

SPECIAL LEGISLATIVE SESSION - BACKGROUND AND STATUTORY REFERENCES

This memorandum addresses statutory references that could have an impact on the Legislative Assembly during a special legislative session and provides information on the 1991 special session. The memorandum does not discuss proposals for specific legislation that have been suggested by various individuals or groups for consideration by the Legislative Assembly during a special session called for 2001.

LEGISLATIVE OFFICERS, EMPLOYEES, AND COMMITTEES

North Dakota Century Code (NDCC) Section 54-03-04 provides, in part:

The secretary and officers of the senate and chief clerk and officers of the house of representatives and the chairmen of all procedural and substantive standing legislative committees shall continue to serve in those positions during any special legislative session which may be called, except in case of the death, resignation, or removal of one of those persons, whereupon the position must be filled, upon the convening of the special session, in the manner provided by law or legislative rule. Members serving on procedural or substantive standing committees of the senate or house during a regular session shall continue to serve on those committees during any special legislative session which may be called following that regular session.

With respect to legislative officers-employees, by custom the officers of the Senate are the Secretary of the Senate, the journal reporter, and the sergeant-at-arms; and the officers of the House of Representatives are the Chief Clerk of the House, the journal reporter, and the sergeant-at-arms. Under the rules of both houses, these individuals are elected by majority of the members-elect, and any vote of election must be recorded in the journal.

During the 1991 special session, the Senate employed 17 individuals:

- Secretary of the Senate
- Journal reporter
- Bill clerk
- Sergeant-at-arms
- Administrative assistant to majority leader
- Staff assistant to majority leader
- Administrative assistant to minority leader
- Chief committee clerk
- Committee clerk

Deputy sergeant-at-arms

Seven legislative assistants (an assistant sergeant-at-arms, a chief page, four pages, and an information kiosk attendant)

During the 1991 special session, the House of Representatives employed 18 employees:

- Chief Clerk of the House
- Assistant chief clerk
- Journal reporter
- Sergeant-at-arms
- Administrative assistant to majority leader
- Two committee clerks

Eleven legislative assistants (a desk page, eight assistant sergeants-at-arms/pages, a supply room coordinator, and an information kiosk attendant)

For comparison purposes during the 2001 regular session, the Senate employed one deputy sergeant-at-arms, one assistant sergeant-at-arms, one chief page and bill book clerk, one desk page, two page and bill book clerks, the information kiosk attendant, and the supply room coordinator; and the House of Representatives employed one deputy sergeant-at-arms, two assistant sergeants-at-arms, one chief page and bill book clerk, one desk page, and four page and bill book clerks.

North Dakota Century Code Section 54-03-10 provides that the Legislative Assembly shall by concurrent resolution fix the compensation of the officers and employees elected or appointed. In 1991 a concurrent resolution listed the employees hired and established daily compensation levels that were the same amounts as provided for each position at the 1991 regular legislative session.

LEGISLATIVE SERVICES

Telephone Service

During a regular legislative session, a toll-free WATS line is made available for North Dakota residents to leave messages for their legislators. During the 2001 legislative session, the telephone message service was operated under contract with a private contractor. Incoming telephone WATS line service was not provided during the 1991 special session.

Secretarial Service

Secretarial services have been provided by a third-party contractor since 1995. Secretarial services to legislators through a secretarial pool or private contractors were not provided during the 1991 special session.

Bills and Journals

Bill and journal room services have been provided by a private contractor since the 1997 legislative session. The contract for printing bills, resolutions, and journals is for the period of the 57th legislative session. No employees were hired for the bill and journal room for the 1991 special session. Rather than open the bill and journal room during the limited period of a special legislative session, copies of measures introduced and daily journals could be available on the counters in front of that room and at the information kiosk.

Computer Services

The legislators automated work station (LAWS) system will not be available during a 2001 special session, primarily because the legislators' replacement personal computers have a Windows 2000 operating system and the LAWS system upgrade to work with Windows 2000 will not be finished before mid-2002.

Text of bills, amendments, daily journals, and legislative redistricting maps will be available on the legislative branch web page, and legislators will be able to access these documents through the Internet. To maintain the computer systems necessary to produce these documents, each house should employ a journal reporter (to maintain the journal), assistant secretary/chief clerk (to maintain the message system), and a calendar clerk. Each house should employ at least one committee clerk to prepare committee hearing schedules, committee minutes, and committee reports. The number of committee clerks needed depends on the number of issues and the number of committees that will be active.

BILL DRAFT CONSIDERATIONS

Article IV, Section 13, of the Constitution of North Dakota provides, in part:

Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

Under NDCC Section 16.1-01-02.2, the Governor may call a special election to be held in 30 to 50 days after the call if a referendum petition has been submitted to refer a measure or part of a measure that establishes a legislative redistricting plan.

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

Article V, Section 8, of the Constitution of North Dakota provides, in part:

If, while the senate is recessed or adjourned, a vacancy occurs in any office that is filled by appointment with senate confirmation, the governor shall make a temporary appointment to the office. When the senate reconvenes the governor shall make a nomination to fill

the office. Except on request of the senate, no nominee rejected by the senate may again be nominated for that office at the same session, nor may the nominee be appointed to that office during a recess or adjournment of the senate.

Gubernatorial appointments subject to Senate confirmation are seven appointees to the State Board of Higher Education, the commissioner of the Department of Financial Institutions, the Securities Commissioner, the North Dakota member of the Southwestern Low-Level Radioactive Waste Commission, the five members of the State Gaming Commission, and the director of the Office of Administrative Hearings.

The term of Mr. Dana Mount on the Southwestern Low-Level Radioactive Waste Commission expires in October 2001. The last Senate confirmation of an appointee to this commission was in 1991, and it appears the compact is inactive.

Mr. John T. Korsmo resigned from the State Board of Higher Education after the 2001 regular legislative session adjourned and a successor has not been appointed.

The current commissioner of the Department of Financial Institutions, Mr. Tim Karsky, was appointed July 12, 2001, and the appointment has not been confirmed by the Senate.

The current Securities Commissioner, Ms. Karen Tyler, was appointed effective September 1, 2001, and the appointment has not been confirmed by the Senate.

The terms of Mr. Allan Stenehjem and Ms. Lois Altenberg on the State Gaming Commission expired July 1, 2001. Ms. Altenberg has been reappointed to the commission.

NATURAL RESOURCES DEVELOPMENT BOND ISSUE

North Dakota Century Code Chapter 21-11 provides for state loans for purposes of planning, constructing, acquiring, equipping, improving, or extending facilities for the conversion of North Dakota's natural resources into low-cost power and the generation and transmission of such power and the acquisition of property and water and mineral rights needed for such facilities. An application for the loan is to be made to the Department of Commerce Division of Economic Development and Finance. Under Section 21-11-05, upon approval of the application, the department is to prepare and submit any necessary legislation for the appropriation of additional funds or the authorization of the issuance of bonds at "the following session of the legislative assembly, or at a special session if called in accordance with the constitution." (Chapter 21-11 was enacted in 1963, and no application has been submitted for a loan under the chapter.)

BUDGET STABILIZATION FUND

North Dakota Century Code Chapter 54-27.2 provides for a budget stabilization fund. Under Section 54-27.2-01, any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than five percent of the current biennial state general fund budget, as finally approved "by the most recently adjourned special or regular session" of the Legislative Assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund. Under Section 54-27.2-03, if the director of the Office of Management and Budget projects that general fund revenues for the biennium will be at least 2.5 percent less than estimated "by the most recently adjourned special or regular session" of the Legislative Assembly, and if the Governor orders a transfer, the State Treasurer is to transfer the appropriate funds from the budget stabilization fund to the state general fund to offset the decrease in general fund revenues.

REPORTS BY VARIOUS ENTITIES

Article V, Section 7, of the Constitution of North Dakota provides, in part:

The governor shall present information on the condition of the state, together with any recommended legislation, to every regular and special session of the legislative assembly.

Various agricultural promotion statutes provide that if the promotion entity conducts a referendum election among participating growers, the results of the election are to be reported to the Agriculture Commissioner with a request that legislation be prepared and submitted to the Legislative Assembly at the "next legislative session" to modify the law in conformity with the results of the referendum. These provisions relate to the Potato Council (NDCC Section 4-10.1-13), Oilseed Council (NDCC Section 4-10.2-10), Edible Bean Council (NDCC Section 4-10.3-10), and Soybean Council (NDCC Section 4-10.5-09). Similar provisions relate to the Corn Utilization Council, the Dry Pea and Lentil Council, and the Milk Marketing Board except the language refers to the "next legislative assembly" rather than the next legislative session.

In addition to legislation as a result of agriculture promotion entity referendums, various reports must be submitted to the Legislative Assembly at its "next session." These reports include:

1. Purchases of property by the Adjutant General in the case of insurrection, invasion, tumult, riot, or breeches of the peace or eminent danger thereof. Normally, purchases are

made by the Office of Management and Budget, but the Governor, upon certification by the commanding officer of the National Guard, may temporarily suspend the statutory requirements on the purchase of military property and direct the Adjutant General to purchase in the open market such military property as may be required. The Adjutant General is to report such action, with the reason therefor, and a statement of the property purchased and the prices paid therefor to the Legislative Assembly "at its next session." (NDCC Section 37-03-07)

2. "Imperfect" remedies in the care of default in the filling of offices and the performance of duties. The Governor is to see that all offices are filled and duties thereof performed and is to apply remedies as the law allows in case of default. If the remedy is imperfect, the Governor is to "acquaint the legislative assembly therewith at its next session." (NDCC Section 54-07-01(2))
3. Exercise of certain emergency powers of the Governor. In emergencies and support of national defense, the Governor has various emergency powers dealing with the operation of motor vehicles and use of highways and streets, and the Governor is to report to the Legislative Assembly "at its next session" any proceedings taken by him in exercise of those emergency powers. (NDCC Section 54-07-01.1)

REPORTS OF INTERIM COMMITTEES

Prior to the 1991 special session, the Legislative Council heard reports from the Legislative Redistricting and Elections Committee, the interim Finance and Taxation Committee, the interim Natural Resources Committee, and the Legislative Management Committee. The Legislative Council approved three bills recommended by the Legislative Redistricting and Elections Committee and one bill recommended by the interim Finance and Taxation Committee. The Legislative Council, by motion, determined which house in which each bill was to be introduced. The Legislative Council did not approve the recommendations of the interim Natural Resources Committee, which dealt with the financing of water projects. The report of the Legislative Management Committee dealt with recommendations for rules for the special session, and the Legislative Council accepted the report of that committee except for a recommended rule amendment to authorize action on amendments without requiring distribution of copies to each member.