

**1999 SENATE JUDICIARY**

**SB 2287**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2287

Senate Judiciary Committee

Conference Committee

Hearing Date February 1, 1999

Tape Number	Side A	Side B	Meter #
1		x	2313 - 4440
2-9-99 2	x		650 - 1500
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

SB2287 relates to application of a partial payment on a judgment; to provide retroactive application; and to declare an emergency.

SENATOR STENEHJEM opened the hearing on SB2287 at 10:45 a.m.

All were present.

ARNIE FLECK, Wheeler Wolf Firm, testified in support of SB2287. Testimony attached. I am not opposed to the proposed amendments by the agencies.

DONNITA WALD, State Tax Department, have concerns with SB2287. If this bill is passed, we would lose our ability to apply those payments in the manner we do now. We would like to propose amendments. Amendments attached.

SENATOR STENEHJEM asked by what authority does the Tax Commissioner waive the penalty on interest.

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Senate Judiciary Committee

Bill/Resolution Number SB2287

Hearing Date February 1, 1999

DONNITA WALD stated there are specific statutes that give the Commissioner the ability to waive penalty and interest for good cause shown.

SENATOR WATNE asked about the Judge retaining any discretionary authority, will this affect any of those decisions discussed here.

DONNITA WALD stated that the Department of Human Services are here and can address this.

BARBARA SIEGEL, Department of Human Services, testified with concerns with SB2287.

Testimony attached.

SENATOR STENEHJEM asked what is the difference between what Federal law mandates and what is in this bill.

BARB SIEGEL stated that it may affect the tax refund offset. We can only apply to interest and principal.

SENATOR STENEHJEM asked what is the order that they will take the money off with the tax refund offset. Is it along the lines that this bill proposes?

BARB SIEGEL stated that federal tax offset is the only exception to the distribution of child support. Federal tax offset is first applied to arrears owed to the state. We apply first to interest and then to principal.

Arne, Barb and Donnita will work on amendments.

SENATOR STENEHJEM CLOSED the hearing on SB2287.

February 9, 1999 Tape 2, Side B

ARNE FLECK came before the Committee with amendments. This is in agreement with Blaine

Nordwall and Donnita Wald also.

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Senate Judiciary Committee

Bill/Resolution Number SB2287

Hearing Date ~~February 1, 1999~~

2-9-99

SENATOR TRAYNOR made a motion on Amendments, SENATOR BERCIER seconded.

Motion carried. 6 - 0 - 0

Discussion.

SENATOR WATNE made a motion for DO PASS AS AMENDED, SENATOR LYSON

seconded. Motion carried. 6 - 0 - 0

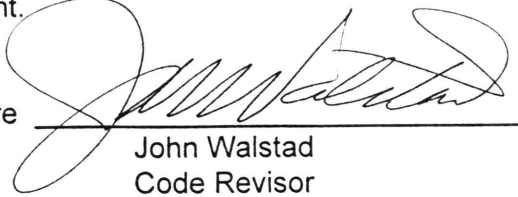
SENATOR TRAYNOR will carry the bill.

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. 2287

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Signature



John Walstad  
Code Revisor

Prepared by the North Dakota  
Department of Human Services  
1/29/99

**PROPOSED AMENDMENTS TO SENATE BILL NO. 2287**

Page 1, line 15, after the period insert: "This section does not  
apply to child support payments disbursed under section  
14-09-25."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2287

Page 1, line 2, after the semicolon, insert "to amend and reenact subsection 6 of section 14-09-25 of the North Dakota Century Code, relating to partial payments on child support arrears; and"

Page 1, line 3, remove "; and to declare an emergency"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 6 of section 14-09-25 of the North Dakota Century Code is amended and reenacted as follows:

6. The Notwithstanding the provisions of section 2 of this Act, the state disbursement unit shall disburse all collected child support payments in conformity with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.]. Interest accrued on unpaid judgments for child support is child support. To the extent consistent with the requirements of title IV-D, payments received on judgments for child support must first be applied to accrued interest, and then to principal.

Page 1, underscore lines 7 through 15

Page 1, line 15, after the period insert "This section does not apply to the collection of any debt owed to the state or a political subdivision."

Page 1, line 17, remove "on a judgment regardless of the date the"

Page 1, line 18, remove "judgment was entered in the judgment docket"

Page 1, remove line 19

Re-number accordingly

Date: 2-9-99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2287

Senate Judiciary Committee

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

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

Action Taken Amendments

Motion Made By Traynor Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Carolynn Nelson	X				

Total (Yes) 6 No 0

Absent 0

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



Date: 2-9-99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2287

Senate Judiciary Committee

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

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

Action Taken Do Pass As Amended

Motion Made By Watne Seconded By Lyson

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Carolynn Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Traynor

REPORT OF STANDING COMMITTEE

SB 2287: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2287 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to amend and reenact subsection 6 of section 14-09-25 of the North Dakota Century Code, relating to partial payments on child support arrears; and"

Page 1, line 3, remove "; and to declare an emergency"

Page 1, after line 4, insert:

**"SECTION 1. AMENDMENT.** Subsection 6 of section 14-09-25 of the North Dakota Century Code is amended and reenacted as follows:

6. The Notwithstanding section 2 of this Act, the state disbursement unit shall disburse collected child support payments in conformity with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.]. Interest accrued on unpaid judgments for child support is child support. To the extent consistent with the requirements of title IV-D, payments received on judgments for child support must first be applied to accrued interest, and then to the principal.

Page 1, underscore lines 7 through 14

Page 1, line 15, underscore "principal, and interest accrues thereafter on the balance of the principal remaining due." and insert immediately thereafter "This section does not apply to the collection of any debt owed to the state or a political subdivision."

Page 1, line 17, remove "on a judgment regardless of the date the"

Page 1, line 18, remove "judgment was entered in the judgment docket"

Page 1, remove line 19

Re-number accordingly

**1999 HOUSE JUDICIARY**

**SB 2287**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2287

House Judiciary Committee

Conference Committee

Hearing Date : March 10, 1999

Tape Number	Side A	Side B	Meter #
2	X		25.5
Committee Clerk Signature			

Minutes:

SEN. STENEHJEM submitted written testimony, a copy of which is attached.

ARNIE FLECK submitted written testimony, a copy of which is attached.

BLLLLLAINE NORDWALL The ND Supreme Court decision does not square with federal requirements for support, which is why we support section 2.

Close the hearing.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2287

House Judiciary Committee

Conference Committee

Hearing Date 3/15/99

Tape Number	Side A	Side B	Meter #
1	x		36.4-42.7
Committee Clerk Signature <i>Ala Gindley (Done by Robain Small)</i>			

Minutes: The meeting was opened again on SB 2287.

The committee's wishes were to act on this bill, and get it out of committee.

REP. DELMORE and REP. KLEMIN discuss the amendment to the committee before deciding on it. The definition of judgments was a concern. REP. KLEMIN talks about the principal and changing the word.

REP. KLEMIN moves to accept the amendment, seconded by REP. MARAGOS. The voice vote was taken with a do pass. REP. SVEEN moved for a DO PASS AS ACCEPTED, seconded by REP. HAWKEN. The roll call vote was taken with 12 YES, 0 NO, 3 ABSENT. The motion carries. The CARRIER of the bill is REP.KLEMIN.

Date: 3.15.99  
 Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2287**

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

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

Action Taken 2287 accept the amendment

Motion Made By Klemin Seconded By Maragos

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY			REP. KELSH		
REP. CLEARY			REP. KLEMIN		
REP. DELMORE			REP. KOPPELMAN		
REP. DISRUD			REP. MAHONEY		
REP. FAIRFIELD			REP. MARAGOS		
REP. GORDER			REP. MEYER		
REP. GUNTER			REP. SVEEN		
✓ REP. HAWKEN					

*voice carried*

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: 3.15.99  
Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2287

House JUDICIARY Committee

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

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

Action Taken 2287 Do Pass as Amended

Motion Made By Sveen Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH		
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY		
REP. FAIRFIELD			REP. MARAGOS	✓	
REP. GORDER	✓		REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 12 No 0

Absent 3

Floor Assignment Klemin

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

**REPORT OF STANDING COMMITTEE**

**SB 2287, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2287 was placed on the Sixth order on the calendar.

Page 1, line 19, replace "principal" with "judgment amount"

Page 1, line 20, replace "principal" with "judgment amount"

Page 1, line 22, replace "principal" with "judgment amount"

Page 2, line 1, replace the first "principal" with "judgment amount" and replace the second "principal" with "judgment amount"

Renumber accordingly



1999 TESTIMONY

SB 2287

February 1, 1999

**SENATE JUDICIARY COMMITTEE**  
SB 2287

CHAIRMAN STENJHEM AND COMMITTEE MEMBERS:

My name is Arnie Fleck, I am an attorney who is licensed to practice law in the State of North Dakota. I am employed by the Wheeler Wolf Law Firm of Bismarck, North Dakota, and have been actively practicing law in the private sector for the past 12 years. My practice primarily consists of civil litigation, wherein I am involved in a lot of domestic relation cases, involving divorce, child custody, child support and visitation. I also represent a number of clients for whom I do their collection work in the State of North Dakota. I appear to testify in support of SB 2287 in my capacity as a concerned citizen who believes in equal justice for all.

SB 2287, if enacted, will clarify the law regarding how to apply partial payments made on a judgment. Up until this past summer, I didn't believe that there was a need for such legislation. However, this past summer, a judge ruled that all payments that had been made on a child support obligation, which obligation by operation of law automatically becomes a judgment upon non-payment on the due date, are to be applied to the principal balance first, with the accrued interest being satisfied only after the principal balance is paid in full.

The judge's decision, is contrary to all of the law I could find, with the exception of the State of Virginia. Virginia has history of case law which allows a debtor to designate that a payment made on obligation be applied to principal. If no designation is made the payment is applied to principal. No other state that I could locate, has a similar law. We have appealed the judge's decision, and are currently waiting for a decision by the North Dakota Supreme Court on the appeal.

My client, in that case, will not benefit from the enactment of SB 2287. The law in her case will be as stated by the North Dakota Supreme Court in its decision. The reason why my client will not benefit, is because her ex-husband has paid off the principal balance owing on his child support obligation, and all that remains, if the trial court judge's decision is upheld, is accrued interest. And, the ex-husband is now arguing at the trial court level that we can not enforce collection against his Social Security and Workers' Compensation Disability benefits because accrued interest should be treated different from the principal amount owing in child support.

As it stands, my client is currently owed approximately \$23,000, but no interest is accruing on that amount, because, as ruled by the trial court judge, it only consists of accrued interest and the law prohibits compounding interest. Though I hope to win on appeal, nothing is for certain; and, regardless of whether or not we win on appeal, I believe SB 2287, if enacted into law, will avoid a lot of litigation in areas other than child support.

Furthermore, SB 2287, if implemented, will provide statutory conformation to the manner in which every attorney and sheriff with whom I have ever had contact with, up until this past summer, applied partial payments to the amount owing on a judgment.

I, therefore, respectfully request a DO PASS of SB 2287. If you have any questions, I'll answer those that I believe I have sufficient knowledge to answer.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2287

Page 1, line 15, after the period insert "Notwithstanding the provisions of this section, elected and appointed officials of the state and political subdivisions retain any discretionary authority to apply payments on a debt owed to the state or a political subdivision in any manner regardless of whether the debt has been docketed as a judgment."

Renumber accordingly

**TESTIMONY BEFORE THE  
SENATE JUDICIARY COMMITTEE  
REGARDING SB 2287**

**February 1, 1999**

**Chairman Stenehjem and members of the Senate Judiciary Committee, my name is Barbara Siegel. I am the Policy Administrator with the Child Support Enforcement Division within the Department of Human Services.**

**The department neither supports nor opposes SB 2287. We do ask, however, that the Committee consider the proposed amendment which is attached to my testimony. The amendment we recommend would exclude child support payments disbursed by the State Disbursement Unit, from the provisions of this bill.**

**Federal requirements mandate, at a significant level, the manner in which child support payments are to be distributed; there is little left to state option. The State Disbursement Unit is required to distribute payments in conformity with federal law (N.D.C.C. § 14-09-25 (6)). If this bill were to pass in its present form, conflicts would exist between its provisions and federal requirements, in the distribution of child support arrears which are judgments by operation of law (N.D.C.C. § 14-08.1-05).**

**If this bill were to pass with child support payments excluded, we would still look to its provisions as guidelines in the administration of the State Disbursement Unit.**

**I would be happy to try to answer any questions you may have.**



NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

STATE CAPITOL - JUDICIAL WING  
600 E BOULEVARD AVE DEPT 325  
BISMARCK, NORTH DAKOTA 58505-0250



Carol K. Olson, Executive Director

Edward T. Schafer, Governor

February 3, 1999

The Honorable Wayne Stenehjem  
Chairman, Senate Judiciary Committee  
North Dakota State Senator  
State Capitol  
Bismarck, ND 58505

RE: S.B. 2287

Dear Chairman Stenehjem:

Attached are proposed amendments that reflect discussions involving Arnold Fleck, the Department of Human Services, and other state agencies (particularly the Tax Department). These amendments are satisfactory to all involved.

If you have any questions or concerns, please call Donnita Wald at the Tax Department at 328-2777, Arnold V. Fleck at the Wheeler Wolf Law Firm at 223-5300, or me at 328-4058.

Sincerely,

Blaine L. Nordwall  
Director, Legal Advisory Unit

law

Enclosure

cc: Donnita Wald  
Ray Gudejtes  
Arnold V. Fleck

GENERAL INFORMATION

(701) 328-2310

ECONOMIC ASSISTANCE

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FAX

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EXECUTIVE OFFICE

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TDD

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FIELD SERVICES

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PROGRAM & POLICY

(701) 328-2310

March 10, 1999

**HOUSE JUDICIARY COMMITTEE**

SB 2287

CHAIRMAN DEKREY AND COMMITTEE MEMBERS:

My name is Senator Wayne Stenehjem. I am the primary sponsor of SB 2287. Representatives RaeAnn Kelsch, John Mahoney and Janet Wentz are co-sponsors of the Bill.

SB 2287, if enacted, will clarify the law regarding how to apply partial payments made on a money judgment. As provided for within section 2 of the First Engrossment of SB 2287, a partial payment would first be applied to post-judgment costs, then to accrued interest, and finally to the principal balance owing. This has been the procedure I have followed in my law practice and I believe the procedure followed by the vast majority of the attorneys in the state who represent individuals in the private sector.

I sponsored this Bill to standardize the practice, after it was brought to my attention, through one of Senator Layton Freborg's constituents, that a trial court judge had made a decision contrary to the standard practice. In that case, the trial judge ruled that all payments were to be applied to the principal balance first and that the accrued interest would not be satisfied until the principal balance was paid in full. The decision resulted in the judgment debtor paying off the principal balance, leaving only accrued interest owing. Since it is illegal to charge interest on interest (compound interest), if the judge's decision was not overturned on appeal, the judgment creditor would not have been able to collect any additional interest on the balance owing no matter how long it might take to collect the remaining balance. The judge's decision was recently reversed by the North Dakota Supreme Court in an opinion that was filed on February 23, 1999 cited as Martin v. Rath, 1999 ND 31. However, that opinion does not eliminate the need for SB 2287.

The decision of the Supreme Court only addresses the issue of applying payments first to accrued interest and then to principal. The issue of payment of post-judgment costs is not addressed. Such costs include the fees charged by the Clerk of District Court for issuing an execution directing the sheriff to seize and sell non-exempt property of the judgment debtor, with the proceeds from the sale to be applied to the judgment, along with the costs charged by the sheriff in serving the execution, levying on property and conducting the sale of the property. Other post-judgment costs include costs of serving garnishment notices and summons, when the judgment creditor attempts to collect on the judgment through garnishing the income of the judgment debtor.

Payment of post-judgment costs was not addressed by the Supreme Court in Martin v. Rath, because the issue on appeal was limited to calculating the amount

owing in child support arrears so that the amount could be docketed as a judgment. By operation of law each child support payment that is not paid on its due date is considered a judgment, which may be later docketed in the office of the clerk of district court for the purpose of enforcing collection through the issuance of an execution to the sheriff and the garnishment of the debtor's income. Since the judgment had been docketed only briefly before the appeal, the judgment creditor in Martin v. Rath had not incurred any post-judgment costs before the appeal. SB 2287 will resolve the issue of collection of post-judgment costs without the need for additional litigation, in that case or any other case.

Debts owed to the state or a political subdivision have been exempted from the application of SB 2287, at the request of the Tax Commissioner's Office, the Attorney General's Office, North Dakota Job Service and the North Dakota Workers's Compensation Bureau. Apparently, the computer software of some of these state agencies automatically applies payments made on debts owed to the state to the principal balance owing, and it would cost a considerable amount of money to rewrite the software to apply the payments to accrued interest first. In addition, North Dakota Job Service is required to comply with federal regulations dealing with the collection of delinquent unemployment insurance premiums from employers, and enacting SB 2287, without exempting debts owed to the state, may have ran afoul of the federal regulations. Since the state may be losing a lot of money as a result of the practice of many state agencies to apply payments first to the principal balance owing on debts owed to the state, this may be an area which should be studied by the Legislative Council pursuant to a future study resolution.

Section 1 of the First Engrossment of SB 2287 was added at the request of the Department of Human Services. Effective July 1, 1999, the Department of Human Services will be assuming from the clerks of district court the responsibility of receiving and disbursing child support payments. The Department expressed concern that, without this additional section, SB 2287 would contradict certain federal regulations which the Department must follow in disbursing child support payments in order to obtain welfare grant funds from the federal government. Section 1 of the Bill, in essence, provides that the provisions of section 2 of SB 2287 will control, unless the provisions conflict with the federal regulations, in which event the federal regulations will control.

The language within section 1 of SB 2287, which states that "[i]nterest accrued on unpaid judgments for child support is child support," was added at the request of the Department so that there is no question that that is the law in the State of North Dakota. The addition of that sentence will aid the Department in complying with the provisions of section 2 of the Bill, while at the same time removing any question that accrued interest owing on a judgment based on unpaid child support may be collected through the seizure of income tax refund checks, as well as, possibly, other administrative collection procedures available through federal law.



In summary, the enactment of SB 2287 will clarify the law as it relates to the accounting of payments on money judgments owed in the private sector by enacting into law the standard practice and, hopefully, prevent further litigation in this area as a result. In addition, hopefully, the knowledge gained about the debt collection practices of state agencies will act as the impetus for a study of those practices for the purpose of determining whether those practices should be revised to maximize the amount recovered from debts owed to the state.

For these reasons, I respectfully request a DO PASS of SB 2287.

March 10, 1999

**HOUSE JUDICIARY COMMITTEE**

**SB 2287**

CHAIRMAN DEKREY AND COMMITTEE MEMBERS:

My name is Arnie Fleck, I am an attorney who is licensed to practice law in the State of North Dakota. I am employed by the Wheeler Wolf Law Firm of Bismarck, North Dakota, and I have been actively practicing law in the private sector for the past twelve years. My practice primarily consists of civil litigation, where I am involved in a lot of domestic relations cases, involving divorce, child custody, child support and visitation. I also have a number of corporate clients for whom I do their collection work. I appear to testify in support of SB 2287 in my capacity as a concerned citizen who believes in equal justice for all.

SB 2287, if enacted, will clarify the law regarding how to apply partial payments made on a judgment. Until this past summer, I would not have believed that there was a need for such legislation. However, this past summer, as referenced in Senator Stenehjem's testimony, a district court judge ruled that all payments that had been made on child support arrears were to be first applied to the principal balance, with accrued interest being satisfied only after the principal balance was paid in full. When a child support payment is not paid on the date it is due, the delinquent payment, by operation of law, automatically is treated as a judgment. Though the judge's decision was recently reversed by the North Dakota Supreme Court in Martin v. Rath, 1999 ND 31, that doesn't eliminate the need for SB 2287.

The Supreme Court's decision does not address the issue of payment of post-judgment costs. Enactment of SB 2287 will resolve that issue, without the need for additional litigation. That'll hopefully save money for litigants, as well as the state, through use of less judicial resources.

Every attorney and sheriff with whom I have ever had contact, prior to this past summer, have applied partial payments made on a judgment in the manner set forth within SB 2287. The enactment of the Bill into law will simply codify the standard practice.

After SB 2287 was introduced in this Legislative Session, I learned that many state agencies have a long standing practice of applying payments made on debts owed to the state first to the principal balance, regardless of whether or not the debtor makes a demand for the payment to be applied in such fashion. That surprised me. My research in Martin v. Rath indicates that such

a practice is contrary to the law in every state whose court system has addressed the issue. I wonder how much revenue is being lost by the state as a result.

Since it is not clear how much it would cost to change the state agencies practice, I'm not opposed to exempting debts owed to the state from the application of SB 2287. However, I strongly encourage the Legislature to study this issue. It may be that the state is losing hundreds of thousands of dollars each biennium.

Applying payments first to accrued interest, rather than to the principal balance, in calculating the amount owing in Martin v. Rath increases the amount owing at this point in time by more than a third and results in interest continuing to accrue on the balance until the debt is made in full. If the district court judge's decision had been affirmed by the Supreme Court, no additional interest would have accrued on the debt. The debtor paid the principal balance in full within months of the judge's decision, and all that remained was accrued interest; and the law does not allow a creditor to charge interest on interest.

Though there is always the question of whether a creditor will be able to collect the full amount, in cases where the probability of collection is good, the state should aggressively pursue collection of its debts, with the payments being applied first to accrued interest, before any portion of the principal balance is satisfied. Though there may be cases in which it may be prudent to waive part or all of the interest penalties, as part of a settlement of the debt. Doing so should not be the sole practice, nor should all payments be automatically applied first to the principal because. If the latter is the case, as it appears to be with many state agencies, there is no incentive for the debtor to pay beyond the principal balance of the debt. Why pay any more, when there is no penalty for not paying more. In my experience that's not the way it's done in the private sector, and I don't think that is the way the state should conduct its business.

I'm also not opposed to the amendments to NDCC § 14-09-25(6) which were added to SB 2287 at the request of the Department of Human Services. The amendments will allow the Department, upon it assuming the responsibility for receiving and disbursing child support payments on July 1, 1999, to disburse child support payments consistent with federal regulations, while at the same time conforming to the mandates of section 2 of the Bill, to the extent possible without running afoul of the federal regulations. I have no problem with that, particularly since the accounting of the balance owing will be calculated in the same manner for everyone involved in the system.

I, therefore, respectfully request a DO PASS of SB 2287.