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## North Dakota Intelligencer: March 28, 1994

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*Grand Forks Herald*

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# The North Dakota *Intelligencer*

An inside report on people, politics & power

Volume 2

March 28, 1994

Number 26

## Parties begin biennial search for more legislative candidates

District chairs and lawmakers are always distraught over the difficulty of recruiting good legislative candidates, but the complaints seem louder than usual this year. Running and serving are a hassle, no doubt about it.

In fact, a prominent Fargo Republican points to the problems to reject the idea of annual sessions, considering how reluctant people are to give up their personal lives even once every two years.

Democrats sounded more anguished than Republicans at the recent UND Summit Conference, although Sen. **Dan Wogsland**, D-Hannaford, assured his caucus: "What everyone needs to know and understand is that we're alive and well."

**Lloyd Omdahl** offered a historical analysis of non-presidential year elections to suggest that Democrats enjoyed a chance to do well, despite possible influence of an anti-Clinton vote.

Because of the three-way presidential race in 1992, in which President Bush took North Dakota, the dynamics are different from, say, 1982. That's the year Democrats recovered from the Reagan landslide of 1980, picking up 11 seats in the Senate and going from 27 to 55 seats in the House.

Attorney General **Heidi Heitkamp** responded that all politics is local, and she urged reaching out to a new generation of candidates. Young politicians such as Rep. **Pam Gulleason**, D-Rutland, can make a difference, she said.

(Incidentally, we see that District 16 Democrats have endorsed Rep. **Robert Kilichowski** of Minto for re-election, as well as former Rep. **Bill Skjerven** of Park River. Skjerven's past 70 years.)

Heitkamp also worried that the party had given up on Fargo, urging, "Let's bring Fargo back."

Sen. **Tim Mathern**, D-Fargo, disagreed with her assessment, pointing to the recruitment of two young House candidates in his District 11, **Nick Schuster** and **Scott Kelsh**. Kelsh is the son of Sen. **Jerry Kelsh**, D-Fullerton.

Such familial relationships figure big this year in legislative races, although they're hardly unusual. In District 27, **Joel Heitkamp** — the AG's brother — is running as a Democrat to replace Sen. **Jim Dotzenrod**, D-Wyndmere. Heitkamp heads the local rural water system and should keep the seat Democratic.

After a contested race in District 35 — abortion again an issue — Democrats endorsed Rep. **Jim Kerzman**, D-

Mott, and **Bob Tomac** for the House. Tomac is the father of Sen. **Steve Tomac**, D-St. Anthony. The Senate candidate for re-election, Sen. **Aaron Krauter** of Regent, took over the seat of his father, **Adam Krauter**.

Public Service Commissioner **Bruce Hagen** and Agriculture Commissioner **Sarah Vogel** have been recruiting candidates, as well, most notably **Don Link** of Alexander, the son of former Gov. **Art Link**. Sen. **Bill Bowman**, R-Bowman, is seen as vulnerable in District 39.

At least 17 Democratic districts are holding off on endorsing conventions until April, and some will take place at the state convention in Fargo.

Recruiting difficulties aside, it would be unusual for many election slots to go unfilled. From 1982-92, 774 legislative seats were up for election: 166 in the Senate and 608 in the House. Only 53 seats went unchallenged, 6.8 percent, reports the Bureau of Governmental Affairs.

A final word on the Summit Conference and politicians' ages. Reacting to a desultory after-dinner performance by a **Mark Twain** imitator, Rep. **William Kretschmar** commented, "I knew Mark Twain. Mark Twain was a friend of mine. And this fellow was no Mark Twain."

## Vanderscoff moves into the lead

When Dr. **Ben Clayburgh** stood to address assembled delegates at Bismarck Republican district conventions, he placed himself a little bit too far from the podium. His voice barely reached the back of the room. Former Attorney General **Bob Wefald** rushed to the stage, adjusting the microphones down to Clayburgh's level so everyone could hear.

**Jim Kasper** was nowhere to be seen.

As you'll recall, Clayburgh earlier blamed the Fargo GOP organizer for sandbagging a speech by monkeying with the microphones. Clearly, Clayburgh manages to make damaging mistakes all by himself.

The moment serves as a metaphor for Clayburgh's bid for the Republican endorsement to the U.S. Senate. In

light of his experience and years of party activities, one would expect the Grand Forks surgeon to get things right, to seize the moment. Things just haven't seemed to click, though, and Bismarck businessman **David Vanderscoff** enjoys a decided advantage as the party convention draws near.

Clayburgh's speech before the Bismarck delegations at the Doublewood centered on his ability to raise the kind of money needed to take on U.S. Senator **Kent Conrad**, D-N.D. His national contacts mean he could raise the funds to match Conrad, Clayburgh assured the audience.

Yet it was Vanderscoff who that evening held a reception

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## Senate

Continued from Page 1

at which one could view his new, pre-convention TV ad. Clayburgh called the ads a waste of money, and by usual analysis, he's right. Who in the public is going to pay attention to a political commercial in March? And does it make sense to spend \$10,000 or more to reach fewer than 1,000 delegates?

Yet the sharp, well-produced attack against Conrad demonstrated that Vanderscoff is willing to spend the money to mount a legitimate campaign. It was show, not talk. Gov. **Ed Schafer** adopted a similar strategy during the 1992 campaign for governor, breaking tradition by running pre-convention ads. (Schafer's campaign and media consultant, **Paul Wilson**, is working for Clayburgh.)

Vanderscoff's ad, featuring a dancing vaudevillian, also benefited from a light touch. Humorous campaign commercials were all the rage in 1992 Senate campaigns, and a good dose of wit could humanize Vanderscoff during the fall.

From the public standpoint, the only message Clayburgh has been able to get through is carping at Vanderscoff, most recently for saying he had the support of top national Republicans.

"Vanderscoff's recent actions are the sign of a troubled campaign," Clayburgh said in a news release sent out at 6 p.m. Friday, timing that assured thin dissemination. "When candidates don't connect with voters, they often resort to personal attacks and deceptions. I'm sorry to see Vanderscoff head down this path and I hope he refrains from it in the future."

We hear Clayburgh's going to spend thousands on his convention demonstration to sweep undecideds off their feet. He stands an outside chance if the old guard influences the newer delegates.

Conrad took the ad seriously, responding within a week with a commercial that used the same vaudevillian to poke holes in Vanderscoff's arguments. The Democrat used the same quick reaction technique in the 1992 election to prevent state Rep. **Jack Dalrymple**, R-Casselton, from getting out of the blocks.

Otherwise, Conrad has been senatorial these days, making sure of his budget-cutting bona fides and pushing the Canadian grain issue. Congress goes into recess now until April 11, so expect the senator to raise his North Dakota profile.

We've yet to see the question, so the recess might also provide a good opportunity for some reporter to ask the delegation: "Hey, what's the deal with Whitewater?"

# The break-up of a lobbying power

North Dakota's best-known lobbying law firm appears headed for a split of one sort or another. By all accounts, it's an amiable decision to go different ways.

Partners of Wheeler Wolf of Bismarck are looking at breaking into several smaller groups, prompted by re-examination of their building's lease.

Founded in 1973 by **R.W. Wheeler** and **Albert (Al) Wolf**, the firm now boasts 16 lawyers with an average of 17 years of practice. (This according to the 1993 Martindale Hubbell Law Directory.) Wheeler served in the House in the early 60s, including two terms as Judiciary chairman.

Wolf is a veteran lobbyist, who put in a stint as Burleigh County state's attorney in the mid-60s. During the 1993 legislative session his clients included Independent Community Banks and the Tobacco Institute.

Wheeler Wolf lawyers were among the founders of the North Dakota Trial Lawyers Association, whom **Orell Schmitz** represented during the 1993 session, resisting the tort reform measure that eventually passed.

**John Olson** served two terms as a Republican state senator from Bismarck, operating as minority leader during the 1989 session before hanging it up. Long the chief advocate of Sunday shopping, he figured prominently in 1991's lifting of the blue laws. His clients in 1993 included ARC, Charitable Gaming Association, State Board of Medical Examiners and Philip Morris.

**Jack McDonald** lobbies for North Dakota newspapers and broadcasters, keeping an eye out for open records violations. He's also the voice of the NBA and NFL in North Dakota, who speak up rarely.

As of this writing, the lawyers are keeping developments close to their vests, although a decision on the split should occur soon. They still have to resolve what happens to the downtown office building, owned by **Loran Galpin** and **Chuck Huber**. Divvying up clients is, as always, a sticking point as well.

### An oil fallback

The collapse of oil casts a new light on a concept pushed during the 1993 session by Rep. **Andy Maragos**, R-

## Hall talk

Minot, to allow the state to protect itself against falling prices. Gov. **Ed Schafer** vetoed HB1023, writing:

"(In) effect, the bill introduces North Dakota government to sophisticated, high-finance techniques that also involve high risk. The nature of an option is such that 100 percent of the investment can be lost as a result of market conditions."

Schafer called the approach dangerous in and of itself, as well as a bad precedent for state financing.

The original bill came out of Gov. **George Sinner's** Office of Management and Budget, but Maragos, a stockbroker, successfully amended it to enough to ensure passage. It allowed OMB, with the approval of the Industrial Commission and State Investment Board, to purchase oil "put" options. A big protection was written into the bill, to make sure the state took no bath.

"Put options may be purchased only at such times that the purchase assures that oil tax revenues plus the revenues from the sale of put options will be in excess of the oil tax revenues estimated for that level of production by the most recently adjourned legislative assembly."

As Maragos figures it, if the state had decided to protect 30 million barrels last March — a \$10 million investment — by Dec. 18 it could have collected \$110 million on the puts. He expects to see a similar bill introduced next session.

### In the interim

Democrats and some Republicans were offended by Schafer's dismissive attitude toward interim legislative committees, as reported last issue. Schafer called the committees a waste of time.

An analysis of bill passages prepared for the Legislative Management Committee leads one to an opposite conclusion. From 1987-1993, a total of 1,270 bills and resolutions were introduced by the Legislative Council. Of those, 946 passed, or 74.5 percent. As a measure of legislative success, this number is actually low, given that the contents of some of the de-

## Hall talk

feated bills became parts of privately sponsored bills.

During the same period, legislators introduced 3,544 bills, of which 2,032 passed. That's 57.3 percent.

Schafer mentioned Rep. **Bill Oban**, D-Bismarck, by name in his comments about interim committees. Later, in discussing legislative elections at the UND Summit Conference, Oban got in a dig of his own: "I don't know about the rest of you, but I won't feel comfortable, my wife won't be comfortable, and my family won't be comfortable having **Bryce Streibel**, **Frank Wald** and Gov. Schafer making the decisions that are pressing for the next two years."

### Emergency monitor

Speaking of Streibel, the Fessenden Republican says he has a bill drafted to create a legislative oversight committee to monitor the Emergency Commission's decisions. Membership would include leadership and key fiscal people. The panel would make sure the Emergency Commission followed the real meaning of emergency, pushing back the rest of the spending decisions into the next legislative session.

# Minnesota regulation may hurt N.D. utilities

Electric utilities that rely on coal-fired power plants are alarmed by a recent ruling from the Minnesota Public Utilities Commission that plays to lignite's disadvantage. Since most of North Dakota's electricity is exported eastward, what Minnesota does carries significant implications.

North Dakota's political leaders will be called on to make lignite's case, but given the weight usually given to environmental arguments in the neighboring state, the utilities may have a tough time of it. Look for protracted dispute and litigation.

The 1993 Minnesota Legislature passed a bill requiring the PUC to "quantify and establish a range of environmental costs associated with

The bill represents growing dissatisfaction with bureaucracies and executive agencies pre-empting legislative decisions by moving money around.

### The Ozbun buyout

Prior to his departure for the Shasta Mountains, Chancellor **Douglas Treadway** did get the buyout agreement worked out with **Jim Ozbun**, president of North Dakota State University. Ozbun signed the agreement on Feb. 17. He'll retire from NDSU effective June 30, 1995, when he will be 58 years and eight months old.

Ozbun will get a \$70,000 lump-sum payment on Jan. 1, 1996, which is less than the maximum allowable by board policy. Theoretically, Ozbun could have received up to a year's salary to compensate for loss of tenure, or about \$100,000.

In addition, the system will pay Ozbun's uniform group health insurance and basic life insurance premiums into the Public Employee Retirement System until June 30, 2000.

The agreement also says Ozbun agrees not to seek or accept employment in any school in the state system unless authorized by the Board of Higher Education.

## Business beat

each method of electricity generation." Utilities and regulators were to use these "values" when evaluating resource options; in the past, capital and long-term operating costs were the primary factors considered, favoring fossil fuels.

The bill's sponsors were motivated by the desire to give a leg up to wind and solar energy. "What we're trying to do is create an even playing field for renewable energy sources," said Sen. **Janet Johnson**, DFL-North Branch.

**Coal:** Please turn to Page 4

## Fortnightly update

**Jeff Schroth** was named president and chief executive officer of the North Dakota Credit Union League. **Arnold Paulson** retired from the post after 21 years. . . . Grand Forks lawyer **Ward Johnson** will seek the Republican endorsement for the Public Service Commission to oppose Democrat **Bruce Hagen** this fall. . . . The state Board of Higher Education approved tuition increases of \$125 a year at UND, NDSU and Minot State, and smaller amounts at the other schools. The board also approved 3 percent salary increases, and took steps to make transfer of credits among schools easier and more certain. . . . Former UND employee **Barbara Boushee** pleaded guilty to stealing \$78,000 from university athletic funds. She kept the money that was left over after athletic team trips. . . . **Cynthia Smith** of Devils Lake will become Indian Health Service Director-designate Michael Trujillo's chief of staff in Washington. . . . Boaters will have to begin paying \$2 a day to use some Corp of Engineers boat ramps on Lake Oahe this summer. . . . Geologists say less than half of the oil has been pumped from producing fields in western North Dakota. 1.2 billion barrels have been pumped since the first strike in the 1950s; at least 1.3 billion barrels remain. . . . Only about 300 students have asked to switch school districts next year under the state's new open enrollment law. . . . Bismarck lawyer **Robert Bolinske** is working on another initiated measure to restrict the importation of out-of-state garbage. He sponsored a similar measure in 1992 that failed. . . . North Dakota will get \$100,000 from the U.S. Department of Transportation to plant trees along highway rights-of-way. . . . Stanley Mayor **Fred Beehler** is paying off the \$55,132 he owes in back sales taxes and penalties; he pocketed the money when his business began to fail. . . . North Dakota labor commission investigator **John Lynch** pleaded guilty to stealing \$19.69 worth of baseball cards. . . . Sixteen North Dakota schools spent \$735,000 to pursue an unsuccessful suit against the state's system of school financing. . . . Gov. **Ed Schafer** led an agricultural trade delegation on a three-day trip to Mexico. . . . Flood concerns are greatly reduced following several weeks of mild day-time temperatures.

## The Intelligencer

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# Business beat Minnesota regs may hurt N.D. utilities

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So on March 1, the PUC issued its interim values for byproducts of burning fossil fuels: sulfur dioxide; nitrogen oxide; volatile organic compounds; particulates (PM-10); and carbon dioxide. The first four are pollutants, while CO2 is a greenhouse gas, blamed for global warming.

Utilities opposed assigning a value to CO2, arguing that environmental effects remain uncertain. All the other commenting parties wanted a value; they included the American Wind Energy Association and the Izaak Walton League of America.

The commission settled on \$5.99 to \$13.60 per ton.

"The commission concludes that the serious national and international concern over carbon dioxide poses a significant risk of future regulation or fees related to CO2, which would impose direct costs on electric generation," the commission opined. "Assigning a positive externality value to CO2 properly recognizes this economic risk."

These values are not some sort of new charge or "carbon tax" that will immediately hit the consumer. Rather, utilities must take them into account when weighing future power plants or sales of excess electrical capacity.

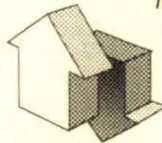
Still, it's a serious matter, says **John Dwyer** of the Lignite Energy Council: "The important thing, as it relates to North Dakota: It attacks the competitive position of lignite in the energy marketplace."

Contested case proceedings now follow, including public hearings, and the commission specified CO2 as a specific issue to be addressed. It's still early, but the attorney general's office could well represent at least the Public Services Commission and the Industrial Commission as intervening parties. Otter Tail, Minnkota and NSP are all actively interested.

N.D. spring wheat, 14%	Jan. 94	Dec. 93	Jan. 93
<i>One bushel, spot price, average of several N.D. elevators at end of month</i>	\$4.05	\$4.33	\$3.45

N.D. oil prices	Jan. 94	Dec. 93	Jan. 93
	\$12.32	\$11.97	\$17.50

Unemployment rate	Jan. 94	Dec. 93	Jan. 93
<i>North Dakota</i>	4.7%	4.4%	4.6%
<i>Grand Forks</i>	3.7%	3.1%	3.9%
<i>Fargo</i>	4.0%	3.3%	4.3%
<i>Bismarck</i>	6.4%	4.8%	5.7%
<i>Minot</i>	6.0%	4.6%	6.5%



Canadian dollar	Jan. 94	Dec. 93	Jan. 93
<i>Exchange rate / U.S. cents</i>	.7525	.7503	.7873

Airport boardings	Jan. 94	Dec. 93	Jan. 93	YTD 94	YTD 93
<i>North Dakota</i>	43,966	47,869	41,837	43,966	41,837
<i>Grand Forks</i>	8,407	9,158	7,443	8,407	7,443
<i>Fargo</i>	17,465	18,671	15,664	17,465	15,664
<i>Bismarck</i>	10,544	11,189	11,063	10,544	11,063
<i>Minot</i>	6,234	7,251	6,687	6,234	6,687



N.D. oil production	Dec. 93	Nov. 93	Dec. 92	YTD 93	YTD 92
<i>Millions of barrels</i>	2.49	2.48	2.66	31.0	32.7

N.D. coal production	Dec. 93	Nov. 93	Dec. 92	YTD 93	YTD 92
<i>Millions of tons</i>	2.89	2.74	3.02	32.0	31.6

N.D. business	Jan. 94	Dec. 93	Jan. 93	YTD 94	YTD 93
<b>Bankruptcies</b>	73	64	62	73	62
<b>Incorporations</b>	96	76	83	96	83

N.D. construction*	Jan. 94	Dec. 93	Jan. 93	YTD 94	YTD 93
	\$18.0	\$10.72	\$8.38	\$18.0	\$8.38

Taxable sales*	3rd QT 93	2nd QT 93	3rd QT 92	YTD 93	YTD 92
<i>North Dakota</i>	1,298.4	1,233.8	1,202.8	3,515.4	3,272.8
<i>Grand Forks</i>	146.0	136.8	138.3	391.7	371.9
<i>Fargo</i>	263.8	244.0	246.0	708.5	672.4
<i>Bismarck</i>	152.5	145.7	142.4	417.8	389.7
<i>Minot</i>	110.5	102.0	102.6	292.4	281.8

N.D. auto registrations	Jan. 94	Dec. 93	Jan. 93	YTD 94	YTD 93
	1,402	1,337	1,324	1,402	1,324

N.D. truck registrations	Jan. 94	Dec. 93	Jan. 93	YTD 94	YTD 93
	1,458	841	849	1,458	849

N.A. indicates not available YTD: Year-to-date \*Millions of dollars

Sources: North Dakota Tax Department; Miller-Campbell Co. in Bismarck; McGraw-Hill Information Systems Co.; New York Foreign Exchange Market; U.S. Bankruptcy Courts in Fargo; North Dakota Secretary of State Offices; Amoco Production Co.; Job Service North Dakota; N.D. Aeronautics Commission.

Notes: Unemployment rates are civilian unemployment rates. Grand Forks auto registrations are new cars and trucks. Canadian Dollar exchange rate is the rate on the final trading day of the month. Business bankruptcies include all chapter cases filed. Business incorporations include only for-profit businesses. Oil prices are the average monthly Amoco Production Co. posted price for crude oil purchases. Dollar amounts and certain other numbers in the Business Data Bank are rounded.

The INTELLIGENCER  
**DATA BANK**