

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

JUDICIARY COMMITTEE

Friday, October 20, 2000
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Wayne Stenehjem, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Wayne Stenehjem, Dennis Bercier, Joel C. Heitkamp, Judy Lee; Representatives Duane DeKrey, Lois Delmore, Dennis E. Johnson, Scot Kelsh, Lawrence R. Klemin, Kim Koppelman, Shirley Meyer, Phillip Mueller

Members absent: Senators Stanley W. Lyson, Carolyn Nelson, John T. Traynor, Darlene Watne; Representatives G. Jane Gunter, Kathy Hawken, Amy N. Kliniske, John Mahoney

Others present: See attached appendix

It was moved by Senator Lee, seconded by Representative DeKrey, and carried that the minutes of the September 20, 2000, meeting be approved as distributed.

COURT UNIFICATION AND CLERK OF DISTRICT COURT STUDY Clerk of Court Legislation Implementation Update

Chairman Stenehjem called on Mr. Keith Nelson, State Court Administrator, for comments concerning the implementation of the clerk of court legislation. Mr. Nelson said there have been three developments in the implementation since the committee's September meeting. He said he has visited with the clerks' offices in eight of the 11 counties which will become state-operated. He said the primary purpose of the visits is to answer questions, review employment procedures, and discuss benefits. He said he has been very well-received at every visit. Second, he said, an ad hoc committee has been formed to determine the amount of staffing time that will be needed for handling restitution and preparation of criminal judgments. Third, he said, management visits will be conducted. He said no additional positions will be created as a result of the implementation of the legislation and some offices will take a reduction in staff.

Judicial Salaries

Chairman Stenehjem called on Judge Ralph Erickson, East Central Judicial District, for comments regarding the judicial salary issue. Judge Erickson distributed a copy of a resolution in support of a

judicial pay equity bill. He said the resolution restates the information presented to the committee at an earlier meeting and provides that the Judiciary Committee would support the concept of a judicial pay equity bill designed to bring North Dakota judges closer to the regional average for judicial officers. A copy of the resolution is on file in the Legislative Council office.

Senator Lee said the judicial salary issue is an important one and while it is important that the committee received information regarding the issue, it may be inappropriate to make specific recommendations regarding judicial salaries when the salaries of persons in other government positions are not addressed.

Chairman Stenehjem said Judge Erickson's resolution is not a resolution that would go to the Legislative Assembly, but rather it would be a statement by the committee that there is a concern about judicial salaries that needs to be addressed.

Representative Delmore said Judge Erickson made some very valid points regarding judicial salaries, but she said the state is also 50th in the nation in teachers' salaries. She said before the committee makes a specific recommendation regarding judicial salaries, the committee would have to look at the entire budget. She said for those reasons she opposes the idea of the committee taking a stand on the judicial salaries issue.

The committee made no recommendation regarding the judicial salaries issue.

FAMILY LAW STUDY Property Division Bill Draft

Chairman Stenehjem called on Justice Mary Muehlen Maring, Supreme Court, for comments concerning the property division bill draft. Justice Maring said she was not appearing on behalf of the Supreme Court, but that she wanted to express her own concerns regarding the bill draft that would amend North Dakota Century Code (NDCC) Section 14-05-24. She said she has come full circle on the issue of statutorily introducing the concept of marital and nonmarital property into the division of property. She said in 1979 the Minnesota Legislature introduced these concepts into the family law practice. She said at first the distinction between marital and

nonmarital property seemed fairly simple and seemed to facilitate settlement of family law cases because of a perceived clarity of outcome. She said as time passed and cases were appealed, numerous definitions of nonmarital property appeared. She said early Minnesota cases considering the appreciation of nonmarital property distinguished active appreciation from passive appreciation. She said the courts found that if the appreciation is active, the increase is marital property and if the appreciation is found to be passive, the increase is nonmarital. She said active appreciation was defined as an increase attributable to the efforts of one or both spouses and passive appreciation was defined as an increase in value due to inflation or market forces. She said as recently as 1994, the Minnesota Court of Appeals concluded that increases in value during marriage attributable to the efforts of the spouse, whether by financial investments, labor, or entrepreneurial decisionmaking, are marital property. She said the Minnesota court analogized a marriage to a partnership agreement. She said the court held that increases during the marriage in the value of nonmarital property as a result of the efforts of one or both spouses are treated as a return on the investment made by the marital entity. She said 21 years after that statute was enacted, Minnesota courts are still litigating over what is marital and what is nonmarital property. She said if the goal of the property division bill draft being considered by the committee is to reduce litigation, it will not happen. She said under North Dakota law, the objective is equitable distribution and the property division does not need to be equal to be considered equitable. She said the district court must look at certain factors, known as the "Ruff-Fisher" guidelines, when determining property division. She said under those guidelines, the origin of the property must be considered. She said in a recent decision, the North Dakota Supreme Court upheld a trial court decision in which the husband received 86 percent of a \$355,000 estate and the wife received 14 percent. She said the trial court found that because the husband's worth was greater at the time of the marriage and that the marriage was relatively short in duration, this distribution was equitable. She said under current law, gifted and inherited property are considered marital property and the burden to prove that the property should not be marital property is on the party who wants to keep it out. Under this bill draft, she said, the burden would be shifted to the party least able to financially bear that burden.

In response to a question from Representative Klemin, Justice Maring said she is not necessarily opposed to the bill draft, but her intent is to inform the committee of the bill draft's potential impact. She said if passed, the courts will be dealing with the issue of what is marital and what is nonmarital property and on how to address appreciation.

In response to a question from Representative Mueller, Justice Maring said there would likely be as much litigation under this bill draft as there is now.

Senator Lee said the goal of the bill draft was to provide for more fairness in the division of gifted and inherited property, not to create more or less litigation. She said everyone has heard horror stories regarding property distribution and most of them are legitimate.

In response to a question from Senator Lee, Justice Maring said the trial judges are doing their jobs in making equitable distributions. She said the judges look at the factors and if there is gifted and inherited property that has been kept separate, it is taken out. She said the idea proposed in this bill draft is a policy decision. She said the party with all the assets has a better chance of carrying the burden of discovery and proof than the party without the assets.

Chairman Stenehjem called on Ms. Sherry Mills Moore, Family Law Task Force, for comments concerning the bill draft. Ms. Moore said she has conflicting views on this bill draft. She said throughout the course of the working group's meetings she has not necessarily been an advocate of the idea proposed in the bill draft. She said the law is well-developed on the equitable division of property. She said the trial court has the ability to take out gifted and inherited property and does so. She said the decision as to whether gifted and inherited property should not be subject to division is a legislative policy decision. She said it will be up to the Legislative Assembly to decide whether the burden should be on the person who wants that property divided or whether all property should be subject to division. She said she is concerned about the situations in which one spouse depends on the gifted or inherited property and uses marital assets to pay for other things while relying on the fact that that property will be available if needed. Under the bill draft, she said, that spouse would have the burden of proving why the gifted or inherited property should be subject to division. She said there will be more cases heard at the appellate level if this bill draft is passed. She said the other members of the working group were also in conflict on the idea because there are instances in which the inherited or gifted property should not be divided and the trial court divides it between the parties.

Senator Stenehjem said the goal of the bill draft is to not necessarily make it easier for the appellate court. He said this bill draft would make it easier for attorneys to advise their clients on what to expect regarding property distribution.

Representative DeKrey said although there is some uncertainty as to which method of property distribution is more fair, it is an issue that is important enough to be addressed by the Legislative Assembly.

In response to a question from Senator Stenehjem, Justice Maring said it would be beneficial

if the bill draft included language on passive and active appreciation and whether either of those types of appreciation would be subject to division. Senator Stenehjem said Justice Maring may want to work with Ms. Moore and Ms. Sandi Tabor, Executive Director, State Bar Association of North Dakota, on that issue and they may want to draft amendments to that effect.

It was moved by Representative DeKrey, seconded by Senator Lee, and carried on a roll call vote that the bill draft relating to the distribution of property be approved and recommended to the Legislative Council. Senators Stenehjem, Bercier, and Lee and Representatives DeKrey, Kelsh, Koppelman, and Mueller voted "aye." Senator Heitkamp and Representatives Delmore, Johnson, Klemin, and Meyer voted "nay."

Family Law Statutory Review Bill Draft

Chairman Stenehjem said the statutory review bill draft would reenact the section regarding the removal of a child from the state in violation of a custody order. He said that section of the bill draft contains an emergency clause.

It was moved by Representative DeKrey, seconded by Representative Delmore, and carried on a roll call vote that the bill draft relating to separation, divorce, and the removal of children from the state in violation of a custody order be approved and recommended to the Legislative Council. Senators Stenehjem, Bercier, Heitkamp, and Lee and Representatives DeKrey, Delmore, Johnson, Kelsh, Klemin, Koppelman, Meyer, and Mueller voted "aye." No negative votes were cast.

Guardian Ad Litem Bill Draft

It was moved by Representative DeKrey, seconded by Representative Mueller, and carried on a roll call vote that the bill draft relating to immunity for guardians ad litem and child custody investigators be approved and recommended to the Legislative Council. Senators Stenehjem, Bercier, Heitkamp, and Lee and Representatives DeKrey, Delmore, Johnson, Kelsh, Klemin, Koppelman, Meyer, and Mueller voted "aye." No negative votes were cast.

Family Law Subcommittee Report

It was moved by Senator Heitkamp, seconded by Representative Delmore, and carried on a roll call vote that the report and the recommendations of the family law subcommittee be adopted. Senators Stenehjem, Bercier, Heitkamp, and Lee and Representatives Delmore, Johnson, Kelsh, Klemin, Koppelman, Meyer, and Mueller voted "aye." No negative votes were cast.

STATUTORY REVIEW

Grandparent Visitation Bill Draft

At the request of Chairman Stenehjem, committee counsel presented a bill draft regarding the grandparental rights of visitation of unmarried minors. She said the bill draft would amend NDCC Section 14-09-05.1 to comply with the North Dakota Supreme Court's decision in *Hoff v. Berg*, 595 N.W.2d 285 (1999). She said in that decision, the court declared unconstitutional the portion of the statute amended in 1993. She said the bill draft would restore the language to that section as it appeared before the 1993 amendment.

In response to a question from Senator Heitkamp, committee counsel said the bill draft would place the burden on the grandparents to prove that visitation was in the best interests of the child.

It was moved by Senator Lee, seconded by Representative Johnson, and carried on a roll call vote that the bill draft relating to grandparental rights of visitation of unmarried minors be approved and recommended to the Legislative Council. Senators Stenehjem, Bercier, Heitkamp, and Lee and Representatives Delmore, Johnson, Kelsh, Klemin, Koppelman, Meyer, and Mueller voted "aye." No negative votes were cast.

Technical Corrections Bill Draft

It was moved by Representative Klemin, seconded by Representative DeKrey, and carried on a roll call vote that the bill draft relating to technical corrections to the North Dakota Century Code be approved and recommended to the Legislative Council. Senators Stenehjem, Bercier, Heitkamp, and Lee and Representatives DeKrey, Delmore, Johnson, Klemin, Koppelman, Meyer, and Mueller voted "aye." No negative votes were cast.

VOTER RESIDENCY AND REGISTRATION STUDY Challenged Voter Bill Drafts

At the request of Chairman Stenehjem, committee counsel reviewed the two bill drafts relating to challenged voters. She said current law does not authorize a poll worker to ask a voter for identification. She said the first bill draft would authorize poll workers to request identification to address voting eligibility concerns. She said the second bill draft provides for a procedure for dealing with the ballots completed by challenged voters. She said under the second bill draft, a challenged voter's ballot would be marked "provisional" and would not be counted until the reason for the challenge is reviewed by the canvassing board.

In response to a question from Representative Delmore, Mr. Alvin A. Jaeger, Secretary of State, said the biggest concern he hears is regarding people who vote in precincts where they apparently do not live.

He said to authorize poll workers to request identification would be fine as long as the identification request was reasonable. He said the provisional ballot bill draft allows for a procedure to set aside the ballot until the voter's eligibility is reviewed. Under current law, he said, the ballot of a challenged voter is not kept separate and is included with all the nonchallenged ballots.

In response to a question from Senator Stenehjem, Mr. Jaeger said there may be instances in which poll workers have asked for identification, especially in the larger cities.

In response to a question from Representative Mueller, Mr. Jaeger said recounts are conducted if the difference between the number of votes received by the candidates is within a certain percentage. He said under the provisional ballot bill draft, the decision as to whether the provisional ballot would be counted will have been made before a recount is conducted.

Senator Stenehjem said under current law the ballots of challenged voters are included in the same group as nonchallenged voters. He said even if it is determined later that a person voted illegally, that person's ballot is counted. Under this bill draft, he said, the challenged voter's ballot is set aside until that voter's eligibility is reviewed.

Mr. Jaeger said the provisional ballot bill draft does have merit and it would be an improvement over the current procedure.

In response to a question from Representative Delmore, Mr. Jaeger said under the bill draft the recommendation required to be made by the county auditor would be based on the state's residency law requirements.

In response to a question from Senator Heitkamp, Mr. Jaeger said the election board is comprised of representatives of both parties. He said poll workers are not overly zealous about requiring voters to prove their residency. He said it would be difficult to include in the bill draft the acceptable forms of identification.

In response to a question from Representative Klemin, Mr. Jaeger said the two bill drafts are not mutually exclusive and they do not conflict with each other.

In response to a question from Senator Stenehjem, Mr. Jaeger said a county auditor can request that an absentee voter complete an affidavit the same as a person who votes at the polls.

In response to a question from Senator Bercier, Mr. Jaeger said the process for obtaining an absentee ballot is not difficult. He said the provisional ballot bill draft would help to keep those ballots separate until a person's eligibility is reviewed.

In response to a question from Representative Meyer, Mr. Jaeger said voter residency issues do not necessarily have to be addressed before the idea proposed in the provisional ballot bill draft is implemented. He said the bill draft simply provides for a process of keeping challenged voter ballots separate.

He said this bill draft would strengthen the credibility of the election process.

In response to a question from Senator Heitkamp, Mr. Jaeger said many states are envious of North Dakota's election process because North Dakota does not have voter registration.

In response to a question from Senator Bercier, Mr. Jaeger said the issue of whether people are voting in the proper precinct is an ongoing issue in the election process.

Senator Stenehjem said while it is important that every vote is counted, it is also important that the election process does not become so burdensome that it discourages people from voting.

In response to a question from Senator Stenehjem, Mr. Jaeger said the bill draft does not create a "heavy-handed" procedure to be followed by poll workers. He said it merely allows for those challenged ballots to be set aside.

In response to a question from Senator Bercier, Mr. Jaeger said in the identification bill draft, the form of identification does not necessarily have to be a driver's license.

Senator Heitkamp said unless there is evidence that a large voter fraud problem exists, he cannot support any procedures that would empower poll workers and that may make people uncomfortable when they come to the polls.

It was moved by Representative DeKrey, seconded by Representative Klemin, and carried on a roll call vote that the bill draft relating to provisional ballots and the bill draft relating to requesting identification be approved and recommended to the Legislative Council. Senators Stenehjem and Bercier and Representatives DeKrey, Johnson, Kelsh, Klemin, Koppelman, and Mueller voted "aye." Senator Heitkamp and Representatives Delmore and Meyer voted "nay."

Voter Registration Bill Draft

Chairman Stenehjem called on Mr. John D. Bjornson attorney on the Legislative Council staff, to present a bill draft regarding the implementation of voter registration in North Dakota. He said the bill draft, which would establish a county-based voter registration system, was similar to the bill introduced in the last session. He said the bill draft provides that electors must be registered at least 30 days before an election to be entitled to vote. He said the bill draft includes the procedures for registering electors and provides that an elector may register when applying for or renewing a driver's license or when applying for public assistance. He said the bill draft includes registration provisions required by the National Voter Registration Act.

In response to a question from Representative Delmore, Mr. Bjornson said North Dakota essentially has a form of registration known as "same-day" registration. He said when a person goes to the polls, that

person's name is entered in the poll books and is "registered."

In response to a question from Representative Klemin, Mr. Bjornson said changing the words "poll book" to "election register" is just a technical change. He said the election register would be a list of registered voters and a poll book is a list of persons who have voted.

Chairman Stenehjem called on Mr. Jaeger for comments concerning the voter registration bill draft. Mr. Jaeger said he has concerns over the implementation of a voter registration system. He said if the bill draft passed, the state would immediately fall under the requirements of the National Voter Registration Act. He said the estimated cost of implementing a voter registration system would be in the area of \$800,000. He said if a voter registration system were to be implemented, it should be a centralized state system, not a county-based system.

In response to a question from Senator Stenehjem, Mr. Jaeger said under the provisions of the federal law, once the state implements a voter registration system, the state is subject to the federal rules regarding voter registration. He said a state cannot have a pilot project for voter registration because once a voter registration system is implemented, it cannot be undone.

Senator Bercier said he has not heard a public outcry for voter registration and it would be costly to the state. He said although there may be some merit to having a centralized system, the current system serves the state well.

In response to a question from Senator Stenehjem, Mr. Jaeger said it may be possible to develop more workable legislation after the redistricting process is complete. He said by the 2003 session it would be possible to develop legislation to implement a centralized voter registration system.

Senator Lee said she is concerned about not allowing the citizens to be a part of the voter registration discussion during the legislative session.

Senator Heitkamp said voter registration creates another step in the bureaucratic process. He said if another step is added to the voting process, it would discourage some people from voting.

Representative Mueller said he has concerns about the bill draft. He said, as pointed out by Mr. Jaeger, a voter registration system would be a waste of time and resources. He said he is also concerned about negative aspects of tying the state to the federal voter registration rules. He said it is important to encourage people to vote. He said a voter registration system would discourage voting.

Senator Lee said it would be disappointing if the committee does not believe there is enough interest in voter registration to have the issue receive full legislative consideration.

Senator Heitkamp said voter registration is a solution in search of a problem and it could hamper voting at a time when voter turnout is already lagging.

Senator Bercier said he is interested in maintaining the integrity of the election process, but he does not want to see more barriers to voting.

It was moved by Senator Heitkamp, seconded by Senator Bercier, and carried on a roll call vote that the bill draft regarding voter registration not be approved. Senators Bercier and Heitkamp and Representatives Delmore, Kelsh, Koppelman, Meyer, and Mueller voted "aye." Senators Stenehjem and Lee and Representatives Johnson and Klemin voted "nay."

Senator Stenehjem said although he supported the idea of furthering the bill draft to the full Legislative Assembly, he would not support the idea of voter registration unless the implementation would be less costly and it included a centralized system.

PUBLIC HEARING - MEASURE NO. 1

Chairman Stenehjem said the chairman of the Legislative Council assigned to the Judiciary Committee the duty of conducting public hearings on the constitutional measures scheduled to appear on the ballot in the primary and general elections. He said it is not the purpose of the Judiciary Committee to take a public stand on the measures. He said the purpose of the hearings is to promote and stimulate public discussion and debate and to create a public history.

Chairman Stenehjem said only one measure will appear on the general election ballot. He said that measure provides that hunting, trapping, and fishing are a valued part of the state's heritage and will be preserved for the people and managed by law and regulation for the public good.

Testimony in Support of Measure No. 1

Chairman Stenehjem called on Mr. Mike Donahue, North Dakota Wildlife Federation and United Sportsmen of North Dakota, for comments concerning measure No. 1. Mr. Donahue said he worked as a lobbyist for the Wildlife Federation during the 1999 session and was involved in the process of getting House Concurrent Resolution No. 3018 approved. He said the idea was originally developed by the Cass County Wildlife Club. He said in some parts of the country, there are groups trying to rid citizens of the ability to hunt, fish, and trap. He said he felt that the people of the state needed to make a statement that they value hunting, fishing, and trapping as a part of their heritage and that they want to preserve that heritage.

In response to a question from Senator Stenehjem, Mr. Donahue said there was little, if any, opposition to the resolution during the 1999 session.

In response to a question from Senator Bercier, Mr. Donahue said testimony was received during the

session regarding the tribes of the state and the tribes also have a long heritage of using hunting, fishing, and trapping as a food source.

In response to a question from Representative Mueller, Mr. Donahue said there was a concern over whether the language should be placed in the state's bill of rights in Article I of the constitution or whether it should be placed in the general provisions in Article XI of the constitution. He said it was decided that it was more appropriate for the language to be placed in Article XI rather than in Article I because some persons may view the language as creating a right and may believe that their hunting, fishing, and trapping activities should not be subject to regulation and limitations.

In response to a question from Representative Klemin, Mr. Donahue said measure No. 1 would have no effect on whether persons may or may not charge for persons to hunt on their land.

In response to a question from Senator Bercier, Mr. Donahue said he was unsure if measure No. 1 could potentially lead to conflicts between the tribes and the state regarding the management and regulation of wildlife.

Senator Bercier said hunting, fishing, and trapping are an important part of heritage for both the tribes and pioneers. He said there may be problems in the future regarding access to land and lake shores. He said he is concerned about the possibility of commercial fishing becoming an issue in this state.

Senator Heitkamp said a number of the concerns being raised were also raised during the hearings on House Concurrent Resolution No. 3018 during the session. He said the measure provides that the Legislative Assembly is in direct control of the laws that regulate hunting, fishing, and trapping. He said during the session the Natural Resources Committee worked hard to ensure that the measure would not create some of the problems that are being raised by the committee.

No one appeared in opposition to measure No. 1.

UNIFORM LAWS

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act Bill Draft

Chairman Stenehjem called on Ms. Bonnie Palecek, North Dakota Council on Abused Women's Services, for comments regarding the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act bill draft. Ms. Palecek said she had several suggested revisions to the bill draft. She said the North Dakota Council on Abused Women's Services is in full support of the concept of uniform laws as they relate to protection orders and full faith and credit. She said her concerns stem from the possibility of losing provisions in current law and the lack of clarity in some areas of the proposed law may impede training and enforcement. She said there are

concerns regarding notice on ex parte order, certification, the transmittal process, and immunity.

Ms. Palecek said she wanted to reiterate her support for the inclusion of honoring temporary custody provisions under full faith and credit. She said there may be a small problem in the bill draft which may need to be addressed during the session. She said the federal Violence Against Women Act, which was recently reauthorized, contains a provision allowing full faith and credit for both custody and support orders when they are included in a protection order. She said separate orders, such as divorce interim orders, are not included, which may cause problems with other federal uniform laws. Ms. Palecek provided written testimony and a list of suggested amendments to the bill draft, both of which are on file in the Legislative Council office.

In response to a question from Senator Stenehjem, Ms. Palecek said with her proposed changes, the uniform law would be worthwhile. She said uniform laws are important in the area of protection orders. She said no other states have adopted the uniform act.

In response to a question from Senator Bercier, Ms. Palecek said the Spirit Lake Tribe is part of the North Dakota Coalition Against Sexual Assault in North Dakota. She said the victim witness program on the Turtle Mountain Reservation is part of the Victim Witness Association. She said the victim witness program is part of the Native American Forum. She said there is very active participation by all tribes in the state in these programs.

Senator Bercier said it may be more appropriate to refer to "federally recognized Indian tribes" in the bill draft rather than "Indian tribe or band."

In response to a question from Senator Bercier, Ms. Palecek said the enforcement of protection orders is an ongoing educational process. She said although the protection orders are being honored, because of the decreasing number of law enforcement officers on the reservations it is difficult to find persons to serve the orders. She said as a result it becomes necessary to hire process servers. She said serving orders is a skill and requires training.

Chairman Stenehjem said the committee would not be taking any action on the bill draft. He said Ms. Palecek should continue her work on the uniform act before the session and she may want to discuss some of her concerns with Judge Gail Hagerty.

Uniform Commercial Code - Revised Article 9

Chairman Stenehjem said the committee would not be making any further changes to the Revised Article 9 bill draft that were proposed at previous meetings. He said Ms. Tabor has offered to bring all the interested parties together to discuss the proposed amendments before the session.

Chairman Stenehjem requested the Legislative Council staff prepare a letter to Ms. Tabor to thank her for offering the assistance of the State Bar Association of North Dakota and to include in the letter a list of those persons who may be interested in working on the Revised Article 9 bill draft.

Chairman Stenehjem called on Mr. Dan Kuntz, Grain Dealers Association, for comments regarding the Revised Article 9 bill draft. Mr. Kuntz said there are a number of concerns with Revised Article 9 regarding agricultural liens. Mr. Kuntz submitted written testimony regarding suggested revisions to Revised Article 9, a copy of which is on file in the Legislative Council office.

Chairman Stenehjem called on Mr. Jim Schlosser, North Dakota Bankers Association, regarding the Revised Article 9 bill draft. Mr. Schlosser said a number of interested parties met earlier in the week. He suggested that perhaps Representative Klemin would be interested in working with the group to discuss the necessary changes. He said 25 states have adopted Revised Article 9, and he is looking at some of the amendments that have been adopted by those states, especially those of neighboring states. He said he has visited with a number of interested parties, including the Credit Union League, the Farm Credit System, the Bankers Association, and the Secretary of State. He said all are interested in working together to resolve the remaining issues.

Chairman Stenehjem said it is very important that North Dakota pass this legislation during the next session or the state will be left behind in the area of secured transactions. He said it is important that the issues be resolved before the session.

Chairman Stenehjem said if Representative Klemin is interested in working with the Revised Article 9 group, he should contact Ms. Tabor.

Senator Lee reported that Mr. Dan Twichell of the Ohnstad Twichell law firm in West Fargo is interested in being a part of the group as well.

OTHER BUSINESS

Chairman Stenehjem said this meeting marks the end of his 24 years in the legislative process. He said

he has enjoyed working with the Judiciary Committee and being a part of the legislative process. He said in spite of all the political disagreements, challenges, arguments, and differences, the process works very well. He said the system works well because legislators and interested citizens take time out of their busy lives to work for the benefit of the entire citizenry. He said legislators must endure controversy and thanklessness, but the welfare of North Dakota is always foremost in their minds. He said the process works because of the efforts of legislators. He said he has made many lifelong friends during his years of legislative service. He said he wanted to thank the Legislative Council staff for all their hard work.

Representative Delmore thanked Chairman Stenehjem for his kindness, dedication, and impartiality. She said he will be missed.

Senator Lee thanked Chairman Stenehjem for being an exemplary chairman. She said he has shown great respect for members of the committee and for persons who appear before the committee. She said all legislators have learned from watching one of the finest committee chairmen and he will be missed in the Senate.

It was moved by Senator Heitkamp, seconded by Representative Delmore, and carried on a roll call vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council. Senators Stenehjem, Bercier, Heitkamp, and Lee and Representatives Delmore, Johnson, Kelsh, Klemin, Koppelman, Meyer, and Mueller voted "aye." No negative votes were cast.

Chairman Stenehjem adjourned the meeting sine die at 2:15 p.m.

Vonette J. Richter
Committee Counsel

ATTACH:1