

MEASURE APPROVED OVER GOVERNOR'S VETO

CHAPTER 636

HOUSE BILL NO. 1435

(Representatives Kretschmar, Dorso, Martin, Oban)
(Senators G. Nelson, Wogsland)

LEGISLATIVE ASSEMBLY RECONVENED SESSIONS

VETO

April 4, 1995

The Honorable Clarence Martin
Speaker of the House
State Chamber
State Capitol
Bismarck, ND 58505

RE: House Bill 1435

Dear Speaker Martin:

Mr. Speaker:

I am returning HB 1435, which I am vetoing for the reasons set forth below. The bill allows the legislature to reconvene at the call of the legislative council, after adjournment from the traditional session. I am vetoing the legislation for three reasons.

1. I have serious questions of the constitutionality of the bill. Our Constitution provides that the Legislature will meet in December for orientation and organization, and will reconvene not later than January 11th. Article IV, section 7, continues that the "regular session" will not exceed 80 days; that the days need not be consecutive, and that the Legislature may authorize its committees to meet anytime during the interim. But, there is no express authority to reconvene during the biennium. Finally, Article V, section 5, of the Constitution provides that the Governor "shall have power to convene the legislative assembly on extraordinary occasions." Over the course of many decades, this authority has been used by Governors to call for special sessions when they were appropriate. History will show that Governors have been sensitive to the interests and wishes of legislators. I intend to follow suit, and would consider the request of the Legislature to call a special session when the assembly or its members felt it necessary.
2. Secondly, the bill may impinge upon traditional executive branch authority. Our Constitution provides for a carefully balanced separation of powers, where each branch of government is held in check by the

dispersion of power between the other two branches of government. In that division, the Legislature is to establish public policy, and the executive branch is charged with executing those policies. I fully intend to faithfully execute the laws established by the legislature. However, I believe that HB 1435 begins to erode the carefully crafted separation of powers in the North Dakota Constitution, so I will not approve of any legislation for that reason alone.

3. Finally, I believe the bill advances a public policy that does not reflect the wishes of the People, by permitting the extension of a legislative session beyond its traditional time period. The people of North Dakota do not approve of annual legislative sessions, and this bill begins that process. I cannot approve a bill that begins to allow Legislature to hold sessions outside the usual period during which the session has been held for over a hundred years.

For these reasons, I must veto HB 1435, and respectfully return it to the House of Representatives.

Sincerely,

Edward T. Schafer
Governor

NOTE: The Governor's veto of House Bill No. 1435 was not sustained. For the full text of House Bill No. 1435 as approved, see chapter 494.