

# VETOED MEASURES

## CHAPTER 632

SENATE BILL NO. 2055  
(Senator Evanson)

### STUDENT INFORMATION CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 15-38 of the North Dakota Century Code, relating to confidentiality of student information.

VETO

March 16, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2055

Dear President Myrdal,

I am returning Senate Bill 2055 pursuant to Article V Section 9 of the North Dakota Constitution, exercising my authority to veto the bill under North Dakota Law.

The bill was designed to alleviate apparent problems in our school systems, whereby a school counselor, or social worker, who is subject to confidentiality rules is unable to disclose information to the teacher about a particular student. The legislation purports to alleviate that problem by cloaking the teacher with similar confidentiality rules. I have several concerns and objections to the bill which follow:

1. The bill does not achieve its intended result. In other words, Senate Bill 2055 does not change the confidentiality rules that another person (a school counselor/social worker) is subject to, nor does it authorize another person to disclose confidential information to the teacher.
2. I believe the bill is a step in the wrong direction for our educational system. Specifically, I believe teachers should be allowed greater latitude with respect to the manner in which they deal with our children and the students of our state. This bill impedes the flexibility I believe teachers should have in performing their duties.
3. Confidentiality rules, if necessary, can be formulated administratively in the North Dakota Educators Code of Ethics.
4. The general rule of confidentiality has four fairly broad exemptions that raise concerns not addressed by the bill. For example, if the teacher incorrectly determines that one of the exceptions applies, then is the

teacher subject to fines, disciplinary action, or even civil liability to the student?

For these reasons, I veto Senate Bill 2055, and respectfully return it to the Senate.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1.** A new section to chapter 15-38 of the North Dakota Century Code is created and enacted as follows:

**Confidentiality of student information.** No teacher may disclose to any other person confidential information received from or about a student except as provided in this section. Information is considered confidential if made privately and not intended for disclosure to any other person. A teacher may disclose information when:

1. The teacher has reason to believe that there is danger or detriment to the health, safety, or life of a person and that disclosure of the information will alleviate the danger;
2. The student's parent if the student is under eighteen, or the student if the student is eighteen or older waives the confidentiality requirement of this section;
3. Such information needs to be shared with parents, other teachers, counselors, or school personnel in the normal course of educating the student; or
4. Disclosure is required by other provisions of law.

Disapproved March 16, 1993  
Filed March 23, 1993

## CHAPTER 633

HOUSE BILL NO. 1276  
(Representatives Dorso, Nelson, Rydell)  
(Senators Heinrich, Malewaja, W. Stenehjem)

### **DEVELOPMENTALLY DISABLED FACILITY DEPRECIATION RECAPTURE**

AN ACT to create and enact a new section to chapter 25-16 of the North Dakota Century Code, relating to residential care and services for the developmentally disabled.

VETO

March 23, 1993

The Honorable Rick Berg  
Speaker of the House  
House Chamber  
State Capitol  
Bismarck, ND 58505

RE: House Bill 1276

Dear Speaker Berg,

I am returning House Bill No. 1276, and hereby veto the same.

Under current law, North Dakota recaptures depreciation when a care provider of the developmentally disabled sells a facility or fixed asset. The recapture is limited to the extent that the sale price exceeds the net book value (depreciated value) of the asset. House Bill 1276 seeks to change that procedure dramatically. The bill limits the amount of recapture to the difference between sale price and the outstanding mortgage or debt against the property. This limitation may result in a "churning" of facilities, through the artificial creation of debt, the sale of properties and the loss of recapture to the State of North Dakota. In other words, when North Dakota should have received depreciation recapture - no recapture will be received when the debt meets or exceeds the disposal price.

House Bill 1276 could cost the state substantial revenue if a number of facilities are sold, which could severely disrupt services to the developmentally disabled. Private providers of services to the developmentally disabled have been the backbone of our programs. Those providers deserve fair compensation for their services with appropriate and accurate recognition of depreciation being a proper and integral part of their remuneration.

I believe House Bill 1276 impedes that process and I respectfully return the same.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1.** A new section to chapter 25-16 of the North Dakota Century Code is created and enacted as follows:

**Depreciation recapture on sale of fixed assets.** When care providers, or operators of institutions or facilities sell fixed assets or otherwise remove the asset from service in or to the facility, any depreciation costs asserted with respect to that asset are subject to depreciation recapture. The depreciation recapture is to the extent that the sale or disposal price exceeds the net book value of the asset. Depreciation recapture applies only during the first fifteen years of operation of the facility or institution or within the first fifteen years after acquisition of a fixed asset. The amount of depreciation recapture may not exceed the difference between the sale price and the outstanding mortgage or debt on the facility.

Disapproved March 23, 1993  
Filed March 30, 1993

## CHAPTER 634

SENATE BILL NO. 2257  
(Senators Mathern, Freborg)  
(Representatives Clayburgh, Kerzman)

**CHILD ASSISTANCE IN TESTIMONY**

AN ACT to create and enact three new sections to chapter 12.1-35 and a new subsection to section 12.1-35-02 of the North Dakota Century Code, relating to testimony and proceedings involving a witness or victim who is a minor; and to amend and reenact sections 12.1-35-01 and 12.1-35-04 of the North Dakota Century Code, relating to victim and witness standards.

VETO

March 23, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2257

Dear President Myrdal,

Attached please find Senate Bill No. 2257, which I hereby veto.

Section 3 of the bill seeks to expand the protections afforded to North Dakota's children under Chapter 12.1-35 during the child's involvement in legal proceedings. Our children rightfully deserve the protection of the courts and the law in such instances. However, the North Dakota courts have the inherent power to protect witnesses, including children from badgering, harassment, or abuse as they testify in court. In addition, North Dakota law also, currently provides protection to witnesses during discovery proceedings. (See for example, Criminal Procedure Rule 15, and Civil Procedure Rule 26(c).)

Section 4 places a mandatory obligation on the court to allow an individual to sit with, accompany, or be in close proximity to the child during the child's testimony. That obligation is mandatory to the court in all cases regardless of the age of the child so long as a request for the assistance is made. I believe the bill goes too far by requiring the court to permit such a procedure in all cases and gives rise to the potential for coaching during testimony. Section 4 of the bill also requires the court to hold a hearing at the request of the state to see if the courtroom should be closed during the child's testimony. The accused has a constitutional right to a speedy and public trial - which, of course, is not absolute. Nonetheless, I am troubled by the constitutional implications and direction that the bill takes with respect to open and public proceedings within our

judicial system. I believe that an open and public judicial system promotes greater understanding and respect for the courts, court personnel, and the law itself.

For these reasons, I respectfully return Senate Bill 2257, having vetoed the same.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 12.1-35-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**12.1-35-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Child" means an individual under the age of eighteen years.
2. "Child development specialist" means an individual who demonstrates educational and work experience exhibiting an understanding of child development and behavior.
- ~~2.~~ 3. "Court" means a forum established by law for the adjudication of juvenile petitions, criminal complaints, informations, or indictments.
- ~~3.~~ 4. "Family member" means a spouse, child, sibling, parent, legal guardian, or custodian of a victim.
4. 5. "Prosecuting attorney" includes city attorney, state's attorney, attorney general, or their assistants.
- ~~5.~~ 6. "Sex offense" includes all sex offenses defined as such in chapter 12.1-20.
- ~~6.~~ 7. "Victim" means a child who has suffered direct or threatened physical, financial, or emotional harm as a result of the commission or attempted commission of a crime.
- ~~7.~~ 8. "Witness" means any child who has been or is expected to be summoned to testify in a criminal case whether or not any action or proceeding has been commenced.

**SECTION 2.** A new subsection to section 12.1-35-02 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Information about the availability of a child development specialist to ensure questions asked of the witness are chronologically and developmentally appropriate.

**SECTION 3. AMENDMENT.** Section 12.1-35-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**12.1-35-04. Limits on interviews.** The prosecuting attorney and appropriate law enforcement personnel shall, to the extent possible, protect the ~~child~~ victim

Disapproved March 23, 1993  
Filed April 2, 1993

## CHAPTER 635

SENATE BILL NO. 2446  
(Senators DeMers, Graba)  
(Representatives C. Carlson, Glassheim, Poolman)

### AIRPORT AUTHORITY COMMISSIONER COMPENSATION

AN ACT to amend and reenact section 2-06-06 of the North Dakota Century Code, relating to compensation paid to commissioners of an airport authority.

VETO

March 23, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2446

Dear President Myrdal,

Attached please find Senate Bill No. 2446, which I am returning to the Senate and hereby veto.

The bill seeks to amend Chapter 2-06, the Airport Authorities Act, which has been in place for over three decades, and which establishes the compensation of the Airport Authority Commissioners, who during that period, have graciously served the State of North Dakota and their local authority without compensation, except for necessary expenses, including travel expenses. The bill authorizes a per diem expenditure not to exceed \$50 per day, and not to exceed \$1,000 annually. Given the number of boards and commissions, I believe the bill is a step in the wrong direction for right-sizing government.

I have therefore vetoed the bill and respectfully return the same to the Senate Chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 2-06-06 of the North Dakota Century Code is amended and reenacted as follows:

**2-06-06. Commissioners - Compensation - Meetings - Officers.** A commissioner of an authority may receive no compensation for his services, but not to exceed

fifty dollars for each meeting of the authority attended by the commissioner; however, total compensation received by a commissioner may not exceed one thousand dollars annually. In addition, a commissioner is entitled to the necessary expense expenses, including traveling expenses, incurred in the discharge of his the commissioner's duties. Each commissioner shall hold office until his a successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners must be filed with the authority.

The powers of each authority are vested in the commissioners thereof of the authority. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

There must be elected a chairman and vice chairman from among the commissioners. An authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such any legal services as it an authority may require, an authority may call upon the chief law officer of the municipality or municipalities included in the authority or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Disapproved March 23, 1993  
Filed April 2, 1993

## CHAPTER 636

SENATE BILL NO. 2378  
(Senators Thane, Robinson, Dotzenrod)  
(Representatives Cleary, Stenehjem)

### SENTENCING SURCHARGE AND ADMINISTRATION

AN ACT to create and enact a new section to chapter 12.1-32 and two new subsections to section 54-23.3-04 of the North Dakota Century Code, relating to the imposition, collection, allocation, and disbursement of funds generated from a sentencing surcharge and the powers and duties of the director of the department of corrections and rehabilitation; and to provide an appropriation.

VETO

March 25, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2378

Dear President Myrdal,

I am returning Senate Bill No. 2378 and hereby veto the same.

Community correction programs currently exist in Williston, Minot, Jamestown and Richland county, and provide an excellent tool for local authorities as a sentencing option other than jail and also provide a method for repaying court costs, restitution, etc.

Senate Bill 2378, however, establishes regional boards, establishes a special fund up to \$508,000, and creates a cumbersome financing mechanism. A local surcharge is collected by misdemeanor at the local level, transferred to the state treasurer, and then returns 85% of the amounts collected to the regional boards and 15% to the Department of Corrections.

I believe the community correction programs are useful vehicles, but that Senate Bill 2378 creates an additional layer of government and is a cumbersome system for maintaining these programs at the local level.

I therefore am respectfully returning Senate Bill 2378, having vetoed the same.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1.** A new section to chapter 12.1-32 of the North Dakota Century Code is created and enacted as follows:

**Surcharge on sentencing - Imposition and administration.**

1. Any person who pleads guilty or is convicted of any misdemeanor offense in violation of title 12.1 or equivalent ordinances shall pay a sentencing surcharge of twenty-five dollars. The surcharge is in addition to any other sentencing requirement permitted by law.
2. When a person pleads guilty or is convicted of two or more offenses committed as the result of a single act or omission, the court shall impose a sentencing surcharge for only one of the offenses.
3. The offender shall pay the sentencing surcharge to the clerk of court for the court imposing the sentence. The clerk of court shall, on a monthly basis, pay all money collected from the sentencing surcharge to the county treasurer. The county treasurer shall pay, by the fifteenth of each month, all money received from the clerk of court under this section to the state treasurer for deposit in the community corrections development account.
4. If an offender is unable to satisfy the obligation imposed by this section within thirty days, a payment schedule agreeable to the court may be established.
5. The community corrections development account is created in the state treasury. The community corrections development account consists of moneys deposited in the account under this section and interest earned on moneys in the account and may be spent within the limits of legislative appropriations. On the first day of each month the state treasurer shall transfer eighty-five percent of the money in the community corrections development account generated by the sentencing surcharge to the department of corrections and rehabilitation for disbursement to the regional community advisory boards for community corrections programs. The state treasurer shall transfer the remaining balance of the account to the department of corrections and rehabilitation for the administration and development of a community corrections development program.

**SECTION 2.** Two new subsections to section 54-23.3-04 of the 1991 Supplement to the North Dakota Century Code are created and enacted as follows:

To establish regional community advisory boards for the purpose of improving community and corrections relations through the development of community corrections projects.

To develop a procedure for the access to, distribution of, and use of funds in the community corrections development account by regional community advisory boards.

**SECTION 3. APPROPRIATION.** There is hereby appropriated out of any moneys in the community corrections development account in the state treasury, not otherwise appropriated, the sum of \$508,012, or so much of the sum as may be necessary, to the

department of corrections and rehabilitation for the purpose of implementing this Act for the biennium beginning July 1, 1993, and ending June 30, 1995.

Salaries and wages	\$ 70,000
Operating expenses	6,201
Grants	<u>431,811</u>
Total special fund appropriation	\$508,012

Disapproved March 25, 1993  
Filed April 2, 1993

## CHAPTER 637

SENATE BILL NO. 2398  
(Senators B. Stenehjem, Mathern, Jerome)  
(Representatives Hanson, Henegar, Torgerson)

### MOTORBOAT PROGRAMS AND FUND

AN ACT to create and enact two new sections to chapter 20.1-02 of the North Dakota Century Code, relating to the creation of the motorboat programs and safety fund; to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to motorboat license fees; and to provide an effective date.

VETO

March 25, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2398

Dear President Myrdal,

I am returning Senate Bill No. 2398 to the Senate, having vetoed the same. My reasons for doing so are described below.

First of all, I am concerned that this bill creates a new program in a period of difficult economic times for the state. Secondly, the program is funded through highway tax distribution dollars which would otherwise be used for highway construction. At the present time, North Dakota does not have sufficient funds to fully match the federal highway construction program to date. I don't believe we should divert those funds for new programs such as those contemplated by Senate Bill 2398.

Finally, the bill does not clearly describe the manner in which, and by whom the motor boat programs and safety fund will be administered.

For these reasons, I respectfully return Senate Bill 2398.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1.** A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

Motorboat programs and safety fund - Use. The director shall deposit all motorboat license fees with the state treasurer. The state treasurer shall deposit the fees in the motorboat programs and safety fund. Funds placed in the motorboat programs and safety fund and interest earned on the fund may be used only for construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, boating safety education, and boat licensing administration.

**SECTION 2.** A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

Motorboat programs and safety fund - Transfer from highway tax distribution fund. On July first of each year the state treasurer shall transfer from the highway tax distribution fund, before allocation of the fund under section 54-27-19, to the motorboat programs and safety fund an amount equal to two dollars and fifty cents multiplied by the number of motorboats licensed with the game and fish department on July first of that year.

**SECTION 3. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

**20.1-03-12. Schedule of fees for licenses and permits.** The various license and permit fees shall be as follows:

1. For a resident, age nineteen and over small game hunting license, six dollars, and for a resident, under the age of nineteen small game hunting license, three dollars.
2. For a nonresident small game hunting license, fifty dollars.
3. For a resident big game hunting license, eighteen dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. For a nonresident big game hunting license, one hundred dollars, and for a nonresident bow license, one hundred dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
5. For a resident fur-bearer license, seven dollars.
6. For a resident fishing license, nine dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee shall be three dollars.
7. For a nonresident fishing license, twenty dollars.
8. For a nonresident short-term seven-day fishing license, thirteen dollars.
9. For a resident husband and wife fishing license, thirteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For resident and nonresident special permits to hunt deer in certain restricted areas, one dollar.
12. For a wild turkey permit, five dollars.

13. For an annual general game license, three dollars.
14. For a permit to propagate, domesticate, or possess protected wildlife, five dollars.
15. For a license to a nonresident buyer or shipper of green furs, or that person's agent, the amount that the nonresident buyer or shipper of green furs would pay for a nonresident buyer or shipper of green furs license or comparable license in that person's state of residence, or fifty dollars, whichever is greater.
16. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by him within this state.
17. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
18. For an annual license to practice taxidermy, four dollars.
19. For a permit to ship, by a person having a resident hunting license, during the respective open seasons, not to exceed in any one season twenty-five game birds, to points within this state other than his home or to points outside of this state, three dollars.
20. For a permit to make collections of protected birds and animals for scientific purposes, two dollars.
21. For a permit to ship live protected birds or animals to points either within or outside this state, two dollars per permit. A permit shall be attached to each shipment.
22. For a motorboat certificate of number and license: Each motorboat under sixteen feet [4.88 meters] in length, and all canoes, regardless of length, powered by a motor, ~~nine~~ twelve dollars. Each motorboat sixteen feet [4.88 meters] in length and over but shorter than twenty feet [6.1 meters] in length, excluding canoes, ~~twenty-one~~ twenty-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, ~~thirty~~ thirty-three dollars. ~~It is the intent of the legislative assembly that the increase in motorboat license fees, as provided by the 1981 and 1989 amendments to this subsection, be used for providing matching funds for construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, boating safety education, and boat registration administration.~~
23. To operate watercraft used for hire, the following license fees shall apply for three years:
  - Class 1. Each craft capable of carrying two adults of average weight, six dollars.
  - Class 2. Each craft capable of carrying three adults of average weight, six dollars.
  - Class 3. Each craft capable of carrying four adults of average weight, six dollars.

- Class 4. Each craft capable of carrying five adults of average weight, six dollars.
  - Class 5. Each craft capable of carrying up to eight adults of average weight, nine dollars.
  - Class 6. Each craft capable of carrying up to ten adults of average weight, twelve dollars.
  - Class 7. Each craft capable of carrying up to fifteen adults of average weight, twenty-four dollars.
  - Class 8. Each craft capable of carrying sixteen or more adults of average weight, thirty dollars.
24. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, six dollars for each hoop-net or trap, two dollars for each setline, and six dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
  25. For a license to erect, have, and maintain on the ice in this state a fishhouse used or to be used to protect one while ice fishing or a dark house used or to be used for spearfishing, five dollars for each unit.
  26. For an annual license to peddle fish species abounding in waters of this state, three dollars.
  27. For an annual license to sell minnows or other live bait at wholesale, thirty dollars.
  28. For an annual license to sell minnows or other live bait at retail, eight dollars.
  29. For an annual license to operate a private fish hatchery, thirty dollars.
  30. For a resident commercial frog license, fifty dollars.
  31. For a nonresident commercial frog license, two hundred dollars.
  32. For a resident frog license, three dollars.
  33. For a resident husband and wife frog license, five dollars.
  34. For a shooting preserve operating permit:
    - a. One hundred dollars, if the shooting preserve consists of an area of six hundred forty acres [259 hectares] or less; or
    - b. One hundred dollars, if the shooting preserve consists of an area of more than six hundred forty acres [259 hectares], plus fifty cents per acre [.40 hectare] for each acre [.40 hectare] over six hundred forty acres [259 hectares].
  35. For an annual license to guide, one hundred dollars.

36. For a nonresident waterfowl hunting license, eight dollars.
37. For a nonresident husband and wife fishing license, thirty-five dollars.
38. For a trout and salmon license stamp, four dollars.
39. For a nonresident short-term three-day fishing license, eight dollars.
40. For a nonresident short-term three-day small game hunting license, issued between November fifteenth and the close of the upland game hunting season, thirty dollars.
41. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
42. For a combination license, twenty-five dollars.
43. For a white-tailed deer license sold to guides or outfitters and provided by them to nonresidents, two hundred and fifty dollars.
44. For a resident swan license, five dollars.
45. For a nonresident swan license, twenty dollars.
46. For a resident and nonresident sandhill crane license, five dollars.
47. For a resident commercial clam license, one hundred dollars.
48. For a nonresident commercial clam license, one thousand dollars.
49. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the commissioner a surety bond in the sum of two thousand dollars.

The fees for these licenses and permits, except for motorboat license fees, must be deposited with the state treasurer and credited to the game and fish fund.

**SECTION 4. EFFECTIVE DATE.** Section 1 of this Act becomes effective on July 1, 1993, section 2 of this Act becomes effective on June 30, 1995, and section 3 of this Act becomes effective on January 1, 1996.

Disapproved March 25, 1993  
Filed April 6, 1993

## CHAPTER 638

SENATE BILL NO. 2447  
(Senators Robinson, Evanson, O'Connell)  
(Representatives Coats, Goffe)

### INTERIM BOARD TEACHER NEGOTIATIONS

AN ACT to create and enact a new subsection to section 15-27.6-04 of the North Dakota Century Code, relating to negotiations between teachers and interim district school boards.

VETO

March 25, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
Bismarck, ND 58505

RE: Senate Bill 2447

Dear President Myrdal,

I am returning Senate Bill No. 2447, and hereby veto the same.

The bill seeks to establish guidelines for contract negotiations between teachers and the school board in a consortium district. I am, however, troubled by the following passage within the legislation:

"If the issue has not been resolved, the commission shall, between ten and twenty days after transmittal, make its finding and recommendations public. If any issue remains unresolved fifteen days prior to the election, the parties shall adopt the recommendation of the commission as to the unresolved issue."

Senate Bill 2447 basically establishes binding arbitration for consortium districts. The voters of North Dakota in June 1992 made their intentions clear by successfully referring binding arbitration legislation passed in the 1991 Legislature.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1.** A new subsection to section 15-27.6-04 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Negotiate with teachers pursuant to chapter 15-38.1. The parties may utilize the impasse procedures provided in section 15-38.1-13, except that

the aggrieved school board or representative organization shall request assistance from the commission no later than ninety days prior to the special election provided for in section 15-27.6-10. Within forty days after the request to render assistance is received, the findings and recommendations of the commission must be transmitted to the contending parties. If the issue has not been resolved, the commission shall, between ten and twenty days after the transmittal, make its findings and recommendations public. If any issue remains unresolved fifteen days prior to the election, the parties shall adopt the recommendation of the commission as to any unresolved issue. This section does not prevent the parties from continuing the good faith negotiation process during the impasse. The negotiated agreement between the parties must include a provision for the reduction of staff in participating districts and a provision, if the school district does not vote in favor of forming a new school district pursuant to subsection 4 of section 15-27.6-10, to rehire teachers nonrenewed by the participating school districts.

Disapproved March 25, 1993  
Filed April 7, 1993

## CHAPTER 639

HOUSE BILL NO. 1302  
(Representatives A. Olson, D. Olsen)  
(Senator Sand)

### PUBLIC LIBRARY DIRECTORS COMPENSATION

AN ACT to amend and reenact section 40-38-03 of the North Dakota Century Code, relating to compensation of the board of directors of a public library.

VETO

April 2, 1993

The Honorable Rick Berg  
Speaker of the House  
House Chamber  
State Capitol  
Bismarck, ND 58505

RE: House Bill 1302

Dear Speaker Berg,

I am returning House Bill No. 1302, and regretfully must veto the same.

As you know, I vetoed Senate Bill 2446 that was similar legislation which permitted modest payments to members of local airport authorities. House Bill 1302 allows for similar payments not to exceed \$25.00 per day. Throughout my administration, I will remain vigilant with respect to the cost and the growth of government. That cost diverts funds from the private sector, which may actually impede the growth of our economy.

House Bill 1302 is permissive legislation, and places control at the local level - a principle with which I concur. Nonetheless, I have vetoed the bill with the following specific objections:

1. The bill presents an innocuous opportunity to spend a substantial amount of local taxpayer funds. North Dakota has 103 libraries, all of which are served by board members that meet throughout the year. Given the inertia of government, and the likelihood of authorizing these payments, I can see this bill costing local taxpayers thousands of dollars in short order.
2. Again, I believe that legislation of this nature is a step in the wrong direction given the number of boards and commissions throughout North Dakota at both the state and local level. Clearly, a good argument exists for modest payments to the North Dakota citizens who give of their time and energies for public service, on the local library board, Airport Authority, Chamber of Commerce, etc., but where do we draw the line?

3. Public service gives rise to another objection I have with the bill, which is whether it is necessary. In other words, is it necessary for North Dakota to permit payment to citizens for their service on the various boards and commissions throughout the state? All of us can think of many organizations, committees, boards, and commissions that the good citizens of North Dakota serve throughout their lifetime because of a personal interest in the program, in honor of civic duty, or service to their community, state or country.

I believe that North Dakotans will continue to provide unselfish service to our local libraries and communities without the financial incentive contemplated by House Bill 1302. The unselfish example of the board member who serves without remuneration, is the one I would hope we, as North Dakotans, will follow, rather than withholding that commitment for a small financial reward.

For these reasons, I regretfully must return House Bill 1302 to your chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 40-38-03 of the North Dakota Century Code is amended and reenacted as follows:

**40-38-03. Board of directors - Appointment - Term of office - ~~No compensation~~ Compensation - Filling vacancies - Organization.** The governing body of a ~~municipality which city that~~ municipality city that has established a public library and reading room, or the board of county commissioners for a county library, shall appoint a board of five directors who must be residents of the ~~municipality city~~ municipality city or county, as the case may be, to govern ~~such the~~ the library and reading room. One member of the governing body of the ~~municipality city~~ municipality city or designated representative shall ~~must~~ must be a member of the board of directors of a ~~municipal city~~ municipal city library, and must be a resident of the ~~municipality which city that~~ municipality city that establishes and maintains ~~such municipal the~~ the library; and one member of the board of county commissioners or designated representative shall ~~must~~ must be a member of the county board of directors. The terms of office of the members of the first board of directors shall ~~must~~ must be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall ~~must~~ must be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of ~~his~~ his appointment and until ~~his a~~ his a successor has been appointed. No member of ~~such the~~ the board shall ~~may~~ may serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall ~~must~~ must be reported by ~~such the~~ the board to the governing body of the ~~municipality city~~ municipality city or the board of county commissioners, as the case may be, and shall ~~must~~ must be filled thereby. However, a member of any ~~municipal board of directors of a public library and reading room who was appointed to such position by a school board prior to July 1, 1975, may serve upon such board for the residue of his unexpired term unless such position shall otherwise become vacant.~~ Appointments made to fill unexpired terms

~~shall~~ must be for the residue of the term only. ~~No~~ The board of directors of a public library may provide for the payment of compensation shall be paid or allowed to of not more than twenty-five dollars per day and the reimbursement for necessary expenses as provided in sections 44-08-04 and 54-06-09 incurred in the discharge of the duties of a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president. The governing board of a municipality city or county establishing public library service may, in lieu of appointing a library board, contract directly with a library board established by another governing body of a municipality city or county for the purpose of extending public library service.

Disapproved April 2, 1993  
Filed April 8, 1993

## CHAPTER 640

SENATE BILL NO. 2003  
(Appropriations Committee)

### HIGHER EDUCATION APPROPRIATION

AN ACT to provide an appropriation for defraying the expenses of the North Dakota university system and the various institutions of higher learning under the supervision of the state board of higher education; to authorize the industrial commission to issue and sell bonds for capital repair projects and special assessment costs; and to provide an exemption to the provisions of section 54-44.1-11.

VETO

April 8, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2003

Dear President Myrdal,

I am returning Senate Bill 2003, and hereby veto the same pursuant to Article V, Section 9 of the North Dakota Constitution.

The legislation establishes an appropriation for defraying the expenses of the North Dakota university system and the institutions of higher learning under the supervision of the state Board of Higher Education. The total funds appropriated is \$464,008,349, including \$255,212,947 from the general fund.

I have two major objections (and several concerns) to the bill, which follow:

1. The general fund appropriation is \$9 million above the amount recommended in my proposed budget. This figure does not include almost \$1 million in bonding authority which obligates costs in the future.
2. I do not believe additional funding will achieve the intended result of the university system's own Seven Year plan, which advocates management of change without growth.

I am committed to a university system that offers students the highest quality, is cost-effective, and is relevant to the needs of every North Dakotan. My proposed budget sufficiently addresses all three of these goals, and includes \$6.5 million more than the current biennium.

In January, while constructing our budget, Chancellor Treadway concurred with our 1993-95 recommendation for higher education.

I share with Dr. Treadway the belief that the university system must change and reallocate, and this goal must be accomplished within the parameters of what the state can afford at a time of diminished resources. The challenge is to improve quality and service with the realization that higher education cannot expect increased appropriations from the state.

The Seven Year plan clearly states that future improvements in quality and the pursuit of new initiatives should be attained through reallocation of existing resources.

A primary area for reallocation is administrative costs, including executive management, support services, and other non-academic activities to improve funding for academics.

The university system must be lean and innovative; it must be flexible, adaptable, and quick to learn new ways when conditions change. In a nutshell, the university system must begin squeezing more bang out of every buck.

Corporate America has spent the last decade making revolutionary changes by decentralizing authority, focusing on quality, and basically bringing their products closer to the customers. The university system must follow suit.

In the face of the financial crisis in North Dakota, it is disappointing to see increased spending. In some circles, the belief is that the only way out of a public crisis is to tax and spend. But forcing North Dakotans to dig into their pockets to pay more taxes will break family budgets across the state.

We must recognize that the ability to pay higher taxes has all but evaporated in North Dakota.

For these reasons, I veto Senate Bill 2003, and respectfully return it to the Senate.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds or other income, to the state board of higher education and to the various institutions of higher learning under the supervision of the state board of higher education for the purpose of defraying its expenses, for the biennium beginning July 1, 1993, and ending June 30, 1995, as follows:

Subdivision 1.

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE

Salaries and wages	\$ 1,786,518
Information services	81,450

Operating expenses	454,900
Equipment	24,150
Computer network management	188,000
Higher education contingency fund	176,168
Professional student exchange program	1,108,870
Experimental program to stimulate competitive research	4,980,000
Scholars program	642,240
Perkins loan program match	102,885
Title II grant	300,000
Paul Douglas scholarship	99,420
Student financial assistance grants	3,943,086
Disabled student services	50,000
Native American scholarships	200,000
College technical administration	150,000
Total all funds	<u>\$ 14,287,687</u>
Less estimated income	<u>4,949,420</u>
Total general fund appropriation	<u>\$ 9,338,267</u>

## Subdivision 2.

## BISMARCK STATE COLLEGE

Salaries and wages	\$ 13,231,438
Operating expenses	3,292,443
Equipment	469,777
Capital improvements	147,354
Total all funds	<u>\$ 17,141,012</u>
Less estimated income	<u>8,333,130</u>
Total general fund appropriation	<u>\$ 8,807,882</u>

## Subdivision 3.

## UNIVERSITY OF NORTH DAKOTA-LAKE REGION

Salaries and wages	\$ 3,703,995
Operating expenses	1,165,284
Equipment	134,660
Capital improvements	35,832
Total all funds	<u>\$ 5,039,771</u>
Less estimated income	<u>2,039,656</u>
Total general fund appropriation	<u>\$ 3,000,115</u>

## Subdivision 4.

## UNIVERSITY OF NORTH DAKOTA - WILLISTON

Salaries and wages	\$ 4,278,319
Operating expenses	1,191,215
Equipment	238,766
Capital improvements	140,380
Total all funds	<u>\$ 5,848,680</u>
Less estimated income	<u>2,989,753</u>
Total general fund appropriation	<u>\$ 2,858,927</u>

## Subdivision 5.

## UNIVERSITY OF NORTH DAKOTA

Salaries and wages	\$ 93,351,348
Operating expenses	27,032,230
Equipment	2,154,002
Capital improvements	1,781,290

Interactive video network	<u>1,831,190</u>
Total all funds	\$126,150,060
Less estimated income	<u>49,114,063</u>
Total general fund appropriation	\$ 77,035,997

## Subdivision 6.

## NORTH DAKOTA STATE UNIVERSITY

Salaries and wages	\$ 74,689,924
Operating expenses	21,930,657
Equipment	2,038,242
Special initiatives	120,000
Capital improvements	<u>1,190,940</u>
Total all funds	\$ 99,969,763
Less estimated income	<u>39,242,039</u>
Total general fund appropriation	\$ 60,727,724

## Subdivision 7.

## NORTH DAKOTA STATE COLLEGE OF SCIENCE

Salaries and wages	\$ 19,225,213
Operating expenses	5,382,175
Equipment	1,268,544
Special initiatives	100,000
Capital improvements	<u>211,782</u>
Total all funds	\$ 26,187,714
Less estimated income	<u>7,015,638</u>
Total general fund appropriation	\$ 19,172,076

## Subdivision 8.

## DICKINSON STATE UNIVERSITY

Salaries and wages	\$ 11,598,211
Operating expenses	3,230,481
Equipment	277,787
Special initiatives	50,000
Capital improvements	<u>218,133</u>
Total all funds	\$ 15,374,612
Less estimated income	<u>5,599,113</u>
Total general fund appropriation	\$ 9,775,499

## Subdivision 9.

## MAYVILLE STATE UNIVERSITY

Salaries and wages	\$ 7,111,659
Operating expenses	1,879,836
Equipment	100,000
Special initiatives	150,000
Capital improvements	<u>75,000</u>
Total all funds	\$ 9,316,495
Less estimated income	<u>2,622,459</u>
Total general fund appropriation	\$ 6,694,036

## Subdivision 10.

## MINOT STATE UNIVERSITY

Salaries and wages	\$ 25,869,160
Operating expenses	4,892,095
Equipment	669,382

Capital improvements	<u>645,668</u>
Total all funds	\$ 32,076,305
Less estimated income	<u>13,776,567</u>
Total general fund appropriation	\$ 18,299,738

## Subdivision 11.

## VALLEY CITY STATE UNIVERSITY

Salaries and wages	\$ 9,308,738
Operating expenses	2,244,152
Equipment	212,308
Capital improvements	200,000
Special initiatives	<u>400,000</u>
Total all funds	\$ 12,365,198
Less estimated income	<u>3,466,540</u>
Total general fund appropriation	\$ 8,898,658

## Subdivision 12.

## NORTH DAKOTA STATE UNIVERSITY - BOTTINEAU

Salaries and wages	\$ 3,360,307
Operating expenses	904,357
Equipment	92,280
Special initiatives	100,000
Capital improvements	<u>76,050</u>
Total all funds	\$ 4,532,994
Less estimated income	<u>1,380,316</u>
Total general fund appropriation	\$ 3,152,678

## Subdivision 13.

## NORTH DAKOTA FOREST SERVICE

Salaries and wages	\$ 1,542,316
Operating expenses	368,733
Equipment	40,900
Capital improvements	<u>31,061</u>
Total all funds	\$ 1,983,010
Less estimated income	<u>663,040</u>
Total general fund appropriation	\$ 1,319,970

## Subdivision 14.

## UNIVERSITY OF NORTH DAKOTA MEDICAL CENTER

Salaries and wages	\$ 43,509,497
Operating expenses	16,459,089
Equipment	<u>1,847,887</u>
Total all funds	\$ 61,816,473
Less estimated income	<u>35,685,093</u>
Total general fund appropriation	\$ 26,131,380

## Subdivision 15.

## MEDICAL CENTER REHABILITATION HOSPITAL

Salaries and wages	\$ 16,938,622
Operating expenses	8,085,572
Equipment	<u>526,356</u>
Total appropriation from institutional income	\$ 25,550,550
Grand total general fund appropriation S.B. 2003	\$255,212,947
Grand total special funds appropriation S.B. 2003	\$208,795,402

Grand total all funds appropriation S.B. 2003

\$464,008,349

**SECTION 2. APPROPRIATION TRANSFER.** The higher education contingency fund, disabled student services, and system capital projects in subdivision 1 of section 1 must be used for the benefit of the institutions and entities in subdivisions 1 through 15 of section 1 as determined by the state board of higher education. The board shall notify the office of management and budget of the allocation of general fund authority from the higher education contingency fund, disabled student services, and system capital projects to the various entities and institutions and which line items in the various institutions and entities shall be adjusted.

**SECTION 3. APPROPRIATION.** All operating fund income received in excess of the estimated income line item appropriated to the entities in section 1 of this Act which is deposited in their respective operating funds in the state treasury is hereby appropriated. Any excess estimated income up to the following amounts may be spent subject to board of higher education approval:

INSTITUTION	AMOUNT
Bismarck State College	\$ 166,663
University of North Dakota - Lake Region	40,793
University of North Dakota - Williston	59,795
University of North Dakota	982,281
North Dakota State University	784,841
North Dakota State College of Science	140,313
Dickinson State University	111,982
Mayville State University	52,449
Minot State University	275,531
Valley City State University	69,331
North Dakota State University - Bottineau	27,606
North Dakota Forest Service	13,261
University of North Dakota Medical Center	713,702
Medical Center Rehabilitation Hospital	<u>511,011</u>
Total	\$3,949,559

Any additional excess estimated income can be spent only upon authorization of the emergency commission. Any funds received by the board of higher education and the entities of the North Dakota university system pursuant to federal acts, private grants, and other sources not deposited in the operating funds in the state treasury are hereby appropriated for the period beginning July 1, 1993, and ending June 30, 1995.

**SECTION 5. TRANSFERS.** Each institution or agency included in subdivisions 1 through 15 of section 1, upon approval of the state board of higher education, may make such transfers between line items in its appropriation as may be determined necessary by the board for operations of the institution or agency. The board shall notify the office of management and budget of each transfer.

**SECTION 6. EXEMPTION.** The scholars program, higher education contingency fund, student financial assistance grants, and professional student exchange program appropriations contained in subdivision 1 of section 1 of chapter 3 of the 1991 Session Laws of North Dakota shall not be subject to the provisions of section 54-44.1-11 and any unexpended funds from these appropriations shall be available during the biennium beginning July 1, 1993, and ending June 30, 1995.

**SECTION 7. DEPOSIT OF FUNDS.** Funds received from Minnesota by the board of higher education pursuant to the reimbursement provisions of the Minnesota-North Dakota public higher education and vocational technical education tuition reciprocity agreement authorized by chapter 15-10.1 shall be deposited in the board of higher education special revenue fund in the state treasury. These funds shall be used for the North Dakota student financial assistance program authorized by chapter 15-62.2.

**SECTION 8. LEGISLATIVE INTENT.** The legislative assembly recognizes the appropriations in section 1 may be insufficient to provide for both full funding of faculty and staff positions and for 1994-95 salary adjustments. Therefore, it intends that the board of higher education take such action as it considers necessary to allocate the funding to maintain quality academic programs.

**SECTION 9. TRAINING - SALARIES.** The \$1,034,376 included in the institutions appropriations for training funding in section 1 may be used within each institution as determined appropriate by the board of higher education and the institutions for 1994-95 salary adjustments.

**SECTION 10. PROJECT AUTHORIZATION - APPROPRIATION.** The industrial commission, acting as the state building authority, shall arrange for the funding of the projects authorized in this section, hereby declared to be in the public interest, through the issuance of loan notes under North Dakota Century Code chapter 54-17.2, during the biennium beginning July 1, 1993, and ending June 30, 1995. The industrial commission may offer loan notes issued under this section for sale only to the Bank of North Dakota at a price that is as representative as possible of the current market interest rates for comparable loan notes purchased by the Bank of North Dakota. The proceeds of the loan notes and other available funds are hereby appropriated during the biennium beginning July 1, 1993, and ending June 30, 1995, to the institutions under the control of the board of higher education for the following capital repair projects and special assessment costs:

NAME OF AGENCY, DEPARTMENT, OR INSTITUTION	CONSTRUCTION/ ACQUISITION FUNDS	SPECIAL ASSESSMENTS
Bismarck State College	\$ 81,344	\$ 268,468
UND-Lake Region	76,561	5,141
UND-Williston		17,169
University of North Dakota	1,550,165	507,022
North Dakota State University	1,360,330	675,803
State College of Science	486,589	189,850
Dickinson State University	184,183	62,132
Mayville State University	249,808	
Minot State University	227,259	
Valley City State University	169,261	142,440
NDSU-Bottineau	114,500	
Total	\$4,500,000	\$1,868,025

The industrial commission shall issue loan notes authorized under this section with the condition that lease rental payments need not begin until July 1, 1995. This authority of the industrial commission to issue loan notes ends on June 30, 1995, but the industrial commission may continue to exercise all other powers granted to it under chapter 54-17.2 and this Act to comply with any covenants entered into before that date.

Disapproved April 8, 1993  
Filed April 16, 1993

## CHAPTER 641

SENATE BILL NO. 2142  
(Government and Veterans Affairs Committee)  
(At the request of the Department of Corrections and  
Rehabilitation)

### PAROLE BOARD COMPENSATION

AN ACT to amend and reenact section 12-59-02 of the North Dakota Century Code, relating to the compensation of parole board members.

VETO

April 8, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2142

Dear President Myrdal,

Attached please find Senate Bill No. 2142, which I am returning to the Senate and regretfully must veto the same.

The bill increases payments to the Parole Board to the same level as members of the Legislative Council. I know full well that the members of the Parole Board work diligently and at length in their service to the people of North Dakota, and could rightfully claim the modest compensation this bill authorizes.

The members of the Parole Board have served North Dakota exceptionally well. Nonetheless, as I have indicated in previous veto messages, I am reluctant to authorize new boards, programs, or expenditures at this time in our state's history. As deserving as the members of Parole Board may be, I cannot concur with Senate Bill 2142, and regretfully veto the same and return the bill to your chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 12-59-02 of the North Dakota Century Code is amended and reenacted as follows:

**12-59-02. Meetings - Quorum - Compensation.** The board shall organize by selecting a chairman. Meetings of the board shall be held at the state penitentiary

on call of the chairman as often as required to properly conduct the business of the board, but in any event not less than six times per year. Two members shall constitute a quorum, and no action shall be taken without the concurrence of at least two members. ~~Members shall be compensated at the rate of thirty dollars per day for each day actually and necessarily spent in the performance of their duties as board members plus the same mileage and expenses as are authorized for state officials and employees~~ are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

Disapproved April 8, 1993  
Filed April 15, 1993

## CHAPTER 642

SENATE BILL NO. 2143  
(Government and Veterans Affairs Committee)  
(At the request of the Department of Corrections and  
Rehabilitation)

### BOARD OF PARDONS COMPENSATION

AN ACT to amend and reenact section 12-55-02 of the North Dakota Century Code, relating to the compensation of members of the board of pardons.

VETO

April 8, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2143

Dear President Myrdal,

Attached please find Senate Bill No. 2143, which I am returning to the Senate and regretfully must veto the same.

The bill increases payments to the Board of Pardons to the same level as members of the Legislative Council. I know full well that the members of the Board work diligently and at length in their service to the people of North Dakota, and could rightfully claim the modest compensation this bill authorizes.

The members of the Board of Pardons have served North Dakota exceptionally well. Nonetheless, as I have indicated in previous veto messages, I am reluctant to authorize new boards, programs, or expenditures at this time in our state's history. As deserving as the members of the Board may be, I cannot concur with Senate Bill 2143, and regretfully veto the same and return the bill to your chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 12-55-02 of the North Dakota Century Code is amended and reenacted as follows:

**12-55-02.** Compensation of members of board of pardons. The ex officio members of the board of pardons shall receive no additional compensation for their

services upon such board. The two qualified electors appointed on the board by the governor ~~shall receive fifteen dollars for each day necessarily employed in attendance upon the sessions of the board and mileage for each mile [kilometer] actually and necessarily traveled in connection with such duties are entitled to receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.~~ Such compensation and mileage shall be paid upon the presentation of the proper voucher containing an itemized statement of the number of days' attendance and the number of miles actually and necessarily traveled in connection with such duties, duly verified by the oath of the member of the board making the claim and approved by the president or secretary of the board. All such claims shall be audited and separate warrants shall be drawn upon the state treasurer for the amount allowed to be paid out of the state treasury.

Disapproved April 8, 1993  
Filed April 15, 1993

## CHAPTER 643

SENATE BILL NO. 2290  
(Senator Tennefos)

## MINORS ALCOHOL SCREENING

AN ACT to amend and reenact sections 5-01-08 and 39-20-14 of the North Dakota Century Code, relating to the use of screening tests as evidence of the consumption of alcoholic beverages by a person under twenty-one years of age.

VETO

April 8, 1993

The Honorable Rosemarie Myrdal  
President of the Senate  
Senate Chamber  
State Capitol  
Bismarck, ND 58505

RE: Senate Bill 2290

Dear President Myrdal,

I am returning Senate Bill No. 2290, and veto the same.

The intent of the bill is to permit the use of screening tests authorized by Chapter 39-20, as evidence that a minor has consumed alcoholic beverages. However, the bill raises some troubling questions. For example:

1. Section 1 provides that the screening test under Chapter 39-20 can be used as evidence of a minor having consumed alcoholic beverages, which is prohibited by NDCC 5-01-08. Then, does a law enforcement officer have legal authority to insist that the minor take the screening test when the minor is a passenger in an automobile, or is not in an automobile at all, (in a park, in their residence, etc.)? In other words, under what circumstances can the screening test be required? Presently, an officer may request that a driver submit to a screening test, and the test results can be used as evidence of consumption of alcohol by a minor.
2. The bill mixes Chapters 5-01, and 39-20 which gives rise to another problem. Chapter 39-20, provides that a person must submit to a screening test and if the test is refused, then that person's driver's license shall be revoked as provided in Section 39-20-04. However, if the minor who is a passenger in an automobile refuses to submit to the test, can the driver's license then be revoked? Or, in a different case, does the minor who refuses the screening test in the community park risk his driver's license by refusing to submit to such a request?

For these reasons, I veto and return Senate Bill 2290 to your chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 5-01-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**5-01-08. Persons under twenty-one years of age prohibited from purchasing, consuming, or possessing alcoholic beverages or entering licensed premises - Penalty - Exceptions - Referrals to addiction facilities.** Except as permitted in this section and section 5-02-06, any person under twenty-one years of age purchasing or attempting to purchase alcoholic beverages, consuming alcoholic beverages other than during a religious service, being under the influence of alcoholic beverages, or being in possession of alcoholic beverages, or furnishing money to any person for such purchase, or entering any licensed premises where alcoholic beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian, or in accordance with section 5-02-06, or if the person is a law enforcement officer entering the premises in the performance of official duty, is guilty of a class B misdemeanor. The court may, under this section, refer the person to an outpatient addiction facility licensed by the state department of human services for evaluation and appropriate counseling or treatment. The screening test authorized by section 39-20-14 may be used as evidence of having consumed alcoholic beverages.

**SECTION 2. AMENDMENT.** Section 39-20-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-20-14. Screening tests.** Any person who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the person's breath for the purpose of estimating the alcohol content of the person's blood upon the request of a law enforcement officer who has reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol. A person may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the person's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the state toxicologist and according to methods and with devices approved by the state toxicologist. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01 or as proof of consumption of alcoholic beverages under section 5-01-08. The officer shall inform the person that refusal of the person to submit to a screening test will result in a revocation for up to three years of that person's driving privileges. If such person refuses to submit to such screening test or tests, none may be given, but

such refusal is sufficient cause to revoke such person's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. However, the commissioner must not revoke a person's driving privileges for refusing to submit to a screening test requested under this section if the person provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein. For the purposes of this section, "chemical test operator" means a person certified by the state toxicologist as qualified to perform analysis for alcohol in a person's blood, breath, saliva, or urine.

Disapproved April 8, 1993  
Filed April 15, 1993

**CHAPTER 644**

HOUSE BILL NO. 1023  
(Legislative Council)  
(Interim Budget Committee on Government Administration)

**OIL PUT OPTIONS**

AN ACT to authorize the state to purchase oil put options; to provide an appropriation; and to provide an expiration date.

VETO

April 9, 1993

The Honorable Rick Berg  
Speaker of the House  
House Chamber  
State Capitol  
Bismarck, ND 58505

RE: House Bill 1023

Dear Speaker Berg:

I am returning House Bill 1023, and respectfully veto the same.

The bill is designed to level out state oil revenues by "hedging" against a decline in the oil market. The bill also has some built-in protections, in that OMB initiates the process, subject to the approval of the Industrial Commission, and implementation by the State Investment Board.

However, in effect, the bill introduces North Dakota government to sophisticated, high-finance techniques that also involve high risk. The nature of an option is such that 100 percent of the investment can be lost as a result of market conditions.

I believe this type of financing for state government is dangerous in itself and sets a dangerous precedent for the future. I believe it is better for North Dakota to carefully plan its budget and allow for historical trends and variances with respect to oil production and prices, which affect oil revenue.

For these reasons, I veto House Bill 1023, and return the same to your chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. Oil and gas tax revenue put options. Upon request of the director**

of the office of management and budget and upon approval by the industrial commission, the state investment board may purchase oil put options for the office of management and budget. The purchase of put options must be designed to offset reduced state general fund oil and gas tax revenues due to oil and gas prices falling below selected levels. Put options may be purchased only at such times that the purchase assures that oil tax revenues plus the revenues from the sale of put options will be in excess of the oil tax revenues estimated for that level of production by the most recently adjourned legislative assembly. The office of management and budget shall report any purchases of put options to the budget section of the legislative council.

**SECTION 2. APPROPRIATION.** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, for the biennium beginning July 1, 1993, and ending June 30, 1995, such amounts as may be necessary, but not to exceed the additional general fund revenues that will become available pursuant to the sale of oil put options as provided in this Act, to the office of management and budget to purchase oil put options through the state investment board.

**SECTION 3. EXPIRATION DATE - SUSPENSION.** This Act is effective through June 30, 1995, and after that date is ineffective.

Disapproved April 9, 1993  
Filed April 21, 1993

## CHAPTER 645

HOUSE BILL NO. 1286  
(Representatives Clayburgh, Hagle, Kretschmar)

### CHANGE OF JUDGE

AN ACT to amend and reenact section 27-05-27 and subsection 3 of section 29-15-21 of the North Dakota Century Code, relating to a demand for change of judge.

VETO

April 9, 1993

The Honorable Rick Berg  
Speaker of the House  
House Chamber  
State Capitol  
Bismarck, ND 58505

RE: House Bill 1286

Dear Speaker Berg:

I am returning House Bill 1286, and respectfully veto the same.

The bill removes a litigants' ability to seek a different judge in a divorce proceeding, once a judge has made a decision in the case. Essentially, the effect of House Bill 1286 is to bind both litigants to the same judge, potentially for years to come. After a period of time, even the most well-intentioned and conscientious judge may become cynical about a particular litigant, his attorney, or his cause. That litigant should be able to seek a different judge in subsequent proceedings. Likewise, even the most well-intentioned and conscientious judge may bring a bias or prejudice that unconsciously affects the court's decision. Again, the litigant should be free to seek a different judge as current law presently allows. Presently, the law is not biased towards either litigant, and each has an equal right to remove a judge in their case.

The courts deal with issues as sensitive as child custody, visitation, changes of residency of minor children, grandparent visitation and significant economic issues pertaining to the family unit. Given those issues, I believe we should assure flexibility and objectivity in our judicial system to promote the ends of justice and fair play. The flexibility and sense of fair play that the litigants now enjoy will ultimately enhance respect for the court and its decision.

For these reasons, I respectfully veto House Bill 1286 and return it to your chambers.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. AMENDMENT.** Section 27-05-27 of the North Dakota Century Code is amended and reenacted as follows:

~~27-05-27. Motions before trial judge. Except as provided by subsection 2 of section 29-15-21, any~~ Any motion for a new trial, settlement of a proposed case, judgment notwithstanding the verdict, or vacation or modification of an order, judgment, or other proceeding, must be presented and heard before the judge before whom the matter was heard, considered, or determined, unless for any reason the judge is unable to act.

**SECTION 2. AMENDMENT.** Subsection 3 of section 29-15-21 of the North Dakota Century Code is amended and reenacted as follows:

3. Any party who has been added, voluntarily or involuntarily, to the action or proceeding after the date of any occurrence in subsection 2 has the right to file a demand for change of judge within ten days after any remaining event occurs or, if all of those events have already occurred, within ten days after that party has been added. In any event, no demand for a change of judge may be made after the judge sought to be disqualified has ruled upon any matter pertaining to the action or proceeding in which the demanding party was heard or had an opportunity to be heard. ~~Any proceeding to modify an order for alimony, property division, or child support pursuant to section 14-05-24 or an order for child custody pursuant to section 14-05-22 must be considered a proceeding separate from the original action and the fact that the judge sought to be disqualified made any ruling in the original action does not bar a demand for a change of judge.~~

Disapproved April 9, 1993  
Filed April 21, 1993

## CHAPTER 646

HOUSE BILL NO. 1304  
(Representatives Carlisle, Pyle, Rydell)  
(Senators Keller, Lindgren, Naaden)

### ELECTROLOGIST LICENSING

AN ACT to establish a board of electrology and to provide for the licensure of electrologists; to repeal chapter 43-38 of the North Dakota Century Code, relating to electrologists and electronic hair removal technicians; to provide a penalty; and to provide an effective date.

VETO

April 15, 1993

The Honorable Rick Berg  
Speaker of the House  
House Chamber  
State Capitol  
Bismarck, ND 58505

RE: House Bill 1304

Dear Speaker Berg:

Attached please find House Bill 1304, which I have vetoed as of this date.

The bill creates a new board of five members for the purposes of licensing and regulating electrologists in North Dakota. There are 24 licensed electrologists in North Dakota at the present time who are currently subject to the licensing standards, rules and regulations of the State Health Council as provided in NDCC 43-38.

The present status of the law allows members of this occupation to practice their trade subject to licensing by the State Health Council. In the past, I have suggested that North Dakota's boards and commissions be reviewed for consolidation in the future to attain cost savings for the tax payer, and efficient service to the constituencies served by those boards and commissions.

I would much prefer that we leave the law in its current status, refrain from creating a new board, and consider combining the electrologists with similar occupations that are currently licensed and regulated by an existing board.

For these reasons, I have vetoed House Bill 1304 and respectfully return the same to you.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

1. "Board" means the board of electrology.
2. "Electrologist" means a person licensed by the board to engage in the practice of electrology.
3. "Practice of electrology" means the permanent removal of hair through the use of an electrical instrument that utilizes a needle or probe.

**SECTION 2. Board - Appointment - Terms.** The board consists of five members. The governor shall appoint five residents of the state to the board. The members must include one licensed physician or registered nurse, one layperson, and three licensed electrologists. The physician or registered nurse and electrologist members of the board must have at least two years' experience in their respective professions immediately preceding their appointment. The layperson member of the board or an immediate member of the layperson's family may not be an electrologist or have any financial interest in any business related to the practice of electrology. A member of the board must be appointed for three years, staggered so that the term of at least one member expires as of July first of each year. No member may serve for more than two successive three-year terms. Each member shall hold office until that member's successor is appointed and qualified. In July of each year the board shall meet and elect one member as president, one member as vice president, and one member as secretary-treasurer. The board shall hold meetings in the state as determined necessary by the board to discharge its duties. The board shall meet at least twice each year. Board members are entitled to receive travel expenses in an amount provided by law for state officials and employees when performing the official duties of the board.

**SECTION 3. Removal of members of the board.** The governor may remove from office any member of the board for neglect of duties under this Act, malfeasance or incompetency in office, or unprofessional conduct. The governor may fill any vacancy resulting from removal, resignation, or death of any member of the board.

**SECTION 4. Duties of the secretary-treasurer - Expenses of the board.** The secretary-treasurer of the board shall:

1. Keep a record of:
  - a. The name and address of every electrologist licensed by the board;
  - b. The license number and date of issuance of the license for each licensed electrologist;
  - c. The renewal date of each license; and
  - d. Other information as required by the board.
2. Prepare and distribute minutes of all board meetings.
3. Furnish, upon demand, any person a certified copy of records upon payment of a ten-dollar fee plus twenty-five cents for each page copied.

4. Prepare and submit to the governor and all licensed electrologists a detailed annual report on the income and expenses of the board and a list of licensed electrologists.

**SECTION 5. Licensure of electrologists.** No person may practice electrology whether for payment or free demonstration without first being an electrologist licensed by the board.

**SECTION 6. Requisites for licensure.** Any person who is eighteen years of age or more, is a high school graduate or has completed equivalent education, and has successfully completed the educational or training requirements of the board may submit an application for licensure to the secretary-treasurer of the board. An applicant is entitled to be issued a license as an electrologist if the applicant passes an examination in electrology approved by the board and pays a license fee of not more than one hundred dollars, as set by the board. The board may approve a national board certification examination developed by a national testing service. If there is an applicant for examination, the board shall conduct an examination at least once a year at a time and place designated by the board and shall notify the applicant of the applicant's score.

**SECTION 7. Restriction on use of title.** An electrologist licensed by the board may be held out as a "licensed electrologist" and may use the abbreviation "L.E." as a part of or immediately following that person's name, in connection with the profession. No person may use the title "licensed electrologist" or profess to be an electrologist or in any manner be represented as an electrologist in this state unless licensed in accordance with this Act.

**SECTION 8. License - Display - Renewal - Renewal fee.** Each license must be conspicuously displayed at the place of practice. A license must be renewed before January first of each year. By December first of each year the secretary-treasurer of the board shall mail notice of renewal to each licensed electrologist's address as shown in the records of the board. The notice must include any requests for information necessary for renewal. The licensed electrologist may renew a license by sending a renewal fee of not more than seventy-five dollars, as set by the board, to the secretary-treasurer of the board. A license that is not renewed by January first lapses.

**SECTION 9. Deposit of fees.** The secretary-treasurer shall deposit all fees collected under this Act in a separate account for the administration of this Act.

**SECTION 10. Revocation of licensing - Alternatives to revocation or suspension.** The license of a licensed electrologist may be revoked, suspended, or annulled by the board upon any one or more of the following grounds:

1. That the person is guilty of gross malpractice or incompetence.
2. That the person's mental or physical health endangers public health or safety.
3. That the person fails to comply with rules of the board.
4. That the person is guilty of false or deceptive advertising.
5. That the person engages in unprofessional conduct.

**SECTION 11. Administrative procedures.** Any person may file a written complaint with the board seeking disciplinary action against an electrologist for violations of this Act or rules adopted by the board. If the board determines that a complaint alleges facts that, if true, would require denial, revocation, suspension, or nonrenewal or other disciplinary action of a licensed electrologist, the board shall conduct a hearing. The board may dismiss a complaint that does not state facts that warrant action.

**SECTION 12. Grandfather provisions.** Upon receipt of evidence showing that a person is licensed in the practice of electrology on July 31, 1994, and that person meets the criteria established for licensure by the board, the board shall issue, upon application, a license to the person to continue to practice.

**SECTION 13. Inspections - Rules.** The board may make inspections as may be necessary to implement this Act and to provide adequate health safeguards. The board shall adopt rules governing education requirements for electrologists, continuing education requirements, and other rules necessary to carry out the purposes of this chapter. Any rules adopted by a state agency prior to January 1, 1993, which relate to functions covered by this Act, remain in effect until the rules are specifically amended or repealed by the board.

**SECTION 14. Penalty.** Any person who willfully violates this Act or rules adopted by the board is guilty of a class B misdemeanor.

**SECTION 15. REPEAL.** Chapter 43-38 of the 1991 Supplement to the North Dakota Century Code is repealed.

**SECTION 16. EFFECTIVE DATE.** This Act becomes effective August 1, 1994.

Disapproved April 15, 1993  
Filed April 21, 1993

## CHAPTER 647

SENATE BILL NO. 2403  
(Senators Keller, Langley, Nalewaja)  
(Representatives Belter, Keiser)

### INSURANCE DEDUCTIBLE REBATE

AN ACT relating to the paying of an insurance deductible or offering of a rebate by a seller of goods or services; and to provide a penalty.

VETO

April 29, 1993

Alvin Jaeger  
Secretary of State  
State Capitol  
600 East Boulevard, 1st Floor  
Bismarck, ND 58505

RE: Senate Bill 2403

Dear Secretary Jaeger:

Pursuant to Article V, Section 9, I am sending you Senate Bill 2403, with my objections thereto, having vetoed the same.

The bill prohibits a person who performs repairs of physical damage to automobiles from offering rebates or otherwise paying all or part of any insurance deductible, and further prohibits a person from charging excessive rates for repair services of an amount equal to or greater than the insurance deductible that is rebated to the insured.

The bill is intended to prohibit the practice when a repair shop offers a \$25.00 rebate for windshield repair as an incentive to the customer to use the services of the shop offering the rebate. The underlying premise of the bill suggests that physical damages (for example, windshields) are being repaired unnecessarily, or that the repair shop offers the rebate, and then adds the rebate to its charges to the insurance carrier.

There is no evidence to suggest current practices have caused an increase in insurance rates. Nor does the bill guarantee a reduction of insurance rates if the bill becomes law.

My objection to the bill is that it is essentially anti-consumer in nature. Under current practice, the consumer is free to seek out any repair shop he chooses for the repair of his damaged automobile. Currently, an insurance carrier has the authority to monitor and control the prices charged for a particular service. If the carrier feels that a repair shop is overcharging to recoup rebates the shop offers to its customer, then the carrier may refuse to authorize repairs at the "inflated" price or otherwise direct the insured to use a different shop.

In short, I believe that the bill injects controls into the market system unnecessarily, when there are adequate controls already in place to prevent overcharging, if any, in the auto repair industry.

For these reasons, I have vetoed Senate Bill 2403, and am filing the same with your office.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. Insurance claims for excessive charges - Penalty.**

1. A person who sells goods or services may not:
  - a. Advertise or promise to provide a good or service, paid for by the consumer from proceeds of an insurance policy that provides coverage for physical damage to automobiles, and to pay all or part of any applicable insurance deductible or to pay a rebate in an amount equal to all or part of any applicable insurance deductible; and
  - b. Knowingly charge an amount for the good or service that exceeds the usual and customary charge by the person for the good or service by an amount equal to or greater than all or part of the applicable insurance deductible paid by the person on behalf of an insured or remitted to an insured by the person as a rebate.
2. A person who is insured under an insurance policy that provides coverage for physical damage to automobiles may not submit a claim under the policy based on charges that are in violation of subsection 1 or may not knowingly allow a claim in violation of subsection 1 to be submitted, unless the person promptly notifies the insurer of the excessive charges.
3. A violation of this section is a class B misdemeanor.

Disapproved April 29, 1993  
Filed April 30, 1993

## CHAPTER 648

HOUSE BILL NO. 1002  
(Appropriations Committee)

### HUMAN SERVICE CENTER FUNDING TRANSFER

AN ACT to provide an appropriation for defraying the expenses of the department of human services, an appropriation from the lands and minerals trust fund to the common schools trust fund, an appropriation from the revolving loan fund maintained in the Bank of North Dakota, and an appropriation from the state aid distribution fund; to provide for the transfer of appropriations between agencies and institutions and to require budget section approval of alternative programs at the state hospital; to create and enact a new subsection to section 23-01-03, a new subsection to section 23-17.2-02, a new subsection to section 50-06-05.1, a new section to chapter 50-06.2, and a new chapter to title 50 of the North Dakota Century Code, relating to the duties of the North Dakota health council, to the definition of long-term care facility, to the certificate of need program, to the lease of developmental center facilities or properties, to payment of services by county and state matching funds, and to aid to aged, blind, and disabled persons; to create and enact section 2 to House Bill No. 1274 as approved by the fifty-third legislative assembly, relating to residential care and services for the developmentally disabled and to provide an expiration date for that Act; to amend and reenact subsection 4 of section 14-09-08.4, section 14-09-08.8, subsection 7 of section 23-17.2-02, sections 23-17.2-03, and 50-01-01 of the North Dakota Century Code and section 4 of chapter 561 of the 1991 Session Laws of North Dakota, relating to amendment of support orders to meet the medical needs of children, to the definition of health care facility, to the scope of the certificate of need program, to state assistance for county poor relief costs, to matching funds for senior citizen services, and to extending an appropriation for the developmental center; to repeal sections 50-01-09.2 and 50-06-14.2 of the North Dakota Century Code, relating to state assistance for county poor relief costs and to rates payable to basic care facilities to provide for a review of the clubhouse project; to provide legislative intent regarding developmentally disabled provider salary increases, senior citizens mill levy match funding, a legislative council study of human service center funding formula, and establishment of a management information system for service payments for elderly and disabled by the department; to require the department of human services to develop basic care ratesetting methodology; to provide legislative intent regarding state hospital income; to provide an effective date; and to declare an emergency.

## VETO

May 5, 1993

Alvin Jaeger  
Secretary of State  
State Capitol  
600 East Boulevard, 1st Floor  
Bismarck, ND 58505

RE: House Bill 1002

Dear Secretary Jaeger:

Pursuant to Article V, Sections 9 and 10, I am filing House Bill 1002 with your office, having signed the same, and having vetoed Section 4 as authorized by the North Dakota Constitution.

Section 4 of the bill concerns \$4.6 million appropriated to the human service centers in the Department of Human Services. Those funds are to be prioritized according to documents filed with the Legislative Assembly on April 24, 1993. However, the Section goes on to restructure that appropriation with the approval of the budget section of the Legislative Assembly.

My objection to the bill is that it appropriates \$4.6 million in funds that are not specifically prioritized in the bill itself. In addition, the budget section may reprioritize that spending as it deems appropriate. In short, I am asked to approve \$4.6 million in spending, without knowing specifically where and how those funds are to be expended.

For these reasons, I have vetoed Section 4 of House Bill 1002, and file the same with your office.

Sincerely,

Edward T. Schafer  
Governor

NOTE: For the full text of House Bill No. 1002, containing section 4, see chapter 2.

NOTE: Attorney General's Opinion 93-05 dated May 25, 1993, concludes that the Governor's veto of the first sentence of Section 4 of House Bill No. 1002 was valid but that the veto of the remainder of that section is "void and has no effect."

## CHAPTER 649

HOUSE BILL NO. 1003  
(Appropriations Committee)

### VOCATIONAL AND TECHNICAL EDUCATION GRANTS

AN ACT to provide an appropriation for defraying the expenses of the department of public instruction, the school for the deaf, the school for the blind, and the state library; to provide exemptions from the provisions of section 54-44.1-11; to provide for an appropriation of funds from the displaced homemaker fund; to provide an appropriation for a legislative council study; to provide for the contingent distribution of a separate and additional per student payment; to create and enact a new section to chapter 15-40.1 of the North Dakota Century Code, relating to cooperating school districts; and to amend and reenact section 2 of chapter 701 of the 1989 Session Laws of North Dakota, as amended by section 1 of chapter 656 of the 1991 Session Laws of North Dakota, sections 15-27.3-19, 15-27.6-10, and 15-38-17 as amended by section 11 of Senate Bill No. 2418, as approved by the fifty-third legislative assembly, sections 15-40.1-06, 15-40.1-07, 15-40.1-08, 15-40.1-09, 15-40.1-16, 15-40.1-18, and 15-40.2-04 of the North Dakota Century Code, relating to the foundation aid program, appointments to the education standards and practices board and the administrator's professional practices board, the expiration date concerning withdrawals from special reserve funds, school district reorganization, per student payments, and transportation aid.

VETO

May 5, 1993

Alvin Jaeger  
Secretary of State  
State Capitol  
600 East Boulevard, 1st Floor  
Bismarck, ND 58505

RE: House Bill 1003

Dear Secretary Jaeger:

Attached please find House Bill 1003, which I have signed, and am filing with your office pursuant to Article V, Section 10 of the North Dakota Constitution.

However, pursuant to Article V, Section 10, I have struck the sum of \$240,000 for Vocational and Technical Education on page 1 of the bill, as authorized by the Constitution.

Earlier this year, I signed into law Senate Bill 2022, which was the Appropriation bill for the State Board of Vocational Education, and which included an appropriation of \$25 million of all funds (and included \$14 million in general fund appropriations). House Bill 1003 includes \$240,000 in general funds for the

purchase of technical equipment, which has been previously funded entirely with Federal dollars. The \$240,000 could otherwise have been utilized for the Foundation Aid program (amounting to approximately \$2 per student). I am concerned about following a dangerous precedent, whereby a program is not included in a department's budget, and which is then incorporated into another department's budget utilizing general fund dollars in the absence of federal support for the program. As the Federal Government begins to terminate funding for programs, we in North Dakota must look at our own priorities and determine whether those programs should continue, and whether we can pay for them.

For these reasons, I have partially vetoed House Bill 1003, and respectfully file the same with your office.

Sincerely,

Edward T. Schafer  
Governor

NOTE: For the full text of House Bill No. 1003, including the vetoed line item, see chapter 3.

## CHAPTER 650

HOUSE BILL NO. 1038  
(Legislative Council)  
(Interim Health Care Committee)

### HEALTH TASK FORCE

AN ACT to require the North Dakota health task force to develop prospective all payers ratesetting or other health care financing systems that cover institutional and professional providers of health care and to develop mechanisms to provide health coverage for all North Dakotans; and to declare an emergency.

VETO

May 5, 1993

Alvin Jaeger  
Secretary of State  
State Capitol  
600 East Boulevard, 1st Floor  
Bismarck, ND 58505

RE: House Bill 1038

Dear Secretary Jaeger:

Pursuant to Article V, Section 9, I am filing with your office, House Bill 1038, with my objections thereto, having vetoed the same.

I believe that health care reform is critical to the economy and well-being of North Dakota, as well as our nation. North Dakota must take steps to design appropriate reforms in its health care system and must use people with the expertise to design reform appropriately. At present, North Dakota is participating in a grant by the Robert Wood Johnson Foundation which is designed to research and develop a plan of reform for North Dakota. North Dakota's health task force was established under the auspices of that grant. The task force answers to the state health officer and may be an efficient vehicle capable of developing a strategy for appropriate reforms in our health care system. Additionally, present law requires the health officer to study health care problems, and to plan for their solutions. Since the state health officer is accountable to the Governor's Office, and since I am committed to see appropriate health care reform, I believe we have the mechanism in place to accomplish this goal.

Finally, the bill unnecessarily adds an additional layer of Governmental oversight, directing the task force to report to the Legislative Council (or an interim committee designated by the Legislative Council). Current law directs the health task force to report to the health officer directly.

For these reasons, I believe that is in North Dakota's best interest to veto House Bill 1038 and to use North Dakota's current resources to develop and implement appropriate reform in our health care system.

Sincerely,

Edward T. Schafer  
Governor

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

**SECTION 1. Health council's health task force - Development of health care financing and coverage - Report to legislative council.** The state health council's health task force shall develop prospective all payers ratesetting or other health care financing systems that cover institutional and professional providers of health care. The health task force also shall develop mechanisms to provide health coverage for all state residents. During the 1993-94 interim, the task force shall report to the legislative council or an interim committee designated by the legislative council on the progress of the developments. If the task force recommends proposed legislation to be introduced in the fifty-fourth legislative assembly, the task force shall inform the legislative council or the interim committee designated by the legislative council of the proposed legislation before July 1, 1994.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Disapproved May 5, 1993  
Filed May 6, 1993

## CHAPTER 651

HOUSE BILL NO. 1514  
(Representatives Henegar, A. Carlson, Torgerson)  
(Senators B. Stenehjem, Mathern, Jerome)  
(Approved by the Delayed Bills Committee)

### **MOTORBOAT PROGRAMS TRANSFER OF FUELS TAXES**

AN ACT to create and enact two new sections to chapter 20.1-02 of the North Dakota Century Code, relating to the creation of the motorboat programs and safety account; to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to motorboat license fees; and to provide an effective date.

VETO

May 5, 1993

Alvin Jaeger  
Secretary of State  
State Capitol  
600 East Boulevard, 1st Floor  
Bismarck, ND 58505

RE: House Bill 1514

Dear Secretary Jaeger:

Pursuant to Article V, Sections 9 and 10, I am filing with your office House Bill 1514, having signed the same, but also having vetoed Section 2 pursuant to the line item veto authorized by Article V, Section 10 of the North Dakota Constitution.

The tourism industry is critical to North Dakota's economic prosperity. Boating and fishing activities on North Dakota's lakes by our citizens and visitors have a substantial economic impact on the state and are a vital part of the state's recreational resources. I believe we have adequate funding available in the Game and Fish Department to provide reasonable boating access for our citizens and visitors to our state. I am absolutely committed to the development of our tourism industry, and to providing reasonable access to all who wish to use the state's water resources. As part of my commitment, I am asking the Game and Fish Director to take steps necessary to accumulate funds for this purpose, and to begin the task of providing proper boating access.

Section 2 of the bill diverts monies from the Highway Tax Distribution Fund for the purposes of construction and installation of boat launching facilities, fish cleaning and comfort stations, boating enforcement, etc.

The objectionable section establishes a new program, but does not make funds available for its intended purpose until June 30, 1995. It is also conditioned upon House Bill 1399 (gas tax) becoming law. The bill sets up a scenario for the 1993-95 biennium (however unlikely), of diverting highway tax funds for constructing boat

launching facilities, and leaving insufficient funds to fully fund the state's match for federal highway construction dollars. That could result in activating an additional \$.01 gas tax under House Bill 1399. Please recall that Federal Government provides \$4.00 for highway construction funds for every \$1.00 the state of North Dakota is able to provide as a match.

Even if the above scenario does not occur during the 1993-95 biennium, the program still diverts highway construction dollars for future years to come, which compounds North Dakota's current difficulty in matching federal dollars for highway construction. So, the intended funding source uses "high risk" dollars that could cost the state \$4.00 in federal highway construction funds for every \$1.00 that is diverted to this program.

By exercising this partial veto, and making a commitment now, I believe we can provide the kind of boating access that North Dakotans and the tourism industry deserve today.

For these reasons, I have vetoed Section 2 of House Bill 1514.

Sincerely,

Edward T. Schafer  
Governor

NOTE: For the full text of House Bill No. 1514, including section 2, see chapter 227.