

VETOED MEASURES

CHAPTER 599

SENATE BILL NO. 2042
(Coughlin, Stroup, Wenstrom)
(From Legislative Council Study)

HIGHER EDUCATION COMPUTER OFFICE

AN ACT to establish an office of higher education computer services under the control of the state board of higher education.

VETO

March 30, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 2042 was introduced originally as an effort to coordinate electronic data processing in institutions under the Board of Higher Education. It provided an appropriation of approximately \$800,000 for that purpose.

Two studies preceded the introduction of Senate Bill 2042. An original study by Arthur Andersen Company in 1967-68 indicated that electronic data processing could be centralized and coordinated among our institutions of higher education. Naturally there was dissatisfaction among those institutions which were not recommended as the location of major equipment.

A second study was undertaken in 1969-70 which resulted in another recommendation that institutions of higher education should coordinate electronic data processing.

The Legislature, apparently feeling it must say something but do nothing, passed Senate Bill 2042. This bill was stripped of all of its effectiveness when its total \$800,000 appropriation was removed so that there are no funds to implement any action. The bill was further stripped of any value when it states that the office of higher education computer services shall arrange for computer service to all institutions under the control of the Board of Higher Education except those institutions with computer installations at the time of the passage of this Act which choose not to request such services.

Obviously, with this exemption there would be no centralized data processing, nor would there be any data processing coordination unless

the institutions now using data processing chose to coordinate their activities with such a coordination effort.

North Dakota State University, the University of North Dakota, and Wahpeton School of Science now have computer installations. This bill would permit them to exempt themselves, leaving only the state institutions not now having computer installations to be coordinated under the Act.

It is obvious to me that there was no intent by the Legislature to implement coordination of data processing at all institutions of higher education. I believe such coordination is desirable, but it will require a much more positive approach with funds for implementation in order to make such coordination effective.

I believe the state institutions would be far better off to establish a track record of need and usage of electronic data processing equipment before a law is written setting forth the process of coordination to be followed. Further, it is my belief that all of the coordination that is required in electronic data processing at our institutions of higher education can be accomplished at the present time by Board of Higher Education directive.

Therefore, I veto Senate Bill 2042.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. OFFICE OF HIGHER EDUCATION COMPUTER SERVICES - CREATION.) The office of higher education computer services is hereby established under the control of the state board of higher education, hereinafter referred to as the board. The board may designate a data processing coordinator who shall be designated upon the basis of education, experience, and other qualifications in data processing and administration, without reference to partisan politics, and who shall be responsible to the commissioner of higher education and serve at the pleasure of the board. The coordinator of the office of higher education computer services may, in conformity with the provisions of this Act, supervise, regulate, and provide electronic data processing services to the institutions under the control of the board and may employ such professional, technical, and clerical personnel as may be deemed necessary to carry out the duties prescribed for the office of higher education computer services. He may, within the limits of legislative appropriations and with the approval of the board, set the salaries of all employees under his control.

SECTION 2. ADVISORY BOARD.) The board shall appoint an advisory board to advise the office of higher education computer services of the electronic data processing needs of the institutions under the control of the board. The advisory board shall consist of representatives of the institutions using computer

services. The number of advisory board members, terms of office, and qualifications and duties shall be determined by the board.

SECTION 3. OFFICE OF HIGHER EDUCATION COMPUTER SERVICES - POWERS AND DUTIES.) The office of higher education computer services shall have the following powers and duties:

1. To arrange for computer services to all institutions under the control of the board, except those institutions with computer installations at the time of the passage of this Act which choose not to request such services. Computer services shall include access to electronic computers, terminals, communications equipment, systems design, programming, and other electronic data processing services.
2. To plan, justify, and supervise all electronic data processing systems within and between the institutions under the control of the board.
3. To plan and supervise the development of all programs and procedures for the effective use of staff, computer services, and support equipment at the institutions under the control of the board.
4. To supervise and require the establishment of billing systems for use at each institution to charge users of electronic data processing services the cost of providing such services.
5. To develop an information system in order to improve the administration and management of the institutions under the control of the board.

SECTION 4. ACQUISITION OF COMPUTER EQUIPMENT.) The office of higher education computer services, upon approval of the board, is authorized within the limits of legislative appropriation and available federal and private funds to purchase and lease such electronic data processing equipment or services as may be determined necessary to conform with the provisions of this Act. All electronic data processing equipment at the institutions under the control of the board shall be subject to the control of the office of higher education computer services and no electronic data processing equipment may be purchased, leased, or otherwise used or disposed of at the institutions under the control of the board without the approval of the board.

SECTION 5. TO CHARGE FOR SERVICES.) The office of higher education computer services shall have the authority to request payment from each user of electronic data processing services for the costs incurred in providing such services, except when the computer service is located at the college or university receiving the service. All moneys received from the providing of electronic data processing services shall be deposited in a special fund in the state treasury, entitled the higher education computer services fund, and the moneys in such fund are hereby appropriated and may be expended in accordance with this Act.

SECTION 6. SERVICES TO OTHER GOVERNMENTAL UNITS AND NONPROFIT ORGANIZATIONS.) The board is authorized to enter into contracts to provide electronic data processing services to state and federal agencies, charitable or educational nonprofit agencies and institutions, and nongovernmental organizations sponsoring research through grants and contracts. Such contracts shall be supported by information which upon review indicates that the providing of such services is in the public interest and will not be provided for fees which are less in amount than the fair value of the service to be provided.

Disapproved March 30, 1971

Filed March 30, 1971

CHAPTER 600

SENATE BILL NO. 2066
(Anderson, Freed, Ringsak, Roen, Thoreson)
(From Legislative Council Study)

CAMPAIGN CORRUPT PRACTICES TESTIMONIAL IMMUNITY

AN ACT to repeal section 16-20-10 of the North Dakota Century Code, relating to immunity from prosecution for persons testifying to campaign contributions by corporations.

VETO

March 12, 1971

The Honorable Richard F. Larsen
President of the Senate
North Dakota State Senate
State Capitol
Bismarck, North Dakota

Dear Mr. President:

Senate Bill 2066 seeks to strengthen the Corrupt Practices Act by eliminating immunity from prosecution for persons testifying about political campaign contributions by corporations. I am sure that the sponsors of this legislation believe that by so doing they are strengthening the Corrupt Practices Act.

In my judgment, Senate Bill 2066 would virtually eliminate grand jury investigations under the Corrupt Practices Act. The elimination of immunity for witnesses who must testify before such a grand jury without the presence of legal counsel would force many witnesses to avail themselves of their constitutional rights under the Fifth Amendment. The end result would be a complete breakdown of the information-seeking mission of a grand jury inquiring into corrupt practices.

I join the sponsors of Senate Bill 2066 in believing that we must make the Corrupt Practices Act not only stronger but also far more equitable and effective than it is now.

All who are close to politics are well aware of the election law abuses that have been winked at or shrugged off by law enforcement officials for too many years. The escalating costs of political campaigns from the hundreds of dollars spent in legislative races to the thirty or forty million dollars spent in a Presidential contest all cry out for stronger controls.

Our present state laws seeking to prevent corrupt practices in elections are good as far as they go. But we must examine them not in theory but in the cold light of how they actually work. Most unbiased observers would agree that they are not strong enough, nor far reaching enough, nor equitable enough between political parties and candidates to adequately serve the public interest.

The Corrupt Practices Act was designed to prevent political parties or candidates from corrupting our democratic system of government through the selling of influence. It was also designed to prevent one political party or its candidates from illegally raising campaign funds, and thus taking unfair advantage of the other to the detriment of our elective system in government.

The paramount purpose of this law, however, is to protect the public interest rather than the interest of any one political party or candidate.

The repeal of Section 16-20-10 of the North Dakota Century Code is sought by those who seek to eliminate the immunity from prosecution now protecting persons before a grand jury inquiring about alleged campaign contributions by corporations.

We must examine carefully what we would be doing by repealing Section 16-20-10, to see if we are really strengthening the Corrupt Practices Act as it applies to all political parties and all candidates.

Law enforcement, including the enforcement of the Corrupt Practices Act, must be totally nonpartisan to serve the public interest and to be fair to all candidates and political parties in the elective process.

However, it is never possible to make the law enforcement apparatus completely nonpartisan. Law enforcement personnel, like candidates, are recruited from the human race. We find that everybody involved in law enforcement has some political bias and many individuals in law enforcement have a strong record of organizational political activity.

Since it is impossible, in the enforcement of the Corrupt Practices Act, to obtain State's Attorneys, Attorneys General, Judges, and grand jurors who are totally without political bias, it is in the public interest that the enforcement of the Corrupt Practices Act be made bipartisan rather than partisan as it is at present.

The repeal of Section 16-20-10 would do nothing to inject a fair, bipartisan enforcement of the Corrupt Practices Act. As a matter of fact, this repeal serves to amplify rather than diminish the obvious partisan enforcement of the Act.

Candidates or political parties who are openly investigated by partisan law enforcement officials or who are subpoenaed before the secret proceedings of a grand jury are damaged and demeaned by such action, whether there is any substance to the inquiry or not.

The Corrupt Practices Act then should make it possible for either political party to be represented by counsel before any grand jury investigating alleged violations of the Corrupt Practices Act. This is not possible under the present law, nor does Senate Bill 2066 bring about this necessary equity of treatment under the law for all political parties and candidates.

There is ample evidence that the law enforcement apparatus controlled by one political party can harass and demean its political opposition by concealing its ulterior motives behind the respectable front of a grand jury investigation.

There are mountains of evidence that State's Attorney or Attorney General conduct of grand jury inquiries under the Corrupt Practices Act have amounted to fishing expeditions to cover up incompetent State's Attorney or Attorney General investigations.

There is also ample evidence that officials within the law enforcement system are reckless with the good reputations and political careers of their political opposition, but tend to be overly protective of the reputations and careers of people within their own political party.

This situation is not in the public interest, nor does it serve to protect or strengthen our democratic system of government.

We find, under the enforcement of the Corrupt Practices Act, that the political party controlling the law enforcement apparatus can harass at will at taxpayers' expense, whereas the harassed individual or political party is not able to have the same questions or investigation directed toward their political opponents.

A political party or candidate being investigated under the Corrupt Practices Act should have the power to name an Assistant State's Attorney to be paid from public funds to balance the investigative powers of a partisan State's Attorney or Attorney General. In this way, the public interest would be served with the assurance that both political parties and all candidates could be subject to any corrupt practices investigation, and no grand jury would be swayed by a one-sided politically motivated line of questioning of a carefully selected and restricted list of witnesses.

Senate Bill 2066 does not go to the core of the weakness of the Corrupt Practices Act. Rather than strengthen the Act as should be done, it further weakens it. It destroys the effectiveness of grand jury investigation under the Corrupt Practices Act.

Therefore, I veto Senate Bill 2066.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. REPEAL.) Section 16-20-10 of the North
Dakota Century Code is hereby repealed.

Disapproved March 12, 1971

Filed March 19, 1971

CHAPTER 601

SENATE BILL NO. 2437
(Melland)

DELIVERY OF ABSENTEE VOTERS' BALLOTS

AN ACT to amend and reenact section 16-18-09 of the North Dakota Century Code, relating to delivery of absent voters' ballots and notification of date when ballot must be returned to be canvassed.

VETO

March 30, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 2437 would make it a little more difficult for absentee voters to vote without providing an offsetting benefit. It states that the "county auditor, auditor of the city, or clerk of the school district, as the case may be, shall send to such absent voter by mail, postage prepaid, one official ballot, or personally deliver such ballot to the applicant."

We know from experience that very few if any ballots will be delivered personally by these officials except in their offices. Restricting delivery of a ballot to an applicant to mail service or personal delivery by the county auditor, city auditor, or school district clerk would hamper absentee voters from securing ballots.

We live in an age in which we are experiencing ever greater mobility of our voting public. People who travel in sales work, construction, research and even on vacations in this day and age find it very difficult to maintain a mailing address where they can be located at all times, and are often at distances far beyond the ability or inclination of a local official to hand-deliver a ballot.

We should be seeking ways to make it easier for people to vote by absentee ballot rather than making it more difficult.

Because there is no evidence that this legislation remedies any problem which exists, and because the right to vote must always be respected, and because Senate Bill 2437 would further restrict the present very restrictive absentee voter ballot laws, I veto Senate Bill 2437.

Sincerely yours,
WILLIAM L. GUY

Governor

CHAPTER 602

HOUSE BILL NO. 1054
(Backes, Dornacker, Gackle, L. Larson, Weber)
(From Legislative Council Study)

TAX EXEMPT NONPROFIT CORPORATIONS

AN ACT to amend and reenact subsection 16 of section 57-02-08 of the North Dakota Century Code, to provide that property owned by nonprofit corporations organized to promote athletic and educational needs and uses at any state educational institution shall be exempt from taxation only if used exclusively for athletic or educational purposes.

VETO

March 19, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1054 would eliminate the non-profit corporations that have been formed to give limited assistance to universities and colleges in acquiring land which would later become available for ownership or use by our institutions of higher education.

I am unable to find any abuse of the tax exempt privilege of any non-profit corporation acting in behalf of an institution of higher education. I do, however, have substantial evidence of the benefits that have accrued to higher education institutions through the acquisition and temporary holding of property that has later been made available to the higher education institutions.

I believe the benefits to the taxpayers statewide from these tax exempt non-profit corporations outweigh any disadvantages to local taxpayers in a community occupied by an institution of higher education.

Therefore, I veto House Bill 1054.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. AMENDMENT.) Subsection 16 of section 57-02-08
of the North Dakota Century Code is hereby amended and reenacted
to read as follows:

16. Real and personal property now owned, or hereafter
acquired, by a corporation organized, or hereafter
created, under the laws of this state for the purpose
of promoting athletic and educational needs and uses
at any state educational institution in this state,
and not organized for profit, provided that such
property is used exclusively for athletic or educa-
tional purposes;

Disapproved March 19, 1971

Filed March 19, 1971

CHAPTER 603

HOUSE BILL NO. 1081
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)
(From Legislative Council Study)

MEMBERSHIP OF AUDITING BOARD

AN ACT to amend and reenact sections 54-14-01 and 54-14-02 of the North Dakota Century Code, relating to the state auditing board.

VETO

February 27, 1971

The Honorable Howard F. Bier
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota

Dear Mr. Speaker:

In any large business organization or in large government organization, such as we have at the state level, there needs to be a clearly defined flow of responsibility to the chief executive. With that clearly defined flow of responsibility must also be clearly defined authority. House Bill 1081 disrupts the flow of responsibility and the flow of authority to and from the office of the chief executive.

It removes from the State Auditing Board the director of Accounts and Purchases who represents the Governor. It then retains other state officials who may act on the State Auditing Board or designate others to act for them. The director of Accounts and Purchases is maintained as secretary of the Auditing Board and his clearly defined responsibility under present law then becomes vague and undefined in House Bill 1081.

House Bill 1081 was originally submitted to abolish the State Auditing Board functions except in appeals. Such a proposal would have had considerable merit. However, the original intent of the bill was entirely eliminated and the resulting product weakens rather than strengthens the executive branch of government.

Therefore, I veto House Bill 1081.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. AMENDMENT.) Section 54-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-01. STATE AUDITING BOARD - MEMBERS - SECRETARY - DUTIES - QUORUM.) The secretary of state, attorney general, and the state treasurer shall constitute the state auditing board. The director of the department of accounts and purchases shall act as secretary for the board, and shall receive and file for the consideration of the board, all accounts, claims, or demands against the state, except those of state-owned utilities, enterprises, and business projects, and such others as are specifically exempt by law. Any two members of the board shall constitute a quorum for the transaction of business.

SECTION 2. AMENDMENT.) Section 54-14-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-14-02. MEETINGS OF BOARD.) The state auditing board shall hold its meetings at the office of the director of the department of accounts and purchases or at such other place as the board may decide. Meetings shall be called at least monthly or at such other time as the secretary or two members of the board may deem necessary or advisable. Each member and secretary of the auditing board may appoint a deputy or substitute to serve in his stead at such meetings as he may be unable to attend.

Disapproved February 27, 1971

Filed March 30, 1971

CHAPTER 604

HOUSE BILL NO. 1085
(W. Erickson, Hickle, Hilleboe, Rivinius, Rundle)
(From Legislative Council Study)

EMERGENCY COMMISSION MEMBERSHIP

AN ACT to amend and reenact section 54-16-01 of the North Dakota Century Code, relating to the emergency commission.

VETO

March 29, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1136 would have changed the makeup of the membership on the Emergency Commission without any resulting benefit to the conduct of its affairs. House Bill 1136 was vetoed by me on February 27.

House Bill 1085 is a rehash of vetoed House Bill 1136 and again is designed only to accommodate personalities in state government at this moment. It does not propose any logical improvement in the responsibilities of state officials and certainly would not improve the operation of the Emergency Commission.

I do not know why House Bill 1085 was passed after House Bill 1136 was vetoed because it contains the same objectionable provisions.

I therefore veto House Bill 1085.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. AMENDMENT.) Section 54-16-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-01. EMERGENCY COMMISSION - MEMBERS - ORGANIZATION - MEETINGS - DUTIES.) The emergency commission shall consist of the governor, the state treasurer, and the secretary of state. Whenever an allocation or allocations out of the state contingency fund in excess of ten thousand dollars, during the biennium, is to be made to any institution or department of government, the chairman of the senate appropriations committee and the chairman of the house of representatives appropriations committee shall be members of the emergency commission. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

Disapproved February 27, 1971

Filed March 29, 1971

CHAPTER 605

HOUSE BILL NO. 1115

(Giffey, Hilleboe, Opedahl)

(From Legislative Audit and Fiscal Review Committee Study)

BANK ADVISORY BOARD

AN ACT providing for a bank advisory board consisting of seven members appointed by the industrial commission to act in an advisory capacity to the Bank of North Dakota, and to repeal chapter 6-09.1 of the North Dakota Century Code.

VETO

March 15, 1971

The Honorable Howard F. Bier
Speaker of the House
North Dakota House of Representatives
Bismarck, North Dakota

Dear Mr. Speaker:

The 1969 Legislature created the five-member Advisory Board to the Bank of North Dakota. The members of the Board are appointed by the Governor for terms of from one to four years. The Governor appoints a chairman, vice chairman, and secretary of the board.

The present law gives the Advisory Board the duty of formulating recommendations to the Industrial Commission relative to the operation of the Bank of North Dakota.

The Advisory Board to the Bank of North Dakota is made up of highly qualified and prestigious people in several fields of finance. It has been a very productive board and its influence is reflected in many policies now followed by the Industrial Commission as that Commission directs the activities of the Bank of North Dakota.

There may have been some advantages to be gained in amending the legal responsibility of the Advisory Board as the law relates it to the creation of a \$100 million capital pool. This directive in the law was pursued by the Advisory Board in the past year and it was not found feasible to create such a capital pool.

House Bill 1115 does nothing to improve the operation of the Advisory Board to the Bank of North Dakota. In fact, it weakens the activity of the Advisory Board and is another case of diluting the necessary line of responsibility and authority between the Governor and departments and agencies in his Administration.

House Bill 1115 unnecessarily enlarges the membership on the Advisory Board to the Bank of North Dakota from five to seven.

In the process, it includes the President of the Bank of North Dakota as an ex officio member and the Board's secretary.

Since the Advisory Board, in its studies, must remain independent from influence by the management of the Bank of North Dakota, the inclusion of the President as an ex officio Board member weakens the ability of the Advisory Board to approach bank policy, practices and personnel in a candid and frank manner.

The President of the Bank of North Dakota is further instructed by this legislation to furnish personal services and information if the majority of the Board so request. The term "personal service" is very vague and questionable, but even more serious the law permits the Bank of North Dakota President to vote and thereby contribute to a majority decision as to whether or not he should furnish "personal services" and information. This is a ponderous arrangement which further underlines the inadvisability of the President of the Bank of North Dakota's being a member of the Advisory Board.

House Bill 1115 takes away the authority of the Governor to appoint Advisory Board members and places this authority in the three-member Industrial Commission.

There seems to be a constant effort by the Legislature to erode the authority of the Chief Executive of our state. Sometimes I believe laws regarding the Chief Executive are considered on the basis of the person holding the position rather than on the basis of long-range effect on state government.

The authority of the Chief Executive and his Administration should be made stronger and not weaker, and this authority should not be diluted or completely eliminated by spreading it over other elected or appointed officials.

It should be obvious to those who observe the operation of partisan politics within the Legislature that the same condition exists in the Executive Branch of government when some elected officials may differ in their political party and governmental philosophy from that of the Governor.

A Governor is expected to form an Administration and assume the responsibility and authority for that Administration. To dilute or diminish his authority is not in the public interest, nor is it consistent with responsible state government.

Of a minor nature, but still significant, is the requirement in HB 1115 that the Advisory Board meet once a month. This requirement presupposes that there will be enough work to warrant meeting once a month, and that the members have the time to devote to a meeting once a month. Neither of these suppositions is necessarily valid, and to include what should be administrative decision as a requirement fixed in law is not good legislation.

Because this legislation does nothing to strengthen an already productive Advisory Board to the Bank of North Dakota, I veto House Bill 1115.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. DECLARATION OF INTENT.) The legislative assembly of the state of North Dakota hereby creates a board composed of citizens who are knowledgeable in the field of agriculture, commerce, and industry to act in an advisory capacity to the administration of the Bank of North Dakota. The board shall advise on matters including, but not limited to, investment policies, administrative procedures, and general operational activities.

SECTION 2. BANK ADVISORY BOARD - MEMBERS - APPOINTMENT.) The bank advisory board shall consist of seven members, six of whom shall be appointed by the industrial commission. The president of the Bank of North Dakota shall serve as an ex officio member and shall act as the board's secretary. Board members shall choose its own chairman from among the members of the board.

SECTION 3. TERMS OF OFFICE OF MEMBERS.) Each member of the bank advisory board, except the secretary, shall be appointed to a four-year term with the first appointment arranged in order that three members shall serve two years and three members shall serve four years. New members shall be appointed on July 1 and shall take office on the date of the expiration of the term of the incumbent.

When a vacancy occurs, a new member shall be appointed by the industrial commission. Any persons appointed to fill a vacancy on the board shall serve only during the unexpired term in the position in which the vacancy occurred. There shall be no limitation on the number of terms which a member may serve, but any member may be removed at the pleasure of the industrial commission.

SECTION 4. DUTIES AND POWERS OF THE BOARD - COMPENSATION.) The bank advisory board shall meet at least once a month and complete such study and examination and hear such testimony as may be necessary to properly advise the industrial commission and the president of the Bank of North Dakota as provided in this Act. The board upon motion approved by a majority of the board members shall have authority to request such personal services and information from the president of the Bank as it may determine necessary to carry out the intent of this Act. The appointed members of the board shall be compensated and reimbursed for their expenses at the rate provided by law for members of the legislative assembly for attendance at interim committee meetings.

SECTION 5. REPEAL.) Chapter 6-09.1 of the 1969 Supplement to the North Dakota Century Code is hereby repealed.

Disapproved March 15, 1971

Filed March 30, 1971

CHAPTER 606

HOUSE BILL NO. 1136
(Committee on Appropriations)

EMERGENCY COMMISSION MEMBERSHIP

AN ACT to amend and reenact section 54-16-01 of the North Dakota Century Code, relating to membership on the emergency commission.

VETO

The Honorable Howard F. Bier
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota

February 27, 1971

Dear Mr. Speaker:

House Bill 1136 was introduced in order to provide a method of replacing legislative Emergency Commission members in case of death or resignation. This is desirable legislation.

However, the bill unnecessarily changes the make-up of the membership on the Emergency Commission without any resulting benefit to the conduct of its affairs.

I therefore veto House Bill 1136 in hopes that it can be reintroduced to carry out the intent of the original legislation without changing the membership on the Commission.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. AMENDMENT.) Section 54-16-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-16-01. EMERGENCY COMMISSION - MEMBERS - ORGANIZATION - MEETINGS - DUTIES.) The emergency commission shall consist of the governor, the state treasurer, and the secretary of state. Whenever an allocation or allocations out of the state contingency fund in excess of ten thousand dollars, during the biennium, is to be made to any institution or department of government, the chairman of the senate appropriations committee and the chairman of the house of representatives appropriations committee or the vice chairmen of such committees upon death or resignation from the legislative assembly of the committee chairmen shall be members of the emergency commission. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

Disapproved February 27, 1971

Filed March 30, 1971

CHAPTER 607

HOUSE BILL NO. 1159
(Raymond)AUDITOR'S OFFICE TO REMAIN
OPEN ON ELECTION NIGHT

AN ACT to amend and reenact section 16-13-03 of the North Dakota Century Code, relating to keeping the county auditor's office open on election nights.

VETO

March 19, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1159 requires County Auditors to remain open on election night until the precinct inspectors have telephoned in informal election results. The Auditor then is required to make these results available to the news media as soon as they are received.

This bill creates additional precinct and county expense with no measurable benefit to the taxpayer.

Many news gatherers now have an efficient means of obtaining early returns without forcing the expenditure of county taxpayer funds to obtain them. A system that has worked relatively well in the past can be continued without working a hardship on anyone.

Therefore, in the interest of holding down unnecessary government expenditure, even though small in amount, I veto House Bill 1159.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. AMENDMENT.) Section 16-13-03 of the North
Dakota Century Code is hereby amended and reenacted to read as
follows:

16-13-03. MANNER OF CANVASSING ELECTION.) The canvass
provided for in section 16-13-02 shall be conducted in the fol-
lowing manner: as each ballot is counted, the inspector of
elections and the judges of election shall examine the ballot to
ascertain the persons voted for, and one of the members of the
board shall announce the votes disclosed by the ballot, which
shall be marked in the tally books by the clerks of election.
After all of the votes are counted, the election board shall
compare the count as disclosed by the clerks' books with the
total number of ballots cast, and if there are any mistakes in
the books kept by the clerks, they shall be corrected so as to
conform exactly to the number of ballots cast. As soon as the
count is completed, the inspector shall announce publicly the
result thereof, specifying the whole number of votes cast for
each office and for each candidate, and the number of votes cast
for and against each proposition voted upon at such election.
The inspector shall see that these results are immediately de-
livered or furnished by telephone to the county auditor's office.
The auditor's office shall remain open on election night until
all of these results are received, and shall make these results
available to the public and news media as soon as they are
received.

Disapproved March 19, 1971

Filed March 19, 1971

CHAPTER 608

HOUSE BILL NO. 1299
(Bunker, Hoffner, Streibel, Strinden, Weber)

UNIFORM CONSUMER CREDIT CODE

AN ACT to create and enact title 17 of the North Dakota Century Code, relating to certain consumer and other credit transactions and constituting the uniform consumer credit code; consolidating and revising certain aspects of the law relating to consumer and other loans, consumer and other sales of goods, services and interests in land, and consumer leases; revising the law relating to usury; regulating certain practices relating to insurance in consumer credit transactions; providing for administrative regulation of certain consumer credit transactions; making uniform the law with respect thereto; and repealing inconsistent legislation; to amend and reenact sections 6-01-01, relating to the authority of the commissioner of banking and financial institutions; 6-03-62, relating to interest on loans of a state banking association; 7-04-17, relating to the repayment of loans of a building and loan association; 28-22-14, relating to the exemption of property from execution; 28-25-11, relating to the exemption of earnings from execution; 32-09-01, relating to the right of a creditor to proceed by garnishment; 32-09-02, relating to the exemption of wages from garnishment; 32-09-03, relating to notice before garnishment of wages; 41-09-16, relating to the priority of statutes in case of conflict; 47-14-01, relating to the definition of a loan of money; 47-14-05, relating to the rate of interest on legal indebtedness in the absence of contract; 47-14-06, relating to an annual rate when period not specified; and 47-14-08, relating to the deduction of interest in advance on a loan; to repeal sections 6-06-18, 7-02-04, 47-14-09, 47-14-10, and 47-14-11, and chapters 13-04, 51-13, and 51-14, of the North Dakota Century Code; providing a penalty; and providing for an appropriation.

NOTE: The text of House Bill No. 1299, chapter 608 (Uniform Consumer Credit Code), is not printed herein, due to its extreme length, and due to the fact that the UCCC is a readily available document.

Disapproved March 12, 1971

Filed March 30, 1971

VETO

March 12, 1971

The Honorable Howard F. Bier
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, North Dakota

Dear Mr. Speaker:

House Bill 1299 seeks to bring uniformity between our state and some other states in the application of consumer credit rates and practices. Generally speaking, it is advantageous for states to adopt uniform codes so that the complexity of the burgeoning volume of law can be minimized.

We must voice our gratitude to the National Conference of Commissioners on Uniform State Laws for the substantial progress they are making to strengthen state government in the federal system by strengthening, through uniformity, the laws of the various states.

In my Message to the Legislature, I asked you to give serious consideration to the Uniform Consumer Credit Code. I recommended to its sponsors that it be introduced in this session, but with an adjustment in the Code's interest rates to existing North Dakota legal interest rate ceilings. There was an understandable reluctance to tamper with the Code, for in so doing its major feature, that of uniformity, would be breached.

House Bill 1299 is easily the most discussed piece of legislation in this session. It has generated by far the most communications to my office. The overwhelming reaction as reflected by communications to my office has been in opposition to the Uniform Consumer Credit Code. I do not believe all of the opposition is justified, for there seems to be misunderstanding and suspicion of what the Code would do.

There is a defensible point of view that the Code should be enacted and given a trial period to see if it would have beneficial application in North Dakota.

I called Governor Calvin Rampton of Utah to have his appraisal of the operation of the Uniform Consumer Credit Code in that state these past two years. Governor Rampton reported that the Code was implemented smoothly and that he knew of no problems or adverse reactions in its use.

The Code has been defended on the one hand and challenged on the other hand by many deep thinking individuals whose judgment I respect.

It has been very difficult to arrive at a decision in this legislation. I am, however, mindful that the North Dakota Attorney General's Office has advised the Speaker of the House that there is a strong legal possibility that the present North Dakota Small Loans Act was not repealed by the passage of House Bill 1299 because the Small Loans Act was enacted in 1960 by a vote of the people and would require a two-thirds vote of the Legislature to amend or repeal. A two-thirds vote was not obtained on House Bill 1299.

This leaves grave confusion as to the application of the interest rate section of House Bill 1299 as it applies to small loans and as it conflicts with the present North Dakota Small Loans Act. The interest rate section appears to be an all important part of House Bill 1299 and was of sufficient importance to the entire bill that its sponsors refused to amend it.

If House Bill 1299 had been in effect two years ago instead of the North Dakota Small Loans Act, it probably would have had a significant impact in higher interest rates for people in an income bracket who can least afford higher interest rates.

In the last fiscal year, there were 25,408 small loans made in North Dakota, for a total of \$15,725,212.66. The dollar interest cost of these loans in that year was \$2,358,786.88. Had the Uniform Consumer Credit Code been in effect in that year and had interest rates been at the ceiling as is usual under this Code, the interest rates paid by low income borrowers would have been \$2,692,168.24. This would have been an increase in interest costs for that year to low income borrowers of \$333,381.36.

It is obvious to me that the interest rates on small loans in the Uniform Consumer Credit Code, if implemented by legal opinion or decision, would work a substantial hardship on small loan borrowers, and while possibly justified in other areas, they do not appear to be justified in North Dakota.

But of even more importance in terms of total dollars involved is the increase in the maximum interest rates permissible on revolving charge accounts from 1½% per month under present North Dakota law to 2% per month under the Uniform Consumer Credit Code.

There is no source to which we can turn in this state or in the nation to accurately judge the volume of revolving charge accounts or the cost of revolving charge account interest payments, but all indications are that the amount of money is very, very substantial.

Since thousands of retailers would be making the interest rate decision on revolving charge accounts under the Uniform Consumer Credit Code, it would be fair to assume that many, if not all, would move their interest charges to the maximum permissible. There are indications that many major retailers already regard the 1½% per month ceiling on revolving charge accounts as a lucrative source of income which has caused them to encourage wherever possible the use of deferred payment rather than cash purchase. Revolving charge account interest rates under the Code could be exorbitant to thousands of North Dakotans if allowed to rise to the 2% per month ceiling.

Aside from interest rates, there may be some very defensible provisions of House Bill 1299 which have to do with consumer protection. However, North Dakota is not as deficient in consumer protection as are some other states.

I have been informed that the National Conference of Commissioners on Uniform State Laws will submit a Uniform Consumer Protection Code to state legislatures within a year or two. It would appear to me that it would be advisable to wait until such consumer protection legislation is available as a companion measure to consider with the Uniform Consumer Credit Code.

I believe this state would benefit by observing the experiences in the next two years of such states as Utah and Indiana as they conduct credit business under the UCCC.

I, therefore, believe it is in the best interest of the public not to approve this legislation. Therefore, I veto House Bill 1299.

Sincerely yours,
WILLIAM L. GUY

Governor

CHAPTER 609

HOUSE BILL NO. 1324
(K. Johnson, Stoltenow, Dotzenrod)

NORTH DAKOTA BEEF COMMISSION

AN ACT to promote the sale of North Dakota beef products; to create a North Dakota beef commission; to prescribe its purposes, powers, and duties; to provide for the assessment of cattle sold in or from the state of North Dakota; to provide refunds of such assessments; and to provide penalties.

VETO

March 29, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1324 creates a North Dakota Beef Commission whose purpose is to promote the sale of North Dakota beef products with funds accumulated from a ten cent per head check-off on all cattle sold in the state.

The sponsors of this legislation are to be commended for their sincere effort to devise a means of increasing the sale of beef nationwide and thereby strengthening the demand for cattle.

There has arisen, however, a storm of protest across this state in opposition to HB 1324 as it is written. Protests range from those who object to the principle of check-offs without permission, to those who believe the act is too loosely drawn to enforce properly.

There is substantial concern that the small beef cattle producer would be carrying the burden of finance for the Beef Commission because the small numbers of cattle he would sell would not generate enough check-off to warrant his asking for a refund; whereas the large operator who sold great numbers of cattle would have a substantial amount checked off his sales and it would pay him to ask for a refund.

It is pointed out that this check-off would be one additional burden as well as expense in every transaction involving the sale of cattle, and a single head of cattle sold several times in North Dakota would accumulate a check-off cost in proportion to the number of times it changed hands.

There is objection that the board of directors of the Beef Commission would not be representative enough of the cattle producing industry, and in fact would contain members who do not produce beef and would not contribute to the check-off financing of the commission.

There is objection to the provision which appears to permit the commission to accept contributions from sources other than the cattle producer and to enter into agreements with such contributors.

This bill has the support of the North Dakota Stockmen's Association and the North Dakota Farm Bureau, as well as many individuals and officers of other organizations.

However, because the objections are so widespread among many cattle producers and some of their organizations such as the National Farmers Organization, Farmers Union local and county cooperatives, and livestock grazing associations, I believe this legislation should be rewritten to obtain more general support before it is enacted into law.

I therefore veto House Bill 1324.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. TITLE.) This Act shall be known as the North Dakota Beef Promotion Act.

SECTION 2. PURPOSES.) The purposes of this Act are:

1. To provide programs to increase the consumption of beef and to maintain present markets, and to create new or larger markets for beef through such means as advertising and local and national sales promotion and education, but at no time shall false or unwarranted claims be made on behalf of the beef industry.
2. To support research and educational activities of the national livestock and meat board and its beef industry council with not more than fifty percent of the assessments collected.
3. To support local research efforts toward solving problems, primarily health, involved in the production of beef cattle with no less than twenty-five percent of assessments collected.
4. To enhance the sale of North Dakota cattle.

SECTION 3. DEFINITIONS.) Unless the context otherwise requires:

1. "Commission" shall mean the North Dakota beef commission.
2. "Person" shall include individuals, corporations, partnerships, trusts, associations, cooperatives, and any and all other business units.

3. "Cattle" shall be defined to include both beef and dairy cattle.
4. "Beef producer" shall mean any person or firm engaged in the production of feeder cattle.
5. "Cattle feeder" shall mean any person or firm engaged in the fattening of cattle for slaughter.
6. "Dairy producer" shall mean any person or firm engaged in the production and sale of milk from cows.
7. "Livestock auction markets" shall have the same definition as contained in subsection 2 of section 36-05-01.
8. "Livestock terminal markets" shall mean the public livestock market located at West Fargo and known as the West Fargo stockyards.
9. "Selling agency" shall mean any person engaged in the business of buying or selling in commerce livestock on a commission basis.
10. "Livestock dealer" shall have the same definition as contained in section 36-04-01.
11. "Local brand inspector" shall mean a person appointed and authorized by the North Dakota stockmen's association acting as agent for the North Dakota livestock sanitary board.

SECTION 4. NORTH DAKOTA BEEF COMMISSION - APPOINTMENTS - VACANCIES- QUALIFICATIONS.) There is hereby created a North Dakota beef commission consisting of nine members who shall be appointed by the governor. The commission shall be composed of three beef producers, one cattle feeder, one dairy producer, one livestock auction market operator, one terminal market representative, one representative of the North Dakota cowbellies, and one representative at large.

Three initial members shall be appointed for one year; three members shall be appointed for two years; and three members shall be appointed for three years. All subsequent members shall be appointed for three years unless the appointment is to fill a vacancy in which case such appointment shall be for the unexpired term. No member shall serve more than two successive three-year terms. In the event a position on the commission becomes vacant for any reason, the unexpired term of such position shall be filled by the governor.

Each member shall be a citizen and a resident of this state, shall be over the age of twenty-five years, shall be and have been actually engaged in that phase of the cattle industry he represents for a period of five years, and shall have during that period derived a substantial portion of his income therefrom, or have a substantial investment in cattle as an owner, lessee, or partner.

SECTION 5. NOMINATION OF MEMBERS.) With the exception of the representative at large, who shall be of the governor's own choosing, the members of the commission shall be appointed by the governor from nominations made to him by the following organizations: to represent beef producers, by the North Dakota stockmen's association; to represent cattle feeders, by the North Dakota cattle feeders association; to represent dairy producers, by the North Dakota state milk producers association; to represent livestock auction market operators, by the North Dakota livestock auction markets association; to represent the terminal market, by the board of governors at the West Fargo stockyards; and to represent North Dakota cowbelles, by the North Dakota cowbelles.

Not less than two nominations shall be submitted for each office to be filled. Upon the expiration of the initial appointments, only those organizations which have the authorization to nominate candidates representing the specific classification for which an opening or openings exist shall be eligible to submit nominations. The initial appointments shall be made immediately after the effective date of this Act.

SECTION 6. POWERS AND DUTIES OF COMMISSION.)

1. The commission shall administer and enforce the provisions of this Act and do all things reasonably necessary to effectuate the purposes of this Act.
2. The commission shall elect a chairman and such other officers as it deems advisable.
3. The commission shall employ and discharge at its discretion such personnel as the commission determines are necessary to carry out the purposes of this Act, and to prescribe their duties and powers and to fix their compensation.
4. The commission is empowered to adopt, rescind, and amend reasonable rules, regulations, and orders for the exercise of its powers hereunder. The provisions of chapter 28-32, the Administrative Agencies Practices Act, shall apply to this Act.
5. The commission is authorized to establish by resolution, a headquarters which shall continue until so changed by the commission.
6. The commission may require that the person or persons who receive and disburse the moneys of the commission shall be bonded, by and in the amount to be determined by the commission. The premium for such bond or bonds shall be paid by the commission from assessments collected.
7. The commission shall deposit its funds in a special account in the state treasury.
8. The commission may incur expenses and enter into contracts and create such liabilities as may be reasonably necessary for the enforcement of this Act.

9. The commission may borrow money, not in excess of its estimate of revenue from the current year's assessments.
10. The commission shall keep or cause to be kept accurate records of all assessments, expenditures, moneys, and other financial transactions performed pursuant to this Act. Such records, books, and accounts shall be audited annually in accordance with established auditing and accounting procedures.
11. The commission may sue and be sued as a commission without individual liability for acts of the commission within the scope and powers conferred upon it by this Act.
12. The commission is empowered to cooperate with any local, state, or national commission, organization, or agency, whether voluntary or established by state or federal law, including recognized livestock groups, engaged in activities similar to the work of the commission and to make contracts and agreements for carrying out joint programs beneficial to the beef industry, including those of adjoining states.
13. The commission may accept donations, grants, contributions, or gifts from any governmental or private sources for expenditures consistent with the provisions of this Act.

SECTION 7. MEETINGS.) The commission shall hold an annual meeting at which time an annual report and proposed budget shall be presented. The commission shall hold at least three other regular meetings each year at the call of the chair. The chairman shall establish the time, manner, and place of all meetings and shall give reasonable notice to the members. A majority of voting members shall constitute a quorum for the transaction of any business.

SECTION 8. COMPENSATION - EXPENSES.) Commission members shall receive the sum of fifteen dollars per meeting attended and shall receive necessary expenses for meals, lodging, and travel in the same amount and in the same manner as permitted by law for state officials and employees. The members of the commission shall receive no other salary or compensation for their service on the commission.

SECTION 9. ASSESSMENT FOR SALE OF CATTLE.) There is hereby levied on each person selling cattle within the state or from the state, an assessment of ten cents per head for each animal sold. The moneys collected pursuant to the provisions of this Act shall be paid to the North Dakota beef commission as provided by this Act and shall be expended by such commission only as authorized by the provisions of this Act.

SECTION 10. MANNER OF DEDUCTIONS - PAYMENT OF ASSESSMENTS TO BEEF COMMISSION - COLLECTIONS BY BRAND INSPECTORS.) The assessments provided in this Act shall be collected by selling agency at livestock terminal markets, livestock auction markets, and by all livestock dealers licensed by the state of North

Dakota by deducting such assessments from any credit given or payment made to the person selling the cattle at the time such credit is given or payment is made. Persons who sell cattle from the state of North Dakota outside of the state or to an out-of-state buyer shall remit the assessments directly to the commission within thirty days of such sale, unless such assessment has been paid to a brand inspector.

In order to facilitate the collection of assessments on cattle sold to buyers other than at terminal markets and auction markets, local brand inspectors may serve as collectors for the commission at the time of inspection of the cattle, provided that a satisfactory receipt evidencing such payment is given. The brand inspectors shall immediately notify the commission if any person refuses to pay any assessment required of him.

SECTION 11. REMITTANCE OF ASSESSMENTS COLLECTED - PENALTIES.) All assessments collected by licensed dealers, selling agencies at terminal markets, auction markets, or local brand inspectors shall be remitted to the North Dakota beef commission within thirty days following the month during which the assessments were received. The assessments shall be accompanied by remittance forms as prescribed and furnished by the commission. All moneys shall be remitted by the commission to the state treasurer and deposited by him in the North Dakota beef commission fund and are hereby appropriated to the commission and shall be disbursed by the commission in accordance with the provisions of this chapter. Any licensed dealer, selling agency at terminal markets, auction markets, or any local brand inspector who collects assessments but who fails to remit the same within sixty days after the time provided in this section shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Any licensed dealer, or any owner or operator of a livestock selling agency at a terminal market, or any livestock auction market operator failing to collect assessments as provided in this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Any person who sells cattle from the state of North Dakota outside of the state or to an out-of-state buyer who fails to remit the assessments within sixty days as required by this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Assessments unpaid on the date on which they are due and payable shall be increased by a ten percent nonrefundable penalty on the amount of the assessment.

SECTION 12. REFUND OF ASSESSMENTS.) Any person who has made payment of assessments under the provisions of this Act or who has had payment made on his behalf of such assessments may request and receive a refund, provided that a request for such refund is made within sixty days after the remittance of such assessments. Applications for refunds shall be made by the seller himself in such form as shall be reasonably required by the commission, and shall provide the commission with sufficient information to identify such assessments.

Disapproved March 29, 1971

Filed March 29, 1971

CHAPTER 610

HOUSE BILL NO. 1445
(Bunker)

PROXY VOTING AT MUTUAL
INSURANCE COMPANY MEETINGS

AN ACT to amend and reenact section 26-14-10 of the North Dakota Century Code, relating to the right of members of a mutual insurance company to vote by proxy.

VETO

March 26, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1445 amends the present law relative to proxy voting in mutual insurance company meetings. The present law permits the use of a proxy dated and executed within three months prior to the date of the meeting. House Bill 1445 eliminates any time limitation, and proxies could be used no matter how far in the past they have been dated and executed.

Under present law, no person can vote more than fifty proxy votes, and no officer may ask for, receive, procure, or use a proxy vote. House Bill 1445 deletes these restrictions.

In my judgment, this bill would permit the board of directors and the management of a mutual insurance company to garner perpetual control and would protect incumbent officers, but would diminish the rights of the members of the mutual insurance company.

Mutual insurance companies must permit free democratic action by all members if they are to function properly. This bill would permit a few to dominate the entire mutual insurance company membership.

I therefore veto House Bill 1445.

Sincerely yours,
WILLIAM L. GUY

Governor

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

SECTION 1. AMENDMENT.) Section 26-14-10 of the North
Dakota Century Code is hereby amended and reenacted to read
as follows:

26-14-10. VOTE BY PROXY PERMITTED.) Members of a mutual
insurance company may vote by proxy dated and executed when
returned and recorded on the books of the company three days
or more before the meeting at which the same is to be used.
This section shall not apply to state mutual hail insurance
companies.

Disapproved March 27, 1971

Filed March 29, 1971

CHAPTER 611

HOUSE BILL NO. 1446
(Strinden, Backes)

WATER CONDITIONER INSTALLERS

AN ACT to create and enact chapter 43-18.1 of the North Dakota Century Code, relating to the regulation of the installation of water conditioning equipment; and imposing a penalty.

VETO

March 30, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

Because proper water and sewage systems are critical in maintaining everyday personal health in every home and public building in the state, we have written stringent laws to be followed by those who do plumbing work. The present laws of North Dakota are designed to protect public health by requiring those individuals or firms who do plumbing or sewage work to be licensed and qualified.

House Bill 1446 would exempt those who install and repair water conditioning appliances, appurtenances, and fixtures from the present laws safeguarding the public health which require a licensed plumber to do the work. The implication of this proposed law seems to be that a water softener or water conditioning equipment in a water system is not as important as other parts of a water system such as a dishwasher, garbage disposal, or toilet.

I fail to see why water conditioners should be set aside as of lesser importance to health in a complete water and sewage system, to the extent that their installation and repair would come under separate and relaxed provisions of the Code.

I note that House Bill 1446 defines water conditioning equipment to include appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add, or remove mineral, chemical, or bacterial content. I strongly believe that anyone handling equipment designed to eliminate bacterial content in water specifically and mineral content generally should be an expert, or individual health and public health would be in jeopardy.

Is there some reason why our Code protecting public health should require a licensed plumber to install a sink, or bathtub, or toilet, but then exempt the water softener or other water conditioning equipment from the plumbing system governed by the Code?

I am convinced that House Bill 1446 seeks to exempt water conditioning equipment such as water softeners on a basis other than public health. I do not believe the justification for House Bill 1446 is sufficient to overcome the hazards it creates.

Therefore, I veto House Bill 1446.

Sincerely yours,
WILLIAM L. GUY
Governor

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

SECTION 1.) Chapter 43-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-18.1-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Water conditioning installation and repair" shall mean the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, and the repair of such equipment, to a water distribution system. "Water conditioning installation and repair" shall not mean the exchange of such appliances, appurtenances, and fixtures when the plumbing system has previously been installed or adapted to or for such appliances, appurtenances, and fixtures, and no substantial change in such plumbing system is required.
2. "Water conditioning contractor" shall mean a person who plans and manages the installation and repair of water conditioning equipment, and in conjunction therewith sells or leases such equipment.
3. "Water conditioning installer" shall mean any person who is engaged in the practical installation and repair of water conditioning equipment.
4. "Board" shall mean the state board of plumbing.

43-18.1-02. ADMINISTRATION.) All fees and money obtained by the board through the administration of this chapter shall be used for the regulation of the business of water conditioning installation and repair, through the board, and all such fees and money are appropriated to the board for such purpose. This appropriation shall be a continuing appropriation of all such sums. The handling and administration of such fees

and money shall otherwise be in accordance with section 43-18-07.

43-18.1-03. DUTIES OF THE BOARD.) The board shall:

1. Enforce the provisions of this chapter.
2. Prescribe rules and regulations not inconsistent with the provisions of this chapter for the examination, regulation, and licensing of water conditioning contractors and water conditioning installers.

43-18.1-04. LICENSES - EXAMINATION - FEES - APPRENTICES.)

1. No person, firm, or corporation, except plumbers holding valid licenses pursuant to chapter 43-18, shall engage in the business of water conditioning contractor or water conditioning installer in any incorporated city of this state having a system of waterworks or sewage unless registered and licensed to do so by the board. Installation and repair of water conditioning equipment shall be done by the person holding a water conditioning installer license.
2. The board shall hold not less than one public meeting per year for the purpose of examination of persons who may desire to become registered and licensed in the water conditioning business pursuant to this chapter. Notice and time of such examination shall otherwise be in accordance with section 43-18-12 and the examination provided for herein may be held in conjunction with the examination provided for in chapter 43-18.
3. Examination for licenses and registration shall be upon application as prescribed by the board and payment of the examination fee. Such fee shall be forty dollars and twenty dollars for registration and licensure as a water conditioning contractor and water conditioning installer, respectively. In cases where the holder of the installer license is also a contractor, the fee shall be forty dollars. The examination shall be as prescribed by the board but shall be limited to the installation and repair of water conditioning equipment as such relates to plumbing. The issuance of licenses and registrations hereunder shall be as prescribed by the board which shall be guided in such actions by the provisions of section 43-18-13.
4. An apprentice may be employed by any licensee under this chapter. When so employed such apprentice shall perform his employment under the direct supervision of such licensee and when engaged in installation or repair pursuant to this chapter such apprentice shall be under the direct

supervision of a licensed installer. Upon employment, the name of the apprentice and his employer shall be submitted to the board and upon termination of employment the board shall be so notified.

43-18.1-05. TEMPORARY LICENSES - ISSUANCE.) The board, upon payment of the fees provided in this chapter, shall issue special temporary permits to engage in the water conditioning business as provided in this chapter to those applicants who furnish sufficient proof that they were engaged in such business on January 1, 1971. Such special temporary permits shall be retroactive to January 1, 1971, and shall expire thirty days after the date the second examination as provided under 43-18.1-04 is given, but no later than July 1, 1972. The board may prescribe rules and regulations under which regular temporary permits may be issued generally in accordance with section 43-18-15.

43-18.1-06. RENEWAL OF LICENSE AND REGISTRATION - FFE.) Except for special temporary licenses as provided in this chapter, a license issued under this chapter shall be valid for only one year and shall expire on December 31 of the year in which it was issued. The license shall be renewed by the board upon application made within thirty days after the expiration thereof and on the payment of the fees as provided in section 43-18.1-04.

43-18.1-07. REVOCATION OF LICENSES.) The board may revoke any license issued under the provisions of this chapter if the licensee has:

1. Committed a felony;
2. Committed a fraud in obtaining his certificate;
3. Permitted the use of his license in violation of this chapter; or
4. Performed his work or business in an incompetent manner.

43-18.1-08. REVOCATION - HEARING - REINSTATEMENT.) A license issued under the provisions of this chapter may be revoked only after a hearing of the charges by the board. Such hearing shall be conducted in accordance with the procedures set forth in section 43-18-19. Reinstatement of a license revoked under this chapter may be made in accordance with section 43-18-20.

43-18.1-09. VIOLATIONS - PENALTY.) Any person who willfully violates any of the provisions of this chapter shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars, or by both such fine and imprisonment.

Disapproved March 30, 1971

Filed March 30, 1971

CHAPTER 612

HOUSE BILL NO. 1063
(Austin, Bunker, Halcrow, Henning, Hentges)
(From Legislative Council Study)

MORTGAGE INSURANCE FUND BOARD

AN ACT to create an industrial building mortgage program under the supervision of the Bank of North Dakota, providing for the administration of such program and for the transfer of certain moneys from the accumulated and undivided profits of the Bank of North Dakota to the mortgage insurance fund, and making an appropriation.

VETO

March 29, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 1063 establishes an industrial building mortgage program under the supervision of the Bank of North Dakota. This is good legislation and it was recommended in my Message to the Legislature.

I find, however, an irregularity in the bill as it establishes the administration of the program. Section 11 states, "The advisory board of the Bank of North Dakota shall constitute the mortgage insurance fund board. The mortgage insurance fund board shall approve all loans made pursuant to the provisions of this Act."

This provision violates the line of responsibility necessary in state government. It is not uncommon for legislators to fail to recognize the difference between advisory boards and administrative boards. The Bank of North Dakota Advisory Board was established in the 1969 Legislative Session and has functioned very well, but its mission is purely advisory and not administrative. The Bank of North Dakota administrative board responsibility lies, as it should, completely with the Industrial Commission.

Earlier this session, there was talk of making the Advisory Board to the Bank of North Dakota an administrative board replacing the Industrial Commission. However, this action was recognized as inappropriate and nothing was done.

Since it should be very obvious to any observer that no department or institution can be effectively served by two boards who have administrative power, the weakness of Section 11 becomes apparent.

Using the authority given me in the North Dakota Constitution under Section 80, and as substantiated by a New Mexico Supreme Court decision in 1957, I veto that part identified as Section 11 contained in this appropriation, House Bill 1063.

Sincerely yours,
WILLIAM L. GUY

Governor

NOTE: For the full text of House Bill No. 1063 containing Section 11, see chapter 112, this volume.

Disapproved March 27, 1971

Filed March 29, 1971

CHAPTER 613

HOUSE BILL NO. 1492
(Dornacker)VIETNAM BONUS APPROPRIATION
FROM GENERAL FUND

AN ACT to provide and appropriate funds for the payment of adjusted compensation payments to North Dakota veterans of the Vietnam conflict and to the industrial commission for the issuance of bonds; providing for the issuance, sale, and delivery of general obligation bonds; creating a sinking fund; and providing for a surtax and fund transfers for the servicing and retirement of such bonds.

VETO

March 31, 1971

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota

Dear Mr. Meier:

In the Primary Election of 1970, the voting public of North Dakota rightfully and overwhelmingly voted to pay our Vietnam War veterans a bonus similar to that paid to veterans of the Korean War and World War II. Obviously, when people vote to pay a veterans' bonus, they are in effect stating that they are willing to have such finance demands of a bonus payment program added to the other services of a state and local government for which they tax themselves.

The 42nd Legislative Assembly worked long and diligently to prepare a Vietnam veteran bonus payment program. House Bill 1492 is the legislation finally passed in the closing hours of the session after weeks of wrangling over a method of repayment of bond interest and principal.

In my Message to the Legislature, I recommended that the bonus be paid by a surtax applied to the personal and corporate state income taxes levied each year until the bonds were paid off. This recommendation would not disturb the methods of financing such other essential state services as education, welfare, law enforcement, health, and many others. A surtax would not be self-perpetuating, but would expire at the last bond payment.

The material incorporated in House Bill 1492 was originally written in consultation with financial experts and bond attorneys to provide for a bond issue sufficient to pay the bonus which would be paid back by a surtax on the state personal and corporate income tax payments.

In the closing hours, in the disagreement between the House and Senate over a means of financing the initial repayment of the Vietnam bonus bonds interest and principal, a provision was tacked onto the bill by the Senate that the first \$2 million in repayment should come from the General Fund, and then in 1973 revenue from the surtax would begin to repay the balance of the bonds' principal and interest.

To unnecessarily tack this \$2 million drain on the General Fund is a very serious financial miscalculation. It is not necessary to repay the Vietnam bonus bonds by means other than the surtax contained in this bill.

It was pointed out by some legislators that the Executive Budget did not balance recommended appropriations with expected revenues for the coming biennium and that the imbalance would be made up by an \$8 million drawdown in the General Fund balance.

I readily acknowledged this imbalance and predicted that the Legislative Session meeting in 1973 would be even more hard pressed to balance the state's budget without going to increased taxes.

The same legislative critics of the imbalance in the Executive Budget were the ones who spearheaded the drive to imbalance it further by withdrawing \$1 million from the State Mill and Elevator reserves, and then finally another \$2 million from the General Fund reserves for Vietnam veteran bonus bond repayment. In my judgment, this amounts to fiscal irresponsibility and should not be tolerated if it can be avoided.

Since the material in House Bill 1492 was originally set up, after long and careful study, to repay the Vietnam bonus principal and interest over a stated period of years, and because the \$2 million drain on the General Fund was tacked on in the closing hours of the session and was not part of the original bill, I am forced to examine this legislation very closely.

It is contemplated that veteran applications will be received sometime after the bill goes into effect on July 1 of this year. It is hoped that the first payment to veterans can be made on or before December 1 of 1971. As of December 1 of 1971, the total known eligible North Dakota veterans will require a commitment of \$10.5 million to pay the bonus. An additional \$1 million should pay all eligible veterans who apply or become eligible in the calendar year of 1972. From this total \$11.5 million Vietnam bonus requirement, we must subtract at least \$540,000 which will have been paid out in veteran education assistance by July 1 of 1971.

The first interest payment shall be made one year after the date of issue of the bonds. This means that in the closing months of 1972, the state will be obligated to its first interest payment of about \$450,000 from the State Treasury.

Following the first year, interest payments will be due each six months and the first principal payments will come due in the closing months of 1973 on a date exactly two years from the date of bond issue.

By reverting to the original intent of the material in House Bill 1492, the Industrial Commission, as written into this law, is required to request "the State Treasurer to supply any deficiency of

such sinking fund out of any available monies of the state in his custody, provided that all monies so used shall be returned at the earliest practicable opportunity."

This means that for a temporary period of time, there would be a drawdown on the General Fund of somewhere between \$200,000 and \$450,000 in interest payments depending upon the interest recovery from bond money not yet disbursed in the bonus payments. This deficiency would be replaced immediately upon the receipt of the surtax revenues in 1973.

When the surtax takes effect in 1972, it is estimated to raise approximately \$1.9 million in 1973 and each year it remains in effect thereafter. This money will be used to pay the principal and interest on the Vietnam bonus bonds which amount will be less than \$1.5 million annually.

It is expected that the surtax will make it possible for the state to call all remaining Vietnam bonus bonds for early and complete redemption by 1983 or 1984.

Because the last minute inclusion of the \$2 million drain on the General Fund in order to begin payment on the Vietnam veterans' bonus bonds and interest would simply transfer the problem of balancing the state budget to the next Legislative Session and would amplify it, and because the inclusion of this \$2 million drain on the General Fund could have adverse effects on the present law which requires a \$15 million balance in the General Fund in order to trigger appropriations already made for desperately needed replacement of some college buildings, I veto that part of House Bill 1492 identified as Section 14 "Appropriation" which transfers \$2 million from the General Fund. I do this under the authority given me in the North Dakota Constitution in Section 80, and as substantiated by a New Mexico Supreme Court decision in 1957.

In so doing, I do nothing to jeopardize the validity of the remaining House Bill 1492, nor is anything done to affect the salability of bonds or the date of payment of the bonus to our veterans.

Sincerely yours,
WILLIAM L. GUY

Governor

NOTE: For the full text of House Bill No. 1492 containing Section 14, see chapter 496, this volume.

Disapproved March 31, 1971

Filed March 31, 1971