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Operator's Signature

Valerie Rickford

Date

10/2/03

2003 HOUSE JUDICIARY

HB 1088

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Operator's Signature

Valista Rickford

Date

10/2/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
1	xx		22-end
1		xx	0-2 take broken
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: All members were present.

Chairman DeKrey: We will open the hearing on HB 1088.

Ted Gladden, State Court Administrator: (see testimony) In favor.

Rep. Eckre: Do other states use a formula similar to what you are proposing?

Mr. Gladden: It is handled differently in many states. More and more of the costs are moving over to the states, where states are assuming responsibility for the facilities.

Rep. Klemin: Right now, we have a filing fee of \$80, some of that money is dedicated, \$65 of that \$80 is deposited into the state general fund. Why don't we take this \$10 out of that \$65, instead of adding another \$10 on top of it.

Mr. Gladden: That might possibly be an alternative.

Rep. Klemin: Maybe that would accomplish the purpose that you are looking at and it would keep the fee the same. Was there any discussion on your working committee as to what happens to that other \$65 that is going into the general fund, or why you couldn't use it.

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 1-15-03

Mr. Gladden: We didn't get into discussion of that at all, no.

Rep. Kretschmar: Under current law, does the Supreme Court have the authority to determine if a county's facility is not adequate or proper to hold the district court, can they tell the county we are going to have your cases tried in the county next door.

Mr. Gladden: There is a provision in the code that allows, every county must provide adequate facilities, there is a provision that could occur if the facilities got to the point where they were unacceptable for court proceedings.

Rep. Kretschmar: Have the counties not been meeting their responsibilities.

Mr. Gladden: I don't know if it's a matter of not meeting their responsibilities, but there is a more of a sense that since the state has all of the revenues, the state should participate in providing some costs toward the maintenance of the facilities.

Rep. Kretschmar: Currently, are there any court facilities that the Court believes are not adequate for the holding of court trials.

Mr. Gladden: At the present time there have been no facilities that have been deemed inadequate in terms of court services.

Rep. Boehning: If you going to grant counties 25% of funds, do you have a cap on those funds that you are going to grant to counties.

Mr. Gladden: Those details would have to be worked out by this committee that would be put in place to set the guidelines on how the funds would be distributed.

Rep. Delmore: Can you tell me about the utilization of the courthouses. Do we really have a reason that every one of those courthouses is necessary for the process. How often are they utilized for court procedures.

Page 3

House Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 1-15-03

Mr. Gladden: Our commitment is to provide services in every county of the state, we go in, regardless of the volume, going in at least on a monthly basis to handle the master calendar at the minimum.

Rep. Delmore: I realize how difficult all of this is in working out the details, I think that if we took it over in state courts, we do owe the counties some money for this type of project in keeping up our courthouses. What about statistics that tell us how often the courts are used.

Mr. Gladden: We have no statistics statewide. It is just a matter of finding out how many trial dates there are in every county.

Chairman DeKrey: Thank you for appearing before our committee. Any testimony in support of HB 1088.

Wade Williams, ND Association of Counties: (see testimony) Support of HB 1088. My testimony mirrors Mr. Gladden's testimony.

Rep. Delmore: Are you aware of any courthouses that are in immediate need that this would help.

Mr. Williams: There are a number of counties that are looking at replacing carpets, benches, juror chairs that are waiting to see what happens if this legislation passes.

Chairman DeKrey: Thank you for appearing before us. Anyone else wishing to testify in support of HB 1088. Anyone wishing to testify in opposition or neutral?

Christine Hogan, Executive Director, State Bar Association of ND: Opposition. (see testimony) In terms of the courthouses being utilized, there are some that have not seen a criminal trial in over 20 years.

Rep. Eckre: Weren't you part of the committee that helped put this together.

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House Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 1-15-03

Ms. Hogan: I am.

Rep. Eckre: Then why weren't these concerns addressed at that time.

Ms. Hogan: I thought it might be something that might be palatable to my association, it turned out that it was not to tack on another filing fee on to the plaintiff's who are bringing their actions to the court.

Rep. Delmore: There are a number of people on the committee that share your same feelings about the filing fees, and I think it is very real. Would you lose your objection to the bill, if we did indeed find a way to take that \$10 from somewhere else, rather than adding another fee of \$10.

Ms. Hogan: I would have to talk to the board about that, but I think that would be acceptable.

Chairman DeKrey: It is the judge's discretion to waive the filing fees, right?

Ms. Hogan: That is correct.

Chairman DeKrey: So, then supposedly the people who can afford this user fee must be the ones that pay it, because the ones that can't, would be excused from it anyway. And we would still be below the national average on both civil and small claims filings.

Ms. Hogan: That is certainly true of an indigent plaintiff, that the court has the discretion to waive the filing fee.

Rep. Klemin: Since part of this filing fee is dedicated in this law, if that \$10 came out of the state general fund, you wouldn't have a problem dedicating \$10 of that to that fund.

Ms. Hogan: I wouldn't have an objection if that happened.

Rep. Klemin: I don't think the court has unbridled discretion to waive filing fees, except in the case where somebody has applied for that to happen because they can't afford it.

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House Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 1-15-03

Ms. Hogan: In the case of an indigent person.

Rep. Klemin: But most of the time, everybody pays the filing fee.

Ms. Hogan: Obviously this is one small group of society bearing the expense that has not been asked to pay for courthouse repairs. This is something that all people enjoy.

Chairman DeKrey: Thank you for appearing before our committee. Anyone else in opposition to HB 1088.

John Olson, Trial Lawyers Association: I want to reiterate. This is not a user fee. Most of the filings in your clerk's offices are criminal. They wouldn't be covered by this. So you those people excluded, you would have a lot of civil cases that may be excluded because of impoverished plaintiffs. Civil cases such as mental health commitments, etc. those would be excluded. So you just have the plaintiff's filing fees on civil cases. Also, huge amount of those cases have answers from defendants, which are excluded. So this is discriminatory, to make them pay for improvements in other counties.

Rep. Delmore: In terms of utilization of courthouses, each courthouse holds several offices of the county, correct?

Mr. Olson: Correct. How would you allocate repairs.

Chairman DeKrey: Thank you for appearing. Any further testimony in opposition? We will close the hearing.

Valosta Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-20-03

Tape Number	Side A	Side B	Meter #
1	xx		43-end
1		xx	0-3
Committee Clerk Signature <i>A. P. Moore</i>			

Minutes: 12 members present, 1 member absent (Rep. Maragos)

Chairman DeKrey: We will take a look at HB 1088, the \$10 fee.

Rep. Klemin: I don't have an amendment prepared on this, but I think this needs an amendment, a simple one. Move to amend pg 1, line 11, remove the overstrike on 80 and delete 90, and pg 2, line 3 - take \$10 fee from \$65 and change to \$55 remainder goes to state general fund. One of the reasons I'm proposing this amendment, is so that we really aren't increasing the fee on civil litigants to provide for maintenance on the courthouse.

Chairman DeKrey: Rep. Klemin has moved that pg 1, line 11, remove overstrike on 80 and delete 90, and pg 2 line 3 change \$65 to \$55. Any further discussion.

Rep. Boehning: Should we place a total on how much can be granted to a county.

Chairman DeKrey: There will be a board overseeing the expenditures is balanced and no county will be able to get more dollars than other counties.

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 1-20-03

Rep. Delmore: I still have a question about the utilization of the courthouses. I wish there was a way to fund it. I don't think the counties will receive the \$10.

Rep. Eckre: I feel it is still a user fee, the people using the courthouse should pay for it.

Rep. Grande: With the amendments as they are, the fiscal note changes, revenue will change. Now it will come out of the general fund as a negative.

Rep. Klemm: There wouldn't be any additional revenue.

Rep. Grande: It will be a decrease in revenue, though to the general fund.

Rep. Klemm: Yes, it would decrease.

Rep. Wrangham: I intend to vote no on the amendment, because without the amendment, because without the amendment, it is easier to vote against the bill.

Chairman DeKrey: Any further discussion. We will take a voice vote on the amendment proposed by Rep. Klemm on HB 1088. Poll the members. 8 Yes 4 No 1 Absent

The amendment passes. We have HB 1088 before us as amended. Is there any discussion on the bill.

Rep. Klemm: I move a Do Pass with Amendment to be rereferred to Appropriations Committee. Rep. Boehning: Seconded.

Chairman DeKrey: Since I was on the committee, I haven't said much about this bill, because I didn't want to influence the committee members, but I think this bill is needed. We've got a lot of courthouses out there in disrepair in rural areas. When we unified the court system, we made the statement that we were going to have judicial services in every county in this state. We can't tell them we have no money for this, if we're going to close some rural courthouses, then let's put in a bill in and discuss it, but let's not try to bleed them off a little at a time to force them out.

Page 3
House Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 1-20-03

Rep. Lickre: I agree completely. I am going to vote for the bill. I am against the amendment on that, I would rather see the \$10 as a user fee, but I agree that when we did this to the counties, I don't believe we should have done it like this to the counties and I was against the unification. I will vote for the bill for the way it is now.

Rep. Delmore: We moved a lot of things, and took all of the money, and we need to bear that in mind, we need to be responsible for these costs. I will support the bill.

Rep. Wrangham: I don't disagree with any of the arguments that the counties need help. I don't think this is going to be effective to getting money to those who really need it. I don't think we need to set up another fund.

Chairman DeKrey: The clerk will call the roll on Do Pass with Amendments on HB 1088 rereferred to Appropriations.

10 YES /2 NO/ 1 ABSENT DO PASS W/AMENDMENTS CARRIER: Rep. Kretschmar

FISCAL NOTE
Requested by Legislative Council
04/04/2003

Amendment to: HB 1088

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$175,722	\$791,100	\$175,722	\$791,100
Expenditures				\$6,504		\$6,504
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The amended engrossed bill provides a graduated administrative fee structure for misdemeanor and felony defendants. The bill also provides for a \$100 administrative fee. Of the additional one hundred dollar court administration fee, the first seven hundred fifty thousand dollars collected per biennium must be deposited in the indigent defense administration fund, and the next four hundred sixty thousand dollars collected per biennium must be deposited in the court facilities improvement and maintenance fund. After the minimum thresholds have been collected, one-half of the additional court administration fee must be deposited in each fund.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

The revenues are based on the following assumptions after reviewing historical data.

The entire fee assessed in section 6, beginning on page 4, line 25, will generate the following estimated biennial revenues:

(Data Provided by Office of State Court Administrator and represents two year projections)

	Total Defendants	Defendants Paying Fee	% of Total	Admin. Fee Collected
Technology				
A&AA	706	21	3%	\$ 21,000
B	812	40	5%	\$ 30,000
C	5,766	576	0%	\$ 288,000
Misdemeanor				
A	11,222	2,244	20%	\$ 673,200
B	25,152	5,030	20%	\$1,131,750
Special Funds	\$ 791,100			

General Fund \$1,352,850
Less current fees (1,177,128)
Total New Admin. Fees \$966,822

Statistics are based on the 2002 criminal caseloads and have been doubled to provide biennial projections.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Anticipated expenditures are for travel expenses for the committee. Assuming quarterly meetings (8 per biennium), estimated expenses for mileage, meals and lodging are \$6,504.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted Gladden	Agency:	Supreme Court
Phone Number:	328-4216	Date Prepared:	04/04/2003

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Yalosta Rickford
Operator's Signature

10/2/03
Date

FISCAL NOTE
Requested by Legislative Council
03/27/2003

REVISION

Amendment to: HB 1088

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$175,722	\$791,100	\$175,722	\$791,100
Expenditures				\$6,504		\$6,504
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The amended engrossed bill provides a graduated administrative fee structure for misdemeanor and felony defendants. The bill provides for \$100 of the administrative fee to go toward indigent defense services and courthouse remodeling, unless waived due to indigence. \$50 will go into a court facilities remodeling and maintenance fund and \$50 will go into the indigent defense administration fund.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenues are based on the following assumptions after reviewing historical data.

The entire fee assessed in section 6, beginning on page 4, line 25, will generate the following estimated biennial revenues:

(Data Provided by Office of State Court Administrator and represents two year projections)

	Total Defendants	Defendants Paying Fee	% of Total	Admin. Fee Collected
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B	812	40	5%	\$ 30,000
C	5,766	576	0%	\$ 288,000
Misdemeanor				
A	11,222	2,244	20%	\$ 673,200
B	25,152	5,030	20%	\$1,131,750
Special Funds	\$ 791,100			
General Fund	\$1,352,850			

Less current fees (1,177,128)
Total New Admin. Fees \$966,822

Statistics are based on the 2002 criminal caseloads and have been doubled to provide biennial projections.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Anticipated expenditures are for travel expenses for the committee. Assuming quarterly meetings (8 per biennium), estimated expenses for mileage, meals and lodging are \$6,504.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted C. Gladden	Agency:	Supreme Court
Phone Number:	328-4216	Date Prepared:	03/27/2003

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Yalosta Rickford

10/2/03

Date

FISCAL NOTE
Requested by Legislative Council
03/19/2003

Amendment to: HB 1088

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$1,352,850	\$791,100	\$1,352,850	\$791,100
Expenditures				\$6,504		\$6,504
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The amended engrossed bill provides a graduated administrative fee structure for misdemeanor and felony defendants. The bill provides for \$100 of the administrative fee to go toward indigent defense services and courthouse remodeling, unless waived due to indigence. \$50 will go into a court facilities remodeling and maintenance fund and \$50 will go into the indigent defense administration fund.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

The revenues are based on the following assumptions after reviewing historical data.

The entire fee assessed in section 6, beginning on page 4, line 25, will generate the following estimated biennial revenues:

(Data Provided by Office of State Court Administrator and represents two year projections)

	Total Defendants	Defendants Paying Fee	% of Total	Admin. Fee Collected
Technology				
A&AA	706	21	3%	\$ 21,000
B	812	40	5%	\$ 30,000
C	5,766	576	10%	\$ 288,000
Misdemeanor				
A	11,222	2,244	20%	\$ 673,200
B	25,152	5,030	20%	\$1,131,750
Special Funds	\$ 791,100			
General Fund	\$1,352,850			
Total Admin. Fees	\$2,143,950			

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Salvatore Rickford
Operator's Signature

10/2/03
Date

Statistics are based on the 2002 criminal caseloads and have been doubled to provide biennial projections.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Anticipated expenditures are for travel expenses for the committee. Assuming quarterly meetings (8 per biennium), estimated expenses for mileage, meals and lodging are \$8,504.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted C. Gladden	Agency:	Supreme Court
Phone Number:	328-4216	Date Prepared:	03/24/2003

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Yolanda Rickford
Operator's Signature

10/2/03
Date

FISCAL NOTE
Requested by Legislative Council
02/14/2003

Amendment to: HB 1088

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$461,300		\$461,000
Expenditures				\$6,504		\$6,504
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill establishes a court facilities improvement and maintenance fund to be funded through a \$10 increase to civil case filing fees.

An estimate of the average civil cases for 2001 and 2002 is 25,628 per year. Assuming a 10% waiver (a judge can waive the filing fee) for the biennium this doubles to 46,130 cases. At \$10 per case the estimated revenue is \$461,300.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Anticipated expenditures are for travel expenses for the committee. Assuming quarterly meetings (8 per biennium), estimated expenses for mileage, meals and lodging are \$6,504.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Ted C. Gladden	Agency:	Supreme Court
Phone Number:	328-4216	Date Prepared:	02/18/2003

Yalosta Rickford
Operator's Signature

10/2/03
Date

FISCAL NOTE
Requested by Legislative Council
01/22/2003

Amendment to: HB 1088

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$461,300)	\$461,300	(\$461,300)	\$461,300
Expenditures				\$461,300		\$461,300
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill establishes a court facilities improvement and maintenance fund to be funded by \$10 of the current \$80 civil case filing fee. These are funds that currently go to the general fund.

An estimate of the average civil cases for 2001 and 2002 is 25,628 per year. Assuming a 10% waiver (a judge can waive the filing fee) for the biennium this doubles to 46,130 cases. At \$10 per case the estimated amount available would be \$461,300.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

This would not generate new revenue. \$10 of the \$80 civil case filing fee would go to the court maintenance fund instead of the general fund.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Of the total funds available, approximately \$6,504 would be needed for travel expenses for the committee. This assumes quarterly meetings (8 per biennium) for 5 committee members and one supreme court staff. This would leave \$454,796 available for court maintenance.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

4

Name:	Ted Gladden	Agency:	ND Supreme Court
Phone Number:	328-4216	Date Prepared:	01/23/2003

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Yolanda Rickford
Operator's Signature

10/2/03
Date

FISCAL NOTE
Requested by Legislative Council
01/09/2003

REVISION

Bill/Resolution No.: HB 1088

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$461,295		\$461,000
Expenditures				\$6,504		\$6,504
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill establishes a court facilities improvement and maintenance fund to be funded through a \$10 increase to civil case filing fees.

An estimate of the average civil cases for 2001 and 2002 is 25,628 per year. Assuming a 10% waiver (a judge can waive the filing fee) for the biennium this doubles to 46,130 cases. At \$10 per case the estimated revenue is \$461,300.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Anticipated expenditures are for travel expenses for the committee. Assuming quarterly meetings (8 per biennium), estimated expenses for mileage, meals and lodging are \$6,504.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted C. Gladden	Agency:	Supreme Court
--------------	----------------	----------------	---------------

Phone Number:

328-4216

Date Prepared: 01/06/2003

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Operator's Signature

Yolanda Rickford

Date

10/2/03

FISCAL NOTE
Requested by Legislative Council
01/03/2003

Bill/Resolution No.: HB 1088

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$461,295		\$461,000
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill establishes a court facilities improvement and maintenance fund to be funded through a \$10 increase to civil case filing fees.

An estimate of the average civil cases for 2001 and 2002 is 25,628 per year. Assuming a 10% waiver (a judge can waive the filing fee) for the biennium this doubles to 46,130 cases. At \$10 per case the estimated revenue is \$461,300.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Ted C. Gladden	Agency:	Supreme Court
Phone Number:	328-4216	Date Prepared:	01/06/2003

Yalosta Rickford
Operator's Signature

10/2/03
Date

38073.0101
Title.0200

Adopted by the Judiciary Committee
January 20, 2003

VR
1/20/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1088 JUD 1-21-03

Page 1, line 11, remove the overstrike over "eighty" and remove "ninety"

HOUSE AMENDMENT TO HB 1088 JUD 1-2-103
Page 2, line 3, overstrike "sixty-five" and insert immediately thereafter "fifty-five"

HOUSE AMENDMENTS TO HB 1088 JUD 1-2-103
Page 4, line 5, replace "dispersed" with "disbursed"

Renumber accordingly

Page No. 1

38073.0101

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Yolanda Rickford
Operator's Signature

10/2/03
Date

Date: 1/20/03
Roll Call Vote #: Voice Vote #1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1088

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38073.0101 Title .0200

Action Taken Amendment

Motion Made By Seconded By

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	AB		Rep. Eckre		✓
Rep. Bernstein	✓		Rep. Onstad		✓
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande		✓			
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham		✓			

Total (Yes) 8 No 4

Absent 1

Floor Assignment

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

Amendment Passes

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Operator's Signature Tal Costa Rickford

Date 10/2/03

Date: 1/20/03
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1088

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass w/ Amendment

Motion Made By Rep. Klemin Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	AB		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande		✓			
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham		✓			

Total (Yes) 10 No 2

Absent 1

Floor Assignment Rep. Kretschmar

If the vote is on an amendment, briefly indicate intent:
Referred to Approp.

REPORT OF STANDING COMMITTEE (410)
January 21, 2003 10:38 a.m.

Module No: HR-11-0819
Carrier: Kretschmar
Insert LC: 38073.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1088: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1088 was placed on the Sixth order on the calendar.

Page 1, line 11, remove the overstrike over "~~eighty~~" and remove "ninety"

Page 2, line 3, overstrike "sixty-five" and Insert Immediately thereafter "fifty-five"

Page 4, line 5, replace "dispersed" with "disbursed"

Renumber accordingly

2003 HOUSE APPROPRIATIONS
HB 1088

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Yolanda Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-11-03

Tape Number	Side A	Side B	Meter #
1		X	10.8-26.5
Committee Clerk Signature <i>Chris S. Nyhus</i>			

Minutes:

Chairman Svedjan Opened HB 1088 for discussion. A quorum was present.

Rep. Dekrey Recommends Reinstating the \$10 fee for creation of a sort of maintenance fund that counties can tap into. This fee is added on to the court filing costs. The fee was stripped out of the bill in the House Judiciary Committee. I recommend reinstating the fee or else killing the bill.

Rep. Kempenich What if the fee was \$5?

Rep. Dekrey I think the concept of the bill is good, but maybe where we found the money was not where we should have gotten it, but everyone involved would be pleased if you could find the money elsewhere.

Rep. Timm Who pays the court costs? The lawyer or the client?

Rep. Dekrey The client, but the judge can waive that fee.

Rep. Skarphol Are the funds for the Displaced Homemakers Account being used?

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Yalson Rickford
Operator's Signature

10/2/03
Date

Page 2
House Appropriations Committee
Bill/Resolution Number HB 1088
Hearing Date 02-11-03

Rep. Dekrey I don't have that information.

Rep. Warner I'm not sure, but I thought that that money went for the Battered Women's Shelter.

Rep. Koppleman Is this part of the Supreme Court budget?

Rep. Dekrey It is a special fund that would be set up.

Rep. Wald What was the vote in your committee when they took out the \$10 fee increase?

Rep. Dekrey I'm not sure off hand, but it was early in the session when people thought there would be no support for any fee increases anywhere.

Rep. Skarphol The Displaced Homemaker's Fund is in DPI.

Rep. Wald The people who end up in court are the troublemaker's, in my mind. They should have to pay the \$10. I move to make a motion to reinstate the \$10 fee. 2nd by (inaudible).

Rep. Wald I move a Do Pass As Amended. 2nd by Rep. Gulleeson.

Rep. Brusegaard Was there talk about who is in charge of facilities? It seems to me like it would be a straightforward county cost.

Rep. Gulleeson All of the fees, the counties have had the fees removed.

Motion Carries 16 yeas, 5 nays, 2 A/NV. Rep. Thoreson will carry this bill.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-11-03

Tape Number	Side A	Side B	Meter #
2		X	-20.4 - 32.0
Committee Clerk Signature <i>Chris E. Nelson</i>			

Minutes:

Rep. Monson I move to reconsider our actions on HB 1088. 2nd by Rep. Warnke.

Rep. Monson I'm a little apprehensive about using State Aid Distribution Fund dollars to fund this.

Rep. Warnke If you look at the fiscal note for HB 1088, the \$10 fee generated \$461,300. I'm guessing \$20 would generate about twice that.

Motion to Reconsider Carries.

Rep. Monson I move that on line 11, pg. 1 we increase the filing fee \$10 from \$90 to \$100, and that we use that money towards the indigent defense fund. 2nd by Rep. Warnke.

Rep. Delzer So this fiscal note is a deduction to the General Fund?

Rep. Delzer I don't see how you can charge for filing a civil suit and apply that to guardian ad litem costs. I don't see where they match up. You're just searching for money.

Page 2
House Appropriations Committee
Bill/Resolution Number HB 1088
Hearing Date 02-11-03

Rep. Warner Marriages, divorces, annulments, etc. are civil suits that have applicable court costs.

Rep. Delzer I understand what you're trying to do, but why not just raise the fee to \$100 dollars, put it in the General Fund, and then you wouldn't have to run it the other way around.

Rep. Monson I have to problem with that.

Rep. Skarphol This morning we also changed page 2, line #3. That \$55 dollar figure goes up to \$65, correct?

Chairman Svedjan Yes, correct.

Rep. Carlisle I don't think we should put this in the General Fund.

Rep. Koppleman When was the last time this fee was raised?

Chairman Svedjan I'm not sure.

Rep. Kerzman This bill came to us

Motion Fails

Rep. Brusegaard I move a Do Pass As Amended. 2nd by Rep. Gulleeson.

Motion Carries.

Yolanda Rickford
Operator's Signature

10/2/03
Date

38073.0201
Title.0300

Prepared by the Legislative Council staff for
House Appropriations
February 11, 2003

VK
2/12/03

HOUSE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1088 Approp. 2-12-03

Page 1, line 11, overstrike "eighty" and insert immediately thereafter "ninety"

HOUSE AMENDMENTS TO ENGROSSED HB 1088 Approp. 2-12-03

Page 2, line 3, remove the overstrike over "~~sixty-five~~" and remove "fifty-five"

Renumber accordingly

Page No. 1

38073.0201

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Yolanda Rickford
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 1:43 p.m.

Module No: HR-27-2421
Carrier: Thoreson
Insert LC: 38073.0201 Title: .0300

REPORT OF STANDING COMMITTEE
HB 1088, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends AMENDMENTS AS FOLLOWS and when so amended, recommends
DO PASS (22 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1088
was placed on the Sixth order on the calendar.

Page 1, line 11, overstrike "eighty" and insert immediately thereafter "ninety"

Page 2, line 3, remove the overstrike over "~~sixty-five~~" and remove "fifty-five"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-27-2421

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Operator's Signature

Yolanda Rickford

Date

10/2/03

2003 SENATE JUDICIARY

HB 1088

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Operator's Signature

Valista Rickford

Date

10/2/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/03/03

Tape Number	Side A	Side B	Meter #
1	X		16.2 - 46.9

Committee Clerk Signature

Maria L. Salberg

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony Support of HB 1088

Terry Traynor - Assistant Director North Dakota Association of Counties (meter 16.2) Read Testimony - Attachment #1.

Senator Thomas L. Trenbeath asked for a breakdown of counties with a population of 7,500. This was arrived as a definition of a "rural chamber". Attachment 1b.

Sen. Traynor - asked if this fund would pay for things such as electricity and heat. He did not think so, but it was possible. The committee would have free reign of funds.

Ted Gladden - State Court Administrator (meter 20.7) Read Testimony Attachment #2a and submitted filing fees in other states Attachment #2b Discussed in testimony where funds would be spent and how.

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 03/03/03

Testimony in opposition of HB 1088

John Olson - ND Association of Trial Attorneys (meter 28) This process/fee is not the correct and fair way to deal with court houses in need of repairs. First this fee applies only to civil cases. This does not apply to criminal cases that are by far the overall cases filled and tried in court house across the state not to mention the mental health and juvenile This "user" fee will be on the plaintiff filing for a divorce, personal injury, adoptions or something of that fee and the respondent party will not. This is grossly unfair for this reason alone the bill should be defeated. While I agree we have courthouses in need, we as a tax payer in Bismarck have spent a lot of our money updating our facilities. Some counties have made this a priority others have not. For us to service the courthouses where the County Commissioners have not established it as their priority. This is also grossly unfair. The majority of funds will come from the larger area; i.e. Bismarck, Fargo to take care of the rest of the state or smaller communities. Some counties making improvements may not even have had a civil case. What are we actually paying-this is so vague in this bill.

Sen. Traynor discussed how many counties have had inadequate facilities and had to transfer to another facility. (meter 36.0)

Senator Carolyn Nelson discussed how she understood how in Fargo they here why are we paying for all the things in the Western part of the state.

Christine Hogan - Executive Director State Bar Association of ND (meter 39.1) Read Testimony Attachment #3. Discussed how these fees would be better covered on HB 1186. This would be a better way for governmental agencies to pay for themselves.

Yalosta Rickford
Operator's Signature

10/2/03
Date

Page 3
Senate Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 03/03/03

Sen. Traynor (meter 42.8) discussed the history of filing fees and how they were increased to pay judges salaries. Discussion on how HB 1186 would pay.

Testimony Neutral to HB 1088

None

Senator John T. Traynor, Chairman closed the hearing

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Valosta Rickford
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1088

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/12/03

Tape Number	Side A	Side B	Meter #
1	X		16.7 - End
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with committee work on the bill:

Discussed HB1044 and the indigent defense fund. Discussed Interim Committee. Handed out Amendment #1. This would combined HB1044 with HB1088. Discussed the amount of money need to be raised for the two funds. We could pass 1044 and move indigent defense program to the office of administrative hearings and utilize \$10 filing fee to fund. We could adopt the amendment on HB 1088 and kill HB 1044, using this to increase the indigent defense funding program and provide funding for the courthouses.

Sen. Trenbeath question HB 1088 Amendments, killing 1044 were would the defense program be? Sen. Traynor responded that it would stay with the courts-where they do not want it.

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 03/12/03

Sen. Lyson discussion of fees already attached to criminal judgments. (meter 19). My fear in doing this is with all the other fees already being charged-how many more do you think we will be able to collect?

Sen. Traynor stated that regardless of what happens we need to come up with \$ ¾ of a million dollars more. We have to have indigent council. They are the ones creating the problem, they should pay it. Success rate would depend on the efficiency of court system Sen. Trenbeath stated that the most cost efficient way to fund this is right now. Without contracts we would have to fund this on an hourly basis, with a substantial increase in cost. If at \$50 a case, 24,000 cases if all were collected it would come to \$1.2 Million.

Discussion of the Hog House Amendment - Sen. Trenbeath spoke of our need to talk to a district judge and the process of collecting court administration fees-does it stay in the county or go to the general fund. Sen. Traynor stated that it goes to state. Last year the over \$565,000 was raised by the court administration fee last year. Discussion of process.

Sen. Nelson asked what the counties think the indigent council should be housed? Anywhere but with the county. We do not have a position. Where would the bar association rather see it? In an independent agency (Christina Hogen-SBAND).

Discussion of HCR 3004 to be heard by our committee next week, Study resolution representation for indigent persons and the feasibility and desirability of establishing a public defender system.

Page 3
Senate Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 03/12/03

Sen. Trenbeath discussed present fine, administration fees and this new fee. (meter 29.5)

Discussion of new FTE's if program transfers. Discussion of Sen. Traynor amendment and how much it would actually raise.

Sen. Traynor discussed incorporating a "statement of intent" and how court perceive these.

Discussion of having or removing a cap.

Committee took the time to go through the amendments with Tim Dowson - Legislative Council

We want the people who use the system to pay for the system.

Senator John T. Traynor, Chairman closed the hearing

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1088

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/17/03

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 4.0
Committee Clerk Signature <i>Maria L. Solberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with committee work on the bill:

Sen. Traynor introduced a hog house amendment - discussed amendment changing the source of the funds from the civil filing fee, to the court administration fee-imposed on all criminal cases. This is in addition to all criminal cases except infractions. This does not affect the percent that the courts could impose but it could go up to 30%. Sen. Trenbeath Discussed "The statute says the court administrative fee must include a fee of up to 30%". What does that mean? Could be a dollar? Sen. Traynor responded. That is right-then in addition they get \$100, \$50 for indigent defense and \$50 for courthouses. I question then that we might be relieving the general fund of \$100. What the court may do is levy a \$125 administrative fee i.e.. DUI \$250 Fine and \$125 administrative fee. Sen. Traynor discussed eliminating the "up to"-and just require a 30% administrative fee. Sen. Trenbeath stated that 30% of B- misdemeanor would be \$333 + \$100.

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 03/17/03

That is considerable when you are talking about the lowest criminal category we have. If you mandate 30% and out of that came \$100 or if we mandate 25%- discussion (meter 4). I do not like to use mandate. What is the standard fee across the state for each offense, this could vary. Sen. Trenbeath discussed a new amendment by setting a fee standard. If we use the terms "In addition to" and name the other two fees i.e. indigent fund.... Keeping all three separate, instead of "must include..." While this amendment says what we want it to, I don't think courts may interpret it as something that will generate the dollars. "Cut the blanket off on one end and sew it on the other". Discussion to maximum allowable fines and fines actually imposed Discussion of actual court process among committee members. (meter 11) Discussion of a new amendment: Sen. Lyson asked if we could raise the fee by the severity of the crime, by percent? They may get a double whammy if the fee goes up also. Discussion on a cap of \$1,000. Sen. Lyson stated "just to throw another ball on the court" what if we forget caps and just state it as "X" amount of dollars for class A misdemeanors, "X" amount for class B,

Mandatory Administration fees to include -

Misdemeanor:

B - \$225 = Administrative Fee (\$125) + Two Funds (Court House & Indigent Defense) \$100

A - \$300

Felony:

C - \$500

D - \$750

A - \$1,000

AA- \$1,000

Page 3
Senate Judiciary Committee
Bill/Resolution Number HB 1088
Hearing Date 03/17/03

Looking at past history the courts seem to collect 65% of the fees.

Motion Made to DO PASS Amendment to Engrossed HB 1088 by Senator Thomas L. Trenbeath and seconded by Senator Stanley W. Lyson, Vice Chairman .

Roll Call Vote: 4 Yes. 1 No. 1 Absent

Motion Passed

Motion Made to DO PASS Engrossed HB 1088 to Appropriations as amended by Senator Thomas L. Trenbeath and seconded by Senator Stanley W. Lyson, Vice Chairman

Roll Call Vote: 4 Yes. 1 No. 1 Absent

Motion Passed

Floor Assignment: Senator John T. Traynor, Chairman

Senator John T. Traynor, Chairman closed the hearing

38073.0304
Title.

3/2 ATT #1
Prepared by the Legislative Council staff for
Senator Traynor
March 11, 2003

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1088

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the

Page No. 1

38073.0304

Yolanda Rickford
Operator's Signature

10/2/03
Date

department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

"SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases upon a plea or finding of guilt, a court administration fee of up to ~~thirty~~ fifty percent of the maximum allowable fine for the offense ~~may~~ must be taxed against the defendant in lieu of the assessment of court costs. ~~If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed.~~ The court shall assess an administration fee of at least one hundred dollars against each criminal defendant. Fifty dollars of each administration fee must be deposited in a special fund to be used to support the indigent defense system in this state. Fifty dollars of each administration fee must be deposited in the court facilities improvement and maintenance fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, greater than one hundred dollars and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or ~~any combination thereof both~~, may be docketed; and thereafter if docketed constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed ~~costs or administrative~~ administration fee in installments. When a

defendant is assessed ~~costs or administrative~~ administration fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand.

Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed ~~court costs~~ the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

Yalosta Rickford
Operator's Signature

10/2/03
Date

38073.0305
Title.

Prepared by the Legislative Council staff for
Senate Judiciary
March 12, 2003

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1088

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the

department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

"SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases upon a plea or finding of guilt, ~~a the court shall impose a court administration fee. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed.~~ In addition, the court administration fee must include fifty dollars for deposit in a special fund to be used to support the indigent defense system in this state and fifty dollars for deposit in the court facilities improvement and maintenance fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, greater than one hundred dollars and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or any combination thereof ~~both~~, may be docketed; and thereafter ~~if docketed~~ constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed ~~costs or administrative~~ administration fee in installments. When a defendant is assessed ~~costs or~~

administrative ~~administration~~ fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed court costs the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

38073.0306
Title.

Prepared by the Legislative Council staff for
Senate Judiciary
March 13, 2003

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1088

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the

department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

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38073.0306

defendant is assessed ~~costs or administrative~~ administration fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

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2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

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Renumber accordingly

Yolanda Rickford
Operator's Signature

10/2/03
Date

38073.0307
Title.

Prepared by the Legislative Council staff for
Senate Judiciary
March 13, 2003

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1088

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

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2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the

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38073.0307

department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

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SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

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29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases upon a plea or finding of guilt, ~~a the court shall impose a court administration fee. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed.~~ In addition, in all criminal cases except infractions, the court administration fee must include fifty dollars for deposit in the indigent defense administration fund and must be used to contract for indigent defense services in this state and fifty dollars for deposit in the court facilities improvement and maintenance fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or any combination thereof both, may be docketed, and thereafter if docketed constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered

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in a civil action. The court may allow the defendant to pay any assessed ~~costs or~~ administrative ~~administration~~ fee in installments. When a defendant is assessed ~~costs or~~ administrative ~~administration~~ fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court-costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed ~~court costs~~ the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

38073.0308
Title.0400

Prepared by the Legislative Council staff for
Senate Judiciary
March 17, 2003

93
3-18-03
1044

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1088

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the

Page No. 1

38073.0308

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Operator's Signature

Yolanda Rickford

10/2/03
Date

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department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs~~; any administration fee and fine; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

"SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - Statement to be filed by court Special fund - Docketing and enforcement. In all criminal cases except infractions, upon a plea or finding of guilt, a the court shall impose a court administration fee in lieu of the assessment of court costs. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs one hundred twenty-five dollars for a class B misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars for a class A or AA felony. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed. In addition, in all criminal cases except infractions, the court administration fee must include fifty dollars for deposit in the indigent defense administration fund which must be used to contract for indigent defense services in this state and fifty dollars for deposit in the court facilities improvement and maintenance fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court costs, administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must

Page No. 2

38073.0308

3-64
be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or ~~any combination thereof both~~, may be docketed, and ~~thereafter if docketed~~ constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed ~~costs or administrative~~ administration fee in installments. When a defendant is assessed ~~costs or administrative~~ administration fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a

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policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed ~~court costs~~ the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

Date: March 17, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1088

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38073.0308

Action Taken DO PASS Amendment

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever		X			
Sen. Thomas L. Trenbeath	X				

Total (Yes) FOUR (4) No ONE (1)

Absent ONE (1)

Floor Assignment _____

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

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Yolanda Rickford
Operator's Signature

10/2/03
Date

Date: March 17, 2003
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1088

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38073.0308

Action Taken DO PASS Engrossed HB with Amendment

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley. Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever		X			
Sen. Thomas L. Trenbeath	X				

Total (Yes) FOUR (4) No ONE (1)

Absent ONE (1)

Floor Assignment Sen. Traynor

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

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Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 10:52 a.m.

Module No: SR-48-5009
Carrier: Traynor
Insert LC: 38073.0308 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1088, as reengrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Reengrossed HB 1088 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first

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Page No. 1

SR-48-5009

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Valosta Rickford
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 10:52 a.m.

Module No: SR-48-5009
Carrier: Traynor
Insert LC: 38073.0308 Title: .0400

receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

"SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases ~~except infractions~~, upon a plea or finding of guilt, ~~the court shall impose a court administration fee in lieu of the assessment of court costs. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs~~ one hundred twenty-five dollars for a class B misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars for a class A or AA felony. ~~If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed.~~ In addition, in all criminal cases ~~except infractions~~, the court administration fee must include fifty dollars for deposit in the indigent defense administration fund which must be used to contract for indigent defense services in this state and fifty dollars for deposit in the court facilities improvement and maintenance fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, exclusive of amounts deposited in the indigent defense

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 10:52 a.m.

Module No: SR-46-5009
Carrier: Traynor
Insert LC: 38073.0308 Title: .0400

administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, costs, or court administration fee, or any combination thereof both, may be docketed, and thereafter if docketed constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed costs or administrative administration fee in installments. When a defendant is assessed costs or administrative administration fees, the court may not impose at the same time an alternative sentence to be served if the costs fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 10:52 a.m.

Module No: SR-48-5009
Carrier: Traynor
Insert LC: 38073.0308 Title: .0400

4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed court costs ~~the~~ the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

2003 SENATE APPROPRIATIONS

HB 1088

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Operator's Signature

Costa Rickford

Date

10/2/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 20, 2003

Tape Number	Side A	Side B	Meter #
#1	x		345 - 2840
Committee Clerk Signature <i>Jan Hendrickson</i>			

Minutes:

Senator Holmberg called the meeting back to order.

Senator Holmberg introduced HB 1088 - This bill was heard on the floor yesterday, and a new fiscal note will be coming to the committee next week. This bill will be put in with the other court subcommittee.

Jack Traynor, Senator District 15. He wanted to tell the committee about HB 1044 which came out of the interim committee and it would have transferred the indigent defense program from the court system to the office of administrative hearings. In 1044 there was also a means by which to finance the change from the court system to the office of administrative hearings and there was a fiscal note on that change of about \$151,000, which was the office of administrative hearings felt it would cost for them to set up the program. The Judicial Committee considered that and they thought it would be better to leave the indigent defense program with the court, because the court is all over the state, the administrative hearings is just in Bismarck, and they have limited

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10/2/03
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1088

Hearing Date March 20, 2003

experience in contracting with attorneys. The courts have vast experience in contracting with attorneys. The case load in the indigent defense program has been somewhat overwhelming (picture was passed out, Exhibit #1). Three firms that have had contracts with the state, have indicated that they are not interested in renewing, because the compensation is inadequate for the case loads, which have increased because of the meth cases and the other drug cases. He had asked **Ted Gladden**, state court administrator for information about the possibility of using administration fees imposed by the court in criminal cases as a means to finance both the improvement of the court courthouses and the indigent defense program. Letter from **Mr. Gladden** is attached, exhibit #2. HB 1088 did provide for the renovation of the courthouses in the various county seats across the state. The counties take the position that now the Judiciary is integrated, this should be a state expense. In the original bill, it provided that facilities be improved by an increase in the civil filing fees, presently they are \$80.00, with a proposal of going to \$90.00. That was opposed by the trial lawyers and by bar association as a means to fund this practical program. So his committee went to the administrative fee source in criminal cases, the logic being that those folks who are defendants in criminal cases are the ones that are using the court system and the funds from there should be used to fund the indigent defense fund and the courthouse improvements. The amendments adopted would do this **Mr. Gladden's** letter (Exhibit #2) also provided a sheet with the number of cases in the various judicial districts, and the number of misdemeanors and felonies which totals over 24,000 (Exhibit #3). There has been discussion about the amount of money that would be collected from the criminal cases for administrative fees. Exhibit #4 shows the fees and cost recites from January - December 2002, under the present system. The courts have collected over \$565,000 for just the first year and this

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Yolanda Rickford

Date

10/2/03

Page 3

Senate Appropriations Committee

Bill/Resolution Number HB 1088

Hearing Date March 20, 2003

money went into the general fund, so in the 2 years it would be over a \$1 million. The collection has been about 65% for the court administrative fees. In the amendments in HB 1088, the Judiciary Committee set up the amount of administrative fees in every class of crime, starting with class B misdemeanors at \$125.00, then the amendment also provided that there be an additional \$100 assessed by the court that would maintain, if possible, the present flow of money from the administrative fee source into the general fund as shown by Exhibit #4. In addition, by assessing \$50.00 more for the indigent defense program and \$50.00 for the court facilities program, they would have enough to fund these two programs without invading the general fund. It is the intention of the Judicial Committee if HB 1088 is successful, then they will vote a DO NOT PASS on HB 1044. There is a resolution that the Judiciary Council that calls for a study of the indigent defense department to be set up in the future. There was not enough information to do the study now. **Senator Holmberg** (#1242) asked **Senator Traynor** if he would point out that you are talking about people that are pleading guilty or have been found guilty of a crime, not just someone who is in the system and has been charged with a crime. Are there other pleas, for example, no contest or some of those, would they still have to pay or isn't there a plea of no contest anymore. **Senator Traynor** replied that he has not been a criminal lawyer for sometime, so he wasn't able to answer that, it would have to be someone who was convicted of a crime, infractions would be eliminated, because they don't require any jail time. **Senator Holmberg** stated that the courts would have the decision to say this person does not have any money, to not assess those charges to them. Is that how it would work? **Senator Traynor** replied that it was, the court does have the right to waive the administrative fees. **Senator Bowman** (#1391) On the second part of the first page, there is a \$10.00 fee. **Senator Holmberg** explained that it was taken

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out, actually the first page after line 7 is all gone. It says on page 1, remove lines 7-24. **Senator Christmann**: (#1462) In the amendments on page 2, when it says you are going to charge upon a plea or finding of guilt, isn't non-guilty a plea, also? **Senator Traynor**: He thought it was a finding of guilt. **Senator Christmann** continued; This court consolidation happened before he was in the Senate or the first year he was in the Senate and he didn't fully grasp it, but the state was saying that they could run the courthouses so much more efficiently if they ran them, instead of the counties, and now it is being realized that it is not so cheap and so easy and the fees are being raised to keep up on them. **Senator Traynor** replied that he thought he was correct, the way it started in the reorganization of the Judiciary they had the county courts as well as the district courts, now the county courts have been eliminated, so the district courts handled the probate and the guardianship cases that the county courts formally handled. Then the Legislature moved on and all of the Judges and staff are now state employees, then recently the clerks of court were brought in to be contracted state employees, so the counties are now saying it is the judiciary's responsibility to pay for the upkeep of the courthouses where *you* have *your* hearings. **Senator Christmann** continued with asking those deemed innocent would not have to pay these costs? **Senator Traynor** replied that was correct, you have to be convicted with by a plea of guilty, finding by the court, or finding by the jury.

Senator Holmberg stated that the committee is focusing on the amendments because they are what the fiscal effect of the bill.

Ted Gladden (#1760), State Court Administrator. Written testimony is attached., Exhibit #5.

See his written testimony. He was asked to provide a fiscal note on this and he will have it available by Monday for the committee. **Senator Holmberg** stated that it was appropriate,

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because the committee needs to mull this over, because it was a change in HB 1088 and they don't want to rush to judgment on this bill. He stated that he noticed that he mentioned that the court costs of the administration fees will not generate enough money to justify the cost of trying to collect, that must be a sense, because the committee doesn't have the fiscal note. **Mr. Gladden** stated that was correct. He stated that in talking to judges, you are dealing with people who are not generally good citizens, they have financial problems to begin with and they probably won't pay anyway, so the question gets to be is will there be substantial revenue from what is received now. **Senator Bowman: (#2300)** He had more of a concern, he wanted to know if this was the result of all of the things that the legislature has done to change the system to be more effective and yet it in only a couple of years, the legislature has to find a way to increase the funding for the court system that was suppose to save all of this money in the first place. Is this what this bill does, is add money to that court system to take care of the increase case load that was suppose to save money in the first place. **Mr. Gladden** replied that there is no control over how many people come through the court doors, and as the Supreme Court Judges pointed out, North Dakota is the only state that has a contract with lawyers for indigent defense services, which was done very inexpensively. Is it a matter of state funding that it is less efficiently, he didn't think so, it is just hard to generate a lot of support to pay more money to hire attorneys to represent people who don't live by our norms anyway, and it has caught up with the courts. It is just that the courts can't find attorneys anymore, this is just a mechanism that will add more revenues to pay for the indigent defense system in part as well as to pay for the recognition that a different mechanism in place for court facilities, but it doesn't really speak to the efficiency of the court.

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Senator Holmberg stated that the welding of the two issues, one probably that has more support than the other is one of the problems. **Senator Holmberg** (#2333) has a question for **Senator Traynor**, he wanted to know what he thought. **Senator Traynor** respectfully disagreed with the court. He refereed to the exhibit #4 that shows what each county collects and they are not just the assessments of the administration fees, these are the collections. Ramsey county (his county) collected over \$36,000, in one year, from criminal defendants that were found guilty, pled guilty and convicted. The judges in Ramsey county assess for administrative fees either \$125 or \$150 in every criminal case. He felt this means would bring in a lot of money, so he respectively disagree with the courts conclusion that it will be more trouble than gain. In the courts budget, he understands that there is presently \$4.3 million for indigent defense, and that is in place, but the indigent defense program, because it is not adequately funded, is going to cost the state another \$750,000, so if there source is not found in the administrative fee source it is to be found somewhere else -- general fund? He hope that the fiscal note is positive, he know these judges and they will do everything they can to collect these admistrative fees if this bill is passed. **Senator Holmberg**, understand that the rights of the indigent's rights to have legal counsel, if there were \$4 million and it costs \$4.4 million, the court has to spend \$4.4 million **Senator Traynor** stated that was correct.

With no other testimony on HB 1088, the hearing was closed: #2840.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088 Vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 26, 2003

Tape Number	Side A	Side B	Meter #
#1		x	1,322- 1526
Committee Clerk Signature <i>Jan Hendrickson</i>			

Minutes:

Senator Holmberg explained HB 1350 (#1322). This bill is to collect moneys from people who are found guilty or plead guilty and are sentenced to jail. This will be used to help with the indigent defense fund. The fiscal note is about \$791,000 of new money. The thought for now is that the indigent defense will stay with the courts and not go to the administrative hearing office.

Motion by Senator Robinson for a DO PASS, with a second by **Senator Bowman**. Roll call vote was taken, which is attached. 14 yes 0 no 0 absent Motion carried. Bill will be returned to Judiciary for carrying.

Voting closed #1526.

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Date

Date:
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1088

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 3/26/03

Action Taken Do Pass (as amended & engrossed)

Motion Made By Robinson Seconded By Bowman

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 14 No 0

Absent _____

Floor Assignment Judiciary - Trauma

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

Yalasta Rickford
Operator's signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 26, 2003 10:42 a.m.

Mod: No: SR-54-5789
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1088, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOILING). Reengrossed HB 1088, as amended, was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-54-5789

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2003 HOUSE JUDICIARY
CONFERENCE COMMITTEE
HB 1088

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

House Judiciary Committee

☒ Conference Committee / House and Senate Judiciary Committees

Hearing Date 4/2/03

Tape Number	Side A	Side B	Meter #
1	xx		0-12.4
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: 6 members present: Sens. Traynor, Trenbeath, C. Nelson and Reps. Kretschmar, Maragos and Eckre.

Rep. Kretschmar: Called the Conference Committee meeting to order on HB 1088. Let the record show that all members are present and there is a quorum. I don't recognize HB 1088 any longer and I am going to call on Sen. Traynor to explain to us what the Senate did to our bill.

Sen. Traynor: We heard HB 1088 and as I remember the original bill, it was to fund the court services program. There was going to be a \$10 increase in the civil filing fee which would rise from \$80 to \$90, and that would generate over the biennium \$460,000 for improvement of the courthouses. There was dissatisfaction expressed about that method of funding by the Bar Association and Trial Lawyers. So we looked at other sources of revenue, not only to fund the court services, court remodeling and improvement program, but also looking toward the Indigent defense program, because after we heard the bill, we learned that the Indigent Defense contracts were under funded to the extent of about \$750,000. There is an item in the Supreme Court

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budget of \$4.3 million for the programs, but in at least three of the districts, or areas where there are contract with firms of attorneys to handle the defense of people who can't pay for their own defense in criminal cases, the attorneys have said, "we're not going to renew those contracts because we are overwhelmed by the number of drug cases and when we figure out our hourly rate, it's down to about \$30-40, and we can't keep our offices open with that kind of payment". So, confronted with that problem, the Senate looked to the imposition of administrative fees by the court in all criminal cases, as a mode of financing both programs; both the indigent defense program and the court facilities improvement program. The Senate Committee finally settled on the imposition of a fixed amount in each category of crime, starting with class B misdemeanors, the fixed amount would be \$125 per case, and it goes on up in a scale until finally class A felony and class AA felony at \$900. Then, in addition to that, we added \$50 to be imposed by the court in administrative fees in every criminal case; \$50 for the indigent defense program and \$50 for the court facilities improvement program, hoping that that additional \$100 would fund these two programs. I did speak to the Chief Justice about it. They, of course, wanted to get rid of the indigent defense program, because the judges have problems if a judge appoints an attorney in a criminal case to defend the party, and then the court also rules perhaps on the competency of his appointee, and that is embarrassing to the judges. I can understand that. But we looked at the HB 1044, provided a switch from the court to the Office of Administrative Hearings for the implementation of the indigent defense program. Well, we thought that was not an appropriate assignment. For one thing, that office is not experienced in criminal matters at all. They do make some assignments of contracts with attorneys, as I understand it, in worker's compensation cases, but that is the limit of their exposure. Besides they had a fiscal note of \$151,000 to set up

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the program in the Office of Administrative Hearings. So we decided in Senate Judiciary, to leave that with the Court, and the Chief Justice understands that, he understands the reasoning, and I think the court is now agreeable to doing that, because we assured him that we have the study resolution 2003, that Sen. Trenbeath carried yesterday, that calls for a study of the program and the ideal thing would be to set up an office independent of the Judiciary, to handle the Indigent defense program. That would probably require the employment of 2 or 3 attorneys to run the office and they would make the contacts throughout the state. They would run it and be independent of Judiciary, which would be the ideal program. The Chief Justice agreed with us, that it was too late in the session to try to do that now, because we don't know all of the specifics. The study is the vehicle to accomplish that. So, that's the explanation of where we are. Hopefully this amendment on HB 1088 will fund both programs, leave the Indigent defense program with the Court, at least for this biennium and if the fees generated by the imposition of the administrative fees in criminal cases is sufficient, that could well ease the pain of an independent agency to run the program. I might also tell the committee that in the year 2000, through the imposition of administrative fees, \$565,000 was generated for the General Fund. So at the present time that is generating a considerable amount of money. We would hope that, and I think we have the cooperation of the Chief Justice, he's going to talk to the district judges, they'll cooperate with this program and that should fund both programs.

Rep. Kretschmar: Thank you Sen. Traynor. Are there any questions of Sen. Traynor by the members of the committee or any comments.

Sen. Trenbeath: This is something that, as you might expect by the voluminous testimony package that you've got here, that we looked at this long and hard and looked at several different

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ways of crafting this thing. I think we've hit on a pretty good way of doing it. I speak from some experience, in having been a contract attorney in the past for indigent defense and you can starve to death doing that. It's just amazing to me that it has taken so long for the guys that do that sort of thing, to start resigning. At least this is a good starting point. I think the study will tell us a lot.

Rep. Kretschmar: The bill then put the Indigent Defense Council program in the Office of Administrative Hearings.

Sen. Traynor: That was killed in HB 1044. We thought this method of funding was more appropriate because these defendants in criminal cases are the ones that use the system. The court didn't like the raise in civil fees either, because the Chief Justice thought that was an entry fee to the court system. So they want to keep courts open as much as possible.

Rep. Eckre: I brought it up on the House side various times and I was on the Interim Committee on this one too, that we're getting less and less attorneys that want to represent these people because, like you said, the money. They were losing money taking these clients, how can we expect good attorneys to take a criminal case like this, when they are going to lose dollars. Something had to change. So I said that many times. It was in the newspapers a couple of times.

Sen. Trenbeath: You are really looking at the situation where the State runs the risk of being sued.

Rep. Eckre: Yes.

Sen. Trenbeath: On federal law, because some of the attorneys that have these contracts, about all they turn in to, is a revolving door. You get out there, you talk to the guy, convince him he

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has to plead guilty, and then move on to the next one. Even when you find a case that could be right for trial, the temptation is to just get past it, get on to another case.

Rep. Eckre: I do like this plan, and I make a motion.

Rep. Kretschmar: Just a moment, I, too, like the Senate version. It sounds like a reasonable solution to a very vexing problem. I agree with the study, we have to someday get an independent office for the indigent defense. Rep. Maragos, what is your feeling on this.

Rep. Maragos: I agree.

Rep. Kretschmar: I believe Sen. Traynor has prepared some amendments to this whole thing to present.

Sen. Traynor: The fiscal note in this matter, has been a moving target. I think we got one dated 3/19 and it said it would generate well over a million dollars, and then we got one later one that said it would generate \$700,000. Sen. Trenbeath, who has been experienced in that field, thinks that it is going to generate a lot of money. Enough to fund both programs, but the critical need is in the area of the indigent defense. So I had an amendment drawn, that I think would accomplish that end. Under the bill as it passed the Senate, \$50 would be dedicated to the administrative fees to each program equally. Now, since we thought that the indigent defense program was the more pressing need, this amendment would provide that there would be an imposition in addition to the fixed amount that the court must assess in every criminal case. For instance in class B misdemeanors \$125.00, they would have to assess another \$100, so every defendant in a DUI, would have to pay an administrative fee of \$225.00. What the amendment does, it doesn't mention the \$50, it just mentions the \$100.00; and provides that of the additional \$100 fee, first \$750,000 collected per biennium must be deposited in the Indigent defense program and used for

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Indigent Defense services, and the next \$460,000 collected would be deposited in the court facilities improvement fund. Then after the minimum thresholds have been collected, 1/2 of the fees would go to each fund, they would be split; but at least this would ensure that we would have the money there for the indigent defense. In discussing the matter with the Chief Justice, he did make the comment, that that program must be funded. And he said that if it weren't funded, I can issue an order on the General Fund. They have sweeping powers. I think we better take care of it here.

Rep. Kretschmar: Are there copies.

Sen. Traynor: Yes.

Rep. Eckre: Those powers are given in the constitution.

Sen. Traynor: I guess so. The changes start on the bottom of page 2 and go on to the top of page 3. Of course, the court could waived these administration fees for the indigent.

Sen. Nelson: This is basically our amendment with that small change?

Sen. Traynor: Right.

Rep. Kretschmar: How do you feel about this.

Rep. Eckre: I think it is a good deal, Mr. Chair.

Sen. Traynor: I move that the Senate recede from the Senate amendments on HJ 1101-1104 and further amend as per the Proposed Amendments to Reengrossed House Bill No. 1088, #38073.0309 prepared by LC on 4/2/03.

Sen. Trenbeath: Seconded.

6 YES 0 NO 0 ABSENT

AMENDMENTS PASSED Carrier: Rep. Kretschmar

Conference Committee Amendments to Reengrossed HB 1088 - 04/02/2003

That the Senate recede from its amendments as printed on pages 1101-1104 of the House Journal and pages 811-813 of the Senate Journal and that Reengrossed House Bill No. 1088 be amended as follows:

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written

notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Conference Committee Amendments to Reengrossed HB 1088 - 04/02/2003

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Conference Committee Amendments to Reengrossed HB 1088 - 04/02/2003

Page 4, after line 7, insert:

SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases ~~except infractions~~, upon a plea or finding of guilt, ~~a~~ the court shall ~~impose a court administration fee in lieu of the assessment of court costs. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs~~ one hundred twenty-five dollars for a class B misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars for a class A or AA felony. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed. In addition, in all criminal cases except infractions, the court administration fee must include one hundred dollars. Of the additional one hundred dollar court administration fee, the first seven hundred fifty thousand dollars collected per biennium must be deposited in the indigent defense administration fund, which must be used to contract for indigent defense services in this state, and the next four hundred sixty thousand dollars collected per biennium must be deposited in the court facilities improvement and maintenance fund. After the minimum thresholds have been collected, one-half of the additional court administration fee must be deposited in each fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or any combination thereof both, may be docketed, and thereafter if docketed constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed ~~costs or administrative~~ administration fee in installments. When a defendant is assessed ~~costs or administrative~~ administration fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs fees~~ are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle

and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.

2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed ~~court costs~~ the administration fee if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1088 (, as (re)engrossed):

Your Conference Committee

For the Senate:

For the House:

Sen. Traynor <i>aye</i>	Rep. Kretchmar <i>yes</i>
Sen. Trenbeath <i>aye</i>	Rep. Maragos <i>yes</i>
Sen. C. Nelson <i>aye</i>	Rep. Eckre <i>yes</i>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1101 -- 1104

_____ and place _____ on the Seventh order.

X, adopt (further) amendments as follows, and place 1088 on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1088 was placed on the Seventh order of business on the calendar.

DATE: 4/1/03

CARRIER: *Kretschmar*

LC NO. of amendment	<u>38073.0309</u>	<u>0500</u>
LC NO. of engrossment		
Emergency clause added or deleted		
Statement of purpose of amendment		

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Yolanda Rickford
Operator's Signature

10/2/03
Date

REPORT OF CONFERENCE COMMITTEE

HB 1088, as reengrossed: Your conference committee (Sens. Traynor, Trenbeath, Nelson and Reps. Kretschmar, Maragos, Eokre) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1101-1104, adopt amendments as follows, and place HB 1088 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1101-1104 of the House Journal and pages 811-813 of the Senate Journal and that Reengrossed House Bill No. 1088 be amended as follows:

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

"SECTION 1. AMENDMENT. Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's

penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.

5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

SECTION 2. AMENDMENT. Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

12-48.1-03. Use of funds earned on work release. The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

"SECTION 6. AMENDMENT. Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement. In all criminal cases ~~except infractions~~, upon a plea or finding of guilt, ~~the court shall impose a court administration fee in lieu of the assessment of court costs. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs one hundred twenty-five dollars for a class B misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars for a class A or AA felony. If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed. In addition, in all criminal cases except infractions, the court administration fee must include one hundred dollars. Of the additional one hundred dollar court administration fee, the first seven hundred fifty thousand dollars collected per biennium must be deposited in the indigent defense~~

administration fund, which must be used to contract for indigent defense services in this state, and the next four hundred sixty thousand dollars collected per biennium must be deposited in the court facilities improvement and maintenance fund. After the minimum thresholds have been collected, one-half of the additional court administration fee must be deposited in each fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court costs, administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, costs, or court administration fee, or any combination thereof both, may be docketed, and thereafter if docketed constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed costs or administrative administration fee in installments. When a defendant is assessed costs or administrative administration fees, the court may not impose at the same time an alternative sentence to be served if the costs fees are not paid.

SECTION 7. AMENDMENT. Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court costs~~ administration fee for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.
2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.

3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

SECTION 8. AMENDMENT. Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

51-04-03.1. License to be carried by licensee and exhibited on demand. Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed court costs ~~the administration fee~~ if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

Reengrossed HB 1088 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

HB 1083

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Operator's Signature

10/2/03
Date

filed 1 m1012

House Bill 1088
House Judiciary Committee
by Ted Gladden, State Court Administrator

Chair Duane DeKrey and members of the House Judiciary Committee, my name is Ted Gladden, I am the State Court Administrator, and I am appearing in support of House Bill 1088.

Over a year ago, Mark Johnson from the Association of Counties and I met with Senator Traynor and Representative DeKrey regarding our concerns over court facility related issues in a host of counties in our state. In arriving at this bill, Mark Johnson, Christine Hogan, the executive director from the State Bar Association, and I met with representatives appointed by the Legislative Council, including Senator Trenbeath and Representatives Gulleson and DeKrey. This bill resulted from that process and is supported by the Judiciary. It recognizes that some mechanism needs to be established to address the increasing problem over who pays for what services.

In 1995 the Legislative Assembly moved the cost of county judges and their secretaries from the counties to the state and merged the former county courts and district courts into a one-tier district court system. At that time, as part of different legislation requested by OMB, the fee revenue that had been flowing to the counties was redirected to the state general fund. In 1999, the Legislative Assembly approved the transition of clerk of court services from county expense to the state, either through the counties electing to give up these services and have them taken over by the state or by counties electing to contract to provide the services with county personnel.

House Bill 1088

Page 1

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N.D.C.C. §27-01-01.1, provides that the counties shall provide offices for clerks of court and chambers for judges, as well as courtroom space. However, there is no clear delineation of responsibility between the state and the counties for the provision and upkeep of these facilities. Now that the fee revenues are flowing to the state, there is a sense in many counties that the state should be providing some monies for facilities. House Bill 1088 provides for the establishment of a fund based on a \$10 addition to civil filing fees for court facilities and maintenance and improvement. Our estimate, based on an average of 2001 and 2002 civil filings, is that this bill will generate between \$450,000 and \$500,000 for the biennium. The purpose of these funds would be to provide grants to counties for court facilities improvement and maintenance projects. A committee made up of representatives from the judiciary, legislature, counties, and bar association would establish the guidelines for the administration of these funds, but in no case could a grant be made for more than 75% of the cost of the project to a county.

Our concern is that if no legislation is put in place for providing funds to share the costs for the maintenance and improvement of court facilities, we will continue to have points of conflict with the counties. These conflicts have risen to the point of involving issues about whose responsibility it is to replace carpeting, provide for basic maintenance and custodial services, pay for wiring to reconnect security systems following relocation of offices, painting, wallpapering, and other ordinary maintenance issues. If this bill is passed, the anticipated funding will certainly not address major construction and remodeling initiatives, but it will recognize the need for both the state and the counties to work together to address areas of common concern within the framework of existing statutes. This bill will not have a negative

House Bill 1088

Page 2

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impact on people's access to the courts. I attach a copy of filing fees from other states to give you an idea of where we stand related to other states' civil filling fees.

Thank you.

House Bill 1088

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Page 3

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FILING FEES IN STATE COURTS - 2002			
Civil Fees by State, Fall 2002			
STATE	COURT OF GENERAL JURISDICTION FILING	STATE	SMALL CLAIMS COURT
		West Virginia	\$0.00
West Virginia	\$55.00	South Carolina	\$0.00
South Carolina	\$60.00	Maryland	\$10.00
Wyoming	\$65.00	North Dakota	\$10.00
Georgia	\$80.00	Wyoming	\$10.00
North Dakota	\$80.00	Rhode Island	\$11.00
Colorado	\$90.00	Nebraska	\$12.00
Delaware	\$90.00	Virginia	\$12.00
Maryland	\$90.00	New Jersey	\$15.00
North Carolina	\$90.00	Texas	\$15.00
South Dakota	\$91.00	Arizona	\$18.00
Oklahoma	\$92.00	Montana	\$17.00
Nebraska	\$100.00	Massachusetts	\$19.00
Alaska	\$100.00	Washington	\$21.00
Iowa	\$100.00	Kentucky	\$23.00
Maine	\$100.00	Colorado	\$23.00
Mississippi	\$100.00	Alabama	\$25.00
New Hampshire	\$108.00	Arkansas	\$25.00
Kentucky	\$110.00	New Hampshire	\$25.00
Kansas	\$111.00	South Dakota	\$25.00
Alabama	\$118.00	Indiana	\$30.00
Idaho	\$120.00	Connecticut	\$35.00

Filing Fees in State Courts - 2002
Prepared by the State of Colorado Administrative Office of the Courts

Page 1

G:\WP\Connie\TED\Filing Fees in State Courts - 2002 [Table].wpd

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FILING FEES IN STATE COURTS - 2002			
Civil Fees by State, Fall 2002			
STATE	COURT OF GENERAL JURISDICTION FILING	STATE	SMALL CLAIMS COURT
Arkansas	\$120.00	Hawaii	\$35.00
Indiana	\$120.00	Idaho	\$35.00
Washington	\$130.00	California	\$38.50
Arizona	\$135.00	Maine	\$40.00
Rhode Island	\$137.00	Minnesota	\$40.00
New Mexico	\$137.50	Mississippi	\$42.00
Tennessee	\$140.00	Missouri	\$42.00
Utah	\$145.00	Ohio	\$45.00
Minnesota	\$150.00	Alaska	\$50.00
Vermont	\$152.00	Iowa	\$50.00
Nevada	\$170.00	New York	\$50.00
Texas	\$184.00	Vermont	\$50.00
Wisconsin	\$185.00	Kansas	\$51.00
California	\$185.00	Georgia	\$55.00
Montana	\$185.00	Louisiana	\$55.00
New York	\$186.00	North Carolina	\$55.00
Virginia	\$190.00	Illinois	\$61.00
Connecticut	\$198.00	Wisconsin	\$61.00
Illinois	\$200.00	Michigan	\$64.00
Michigan	\$200.00	Pennsylvania	\$65.50
New Jersey	\$210.00	New Mexico	\$67.00
Massachusetts	\$225.00	Utah	\$70.00
Hawaii	\$225.00	Nevada	\$78.00

Filing Fees in State Courts - 2002
 Prepared by the State of Colorado Administrative Office of the Courts
 G:\WP\Connie\TED\Filing Fees in State Courts - 2002 (Table).wpd

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10/2/03
 Date

4

FILING FEES IN STATE COURTS - 2002			
Civil Fees by State, Fall 2002			
STATE	COURT OF GENERAL JURISDICTION FILING	STATE	SMALL CLAIMS COURT
Missouri	\$250.00	Oregon	\$81.00
Ohio	\$258.50	Oklahoma	\$91.00
Louisiana	\$273.50	Florida	\$200.00
Florida	\$278.00	Delaware	Not Available
Oregon	\$280.00	Tennessee	Not Available
Pennsylvania			
Average	\$90.00		\$23.00
NOTE:			
The fees were put in order from lowest to highest. If a state had a range of fees, the higher fee was selected.			
The states highlighted, have been updated from the original NCSC 1995 study.			

Filing Fees in State Courts - 2002
 Prepared by the State of Colorado Administrative Office of the Courts
 G:\WP\Conn\TED\Filing Fees in State Courts - 2002 (Table).wpd

Page 3

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10/2/03
 Date

**Testimony on HB 1088
House Judiciary Committee**

**Christine Hogan
Executive Director
State Bar Association of North Dakota**

The State Bar Association of North Dakota opposes House Bill 1088 for public policy reasons. While the Association appreciates the intent of the legislation is to provide a source of funds for much needed courthouse improvements, the source of funds in this instance infringes on access to justice.

The Legislative Committee and the Board of Governors of the State Bar Association of North Dakota strongly believe that courthouse improvements are public expenses that should be paid for with public funds. The Association recognizes that in these times of limited public resources, it is difficult to find revenue in county and state budgets to fund even routine maintenance in the courthouses, but it is unfair to require the citizens who use the court system and their lawyers to bear the burden of paying for what is appropriately a governmental function.

The plaintiffs who bring their law suits to the court system are exercising their constitutional right of access to the court. They should not be further burdened with additional fees stacked on top of the substantial user fees that are already included in the current civil filing fee. User fees paid by one small element of society should not be used to support what is in reality a legitimate governmental expense.

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Operator's Signature

10/2/03
Date

64

The State Bar Association of North Dakota goes on record opposing an additional civil filing fee to pay for court maintenance because it is a potential infringement on the public's right of access to the court system.

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Operator's Signature

10/2/03
Date

**TESTIMONY TO THE
HOUSE JUDICIARY COMMITTEE**
Prepared January 15, 2003 by the
North Dakota Association of Counties
Wade Williams, NDACo Government Relations

Concerning House Bill 1088

Chairman DeKrey and members of the Judiciary Committee, I am here on behalf of North Dakota's counties in support of House Bill 1088. We believe HB 1088 addresses a concern many counties have had since the court consolidation took place in 1991 that concern being who is responsible for court facility upkeep.

House Bill 1088 creates a committee that includes membership for large and small counties, a member appointed by the chief justice, state bar association, and the legislature. The duties of the committee will be to review applications requesting grants from the court facilities improvement and maintenance fund. A grant may be awarded to a county only if the county is willing to match with local funds for the project in an amount equal to twenty-five percent of the total project.

House Bill 1088 is the result of negotiations that took places during the interim. Participants included members of the legislature, the Supreme Court and the Association of counties.

Mr. Chairman we urge a "DO PASS" on HB 1088, and I will try to answer any questions you may have.



NORTH DAKOTA TRIAL LAWYERS ASSOCIATION

PO Box 365
Mandan, ND 58554
Ph.: 701-663-3916
Fax: 701-663-3917
www.ndtla.com

16 January 2003

The Honorable Lois M. Delmore, State Representative
North Dakota House of Representatives
600 East Boulevard Ave
Bismarck, ND

Dear Representative Delmore;

At Judiciary Committee hearings on House Bill 1088 (Civil Action Filing Fees to be allocated for Courthouse maintenance) on January 15 you inquired about Courthouse utilization.

The North Dakota Trial Lawyers Association has been compiling data on Civil Cases for the period of 1997 to 2002. While the survey is not yet complete, Clerks of District Court for the following counties have indicated they have had no civil trials for the period: Griggs County, Benson County & McIntosh County.

Dicky County and McKenzie County responded they had only one trial for the period. While there were other cases filed in these counties, the parties settled and never had to go to Court.

The North Dakota Trial Lawyers Association opposes HB 1088 as it is currently written because increasing plaintiff's filing fees further reduces access to the Civil Justice System (Seventh Amendment to the Constitution of the United States) for those who have been injured or harmed. The Bill makes it more difficult to plaintiffs who may have already suffered large monetary losses and protects wrongdoers.

NDTLA is neutral on amending the bill to allow \$10.00 from the current filing fee to go to a Courthouse maintenance fund. Counties and government have an obligation to all the citizens of our state to provide suitable Court facilities. It is unfair to place the burden for maintenance on those who have been injured or harmed.

Sincerely,

Paula J. Grosinger, NDTLA Director and Lobbyist

Att #1a

**Testimony To The
SENATE JUDICIARY COMMITTEE
Prepared March 3, 2003 by the
North Dakota Association of Counties
Terry Traynor, Assistant Director**

CONCERNING REENGROSSED HOUSE BILL 1088

Mr. Chairman and members of the Judiciary Committee, on behalf of North Dakota's counties I wish to provide testimony in support of House Bill 1088. We believe that this bill addresses a concern many counties have had since court consolidation began in 1981 and continues since its final implementation in 2001 – that concern being the responsibility for court facility maintenance and improvement. HB1088 is the result of negotiations that took place during the interim among members of the Legislature, the Supreme Court and the Association of Counties.

Prior to court consolidation, approximately \$5 million in court fees and bond forfeitures were collected and retained by counties each biennium. This revenue source made the annual budgeting for court facilities much easier. We acknowledge that the shift of this revenue to the State coincided with the loss of certain personnel costs, however, with increasing pressure on property taxes, it has become more and more difficult for counties to fund the necessary maintenance and desired improvements.

House Bill 1088 creates a small fund and a committee to oversee that fund, to begin to address this concern. The committee includes representatives of both large and small counties, as well as members appointed by the chief justice, state bar association, and the Legislature. The committee will review applications requesting grants from the fund. A grant may be awarded to a county only if the county provides local matching funds of at least twenty-five percent of the total project.

The fund is created by a \$10 increase in civil filing fees, allowing the users of the court to help fund its maintenance and improvement. We feel this increase is measured and appropriate, while maintaining our State's reasonable access to the courts.

Mr. Chairman we urge a "DO PASS" on HB 1088, and I will try to answer any questions you may have.

Table 1

#16

Census Changes to State Aid Fund Population Categories - Rural

COUNTY	1990 Census	2000 Census	Percent Change Census	
SLOPE	907	787	-15.4%	
BILLINGS	1,108	888	-19.9%	
SHERIDAN	2,148	1,710	-20.4%	
GOLDEN VALLEY	2,108	1,924	-8.7%	
OLIVER	2,381	2,065	-13.3%	
BURKE	3,002	2,242 *	-25.3%	
STEELE	2,420	2,258	-6.7%	
DIVIDE	2,899	2,283 *	-21.2%	
LOGAN	2,847	2,308 *	-18.9%	2,500
ADAMS	3,174	2,593	-18.3%	
RENVILLE	3,160	2,610	-17.4%	
HETTINGER	3,445	2,715	-21.2%	
KIDDER	3,332	2,753	-17.4%	
GRIGGS	3,303	2,754	-16.6%	
EDDY	2,951	2,757	-6.6%	
GRANT	3,549	2,841	-19.9%	
TOWNER	3,627	2,876	-20.7%	
BOWMAN	3,596	3,242	-9.8%	
McINTOSH	4,021	3,390	-15.7%	
DUNN	4,005	3,600	-10.1%	
NELSON	4,410	3,715	-15.8%	
FOSTER	3,983	3,759	-5.6%	
SIOUX	3,781	4,044	7.5%	
EMMONS	4,830	4,331	-10.3%	
SARGENT	4,549	4,366	-4.0%	
PIERCE	5,052	4,675 *	-7.5%	
LaMOURE	5,383	4,701 *	-12.7%	
CAVALIER	6,064	4,831 *	-20.3%	5,000
WELLS	5,864	5,102	-13.0%	
McKENZIE	6,383	5,737	-10.1%	
DICKEY	6,107	5,757	-5.7%	
RANSOM	5,921	5,890	-0.5%	
McHENRY	6,528	5,987	-8.3%	
MOUNTRAIL	7,021	6,631	-5.6%	
BENSON	7,198	6,964	-3.3%	
BOTTINEAU	8,011	7,149	-10.8%	
TRAILL	8,752	8,477	-3.1%	
PEMBINA	9,238	8,585	-7.1%	
MERCER	9,808	8,644	-11.9%	
McLEAN	10,457	9,311 *	-11.0%	10,000
BARNES	12,545	11,775	-6.1%	
RAMSEY	12,681	12,066	-4.8%	
WALSH	13,840	12,389	-10.5%	
ROLETTE	12,772	13,674	7.1%	
RICHLAND	18,148	17,998	-0.8%	
WILLIAMS	21,129	19,761 *	-6.5%	20,000
STUTSMAN	22,241	21,908	-1.5%	
STARK	22,832	22,636	-0.9%	
MORTON	23,700	25,303	6.8%	50,000
WARD	57,921	58,795	1.5%	
GRAND FORKS	70,683	66,109	-6.5%	
BURLEIGH	60,131	69,416	15.4%	100,000
CASS	102,874	123,138	19.7%	
	638,800	642,200		

1/15/2003

HB1026 SADF formula.xls

Census

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Operator's Signature

Yolanda Rickford

Date

10/2/03

HH #2a

House Bill 1088
Senate Judiciary Committee
by Ted Gladden, State Court Administrator

Chairman Traynor and members of the Senate Judiciary Committee, I am appearing in support of House Bill 1088.

Over a year ago, Mark Johnson from the Association of Counties and I met with Senator Traynor and Representative DeKrey regarding our concerns over court facility related issues in a host of counties in our state. In arriving at this bill, Mark Johnson, Christine Hogan, the executive director from the State Bar Association, and I met with representatives appointed by the Legislative Council, including Senator Trenbeath and Representatives Gulleeson and DeKrey. This bill resulted from that process. It is supported by the Judiciary. It recognizes that some mechanism needs to be established to address the increasing problem over who pays for what services in county courthouses.

In 1995 the Legislative Assembly moved the cost of county judges and their secretaries from the counties to the state and merged the former county courts and district courts into a one-tier district court system. At that time, as part of different legislation requested by OMB, the fee revenue that had been flowing to the counties was redirected to the state general fund. In 1999, the Legislative Assembly approved the transition of clerk of court services from county expense to the state, either through the counties electing to give up these services and have them taken over by the state or by counties electing to contract to provide the services with county personnel.

House Bill 1088

Page 1

G:\WP\Comm\2003\Legislature\Remarks - HB 1088.wpd

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N.D.C.C. §27-01-01.1, provides that the counties shall provide offices for clerks of court and chambers for judges, as well as courtroom space. However, there is no clear delineation of responsibility between the state and the counties for the provision and upkeep of these facilities. Now that the fee revenues are flowing to the state, there is a sense in many counties that the state should be providing some monies for facilities. House Bill 1088 provides for the establishment of a fund based on a \$10 addition to civil filing fees for court facilities and maintenance and improvement. Our estimate, based on an average of 2001 and 2002 civil filings, is that this bill will generate between \$450,000 and \$500,000 for the biennium. The purpose of these funds would be to provide grants to counties for court facilities improvement and maintenance projects. A committee made up of representatives from the judiciary, legislature, counties, and bar association would establish the guidelines for the administration of these funds, but in no case could a grant be made for more than 75% of the cost of the project to a county.

Our concern is that if no legislation is put in place for providing funds to share the costs for the maintenance and improvement of court facilities, we will continue to have points of conflict with the counties. These conflicts have risen to the point of involving issues about whose responsibility it is to replace carpeting, juror chairs, provide for basic maintenance, custodial services, pay for wiring to reconnect security systems following relocation of offices, painting, wallpapering, and other ordinary maintenance issues. If this bill is passed, the anticipated funding will certainly not address major construction and remodeling initiatives, but it will recognize the need for both the state and the counties to work together to address areas of common concern within the framework of existing state law. Raising the civil filing fee will

House Bill 1088

Page 2

G:\WP\Combi\2003 Legislature\Remarks - HB 1088.wpd

not have a negative impact on people's access to the courts. I attach a copy of filing fees from other states to give you an idea of where we stand related to other states' civil filling fees.

Thank you.

House Bill 1088

G:\WP\Course\2003 Legislature\Remarks - HB 1088.wpd

Page 3

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Yolanda Rickford
Operator's Signature

10/2/03
Date

2b.

FILING FEES IN STATE COURTS - 2002			
Civil Fees by State, Fall 2002			
STATE	COURT OF GENERAL JURISDICTION FILING	STATE	SMALL CLAIMS COURT
		West Virginia	\$0.00
West Virginia	\$55.00	South Carolina	\$0.00
South Carolina	\$60.00	Maryland	\$10.00
Wyoming	\$65.00	North Dakota	\$10.00
Georgia	\$80.00	Wyoming	\$10.00
North Dakota	\$80.00	Rhode Island	\$11.00
Colorado	\$90.00	Nebraska	\$12.00
Delaware	\$90.00	Virginia	\$12.00
Maryland	\$90.00	New Jersey	\$15.00
North Carolina	\$90.00	Texas	\$15.00
South Dakota	\$91.00	Arizona	\$16.00
Oklahoma	\$92.00	Montana	\$17.00
Nebraska	\$100.00	Massachusetts	\$19.00
Alaska	\$100.00	Washington	\$21.00
Iowa	\$100.00	Kentucky	\$23.00
Maine	\$100.00	Colorado	\$23.00
Mississippi	\$100.00	Alabama	\$25.00
New Hampshire	\$108.00	Arkansas	\$25.00
Kentucky	\$110.00	New Hampshire	\$25.00
Kansas	\$111.00	South Dakota	\$25.00
Alabama	\$118.00	Indiana	\$30.00
Idaho	\$120.00	Connecticut	\$35.00

Filing Fees in State Courts - 2002
Prepared by the State of Colorado Administrative Office of the Courts
G:\WP\Con\TED\Filing Fees in State Courts - 2002 [Table].wpd

Page 1

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Salvatore Rickford
Operator's Signature

10/2/03
Date

FILING FEES IN STATE COURTS - 2002			
Civil Fees by State, Fall 2002			
STATE	COURT OF GENERAL JURISDICTION FILING	STATE	SMALL CLAIMS COURT
Arkansas	\$120.00	Hawaii	\$35.00
Indiana	\$120.00	Idaho	\$35.00
Washington	\$130.00	California	\$38.50
Arizona	\$135.00	Maine	\$40.00
Rhode Island	\$137.00	Minnesota	\$40.00
New Mexico	\$137.50	Mississippi	\$42.00
Tennessee	\$140.00	Missouri	\$42.00
Utah	\$145.00	Ohio	\$45.00
Minnesota	\$150.00	Alaska	\$50.00
Vermont	\$152.00	Iowa	\$50.00
Nevada	\$170.00	New York	\$50.00
Texas	\$184.00	Vermont	\$50.00
Wisconsin	\$185.00	Kansas	\$51.00
California	\$185.00	Georgia	\$55.00
Montana	\$185.00	Louisiana	\$55.00
New York	\$186.00	North Carolina	\$55.00
Virginia	\$190.00	Illinois	\$61.00
Connecticut	\$198.00	Wisconsin	\$61.00
Illinois	\$200.00	Michigan	\$64.00
Michigan	\$200.00	Pennsylvania	\$65.50
New Jersey	\$210.00	New Mexico	\$67.00
Massachusetts	\$225.00	Utah	\$70.00
Hawaii	\$225.00	Nevada	\$78.00

Filing Fees in State Courts - 2002

Prepared by the State of Colorado Administrative Office of the Courts

G:\WP\Connie\TED\Filing Fees in State Courts - 2002 (Table).wpd

Page 2

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Operator's Signature

Date

FILING FEES IN STATE COURTS - 2002			
Civil Fees by State, Fall 2002			
STATE	COURT OF GENERAL JURISDICTION FILING	STATE	SMALL CLAIMS COURT
Missouri	\$250.00	Oregon	\$81.00
Ohio	\$258.50	Oklahoma	\$91.00
Louisiana	\$273.50	Florida	\$200.00
Florida	\$275.00	Delaware	Not Available
Oregon	\$280.00	Tennessee	Not Available
Pennsylvania			
Average	\$90.00		\$23.00
NOTE:			
The fees were put in order from lowest to highest. If a state had a range of fees, the higher fee was selected.			
The states highlighted, have been updated from the original NCSC 1995 study.			

Filing Fees in State Courts - 2002
 Prepared by the State of Colorado Administrative Office of the Courts
 G:\WP\Conn\ED\Filing Fees in State Courts - 2002 (Table).wpd

Page 3

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Yolanda Rickford
 Operator's Signature

10/2/03
 Date

Att #3

**Testimony on HB 1088
Senate Judiciary Committee**

**Christine Hogan
Executive Director
State Bar Association of North Dakota
March 3 2003**

The State Bar Association of North Dakota opposes House Bill 1088 for public policy reasons. While the Association appreciates the intent of the legislation is to provide a source of funds for much-needed courthouse improvements, the source of funds in this instance infringes on access to justice.

The Legislative Committee and the Board of Governors of the State Bar Association of North Dakota strongly believe that courthouse improvements are public expenses that should be paid for with public funds. The Association recognizes that in these times of limited public resources, it is difficult to find revenue in county and state budgets to fund even routine maintenance in the courthouses, but it is unfair to require the citizens who use the court system and their lawyers to bear the burden of paying for what is appropriately a governmental function.

The plaintiffs who bring their law suits to the court system are exercising their constitutional right of access to the court. They should not be further burdened with additional fees stacked on top of the substantial user fees that are already included in the current civil filing fee. User fees paid by one small element of society should not be used to support what is in reality a legitimate governmental expense.

Yalosta Rickford
Operator's Signature

10/2/03
Date

UP

The State Bar Association of North Dakota goes on record opposing an additional civil filing fee to pay for court maintenance because it is a potential infringement on the public's right of access to the court system.

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Valista Rickford
Operator's Signature

10/2/03
Date



TED C. GLADDEN
STATE COURT ADMINISTRATOR

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

March 4, 2003

SUPREME COURT
Judicial Wing, 1st Floor
600 E Boulevard Ave Dept 180
Bismarck, ND 58505-0630
Phone: (701) 328-4216
Fax: (701) 328-2092

Senator John T. Traynor
Chairman, Senate Judiciary Committee
Senate Chambers
State Capitol Building
Bismarck, ND 58505

Dear Senator Traynor:

When I appeared before the Senate Judiciary Committee on March 3, 2003, in regard to House Bill 1088, I was asked to provide additional information regarding the number and names of counties with a population of less than 7,500 residents. Attached is that information for your consideration.

Sincerely,

Ted Gladden
State Court Administrator

TG/cs
Attachments

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10/2/03
Date

U.S. Census Bureau
2000 Census

North Dakota County Population Below 7,500

County	Population
Adams	2,593
Benson	6,964
Billings	888
Bottineau	7,149
Bowman	3,242
Burke	2,242
Cavalier	4,831
Dickey	5,757
Divide	2,283
Dunn	3,600
Eddy	2,757
Emmons	4,331
Foster	3,759
Golden Valley	1,924
Grant	2,841
Griggs	2,754
Hettinger	2,715
Kidder	2,753
LaMoure	4,701
Logan	2,308
McHenry	5,987
McIntosh	3,390

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Yolanda Rickford

Date

10/2/03

County	Population
McKenzie	5,737
Mountrail	6,631
Nelson	3,715
Oliver	2,065
Pierce	4,675
Ransom	5,890
Renville	2,610
Sargent	4,366
Sheridan	1,710
Sioux	4,044
Slope	767
Steele	2,258
Towner	2,876
Wells	5,102

Source: U.S. Census Bureau, Census 2000 Summary File

G:\WP\Connel\TED\County Population Under 7500 - 2000 Census.wpd

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Yalosta Rickford
Operator's Signature

10/2/03
Date



TED C. GLADDEN
STATE COURT ADMINISTRATOR

AS 1088

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

SUPREME COURT
Judicial Wing, 1st Floor
600 E Boulevard Ave Dept 180
Bismarck, ND 58505-0530
Phone: (701) 328-4216
Fax: (701) 328-2092

March 5, 2003

TO: Sen. John T. "Jack" Traynor
FROM: Ted Gladden
SUBJECT: Selected Case Statistics for Calendar Year 2002

While I thought your request was a very simple and straightforward one, as with everything in life, it seems to be a little more difficult to respond to than I initially thought. Attached is the most accurate data I can provide based on your request this morning. I need to point out that the disposition data contained in the attachment reflects all cases disposed of for any one defendant on any given day during 2002. I provide the data in this format due to the variance of charging practices by state's attorneys throughout the state. Some charge each count as a separate case while others will include counts within cases. This would relate to driving under suspension and driving without liability insurance as well as the check charge cases. As a result, to get any kind of an accurate figure on the number of cases for your purposes, I am suggesting that you use the attached data which really looks at the number of defendants that were processed by the courts and not the actual number of cases against those defendants, as I would doubt that the court would impose a separate fee if a defendant had two related cases arising out of one incident or, for that matter, one case with two counts.

I cannot breakout the attached data by case type as we instructed our programmer to take the most serious offense that was disposed of on any given day and count based on the most serious offense, but if you are interested in class B misdemeanor and above, this would be the most reliable information for you to use in your computations.

We do not have municipal court data other than summary statistics that we obtain from approximately 15 of the largest municipalities. These municipalities lump their data into two categories, administrative traffic and non-traffic related criminal cases. As a result, all infraction violations are included in their data reporting. All of the costs and any administrative fees collected remain with the municipality.

The second attachment is a report of the fines, fees, and costs that were reported to the State Treasurer for calendar year 2002.

TG/rb
Attachments

G:\WP\Renet\Legislature\Memo to Sen Traynor re Case Statistics for 2002.wpd

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Operator's Signature

10/2/03
Date

Fees and Costs Received January - December 2002	Court Admin. Fee	District Court Costs	TOTAL BY COUNTY
Cass	148,204.28	610.00	148,814.28
Steele	8,245.00	25.00	8,270.00
Trall	13,685.70	620.00	14,305.70
	170,134.98	1,255.00	171,389.98
Grand Forks	92,898.70	1,061.50	93,960.20
Nelson	6,464.13	-	6,464.13
	99,362.83	1,061.50	100,424.33
Benson	12,619.90	325.00	12,944.90
Bottineau	21,904.98	-	21,904.98
Cavaler	9,200.00	25.00	9,225.00
McHenry	9,482.41	-	9,482.41
Pembina	20,460.52	-	20,460.52
Pierce	11,037.08	-	11,037.08
Ramsey	36,463.37	-	36,463.37
Renville	2,750.00	-	2,750.00
Rolette	15,844.00	-	15,844.00
Towner	7,411.19	-	7,411.19
Walsh	25,254.00	50.00	25,304.00
	172,427.45	400.00	172,827.45
Burke	200.00	-	200.00
Divide	1,444.30	-	1,444.30
McKenzie	6,605.18	250.00	6,855.18
Mountrail	1,665.00	-	1,665.00
Ward	12,490.50	255.00	12,745.50
Williams	8,425.00	200.00	8,625.00
	30,829.98	705.00	31,534.98
Burleigh	27,571.00	1,145.00	28,716.00
Emmons	4,641.00	91.00	4,732.00
Grant	275.00	9,132.00	9,407.00
Kidder	670.00	-	670.00
Logan	2,100.00	-	2,100.00
McIntosh	475.00	-	475.00
McLean	10,730.00	-	10,730.00
Mercer	1,708.00	825.00	2,533.00
Morton	14,128.42	411.40	14,539.82
Oliver	720.00	50.00	770.00
Sheridan	-	-	-
Sioux	50.00	-	50.00
	63,068.42	11,554.40	74,722.82
Barnes	87.00	1,153.10	1,240.10
Dickey	1,675.00	-	1,675.00
Eddy	2,270.00	-	2,270.00
Foster	3,827.16	-	3,827.16
Griggs	1,830.00	807.10	2,637.10
LaMoure	3,665.00	100.00	3,665.00
Ransom	831.25	525.00	1,356.25
Richland	2,944.33	485.00	3,429.33
Sargent	1,265.00	-	1,265.00
Stutsman	4,575.00	3,690.50	8,265.50
Wells	2,765.00	290.00	3,055.00
	25,634.74	7,050.70	32,685.44
Adams	495.00	-	495.00
Billings	-	-	-
Bowman	-	-	-
Dunn	500.00	-	500.00
Golden Valley	-	-	-
Hettinger	-	-	-
Slope	-	-	-
Stark	2,696.25	1,288.50	3,984.75
	3,691.25	1,288.50	4,979.75
GRAND TOTALS	565,149.65	23,415.10	588,564.75

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Yalosta Rickford
Operator's Signature

10/2/03
Date

North Dakota Judiciary
Selected District Court Criminal Case Statistics- 2002
Number of Unique Dispositions

District	Misdemeanors	Felonies	Total
NW Judicial District	2,823	523	3,346
NE Judicial District	2,977	512	3,489
NEC Judicial District	3,304	641	3,945
EC Judicial District	2,848	610	3,458
SE Judicial District	3,084	461	3,545
SC Judicial District	3,689	929	4,618
SW Judicial District	1,474	179	1,653
Total	<u>20,199</u>	<u>3,855</u>	<u>24,054</u>

Data from Unified Court Information System

Prepared by the Office of the State Court Administrator

3/5/2003

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Yolanda Rickford
Operator's Signature

10/2/03
Date



TED C. GLADDEN
STATE COURT ADMINISTRATOR

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

SUPREME COURT
Judicial Wing, 1st Floor
600 E Boulevard Ave Dept 180
Bismarck, ND 58505-0630
Phone: (701) 328-4216
Fax: (701) 328-2092

March 12, 2003

Honorable John T. "Jack" Traynor
State Senator
600 E. Boulevard Ave.
Bismarck, ND 58505

RE: Proposed Amendments to Reengrossed HB 1088

Dear Senator Traynor:

Upon returning to the office following the Chief Justice's comments on HB 1044, I gave a copy of your proposed amendment to Jim Ganje for his review. He indicated that at the present time, the only fund relating to indigent defense services is the one that has been established for the deposit of the indigent defense application fee revenues. There is no other special fund established for these funds.

Attached is Jim's analysis of the proposed amendments. My request is that you give consideration to amending the language for the special fund that has been established for the application fee monies so that this administrative fee could go into that fund. This would eliminate the need for another special fund to be created for the administration of indigent defense fee revenues.

Sincerely,

Ted Gladden
State Court Administrator

TG/rb
Attachment

G:\WP\Kane\Legislature\Ltr to Traynor re HB 1088.wpd

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Yolanda Rickford
Operator's Signature

10/2/03
Date



TED G. GLADDEN
STATE COURT ADMINISTRATOR

State of North Dakota
OFFICE OF STATE COURT ADMINISTRATOR

SUPREME COURT
Judicial Wing, 1st Floor
600 E. Boulevard Ave Dept 180
Bismarck, ND 58505-0830
Phone: (701) 328-4216
Fax: (701) 328-2092

March 12, 2003

TO: Ted Gladden
FROM: Jim Ganje
SUBJECT: Proposed Amendments to Reengrossed House Bill No. 1088

As you requested, I have reviewed the proposed amendments to House Bill 1088 prepared for Senator Traynor. I have only one observation.

Proposed Section 6 in the amendments would amend Section 29-26-22 to provide, in part, for an administration fee amount to be deposited "in a special fund to be used to support the indigent defense system in this state." At present, there is no such special fund, at least as general in scope as the amendments seem to contemplate, and the proposed amendments do not provide for the establishment of such a fund. The only existing special fund related to indigent defense is set out in subsection 4 of Section 29-07-01.1, which is used for the deposit of indigent defense application fee revenue. Moneys in the fund are appropriated on a continuing basis to the judicial branch to be used "in the administration of the indigent defense system and the collection of indigent defense costs and expenses required to be reimbursed ..." by a defendant. Use of the revenue in the fund may, arguably, be more narrowly directed than towards "support of the indigent defense system."

There are a couple of possibilities if fee revenue collected under Section 29-26-22, as it would be amended, is to be available generally to supplement funds already appropriated for indigent defense. One might be to establish a new special fund, appropriated on a continuing basis, which could be available for any number of uses with respect to indigent defense, e.g., "any costs or expenses associated with the operation of the indigent defense system." The other might be to amend Section 29-07-01.1(4) to provide for deposit in the indigent defense administration fund (or perhaps simply "indigent defense fund") of fee revenue collected under amended Section 29-26-22, as well as application fee revenue. The permissible use of moneys in the fund could be clarified to cover, similar to above, "any costs or expenses associated with the operation of the indigent defense system."

JG/

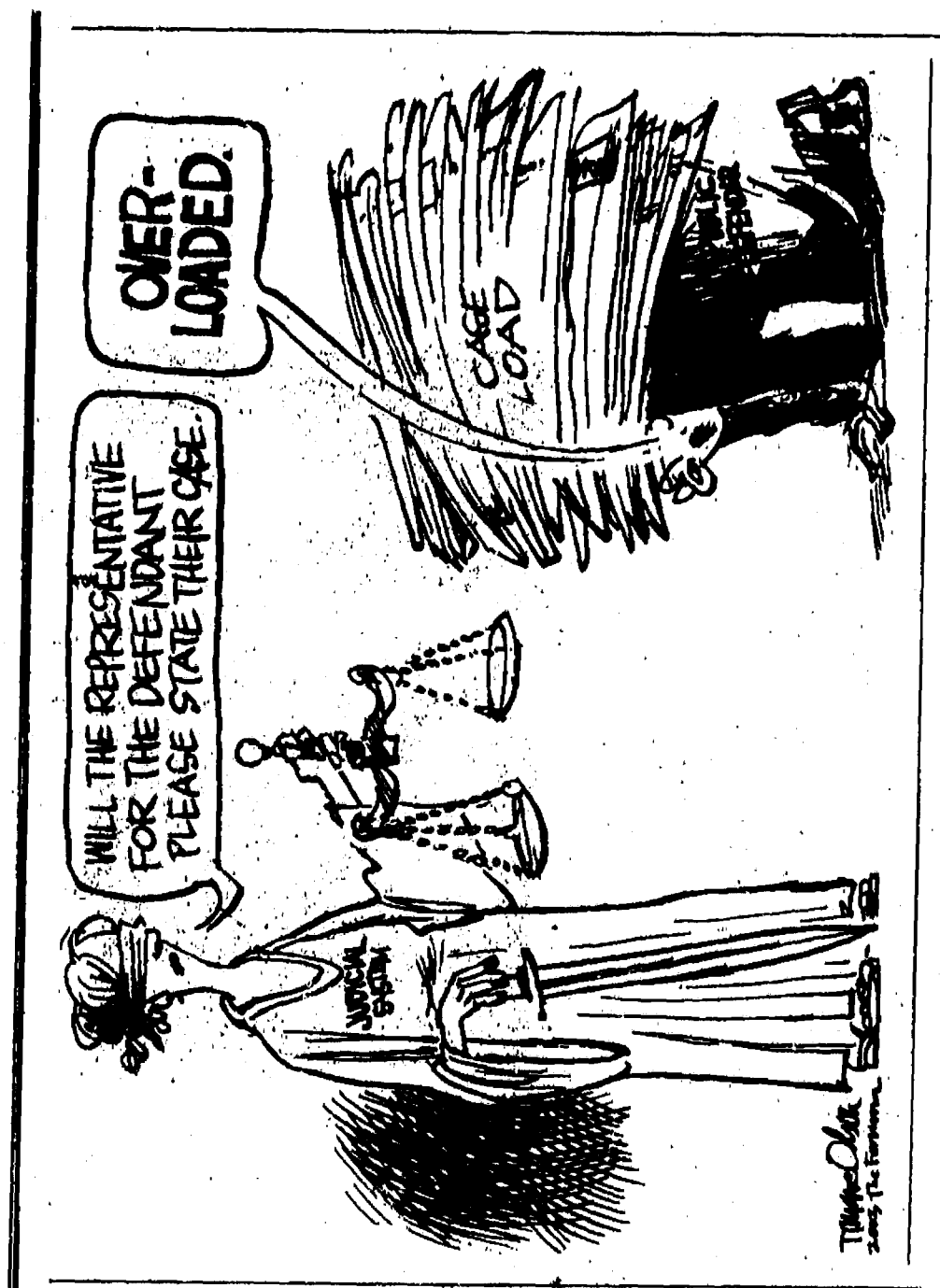
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Exh.) #1



From Fargo Forum
from Sen. Jack Trempner

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Exhibit # 5
HB 1088

House Bill 1088
Senate Appropriations Committee
by Ted Gladden, State Court Administrator

Good morning Chairman Holmberg and members of the Senate Appropriations Committee.

I am appearing today to express concern regarding HB 1088 as it appears through the second engrossment with Senate amendments. HB 1088 began its journey through the legislative process to create a fund for court facilities improvements and maintenance. The original bill provided for the addition of \$10 on every civil filing to create a fund for maintenance and improvement of court facilities. It has now been amended to provide for the assessment of a graduated fee on all criminal defendants, except for infraction cases. The proposed amendments beginning on line 27, of page 4, to amend § 29-26-22 providing for a graduated court administration fee structure to be assessed in lieu of court costs will not generate enough money to justify the costs of trying to collect the fee. I question if the proposed amendment will accomplish what is desired. Of all of the defendants that appear in district court, a large percentage are indigent and represented by court-appointed counsel. Another group of defendants, primarily those appearing on Class B misdemeanor charges, are defendants who appear without counsel but are also indigent. The remainder of the defendants appearing in court may have some means to pay additional administrative fees. That is not to suggest that they will all have the capability of paying the fees as outlined in this legislation, but they would have the ability to pay something.

The real issue with these amendments has to do with the impact on the system. It is not a matter of the time of the judge to assess the fee, it is more the matter of time

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for other personnel to monitor and attempt to collect the fee and the cost for these efforts. This proposal will of necessity involve clerk personnel in monitoring payments, the need for the issuance of orders to show cause by clerk personnel for nonpayment of fees, the attendant bench warrants that will be issued by the district court when defendants do not respond to their orders to show cause, the time of the states attorneys to prosecute defendants for noncompliance, and the additional court appearances of defendants who are just getting by. We already have statutes that provide that fees are to be assessed for probation supervision and for the cost of generating presentence investigation reports. There are also fees that are assessed for defendants involved in community service. A concern expressed to me by a district judge is that rather than increasing the amount of funds that will be generated, there is a likelihood that the fines may be reduced, in part, to pay the administrative fees. Thus, the monies that are currently going into the Common School Trust Fund may be redirected into the general fund or one of the special funds provided for in this bill.

Many of the defendants appearing in district court are charged with Class B misdemeanors. This class includes offenses such as minor in possession, check charges, disorderly conduct, and other more minor criminal offenses. Many of these defendants are transient and do not have the ability to pay the fines that are provided for now, and it is questionable if we will be able to find them overtime. To add the fees provided for in the amended bill will mean that the accounts receivable for the court will grow, with little likelihood of actually returning any substantial revenue to the state for the amount of staff time by court, sheriff's department, and state's attorney personnel that will be involved in monitoring and attempting to collect these monies. For these reasons, I suggest the bill, as drafted, will not generate the kind of

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revenues that are hoped for and question the advisability of adding more fees to the system that are not collectable.

I should note that we remain supportive of HB 1088 as it was introduced, which provided a method for funding court improvements.

I was asked for a fiscal note on the reengrossed bill at 4:30 p.m. yesterday. I could not do the computation, but can have it available by Monday.

Thank you.

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