

**2015 HOUSE APPROPRIATIONS**

**HB 1022**

## 2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1022  
1/14/2015  
Recording Job# 21985

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

See Attachment A

**Chairman Thoreson:** Opened the hearing on HB1022.

**Robin Huseby, Executive Director, Commission on Legal Counsel for Indigents:** See testimony attachment A.

**Chairman Thoreson:** How much again did you say you were going to come in for a deficiency? What was the total?

**Robin Huseby:** \$700,000.00

**Chairman Thoreson:** You won't know that until the end?

**Robin Huseby:** Our financials just came in for December. We're confident that it's around that figure; but, we'll know more in March than we know now.

Robin Huseby continued with her testimony.

**Robin Huseby:** I forgot to give you the numbers for the 5 people to be converted into FTE's. The amount of money we're requesting for the biennium \$720,794.00.

**Representative Kempenich:** That's your deficiency?

**Robin Huseby:** No. That's what these new things will cost.

Robin Huseby continued with her testimony.

**Representative Kempenich:** Do you think you can get someone into those communities?

**Robin Huseby:** We have hired someone for the Watford City office. He's coming in on a full-time temporary basis.

Robin Huseby continued with her testimony.

**Representative Hogan:** Are there national standards for caseloads for attorney's for indigent defense?

**Robin Huseby:** Several well respected agencies have endorsed a national standard for caseloads. We have not adopted those in North Dakota; because everybody counts their cases a little bit different. If we would adopt what they have adopted, they would be so much lower than what we have that it would be chaotic for us. We look at a certain amount of cases we want people to stay under; and if they are over, we allow our attorneys to conflict out.

**Chairman Thoreson:** There are a lot of conversations about the west. Are you still seeing caseload increases in Fargo along with what's going on in the west?

**Robin Huseby:** Grand Forks has been consistently been going up; and Fargo has stabilized. We haven't seen the type of rapid growth that we've seen out west.

**Chairman Thoreson:** So overall there is still an increase; just not as rapidly as other parts of the state?

**Robin Huseby:** Yes.

**Representative Hogan:** One of the things that we're so proud of is that our per capita income has gone up. You have pretty low income guidelines for eligibility. Do you have any sense of the clients that you're serving; how long they've lived in the state? It sounds like you have a fairly large low income population.

**Robin Huseby:** We can't pull that off our case reporting system.

**Representative Skarphol:** I would assume that the people in the west that come in have lost their job. Are you income qualifications based on the current employment potential; as far as what they're earning? If they lost their job, they would obviously qualify; would they not?

**Robin Huseby:** That is our biggest problem we're facing as far as eligibility. We've learned very quickly to ask if they are going to be employed after they get out of jail. We have a task force on indigents, that just met for the first time; and we're trying to address some of those questions.

**Representative Kempenich:** The long ones have been there 2 years.

**Robin Huseby:** It's an issue we know that's important to us for running a tight ship.

**Representative Kempenich:** A lot of what happens is on the reservation, do you get involved in that?

**Robin Huseby:** We don't get involved with the reservation.

**Travis Finck, Supervising Attorney, ND Commission on Legal Counsel for Indigents:**

I am the supervising attorney in the Bismarck Public Defender's Office. We have seen an increase in the number of cases in Bismarck. A lot of what we see are people that are coming up here with the intent to remain. In Burleigh county for 2013 they charged a total of 1,393 felony cases; in 2014, they charged out 1,634 felonies. You're typically going to request the presence of an attorney on felony cases. Specifically in Bismarck, we've seen an increase in serious felonies; by those I mean the AA felony cases. In 2008, we'd get between 230 and 240 cases. When I left and came back, we're all running 280 to 300 cases. We've had to cap the number of cases that our contractors will take because it's become increasingly difficult to find someone to take those cases. Right now in my office, we have 2 murder cases that are pending trial, 2 minimum mandatory 20 year in prison rape cases that are set for trial in the next month, we also have 3 AA felony drug cases with a minimum mandatory 20 years in prison that are set for trial in the 1 ½ months. We've gone from assigning 30 to 40 cases to 75 cases a week.

**Representative Boehning:** What's causing the biggest increase? What types of felonies are coming in? What's the range of them?

**Travis Finck:** We're not seeing one specific thing. What we're seeing is across the board. We've seen a lot more heroin cases lately; that's caused an increase in the number of serious drug cases. There's more violence and what concerns me is that you don't see as much violence in an affluent society. The people with jobs are going to private attorneys; when they start losing their jobs, they're not going to leave but fall on us.

**Representative Hogan:** I think the one set of bills we're likely to pass something on is human trafficking. Have you seen any of that? Have you looked at those bills and the possible impact that will have on your office?

**Travis Finck:** We have looked at those. We're already seeing those cases coming through. We've had 3 or 4 of those cases in the last 12 to 18 months. The issue with those cases is that they are so labor intensive.

**Chairman Thoreson:** Closed the hearing on HB1022.



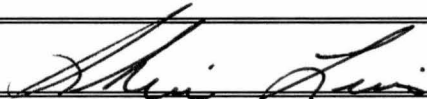
## 2015 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee - Government Operations Division**  
Medora Room, State Capitol

HB1022  
2/16/2015  
Recording Job# 23890

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### **Explanation or reason for introduction of bill/resolution:**

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### **Minutes:**

See attachments A and B

**Chairman Thoreson:** Opened the discussion on HB1022.

**Robin Huseby, Director, Commission on Legal Counsel for Indigents:** See attachment A.

**Chairman Thoreson:** Are you leasing space in Watford City?

**Robin Huseby:** Yes. We had to do something to provide services out there. The state's attorney has gone from a ½ time job to three.

**Chairman Thoreson:** When did that office open?

**Robin Huseby:** We staffed the office fully last week. We had leased the office space several months ago and it opened four weeks ago.

**Chairman Thoreson:** How many people are in there right now?

**Robin Huseby:** There are two people; there's an attorney II and administrative assistant.

**Chairman Thoreson:** Do you have temporary people working out of that office also?

**Robin Huseby:** Just those two full-time temporary.

**Representative Vigesaa:** Those full-time temporaries; how long have you had them? Has that been through the entire biennium or when did they come on board?

**Robin Huseby:** In Williston which had been a two attorney office, we added a third attorney about two years ago. Our temporary full-time people range from three years to one year.

**Representative Boehning:** How is the east fairing with this? Are we seeing the same needs there or is it always out west?

**Robin Huseby:** It seems that in the east, Fargo and Grand Forks, we can adjust it quite easily. There are attorneys there and they don't have to do a lot of travel.

**Representative Boehning:** What year did we put this particular program in place?

**Robin Huseby:** 2005.

**Representative Boehning:** The budget couldn't have been very big. Have people just figured out that they can get free legal? What's causing these increases?

**Robin Huseby:** Clearly case load is driving this whole thing. There's more crime, more people, more law enforcement. The more law enforcement that's added, the more crimes are going to be charged out.

**Representative Boehning:** We're hiring more law enforcement, more judges and our jails our full. Where are we going to put all these people?

**Representative Kempenich:** What can we get by with for charging these people? Aren't we around \$50.00? I think we should try to get something out of these people.

**Robin Huseby:** There are a slew of fines and fees that defendants pay. They pay to our agency directly \$135.00; then there are reimbursement of attorney fees that the judge may order them to pay and there's a set rate. Some of the judges do collect the money; some of them don't. Our clients are indigent so if the judge gets a homeless person, it's hardly worth it that he recommend they pay attorney fees back. We do collect pretty consistently on that special fund; it's \$1.9 million to \$2 million/year from this \$135.00. That money is split with court improvement fund money with the Supreme Court.

**Representative Hogan:** Are you're employees all state employees?

**Robin Huseby:** Yes.

**Representative Hogan:** You budgeted then the 4% and 3%.

**Robin Huseby:** Yes.

**Representative Kempenich:** We started this and we did pretty good for the first couple of sessions.

**Robin Huseby:** The state is growing.

**Representative Skarphol:** The two temporaries that you have in Watford City right now; are they part of the five?

**Robin Huseby:** No, they would take it to seven.

**Representative Skarphol:** On the worksheet we have, it would be a total of seven.

**Robin Huseby:** Correct.

**Representative Skarphol:** You would need these as state employees.

**Robin Huseby:** Correct. There's only two that would be a new addition to our agency and that's Dickinson.

**Chairman Thoreson:** Explained attachment B.

**Representative Skarphol:** On this worksheet it says "adds funding for increased workload \$4,200,000.00". Can you give us a better idea of what that means? Is that temporary employees that are going to be funded with that?

**Robin Huseby:** It's almost all professional fees which would be attorney fees for contracts and support of the case. In other words, private eyes, medical evaluations, polygraphs, etc.

**Representative Skarphol:** Not employee other than contracts.

**Robin Huseby:** Right.

**Chairman Thoreson:** That would be number five of page 2 of the green sheet. Correct?

**Robin Huseby:** What's hurting us are the professional fees. We've gone from spending \$200,000.00/month in professional fees and last in December we spent \$712,000.00; half of that was for professional fees and the majority of the other half was for public defenders.

**Representative Skarphol:** I recommend we move across the base payroll changes, we go to the 3% and 3%, move the health insurance across, we give her the two employees in Watford City and the five temporaries, we take back the decrease in special funding and the \$4.2 million goes as well. We just leave out the two FTE's in Dickinson.

**Chairman Thoreson:** I know it's not easy with the increased workload that you have and I think in this case we understand it's not going to go away.

**Representative Skarphol:** With the slow down in prices, her workload may increase.

**Chairman Thoreson:** Closed the discussion.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Government Operations Division Medora Room, State Capitol

HB1022  
2/17/2015  
Recording Job# 23959

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

Attachment A.

**Chairman Thoreson:** Opened the discussion on HB1022

**Vice Chairman Brandenburg:** Made a motion for a "Do Pass as Amended".

**Representative Skarphol:** Seconded the motion.

**Vice Chairman Brandenburg:** On the green sheet there's the \$25,000.00 non-refundable appropriation; is there something that should be transferred with this?

**Chairman Thoreson:** That's funding for increased workload on the worksheet. Attachment A.

**Adam Mathiak, Fiscal Analyst, ND Legislative Council:** Yes.

**Representative Hogan:** There is a 38% increase over the base and I think that reflects what's actually happening.

Roll call vote: 8 Yeas 0 Nays 0 Absent.

Motion carried.

Representative Hogan carried the bill.

Chairman Thoreson: Closed the discussion.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1022  
2/19/2015  
24190

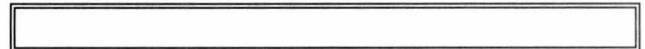
- ☐ Subcommittee  
☐ Conference Committee



### Explanation or reason for introduction of bill/resolution:

Provide an appropriation for defraying expenses of Commission on Legal Counsel for Indigents

### Minutes:



**Representative Hogan:** Explained the amendment 15.8130.01001. This bill is for the commission on indigent defense. There is a significant increase in this budget. Clearly this budget increase is related to the increasing corrections in courts in law enforcements. So in the budget all the regular changes were made in the base budget. The single biggest change we made in the budget is removed seven temporary FTE's to permanent. Currently the commission has had difficulty recruiting and finding contract attorney's to address the significant growth. The commission requested nine FTEs and we gave them seven. Almost all of those are for the west. One of them might be for Bismarck. Prior to these FTEs being hired what was happening is attorneys' were being contracted from Bismarck and the east and going out to represent cases in the west at almost double the cost. This is a much cheaper way to do it. There is also a significant increase in the amount of contract workers. It is called added funding for increased workload case, its 4.2 million dollars. That is for the contract attorneys but also for investigators, expert witnesses for all of the related activities that go in court cases.

**Chairman Jeff Delzer:** Did you make an adjustment?

**Representative Hogan:** Not on the added increase workload. I think it's important for the committee to know that the commission is anticipating a significant short fall in this biennium and that they are pursuing and emergency assistance to get through this biennium. So they are already 700,000 dollars short of this year's budget.

**Chairman Jeff Delzer:** Do they have guidelines on how they can spend it? I would be interested to know what kind of restrictions they have so that if they need to have their money available it's one thing but it might be a case where we want to make sure that it isn't just available for extra stuff.

**Representative Hogan:** I don't think we talked about that at all. We did talk about their case load. Each of their attorneys runs between 250 and 275 cases a year and the big issue that they are facing right now is a larger percentage of their cases are major felony cases which take significantly larger amount of time. So that has been the big change. They have an increase in case load but the level of cases is significant. This is only available to people who are 125 percent of the poverty level. So for a single person that would be 1,200 dollars a month income, so it is pretty restricted to who can be served.

**Chairman Jeff Delzer:** What about their asset levels or savings?

**Representative Boehning:** It was more based on what their income is.

**Chairman Jeff Delzer:** If they are charged with a felony they are probably going to lose their job immediately.

**Representative Boehning:** In the 4.2, we wouldn't have any control on that. The lawyer has to have apple amount of defense. Whether they need private detectives to investigate or lie detector tests and those sort of things. It's on a case by case basis.

**Chairman Jeff Delzer:** We could have restrictions so it couldn't be used if it wasn't for those particular things. We could even have something that they would have to come back and get a condign in the appropriation for the second half. I don't think it worth having but I think it is worth discussing. This I'm sure is like anything. It comes back and I think they are under the restriction that they can't transfer from one to another more than 50,000 dollars, but this would all be in operating would it not?

**Brady Larson:** There is nothing in the bill that allows them to transfer so they would be treated similar to other state agencies.

**Chairman Jeff Delzer:** Their 4.2 million dollars is all in operating, so it would be a case where they could do something with it and I know the manager of this is quite good. On here it says that you are converting five FTE's and got two new ones. Are they all lawyers or are some of them administrative assistants?

**Vice Chairman Keith Kempenich:** They just added two more today; this is one budget you can't do anything about. The courts control this, you can't deny it. I have looked over this since we started this. We tried to charge more and that doesn't seem to work. When you are talking about the felony convictions and trying to require more.

**Chairman Jeff Delzer:** When it was done under the Supremes it was a whole lot cheaper and I think maybe part of the problem is now it is easy for the district courts to require things whereas before they had responsibility it might have been a little different. This isn't that old.

**Vice Chairman Keith Kempenich:** This started in the 2007 biennium. We started out at 9.5 million dollars and she told us the way we set it up we were getting pretty good deal because South Dakota started theirs a few years earlier and they were up to 18 million dollars. What frustrating is up until the last two biennium's we increased it about 2 million

and this last time is just shows that we aren't always getting the cream of the crop showing up in North Dakota and that's just the facts of it.

**Representative Hogan:** Our gross AA felonies went from four that they were involved with in 2011 and they had 43 last year. That is a significant increase.

**Representative Pollert:** You converted five temps so did you eliminate any temporary salaries?

**Vice Chairman Keith Kempenich:** There are seven now. What they are is lawyers. They were on contracts they just got to the point to where they were running lawyers from Bismarck out west and that didn't work so they put basically the five that they had listed. Most of them were in Bismarck that they were running out and then the other day she came in and told us that they started an office in Watford City so there is seven that are actually in place. The rest at 4.2 million is all contracts and a lot of that is spread across the state. I think they added two or three more contracts in Fargo.

**Chairman Jeff Delzer:** What's the total number?

**Representative Skarphol:** With the slowdown the caseload may get to be less, in fact it is the opposite. With the slowdown her caseload has increased thus the need for increase people in Watford City. It's one of those unfortunate situations in which when people become unemployed or under employed they look for other avenues to get resources and crime is one of those avenues and you asked about their assets they heavily evaluate assets. If they have a 50,000 pickup they don't get help.

**Representative Hogan:** Contract attorneys there are 60.

**Vice Chairman Keith Kempenich:** About 13 million dollars is for contract and 6 million dollars for operations.

**Representative Skarphol:** 6.4 million in this biennium and 10 million dollars in the next biennium. Plus the shift on the employees

**Representative Hogan:** There were two more FTE's we did not approve. She wanted to open an office in Dickinson in terms of your question.

**Representative Hogan:** I would like to move an amendment to HB 1022 amendment 01001.

**Representative Boe:** Second

Motion to Amended HB 1022 As Amendment 01001.

Motioned by Representative Hogan.

Seconded by Representative Boe.

Voice Vote.

Motion Carried

**Representative Hogan:** I move a Do Pass As Amended.

**Representative Boehning:** Second

**Representative Dosch:** Since most is the oil impact out west, shouldn't some of these funds be coming out of the oil impact from some of these counties. Also be considered onetime money, some of this until we know if this is going to be a continuing thing or not.

**Chairman Jeff Delzer:** I understand what you are saying; I don't know exactly how we do that. You could talk about trying to have some impact money but the impact money is always been for a political subdivision not for state agency. The fact of the matter is as much as we don't like it this is I guess a responsibly of the state. It is very bothersome at how much this is growing but I don't have the answer and how to stop it,

**Representative Thoreson:** Just for reference I know a lot of it is in the oil impacted areas. We did have testimony from the supervising attorney here in Bismarck you said they have gone from about 30 cases a week to 75 cases a week assigned to them.

**Chairman Jeff Delzer:** Did you ask them at all, you said you watch their assets here but do they do anything about assets in a different state. If someone is here and they have assets in their home state but yet the request from the state of North Dakota for defense does the agency look at that?

**Representative Brandenburg:** I remember that discussion last session and usually if they have any money they get their own lawyer and usually people that have nowhere to go they come here work a couple months so they have money in their pocket and spend more than they should and then they lose their job then they have problems and those are the people we are dealing with. I think we beat this enough.

Motion to Do Pass As Amended on 1022.

Motion by Representative Hogan.

Seconded by Representative Boehning.

Total Yes 19. No 3. Absent 1.

Motion Carried.

Floor Assignment Representative Hogan.



15.8130.01001  
Title.02000

Fiscal No. 2

Prepared by the Legislative Council staff for  
House Appropriations - Government  
Operations Division Committee  
February 18, 2015

*Handwritten:*  
JTB  
2-20-15  
1002

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1022

Page 1, replace lines 12 through 18 with:

"Commission on legal counsel for indigents	\$14,304,404	\$5,721,871	\$20,026,275
Accrued leave payments	116,872	(116,872)	0
Total all funds	\$14,421,276	\$5,604,999	\$20,026,275
Less special funds	2,497,866	(590,952)	1,906,104
Total general fund	\$11,923,410	\$6,195,951	\$18,119,361
Full-time equivalent positions	33.00	7.00	40.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1022 - Commission on Legal Counsel for Indigent - House Action

	Base Budget	House Changes	House Version
Comm. on legal counsel for indigents	\$14,304,404	\$5,721,871	\$20,026,275
Accrued leave payments	116,872	(116,872)	
Total all funds	\$14,421,276	\$5,604,999	\$20,026,275
Less estimated income	2,497,866	(590,952)	1,906,914
General fund	\$11,923,410	\$6,195,951	\$18,119,361
FTE	33.00	7.00	40.00

Department No. 188 - Commission on Legal Counsel for Indigent - Detail of House Changes

	Adds Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Salary and Benefit Increases <sup>2</sup>	Adds New Positions <sup>3</sup>	Decreases Special Funds <sup>4</sup>	Adds Funding for Increased Workload <sup>5</sup>	Total House Changes
Comm. on legal counsel for indigents	\$433,524	\$439,961	\$1,260,349	(\$611,963)	\$4,200,000	\$5,721,871
Accrued leave payments	(116,872)					(116,872)
Total all funds	\$316,652	\$439,961	\$1,260,349	(\$611,963)	\$4,200,000	\$5,604,999
Less estimated income	14,096	6,915	0	(611,963)	0	(590,952)
General fund	\$302,556	\$433,046	\$1,260,349	\$0	\$4,200,000	\$6,195,951
FTE	0.00	0.00	7.00	0.00	0.00	7.00

<sup>1</sup> Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$260,335	\$6,915	\$267,250
Health insurance increase	172,711		172,711

2022

Total	\$433,046	\$6,915	\$439,961
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<sup>3</sup> The following funding and FTE are added:

	General Fund	Other Funds	Total
1 attorney FTE position and 1 administrative FTE position for Watford City	\$539,555		\$539,555
Converts 5 temporary employees to FTE positions	720,794		720,794
Total	\$1,260,349	\$0	\$1,260,349

<sup>4</sup> Special funds are decreased due to less funding available in the indigent defense administration fund.

<sup>5</sup> Funding is added from the general fund for increasing costs of legal fees, contract fees, case specific fees, and other costs related to increasing case loads.

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1022**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Representative Brandenburg Seconded By Representative Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	X		Representative Hogan	X	
Vice Chairman Brandenburg	X		Representative Glassheim	x	
Representative Kempenich	x				
Representative Vigessa	X				
Representative Boehning	X				
Representative Skarphol	X				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Representative Hogan

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

Date: 2/19/15

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1022

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 15.8130.01001

Recommendation:	<input checked="" type="checkbox"/> Adopt Amendment
	<input type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass <input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> As Amended <input type="checkbox"/> Rerefer to Appropriations
	<input type="checkbox"/> Place on Consent Calendar
	Other Actions: <input type="checkbox"/> Reconsider <input type="checkbox"/> _____

Motion Made By: Hogan                      Seconded By: Boe

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer				Representative Nelson				Representative Boe			
Vice Chairman Keith Kempenich				Representative Pollert				Representative Glassheim			
Representative Bellew				Representative Sanford				Representative Guggisberg			
Representative Brandenburg				Representative Schmidt				Representative Hogan			
Representative Boehning				Representative Silbernagel				Representative Holman			
Representative Dosch				Representative Skarphol							
Representative Kreidt				Representative Streyle							
Representative Martinson				Representative Thoreson							
Representative Monson				Representative Vigasaa							

Totals	
(Yes)	
No	
Absent	
Grand Total	

Motion by Voice Vote  
Carries  
Approved

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

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

Date: 2/19/15Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1022**

**House Appropriations Committee**

☐ Subcommittee

Amendment LC# or Description: 15.8130.01001

Recommendation:

☐ Adopt Amendment

☒ Do Pass

☐ Do Not Pass

☐ Without Committee Recommendation

☒ As Amended

☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions:

☐ Reconsider

☐ \_\_\_\_\_

Motion Made By:

Hogan

Seconded By:

Boehning

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer		✓		Representative Nelson	✓			Representative Boe	✓		
Vice Chairman Keith Kempenich	✓			Representative Pollert	✓			Representative Glassheim	✓		
Representative Bellew		✓		Representative Sanford	✓			Representative Guggisberg	✓		
Representative Brandenburg	✓			Representative Schmidt	✓			Representative Hogan	✓		
Representative Boehning	✓			Representative Silbernagel	✓			Representative Holman	✓		
Representative Dosch		✓		Representative Skarphol	✓						
Representative Kreidt	✓			Representative Streyle	✓						
Representative Martinson	✓			Representative Thoreson	✓						
Representative Monson			A	Representative Vigasaa	✓						

**Totals**

(Yes)	<u>19</u>
No	<u>3</u>
Absent	<u>1</u>
Grand Total	<u>23</u>

Floor Assignment:

Hogan

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

**REPORT OF STANDING COMMITTEE**

**HB 1022: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1022 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 18 with:

"Commission on legal counsel for indigents	\$14,304,404	\$5,721,871	\$20,026,275
Accrued leave payments	116,872	(116,872)	0
Total all funds	\$14,421,276	\$5,604,999	\$20,026,275
Less special funds	2,497,866	(590,952)	1,906,104
Total general fund	\$11,923,410	\$6,195,951	\$18,119,361
Full-time equivalent positions	33.00	7.00	40.00"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1022 - Commission on Legal Counsel for Indigent - House Action**

	Base Budget	House Changes	House Version
Comm. on legal counsel for indigents	\$14,304,404	\$5,721,871	\$20,026,275
Accrued leave payments	116,872	(116,872)	
Total all funds	\$14,421,276	\$5,604,999	\$20,026,275
Less estimated income	2,497,866	(590,952)	1,906,914
General fund	\$11,923,410	\$6,195,951	\$18,119,361
FTE	33.00	7.00	40.00

**Department No. 188 - Commission on Legal Counsel for Indigent - Detail of House Changes**

	Adds Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Salary and Benefit Increases <sup>2</sup>	Adds New Positions <sup>3</sup>	Decreases Special Funds <sup>4</sup>	Adds Funding for Increased Workload <sup>5</sup>	Total House Changes
Comm. on legal counsel for indigents	\$433,524	\$439,961	\$1,260,349	(\$611,963)	\$4,200,000	\$5,721,871
Accrued leave payments	(116,872)					(116,872)
Total all funds	\$316,652	\$439,961	\$1,260,349	(\$611,963)	\$4,200,000	\$5,604,999
Less estimated income	14,096	6,915	0	(611,963)	0	(590,952)
General fund	\$302,556	\$433,046	\$1,260,349	\$0	\$4,200,000	\$6,195,951
FTE	0.00	0.00	7.00	0.00	0.00	7.00

<sup>1</sup> Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$260,335	\$6,915	\$267,250
Health insurance increase	172,711		172,711
Total	\$433,046	\$6,915	\$439,961

<sup>3</sup> The following funding and FTE are added:

	General Fund	Other Funds	Total
1 attorney FTE position and 1 administrative FTE position for Watford City	\$539,555		\$539,555
Converts 5 temporary employees to FTE positions	720,794		720,794
Total	\$1,260,349	\$0	\$1,260,349

<sup>4</sup> Special funds are decreased due to less funding available in the indigent defense administration fund.

<sup>5</sup> Funding is added from the general fund for increasing costs of legal fees, contract fees, case specific fees, and other costs related to increasing case loads.

**2015 SENATE APPROPRIATIONS**

**HB 1022**



# 2015 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Harvest Room, State Capitol

HB 1022  
3/4/2015  
Job # 24334

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Rose Janing*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

Attachment 1

Legislative Council - Sean Smith  
OMB - Becky Keller

**Chairman Holmberg** called the committee to order on HB 1022.

**Robin Huseby, Executive Director, ND Commission on Legal Counsel for Indigents:**  
Testified in favor of HB 1022. Attachment 1

Spoke on the need for FTEs and would like to ask for \$200,000 for contracting money for Dickinson to bring attorneys in to take cases that the Dickinson primary office can't handle. Also asked the committee to move forward with their budget and to keep in the seven conversions to FTEs and also grant us the contracting money.

**Senator Robinson:** How long have you been in charge of this agency?

**Robin Huseby:** November 2005.

**Senator Carlisle:** On the \$200,000 - what are you saying, that \$75/hr isn't enough?

**Robin Huseby:** We are going to use that money, its \$75/hr. but enter into contracts with people probably from Bismarck to go out to Dickinson to handle cases.

**Senator Carlisle:** So it's the rate plus mileage? If we could put some money in there, you could find the people to do the job?

**Robin Huseby:** If we have any money left over, we'll turn it back.

**Senator Mathern:** The same discussion is going on in behavioral health care, psychiatric care and a lot of movement is going toward telemedicine with specialists/psychiatrists

seeing people by telemedicine. Is there any of that going on in legal services so that you could have an attorney in Bismarck and providing counsel in Dickinson?

**Robin Huseby:** Yes. We put in an IVN setup in the Minot office which means they can be in Minot and have their client in Williston and have a bond hearing so we are doing some of that now but under the constitution and case law, many things you do have to be with your client. Whatever we can do by television, we are doing.

**Senator Carlisle:** I talked to our sheriff in Burleigh County and he said it's a tougher crowd with more felonies. Is it here and the west? Or other parts of the state too?

**Robin Huseby:** It's all over. The effects of the Bakken oil boom impacted everyone in the state - not just the west. You have people coming into Fargo who think they're going out there or people from the west coming back to Fargo. The felonies are rising everywhere. It's particularly concerning out west because so many of the people are transient. This is not Joe down the street who's been in trouble most his life. You just don't know most of these and they have prolific records.

**Chairman Holmberg:** We will have a subcommittee on HB 1022 of Senators Kilzer, Carlisle and Robinson.

Chairman Holmberg closed the hearing on HB 1022.

# 2015 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Harvest Room, State Capitol

HB 1022  
3/26/2015  
Job # 25490

☒ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Robinson for Rose Loring*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

Legislative Council - Sean Smith  
OMB - Becky Keller

**Senator Kilzer** called the sub-committee to order on HB 1022. Senator Carlisle and Senator Robinson were also present.

**Jean Delaney**, Deputy Director of the Commission, Legal Counsel of Indigent Defense. She introduced Aaron Petrowitz their financial officer. We were very happy with the executive budget. The House removed the funding for our Dickinson adjunct office. Robin asked that we be given \$250,000 in lieu of the office.

The case numbers have gone up dramatically in the western part of the state. The severity level of the cases has increased. That means higher attorney time and additional caseloads and difficulty in finding attorneys and they don't want to take the indigent defense cases.

**Senator Kilzer** stated that in the original bill for the Dickinson situation there was something like \$530,000 and now we're talking about contracting it out for \$250,000. There would have to be some lessening of services. What would that be? You kind of think of the indigent defense as a fixed amount of service that would be required of the judicial system. Something would have to give - the need hasn't changed.

**Ms. Delaney** agreed.

**Senator Kilzer** asked if they would need to get additional money in addition to this and from where.

**Ms. Delaney** replied, yes, probably from other parts of the state. The public defender office, adjunct office, is really a necessity. If we don't have that, we do need additional funding. The case numbers and severity level is going up and the need for attorneys to provide these services is not going away. Our contract attorneys are great but the public defenders have more of a stake in providing these services and they would be right there and, in the adjunct office, could take conflicts from other areas.

**Senator Kilzer** asked if there were any other potential sources of finance.

**Senator Carlisle** said he had the Industrial Commission. He couldn't think of another budget. They are all separate. We won't get the \$539 but could we try some temporary money at the \$200.

**Senator Kilzer** said he was very much in favor of the \$200,000 for the present time.

**Senator Robinson** appreciated the struggle of part time help. \$539 for 2 legal defenders- what if we did one full time instead of 2-3 part-time?

**Ms. Delaney:** The two full time positions were for an attorney and an administrative assistant to assist the attorney in the office. It's worthy of consideration. The office has the advantage of having someone who has that buy in.

**Senator Robinson:** This is one option, but maybe we don't have support for it. Robin has developed a tremendous program in just a short amount of time given the magnitude of the problem.

**Senator Kilzer:** Do you recall if we had the same numbers in the west a couple years ago?

**Ms. Delaney:** Not the exact same situation. The numbers have been increasing year to year. Last session, there were two legal assistants added and an attorney was added.

**Senator Carlisle:** What would one cost - exactly half of that?

**Ms. Delaney deferred to Aaron Petrowitz** who said that it wouldn't be half because a lot is overhead cost like building rental. If you took out one employee, it wouldn't cut it in half. I think that in one way, if we didn't get office space and were not staffed by an attorney and administration it would almost be easier to do with contracts. We'd get more bang for our bucks.

**Senator Carlisle:** Should we go with \$200,000 and take it to the conference committee.

**Senator Robinson:** Whatever we can do to help the agency. I think they demonstrated the need without question so we give them as much help as possible and flexibility.

**Senator Kilzer:** Is that the only amendment we'd need?

**Senator Carlisle:** Other than salaries because we're pretty much staying with 3-3 and holding with medical. I think that's the only difference.

**Senator Kilzer:** We will meet one last time early next week to look at the amendments talked about, \$200,000 contract for the biennium, the usual ones, 3-3 and the 1% pension contribution by the recipient not the state.

The meeting was closed.

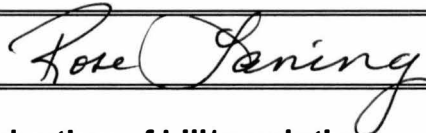
# 2015 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Harvest Room, State Capitol

HB 1022  
3/30/2015  
Job # 25598

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

Legislative Council - Adam Mathiak  
OMB - Becky Keller

**Senator Kilzer:** The executive budget had an increase in Dickinson of a couple FTEs of \$139,000 for adding services of indigent defense in Dickinson. The House had removed it and this puts in what Robin tells us we could get along with and that is \$200,000 for a contracted services without adding FTEs.

**Senator Robinson:** I was on the subcommittee and Senator Kilzer explained it well. They will be pleased with the \$200,000 and they can make this work. I think they're having problems finding people too. There is a need in Dickinson, but they've been able to float their people around to the extent that they can help other areas in the state. The assistant director of the program was with us last week when we met and she was pleased with this level of funding.

**Senator Kilzer moved amendment 15.8130.02002.**  
**Senator Carlisle seconded.**  
**Voice vote carried.**

**Senator Robinson moved Do Pass as Amended on HB 1022.**  
**Senator Krebsbach seconded.**

**A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0**  
**Senator Robinson carry the bill on the floor.**

March 30, 2015

3/30/15  
Jone  
192

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1022

Page 1, line 2, after "indigents" insert "; and to amend and reenact subsection 6 of section 54-61-01 of the North Dakota Century Code, relating to the commission on legal counsel for indigents"

Page 1, replace lines 12 and 13 with:

"Commission on legal counsel for indigents"	\$14,304,404	\$5,891,758	\$20,196,162
--	--------------	-------------	--------------

Page 1, replace lines 15 through 17 with:

"Total all funds	\$14,421,276	\$5,774,886	\$20,196,162
Less special funds	<u>2,497,866</u>	<u>(590,952)</u>	<u>1,906,914</u>
Total general fund	\$11,923,410	\$6,365,838	\$18,289,248"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Subsection 6 of section 54-61-01 of the North Dakota Century Code is amended and reenacted as follows:

6. A member of the commission is entitled to reimbursement for travel and expenses as provided by law for other state officers. If not otherwise employed by the state of North Dakota, a member is entitled to receive per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending meetings or performing other duties relating to the official business of the commission. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate as provided under section 54-35-10 for each day devoted to attending meetings or performing other duties relating to the official business of the commission."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1022 - Commission on Legal Counsel for Indigent - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Comm. on legal counsel for indigents	\$14,304,404	\$20,026,275	\$169,887	\$20,196,162
Accrued leave payments	<u>116,872</u>			
Total all funds	\$14,421,276	\$20,026,275	\$169,887	\$20,196,162
Less estimated income	<u>2,497,866</u>	<u>1,906,914</u>	<u>0</u>	<u>1,906,914</u>
General fund	\$11,923,410	\$18,119,361	\$169,887	\$18,289,248
FTE	33.00	40.00	<u>0.00</u>	40.00

Department No. 188 - Commission on Legal Counsel for Indigent - Detail of Senate Changes

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Adds Funding for Legal Contract Services <sup>2</sup>	Total Senate Changes
Comm. on legal counsel for indigents	(\$30,113)	\$200,000	\$169,887
Accrued leave payments			
Total all funds	(\$30,113)	\$200,000	\$169,887
Less estimated income	0	0	0
General fund	(\$30,113)	\$200,000	\$169,887
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>2</sup> Funding is added for contract fees for legal services related to increasing case loads to provide a total of \$4.4 million.

This amendment also adds a section providing that a member of the Commission on Legal Counsel for Indigents who is also a legislator is entitled to receive per diem compensation as provided under Section 54-35-10.



Date: 3-30-15  
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1022

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 15. 8130. 02002

Recommendation: ☒ Adopt Amendment  
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Kilger Seconded By Carlisle

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Heckaman		
Senator Bowman			Senator Mathern		
Senator Krebsbach			Senator O'Connell		
Senator Carlisle			Senator Robinson		
Senator Sorvaag					
Senator G. Lee					
Senator Kilzer					
Senator Erbele					
Senator Wanzek					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

*voice vote carried.*

Date: 3-30-15  
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1022

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation  
☒ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Robinson Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Robinson

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

**REPORT OF STANDING COMMITTEE**

**HB 1022, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1022 was placed on the Sixth order on the calendar.

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General fund	\$11,923,410	\$18,119,361	\$169,887	\$18,289,248
FTE	33.00	40.00	<u>0.00</u>	40.00

**Department No. 188 - Commission on Legal Counsel for Indigent - Detail of Senate Changes**

Adjusts Funding for	Adds Funding for Legal	Total Senate Changes
------------------------	---------------------------	-------------------------

	Health Insurance Premium Increases <sup>1</sup>	Contract Services <sup>2</sup>	
Comm. on legal counsel for indigents	(\$30,113)	\$200,000	\$169,887
Accrued leave payments			
Total all funds	(\$30,113)	\$200,000	\$169,887
Less estimated income	0	0	0
General fund	(\$30,113)	\$200,000	\$169,887
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

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This amendment also adds a section providing that a member of the Commission on Legal Counsel for Indigents who is also a legislator is entitled to receive per diem compensation as provided under Section 54-35-10.

**2015 CONFERENCE COMMITTEE**

**HB 1022**

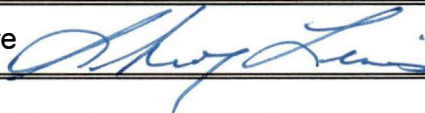
# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Government Operations Division Medora Room, State Capitol

HB1022  
4/16/2015  
Recording Job# 26183

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

"Click to enter attachment information."

**Chairman Thoreson:** Opened the conference committee on HB1022.

**Senator Robinson:** Explained the changes to HB1022.

**Chairman Thoreson:** We had a discussion with the agency about their need when we had the bill on our side. The \$200,000.00 is a stop gap measure until the next biennium?

**Senator Robinson:** We were convinced without funding that they would be stretched to the point that some of these bases will likely not be covered.

**Chairman Thoreson:** There is also an amendment dealing with compensation for legislators who serves. Is that correct?

**Senator Robinson:** Yes. The amendment allows for compensation for legislators that serve on the commission.

**Chairman Thoreson:** A member of the legislative assembly would get the per diem compensation; is that then paid for by the legislative council or by the agency? Where do the sources of that payment come from?

**Sean Smith, Fiscal Analyst, ND Legislative Council:** I'm not sure but I can figure that out. I don't know if we would know that.

**Chairman Thoreson:** We should get an answer on that.

**Senator Kilzer:** When you did not concur, what was the thinking?



**Chairman Thoreson:** In the case of some of these issues because of the budget situation that we're in, it is our feeling that we should have a conversation about it to find out what the reasoning was for the changes made from when it came from the House.

**Representative Boehning:** How many meetings a year do the members on the commission go to?

**Robin Huseby, Executive Director, Commission on Legal Counsel for Indigents:** We usually have four meetings.

**Representative Boehning:** It says member is entitled to receive per diem of \$62.50/day. How many receive that? We put this language in for legislators; how many would be left?

**Robin Huseby:** There are two legislators. The five would be getting the \$62.50 and the two would be getting the \$165.00.

**Representative Boehning:** None of these people that are receiving the \$62.50 are state employees?

**Robin Huseby:** No. They are all private citizens or retired people.

**Representative Boehning:** Maybe we should have that matched to the legislative reimbursement?

**Chairman Thoreson:** For the other members of the commission other than the legislators?

**Representative Boehning:** That's just a suggestion.

**Chairman Thoreson:** You would have them receive the same compensation as a legislator. Correct?

**Representative Boehning:** Correct.

**Chairman Thoreson:** If you could see what the dollar amount difference would be to do that.

**Representative Boehning:** It would be \$2,400.00 extra.

**Robin Huseby:** There are five members under that; there are seven members.

**Senator Carlisle:** I don't know how many board of commissions, it's over 100, and there might be a lot others that are at the \$62.50.

**Chairman Thoreson:** Because of all the other boards and commissions if there's another tier of pay for those

**Senator Carlisle:** I think there are 115 boards and the pay is all over the place. That might be something to study.

**Chairman Thoreson:** Closed the conference committee.



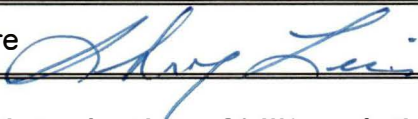
## 2015 HOUSE STANDING COMMITTEE MINUTES

### Appropriations Committee - Government Operations Division Medora Room, State Capitol

HB1022  
4/17/2015  
Recording Job# 26225

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



#### Explanation or reason for introduction of bill/resolution:

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

#### Minutes:

"Click to enter attachment information."

**Chairman Thoreson:** Opened the conference committee on HB1022.

**Chairman Thoreson:** Representative Boehning had brought up the issue for compensation for other boards and commissions. There may be something coming in conference on OMB to deal with that. My sense is that this language would stay as is in the amendment.

**Senator Carlisle:** I would agree with you.

**Chairman Thoreson:** Is this coming out of council or is it coming out of indigent? Where is the money coming from?

**Sean Smith, Fiscal Analyst, ND Legislative Council:** It would come out of the agency. They currently pay.

**Chairman Thoreson:** They currently pay the \$62.50/day. Do legislators get paid at this time or are they not paid?

**Sean Smith:** It's my understanding that they are paid at the lower level.

**Senator Robinson:** Do we know what that cost would be if we paid them the legislative rate for four meetings a year?

**Sean Smith:** The additional cost would be \$836.00 per year. That's assuming they'd do four meetings per year.

**Chairman Thoreson:** Is that \$836.00 per legislator or total?

**Sean Smith:** Total.

**Chairman Thoreson:** That would come from the agency.

**Sean Smtih:** Correct.

**Senator Carlisle:** We would pay the legislators extra but not the rest of the committee?

**Sean Smith:** That's correct.

**Chairman Thoreson:** When we do attend meetings, we are paid the legislative rate. Would there be language we could put in there that it would be paid by council instead of by the agency?

**Sean Smith:** I think we could put language in pretty easily.

**Senator Robinson:** I don't think there's a uniform policy throughout the system. We've been dealing these one at a time over the course of several years.

**Senator Carlisle:** I'd be more comfortable paying the legislators out of council.

**Chairman Thoreson:** I'm going to have council prepare an amendment for this bill. I would like to see an amendment drafted that would keep this language with the directive that it is paid through legislative council. Is this the case in other boards and commissions that legislators may serve on?

**Senator Robinson:** It's that inconsistent.

**Chairman Thoreson:** We're now seeing where other boards and commissions salaries are being tied to legislative pay. There was an amendment that I've been shown that would decouple that. When that bill is put through the conferees they need to address this as a whole.

**Representative Boehning:** That \$836.00 does that include the travel and the lodging as well in that number or is that just the wages?

**Sean Smith:** It would just be the wages. The travel would be an additional cost that we'd have to consider.

**Representative Boehning:** That would have to go into the council's budget then as well. That would probably double that \$836.00; we'd be under \$2,000.00 I'm assuming?

**Sean Smith:** That \$836.00 was the difference between the two amounts. I'd have to calculate the entire amount.

**Chairman Thoreson:** You would need to calculate the entire \$165.00 per day. Currently now, if they're staying, that's being paid out of the budget for the counsel on indigent defense. Is that correct?

**Sean Smth:** That's correct.

**Chairman Thoreson:** Do we want to look at having that paid by legislative council also?

**Senator Robinson:** If you're going to have an amendment drafted maybe we can put that all together.

**Senator Carlisle:** The council will pay for our expenses.

**Chairman Thoreson:** Correct; the travel, lodging and per diem just as if we were to come here for an interim committee meeting.

**Senator Robinson:** We also discussed the \$200,000.00 contract for the Dickinson effort. Have we reached an agreement on that?

**Chairman Thoreson:** We did have a discussion with leadership today. House and Senate leadership are meeting right now. We were asked to hold off on that one issue until there was a little clarity.

**Senator Robinson:** The request was for \$500,000.00 and we reduced it to \$200,000.00 and a contract. We felt that the case was made with the growth in the Dickinson area; they needed help.

**Chairman Thoreson:** I don't know if there's opposition to it but that we're seeing where the pieces fall in place. There is the larger discussion when this agency became separate from the court system with the increases that are taking place.

**Senator Kilzer:** We have not talked to our leadership about this one item. It's not part of the equity package; it's not part of the 3% and 3%.

**Chairman Thoreson:** It's not just this budget; but the amounts that are throughout the budgets.

**Senator Kilzer:** When you look into it, can you check into the medical school advisory board on how they're reimbursed and by whom?

**Sean Smith:** Yes.

**Representative Boehning:** Do we want to bump that \$62.50 up to \$100.00 for the other commissioners on the board?

**Senator Robinson:** It would be interesting to know what the intent of the language that's going to go into OMB. If that's going to be a retroactive across the board adjustment, there are some questions there.

**Chairman Thoreson:** The language I was referencing was tying board pay to legislative pay. Maybe that's having the opposite effect. There may be some people wondering if that's a way to bump up pay for boards and commissions without doing it within the

individual budgets. I don't know what the cost difference would be if we were to increase this. The \$62.50 is that standard throughout most other boards and commissions?

**Sean Smith:** I'm not sure. I know it's all over the board.

**Representative Boehning:** I don't know if the \$62.50 wasn't tied to legislative pay at one point when they set this. We see that a lot in the boards.

**Chairman Thoreson:** I believe at one time we did get paid \$62.50/day when we came in the interim and then it was the regular rate during the legislative session. Let's take a look at the amendment that comes forward and we maybe can have a discussion on that. The other question is, are they having difficulty finding people to serve on these boards because of the compensation. I don't know if its impacting the quality of candidates or getting people to serve on these boards.

**Representative Boehning:** Maybe Sean can find out on the board where they're coming from. What's the makeup of the board?

**Sean Smith:** I can get that information.

**Senator Carlisle:** The easier way is to take this out and let OMB do something.

**Chairman Thoreson:** You're correct. I think we may still want to address it in this budget. If we find out it is going to go forward, that can be addressed there. I'll still ask for the amendment to be drafted and we can review that at our next meeting.

**Chairman Thoreson:** Closed the conference committee.

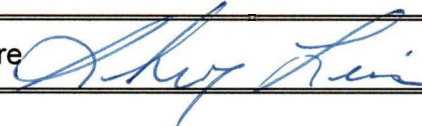
# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Government Operations Division Medora Room, State Capitol

HB1022  
4/21/2015  
Recording Job# 26295

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

### Minutes:

See attachment A

**Chairman Thoreson:** Opened the conference committee on HB1022.

**Representative Skarphol:** Substituted for Representative Boehning.

**Chairman Thoreson:** We're waiting for some amendments that were drafted dealing with legislative compensation; we were pretty much in agreement that that should go forward. The amendments would reflect that we would pay for that out of the legislative budget. The other issue is the funding for the legal contract services. We would put forward a proposal to have an amount of \$100,000.00.

**Representative Skarphol:** Did the governor increase the funding for your needs in Dickinson in the budget so there is an increase in place and if so, can you tell us how much?

**Robin Huseby, Executive Director, ND Commission on Legal counsel for Indigents:** It was approximately \$4 million in general fund money. I just get a pot. He had also recommended the office for Dickinson that the House didn't give me.

**Representative Skarphol:** Did you get an increase in your budget in the line item for contractual services?

**Robin Huseby:** Yes.

**Representative Skarphol:** Do you recall what it amounted to?

**Robin Huseby:** We had a budget for this biennium of approximately \$14 million total; and it went up to \$20 million for 2015-2017. Without having a line item it's very hard to say

exactly where the funds go to in particular. I do know that taking the office out of Dickinson is putting a severe hole in that area for services.

**Representative Skarphol:** You do have contractual services in that area?

**Robin Huseby:** We do.

**Representative Skarphol:** What you asked for was an office with two personnel?

**Robin Huseby:** Yes. The problem with not having something set aside for Dickinson is I have to cannibalize my budget from other parts of the state to pay for those services.

**Chairman Thoreson:** See attachment A.

**Representative Skarphol:** Has anyone made a motion on this?

**Chairman Thoreson:** We have not made a motion on this. This amendment does have the dollar amount of \$200,000.00. We may have to take each individual item if we wish to make a motion on this portion of it.

**Representative Skarphol:** I agree with the intent here that legislative council pay for the legislators.

**Senator Carlisle:** I don't have a problem with that but we're pretty rock solid on the \$200,000.00. I think what she's looking at is contract attorneys out of Bismarck or where ever you can get them. We should move the amendment and leave the \$200,000.00 in.

**Representative Skarphol:** I know there's still a couple hundred thousand dollars in the contingency fund for the emergency commission. I probably would be amenable to giving her the \$200,000.00 out of the contingency dollars that are left for the emergency commission in this biennium. It still reflects on the bottom line.

**Senator Carlisle:** When would she get her money then?

**Representative Skarphol:** You would just use out of that contingency fund rather than take it out of the general fund.

**Robin Huseby:** If the money comes from the contingency fund it would be for this biennium that we're in?

**Representative Skarphol:** No. It would be the funding source for the dollars that would be appropriated in this bill for next biennium. It lowers the ending fund balance.

**Chairman Thoreson:** Do we want to have language drafted showing that?

**Senator Robinson:** I would support that motion. Legislatively we are in agreement that this agency has been very well run.

**Chairman Thoreson:** There's one other issue that we've talked about every now and again but we've never done anything. That would be an acid test for people looking for this. I don't know if there was discussion on the Senate side about that. There are some folks in the House who have questioned that. I know there are situations where people are asking for representation and then it's found that they may have considerable assets.

**Robin Huseby:** Under the statute the judge is the one who decides indigence. We have a procedure in place where we ask the judge to review it; if we find out there's a problem with how many assets or the amount of equity they might have. We do that routinely.

**Chairman Thoreson:** You just give the information to the judge and they make that determination?

**Robin Huseby:** Correct. It happens right at the court. When they go to court for the first time, they fill in their application; the judge reviews it and he decides whether they're indigent.

**Representative Skarphol:** Have you been disappointed in many of judge's decisions on that?

**Robin Huseby:** On some, yes.

**Representative Skarphol:** Can you give us an idea of the frequency?

**Robin Huseby:** No, I can't. I can tell you that we're making great inroads with the judges of getting them to look at the application more than once. We have been very successful in getting some attitudes changed on this.

**Representative Skarphol:** How can we help you?

**Robin Huseby:** Right now we have an indigence guideline taskforce. Kim Koppelman is on that; he's one of our governing commissioners also. I think what might be helpful is to have a sit down with him at our next meeting and talk about possible ways that we could tweak some legislation. We could may be have some stronger language about what our agency can do in overwriting a judge.

**Representative Skarphol:** You can pretty well feel assured that the confidence we have in you is there but how long are you going to stay? I understand that you're planning to retire.

**Robin Huseby:** I'm not sure I'm going to retire. I think my role might change; I'm not going to be executive director, Jean Delaney is going to take over for me.

**Representative Skarphol:** Should we have the same confidence in Jean Delaney that we have in you?

**Robin Huseby:** Yes.

**Senator Robinson:** Made a motion to approve this package with the \$200,000.00 earmarked for Dickinson and those dollars would come from the contingency in the emergency commission remaining balance for this biennium. The dollars would be for the 2015-2017 for this agency.

**Senator Kilzer:** Seconded the motion.

**Senator Carlisle:** That would include section six of putting in legislative pay.

**Chairman Thoreson:** Right. The motion would include the language change and then the amount of \$200,000.00; but taken from contingent funding.

**Representative Skarphol:** Do you think we should include language asking for some kind of feedback from these folks about any issues they have relative to their disappointment in the courts decisions with regard to assets? So it would draw attention to it in the next session or do you think we should trust that they will report back to us without us giving that direction?

**Senator Robinson:** I think you bring up a good point. Robin is aware of it and I have full confidence in Robin and Jean to carry forward and keep this as an issue to provide some focus on over the next 24 months. If you feel we need language above and beyond that, I'm not opposed to that.

**Representative Skarphol:** Maybe it would be helpful to them to have a requirement for reports so the courts would understand that the legislature does have concerns. The possibility does exist that she's going to have more clients and those clients may have assets that they haven't had previously because of their employment.

**Senator Robinson:** I would have no problem if we could incorporate language in the motion to that effect.

**Senator Carlisle:** It would just be intent language?

**Senator Robinson:** That's correct.

**Chairman Thoreson:** Do we want to hold this motion and see the amendment with the language?

**Senator Robinson:** I think we'd be comfortable having the vote

**Senator Carlisle:** If they can just get us a copy.

**Roll call vote:** 6 Yeas 0 Nays 0 Absent

Motion carried.

**Chairman Thoreson:** Closed the conference committee.



# 2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1022  
4/24/2015  
Recording Job# 26417

☐ Subcommittee  
☒ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents.

## Minutes:

"Click to enter attachment information."

**Chairman Thoreson:** Opened the conference committee on HB1022.

**Chairman Thoreson:** There was an additional \$200,000.00 that the Senate had put in and the House agreed to that.

**Becky Keller, Fiscal Analyst, ND Office of Management and Budget:** When we approved the vote on using the emergency commission contingency fund, we weren't aware that that fund is going to be depleted because of some funding that's taking place in the deficiency bill and because of the fires that have taken place the last couple of weeks. The adjutant general will need funding from that fund as well. So we requested that you find a different funding source.

**Chairman Thoreson:** So will the attorney general. Correct?

**Becky Keller:** Correct.

**Chairman Thoreson:** After that conversation we'd spoken with leadership on the House side and had suggested a different funding source.

**Sean Smith, Fiscal Analyst, ND Legislative Council:** The funding has changed to the SIIF fund. That's the only change.

**Chairman Thoreson:** Do we need to reconsider our actions since we approved it previously?

**Senator Robinson:** Made a motion to move the bill.

**Representative Boehning:** Seconded the motion.

House Appropriations Committee - Government Operations Division

HB1022

April 24, 2015

Page 2

**Roll Call Vote:** 6 Yeas 0 Nays 0 Absent

Chairman Thoreson: Closed the conference committee.

1 of 2  
TD  
4/27/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1022

That the Senate recede from its amendments as printed on pages 1299-1301 of the House Journal and pages 1036 and 1037 of the Senate Journal and that Engrossed House Bill No. 1021 be amended as follows:

Page 1, line 2, after "indigents" insert "; to amend and reenact subsection 6 of section 54-61-01 of the North Dakota Century Code, relating to the commission on legal counsel for indigents; and to provide for a report to the sixty-fifth legislative assembly"

Page 1, replace lines 12 and 13 with:

"Commission on legal counsel for indigents	\$14,304,404	\$5,891,758	\$20,196,162"
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Page 1, replace lines 15 through 17 with:

"Total all funds	\$14,421,276	\$5,774,886	\$20,196,162
Less special funds	<u>2,497,866</u>	<u>(390,952)</u>	<u>2,106,914</u>
Total general fund	\$11,923,410	\$6,165,838	\$18,089,248"

Page 1, after line 18, insert:

**"SECTION 2. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - CONTRACT SERVICE FEES.** The commission on legal counsel for indigents line item in section 1 of this Act, includes the sum of \$200,000 from the strategic investment and improvements fund for contract service fees. The funding provided is considered a one-time funding item.

**SECTION 3. AMENDMENT.** Subsection 6 of section 54-61-01 of the North Dakota Century Code is amended and reenacted as follows:

6. A member of the commission is entitled to reimbursement for travel and expenses as provided by law for other state officers. If not otherwise employed by the state of North Dakota, a member is entitled to receive per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending meetings or performing other duties relating to the official business of the commission. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate as provided under section 54-35-10 for each day devoted to attending meetings or performing other duties relating to the official business of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

**SECTION 4. ELIGIBILITY FOR SERVICES - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The commission on legal counsel for indigents shall report to the sixty-fifth legislative assembly regarding the effectiveness of limits and procedures used to ensure that defense services are provided only to indigent clients."

Renumber accordingly

2082

**STATEMENT OF PURPOSE OF AMENDMENT:****House Bill No. 1022 - Commission on Legal Counsel for Indigents - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Commission on legal counsel for indigents	\$14,304,404	\$20,026,275	\$169,887	\$20,196,162	\$20,196,162	
Accrued leave payments	116,872					
Total all funds	\$14,421,276	\$20,026,275	\$169,887	\$20,196,162	\$20,196,162	\$0
Less estimated income	2,497,866	1,906,914	200,000	2,106,914	1,906,914	200,000
General fund	\$11,923,410	\$18,119,361	(\$30,113)	\$18,089,248	\$18,289,248	(\$200,000)
FTE	33.00	40.00	0.00	40.00	40.00	0.00

**Department No. 188 - Commission on Legal Counsel for Indigents - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Adds Funding for Legal Contract Services <sup>2</sup>	Total Conference Committee Changes
Commission on legal counsel for indigents	(\$30,113)	\$200,000	\$169,887
Accrued leave payments			
Total all funds	(\$30,113)	\$200,000	\$169,887
Less estimated income	0	200,000	200,000
General fund	(\$30,113)	\$0	(\$30,113)
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>2</sup> One-time funding is added for contract fees for legal services related to increasing case loads from the strategic investment and improvements fund to provide a total of \$4.4 million. The Senate provided \$200,000 for these fees from the general fund.

This amendment also adds:

- An amendment to North Dakota Century Code Section 54-61-01, which provides a member of the Commission on Legal Counsel for Indigents who is also a legislator is entitled to receive per diem compensation as provided under Section 54-35-10. The Legislative Council is required to pay the per diem and travel and related expenses for the legislators. The Senate added the section but did not require the Legislative Council to pay the per diem and travel and expenses for the legislators.
- A new section requiring the agency to report to the 65th Legislative Assembly regarding the effectiveness of limits and procedures to provide defense services to only those individuals who are indigent.
- A new section providing one-time funding of \$200,000 from the strategic investment and improvements fund for contract fee services.

**2015 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1022 as (re) engrossed

**House Government Operations Committee**

- Action Taken**    ☐ **HOUSE accede to Senate Amendments**  
☐ **HOUSE accede to Senate Amendments and further amend**  
☐ **SENATE recede from Senate amendments**  
☒ **SENATE recede from Senate amendments and amend as follows**

- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Robinson      Seconded by: Senator Kilzer

Representatives	4-16	4-17	4-21	Yes	No		Senators	4-16	4-17	4-21	Yes	No
Blair Thoreson	X	X	X	X			Ralph Kilzer	X	X	X	X	
Randy Boehning	X	X					Ron Carlisle	X	X	X	X	
Kathy Hogan	X	X	X	X			Larry Robinson	X	X	X	X	
Robert Skarphol			X	X								
Total Rep. Vote				3			Total Senate Vote				3	

Vote Count      Yes: 6      No: 0      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment to add \$200,000.00 earmarked for Dickinson from emergency contingency fund.

Date: 4/24/2015  
Roll Call Vote #: 2

**2015 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1022 as (re) engrossed

**House Government Operations Committee**

- Action Taken**    ☐ **HOUSE accede to Senate Amendments**  
                         ☐ **HOUSE accede to Senate Amendments and further amend**  
                         ☐ **SENATE recede from Senate amendments**  
                         ☒ **SENATE recede from Senate amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Robinson      Seconded by: Senator Kilzer

Representatives	4-24			Yes	No		Senators	4-22			Yes	No
Blair Thoreson	X			X			Ralph Kilzer	X			X	
Randy Boehning	X			X			Ron Carlisle	X			X	
Kathy Hogan	X			X			Larry Robinson	X			X	
Robert Skarphol												
Total Rep. Vote				3			Total Senate Vote				3	

Vote Count      Yes: 6      No: 0      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number 8130 . 02004 of amendment

LC Number 4000 . \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment to add \$200,000.00 earmarked for Dickinson from the SIIF Fund

**REPORT OF CONFERENCE COMMITTEE**

**HB 1022, as engrossed:** Your conference committee (Sens. Kilzer, Carlisle, Robinson and Reps. Thoreson, Boehning, Hogan) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1299-1301, adopt amendments as follows, and place HB 1022 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1299-1301 of the House Journal and pages 1036 and 1037 of the Senate Journal and that Engrossed House Bill No. 1021 be amended as follows:

Page 1, line 2, after "indigents" insert "; to amend and reenact subsection 6 of section 54-61-01 of the North Dakota Century Code, relating to the commission on legal counsel for indigents; and to provide for a report to the sixty-fifth legislative assembly"

Page 1, replace lines 12 and 13 with:

"Commission on legal counsel for indigents	\$14,304,404	\$5,891,758	\$20,196,162"
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Less special funds	<u>2,497,866</u>	<u>(390,952)</u>	<u>2,106,914</u>
Total general fund	\$11,923,410	\$6,165,838	\$18,089,248"

Page 1, after line 18, insert:

**"SECTION 2. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - CONTRACT SERVICE FEES.** The commission on legal counsel for indigents line item in section 1 of this Act, includes the sum of \$200,000 from the strategic investment and improvements fund for contract service fees. The funding provided is considered a one-time funding item.

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6. A member of the commission is entitled to reimbursement for travel and expenses as provided by law for other state officers. If not otherwise employed by the state of North Dakota, a member is entitled to receive per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending meetings or performing other duties relating to the official business of the commission. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate as provided under section 54-35-10 for each day devoted to attending meetings or performing other duties relating to the official business of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

**SECTION 4. ELIGIBILITY FOR SERVICES - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The commission on legal counsel for indigents shall report to the sixty-fifth legislative assembly regarding the effectiveness of limits and procedures used to ensure that defense services are provided only to indigent clients."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**



**House Bill No. 1022 - Commission on Legal Counsel for Indigents - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Commission on legal counsel for indigents	\$14,304,404	\$20,026,275	\$169,887	\$20,196,162	\$20,196,162	
Accrued leave payments	116,872					
Total all funds	\$14,421,276	\$20,026,275	\$169,887	\$20,196,162	\$20,196,162	\$0
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General fund	\$11,923,410	\$18,119,361	(\$30,113)	\$18,089,248	\$18,289,248	(\$200,000)
FTE	33.00	40.00	0.00	40.00	40.00	0.00

**Department No. 188 - Commission on Legal Counsel for Indigents - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Adds Funding for Legal Contract Services <sup>2</sup>	Total Conference Committee Changes
Commission on legal counsel for indigents	(\$30,113)	\$200,000	\$169,887
Accrued leave payments			
Total all funds	(\$30,113)	\$200,000	\$169,887
Less estimated income	0	200,000	200,000
General fund	(\$30,113)	\$0	(\$30,113)
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>2</sup> One-time funding is added for contract fees for legal services related to increasing case loads from the strategic investment and improvements fund to provide a total of \$4.4 million. The Senate provided \$200,000 for these fees from the general fund.

This amendment also adds:

- An amendment to North Dakota Century Code Section 54-61-01, which provides a member of the Commission on Legal Counsel for Indigents who is also a legislator is entitled to receive per diem compensation as provided under Section 54-35-10. The Legislative Council is required to pay the per diem and travel and related expenses for the legislators. The Senate added the section but did not require the Legislative Council to pay the per diem and travel and expenses for the legislators.
- A new section requiring the agency to report to the 65th Legislative Assembly regarding the effectiveness of limits and procedures to provide defense services to only those individuals who are indigent.
- A new section providing one-time funding of \$200,000 from the strategic investment and improvements fund for contract fee services.

Engrossed HB 1022 was placed on the Seventh order of business on the calendar.



**2015 TESTIMONY**

**HB 1022**

**Department 188 - Commission on Legal Counsel for Indigents  
House Bill No. 1022**

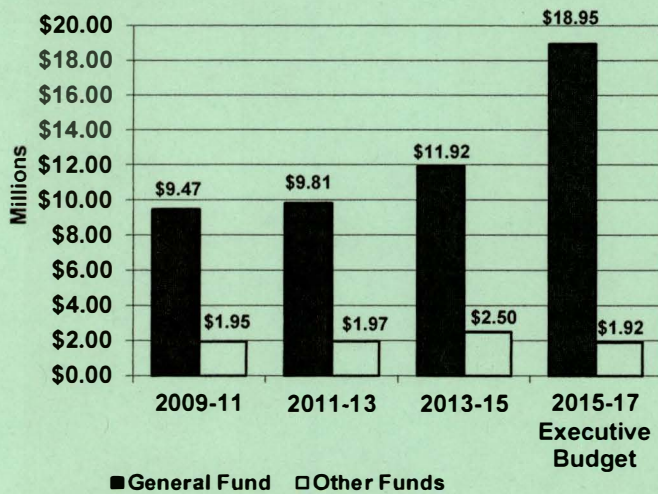
**Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	42.00	\$18,950,750	\$1,916,104	\$20,866,854
2013-15 Legislative Appropriations	33.00	11,923,410	2,497,866	14,421,276
Increase (Decrease)	9.00	\$7,027,340	(\$581,762)	\$6,445,578

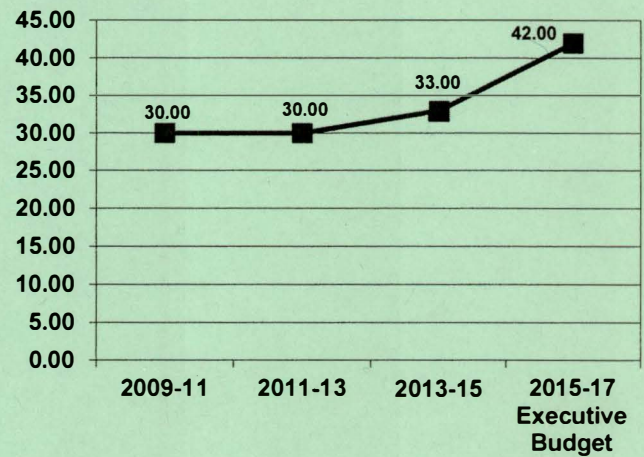
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2015-17 Executive Budget	\$18,950,750	\$1,916,104	\$20,866,854
2013-15 Legislative Appropriations	11,923,410	2,497,866	14,421,276
Increase (Decrease)	\$7,027,340	(\$581,762)	\$6,445,578

**Agency Funding**



**FTE Positions**



**Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$18,950,750	\$1,916,104	\$20,866,854
2015-17 Base Level	11,923,410	2,497,866	14,421,276
Increase (Decrease)	\$7,027,340	(\$581,762)	\$6,445,578

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases, of which \$374,396 relates to performance increases, \$146,664 is for market equity adjustments, \$181,347 is for health insurance increases, and \$38,578 is for retirement contribution increases	\$724,880	\$16,105	\$740,985
2. Converts 5 temporary employees to FTE positions	\$720,794	\$0	\$720,794
3. Adds funding for 1 FTE attorney position (\$210,924) and 1 FTE administrative assistant position (\$115,956) and related operating expenses (\$212,675) for the Dickinson conflict office	\$539,555	\$0	\$539,555
4. Adds funding for 1 FTE attorney position (\$210,924) and 1 FTE administrative assistant position (\$115,956) and related operating expenses to establish a Watford City office	\$539,555	\$0	\$539,555



5. Adds funding from the general fund for increasing costs of legal fees, contract fees, case specific fees, and other costs related to increasing case loads	\$4,200,000	\$0	\$4,200,000
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### **Continuing Appropriations**

**Indigent defense administration fund** - North Dakota Century Code Sections 29-07-01.1 and 29-26-22 - Funding is from a \$25 nonrefundable fee for court-appointed defense services and from a \$100 court administration fee in all criminal cases except infractions. The first \$750,000 collected is used for indigent defense services, the next \$460,000 is used for court facilities, and additional amounts are deposited equally into the two funds.

### **Significant Audit Findings**

There are no significant audit findings for this agency.

### **Major Related Legislation**

At this time, no major legislation has been introduced affecting this agency.



**Commission on Legal Counsel for Indigents - Budget No. 188**  
**House Bill No. 1022**  
**Base Level Funding Changes**

	Executive Budget Recommendation			
	FTE Positions	General Fund	Other Funds	Total
<b>2015-17 Biennium Base Level</b>	33.00	\$11,923,410	\$2,497,866	\$14,421,276
<b>2015-17 Ongoing Funding Changes</b>				
Base payroll changes		\$302,556	\$14,096	\$316,652
Salary increase - Performance		359,875	14,521	374,396
Salary increase - Market		145,080	1,584	146,664
Retirement increase		38,578		38,578
Health insurance increase		181,347		181,347
New FTE and funding for a new Watford City office	2.00	539,555		539,555
New FTE and funding for a Dickinson conflict office	2.00	539,555		539,555
Converts 5 temporary employees to FTE positions	5.00	720,794		720,794
Decreases special funds due to less funding available in the indigent defense administration fund			(611,963)	(611,963)
Adds funding for increased workload		4,200,000		4,200,000
Total ongoing funding changes	9.00	\$7,027,340	(\$581,762)	\$6,445,578
<b>One-time funding items</b>				
Total one-time funding changes	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	9.00	\$7,027,340	(\$581,762)	\$6,445,578
<b>2015-17 Total Funding</b>	42.00	\$18,950,750	\$1,916,104	\$20,866,854



Department 188 - Commission on Legal Counsel for Indigents  
House Bill No. 1022

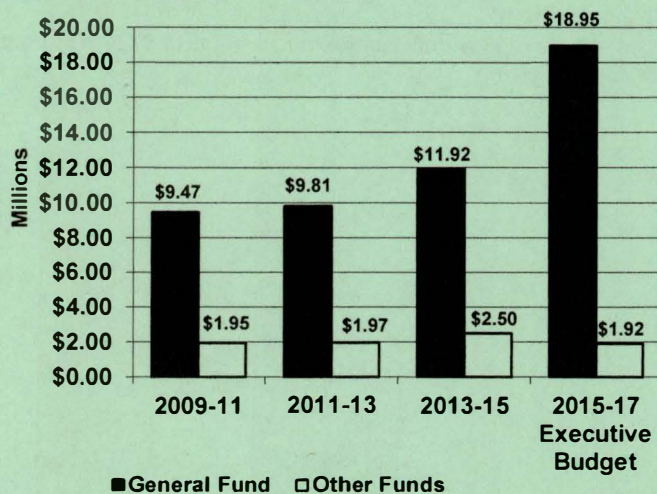
**Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	42.00	\$18,950,750	\$1,916,104	\$20,866,854
2013-15 Legislative Appropriations	33.00	11,923,410	2,497,866	14,421,276
Increase (Decrease)	9.00	\$7,027,340	(\$581,762)	\$6,445,578

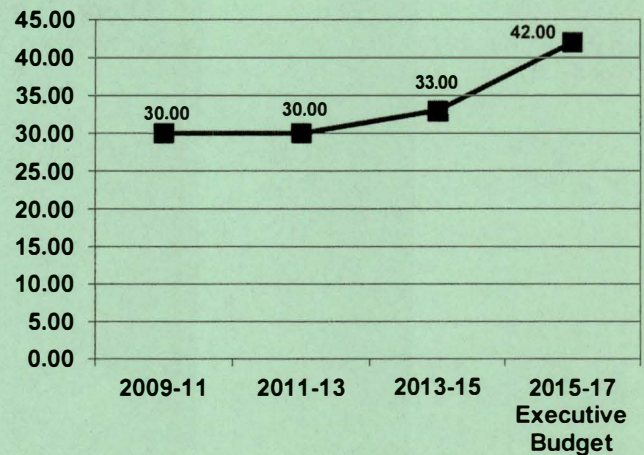
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2015-17 Executive Budget	\$18,950,750	\$1,916,104	\$20,866,854
2013-15 Legislative Appropriations	11,923,410	2,497,866	14,421,276
Increase (Decrease)	\$7,027,340	(\$581,762)	\$6,445,578

**Agency Funding**



**FTE Positions**



**Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$18,950,750	\$1,916,104	\$20,866,854
2015-17 Base Level	11,923,410	2,497,866	14,421,276
Increase (Decrease)	\$7,027,340	(\$581,762)	\$6,445,578

**First House Action**

Attached as an appendix is a comparison worksheet detailing first house changes to base level funding and the executive budget.

**Executive Budget Highlights**  
(With First House Changes in Bold)

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases, of which \$374,396 relates to performance increases, \$146,664 is for market equity adjustments, \$181,347 is for health insurance increases, and \$38,578 is for retirement contribution increases. The House provided funding for performance salary increases of 2 to 4 percent per year and funding for health insurance increases but did not include funding for market equity increases or funding for retirement contribution increases.	\$724,880	\$16,105	\$740,985
2. Converts five temporary employees to FTE positions	\$720,794	\$0	\$720,794



3. Adds funding for 1 FTE attorney position (\$210,924) and 1 FTE administrative assistant position (\$115,956) and related operating expenses (\$212,675) for the Dickinson conflict office. <b>The House did not approve the new FTE positions and related funding.</b>	\$539,555	\$0	\$539,555
4. Adds funding for 1 FTE attorney position (\$210,924) and 1 FTE administrative assistant position (\$115,956) and related operating expenses to establish a Watford City office	\$539,555	\$0	\$539,555
5. Adds funding from the general fund for increasing costs of legal fees, contract fees, case specific fees, and other costs related to increasing case loads	\$4,200,000	\$0	\$4,200,000

### **Continuing Appropriations**

**Indigent defense administration fund** - North Dakota Century Code Sections 29-07-01.1 and 29-26-22 - Funding is from a \$25 nonrefundable fee for court-appointed defense services and from a \$100 court administration fee in all criminal cases except infractions. The first \$750,000 collected is used for indigent defense services, the next \$460,000 is used for court facilities, and additional amounts are deposited equally into the two funds.

### **Significant Audit Findings**

There are no significant audit findings for this agency.

### **Major Related Legislation**

**Senate Bill No. 2023** - Provides deficiency appropriations to agencies including a deficiency appropriation of \$700,000 from the general fund to the Commission on Legal Counsel for Indigents.

# Commission on Legal Counsel for Indigents - Budget No. 188

## House Bill No. 1022

### Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2015-17 Biennium Base Level</b>	33.00	\$11,923,410	\$2,497,866	\$14,421,276	33.00	\$11,923,410	\$2,497,866	\$14,421,276
<b>2015-17 Ongoing Funding Changes</b>								
Base payroll changes		\$302,556	\$14,096	\$316,652		\$302,556	\$14,096	\$316,652
Salary increase - Performance		359,875	14,521	374,396		260,335	6,915	267,250
Salary increase - Market		145,080	1,584	146,664				0
Retirement increase		38,578		38,578				0
Health insurance increase		181,347		181,347		172,711		172,711
New FTE and funding for a new Watford City office	2.00	539,555		539,555	2.00	539,555		539,555
New FTE and funding for a Dickinson conflict office	2.00	539,555		539,555				0
Converts 5 temporary employees to FTE positions	5.00	720,794		720,794	5.00	720,794		720,794
Decreases special funds due to less funding available in the indigent defense administration fund			(611,963)	(611,963)			(611,963)	(611,963)
Adds funding for increased workload		4,200,000		4,200,000		4,200,000		4,200,000
Total ongoing funding changes	9.00	\$7,027,340	(\$581,762)	\$6,445,578	7.00	\$6,195,951	(\$590,952)	\$5,604,999
<b>One-time funding items</b>								
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	9.00	\$7,027,340	(\$581,762)	\$6,445,578	7.00	\$6,195,951	(\$590,952)	\$5,604,999
<b>2015-17 Total Funding</b>	42.00	\$18,950,750	\$1,916,104	\$20,866,854	40.00	\$18,119,361	\$1,906,914	\$20,026,275

### Other Sections in House Bill No. 1022

Executive Budget Recommendation	House Version
None	None

BUDGET MEETING HB 1022  
HOUSE APPROPRIATIONS, WED., JAN 14<sup>th</sup>, 2014, 2:00 p.m.  
MEDORA ROOM

Good morning Mr. Chairman and committee members. My name is Robin Huseby, and I am Executive Director of the Commission on Legal Counsel for Indigents. We are an executive branch agency in charge of delivering legal services in state district court criminal and juvenile cases to persons who are deemed to be indigent. An indigent person is one whose income falls below 125% of the federal poverty guidelines. To give you an example of who would qualify, a husband supporting himself, a wife, and one child would qualify for our services if he had a monthly gross income of \$2,061.00 a month. A single person would qualify if she had a monthly gross income of \$1,215.00 a month.

The past two years has been fairly tumultuous for our agency in terms of growth. Our story is similar, most probably, to other agencies mandated to provide services in every part of the state. I'm thinking of medical providers, social services, and the educational agencies. We don't have a choice on whether the services are provided; people have a constitutional right to counsel. In FY 2014, we provided attorneys in approximately 12,300 cases. I'm going to use a four year period for comparison. In 2011 FY, we had approximately 9,600 case assignments. Agency wide that is a 27.4% increase, however, that increase does not represent what is happening in the western portion of the state.

The growth out west has been fast and furious, and I will address in this presentation what we are asking for in our budget, but let me just say that in watching expenditures in the Williston, Watford City and Dickinson regions, it became more and more obvious as the biennium went on that our resources were going to be heavily tapped. We really worked hard to keep those cases flowing and assigned out in a timely fashion. It is a costly endeavor. I have informed OMB that we may be needing a



## 2-Huseby/188 Budget

deficiency appropriation of up to \$700,000 depending on what happens in the next six months. I will know more as we draw near the end of the biennium.

In the NW Judicial District, which is McKenzie, Williams and Divide Counties, since 2011FY our case #'s have increased 128%. In 2014 FY, there were 1600 case assignments. In FY 13, there were 1149. In FY12, there were 996 case assignments. In FY11 there were 700 case assignments. Clearly the system of delivering legal services had to be tweaked in order to get the job done. What I mean is that we needed to add lawyers there to handle conflicts and overflow cases. What's equally troubling with the rising case load is the increase in serious crime. Class A and Class AA felonies (Murder, Attempted Murder, Kidnaping, Robbery, Gross Sexual Imposition) have increased at an alarming rate. For example, double AA Felonies-the most serious-such as Murder, Attempted Murder and Gross Sexual Imposition went from 4 in FY2011 to 43 in FY14.

Mr. Chair, fellow committee members, our expenditures are primarily case driven. That is, when case numbers rise, so do our expenditures. We currently have 7 public defender offices and over 60 attorneys doing contract work for us.

In the last biennium, we received \$11,923,410 in general fund money. We were further authorized to spend \$2,497,866 from our special fund, a continuing appropriation consisting of money collected by district courts from defendant fees. These fees are split with the court improvement committee at the Supreme Court. Our total budget for this last biennium was \$14,421,276. Every biennium we have had a carry-over in our special fund at the end of the biennium, but we predict that special fund will be tapped out. We receive approximately \$1.9 million a biennium. For the last biennium we had authority to spend \$2.4 million and we will spend that and most probably our reserve.

For the upcoming biennium we are asking for nine FTE positions. Five of those are persons already in place. We have had to place, in some of our offices, temporary full

time persons to keep the engine running, so to speak. Therefore, in the past few years, we have put in the following employees who are not FTE's, but who we are urging you to make FTE's. These five positions are: An Attorney and one administrative support staff in the Bismarck Public Defender office; one administrative support staff person in our smaller Minot Public Defender office; an Attorney in the Williston Public Defender office, and an administrative support staff in the Valley City administrative office.

First, allow me to address the requested FTE's in the Bismarck Public Defender office. What you may have already heard, or will probably hear, from the court system is that the Bismarck region is growing at a rapid pace. We work diligently in the South Central Judicial District to keep the case loads of the attorneys to a manageable level, and in doing that have had to add several more lawyer contracts, as well as put another attorney in the Public Defender office. In that judicial district, our Public Defender office makes all the assignments for the attorneys. So each and every day, several times a day, the administrative support staff gets notice of eligibility from the clerk of court electronically, and he or she has to assign it to an attorney and make sure there's no known conflict. We currently have 20 attorneys in the South Central Judicial District doing indigent work. That number is significantly higher than it was 3 years ago. With the rising case load, this assignment procedure has become a full time job. We had one full time administrative support staff in the Public Defender office, and could not tie that person up with making case assignments, so we hired a full time temporary administrative support person. We gravely need this person's position to be that of an FTE.

The addition of the fourth attorney in the office is mandatory, as well, to keep up with the case load. That position handles approximately 250-275 case assignments a year. We can never go back to 3 attorneys in that office, in my opinion, and still maintain a manageable case load.

In our small Minot office, which was authorized last biennium, there is one attorney. We were given authority for the attorney FTE, but not an administrative support staff, and it became obvious very quickly that we need a support staff for the attorney and for walk in clients. Our attorney is often traveling and sending in email requests to that support person and we need to keep that position going as an FTE.

In the Williston Public Defender office, we had two attorneys, but have added a third, and that is the FTE we are requesting. She happens to be a Williston native and the office frankly is busy enough for 4 attorneys, but we are asking for the one attorney FTE at this time to make it a 3 attorney office.

The last temporary full time person is a 2<sup>nd</sup> support person in the Valley City administrative office. From Valley City we provide the support to all public defender offices around the state and to the contractors, process all appellate requests for counsel, answer all client complaints, serve as liaison to the various clerks of courts, process and pay bills from attorneys and vendors, handle our own HR matters as pertains to hiring and firing, and one administrative person cannot do it by him or herself. We currently have a full time administrative officer and the temporary full time person working. These support persons are essential, especially when my deputy or I are out on the road and offices or contractors have daily problems that someone needs to solve. **The amount of money requested for the five temporary full time persons to become FTE's is \$720,794.**

We have further asked that we be allowed 4 other FTE to open two small public defender offices; one in Watford City, and an adjunct office in Dickinson; each office to have one attorney and one support staff. Watford City has exploded with their infrastructure and population, plain and simple. The State's attorneys office, which was part time a couple of years ago, now has a full time SA and two assistants. The Sheriff's office and Police Department are both expanding, a new Judge has been added, and it's

conceivable another may be added. A new courthouse is being built. All this means more work for us. Our Commission recognized that we need an office and voted to allow us to open an office, which we are doing. We want to start with one attorney and one support staff. Right now we have contractors from other cities covering Watford City but it's not ideal. Five years ago we were covering Watford City with the Williston public defenders office twice a month. Those days are long gone. Watford City is generating a full case load for a public defender.

As far as Dickinson is concerned, right now we have a public defender office with two attorneys. Those attorneys handle the criminal and juvenile matters for Bowman, Adams, Slope, Hettinger, Stark, Golden Valley, Billings, and Dunn Counties. We are having difficulty finding attorneys in that judicial district to take indigent cases; they have full plates with their own, paying clients. We therefore have to bring contractors out from Bismarck several times a month, as well as tap into the few attorneys in the area who will take a case here or there. We want to open an adjunct public defender office, like the one in Minot, to handle conflicts, overflow cases, and help out occasionally with Watford City. It is inefficient for the secretary in Dickinson, and for our office, to have to drop what we are doing and call around the state for someone to take a case in Dickinson. Sometimes that results in delays in getting the attorney appointed. Dickinson, like all other areas out west, has entered the big league with involvement in gangs, drug activities, prostitution, and violent crime. Many of these types of cases have multiple defendants, and the public defender office in Dickinson can only take one client in the matter, and that is only if they don't have a prior or current conflict. The adjunct office would alleviate some of these conflict concerns.

**The amount of money requested for the two, one attorney, one administrative staff offices is \$1,079,110. We are requesting \$539,555 for each office for the biennium.**

We are also asking for an increase in our general fund to defray increasing costs of professional legal services and the depletion of our special account. **We are asking for \$4,394,662.** When one examines our budget, we really do one thing; provide legal services. All expenses are somehow related to that. Each month our expenditures have gone up and up and up, and the reason is primarily increased legal fees. Other items, such as rent and IT costs come into play to a smaller extent. We were audited in the spring of 2014 for the biennium ending on June 30<sup>th</sup>, 2013. There were no formal recommendations, and the audit did not identify any areas of the agency's operations where it was determined it was practical to help to improve efficiency or effectiveness of the agency. The auditor conducting the audit at one point stated, in the filed audit, that "The increase in professional services for the audited period reflects an increase in indigent caseloads within the state and need to contract with other attorneys. All other expenditures remained fairly constant".

I'd like to set forth why legal fees are rising.

1. The number one reason is that the case load is rising; more cases equal more attorneys and more attorney time.

2. The severity of cases is increasing. Serious felonies are on the rise, and a Class A felony, or worse, requires more attorney time than does a simple misdemeanor. A serious case is more expensive than a less serious case. When you deal with more murders, aggravated assaults, gross sexual impositions, and terrorizing charges than you did in the past, you have more medical evidence, more need for expert testimony, and more need for increased attorney hours. In these serious charges where the defendant is facing decades, or even life, in prison, the attorney will have multiple hearings and very possible jury trials.

3. Having people go to Watford, Dickinson, and Williston from areas such as Grand Forks, Fargo, or Bismarck increases costs because of travel time. Attorneys get

paid for their travel time. So let's say we have a contractor going to Williston from Grand Forks. The case that would cost \$1,500.00 if the lawyer lived in Williston could easily turn into a \$3,000.00 case as the attorney, who has to make at least 2 appearances, spends so much windshield time. This is an example of how stabilizing the areas mentioned prior, with public defender offices, helps with these professional expenses.

Because we will be depleting our special fund, monies therein will not be available for increased professional fees. In fact, as I pointed out, this last biennium we had authority to spend \$2.4 million from that fund, and this biennium we will only be able to spend what we collect, so we will be only able to spend approximately \$1.9 million this next biennium from that fund.

**With our request for our 5 full time temporary employees to be made FTE's, our request for our two new offices, and our request for increased general fund monies for professional fees, we are requesting a total increase in our general fund allocation of \$6,194,566.**

I am happy to take any questions that you may have Mr. Chair or committee members.

Dated this 14 day of January, 2015



Robin Huseby, Executive Director

P.O. Box 149

Valley City, ND 58072

701 845-8632

rhuseby@nd.gov

**HOUSE BILL 1022-COMMISSION ON LEGAL COUNSEL FOR INDIGENTS**

**HOUSE BILL 1022**

Our total budget for the 2013-2015 biennium was \$14,421,276. (\$11,923,410.00 general fund dollars, and \$2,497,866 special fund dollars).

As of our last financial statement (December, 2014), we had 19% of our budget remaining, or \$2,687,853.89. We have 25% of the biennium remaining.

We spent \$712,000 in the month of December, 2014. We project we will be spending approximately \$730,000-750,000 for each of the next six months, and that is if an unexpected whopper bill doesn't come in. As one can readily see, we clearly will be deficit spending.

We have always carried over a surplus in our special fund. That money comes from collected defendant fees. We traditionally take in approximately \$1,900,000 a biennium from those fees. Each biennium we have spent a little more than the 1.9 collected to offset some of our growing expenditures. We project we will have a surplus left, at the end of this biennium, of approximately \$1,300,000. We will spend this surplus.

We have requested a deficiency appropriation in the amount of \$700,000. (SB 2023)

Our spending has increased considerably over the past 18 months due to increased caseloads and the need for more attorneys in the west; primarily Williston, Watford City, and Dickinson. Bismarck also has required a heavy infusion of legal services.

I am attaching our December, 2014, Appropriation Status Report. If you would like any other information regarding our expenditures I can provide more detail.

Respectfully submitted

*Robin Huseby*  
Robin Huseby, Executive Director

701 845-8632

## APPROPRIATION STATUS REPORT

For the Month Ending Dec 2014  
Percent of Biennium Remaining 25%

	Original Appropriation	Current Appropriation	Expenditures	Remaining Appropriation	Encumbrances	% Remaining
<b>Expenditures by Line Item</b>						
18812 Accrued Leave Payments	116,872.00	116,872.00	22,979.27	93,892.73	0.00	80%
18870 Legal Counsel for Indigents	14,304,404.00	14,304,404.00	11,710,442.84	2,593,961.16	0.00	18%
<b>Total Expenditures</b>	<b>14,421,276.00</b>	<b>14,421,276.00</b>	<b>11,733,422.11</b>	<b>2,687,853.89</b>	<b>0.00</b>	<b>19%</b>
<b>Expenditures by Funding Source</b>						
General Funds	11,923,410.00	11,923,410.00	10,021,134.55	1,902,275.45	0.00	16%
Special Funds	2,497,866.00	2,497,866.00	1,712,287.56	785,578.44	0.00	31%
<b>Total Expenditures by Source</b>	<b>14,421,276.00</b>	<b>14,421,276.00</b>	<b>11,733,422.11</b>	<b>2,687,853.89</b>	<b>0.00</b>	<b>19%</b>



HB 1022

February 16, 2015

Attachment B

## Commission on Legal Counsel for Indigents - Budget No. 188

## House Bill No. 1022

## Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2015-17 Biennium Base Level</b>	33.00	\$11,923,410	\$2,497,866	\$14,421,276	33.00	\$11,923,410	\$2,497,866	\$14,421,276
<b>2015-17 Ongoing Funding Changes</b>								
Base payroll changes		\$302,556	\$14,096	\$316,652				\$0
Salary increase - Performance		359,875	14,521	374,396				0
Salary increase - Market		145,080	1,584	146,664				0
Retirement increase		38,578		38,578				0
Health insurance increase		181,347		181,347				0
New FTE and funding for a new Watford City office	2.00	539,555		539,555				0
New FTE and funding for a Dickinson conflict office	2.00	539,555		539,555				0
Converts 5 temporary employees to FTE positions	5.00	720,794		720,794				0
Decreases special funds due to less funding available in the indigent defense administration fund			(611,963)	(611,963)				0
Adds funding for increased workload		4,200,000		4,200,000				0
Other change				0				0
Other change				0				0
Other change				0				0
Total ongoing funding changes	9.00	\$7,027,340	(\$581,762)	\$6,445,578	0.00	\$0	\$0	\$0
<b>One-time funding items</b>								
Other one-time funding item				0				0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	9.00	\$7,027,340	(\$581,762)	\$6,445,578	0.00	\$0	\$0	\$0
<b>2015-17 Total Funding</b>	42.00	\$18,950,750	\$1,916,104	\$20,866,854	33.00	\$11,923,410	\$2,497,866	\$14,421,276

## Other Sections in House Bill No. 1022

## Executive Budget Recommendation

## House Version

HB1022 2/17/15  
attachment A

**Commission on Legal Counsel for Indigents - Budget No. 188**

**House Bill No. 1022**

**Base Level Funding Changes**

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2015-17 Biennium Base Level</b>	33.00	\$11,923,410	\$2,497,866	\$14,421,276	33.00	\$11,923,410	\$2,497,866	\$14,421,276
<b>2015-17 Ongoing Funding Changes</b>								
Base payroll changes		\$302,556	\$14,096	\$316,652		\$302,556	\$14,096	\$316,652
Salary increase - Performance		359,875	14,521	374,396		260,335	6,915	267,250
Salary increase - Market		145,080	1,584	146,664				0
Retirement increase		38,578		38,578				0
Health insurance increase		181,347		181,347		177,029		177,029
New FTE and funding for a new Watford City office	2.00	539,555		539,555	2.00	539,555		539,555
New FTE and funding for a Dickinson conflict office	2.00	539,555		539,555				0
Converts 5 temporary employees to FTE positions	5.00	720,794		720,794	5.00	720,794		720,794
Decreases special funds due to less funding available in the indigent defense administration fund			(611,963)	(611,963)			(611,963)	(611,963)
Adds funding for increased workload		4,200,000		4,200,000		4,200,000		4,200,000
Total ongoing funding changes	9.00	\$7,027,340	(\$581,762)	\$6,445,578	7.00	\$6,200,269	(\$590,952)	\$5,609,317
<b>One-time funding items</b>								
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	9.00	\$7,027,340	(\$581,762)	\$6,445,578	7.00	\$6,200,269	(\$590,952)	\$5,609,317
<b>2015-17 Total Funding</b>	42.00	\$18,950,750	\$1,916,104	\$20,866,854	40.00	\$18,123,679	\$1,906,914	\$20,030,593

**Other Sections in House Bill No. 1022**

**Executive Budget Recommendation**

**House Version**

BUDGET MEETING HB 1022  
SENATE APPROPRIATIONS, MARCH 4th, 201, 3:00 p.m.  
HARVEST ROOM

HB 1022  
3-4-15  
#1

COMMISSION ON LEGAL COUNSEL FOR INDIGENTS

**REQUESTED CHANGES TO EXECUTIVE BUDGET**

Our agency is not requesting any changes to the executive budget recommendation. We are asking for a change from the House Appropriations bill they passed.

Our 2013-2015 Appropriation was **\$14,421,276**, which consisted of **\$11,923,410** of general fund dollars, and authority to spend **\$2,497,866** from our special fund, which consists of monies collected by clerks of courts from defendants. We usually bring in about \$1,900,000 per biennium from that fund. We project we will be deficit spending by the end of the biennium.

For the 2015-2017 biennium, we submitted a budget with optional packages. Our budget request was basically adopted in the executive recommended budget. The executive budget was **\$20,866,854**, which consisted of **\$18,950,750** in general fund dollars and authority to spend **\$1,916,104** from our special fund

The House passed HB 1022 and basically the only change they made was to deny the inclusion of the Dickinson Public Defender office, which came at a price tag of \$539,555. That included two new FTE's.

The agency is asking the Senate to reinstate contract money for the Southwest Judicial District (Dickinson) in lieu of a public defender office.

Robin Huseby, Executive Director  
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BUDGET MEETING HB 1022  
SENATE APPROPRIATIONS, MARCH 4th, 201, 3:00 p.m.  
HARVEST ROOM

COMMISSION ON LEGAL COUNSEL FOR INDIGENTS

**BUDGET COMPARISON TO EXECUTIVE BUDGET**

Our agency is not asking the committee to make any changes to the executive budget recommendation.

Our 2013-2015 Appropriation was **\$14,421,276**, which consisted of **\$11,923,410** of general fund dollars, and authority to spend **\$2,497,866** from our special fund, which consists of monies collected by clerks of courts from defendants. We usually bring in about \$1,900,000 per biennium from that fund. We project we will be deficit spending by the end of the biennium.

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BUDGET MEETING HB 1022  
HOUSE APPROPRIATIONS, WED., JAN 14<sup>th</sup>, 2014, 2:00 p.m.  
MEDORA ROOM

Good morning Mr. Chairman and committee members. My name is Robin Huseby, and I am Executive Director of the Commission on Legal Counsel for Indigents. We are an executive branch agency in charge of delivering legal services in state district court criminal and juvenile cases to persons who are deemed to be indigent. In 2014, we provided counsel in approximately 12,620 cases. Statewide, that was about a 26.7% increase from 3 years ago. However in the North West and South West Judicial District, their increases per year are significantly higher.

Our 2013-2015 Appropriation was \$14,421,276, which consisted of \$11,923,410 of general fund dollars, and authority to spend \$2,497,866 from our special fund, which consists of monies collected by clerks of courts from defendants. We usually bring in about \$1,900,000 per biennium from that fund.

We will be deficit spending this biennium. We had asked for a deficiency appropriation of \$700,000, however, we plan to ask the House Appropriations Committee to amend that to a higher amount. As the monthly financials come in, and the biennium closes in, it is clear we may be too close for comfort with that \$700,000.

For the 2015-2017 biennium, the Executive Budget was basically what we had submitted. The Executive Budget proposed a general fund allocation of \$18,950,750, authority to spend from our special fund in the amount of \$1,916,104, for a total budget of \$20,866,854. Our request, and the Executive Budget, had in it the conversion of 5 temporary full time employees who had been in our employ from 1-3 years to FTE Status, and the addition of 4 new FTE's in two new offices in Watford City and Dickinson. Since the submission of the budget for the next biennium, we have opened the Watford City office with two employees, so at this point in time we actually have 7 temporary full time employees.

The House passed HB 1022 and basically the only change they made was to deny

the inclusion of the Dickinson Public Defender office, which came at a price tag of \$539,555. That's the basic reduction the House made to our requested budget and the Executive Budget. We are asking this committee to re-insert contract money for the Southwest Judicial District in lieu of the new FTE's and the office.

I need to explain what we are doing in Dickinson. Dickinson already has a 2 attorney office that has been there since 2006. The Dickinson Public Defender covers cases in Bowman, Slope, Hettinger, Adams, Stark, Billings, Golden Valley, and Dunn counties. We have had a very hard time finding attorneys in the Dickinson area to take indigent defense cases at \$75.00 an hour. There are many, many overflow cases, as well as conflict cases, that need to be handled. Those conflicts come in the nature of drug conspiracy cases and other multiple defendant cases. We are therefore contracting with people from Bismarck, primarily, to cover Dickinson overflow and conflict cases.

The bottom line for our budget request is that we are requesting a significant increase, clearly, and the much of the general fund increase will be for professional services. We have increased our state wide contracts significantly. At one time we had about 40 attorneys on contract. We now have 62. We have greatly increased our contracts in the Williston/Minot area. Bismarck is another area of concern, and we have significantly increased contractors there.

I feel I must explain why we are deficit spending and why we need these increases. Our budget is fairly simple. When you look at our expenditures a month, all of them some way or another relate to providing legal services. We spend approximately half of our monthly expenditures on professional services. That means contracts, conflict attorneys, and case support expenses. We pay their travel, fees, and incurred expenses related to the cases. Most of the other half of our expenditures relate to the support of the public defender offices who provide legal counsel on a full time basis. The expenses for

this agency have consistently risen during this biennium, and we are reacting to situations over which we have no control. More Judges mean more cases. More law enforcement and BCI officers means more cases. More prosecutors mean more cases. Look at Watford City. Four years ago they had a part time State's Attorney. They now have 3 full time prosecutors, a new courthouse, a new Judge, and possibly another one in 2015. The upshot of all those things, as well as rising population, is more cases for the criminal justice system. In McKenzie County we went from having someone from the Williston office go there twice a month for part of the day. Now McKenzie County is generating a full time case load (about 200-250 cases a year) for a two full time public defenders. We are asking for one for the next biennium and are contracting with several contracts. Last year McKenzie County generated 418 cases.

I would like to address the 7 FTE's that the House approved. These are people who already are in the employ of the agency, and some have been employed for up to three years in temporary full time status. They are, as follows:

**MINOT**

Minot has an adjunct public defender office with one attorney. She helps with the offices' conflicts, and with Williston cases. We were not given authority last biennium for a staff person, and it became obvious we needed an **administrative staff person** to assist the attorney who was often on the road.

**WILLISTON**

We added an attorney to the 2 attorney Public Defender Office. Williston has been a war zone for some time. We are pouring resources into that judicial district constantly. We added a **third attorney** about 3 years ago and she has been a temporary full time employee. That office will never go back to a 2 attorney office in my opinion.

**WATFORD CITY**

For the reasons stated above, our commission approved opening a Watford City Public

Defender Office with one attorney and one administrative staff. They are now on board.

**BISMARCK**

Bismarck and surrounding areas have experience a burst of criminal and civil activity. Undoubtedly you will hear that from the Judiciary. We have supplemented the 3 attorney public defender office with a 4<sup>th</sup> attorney and an administrative staff. The Bismarck office handles assigning out all the case assignments to over a dozen contractors and public defenders, and it is a very busy office. These two employees are crucial to the office.

**VALLEY CITY**

Our administrative office has been deluged with work. We added, several years ago, an administrative staff and would like to convert her status to an FTE. Keeping someone on a full time temporary status only makes more work because they are constantly looking for a job with benefits. We cannot properly conduct our business without this position. We currently have one full time administrative staff and one temporary full time staff.

I would like to give to you some statistics. In the NW Judicial District, which is McKenzie, Williams and Divide Counties, since 2011 our case numbers have increased 128%. In 2014 , there were 1600 case assignments. In 2013, there were 1149. In 2012, there were 996 case assignments. In 2011 there were 700 case assignments. Clearly the system of delivering legal services had to be tweaked in order to get the job done. What I mean is that we needed to add lawyers there to handle conflicts and overflow cases. What's equally troubling with the rising case load is the increase in serious crime. Class A and Class AA felonies (Murder, Attempted Murder, Kidnaping, Robbery, Gross Sexual Imposition) have increased at an alarming rate. For example, double AA Felonies-the most serious-such as Murder, Attempted Murder and Gross



Sexual Imposition went from 4 in 2011 to 43 in 2014. Serious felonies are very expensive, especially if we having attorneys from other cities traveling to Williston, Dickinson, or Watford City to handle them. We actually have had attorneys from Grand Forks taking on Williston felonies. We also have two out of state attorneys doing some work in Williston.

We respectfully ask the Senate Appropriations Committee to move forward our bill as approved by the House of Representatives, with the addition of \$200,000 as and for money to contract for attorneys in the Southwest Judicial District.

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HB 1022

April 21, 2015

Attachment A

15.8130.02003  
Title.  
Fiscal No. 1

Prepared by the Legislative Council staff for  
Representative Thoreson  
April 18, 2015

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1022

That the Senate recede from its amendments as printed on pages 1036 and 1037 of the House Journal and pages 1299-1301 of the Senate Journal and that Engrossed House Bill No. 1021 be amended as follows:

Page 1, line 2, after "indigents" insert "; and to amend and reenact subsection 6 of section 54-61-01 of the North Dakota Century Code, relating to the commission on legal counsel for indigents"

Page 1, replace lines 12 and 13 with:

"Commission on legal counsel for indigents	\$14,304,404	\$5,891,758	\$20,196,162
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Page 1, replace lines 15 through 17 with:

"Total all funds	\$14,421,276	\$5,774,886	\$20,196,162
Less special funds	2,497,866	(590,952)	1,906,914
Total general fund	\$11,923,410	\$6,365,838	\$18,289,248"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Subsection 6 of section 54-61-01 of the North Dakota Century Code is amended and reenacted as follows:

- A member of the commission is entitled to reimbursement for travel and expenses as provided by law for other state officers. If not otherwise employed by the state of North Dakota, a member is entitled to receive per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending meetings or performing other duties relating to the official business of the commission. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate as provided under section 54-35-10 for each day devoted to attending meetings or performing other duties relating to the official business of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly."

Renumber accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

### House Bill No. 1022 - Commission on Legal Counsel for Indigents - Conference Committee Action

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Comm. on legal counsel for indigents	\$14,304,404	\$20,026,275	\$169,887	\$20,196,162	\$20,196,162	
Accrued leave payments	116,872					
	\$14,421,276	\$20,026,275	\$169,887	\$20,196,162	\$20,196,162	\$0
Total all funds						
Less estimated income	2,497,866	1,906,914	0	1,906,914	1,906,914	0

General fund	\$11,923,410	\$18,119,361	\$169,887	\$18,289,248	\$18,289,248	\$0
FTE	33.00	40.00	0.00	40.00	40.00	0.00

**Department No. 188 - Commission on Legal Counsel for Indigents - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Adds Funding for Legal Contract Services <sup>2</sup>	Total Conference Committee Changes
Comm. on legal counsel for indigents	(\$30,113)	\$200,000	\$169,887
Accrued leave payments	(\$30,113)	\$200,000	\$169,887
Total all funds	0	0	0
Less estimated income	(\$30,113)	\$200,000	\$169,887
General fund	0.00	0.00	0.00
FTE			

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>2</sup> Funding is added for contract fees for legal services related to increasing case loads to provide a total of \$4.4 million.

This amendment also adds a section providing that a member of the Commission on Legal Counsel for Indigents who is also a legislator is entitled to receive per diem compensation as provided under North Dakota Century Code Section 54-35-10. The section also provides the Legislative Council shall pay for the per diem compensation as well as travel and expenses for the legislator.