

House Bill 1002
House Appropriations Committee
Education and Environment Division

Testimony Presented by Sally Holewa
State Court Administrator
January 13, 2023

Good morning, Chairman Nathe and members of the Committee. For the record, my name is Sally Holewa. I am the State Court Administrator. I will be providing an overview of the major changes in the Judicial Branch appropriation request. Our director of finance will be following me to provide the line item details.

The Judicial Branch appropriation funds the personnel, programs, and operating costs of the Supreme Court, the district courts, and the Judicial Conduct Commission and Attorney Disciplinary Board (JCCDB). Our appropriation request for the 2023-2025 biennium is **\$139,037,936**. This is an increase of **\$27,465,683** (24.6%) from our 2021-2023 base budget. The increase primarily consists of increased salary and benefit costs, including an increase in judge salaries, a request for new judgeships, and a request for additional FTEs. We have also had a substantial increase in IT costs that are reflected in our appropriation request. In addition, we have included a request to raise juror's daily compensation and the fees we pay for mediation in parenting responsibility (custody) and parenting time disputes (visitation).

Salary and Wages

Personnel costs make-up the largest share (81%) of the court's budget. Not surprisingly then, 78% of the increase we are asking for this biennium comes

in this area. This includes funding for the state employee salary and benefit increases (\$11,434,441), the health insurance increase (\$2,012,514) and salary increases of 20% in year one of the biennium and 15% in the second year for supreme court justices, district court judges and district court referees. The cost for judicial officer raises is **\$6,447,844**. We are also requesting 22 new FTEs and to convert 2 full-time temporary employees to regular FTEs at a total cost of **\$6,166,906**. In addition to our full-time regular employees, we employ many part-time temporary employees who are paid on an hourly basis. Our appropriation request includes funding to raise the hourly rate we pay for these positions and to add several youth coordinator positions as new part-time temporary employees.

Judicial Officer Raises

There are several people here today who will be testifying about the need to increase judicial salaries, so I will keep my remarks on this subject short. Our judicial salaries have not been competitive with the private sector for quite some time. That is not a new situation but it is a growing concern as the disparity continues to widen. However, it is not just the private sector disparity that is a problem. Judicial officer salaries now lag behind salaries for public sector attorneys and salaries for many non-attorney public sector employees. We believe the low salaries are a major factor in the declining applications we are seeing for new and vacant judgeships.

The current salary for a district court judge is \$155,219. Every district has a presiding judge who is paid slightly higher to handle administrative duties in addition to their duties as a judge. The current salary for a presiding judge is \$159,629. Under the proposed increase, the salary for a district court judge

would rise to \$186,263 on July 1, 2023 and to \$214,202 on July 1, 2024. The salary for a presiding judge would rise to \$191,555 on July 1, 2023 and to \$220,288 on July 1, 2024. We currently have 52 district court judges.

The current salary for a supreme court justice is \$169,162. The Chief Justice has a higher salary because he is the administrative head of the judicial branch in addition to his adjudicative duties. The current salary for the Chief Justice is \$173,946. Under the proposed increase, the salary for a supreme court justice would rise to \$202,994 on July 1, 2023 and to \$233,444 on July 1, 2024. The salary for the Chief Justice would rise to \$208,735 on July 1, 2023 and to \$240,045 on July 1, 2024. There are 5 supreme court justices.

District court referees are appointed by the presiding judge of a district to assist the judges in managing their caseloads. By court policy, they are paid 80% of the salary of a district court judge. We currently have 5 referees serving in 3 judicial districts.

Although your first reaction to the raises we are requesting might be that they are overly-generous, I think when you hear from the others who are going to testify on this issue you will see that we are asking for a modest amount to fairly compensate our current judicial officers and to attract others to the positions.

New FTEs

Judges (4): We are requesting four new judges. Two of the new judgeships would be chambered in Fargo, one in either Burleigh or Morton County (depending on availability of space), and one in Grand Forks. We use a

weighted workload assessment to determine how many judges are needed. This formula determines the amount of work required based on number and types of cases filed using a two-year average. For more than 15 years, our workload studies have consistently shown a shortage in the East Central and South Central judicial districts. For the past 7 years, the Northeast Central Judicial District has consistently been short by more than one judge.

For each new judge, we have to add one staff position. The staff positions which are required to support each new judgeship are included below in the section on staff attorneys.

Staff attorneys (6): We are requesting six new staff attorneys. Four of those staff attorneys would be assigned to work with the four new judgeships in lieu of a court reporter. Of the remaining two, one would be assigned to work with the judges in the North Central Judicial District (the 11 counties stretching from Pembina to Renville and from McHenry to Walsh) and the Northwest Judicial District comprised of Divide, Williams and McKenzie counties).

Although the title is the same, the staff attorneys assigned to individual judges have a distinctly different function than the staff attorneys assigned to work within a district. Staff attorneys assigned to work with an individual judge serve in a capacity that is more similar to a junior attorney in a law firm than a traditional law clerk. They review all cases assigned to a judge for sufficiency of the pleadings. They do preliminary legal research when the pleadings raise an unusual issue and assist the judge with legal research and drafting after motions and trials. Because they are hired in lieu of a court

reporter, they attend all sessions of court with their assigned judge and run the recording system to capture the court record.

Staff attorneys assigned to work within a district assist judges with legal research and drafting on specific cases when asked to do so. Depending on the district, they assist anywhere from 5 to 11 judges. They differ from a short-term law clerk only in that they are required to have a minimum of two years of experience and they are expected to continue in the position beyond the one to two years that a traditional law clerk serves.

Deputy clerks of court (11): Deputy clerks are the frontline workers for the court system. They maintain court records, assist in the courtroom, handle collections and payments, monitor compliance with conditions in cases that are not supervised by probation, and provide assistance by telephone, email and in person. Because of the extensive lay-offs we had to do in 2016, our state-employed clerk of court offices have been staffed at 30% below what our weighted caseload studies indicate we need. We are requesting 11 new deputy clerk positions. Seven of these positions would be for Cass County. Two would be placed in Burleigh County, and one each in Grand Forks and Morton County.

Assistant state court administrator (1): We are asking to have the position of assistant state court administrator restored. The assistant state court administrator serves as the primary contact for trial court services and the juvenile court. This position also serves as the acting state court administrator when necessary. This is not a new position to the court. Between 1979 and 2003, we had two assistant state court administrators and

a juvenile court coordinator. Due to budget cuts over the years, by 2004 we were reduced to a single assistant court administrator. In 2016, we had to eliminate the remaining assistant state court administrator position as part of the reduction-in-force required by the sudden plummet in state revenues. The court system is not a small entity that can be easily managed by a single administrator. This position is necessary to ensure the smooth operation of the court system. As things stand now, if I were incapacitated, disabled or left the organization, there is no one who is authorized to step up and handle the administrative side of the court system.

Convert full-time temporary staff to full-time FTEs

Court Improvement Program Staff (2): The Court Improvement Program is funded through federal grants for the purpose of monitoring and improving the case management of children in need of protection or services. We have had two full-time temporary staff for the program for the past 12 years. We would like to make these full-time FTEs in order to retain staff who are committed to the goal of improving the lives of abused and neglected children and have remained loyal to the court system despite being unable to access employee benefits that are available to other staff. The cost to convert the positions is \$63,662 for the biennium and will continue to be covered by federal grants.

Temporary employees

Youth Coordinator positions: We are requesting funding to add 9 part-time, temporary youth coordinator positions. Two of these positions would be assigned to the East Central Judicial District and one position would be assigned to each of the other 7 districts. Youth coordinators would serve as

mentors to high-risk youth and involve them in positive substitute behaviors and community activities. They would assist with drug testing and curfew compliance. These positions would replace the youth cultural achievement programs that we have previously used as those programs are no longer viable due to budget reductions and staff turnover. This proposal was presented to the Children's Cabinet and received its approval. The cost to add these position is \$495,000.

Drug court and veterans court coordinators and case aides: Our budget includes funding to increase the hourly wage for the coordinators and case aides who manage the drug court and veterans court caseloads. We have a total of 8 coordinators (one coordinator for each of the 6 juvenile drug courts, one coordinator for the Richland County adult drug court and one coordinator for the veterans treatment court). Statewide we have 17 case aides. Raising the wages will make us more competitive with other types of jobs. The cost of the raises is \$189,582.

Our appropriation request includes funding in a few other areas that I specifically want to call to your attention.

Jury Fees and Juror Compensation

We have had an increase in the number of jury trials that are being held. The budget includes **\$245,900** to cover the cost needed to fund the resulting increase in mileage reimbursement, juror fees, amenities, parking reimbursement and bailiff costs.

The budget also includes **\$960,000** to increase the daily compensation rate for jurors.

The current rate of daily compensation is \$25 for the first half-day of service and \$50 for first full-day of service and each subsequent day of service. The \$25 rate was set in 1977. In 2009, the rate was adjusted to \$50 for each full-day of service. Every year, more than 8,000 North Dakota citizens report for jury service. Costs associated with jury service include loss of income, daycare or respite care costs, meals and gas. In six of our judicial districts, we ask jurors to complete a survey regarding their experience. Sixty-percent of those who respond to the survey indicate that jury service created a financial hardship for them. When asked what amount would be fair compensation for their service the two most common responses are \$100/day and minimum wage per hour. We know that there are a number of jurors whose employer pays their wages while they are serving on jury duty in exchange for the juror turning over the compensation they receive from us. Raising the compensation rate would lessen their losses and more properly recognize the sacrifice they are making to support the justice system in North Dakota.

Mediation fees

Since 2007, the Court has had a mandatory mediation program for families involved in parenting time (visitation) or parenting responsibility (custody) disputes. The program provides up to 6 hours of mediation services at no cost to the parties. Since its inception, mediation has been used in 7,128 disputes. The program has an average combined full and partial settlement rate of 70% and shortened the time from filing to disposition by an average

of 117 days. Because the program allows parties to reach their own agreement and teaches them new methods of resolving disagreements, it has been shown to reduce the number of post-judgment motions by 64%. The program has consistently had a satisfaction rate of 87% from the individuals who have used it. We are requesting an increase of **\$282,800** to allow us to increase the mediator's hourly fees from \$170 to \$220. The current fee of \$170 has not been raised since it was set in 2007. The increased hourly compensation would allow us to remain competitive with the private sector and help us to retain experienced mediators in the program.

IT Costs

In addition to the normal increases associated with data processing, software licensing and equipment, we will have new IT costs in the coming biennium. These are the software licensing, maintenance costs, and customization fees related to the new juvenile case management system and the new supreme court case management system that we are in the process of implementing. The juvenile case management system we are replacing was purchased in 1998 and had minimal annual software licensing and maintenance costs. The new system is expected to be fully implemented in May 2023. The on-going cost for that system will be \$290,000.

The supreme court case management system we are replacing was custom-built in 1993 and had no licensing fees and only minimal, as-needed maintenance fees associated with it. The new system is being paid for by funds provide to North Dakota under the American Rescue Plan Act (ARPA) and is expected to be fully implemented by December 2024. The biennial costs for that system will be \$670,000 for annual licensing,

maintenance agreements and software system customizations. We expect the cost to continue will drop substantially after this biennium as the need for customization should be reduced.

Capital Assets

With 54 locations and more than 100 courtrooms statewide, we have equipment that regularly needs to be replaced. Our appropriation request includes funds to replace a number of copiers, audio and video systems for courtrooms, and similar equipment that are used on a daily basis. There is one item, though, that I specifically want to bring to your attention because it is the single largest item in our capital assets request and probably the most important one. That is the \$675,420 lease payment for the blade servers and disk drives. This equipment holds all of our court records and is vital to our operation. We used to buy these items and replace them every few years but last biennium we followed NDIT's lead and switched to leasing. Leasing allows us access to upgrades as they are released and allows for more predictable budgeting and better pricing.

Related legislation

In addition to the two bills listed on your green sheet as major related legislation, there are three more bills that I want to bring to your attention. These bills have primary sponsors but, as of this moment, have not been filed or assigned bill numbers so I will refer to them by topic.

Supreme Court building: This bill would appropriate \$55 million to remodel the Liberty Memorial building and add an addition to house the Supreme Court.

Judicial referees: This bill would convert five judicial referee positions to district court judgeships as the positions become vacant.

Clerk of Court: This bill would transfer the remaining county-employed clerk of court staff in 39 counties to state employment.

Conclusion

I have attached some additional information about the court system that is not specifically related to our appropriation request. I will be happy to run through that information or let you review it on your own at some other time, depending on the preference of the committee chair.

Don Wolf, our Director of Finance, will provide more details of our budget request in his presentation.

North Dakota Courts by the Numbers

Supreme Court

5 – Number of Justices on the Supreme Court

10 years – Length of Term

4 - Number of Justices initially reaching the bench through gubernatorial appointment

346 – Number of new Supreme Court cases filed in 2021

District Courts

52 – Number of District Court Judges

6 years– Length of Term

33 – Number of district court judges initially reaching the bench through gubernatorial appointment

5 - District Court Referees appointed by the presiding judges

12 - Chambered cities

8 - Judicial Districts

4 - Administrative Units

53 – Clerks of District Court

14 – Number of Clerk of Court offices under state employment

7 – Number of Clerk of Court offices eligible to transfer to state employment

159,127 new district court cases filed in 2021

Municipal Courts

87 – Number of Municipal Courts

63– Number of Municipal Court Judges

4 years– Length of Term

55 – Number of Municipal Court Clerks

27 – Number of municipal court judges who have a law degree

72 – Number of contracts the district courts have with municipalities to hear some or all of their ordinance cases

Unknown – Number of cases filed in municipal courts

Juvenile Court

10 – Number of Juvenile Court Offices

4 – Number of juvenile court offices staffed by a single person

9,514 – Number of new juvenile cases filed in 2021

Finances

305 – Number of FTEs excluding judicial officers

.07 % - Percent of General Fund dollars appropriated to the Judicial Branch for the 2021-2023 biennium

75.7% - Percent of Judicial Branch Budget Spent on Salaries & Wages

\$26.9 Million – Average amount of money collected by the district courts during a biennium

Specialized Court Dockets

6 - Number of juvenile drug courts

72 – Number of new cases referred to juvenile drug court in 2021

6 – Number of adult drug courts

1 – Number of veterans treatment courts

1 – Number of domestic violence courts

72 – Number of referrals to domestic violence court in 2021

459 – Number of cases supervised by DV court in its first two years of operation

Court Services

Self-Help Center

2 - Number of Staff employed in the self-help center

718 - Number of forms and guides available through the self-help center

1,752 - Number of direct requests made to the Self-Help Center in 2021

13,438 - Number of direct requests received by the Self-Help Center since its inception in July 2015

Family Mediation Program

817 - Number of cases sent to family mediation program in 2021

70% - Percentage of cases fully or mostly resolved through the family mediation program in 2021

Expedited Family Mediation Program

196 - Number of requests for the expedited mediation program since its inception in June 2020

64% - Percentage of cases resolved through the expedited mediation program

Guardianship Monitoring Program

355 - Average number of new guardianship cases filed each year

45 - Number of cases referred to the monitoring program in 2021

6 - Number of cases referred to Adult Protective Services as a result of a review by the Guardianship monitoring program

300 - Average number of individuals participating in training provided through the guardianship monitoring program each biennium

3,273 - Number of guardianship cases that were active in 2021

Judicial Conduct Commission & Attorney Disciplinary Board

34 – Number of new judicial conduct complaints filed in 2021

133 – Number of new attorney conduct complaints filed in 2021

State Board of Law Examiners

3,070 – Number of law licenses issued in 2021

1,585 - Number of North Dakota licensed attorneys who actually reside in North Dakota



North Dakota Courts

Juvenile Court

Juvenile Court is a division of the district court designed to address the unique needs of children and families that come before the court in delinquency or child in need of protection or services cases.

The mission of the North Dakota Juvenile Court is to promote public safety, hold juvenile offenders accountable, and increase the capacity of juveniles to contribute productively to their community. The court empowers victims, encourages community participation, and supports parental responsibility.

10

Juvenile court offices in North Dakota

4

Juvenile court offices staffed by a single person

34

Number of juvenile court officers in North Dakota

904

Confirmed cases of child abuse and neglect referred to Juvenile Court from human service zones in 2021

9,514

New juvenile cases filed in 2021



North Dakota Courts

Specialized Court Dockets

“Specialized Court Docket” is an umbrella term for a therapeutic approach to handling designated cases. Specialized court dockets in North Dakota include juvenile and adult drug courts, the Richland County adult treatment court, domestic violence court and veterans’ treatment court. In these courts, the assigned judge oversees a therapeutic program comprised of interdisciplinary teams, enhanced judicial involvement, court-supervised treatment programs, and other components designed to achieve effective alternatives to traditional case dispositions.

6

Juvenile Drug Courts

6

Adult Drug Courts

72

New cases referred to Juvenile
Drug Court in 2021

1

Domestic Violence Treatment Court

1

Veterans Treatment Court

459

Cases supervised by the Domestic
Violence Treatment Court in its first
two years of operation



North Dakota Judicial Programs and Services Family Mediation Program

The Family Mediation Program is a statewide mandatory mediation program resolving disputed parental rights and responsibilities matters, including grandparent visitation. Mediation minimizes family conflicts, encourages shared decision making and supports healthy co-parenting relationships.

Successful mediation significantly shortens the time to reach resolution of a case and reduces the number of post-judgment motions related to parenting time.

In addition to our traditional mediation program, the court offers an expedited mediation program designed to resolve emerging conflicts within 7 days of the request for expedited mediation.

817

Number of cases sent to the Family Mediation Program in 2021

196

Requests for the Expedited Mediation Program since June 2020

70%

Cases fully/mostly resolved through the Family Mediation Program in 2021

64%

Cases resolved through the Expedited Mediation Program

7,128

Cases accepted into the program since its inception in 2008.



North Dakota Judicial Programs and Services Guardianship Monitoring Program

The mission of the monitoring program is to help the Courts mitigate the risk of financial or other abuse of protected persons.

This program provides financial and wellbeing reviews for adults under guardianship or conservatorship. Cases are randomly selected for review, and District Court judges may refer cases to the program. The program manager performs the financial evaluations, and social workers perform the wellbeing reviews.

In addition to reviewing cases, the Program Monitor educates family and professional guardians, responds to questions from concerned individuals and works closely with Adult Protective Services.

355

Average number of new guardianship cases filed each year

3,273

Current number of active guardianship cases

45

Number of cases judges referred to the program in 2021

6

Number of cases referred to Adult Protective Services as a result of a review by the program in 2021



North Dakota Judicial Programs and Services

Legal Self Help Center

The North Dakota Legal Self Help Center is a neutral resource designed to assist self-represented litigants with access to the North Dakota State Court System. The purpose of the Center is to provide civil process information to the thousands of people in the state who are involved in a civil legal issue but not represented by a lawyer. The Center does *NOT* provide legal advice or representation to patrons.

Center staff also provide direct support to self-represented litigants by phone, email and in-person. Center staff answer questions about civil court processes, procedures and legal terms, and provide contact information for other agencies that may be able to assist with a problem. Self-represented litigants are directed to state laws, rules, and regulations available on the Center website that may be relevant to a legal issue.

13,438

Number of direct requests to the Self Help Center since its inception in 2015

2

Number of staff employed at the Self Help Center

718

Forms and guides available through the Self Help Center

1,752

Number of direct requests to the Self Help Center in 2021