

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2257

2005 SENATE JUDICIARY

SB 2257

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2257

Senate Judiciary Committee

☐ Conference Committee

Hearing Date February 2, 2005

Tape Number	Side A	Side B	Meter #
1		x	3875 - 4900
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Provide for a bad check division program.

**Senator John (Jack) T. Traynor**, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

**Testimony In Support of the Bill:**

**Sen. Trenbeath**, Dist. #10 - Introduced the bill (meter 3875) Handed out amendment - Att #1

This bill was brought to me by a business owner in MN whom he and I work on functions brought forth in this bill. I was waiting for more information from MN State Attorneys and am still waiting. I have submitted an amendment requesting to move the bill into a legislative study.

**Senator Hacker** asked if this is MN legislation? Yes, this is mostly taken from what the MN legislator has, this is not new law.

**Testimony in Opposition of the Bill:**

**Ted Gladden**, State Court Administrator (meter 4120) Gave Testimony - Att. #2

**Senator John (Jack) T. Traynor**, Chairman closed the Hearing

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2257

Hearing Date February 2, 2005

**Senator Triplett** made the motion to pass amendment Att. #1 (50634.0101) **Sen. Trenbeath** second all were in favor. Motion passes.

**Senator Triplett** made the motion to do pass as amended, **Senator Hacker** seconded the motion. All were in favor motion passes.

Carrier: **Sen. Trenbeath**

**Senator John (Jack) T. Traynor**, Chairman closed the Hearing

# FISCAL NOTE

Requested by Legislative Council  
02/07/2005

Amendment to: SB 2257

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There will be an impact for the program monitoring, scheduling court appearances and judicial hearings. There will also be a fiscal impact monitoring payments of fees and restitution. This latter activity could be contracted out, but determining personnel impact and actual fiscal impact cannot be calculated at this time as there is no way to determine the number of referrals to the program.

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

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

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

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Ted Gladden	<b>Agency:</b>	Supreme Court
<b>Phone Number:</b>	3284216	<b>Date Prepared:</b>	02/09/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/18/2005

Bill/Resolution No.: SB 2257

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

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There will be an impact for the program monitoring, scheduling court appearances and judicial hearings. There will also be a fiscal impact monitoring payments of fees and restitution. This latter activity could be contracted out, but determining personnel impact and actual fiscal impact cannot be calculated at this time as there is no way to determine the number of referrals to the program.

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

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

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

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Ted Gladden	<b>Agency:</b>	State Court Administrator's office
<b>Phone Number:</b>	3284216	<b>Date Prepared:</b>	01/19/2005

HH #1

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2257**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the feasibility and desirability of creating a diversion program for people who have written bad checks."

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL STUDY - BAD CHECK DIVERSION PROGRAM.** During the 2005-06 interim, the legislative council shall consider studying the feasibility and desirability of creating a diversion program for people who have written bad checks as an alternative to prosecution. In performing the study, the legislative council shall seek input from interested persons, including the judicial branch, state's attorneys, and the North Dakota trial lawyers association. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

Date: 2/2/05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2257

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move to Amend (50634-0101)

Motion Made By Sen Triplett Seconded By Sen Trenbeath

Senators	Yes	No	SenatorsSen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2/2/05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2257

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Sen Triplett Seconded By Sen Hacker

Senators	Yes	No	SenatorsSen. Nelson	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) \_\_\_\_\_ 6 No \_\_\_\_\_ 0

Absent \_\_\_\_\_ 0

Floor Assignment Sen. Trenbeath

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

**REPORT OF STANDING COMMITTEE**

**SB 2257: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the feasibility and desirability of creating a diversion program for people who have written bad checks.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE COUNCIL STUDY - BAD CHECK DIVERSION PROGRAM.** During the 2005-06 interim, the legislative council shall consider studying the feasibility and desirability of creating a diversion program for people who have written bad checks as an alternative to prosecution. In performing the study, the legislative council shall seek input from interested persons, including the judicial branch, state's attorneys, and the North Dakota trial lawyers association. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

2005 HOUSE JUDICIARY

SB 2257

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2257

House Judiciary Committee

☐ Conference Committee

Hearing Date 3/8/05

Tape Number	Side A	Side B	Meter #
2	xx		24.4-27.2
Committee Clerk Signature <i>Alvin Penrose</i>			

Minutes: 10 members present, 4 members absent (Reps. Maragos, Charging, Meyer & Onstad).

**Chairman DeKrey:** We will open the hearing on SB 2257.

**Sen. Tom Trenbeath:** I'm here in support of this resolution, it started as a bill, which I'd introduced at the behest of the company that I interviewed in Minnesota, it has to do with a check diversion program. I introduced the legislation on the promise that this company was going to generate some support through the states attorneys' offices across the state, that didn't develop as quickly as they would have liked to have done, I didn't feel like carrying the bill around on my back, frankly, solely, so we converted it to a study resolution. I think it's a good idea. What it would do would be to take persons who have offended our bad check laws, and if the prosecutor thought they might qualify, would divert them into a program, a non-criminal program, which would involve a education course, repayment, etc. They do it now in Minnesota and apparently Fargo was wondering why Moorhead could do it and they couldn't. So we thought we would put

Page 2  
House Judiciary Committee  
Bill/Resolution Number SB 2257  
Hearing Date 3/8/05

a plan together, but as I said, it didn't gel, so I think it would be right for a study, and maybe do something for next session.

**Chairman DeKrey:** Thank you. Further testimony in support, testimony in opposition. We will close the hearing. What are the committee's wishes in regard to SB 2257.

**Representative Delmore:** I move a Do Pass on the Consent calendar.

**Representative Zaiser:** Seconded.

10 YES 0 NO 4 ABSENT

DO PASS

CARRIER: Rep. Zaiser

Date: 3/8/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2257

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	A		Representative Meyer	A	
Representative Bernstein	✓		Representative Onstad	A	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	A				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 10 No 0

Absent 4

Floor Assignment Rep. Zaiser

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

**REPORT OF STANDING COMMITTEE (410)**  
March 8, 2005 12:14 p.m.

**Module No: HR-42-4382**  
**Carrier: Zaiser**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2257, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (10 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). Engrossed SB 2257 was placed on the Tenth order on the calendar.**

2005 TESTIMONY

SB 2257

**Testimony Before the  
Senate Judiciary Committee  
on SB 2257  
by Ted Gladden, State Court Administrator**

Chairman Traynor and members of the Senate Judiciary Committee, I am appearing today in opposition to Senate Bill 2257. While the concept may be meritorious, that of having a diversion program for people who write checks with non-sufficient funds, my major concern has to do with how the program is structured giving the judiciary the responsibility to administer it. While the establishment of the program by the court is optional, as provided in Section 2, the location for a program of this nature should be with an executive branch agency. Section 2 provides, in part, that "offenders may agree to participate in the program instead of undergoing prosecution". Since this is a program that contemplates an option for offenders to attend a program in lieu of prosecution, the dialogue would go on between the offender and representative of the state's attorney's office. This legislation outlines a program to be implemented prior to a complaint being filed with the district court. This is a program that, if it is going to be established, should be one that is developed in concert with the various county state's attorney offices. Even if the legislation were to be revised and dealt with as a sentencing alternative, it should be administered by the executive branch of government. An alternative then would be for the department of corrections, through their probation services to administer the program. However, it should not be developed under the auspices of the judiciary. In visiting with two state's attorneys, I want to underscore their concern that no program should be developed that would create different standards for offenders.

One if they have money to participate, and a different standard if they cannot afford participation.

In completing the fiscal impact statement, I did indicate there would be an impact if the program were to come under the judiciary in terms of monitoring, scheduling judicial proceedings, as well as the monitoring of the payment of any fees for restitution. It is almost impossible to calculate the staff time necessary, at this time. I might point out that in 2004, there were 6,500 cases filed involving the three criminal check statutes that would generate these cases.

That concludes my formal remarks. I will respond to any questions Committee members may have at this time.