

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2002

2005 SENATE APPROPRIATIONS

SB 2002

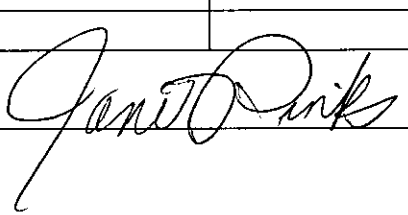
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2002

Senate Appropriations Committee

☐ Conference Committee

Hearing Date January 21, 2005

Tape Number	Side A	Side B	Meter #
1	a		
Committee Clerk Signature 			

Minutes:

**Chairman Holmberg** called the hearing for SB 2002 to order with the roll call. All were present.

**Chief Justice Gerald W. VandeWall** presented the opening remarks in **support of SB 2002**.

He indicated the big item being increased is the Indigent Defense portion but discussion on that will wait until that bill is before the committee. He then indicated the proposed budget reflects items that were cut at the last session.

**Ted Gladden, State Court Administrator**, provided written testimony in **support of the SB 2002** budget request. He discussed the increase in the budget, the workload performance and personnel, the technology upgrades, the continuing appropriation funds, the revenue sharing with the counties.

Questions were raised about the financing arrangement with the counties and the projection of dollars in the court improvement fund.

**Susan Sisk, Director of Finance** presented written testimony in **support of SB 2002**. She distributed an additional page on the 2005-07 biennium budget request. She presented an overall discussion of the budget including salaries and benefits, the elimination of positions, the operating expenses, the Indigent defense, capital assets, and the funding sources.

Questions were raised regarding the purchase or lease of capital equipment, a cost analysis of the interactive TV, a cost benefit analysis, the reasons for the increase in the budget, where the cost savings of eliminated positions was distributed to, the legality of the interactive television, and the meth usage impact on the judicial system.

**Justice Bill Neumann, Supreme Court**, provided written testimony in **support of SB 2002**. He provided background information on salaries, the parity issue with South Dakota and the current status.

Questions were raised as to whether any salary reference figures have been expanded to other states and comparable status with South Dakota.

**Justice Dale Sandstrom** presented written testimony in **support of SB 2002**. He provided an overview of the information technology initiatives in the budget, including the interactive TV, enhanced records management, digital audio recording, case management system review, the business continuity, data sharing, enterprise architecture, interactive forms usage and other areas as documented in the written testimony.

**Karen Kringlie, Juvenile Court Officer, Southeast Judicial District**, provided written testimony in support of the SB 2002 budget request. She discussed the juvenile court systems

programs, the mission, the balance and restorative justice, the federal reinvestment dollars, the court services, restructuring, offender accountability, diversion, community services and the loss of federal money.

**Karen Braaten, District Judge, Juvenile Drug Court, Grand Forks**, presented the testimony of Mary Muehlen Maring, Juvenile Drug Courts, in **support of SB 2002**. She distributed two brochures, Facts on Drug Courts, and Juvenile Drug Court, South Central Judicial District. She reviewed the budget needs, the statistic results of the Juvenile Drug Courts, the statistical summary of Dr. Kevin Thompson, NDSU, the recidivism and the cost benefit analysis. Questions were raised regarding parent involvement in the program, involvement of SADD, concern of players being in place to advance the drug court program, the possibility of developing an interactive model for the juvenile courts in rural areas, the indigent defense program, indigent offenders posting bail vs paying for attorney fees.

**Chief Justice VandeWall** responded to questions asked by Senators Krauter and Robinson, indicating the court system is not a social service agency but will cooperate in whatever way possible, all facets have to come together. In order for drug courts to be effective, the judge has to be willing. A cost analysis study of the use of interactive tv could be done, but figures have to come from several people.

The **subcommittee** for SB 2002 will be **Senators Kilzer, Schobinger, and Tallackson**.

The hearing on SB 2002 closed.


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2002

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 02/11/05

Tape Number	Side A	Side B	Meter #
1		x	200-877
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened meeting on SB 2002.

**Sen. Kilzer** Proposed amendment to SB 2002. This is included in the executive budget, and dose not go through the Governors office. Sen. Kilzer read through the amendment and provided Background.

A motion was made to move the amendment by Sen. Kilzer, seconded by Sen. Fischer.

**Sen. Mathern:** What would we not fund with these amendments that the court wanted us to Fund?

**Sen. Kilzer:** On SB 2002, it is a reduction in the compensation to the attorneys, that's the only part that is effected by this bill. This continues indigent defense as we have it now.

**Sen. Robinson:** Where are they now, i.e. Rate of attorneys for the current biennium?

**Sen. Kilzer:** They are not too far from it now, there is no uniform rate.

**Sen. Mathern** asked the committee to consider to not pass the amendments.

A **Do Pass as Amended** motion was made by Sen. Kilzer, seconded by Sen. Fischer. Vote was

Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2002

Hearing Date 02/11/05

Taken **11 yeas, 2 nays, and 2 absent and not voting.** The carrier of the bill is Sen. Kilzer.

**Chairman Holmberg** closed meeting on SB 2002.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2002

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 29, 2005

Tape Number	Side A	Side B	Meter #
1	a		1,096 - 1189
Committee Clerk Signature <i>Janet Pinks</i>			

Minutes:

**Chairman Holmberg** opened the discussion on SB 2002, indicating Senators Kilzer, Tallackson, and Schobbingner were on that subcommittee. He indicated there is \$800,000 on this bill.

The recommendation is DO NOT CONCUR.

**Chairman Holmberg** closed the discussion.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2002

Page 2, line 16, replace "623,492" with "568,348"

Page 2, line 19, replace "4,986" with "1,327"

Page 2, line 20, replace "898,357" with "839,554"

Page 2, line 22, replace "895,857" with "837,054"

Page 2, line 25, replace "3,186,857" with "2,817,570"

Page 2, line 28, replace "3,149,481" with "2,860,499"

Page 2, line 29, replace "7,864,817" with "6,997,869"

Page 2, line 30, replace "(107,947)" with "(127,041)"

Page 3, line 2, replace "10,976,612" with "9,432,301"

Page 3, line 3, replace "474,786" with "471,862"

Page 3, line 4, replace "10,501,826" with "8,960,439"

Page 3, line 7, replace "67,283" with "65,257"

Page 3, line 8, replace "67,283" with "65,257"

Page 3, line 9, replace "5,986" with "5,034"

Page 3, line 10, replace "61,297" with "60,223"

Page 3, line 11, replace "11,458,980" with "9,857,716"

Page 3, line 12, replace "483,272" with "479,396"

Page 3, line 13, replace "11,942,252" with "10,337,112"

Page 3, line 21, replace "6,471,084" with "6,415,940"

Page 3, line 24, replace "137,274" with "133,615"

Page 3, line 25, replace "8,543,619" with "8,484,816"

Page 3, line 27, replace "8,541,119" with "8,482,316"

Page 3, line 30, replace "37,100,037" with "36,730,750"

Page 4, line 2, replace "3,149,481" with "2,860,499"

Page 4, line 3, replace "7,864,817" with "6,997,869"

Page 4, line 4, replace "718,997" with "699,903"

Page 4, line 7, replace "59,923,612" with "58,379,301"

Page 4, line 8, replace "2,237,521" with "2,234,597"

Page 4, line 9, replace "57,686,091" with "56,144,704"

Page 4, line 12, replace "605,926" with "603,900"

Page 4, line 13, replace "605,926" with "603,900"

Page 4, line 14, replace "286,787" with "285,835"

Page 4, line 15, replace "319,139" with "318,065"

Page 4, line 16, replace "66,546,349" with "64,945,085"

Page 4, line 17, replace "2,526,808" with "2,522,932"

Page 4, line 18, replace "69,073,157" with "67,468,017"

Page 5, line 2, replace "four" with "two", remove "eight", and overstrike "hundred"

Page 5, line 3, replace "fifty-one" with "ninety-six" and replace "nine" with "six"

Page 5, line 4, remove the overstrike over "~~one hundred~~" and replace "forty-five" with "eighty"

Page 5, line 5, remove the overstrike over "~~two~~", remove "three", after "five" insert "nine", remove the overstrike over "~~hundred~~", and replace "sixty-six" with "eighty-six"

Page 5, line 7, replace "eighty-nine" with "five"

Page 5, line 11, replace "ninety-five" with "ninety-three", replace "nine" with "three", and replace "eleven" with "ninety-one"

Page 5, line 12, <sup>overstrike "ninety"</sup> replace "nine" with "seven", and replace "seven" with "one"

Page 5, line 13, replace "forty-eight" with "twenty-seven"

Page 5, line 17, replace "eight" with "seven" and replace "twenty-six" with "fifty-two"

Page 5, line 18, replace "nine" with "eight" and replace "thirty-nine" with "sixty-two"

Renumber accordingly

# **STATEMENT OF PURPOSE OF AMENDMENT:**

## **Senate Bill No. 2002 - Summary of Senate Action**

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Supreme Court			
Total all funds	\$8,543,619	(\$58,803)	\$8,484,816
Less estimated income	2,500		2,500
General fund	\$8,541,119	(\$58,803)	\$8,482,316
District courts			
Total all funds	\$59,923,612	(\$1,544,311)	\$58,379,301

Less estimated income	<u>2,237,521</u>	<u>(2,924)</u>	<u>2,234,597</u>
General fund	\$57,686,091	(\$1,541,387)	\$56,144,704
Judicial Conduct Commission			
Total all funds	\$605,926	(\$2,026)	\$603,900
Less estimated income	<u>286,787</u>	<u>(952)</u>	<u>285,835</u>
General fund	\$319,139	(\$1,074)	\$318,065
Bill Total			
Total all funds	\$69,073,157	(\$1,605,140)	\$67,468,017
Less estimated income	<u>2,526,808</u>	<u>(3,876)</u>	<u>2,522,932</u>
General fund	\$66,546,349	(\$1,601,264)	\$64,945,085

### Senate Bill No. 2002 - Supreme Court - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$6,471,084	(\$55,144)	\$6,415,940
Operating expenses	1,927,261		1,927,261
Capital assets	8,000		8,000
Judges' retirement	<u>137,274</u>	<u>(3,659)</u>	<u>133,615</u>
Total all funds	\$8,543,619	(\$58,803)	\$8,484,816
Less estimated income	<u>2,500</u>		<u>2,500</u>
General fund	\$8,541,119	(\$58,803)	\$8,482,316
FTE	44.50	0.00	44.50

### Dept. 181 - Supreme Court - Detail of Senate Changes

	REDUCES COMPENSATION PACKAGE TO 3/4 <sup>1</sup>	TOTAL SENATE CHANGES
Salaries and wages	(\$55,144)	(\$55,144)
Operating expenses		
Capital assets		
Judges' retirement	<u>(3,659)</u>	<u>(3,659)</u>
Total all funds	(\$58,803)	(\$58,803)
Less estimated income		
General fund	(\$58,803)	(\$58,803)
FTE	0.00	0.00

<sup>1</sup> The table below provides salary information for the Supreme Court justices.

	2003-05 BIENNIUM SALARY	SALARY INCLUDED IN SB 2002	SALARY AS AMENDED (3% AND 4%)
Supreme Court justices			
First year of biennium	\$99,122	\$104,851	\$102,096
Second year of biennium	\$99,122	\$109,122	\$106,180
Chief Justice (amount in addition to justice salary)			
First year of biennium	\$2,899	\$3,066	\$2,986
Second year of biennium	\$2,899	\$3,189	\$3,105

### Senate Bill No. 2002 - District Courts - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$37,100,037	(\$369,287)	\$36,730,750
Operating expenses	10,794,780		10,794,780
Capital assets	195,500		195,500
Indigent defense - July 2005 - December 2005	3,149,481	(288,982)	2,860,499
Indigent defense - January 2006 - June 2007	7,864,817	(866,948)	6,997,869
Judges' retirement	718,997	(19,094)	699,903
UND Central Legal Research	80,000		80,000
Alternative dispute resolution	<u>20,000</u>		<u>20,000</u>
Total all funds	\$59,923,612	(\$1,544,311)	\$58,379,301
Less estimated income	<u>2,237,521</u>	<u>(2,924)</u>	<u>2,234,597</u>
General fund	\$57,686,091	(\$1,541,387)	\$56,144,704
FTE	283.50	0.00	283.50

# **Dept. 182 - District Courts - Detail of Senate Changes**

	REDUCES COMPENSATION PACKAGE TO 3/4 <sup>1</sup>	REDUCES FUNDING FOR INDIGENT DEFENSE CONTRACTS <sup>2</sup>	TOTAL SENATE CHANGES
Salaries and wages	(\$369,287)		(\$369,287)
Operating expenses			
Capital assets			
Indigent defense - July 2005 - December 2005		(\$288,982)	(288,982)
Indigent defense - January 2006 - June 2007		(866,948)	(866,948)
Judges' retirement	(19,094)		(19,094)
UND Central Legal Research			
Alternative dispute resolution			
Total all funds	(\$388,381)	(\$1,155,930)	(\$1,544,311)
Less estimated income	(2,924)		(2,924)
General fund	(\$385,457)	(\$1,155,930)	(\$1,541,387)
FTE	0.00	0.00	0.00

<sup>1</sup> The table below provides salary information for district court judges.

	2003-05 BIENNIUM SALARY	SALARY INCLUDED IN SB 2002	SALARY AS AMENDED (3% AND 4%)
District court judges			
First year of biennium	\$90,671	\$95,911	\$93,391
Second year of biennium	\$90,671	\$99,748	\$97,127
Presiding judges (amount in addition to judges' salary)			
First year of biennium	\$2,672	\$2,826	\$2,752
Second year of biennium	\$2,672	\$2,939	\$2,862

<sup>2</sup> This amendment reduces the funding for indigent defense contracts from a rate of \$75 per hour to \$65 per hour.

## **Senate Bill No. 2002 - Judicial Conduct Commission - Senate Action**

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Judicial Conduct Commission and Disciplinary Board	\$605,926	(\$2,026)	\$603,900
Total all funds	\$605,926	(\$2,026)	\$603,900
Less estimated income	286,787	(952)	285,835
General fund	\$319,139	(\$1,074)	\$318,065
FTE	4.00	0.00	4.00

## **Dept. 183 - Judicial Conduct Commission - Detail of Senate Changes**

	REDUCES COMPENSATION PACKAGE TO 3/4	TOTAL SENATE CHANGES
Judicial Conduct Commission and Disciplinary Board	(\$2,026)	(\$2,026)
Total all funds	(\$2,026)	(\$2,026)
Less estimated income	(952)	(952)
General fund	(\$1,074)	(\$1,074)
FTE	0.00	0.00

Date 2-11-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2002**

Senate SENATE APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do PASS as Amended

Motion Made By Kill Seconded By Fish

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN		/
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON		/
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER					
SENATOR THANE	<del>to</del>				

Total (Yes) 11 No 2

Absent 2

Floor Assignment Kilzer

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

**REPORT OF STANDING COMMITTEE**

**SB 2002: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). SB 2002 was placed on the Sixth order on the calendar.

Page 2, line 16, replace "623,492" with "568,348"

Page 2, line 19, replace "4,986" with "1,327"

Page 2, line 20, replace "898,357" with "839,554"

Page 2, line 22, replace "895,857" with "837,054"

Page 2, line 25, replace "3,186,857" with "2,817,570"

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Page 4, line 17, replace "2,526,808" with "2,522,932"

Page 4, line 18, replace "69,073,157" with "67,468,017"

Page 5, line 2, replace "four" with "two", remove "eight", and overstrike "hundred"

Page 5, line 3, replace "fifty-one" with "ninety-six" and replace "nine" with "six"

Page 5, line 4, remove the overstrike over "~~one hundred~~" and replace "forty-five" with "eighty"

Page 5, line 5, remove the overstrike over "~~two~~", remove "~~three~~", after "five" insert "nine", remove the overstrike over "~~hundred~~", and replace "sixty-six" with "eighty-six"

Page 5, line 7, replace "eighty-nine" with "five"

Page 5, line 11, replace "ninety-five" with "ninety-three", replace "nine" with "three", and replace "eleven" with "ninety-one"

Page 5, line 12, overstrike "ninety", replace "nine" with "ninety-seven", and replace "seven" with "one"

Page 5, line 13, replace "forty-eight" with "twenty-seven"

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Page 5, line 18, replace "nine" with "eight" and replace "thirty-nine" with "sixty-two"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### Senate Bill No. 2002 - Summary of Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Supreme Court			
Total all funds	\$8,543,619	(\$58,803)	\$8,484,816
Less estimated income	2,500		2,500
General fund	\$8,541,119	(\$58,803)	\$8,482,316

District courts

(2) DESK, (3) COMM

**REPORT OF STANDING COMMITTEE (410)**  
**February 15, 2005 10:48 a.m.**

**Module No: SR-30-2922**  
**Carrier: Kilzer**  
**Insert LC: 58002.0102 Title: .0200**

Total all funds	\$59,923,612	(\$1,544,311)	\$58,379,301
Less estimated income	<u>2,237,521</u>	<u>(2,924)</u>	<u>2,234,597</u>
General fund	\$57,686,091	(\$1,541,387)	\$56,144,704
Judicial Conduct Commission			
Total all funds	\$605,926	(\$2,026)	\$603,900
Less estimated income	<u>286,787</u>	<u>(952)</u>	<u>285,835</u>
General fund	\$319,139	(\$1,074)	\$318,065
Bill Total			
Total all funds	\$69,073,157	(\$1,605,140)	\$67,468,017
Less estimated income	<u>2,526,808</u>	<u>(3,876)</u>	<u>2,522,932</u>
General fund	\$66,546,349	(\$1,601,264)	\$64,945,085

**Senate Bill No. 2002 - Supreme Court - Senate Action**

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$6,471,084	(\$55,144)	\$6,415,940
Operating expenses	1,927,261		1,927,261
Capital assets	8,000		8,000
Judges' retirement	<u>137,274</u>	<u>(3,659)</u>	<u>133,615</u>
Total all funds	\$8,543,619	(\$58,803)	\$8,484,816
Less estimated income	<u>2,500</u>		<u>2,500</u>
General fund	\$8,541,119	(\$58,803)	\$8,482,316
FTE	44.50	0.00	44.50

**Dept. 181 - Supreme Court - Detail of Senate Changes**

	REDUCES COMPENSATION PACKAGE TO 3/4 <sup>1</sup>	TOTAL SENATE CHANGES
Salaries and wages	(\$55,144)	(\$55,144)
Operating expenses		
Capital assets		
Judges' retirement	<u>(3,659)</u>	<u>(3,659)</u>
Total all funds	(\$58,803)	(\$58,803)
Less estimated income		
General fund	(\$58,803)	(\$58,803)
FTE	0.00	0.00

<sup>1</sup> The table below provides salary information for the Supreme Court justices.

	2003-05 BIENNIUM SALARY	SALARY INCLUDED IN SB 2002	SALARY AS AMENDED (3% AND 4%)
Supreme Court justices			
First year of biennium	\$99,122	\$104,851	\$102,096
Second year of biennium	\$99,122	\$109,122	\$106,180
Chief Justice (amount in addition to justice salary)			
First year of biennium	\$2,899	\$3,066	\$2,986
Second year of biennium	\$2,899	\$3,189	\$3,105

**Senate Bill No. 2002 - District Courts - Senate Action**

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$37,100,037	(\$369,287)	\$36,730,750
Operating expenses	10,794,780		10,794,780

**REPORT OF STANDING COMMITTEE (410)**  
**February 15, 2005 10:48 a.m.**

**Module No: SR-30-2922**  
**Carrier: Kilzer**  
**Insert LC: 58002.0102 Title: .0200**

Capital assets	195,500		195,500
Indigent defense - July 2005 - December 2005	3,149,481	(288,982)	2,860,499
Indigent defense - January 2006 - June 2007	7,864,817	(866,948)	6,997,869
Judges' retirement	718,997	(19,094)	699,903
UND Central Legal Research	80,000		80,000
Alternative dispute resolution	<u>20,000</u>		<u>20,000</u>
Total all funds	\$59,923,612	(\$1,544,311)	\$58,379,301
Less estimated income	<u>2,237,521</u>	<u>(2,924)</u>	<u>2,234,597</u>
General fund	\$57,686,091	(\$1,541,387)	\$56,144,704
FTE	283.50	0.00	283.50

**Dept. 182 - District Courts - Detail of Senate Changes**

	REDUCES COMPENSATION PACKAGE TO 3/4 <sup>1</sup>	REDUCES FUNDING FOR INDIGENT DEFENSE CONTRACTS <sup>2</sup>	TOTAL SENATE CHANGES
Salaries and wages	(\$369,287)		(\$369,287)
Operating expenses			
Capital assets			
Indigent defense - July 2005 - December 2005		(\$288,982)	(288,982)
Indigent defense - January 2006 - June 2007		(866,948)	(866,948)
Judges' retirement	(19,094)		(19,094)
UND Central Legal Research			
Alternative dispute resolution			
Total all funds	(\$388,381)	(\$1,155,930)	(\$1,544,311)
Less estimated income	<u>(2,924)</u>		<u>(2,924)</u>
General fund	(\$385,457)	(\$1,155,930)	(\$1,541,387)
FTE	0.00	0.00	0.00

<sup>1</sup> The table below provides salary information for district court judges.

	2003-05 BIENNIUM SALARY	SALARY INCLUDED IN SB 2002	SALARY AS AMENDED (3% AND 4%)
District court judges			
First year of biennium	\$90,671	\$95,911	\$93,391
Second year of biennium	\$90,671	\$99,748	\$97,127
Presiding judges (amount in addition to judges' salary)			
First year of biennium	\$2,672	\$2,826	\$2,752
Second year of biennium	\$2,672	\$2,939	\$2,862

<sup>2</sup> This amendment reduces the funding for indigent defense contracts from a rate of \$75 per hour to \$65 per hour.

**Senate Bill No. 2002 - Judicial Conduct Commission - Senate Action**

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Judicial Conduct Commission and Disciplinary Board	\$605,926	(\$2,026)	\$603,900
Total all funds	\$605,926	(\$2,026)	\$603,900
Less estimated income	<u>286,787</u>	<u>(952)</u>	<u>285,835</u>
General fund	\$319,139	(\$1,074)	\$318,065

FTE	4.00	0.00	4.00
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**Dept. 183 - Judicial Conduct Commission - Detail of Senate Changes**

	REDUCES COMPENSATION PACKAGE TO 3/4	TOTAL SENATE CHANGES
Judicial Conduct Commission and Disciplinary Board	(\$2,026)	(\$2,026)
Total all funds	(\$2,026)	(\$2,026)
Less estimated income	(952)	(952)
General fund	(\$1,074)	(\$1,074)
FTE	0.00	0.00

2005 HOUSE APPROPRIATIONS

SB 2002

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2002

House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Friday, March 4, 2005

Tape Number	Side A	Side B	Meter #
1	X		00-end
1		X	00-end
2	X		00-36.3
Committee Clerk Signature <i>Rene W. Timberly</i>			

Minutes:

**Chairman Carlisle** opened the Hearing on SB 2002 regarding the budget for the Judicial Branch. **Chief Justice Gerald W. VandeWalle** made opening remarks and told the Committee they would discuss indigent defense at the end of the formal presentation. **Mr. Ted Gladden, State Court Administrator**, read his testimony into the record (See Handout #1, Ted Gladden tab). (Meter #7.5)

With regard to "Appropriation Request" on p. 2, **Rep. Timm** asked why the District Court appropriation is up 21% and **Mr. Gladden** said this is largely due to indigent defense services and pay issues. **Rep. Timm** asked if indigent defense were taken out whether or not that would bring costs down significantly. **Mr. Gladden** said \$1.3 million of the budget is indigent defense. **Rep. Timm** said he thought the cost was \$10 million and **Mr. Gladden** said he would defer that question to **Ms. Susan Sisk**.

**Rep. Williams** asked the reason for the transfer of indigent defense. **Mr. Gladden** explained that SB 2027 provides for the establishment of an Indigent Defense Commission. The courts will continue to administer indigent defense until December, 2005, and then the funds and administration would be transferred to the Commission. The Judicial budget reflects that first six months. **Rep. Timm** repeated his question. **Mr. Gladden** deferred to the **Chief Justice**

**VandeWalle** explained that there are two problems which this legislation hopes to address: one is that the program is under funded and the other is that judicial administration of the program is a conflict of interest. Judges are appointing attorneys, monitoring progress, and then at some point expected to evaluate competence. A case in point: a few years ago an indigent chose to argue his own case because he felt the deck was stacked against him. There are several stories that confirm this perception according to the study done by Stangenberg. At the time the State took over indigent defense in the early 1980's, Chief Justice Erickstad, felt the first step was to get the program from county funding to state funding and then take care of the conflict later on. **Justice VandeWalle** went on to explain that every system has flaws, which aren't real apparent when there's enough money. In this case the flaws have come to the surface.

(Meter #13.2)

**Ms. Susan Sisk, Director of Finance**, first addressed the question of the effect of removing the indigent defense from the judicial budget, it reduces the increase to about 9%. **Rep. Timm** asked about the District level and **Dir. Sisk** said she would have to get that later.

**Dir. Sisk** read her testimony into the record (See H#1, Susan Sisk tab).

With regard to "Indigent Defense" on p. 5, **Rep. Timm** noted that most budgets are pretty flat with a few increases for salaries or maybe a special project or two. In the Judicial budget there

are 21% and 12% increases. The House side agreed that 7% is a very good increase. He asked for an explanation. **Dir. Sisk** said the bulk of it is for indigent defense and the proposed salaries for employees and judges. Once these are removed, the increase is about 5%. The majority of these expenses are to either continue or to start initiatives that were put on hold during the current biennium. **Rep. Timm** noted that the Judiciary was held down last session, but this session the Judiciary wants to fund them all. **Mr. Gladden** said one project was enhanced records management and another an interactive television project. These and others were removed last session because of budget concerns statewide. They have been re-instituted this session.

**Chairman Carlisle** stated these questions will be asked. He also summed up the budget picture: if indigent defense and the salary increases were removed, the judicial budget would reflect a 5% increase. **Dir. Sisk** added the salaries recommended by the Governor and the proposed salaries for the judges.

She returned to the testimony about indigent defense on p. 5. **Chairman Carlisle** asked for a definition of *guardians at litem*. **Mr. Gladden** said guardians at litem are people who are appointed to represent the interests of an individual, i.e.. a juvenile in juvenile cases.

With regard to "contract amounts" on p. 8 **Rep. Kempenich** noted that the 21,810 estimate is based on a history of increases. He asked about the real numbers from last biennium and suggested that would be a better framework from which to work. **Dir. Sisk** conceded these are based on historical data, but they also took into consideration trends. They are just getting some preliminary data on 2004 on where the case load files are. She noted that it's interesting that simple cases like traffic actually went down. The more complicated cases like family and criminal cases actually went up. The caseload didn't go up, but the time required did. That's

where the hours per case comes into play. All the Judiciary could do is base these figures on estimates of what they knew at the time. **Rep. Kempenich** asked once again for those numbers and she directed him to Handout #1 (See pages 10-12).

**Rep. Kroeber** asked about the fees and whether that goes into the fund. **Dir. Sisk** said there are two revenue sources: a \$25 application fee for indigent defense services and \$100 fee on criminal defenses.

(Meter #34.4)

**Judge Doug Herman, East Central District Judge**, read his testimony about judicial salaries into the record (See H#1, Judge Herman tab). With regard to his last statement regarding reaching parity with South Dakota, **Rep. Timm** asked why South Dakota. **Judge Herman** said it would be unrealistic to try for parity with Minnesota. Just over the border the salary increases \$32,000. South Dakota has similar systems as North Dakota and reaching parity with them is a realistic goal.

**Judge Allan Schmalenberger** read his testimony about the information technology initiatives included in SB 2002 into the record (See H#1, Justice Sandstrom/Judge Schmalenberger tab).

**Justice Dale Sandstrom** read his testimony about the Enhanced Records Management System into the record (Ibid.)

(Meter #47.5)

**Chairman Carlisle** asked how many hits the Supreme Court web site received a day. **Justice Sandstrom** said 73,000 hits. He also explained that it is a program-driven web site, so when clerks update information it's posted on the site within an hour. There 25,000 documents updated

automatically every day. Oral arguments can be heard on-line. There is an e-mail list of 1,800. Many lawyers file on-line, as well. The web site is [ndcourts.com](http://ndcourts.com).

**Ms. Karen Kringlie, Juvenile Court Officer, Southeast Judicial District**, read her testimony regarding the Juvenile Court Services budget into the record (See H#1, Karen Kringlie tab).

With regard to testimony on pp. 3-5, **Rep. Timm** said local CSCC's (Children's Services Coordination Committees) generate as much as \$250,000 and statewide they generate about \$8 million. That money helped Juvenile Court Services and **Ms. Kringlie** added that communities could apply for grants, too. **Rep. Timm** noted that it was a give-away program. He also noted that now the Agency is asking for \$650,000. He asked what increase that was and she said \$123,000. **Rep. Timm** asked what the Agency was getting from these committees before. **Ms. Kringlie** said a certain amount came to the JCS office for programing and a certain percent was going to a local CSCC to do these grants that provided services which JCS clients could apply to use. Now, as the CSCC's are closing down, these services in small communities aren't going to be available. **Rep. Timm** asked if the \$123,000 replaces some of this money that was coming from the coordinating committees.

**Rep. Kroeber** asked that as these services close down, if the numbers are going up at the Boys' Ranch and places like that. **Ms. Kringlie** said they haven't seen that yet; so far they've been able to maintain. If they can't maintain, there may be an increase in placement. She said intensive tracking, where they do curfew checks and drug testing in the community, costs about \$5-6 a day; whereas placement in a detention center, the youth correctional center, or group homes costs \$125 or more a day.

She completed her testimony on pp. 5-10. (Meter #11.3)

**Justice Mary Muehlen Maring**, read her testimony regarding the juvenile drug courts (See H#1, Justice Maring tab). She handed out brochures for member review (See "The Facts," Handout #2 and "Juvenile Drug Court," Handout #3).

With regard to the "2003 Youth Risk Behavior Survey," **Chairman Carlisle** brought up a community-based meeting in Fargo the previous Tuesday where estimates of 4,600 people attended. **Justice Maring** said the meeting is the culmination of efforts from many groups, including the legislature. **Rep. Thoreson** said many constituents e-mailed him about the meeting, and he has learned they plan to do another meeting next fall. He also noted that many young people attended.

With regard to a study done by Dr. Kevin Thompson (See "Adult Recidivism Outcome Evaluation, November 2004" p. 4, H#1), **Justice Maring** said this is either the first or second such survey done in the nation. A number of studies have been done on adult court, but none on the juvenile drug courts. This study reaffirms the practices of the drug courts that are up and running. The study concerns the Fargo and Grand Forks courts, because they've been running the longest. The complete reports are available to anyone who is interested.

In conclusion she shared a few anecdotes which came from exit surveys of parents and children who graduated from drug courts. The excerpts came from Karen Braaten in Grand Forks:

Describe your child's life prior to your entry into the program--

A mother writes: my son was hanging around a using crowd. Didn't want to be home. Didn't want to quit using pot and still didn't care about life or thought he had a problem.

Describe your child's life now that he has completed the program--

The mother answers: his life has turned around 360 degrees. He's a pleasure to be around. He attends school. His work ethic has increased dramatically.

What did you most like about the drug court program?

The mother answers: That the program has a positive treatment philosophy to it. You give positive strokes to the kids when they need it, but when they screw up, you communicate this assertively with no shame language.

Another parent comments on their daughter who recently graduated from the juvenile drug court in Grand Forks--

Describe your child's life prior to your entry into the program--

The parent says: My daughter was out of control prior to entering the program. Her continued alcohol abuse and suicide attempts placed her in a life-threatening situation. I do not believe she would be alive today if not for the drug court program.

Describe your child's life now that she has completed the program--

The parent answers: She is once again happy, enjoying life in a positive manner. She has plans to finish school and has even talked about career choices. We can discuss our differences in a controlled manner without fighting. We credit the drug court staff in saving our daughter's life.

(Meter #27.6)

**Chairman Carlisle** called for a ten-minute break.

**Chairman Carlisle** reopened the Hearing on SB 2002 and directed the Committee to that portion which concerns indigent defense. **Rep. Duane DeKrey** testified in support of SB 2002 which provides the funding for SB 2027. He agreed to give the Committee an overview of the work of the task force, which studied this issue in the last interim. The task force was large and diverse and consisted of judges, prosecutors, defense attorneys, legislators, and representatives from the Supreme Court. A consultant was hired to give the task force recommendations and from that came SB 2027. He told the Committee that North Dakota when compared to Wyoming, Montana, and South Dakota, falls way behind in spending on indigent defense. N.D. funds \$3 per capita and the next closest state funds at \$8 per capita. This raises concerns that North Dakota may be challenged. He discussed the conflict of interest explained earlier in the hearing and said this could be the biggest issue which would be challenged in a law suit. The contract system

which is currently in place is failing. The northwestern part of the State can't find attorneys who will work for the low pay. Another problem is that attorneys are reluctant to sign on because some of these cases become life-long assignments and work continues long after the pay ends, as they are designated as the attorney of record. The consultants recommended forming a new state agency to hire attorneys and to staff it. Since that seemed unrealistic, the task force came up with a hybrid plan, which is using the contract system in place, but switching the authority from the courts to the new commission, which includes the authority to hire attorneys working for the state to help out in rural areas. He told the Committee that SB 2027 has no appropriation other than the budget of the Judiciary.

**Rep. Kempenich** asked about Wyoming's system and **Rep. DeKrey** said Wyoming has a public defender system.

**District Judge Allan Schlmalenberger, Southwest Judicial District**, read his testimony regarding the indigent defense system as a trial judge (See H#1, Judge Schlmalenberger tab).  
(Meter #40.5)

**Rep. Timm** asked what qualifies a person as "indigent." **Judge Schlmalenberger** said the Indigent Defense Commission established guidelines which state a person must be at 125% of the poverty level. They fill out a statement defining what their financial resources are and the judge determines whether or not this falls within the guidelines. **Rep. Timm** asked what happens when the person is borderline and won't pay for a lawyer. **Judge Schlmalenberger** said he requires that person to go out and try to find counsel first and if they've been rejected three times, come back and reapply and the court can make a determination of partial indigency. The person will be required to make a contribution back to the State for services. **Rep. Timm** noted that he's

read where a defendant has been charged costs and how someone with little money does that.

**Judge Schlmalenberger** said the court can set up a payment schedule or convert fees to community service.

**Rep. Kempenich** asked if trial attorneys in general aren't available. **Judge Schlmalenberger** said the money is lower for trial attorneys. He noted that in a civil case yesterday (which is a matter of public record) the attorney's average rate was \$165 an hour. With indigent defense we're trying to get fees up to \$65 per hour. Also, the practice of law is changing. Civil litigation is slowing down. There is a trend toward mediation and arbitration.

**Rep. Kempenich** asked how trial lawyers get experience and **Judge Schlmalenberger** said it's a common practice to have a new lawyer sit with a senior lawyer during trial.

**Chief Justice VandeWalle** reviewed two issues with indigent defense. The first dealt with contract system. He said it was created to control costs and to deal in part with the conflict of interest. The situation with attorney of record is a problem.

(Tape 2, Side A)

He pointed out that of the professional schools in North Dakota, the law school has a better retention rate, but unfortunately, the class sizes are shrinking. At one time the school was admitting classes of 100 students, now that number is 30. He noted the enrollment is climbing again. **Rep. Thoreson** asked for a reason for this ebb and flow. **Justice VandeWalle** said he thinks it's supply and demand.

**Justice VandeWalle** commented that in North Dakota people drive further for legal services than for medical services. For two or three months, Burke County could not find a states

attorney. There is no attorney living in Burke County. There's one living in Divide County and two in Mountrail County.

**Justice VandeWalle** addressed Rep. Kempenich's question about mentoring and told the Committee that when he came out of law school, he got his experience at the Attorney General's Office. The older assistants mentored the younger ones. He went on to tell the Committee that the best scenario for indigent defense would be a Public Defender System like Wyoming.

**Rep. Williams** mentioned that the bill originally called for \$75 per hour rate. He asked what the contracts are currently paying. **Justice VandeWalle** said the \$65-75 is used as an estimate. Lawyers don't necessarily get that. They have to pay overhead and the contracts generally average out to about \$55 per hour.

With regard to the statistics about estimated assignments, **Justice VandeWalle** acknowledged the fact that there is a lag as they come in, but he said it's going up. He's concerned that based on the historical significance, the courts are underestimating the increase. **Rep. Kempenich** said this is like social services. The numbers go up and down, but it's frustrating not to know.

Summing up his remarks, **Justice VandeWalle** said that North Dakota has a constitutional obligation to defend the indigent and it is "not a function of Judiciary. It is the function of the State. Just as much as you are responsible for funding education and human services, you are responsible for funding indigent defense."

**Rep. Kroeber** requested some background information. He noted there are seven FTE's on this Commission listed under Dir. Sisk's testimony, p. 8 (See H#1). He asked if that's the list of those on the Commission. **Justice VandeWalle** said the Commission is advisory and they are citizens. The 7 FTE's are staff. **Rep. Kroeber** asked about the function of the staff. **Justice VandeWalle**

said they will do what the courts are doing now which is to hire and supervise. The investigators are available statewide to the contract counsel.

With regard to costs and those already appropriated by the legislature, the courts try to recoup costs through a fee system and those collections go into the general fund.

**Chairman Carlisle** referred Dir. Sisk's testimony, p. 8 (H#1) and the proposed indigent defense costs of \$1,135,286 for SB 2027 and the fact that the Senate took that money out, so it will be the charge of this Committee to somehow fund this. **Justice VandeWalle** explains that SB 2027 was not a judiciary bill; it originated from the task force and they put the money in and proposed it. That's why it was not included in the Judiciary budget, although up until this session Judiciary has provided for indigent defense. He quoted Sen. Holmberg as saying, "This is a turkey and it's not Thanksgiving."

**Rep. Timm** referred to his earlier question about the 21% increase in the District Court budget. He restated what he understands is the reason: the increase is largely due to indigent defense. The \$59 million is plugged into the District Court budget. **Dir. Sisk** concurred. He went on to say that when you factor out the pay increases and indigent defense, the increase is 5%. She eventually concurred.

**Rep. Kempenich** asked if indigent defense is listed as a separate line item. **Ms. Sandy Paulson, OMB**, said she felt it is appropriate where it's placed in a special line item in the district court.

**Justice VandeWalle** also commented on **Rep. Timm** comments on "new projects." He said that most of the projects were implemented, but after last session, they sat there idling. ITV is a good example. It's not only a money-saving project because it cuts down on windshield time, but it's a safety project. **Rep. Timm** asked if these projects put on hold last session were approved by the

Governor's budget. **Justice VandeWalle** said the Judiciary budget does not go through OMB. It is submitted, though, and is part of the Governor's job to find funding.

**Ms. Sandy Tabor, Deputy Attorney General** submitted written testimony (See Handout #4), but since most of it had been covered in previous testimony, she did not read it. She said that the Senate stripped the 1.13 money from SB 2027; in addition when they reduced the \$75 per hour to \$65 per hour, that reduction equaled \$1.155 million. So for indigent defense alone, the total cut was \$2.291216. **Chairman Carlisle** asked her to repeat what she said about counties. **Deputy Tabor** said the Association of Counties requested amendments for various services and funding that had nothing to do with indigent defense. The Senate Appropriations Committee stripped all that money. **Chairman Carlisle** asked if that's over the \$2.2 million and She confirmed.

**Rep. Williams** said that the money to support indigent defense is in the district court budget and **Deputy Tabor** said no and explained that back in January the money for the commission alone was in SB 2027 and that was stripped. **Rep. Williams** said \$1.35286 million and **Deputy Tabor** restated \$1.135286 million. Bemused, **Rep. Williams** asked "Where's the money?"

**Rep. Kempenich** said that SB 2027 wasn't there when the budget was built, but indigent defense is provided for in the budget. There was consensus on this. **Justice VanderWalle** said there's a set amount for contracts that was increased, but that's the only amount that was increased. There is a lump sum appropriated and then it's allocated among the seven judicial districts. There aren't FTE's supervising these contracts.

**Rep. Svedjan, Full Appropriations Chairman**, who joined the Committee to listen to this issue, asked if this is a statewide problem, rural as well as urban. **Justice VanderWalle** confirmed, although he said not to the same degree. He added that it's a larger issue than just

having a warm body. Contracts should go out on a competitive basis, so there's good counsel.

**Chairman Svedjan** asked if there were a creative way to sweeten the pot to help with problem areas. **Justice VanderWalle** said that would difficult to administer fairly. He stated once again that there's a system that would work and that would be a public defender system, even though that idea is contrary to the recommendations of the task force. He pointed out that the ND BAR Association doesn't like that.

(Meter #26.2)

**Deputy Tabor** added a comment regarding the public defender system referred to earlier. She said the task force received lots of testimony from those who are currently under contract and their was a negative response toward being state employees. They prefer the flexibility of the contract system. **Chairman Svedjan** commented, "It might be a more expensive option, too." She concurred.

**Deputy Tabor** did point out that there are a few corrections on p.1 Handout #4, which is based on 2002 figures. Jim Gange just pointed out that in Wyoming, the budget for indigent defense is \$20 million and the state portion is \$17; in Montana where they're now negotiating a settlement for a law suit, it appears that it will be around \$27 million with \$23 million paid by the state. As far as they know, South Dakota is still around \$13 million.

**Deputy Tabor** reviewed the duties of the Commission, see Section 2 of "Provisions of SB 2027," p. 2 (H#4). She also addressed the question of why there isn't going to be a cut in the court's budget. Indigent defense has been one of those tagged on duties. **Rep. Timm** noted that there's still an extra \$1.135 million in costs. He noted a lot of attorneys could be hired for \$1.135 million. **Deputy Tabor** said that if the Committee ignored any of the issues raised by the

Judiciary, that would be true. That's why the Attorney General's Office got involved with the process, although she pointed out she's not speaking on behalf of the A.G.'s Office right now, but as the former chair of the commission. The Attorney General has grave concerns about the system, the competency of counsel and the Sixth Amendment rights of defendants. Also, the inherent conflict of interest isn't going away. The Spangenberg report confirms this and that report is available for anyone who wants to request it.

**Rep. Timm** noted that the Senate took the money out of SB 2027. He asked what the Senate's objection was. **Deputy Tabor** stated two reasons: it wasn't in the Governor's budget and they were concerned about the amount of money. **Rep. Timm** wondered out loud what the House is supposed to do...and she said, "the short answer would be to leave the money that's in the bill alone and let us go forward." **Rep. Timm** asked, "leave the money in where?" **Deputy Tabor** answered, "2002." **Rep. Timm** said, "And out of that money, you're going to pay for this administration cost." **Deputy Tabor** said, "We'll talk about it in conference." She added that at that time, the legislature will have a much better idea of how much money there is to work with. In the mean time, the program is moving forward.

**Chairman Carlisle** closed the Hearing on SB 2002.

(Meter #36.3)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2002

House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Wednesday, March 16, 2005

Tape Number	Side A	Side B	Meter #
1	X		00-12.3
Committee Clerk Signature <i>Rose W. Timberlake</i>			

Minutes:

**Chairman Carlisle** opened discussion on SB 2002. Mr. Ted Gladden, State Court Administrator, and Ms. Susan Sisk, Director of Finance, were present to assist the Committee.

**Chairman Carlisle** referred the Committee to Amendment .0201 and the proposal as to how to fund SB 2027, dated March 8, 2005, from Mr. Gladden and Ms. Sisk (See Handout #1). He told the Committee that the Senate took out the \$2.291 million, cleared the money out of SB 2027 which was \$1.135 million, and took \$1.55 million out of the Supreme Court budget. He asked someone to move to approve Amendment .0201 and **Rep. Thoreson** so moved; seconded by **Rep. Timm**.

Under discussion, **Chairman Carlisle** asked Ms. Stephanie Johnson, Legislative Council, to review the changes in the amendment. **Ms. Stephanie Johnson** noted the following changes:

- Reduces recommended funding for health insurance for Supreme Court (See p. 3)

- Reduces recommended funding for health insurance for District Court (See p. 4)
- Reduces funding for overhead expense reimbursement, 10% of what was taken out on the Senate side for indigent defense (See footnote #1, p. 4)
- Reduces funding for indigent defense case load increases, a decrease of \$250,000 (See footnote #2, p. 4)(See p. 3, Handout #1)
- Adds funding for the Council on indigent defense, which ties into sections 8 and 9 on p. 2 (See last part, p. 4)
- Adds Section 8 an exemption of up to \$250,078, allowing them to carry over that much, and it's a general fund appropriation, for the 2005-2007 biennium (See p. 2)
- Adds Section 9 which states in addition to that \$250,078 that they're carrying over, they're also appropriated from the general fund \$365,593 and \$200,000 from the indigent defense administration fund.

**Chairman Carlisle** asked if the original SB 2027 was a \$1.135 and **Ms. Johnson** confirmed.

The new proposal coming out of the Supreme Court budget is \$815, 671. They're still doing the turn back. The \$670. goes back into the general fund. When the Committee combed the budget, they found another \$250,000. This Amendment uses the \$250,000 as part of the package. **Rep.**

**Timm** asked for the total cost of indigent defense. **Chairman Carlisle** said \$815,671. **Dir. Sisk** said the total cost of the administration of indigent defense is \$815, 671. The total cost of the indigent defense system is \$9.42852 million. **Rep. Timm** asked where the administration will go and **Dir. Sisk** said it would be budgeted in the Supreme Court budget, but it would transfer on January 1, 2006, to the Commission on Indigent Defense (SB 2027).

**Chairman Carlisle** said he's had questions from the floor regarding where this Commission will be located physically. **Rep. Timm** asked if the offices will be housed with the Supreme Court.

**Mr. Gladden** said the Commission will be moved completely out of the Judicial branch. One of the ideas considered by the Chief Justice and Rep. Berg is if it's not left as a free-standing commission, then it should be given to legislative council.

**Ms. Paulson** asked about p. 3 of the Amendment, there's a total of the House version \$565,593.

**Ms. Johson** said that's correct. The difference is the carry over, so it's not double appropriated. When you add in the \$250,078 of the carry over, it gets the total up to \$815,671.

**Chairman Carlisle** asked Dir. Sisk about ITD costs. **Dir. Sisk** said they have already increased their budget to match the state purchasing contract because that was finalized in October. The budget was submitted in November, so they had already matched theirs with that contract. **Mr. Gladden** said he believed that in his testimony he said it was decreased \$28,000.

**Chairman Carlisle** noted that the carry over of \$670,000 [or \$620,000? See p. 3, H#1] has gone back into the general fund and **Dir. Sisk and Mr. Gladden** confirmed.

Hearing no further discussion, **Chairman Carlisle** called for Roll Call Vote #1. Motion passed, 6-0-0.

**Chairman Carlisle** closed discussion on SB 2002.

(Meter #12.3)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2002

House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Friday, March 8, 2005

Tape Number	Side A	Side B	Meter #
1	X		11.8-21.0
Committee Clerk Signature <i>Rose W. Tumbert</i>			

Minutes:

**Chairman Carlisle** opened discussion on SB 2002. Mr. Ted Gladden, State Court Administrator, was present to assist the Committee.

**Chairman Carlisle** asked Mr. Gladden if there were any equipment purchases which might be put off. **Mr. Gladden** said that they would review the programs and defer those which couldn't be funded, just as they did last session. He asked for a few minutes.

**Chairman Carlisle** told the Committee to stand at ease.

When Mr. Gladden returned and the committee work resumed, **Chairman Carlisle** repeated an earlier remark by **Rep. Kempenich** which was indigent defense must be kept at arms length from the Supreme Court. **Chairman Carlisle** spoke with Rep. Dekrey and the leadership and learned that SB 2027 will be amended to house indigent defense in Legislative Council.

**Rep. Williams** said that this would give the Council two years to see how it works.

**Chairman Carlisle** deferred to Mr. Gladden. **Mr. Gladden** said they had 3 digital audial installations. They are in the process of converting from analog to digital in taking the record because it's getting more and more difficult to hire court reporters. The Court could defer one of those installations into the 07-09 biennium, the cost would be \$40,000. The Court has budgeted to expand ITV into five locations, where the jail is not immediately attached to the court house. The Court could defer two of those projects into the 07-09 biennium, the cost would be \$70,000 total, or \$35,000 per installation. That would be a savings of \$110,000.

**Chairman Carlisle** said this would be \$110,000 in general fund dollars.

**Rep. Kempenich** asked about the replacement schedule on computers. **Mr. Gladden** said they follow the standard replacement cycle.

**Rep. Kempenich** moved to further amend SB 2002 to defer the above-mentioned projects; **Rep. Thoreson** seconded. **Chairman Carlisle** restated the motion:

- to defer 1 digital audial installation for a savings of \$40,000
- to defer 2 ITV installations for a savings of \$70,000
- for a total savings of \$110,000 general fund dollars

**Chairman Carlisle** said these projects would be moved to 2007-2009 and **Mr. Gladden** said he would be back.

**Ms. Stephanie Johnson** confirmed what she had heard and asked where this would fall in the budget. **Rep. Kempenich** said section f & g on the green sheet.

Hearing no further discussion, **Chairman Carlisle** called for Roll Call Vote #1; motion passed, 6-0-0.

Page 3

Government Operations Division

Bill/Resolution Number SB 2002

Hearing Date Friday, March 18, 2005

**Rep. Timm** moved a Do Pass on SB 2002 as amended; **Rep. Kroeber** seconded. Hearing no further discussion, **Chairman Carlisle** called for Roll Call Vote #2. Motion passed 6-0-0.

**Chairman Carlisle** thanked Mr. Gladden for his help and closed discussion on SB 2002.

(Meter #21)

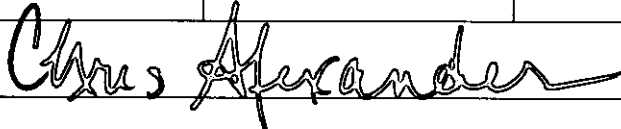
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2002  
Judiciary Branch

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
2	X		#23.0 - #53.3
Committee Clerk Signature 			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the discussion on SB2002.

**Rep. Ron Carlisle** moved to adopt amendment #0202 to SB2002.

**Rep. Blair Thoreson** seconded

**Rep. Ron Carlisle** explained that this budget is turning back \$650,000 plus to the general fund and they found an additional \$ 250,078 that section 8 allows to be used for the indigent defense budget in SB2027. Section 9 is the transfer of \$250,000 of the unexpended general fund moneys to keep in SB2002 and the \$365,000 from the indigent defense administration fund for the district courts to use to defray the cost of legal council for indigent defense. The emergency clause is added so they can use the \$250,078. The amendments on page 4 reduces the funding for indigent defense by a total of \$115,593 from the general fund as the result of decreasing the reimbursement of overhead expenses. The rate for the attorneys went from \$75 to \$65. Increase revenue from caseload increases. \$40,000 from the general fund was spent for insulation for a

digital audio system and \$70,000 for insulation theater active TVs. The Senate took \$1 million out of SB2027 and \$1 million out of SB2002. Our committee came up with \$815,671 to fund the legal council for indigent defense (SB2027) from within their budget. The changes to the general fund overall in this budget is a -\$1,752,157. They are already on the 4 year replacement cycle for their computer systems.

**Rep. Jeff Delzer** asked why are you using section 8 and the rollover funds instead of just using the general fund in the next biennium.

**Rep. Ron Carlisle** answered that they were using this money that they found extra in their budget.

**Rep. David Monson** asked if the indigent defense fund was supervised by legislative council.

**Rep. Ron Carlisle** answered yes and explained that this decision was made by leadership as to where to house this office since it needs to be separate from the judiciary branch because of a conflict of interest and legislative council has experience in supervising attorneys.

**Rep. Ken Svedjan, Chairman** asked if there was any reason why this wouldn't go before administrative hearings

**Rep. Ron Carlisle** answered no

**Rep. Pam Gulleason** asked if this is a conflict with the separation of powers between the 2 branches

**Rep. Mike Timm, Vice Chairman** answered that we need someone to supervise this office and we tried to put it in administrative hearings before and met with a great deal of resistance . We should let legislative council do this for 2 years and see how it goes. We can review it then.

(meter Tape #2, side A, #31.3)

**Rep. Pam Gulleason** asked if this was primarily contract work if there were any FTEs that went with this.

**Rep. Ron Carlisle** answered yes in SB2027 there are FTEs and the plan is to send these bills to the floor together so they can be discussed together.

**Rep. David Monson** asked if this would be tied to the legislative assembly budget

**Rep. Ron Carlisle** answered that he was not sure.

**Rep. Bob Skarphol** asked if this was primarily administrative dollars or if there were other moneys involved too

**Rep. Ron Carlisle** answered that his understanding was that they needed the \$815,000 to set up and the administrative work for the operation of the indigent defense.

**Rep. Bob Skarphol** asked if the \$6 million to pay the attorneys would stay in the judiciary budget.

**Mr. Ted Gladden** the State Court Administrator explained that the \$800,000 is for the funding of the commission and to hire a director, an assistant director, a secretary, and three investigators. The money for contract services is in our budget in SB2002. After the first quarter these moneys will transfer to the indigent defense commission to fund this new commission for the remainder of the biennium.

**Rep. Bob Skarphol** commented that someone from legislative council will have to explain how these budgets will meld together.

**Rep. Ken Svedjan, Chairman** asked legislative council if this is needed to be built into the legislative budget.

**Ms Stephanie Johnson** explained that the judiciary branch has the money to establish the commission and once it is established the money in the judiciary would transfer with the commission.

**Rep. Bob Skarphol** asked if the commission was to be a part of the legislative council at that time or will it be a separate entity.

**Ms Stephanie Johnson** answered that she was unsure

**Rep. Bob Skarphol** commented that this will get sorted out, but if legislative council is going to receive and expend the appropriations for this commission then they have to be given the authority to do this.

**Rep. Ron Carlisle** commented that either this bill or SB2027 would be in conference and we will have more time then to get the specifics of this at that point.

**Rep. Jeff Delzer** asked if there were any constitutionality issues with any of this

**Rep. Ron Carlisle** answered that all of the policy for this commission is in SB2027 and this bill is just the money to establish and run the commission (meter Tape #2, side A, #37.3)

**Rep. Ole Aarsvold** asked if footnote #1 on page 4 reduces the contract amount for attorneys from \$70 per hour to \$60 how will this help generate interest in becoming involved in indigent defense.

**Rep. Ron Carlisle** answered that currently the average rate is \$55 per hour. Some areas are having problems keeping attorneys and paying them \$5 more per hour may help.

**Rep. Ole Aarsvold** asked if the district courts were responsible for making up the difference if there are insufficient dollars for contract work for indigent defense.

**Mr. Ted Gladden** answered that it would be the commission's responsibility. Right now we are around \$55 statewide. When we looked at this we hoped to get all attorneys statewide up to \$65 to provide for equitable funding. There is money in budget so we hope to accomplish this.

**Rep. Ken Svedjan, Chairman** asked about conflict of the separation of powers on this issue.

**Mr. Ted Gladden** answered that this was always in the judiciary branch. There has been no research done to check this out but we are unaware of any problems that this might raise.

**Rep. Bob Skarphol** asked if the \$12 million increase in this budget is made up of \$9 million from the indigent defense fund and \$3 million from where?

**Rep. Ron Carlisle** answered that this is for salaries and the creation of the commission

**Ms Susan Sisk** director of finance for the State Court Administrator answered that \$9.6 million is the total increase in the budget. \$5 million is for the indigent defense fund and funds the contract work and the administration. \$3.2 is for salary increases, and the balance is for operating expenses.

**Rep. Jeff Delzer** asked if the Senate adjusted for the compensation package.

**Rep. Ron Carlisle** answered yes.

**Ms Stephanie Johnson** commented that Vonnelle Richter from legislative council came down to discussion the make up of the commission for the committee.

**Ms Vonnelle Richter** of legislative council explained that this commission reports to legislative council and is not under legislative council (meter Tape #2, side A, #47.1)

**Rep. Ken Svedjan, Chairman** clarified that this was a freestanding commission with required reports to legislative council.

**Rep. Bob Skarphol** asked where this commission would be housed or located.

**Ms Vonnette Richter** answered that this commission is an independent commission which would submit budgets through OMB just like any other agency. It is unknown where they will be located.

**Rep. Jeff Delzer** asked who had the authority to hire and fire

**Ms Vonette Richter** answered that there is a 7 member committee appointed by the Governor, the Chief Justice of the Supreme Court, the State Bar Association, and the Legislative Assembly. This committee will hire the director of this commission and this person would hire the remainder of the staff needed for the commission.

**Rep. Ron Carlisle** commented that there would be two law makers on the commission board.

**Rep. Ken Svedjan, Chairman** asked for a voice vote on the motion to adopt amendment #0202 to SB2002. Motion carried.

**Rep. Ron Carlisle** moved a Do Pass As Amended motion for SB2002

**Rep. Blair Thoreson** seconded

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion for SB2002. Motion carried with a vote of 16 yeas, 6 neas and 1 absence. Rep Carlisle will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed the discussion on SB2002.

March 9, 2005

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2002

Page 1, line 2, remove the first "and"

Page 1, line 3, after "judges" insert "; to provide an exemption to section 54-44.1-11 relating to unexpended appropriations; and to declare an emergency"

Page 2, line 16, replace "568,348" with "562,858"

Page 2, line 20, replace "839,554" with "834,064"

Page 2, line 22, replace "837,054" with "831,564"

Page 2, line 25, replace "2,817,570" with "2,781,752"

Page 2, line 28, replace "2,860,499" with "2,769,101"

Page 2, line 29, replace "6,997,869" with "6,723,674"

Page 3, line 2, replace "9,432,301" with "9,030,890"

Page 3, line 3, replace "471,862" with "471,182"

Page 3, line 4, replace "8,960,439" with "8,559,708"

Page 3, line 7, replace "65,257" with "64,757"

Page 3, line 8, replace "65,257" with "64,757"

Page 3, line 9, replace "5,034" with "4,799"

Page 3, line 10, replace "60,223" with "59,958"

Page 3, line 11, replace "9,857,716" with "9,451,230"

Page 3, line 12, replace "479,396" with "478,481"

Page 3, line 13, replace "10,337,112" with "9,929,711"

Page 3, line 21, replace "6,415,940" with "6,410,450"

Page 3, line 25, replace "8,484,816" with "8,479,326"

Page 3, line 27, replace "8,482,316" with "8,476,826"

Page 3, line 30, replace "36,730,750" with "36,694,932"

Page 4, line 2, replace "2,860,499" with "2,769,101"

Page 4, line 3, replace "6,997,869" with "6,723,674"

Page 4, line 7, replace "58,379,301" with "57,977,890"

Page 4, line 8, replace "2,234,597" with "2,233,917"

Page 4, line 9, replace "56,144,704" with "55,743,973"

Page 4, line 12, replace "603,900" with "603,400"

Page 4, line 13, replace "603,900" with "603,400"

Page 4, line 14, replace "285,835" with "285,600"

Page 4, line 15, replace "318,065" with "317,800"

Page 4, line 16, replace "64,945,085" with "64,904,192"

Page 4, line 17, replace "2,522,932" with "2,722,017"

Page 4, line 18, replace "67,468,017" with "67,626,209"

Page 5, after line 19, insert:

**"SECTION 8. EXEMPTION.** The amount appropriated for the supreme court and the district courts, as contained in subdivisions 1 and 2 of section 1 of chapter 2 of the 2003 Session Laws, is not subject to the provisions of section 54-44.1-11 for an amount of up to \$250,078. Any available funds are to be used for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents established by 2005 Senate Bill No. 2027 during the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 9. APPROPRIATION - TRANSFER.** In addition to the \$250,078 of unexpended general fund moneys that the supreme court and district courts are allowed to carry over from the 2003-05 biennium pursuant to section 8 of this Act, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$365,593, or so much of the sum as may be necessary, and \$200,000 from the indigent defense administration fund, to the district courts for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any moneys not expended by the district courts for this purpose by December 31, 2005, are available to the commission on legal counsel for indigents and the appropriation must be transferred to the commission on January 1, 2006.

**SECTION 10. EMERGENCY.** Section 8 of this Act is declared to be an emergency measure."

Renumber accordingly

# **STATEMENT OF PURPOSE OF AMENDMENT:**

## **Senate Bill No. 2002 - Summary of House Action**

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Supreme Court				
Total all funds	\$8,543,619	\$8,484,816	(\$5,490)	\$8,479,326

Less estimated income	<u>2,500</u>	<u>2,500</u>		<u>2,500</u>
General fund	\$8,541,119	\$8,482,316	(\$5,490)	\$8,476,826
District Courts				
Total all funds	\$59,923,612	\$58,379,301	\$164,182	\$58,543,483
Less estimated income	<u>2,237,521</u>	<u>2,234,597</u>	<u>199,320</u>	<u>2,433,917</u>
General fund	\$57,686,091	\$56,144,704	(\$35,138)	\$56,109,566
Judicial Conduct Commission				
Total all funds	\$605,926	\$603,900	(\$500)	\$603,400
Less estimated income	<u>286,787</u>	<u>285,835</u>	<u>(235)</u>	<u>285,600</u>
General fund	\$319,139	\$318,065	(\$265)	\$317,800
Bill Total				
Total all funds	\$69,073,157	\$67,468,017	\$158,192	\$67,626,209
Less estimated income	<u>2,526,808</u>	<u>2,522,932</u>	<u>199,085</u>	<u>2,722,017</u>
General fund	\$66,546,349	\$64,945,085	(\$40,893)	\$64,904,192

### Senate Bill No. 2002 - Supreme Court - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$6,471,084	\$6,415,940	(\$5,490)	\$6,410,450
Operating expenses	1,927,261	1,927,261		1,927,261
Capital assets	8,000	8,000		8,000
Judges' retirement	<u>137,274</u>	<u>133,615</u>		<u>133,615</u>
Total all funds	\$8,543,619	\$8,484,816	(\$5,490)	\$8,479,326
Less estimated income	<u>2,500</u>	<u>2,500</u>		<u>2,500</u>
General fund	\$8,541,119	\$8,482,316	(\$5,490)	\$8,476,826
FTE	44.50	44.50	0.00	44.50

### Dept. 181 - Supreme Court - Detail of House Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	TOTAL HOUSE CHANGES
Salaries and wages	(\$5,490)	(\$5,490)
Operating expenses		
Capital assets		
Judges' retirement		
Total all funds	(\$5,490)	(\$5,490)
Less estimated income		
General fund	(\$5,490)	(\$5,490)
FTE	0.00	0.00

### Senate Bill No. 2002 - District Courts - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$37,100,037	\$36,730,750	(\$35,818)	\$36,694,932
Operating expenses	10,794,780	10,794,780		10,794,780
Capital assets	195,500	195,500		195,500
Indigent defense - July 2005 - December 2005	3,149,481	2,860,499	(91,398)	2,769,101
Indigent defense - January 2006 - June 2007	7,864,817	6,997,869	(274,195)	6,723,674
Judges' retirement	718,997	699,903		699,903
UND Central Legal Research	80,000	80,000		80,000
Alternative dispute resolution	20,000	20,000		20,000
Indigent Defense Commission			<u>565,593</u>	<u>565,593</u>
Total all funds	\$59,923,612	\$58,379,301	\$164,182	\$58,543,483
Less estimated income	<u>2,237,521</u>	<u>2,234,597</u>	<u>199,320</u>	<u>2,433,917</u>
General fund	\$57,686,091	\$56,144,704	(\$35,138)	\$56,109,566
FTE	283.50	283.50	0.00	283.50

# Dept. 182 - District Courts - Detail of House Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	REDUCES FUNDING FOR INDIGENT DEFENSE OVERHEAD REIMBURSEMENT <sup>1</sup>	REDUCES FUNDING FOR INDIGENT DEFENSE CASELOAD INCREASES <sup>2</sup>	PROVIDES FUNDING FOR ADMINISTRATION OF COMMISSION ON LEGAL COUNSEL FOR INDIGENTS	TOTAL HOUSE CHANGES
Salaries and wages	(\$35,818)				(\$35,818)
Operating expenses					
Capital assets		(\$28,898)	(\$62,500)		(91,398)
Indigent defense - July 2005 - December 2005		(86,695)	(187,500)		(274,195)
Indigent defense - January 2006 - June 2007					
Judges' retirement					
UND Central Legal Research				\$565,593	565,593
Alternative dispute resolution					
Indigent Defense Commission					
Total all funds	(\$35,818)	(\$115,593)	(\$250,000)	\$565,593	\$164,182
Less estimated income	(680)			200,000	199,320
General fund	(\$35,138)	(\$115,593)	(\$250,000)	\$365,593	(\$35,138)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment reduces funding for indigent defense by a total of \$115,593 from the general fund for the 2005-07 biennium as the result of a decrease in the reimbursement of overhead expenses for indigent defense associated with the Senate adjustment that decreased the indigent defense contract rate from \$75 to \$65 per hour. Reimbursement of overhead expenses is calculated at 10 percent of the total indigent contract amount.

<sup>2</sup> This amendment decreases funding for indigent defense by a total of \$250,000 from the general fund for the 2005-07 biennium to reduce funding for caseload increases from \$500,000 to \$250,000.

## Senate Bill No. 2002 - Judicial Conduct Commission - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages				
Judicial Conduct Commission and Disciplinary Board	\$605,926	\$603,900	(\$500)	\$603,400
Total all funds	\$605,926	\$603,900	(\$500)	\$603,400
Less estimated income	286,787	285,835	(235)	285,600
General fund	\$319,139	\$318,065	(\$265)	\$317,800
FTE	4.00	4.00	0.00	4.00

## Dept. 183 - Judicial Conduct Commission - Detail of House Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	TOTAL HOUSE CHANGES
Salaries and wages		
Judicial Conduct Commission and Disciplinary Board	(\$500)	(\$500)
Total all funds	(\$500)	(\$500)
Less estimated income	(235)	(235)
General fund	(\$265)	(\$265)
FTE	0.00	0.00

## Senate Bill No. 2002 - Other Changes - House Action

This amendment also allows the Supreme Court and district courts to carry over up to \$250,078 of unexpended general fund money from the 2003-05 biennium to the 2005-07 biennium to be used for establishing and defraying the expenses of the Commission on Legal Counsel for Indigents and appropriates a total of \$565,593 to the district courts, of which \$365,593 is from the general fund and \$200,000 is from the indigent defense administration fund, for establishing and defraying the expenses of the Commission on Legal Counsel for Indigents for the 2005-07 biennium, for a total amount of \$815,671 available for the establishment and expenses of the Commission on Legal Counsel for Indigents for the 2005-07 biennium.

Date: 3/16/05  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2002**

House House Appropriations Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58002.0201

Action Taken Approve Amend .0201

Motion Made By Rep. Thoreson Seconded By Rep. Timm

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber	✓	
Rep. Timm	✓		Rep. Williams	✓	
Rep. Kempenich	✓				
Rep. Thoreson	✓				

Total (Yes) 6 No 0

Absent 0

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

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

Date: 3/18/04  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. <sup>SB</sup> 2002

House House Appropriations Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Amend to

move 1 digital audio + 2 ITU installations  
= \$110,000 to help fund Indigenous Defense.

Motion Made By

Rep. Kempenich

Seconded By

Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber	✓	
Rep. Timm	✓		Rep. Williams	✓	
Rep. Kempenich	✓				
Rep. Thoreson	✓				

Total (Yes) 6 No 0

Absent 0

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

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

Date: 3/18/05  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2002

House House Appropriations Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \* 58002.0202

Action Taken Do Pass SB 2002 AS amended

Motion Made By Rep. Timm Seconded By Rep. Kroeber

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber	✓	
Rep. Timm	✓		Rep. Williams	✓	
Rep. Kempenich	✓				
Rep. Thoreson	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chairman Tim Carlisle

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

Date: March 22, 2005  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2002**

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58002.0202

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Carlisle** Seconded By **Rep Threson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol		X
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson		X
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert		X
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson		X			

Total Yes 16 No 6

Absent 1

Floor Assignment **Rep Carlisle**

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

**REPORT OF STANDING COMMITTEE**

**SB 2002, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2002 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and"

Page 1, line 3, after "judges" insert "; to provide an exemption to section 54-44.1-11 relating to unexpended appropriations; and to declare an emergency"

Page 2, line 16, replace "568,348" with "562,858"

Page 2, line 20, replace "839,554" with "834,064"

Page 2, line 22, replace "837,054" with "831,564"

Page 2, line 25, replace "2,817,570" with "2,781,752"

Page 2, line 26, replace "(3,237,596)" with "(3,337,596)"

Page 2, line 27, replace "121,000" with "111,000"

Page 2, line 28, replace "2,860,499" with "2,769,101"

Page 2, line 29, replace "6,997,869" with "6,723,674"

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Page 3, line 27, replace "8,482,316" with "8,476,826"

Page 3, line 30, replace "36,730,750" with "36,694,932"

Page 3, line 31, replace "10,794,780" with "10,694,780"

Page 4, line 1, replace "195,500" with "185,500"  
Page 4, line 2, replace "2,860,499" with "2,769,101"  
Page 4, line 3, replace "6,997,869" with "6,723,674"  
Page 4, line 7, replace "58,379,301" with "57,867,890"  
Page 4, line 8, replace "2,234,597" with "2,233,917"  
Page 4, line 9, replace "56,144,704" with "55,633,973"  
Page 4, line 12, replace "603,900" with "603,400"  
Page 4, line 13, replace "603,900" with "603,400"  
Page 4, line 14, replace "285,835" with "285,600"  
Page 4, line 15, replace "318,065" with "317,800"  
Page 4, line 16, replace "64,945,085" with "64,794,192"  
Page 4, line 17, replace "2,522,932" with "2,722,017"  
Page 4, line 18, replace "67,468,017" with "67,516,209"  
Page 5, after line 19, insert:

**"SECTION 8. EXEMPTION.** The amount appropriated for the supreme court and the district courts, as contained in subdivisions 1 and 2 of section 1 of chapter 2 of the 2003 Session Laws, is not subject to the provisions of section 54-44.1-11 for an amount of up to \$250,078. Any available funds are to be used for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents established by 2005 Senate Bill No. 2027 during the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 9. APPROPRIATION - TRANSFER.** In addition to the \$250,078 of unexpended general fund moneys that the supreme court and district courts are allowed to carry over from the 2003-05 biennium pursuant to section 8 of this Act, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$365,593, or so much of the sum as may be necessary, and \$200,000 from the indigent defense administration fund, to the district courts for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any moneys not expended by the district courts for this purpose by December 31, 2005, are available to the commission on legal counsel for indigents and the appropriation must be transferred to the commission on January 1, 2006.

**SECTION 10. EMERGENCY.** Section 8 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2002 - Summary of House Action**

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Supreme Court				
Total all funds	\$8,543,619	\$8,484,816	(\$5,490)	\$8,479,326
Less estimated income	2,500	2,500		2,500
General fund	\$8,541,119	\$8,482,316	(\$5,490)	\$8,476,826
District Courts				
Total all funds	\$59,923,612	\$58,379,301	\$54,182	\$58,433,483
Less estimated income	2,237,521	2,234,597	199,320	2,433,917
General fund	\$57,686,091	\$56,144,704	(\$145,136)	\$55,999,566
Judicial Conduct Commission				
Total all funds	\$605,926	\$603,900	(\$500)	\$603,400
Less estimated income	286,787	285,835	(235)	285,600
General fund	\$319,139	\$318,065	(\$265)	\$317,800
Bill Total				
Total all funds	\$69,073,157	\$67,468,017	\$48,192	\$67,516,209
Less estimated income	2,526,808	2,522,932	199,085	2,722,017
General fund	\$66,546,349	\$64,945,085	(\$150,893)	\$64,794,192

**Senate Bill No. 2002 - Supreme Court - House Action**

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$6,471,084	\$6,415,940	(\$5,490)	\$6,410,450
Operating expenses	1,927,261	1,927,261		1,927,261
Capital assets	8,000	8,000		8,000
Judges' retirement	137,274	133,615		133,615
Total all funds	\$8,543,619	\$8,484,816	(\$5,490)	\$8,479,326
Less estimated income	2,500	2,500		2,500
General fund	\$8,541,119	\$8,482,316	(\$5,490)	\$8,476,826
FTE	44.50	44.50	0.00	44.50

**Dept. 181 - Supreme Court - Detail of House Changes**

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	TOTAL HOUSE CHANGES
Salaries and wages	(\$5,490)	(\$5,490)
Operating expenses		
Capital assets		
Judges' retirement		
Total all funds	(\$5,490)	(\$5,490)
Less estimated income		
General fund	(\$5,490)	(\$5,490)
FTE	0.00	0.00

**Senate Bill No. 2002 - District Courts - House Action**

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$37,100,037	\$36,730,750	(\$35,818)	\$36,694,932
Operating expenses	10,794,780	10,794,780	(100,000)	10,694,780
Capital assets	195,500	195,500	(10,000)	185,500
Indigent defense -	3,149,481	2,860,499	(91,398)	2,769,101
July 2005 - December 2005				
Indigent defense -	7,864,817	6,997,869	(274,195)	6,723,674
January 2006 - June 2007				
Judges' retirement	718,997	699,903		699,903

**REPORT OF STANDING COMMITTEE (410)**  
**March 24, 2005 8:59 a.m.**

**Module No: HR-54-5988**  
**Carrier: Carlisle**  
**Insert LC: 58002.0202 Title: .0300**

UND Central Legal Research	80,000	80,000		80,000
Alternative dispute resolution	20,000	20,000		20,000
Indigent Defense Commission			<u>565,593</u>	<u>565,593</u>
Total all funds	\$59,923,612	\$58,379,301	\$54,182	\$58,433,483
Less estimated income	<u>2,237,521</u>	<u>2,234,597</u>	<u>199,320</u>	<u>2,433,917</u>
General fund	\$57,686,091	\$56,144,704	(\$145,138)	\$55,999,566
FTE	283.50	283.50	0.00	283.50

**Dept. 182 - District Courts - Detail of House Changes**

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	REDUCES FUNDING FOR INDIGENT DEFENSE OVERHEAD REIMBURSEMENT 1	REDUCES FUNDING FOR INDIGENT DEFENSE CASELOAD INCREASES 2	REMOVES FUNDING FOR DIGITAL AUDIO SYSTEM 3	REMOVES FUNDING FOR INTERACTIVE TELEVISION 4	PROVIDES FUNDING FOR ADMINISTRATION OF COMMISSION ON LEGAL COUNSEL FOR INDIGENTS
Salaries and wages	(\$35,818)					
Operating expenses				(\$30,000)	(\$70,000)	
Capital assets				(10,000)		
Indigent defense - July 2005 - December 2005		(\$28,898)	(\$62,500)			
Indigent defense - January 2006 - June 2007		(86,695)	(187,500)			
Judges' retirement						
UND Central Legal Research						
Alternative dispute resolution						
Indigent Defense Commission						<u>\$565,593</u>
Total all funds	(\$35,818)	(\$115,593)	(\$250,000)	(\$40,000)	(\$70,000)	\$565,593
Less estimated income	<u>(680)</u>					<u>200,000</u>
General fund	(\$35,138)	(\$115,593)	(\$250,000)	(\$40,000)	(\$70,000)	\$365,593
FTE	0.00	0.00	0.00	0.00	0.00	0.00
	TOTAL HOUSE CHANGES					
Salaries and wages	(\$35,818)					
Operating expenses	(100,000)					
Capital assets	(10,000)					
Indigent defense - July 2005 - December 2005	(91,398)					
Indigent defense - January 2006 - June 2007	(274,195)					
Judges' retirement						
UND Central Legal Research						
Alternative dispute resolution						
Indigent Defense Commission	<u>565,593</u>					
Total all funds	\$54,182					
Less estimated income	<u>199,320</u>					
General fund	(\$145,138)					
FTE	0.00					

1 This amendment reduces funding for indigent defense by a total of \$115,593 from the general fund for the 2005-07 biennium as the result of a decrease in the reimbursement of overhead expenses for indigent defense associated with the Senate adjustment that decreased the indigent defense contract rate from \$75 to \$65 per hour. Reimbursement of overhead expenses is calculated at 10 percent of the total indigent contract amount.

2 This amendment decreases funding for indigent defense by a total of \$250,000 from the general fund for the 2005-07 biennium to reduce funding for caseload increases from \$500,000 to \$250,000.

3 This amendment removes \$40,000 of general fund money for the installation of a digital audio system.

4 This amendment removes \$70,000 of general fund money for the installation of two interactive televisions.

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Judicial Conduct Commission and Disciplinary Board	\$605,926	\$603,900	(\$500)	\$603,400
Total all funds	\$605,926	\$603,900	(\$500)	\$603,400
Less estimated income	<u>286,787</u>	<u>285,835</u>	<u>(235)</u>	<u>285,600</u>
General fund	\$319,139	\$318,065	(\$265)	\$317,800
FTE	4.00	4.00	0.00	4.00

**Dept. 183 - Judicial Conduct Commission - Detail of House Changes**

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE	TOTAL HOUSE CHANGES
Judicial Conduct Commission and Disciplinary Board	(\$500)	(\$500)
Total all funds	(\$500)	(\$500)
Less estimated income	<u>(235)</u>	<u>(235)</u>
General fund	(\$265)	(\$265)
FTE	0.00	0.00

**Senate Bill No. 2002 - Other Changes - House Action**

This amendment also allows the Supreme Court and district courts to carry over up to \$250,078 of unexpended general fund money from the 2003-05 biennium to the 2005-07 biennium to be used for establishing and defraying the expenses of the Commission on Legal Counsel for Indigents and appropriates a total of \$565,593 to the district courts, of which \$365,593 is from the general fund and \$200,000 is from the indigent defense administration fund, for establishing and defraying the expenses of the Commission on Legal Counsel for Indigents for the 2005-07 biennium, for a total amount of \$815,671 available for the establishment and expenses of the Commission on Legal Counsel for Indigents for the 2005-07 biennium.

2005 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2002

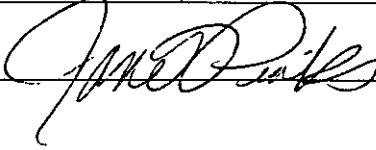
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2002

Senate Appropriations Committee

☒ Conference Committee

Hearing Date April 6, 2005

Tape Number	Side A	Side B	Meter #
1	a		0 - 2700
Committee Clerk Signature 			

Minutes:

**Senator Kilzer** opened the discussion on SB 2002.

**Representative Carlisle** distributed a handout and discussed the house changes on SB 2002. He stated when the bill came from the Senate, the enabling legislation for SB 2027 funding was removed. The House looked at ways to fund indigent defense out of their budget. The handout is how they arrived at \$815,000 which is \$319,000 less than the proposed funding level in the Senate. Then they came up with other areas to fund the indigent defense, by recalculating the overhead and dropped from \$75 to \$65 per hour. The case load increases were dropped, monthly collections resulted in additional amounts and this all resulted in funding for SB 2027. There was a small amount for digital equipment. The bottom line is that they are still down \$1.7 million.

**Representative Kroeber** indicated with the reduction of the \$75 to \$65 on the contract can areas get this amount.

**Representative Carlisle** indicated the court administrator could answer that question.

**Senator Kilzer** indicated the Senate was satisfied that this rate would work. He then asked about the reduction from \$135,000 to \$85,000. The response was that they could put this together on this.

**Senator Kilzer** indicated we are all reluctant to expand government and this is a new commission. There was some talk about combining this committee with other committees in the future.

**Representative Thorson** concurred with those comments, but in this case, this is well laid out and if in the future it can be put elsewhere that should be looked at. Hopefully in two years it can be fine tuned.

**Senator Kilzer** questioned the sustainability for future biennium's.

**Senator Carlisle** indicated other states were looked at and we pay the lowest in the nation per unit for defense and we now have as good a proposal as we can do.

Clarification was made of Senate monetary changes and House monetary changes. With \$35,000 as changes in the health insurance, the \$110,000 was for a delay in purchases. It was indicated that funding goes over to the commission on January 1.

**Representative Carlisle** indicated with HB 1050 the theory was elected officials, state employees and judiciary were all the same and should be treated the same with whatever salary package is decided on.

**Senator Kilzer** indicated that ND has lower salaries, but the benefit package is better than SD.

**Senator Schobbing** moved to accede to the House amendments, **Senator Kilzer** seconded.

**There was no discussion. A roll call vote was taken for a do pass. Discussion closed.**

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE) - 420

4-6-05  
07398

Bill Number) SB 2002 (, as (re)engrossed):

Your Conference Committee

For the Senate:

	Attendance	Vote
Sen. Kilzer	✓	✓
Sen. Schobinger	✓	✓
Sen. Tallackson	✓	NO

For the House:

	Attendance	Vote
Rep. Carlisle	✓	✓
Rep. Thorson	✓	✓
Rep. Kroeber	✓	✓

☒ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724 725/726 S724/H726 S723/H725  
the (Senate/House) amendments on (SJ/HJ) page(s) 1091 - 1094

☒ and place 2002 on the Seventh order.  
727

☐ , adopt (further) amendments as follows, and place  
\_\_\_\_\_ on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

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

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

1) LC (2) LC (3) DESK (4) COMM.

Insert LC: .

**REPORT OF CONFERENCE COMMITTEE**

**SB 2002:** Your conference committee (Sens. Kilzer, Schobinger, Tallackson and Reps. Carlisle, Thoreson, Kroeber) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1091-1094 and place SB 2002 on the Seventh order.

SB 2002 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2002

**Senate Bill 2002**  
**Senate Appropriations Committee**  
by Ted Gladden, State Court Administrator

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

I will be providing a general overview of our budget request. Following my general remarks, Susan Sisk, our Director of Finance, will provide the details contained in our 2005-07 budget request.

In preparing our 2005-07 budget, we directed the judicial districts, operating units of the Supreme Court, and the Judicial Conduct Commission to build their budgets based on need. While the directive was to consider the needs of their respective division, everyone was advised of the guidelines provided by Governor Hoeven to executive branch agencies.

Our budget request for the 2005-07 biennium is \$69,073,157. This represents an \$11,189,752 increase. The bulk of this increase is for indigent defense services and pay increases for employees, judges, and justices. When you take the pay increases and the indigent defense increase out of our discussion, our budget request is reduced to \$61,008,071. This represents an increase of 5% or \$3,124,667 over our 2003-05 appropriation. Overall, salary and wages comprise 63% of our budget supporting 285 employees and 47 judges and justices.

We have divided our budget for indigent defense services into two components reflecting legislation contained in SB 2027 to facilitate transfer, if SB 2027 passes, effective January 1, 2006.

### ***Appropriation Request***

The Supreme Court comprises \$8,543,619 or 12% of our budget request. This is a 12% increase over the present biennium. The district court comprises \$59,923,612, which is 87% of our total appropriation and is a 21% increase. The Judicial Conduct Commission and Disciplinary Board budget request is \$605,926. This is an increase of \$67,283 or 12%. They make up 1% of our budget.

### ***Workload Performance and Personnel***

We utilize a number of different performance measures within the judiciary to review workloads and staffing levels. We have not requested any additional personnel in our budget. In fact, utilizing our workload measures, we permanently eliminated four positions from the judiciary effective January 1, 2004. Our docket currency standards, weighted caseload standards for district court judges, our weighted workload standards for clerk of court personnel and juvenile court personnel all provide guidelines upon which we monitor judicial and employee needs in the trial courts. These standards have served us well as effective tools in monitoring workload performance systemwide.

Effective October 1, 2004, we implemented a new pay and classification plan. We now have a system that provides internal and external salary equity for all judicial personnel.

### ***Technology***

Our technology budget has been increased by \$561,387 or 18% from our present budget. Initiatives that were eliminated or scaled back in our 03-05 budget are being requested. Expansion of our interactive television, digital audio recording equipment to replace analog recorders, and funds for enhanced records management are included. We include funds to review our case management information system,

UCIS. This legacy based system is now over 20 years old and in need of updating or replacement. Our request is for funds to evaluate alternatives during the 05-07 biennium.

Our budget was finalized later than budgets from executive branch agencies. Because of this, we have already reduced our budget request for computer replacement consistent with the contract issued effective December 1, 2004. By utilizing this contract, we were able to reduce our final technology budget by \$26,700.

### ***Continuing Appropriation Funds***

We have identified in our budget funds from continuing appropriations in the amount of \$1,309,287. These are included as part of our appropriation request so that the legislature and others can clearly see the anticipated revenue projected in these continuing appropriations. The majority of these funds are as a result of action taken last legislative session that created special funding from criminal case fees to supplement indigent defense services and provide monies to counties for courthouse maintenance and improvement activities. There is one fund of approximately \$17,000 as of September 2004 that was not identified. It was created last session from funds resulting from the collection of restitution. Based on work we are just starting, these funds are tentatively identified to offset expenses for the accounts receivable collections program that we are hopeful in initiating with the start of the 05-07 biennium.

### ***Revenue Sharing***

Payments to counties included in our budget are \$3,023,347, an increase of \$103,789 or 4% for payments to 42 counties for clerk of court services. All 42 counties eligible to contract for services will be participating for the first time

effective July 1, 2005. The increase is primarily as a result of salary increases that county government provided its court personnel.

### ***Conclusion***

Our budget has been prepared recognizing that we have been fortunate in North Dakota compared to financial circumstances in many other states. Our budget is a responsible budget. It represents a thoughtful, conservative approach to fund all operations within the courts of the state assuring there will be no reduction in service delivery to the citizens in 53 counties of our state.

At this time, I will turn the podium over to Susan Sisk our Director of Finance who will go through the details of our budget request.

Thank you.

**JUDICIAL BRANCH  
2005-2007 BIENNIUM BUDGET REQUEST**

	<b>2003-05 Biennium</b>	<b>2005-07 Biennium</b>		
		<b>Budget Request</b>	<b>Percent Incr./.(Decr.) from 03-05</b>	<b>Amount Incr./.(Decr.) from 03-05</b>
<b>LINE ITEM</b>	<b>Total</b>			
<i>Salaries &amp; Wages</i>	\$39,806,940	\$43,571,121	9%	\$3,764,181
<i>Operating Expenses</i>	\$11,387,861	\$12,722,040	12%	\$1,334,180
<i>Indigent Defense</i>	\$5,062,397	\$11,014,298	118%	\$5,951,901
<i>Capital Assets</i>	\$74,500	\$203,500	173%	\$129,000
<i>Judg Ret/ADR/UND-CLR</i>	\$1,013,064	\$956,272	-6%	(\$56,792)
<i>JCCDB</i>	\$538,643	\$605,926	12%	\$67,283
<b>Line Item Total</b>	<b>\$57,883,405</b>	<b>\$69,073,157</b>	<b>19%</b>	<b>\$11,189,752</b>

<b>FUNDING SOURCE</b>				
<i>General Fund</i>	\$55,087,369	\$66,546,349	21%	\$11,458,980
<i>Federal Funds</i>	\$1,451,721	\$1,217,521	-16%	(\$234,200)
<i>Special Funds</i>	\$1,344,315	\$1,309,287	-3%	(\$35,028)
<b>Funding Source Total</b>	<b>\$57,883,405</b>	<b>\$69,073,157</b>	<b>19%</b>	<b>\$11,189,752</b>

<b>APPROPRIATION</b>				
<i>Supreme Court</i>	\$7,647,762	\$8,543,619	12%	\$895,858
<i>District Courts</i>	\$49,697,000	\$59,923,612	21%	\$10,226,611
<i>JCCDB</i>	\$538,643	\$605,926	12%	\$67,283
<b>Court Total</b>	<b>\$57,883,405</b>	<b>\$69,073,157</b>	<b>19%</b>	<b>\$11,189,752</b>



TED C. GLADDEN  
STATE COURT ADMINISTRATOR

*State of North Dakota*  
OFFICE OF STATE COURT ADMINISTRATOR

January 31, 2005

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

TO: Senator Holmberg, Chair  
Senate Appropriations Committee

FROM: Ted Gladden

SUBJECT: Judicial Budget Hearing - SB 2002

The following information is being provided as a result of questions raised as part of the judicial budget hearing on S.B. 2002, held on January 21, 2004:

1. Senator Krauter questioned the savings from the elimination of the 4 positions during the 2003-05 biennium. During the current biennium approximately \$394,000 was saved due to the elimination of these positions, and \$237,202 was spent on the 1% legislatively authorized increase. The difference will be part of the judicial branch turn-back at the end of this biennium.
2. Senator Grindberg questioned the lease/purchase of copy machines and how the decision is made whether to lease or purchase. As stated at the hearing, an analysis is done to determine which option is more cost-effective. In most cases, we have found that purchasing the machines is cheaper. Attached is a worksheet showing an analysis of three different machines recently purchased. We conduct an analysis prior to the purchase/lease of any copier (Attachment 1).
3. The salary rankings of judges from the National Center of State Court survey that Justice Neumann referred to during his discussion of judicial salary increases is attachment (Attachment 2).
4. Senator Tallackson asked about the distribution of employees throughout the state. Attachment 3 is a worksheet showing the number of judicial employees by city.
5. Senator Mathern raised a question of the cost benefit of interactive television (ITV). Attachment 4 is data provided by the district courts on the cost benefits of the use of ITV in support of our request for funds to expand usage to five additional locations.

Please let me know if you have questions or need further information.

SS/cs  
Attachments

## ND Supreme Court

Examples of Purchase vs. Lease of Copy Machines:

	<u>Purchase Cost</u>	<u>Monthly Lease Pmt</u>	<u>Term of Lease (Months)</u>	<u>Total Lease Pmts</u>	<u>Savings</u>
Savin AC104	\$575.00	\$18.00	36	\$648.00	\$73.00
Minolta 3510	\$5,000.00	\$155.00	36	\$5,580.00	\$580.00
Minota 5510	\$11,500.00	\$356.00	36	\$12,816.00	\$1,316.00

Average Life Expectancy of Copiers is 5 - 6 years

The table below lists the salaries for associate justices of the courts of last resort, associate judges of intermediate appellate courts, and judges of general jurisdiction trial courts as of April 1, 2004. Where possible, the salary figures are actual salaries. In jurisdictions where some judges receive supplements, the figures are the most representative available -- either the base salary, the midpoint of a range between the lowest and highest supplemented salaries, or the median. Salaries are ranked from highest to lowest, with the highest salary for each position having a rank of "1." The lowest salary has a rank of "51" except for intermediate appellate courts, which exist in only 39 states. The mean, median, and salary range for each of the positions are also shown.

Salary data for the federal government and several U.S. territories are also included. Salaries at the limited jurisdiction level are not ranked because the large number and diverse workload of these courts makes them less comparable. Furthermore, many of these salaries vary considerably within given states because they are set locally.

Salaries for Appellate and General Jurisdiction Judges

	Highest Court	Rank	Intermediate Appellate Court	Rank	General Trial Court	Rank
Alabama	\$152,027	8	\$151,027	5	\$111,973	25
Alaska	117,900	31	111,384	27	109,032	29
Arizona	126,525	21	123,900	14	120,750	15
Arkansas	126,054	22	122,093	16	118,128	19
California	175,575	1	164,604	1	143,838	3
Colorado	113,637	37	109,137	32	104,637	35
Connecticut	138,404	13	129,988	10	125,000	11
Delaware	147,000	10			140,200	5
District of Columbia	167,600	3			158,100	1
Florida	155,150	6	143,363	8	134,650	8
Georgia	153,086	7	152,139	3	121,938	14
Hawaii	115,547	32	110,618	29	106,922	32
Idaho	102,125	47	101,125	38	95,718	46
Illinois	168,706	2	158,783	2	145,704	2
Indiana	115,000	34	110,000	31	90,000	48
Iowa	122,500	26	117,850	20	112,010	24
Kansas	114,769	35	110,794	28	100,255	40
Kentucky	124,415	23	119,380	18	114,348	20
Louisiana	118,301	30	112,041	26	105,780	34
Maine	104,929	45			98,377	42
Maryland	131,600	18	123,800	15	119,600	16
Massachusetts	126,943	20	117,467	21	112,777	23
Michigan	164,610	4	151,441	4	139,919	6
Minnesota	133,564	16	125,852	13	118,141	18
Mississippi	112,530	40	105,050	35	104,170	38
Missouri	123,000	25	115,000	24	108,000	31
Montana	95,493	50			88,164	51
Nebraska	119,276	29	113,312	25	110,330	26
Nevada	140,000	12			130,000	9
New Hampshire	113,266	38			106,187	33
New Jersey	158,500	5	150,000	6	141,000	4
New Mexico	99,170	48	94,212	39	89,501	50
New York	151,200	9	144,000	7	136,700	7
North Carolina	115,336	33	110,530	30	104,523	36
North Dakota	99,122	49			90,671	47
Ohio	128,400	19	119,700	17	110,050	27
Oklahoma	106,716	42	101,714	37	95,898	44
Oregon	105,200	43	102,800	36	95,800	45
Pennsylvania	142,936	11	138,459	9	124,135	12
Rhode Island	132,816	17			119,579	17
South Carolina	119,510	28	116,521	22	113,535	21
South Dakota	102,684	46			95,910	43
Tennessee	123,684	24	117,924	19	112,836	22
Texas	113,000	39	107,350	34	109,158	28
Utah	114,050	36	108,900	33	103,700	39
Vermont	109,771	41			104,355	37
Virginia	135,505	14	128,730	11	125,795	10
Washington	134,584	15	128,116	12	121,972	13
West Virginia	95,000	51			90,000	48
Wisconsin	122,418	27	115,490	23	108,950	30
Wyoming	105,000	44			100,000	41

Mean 126,159  
Median 122,500  
Range 95,000 to 175,575

122,682  
117,850

113,504  
110,330  
89,164 to 158,100

Federal System 193,000  
Guam 128,000  
Northern Mariana Is. 126,000  
Puerto Rico 120,000  
Virgin Islands

165,500  
90,000

157,000  
100,000  
120,000  
80,000  
135,000

**Judicial Employees by City**  
**01/31/05**

City	Employees
Bismarck (JCC/DB)	4
Bismarck (Supreme)	57
Bismarck (District)	39
Bottineau	6
Cavalier	1
Devils Lake	13
Dickinson	18
Ellendale	2
Fargo	57
Grafton	9
Grand Forks	40
Jamestown	12
Langdon	2
Linton	1
Mandan	8
Minot	29
New Rockford	2
Rugby	2
Stanley	2
Valley City	9
Wahpeton	9
Williston	13
TOTAL	335

## Interactive Television Systems Overview, Usage and Savings February 2, 2005

### Administrative Unit 3, Burleigh, McLean, Mercer Counties

The use of interactive television in North Dakota courts started in 2000 with the installation of video conference units in the South Central Judicial District. Currently, units are located in Burleigh, Mercer and McLean counties. These units have been used for civil proceedings, mental health proceedings, special proceedings and criminal proceedings, each with its own limitations and guidelines.

Four-year total usage of the video conference systems in Burleigh, Mercer and McLean include 509 court proceedings involving 1,767 persons. It is estimated that the use of these systems has saved \$51,486 in reduced or eliminated travel time for Law Enforcement/Sheriff/Jail staff; Indigent Defense Attorneys; State's Attorneys; Public and Private Attorneys; State Hospital Psychologists; Judges and Court Employees and Domestic Violence Advocates. It must be noted that some of the hearings included in the cost savings below could have been handled via telephone according to court rule. However, the use of ITV for these proceedings added a much-needed visual dimension.

<b>Sheriff/Jail/Detention Center Staff</b>	<b>\$11,288.00</b>
<b>Public Defender</b>	<b>\$11,230.00</b>
<b>State's Attorney</b>	<b>\$15,280.00</b>
<b>Private Attorney</b>	<b>\$3,250.00</b>
<b>Psychologist, employed by the State Hospital</b>	<b>\$960.00</b>
<b>District Court Judge</b>	<b>\$4,988.00</b>
<b>Court Reporter</b>	<b>\$2,944.00</b>
<b>Juvenile Court Officer</b>	<b>\$952.00</b>
<b>Probation Agent, Dept. of Corrections</b>	<b>\$204.00</b>
<b>Domestic Violence Advocate</b> \$390.00	<b>\$390.00</b>
<b>4-year total savings in Burleigh, McLean, Mercer</b>	<b>\$51,486.00</b>

### Administrative Unit 2, Stutsman County

In 2002, a unit was installed in Stutsman County. This unit is primarily used for communication with the State Hospital in Jamestown for mental health proceedings.

It is estimated that the ITV system in Stutsman County is used for an average of 7 hearings per week. This allows the attorney, doctor and patient to appear from the video room at the hospital and not travel to the courthouse, thereby saving travel time for the doctor and patient. This results in an estimated cost savings from reduced Psychologist travel time and significant but less quantifiable benefits through the elimination of the need to transport mental health patients.

<b>Sheriff Staff</b>	<b>\$1,730</b>
<b>Psychologist, State Hospital</b>	<b>\$14,560</b>
<b>Yearly Total Savings in Stutsman County</b>	<b>\$16,290</b>

**Administrative Unit 2, Cass County**

In 2004, a video conference unit was installed in Cass County. This unit is used for remote appearances of in-custody participants from the new Cass County jail and for mental health proceedings to reduce the need for doctors from the State Hospital to travel to Fargo for proceedings.

The ITV system in Fargo is used daily Monday through Thursday and twice on Friday for initial appearances for in-custody participants. Each day up to 20 or more people may appear using the video system. This results in significant savings by eliminating the need for sheriff's department personnel to transport each prisoner from the jail to the courthouse. There are also significant public safety and security enhancements by eliminating the need to remove prisoners from the security of the jail.

The ITV system in Fargo is also used an average of 5 times per month for mental health hearings. This allows the Psychologist to appear video ITV from the Jamestown Hospital, eliminating travel for each hearing.

<b>Sheriff/Jail Staff</b>	<b>\$41,288.00</b>
<b>Psychologist, State Hospital</b>	<b>\$11,255.00</b>
<b>Yearly Total Cass Savings in Cass County</b>	<b>\$52,543.00</b>

**Senate Bill 2002**  
**Government Operations Division**  
**House Appropriations**  
by Ted Gladden, State Court Administrator

Good morning Chairman Carlisle and members of the Government Operations Division:

I will be providing a general overview of our budget request. Following my general remarks, Susan Sisk, our Director of Finance, will provide the details contained in our 2005-07 budget request.

In preparing our 2005-07 budget, we directed the judicial districts, operating units of the Supreme Court, and the Judicial Conduct Commission to build their budgets based on need. While the directive was to consider the needs of their respective division, everyone was advised of the guidelines provided by Governor Hoeven to executive branch agencies.

Our budget request for the 2005-07 biennium is \$69,073,157. This represents an \$11,189,752 increase. The bulk of this increase is for indigent defense services and pay increases for employees, judges, and justices.

Our indigent defense request for attorney services is based on the budget prepared by the Bar Association Task Force funded by the judiciary, Legislative Assembly, and the State Bar Association comprised of lawyers, judicial representatives, and legislators. To build the budget, actual caseload data from 1999 through 2003 was used to project our needs. The budgeted amount was set at \$75 per hour, which is the rate set by law for indigent defendants to reimburse the state for services provided. For indigent defense, we are requesting \$10,486,423. The Senate

reduced this budget by just over one million dollars by reducing the rate of pay from \$75 per hour to \$65 per hour. We are requesting these funds be reinstated in our budget. Attorneys appointed to represent indigent defendants in the U.S. District Court in North Dakota are paid \$90 per hour, presently.

When you take the pay increases and the indigent defense increase out of our discussion, our budget request is reduced to \$61,008,071. This represents an increase of 5% or \$3,124,667 over our 2003-05 appropriation. Overall, salary and wages comprise 63% of our budget supporting 285 employees and 47 judges and justices.

We have divided our budget for indigent defense services into two components reflecting legislation contained in SB 2027 to facilitate transfer, if SB 2027 passes, effective January 1, 2006.

#### ***Appropriation Request***

The Supreme Court comprises \$8,543,619 or 12% of our budget request. This is a 12% increase over the present biennium. The district court comprises \$59,923,612, which is 87% of our total appropriation and is a 21% increase. The Judicial Conduct Commission and Disciplinary Board budget request is \$605,926. This is an increase of \$67,283 or 12%. They make up 1% of our budget.

#### ***Workload Performance and Personnel***

We utilize a number of different performance measures within the judiciary to review workloads and staffing levels. We have not requested any additional personnel in our budget. In fact, utilizing our workload measures, we permanently eliminated four positions from the judiciary effective January 1, 2004. Our docket currency standards, weighted caseload standards for district court judges, our weighted workload standards for clerk of court personnel and juvenile court

personnel all provide guidelines upon which we monitor judicial and employee needs in the trial courts. These standards have served us well as effective tools in monitoring workload performance systemwide.

Effective October 1, 2004, we implemented a new pay and classification plan. We now have a system that provides internal and external salary equity for all judicial personnel.

### ***Technology***

Our technology budget has been increased by \$561,387 or 18% from our present budget. Initiatives that were eliminated or scaled back in our 03-05 budget are being requested. Expansion of our interactive television, digital audio recording equipment to replace analog recorders, and funds for enhanced records management are included. We include funds to review our case management information system, UCIS. This legacy-based system is now over 20 years old and in need of updating or replacement. Our request is for funds to evaluate alternatives during the 05-07 biennium.

Our budget was finalized later than budgets from executive branch agencies. Because of this, we have already reduced our budget request for computer replacement consistent with the contract issued effective December 1, 2004. By utilizing this contract, we were able to reduce our final technology budget by \$26,700.

### ***Continuing Appropriation Funds***

We have identified in our budget funds from continuing appropriations in the amount of \$1,309,287. These are included as part of our appropriation request so that the legislature and others can clearly see the anticipated revenue projected in these continuing appropriations. The majority of these funds are as a result of action taken

last legislative session that created special funding from criminal case fees to supplement indigent defense services and provide monies to counties for courthouse maintenance and improvement activities. There is one fund of approximately \$17,000 as of September 2004 that was not identified. It was created last session from funds resulting from the collection of restitution. Based on work we are just starting, these funds are tentatively identified to offset expenses for the accounts receivable collections program that we are hopeful in initiating with the start of the 05-07 biennium.

### ***Revenue Sharing***

Payments to counties included in our budget are \$3,023,347, an increase of \$103,789 or 4% for payments to 42 counties for clerk of court services. All 42 counties eligible to contract for services will be participating for the first time effective July 1, 2005. The increase is primarily as a result of salary increases that county government provided its court personnel.

### ***Conclusion***

Our budget has been prepared recognizing that we have been fortunate in North Dakota compared to financial circumstances in many other states. Our budget is a responsible budget. It represents a thoughtful, conservative approach to fund all operations within the courts of the state assuring there will be no reduction in service delivery to the citizens in 53 counties of our state.

At this time, I will turn the podium over to Susan Sisk our Director of Finance who will go through the details of our budget request.

Thank you.

**Senate Bill 2002**  
**Senate Appropriations Committee**  
By Susan Sisk, Director of Finance

Mr. Chairman, members of the committee, good morning. I will be providing you with details regarding the judicial budget request.

The judicial budget request for the 2005-07 biennium is \$69,073,157, which is an increase of \$11,189,752. The bulk of this increase is for indigent defense services, and pay increases for employees and judges and justices. Without these increases, the request is reduced to \$61,008,071, or an increase of \$3,124,666 or 5%.

The judicial request is broken out among three appropriations as follows:

	<u>Total Request</u>	<u>Increase</u>	<u>% Increase</u>
Supreme Court	\$ 8,543,619	\$ 895,858	12%
District Court	\$59,923,612	\$10,226,611	21%
JCC/DB	\$ 605,926	\$ 67,283	12%

**Salaries and Benefits**

Salaries and benefits are 63% of the total judicial request. The request is for \$43,571,121, which is an increase of \$3,764,181 or 9%. Included in this are salary increases of 4% and 4% for employees per Governor Hoeven's recommendation, as well as the associated benefit increases. The judiciary is requesting \$826,247 for increases of 5.78% and 4% for justices and judges. Justice Neumann will be addressing this request.

During the 2003-05 biennium the judiciary implemented a policy and procedure for analyzing every vacant position to justify the need for rehiring. Due to this process, we were able

to eliminate 4 positions, for a savings of approximately \$394,000. Because of this, we had funds available to give employees a 1% increase on January 1, 2004. The effect of this for 2005-07 is an increase of \$237,000 included in our budget request. In addition, we implemented a new pay classification plan and made some equity changes as recommended by Bjorkland Consulting.

### Operating

Operating expenses are 18% of the proposed judicial budget. Funds in the amount of \$12,722,040 are being requested. This is an increase of \$1,334,180 or 12% over the current biennium. Some of the increases include:

IT - an operating increase of \$405,390 is included for IT projects. Major increases include:

Peoplesoft Software - \$110,640

Case Management Systems Review - \$100,000 has been budgeted for an analysis of the long-term viability of the judicial case management system to fulfill the needs of the judicial branch. The current system is a legacy system and is becoming antiquated.

Interactive TV - \$155,000. This is an ongoing initiative that would allow parties to appear via ITV for proceedings that would otherwise be delayed to avoid the time and expense of travel and for the convenience of the participants. It is intended to enhance access and availability to judicial services in areas where a judge is not chambered, and to enhance public safety by transporting in-custody hearing participants less often. We currently have ITV systems operational in five counties. The requested amount will allow installation of ITV into 5 additional sights.

Enhanced Records Management and Storage - A total of \$225,000, which is an increase of \$116,292 over the current biennium, is being requested to expand the project. This

project is intended to preserve court information, promote greater accessibility to that information, and reduce operational and records storage costs within the Judicial Branch. This project was implemented during the current biennium and will be expanded during 2005-07.

Digital Audio Recording - \$103,677 is being requested for the ongoing implementation of digital audio recording in the courtrooms. There were no funds requested for the current biennium. This technology will allow easy access to testimony and allow integration of judges' notes with specific portions of testimony for ready retrieval. It can replace conventional tape audio recording systems, can allow the record to be shared electronically and significantly reduce storage space requirements. Currently digital audio recording is being used in three counties. It is expected that systems will be installed in the 12 counties with the highest caseload volume.

Equipment - There was a decrease in the cost of purchasing computers based on using the state IT purchasing contract. This has resulted in savings of approximately \$26,700.

Professional Supplies and Materials - The cost of resource materials increases approximately 10% per year. During the last biennium, the judiciary scrutinized its holdings to ensure that all materials were necessary and that there was no duplication. The increase of \$251,446 is to maintain the professional supplies and materials at the current level.

Travel and Professional Development - During the current biennium, out-of-state travel and professional development for judges and staff was cut in half. The result of this is that appropriate professional development opportunities must be found locally. It is critical that judges and staff are trained properly and are aware of national trends and issues. Our budget request includes an increase of \$177,971 to reinstate travel and professional development opportunities.

Court Improvement - The North Dakota Court Improvement Project Task Force was created in 1995 to study current issues in regard to the legal process of foster care cases. The judiciary plays a key role in determining the short and long-term well-being of children who are brought to the court's attention through accusation of wrong doing or through a petition alleging deprivation or neglect. The Task Force includes representatives from the Department of Human Services, County Social Services, State's Attorneys as well as the tribes. A federal grant is received annually and is used to contract for lay guardians at litem, who act as advocates for children. However, the Task Force has identified other issues that are not being addressed. Some of these issues include providing for training for attorneys serving as guardians at litem, an evaluation component of the lay guardian at litem project, as well as other issues identified through the Indian Child Welfare Act. The budget request includes an increase of \$105,000 to address these issues.

Juvenile Services - Funds for juvenile services such as tracking, accountability conferences, community service programs and unruly diversion programs are being requested at \$650,000, an increase of \$123,100. These funds are necessary to expand current programs that are currently unavailable in some areas as well as continuing to implement balanced and restorative justice. Karen Kringlie will be providing more information regarding juvenile services.

Contract Clerks - Clerk of Court services are contracted for in 42 counties. The contract costs are determined based on a formula developed by Workload Assessment Policy Committee. This formula calculates number of personnel necessary to handle a given caseload, based on salaries paid by the county. The requested increase is \$103,789, or 4%.

#### Indigent Defense

The request for Indigent Defense services is \$11,014,298, which is an increase of

\$5,951,901, or 118%. This request was prepared and approved by the Indigent Defense Task Force and is based on the core principles that will be outlined by Chief Justice VandeWalle.

The request includes \$527,875 for guardians ad litem. This is an increase of \$152,875 over the current biennium. The remainder of the request (\$10,486,423) is to provide indigent defense services. SB 2027 establishes the Commission on Legal Counsel for Indigents. Under this bill, any moneys not expended by the Supreme Court for contract services by December 31, 2005 must be transferred to the commission on January 1, 2006.

### **Capital Assets**

Capital assets in the amount of \$203,500 are being requested. This is an increase of \$129,000 over the current biennium. The request includes funds to replace outdated workstations that are no longer ergonomically correct and copy machines that are no longer cost effective to repair. Also included are funds to update sound systems and install servers in courtrooms where digital audio recording will be installed.

### **FUNDING SOURCES**

The entire increase for the proposed judicial budget is from general funds. We have a decrease in our anticipated federal funds as follows:

- |          |  |
|----------|--|
| \$55,205 | Child Support - due primarily to the fact that more payments are withheld from checks, reducing staff time.  |
| \$65,000 | Termination of Parental Rights - IV-E (Foster Care) - This amount was budgeted during the current biennium for reimbursement of IV-E funds for time spent by guardians ad litem on deprivation cases. Due to a federal decision regarding the state of Missouri, juvenile officers and lay guardians ad litem are no longer eligible to be reimbursed for these funds because 1) |

they are not part of a IV-E placement agency; 2) they are not under the supervision of the Department of Human Services. As of June, 2004 we are no longer receiving these federal funds.

\$115,055      Juvenile Drug Courts - these funds are being requested from the general fund as it is becoming increasingly difficult to rely fully on the availability of federal grants to fund the drug courts. The total amount requested for drug courts is \$387,000, the same level as the current biennium.

Anticipated special funds have also decreased slightly. During the current biennium we had budgeted \$311,014 in juvenile reinvestment funds. These were IV-E funds received through the Children's Services Coordinating Committee as a reimbursement of staff time spent on case management for children at risk. Due to the same federal decision affecting the Termination of Parental Rights funds, we will no longer be receiving these revenues. Offsetting this is a budgeted increase of \$270,000 anticipated in the Indigent Defense Administration fund from the \$100 assessed on criminal offenses.

Continuing appropriations from the Indigent Defense Administration Fund, the Electronic Filing Administration Fund and the Disciplinary Board have been included as funding sources for the total budget request. Only the Restitution Collection Fund has not been included. There is a small balance available in this fund and it is anticipated that it will be used in the accounts receivable collection program that is currently being restructured.

This concludes my presentation regarding the budget request. I would be happy to answer any questions.

**Senate Bill 2002**  
**House Appropriations Committee**  
By Susan Sisk, Director of Finance

Mr. Chairman, members of the committee, good morning. I will be providing you with details regarding the judicial budget request.

The judicial budget request for the 2005-07 biennium is \$69,073,157, which is an increase of \$11,189,752. The bulk of this increase is for indigent defense services, and pay increases for employees and judges and justices. Without these increases, the request is reduced to \$61,008,071, or an increase of \$3,124,666 or 5%.

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\$296,742.

Judge Herrmann will be addressing the request for judicial salaries.

During the 2003-05 biennium the judiciary implemented a policy and procedure for analyzing every vacant position to justify the need for rehiring. Due to this process, we were able to eliminate 4 positions, for a savings of approximately \$394,000. Because of this, we had funds available to give employees a 1% increase on January 1, 2004. The effect of this for 2005-07 is an increase of \$237,000 included in our budget request. In addition, we implemented a new pay classification plan and made some equity changes as recommended by Bjorkland Consulting.

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Equipment - There was a decrease in the cost of purchasing computers based on using the state IT purchasing contract. This has resulted in savings of approximately \$26,700.

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and professional development for judges and staff was cut in half. The result of this is that appropriate professional development opportunities must be found locally. It is critical that judges and staff are trained properly and are aware of national trends and issues. Our budget request includes an increase of \$177,971 to reinstate travel and professional development opportunities.

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The request for Indigent Defense services is \$11,014,298, which is an increase of \$5,951,901, or 118%. This request was prepared and approved by the Indigent Defense Task Force.

The request includes \$527,875 for guardians at litem. This is an increase of \$152,875 over the current biennium. The remainder of the request (\$10,486,423) is to provide indigent defense services. This request has been reduced to \$9,858,368 by the Senate, and reduces estimated hourly amounts paid to contract attorneys from \$75 to \$65 per hour.

Refer to Attachments 1 and 2 for detailed information.

SB 2027 establishes the Commission on Legal Counsel for Indigents which would administer the Indigent Defense system. Under this bill, any moneys not expended by the Supreme Court for contract services by December 31, 2005 must be transferred to the commission on January 1, 2006. Sandi Tabor will be providing more information regarding this bill.

### **Capital Assets**

Capital assets in the amount of \$203,500 are being requested. This is an increase of \$129,000 over the current biennium. The request includes funds to replace outdated

workstations that are no longer ergonomically correct and copy machines that are no longer cost effective to repair. Also included are funds to update sound systems and install servers in courtrooms where digital audio recording will be installed.

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the Children's Services Coordinating Committee as a reimbursement of staff time spent on case management for children at risk. Due to the same federal decision affecting the Termination of Parental Rights funds, we will no longer be receiving these revenues. Offsetting this is a budgeted increase of \$270,000 anticipated in the Indigent Defense Administration fund from the \$100 assessed on criminal offenses.

Continuing appropriations from the Indigent Defense Administration Fund, the Electronic Filing Administration Fund and the Disciplinary Board have been included as funding sources for the total budget request. Only the Restitution Collection Fund has not been included. There is a small balance available in this fund and it is anticipated that it will be used in the accounts receivable collection program that is currently being restructured.

This concludes my presentation regarding the budget request. I would be happy to answer any questions.

**Detail of 2005-07 Proposed Indigent Defense Costs**  
**SB 2027 - Commission on Legal Counsel for Indigents**  
**SB 2002 - ND Supreme Court**

<b>Administration of Commission on Legal Counsel for Indigents - SB 2027</b>	
Director - Salary (\$90,000/yr) and Benefits	222,506
Deputy Director - Salary (\$60,000/yr) and Benefits	152,444
Administrative Asst. - Salary (\$23,472/yr) and Benefits	67,137
4 statewide Investigators - Salary (\$41,964/yr) and Benefits	441,291
* Operating - See Note 1	210,854
Oversight Board - 7 members - 4 meetings per year	8,654
Start-up Costs - desks, chairs, computers, printers	32,400
	<u>1,135,286</u>
Funding Sources:	
General Fund	1,135,286
Special Fund	-
	<u>1,135,286</u>

<b>Judicial Appropriation - SB 2002</b>	
Contract Amounts - 21,810 estimated assignments @ 5.3 hrs/assignment @ \$75/hr - Note 2	8,669,475
Reimbursement of Expenses - 10%	866,948
Caseload Increase - in the event caseload increases beyond projection	500,000
Out of contract - Conflicts	350,000
Expert Witness Fees	100,000
Total Indigent Defense Contract Costs	10,486,423
Guardian ad Litem Costs (would stay in the judiciary) - Note 3	527,875
Total Indigent Defense Request in Judicial Appropriation	<u>11,014,298</u>
Funding Sources:	
General Fund	9,994,298
Special Fund (Indigent Defense Administration Fund)	1,020,000
	<u>11,014,298</u>
2003-05 Indigent Defense Budget:	
General Fund	4,312,397
Special Fund (Indigent Defense Administration Fund)	750,000
	<u>5,062,397</u>
Increase from 2003-05 to 2005-07	
General Fund	5,681,901
Special Fund (Indigent Defense Administration Fund)	270,000
	<u>5,951,901</u>

**Note 1 - Detail of Operating Expenses:****\*Operating:**

IT - Data Processing	6,000
IT - Telephone	4,744
Travel	140,560
IT - Software/Supplies	1,500
Postage	2,500
IT - Contractual Services	-
Space Rental	28,800
Dues & Professional Development	11,050
Operating Fees & Services	1,000
Repairs	500
Professional Services	-
Property Insurance	1,000
Office Supplies	2,000
Printing	2,500
Professional Supplies & Materials	5,000
Misc. Supplies	500
Office Equip & Furniture	1,500
IT Equipment less than \$5,000	1,700
Total Operating	<u>210,854</u>

**Note 2:**

Estimates of case filings and indigent defense assignments for 2004, 2005, 2006 and 2007 were based on an average increase per year for felonies (6%), misdemeanors (marginal increase), and juvenile (4%). Estimated indigent defense assignment rates were based on an approximate average of previous assignment rates: felonies (94%), misdemeanors (18%), and juvenile (76%). The estimates for filings are based on a static percentage of increase for each year and the estimates for assignments assume the assignment rate will remain constant.

Applying the estimated case filings and assignments, it was estimated that approximately 21,810 assignments will be made during the 2005-07 biennium. This would represent an increase of approximately 1,885 assignments (felony, misdemeanor, juvenile) in each of the 2003-05 biennium and the 2005-07 biennium.

The compensation to be provided to contract counsel is based on an estimated number of hours per case type, which is then applied to a \$75 per hour rate. The \$75 per hour rate is the presumed amount per hour for counsel services identified under NDCC Section 29-07-01.1.

The 5.3 hours per case represents a "midpoint" range of hours per assignment based on nationally developed standards recommended by the Spangenberg Group and hours reported in the current system.

**Note 3:**

The \$527,875 represents amounts requested by the judiciary for guardian ad litem services for juveniles in deprivation and termination cases. This amount would stay with the judiciary, regardless of the outcome of SB 2027 regarding indigent defense services.

**SBAND Indigent Defense Task Force****— Case Load, Assignment, and Budget Information —**

The Indigent Defense Task Force based its assessment of filings and indigent defense assignments on historical data and estimates of future filings and assignments. The Task Force report and recommendations are based on information reviewed in February, March, and April 2004 and attempt to "look forward" to the 2005-2007 biennium during which the new indigent defense system would be implemented.

**1999**

3105 felony filings; 2824 indigent defense assignments (91%)

20385 misdemeanor filings; 3443 indigent defense assignments (17%)

2313 juvenile filings; 1970 indigent defense assignments (85%)

**2000**

3203 felony filings (3% increase); 2998 indigent defense assignments (94%)

21055 misdemeanor filings (3% increase); 3665 indigent defense assignments (17%)

2240 juvenile filings (3% decrease); 1856 indigent defense assignments (82%)

**2001**

3571 felony filings (12% increase); 3357 indigent defense assignments (94%)

21033 misdemeanor filings (stable); 3712 indigent defense assignments (18%)

2581 juvenile filings (15% increase); 2134 indigent defense assignments (82%)

**2002**

4240 felony filings (19% increase); 3982 indigent defense assignments (94%)

22258 misdemeanor filings (6% increase); 3934 indigent defense assignments (18%)

2358 juvenile filings (9% increase); 1770 indigent defense assignments (75%)

**2003**

4144 felony filings (2% increase); est. 3902 indigent defense assignments (based on 94%)

23228 misdemeanor filings (4% increase); est. 4091 indigent defense assignments (based on 18%)

2451 juvenile filings (4 % increase); est. 1840 indigent defense assignments (based on 75%)

*Estimates* of case filings and indigent defense assignments for 2004, 2005, 2006, and 2007 were based on an average increase per year for felonies (6%), misdemeanors (marginal increase), and juvenile (4%). *Estimated* indigent defense assignment rates for 2004, 2005, 2006, 2007 were based on an approximate average of previous assignment rates: felonies (94%), misdemeanors (18%), and juvenile (76%). Caveat: the estimates for filings are based on a static percentage of increase for each year and the estimates for assignments assume the assignment rate will remain constant.

**Estimated Results for 2004, 2005, 2006, 2007:**

2004 —	4392 felony filings; 4128 indigent defense assignments
	23300 misdemeanor filings; 4194 indigent defense assignments
	2524 juvenile filings; 1918 indigent defense assignments
2005 —	4655 felony filings; 4375 indigent defense assignments
	23400 misdemeanor filings; 4212 indigent defense assignments
	2599 juvenile filings; 1975 indigent defense assignments
2006 —	4934 felony filings; 4637 indigent defense assignments
	23500 misdemeanor filings; 4230 indigent defense assignments
	2676 juvenile filings; 2033 indigent defense assignments
2007 —	5230 felony filings; 4916 indigent defense assignments
	23600 misdemeanor filings; 4248 indigent defense assignments
	2756 juvenile filings; 2094 indigent defense assignments

**Biennial Totals**

Applying the estimated case filings and assignments, it was estimated that approximately 21810 assignments will be made during the 2005-2007 biennium. This would represent an increase of approximately 1885 assignments (felony, misdemeanor, juvenile) in each of the 2003-2005 biennium and the 2005-2007 biennium.

### **Compensation Amount**

The compensation to be provided to contract counsel is based on an estimated number of hours per case type, which is then applied to a \$75 per hour rate. The \$75 per hour rate is the presumed amount per hour for counsel services identified under NDCC Section 29-07-01.1.

Based on nationally developed standards, The Spangenberg Group recommended that the delivery of indigent defense services be based on an hour commitment of 11 hours per felony assignment, 3 hours per misdemeanor assignment, and 5.5 hours per juvenile assignment. In contrast, information reviewed by the Task Force and The Spangenberg Group indicated reported hours in the current system reflect an hour commitment of 5 hours per felony assignment, 2.7 hours per misdemeanor assignment, and 3.1 hours per juvenile assignment. For a variety of reasons (local practices, differences between a nationally applied standard and the requirements of a smaller indigent defense system), the Task Force declined to adopt the hour recommendations provided by the consultant. The Task Force did, however, conclude that proper and more intensive case monitoring and management should seek to ensure that a more appropriate amount of time is spent on assigned cases. This would assist in ensuring that more adequate counsel services are provided and may reduce the number of post-conviction relief proceedings or appeals. The Task Force, therefore, adopted a "midpoint" range of hours per assignment with respect to felony and juvenile assignments: 8 hours for felonies, 4.5 hours for juveniles. The Task Force adopted The Spangenberg Group recommendation with respect to misdemeanor assignments (3 hours) as information indicated reported hours of approximately 2.7 hours per misdemeanor assignment under the current system. The Task Force then applied an average of 5.3 hours per case to the estimated 21810 assignments to determine the total number of estimated counsel hours for the 2005-2007 biennium:

$$21810 \text{ assignments} \times 5.3 \text{ hours/assignment} = 115593 \text{ hours}$$

The total number of hours was then multiplied by the rate of \$75 per hour to determine the total estimated dollar amount for counsel services for the 2005-2007 biennium:

$$115593 \text{ hours} \times \$75 = \$8669475$$

It is this amount that constitutes the largest share of the estimated cost for implementing the new system for delivering indigent defense services recommended by the Task Force.

## SENATE APPROPRIATIONS COMMITTEE

### JUDICIAL SALARY COMMENTS

Justice Bill Neumann

Mister chairman, members of the committee, my name is Bill Neumann. I'm one of the Justices of the Supreme Court, and I've been asked to discuss judicial salaries.

Four years ago North Dakota judges proposed to the legislature that we seek parity with South Dakota judicial salaries. Most legislators agreed with that goal, but all of us, both judges and legislators, also agreed the salary differential with South Dakota was too great to hope to achieve parity in a single biennium. The plan in 2001 was to do what we could during the 2001-2003 biennium, and pick up the balance in the 2003 session.

Of course, by 2003 the state was facing significant revenue shortfalls. The judges considered the situation, and told the legislature we realized the time was not right to complete what we had started in 2001. The goal of parity with South Dakota was deferred. As a result, North Dakota judges received no salary increases in 2003 or 2004. Our last salary increase was July 1, 2002.

Our state's revenue outlook has improved substantially in the last two years, and the judges are now proposing to the legislature that we try to finish what we started in 2001, and deferred in 2003. South Dakota trial judges received a 2% increase in July, 2003, and a 3% increase July 2004. Their salaries are now \$98,787.00, and they expect another 3% increase in July, 2005, which will bring their salaries to \$101,750. Our district judges' salary is currently \$90,671.00, where it has remained since 2002. Our proposal to the legislature is to increase our North Dakota district judges' salary to \$95,911.00 in July of 2005, an increase of 5.78%, and to \$99,748.00 in July of 2006, an increase of 4%. Obviously that will not yet bring our North Dakota salary in line with South Dakota's, but it will help close the gap that widened in 2003 and 2004, when South Dakota judges received increases while North Dakota judges deferred any increase.

The 5.78% and 4% figures proposed for judicial salaries are more than the 4% and 4% provided for state employees in legislation that has been introduced, and more than the Governor's budget proposes for state employees. The judges' figures were set in August, before the legislation and the Governor's budget were announced. Those figures were our best estimate at that time of what the legislative assembly would find equitable, based on South Dakota's judicial salaries, and based on the goal agreed to four years ago to seek parity with South Dakota for our North Dakota judges.

Thank you, Mr. Chairman. I would be happy to try to answer any questions.

Handwritten note: "Judicial Salary"

## **HOUSE GOVERNMENT OPERATIONS SUB-COMMITTEE**

### **JUDICIAL SALARY COMMENTS**

**Judge Doug Herman**

Thank you mister chairman and members of the committee. My name is Doug Herman. I'm one of the eight judges in the East Central Judicial District. I've been asked to discuss judicial salaries.

Four years ago North Dakota judges proposed to the legislature that we seek parity with South Dakota judges. Most legislators agreed with that goal, but all of us also agreed the salary differential with South Dakota was too great to hope to achieve parity in a single biennium. The agreement we reached in 2001 was to do what we could during the 2001-2003 biennium, and pick up the balance in the 2003 session.

Of course, by 2003 the state was facing significant revenue shortfalls. The judges considered the situation, and told the legislature we realized the time was not right to complete what we had started in 2001. The agreed goal to reach parity with South Dakota was deferred. As a result, North Dakota judges received no salary increases in 2003 or 2004.

Today we are here proposing to the legislature that we finish what we agreed to back in 2001, and deferred in 2003. South Dakota trial judges received a 2% increase in July, 2003, and a 3% increase July 2004. Their salaries are now \$98,787.00, and they expect another 3% increase in July, 2005, which will bring their salaries to \$101,750. Our district judges' salary is currently \$90,671.00, where it has remained since 2002. Our proposal to the legislature is to increase our North Dakota district judges' salary to \$95,911.00 in July of 2005, an increase of 5.78%, and to \$99,748.00 in July of 2006, an increase of 4%. Obviously that will not yet bring our North Dakota salary in line with South Dakota's, but it will help close the gap that widened so much in recent years.

The 5.78% and 4% figures proposed for judicial salaries are more than the 4% and 4% the Governor's budget proposes for state employees; and more than the 3% and 4% proposed in the senate. But please note that the judges' figures were arrived at in August, before the Governor's budget was announced and long before the Senate bill was first considered just last month.

These figures were our best estimate of what the legislature would find equitable, based on the goal agreed to four years ago to seek parity with South Dakota judges.

I would be happy to try to answer any questions.

**Senate Bill 2002**  
**Senate Appropriations Committee**  
Presented by Justice Dale Sandstrom

Good morning Chairman Holmberg and members of the Senate Appropriations Committee. This morning, I will be providing you with an overview of the information technology initiatives included in our budget.

The judicial technology budget request has increased by \$561,387 or 18% from our present budget. Initiatives that were eliminated or scaled back in our 03-05 budget are being requested. Significant points of interest include:

**Interactive Television**

The installation and use of interactive television is an ongoing initiative. Use of interactive television allows parties to appear via interactive television for proceedings that would otherwise be delayed to avoid the time and expense of travel and for the convenience of the participants. Interactive television is intended to enhance access and availability to judicial services in areas where a judge is not chambered, and to enhance public safety by transporting in-custody hearing participants less often.

The judiciary currently has interactive television systems operational in five counties. The requested amount will allow installation of interactive television into 5 additional locations, with the focus being on collaboratively installing into locations where the jail or detention center is not co-located with the courthouse. This will reduce the need to transport in-custody participants.

We continue to use interactive television for witness testimony and in mental health proceedings in which expert witnesses are able to testify without travel and in proceedings where it will enhance access and availability to judicial services.

## **Enhanced Records Management System**

The judiciary is moving ahead with an Enhanced Records Management System. The implementation of such a system is intended to preserve court information, promote greater accessibility to that information, and reduce operational and records storage costs. It should improve judicial services and increase access to judicial information in every county. An Enhanced Records Management System will result in the creation of an electronic case folder which will replace the current paper case folders housed and stored in courthouses across the state.

## **Digital Audio Recording**

Digital Audio Recording is a method of taking the court record whereby the recording is stored onto a computer server. Storage on a computer server potentially allows easier access to testimony and allowing integration of judges' notes with specific portions of testimony for ready retrieval.

This technology, in a network environment, can replace conventional analog tape recording systems; can allow the record to be shared electronically; and can significantly reduce storage space requirements.

## **Case Management System Review**

The judiciary is planning a project that provides for an analysis of the long-term viability of the judicial case management systems to fulfill the needs of the judicial branch and the people of North Dakota.

The current case management system used by the district courts is a "legacy" or green-screen based system. While it is currently meeting the needs of the judicial branch, an analysis needs to be conducted which will include a review of the information systems to determine if they need to be replaced or modernized.

## **Business Continuity**

In today's world, threats to the security of our information systems can come from many different areas. To ensure that critical systems can be operated in the event of catastrophic failure or attack, proper plans need to be developed and implemented. This project seeks to further develop and implement those plans.

## **Data sharing**

In addition to these projects, the judicial branch continues its commitment to data sharing and integration. The Unified Court Information System (UCIS) now has over 500 enrolled users in all 53 counties and 8 municipalities. The system continues to evolve, based on the requests and demands of the user community.

Access to district court case information is provided by the state court data warehouse to over 250 criminal justice and law enforcement personnel.

The judiciary continues to share traffic citation information electronically with law enforcement and the Department of Transportation and divorce information electronically with the Department of Health. In his State of the Judiciary address the Chief Justice also discussed the electronic protection order process.

The Criminal Justice Information System (CJIS) initiative has been rapidly proceeding in areas that have not directly involved the judicial branch. Recently, the focus has begun to turn toward projects that involve the sharing of judicial data. The judicial branch continues to be supportive of and collaborate with the CJIS effort.

The central voter file initiative promises to be another area that data can be shared electronically to promote efficiencies.

## **Enterprise Architecture**

State Government is in the process of implementing an Enterprise Architecture model of governance for information technology. This model is one in which representatives from state agencies and branches of government are involved in the development of IT policies and standards.

While the Judicial Branch is supportive of, and has been involved in this effort since its beginning, we are cautious about the process and need to ensure it maintains the independence of the judicial branch.

### **Equipment and Personal Computer Contract**

The Enterprise Architecture process recently implemented a statewide contract for purchasing personal computers. The estimated savings for the judicial branch from the use of this contract are \$26,700. This reduction is already included in our budget.

### **PeopleSoft / ConnectND**

As with other state government entities, the judicial branch has recently begun using the ConnectND system. The costs associated with using ConnectND are estimated at \$110,640 and are included in the judicial budget.

### **State Court Website**

The Supreme Court's website continues to be a focal point for distribution of judicial-related information to court personnel, attorneys, and the public. It houses an ever-expanding wealth of judicial related information and Supreme Court calendar, case and opinion information.

### **Electronic Filing**

The Supreme Court's electronic filing project continues to prove its worth while saving costs and providing more equal access to those not located in Bismarck.

### **IT Services**

Additionally, our IT staff continues to support and maintain the computers and information systems for over 300 judicial branch employees and judges and over 100 contracted county employees. This includes all levels of support and is facilitated through a help desk that receives over 5000 calls per year.

**Senate Bill 2002**  
**Government Operations Division**  
**House Appropriations**

Presented by Justice Dale Sandstrom  
and  
Judge Allan Schmalenberger

**Judge Schmalenberger:**

**Introduction**

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### **Justice Sandstrom**

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The Enterprise Architecture process recently implemented a statewide contract for purchasing personal computers. The estimated savings for the judicial branch from the use of this contract are \$26,700. This reduction is already included in our budget.

### **PeopleSoft/ConnectND**

As with other state government entities, the judicial branch has recently begun using the ConnectND system. The costs associated with using ConnectND are estimated at \$110,640 and are included in the judicial budget.

This concludes the presentation regarding the budget request. I would be happy to respond to any questions.

**Juvenile Court Services  
Senate Appropriations Committee**

Mr. Chairman, members of the committee, good morning. My name is Karen Kringlie and I am a Juvenile Court Officer from the Southeast Judicial District. I will be providing you with details regarding the Juvenile Court Services budget request for 2005-2007. Funds for Juvenile Court Services are being requested at \$650,000, an increase of \$123,100.

Juvenile Court Services are the programs the North Dakota Juvenile Court professionals use to protect the community, hold youth accountable and make our youth more competent. Before I outline the specific services we would like to continue funding and expanding into the rural areas of our state, I will briefly outline the concept upon which these services are based – the mission your Juvenile Court professionals have undertaken to enhance life in your communities.

Traditionally, systems of justice were based on either retributive or punitive philosophies or, as in North Dakota Juvenile Court prior to 1998, an individual treatment mission which focused on the offender without meeting the needs of crime victims and communities or holding the youth accountable for their actions.

Balanced and Restorative Justice: In 1998, the North Dakota Juvenile Court adopted the Balanced and Restorative Justice (BARJ) philosophy. The concept of restorative justice holds that when a crime is committed the offender incurs an obligation to restore the victim – and by extension the community – to the state of well being that existed before the offense. The principle of balance suggests that the juvenile justice system give equal weight to: (1) ensuring community safety, (2) holding offenders accountable to victims, and (3) providing competency development for offenders in the

system so they can pursue legitimate endeavors after release. The BARJ philosophy or model is based on current innovative practices and also on core values that have been part of communities for centuries. It truly is a "way of thinking" that I and my colleagues have embraced and sought to implement in our various communities by focusing on local resources, values and cultures and applying these ideas within our own jurisdictions in collaboration with community stakeholders. As part of the recent administrative restructuring of the North Dakota Judicial System, we in the Juvenile Court are actively seeking a level of consistency in the services we provide. We do not think that youth, victims or communities in the rural parts of our state should lack access to the juvenile court services provided in the more urban areas of our state.

Recent History of N.D. Juvenile Court Services: As I imagine you are well aware, North Dakota with its urban and rural population centers and vast highway miles between communities, is a challenging state in which to implement uniform service delivery. Communities that have a Human Service Center located in them have always been fortunate to have access to more services than in other areas. For offenders and victims in rural areas, juvenile court officers have had to work on a shoestring budget, patching together many different ways to deliver services and in the far corners of our jurisdictions; citizens have had to do without services or at least the choices of different services. Many rural youth only accessed these services when a child was placed in a residential placement facility – obviously a much costlier proposition for taxpayers.

Juvenile Court staff have always been a resilient bunch, but our staff numbers, as well as our expertise can only go so far. Keep in mind that we are expected to work with youth who have been abused and neglected, are mentally ill or have drug and alcohol

problems. Our successes or failures have been measured by how many youth we have in treatment facilities or at the Youth Correctional Center. The perception has been that we were to fix years of dysfunction with little or no resources.

Federal Reinvestment Dollars: In 1995 the whole picture changed for the Juvenile Court System when the State of North Dakota gained access to federal reinvestment dollars under Federal IV-E foster care and Federal Medicaid programs. This program allows special education staff, public health and the courts to access federal dollars based on services we provide to high-risk youth. Local Children's Services Coordinating Committees (CSCC) managed the federal money coming into each region of the state. The allocation of the federal dollars in juvenile court paid for statewide programming for our youth offenders based on the principles of Balanced and Restorative Justice and a certain percentage of the dollars returned directly to each of the local CSCC for provision of grants within the community to groups serving high risk youth. A smaller portion of the funds returned directly to each of the area juvenile court offices to utilize that money on a local level to fill-in service gaps in our own communities.

During this time period of federal reinvestment dollars, local Children's Services Coordinating Committees and the juvenile court's adoption of the philosophy of Balanced and Restorative Justice, things couldn't have looked better for the Juvenile Courts in North Dakota. Each of the 12 juvenile court offices was receiving a check four times a year with dollars they could use at the local level to purchase or provide services for high-risk youth. Local CSCC's often had as much as \$250,000 to award in local grant dollars and statewide CSCC generated approximately \$8,000,000 per biennium.

With these dollars, communities became creative in using their dollars to meet the goals of Balanced and Restorative Justice. An example of this was the creation of the statewide Partnership Program. The mission of Partnerships is to take on the role of case manager for high-risk, mentally ill kids with the goal to prevent their placement out of their parental homes and into treatment and correctional centers.

Unfortunately, North Dakota was notified in June of 2004 that the source of these funds for the juvenile court would cease to exist. This is result of a federal decision relating to a change in federal criteria for participation in the program. The judicial branch estimates losing refinancing funds it had anticipated receiving for the 2003-2005 biennium as well as losing these federal dollars as a continuing source of funding for the services we have developed in the last eight years.

Juvenile Court Services 2005-2007: In the spirit of Balanced and Restorative Justice and with the judicial administration restructuring mission of statewide consistency of service delivery and availability, the Juvenile Court is requesting a total of \$650,000 for juvenile services.

- a. Tracking: Our statewide tracking program reaches out to children and teenagers having problems at home, school and/or with the legal system. These youth are at risk of being removed from their homes to the state foster care system or to a juvenile detention or residential facility if their behaviors don't improve. Traditional tracking pairs these youth with an adult who can mentor and monitor them in hopes of bringing about positive changes in their lives. Intensive tracking allows higher-risk youth referred by juvenile court and the Division of Juvenile Services to stay in

their home communities. This area of tracking focuses on a very detailed and restrictive plan set by Juvenile Court for the child. Intensive trackers perform curfew checks and drug screens; they may use electronic monitoring to maintain close supervision of their clients. They check on the youth at least once a day. Statewide contracting for tracking services has allowed the Juvenile Court to reduce and maintain the number of Juvenile Court FTE's.

- b. Cognitive Restructuring: Cognitive restructuring are offender programs that focuses on attitudes, beliefs, values, expectations, thinking patterns and other related cognitive structuring which allows the offender to maintain their antisocial behavior. Simply put, cognitive restructuring helps young people understand their thinking errors that get them into trouble. In 1997 the North Dakota Juvenile Court adopted a cognitive restructuring program called Keys to Innervations, a curriculum that is delivered to youth by juvenile court officers as well as community people trained by the juvenile court. The vast majority of professional criminal justice organizations deem providing offenders with cognitive restructuring programs a "best practice". The juvenile court in North Dakota would lose ten years of program development and more importantly a cornerstone of the balanced and restorative justice model were this service not funded.
- c. Offender Accountability Conferencing: A Juvenile accountability conference is face-to-face meeting, in the presence of a trained facilitator,

between the victim of a crime and the person who committed that crime. In the meeting, the offender and the victim can talk to each other about what happened, the effects of the crime on their lives, and their feelings about it. The facilitator helps them to create a mutually agreeable plan to repair any damages that occurred as a result of the crime.

Through this process, crime victims have an opportunity to get answers to their questions about the crime and the person who committed it. They take an active role in getting their material and emotional needs met. Research indicates that victims who participate in conferences receive more restitution than those who do not and feel safer and less fearful afterwards than those who do not.

Offenders have an opportunity to take responsibility for what they have done. They learn the impact of their actions on others. They take an active role in making things right, for example, through restitution, apology, or community service. Research indicates that offenders who participate in these conferences feel they were treated more fairly than those who do not, and have a higher rate of restitution completion than those who do not. This is a statewide contracted for program whose development was encouraged and supported by the Juvenile Court in conjunction with the reinvestment dollars available in the past years. Loss of this program would mean that victims of juvenile crime would be unable to take such an active role in the process, once again, a cornerstone of Balanced and Restorative Justice, and youth offenders would lose the

impact that occurs when they meet their victims face-to-face and take part in repairing the harm they caused.

- d. Diversion: In North Dakota, Juvenile Court diversion provides mainly first time or low level offenders with the opportunity to avoid a criminal record by undertaking conditions such as classes, restitution, teen court or other programming that will benefit the offender, victim and the community as a whole. Diversion is aimed at improving the efficient use of court resources by facilitating the development of alternative procedure to the normal court processes. If the conditions are successfully met, the charges are discharged on the return date and the matter closed. If the tasks are not satisfactorily completed, the case is returned to the court for further traditional action. Delivery of diversion is diverse, as each community has made use of their reinvestment dollars and community resources to put together these programs. Examples are teen court, unruly/runaway intervention, teen tobacco or addiction prevention programs or classes. Diversion frees up court officer time to deal with more serious offenders. Communities view early intervention programs as valuable resources that enhance offender skills. All methods of diversion provide offenders with learning experiences and/or skills to encourage productive and legal behaviors and empower parents to parent their children, thereby avoiding costly out-of-home placements.
- e. Community Service: Community service is an important sanction for the Juvenile Court to impose when applying BARJ because it can be both a

direct method of holding youth accountable (i.e. cleaning up after an act of vandalism) as well as a way to enhance a youth's employability by teaching job skills (i.e. carpentry, gardening) and values like working hard and showing up on time. Community service can also integrate the youth into the community by exposing them to positive adult mentors and reinforces the message that the youth is part of the community.

Across the state, various means of delivery of community service programs have been developed in the past decade. Some areas have access to a well-developed program run and funded independently of the court system while others have had to encourage youth to seek their own volunteer site or develop juvenile court implemented, funded and supervised projects. Once again, the federal refinancing dollars made possible some innovative community services programs. For example, community gardens in Williston and Grafton, landscaping in Dickinson, working at the Red River Zoo in Fargo or trail blazing for the North Country Scenic Trail in Barnes County. Youth court-ordered to perform these services are able to pay-back the community as well as learn job skills and gain a sense of self-worth by positively participating in community building or beautification. Important for victims and communities is the opportunity to see delinquent youth in a positive light and benefit from their work for various non-profit organizations or agencies. Community members interact with the youth and develop relationships that decrease the likelihood of offender recidivism. A recent

(Sept. 2004) North Dakota State University study found that lawbreakers who serve out community service sentences are less likely to reoffend.

Community service is a vital part of Balanced and Restorative Justice. Loss of state funding would leave youth, especially in the rural areas, with fewer opportunities to pay back their communities. Victims and communities would lose hundreds of thousands of dollars of free labor as well as the visual impact that offenders are held accountable by the North Dakota Juvenile Court system.

In summary, the loss of federal financing dollars in 2004 will impact juvenile court youth, their families and their communities if these services are not supported and continued by state dollars. The Juvenile Court staff has worked for many years developing these innovative and important programs and services that implement the philosophy of Balanced and Restorative Justice in North Dakota. While there exists some varied approaches in delivery of services, there is a great consistency in the high value placed by N.D. juvenile court officers on the vision of restorative justice.

Funding for these Juvenile Court services: 1.) Reduces the judiciary's need for additional juvenile court staff; 2.) Reduces offender recidivism and offender placement in residential or correctional center facilities; 3.) Enhances your community's sense of safety and security; 4.) Actively involves juvenile crime victims in the criminal justice process; and 5.) Will increase delivery of these important services to the rural areas of North Dakota.

**Juvenile Court Services  
Government Operations Division  
House Appropriations**

Mr. Chairman, members of the committee, good morning. My name is Karen Kringlie and I am a Juvenile Court Officer from the Southeast Judicial District. I will be providing you with details regarding the Juvenile Court Services budget request for 2005-2007. Funds for Juvenile Court Services are being requested at \$650,000, an increase of \$123,100.

Juvenile Court Services are the programs the North Dakota Juvenile Court professionals use to protect the community hold youth accountable and make our youth more competent. Before I outline the specific services we would like to continue funding and expanding into the rural areas of our state, I will briefly outline the concept upon which these services are based – the mission your Juvenile Court professionals have undertaken to enhance life in your communities.

Traditionally, systems of justice were based on either retributive or punitive philosophies or, as in North Dakota Juvenile Court prior to 1998, an individual treatment mission which focused on the offender without meeting the needs of crime victims and communities or holding the youth accountable for their actions.

Balanced and Restorative Justice: In 1998, the North Dakota Juvenile Court adopted the Balanced and Restorative Justice (BARJ) philosophy. The concept of restorative justice holds that when a crime is committed the offender incurs an obligation to restore the victim – and by extension the community – to the state of well being that existed before the offense. The principle of balance suggests that the juvenile justice system give equal weight to: (1) ensuring community safety, (2) holding offenders

accountable to victims, and (3) providing competency development for offenders in the system so they can pursue legitimate endeavors after release. The BARJ philosophy or model is based on current innovative practices and also on core values that have been part of communities for centuries. It truly is a "way of thinking" that I and my colleagues have embraced and sought to implement in our various communities by focusing on local resources, values and cultures and applying these ideas within our own jurisdictions in collaboration with community stakeholders. As part of the recent administrative restructuring of the North Dakota Judicial System, we in the Juvenile Court are actively seeking a level of consistency in the services we provide. We do not think that youth, victims or communities in the rural parts of our state should lack access to the juvenile court services provided in the more urban areas of our state.

Recent History of N.D. Juvenile Court Services: As I imagine you are well aware, North Dakota with its urban and rural population centers and vast highway miles between communities, is a challenging state in which to implement uniform service delivery. Communities that have a Human Service Center located in them have always been fortunate to have access to more services than in other areas. For offenders and victims in rural areas, juvenile court officers have had to work on a shoestring budget, patching together many different ways to deliver services and in the far corners of our jurisdictions; citizens have had to do without services or at least the choices of different services. Many rural youth only accessed these services when a child was placed in a residential placement facility – obviously a much costlier proposition for taxpayers.

Juvenile Court staff have always been a resilient bunch, but our staff numbers as well as our expertise can only go so far. Keep in mind that we are expected to work with

youth who have been abused and neglected, are mentally ill or have drug and alcohol problems. Our successes or failures have been measured by how many youth we have in treatment facilities or at the Youth Correctional Center. The perception has been that we were to fix years of dysfunction with little or no resources.

Federal Reinvestment Dollars: In 1995 the whole picture changed for the Juvenile Court System when the State of North Dakota gained access to federal reinvestment dollars under Federal IV-E foster care and Federal Medicaid programs. This program allows special education staff, public health and the courts to access federal dollars based on services we provide to high-risk youth. Local Children's Services Coordinating Committees (CSCC) managed the federal money coming into each region of the state. The allocation of the federal dollars in juvenile court paid for statewide programming for our youth offenders based on the principles of Balanced and Restorative Justice and a certain percentage of the dollars returned directly to each of the local CSCC for provision of grants within the community to groups serving high risk youth. A smaller portion of the funds returned directly to each of the area juvenile court offices to utilize that money on a local level to fill-in service gaps in our own communities.

During this time period of federal reinvestment dollars, local Children's Services Coordinating Committees and the juvenile court's adoption of the philosophy of Balanced and Restorative Justice, things couldn't have looked better for the Juvenile Courts in North Dakota. Each of the 12 juvenile court offices was receiving a check four times a year with dollars they could use at the local level to purchase or provide services to high-risk youth. Local C.S.C.C.'s often had as much as \$250,000 to award in local grant dollars and statewide CSCC generated approximately \$8,000,000 per biennium.

With these dollars, communities became creative in using their dollars to meet the goals of Balanced and Restorative Justice. An example of this was the creation, statewide of the Partnership Program. The mission of Partnerships is to take on the role of case manager for high-risk, mentally ill kids with the goal to prevent their placement out of their parental homes and into treatment and correctional centers.

Unfortunately, North Dakota was notified in June of 2004 that the source of these funds would cease to exist for juvenile court as result of a federal decision relating to a change in federal criteria for participation in the program. The judicial branch estimates losing refinancing funds it had anticipated receiving for the 2003-2005 biennium as well as losing these federal dollars as a continuing source of funding for the services we have developed in the last eight years.

Juvenile Court Services 2005-2007: In the spirit of Balanced and Restorative Justice and with the judicial administration restructuring mission of statewide consistency of service delivery and availability, the Juvenile Court is requesting a total of \$650,000 for juvenile services.

- a. Tracking: Our statewide tracking program reaches out to children and teenagers having problems at home, school and/or with the legal system. These youth are at risk of being removed from their homes to the state foster care system or to a juvenile detention or residential facility if their behaviors don't improve. Traditional tracking pairs these youth with an adult who can mentor and monitor them in hopes of bringing about positive changes in their lives. Intensive tracking allows higher-risk youth referred by juvenile court and the Division of Juvenile Services to stay in

their home communities. This area of tracking focuses on a very detailed and restrictive plan set by Juvenile Court for the child. Intensive trackers perform curfew checks and drug screens; they may use electronic monitoring to maintain close supervision of their clients. They check on the youth at least once a day. Statewide contracting for tracking services has allowed the Juvenile Court to reduce and maintain the number of Juvenile Court FTE's.

- b. Cognitive Restructuring: Cognitive restructuring is an offender program that focuses on attitudes, beliefs, values, expectations, thinking patterns and other related cognitive structuring which allows the offender to maintain their antisocial behavior. Simply put, cognitive restructuring helps young people understand the thinking errors that get them into trouble. In 1997 the North Dakota Juvenile Court adopted a cognitive restructuring program called Keys to Innervisions, a curriculum that is delivered to youth by juvenile court officers as well as community people trained by the juvenile court. The vast majority of professional criminal justice organizations deem providing offenders with cognitive restructuring programs a "best practice". The juvenile court in North Dakota would lose ten years of program development and more importantly a cornerstone of the balanced and restorative justice model were this service not funded.
- c. Offender Accountability Conferencing: A Juvenile accountability conference is face-to-face meeting, in the presence of a trained facilitator,

between the victim of a crime and the person who committed that crime. In the meeting, the offender and the victim can talk to each other about what happened, the effects of the crime on their lives, and their feelings about it. The facilitator helps them to create a mutually agreeable plan to repair any damages that occurred as a result of the crime.

Through this process, crime victims have an opportunity to get answers to their questions about the crime and the person who committed it. They take an active role in getting their material and emotional needs met. Research indicates that victims who participate in conferences receive more restitution than those who do not and feel safer and less fearful afterwards than those who do not.

Offenders have an opportunity to take responsibility for what they have done. They learn the impact of their actions on others. They take an active role in making things right, for example, through restitution, apology, or community service. Research indicates that offenders who participate in these conferences feel they were treated more fairly than those who do not, and have a higher rate of restitution completion than those who do not. This is a statewide contracted for program whose development was encouraged and supported by the Juvenile Court in conjunction with the reinvestment dollars available in the past years. Loss of this program would mean that victims of juvenile crime would be unable to take such an active role in the process, once again, a cornerstone of Balanced and Restorative Justice, and youth offenders would lose the

impact that occurs when they meet their victims face-to-face and take part in repairing the harm they caused.

- d. Diversion: In North Dakota, Juvenile Court diversion provides mainly first time or low level offenders with the opportunity to avoid a criminal record by undertaking conditions such as classes, restitution, teen court or other programming that will benefit the offender, victim and the community as a whole. Diversion is aimed at improving the efficient use of court resources by facilitating the development of alternative procedure to the normal court processes. If the conditions are successfully met, the charges are discharged on the return date and the matter closed. If the tasks are not satisfactorily completed, the case is returned to the court for further traditional action. Delivery of diversion is diverse, as each community has made use of their reinvestment dollars and community resources to put together these programs. Examples are teen court, unruly/runaway intervention, teen tobacco or addiction prevention programs or classes. Diversion frees up court officer time to deal with more serious offenders. Communities view early intervention programs as valuable resources that enhance offender skills. All methods of diversion provide offenders with learning experiences and/or skills to encourage productive and legal behaviors.
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This concludes my presentation regarding Juvenile Services budget request. I would be happy to answer any questions.

**Senate Appropriations Committee**  
**Mary Muehlen Maring**  
**Juvenile Drug Courts**  
**January 21, 2005**

I. Budget Request

- A. We are requesting \$216,000 in general funds to continue operation of our three juvenile drug courts. This amount includes \$13,000 as match funds for the Office of Justice Programs Implementation grant used for the Bismarck juvenile drug court and \$203,000 to support all three courts through the next biennium.

We will continue to seek grant funds from the Enforcement of Underage Drinking Laws Grant. The total amount needed for the biennium to run our juvenile drug courts is \$387,000. This is approximately \$64,500 per year per court.

Our request is up from last biennium - approximately \$115,000.

Across the country, state legislatures are taking over the funding for the drug courts, and we request that North Dakota do the same.

A drug court is being discussed for Minot. Should they decide on a juvenile drug court, we will seek grant funding from the Office of Justice Programs or the Enforcement of Underage Drinking Laws Grant.

II. North Dakota Juvenile Drug Courts

- A. Grand Forks and Fargo were implemented May 1, 2000  
B. Bismarck was implemented October 2002  
C. Marilyn Moe, Program Director, North Dakota Supreme Court.  
Contact her at (701) 328-2198 to arrange a visit to one of the drug courts or to view a ten-minute video on our North Dakota Drug Courts.

### III. Juvenile Drug Court Statistical Summary

- A. In 2003, the illegal possession or purchase of alcoholic beverages was the most common single reason for referral to the juvenile court. There was a 3 percent increase in referrals from 2002 to 2003 for possession or purchase of alcoholic beverages. From 2002 to 2003, there was a slight decrease of 520 to 506 referrals for possession of a controlled substance to the juvenile court statewide.
- B. According to the 2003 Youth Risk Behavior Survey, 8.5 percent of North Dakota high school students have used methamphetamine one or more times during their lifetime; 20.6 percent of North Dakota high school students have used marijuana one or more times during the 30 days preceding the survey; 54.2 percent of North Dakota high school students drank one or more drinks on more than one day of the 30 days preceding the survey; and 39.5 percent of North Dakota high school students drank more than five drinks of alcohol in a row on more than one of the 30 days preceding the survey.

Although North Dakota's numbers have gone down, we still have the highest rate of alcohol use among high school students in the nation.

- C. March 31, 2004, Statistical Summary - Dr. Kevin Thompson, NDSU
  - 1. We had 130 participants as of March 31, 2004
  - 2. 49 have graduated from the drug court program
  - 3. Average age - 16.2 years
  - 4. Average number of prior referrals to juvenile court before entering drug court - 5.5
  - 5. 79 percent were Caucasian and 21 percent were minorities
  - 6. 51 participants were terminated because of dirty screens and further offenses
  - 7. 30 current participants as of March 31, 2004
  - 8. Marijuana and alcohol are the main drug choices
  - 9. 61 percent of the participants had a dual diagnosis (substance abuse and mental health)

#### IV. Evaluations - Dr. Kevin Thompson, NDSU

##### A. Recidivism - June 20, 2002:

1. Drug Court participants 35.7 percent
2. Comparison group 55.6 percent

##### B. Recidivism Cost Savings Report

1. Recidivism is defined as any subsequent arrest for an offense committed in North Dakota classified as Class B misdemeanor or higher.
2. The reduced recidivism rate among drug court juveniles produced a court and victim cost savings of \$62,400 over 18 months.

##### C. Report of impact of Drug Court on participant's school achievement (August 12, 2002):

1. Average GPA among participants in 2 quarters preceding court: 1.78
2. Average GPA among participants in 2 quarters following court: 2.08  
(An increase of roughly 1/3 of a grade point)
3. Decrease in absenteeism
4. Qualitative data from teachers:
  - a. one juvenile elected to student council
  - b. one achieved a perfect grade point average
  - c. another scored in the 82nd percentile on the ACT following a poor score prior to drug court
  - d. several have gone on or are considering college

##### D. Cost-Benefit Analysis: Youth Correction Center, Group Residential Center, Community Supervision<sup>1</sup>

1. YCC costs \$120 per day or roughly \$3,677 per month - approximately \$44,000 per year

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<sup>1</sup>Figures provided by the Division of Juvenile Services, North Dakota Department of Corrections (2002).

2. Group residential facility costs \$100 per day or roughly \$3000 per month - approximately \$36,000 per year
3. Community supervision costs \$11 per day or roughly \$330 per month - approximately \$4,015 per year
4. Drug Court costs \$14.73 per day per JDC participant

E. Adult Recidivism Outcome Evaluation - November 2004

1. Study included all graduates 17 years of age who had been out of the program one year up to three years with the cutoff date of May 4, 2004.
2. Recidivism defined: (1) Any arrest as an adult for a Class A misdemeanor or higher; (2) any arrest as an adult for a substance use related offense; (3) any conviction as an adult for a class A misdemeanor or higher; and (4) any conviction as an adult for a felony.
3. The highest recidivism rate was in the East Central or Fargo juvenile drug court where out of 20 graduates 8 or 40 percent were convicted of a Class A misdemeanor or higher.
4. The lowest recidivism rate was in the Northeast Central or Grand Forks juvenile drug court where out of 24 graduates 4 or 17 percent were convicted of a Class A misdemeanor or higher.
5. The factors that were identified as associated with recidivism as an adult were specifically being male, beginning drug court at a later age, being older at the time of the study, and being referred to juvenile court at a later age.
6. The study examined why the Grand Forks graduates were much more likely than all participants to sustain an offense-free lifestyle in adulthood. The conclusion is that the longer the court retained a drug court graduate, the lower the probability that the juvenile would recidivate as an adult. On the average, Grand Forks graduates were retained in drug court 11.1 months compared to

7.8 months for Fargo graduates. The only other characteristic that differed between the courts was the average age at which participants commenced drug court. On average, Grand Forks participants commenced drug court about four months (16.5 years) earlier than Fargo participants (16.9 years). "While to some, this four month difference may seem trivial, it is not when considering that adolescent criminality begins to skyrocket around the 15th - 17th years. Consequently, the earlier that criminality prone juveniles are thrust into a treatment program, the easier it is to prevent future criminality." Dr. Kevin Thompson, Department of Criminal Justice and Political Science, NDSU, Fargo, North Dakota, November 2004, "An Adult Recidivism Outcome Evaluation of North Dakota's Juvenile Drug Courts."

7. Recommendations include targeting substance abusing juveniles for admittance between 15 ½ and 16 ½ years of age and extending the drug court process by at least three months. In addition, develop an aftercare treatment plan and mentoring for drug court participants.
8. Overall the study suggests that juvenile drug court can facilitate an offense-free lifestyle for participants when they reach adulthood.

Meeting the following criteria does not guarantee participation in JDC. Some general criteria are:

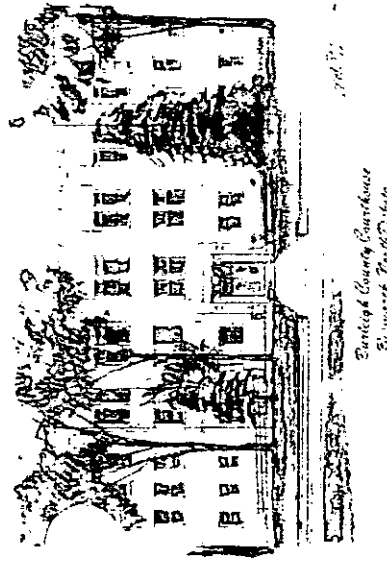
- Ages 13-18
- An Assessment indicating a drug and/or alcohol abuse problem.
- No prior or pending violent felony adjudications or pending petitions alleging violent felony level delinquent acts.
- No previous referral to JDC
- Admission to the offense and/or a court order.
- No pending petitions alleging possession with intent to manufacture or sell a controlled substance.

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*This Program is made available through funding from a Local Law Enforcement Block Grant and matching funds from the North Dakota Supreme Court.*

## Juvenile Drug Court

### South Central Judicial District



*"Be determined and take action against your obstacles in life."*

*-Author Unknown*

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Juvenile Court  
South Central Judicial District  
514 E. Thayer Avenue  
Bismarck, ND 58501

701/222-6709

### Juvenile Court

South Central Judicial District  
514 E. Thayer Avenue  
Bismarck, ND 58501

## What is a Juvenile Drug court?

A juvenile drug court (JDC) is a special program aimed at intervening in the lives of substance abusing juveniles. The JDC aims to reduce the criminal behavior that frequently co-occurs through intense judicial supervision and participation in treatment programs.

Elements of the JDC program include frequent drug testing, intense judicial and probation supervision, individual, group and family counseling, drug abuse treatment, educational opportunities and the use of sanctions and incentives.

## Program Philosophy

The mission of the JDC is to "reduce juvenile crime and substance abuse by referring youth to a court-managed treatment program which holds them accountable and emphasizes personal responsibility."

## A Unique Partnership

The program forms a unique partnership between the JDC Judge, the State's Attorney's Office, the Probation Officers, the Defense Attorney, The School System, the Local Law Enforcement, and the Treatment Professionals. This group are as the JDC team.

## Juvenile Drug Court Description

JDC is a post petition/post adjudication program with dismissal of the current petition if the participant successfully completes the program. In addition, the juvenile may be entitled to dismissal of his juvenile record if he remains offense and drug free for a two year period.

## Program Structure

As participants progress through the Paths, the requirements are less restrictive. Once a participant has successfully completed all three Paths, he/she will graduate. Depending on the progress of the juvenile, incentives and sanctions will be imposed by the JDC judge. Throughout the program each participant must also complete meaningful community service as ordered by the JDC Judge. Parents are also expected to attend JDC progress review hearings and treatment with their child.

### Path One

- Weekly hearing
- Minimum of two drug/alcohol screens per week (both random and scheduled)
- 1-2 weekly probation contacts
- Intensive tracking
- Community service as ordered
- Individual/family treatment and counseling as recommended
- School/Work
- AA/NA/ School groups

### Path Two

- Weekly hearings (may be reduced by Judge)
- Random drug/alcohol screens
- Probation contacts as ordered
- Regular tracking
- Community service as ordered
- AA/NA/school groups
- Individual/family treatment and counseling as recommended
- School/work

### Path Three

- Hearings as ordered
- Random drug/alcohol screens
- Probation contacts as ordered
- Tracking as needed
- Individual/family treatment and counseling as recommended
- AA/NA/school groups
- Community service as ordered
- School/Work

## Who Qualifies for Juvenile Drug Court?

The JDC team has some flexibility as to who is eligible, depending on their age, drug and/or alcohol history and nature of their prior convictions, to enter the JDC program.

Unfortunately, no more than four to eight percent of drug-using offenders on probation and living in our communities are in drug court programs.

## Drug Courts Provide a Viable Alternative To Eligible Substance-Abusing Offenders

Drug courts provide one of the most viable options for addressing the substance-abusing offender today. Whether the person enters the judicial system because of a criminal offense, delinquent behavior or the neglect or abuse of their children, they can benefit from the enhanced supervision provided in the drug court system. Not only do offenders benefit, but public safety is also strengthened through the monitoring and accountability that occurs in drug court.

## Drug Courts Provide More Jail Space for Serious Criminals?

With Three-Strikes-You're-Out statutes proliferating and long-term incarceration for serious offenders increasing, drug court programs are needed to free up limited jail space for serious criminals.

## Do Drug Courts Save Money?

Incarceration of drug using offenders costs between \$20,000 and \$50,000 per person, per year. The capital costs of building a prison cell can be as much as \$80,000. In contrast, a comprehensive drug court system typically costs between \$2,500 and \$4,000 annually for each offender. Evaluations from the State of Oregon and Dallas County, Texas have shown that for every dollar invested in drug court, ten dollars are saved by corrections.

## Are Drug Courts Programs "Soft on Crime"?

Drug courts across the country control participants' drug usage and activity through: frequent drug testing, intensive supervision and judicial monitoring and immediate sanctions that include incarceration to respond to program violations. Drug courts also provide incentives to participants who comply with program requirements; reducing terms of probation, treatment, conditions, program fees and other innovative rewards. This same population has historically not been motivated by the threat of incarceration alone. In fact, drug court participants find drug court more challenging than jail or prison.

## What Are DUI Drug Courts?

Given the phenomenal success of drug courts across the country, many courts are beginning to apply the drug court model to DUI cases. In doing so, DUI drug courts, like traditional drug courts, are making offenders accountable for their actions in a fair and just way, thus bringing about a behavioral change that ends DUI recidivism, stopping the abuse of alcohol and protecting the public.

## What Are Drug Court Systems?

Drug court systems deal with all drug-using offenders while they are on probation and supervised in the community (those not sent to state prison or incarcerated in county jail). Drug court systems place drug-using offenders in appropriate drug court tracks that tailor the level of intervention and resource commitment to the needs of the offender but, importantly, to the public safety needs of the community.

All arrestees are drug tested, and those determined to have a drug abuse problem are supervised, drug tested and monitored by the drug court team led by the drug court judge. Denver, Minneapolis and Tampa are jurisdictions that have successful "Comprehensive Drug Court Systems."

*"Drug courts are a vital, essential element of our National Drug Control Strategy. While offering incentives to stay off drugs, they hold individuals accountable and simultaneously deal with the deadly disease of addiction. America is better off because of drug courts."*

— John Walters

Director, Office of National Drug Control Policy

## The Facts on Drug Courts



**National Association of Drug Court Professionals**

4900 Seminary Road, Suite 320, Alexandria, VA 22311

703.575.9400 fax: 703.575.9402

[www.nadcp.org](http://www.nadcp.org)

# THE FACTS

**FACTS ON  
DRUG COURTS**

**NATIONAL  
ASSOCIATION  
OF DRUG COURT  
PROFESSIONALS**

**W**ith nearly 1,000 drug courts in existence or being planned, there is a great deal of bi-partisan interest in drug courts across the nation. This fact sheet provides answers to some of the most commonly asked questions about drug courts.

*"Drug courts are an effective and cost efficient way to help non-violent drug offenders commit to a rigorous drug treatment program in lieu of prison."*

—George W. Bush

President of the United States

*"Three quarters of the growth in the number of federal prison inmates is due to drug crimes. Building new prisons will go only so far. Drug courts and mandatory testing and treatment are effective. I have seen drug courts work. I know they . . . make a difference"*

—William Jefferson Clinton  
Former President of the United States

## What Are Drug Courts and Do We Need Them?

A drug court is a special court given the responsibility to handle cases involving substance-abusing offenders through comprehensive supervision, drug testing, treatment services and immediate sanctions and incentives.

Drug court programs bring the full weight of all intervenors (judges, prosecutors, defense counsel, substance abuse treatment specialists, probation officers, law enforcement and correctional personnel, educational and vocational experts, community leaders and others) to bear, forcing the offender to deal with his or her substance abuse problem.

In addition, drug courts ensure consistency in judicial decision-making and enhance the coordination of agencies' resources, increasing the cost effectiveness of programs.

## Are All Drug Courts the Same?

The design and structure of drug court programs are developed at the local level, to reflect the unique strengths, circumstances and capacities of each community. Many sectors of the community are involved in the planning and implementation process of a drug court system, including: criminal justice, treatment, law enforcement, educational and community anti-drug organizations. Not only do drug courts address issues in the criminal justice arena, but family dependency courts, DUI drug courts, juvenile drug courts, reentry courts and mental health courts are all built around the drug court model. In these courts, issues such as juvenile delinquency, child abuse and neglect and repeat drunk driving are all addressed. Offenders are treated holistically and smoothly reintegrated into society in these courts.

## Do Drug Courts Work?

American University's Drug Court Clearinghouse reports that over 400,000 drug-using offenders have participated in drug court programs since their inception in 1989. In 1997, the Government Accounting Office (GAO) reported 1% of all offenders entering drug courts since 1989 either successfully completed their drug court program or are currently actively participating in their program.

In 2001, Columbia University's National Center on Addiction and Substance Abuse (CASA) concluded an updated study of its seminal 1998 review of drug court

research and evaluations. It finds that drug courts continue to provide the most comprehensive and effective control of the drug-using offenders' criminality and drug usage while under the court's jurisdiction.

The revised study, based on a review of 37 evaluations, finds that their results are consistent with the 1998 analysis and the 2000 update based on 48 other evaluations finding that "drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program than other forms of community supervision" and that "drug use and criminal behavior are substantially reduced while offenders are participating in drug court." In fact, the average recidivism rate for those who complete the drug court program is between four and 29% as compared to 48% for those who do not participate in a drug court program. Additionally, the 2003 National Institute of Justice (NIJ) recidivism report entitled, "Recidivism Rates For Drug Court Graduates: National Based Estimates," representative of over 17,000 annual drug court graduates nationwide, found that recidivism rates for drug court participants one year after graduation is a mere 16.5% and only 27.5% after two years. The report also found that participants from 38 drug courts throughout the country have recidivism rates lower than 10% one year after graduation.

## Who is Eligible for Drug Courts?

Drug courts started out as diversionary programs dealing with less-serious offenders, typically charged with simple drug possession or under the influence charges.

As drug courts have proven their effectiveness in controlling both the drug usage and criminality of drug-using offenders, communities successfully have expanded drug court programs to probationers, including drug-using offenders charged with non-drug offenses. American University's Drug Court Clearinghouse reports that 70% of drug courts now in probation-based or post-plea programs, and the typical participant has at least a 15-year history of drug usage.

The Bureau of Justice Statistics reports that two million probationers—two-thirds of all probationers—may be considered drug and alcohol involved (BJS, 1995).

**Comments by**

**Allan Schmalenberger**

**District Judge**

Mr. Chairman, members of the committee, good morning. For the record, I am Allan Schmalenberger, the presiding district judge for the Southwest Judicial District. I am also chair of the Court Technology Committee. At this time, I have been asked to discuss indigent defense services as a trial judge.

In 1973, I started practicing law in Dickinson. Being an inexperienced young lawyer, I knew the only way to obtain courtroom experience was to get into the courtroom. I did what most young attorneys did at that time, I represented defendants in criminal cases and took court appointments.

To obtain court appointments, the judge would call and ask you to handle the case. There were no set rates, and the county was obligated for your fees and expenses. You would negotiate with the judge and, at times, the judge would offer confiscated property from the defendant for your attorney fees. The cases were not complicated, nor time consuming, and the defendant had a low risk of being incarcerated.

As the years went by, the cases increased in number as well as in complexity. After you obtained the initial courtroom experience, you were no longer interested in handling criminal cases. Because of these increases, the cost to the counties for indigent defense services went up substantially. As you may recall, a murder case in Adams County almost broke the county in paying for indigent defense services. After that, the State provided funding for indigent defense services.

In 1981, I was appointed district judge, and the judiciary started contracting with attorneys to provide indigent defense services. The contracts provided for a flat monthly rate to handle all appointments. What didn't change was the judge's involvement in selecting the attorneys, setting the rate of compensation, reviewing requests to obtain transcripts, depositions, investigative services, and expert witness services. In essence, the judge assigned to the case determined the level of services provided for the defendant. This has always been an uneasy relationship between the judge and counsel. The judge wants to retain contract counsel, and the contract counsel does not want to displease the judge.

Because of the evolving nature of litigation and the practice of law, there are now fewer attorneys involved in litigation, which also means even fewer attorneys handling criminal cases. In addition, there are fewer young attorneys moving to many of the communities in North Dakota. The pool of eager young attorneys interested in criminal defense is much smaller now. The new attorneys are joining established firms, and the firms are not interested in criminal cases.

The last time we entered into contracts for indigent defense services in the Southwest Judicial District, we were unable to obtain the number of counsel we felt desirable. The average age of our current counsel is 54. Of these, one has already informed me he is retiring.

Although the number of counsel is declining, the number needed for indigent defense is not. We were unable to obtain the number of counsel we wanted for juvenile cases. We wanted three attorneys because of the inherent conflicts. You can have one counsel for the mother, one for the father, and one for the child. To find additional counsel, we have to go outside of the contracts.

We have seen an increase in deprivation cases because

of the meth problems. Since the first of the year, we removed six children from their homes directly related to meth. Not only does this impact the juvenile cases, it also impacts the criminal caseload. Most of these individuals are indigent.

I don't know where I am going to find counsel to provide these services in the future. The current system creates apparent and real conflicts between the judges and defense counsel. Judges are not only to be impartial but to maintain the appearance of impartiality.

This concludes my presentation. I would be happy to answer questions.



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March 8, 2005

TO: Representative Ron Carlisle  
Representative Joe Kroeber  
Representative Blair Thoreson

FROM: Ted Gladden

SUBJECT: SB 2002

We have gone through the budget for the Indigent Defense Commission. Attached is Susan Sisk's memo outlining possible reductions. With the revision, it will require \$815,671 to fund the Commission for the 05-07 biennium. To reduce the original budget by \$319,615, we have reduced the salaries of the personnel, eliminated one statewide investigator, and staggered the starting dates for the personnel. I might point out that the original estimate was based on four statewide investigators and was arrived at based on the standards used in the State of Indiana, which the task force felt were comparable and should be used as a guide in developing the budget presented to the interim committee. However, to get this initiative adopted, we are suggesting three statewide investigators, two for 18 months and a third for the last six months of the biennium.

We have recalculated the 10% expense ratio based on a reduction in the hourly rate from \$75 to \$65. This results in a reduction of \$115,594. We reduced the monies that were proposed for caseload increases from \$500,000 to \$250,000. We are projecting there will be an increase in our indigent defense administration fund of \$200,000. This is an increase over earlier projections. This is arrived at by the increased level of payments received into the fund in the last four months. Payments by indigent defendants have increased and remain at a higher level than what was the experience in the first year of the biennium. We are also projecting an additional turnback of \$250,078 that was not previously identified. This additional judicial turnback is based on review of our appropriation with additional months of expenditure history.

March 8, 2005

Page 2

In summary, we concluded that the Commission expenses of \$815,671 can be funded through a combination of reduced compensation for the employees, staggering start dates of the employees, a decrease in the amount set aside for additional caseloads, an increase in the flow of money into the indigent defense administration fund, and additional turnback dollars. The changes are based on the assumption that the amount for indigent defense contract services in SB 2002 will not be reduced.

The second attachment I am providing is an amendment to Engrossed SB 2002. This would allow for the use of these additional turnback dollars and also provide for the court to expend funds for the establishment and operation of the Commission.

If you have any questions concerning any of these materials, please contact me.

TG/rb

Attachments

cc: Sandi Tabor

**SB 2027 Indigent Defense Commission**  
**Sandi Tabor**  
March 4, 2005

#4  
H.A. pp. 6.0.  
Fri. 3/4/05  
SB 2002

**Background on the ND Indigent Defense Task Force:**

- State Bar Association of North Dakota formed a task force to analyze the present indigent defense system.
- To assist the task force, the Legislative Council, Supreme Court and the Bar Association hired the Spangenberg Group to conduct interviews and present a report to the task force and the Criminal Justice Interim Committee regarding the existing system.
- The Spangenberg Group made the following findings:
  - **Lack of Independence:** The chief problem with the present system is a pervasive absence of independence for the defense function from the judiciary
  - **Funding:** North Dakota's expenditures for indigent defense services based on 2002 numbers are 43% percent less than the next lowest state (Wyoming).
    - Wyoming - \$7 million
    - South Dakota - \$12.6 million
    - Montana - \$18 million
    - North Dakota - \$ 4 million ... for this biennium the expenditure is \$ 5 million
  - **High Caseload:** All contracts in ND are flat-fee amounts for an unspecified number of cases. This means an attorney must take as many assignments as assigned, absent a conflict of interest. In recent years, the caseloads have steadily exceeded predictions made by the Court.
    - National standards applicable to full-time public defenders state that the caseload should not exceed 150 felony cases per year.
    - It is not uncommon for the caseload of North Dakota contract attorneys to well exceed this limit.
  - **Low Pay:** The presumptive hourly pay established in statute is \$75.00 per hour. In the past the Court's goal has been to pay attorneys \$65.00 per hour. In reality the average payment is \$55.00 per hour ... not enough to cover overhead.

- In homicide cases, insufficient pay is a particularly significant problem. These cases are far more time intensive and consequently the per hour rate drops dramatically.
- Another issue affecting pay is contract attorneys are obligated to carry all cases that are open at the end of the contract period. This means that the attorneys are obligated to represent the client until the case is closed, often well after the contract has expired, and often with no pay.
- **Administrative and Quality Problems:** From the previous comments it should come as no surprise that concerns were raised about the quality of attorney/client communications ... and concerns were raised about the lack of oversight in general.
- The Spangenberg Group made the following recommendations:
  - **The Current System Needs More Funding:** Compensation must be tied to actual work performed or number of cases accepted.
  - **The Current System Needs Infrastructure and Better Administration:** Characteristics of an effective contract system include:
    - Minimum attorney qualifications
    - Support services, such as paralegals and investigators
    - Independent oversight and monitoring
    - Workload caps
    - Limitations on the practice of law outside the contract
    - Caseload caps
    - Case management and tracking system
    - Guidelines on client contact and notification of appointment
    - Oversight and evaluation of contract attorneys.

### **Provisions of SB 2027**

- Section 1 – Establishes the Commission on legal counsel for indigents – 7 members appointed by the Governor, Legislature, Supreme Court and State Bar Association.
- Section 2 – Outlines the duties of the Commission – it includes developing standards governing the delivery of indigent defense services. The bill allows the present contract attorney structure to remain, but also allows the Commission to provide public defenders in regions where the Commission considers it necessary.

- Section 3 – Provides that the Commission will appoint a director and outlines the duties of the director.
- Section 4 – Deals with the confidentiality of the files.
- Section 5 – Moves the funding source for guardian ad litem services from the counties to the Commission.
- Section 6 – Excludes the Commission from the definition of administrative agency.
- Section 7 – Clarifies that the Commission will determine the compensation rate for contract counsel.
- Section 8 – Establishes the indigent defense administration fund and establishes a continuing appropriation
- Sections 9& 10 – Provide transition language about transferring monry to the Commission on January 1, 2006, and the expiration of contracts for indigent defense work with the Supreme Court.
- Section 11 – Provides an effective date for Sections 5 and 7 of January 1, 2006.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2002

Page 1, line 2, remove " and "

Page 1, line 3, after " judges " insert " ; and to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; and to provide a statement of legislative intent "

Page 4, after line 28, insert:

**" SECTION 6. EXEMPTION - LEGISLATIVE INTENT - INDIGENT DEFENSE COMMISSION FUNDING.** The supreme court's and district courts' appropriations contained in subdivisions 1 and 2 of section 1 of chapter 2 of the 2003 Session Laws are not subject to the provisions of section 54-44.1-11 for up to an amount of \$251,000 and any unexpended funds from these appropriations are available to be used for the purpose of establishing and defraying the expenses of the commission on legal counsel for indigents provided for under 2005 Senate Bill No. 2027 during the biennium beginning July 1, 2005, and ending June 30, 2007. It is further the intent of the legislative assembly that the supreme court expend from funds appropriated under this Act for indigent defense services such funds as are necessary to assist in establishing and defraying the expenses of the commission on legal counsel for indigents provided for under 2005 Senate Bill No. 2027."

Renumber accordingly

*File*

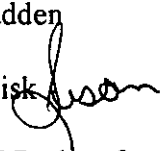


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March 8, 2005

**TO:** Ted Gladden  
**FROM:** Susan Sisk   
**SUBJECT:** 2005-07 Budget for Administration of Commission on Legal  
Counsel for Indigents

Attached is a revised 2005-07 budget for the administration of the Commission on Legal Counsel for Indigents as requested by the Government Operations Committee.

The revised budget is \$815,671, a decrease of \$319,615. This was arrived at by decreasing the salaries for the director and deputy director, and prorating all salaries by the likely number of months they would be employed during the biennium. I also reduced the number of investigators from 4 to 3, and calculated 2 of them working for 18 months of the biennium, and the third only working the last 6 months of the biennium.

I am proposing that the \$815,671 be funded as follows:

- \$115,593 Recalculating the overhead of 10% to reflect the decrease in contract amount from \$75 to \$65 per hour
- \$250,000 Reducing the amount available for caseload increases from \$500,000 to \$250,000
- \$200,000 Additional amount available in the Indigent Defense Administration Fund. A total of \$1,020,000 was budgeted based on earlier estimates. Monthly collections have increased since preliminary estimates.
- \$250,078 Additional judicial turnback based on most recent estimates. This would be a carryover in the judicial budget from 2003-05 to 2005-07.
- \$815,671 Total Funding Proposal

I have attached worksheets detailing these proposals. Please contact me with any questions.

# Administration of Commission on Legal Counsel for Indigents

Director - Salary (\$80,000/yr) and Benefits	\$ 183,911
Deputy Director - Salary (\$50,000/yr) and Benefits	\$ 124,463
Administrative Asst. - Salary (\$23,472/yr) and Benefits	\$ 60,044
3 statewide Investigators - Salary (\$41,964/yr) and Benefits	\$ 195,345
* Operating - See Note 1	\$ 210,854
Oversight Board - 7 members - 4 meetings per year	\$ 8,654
Start-up Costs - desks, chairs, computers, printers	\$ 32,400
	<u>\$ 815,671</u>

## Funding Sources:

General Fund	\$ 815,671
Special Fund	\$ -
	<u>\$ 815,671</u>

## Proposed Funding:

Decrease in Reimbursement of 10% Overhead at \$65/hr	\$ 115,593
Decrease in amount available for additional cases	\$ 250,000
Increase in Indigent Defense Administration Fund	\$ 200,000
Additional Judicial Turnback - would carryover from 2003-05 to 2005-07	\$ 250,078
	<u>\$ 815,671</u>

## Total Judicial Turnback:

Previous Commitment	\$ 620,000
Additional Turnback (carryover from 2003-05 to 2005-07)	\$ 250,078
	<u>\$ 870,078</u>

**Detail of 2005-07 Proposed Indigent Defense Costs**  
**SB 2002 - Commission on Legal Counsel for Indigents**  
**SB 2002 - ND Supreme Court**

**Administration of Commission on Legal Counsel for Indigents - SB 2007**

Director - Salary (\$90,000/yr) and Benefits	222,506
Deputy Director - Salary (\$60,000/yr) and Benefits	152,444
Administrative Asst. - Salary (\$23,472/yr) and Benefits	67,137
4 statewide Investigators - Salary (\$41,964/yr) and Benefits	441,291
- Operating - See Note 1	210,854
Oversight Board - 7 members - 4 meetings per year	8,654
Start-up Costs - desks, chairs, computers, printers	32,400
	<u>1,135,286</u>
Funding Sources:	
General Fund	1,135,286
Special Fund	<u>1,135,286</u>

**Revised Budget**

**Savings**

\$80,000/yr - 22 months	183,911	38,595
\$55,000/yr - 21 months	124,463	27,981
21 months	60,044	7,093
2 Investigators - 18 months, 1-6 mos	195,345	245,946
	210,854	-
	8,654	-
	32,400	-
	<u>815,671</u>	<u>319,615</u>
	815,671	319,615
	<u>815,671</u>	<u>319,615</u>

**Judicial Appropriation - SB 2002**

Contract Amounts - 21,810 estimated assignments @ 5.3 hrs/assignment @ \$65/hr - Note 2	7,513,545
Reimbursement of Expenses - 10%	866,948
Caseload Increase - in the event caseload increases beyond projection	500,000
Out of contract - Conflicts	350,000
Expert Witness Fees	100,000
Total Indigent Defense Contract Costs	<u>9,330,493</u>
Guardian ad Litem Costs (would stay in the judiciary) - Note 3	527,875
Total Indigent Defense Request in Judicial Appropriation	<u>9,858,368</u>
Funding Sources:	
General Fund	8,838,368
Special Fund (Indigent Defense Administration Fund)	<u>1,020,000</u>
	<u>9,858,368</u>
2003-05 Indigent Defense Budget:	
General Fund	4,312,397
Special Fund (Indigent Defense Administration Fund)	<u>750,000</u>
	<u>5,062,397</u>
Increase from 2003-05 to 2005-07	
General Fund	4,525,971
Special Fund (Indigent Defense Administration Fund)	<u>270,000</u>
	<u>4,795,971</u>

7,513,545	115,594
Recalculated at 10%	751,355
Decreased by \$250,000	250,000
	350,000
	100,000
	<u>8,964,900</u>
	527,875
	<u>9,492,775</u>
	<u>365,594</u>
	8,472,775
	365,594
	<u>1,020,000</u>
	<u>9,492,775</u>
	<u>365,594</u>