

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2104

2005 SENATE JUDICIARY

SB 2104

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2104

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 5, 2005

Tape Number	Side A	Side B	Meter #
1	X		3785 - 4760
Committee Clerk Signature <i>Maria L. Salberg</i>			

Minutes: Relating to the selection of Jurors.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Ted Gladden, State Court Administrator, (meter 3785) spoke his testimony (attachment #1)

Sen. Traynor (meter 4079) questioned how many times this has been an issue. **Mr. Gladden** stated no, but there is a possibility for this in two counties. Discussion of the Counties.

Sen. Trenbeath discussed his concerns on county sizes that would be effected by this bill and why 10,000 population was picked. **Senator Syverson** observed that the numbers of counties under 10,000 will only increase in time. Discussion (4322) if this was an issue on any upcoming criminal trials? **Mr. Gladden** stated no, that the trial in concern was in Federal Courts and they follow different regulations.

Testimony in Opposition of the Bill:

Page 2

Senate Judiciary Committee

Bill/Resolution Number SB 2104

Hearing Date January 5, 2005

There was no testimony in opposition of the bills.

Further discussion on why 10,000 population number was used. (meter 4528)

Sen. Trenbeath stated that the last time this bill was amended was in 1999.

Senator John (Jack) T. Traynor, Chairman closed the Hearing.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2104

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 5, 2005

Tape Number	Side A	Side B	Meter #
1		x	1942 -2470
Committee Clerk Signature <i>Mona L. Selby</i>			

Minutes: Relating to the selection of Jurors Cont.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the continuation and vote.

Sen. Nelson made the motion to Do Pass and **Senator Hacker** seconded.

Sen. Trenbeath discussed the necessity of 10,000. Should this be based on a district size or a judges opinion.

All in Favor (6) None oppose. None Absent.

Senator Syverson is the carrier of the Bill.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 01/05/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2104

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Nelson Seconded By Senator Hacker

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	X		Sen. Nelson	X	
Senator Syverson	X		Senator Triplett	X	
Senator Hacker	X				
Sen. Trenbeath	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Syverson

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

REPORT OF STANDING COMMITTEE (410)
January 5, 2005 11:53 a.m.

Module No: SR-02-0090
Carrier: Syverson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2104: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2104 was placed on the
Eleventh order on the calendar.

2005 HOUSE JUDICIARY

SB 2104

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2104

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/14/05

Tape Number	Side A	Side B	Meter #
1	xx		36.4-43
Committee Clerk Signature <i>Maun Penrose</i>			

Minutes: 12 members present, 2 members absent (Rep. Bernstein & Rep. Charging).

Chairman DeKrey: We will open the hearing on SB 2104.

Ted Gladden, State Court Administrator: Support (see written testimony).

Representative Koppelman: It looks like you're taking out the provision about 10,000; I understand you want to give the court discretion, but what if that were, would you see a problem with having that provision be "or", the court determining that the pool was insufficient, the lines that are stricken on lines 9 and 10, page 1. You are totally changing the focus, I was wondering if that population trigger serves any purpose to have that, or the court's discretion.

Ted Gladden: The only thing I have heard from district judges, who say that they wish that it were not just discretionary with them, but that the population be removed, because it gets to be difficult in some of the counties when they get down; they have to wait to get to that threshold, they just feel it would be a lot easier if it were done almost automatically. But I really can't answer that. I don't know.

Representative Koppelman: What I am thinking is that on line 10, if that line were not overstruck, and then right after the overstrike on line 10, the word "or" were put in, it would read that "if the county of venue has a population of not more than ten thousand persons or the Court determines..." That would give the court both the population trigger or the discretion.

Ted Gladden: I don't know if that would cause a problem or not. I can't think of any.

Representative Delmore: One of the problems we had with this the last time is that some of the less populated counties felt that we were trying to move those trials out of their areas, which is not the intent of the bill at all. I think it might be better to keep it clean without amendments.

Representative Klemin: I think that what Representative Koppelman is proposing, is exactly the same thing as the way it is here, because the court has the discretion.

Chairman DeKrey: Thank you. Further testimony in support, testimony in opposition. We will close the hearing. What are the committee's wishes in regard to SB 2104.

Representative Maragos: I move a Do Pass.

Representative Delmore: Second.

12 YES 0 NO 2 ABSENT

DO PASS

CARRIER: Rep. Klemin

Date: 2/14/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2104

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	✓		Representative Meyer	✓	
Representative Bernstein	A		Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	A				
Representative Galvin	✓				
Representative Kingsbury	✓				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2005 11:32 a.m.

Module No: HR-29-2752
Carrier: Klemin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2104: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2104 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

SB 2104

#1

Same given to House

**Testimony to the
Senate Judiciary Committee
by Ted Gladden, State Court Administrator**

Chairman Traynor and members of the Senate Judiciary Committee, I am appearing today in support of SB 2104. Attached to my brief remarks is the background relating to the proposed amendments to § 27-09.1-05, NDCC. This bill was originally prepared by the Jury Standards Committee of the North Dakota Judicial Conference. The amendments are designed to address the need for prospective jurors when there is an insufficient number of jurors in the county of venue.

The present language provides two limitations that are unnecessarily restrictive. The first sets a threshold of county population at less than 10,000 and the second limitation refers to drawing additional jurors from an adjacent county within the judicial district if a natural disaster occurs. The case in point was the flood in 1997 affecting Grand Forks County. With only one additional county, that being Nelson, in the judicial district, it is possible that there may not be an adequate number of jurors in Nelson County given the county's population. Walsh County is adjacent to Grand Forks County but is in a different judiciary district. The proposed amendment on line 18 addresses that shortcoming.

Thank you, and I will respond to any questions the committee may have.

SUMMARY - SENATE BILL 2104

Senate Bill 2104 originated with the Jury Standards Committee of the North Dakota Judicial Conference. The Judicial Conference, after reviewing the draft legislation, approved the draft, which was subsequently introduced at the request of the Supreme Court. Senate Bill 2104 would amend NDCC Section 27-09.1-05, which currently governs the selection of jurors from outside the county of venue and in the event of a natural disaster.

Section 27-09.1-05 currently permits a court, upon its own motion or in response to a motion by a party, to have prospective jurors selected from other counties in the judicial district. There are two criteria that must be satisfied before this can be done: 1) the county of venue must have a population of 10,000 or less, and 2) the court must determine that the number of prospective jurors within the county of venue is inadequate to obtain a fair and impartial jury. The Jury Standards Committee concluded that the procedural practicalities of satisfying these criteria while engaged in jury selection would most often frustrate the court's ability to take full advantage of the general purpose of the statute - to ensure there are sufficient prospective jurors in the jury pool to obtain a jury. The Committee, therefore, recommended to the Judicial Conference that the statute be amended. The amendment on lines 8-12 would remove the population trigger and would allow the court to select additional jurors from other counties if the court simply determines there is an insufficient number of jurors in the county of venue to obtain an adequate jury pool. The court's action would remain at the request of a party or on the court's own motion.

The second change in Senate Bill 2104 is to the latter portion of the statute governing selection of jurors in the event of a natural disaster. The statute currently provides that if a natural disaster impairs selection of a sufficient number of jurors, the court may obtain additional juror names from a clerk in an adjoining county in the judicial district. The Jury Standards Committee concluded the judicial district limitation is unnecessarily restrictive and limits the ability to obtain juror names from an adjoining county in a different judicial district. The most obvious example is Grand Forks County. The only other county in the Northeast Central Judicial District may not be an adequate source of additional jurors given that county's population. It would provide greater flexibility to the court and access to more prospective jurors if a court is able to obtain additional jurors from, for example, Walsh County, which adjoins Grand Forks County but is in a different judicial district.