

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

4036

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

SCR 4036

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4036

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date March 1, 2001

Tape Number	Side A	Side B	Meter #
1		X	44.6-End
2	X		0.0-41.2
March 2, 2001 2	X		27.0-46.5
Committee Clerk Signature <i>James M. Raile</i>			

Minutes: **Chairman Krebsbach** opened the hearing on SCR 4036 which is a concurrent resolution for the amendment of section 2 of article V, section 3 of article IX, and section 12 of article X of the Constitution of North Dakota, relating to the office of state treasurer; to repeal section 15 of article XII of the Constitution of North Dakota relating to the duties of the state treasurer upon the issuance of legal tender by banks in the state; and to provide an effective date. **Senator Tony Grindberg**, district 41, primary sponsor of the resolution introduced the resolution to the committee. He indicated his remarks would include 4 primary areas. This bill is pretty much self explanatory. It changes the resolution from last session. The only change is it puts it on the general election ballot in November 2002. At this time **Senator Grindberg** handed out an amendment which was brought to his attention by the Attorney General's Office. In the event that this resolution passes this amendment is needed because it relates to the Veteran's Post War Trust Fund. The reasons to eliminate this office were listed on a handout which Senator Grindberg gave to the committee. There are nine points listed on this handout.

**Senator Grindberg** provided an additional handout with some information about the primary election in which the voters previously voted to keep the treasurers office. He stated from the information provided why he believed this issue should once again be brought before the public but this time as a general election issue. He also provided the committee with a handout which listed what out of state interests contributed money to the campaign to preserve the treasurers office for North Dakota. He felt that the voters of North Dakota do not like out of state influences having an effect on the outcome of North Dakota elections. In his closing remarks **Senator Grindberg** noted that his position has been outlined in his testimony as to why he introduced this again. He was a sponsor in 1999 and firmly believes that as we move ahead with efficient government that is the message he gets from his constituents. If anything let's make our government more efficient and this is an example of that. Yesterday he was asked by the media to respond to the treasurer's press conference and he indicated he declined. It is not his intent and he has nothing against the practices of the agency as a department. He is not going to get into the dialogue between, that is going on this session. Mine is going to stay on the high road as far as the objectivity of this issue. The treasurer has taken it upon herself to make comment and that's fine. He has not problem with that whatsoever. This is a good public debate on this issue. We are in my opinion elected to represent the silent majority. This issue has been floating around since the bill was introduced in the press release he issued well over 5 weeks ago and he has had one E-mail from a concerned citizen that we are doing the wrong thing. That E-mail came from a state employee. He returned the E-mail and corrected some of the facts he had indicated he would like to call the individual to give him some more or his opinions on that, the person did not respond. The point is from where he comes from this is not a politically driven initiative. There is no conspiracy theory here. Obviously this is a sensitive issue. He will stand

before this committee or any committee on his reputation as a state senator, that of one of nonpartisan. All of you know me well enough to know that is not my intent. He struggles over whether to address these issues or not, but he feels with the increased publicity that he'd stand before any committee on his record on issues that create good government. **Senator C. Nelson** indicated that Senator Grindberg felt enough people didn't vote on this issue concerning the treasurer's office and yet he didn't raise any concern about the measure for filling legislative vacancies which only passed by a margin of 7,000 votes. Maybe we need to take a closer look at legislative vacancies. **Senator Grindberg** indicated that is open to anyone's privy, that is what we are elected to do. He feels \$50,000 in out of state money influenced the outcome of this election and that's the difference. **Senator C. Nelson** indicated she thinks it is interesting that he didn't come in with how much out of state money went into so many other races in the state. This is a small race, a small office and we have had multiple debates in here about how much money went into the governor's races, both of them, the attorney general's race. She would maintain that out of state money went into numerous races in this state and to separate out one when both parties were trying to raise money for their top person. That's the money that drove this last election. When we were asked for money, I mean my God we got letters every week to contribute to somebody's campaign. Most of us put money into the ones that were here on top. It was very hard to raise money for the lower ones that were lower on the line. They still needed money. She doesn't get so excited about the fact that some outside money came in. That's not the issue to her either. The issue to her is that the people have voted twice. That particular measure was the top measure on the primary ballot. The placement on the primary ballot was put there because that is the way it was written in your bill last time. **Senator Grindberg** indicated we could debate the issue of campaign finance and where money comes from, from here to

eternity. In his mind there is a difference on an issue that relates to state government, an issue that all that money came from special interest groups, one special interest group trying to maintain the treasurer's office around the state. Again, he doesn't disagree with Senator C. Nelson's comments. To him there is a difference as far as the intent of how government operates and how a candidate runs for office. **Senator T. Mathern** indicated that he raised the issue about the number of people that voted. Would you have a number of people that you think is appropriate and acceptable to express the voice of the people? What number would that be? **Senator Grindberg** indicated that he believed that the general election that we have would bring out about half of the eligible voters in the state. He would think that during a general election we would get a higher percentage of people watching what is going on if you will. There are more candidates for office that would bring more people to the polls. Whatever the healthy percentage is, the general election would bring more of a balance to the representative outcome. **Senator T. Mathern** inquired if Senator Grindberg would support a, are you suggesting that constitutional matters should not be on a primary ballot, or there should be a law to change the constitution in a certain way so that only certain votes would be counted? **Senator Grindberg** indicated that he thinks that is up to the discretion of the legislative body to determine. Looking back to this measure as it was introduced in 1999, he thinks the rationale used was the fact that if it should pass the transition between election cycles with the current office holder seemed to move together more efficiently. This time it's on for a vote in November 2002 which means if passed it will transition with an officeholder and the process will be more complicated. He doesn't know if there is any magic number, constitutional amendments come and go depending on the issue. He thinks they have to be thought through on a committee basis such as this to find out what's the best fit, being cognizant of the particulars whatever the issue might be. **Senator T.**

**Mathern** indicated he thinks this is raising a lot of question as to whether or not we are setting the direction of how we want the outcome of an election. It was done twice. I think to set the number of votes that are acceptable afterwards is a little bit problematic. Maybe we should set that beforehand so that people actually know. Getting on to the other issue, you handed this out on the contribution in terms of the money that was spent. What about the proponents of the bill or the proponents of the measure. Do you have any indication or do you feel confident that no state money or resources were used to promote this measure? **Senator Grindberg** indicated he wasn't quite sure he understood. **Senator T. Mathern** inquired again, do you believe there was no money or state resources used to pass the measure? **Senator Grindberg** to his knowledge there were no state resources other than interim judiciary committee which he believed had some public comment. In his understanding there was very little if no organized effort from a monetary standpoint. He knows there a number of editorials around the state in newspapers that address the issue. He doesn't believe there is any organized effort. That is something we don't do in the legislature. Appropriate money to vote yes or no on one particular amendment. Further questions were offered from Senator T. Mathern with responses made by Senator Grindberg.

**Chairman Krebsbach** inquired if there were any state dollars that went into the associations that you are aware of. **Senator Grindberg** indicated none that he is aware of. **Bill Butcher**, state director of the National Federation of Independent Business, appeared before the committee. He indicated they have about 3000 members throughout ND and they are all small business owners. Back in May of 2000 they conducted a poll of their membership and the response was that 80% of their members favored elimination of the treasurers office in the interest of cost savings and government reduction in the size of government. He indicated he would urge support of this bill.

**Senator Wardner** asked Mr. Butcher what the percentage was that he had indicated to the

committee. **Mr. Butcher** responded 80%. There was nothing further in support of the measure. No one appeared in neutral position. Appearing in opposition before the committee was **Senator Joel Heitkamp**, assistant senate minority leader, appeared before the committee in opposition to HCR 4036. He presented a handout to committee members which he indicated goes a way towards explaining why he as a Democrat and many other Democrats who are walking the hallways do feel a little bit under siege. If you look at the pure cause of better government and if you look at state elected officials and what other states do and whether or not you can take those out of elected positions and somehow have a better working government, just take a look at this list. There is only one tax commissioner in the whole nation that is elected. This came from legislative council upstairs. Public Service there are only 7 states that do that. Insurance, there's only 10 states that do anything in terms of election. The list goes on is my point. So when you get down to the treasurers office and there are 39 states that hold this as elected position, you start wondering why that's the one we are targeting. Why is that the one we are looking at in terms of polling and in terms of E-mail. He would contend there is something way more important than polling of any specific group or any E-mail from any one person out there. That's the vote. When people vote they send a very strong message and they voted on this twice. We are sent down here in the legislative session to deal with the many problems that are facing the state. To him this is something in search of a problem. The voters have spoken to us twice. Twice they have said we want to elect our state treasurer. There is an issue about the dollars that came in, in terms of that election. I would contend to you that if we make the argument that those who get money from out of state and can outspend someone too or in my particular case this fall 3 to 1. If we want to take those things into consideration I'd be willing to any day. But, the fact of the matter is, is in my particular election that I was so close to this fall for my sister.

we did get outspent. But you know what, the voters spoke and it's done. That's the way elections are. All this is doing is creating a whole bunch of more work for the legislative assembly. It's creating another big issue out there that when it comes right down to it says to the voters that they don't matter. There was an issue that the four largest counties voted in favor of this. I would contend that there are 53 counties out there. And they matter too. There are 53 counties in this state, all of them got the opportunity to vote twice, and they voted this down. Yes we're going to feel this is a little bit partisan, we are going to be a little bit upset. Matter of fact we are going to be very upset. To be honest with you when you look at this list I don't see us targeting the tax commissioner, I don't see us targeting the PSC, and so that's bound to frustrate us. I stand before you saying don't make the people of North Dakota have to deal with this again when they've already sent the message to us twice. **Representative Merle Boucher**, house minority leader, from district 9. He indicated he would not be as soft and gentle as the previous speaker on the partisanship of this issue. He indicates that this legislation is an attack on his party. The people of North Dakota since statehood have chosen to elect their officials. His testimony indicated his opposition to SCR 4036. **Senator Dennis Bercier**, district 9, **Former Governor Art Link**, **Chris Runge** of the North Dakota AFL-CIO, **Representative Audrey Cleary**, district 49, and **Mary Spliehal**, citizen all presented testimony in opposition to SCR 4036 (Tape 2, Side A, meter #'s 13.0-29.5) **Kathi Gilmore**, state treasurer, presented written testimony in opposition to SCR 4036. A copy of her written testimony is attached. Also presenting testimony in opposition to SCR 4036 was **Bob Hanson**. A copy of his written testimony is attached. Comments were offered by **Senator Dever**. There was no further testimony or comments offered at this time. **Chairman Krebsbach** closed the hearing on SCR 4036. On March 2, 2001 **Chairman Krebsbach** opened the discussion on SCR 4036. **Senator**

**Wardner** indicated there are some things that he agrees with the opposition. There is no question it has been a short period time since this was voted down by the people. He guessed that he believes that the functions of the agency can be involved in other agencies in state government. He noticed that there is a lot of debate over whether there is a cost savings or not. He would like to think there would be. There are other people who be able to do the duties. Even though he definitely feels that a good point by that opposition that it was just voted on but he has to go with his own philosophy so he guesses he is going to support the resolution and if the people are against it they will speak again. **Senator Dever** reminded **Chairman Krebsbach** that there is an amendment from **Senator Grindberg** concerning the Veteran's Postwar Trust Fund. This needs to be dealt with in anticipation of whatever decision comes from the floor. **Senator Dever** moved adoption of the amendment, seconded by **Senator Kilzer**. **Senator T. Mathern** indicated that the amendment to him raises one of the major questions of the resolution itself. He believes the resolution gets simplified to do we need a treasurer or not. And it is just more complicated than that. After this office has been in effect all these years. This is an example of that complication. He appreciates the sponsors amendment because he figured there is this one thing that's not taken care of, but when he looks at the amendment he just can't imagine the veteran's feeling good about the amendment. The benefits, on the fourth line down, it says the official designated by the legislative assembly. He means these veteran's they want to know who this is. He suspects veteran's groups are as strong as anybody to support the treasurer's office, not because they are making a decision like Senator Wardner is talking about like is something needed or not. They know then who has got their money. Now we know it's not their money but that's the way this is used. This amendment has a good intent but it doesn't solve that trust issue or that concern on the part of veteran's. Who is in fact now going to invest

this fund and that's the problem and that's why we need the treasurer. So that groups like this and there are other groups and frankly he doesn't know them all that see being within the context of the treasurer's office as their guarantee that they can understand and have an input into that process. That is a good reason not to support the resolution. But he thinks the amendment doesn't clarify it. That would be a reason to vote against the amendment. **Senator Kilzer** inquired if the state treasurer does the investing of this fund or is it the Bank of North Dakota. **Bob Olheiser**, Deputy State Treasurer responded that the majority of the money in the veteran's postwar trust fund is directly invested by the state treasurer. There is a portion of it in an equity portfolio that is invested on a contract agreement with the state investment board. A Roll Call Vote on the adoption of the amendment indicated 4 Yeas, 1 Nay, and 1 Absent or Not Voting. **Senator T. Mathern** indicated that he is concerned about the people who are supportive of this office. He thinks this is only one area. There is a lot of support to this office that relates to the work of this office, though it is very small compared to most state agencies. The work that it does do is clear amongst the public, the intention of the office was carried by the people in the last two contests as before. The testimony indicated that there are also people concerned that a that it is just pulling at a certain office. I don't think that was the intent of the sponsors. But there is that concern. **Senator T. Mathern** moved a Do Not Pass on SCR 4036. Motion died for lack of a second. **Senator Kilzer** moved a Do Pass as Amended on SCR 4036. The motion was seconded by **Senator Wardner**. Final comments were offered by **Senators T. Mathern** and **Kilzer**. Roll Call Vote indicated 4 Yeas, 2 Nays, and 0 Absent or Not Voting. **Senator Kilzer** will carry the bill.

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4036

Page 1, line 2, replace "section" with "sections" and after "12" insert "and 25"

Page 1, line 13, replace the first "section" with "sections" and after "12" insert "and 25"

Page 3, after line 21, insert:

**"SECTION 4. AMENDMENT.** Section 25 of article X of the Constitution of North Dakota is amended and reenacted as follows:

**Section 25.** The veterans' postwar trust fund ~~shall be~~ is a permanent trust fund of the state ~~of North Dakota~~ and ~~shall consist~~ consists of moneys transferred or credited to the fund as authorized by legislative enactment. ~~Investment of the fund shall be the responsibility of the state treasurer who~~ The official designated by the legislative assembly shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments. All income received from investments ~~is to~~ must be utilized for programs ~~which must be~~ of benefit and service to veterans, who are defined by legislative enactment, or their dependents, and ~~such~~ the income is ~~hereby~~ appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure upon those programs selected at the discretion of the administrative committee on veterans' affairs."

Page 3, line 24, replace "4" with "5"

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**SCR 4036: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4036 was placed on the Sixth order on the calendar.

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2001 HOUSE POLITICAL SUBDIVISIONS

SCR 4036

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR4036

House Political Subdivisions Committee

Conference Committee

Hearing Date 3-22-01

Tape Number	Side A	Side B	Meter #
1	xx		1--end
1		xx	1--end
2	xx		1--840
Committee Clerk Signature <i>Ann K...</i>			

Minutes: Chair Froseth opened the hearing on SCR4036 relating to the duties of the state treasurer; and to provide an effective date.

Sen. Tony Grindberg, Dist 41, Fargo: prime sponsor and support this resolution. I will try to explain why this is before you and try to be objective. Passed out the analysis of duties of state treasurer. (SEE ATTACHED)

Rep. Delmore : We want to be fiscally responsible. I was wondering why, after the voters have spoken twice, you are asking the state treasurers office to be eliminated? Why not the Sec. of State?

Sen. Grindberg : That question was raised in the senate hearing, too.

Rep. Delmore : We have found even when we transfer to other departments, the FTE's don't go away. Can you show the savings of other departments if this office is eliminated?

Sen. Grindberg : No, I can't. Common business sense would deem that current staff in the other department can absorb the responsibilities, especially when you factor in electronic transfer capabilities.

Rep. Ekstrom : (700) Has something changed since the treasurers office was formed that makes it not needed any longer?

Sen. Grindberg : I guess what I see changed is the ability to transfer data electronically. I don't know what the whole work load of the office is now. What has changed is technology.

Rep. Ekstrom : (810) Have you found a problem with the way the investments have been handled.

Sen. Grindberg : No, I'm not saying that.

Vice-Chair Severson: Are there other states around us that have eliminated the office and do you know what the savings are.

Sen. Grindberg : I don't have the actual data from MN. I believe there are 39 states. MN is the most recent. I also have a response to an editorial I'd like you to read. **(SEE ATTACHED)**

Rep. Todd Porter, Dist. 34, Mandan : (970) support this SCR4036. I am for efficiency in government. That's why I signed on to this bill. To have this issue brought back again is not a new concept. Measure 3 was on the June primary 2000. The history of primaries in ND seems to show in low voter turnout. I feel a better sampling would be in a general election.

Rep. Delmore : Do you think that an election result should not be valid because voters have spoken, but not enough have spoken. Do we have to have a minimum number.

Rep. Porter : I am here because I believe in efficiency and consolidation in government. I don't believe just because it was done 100 years ago, it is still good today. Time moves forward.

Rep. Ekstrom : I lost my first try at office by 28 votes. Since this was a small amount, should we not have stood by this election?

Rep. Porter : Not at all.

Rep. Ekstrom : Have you heard from people in vast numbers, that they would have voted to get rid of the treasurer?

Rep. Porter : I have had numerous people tell me government is too big. That any means to reduce the size is a good thing.

Rep. Al Carlson, Dist 41, Fargo : support this bill. It is a political issue. Is this a worthy issue to place before the people of ND? This committee has to decide this. If you think this will create efficiency in government, then you will vote for this bill. If you don't think it will, vote against it. We are taking this back to the people. I have a real problem with how the last election was funded. There is a State Treasurers Office Preservation Fund that reported \$50,650 that they raised for advertising to preserve the office. \$150 of that came from ND. We as legislators don't have a fund to go to when we have a measure to promote efficiency in government. It was legal, but I question us paying dues to an organization and then that organization come back and lobby us and the people of ND to vote against the election. Was that vote influenced by the advertising that money bought. We as legislature didn't have the money to do that. We went before the people and that is what we are asking again. I'm not afraid to let the people vote again.

Chair Froseth : Do you know why this measure was not placed on the general ballot?

Rep. Carlson : It was an oversight. It should have been in the general election.

Rep. Maragos : (2290) Do you know how many times the voters have voted on this issue?

Rep. Carlson : In 1984, and then this last June primary.

Rep. Maragos : If this issue is so important, why don't the people go get signatures to have it placed on the ballot?

Rep. Carlson : I agree.

Rep. Ekstrom : Why this particular office? Why not the auditor or tax department?

Rep. Carlson : Not a bad idea. I think townships should be debated. I think efficiency should be the debate and not politics.

Rep. Disrud : I wish measure 3 would have been in the general election. Why not wait and get it on the 2004 ballot?

Rep. Carlson : It has to do with the wording. We need a target date, now if the office is to be phased out.

Sen. John Andrist, Dist 2 : testified in support of bill. I think it is interesting to think how we would structure our government. I personally believe in appointments instead of elected officials. I think the duties of treasurer would be best run in OMB. I also know that the auditor needs more space. 25 years ago, we wrote a new constitution and the voters of ND didn't like it. Voters said over and over that they like to elect people. I am a visionary, so I like to look and be open minded at all kinds of issues. I think it's o.k. to vote on issues again and again. I think most of us are here to serve the people. If we can stream line governments, then we should.

Chair Froseth : (4190) I know you are a visionary. I believe technology is changing our form of government. It is changing because of e-transfers and other high tech methods.

Sen. Andrist : I agree. But bigger is not always more efficient. OMB is on the cutting edge of technology in the world of accounting.

Rep. Delmore : (4650) I believe people like to elect. They feel the officials are accountable to the voters. In my e-mail's, the question to legislatures is, what part of "no" don't you understand. They don't understand why this issue is up again. Politics is grassroots and should remain so.

Sen. Andrist : And I agree. People resist change. We need to go back and try to keep them to expand their minds.

Vice-Chair Severson : (5120) If you take politics away from this issue. If the treasurers office was filled by a republican, would you still support this?

Sen. Andrist : I would be supporting it. I think the insurance, tax, and secretary of state should all be appointed offices. The people would still probably vote, no; but I would support it.

Rep. Maragos : You philosophically paint with a broad brush. If you did not think you could support removing the ag commissioner as elected position, how can you support this?

Sen. Andrist : I think this office more easily can be absorbed into another department. That's good government, and that's why I signed on.

Rep. Ekstrom : Why just the treasurers office.

Sen. Andrist : If I had drafted this myself, I would have included more offices, one republican and one democrat. I love to bring issues before voters.

Bill Butcher, State Director NFIB : testified in support of SCR4036. **(SEE ATTACHED)**

**(end tape 1, side A and begin side B)**

Rep. Delmore : Are any of the NFIB people effected by this office?

Bill : (170) Small business owners are effected. All tax payers are effected. We could save \$500,000 each biennium.

Rep. Herbel : Did you pool your members and see if they thought other agencies should be merged, not just treasurers?

Bill : We just addressed the treasurers because it was the issue at that time. The poll was taken in April 2000. Over the years we have taken other polls both state and nationally, and our members believe in streamline government.

Rep. Delmore : Do you know how much money we will save if this office is merged.

Bill : No, I went by the fiscal note.

Kathy Gilmore, State Treasurer : (650) testified in opposition. **(SEE ATTACHED)**

Chair Froseth : How do you see the future in the next 10-15 years? Don't you see us reshaping forms of government?

Kathy : Technology is good. But you have to have people to work with the technology. Our office is financially accountable and prudent. We control millions of dollars. This \$500,000 means nothing. Technology can't take the place of people.

Rep. Delmore : Will this really save the state money?

Kathy : (1300) FTE's don't go away. They will be placed in another department and there will be no savings of \$500,000. Generally, the budget increases when this is done. By eliminating this office, you remove government further from the people of ND. I'm accountable to the people of ND.

Rep. Maragos : (1490) I read in your testimony and am very disturbed with the sentence about telling us what our rights are. You state that the legislature does not have the right to pick and choose election results that are valid. We are elected and are much closer to our constituents than you; our rights are expressed as your rights as an elected official. I am very disturbed by this statement, and I feel there is an arrogance there.

Vice-Chair Severson : I have the same question. Other issues have been brought to the state and voted on over and over again. Ours is a citizen legislature. When we have issues brought forward in ND, every bill will be heard and there will be testimony. The language that you use here is not the legislature. The sponsors made that choice, not us. You need to remember and tone down that language.

Rep. Herbel : My question deals with the dollars that were spent in advertising. If one side has more money to spend, is this an unfair influence. How do you justify that you were able to use that money that came from out side of ND.

Kathy : That money was outside my purview. The people who wanted this on the ballots could have raised money and they choose not to. The freedom of speech doesn't end at the border of ND. That money was not wrong at all.

Kretschmar : In your judgment, did the amount of money spent by the opponents influence the election.

Kathy : I don't think the people of ND could be bought for \$150,000. That's not the issue. Advertising raised the awareness of the issue.

Rep. Grosz : Why don't we put it before the people again?

Kathy : Those who they have elected, hear what they say. They expect you to respond to how they voted. You have other things to do, they believe.

Rep. Grosz : What about the seat belt issue? It was one the ballot over and over again. Why not this issue on the ballot again?

Kathy : This is a constitutional change. ND feels strong about their constitution. They have said repeatedly, no. Only one state doesn't have a treasurer. MN is in the process of removing.

Merle Boucher, Minority Leader : (2700) here in opposition to this bill. Technology will never replace the decision making of administrators. **(SEE ATTACHED)** Please look at the historic handout I handed out. One of the primary concerns back in 1889, when creating an executive branch of government, was that they did not want a concentration of power in the hands of one individual; that being the office of the governor. They decided to elect our governor, our state treasure, our secretary of state, our public commissioners, our ag commissioner, our

superintendent of instruction, and on down the line. People of ND want to elect their offices. It is a spirit of populism and grass roots participation.

Rep. Disrud : (3580) How can we use the time and money, as technology frees up more time?

Doesn't this mean stream lining government?

Merle : (3670) If technology was all that efficient, then why are we having 25% more positions to ITV. Why are we spending double each biennium more on technology than we used to.

Technology is not the answer to all of our issues. I think it is a bogus argument in this bill. We should monitor all agencies and point out deficiencies when found.

Rep. Grosz : Due to my youth, I am able to speak for the younger voter. Why not put this on the ballot and let the young people, who are coming to age, vote?

Merle : We could do that with any issue then. Not realistic. We have somewhat polluted or contaminated the spirit of the referral and initiative. We have so many measures on the ballots. Sometimes we repeat and repeat. We vote and vote until we wear them down. I don't know if that is the true spirit of democracy.

Kathy Kirschman : (4370) I am opposed to this bill. I am a young, frustrated voter. We have answered this question twice. We have said leave the office alone. Why is this asked again. I feel it's more worthy of your time to deal with more important issues.

Chair Froseth : (4799) If this same issue was brought to the fall ballot, would you feel the same about it?

Kathy : I would feel the same.

Mike Buckmiller, Bismarek : opposed to this bill. I feel this is a slap in the face to those of us that voted in the primary. We did not want to get rid of the state treasurer. There have been no

new facts to bring this issue back. I have heard money issues. I have not heard anything here of what it would cost to train people. What would it cost to reroute networking?

Gov. Art Link, Bismarek : (5440) here to oppose this bill. 110 years ago the framers of the constitution established the state treasurers office. It also established the state treasurer to serve on a state land board, the state historic board, tax equalization board, and the canvassing board. These boards establish policy by which our various departments are administered. This creates a diversity. Strongly think about this next statement. Do you want to tell over 42,000 voters that their vote on the constitution was good for only 20 months?

Bob Hanson, Bismarek : opposed to bill. (SEE ATTACHED)

Bob Olheiser, Deputy State Treasurer : opposed to this bill. My issue is technology and it's role. Technology creates a greater demand for information, as I see it. Information alone has no value. The information must be analyzed by people. Analysis of the data takes us more time today, because there is more information available for us because of the Internet. We won't save dollars on these positions. Millions of dollars are put into technology.

Chair Froseth : Any more testimony for or against? Hearing none, we are closed.

Rep. Maragos : I move a DO NOT PASS.

Vice-Chair Severson : I second.

**VOTE: 12 YES and 2 NO with 1 absent. MOTION PASSED. Rep. Maragos will carry.**

Date: 3-22-01  
 Roll Call Vote #: /

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SCR 4036

House POLITICAL SUBDIVISIONS Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

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

Action Taken Do Not Pass

Motion Made By Rep. Maragos Seconded By Vice Chair Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	✓		Rep. Wayne W. Tieman		✓
Vice-Chair Dale C. Severson	✓				
Rep. Lois Delmore	✓				
Rep. Rachael Disrud	✓				
Rep. Bruce Eckre	✓				
Rep. Mary Ekstrom	✓				
Rep. April Fairfield	A B				
Rep. Michael Grosz		✓			
Rep. Jane Gunter	✓				
Rep. Gil Herbel	✓				
Rep. Nancy Johnson	✓				
Rep. William E. Kretschmar	✓				
Rep. Carol A. Niemeier	✓				
Rep. Andrew G. Maragos	✓				

Total (Yes) 12 No 2

Absent 1 ab

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE (410)  
March 22, 2001 1:10 p.m.

Module No: HR-50-6407  
Carrier: Maragos  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SCR 4036, as engrossed: Political Subdivisions Committee (Rep. Froseth, Chairman)  
recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SCR 4036 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SCR 4036



**STOP, Filed June 1, 2000**

**State Treasurer's Office Preservation Committee - Measure 3**

Contributor's Name		Contributor's Address				Date of Contribution	Total Amount of Contribution
Last Name / PAC Name	First Name	Mailing Address	City	State	Zip Code		
1 Hanson	Bob	304 Teton Ave	Bismarck	ND	58501	5/23/00 \$	150.00
2 Markel	Jack	3 Guyenne Rd	Wilmington	DE	19807	2/25/00 \$	500.00
3 Midwest Assn of State Treasurers		303 Administration Building	St. Paul	MN	55155	5/12/00 \$	5,000.00
4 National Assn of State Treasurers		PO Box 11910	Lexington	KY	40578-1910	5/15/00 \$	30,000.00
5 NE State Treasurers Assn		133 State St	Montpelier	VT	05633-6200	5/11/00 \$	5,000.00
6 Southern State Treasurers Assoc		PO Box 11910	Lexington	KY	40578-1910	6/5/00 \$	5,000.00
7 Western State Treasurers Assoc		215 State Capitol	Salt Lake City	UT	84114	6/6/00 \$	5,000.00
						<b>Total \$</b>	<b>50,650.00</b>

**Elected  
by the  
people**

**Officer**

Tax Commissioner	1
P.S.C.	7
Insurance	10
Agriculture	12
DPI	14
Auditor	16
Secretary of State	36
Treasurer	39
Attorney General	42
Lt. Governor	50
Governor	50

**Testimony in Opposition to SCR 4036  
Kathi Gilmore, State Treasurer**

Madam Chairperson and Committee Members:

I am State Treasurer, Kathi Gilmore and I am testifying today in opposition to SCR 4036.

We all know that the heart of the issue in SCR 4036 is not a new idea. The facts are that in November of 1984, 57% of the people voting on a constitutional measure to eliminate the Office of State Treasurer rejected the measure. Then, in June of 2000, 52.5% of the voters of North Dakota again rejected the idea of eliminating the Office. It appears crystal clear to me and to the majority of North Dakota voters last June that the people have considered this specific issue twice, and have said they wish to keep the Treasurer as the chief elected financial officer in our state.

I have been a servant of the people in North Dakota for 12 years. I served two terms as a State Representative from District 6, and have served for the past eight years as State Treasurer. In my elected capacities, I have always believed that I was elected to represent the will of the people. I didn't always agree with some of them, but I represented them as I was elected to do. I am amazed that in our form of government, elected legislators would have the impertinence to tell the people, as was stated in the Fargo Forum, we need to ask if [the voters] really meant it! Such a statement insults the people we serve.

Proponents of this current resolution have also stated publicly that because the vote in June of 2000 was small, we need to vote on the idea a third time. Let's look at the record in the June 2000 primary.

In June of 2000, four constitutional measures were on the ballot. The following table summarizes the results from those measures.

<b>Measure</b>	<b>Yes Votes</b>	<b>No Votes</b>	<b>Total Votes Cast</b>
#1 Bd of Higher Education	46,226	33,385	79,611
#2 Executive Branch Officers	49,391	30,431	79,822
#3 Eliminate State Treasurer	38,715	42,734	81,449
#4 Filling Legislative Vacancies	41,058	38,648	79,706

This review of the June primary results shows that the question of eliminating the Office of State Treasurer was perhaps the best understood, and was clearly the most popular measure on the ballot. More people voted on Measure #3 than any of the other three measures. To say that these people did not mean what they voted on is a stretch of the imagination. The vote totals clearly show that this issue garnered more attention than any other, and it is clear that the voters knew what they were doing at the ballot box.

Proponents have thirdly said that their motives are not political. If that is true, and if their public statements that we need to confirm the intent of the people are sincere, then why haven't they proposed a re-vote on the three other measures that were on the June 2000 primary ballot, especially when those measures received fewer total votes than measure #3.

During legislative sessions the concept of legislative intent is often thrust at administrative agencies. But there is a force in our state stronger than legislative intent, and that is the intent of the people of North Dakota. It is time for legislators to recognize the clear intent of the people, it is time to stop playing politics with the voice of the

**CO**

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**NEXT FICHE**

people, and it is time to get on with fulfilling the intent of the people. It is time for a "Do Not Pass" vote on SCR 4036.

# IN-FORUM

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## Forum editorial: Attack on treasurer is political

*The Forum - 03/01/2001*

One of the reasons Republicans in the North Dakota Legislature say they are taking aim at the state treasurer is because the vote total in the June primary was small. Voters voted (for the second time) to preserve the office.

Republican sponsors of a measure to put the question on the ballot a third time insist they are not trying to oust Democrat Treasurer Kathi Gilmore. They say - with straight faces - that not enough voters spoke on the question in the last go-round.

Nonsense.

Of the four measures on the June ballot, the treasurer question got the most votes - 81,449. The other measures - board of higher education terms, executive branch offices, legislative vacancies - each got fewer votes. Why, a reasonable person might ask, are not opponents of the treasurer asking for a revote on measures that got fewer votes than the treasurer question?

Answer: It's political and it's personal.

Gilmore is one of a handful of Democrats who won re-election in November. She's an in-your-face independent woman who refuses to bow and scrape to the legislative majority. Indeed, she skipped a committee hearing a few weeks ago because she knew the session would be little more than a political buzz saw. That's the way they have treated her in the past.

Republican lawmakers responded like petulant children who had sand kicked in their faces. First, there's the attempt to eliminate the office via the ballot. Second, they continue to chip away at the treasurer's responsibilities by cutting her budget and removing duties which have been the treasurer's for decades.

It's a transparent and petty attack on an elected office holder who just happens to be of the other party, and who has demonstrated she can get re-elected despite a statewide Republican landslide.

Not so, the attackers insist.

Really?

Strange, isn't it, that along with putting Gilmore in their sights, Republicans are advancing the silly notion that the agriculture commissioner should be appointed. Coincidentally (of course) the ag commissioner is third-term incumbent Democrat, Roger Johnson, who also defied the GOP sweep.

Republican leaders say it's a matter of the philosophy of state government.

They contend agency administrators should be appointed by the governor. If that's the belief, it seems a tad hypocritical that the tax commissioner is not on their list. Could it be because the commissioner is popular Republican Incumbent Rick Clayburgh?

The attempt to remove the treasurer from the state Constitution (and the implied threat to do the same with the ag commissioner) is not about efficiency or governmental philosophy. It's politics - heavy-handed and inappropriate. It's little more than the bullying tactics of the majority. It's the sort of behavior that makes otherwise good lawmakers come off as vindictive and vacuous.

She won, guys. Twice. Get over it.

(Forum editorials represent the opinion of Forum management and the newspaper's Editorial Board.)

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Thursday, March 1, 2001

Weather forecast and more

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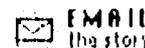
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Outdoors



## EDITORIAL

*OUR OPINION* State Republicans should pull back on their attempt to weaken the treasurer's office.

*Tom Dennis for the Herald*

**Let N.D.**

**treasurer**

**vote stand**

**Treasurer Kathi Gilmore has a point.**

**Voters made their wishes clear in June: They want the North Dakota state treasurer to remain an elected office. Editorials in this space disagreed with that decision, but that's not the issue.**

**The issue is how arrogant Republican lawmakers look when they try to second-guess voters and to overturn a now-settled point of law.**

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As Gilmore describes in her column on this page, some Republicans in the Senate want the question of an elected treasurer to go on the ballot -- again. The disrespect this shows for the majority's will is enormous. The people's most recent vote wasn't in 1990 or 1995, for crying out loud. It was in June.

**Is the GOP that desperate to control the full slate of constitutional officers?**

That the legislative move is political is obvious. As an editorial in the Forum of Fargo-Moorhead noted, those same lawmakers are strangely silent about making the state tax commissioner, who happens to be Republican, an appointed official.

Here's more evidence that politics is at work: In 1998, voters rejected a proposal to take the names of the state's colleges out of the constitution. They did so despite supporters' arguments that closing some small campuses would make for a stronger university system, and strengthen the state as a whole.

Has that issue resurfaced in Bismarck? No. Despite budget worries and major reforms in the laws governing colleges, the issue of closing campuses remains off the table, rightly in our view. And lawmakers have deferred to the voters' will.

But notice: Unlike a new vote on the treasurers' office, a new vote on the campus question couldn't lead to a partisan gain.

There's a reason why North Dakotans remain wary of executive power. There's a reason why they consistently refuse to make the governor a "little president," with the ability to appoint a full Cabinet of officers.

The reason is that state politicians too often behave in petty and partisan ways.

North Dakota's future in the New Economy deserves lawmakers' full attention. If they zero in on crafting a bipartisan agenda for success, they'll go a long way toward easing that deep suspicion among voters.

TESTIMONY, SCR 4036  
Senate Government & Veterans Affairs Committee  
Bob Hanson, March 1, 2001

I. Background/Position

- A. Bob Hanson, resident of Bismarek; former State Treasurer and State Tax Commissioner.
- B. Opposed to measure.

II. Primary Election

- A. Received highest number of total votes cast for any measure on June, 2000 ballot, 81,449, next highest was 79,822. Margin was 4019 votes. The measure regarding allowing the legislature to fill legislative vacancies had the closest vote with a margin of 2410.
- B. According to numbers I have, it lost in 46 (87%) of North Dakota's 53 counties, by an average margin of 59%, won in 6 (11%) counties by an average margin of 53%, and tied in 1 (2%) county. Six counties it won in were Burleigh, Cass, Grand Forks, Stark, Walsh and Ward. The one county it tied in was Towner. All other counties in the state rejected the measure.
- C. Geographically, and vote wise, people all across the state clearly stated they wanted to keep the right to elect their State Treasurer.

III. History

- A. Only constitutional office in state where people of North Dakota have clearly stated, twice in recent years, they wanted to continue to elect the position (1984 & 2000).
- B. People have, in recent times, added additional constitutional duties to the office of State Treasurer. Mid 1980's added Treasurer to state land board and 1996 when they gave the State Treasurer "full authority" for the investment and responsibility for the veterans postwar trust fund.

IV. Opposition to SCR 4036

- A. People have clearly stated they want to elect their State Treasurer, the most recent less than a year ago. Why isn't the will of the people being honored.
- B. It is a necessary office - checks and balances - people's chief elected financial officer.
- C. Urge committee do not pass recommendation and defeat on the floor.

V. Resolution is incomplete

- A. Does not include all constitutional responsibilities of State Treasurer. Fails to include changing, or repealing, Article X, Section 25, dealing with the State Treasurer's responsibilities regarding the veterans postwar trust fund.
- B. Appears to be an oversight, would believe sponsor would want to have a complete bill, and proper language regarding that section be added.

VI. Constitutional amendment reform

- A. Number of signatures required to initiate constitutional amendment.
- B. Number of votes needed to put constitutional measure on ballot by legislature.
- C. Number of votes needed to pass constitutional measure on ballot.

3-22-01  
Sen. Grindberg

1. Most of the duties and accounting functions of the state treasurer relate to collecting, investing, and the disbursing of state funds. In addition, under current law, the office is responsible for the regulation of the wholesale alcohol beverage industry.
2. These duties are similar to those also performed by the Bank of North Dakota, Office of Management and Budget, Office of the Tax Commissioner, and the Attorney General.
3. All funds deposited with the State Treasurer are in turn deposited with the Bank of North Dakota. Therefore, if agencies were able to make deposits direct with the Bank, an intermediate step would be eliminated.
4. The Bank of North Dakota or another state entity, having existing investment responsibilities and access to trained investment personnel, could handle the investment functions being handled by the Treasurer.
5. The collection of alcohol taxes could be handled by the State Tax Department, which is already being considered in SB 2053, as an appropriate and cost efficient transfer of duties.
6. The current staff consists of 7 employees, which includes the Treasurer and a Deputy. Because the duties of the agency can be easily absorbed by other agencies, the potential net loss of FTE positions would be five. Combined with the elimination of the agency's operating expenses, there would be a savings of over \$500,000 for the biennium.
7. Except for the duties of the Treasurer on several Boards, most of the duties of the Treasurer's office are duplicative or similar to those performed by other agencies. As to the Treasurer's duties on various Boards, they could be transferred to other elected officials who are also accountable to the public and have the public's welfare in mind.
8. The checks and balances on the collection, investment, and disbursement of state funds can be maintained at a lesser cost in other agencies, which also have those particular functions in place. Therefore, the additional role of the Treasurer is unnecessary.
9. In 1998, the voters in the State of Minnesota approved a constitutional amendment to abolish the State Treasurer's office for the same reasons as have been considered in North Dakota.



# NORTH DAKOTA SENATE

Senator Tony S. Grindberg  
District 41  
2832 39 1/2 Avenue SW  
Fargo, ND 58104-7014

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360

COMMITTEES:  
Appropriations

March 2, 2001

Letters to the Editor  
The Forum

Dear Editor,

Contrary to the analysis in The Forum's editorial of March 1, the issue of eliminating the Treasurer's office is not a partisan or a political one. It is about good government and saving tax dollars.

A review by any group of non-partisan open-minded management experts would reveal the same thing. That is, the duties of the North Dakota State Treasurer's office can be easily and with greater efficiency be done by other state agencies, which are also carrying out similar responsibilities.

For example, since all of the funds deposited with the Treasurer must in turn be deposited with the Bank of North Dakota anyway, state agencies could make those deposits direct with the Bank rather than using the Treasurer as an intermediary. That is one small example of an efficiency that could be achieved. The same efficiencies apply to the collections, investment and disbursement functions of the agency as well.

The bottom line is that over \$500,000 can be saved each biennium by eliminating the Treasurer's office. At a time, when the legislature has to find funding for education and human services, this is a significant amount of money. Why then is the savings achieved by the elimination of the agency being labeled partisan and a political attack by the Republicans?

Rather, the issue of the placing the Treasurer's office on the ballot should be encouraged and commended as a good example of making state government better, more efficient, and less costly.

A lot has been said about the fact that the people have already spoken twice. So, let's take a look at the results of those elections and the circumstances surrounding the issue. In 1984, the measure was on the ballot for the first time. In that election, almost 286,000 of the state's voters expressed their opinion by voting 57% in favor of retaining the Treasurer's office. The difference in the vote was almost 40,000 votes. However, a lot has happen in those sixteen intervening years in regard to the technology available for having better government. Therefore, the 1999 legislature placed the issue on the June 2000 ballot based on sound financial and management reasoning.

Page two  
March 2, 2001

So, what happened in 1999? In that election, only 81,500 people voted on the issue. That is over 200,000 voters less than voted in 1984. While 52% of the voters voted in favor of retaining the office, the majority vote represented the opinion of only 9% of the state's eligible voters. In addition, the difference between the yes and no votes was only 4,000 votes.

Even if the saving of \$500,000 were not a compelling enough reason to bring the issue back to the voters again, there is another factor from the 1999 election that must be considered. That is, the \$50,000 in campaign contributions made by five out-of-state treasurer associations to defeat measure # 4. That is a significant amount of money for anyone to spend on a North Dakota ballot issue. This is especially true, in a contest where no state funds could be used to explain the legislature's position and to promote the benefits to North Dakota voters of a yes vote. Nevertheless, these out-of-state special interest groups injected themselves into a North Dakota issue and influenced its outcome. What were they concerned about? Was it the fact that in 1998 the voters of Minnesota voted to abolish their Treasurer's office? Were they really interested in what was good for North Dakota and more efficient state government? Or, were they concerned about themselves.

Now, when the same option is being considered in North Dakota to eliminate the Treasurer's office, it is being labeled as partisanship. Why? From the beginning, I have made it clear that my introduction of this bill had nothing to do with politics. It was all about good government. Remember, it was the Republicans who took the lead to eliminate the Labor Commissioner's office as an elected position when it was a Republican that held the position.

Unfortunately, rather than embrace the goal of good and less expensive government, the Democrats have chosen to make the elimination of the Treasurer's office a partisan issue. Do they not want the savings generated being used for education and human services purposes? It is also unfortunate, that rather than to check it out and honestly examine the operations of the Treasurer's office and the alternatives, the media has joined in as well with charges of partisanship.

Regardless, I believe that the saving of \$500,000 in tax dollars is a significant enough of an issue to more than 9% of the state's eligible voters who voted to retain the Treasurer's position in the June 2000 election. Therefore, I believe that once the facts are known, North Dakota's voters will want another opportunity to express their opinion in the 2002 general election. Let the voters make their decision at that time and, hopefully, without the excessive financial influence of out-of-state special interest groups whose attention to North Dakota affairs is dubious at best.

Sincerely,



Tony S. Grindberg  
State Senator  
District 41  
Appropriations Committee

Fr. Rep Todd Porter

February 14, 2001

Measure # 3, to eliminate the Treasurer's office, was on the ballot for the June 13, 2000 election.

For that election, North Dakota had 473,574 eligible voters.

However, only 94,306 (19.9%) of the state's eligible voters voted in the June 2000 election.

Although there were 94,306 ballots cast, only 81,449 (17.2%) of the state's eligible voters, voted on Measure # 3. In other words, 12,857 (2.7%) of the state's eligible voters who voted in the June election did not cast either a yes or no vote on Measure # 3.

There were 42,734 or 52.5% of the voters who voted in favor of retaining the Treasurer's position.

There were 38,715 or 47.5% of the voters who voted in favor of eliminating the Treasurer's position.

The margin between the yes and no votes was 4,019 votes, which is less than 1% (.85%) of the state's eligible voters.

In other words, 9.02% of the state's eligible voters voted in favor of retaining the Treasurer's position and 8.18% of the state's eligible voters voted to eliminate the Treasurer's position.

With such a small turnout of the state's voters, with 12,857 voters not expressing an opinion, and with only a 4,000 vote difference, the bottom line is that neither the current officer holder nor others can claim that the voters of North Dakota issued a strong mandate in the June 2000 election for retaining the Treasurer's position.

While the voters in the state's four largest counties voted 53.6% to 46.4% to eliminate the position, the no votes in most of the other counties prevailed by a very close margin. In the aggregate, it made the 4,000 vote difference (the county-by-county breakdown is attached).

In addition, the State Treasurer's Office Preservation Committee reported \$50,650 in reportable contributions (copy attached). Except for \$150, the remaining \$50,500 came from outside the State of North Dakota.

The committee to eliminate the Treasurer's office reported a total of \$650 in reportable contributions. All of it from North Dakota contributors



3-22-01

NORTH DAKOTA

**Testimony of Bill Butcher, State Director, National Federation of Independent Business (NFIB) in support of SCR 4031**

NFIB represents approximately 3000 small business owners throughout North Dakota.

Positions on issues before the Legislature taken by NFIB are determined entirely by member ballots.

A special statewide ballot was distributed in April 2000 and sole topic of that ballot had to do with whether the North Dakota Treasurer should be eliminated and the responsibilities of that office transferred to other state agencies.

The results were that 80% of respondents believed that the treasurer's office should be eliminated, while only 17% believed that it should be retained. That was a clear and strong mandate from our membership and we still hold strongly to that position today.

We believe that modern technology has made an independent treasurer's office obsolete and unnecessary. The operation of the Office of the Treasurer costs relatively little, but we believe that any expense is too much if it is unnecessary. It's elimination would save government and hence taxpayers \$500,000 annually, and that money could well be used to fund necessary and important programs such as paying teachers higher wages or encouraging business development in the state.

**The 3000 members of NFIB/North Dakota urge a DO PASS recommendation on SCR 4031**

**Testimony in Opposition to SCR 4036**  
**Kathi Gilmore, State Treasurer**  
**House Political Subdivisions Committee**  
**March 22, 2001**

Mr. Chairperson and Committee Members:

I am State Treasurer, Kathi Gilmore and I am testifying today in opposition to SCR 4036.

We all know that the heart of the issue in SCR 4036 is not a new idea. The facts are that in November of 1984, 57% of the people voting on a constitutional measure to eliminate the Office of State Treasurer rejected the measure. Then, in June of 2000, 52.5% of the voters of North Dakota again rejected the idea of eliminating the Office. It appears crystal clear to me, and to the majority of North Dakota voters last June, that the people have considered this specific issue twice, and have said they wish to keep the Treasurer as the chief elected financial officer in our state.

I have been a servant of the people in North Dakota for 12 years. I served two terms as a State Representative from District 6, and have served for the past eight years as State Treasurer. In my elected capacities, I have always believed that I was elected to represent the will of the people. I didn't always agree with some of them, but I represented them as I was elected to do. I am amazed that in our form of government, elected legislators would have the impertinence to tell the people, as was stated in the Fargo Forum, we need to ask if [the voters] really meant it! Such a statement insults the people we serve.

Proponents of this current resolution have also stated publicly that because the vote in June of 2000 was small, we need to vote on the idea a third time. Let's look at the record in the June 2000 primary.

In June of 2000, four constitutional measures were on the ballot. The following table summarizes the results from those measures.

<b>Measure</b>	<b>Yes Votes</b>	<b>No Votes</b>	<b>Total Votes Cast</b>
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#4 Filling Legislative Vacancies	41,058	38,648	79,706

This review of the June primary results shows that the question of eliminating the Office of State Treasurer was perhaps the best understood, and was clearly the most popular measure on the ballot. More people voted on Measure #3 than any of the other three measures. To say that the people did not mean their vote is a stretch of the imagination. The vote totals clearly show that this issue garnered more attention than any other, and it is clear that the voters knew what they were doing at the ballot box.

Proponents have thirdly said that their motives are not political. If that is true, and if their public statements that we need to confirm the intent of the people are sincere, then why haven't they proposed a re-vote on the three other measures that were on the June 2000 primary ballot, especially when those measures received fewer total votes than measure #3. The legislature does not have the right to pick and choose the election results that are "valid" and those that are "not valid". You asked a question, and you received an answer from the people. It's done!

The duties of the State Treasurer require me to deal with statewide policy issues on a variety of subjects ranging from historical preservation, to school-trust land management to veteran's trust investments, to name just a few. In addition, I am responsible for overseeing a number of technical financial issues as well. The judgement, opinion and voice of the State Treasurer on the boards and issues that I deal with clearly adds a dimension of diversity, depth and public representation to these issues. I believe the people recognize the diversity and representation that the Treasurer brings to these issues, which is part of the reason the people have voted twice to retain the office and its duties. As an attachment to this testimony, I have included a list of the constitutional and statutory responsibilities and duties of my office. The efficiency of my office is such that carrying out these duties and responsibilities costs each resident of North Dakota 50 cents per year.

During legislative sessions the concept of legislative intent is often thrust at administrative agencies. But there is a force in our state stronger than legislative intent, and that is the intent of the people of North Dakota. It is time for legislators to recognize the clear intent of the people, it is time to stop playing politics with the voice of the people, and it is time to get on with fulfilling the intent of the people. It is time for a "Do Not Pass" vote on SCR 4036.

## **Duties of State Treasurer**

### **Constitutional and Statutory References**

#### **CONSTITUTION OF NORTH DAKOTA**

**ARTICLE V, Section 2.** The qualified electors of the state at the times and places of choosing members of the legislative assembly shall choose a governor, lieutenant governor, agriculture commissioner, attorney general, auditor, insurance commissioner, three public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer. The legislative assembly may by law provide for a department of labor to be administered by a public official who may be either elected or appointed.

The powers and duties of the agriculture commissioner, attorney general, auditor, insurance commissioner, public service commissioners, secretary of state, superintendent of public instruction, tax commissioner, and treasurer must be prescribed by law. If the legislative assembly establishes a labor department, the powers and duties of the officer administering that department must be prescribed by law.

#### **CONSTITUTION OF NORTH DAKOTA**

##### **ARTICLE X, Section 12.**

1. All public moneys, from whatever source derived, shall be paid over monthly by the public official, employee, agent, director, manager, board, bureau, or institution of the state receiving the same, to the state treasurer, and deposited by him to the credit of the state, and shall be paid out and disbursed only pursuant to appropriation first made by the legislature; provided, however, that there is hereby appropriated the necessary funds required in the financial transactions of the Bank of North Dakota, and required for the payment of losses, duly approved, payable from the state hail insurance fund, state bonding fund, and state fire and tornado fund, and required for the payment of compensation to injured employees or death claims, duly approved, payable from the workmen's compensation fund, and required for authorized investments made by the board of university and school lands, and required for the financial operations of the state mill and elevator association, and required for the payment of interest and principal of bonds and other fixed obligations of the state, and required for payments required by law to be paid to beneficiaries of the teachers' insurance and retirement fund, and required for refunds made under the provisions of the Retail Sales Tax Act, and the State Income Tax Law, and the State Gasoline Tax Law, and the Estate and Succession Tax Law, and the income of any state institution derived from permanent trust funds, and the funds allocated under the law to the state highway department and the various counties for the construction, reconstruction, and maintenance of public roads. This constitutional amendment shall not be construed to apply to fees and moneys received in connection with the licensing and organization of physicians and surgeons, pharmacists, dentists, osteopaths, optometrists, embalmers, barbers, lawyers, veterinarians, nurses, chiropractors, accountants, architects, hairdressers, chiropodists, and other similarly organized, licensed trades and professions; and this constitutional amendment shall not be construed to amend or repeal existing laws or Acts amendatory thereof concerning such fees and moneys.
2. No bills, claims, accounts, or demands against the state or any county or other political subdivision shall be audited, allowed, or paid until a full itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit the same, and then only upon warrant drawn upon the treasurer of such funds by the proper officer or officers.
3. This amendment shall become effective on July 1, 1939.

## **CONSTITUTION OF NORTH DAKOTA**

**ARTICLE X, Section 25.** The veterans' postwar trust fund shall be a permanent trust fund of the state of North Dakota and shall consist of moneys transferred or credited to the fund as authorized by legislative enactment. Investment of the fund shall be the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments. All income received from investments is to be utilized for programs which must be of benefit and service to veterans, who are defined by legislative enactment, or their dependents, and such income is hereby appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure upon those programs selected at the discretion of the administrative committee on veterans' affairs.

## **CENTURY CODE REFERENCES**

**4-24-09. Agricultural commodity assessments funds - Investment income allocation.** The state treasurer, notwithstanding any other provision of law to the contrary, shall invest in accordance with section 21-10-07 all available moneys in the spud fund, oilseed fund, dry bean fund, barley fund, soybean fund, corn fund, honey fund, turkey fund, milk stabilization fund, dairy promotion commission fund, state wheat commission fund, and the beef commission fund. The investment of moneys must be made in cooperation with the governing body of the respective agricultural commodity entity. The state treasurer, by rule, shall establish, in cooperation with the agricultural commodity organizations, guidelines to be followed regarding the investment of moneys in each fund. The state treasurer shall credit twenty percent of the investment income derived from each fund to the general fund in the state treasury as payment for accounting, printing, data processing, legal, and other services when provided without cost by the state to the agricultural commodity entity. The state treasurer shall credit eighty percent of the investment income derived from each fund to the respective fund.

**4-28-08. State wheat commission fund - Continuing appropriation.** Each first purchaser shall make quarterly reports and returns to the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1995. The commission shall prescribe the forms to be used. With each report and return, the first purchaser shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a special revolving fund known as the "state wheat commission fund". All money in the state wheat commission fund is appropriated on a continuing basis to the commission for carrying out the purposes of this chapter. Expenditures from the fund may be made upon vouchers duly approved by the commission to carry out this chapter. Regular audits of the commission's accounts must be conducted in accordance with chapter 54-10.

**Chapter 5-01 Alcoholic Beverages – General Provisions**

**Chapter 5-03 Beer and liquor wholesalers – taxation**

**Chapter 5-04 Beer wholesaler and brewer relationships**

**15-01-01. Board - Membership - Officers.** The governor, secretary of state, state treasurer, attorney general, and superintendent of public instruction shall constitute the "board of university and school lands". The governor must be the chairman, the secretary of state must be the vice chairman, and the commissioner of university and school lands must be the secretary of the board. In the absence of the commissioner at any meeting of the board, the deputy commissioner of university and school lands shall act as secretary. When acting as the board of university and school lands, the members of the board shall act in person and may not be represented by any assistant, clerk, or deputy.

**15-03-01. Permanent funds - State treasurer.** All moneys belonging to the permanent funds of the common schools and other public institutions derived from the sale of any of the lands described in section 15-01-02 or from any other source must be paid over to the state treasurer and are subject to the order of the board of university and school lands. Such moneys must be paid over on the order of the board for investment as provided in this chapter whenever the board requires the same.

**15-10-12. Board may accept gifts and bequests - Deposit of funds.** The state board of higher education may, subject to the limitations of section 15-10-12.1, receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests must be used for the specific purpose for which they are donated or given. A special revenue fund, for each institution of higher education under the control of the board or subject to its administration, must be maintained within the state treasury and all institutional income from tuition collections must be placed in the special fund for the use of the institution for which the money was raised. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the Constitution of North Dakota must be deposited in the special revenue fund of each institution and expended in accordance with section 1 of article IX of the Constitution of North Dakota. Moneys in the special revenue fund are subject to legislative appropriations. All other funds, unless restricted by the terms of a grant, donation, or bequest, received by the institutions from federal, state, and local grants and contracts, indirect cost recoveries, special student fees, room and board fees and other auxiliary enterprise fees, student activity fees, continuing education program fees, internal service fund revenues, and all other revenues must be deposited in the institution special revenue funds. The state treasurer shall immediately transfer the funds deposited in the special revenue funds to institution accounts in the Bank of North Dakota. Biennial estimates of revenue and expenditures of the other funds by source of funds must be presented at the same time biennial budget requests for appropriations from the special revenue fund and state general fund are prepared and submitted to the office of the budget pursuant to section 15-10-15. Payments from each institution's general fund appropriation must be made in amounts as may be necessary for the operation and maintenance of each institution, except that at the close of the biennium the balance of funds not paid from the general fund appropriation must be deposited in the special revenue funds of the institutions. All such appropriations are subject to proration in the same manner as other appropriations are prorated if insufficient funds are available to meet expenditures from the general fund. Sinking funds for the payment of interest and principal of institutional revenue bonds must be deposited pursuant to section 15-55-06.

**16.1-15-33. State canvassing board - Membership - Oath - Quorum - Compensation.**

The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or chairman's designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. The duties of the state canvassing board are ministerial, mandatory, and nondiscretionary and consist of canvassing the results received from the various counties, computing the final results, and certifying the results on the basis of the canvass. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board may be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation must be paid from the appropriation to the secretary of state.

## **CHAPTER 21-01 PAYMENT AND REGISTRATION OF WARRANTS**

## **CHAPTER 21-04 DEPOSITORIES OF PUBLIC FUNDS**

### **21-10-01. State investment board - Membership - Term - Compensation - Advisory council.**

1. The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of the workers compensation bureau, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, and three of the elected members of the public employees retirement system board as selected by that board. The director of the workers compensation bureau may appoint a designee, subject to approval by the workers compensation board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of the workers compensation bureau or the director's designee, are entitled to receive as compensation sixty-two dollars and fifty cents per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.
2. The state investment board may establish an advisory council composed of individuals who are experienced and knowledgeable in the field of investments. The state investment board shall determine the responsibilities of the advisory council. Members of the advisory council are entitled to receive the same compensation as provided the members of the advisory board of the Bank of North Dakota and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

**25-01-11. State treasurer to have custody of income from granted lands.** The state treasurer is custodian of all funds arising from the sale of any lands granted to any institution named in this chapter, and such funds must be deposited with the state treasurer. The state

treasurer shall keep a separate account for each such institution to which a land grant has been made, and moneys in each such separate fund must be used exclusively for the benefit of the institution to which the same belongs.

**32-15-31. Deposit of money with state treasurer.** The court may order the moneys to be deposited in the state treasury and in such case the state treasurer shall receive all such moneys, duly receipt for and safely keep the same in a special fund to be entered on the state treasurer's books as a condemnation fund for such purpose, and for such duty the state treasurer shall be liable to the plaintiff upon the state treasurer's official bond. The state treasurer shall pay out such money so deposited in such manner and at such times as the court or judge thereof by order may direct.

**37-14-14. Veterans' postwar trust fund.** The veterans' postwar trust fund shall be a permanent trust fund of the state of North Dakota and shall consist of moneys transferred or credited to the fund, pursuant to the provisions of this chapter and of other laws. Investment of the fund shall be the responsibility of the state treasurer who shall have full authority to invest the fund only in those legal investments authorized by section 21-10-07. All income received from investments to be utilized only for programs of benefit and service to veterans as defined in section 37-01-40, or their dependents, and such income is hereby appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure upon such programs as authorized by law.

**37-15-13. Treasurer to receive and deposit federal aid money.** The state treasurer shall receive and receipt for all money which may become payable to this state by reason of the acceptance of the Acts of Congress as provided in section 37-15-12. The state treasurer shall deposit such money to the credit of the veterans' home operating fund for the use and benefit of the veterans' home.

**37-15-14. Veterans' home operating fund - Moneys for the maintenance of the veterans' home to be deposited with state treasurer.** A special fund, to be known as the veterans' home operating fund, must be maintained in the state treasury. Moneys arising from the interest received on money derived from the sale of lands appropriated for the support of the home and from the rental of such lands, moneys received from the United States for the support and maintenance of the home, and all other moneys, income, and collections of public funds arising from any other source or endeavor of the home, except as provided for in section 37-15-21, must be placed in the veterans' home operating fund for the use and maintenance of the veterans' home. Moneys derived from the general fund appropriation made by the legislative assembly must be transferred periodically to the veterans' home operating fund upon order of the director of the office of management and budget whenever the operating fund's balance requires supplementation.

**50-27-01. Creation and administration of children's trust fund.** There is hereby created in the state treasury a special fund known as the children's trust fund. The children and family services division of the department of human services shall administer the fund. All moneys designated for the fund from whatever source derived must be deposited with the state treasurer in the children's trust fund. The state treasurer shall invest such funds in interest-bearing accounts as is designated by the children and family services division, and the interest earned must be deposited in the children's trust fund. The children and family services division

shall designate the administrator of child protective services as executive secretary of the children's trust fund.

## **CHAPTER 54-06 GENERAL PROVISIONS [of state government]**

**54-11-01. Duties of state treasurer.** The state treasurer shall:

1. Receive and keep all the moneys belonging to the state not required to be received and kept by some other person.
2. Register the orders or certificates of the office of management and budget delivered to the state treasurer when moneys are paid or to be paid into the treasury.
3. Prepare a receipt for each deposit of money into the treasury. The receipt must show the amount, the source from which the money accrued, and the funds into which it is paid. The receipts must be numbered in order. Duplicates, if requested, must be delivered to the office of management and budget and the person paying money into the treasury.
4. Pay warrants drawn by the office of management and budget and signed by the state auditor out of the funds upon which they are drawn, and in the order in which they are presented.
5. Keep an account of all moneys received and disbursed.
6. Keep separate accounts of the different funds.
7. Keep a record of all revenues and expenditures of state agencies and all moneys received and disbursed by the treasurer in accordance with the requirements of the state's central accounting system.
8. Receive in payment of public dues the warrants drawn by the office of management and budget and signed by the state auditor in conformity with law.
9. Redeem warrants drawn by the office of management and budget and signed by the state auditor in conformity with law, if there is money in the treasury appropriated for that purpose.
10. Report to the office of management and budget on the last day of each month the amount disbursed for the redemption of bonds and the payment of warrants during the month. The report must show:
  - a. The date and number of each bond and warrant;
  - b. The fund out of which each was paid; and
  - c. The balance in cash on hand in the treasury to the credit of each fund.
11. At the request of either house of the legislative assembly, or of any committee thereof, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of office.
12. Submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, the report must show the exact balance in the treasury to the credit of the state. The report also must show in detail the receipts and disbursements, together with a summary thereof, the

balances in the various funds at the beginning and ending of the biennium, and also must show where the funds of the state are deposited. It must be certified by the state treasurer and approved by the governor.

13. Authenticate with the official seal of the state treasurer all writings and papers issued from the treasurer's office.

14. Keep a book in which the state treasurer shall enter all warrants paid, giving the name of the owner and the number and amount of each warrant.

15. Keep and disburse all moneys belonging to the state in the manner provided by law.

16. Keep books of the state treasurer open at all times for the inspection of the governor, the state auditor, the commissioner of banking and financial institutions, the office of management and budget, and any committee appointed to examine them by either house of the legislative assembly.

17. Unless otherwise specified by law, credit all income earned on the deposit or investment of all state moneys to the state's general fund. This subsection does not apply to:

a. Income earned on state moneys that are deposited or invested to the credit of the industrial commission or any agency, utility, industry, enterprise, or business project operated, managed, controlled, or governed by the industrial commission.

b. Income earned by the Bank of North Dakota for its own account on state moneys that are deposited in or invested with the Bank.

c. Income earned on college and university funds not deposited in the state treasury.

18. Perform all other duties as are prescribed by law.

## **CHAPTER 54-27 FISCAL ADMINISTRATION**

### **CHAPTER 54-30 BONDS OF NORTH DAKOTA, REAL ESTATE SERIES**

**55-01-01. State historical board.** There is a state historical society of North Dakota which is under the supervision and control of the state historical board. The board consists of seven members who are appointed by the governor. Each member appointed to the board must be a citizen and resident of the state of North Dakota. Appointments are for a term of three years from the first day of July to the thirtieth day of June of the third year or until a successor has been appointed and qualified. The governor shall appoint two members for terms commencing in 1996, two members for terms commencing in 1997, and three members for terms commencing in 1998. Vacancies occurring other than by the expiration of an appointive term must be filled by appointment for the remainder of the term only in the same manner as regular appointments. The board of directors shall select from its membership a president, vice president, and secretary to serve as officers of the board. The secretary of state, director of the parks and recreation department, director of the department of transportation, director of the tourism department, and state treasurer are ex officio members of the board and shall take care that the interests of the state are protected. Each ex officio member may appoint a designee to attend meetings with full voting privileges.

**57-13-01. Membership of board.** The governor, state treasurer, state auditor, agriculture commissioner, and state tax commissioner constitute the state board of equalization. The governor must be chairman of the board and the tax commissioner is secretary.

#### **CHAPTER 57-32**

#### **TAXATION OF EXPRESS AND AIR TRANSPORTATION COMPANIES**

**57-32-05. Collection of tax.** If any tax required to be paid by any company under the provisions of this chapter has not been paid on or before October first of the year following the year of delinquency, the state treasurer shall seize personal property belonging to such company found within this state, sufficient to pay the amount of such tax with penalty and interest. The state treasurer, immediately after seizing said property, shall proceed to advertise the same for sale by publishing a notice at least two times in a newspaper published in Burleigh County. Such notice must describe the property seized, the amount of the tax and penalty for which the property has been seized, and the day and hour when and the place where said property will be sold. If the tax and penalty, with interest due thereon, have not been paid before the time appointed for sale, which may not be less than ten days after the first publication of such notice, the state treasurer shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

#### **Oil and Gas Gross Production Tax.**

**57-51-14. Duties of commissioner and state treasurer.** It is the duty of the commissioner to deposit with the state treasurer all moneys collected by the commissioner under this chapter and to accompany each remittance, when possible, with a certificate showing the county where produced. The state treasurer, no less than quarterly, shall pay over to the county treasurers and city auditors of the several counties the moneys to which they are entitled hereunder.

#### **Worker's Compensation Bureau**

**65-04-30. State treasurer is custodian of fund - Deposit - Disbursement on vouchers.** The state treasurer is the custodian of the fund and all payments of awards of the bureau for disbursements other than travel and administrative expenses must be paid by the state treasurer upon warrant-checks authorized and prepared by the bureau. Warrants drawn upon the fund and paid by the state treasurer must be returned to the bureau and must be kept in the files of the bureau. The bureau shall submit to the office of management and budget once each month a monthly financial statement showing the receipts, disbursements, investments, and status of the fund. The treasurer may deposit any portion of the fund not needed for immediate use in the manner and subject to the requirements prescribed by law for the deposit by the treasurer of state funds. Any interest earned by any portion of the fund which is deposited by the state treasurer under this section must be collected by the state treasurer and placed to the credit of the fund.

**TESTIMONY IN OPPOSITION TO SCR 4036**

House Committee on Political Subdivisions

Representative Froseth, Chairman

Chairman Froseth and members of the House Political Subdivisions Committee, my

name is Merle Boucher Representative from District 9. I come before you today in opposition to SCR 4036 a resolution to eliminate the office of State treasurer.

Today I do not intend to address the political undertones of these initiatives, you are all keenly aware of my perception of the motivation. I simply would like to challenge proponents of this bill and others like it. Their stated goal is to is to make government more efficient.

North Dakota's executive branch was designed in 1889 out of a general distrust of government and a fear of corporate power. By electing these offices voters had assurance that the executive and legislative branches would be kept in check. This Constitution won with 77% public approval. Since it's inception this constitution has weathered five attempts at significant revision. The executive arrangement was targeted twice before the state called a Constitutional Convention in 1972. The work of this convention was rejected by 63% of voters. One of the main reasons for rejection was the proposed reorganization of the state's executive branch. Major state departments would be limited to fifteen, and only seven would be elected. Critics cited that this would give too much power to the legislature and governor. The distrust of the 1889's had not faded. That same feeling has been reiterated as recently as the June election when the people of North Dakota voted to retain the Treasurers office.

If proponents are specifically aggravated with the perceived uselessness of the Treasures office, we should instead change our model for the office. Several other states see the Treasurer's office as an all inclusive fiscal management office. Treasurers manage all of the money coming in and going out of the state, and several head public initiatives to improve fiscal responsibility across the state. The federal model also has potential. Our treasurer could serve as an advisor to the governor on economic policy, provide a check on the operations of the Bank of North Dakota, the Office of Management and Budget and the Tax Department, and take over bonding responsibilities.

As you deliberate on this bill remember our political history. North Dakotans demand accountability from their government, and achieve it through direct election of as many officials as possible. They have spoken on this issue through out history and the message is clear. Instead of continuously pearing down an office the public wants, we should look to lend it more responsibilities to meet the needs of North Dakotans.

Respectfully Submitted,



Merle Boucher

HISTORICAL SKETCH OF MAJOR CONSTITUTIONAL  
REVISION EFFORTS IN NORTH DAKOTA: 1889-1973

by

Marilyn Guttronsen, State Government Services Librarian, State Library

With the Enabling Act of February 1889, the Omnibus Bill, Congress authorized statehood for North Dakota, South Dakota, Montana, and Washington. Following Congressional directives, Territorial Governor Arthur Mellette partitioned the northern section of Dakota Territory into twenty-five districts. (The seventh standard parallel divided the Territory into North and South Dakota.)

Each of those districts was instructed to send three representatives to the constitutional convention scheduled for the summer of 1889 in the territorial capitol of Bismarck. Sparsely populated western North Dakota elected only six delegates, with five of those coming from the Bismarck-Mandan area.

Of the seventy-five delegates assembled for the opening convention session July 4, 1889, fifty-one identified themselves as Republicans, nineteen as Democrats, two as Populists, two as Prohibitionists, and one as an Independent. Vocations represented included: twenty-nine farmers, twenty-five lawyers, nine merchants, five bankers, three real estate dealers, two publishers, a doctor, and a railroad man. Indicative of the reform sentiment which was to pervade the convention, delegates selected as their president, Fredrick B. Fancher, vice president of the Dakota Farmers' Alliance.

During their forty-five day session, delegates debated issues of reform and controversy. A proposal to adopt a unicameral legislature received serious consideration but finally met with indefinite postponement. Also rejected was the innovative plan requiring the North Dakota Supreme Court to render opinions on questions of law as requested by the governor, the house, or the senate. Convention deliberation particularly suggestive of national social and political concern focused on women's suffrage. In deciding to leave the question with the legislature, the delegates, however, did grant women the right to vote for all school officers, for all matters pertaining solely to education, and allowed them to seek any school office. Delegates reflected other evidence of the national mood in their suspicion of corporations. Anti-trust attitudes surfaced in constitutional measures designed to grant the state regulatory power over common carriers including railroads, telegraph, telephone, and transportation companies.

A matter of consequential importance to the delegates involved the location of state institutions. At the time of the convention call, four institutions already existed in the state: the hospital for the insane at Jamestown, the territorial capitol and the penitentiary at Bismarck, and the university at Grand Forks. Though the 1883 territorial legislature designated Fargo as the site for the proposed agricultural college, no funds had been appropriated for that purpose.

To placate dissatisfied fellow delegates, representatives from the Bismarck and Fargo areas and from localities served by the Northern Pacific Railroad gathered support for and directed passage of Article XIX. Of the fourteen state institutions constitutionally created by that measure, the ten new ones were scattered across the state. The adoption of Article XIX thus insured Bismarck of the capitol and Fargo of the agricultural college.

Argument had developed over the location of the state capitol. Grand Forks and the Great Northern Railroad hoped to remove the capitol from Bismarck and to curb the influence of the Northern Pacific. Despite thirty vote opposition, Bismarck was named the state's capitol. An analysis of the final public vote on the constitution revealed that those counties responding negatively, Grand Forks, Nelson, Steele, and Walsh, were the same ones opposing Article XIX and were those areas principally served by the Great Northern.

That the railroads were a significant factor in the political and economic evolution of North Dakota there can be no doubt. The extent of the Northern Pacific's influence affected the design of the state's constitution. Chairman of Northern Pacific's board of directors, Henry Villard, asked Professor James Bradley Thayer of Harvard Law School to draft a model constitution for the state. That Thayer did, and his efforts appeared not a scheme contrived to secure advantages for the railroad, but rather a legitimate attempt to devise a viable framework for state government. Though the constitution as ratified did contain some of Thayer's phraseology, its originality, its strength, and its weakness came from its reform bias.

In a document six times as long as the federal constitution, convention delegates imposed limitations on the growth of the executive and legislative branches of state government. Rather than grant the governor broad appointive power, the constitution provided for the election of key executive department heads. By making the offices of attorney general, secretary of state, state treasurer, state auditor, commissioner of agriculture and labor, superintendent of public instruction, and three railroad commissioners elective, a degree of independence from the governor was guaranteed. Writing much legislation into the constitution, delegates demonstrated their distrust of government and their fear of corporate power. For example, the constitution enumerated thirty-six areas not to be subject to legislative interference in the form of local

or special laws; limited state debt to \$200,000 unless voters agreed to an increase; and placed railroads under legislative control granting the railroad commissioners the authority to regulate rates.

The governmental structure created and the restrictions prescribed by the constitution received voter approval in October 1889 by a 27,441 to 8,107 vote. As a side issue, the prohibition measure won by 18,552 to 17,393, thereby bringing North Dakota into the Union as a "dry" state. Majority votes opposing the constitution came from Grand Forks, Nelson, Steele, and Walsh counties with large opposing minorities coming from Pembina and Traill counties.

35548

77%

23%

Written by and for a conservative and independent people, the constitution incorporated much administrative detail that limited governmental flexibility. In a day of vigilant distrust of government, defined constitutional controls were deemed necessary to prevent the abuse of legislative, executive, and judicial power - particularly by corruption and by control of special interest groups. By its very staid nature, the North Dakota constitution would fail to adequately meet the expanding demands made upon a maturing state government.

As a safeguard against impolitic revision, the constitution originally provided for submission of a constitutional amendment to the electorate only if approved by a majority vote in two consecutive legislative sessions. Later, in 1918, the consecutive session requirement was eliminated. As a result of that same 1918 amendment, voters could initiate constitutional amendments with the petition of 20,000 qualified electors.

Since ratification in 1889, the constitution has acquired ninety amendments. An additional sixty-two have been defeated. In recognition of the increasingly apparent need for substantial reform, there have been five major attempts at constitutional revision.

The first experiment with broad revision came as the Nonpartisan League gained significant political power. Capturing the house and the governor's chair in the 1916 election, the League endorsed as its platform: 1) state ownership of terminal elevators, flour mills, packing houses, and cold storage plants; 2) state inspection of grain and grain dockage; 3) exemption of farm improvement from taxation; 4) state hail insurance on the acreage tax basis; and 5) rural credit banks operated at cost. Legalization of the League's socialist programs necessitated constitutional amendment. However, the results of employing either of the prescribed amendment procedures could not be guaranteed. The method requiring a majority vote of two consecutive legislative sessions before submission of an amendment to the voters was too slow. The other, the 1914 measure allowing voters to initiate an amendment remained too risky.

In a novel approach to the dilemma, Leaguers decided to work through the legislature to draft a new constitution. Hopefully

after the legislature adopted the document, voters would also grant approval. The house did pass a proposed constitution as House Bill 44. Controversial sections would have allowed the state to entirely remove the debt limit for state bonds secured by mortgages on real estate or by the property of state industries; exempted farm improvements from taxation; authorized state hail insurance; and extended the terms of state and county officials to four years. With only eighteen of the forty-nine senators identified as Leaguers, the senate repeatedly failed to pass HB 44. With the senate opposition, the initial attempt at wholesale constitutional revision collapsed.

In 1929, Governor George Shafer renewed pressure for revision by urging the legislature to create a commission to examine the constitution and present alternatives for its improvement. The legislature did, in 1931, establish a five-man commission to study the structure and operation of all of state government excluding the judicial and the legislative branches. In 1933 the Governmental Survey Commission submitted its findings to the governor and the legislative assembly. Although specifically concerned with taxation and the cost of government, the Commission's report advised the following constitutional amendments: appointment rather than election of a number of county and city officials; reorganization of the state's institutions of higher education; revision of the initiative and referendum procedures; extension of terms for many state and county officials to four years; and adoption of extensive changes in the governmental structure of township and county government. As the severity of the Depression continued into the 1930's, the legislature abandoned the Commission's work and turned instead to issues of economic priority.

In 1941 the question of governmental reorganization surfaced again. Governor John Moses pressed the legislature for an exhaustive survey of the constitution in an attempt to modernize governmental structure. Responding to the Governor's concern, the legislature appointed Governor Moses, State Senator Milton Young, and State Representative Targie Trydahl to serve as the second Governmental Survey Commission. For \$17,000 the Public Administration Service of Chicago was engaged by the Commission to conduct the research. The Commission's report to the legislature recommended consolidation and reorganization of the state's agencies, boards, commissions, and departments and also reduction of constitutionally elected officials to the governor, the lieutenant governor, the secretary of state, the state treasurer, and the state auditor. World War II prevented the legislature from seriously exploring the Commission's proposals.

Revitalizing interest in governmental reform, the legislature in 1957 directed the Legislative Research Committee to study the constitution and prepare appropriate revision measures. The LRC's Subcommittee on Constitutional Revision included not only legislators but also ex-governor Fred Aandahl, District Judge Adam Gefreh, Dr. Henry Tomasek of the University of North Dakota, and businessman Thomas Kleppe. The subcommittee rec-

ommended that the constitution be rewritten to simplify its language, to delete obsolete provisions, and to remove or transfer legislation from the document to the North Dakota Century Code. Other subcommittee proposals called for:

- 1) reduction of constitutionally elected officials to the governor, lieutenant governor (elected on a joint ballot), the attorney general, the secretary of state, the state auditor, and the three public service commissioners;
- 2) changing the number of signatures required on the initiative petition from 10,000 to eight percent of the voters in the last gubernatorial election and from 7,000 to five percent for the referendum;
- 3) and adoption of a limit of five years on the time during which a two-thirds vote of the legislature could repeal an initiated or referred measure.

Another of the major propositions involved the selection of judges. Rather than continue to elect judges, the subcommittee suggested that the state adopt the appointive-elective design, also known as the Missouri Plan. Under that arrangement, the governor would appoint judges from nominations submitted by a commission of lawyers and laymen. Then on the merit of their performance, judges would in the general elections either be removed from or reinstated in office.

In 1966 and 1968 those particular sections of the subcommittee report approved by the legislature went to the voters in the form of constitutional amendments. Both years the Missouri Plan was defeated. The amendment providing for revision of the declaration of rights and for changes in the executive, legislative, and judicial branches of government was also rejected in 1966. Finally, voters in 1968 turned down an amendment authorizing the rewriting of language in the constitution to eliminate unnecessary and archaic terminology.

Frustrated by the numerous attempts at piecemeal revision through the legislature, house and senate proponents of constitutional reform supported an alternative approach. Passing House Concurrent Resolution Number 16, the 1969 legislative assembly placed before the voters a constitutional amendment calling for a constitutional convention. Since the constitution contained no authorization for such a call, the amendment was necessary. Voters approved the legislators decision by 56,734 to 40,094 in the 1970 September primary election.

With that confirmation, North Dakota's first constitutional convention since statehood in 1889 would become a reality. Ninety-eight delegates to the convention were elected on a non-partisan basis from the same legislative districts as members of the North Dakota House of Representatives. Requesting assistance from political and community leaders, a nominating commission of the governor, the lieutenant governor, and the attorney general drew up a slate of delegates. Any individual wishing to run for a delegate position but whose name was not

selected by the commission could secure a place on the ballot by gathering the signatures of one-hundred-fifty qualified electors in his district. Of the one-hundred-forty-one people who did file petitions to run, only twenty-four displaced those submitted by the nominating commission. Of the ninety-eight delegates elected in the November 1970 general election, thirty-nine were businessmen, bankers, etc., twenty-six farmers and/or ranchers, fourteen lawyers, six dentists or doctors, five housewives, four teachers and school administrators, three government workers, three retired, one labor official, and one newspaper editor. Political affiliation of the group included fifty-six Republicans, thirty-one Democrats, and eleven Independents.

Organized in April of 1971, the delegates met in committees to hold public hearings, take testimony, and gather research materials. Then, in January of 1972, the full convention met in session for thirty days. The six substantive convention committees which examined sections of the constitution and debated proposals were: Education, Resources, and Public Lands; Executive Functions; Finance and Taxation; Judicial Functions and Political Subdivisions; Legislative Functions; and Preamble, Bill of Rights, and Suffrage.

Operating on the \$600,000 budget appropriated by the 1971 legislature, the delegates attempted to revise the state's basic governing document by preserving its best, by making expedient changes, and by deleting unnecessary and obsolete provisions. Among the sections of the proposed constitution receiving the most public attention were those: 1) granting the legislature authority to allocate executive power among not more than fifteen principal state departments with seven of those department heads being elected; 2) retaining the right to work provision; 3) creating the office of state ombudsman; 4) authorizing the legislature to provide on a two-thirds vote for an annual property tax based on value - the tax being in effect for a two-year period unless reenacted; 5) guarantying the right to a healthful environment; and 6) establishing a nonpartisan commission to reapportion the legislature. As completed in form for submission to the North Dakota electorate, the constitution won delegate approval on a ninety-one "yes", four "no", and three "absent" vote.

Between the closing convention session and the April vote, the convention's Public Information Committee organized and coordinated a statewide educational campaign. From the convention's budget, \$90,000 had been designated for publicizing the convention's work in an objective and nonpartisan manner. In each county a tape-slide series of the convention's activity was accessible to county and local organizations. In addition to other available printed materials, an eight page supplement reviewing the new constitution was carried by every daily and weekly newspaper in the state. Delegates held open meetings and forums around the state discussing, debating, and explaining the sections of the new constitution.

Appearing on the ballot with the question of ratification were

four controversial issues. Unless the constitution were approved, the results of the vote on the four following alternative propositions would be invalid:

- 1) retain the bicameral legislature or adopt a unicameral one (voters preferred the bicameral arrangement: bicameral 109,146 - unicameral 48,217.)
- 2) increase the number of petition signatures required for the referendum, for the initiative, and for initiation of a constitutional amendment (voters approved the increase: 76,585 - 71,062.)\*
- 3) consider eighteen-year-olds as adults for all purposes (voters rejected the proposal: yes, 63,223 - no, 102,151.)
- 4) continue the constitutional ban on state lotteries (voters approved removal of the restriction: yes, 68,148 - no, 93,137.)

In a special election called by Governor William Guy for April 28, 1972, the constitution and the four propositions met voter reaction. Rejecting the document 107,643 to 64,073, thereby also negating any vote on the four adjoining issues, voters responded to the work of the constitutional convention. Of the state's fifty-three counties, only Grand Forks, Cass, and Foster provided a majority vote for the proposed constitution.

Considering the overwhelming delegate support for the new document, the statewide educational campaign, and the political observers predictions for a close vote, why did sixty percent of North Dakota voters repudiate the proposed constitution? Part of the answer must lie in the general truth that doubt most frequently elicits negative response. A number of articles in the constitution fostered those fears that turned doubt into a "no" vote.

Articulating their concern over inclusion of the right to work provision, organized labor became the constitution's leading opponent. The right to work stipulation prohibited union and management from entering into a contract requiring all workers of a bargaining unit to be members of or pay dues to a union. Arguing the restriction discriminated against the working man, the state AFL-CIO actively sought defeat of the constitution.

Perhaps the other most controversial section of the document was that reorganizing the state's executive branch. Major state departments would have been reduced to a maximum number of fifteen with the constitution providing for the election of seven

\* The referendum takes 7,000, the initiative 10,000, and the constitutional amendment 20,000 signatures; the proposed constitution would have required petition signatures from two percent of the state's population for the referendum and the initiative and four percent for the constitutional amendment.

state officials in contrast to the existing fourteen executive positions. Critics asserted consolidation of departments and appointment of up to ten executive heads granted excessive power to the legislature and to the governor. With manipulative control the governor could possibly build a political machine capable of dominating state government. Among those voicing disapproval of the reorganization measure were two elected state officials; the attorney general and the state auditor went on record in opposition to the proposed constitution.

Protest also was registered against numerous other sections of the document. Particularly arousing suspicion were those dealing with taxation and with state and local debt limits. These included authorizing the legislature to levy a statewide property tax and eliminating the state's four mill levy. If not debating taxation issues, some North Dakota voters struggled with the article making all persons charged with crime bailable. Others objected to the provision permitting the state and its political subdivisions to enter the business of providing public services.

Inherent in the constitution seemed to be enough questions to unite the opposition. Organized as citizen groups to renounce the new constitution were North Dakotans to Keep Our Present Constitution and the Committee for the Preservation of Local Government. Also expressing disapproval were the North Dakota branch of the National Farmers Organization and the four delegates who voted against the constitution during the constitutional convention.

Among the opposition an unusual pattern of alignment appeared. Working for the document's defeat were the NFO and organized labor, both usually presumed to be in the ranks of the left leaning Democrats; conservative Republican elements including members of the John Birch Society and Bismarck businessman Robert McCarney desired the same goal.

Countering the opposition were endorsements of support from the League of Women Voters, the North Dakota Education Association, the North Dakota Farmers Union and the Farm Bureau, the Greater North Dakota Association, and the Executive Council of the North Dakota Bankers Association. In addition, of the state's eleven daily newspapers, seven carried editorials favoring the document. However, no independent group was organized specifically to promote a "yes" vote.

When in April of 1972 the fate of the constitution fell to its supporters and its opponents, the verdict brought a decisive defeat. In a two to one decision, voters indicated that, as a whole, the proposed constitution appeared unsatisfactory. No single provision nor any one group was responsible for the conclusive result. Rallying in opposition to the document, special interest groups, citizen organizations, and private individuals advocated rejection for different reasons. Distrust of substantial change, fear of abuse by the legislature and the governor, confusion of issues, and the length of the document contributed to the negative response. The editor of the Lisbon Gazette aptly concluded:

"The proposed constitution wasn't trampled by the elephants; it was nibbled to death by the mice."\*

Immediately following the defeating vote speculation developed over possible attempts to revive the constitution. Several former constitutional convention delegates discussed making changes in the most objectionable provisions and then resubmitting the document to voter judgement in the November general election. Most likely included in such revision would have been the rewriting of the executive reorganization article and the setting of a state debt limit. Putting the ratification question before voters again required the 20,000 petition signatures necessary to initiate a constitutional amendment.

Some delegates felt that several of the constitution's propositions could be salvaged by placing them on the ballot as separate constitutional amendments. Adoption of that procedure might have preserved such measures as that creating a state ombudsman office or that reforming the initiative and referendum process.

Seventeen constitutional convention delegates meeting as private citizens investigated the alternatives for keeping the constitutional convention's work alive. Recommending the organization of a citizens' committee, they hoped to amplify the convention experience. With former delegates providing the initial leadership, committee membership would be open to all North Dakotans concerned with the form and operation of state government.

The seventeen delegates, primarily convention chairmen and vice-chairmen, agreed that continual amendment of the old constitution by the initiative method seemed inadequate. Suggested revision of controversial sections and return of the defeated constitution to the voters met with skepticism. Effectual preparation of that document for the November general election involved more work than time allowed. More importantly, the delegates considered voter attitude toward any effort reviving the constitution so soon after the April decision. Voters, resentful of a challenge to their previous verdict, might not hesitate to veto the constitution a second time. Rather than bring the ratification issue before voters again, the group decided to support piecemeal revision through the upcoming legislative assembly.

The convening of the 1973 legislative session did spark renewed interest in the constitution. To insure ongoing analysis of possible amendment, Governor Arthur Link proposed the creation of a constitutional revision commission. As introduced, Senate Bill 2365 directed the fifteen member body, appointed by the governor and the presiding officer in the house and in the senate, to review the existing constitution and submit recommendations for change to future legislatures. The senate indefinitely postponed the plan.

With the same shelving action, the senate frustrated a similar proposal. By authorization of Senate Concurrent Resolution 4014,

\* May 4, 1972

the Legislative Council would have organized legislators and citizens into an interim study committee. Focusing on the work of the constitutional convention and related constitutional issues, the committee would have advised successive legislatures on revision measures.

As designated by the Joint Committee on Rules, a subcommittee examined suggested improvements in the constitution. Introduced as separate constitutional amendments - many taken from the defeated constitution - the following failed to receive the legislative approval required for placement on the ballot:

House Concurrent Resolution 3012 eliminating age and residency requirements for legislative office stipulating instead that a legislator when elected be a qualified elector in the district he represents.

House Concurrent Resolution 3020 creating a new article revising the state's judiciary system.

House Concurrent Resolution 3021 changing the length of legislative session from sixty days to eighty, not necessarily consecutive, days.

House Concurrent Resolution 3046 relating to the investment of trust funds of public schools and state institutions and the leasing, appraisal, and sale of school lands.

Senate Concurrent Resolution 4058 providing for a board of public education, a board of higher education, and for open board meetings.

Senate Concurrent Resolution 4062 containing a series of amendments deleting obsolete sections of the constitution.

Senate Concurrent Resolution 4067 dealing with the composition of the legislature, legislative compensation, and the length of the legislative session.

The legislature passed five constitutional amendments which will appear on the 1974 ballots. In the September 3, 1974 primary voters will consider:

House Concurrent Resolution 3002 allowing the legislature to reduce the size of a jury in some civil and criminal cases.

House Concurrent Resolution 3050 establishing a legislative compensation commission.

Senate Concurrent Resolution 4010 requiring most public and governmental meetings to be open.

Before voters in the November 5, 1974 general election will be:

House Concurrent Resolution 3017 authorizing the legislature to establish procedure for the retirement, discipline, and removal of state judges.

Senate Concurrent Resolution 4031 providing for the election of the governor and the lieutenant governor on a joint ballot.

Though sweeping and block revision efforts have been unsuccessful, North Dakotans are becoming increasingly acquainted with their constitution, its strengths, and its liabilities. Following the historic constitutional convention it is unlikely that the experience gained by a people determining the shape of their government will be forgotten. As the demands of time continue to challenge the adaptability of the constitution, North Dakotans must respond. If they draw on the work of the 1971-1972 constitutional convention and all prior attempts at revision, they can better weigh the choices and consequences of the decisions before them.

taining Article III, Powers Reserved to the People, shall be placed in this constitution as Article III.

#### ARTICLE IV LEGISLATIVE BRANCH

If the electors approve alternate proposition 1A, then Alternate Proposition 1A of the Adoption Schedule containing Article IV, Legislative Branch, shall be placed in this constitution as Article IV.

If the electors approve alternate proposition 1B, then Alternate Proposition 1B of the Adoption Schedule containing Article IV, Legislative Branch, shall be placed in this constitution as Article IV.

#### ARTICLE V EXECUTIVE BRANCH

##### Section 1. EXECUTIVE OFFICIALS AND OFFICERS.

The elected state officials shall be the governor, lieutenant governor, secretary of state, attorney general and three public service commissioners.

The governor and lieutenant governor shall be elected on a joint ballot. Each vote cast for a candidate for governor shall be deemed cast also for the candidate for lieutenant governor nominated jointly with him.

The chief executives of the principal departments, other than those elected or those chosen in a manner otherwise provided for in this constitution, shall be appointed by the governor and shall serve at his pleasure. They shall be confirmed or rejected by the senate upon a recorded vote of a majority of the members elected. Any nomination not confirmed or rejected by the senate within twenty session days after being received shall be deemed confirmed.

The legislative assembly may periodically review the principal executive departments and may by law change and prescribe the manner of selecting those chief executive officers appointed by the governor under the provisions of this article.

##### SECTION 2. ELECTIONS AND TERMS OF EXECUTIVE OFFICIALS.

The elected state officials shall be chosen by the electors at a time designated by the legislative assembly, and shall serve until their successors are duly qualified. Terms of office shall be four years, except that terms of the public service commissioners shall be six years, so arranged that one of them is elected every two years.

If two or more candidates for any executive office receive an equal and highest number of votes, the legislative assembly in joint session shall choose one of them for the office.

##### Section 3. QUALIFICATIONS.

To be eligible to hold an elective office established by this article, a person must be an elector of this state, at least twenty-one years old, and must have been a resident of this state for the two years preceding his election. The attorney general must be licensed to practice law in this state.

##### Section 4. COMPENSATION.

The compensation of elected officials shall be as provided by

law, but shall not be diminished during the term for which they were elected.

##### Section 5. PLACE OF HOLDING OFFICE.

Elected state officials and the chief executive officers of the principal departments shall hold office at the seat of government.

##### Section 6. EXECUTIVE ORGANIZATION.

The legislative assembly shall allocate the executive power among not more than fifteen principal state departments, which shall be organized along broad functional lines. The executive power of each department shall be vested in one person unless otherwise provided by this constitution or by law. The legislative assembly shall prescribe the duties of and periodically reorganize the executive departments, provided any reorganization or change in duties shall not affect the organization and powers granted to the boards of education in this constitution.

The governor may, for more effective administration, make changes in the statutory allocation of functions, powers and duties among and within the executive departments, other than those headed by constitutionally elective officials. Any change shall be set forth in an executive order and submitted to both houses of the legislative assembly on the same day. The legislative assembly shall have thirty session days to disapprove the order. If not disapproved by a majority of the members elected to either house, the order shall have the force of law when filed with the secretary of state or on a later date specified therein.

##### Section 7. STATE PLANNING COUNCIL.

The chief executives of the principal state departments shall constitute the state planning council. The governor shall be chairman of the council and the lieutenant governor shall be vice chairman. The council shall prepare a comprehensive state plan based on the comprehensive plan for each department.

##### Section 8. POWERS AND DUTIES OF THE GOVERNOR.

The governor is the chief executive of the state. He shall have the responsibility to see that the state's business is well administered, and that its laws are faithfully executed.

He shall present the comprehensive state plan, and his own recommendations, to the legislative assembly at the beginning of each session and at any other time he chooses.

He may call special sessions of the legislative assembly.

He may require information in writing from all executive officials and officers concerning the performance of their respective duties.

He shall prescribe the duties of the lieutenant governor.

He is commander-in-chief of the state's military forces, except when they are called into the service of the United States, and he may mobilize them to execute the laws and to maintain order.

He may grant reprieves, commutations and pardons. He may delegate this power in a manner provided by law.

He may supervise business with the United States and other states.

##### Section 9. GOVERNOR — VETO POWER.

Every bill passed by the legislative assembly shall be presented to the governor for his signature. If the governor signs the bill it shall become law.

The governor may veto a bill passed by the legislative assembly. He may veto or reduce items in an appropriation bill. Items of the bill not vetoed or reduced shall become law.

Excerpt from the 1972 proposed Constitution - defeated by 63% of voters

TESTIMONY, SCR 4036  
House Political Subdivisions Committee  
Bob Hanson, March 22, 2001

**I. Background/Position**

- A. Bob Hanson, Bismarck; former State Treasurer and State Tax Commissioner.
- B. Opposed to measure.

**II. Primary Election**

- A. I have heard some of the reasons why SCR 4036 should be passed is because basically the same measure on the June, 2000 primary ballot had a small margin of defeat, low turnout, and that people didn't know what they were voting on. That measure received highest number of total votes cast for any measure on June, 2000 ballot, 81,449, next highest was 79,822. Margin of defeat was 4019 votes. The measure regarding allowing the legislature to fill legislative vacancies had the closest vote with a margin of 2410.
- B. According to the official numbers from the secretary of state's office, it lost in 46 (87%) of North Dakota's 53 counties, by an average margin of 59% and won in 7 (13%) counties by an average margin of 53%.
- C. Geographically, and vote wise, people all across the state clearly stated they wanted to keep the right to elect their State Treasurer.

**III. History**

- A. Only constitutional office in state where people of North Dakota have clearly stated in elections how they felt about the importance of the position of State Treasurer and its inclusion in the state's constitution. First, in 1984 the people voted to oppose the elimination of the office; second, in 1986 they voted to change the constitution making the State Treasurer a constitutional member of the state board of university and school lands; third time was in 1996 when the people changed the constitution to remove the term limits restriction on the State Treasurer, that change in itself, should send a real message; the fourth instance was in 1996 when the people initiated a constitutional amendment to give the State Treasurer responsibility and authority for the Veterans Postwar Trust Fund and its investment; and finally, the fifth time was in 2000 when the people again said they wanted to keep the State Treasurer as an office they, themselves, would fill through the elective process and rejected a proposed amendment to eliminate the office..

**IV. Opposition to SCR 4036**

- A. The people have spoken, not once, not twice, not three times, but rather five times on how they feel about the State Treasurer's office. Each time they gave a strong message the office is important. Not only should it remain as a part of our executive branch, but also as an elected position selected and controlled by the people. It is time to listen to the people, to recognize their vote means something. The time has come to put this issue to rest for good by defeating this resolution. There was another resolution this session to change the constitution to eliminate the ag commissioner as an elected official. The sponsors of these 2 resolutions have said that simply because there were 2 constitutional amendments in to eliminate the only 2 partisan elected offices held by Democrats these should not be seen as partisan actions. I will accept that. But I can tell you the public is not. However, I can also see why the public has a hard time accepting that premise. People have clearly stated they not only want to elect their State Treasurer, but believe in its importance in state government, the most recent being less than a year ago. Why

shouldn't the will of the people be honored. Several have visited with me asking why can't the legislature respect what the people have told them. They say this resolution flies in the face of the will of the people as expressed at the ballot box. Last year, all but one of the state's veterans organizations passed resolutions at their state meetings opposing the elimination of the office. The American Legion never took action because their convention was after the primary election.

B. It is a necessary office - checks and balances - people's chief elected financial officer.

C. Urge committee give a do not pass recommendation and defeat it on the floor.

Again, I respectfully ask that you honor the people's wishes and defeat this resolution.

Thank you.



Bob Hanson

March 22, 2001

Discussion Points for SCR 4036 – Ballot Measure related to Treasurer's Office

1. Measure # 3, to eliminate the Treasurer's office, was on the ballot for the June 13, 2000, election.
2. For that election, North Dakota had 473,574 eligible voters.
3. In the June 2000 election, 94,306, or 19.9%, of the state's eligible voters voted.
4. Although there were 94,306 ballots cast in that election, only 81,449 (17.2%) of the state's eligible voters, voted on Measure # 3. That means that 12,857, or 2.7%, of the state's eligible voters who voted in the June election did not cast either a yes or no vote on Measure # 3.
5. There were 42,734, or 52.5%, of the voters who voted in favor of retaining the Treasurer's position.
6. There were 38,715, or 47.5%, of the voters who voted in favor of eliminating the Treasurer's position.
7. The margin between the yes and no votes was 4,019 votes or less than 1% (0.85%) of the state's eligible voters.
8. Based on the number of votes actually cast, only 9% of the state's eligible voters voted in favor of retaining the Treasurer's position and 8% of the state's eligible voters voted to eliminate the Treasurer's position.
9. The State Treasurer's Office Preservation Committee reported \$50,650 in reportable contributions. Except for \$150, the remaining \$50,500 came from outside the State of North Dakota (see attached), of which \$50,000 came from national and regional Treasurer's Associations.
10. The committee to eliminate the Treasurer's office reported a total of \$650 in reportable contributions. All of it from North Dakota contributors.
11. Probably because of a concern that the various treasurers' association used tax dollars to defeat Measure # 3, the House Appropriation's Committee amended HB 1005 to prohibit the Treasurer's office from paying dues to the National Association of State Treasurers (see attached).
12. In 1984, the previous time the issue of the Treasurer's office was on the ballot, 324,179, or 69%, of the state's eligible voters voted. Of that number, only 285,674 voters expressed either a yes or no opinion on the measure, with 57%, or 162,309, of those voters voting in favor of retaining the Treasurer's office. The difference between the yes and no votes was 38,944 votes. Not voting were 38,505 voters.
13. In 1998, the voters in Minnesota voted in favor of eliminating their Treasurer's office.

14. Most of the duties and accounting functions of the state treasurer relate to collecting, investing, and the disbursing of state funds. In addition, under current law, the office is responsible for the regulation of the wholesale alcohol beverage industry. These duties are similar to those also performed by the Bank of North Dakota, Office of Management and Budget, Office of the Tax Commissioner, and the Attorney General.
15. All funds deposited with the State Treasurer by state agencies are in turn deposited with the Bank of North Dakota. Therefore, if agencies were able to make deposits direct with the Bank, an intermediate step would be eliminated. North Dakota is also the only state having a state owned bank as its main depository.
16. The Bank of North Dakota or another state entity, having existing investment responsibilities and access to trained investment personnel, could handle the investment functions being handled by the Treasurer.
17. The collection of alcohol taxes could be handled by the State Tax Department as an appropriate and cost efficient transfer of duties.
18. The appropriation for the Treasurer's office for 2001/2003 in HB 1005 is \$750,587 (attached) as was adopted by the House and sent to the Senate. The salary line represents 86% of the total appropriation.
19. The current staff consists of 7 employees, which includes the Treasurer and a Deputy (see attached for breakdown of 2001-2003 salary line per the executive recommendation).
20. Except for the duties of the Treasurer on several Boards, most of the duties of the Treasurer's office are duplicative or similar to those performed by other agencies. As to the Treasurer's duties on various Boards, they could be transferred to other elected officials who are also accountable to the public and have the public's welfare in mind.
21. The checks and balances on the collection, investment, and disbursement of state funds can be carried out in other agencies, which also have those particular checks and balances functions in place.

## JOURNAL OF THE HOUSE

## Fifty-seventh Legislative Assembly

\*\*\*\*\*

Bismarck, February 5, 2001

The House convened at 1:00 p.m., with Speaker Bernstein presiding.

The prayer was offered by Rev. Doug Slave, Our Savior's Lutheran and Blanchard Lutheran Churches, Hillsboro.

The roll was called and all members were present except Representative Nicholas.

A quorum was declared by the Speaker.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. SPEAKER:** Your Committee on Correction and Revision of the Journal (**Rep. Kretschmar, Chairman**) has carefully examined the Journal of the Nineteenth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 313, line 32 delete "HB 1307"

Page 313, line 35 delete "HB 1307"

**REP. KRETSCHMAR MOVED** that the report be adopted, which motion prevailed.

## SIXTH ORDER OF BUSINESS

**REP. BELTER MOVED** that the amendments on the Sixth order of business to HB 1031, HB 1221, HB 1222, HB 1223, HB 1239, HB 1307, HB 1323, and HB 1335 be adopted, which motion prevailed.

HB 1031, HB 1221, HB 1222, HB 1223, HB 1239, HB 1307, HB 1323, and HB 1335, as amended, were placed on the Eleventh order of business on the calendar for the succeeding legislative day.

## MOTION

**REP. BELTER MOVED** that HB 1438, which is on the Eleventh order, be laid over Four legislative days, which motion prevailed.

## SECOND READING OF HOUSE CONCURRENT RESOLUTION ON CONSENT CALENDAR

**HCR 3013:** A concurrent resolution directing the Legislative Council to study the designation of highways in the state highway system and the county road system.

The question being on the final passage of the resolution, which has been read.

HCR 3013 passed on a voice vote, and the title was agreed to.

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## SIXTH ORDER OF BUSINESS

**HB 1005: REP. B. THORESON (Appropriations Committee) MOVED** that the amendments on HJ pages 294-296 be adopted and then be placed on the Eleventh order with **DO PASS**.

## REQUEST

**REP. GLASSHEIM REQUESTED** that the House divide the amendments to HB 1005, which request was granted.

## DIVISION A

"SECTION 4. LEGISLATIVE INTENT - PAYMENT OF NATIONAL ASSOCIATION OF STATE TREASURERS-RELATED ACTIVITIES. It is the intent of the legislative assembly that the state treasurer be prohibited from using state funds for activities related to the national association of state treasurers for the biennium beginning July 1, 2001, and ending June 30, 2003."

## DIVISION B

Page 1, line 2, remove the first "and", replace "section" with "sections", and after "54-11-13" insert "and 54-27-08"

Page 1, line 3, after "treasurer" insert "and the signing of warrants by electronic means; and to provide legislative intent to prohibit payment of national association of state treasurers-related activities"

Page 1, line 10, replace "651,142" with "642,551"

Page 1, line 13, replace "759,178" with "750,587"

Page 1, after line 19, insert:

**"SECTION 3. AMENDMENT.** Section 54-27-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-27-08. How moneys paid from state treasury - Warrants - When not necessary.** Except as otherwise provided, moneys may be paid from the state treasury only upon the warrant or order prepared by the office of management and budget drawn on the state treasurer. The state auditor shall recommend a form for order and warrant-check of the state government which must conform, so far as consistent with statutory requirements, to approved banking practice ~~in order~~ to facilitate handling of such instruments by banks and other depositories. When ~~such an~~ order and warrant-check is signed by the state auditor, the state treasurer shall accept the order or warrant with ~~the~~ the treasurer's signature, making the order and warrant-check negotiable. No warrant upon the treasurer may be delivered or mailed to the payee or ~~the~~ the payee's agent or representative until the warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository. A record must be maintained specifying upon what fund or from what apportionment each warrant is to be paid. The state treasurer may redeem outstanding bonds or pay interest on bonds when due without the warrant of the office of management and budget, retaining the bond or interest coupon as ~~the~~ a voucher for the payment until the next  ~~succeeding~~ settlement. With respect to electronic records and electronic signatures, the state treasurer shall utilize the services provided by the information technology department.

Renumber and correct the title accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

##### House Bill No. 1005 - State Treasurer - House Action

	EXECUTIVE BUDGET	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$651,142	(\$8,591)	\$642,551
Operating expenses	106,036		106,036
Equipment	2,000	-----	2,000
Total all funds	\$759,178	(\$8,591)	\$750,587
Less estimated income	-----	-----	-----
General fund	\$759,178	(\$8,591)	\$750,587
FTE	7.00	0.00	7.00

##### Dept. 120 - State Treasurer - Detail of House Changes

	ADJUST MARKET EQUITY SALARY INCREASE <sup>1</sup>	TOTAL HOUSE CHANGES
Salaries and wages	(\$8,591)	(\$8,591)
Operating expenses		
Equipment	-----	-----
Total all funds	(\$8,591)	(\$8,591)
Less estimated income	-----	-----
General fund	(\$8,591)	(\$8,591)
FTE	0.00	0.00

<sup>1</sup> This amendment reduces, from \$11,294 to \$2,703, the amount provided for a market equity salary increase for the Deputy State Treasurer. The amount included in the bill will provide for a monthly increase of \$129 and related fringe benefits for the last 18 months of the biennium.

Two sections are added requiring the State Treasurer to utilize the services of the Information Technology Department for electronic records and signatures and providing legislative intent regarding the use of state funds for activities related to National Association of State Treasurers.

The question being on the adoption of Division A of the proposed amendments to HB 1005.

Division A of the proposed amendments to HB 1005 was adopted on a verification vote.

The question being on the adoption of Division B of the proposed amendments to HB 1005.

Division B of the proposed amendments to HB 1005 was adopted on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1005:** A BILL for an Act to provide an appropriation for defraying the expenses of the state treasurer; to amend and reenact sections 54-11-13 and 54-27-08 of the North Dakota Century Code, relating to the salary of the state treasurer and the signing of warrants by electronic means; and to provide legislative intent to prohibit payment of national association of state treasurers-related activities.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 70 YEAS, 27 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bellew; Belter; Berg; Boehm; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; DeKrey; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Froelich; Froseth; Galvin; Grande; Grosz; Gunter; Haas; Hawken; Herbel; Huether; Jensen; Johnson, D.; Johnson, N.; Kasper; Kelsch; Kelsch, R.; Kempenich; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kretschmar; Lloyd; Martinson; Meier; Monson; Nelson; Nottestad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Severson; Skarphol; Svedjan; Thoreson, B.; Thoreson, L.; Tiegan; Timm; Wald; Weller; Weisz; Wentz; Wikenheiser; Wrangham; Speaker Bornstein

**NAYS:** Aarsvold; Boucher; Cleary; Delmore; Ekstrom; Fairfield; Glassheim; Grumbo; Gullerson; Hanson; Hunsakor; Kelsh, S.; Kerzman; Kroeber; Lemleux; Mahoney; Maragos; Metcalf; Mueller; Niemeler; Onstad; Sandvig; Schmidt; Solberg; Thorpe; Warner; Winrich

**ABSENT AND NOT VOTING:** Nicholas

Engrossed HB 1005 passed and the title was agreed to.

\*\*\*\*\*

#### SECOND READING OF HOUSE BILL

**HB 1001:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the governor; and to amend and reenact sections 54-07-04 and 54-08-03 of the North Dakota Century Code, relating to the salaries of the governor and lieutenant governor.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 91 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gullerson; Gunter; Haas; Hanson; Hawken; Herbel; Huetner; Hunsakor; Jensen; Johnson, D.; Johnson, N.; Kasper; Kelsch; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Schmidt; Severson; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tiegan; Timm; Wald; Warner; Weller; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

**NAYS:** Aarsvold; Delzer; Kerzman; Lemleux; Niemeler; Sandvig

**ABSENT AND NOT VOTING:** Nicholas

Engrossed HB 1001 passed and the title was agreed to.

18005.0200

FIRST ENGROSSMENT

Fifty-seventh  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1005

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state treasurer;  
2 to amend and reenact sections 54-11-13 and 54-27-08 of the North Dakota Century Code,  
3 relating to the salary of the state treasurer and the signing of warrants by electronic means; and  
4 to provide legislative intent to prohibit payment of national association of state  
5 treasurers-related activities.

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

7 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
8 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in  
9 the state treasury, not otherwise appropriated, to the state treasurer for the purpose of  
10 defraying the expenses of the state treasurer, for the biennium beginning July 1, 2001, and  
11 ending June 30, 2003, as follows:

12 Salaries and wages	\$642,551
13 Operating expenses	106,036
14 Equipment	<u>2,000</u>
15 Total general fund appropriation	\$750,587

16 **SECTION 2. AMENDMENT.** Section 54-11-13 of the 1999 Supplement to the North  
17 Dakota Century Code is amended and reenacted as follows:

18 **54-11-13. Salary of state treasurer.** The annual salary of the state treasurer is  
19 ~~forty-eight~~ sixty-two thousand ~~two~~ nine hundred ~~sixty-two~~ seventy-four dollars through June 30,  
20 ~~2000~~ 2002, ~~forty-nine~~ thirty-nine thousand ~~four~~ hundred ~~twenty-eight~~ eight dollars through December 31, ~~2000~~,  
21 and ~~sixty-one~~ sixty-four thousand ~~one~~ two hundred ~~forty-two~~ thirty-three dollars thereafter.

22 **SECTION 3. AMENDMENT.** Section 54-27-08 of the North Dakota Century Code is  
23 amended and reenacted as follows:

1           **54-27-08. How moneys paid from state treasury - Warrants - When not necessary.**

2       Except as otherwise provided, moneys may be paid from the state treasury only upon the  
3       warrant or order prepared by the office of management and budget drawn on the state  
4       treasurer. The state auditor shall recommend a form for order and warrant-check of the state  
5       government which must conform, so far as consistent with statutory requirements, to approved  
6       banking practice ~~in order~~ to facilitate handling of such instruments by banks and other  
7       depositories. When ~~such an~~ order and warrant-check is signed by the state auditor, the state  
8       treasurer shall accept the order or warrant with ~~his~~ the treasurer's signature, making the order  
9       and warrant-check negotiable. No warrant upon the treasurer may be delivered or mailed to  
10      the payee or ~~his~~ the payee's agent or representative until the warrant has been signed by the  
11      treasurer and entered on the treasurer's books as a check drawn on a bank depository. A  
12      record must be maintained specifying upon what fund or from what apportionment each warrant  
13      is to be paid. The state treasurer may redeem outstanding bonds or pay interest on bonds  
14      when due without the warrant of the office of management and budget, retaining the bond or  
15      interest coupon as ~~his~~ a voucher for the payment until the next ~~succeeding~~ settlement. With  
16      respect to electronic records and electronic signatures, the state treasurer shall utilize the  
17      services provided by the information technology department.

18           **SECTION 4. LEGISLATIVE INTENT - PAYMENT OF NATIONAL ASSOCIATION OF**  
19      **STATE TREASURERS-RELATED ACTIVITIES.** It is the intent of the legislative assembly that  
20      the state treasurer be prohibited from using state funds for activities related to the national  
21      association of state treasurers for the biennium beginning July 1, 2001, and ending June 30,  
22      2003.

**OFFICE OF THE STATE TREASURER FTE POSITION FUNDING\***

Position Number		2001-03 Executive Recommendation	
		Annual Salary (Base Amount)	Salary and Fringe Benefits
1	State Treasurer	\$62,974	\$163,245
2	Deputy State Treasurer	52,932	138,567
3	Account/Budget Specialist I	21,756	62,824
4	Administrative Clerk	18,288	54,449
5	Administrative Clerk	19,212	56,672
7	Assistant - Not classified	26,016	73,174
10	Accounting Manager I	37,968	102,211
		\$239,146	\$651,142

\* No current vacant positions

3-22-01

Date

## REGISTRATION

Political Subs.

Committee

PLEASE GIVE COPIES OF YOUR TESTIMONY TO THE COMMITTEE CLERK

BILL NO.	FOR	NEUTRAL	AGAINST	NAME PLEASE PRINT!!	LOBBYIST REG. NO.	REPRESENTING
SCR 4036			X	David L. Kemnitz	127	NDAFH-CIO
4036			X	RENEE PFENNING		SELF <del>XXXXXXXXXX</del>
SCR4036			X	Kathi Gilmore		
SCR4036			X	Kathy Kirschman		
			X	Arthur G. Link		Self
			X	Morrene Kusdahl		Self
4036	X			Bill Butcher	15	WFIB
4036	X			Ray BERNBERG		41 SENATE
4036	X			John Audist		2 Senate
4036			X	Mike Buchmiller		Self
4036			X	Ted Wilson		Self
4036			X	GARY L. NELSON		Ironworkers Local 793
4036			X	Chris Runge		NDPEGAFT 4660

3-22-01

Date

## REGISTRATION

Pol. Subs.

Committee

PLEASE GIVE COPIES OF YOUR TESTIMONY TO THE COMMITTEE CLERK

My Chair want  
 registration form  
 on record. These  
 original signatures  
 need to be recorded.

BILL NO.	FOR	NEUTRAL	AGAINST	NAME PLEASE PRINT!!	LOBBYIST REG. NO.	
SCR 4036			X	Byron Byron Knutson	<del>Self</del>	Self
SCR 4036			X	Bernice Knutson		Self
SCR 4036			X	Amelia Heupf		Self
4036			X	Riverto Bond		Dist. 9
4036			X	Vern Thompson		Self
4036			X	Bob O'Leiser		State Treasurer
4036			X	Bob O'Leiser		Self
2415		X		James Fleming, Assistant Atty General		Office of Atty Gen
2117	X			James Fleming, Assistant Atty General		Office of Atty Gen

Thank.  
 Pam