

2009 SENATE JUDICIARY

SB 2069

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2069

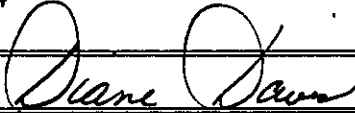
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7444

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Relating to fees collected by the clerk of district court for deposit in the civil legal services fund.

Wade Enget – See Written Testimony – asks this bill be adopted.

Chief Justice VandeWalle – Sent letter in support of this bill.

Senator Schneider – Asks how the low interest rate affects the legal service agencies. He also asks if the 3% is down from years past.

It was discussed that is consistent with years past, about \$50,000 a year. They have received that money for the last 3 years but a little shaky for next year because of the interest rates.

Senator Nething – Asks about the Administration on Aging Grant and its expiration.

Enget – Said they are reapplying all the time for grants. They also are re-applying for a grant to assist domestic violence programs for people who did not have representation.

Unfortunately this is where the biggest cuts came. They have certain things their board says is a priority and also Legal Services Corporation says there are certain things you can't do.

There are restrictions on what they can use Legal Service funds for.

Senator Nething – Asks about the Bush Foundation Grant.

Enget – Replies the Bush Foundation Grant has seen the economic downturn. There is less money to go around. That grant is done but they are reapplying.

Janelle Moos – Director of Council on Abused Women Services – In support of this bill.

She gave a brief statement that she can attest to the demand for legal services specifically for domestic violence and sexual assault victims across the state. She said the biggest barrier for victims escaping domestic violence and assault is the need for legal services. Legal Services has been very committed to providing services to victims from whatever sources they can find available. They work in partnership with Legal Services to secure Federal funding and the Legal Assistance Grant.

Closed the hearing on 2069

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2069

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/21/09 – committee work 1/26/09

Recorder Job Number: 7749 comm wrk.

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Committee work.

Motion for do pass Senator Fiebiger, seconded by Schneider

Vote 6 yes, 0 no

Senator Fiebiger will carry

FISCAL NOTE
Requested by Legislative Council
04/24/2009

Amendment to: SB 2069

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$250,000)	\$250,000	(\$250,000)	\$250,000
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB2069 as ammended would increase the \$400,000 biennial cap currently placed on the Civil Legal Services Fund to \$650,000. This bill will reduce revenue to the General Fund and increase revenue to the Civil Legal Service Fund by \$250,000.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 1 of section 27-05.2-03 caps the amount of revenue recored into the Civil Legal Services Fund at \$400,000. The \$400,000 cap has been met in each of the last three bienniums. The overages have been credited to the General Fund. Approximately \$79,000 in 03-05, \$117,500 in 05-07, and we anticipate over \$250,000 in 07-09.

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

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

From a review of prior history it appears fees collected "for filing a case for decision that is not a small claims action" have been experiencing an increasing trend over the last six years. We project that the fees collected will exceed the new \$650,000 cap. The Civil Legal Services Fund would increase \$250,000 in 09-11 and 11-13. General Fund revenue will decrease by this same amount.

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Civil Legal Service Fund is a continuing appropriation. An advisory committee consisting of the lieutenant governor, the director of the office of management and budget or the director's designee, and the state court administrator shall distribute moneys deposited in the indigent civil legal services fund.

Name:	Lawrnce Hopkins	Agency:	Treasurer's Office
Phone Number:	328-2643	Date Prepared:	04/24/2009

FISCAL NOTE
Requested by Legislative Council
03/24/2009

Amendment to: SB 2069

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$200,000)	\$200,000	(\$200,000)	\$200,000
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB2069 as ammended would increase the \$400,000 biennial cap currently placed on the Civil Legal Services Fund to \$600,000. This bill will reduce revenue to the General Fund and increase revenue to the Civil Legal Service Fund by \$200,000.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 1 of section 27-05.2-03 caps the amount of revenue recored into the Civil Legal Services Fund at \$400,000. The \$400,000 cap has been met in each of the last three bienniums. The overages have been credited to the General Fund. Approximately \$79,000 in 03-05, \$117,500 in 05-07, and we anticipate over \$250,000 in 07-09.

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

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

From a review of prior history it appears fees collected "for filing a case for decision that is not a small claims action" have been experiencing an increasing trend over the last six years. We project that the fees collected will exceed the new \$600,000 cap. The Civil Legal Services Fund would increase \$200,000 in 09-11 and 11-13. General Fund revenue will decrease by this same amount.

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Civil Legal Service Fund is a continuing appropriation. An advisory committee consisting of the lieutenant governor, the director of the office of management and budget or the director's designee, and the state court administrator shall distribute moneys deposited in the indigent civil legal services fund.

Name:	Lawrence Hopkins	Agency:	Office of State Treasurer
Phone Number:	328-2643	Date Prepared:	03/24/2009

FISCAL NOTE
Requested by Legislative Council
12/22/2008

Bill/Resolution No.: SB 2069

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

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$275,000)	\$275,000	(\$325,000)	\$325,000
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB2069 would eliminate the \$400,000 biennial cap currently placed on the Civil Legal Services Fund. This bill will reduce revenue to the General Fund and increase revenue to the Civil Legal Service Fund.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Subsection 1 of section 27-05.2-03 caps the amount of revenue recored into the Civil Legal Services Fund at \$400,000. The \$400,000 cap has been met in each of the last three bienniums. The overages have been credited to the General Fund. Approximately \$79,000 in 03-05, \$117,500 in 05-07, and we anticipate over \$250,000 in 07-09.

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

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

From a review of prior history it appears fees collected "for filing a case for decision that is not a small claims action" have been experiencing an increasing trend over the last six years. We project that the fees collected will exceed the current \$400,000 cap. If the cap is removed the Civil Legal Services Fund is projected to increase by \$275,000 in 09-11 and \$325,000 in 11-13. The General Fund will decrease by this same amount.

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Civil Legal Service Fund is a continuing appropriation. An advisory committee consisting of the lieutenant governor, the director of the office of management and budget or the director's designee, and the state court administrator shall distribute moneys deposited in the indigent civil legal services fund.

Name:	Lawrence Hopkins	Agency:	Office of State Treasurer
Phone Number:	701 328 2643	Date Prepared:	12/26/2008

Date: 1-26-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES SB 2069
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

Re-Refer to App.

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen Fiebiger Seconded By Sen Schneider

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) 0

Absent _____

Floor Assignment Sen Fiebiger

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

REPORT OF STANDING COMMITTEE

SB 2069: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2069 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

SB 2069

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2069

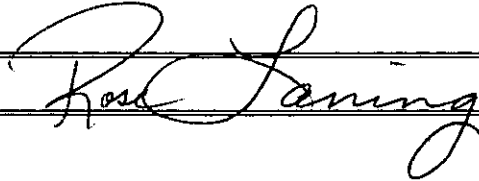
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8316

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee back to order at 11:30 in regards to SB 2069 concerning the fees collected by the clerk of district court.

Senator Stanley Lyson, District 1

Senator Lyson was very pressed for time and had to get back to his committee, but wanted to come before the Appropriations Committee and recommend a Do Pass.

Jim Fitzsimmons, Executive Director of Legal Services of North Dakota (LSND)

Testified in favor of SB 2069. (Written attached testimony # 1)

Senator Christmann: You said you provide health to low income and elderly?

Jim Fitzsimmons: Yes, low income and elderly. The money from this particular fund goes to low income.

Senator Christmann: And what's the standard for "low"?

Jim Fitzsimmons: I believe the household income is \$13,000 for single person. On page 4 of handout, \$17,500 for two; and a family of four is \$26,500. Those are the 125% of poverty that is established in Washington, DC.

Chairman Holmberg: If I were to try and explain it to someone who wasn't versant in this area, we have a cap that says the money raised is capped at \$400,000 and anything over that goes into the general fund. In the last three biennia, the amount has gone over in the last two,

and the anticipation is that it will be \$250,000 would go back into the general fund without this bill. And what you all are saying is that the Legal Services needs this funding, therefore if we remove the cap, they will be more secure in their funding.

Jim Fitzsimmons: I think you've said it very well. The cap was put on back in 1979, and as it stands right now 17 people go in and file civil case. Approximately 10 of those people will use the legal services fund and that money can be used to help lower income people through the civil process. The other 7 who pay that money are contributing to the general fund.

Chairman Holmberg: You said that very well.

Senator Christmann: I'm still trying to get my hands around the difference between the 125% that are in poverty graph and 200%. I know the difference in the charts, but if we do this, where are the cutoff lines going to be?

Jim Fitzsimmons: It's 125% for this fund. We give grants to several agencies that are set at 200% of the poverty level. LSND gets some federal monies. We get some foundation money. Depending on where the funds come from, they dictate to us what our guidelines are.

Chairman Holmberg: Committee members, do you see some similarity between what we did last session or the session before on the soybean money. The soybean growers were sending this money in and they did not have the researcher. So the money came in, went to NDSU but it was used for other research things. The last session or session before, I think we added some research in the soybean area because they were raising the money under the pretense that it was going to soybeans and we found it wasn't.

Chairman Holmberg asked for anymore questions. Anyone else to testify.

Gerald VandeWalle, Chief Justice, North Dakota Supreme Court

Testified in favor of SB 2069. (No written testimony).

At the appellate level, we're seeing more and more people that are coming in telling us that they can't afford a lawyer. We don't check whether they can or not, but we take them at their

word. This is a fairly modest attempt by the state to assist our low income people. I do support this bill. I have looked at the fiscal note in the bill, but I'm a little concerned that the expectations are too high. The fiscal note says, "**The overages have been credited to the General Fund. Approximately \$79,000 in 03-05, \$117,000 in 05-07, and we anticipate over \$250,000 in 07-09.**"

I think figure is high. There is also a bill that would raise the jurisdictional limits in small claims court to \$20,000. If that bill passes, there will be some reduction in the collection of fees because the fee in small claims court is only \$10.00. Those are filed in small claims court instead of district court so there would be some reduction. There has been variety of efforts to help these people. The Bar Association has done a great job with their pro bono work where they take on some of these cases. Some people can argue their own cases and some can't. The logic of providing the people with counsel not only helps the people understand what their rights are, but it also helps them to understand what their responsibilities are in this system.

Chairman Holmberg asked for any questions. Next?

Janelle Moos, North Dakota Council on Abused Women's Services.

Testified in favor of SB 2069. (Written attached testimony # 2)

Bill Neumann, State Bar Association

Testified in favor of SB 2069. (No written testimony)

Senator Warner: It strikes me that there may some purpose in the on-going monitor by the Legislative Council. Do you think there would be some purpose in directing an interim committee to watch this situation and we may see it again in two years?

Bill Neumann: You may be asking the wrong person, but I certainly see no harm in that so long as it doesn't verge a lot resources from the primary purpose of the Legal Services of ND. As Mr. Fitzsimmons told you there are already three heavily audited and monitored by other

places, but on the other hand, this is state money and you folks certainly have the responsibility.

Chairman Holmberg: Thank you very much. There is still time to put in study resolutions which has a Feb. 17 deadline. Does the committee have a wish on this?

Senator Mathern: I move Do Pass.

Senator Krebsbach: I second.

Chairman Holmberg: We have a motion on SB 2069 for a Do Pass. Would you call the roll?

A Roll Call vote was taken. Yea: 12 Nay: 1 Absent: 1 - **Senator Robinson**

Motion carried.

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2069**

Senate Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Moved Do Pass

Motion Made By Senator Mathern Seconded By Senator Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Chairman Holmberg	X		Senator Mathern	X	
V. Chair Grindberg	X		Senator Krauter	X	
V. Chair Bowman	X		Senator Robinson		
Senator Christmann		X	Senator Warner	X	
Senator Wardner	X		Senator Lindaas	X	
Senator Kilzer	X		Senator Seymour	X	
Senator Fischer	X				
Senator Krebsbach	X				

Total Yes 12 No 1

Absent 1

Floor Assignment Senator ~~Fischer~~ ^{Fiebig}

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2009 2:50 p.m.

Module No: SR-20-1429
Carrier: Fiebiger
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2069: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2069 was placed on the
Eleventh order on the calendar.

2009 HOUSE JUDICIARY

SB 2069

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2069

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/2/09

Recorder Job Number: 9950

Committee Clerk Signature

D. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2069.

Laurel Forsberg, Legal Services Board Member: Support, explained the bill (attachment).

Rep. Wolf: As I'm looking at this bill, I was very surprised to see that all the filing fees go into the state general fund. Do you know the logic behind this or the reason that all these filing fees that are collected at the county level go into the state general fund.

Laurel Forsberg: I don't have all the history behind that.

Jim Fitzsimmons: I do not know what the original thought was, but I can tell you that this original legislation was passed in 1989. They put a cap on in 1997 because they didn't know how fast it was going to happen; they were trying to prevent the filing fees from rising at a rapid rate. The legislature was comfortable giving the court \$400,000 a biennium to this effort. As the filing fees escalated and if it became \$800,000 or \$1.5 million they wanted some kind of a safety valve to be in place. That's probably the best answer I can give you.

Rep. Klemin: I'm wondering if it might have been a part of the district court reorganization at that time, when all of the clerks of court ceased to be county employees and became state employees. You had to have money going into the general fund as part of the Supreme Court budget to pay for the district court clerks.

Jim Fitzsimmons: I couldn't tell you that was wrong; that makes a lot of sense to me. There are people in the room that are more experienced than I am in that area.

Chairman DeKrey: When we started the court reunification in 1991, that's when all the fees from the counties went to the state to pay for court reunification. That's why there are still echoes of that around here.

Rep. Koppelman: We already have indigent defense for criminal defense in ND for folks who are in a position where they can't afford it. This obviously provides for civil cases. Lawyers also do pro bono work don't they? Can you give us an idea of how this bill deals with that and does this intend to replace that.

Jim Fitzsimmons: No, as a matter of fact, Civil Legal Services has been in ND since 1970 and the state funding has really fallen off. The pro bono program operated out of the State Bar Association and works very closely with us and to be honest with you, we handle the central intake so if a call comes in, our office in Minot, ND will process the application, check income, which type of case, if it is a criminal case we give it to the Indigent Defense fund, and it's something that we're able to handle or if the income is a little bit higher than 125% of poverty, we will refer it down to the Bar Association pro bono or reduced fee program. ND has one of the few reduced fees programs for people who are not quite considered low income under federal guidelines. We run one of the very few programs that has been successful in helping people who are low income but don't quite meet the federal guidelines for poverty. We have worked very closely with the Bar Association over the years. The pro bono program of the State Bar Association is to be commended but they don't really address the whole program, any more than we are able to address the whole program.

Rep. Koppelman: The type of services you provide, is it pretty much unlimited.

Jim Fitzsimmons: We don't pre-generating cases, which produces income for lawyers. We don't do the criminal cases, we do a lot of things like somebody 68 years old and about to undergo surgery, and someone will work on an Advanced Directive or a Durable Power of Attorney.

Rep. Koppelman: How about someone who is low income and wants to sue somebody.

Jim Fitzsimmons: Generally we do not tend to sue one low income person against another low income person in general. We defend low income persons a lot of time.

Rep. Koppelman: What about a low income person suing a high income person.

Jim Fitzsimmons: We don't. We may take a case of a low income person dealing with a predatory lender; say auto dealer that has the habit of showing up on the Indian reservations and selling cars at 40% interest. That is not the crux of what we do, but in some situations we do some of those cases.

Rep. Koppelman: Ms. Forsberg indicated there is no additional tax attached to this bill, and that's technically true, there's no tax in the bill, but there is a \$275,000 fiscal note indicating that it would be a hit to the general fund in that amount. Obviously this is going to cost the state some money. Would you be comfortable with a different cap level, this bill is just eliminating the cap all together.

Jim Fitzsimmons: I didn't want a cap in there at all, the ND legislators wanted to do it this way. From a practical point of view, I've heard that they eliminated the cap rather than raise it. I understand where you are coming from. I think the two problems with the cap, 1) by putting the cap on, we've gotten to where we are today, in other words, essentially everybody that pays the filing fee, of the 15 people who pay the fee, 10 of them are actually doing that, and 5 are contributing to the general fund. The other concern that was raised when the cap was put on back in 1997 was how much are the filing fees going to increase. I think when the Chief

Justice comes up here, he will agree with me that the fiscal note is a lot, and \$225,000 would probably be a little more accurate based upon our calculations. In a decade, it has gone up about \$20,000/yr. so it's not like we've had this exploding source of funds that gets away from us.

Rep. Koppelman: To use your examples, the money would end up in the general fund; however, out of that general fund, with the court reunification and other things, on the state level we are being asked to pick up things that the counties used to pay for. We had a bill to pay for some of the building expenses of the county courthouses, because they are used for court cases, and I don't think that passed, but those kinds of requests are going to keep coming. So it's not necessarily that these funds are being diverted somewhere that's not germane to a court case.

Jim Fitzsimmons: No, I think if you look at the original intent of the legislation, with the sponsors of the legislation at that time, if you look at the funding fees, \$5 goes to the general fund of the \$15 filing fee. I think what's happened over the last decade, we've gotten to the point now where instead of the 65/15 split, we have more of a 70/10 split. We would like to be able to do, and I would like to say that if you take off the cap we would be able to do all these great things for low income people, but we need the additional monies just to be able to maintain the current level of services.

Rep. Griffin: What is the starting salary for an attorney working for Legal Services.

Jim Fitzsimmons: I think right now we start them at \$36,000/yr. We don't have high turnover, we have very dedicated staff. We have a good relationship with the University of ND as well.

Chairman DeKrey: Thank you. Further testimony in support.

Janelle Moos, ND Council on Abused Women's Services: Support (attachment).

Chairman DeKrey: Thank you. Further testimony in support.

Gerald VandeWalle, Chief Justice, ND Supreme Court: Support. We are seeing more people in court all the time that tell us that they can't afford an attorney, and we tell them they can get help through Legal Services organization or through the Bar. There has been an increase for a number of reasons. I think it's a good bill. I do think the fiscal note, which was prepared by the treasurer's office is a little ambitious and I think that for three reasons: 1) the state won't lose as much as it would appear to lose; 2) the gentleman won't get as much as he thinks he's going to get; and 3) two years from now I don't want someone coming to me and say well I've heard of this money. I'm not sure how they computed the fiscal note. There is another bill that I think will have some of that from the filing fees, but I'm not sure how much. That is the bill that increases the small claims from \$5,000 to \$10,000. Those cases that are filed in small claims court, they would take out the filing fees that normally would go into the district court and into this fund. I've no idea what the implications of that would be. There is a movement in a lot of states either on a constitutional basis or seeking legislation to provide what they call civilian Gideon; Gideon vs. Wainwright, is the US Supreme Court case that established the right of an indigent defendant to defend in a criminal case. There is now a civilian Gideon movement going on that would appear to check into that, either on a constitutional basis or through a statutory provision to help those people. Rep. Wolf asked, again which is exactly right, when you take a phone call, talk about the overall fee, they are going to pay a fee for the county.

Ch. DeKrey; One of the complaints that I get occasionally as a legislator is that someone wants a divorce because of an abusive relationship and they can't afford an attorney so they just hang in.

Gerald VandeWalle: There is a program going on called the Small Claims Divorce, and the defendants can represent themselves pro se in the court cases. This is currently going on in Burleigh County, we are seeing more and more cases.

Chairman DeKrey: Thank you. Further testimony in support.

Bill Newmann, Executive Director, State Bar Association: Support. Our organization strongly supports NIGO equal justice for all. Justice isn't equal without access to legal services. Legal services of ND gets this a lot closer than we were before Legal services of ND existed. Anything we can do to help we want to do. We support this bill.

Rep. Zaiser: This is the entrepreneurial nature of earnings. Are there any heartburn or individual attorneys that are opposed to this because it might eventually take money from them.

Bill Newmann: I'm not aware of any attorneys who are opposed to it because they feel that, by and large, the Legal Services folks of ND serve our people that do not have money today. Lawyers, by and large, wants this party to do that. There are a number of us that belong to the Bar Association that volunteer to work with the program and participate in the reduced fee and pro bono programs. Lawyers ultimately are in the practice of law to make a living as well.

Rep. Koppelman: If you are a low income person in ND and you need legal help for a civil matter, what are your options right now. Obviously this is one and they do a good job as we've heard. What are your other options. Typically if I walk into a law office and say that I don't have much money but I need help. Would they send me to Legal Services or are they going to say I provide pro bono services, let's spend a few minutes and tell me what is going on; or am I going to be kicked out of the office.

Bill Newmann: They might refer you to Legal Services or they might volunteer to help. Two years ago, Mr. Fitzsimmons and I entered into this agreement where we would have a

centralized intake system. One phone number for any place in ND needed our number and if they can't take care of you, we are plugged into their computer system and when it's working right, it is seamlessly passed on to our volunteer lawyer program. It would then try and identify a funding source from its many funding sources that they have. We all have the ability to go on the website, from anywhere in the state, and enroll cases into our volunteer lawyer program. The client has access to a 1-800 number, the lawyer can directly enter their case into the system, or the lawyer can go ahead and fill out a form at the office, and perhaps take the case under the reduced fee or pro bono basis; which should depend on the income that the client has.

Rep. Koppelman: So the person can either be helped directly by the lawyer, be sent to Legal Services or call the Bar Association to see if they can access the programs that are offered.

How much charitable legal service is provided either out of professional ethics of the trades or from the goodness of their heart vs. an organization like this that gets other fees.

Bill Newmann: I can tell you in terms of numbers of cases that you heard Mr. Fitzsimmons talk about the thousands of cases that were handled in the last biennium that they were able to take care of. I can tell you in the last calendar year we were able to handle somewhere in the neighborhood of 235-240 reduced fee cases and we handled about 35 pro bono no fee cases through our program. If we only relied on us, we wouldn't be getting it done.

Chairman DeKrey: Thank you. Further testimony in support.

Sen. Stan Lyson: Sponsor, support. This is a good bill.

Chairman DeKrey: Thank you. Further testimony in support.

Laurel Forsberg: We have worked on a variety of cases, including food stamps, TANF,

Medicaid questions, a few divorces, etc. Sometimes Legal Services will call at the State Bar to do some work if they can. I can also handle real estate for Montana as well. We have a good

working relationship with State Bar. Without Legal Services, we would have thousands of people that wouldn't be able to get the help that they truly need.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes.

Rep. Delmore: I move a Do Pass with a rereferral to Appropriations.

Rep. Hatlestad: Second.

13 YES 0 NO 0 ABSENT

DO PASS WITH REREFERRAL TO APPROPRIATIONS

CARRIER: Rep. Zaiser

Date: 3/2/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2069

HOUSE JUDICIARY COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 13 No 0

Absent 0

Floor Carrier: Rep. Zaiser

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

w/ Rereferal to Appropriations.

REPORT OF STANDING COMMITTEE

SB 2069: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2069 was rereferred to the Appropriations Committee.

2009 HOUSE APPROPRIATIONS

SB 2069

2009 HOUSE STANDING COMMITTEE MINUTES

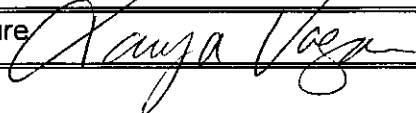
Bill/Resolution No. 2069

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 3/9/09

Recorder Job Number: Hearing- 10419 Discussion and Vote 10420

Committee Clerk Signature 

Minutes:

Chairman Delzer opened the hearing on Senate Bill 2069. Roll was taken with all members present except Representative Kempenich.

Attached Testimony

Testimony of Wade Enget- 2069.3.9.09A

Testimony of Jim Fitzsimmons- 2069.3.9.09B

A Brief Look at Legal Services of North Dakota- 2069.3.9.09C

Testimony of Janelle Moos- 2069.3.9.09D

Wade Enget, Mountrail County State's Attorney, presented his written testimony.

Chairman Delzer: When did this operation get started? How did it get started?

Wade Enget: I would have to turn that over to Mr. Fitzsimmons.

Representative Kaldor: I need a little primer on how this surcharge cap works. What exactly it is? Could you fill me in on that?

Wade Enget: I would also have to refer that question to Mr. Fitzsimmons.

Jim Fitzsimmons, Executive Director of Legal Services of North Dakota, presented his written testimony. He then explained A Brief Look at Legal Services of North Dakota.

Chairman Delzer: What is your total income?

Jim Fitzsimmons: Our total funding is approximately \$1.6million.

Chairman Delzer: Most of the history here, 2004 is when you combined but when did this fund come in?

Jim Fitzsimmons: This fund started in 1989. It was enacted during the legislative session before my time but the two names that ring a bell are Senator Geraldine Meyer and Senator Jack Trainer were instrumental in establishing this fund back in 1989

Chairman Delzer: Then it was raised to the \$100 fees and capped when?

Jim Fitzsimmons: It was raised from \$10 to \$15 in 1997.

Chairman Delzer: And capped at \$400,000 at that time?

Jim Fitzsimmons: Yes.

Chairman Delzer: What has it produced in the last four bienniums?

Jim Fitzsimmons: Supreme Court has those numbers better than I do. We get \$400,000 per biennium and then about \$200,000-225,000 spills over to the General Fund once we hit the cap.

Representative Kaldor: So this income by source, this North Dakota surcharge is that element that 2069 is attacking or lifting the cap.

Jim Fitzsimmons: The 11% from that fund would be the \$200,000 we get a year.

Representative Kaldor: What in total dollars, this pie chart is interesting because it shows the percentage but what in total dollars are your total sources of income?

Jim Fitzsimmons: \$1.6million. We are just a shade under \$1.6million for 2009.

Chairman Delzer: That is for one year?

Jim Fitzsimmons: That is correct. The way that is set up it comes in on a biennium so what happens is we get the filing fees and we get them in the first five quarters of the biennium and then we have capped out so we get nothing for the last three quarters.

Representative Kaldor: This surcharge is levied against what in particular?

Jim Fitzsimmons: It is a filing fee for civil cases in North Dakota. So if you go in to file a debt collection action or you go in to do a probate, you pay a \$15 civil filing fee which goes to the civil legal services fund. I think in a biennium 16,666 cases where they pay the filing fee goes to the civil legal services fund to help lower income people. If 15 people pay the civil filing fee, 10 of them are contributing to the civil legal services fund and the remaining five, the way it stands right now; their funds are spilling over to the General Fund.

Representative Glassheim: I think to your question the fiscal note shows that 03-05 there was \$79,000 over the \$400,000 cap and then 05-07 it was \$117,500 and \$250,000 over is anticipated for 07-09. They are expecting \$325,000 in 11-13.

Chairman Delzer: Do we have any place else where we are helping non-profits?

Becky Keller, Legislative Council: I know the DOCR provides funding to non-profits to help them provide services. I don't know if that runs along the same parallel or not.

Chairman Delzer: What are we funding Teen Challenge at right now?

Becky Keller, Legislative Council: It was at \$500,000 for the current biennium and right now I think in the bill it is at \$700,000.

Chairman Delzer: Jim, do you have any kind of sliding scale?

Jim Fitzsimmons: No. Right now we do 125% of poverty but with the elderly we are not required to do an income test and some of the other grants allow us to go as high as 200% of poverty. We have a grant from the IRS to help people who have had problems with taxes and so forth but we do not have a sliding scale.

Chairman Delzer: Do you request a contribution when someone uses your services?

Jim Fitzsimmons: We do not require contributions but we do give them that option. I don't have any numbers they are not significant but we do get quite a few smaller contributions like \$20-25 things like that.

Chairman Delzer: What is the average value of what you do for them?

Jim Fitzsimmons: That is what makes this difficult. It varies from everything to paralegal driving up to Washburn and helping an elderly couple with their directive to a Supreme Court appeal on the issue of medical assistance it varies from one end of the spectrum to the other.

Chairman Delzer: You don't have ones where it gets to a particular level, and then you look at sliding fee scales?

Jim Fitzsimmons: No, we have never had a sliding fee scale. It may be something we should look at. Most of the grants that we receive like from the IRS and from Legal Services Corporation, and from the Bush Foundation set like a bright line. If I could respectfully respond to your question about funding a non-profit would you be ok with that?

Chairman Delzer: Go ahead.

Jim Fitzsimmons: What this civil legal services fund actually funds is under North Dakota Century Code 54-06-20 the indigent civil legal service fund a lot of that is spelled out in that particular statute. It funds an advisory committee consisting of the Lt. Governor, the Director of OMB and the State Court Administrator to distribute fund to qualified indigent civil legal services programs. We are just one of the applicants because this is a small state and we are statewide it ends up being us. Clearly, there is nothing in the statute that funds us directly.

Janelle Moos presented her written testimony on behalf of the North Dakota Council on Abused Women's Services.

There was no opposing or neutral testimony to the bill.

Chairman Delzer closed the hearing.

NEW RECORDER NUMBER

The committee continued discussion on the bill.

Representative Kaldor: The LSC Base, what does that constitute again? It is the largest portion of the pie chart.

Jim Fitzsimmons: That comes from the federal government and I think we get about \$600,000 for that and then \$240,000 on top of that for the reservations.

Chairman Delzer: You say you get about five quarters?

Jim Fitzsimmons: I think we get funded for five quarters fully and then possibly we may get a little bit in the sixth quarter or we may be out of that now.

Representative Meyer: In reading the federal stimulus package, it seems that there are a lot of dollars being designated for our Native American populations. Are you seeing anything in there that would address these needs?

Jim Fitzsimmons: There is nothing specific for legal services in the federal stimulus package.

Representative Glassheim: I would move that we remove the language removing the cap and increase it to \$600,000.

Representative Kaldor: Second

Representative Dosch: I kind of look at this as they are kind of here because the feds have cut back their funding. And like all of the other federal programs we see, they get us in to this and then all of a sudden the state is picking up a bigger and bigger share. I can see increasing it from maybe four to \$500,000. That would be over a 20% increase in the state's portion of it. I

could agree it going to \$500,000 but beyond that I just don't see the state picking up that big of an increase at this time.

Representative Glassheim: A lot of times we do things in North Dakota if the feds give us money. This is a function of what we want North Dakota's justice system to look like. The more federal money the better but the point is, do we want to provide the services to people that don't have the money? In a way it makes the legal system run more smoothly if there can be some support for people who don't have money and only people with money get representation. That would not be good. I wouldn't see this as replacing federal money. It is like the federal money was helpful to us as long as they had it but it is a state responsibility that their legal system runs smoothly and supports people who don't have the funds to hire an attorney. Although it is a large amount, I expect the \$600,000 to be in place for a number of years so let's do it once and not come back each year and raise it 12%. I think the \$600,000 will be useful for a few sessions.

Representative Kaldor: I seconded this measure because I felt that was a reasonable response to the need and to the level of funding that is being generated by these filing fees by the civil cases in North Dakota. I could easily support removing the cap on the basis that these filing fees are intended to be dedicated for this purpose. They are not intended to be necessarily, I mean they are going in to the General Fund, that beyond the cap is going into the General Fund but it could be argued very persuasively that this is what it is for. It is serving justice and not necessarily to defray the other burdens of state government that the tax payers are funding. I think this is a pretty good compromise.

A motion was made by Representative Glassheim, seconded by Representative Kaldor to ADOPT AN AMENDMENT that would remove the language removing the cap and changing the \$400,000 to \$600,000. The amendment was adopted by voice vote.

A motion was made by Representative Kaldor, seconded by Representative Glassheim for a DO PASS AS AMENDMED recommendation to the House Appropriations- Full Committee. The vote was 4 yeas, 2 nays and 2 absent and not voting. Representative Kaldor will carry the bill.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2069

House Appropriations Committee

Check here for Conference Committee

Hearing Date: March 19, 2009

Recorder Job Number: 11232

Committee Clerk Signature

Holly N. Aard

Minutes:

Chm. Svedjan turned the Committee's work to SB 2069 – Civil Legal Services Fund – which comes from Government Operations.

Rep. Kaldor: There is an amendment on this bill -- .0101. This bill as introduced was to remove the cap on the collections. Currently, every time a civil case is filed, a \$15 civil filing fee is collected and deposited into the Civil Legal Services Fund. Once the deposits reach \$400,000 the funds have to be deposited with the Treasurer and they go into the General Fund. Collections have been rising and the demand for legal services has been increasing but they have not been able to access those dollars over the \$400,000. They removed the cap so all the dollars that were collected would have gone into the Civil Legal Services Fund. The Civil Legal Services Fund is established under Century Code 54-06-20 and it's providing legal services for indigent Civil Legal Services Fund. It has an Advisory Committee and their responsibility is to distribute these funds to civil qualified indigent programs. The one program that qualifies is Legal Services of North Dakota. They are a non-profit and they are qualified to utilize these funds. They apply for the funds collected and combined with what they get from this filing fee, there's another \$1.2 million of Other Funds including federal dollars that are utilized to provide help for lower income people and the elderly. To be eligible the individuals must meet 125 percent of poverty or in the case of elderly there is no income test. They

receive grants from other organizations that offer services to individuals up to 200 percent of poverty. The history of the fund is that if we go back to 03-05, there was \$75,000 collected over the \$400,000. The projection for 09-11 biennium is that there will be \$325,000 collected over the \$400,000 cap.

In GO Section, we amended the bill to retain the cap but to increase the level of the cap from \$400,000 to \$600,000. That's what amendment .0101 does. Our section gave the bill a Do Pass recommendation as amended.

Rep. Kaldor moved to adopt amendment .0101. Rep. Ekstrom seconded the motion.

Rep. Delzer: If you look at the Fiscal Note you'll see that in 03-05, you'll see that it was only \$79,000 over the \$400,000. In 05-07 it was only \$117,000. The Chief Justice did not think it would raise the \$200,000. The reason we put the cap in was that there was concern that if we removed the cap, they would come back in two years and raise the fee without us looking at the cap. That's why we changed the cap. We don't think the impact to the General Fund is as large as indicated on the Fiscal Note.

The motion to adopt amendment .0101 carried by voice vote and the amendment was adopted.

Rep. Kaldor moved a Do Pass as Amended to SB 2069. Rep. Ekstrom seconded the motion. The motion carried by a Roll Call vote of 12 yeas, 10 nays and 3 absent and not voting. Rep. Kaldor will carry the bill.

V/R
3/19/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2069

Page 1, line 10, remove the overstrike over "~~Any fees collected~~"

Page 1, line 11, remove the overstrike over "~~under this paragraph which exceed~~", after "four" insert "six", and remove the overstrike over "~~hundred thousand dollars in~~"

Page 1, remove the overstrike over lines 12 and 13

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment retains the cap for filing fees placed in the civil legal services fund but increases the biennial cap from \$400,000 to \$600,000.

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2069

House House Appropriations- Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

Voice Vote

Roll Call Vote

Motion Made By Representative Glassheim: Seconded By Representative Kaldor:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Glassheim		
Vice Chairman Thoreson			Representative Meyer		
Representative Kempenich			Representative Kaldor		
Representative Berg					
Representative Dosch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Remove language removing the cap. Increase the cap to \$600,000.

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2069

House House Appropriations- Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Voice Vote

Roll Call Vote

Motion Made By Representative Kaldor: Seconded By Glas

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Representative Glassheim	X	
Vice Chairman Thoreson	X		Representative Meyer	X	
Representative Kempenich			Representative Kaldor	X	
Representative Berg					
Representative Dosch		X			

Total (Yes) 4 No 2

Absent 2

Floor Assignment Representative Kaldor:

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

Date: 3/19/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2069

Day 50

Full House Appropriations Committee

Conference Committee

Legislative Council amendment Number .0101

Action Taken: Do Pass Do Not Pass As Amended *Adopt amendment*

Motion Made By: Kaldor Seconded By: Ekstrom *.0101*

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glasheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total Yes _____ No _____

Absent _____

Floor Assignment: Voie Vote - carried

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

Date: 3/19/09
 Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2069

Full House Appropriations Committee

Conference Committee

Legislative Council amendment Number 0101

Action Taken: Do Pass Do Not Pass As Amended

Motion Made By: Kaldor Seconded By: Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich	✓				
Rep. Skarphol		✓	Rep. Kroeber	✓	
Rep. Wald		✓	Rep. Onstad	✓	
Rep. Hawken		✓	Rep. Williams	✓	
Rep. Klein		✓			
Rep. Martinson		✓			
Rep. Delzer	✓		Rep. Glasheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch		✓			
Rep. Pollert		✓	Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt		✓	Rep. Metcalf	✓	
Rep. Nelson		✓			
Rep. Wieland	✓				

Total Yes 12 No 10

Absent 3

Floor Assignment: Kaldor

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

REPORT OF STANDING COMMITTEE

SB 2069: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 10 NAYS, 3 ABSENT AND NOT VOTING). SB 2069 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "~~Any fees collected~~"

Page 1, line 11, remove the overstrike over "~~under this paragraph which exceed~~", after "four" insert "six", and remove the overstrike over "~~hundred thousand dollars in~~"

Page 1, remove the overstrike over lines 12 and 13

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment retains the cap for filing fees placed in the civil legal services fund but increases the biennial cap from \$400,000 to \$600,000.

2009 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2069

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB2069

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/21/09

Recorder Job Number: 12067

Committee Clerk Signature



Minutes:

Senator Nething, Chairman

Representative Thoreson

Senator Lyson

Representative Berg

Senator Fiebiger

Representative Glasheim

Senator Nething asks Representative Thoreson to explain what the House amended.

Rep. Thoreson said they changed it in House Appropriations and raised it to \$600,000. He said the Senate had removed the cap. Senator Nething asked if the changes meant that the cap will still be there but it will almost function like they don't have a problem. Rep. Thoreson replies yes, he said going from 400 to 600 is a significant increase and should there need to be changes it can be revisited in the next assembly. The House believes this is a healthy bump.

Senator Nething asks if they checked with anyone to see if it would cause them a problem.

Rep. Berg mentions that only recently were they at the cap of \$400, in the 03,05 biennium they were at 479,000, they were at 117,000 and they are anticipating being 250,000 over that \$400,000 cap. He said that part of the reason they wanted the cap relates back to why was the cap put on in the first place. He mentions the assumption was that there probably was the anticipation that up to \$400,000 would offset the cost on whatever, whenever this was put in

place. He said by removing the caps eliminates the money ever flowing back into the General Fund. It allows us to look at this again in the future. Senator Nething states this is going to decrease the General Fund by \$200,000. Rep. Berg said it is his understanding that removing the cap would decrease it by \$275,000. Rep. Lyson said he doesn't mind taking the caps off but at \$600,000 he has a problem because of the information they received when they heard the bill. He says the business is up and if we get hit with the recession it's going to go higher. The people that need legal assistance is going to go higher. He would like the House to give another \$150,000 so they don't go in the red in the next couple years. Senator Nething asks Senator Lyson if he thinks the \$200,000 is not big enough. It was at 275,000, he asks if the \$75,000 is going to be problematic. Senator Lyson said he doesn't know if they will go over that or spend that, but he hates to get into a situation where they won't have the funds to cover

it. Senator Fiebiger states he has looked at testimony that came in and the numbers where they're staffing numbers have dropped dramatically, plus losing funding of a 100,000 in Administration on Aging grant and a 60,000 Bush grant in 2010. He believes the way the economy is there is going to be more of a demand, last time they processed over 16,000 applications and he doesn't see that going down in light of the economy. He also thinks something in the line Senator Lyson is talking about would be practical. Senator Nething asks the Representatives if the House was presented with that information in their committee. Rep. Berg breaks down the fee schedule and where these fees go. Senator Nething said in the fiscal note it said the \$400,000 cap has been met in each of the last three bienniums. Rep. Berg asks what the structure of the Civil Legal Fund is. Senator Lyson explains how it is set up in his county. Senator Nething says they can live with the cap if that's the House preference but should consider increasing the cap. Rep. Berg would like to know why there was a cap in the first place. The committee is unsure as to why. Rep. Berg brings up that

even with the \$600,000 cap it is increasing it by 50%. Senator Nething said you need to look at the reason there is more money there is because there is more cases. That is why the 50% is already met in 2009. Senator Nething suggests we trade the cap but raise it to \$750,000. Senator Lyson said he agrees with that. Rep. Glassheim says even if there is no cap they are expecting \$675 in the coming biennium not 750. He said he has no objection keeping the cap, but they have been living on 400,000 and if it goes to 650 or 675, all they can get in this biennium is 675 if you take the cap off. \$675 seems like a significant increase and its only 50,000 less than they would get in the second biennium. Rep. Berg would still like to know why there is a cap. The committee asks Mr. Brad Peterson, an attorney with Legal Services of ND if he knows about the cap. He said he thought it was a trade off on the last day. He also said the \$15.00 does not go directly to Legal Services, it goes to a committee, someone from the court administrator's office, they oversee this and then allocate it out. Senator Nething said you're speaking of the Advisory Committee. Rep. Berg said he will talk to Legislative Council. The committee asks Jack McDonald if he knows anything about the cap. He responds that it was enacted in 1999, and hasn't been amended since. Senator Nething said the committee will recess to get information they would like.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB2069

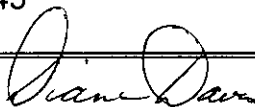
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: 4/23/09

Recorder Job Number: 12145

Committee Clerk Signature



Minutes:

Senator Nething, Chairman

Representative Thoreson

Senator Lyson

Representative Berg

Senator Fiebiger

Representative Glassheim

Senator Nething calls the 2nd conference meeting for SB2069 to order.

Senator Lyson moves the committee accept \$650,000 to close this conference committee

Representative Berg seconded

Discussion – none

Roll call vote – 6-0- motion approved

PROPOSED AMENDMENTS TO SENATE BILL NO. 2069

That the House recede from its amendments as printed on page 1029 of the Senate Journal and page 1046^{and 1047} of the House Journal and that Senate Bill No. 2069 be amended as follows:

Page 1, line 10, remove the overstrike over "Any fees collected"

Page 1, line 11, remove the overstrike over "~~under this paragraph which exceed~~", after "four" insert "six hundred-fifty", and remove the overstrike over "~~hundred thousand dollars in~~"

Page 1, remove the overstrike over lines 12 and 13

Renumber accordingly

3
and insert immediately
thereafter "fifty", and
remove the overstrike
over "

Date: 4/21/09
4/23/09
Roll Call Vote #: 1

2009 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB2069 as (re) engrossed

Senate Judiciary Committee

Check here for **Conference Committee**

- Action Taken SENATE accede to House Amendments
 SENATE accede to House Amendments and further amend
 HOUSE recede from House Amendments
 HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ pages(s) 1029 --

Unable to agree, recommends that the committee be discharged and a new committee be appointed.

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

Motion Made By Sen Lyson Seconded By Rep Berg

Senators				Representatives			
	Attend	Y	N		Attend	Y	N
		e	o			e	o
		s				s	
Senator Nething-Chair	X			Rep. Thoreson	X		
Senator Lyson	X			Rep. Berg	X		
Senator Fiebiger	X			Rep. Glassheim	X		

Vote Count 6 Yes 0 No _____ Absent

Senate Carrier Sen Fiebiger House Carrier _____

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

REPORT OF CONFERENCE COMMITTEE

SB 2069: Your conference committee (Sens. Nething, Lyson, Fiebiger and Reps. Thoreson, Berg, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1029, adopt amendments as follows, and place SB 2069 on the Seventh order:

That the House recede from its amendments as printed on page 1029 of the Senate Journal and page 1046 and 1047 of the House Journal and that Senate Bill No. 2069 be amended as follows:

Page 1, line 10, remove the overstrike over "~~Any fees collected~~"

Page 1, line 11, remove the overstrike over "~~under this paragraph which exceed~~", after "~~four~~" insert "six", remove the overstrike over "~~hundred~~" and insert immediately thereafter "fifty", and remove the overstrike over "~~thousand dollars in~~"

Page 1, remove the overstrike over lines 12 and 13

Renumber accordingly

SB 2069 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

SB 2069

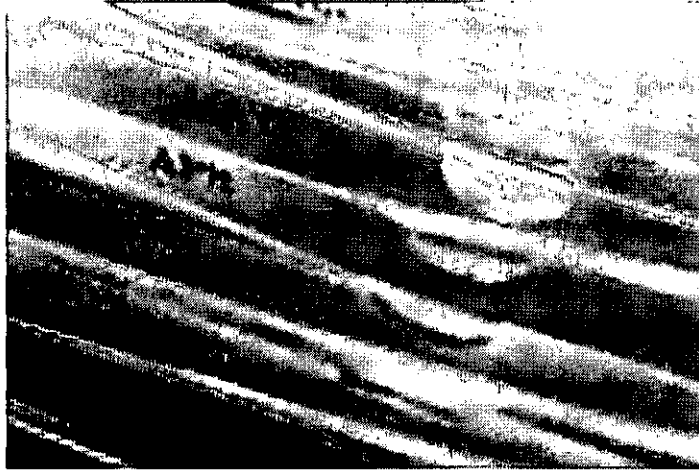
Senators:

My name is Wade Enget. I am a licensed attorney practicing in Stanley, North Dakota. I am also the Mountrail County State's Attorney and a board member of Legal Services of North Dakota. I have served as a Board member for the past 23 years, and am the immediate past president of Legal Services of North Dakota (LSND).

I rise in support of Senate Bill No. 2069. This Bill would amend and reenact subsection 1 of Section 27-05.2-03 of the North Dakota Century Code by removing the cap of \$400,000.00 that is deposited per biennium in the Civil Legal Services Fund. The fiscal note that is attached to this Bill notes that an additional \$275,000.00 could be deposited in the Civil Legal Services Fund in the 2009-2011 biennium. My support of this Bill is based upon the following:

- ◆ In the last biennium (2007-2008), LSND processed 15,829 applications from North Dakotans seeking legal services.
- ◆ In the last biennium (2007-2008), LSND provided legal assistance to over 11,355 low-income and elderly North Dakotans.
- ◆ In the last biennium (2007-2008), LSND has represented clients in over 600 cases resulting in court decisions, including nine (9) appeals to the North Dakota Supreme Court
- ◆ LSND provides excellent legal services. LSND's reputation and standing in the legal community has never been higher. LSND's dedicated staff is active in our communities
- ◆ The need for the legal assistance that LSND provides has never been greater, and the number of attorneys working for LSND has never been lower.
- ◆ LSND, being a non-profit agency, has had to come to grips with the ebb and flow of funding sources to sustain itself as a legal services provider. LSND's income in 2007-2008 came from over 25 different funding sources. With the economic downturn, LSND has experienced firsthand the unreliability of funding sources. Unfortunately, many of LSND's 25 funding sources have uncertain futures. That is why it is so important that SB2069 be adopted.
- ◆ Because of a loss of one of the funding sources, LSND was forced to lay off two attorney's in the Fargo area and we have not been able to replace two attorney openings and one paralegal opening in Minot area.
- ◆ In the last two years, LSND has gone from 32 staff and 13 attorneys to 25 staff and 9 attorneys due to federal funding cuts and stagnant state funding. Despite that, LSND has only cut case services by 8.5%. Without the passage of SB 2069, the reality of funding cuts will play out in 2010 as LSND will be forced to make even more cuts in the service that it provides. LSND will lose \$100,000 in federal AoA (Administration on Aging) grant and \$60,000 in Bush Foundation grant in 2010.
- ◆ The demand for legal services is real and is increasing. The problems with our funding sources are real and are decreasing.
- ◆ The removal of the surcharge cap contained within SB 2069 will allow LSND to serve more of our citizens

A Brief Look At



*Legal Services
Of North Dakota
Prepared January 2009*

Background Information on LSND

Legal Services of North Dakota (LSND) was formed in 2004 following the consolidation of two long time North Dakota legal aid programs; Legal Assistance of North Dakota, better known as LAND, and North Dakota Legal Services based out of New Town, North Dakota.

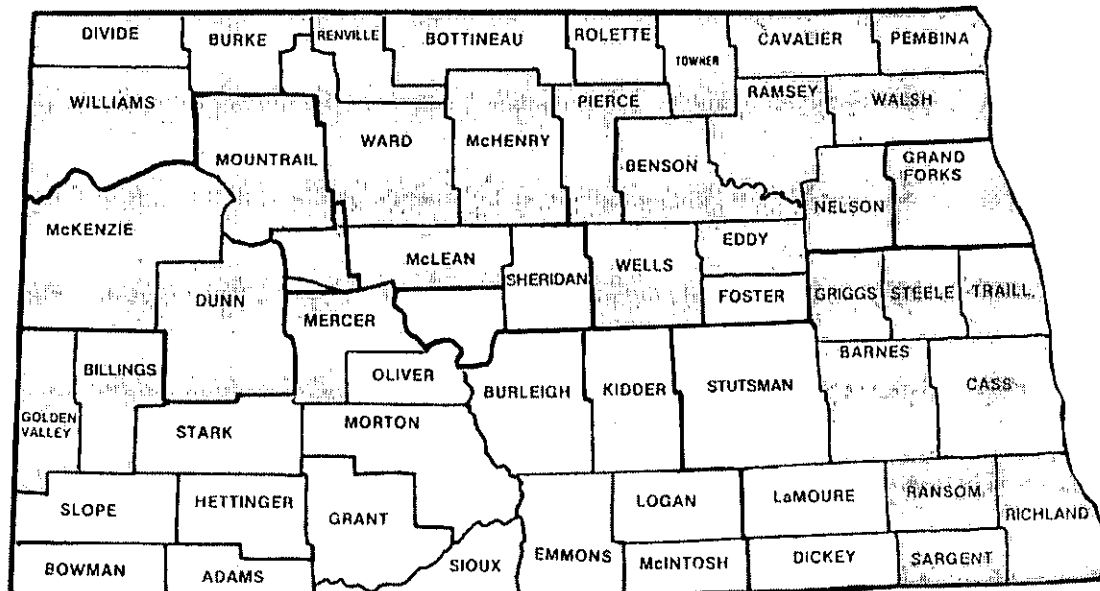
LSND's mission is to provide high quality legal advice, education and representation to low-income North Dakotans as well as disadvantaged elderly in areas of civil law.

LSND is governed by a fourteen member Board of Directors from throughout North Dakota. Board members include nine North Dakota attorneys. LSND has offices located in Bismarck, Fargo, Minot, New Town and Belcourt with staff numbering twenty-five including nine attorneys.

Legal Services of North Dakota receives roughly 8000 applications for assistance each year and is able to provide at least some assistance in about two-thirds of the requests. LSND accepts applications through toll-free telephone lines, on-line over the web and at various outreach sites throughout North Dakota.

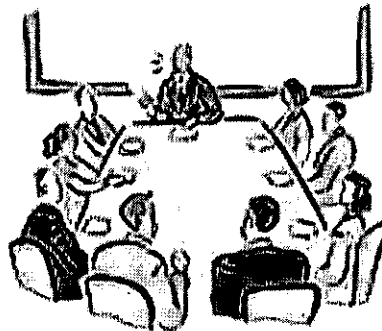
The map below indicates the service regions served by the various offices:

- Northwest indicates the Minot Region and the reservation offices
- Southwest is Bismarck and the
- East is served by Fargo.



Current
LEGAL SERVICES OF NORTH DAKOTA
Board of Directors

- | | |
|---|--------------------|
| ◀ <i>Robert Manly, President</i> | <i>Fargo</i> |
| ◀ <i>Laurel Forsberg, Vice President</i> | <i>Williston</i> |
| ◀ <i>Mary Kae Kelsch, Sec/Treas</i> | <i>Bismarck</i> |
| ◀ <i>Wade Enget, Immediate Past President</i> | <i>Stanley</i> |
| ◀ <i>Al Lerberg</i> | <i>Parshall</i> |
| ◀ <i>Alan McDonagh</i> | <i>Grand Forks</i> |
| <i>Lynn Gifford</i> | <i>Fargo</i> |
| ◀ <i>Paul Murphy</i> | <i>Carrington</i> |
| <i>Dr. Larry Gorospe</i> | <i>Belcourt</i> |
| ◀ <i>Gary Ramsey</i> | <i>Dickinson</i> |
| ◀ <i>Jodi Colling</i> | <i>Mandan</i> |
| <i>Veronica Kirkaldie</i> | <i>New Town</i> |
| <i>Lisa Tomlinson</i> | <i>Minot</i> |
- ◀ = attorney members



Legal Services of North Dakota Staff Directory

Bismarck Office	Staff	Title
	Jim Fitzsimmons Keith Engbrecht Brad Peterson Tom Jackson Stacey Fetzer Audrey Wingerter Audrey Solheim Willa Rhoads Vickie Fox	Executive Director Fiscal Administrator Supervising Attorney Staff Attorney Community Ed. Coordinator Legal Secretary Administrative Sec/Acct Assistant PAI Coordinator LITC Coordinator
Fargo Office	Staff	Title
	Linda Catalano Sheree Weisz Kelsee Macintosh Paulette Throntveit Kiley Hart	Managing Attorney Immigration Attorney Staff Attorney Paralegal Legal Secretary
Minot Office	Staff	Title
	Richard LeMay Jennifer Nelson Tom Masa Lois Luchsinger Gale Coleman Nichole Amon Kelli Moe	Director of Litigation Staff Attorney CI Paralegal Intake Worker Technology Intake Worker Legal Secretary
Belcourt Office	Staff	Title
	Rhonda Belgarde	Tribal Advocate
New Town Office	Staff	Title
	Bob Will Clarine DeGroot	Staff Attorney Tribal Advocate

Eligibility for Services

Legal Services of North Dakota receives a variety of grants to provide legal services. Some services are provided on the basis of income. Some grants require clients to be at or below 125% of poverty, others at 200% of poverty. The following charts indicate maximum incomes allowed under these guidelines.

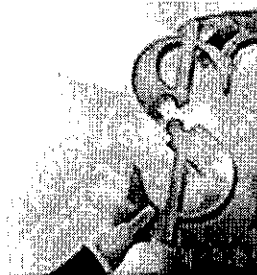
Gross Income Level - 125% of Poverty

Household Size	1	2	3	4	5	6	7
Annual Income	13,000	17,500	22,000	26,500	31,000	35,500	40,000
Monthly Income	1,083	1,458	1,833	2,208	2,583	2,958	3,333
Weekly Income	250	337	423	510	596	683	769

(Add \$4,500 yearly for each additional member in households with more than 7 Part 1611, Effective Jan. 30, 2008)

200% of Poverty Gross Income

Household Size	1	2	3	4	5	6	7
Annual Income	20,800	28,000	35,200	42,400	49,600	56,800	64,000
Monthly Income	1,733	2,333	2,933	3,533	4,133	4,733	5,333
Weekly Income	400	538	677	815	954	1,092	1,231



Senior Legal Helpline

1-866-621-9886

Our toll-free Senior Legal Hotline is open 8:00 a.m. until 5:00 p.m. every business day. With a grant from the Aging Services Division of the North Dakota Department of Human Services, LSND strives to provide accurate, rapid and thorough legal information, advice and referrals to North Dakota's elderly population (60 and over).

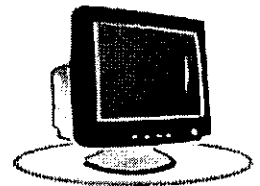
To apply for services through LSND, individuals seeking legal help or those individuals assisting them can call.



1-866-621-9886

Between 9:00 a.m. and 3:00 p.m.
Monday – Friday

Or apply online at
<http://www.legalassist.org>



Legal Services of North Dakota operates a Community Legal Education program. Brochures on numerous topics are available on our website listed above.

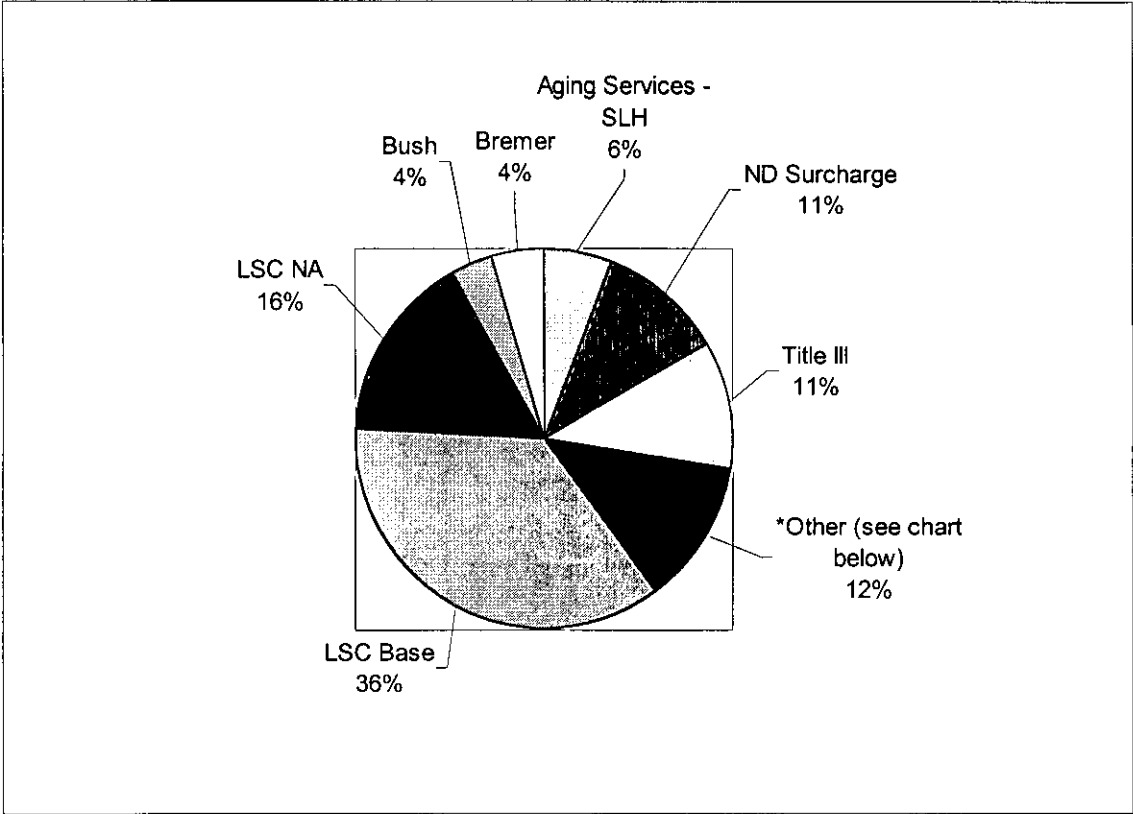
For more information on Community Legal Education or presentations to your organization, contact our Community Education Coordinator, Stacey Fetzer at 701-222-2110.

LSND Outreach Calendar

City	Location	Time	Day of Month
Belcourt	Belcourt Retirement Home	10:00 a.m. – 11:00 a.m. CT	Every Tuesday
Bismarck	Senior Center	2:30 p.m. – 4:30 p.m. CT	2 nd Wednesday
Dickinson	Sunset Senior Center	1200 p.m. – 2:00 p.m. MT	2 nd Monday
Devils Lake	Dakota Prairie Community Action	1 p.m. – 2:30 p.m. CT	3 rd Thursday
Devils Lake	Senior Center	10:00 a.m. – 12:00 p.m. CT	3 rd Thursday
Fargo	YWCA Shelter	2:00 p.m. – 5:00 p.m. CT	2 nd and 4 th Wednesday
Fort Yates	Sitting Bull College	4:00 p.m. – 5:-- p.m. CT	3 rd Wednesday
Grand Forks	Red River Community Action	11:00 a.m. – 2:00 p.m. CT	1 st and 3 rd Thursday
Jamestown	James River Senior Center	11:00 p.m. – 2:30 p.m. CT	3 rd Thursday
Mandan	Golden Age Senior Center	2:00 p.m. – 4:00 p.m. CT	3 rd Tuesday
Minot	Commission on Aging	1:00 p.m. – 2:00 p.m. CT	4 th Thursday
Minot	Milton Young Towers	1:00 p.m. – 2:00 p.m. CT	2 nd Thursday
Wahpeton	Senior Center	10:00 a.m. – 2:00 p.m. CT	4 th Tuesday
White Shield	White Shield Complex Bldg	3:00 p.m. – 4:30 p.m. CT	3 rd Wednesday
Williston	Heritage Center	1:00 p.m. – 2:30 p.m. CT	1 st Thursday
Williston	Williams Co Courthouse	10:00 a.m.-12:00 p.m. CT	1 st Thursday

Outreach involves our attorneys and paralegals going into the rural areas of our state to provide needed legal help and community education.

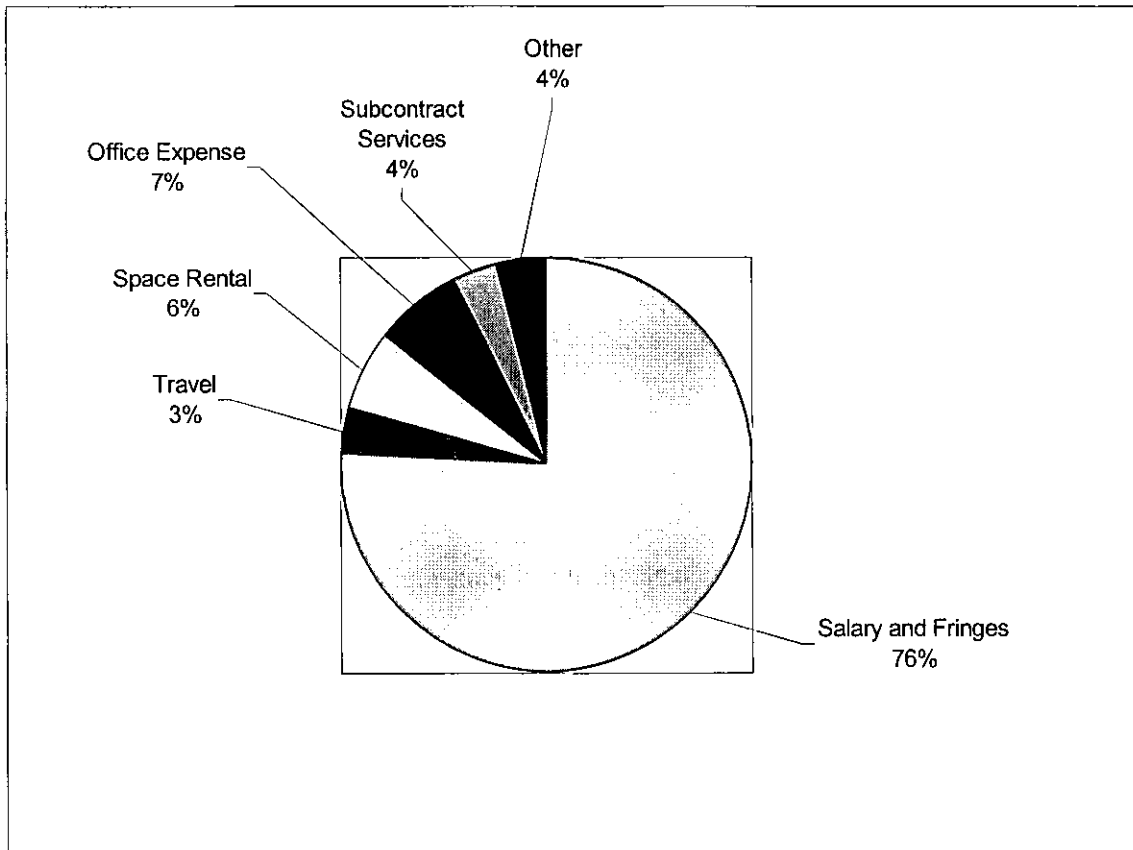
2008 Income By Source



*Other Income

United Way	1%
Juvenile Contracts	2%
IRS - LITC	2%
Misc Income	1%
IOLTA	3%
ND CAWS	1%
ABA-CTLP	2%
	12%

2008 Expense by Major Category



LEGAL SERVICES OF NORTH DAKOTA

CASES CLOSED BY COUNTY
2008

<u>County</u>	<u>Cases Closed</u>	<u>County</u>	<u>Cases Closed</u>
Adams	5	McLean	101
Barnes	103	Mercer	31
Benson	94	Morton	230
Billings	1	Mountrail	497
Bottineau	17	Nelson	12
Bowman	8	Oliver	2
Burke	4	Pembina	20
Burleigh	539	Pierce	10
Cass	791	Ramsey	82
Cavalier	8	Ransom	17
Dickey	11	Renville	12
Divide	10	Richland	54
Dunn	30	Rolette	556
Eddy	11	Sargent	17
Emmons	26	Sheridan	3
Foster	6	Sioux	7
Golden Valley	8	Slope	0
Grand Forks	263	Stark	125
Grant	8	Steele	5
Griggs	4	Stutsman	192
Hettinger	3	Towner	4
Kidder	8	Traill	44
Lamoure	8	Walsh	36
Logan	7	Ward	506
McHenry	32	Wells	32
McIntosh	7	Williams	173
McKenzie	147		

Attachment 2
SB 2069



State of North Dakota
SUPREME COURT
BISMARCK

CHAMBERS OF
Gerald W. VandeWalle
CHIEF JUSTICE

January 20, 2009

The Honorable David Nething
Chair, Senate Judiciary Committee
61st Legislative Assembly
600 E. Boulevard Avenue
Bismarck, ND 58505

Re: SB 2069

Dear Senator Nething and members of the Senate Judiciary Committee:

SB 2069 will be heard before the Senate Judiciary Committee at 10:30 a.m. on Wednesday, January 21, 2009. This bill will remove the cap on the amount of fees deposited into the Civil Legal Services Fund established by the Legislature. The fund is used to assist in providing civil legal services to those of our citizens who are unable to pay for them. I regret I cannot appear in person to request you to support this bill but I, along with the other members of the Court, am committed to judging the participants in the North Dakota "We the People" competition on Wednesday morning.

In the recent State of the Judiciary Message I referred to the fact a bill was being introduced to remove the cap. SB 2069 is that bill. I also outlined some of the reasons for the removal, including a reduction in funding for civil legal services, and an increase in the demand for those services. The State Bar Association through its pro bono panel and its reduced fee panel provides substantial assistance to those in need of legal services. However that assistance has not kept pace with the increasing demand, particularly in the area of family law.

The removal of the cap will not result in substantial loss to the general fund nor in a large increase in the amount of funds available for civil legal services. The increased amount will, however, significantly improve the ability of civil legal services providers to help those of our citizens who cannot afford those services. I ask your favorable consideration of SB 2069.

Sincerely,

A handwritten signature in cursive script that reads "Gerald W. VandeWalle".

Gerald W. VandeWalle

Testimony of Jim Fitzsimmons
In Support of S. 2069
Before the Senate Appropriations Committee
February 2, 2009

*Same given to
House Approp.
Gov. Operations
3-9-09*

Senator Holmberg and Committee Members : My name is Jim Fitzsimmons. I serve as the Executive Director of Legal Services of North Dakota (LSND), a nonprofit organization that provides civil legal services to low-income and elderly North Dakotans statewide. The vast majority of the monies provided by the Civil Legal Services fund, established under N.D.C.C. 54-06-20, goes to Legal Services of North Dakota.

That funding, together with federal and foundation funds, allows us to provide legal assistance with everything from a legal help line, to advance medical directives, consumer, medical assistance, public benefits, family law and much more to low-income North Dakotans.

I wish I could stand before you today and tell you about all the great new things we will be able to do in the next biennium if the cap is removed and S. 2069 passes. Unfortunately, I cannot do that. We need the bulk of the additional funds just to maintain the present services. In the past three years our budget has shrunk by over 17%. We have gone from 13 attorneys to nine. We have begun to reduce our outreach to rural North Dakota in 2008 and will have to cut back even more in 2009. While federal and foundation funds continue to evaporate, the legal needs of the low income are increasing.

In the past biennium, LSND was able to provide some legal assistance to over 11,300 low income and elderly North Dakotans. Without this legislation removing the cap on the Civil Legal Services Fund, these numbers are going to shrink drastically. Thank you for your consideration. We would ask your support for S. 2069 and I will try to answer any questions you have for me.

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org
Testimony on SB 2069

Senate Appropriations Committee

February 2, 2009

Chair Holmberg and Members of the Committee:

My name is Janelle Moos and I am speaking this morning on behalf of the North Dakota Council on Abused Women's Services in support of SB 2069.

The ND Council on Abused Women's Services and Legal Services of ND has developed a collaborative partnership over the years to address the ever growing need of domestic violence and sexual assault victims. Nationally and in ND, victims have identified that the lack of legal services remains one of the primary barriers that prevents them from leaving an abusive relationship. There is currently very little funding available for legal services for victims but LSND continues to make it a priority to provide the services despite the funding cuts which we greatly appreciate. We partnered with LSND to write a Legal Assistance for Victims grant last year but were unsuccessful. Budget cuts at the federal level allowed them to only fund about half of the requests. We are currently preparing an application for this year's round of funding.

We urge you to support SB 2069 as it will allow Legal Services to continue to provide access to the services desperately needed throughout the state.

Thank you.

Representatives:

My name is Wade Enget. I am a licensed attorney practicing in Stanley, North Dakota, since 1984. I am also the Mountrail County State's Attorney and a board member of Legal Services of North Dakota. I have served as a Board member for the past 23 years, and am the immediate past president of Legal Services of North Dakota (LSND).

I rise in support of Senate Bill No. 2069. This Bill would amend and reenact subsection 1 of Section 27-05.2-03 of the North Dakota Century Code by removing the cap of \$400,000.00 that is deposited per biennium in the Civil Legal Services Fund. My support of this Bill is based upon the following:

- ◆ In the last biennium (2007-2008), LSND processed 15,829 applications from North Dakotan's seeking legal services.
- ◆ In the last biennium (2007-2008), LSND provided legal assistance to over 11,355 low-income and elderly North Dakotans.
- ◆ In the last biennium (2007-2008), LSND has represented clients in over 600 cases resulting in court decisions, including nine (9) appeals to the North Dakota Supreme Court
- ◆ LSND provides excellent legal services. LSND's reputation and standing in the legal community has never been higher. LSND's dedicated staff is active in our communities
- ◆ The need for the legal assistance that LSND provides has never been greater, and the number of attorneys working for LSND has never been lower.
- ◆ LSND, being a non-profit agency, has had to come to grips with the ebb and flow of funding sources to sustain itself as a legal services provider. LSND's income in 2007-2008 came from over 25 different funding sources. With the economic downturn, LSND has experienced firsthand the unreliability of funding sources. Unfortunately, many of LSND's 25 funding sources have uncertain futures. That is why it is so important that SB2069 be adopted.
- ◆ Because of a loss of one of the funding sources, LSND was forced to lay off two attorney's in the Fargo area and we have not been able to replace two attorney openings and one paralegal opening in Minot area.
- ◆ In the last two years, LSND has gone from 32 staff and 13 attorneys to 25 staff and 9 attorneys due to federal funding cuts and stagnant state funding. Despite that, LSND has only cut case services by 8.5%. Without the passage of SB 2069, the reality of funding cuts will play out in 2010 as LSND will be forced to make even more cuts in the service that it provides. LSND will loose \$100,000 in federal AoA (Administration on Aging) grant and \$60,000 in Bush Foundation grant in 2010.
- ◆ The demand for legal services is real and is increasing. The problems with our funding sources are real and are decreasing.
- ◆ The removal of the surcharge cap contained within SB 2069 will allow LSND to serve more of our citizens.
- ◆ I also want to note that Chief Justice VandeWalle, who has already voiced his support for this Bill, is unable to be with us this morning as he is at this same time testifying before the House Judiciary Committee in support of SB 2121.

**Testimony of Laurel Forsberg
In Support of S. 2069
March 2, 2009**

Chairman DeKrey and Committee Members : My name is Laurel Forsberg. I am an attorney practicing in Williston, North Dakota, and a partner in the McKennett Law Firm. I have been a board member of Legal Services of North Dakota for 11 years and have served as president of the organization in 2004 and 2005. I am here today with our Executive Director, Jim Fitzsimmons.

We are here in support of Senate Bill 2069. This bill would amend and reenact Subsection 1 of NDCC 27-05.2-03 by removing the cap of \$400,000 per biennium on the Civil Legal Services Fund. Legal Services of North Dakota (LSND) is the primary recipient of these funds.

If passed, this bill will generate an additional \$225,000 or so per biennium for the Civil Legal Services Fund. Money that is currently pouring over into the general fund will be available to help low-income North Dakotans with civil legal matters such as advance directives, foreclosures, medical denials, social security issues, consumer issues and much more. This will be accomplished without any additional fees or taxes, or without increasing any present fee or tax. The bill would simply remove the cap on the fees that can go into the Civil Legal Services Fund. Currently, for every 15 people who pay a \$15 civil filing fee, 10 of them are helping provide legal help to low-income North Dakotans, while the remaining 5 are contributing to the General Fund. This may not seem like a lot of money to make an impact but, in light of the following, it will help significantly:

- In the last biennium LSND processed 15,829 applications for legal help.
- In the last biennium LSND was able to assist over 11,300 low-income and elderly

North Dakotans.

- In the last biennium LSND represented clients in over 600 cases resulting in court decisions, including 9 appeals to the North Dakota Supreme Court.
- In the past 2 years LSND has gone from 13 attorneys to 9 attorneys due to federal funding cuts, stagnant state funding, and reductions in foundation funds.
- In the past 2 years LSND's overall funding has diminished by 17%.

Without the passage of this bill, LSND is looking at more cuts in 2010 as well as a significant reduction in services and outreach to low-income North Dakotans. But with the uncertain economy, the need has never been greater.

I would ask for your support of S. 2069, and we would welcome any questions you may have. Thank you.

**NORTH DAKOTA COUNCIL ON ABUSED WOMEN'S SERVICES
COALITION AGAINST SEXUAL ASSAULT IN NORTH DAKOTA**

418 East Rosser #320 • Bismarck, ND 58501 • Phone: (701) 255-6240 • Fax 255-1904 • Toll Free 1-888-255-6240 • ndcaws@ndcaws.org

Testimony on SB 2069
House Judiciary Committee
March 2, 2009

*Same given to
House Appropriations
3-9-09*

Chairman DeKrey and Members of the Committee:

My name is Janelle Moos and I am speaking this afternoon on behalf of the North Dakota Council on Abused Women's Services in support of SB 2069.

The ND Council on Abused Women's Services and Legal Services of ND has developed a collaborative partnership over the years to address the ever growing legal needs of domestic violence and sexual assault victims. Nationally and in North Dakota, victims have identified that the lack of legal services remains the primary barrier that prevents them from leaving an abusive relationship. There is currently very little funding available for legal services for victims but Legal Services continues to make it a priority to provide the services desperately needed by victims despite the funding cuts.

We partnered with Legal Services to write a Legal Assistance for Victims grant last year but were unsuccessful. Budget cuts at the federal level allowed them to only fund about half of the requests. We prepared an application for this year's round of funding and are hopeful for a better outcome but we also know that it can't be the only source of funding for civil legal services. SB 2069 increases access and availability to another revenue source that will allow Legal Services to continue to provide the services desperately needed throughout the state and therefore urge you to support this bill.

Thank you.

Senior Legal Hotline

Legal Services of North Dakota, (LSND) is a non-profit organization which provides legal help to disadvantaged elderly and low-income North Dakotans.

Services Available

LSND accepts cases in the areas of:

- Government Benefits
- Family
- Health
- Consumer
- Housing
- Elderly Law
- Indian Law



Specific types of cases include:

- Social Security
- Medicare
- Medicaid
- Advance Directives
- Consumer Rights
- Guardianships
- Housing Problems
- Property Tax Credit

How to Contact LSND

Phone

Call our Senior Legal Hotline Toll-Free number 1-866-621-9886. Monday through Friday from 8:00 a.m. to 5:00 p.m. If you prefer, you may also leave a message and one of our legal staff members will return your call.

When you call on legal matters, an intake worker will ask you a few questions, which are asked to determine which of our grants will pay for the services we may provide you. Everything you say is **strictly confidential**.

You may receive advice right away. If you need more than advice, LSND may also work on your case. If LSND cannot assist you, a referral may be made to another organization that might be able to help you.

Website

Applications may be made by going to <http://www.legalassist.org>.

LEGAL HELP FOR ELDERS •

Fort Berthold, Turtle Mountain, Spirit Lake and Standing Rock Reservations

Special emphasis on:

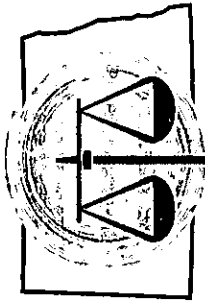
- Health, Housing, Public Benefits
- Income Taxes
- Indian Child Welfare Act
- Selected Tribal/Indian Law Issues
- Indian Trust Land Wills

LSND also prepares, distributes and presents information about the legal rights of disadvantaged elderly and low-income people.

Please contact LSND at 701-222-2110 to request a presentation on topics of interest.

• **Donations to LSND are always welcome.**

Individuals applying for legal services will not be subjected to discrimination.



LEGAL SERVICES
of North Dakota



Bismarck Law Office
1025 Third St North
PO Box 2419
Bismarck, ND 58502-2419

Fargo Law Office
118 Broadway #704
PO Box 1327
Fargo, ND 58107

Minot Law Office
20 1st St SW Suite 201
PO Box 1666
Minot, ND 58702

New Town Office
345 Main Street
PO Box 217
New Town, ND 58763

Belcourt Office
Bldg. 85, BIA Road 7
PO Box 1365
Belcourt, ND 58316

For services from any of the above
offices, call our hotline number at
1-866-621-9886

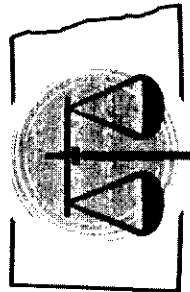
SENIOR LEGAL ASSISTANCE

Legal assistance
seniors can depend on

1-866-621-9886



This project is supported by funding from the U.S.
Department of Health & Human Services,
Administration on Aging, and granted through the
North Dakota Department of Human Services,
Aging Services Division.



LEGAL SERVICES
of North Dakota