). ¹ Military institute. ¹ State college. ¹ Medical college. ¹
Washington.....		State university. Agricultural and mechanic arts college. Each normal school (governed by separate board).		
West Virginia.....		State university (governed by 2 boards). Institutions of all types except State university (governed as group by 2 boards).		
Wisconsin.....		State university. All teachers colleges (governed as group by single board).		
Wyoming.....			State university. ¹	

¹ If senate is not in session Governor may suspend member until next session of senate when senate must consent to removal or member remains in office.

² Governor may remove member without cause with consent of $\frac{3}{4}$ of senate.

³ A difference of opinion exists as to whether statute conferring broad power on governor of removing State officers and employees is applicable to members of governing boards of institutions.

⁴ With consent of council instead of senate.

⁵ Based on decision of supreme court, *State v. Sanchez*, 32 N. M. 265, 266 P. 1077.

⁶ Removed member has right of appeal to circuit court.

⁷ Governor must present charges and file them in secretary of state's office but statute does not require hearing on charges.

During recent years the governor of only one State has actually exercised his power to remove members of governing boards for cause. In 1926 the Governor of Washington removed two members of the board governing the State University alleging misconduct in office and appointed new members to succeed them. In the removal the Governor did not specifically set forth the charges against the incumbents or give them an opportunity for a hearing. There is a possibility that the governors in other States may have employed their removal power indirectly by bringing pressure on members to induce them to resign from office in lieu of being removed. As is readily comprehensible, no accurate information is available on such cases.

Of the 34 States included in table 13, there are 8 in which the governor's power of removal is derived from constitutional rather than statutory provisions. The result is that the power may be modified only through an amendment to the constitution. Such States are Colorado, Florida, Illinois, Maryland, Nebraska, New Mexico, Virginia, and West Virginia. In all of these States, constitutional provisions limit the power of the Governor to the removal of board members for cause. In no instance is the Governor empowered by the constitution to remove members without cause or at his pleasure, will, or discretion.

Power is conferred on the governor to remove board members under certain specific circumstances in several States. The statutes of Arizona empower the Governor to remove a member of the separate boards governing teachers colleges upon satisfactory proof that he is acting as an agent for a book publishing company. In Indiana the Governor may remove a member of the governing board of the State university by request for his resignation in the event that he absents himself from two successive meetings. Similarly, a member of the State university board in Missouri is removable by the Governor for failing to attend a single meeting or for moving out of the district in the State from which he was appointed.

An unusual removal power is vested in the Governor of Georgia. Under it the Governor may remove at pleasure 1 of the 16 members composing the single board governing institutions of all types as a group in that State. This particular member serves for a 2-year term concurrent with that of the Governor and apparently is his special representative on the board. In Alabama the statute conferring general removal power of State officers on the Governor expressly forbids him from removing any member of a board of an educational institution who has been confirmed by the senate.

Governor's investigatory power.—Although not involving any direct regulatory supervision, the governor's investigatory power enables him to maintain a watch over governing boards in their administration of the institutions.

Of the several phases of this power, probably the most important is the special authority conferred on the governor to inspect and investigate at any time the condition, management, and affairs of the institutions. There are 13 States in which the governor has been specifically granted this authority. A list of them follows:

Idaho	Montana	Utah
Maine ⁶	New York	Vermont
Michigan	North Carolina	Virginia
Missouri	Texas	West Virginia
		Wisconsin

In five of the States-- Idaho, Michigan, Missouri, Montana, and Utah--the legal provisions specify that the governor shall appoint a committee or commission to conduct the inspections or investigations. In the remaining States the governor may either make them in person or through a committee or commission. The State constitutions of Idaho, Montana, Texas, Utah, and Virginia vest this authority in the governor while in the other States it is contained in statutes enacted by the legislature. Generally speaking, the governors in these States have not taken advantage of their authority to inspect and investigate the institutions. More or less regular inspections of the institutions, however, are made by the Governor of Virginia in person.

Another phase of the governor's investigatory power is his legal right to require information under oath and upon demand from the governing boards upon any subject relating to the management, condition, or expenses of the institutions. Thirteen States have conferred this right on the governor, the following comprising the list:

Alabama	Missouri	Utah ⁷
Colorado	Montana	Virginia
Idaho	Oklahoma	West Virginia
Illinois	South Carolina	Wyoming ⁷
	Texas	

In each of these States excepting Wyoming the governor's right to require information under oath or on demand from the board is contained in provisions of the State constitution. The governor derives the right from statutory enactments in Wyoming.

An additional authority similar in nature is the requirement that the governing boards submit annual or biennial reports to the governor. The constitutional or statutory provisions of all the States compel the boards to comply with the requirement. After receiving the reports from the boards, the governor must transmit them to the State legislature at its regular session in most of the States.

⁶ This investigatory power is vested in the governor and council.

⁷ In this State the information does not have to be submitted by the governing boards under oath.

GENERAL POWERS OF STATE TREASURER

General powers vested in the State treasurer pertain mainly to the custody of moneys and funds belonging to the State. Under them he is authorized to receive the funds, keep separate accounts of, and disburse them according to law.

The State treasurer is commonly a constitutional official generally independent of the governor. In all of the States except Maryland, New York, and Virginia, he is elected by the people or by the legislature⁸ and is consequently responsible to the people or the legislature rather than to the governor. The State treasurer of Maryland, New York, and Virginia is appointed by the governor with the consent of the senate.⁹

Governing boards of State universities and colleges come under the jurisdiction of the State treasurer in several respects as a result of the general powers conferred upon him. In some States the State treasurer is an ex officio member of certain boards. In other States he is treasurer in place of a regular treasurer appointed by the board. The principal jurisdiction exercised by the State treasurer over the boards, however, is his custody of the funds of the institutions.

State treasurer as ex officio member or treasurer of governing boards.—The governing boards upon which the State treasurer is an ex officio member are chiefly boards composed of the State's principal executive officers, such as the governor, attorney general, or auditor. The State treasurer, therefore, owes his membership on the boards to the fact that he is one of the State's principal executive officials. In his capacity as ex officio member he is entitled to vote and hence may partake in the decisions of the board along with the regular board members.

Among the States in which the State treasurer is treasurer of boards, the policy has been adopted of designating him to that position instead of having the board select its own treasurer. Under this arrangement the State treasurer is responsible for performing the duties that would otherwise be assumed by a treasurer chosen by the board. The effect is that the State treasurer is legally made the exclusive custodian of the funds of the institution.

In table 14 are exhibited the States in which the State treasurer is ex officio member or treasurer of boards. The institutions of particular type governed by the boards are also shown.

As indicated by table 14, the State treasurer in a relatively few States is an ex officio member of governing boards. Eleven States or almost 1 out of every 3, however, have designated him to serve as the treasurer of boards or institutions. Of the latter States there are 4 in

⁸ The State treasurer is elected by a joint session of the two houses of the legislature in Maine, New Hampshire, New Jersey, and Tennessee.

⁹ In Virginia the State treasurer is appointed by the Governor with the consent of the legislature instead of the senate.

which the State treasurer is either treasurer of the board governing the State university or treasurer of the university itself. In most of the remaining States he is the treasurer of single boards governing groups of institutions, such as institutions of all types in the State or all teachers colleges. The State treasurer has been made either ex officio member or treasurer of boards through statutes enacted by the legislature in each of the States except Florida and North Carolina. In these 2 States he holds his position by virtue of provisions contained in the State constitution.

TABLE 14.—States in which State treasurer is ex officio member or treasurer of boards governing institutions of particular type

State	Board governing institution of particular type of which State treasurer is	
	Ex officio member	Treasurer of board
1	2	3
Arizona.....		Each teachers college (governed by separate board).
Arkansas.....	Each teachers college (governed by separate board).	
Florida.....	Institutions of all types (governed as group by single board). ¹	Institutions of all types (governed as group by single board). ¹
Idaho.....		Institutions of all types (governed as group by single board). ²
Kansas.....		Institutions of all types (governed as group by single board).
Kentucky.....		All Negro colleges (governed as group by single board).
Montana.....		Institutions of all types (governed as group by single board).
Nebraska.....		State university. ³
North Carolina.....	3 Negro normal schools (each governed by separate board). ¹	All teachers colleges (governed as group by single board). 3 Negro normal schools (each governed by separate board). ¹
Oklahoma.....		State university. Women's college. Negro college. 1 junior college.
Texas.....		State university. ³
Wisconsin.....		State university. ⁴ All teachers colleges (governed as group by single board). Technical college.

¹ The State treasurer is a member of State board of education which has supervisory authority over governing board.

² Statute provides board may elect a treasurer or designate State treasurer for position.

³ Statute provides State treasurer shall be treasurer of institution rather than of board.

⁴ Statute specifies that State treasurer shall have custody of all moneys and funds of State university in Wisconsin so that he is in reality treasurer of institution.

State treasurer's custody of funds of institutions.—Funds of the institutions commonly comprise two kinds, annual or biennial State appropriations¹⁰ made to the governing boards for general support of the

¹⁰ Other appropriations or grants are made by the Federal Government to certain State universities and colleges.

institutions and institutional receipts derived from various sources. Legal provisions of the several States differ in the extent to which the State treasurer is given custody of all or part of such funds of the institutions.

The State treasurer has custody of State appropriations for the institutions in every State until legally disbursed by him. In the exercise of his custodianship, he is required to keep separate accounts not only of the appropriations to each individual institution but also of the items within each of the appropriations. The number of separate accounts maintained by the State treasurer is dependent on whether the appropriations are made in lump-sum or itemized form.

While the appropriations of most of the States consist of lump sums there are quite a number in which the appropriations are divided or subdivided into many items to be expended for specific purposes. Among those in which the appropriations are itemized in extreme form are Arkansas, New York, and Texas. Appropriations to the institutions in these States are so detailed as to list the specific annual salary to be paid each of the individual positions on the academic staffs. Other States in which the appropriations contain a large number of separate items are Connecticut, Delaware, Maryland, North Dakota, and Ohio.¹¹ The State treasurer of these States is required to keep a multitude of different accounts for each of the institutions.

The appropriations in custody of the State treasurer are disbursed either upon warrants of the State auditing office or the governing boards of the institutions. The State treasurer has the authority to refuse to make disbursements when his accounts indicate that funds in a particular appropriation of an institution are exhausted. In the succeeding section showing the general powers of the State auditing officer, information will be given on the legal procedures which must be followed by governing boards in expending their appropriations.

Unlike the State appropriations, variations are found among the States with respect to vesting custody in the State treasurer of the institutional receipts derived from various sources. Such receipts for the most part are collected locally from the students of the institutions and thus differ from regular State revenues secured from taxation of which the State treasurer has full custodianship. Moreover, the receipts in many instances must be kept in certain fund-accounts to be expended continuously for the particular activity from which derived. An advantage exists in allowing such receipts to remain in the custody of the treasurer of the governing board or institutional treasurer instead of forwarding them to the State treasurer.

¹¹ For a more comprehensive presentation of this subject, see *New State Policies* by John H. McNeely, *The Journal of Higher Education*, vol. VII, No. 7, October 1936. The Ohio State University, Columbus, Ohio.

Other vital questions affecting the financial administration of the institutions are involved. When the State treasurer has been given the custody of the institutional receipts, he is frequently authorized to credit them to the general revenue fund of the State. The result is that they are frequently available for expenditure by the governing boards only when they are expressly appropriated back to the boards by the legislature.

Furthermore, the institutional receipts in general comprise two classes. The first is represented by receipts from educational services such as matriculation, tuition, extension, laboratory, and similar student fees. The second consists of receipts from auxiliary enterprises including revenues from dormitories, dining halls, cafeterias, bookstores, laundries, student unions, athletics, sales of farm products, and the like.¹² Receipts of the first class are ordinarily expended for general institutional purposes while those of the second class go into specified revolving funds to be disbursed for the operation of the enterprise. In giving the State treasurer custody of institutional receipts, distinctions have been made between the two classes.

Three general plans have been adopted by the States for the custodianship of the institutional receipts. Under the first plan, the State treasurer has custody of none of the institutional receipts. In such case the receipts remain in the custody of the treasurer of the governing board or the institutional treasurer. The second plan provides that the State treasurer have custody of all institutional receipts derived from both educational services and auxiliary enterprises. Under the terms of the third plan, the State treasurer has custody of the part of the institutional receipts derived from educational services only.

In table 15 are presented the States in which these several plans apply to boards governing institutions of particular type. The table likewise indicates when the receipts must be remitted to the State treasurer by the institutions in cases where he has been given custody of them.

The State treasurer has custody of all or part of the institutional receipts of one or more governing boards in the great majority of the States, according to the information contained in table 15. This is the situation in 39 States or approximately 80 percent. Of this number there are 14 States in which the State treasurer has custody of all or part of the receipts of boards governing one type of institution and of part or none of the receipts of boards governing institutions of

¹² Other receipts of the institutions are gifts, bequests, interest on permanent funds, land grants, and endowments. The custodianship of such receipts will be described fully in a subsequent bulletin to be issued by the Office of Education describing the authority of State executive officials over property of State universities and colleges.

other types. In 9 States he has custody of none of the institutional receipts of any governing boards. The receipts must be remitted to the State treasurer either monthly or forthwith in most of the States. It will be observed that in the States in which the State treasurer has been designated as treasurer of boards or institutions as disclosed in table 14, he has custody of all institutional receipts.

TABLE 15.—States in which State treasurer is custodian of none, all, or part of institutional receipts of boards governing institutions of particular type

State	Board governing institutions of particular type of which State treasurer has custody of—			When receipts must be remitted to State treasurer
	None of institutional receipts	All institutional receipts derived from both educational services and auxiliary enterprises	Part of the institutional receipts derived from educational services only	
1	2	3	4	5
Alabama	State university. Agricultural and mechanic arts colleges. Women's college. All teachers colleges, normal schools, and Negro colleges (governed as group by single board).			
Arizona		Each teachers college (governed by separate board).	State university.	Monthly. Do.
Arkansas		State university. Each agricultural college (governed by separate board). Each teachers college (governed by separate board). Negro college.		Weekly. Do. Do. Do.
California	State university.		All teachers colleges (governed as group by single board).	Monthly.
Colorado	do.	Agricultural and mechanic arts college. ¹ All teachers colleges (governed as group by single board). ¹ Technical school.		Do. Do. Do.
Connecticut		All teachers colleges (governed as group by single board).	Agricultural and mechanic arts college.	Do. Do.
Delaware	State university. ¹ Negro college. ¹			
Florida		Institutions of all types (governed as group by single board).		Do.

¹ Sum of \$1,000 may be retained out of receipts by board or institutional treasurer.

¹ Governor may require that receipts be remitted to State treasurer should he deem it economical and practical.

TABLE 15.—States in which State treasurer is custodian of none, all, or part of institutional receipts of boards governing institutions of particular type—Continued

State	Board governing institutions of particular type of which State treasurer has custody of—			When receipts must be remitted to State treasurer
	None of institutional receipts	All institutional receipts derived from both educational services and auxiliary enterprises	Part of the institutional receipts derived from educational services only	
1	2	3	4	5
Georgia			Institutions of all types (governed as group by single board).	Forthwith
Idaho		Institutions of all types (governed as group by single board).		Monthly
Illinois		State university ¹ All teachers colleges (governed as group by single board).		10 days after receipt.
Indiana	State university (Indiana University). State university (Purdue University). All teachers colleges (governed as group by single board).			
Iowa	Institutions of all types (governed as group by single board).			
Kansas		Institutions of all types (governed as group by single board).		Monthly
Kentucky		State university. Each State teachers college (governed by separate board). All Negro colleges (governed as group by single board).		Do. Do. Do.
Louisiana	State university. Institutions of all types except State university (governed as group by single board).			
Maine	State university. All normal schools (governed as group by single board).			
Maryland		State university. All teachers colleges (governed as group by single board).		Forthwith. Do.
Massachusetts		Agricultural college. All teachers colleges (governed as group by single board). Each textile school (governed by separate board). Nautical school.		Do. Do. Do. Do.

¹ State university permitted to retain working fund of not more than \$100,000 out of receipts.

TABLE 15.—States in which State treasurer is custodian of none, all, or part of institutional receipts of boards governing institutions of particular type—Continued

State	Board governing institutions of particular type of which State treasurer has custody of—			When receipts must be remitted to State treasurer
	None of institutional receipts	All institutional receipts derived from both educational services and auxiliary enterprises	Part of the institutional receipts derived from educational services only	
1	2	3	4	5
Michigan	State university. Agricultural, and mechanic arts college.	All teachers colleges (governed as group by single board). Technical school.		Monthly. Do.
Minnesota	State university.	All teachers colleges (governed as group by single board).		Weekly.
Mississippi		Institutions of all types (governed as group by single board).		Forthwith.
Missouri	State university.		Each teachers college (governed by separate board). Negro college.	Stated intervals.
Montana		Institutions of all types (governed as group by single board).		Semi-monthly.
Nebraska		State university. All teachers colleges (governed as group by single board).		Monthly. Do.
Nevada	State university.			Do.
New Hampshire	do	All teachers colleges (governed as group by single board).		Do.
New Jersey		do		Do.
New Mexico	State university. Agricultural and mechanic arts college. Technical college. Military institute. Each teachers college and normal school (governed by separate board).			
New York		All teachers colleges (governed as group by single board).		Do.
North Carolina		State university. Each teachers college (governed by separate board). Each Negro college or normal school (governed by separate board).		Daily. Do. Do.
North Dakota		Institutions of all types (governed as group by single board).		Forthwith.

* Governor and council may direct that receipts shall be remitted to State treasurer at any time they deem advisable.

HIGHER EDUCATIONAL INSTITUTIONS

TABLE 15.—States in which State treasurer is custodian of none, all, or part of institutional receipts of boards governing institutions of particular type—Continued

State	Board governing institutions of particular type of which State treasurer has custody of—			When receipts must be remitted to State treasurer
	None of institutional receipts	All institutional receipts derived from both educational services and auxiliary enterprises	Part of the institutional receipts derived from educational services only	
1	2	3	4	5
Ohio.....		Each State university (governed by separate board).		Weekly
Oklahoma.....	All agricultural and mechanic arts colleges (governed as group by single board).	State university..... Women's college..... All teachers colleges (governed as group by single board). Each junior college (governed by separate board). Negro college.....		Daily. Do. Do. Do.
Oregon.....		Institutions of all types (governed as group by single board). Each teachers college (governed by separate board).		Do. Forthwith
Pennsylvania.....	Agricultural and mechanic arts college.	Institutions of all types (governed as group by single board).		Do.
Rhode Island.....		Institutions of all types (governed as group by single board).		Monthly
South Carolina.....	State university..... Agricultural and mechanic arts college. Women's college..... Military college..... Medical college..... Negro college.....			
South Dakota.....		Institutions of all types (governed as group by single board).		Do.
Tennessee.....	State university.....	Institutions of all types except State university governed as group by single board).		Do.
Texas.....	All agricultural and mechanic arts (governed as group by single board). All teachers colleges (governed as group by single board). Each technical college (governed by separate board).	State university.....		Forthwith
Utah.....		State university..... Agricultural and mechanic arts college. All junior colleges (governed as group by single board).		Semiannually. Do. Do.

TABLE 15.—States in which State treasurer is custodian of none, all, or part of institutional receipts of boards governing institutions of particular type—Continued

State	Board governing institutions of particular type of which State treasurer has custody of—			When receipts must be remitted to State treasurer
	None of institutional receipts	All institutional receipts derived from both educational services and auxiliary enterprises	Part of the institutional receipts derived from educational services only	
1	2	3	4	5
Vermont.....		State university. All normal schools (governed as group by single board).		Forthwith. Do.
Virginia.....		State university. Agricultural and mechanic arts college. All teachers colleges and Negro college (governed as group by single board). Military institute. State college. Medical college.		Do. Do. Do. Do. Do. Do.
Washington.....	Each normal school (governed by separate board).		State university. Agricultural and mechanic arts college.	Within 35 days. Forthwith.
West Virginia.....		State university. Institutions of all types except State university (governed as group by single board).		Monthly. Do.
Wisconsin.....		State university. All teachers colleges (governed as group by single board). Technical school.		Weekly. Do.
Wyoming.....		State university.		Do. Monthly.

Of special interest are the States in which the State treasurer as custodian of all or part of the institutional receipts of governing boards credits them to the general revenue fund of the State so that they are no longer available for expenditure by the institutions. Such is the case with the several boards governing the different institutions in Massachusetts. It is also true of the single boards governing all the teachers colleges as a group in Connecticut, Michigan, and Wisconsin. The State treasurer retains custody of all or part of the institutional receipts of governing boards until appropriated back to them by the legislature in two States—Illinois and Ohio.¹³

¹³ Additional information regarding this practice by the States will be found in *The Disposition of Institutional Receipts*, by John H. McNeely. *The Journal of Higher Education*, vol. VIII, No. 4, April 1937. The Ohio State University, Columbus, Ohio.

In his custodianship of institutional receipts, regardless of whether they are derived from educational services or auxiliary enterprises, the State treasurer is required to keep separate accounts on a basis of the sources of the funds. Since each individual institution operates a number of auxiliary enterprises financing them through the receipts, it is necessary for the State treasurer when such receipts are remitted to charge them to the different revolving funds. He is also responsible for maintaining accounts of all disbursements from each of the funds which are made on requisitions or vouchers from the governing boards.

GENERAL POWERS OF STATE AUDITOR OR COMPTROLLER

The State auditor or comptroller is the chief auditing and accounting officer of the State.¹⁴ Although varying somewhat in the several States, the principal general powers conferred upon him include the auditing of all claims against the State, issuing of warrants for all disbursements out of the State treasury, keeping of separate accounts of appropriations made by the legislature, maintaining a continuous check of the funds in the custody of the State treasurer, and examining periodically the financial accounts of the various State agencies.

Except for Maine, New Hampshire, New Jersey, and Rhode Island, the office of auditor or comptroller in all the States is established by the State constitution. He is either elected by the people or the legislature¹⁵ in every State excepting New Hampshire and Rhode Island. In the latter two States, he is appointed by the Governor with the consent of the council. The consequence is that the State auditor or comptroller is an independent officer not subject to the direction of the governor in the exercise of his powers in nearly all of the States.¹⁶

The general powers vested in the State auditor or comptroller apply directly to the governing boards of the institutions in a number of ways. On account of his position as one of the State's principal executive officers, he has been made a member of several governing boards in an ex officio capacity. As the State's chief auditing and accounting officer, he has authority over the disbursing, keeping account, and

¹⁴ In two States—Oregon and Wisconsin—the chief auditing and accounting officer is the secretary of state.

¹⁵ The State auditor or comptroller is elected by a joint session of the two houses of the legislature in New Jersey, Tennessee, and Virginia.

¹⁶ In this connection attention must be called to the fact that the creation of new fiscal and budgetary officials by State government reorganizations was due in part to the State auditor's or comptroller's independence of gubernatorial authority. These new officials, such as State budget officer, director or commissioner of finance, were made to serve under the immediate control of the governor in many instances. Several States having an elective auditor established an appointive comptroller, the governor making the appointment. The government reorganizations frequently provided for the transfer of part of the powers of the regular State auditor or comptroller to the newly created fiscal officer. Detailed information on this subject will be included in the future bulletin to be issued by the Office on the authority of State executive officers over the financial affairs of State universities and colleges.

auditing of the funds belonging to the institutions in the custody of the State treasurer.

State auditor or comptroller as member of governing board.—There are three States in which the State auditor or comptroller is an ex officio member of certain governing boards. Such States are Arkansas, North Carolina, and Rhode Island. He serves as a member of the separate boards governing each of the teachers colleges in Arkansas, of the State board of education having general supervision of the separate boards governing three Negro institutions in North Carolina, and of the single board governing institutions of all types as a group in Rhode Island. The auditor or comptroller as ex officio member of these boards possesses the same prerogatives as the regular members including the right to vote.

State auditor's or comptroller's powers over funds of institutions.—Powers vested in the State auditor or comptroller over the funds belonging to the institutions in the custody of the State treasurer involve the procedures which the governing boards must follow in disbursing or expending their funds. A general outline of these procedures may be summarized as follows:

(1) The State auditor or comptroller maintains separate accounts of the funds of each institution, including appropriations of the legislature and various items contained in the appropriations. Similar accounts are kept of the institutional receipts in the States in which the State treasurer has custody of such receipts. The accounts of the auditor or comptroller are exact duplicates of those kept by the State treasurer.

(2) The governing board of the institution in making a disbursement or expenditure from the funds must submit to the State auditor or comptroller a voucher or requisition authenticated by the chairman, treasurer, or secretary of the board showing the amount to be withdrawn from the specific appropriation or fund account.

(3) Upon its receipt the State auditor or comptroller audits the voucher with respect to its compliance with the terms of the appropriation act and at the same time checks the unexpended balance in the particular account to make certain that the disbursement will not cause a deficit.

(4) Having verified the legality of the voucher and the existence of necessary funds in the account, the auditor or comptroller issues his warrant on the State treasurer for the payment of the amount of the voucher or requisition.

Legal provisions of the States differ in the methods by which the governing boards disburse or expend the funds included in their appropriations. Under one method the boards submit vouchers or requisitions at periodical intervals to the State auditor or comptroller for the withdrawal of lump-sum installments of the appropriations belonging to the institution. Warrants covering the installments are issued by him payable directly to the board's treasurer or the institutional treasurer who disburses the funds in defraying the regular operating expenses of the institution. A second method provides for

the submission of separate vouchers for each expenditure by the board together with semimonthly or monthly pay rolls covering individual salaries of staff members and employees. The State auditor or comptroller then issues separate warrants for each of the different expenditures and individual salaries.

A number of States have adopted the first method. In most of them the method is applicable to boards governing certain institutions within the State. Among these boards are constitutional boards vested by the State constitution with exclusive and autonomous control of the expenditures of the institution. Others are boards governing institutions supported by mill-tax levies or special taxes, the proceeds of which have been appropriated for their support by the legislature.

The amount of the lump-sum installments of the appropriations withdrawn and the interval of time when the vouchers or requisitions are submitted by the board to the State auditor or comptroller vary among the States. Governing boards of the State universities in California, Colorado, and Indiana are authorized to withdraw all appropriations at any time from the custody of the State treasurer. A similar situation exists with respect to the single board governing all teachers colleges as a group in Colorado and Indiana. The board governing the State agricultural and mechanic arts college in Pennsylvania withdraws from time to time such installments of the institution's appropriations as may be approved by the Governor.

The appropriations in other States are withdrawn by the boards in equal monthly installments. A list of these States together with the particular type of institution to which this arrangement applies within the State includes:

Colorado:
State university.

Illinois:
State university.

Iowa:
Institutions of all types (governed as group by single board).

Louisiana:
Institutions of all types except State university (governed as group by single board).¹⁷

Michigan:
State university.
Agricultural and mechanic arts college.

Minnesota:
State university.

New Hampshire:
State university.

New Mexico:
State university.
Agricultural and mechanic arts college.

Military institute.
Technical school.
Each teachers college (governed by separate board).

Tennessee:
State university.

Utah:
State university.
Agricultural and mechanic arts college.

¹⁷ Withdrawals from appropriations monthly include amounts sufficient to pay monthly salaries, while the remainder of appropriation is withdrawn semiannually.

There are several States in which the appropriations are withdrawn by boards at greater intervals of time. The board governing the State university in Alabama is empowered to withdraw its annual appropriations in quarterly installments on the last day of March, June, September, and December. Appropriations to the board governing the State university in Vermont are withdrawn semi-annually, one-half on July 1 and the balance on January 1. An unusual plan has been adopted in the case of the State university in Maine. The statutes of that State provide that the State auditor shall appoint a resident auditor at the university who issues warrants covering the expenditures out of the institution's appropriations. In a number of the States in which the legal provisions do not specify when governing boards shall withdraw their appropriations, special arrangements have been made between the State auditor or comptroller and the boards for their payment in periodical installments.

By far a greater majority of the States have adopted the second method under which the boards submit their pay rolls and vouchers for separate expenditures to the State auditor or comptroller, who issues individual warrants for them. Under this arrangement the pay checks of staff members and employees are prepared by the State auditor or comptroller or by the State treasurer instead of the board's treasurer or institutional treasurer.

In the submission of vouchers for separate expenditures to the State auditor or comptroller, the boards in most instances are also required to furnish itemized invoices or bills covering the particular purchases included in the expenditures. The State auditor or comptroller in many of the States issues separate warrants for expenditures not only from the appropriations but also from the institutional receipts. This is especially true in the States in which the State treasurer has custody of all or part of the institutional receipts, as shown in table 15.

Of special interest are six States in which the governor must issue or countersign all warrants drawn by the State auditor or comptroller in favor of the governing boards of the institutions before they are payable by the State treasurer. Such States are Arizona,¹⁸ Florida, Georgia, Maine, Massachusetts, and New Hampshire. In Arizona, Florida, and Georgia the Governor alone is vested with this power while in Maine, Massachusetts, and New Hampshire it has been conferred on the Governor and his council. The power is derived from statutory provisions in Arizona, Florida, and Georgia and from constitutional provisions in the other three States.

Under another general power conferred on the State auditor or comptroller in practically all the States, he is required to conduct a periodical examination of the financial accounts of the institutions.

¹⁸ The Governor in Arizona may designate one of his secretaries to countersign the warrants for him.

In the exercise of this power the State auditor or comptroller generally has a number of assistant auditors or examiners. Legal provisions of the States stipulate that he or his assistant shall visit, inspect, examine, and audit the financial accounts of the institutions at least once during each year. In some States, the examination is made semi-annually. The governing boards are required to surrender all books, vouchers, papers, or documents on demand to the State auditor or comptroller.

GENERAL POWERS OF ATTORNEY GENERAL

Through the general powers vested in him the attorney general is the principal law officer of the State. His office is established by the constitution in all of the States except Indiana, Oregon, Pennsylvania, and Wyoming.

The people elect the attorney general in each State with the exception of Indiana, New Hampshire, New Jersey, Pennsylvania, Tennessee, and Wyoming. Hence, he is an independent official answerable to the people in most of the States. The attorney general is appointed by the Governor alone in Indiana and Pennsylvania¹⁹ and by the Governor with the consent of the senate in New Hampshire,²⁰ New Jersey, and Wyoming. In the latter States the Governor, therefore, is responsible either solely or partially for his appointment. The judges of the supreme court appoint the attorney general in Tennessee for a term of 8 years.

As a result of the general powers conferred upon him, the attorney general exercises jurisdiction over the governing boards in two respects. In the first place, he serves in three States as an ex officio member of certain boards with the privilege of voting. Among them are the State board of education having general supervision over the single board governing institutions of all types as a group in Florida, the single board governing institutions of all types as a group in Montana, and the State board of education having supervision over the separate boards governing three Negro institutions in North Carolina. In the second place, he is the legal counsel or adviser of the governing boards. Commonly the powers devolving upon him in this capacity are as follows:

- (1) To institute, prosecute, and defend all suits involving matters connected with the boards.
- (2) To give his opinion or ruling in writing upon any question of law relating to the duties of the boards.
- (3) To prepare drafts of contracts, forms, and other legal instruments required by the boards.

¹⁹ Besides being appointed by the Governor, the attorney general in Pennsylvania serves at the pleasure of the Governor.

²⁰ With the consent of the council.

The attorney general is empowered to act as legal counsel or adviser of each governing board in all the States with a single exception. This is the constitutional board governing the State university in California. A statute of that State specifies that the legal affairs of the university board shall not be in charge of the attorney general.²¹

In vesting power in the attorney general to institute, prosecute, and defend suits for the boards, legal provisions in most of the States also forbid the boards to employ an attorney or counsel. There are 13 States, however, in which a special attorney may be employed. A list of them comprises Alabama, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, Tennessee, Vermont, and Virginia. Employment of an attorney in these States is permitted only in special instances or emergencies when it is deemed in the interest of the public welfare. Even in such cases, the governing boards are not empowered to select the attorney. Either the Governor alone, the attorney general alone, or the Governor and attorney general jointly make the selection.

Opinions or rulings upon questions of law are generally given by the attorney general at the request of the governing boards. After an opinion or ruling has been rendered by the attorney general, the governing boards are in general required to follow it. An opinion or ruling of the attorney general may be such as to influence fundamental policies of the boards in administering the institutions.

GENERAL POWERS OF SECRETARY OF STATE

General powers conferred on the secretary of state are applicable to the governing boards in only a few instances. The secretary of state in three States is an ex officio member of boards. He holds this position on the State board of education having general supervision over the single board governing institutions of all types as group in Florida, the State board of education having general supervision over the separate boards governing three Negro institutions in North Carolina, and the separate boards governing the State university and the State agricultural and mechanic arts college in Utah. As an ex officio member of the boards, the secretary of state has the voting prerogative.

Among other responsibilities of the secretary of state²² with respect to the boards are the issuance of certificates of office to their members upon appointment or election, the maintenance of a record of the bonds of institutional officers, and the preservation of all contracts, deeds, leases, and similar public documents of the institutions.

²¹ Sec. 472, Political Code of California, 1931, vol. 1, Deering, provides that the attorney general "shall have charge of all legal matters, in which the State is in anywise interested, except the business of the University of California."

²² The secretary of state is authorized in a number of States to exercise supervision over the purchase of fuel, supplies, and public printing. Data on such powers of the secretary of state will be contained in the bulletin to be published in the future by the Office of Education on the authority of State executive officers over the purchasing and printing of State universities and colleges.

CHAPTER V. SUMMARY AND FINDINGS

State universities and colleges were commonly organized as independent entities in the State governmental structure. The boards governing them were detached from the executive branch of the State government in most cases and were endowed with complete jurisdiction over the internal affairs of the institutions.

A gradual evolution has occurred in State governments. Some States have completely reorganized their governments. Others have altered their administrative machinery. The underlying purposes were the integration of the various State agencies within the executive branch of the government and the establishment of a centralized supervisory authority over them.

In the preceding study, an attempt has been made to discover the extent to which the State universities and colleges have been affected by these changes. To accomplish this purpose a comprehensive analysis has been made of the existing positions of the governing boards of the institutions in the general scheme of the State government for each of the 48 States. Involved in this problem were the legal status of the boards, the effects of government reorganizations on them, and the general powers vested in the State's principal executive officials over them.

Legal status of boards.—The impregnability of the independent position of the boards in the State governmental structure against change is dependent in a large measure on their legal status. Correspondingly, the legal status of the boards is an important factor in determining whether State government reorganizations and alterations in State administrative machinery were applicable to them.

From the viewpoint of their legal status the boards consist of three general types: First, constitutional governing boards having their origin in and deriving their powers from the State constitution; second, incorporated governing boards created as corporate bodies and deriving certain of their powers from the fact of incorporation; and third, statutory governing boards having their origin in and deriving their powers from statutes enacted by the State legislature.

Constitutional boards include those having their origin only in the State constitution and those both having their origin in and deriving their powers from the State constitution. In the former case the State constitution in creating the boards made them detached entities in the State governmental organization. The State legislature, therefore, is without authority to change their position or to make them a part of the executive branch of the government. In the latter case the legal status of the boards is such as to place them on a coordinated

basis with the legislative and executive branches. Not only is their independent position in the State governmental organization not subject to alteration, but the constitutional powers over the internal affairs of the institutions vested in them cannot be transferred to officers of the executive branch by legislative enactment.

It was found that nine States have established constitutional boards having only their origin in the State constitutions. The States are Arizona, Florida, Louisiana, Michigan, Missouri, Montana, Nebraska, New York, and South Dakota. In three of the States—Florida, Montana, and New York—these boards govern institutions of all types within the State as a group. In one State, Louisiana, the board governs the institutions of all types as a group except the State university; and in another State, Michigan, all the State teachers colleges as a group. In two of the States—Arizona and Missouri—the board governs the State university. There is one State, Nebraska, with two such boards, one of which governs the State university and the other all State teachers colleges as a group.

Constitutional boards both having their origin in and deriving their powers from the State constitutions were found in eight States—Alabama, California, Colorado, Idaho, Michigan, Minnesota, Oklahoma, and Utah. Five of these States—California, Colorado, Idaho, Minnesota, and Oklahoma—have one such board. In each of these except Oklahoma the board governs the State university. The board in Oklahoma governs all the State's agricultural and mechanic arts colleges as a group. Three States—Alabama, Michigan, and Utah—have two boards, one governing the State university and the other the State agricultural and mechanic arts college.

Incorporated boards created as corporate bodies and deriving certain of their powers from the fact of incorporation have a special legal standing. The boards are legal personalities. In their corporate capacity they have a legal existence separate from other State agencies and possess a certain sovereignty or field of independent action.

Boards of this character comprise two kinds, those incorporated by the State constitution and those incorporated by statutes enacted by the State legislature. The former boards having been made corporate bodies by the State's organic law and having derived their corporate powers from this source have a permanent corporate status not subject to change except by constitutional amendment. The latter boards being dependent on the State legislature for their corporate existence are subject to its will. The legislature has the right to dissolve them as corporations. It may also alter wholly or partially their corporate powers and transfer such powers to State executive officials.

Nine States—California, Colorado, Florida, Idaho, Michigan, Minnesota, New York, Oklahoma, and Utah—have governing boards incorporated by the State constitution. The boards in two of these States—Florida and New York—govern institutions of all types as a group within the State. In the other seven States, the boards govern either the State university or the State agricultural and mechanic arts college. Most of them are the constitutional boards previously cited.

There are 27 States having boards incorporated by statutes enacted by the State legislature. Many institutions of various types are governed by such boards. Most of the boards were made corporate bodies at the time of the founding of the institutions by the State legislature. Through subsequent State government reorganizations and alterations in State administrative machinery, certain of the corporate powers originally belonging to the boards have been withdrawn or transferred to officials of the executive branch by legislative enactment.

The legal status of statutory boards having their origin and deriving their powers from statutes enacted by the State legislature is subject to constant change. At any of its sessions the State legislature may abolish the boards or otherwise alter them in any respect. Full authority rests in the State legislature to deprive the boards of all or part of their powers either through a specific or general law. Statutory boards comprise all those in the several States not found to be constitutional or incorporated governing boards.

State government reorganizations.—The effect of State government reorganizations on the governing boards was found to be dependent upon whether the boards were included along with other governmental units in the reorganization plans of the individual States.

In reorganizing their governments, the States followed two general types of organization. One was the department type consisting of the consolidation either fully or partially of the existing State units in a limited number of administrative departments under the governor as supreme head of the executive branch. The other provided for the retention of the old-type form of government with the centralization of financial supervision over State units in the governor, some other central State official, or special board.

Under the department type of government reorganization, the State's activities and services were divided into major functions, such as finance, education, agriculture, public works, health, law, treasury, and the like. An administrative department was established to administer each of them. Existing governmental units with a few exceptions were consolidated with one or another of the departments dependent upon whether they were performing similar or related functions. Certain departments were empowered to exercise supervision

over all other departments or units of the government with respect to their particular function. Among the administrative departments commonly included in the departmental organization was the department of education responsible for the State's educational functions.

Governing boards of State universities and colleges were affected in two ways through the department type of organization: (1) By the particular positions assigned them among the administrative departments and (2) by the extent to which they were made subject to the authority of the governor, administrative departments, and other executive agencies. In assigning position to the boards, the reorganizations in the different States either consolidated them with one of the administrative departments, attached them to or associated them with a department, or allowed them to remain entirely detached from any department.

It was found that 21 States have reorganized their governments into administrative departments. Boards governing institutions of particular type were consolidated with an administrative department in 12 States—California, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, New York, Pennsylvania, Tennessee, Vermont, and Virginia. In Georgia the board, itself, was made one of the administrative departments.

One of the important effects of the consolidation of the boards with an administrative department was that their detached place in the State governmental organization was changed. The boards became integral parts of the executive branch of the government. The legal status given the boards upon consolidation varied. In eight States the board became the head of the department of education upon being consolidated with it. In three States a single official, the State's chief educational officer, was made the head of the department. In such case, the governing boards became more or less dependent agencies within the department subordinated to its head. The board in one State—Maryland—was consolidated with the department of agriculture and made its head.

Governing boards of institutions of particular types were attached to or associated with an administrative department in five States—Indiana, Kentucky, Massachusetts, Rhode Island, and Virginia. Although the detached position of these boards in the State governmental structure was altered, no fundamental change occurred in their legal status. The boards continued on a more or less independent basis, being connected with a department for convenience of organization.

In 13 States, boards governing institutions of particular types were allowed to remain entirely detached from any administrative department. These States were California, Colorado, Idaho, Illinois, Maine,

Minnesota, Nebraska, Ohio, Pennsylvania, South Dakota, Tennessee, Vermont, and Washington. Since the boards were continued as detached units of the State government, no change whatever resulted in their basic legal status. Most of these boards governed State universities or State agricultural and mechanic arts colleges and were constitutional boards, having been established as independent entities by the State constitution.

The extent to which the boards were made subject by the reorganizations to the authority or jurisdiction of the governor, administrative departments, or other executive agencies varied in the different States. Heads of administrative departments in general were placed in direct line of authority under the governor, but there were certain department heads allowed to remain entirely outside his line of authority. The most common was the head of the department of education.

In 8 of the 11 States in which governing boards were consolidated with the department of education, the department head consisted of a permanent board. Its members were appointed for fixed terms of office that overlapped each other and also the term of the governor. The board, therefore, did not come in direct line of authority under the governor. In three other States a single official, the State's chief educational officer, was made the head of the department. The governor's line of authority extended more or less directly to this official since he was appointed either for a term coextensive with that of the governor or served during the governor's pleasure.

The reorganizations in the different States made governing boards of institutions of particular types subject to the jurisdiction of from one to six administrative departments or other executive agencies with respect to the functions performed by the departments or agencies. The most common departments vested with jurisdiction over the boards were the departments of finance, public works, property, justice, treasury, and audit.

The second type of government reorganization provided for retaining the old-style form of organization but at the same time centralizing financial supervision over the different governmental units in the governor, some newly created fiscal officer or special board. The theory underlying the plan is that financial supervision in reality constitutes authority to regulate the conduct of the functions performed by the different State units. Governing boards of State universities and colleges were affected by this type of organization in accordance with whether they were included among the State units placed under the centralized financial supervision.

There are 16 States which were found to have adopted this type of organization. Among them are Alabama, Arkansas, Connecticut, Iowa, Michigan, Mississippi, Missouri, New Hampshire, New Jersey,

New Mexico, North Carolina, Oklahoma, Oregon, Utah, West Virginia, and Wisconsin. Boards governing institutions of certain type in all these States are subject to centralized financial supervision. In 7 of the States the reorganizations designated the governor to exercise this supervision. In 5 States, a newly created State fiscal officer serving under the immediate direction of the governor was created for this purpose. In the 4 other States, the financial supervision was vested in a special board composed of State executive officers serving *ex officio* or of appointive members.

General powers of State's principal executive officials.—For the operation of the State governmental mechanism as a whole, certain general powers are conferred on the State's principal executive officials. Through them the officials are endowed with a sort of regulatory and restrictive authority over the boards along with other State governmental units and agencies.

General powers vested in the governor which apply directly to the governing boards are of such character as to enable him to exert an influence on the policies and affairs of the institutions. Under his power to send messages to the State legislature, he is enabled to propose new laws affecting the boards and the institutions. The governor has exercised this power in several States in recommending changes in the State higher educational systems. Under the governor's approval or veto power, he is authorized to approve or veto every measure passed by the legislature pertaining to the boards or institutions before it becomes a law. This power is vested in the governor in all the States except North Carolina.

Power to veto separate items or parts of items in appropriation bills is possessed by the governor in all the States except Indiana, Iowa, Maine, Nevada, New Hampshire, North Carolina, Rhode Island, Tennessee, and Vermont. A potent instrument of authority over the governing boards has been placed in the hands of the governor through this power. During the 4 years including 1934, 1935, 1936, and 1937, the governors of eight States vetoed separate items or parts of items in appropriations for institutions. The total amount of appropriations vetoed was approximately \$5,067,000, of which \$1,215,000 was for construction and capital outlays.

The governor is *ex officio* head or member of one or more governing boards in 25 States. In this capacity he is authorized either to preside over the meetings or partake in the proceedings of the boards. Of the 25 States, there are 10 in which he serves as president or chairman of certain boards. He occupies this position on the single board governing all institutions as a group in 3 States, on the board governing the State university in 6 States, and on the board governing the State agricultural and mechanic arts college in 2 States. The governor is an *ex officio* member of boards in the other 15 States. As head or

ex officio member, he is entitled to vote in the same manner as regular members in all except 3 States.

A power vested in the governor having wide ramifications in its application to governing boards is that of appointment of their members. In 12 States certain boards are not appointed by the governor but are either elected by the people, by the legislature, or by the boards. A contingency may arise, however, when the governor may appoint members of such boards. This is the case of a vacancy occurring during the term of a member through death, resignation, or other cause. The governor is empowered to fill vacancies on boards in 9 of these 12 States. He makes the appointment of a successor for the unexpired term in 3 States, until the next election in 3 States, and until the next session of the legislature in 3 States. The length of time that the governor's appointed members serve on the boards is dependent on whether the vacancies occur early or late during the term and on whether a long or short period intervenes between his appointment and the next election or session of the legislature.

By far a greater proportion of the governing boards in the several States are appointed by the governor. The appointive power of the governor is either unlimited or limited. Where his appointive power is limited, the governor's appointment is subject to the consent of the senate. Members of certain boards are appointed by the governor alone in 9 States and by the governor with the consent of the senate in 31 States. In addition, there are 5 States in which the boards governing a particular type of institution are appointed by the governor alone while those governing another type within the State were appointed by the governor with the consent of the senate.

An important question was whether the governor was able to appoint a majority of the members of the boards. This was discovered to be dependent on the length of term of the governor in relation to the length of term of the board members, the eligibility of the governor for a succeeding term, the extent to which the terms of the board members overlap, the governor's power to fill vacancies, and the number of board members comprising a majority. In analyzing these points, it was found that the governor is able to appoint the majority of members of boards in a considerable number of States. This is the case regardless of whether his term of office is 2 or 4 years in length and of whether he served for a single or succeeding terms. Responsibility for this situation is due in general to the short length of terms of board members.

The governor is vested with the express power to remove members of one or more governing boards in 34 States. Of these States there are 8 in which the governor has unconditional power to remove members at his will, pleasure, or discretion. In the other 26 States his

power is conditioned and he can remove members only for cause or with the consent of the senate. The governor is required in 7 of the latter States to present charges to the board member and permit him a hearing before the removal becomes effective. Within recent years the governor in only 1 State was found to have exercised this power and actually removed members of a board.

The State treasurer is an ex officio member of certain governing boards in 3 States and treasurer of boards in 10 States. Under the general powers vested in him he has custody of funds belonging to the institutions. Such funds consist of two kinds, annual or biennial appropriations and institutional receipts derived from various sources. In all the States the State treasurer maintains custody of the appropriations of the institutions until legally disbursed. In the case of institutional receipts, different policies have been adopted by the several States. There are 39 States in which the State treasurer has custody of all or part of the institutional receipts of one or more boards as compared with 9 States in which he has custody of none of the institutional receipts of any of the boards.

As the State's chief auditing and accounting officer, the State auditor or comptroller is responsible for the auditing and disbursing of the funds of the institutions. He serves as an ex officio member of certain boards in three States. Under his general powers, the State auditor or comptroller maintains separate accounts of the annual or biennial appropriations made to the institutions. In disbursing them, he issues warrants on vouchers of the governing boards after auditing them, verifying their legality, and ascertaining whether sufficient funds were available to cover the payment. Two methods of disbursement are followed in the different States. Under one method the governing boards withdraw lump-sum installments of the annual or biennial appropriations through vouchers submitted to the auditor or comptroller at periodical intervals, such as monthly, quarterly, or semiannually. Under the second method separate vouchers are submitted to the State auditor or comptroller for each expenditure by the boards including individual salaries of staff members and employees. Most of the States have adopted the latter method.

The attorney general under the general powers conferred upon him serves as the legal counsel or adviser to governing boards in every State with the single exception of the board governing the State university in California. He is an ex officio member of certain boards in 3 States. In his capacity as legal counsel or adviser the attorney general institutes, prosecutes, and defends suits for the boards and gives his opinion or ruling in writing to them on questions of law. The boards are expressly forbidden to employ a special attorney or counsel in all except 13 States.

Final summation.—In summing the information contained in this inquiry as a whole, it is fairly evident that a strong trend exists among the States towards the centralization of authority in the governor as supreme head of the executive branch of the government.

Governing boards of State universities and colleges along with the other units of the State government are being brought under the jurisdiction of the governor and other executive officials. The legal status of the boards which gave them a detached position in the State governmental organization and which endowed them with autonomy over the management of the institutions is being altered in a number of States.

The boards in such States are being made component parts of the executive branch of the government. Corporate powers vested in the boards through their original charters of incorporation are being modified or withdrawn by State legislatures. Authority over the administration of certain phases of the internal affairs of the institutions is being transferred from the boards to the governor and other State executive officials.

Certain boards in other States deriving their power from the State constitution or possessing exceptional legal standing, however, have been immune from this development. The definite policy has been adopted in still other States to continue the boards as separate entities with fairly complete jurisdiction over the administration of the institutions under their control.