

2009 SENATE JUDICIARY

SB 2121

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2121

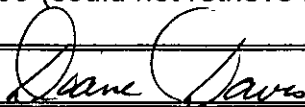
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: January 13, 2009

Recorder Job Number: 6909 (could not retrieve recording)

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Related to the establishment of three additional district court judgeships, relating to the number of district court judges and vacancies in judicial office, to provide an effective date; and to provide an expiration date.

Chief Justice Gerald VandeWalle – See written testimony.

Discussion

Chief Justice VandeWalle – A consistent need has been shown with a weighted case load study. NW District is short on Judges. Thirty percent of our judges must be chambered in rural areas. They do not have to be residents of the county they are chambered.

Senator Nething – Asks if you're moving a judge to the SE district.

Chief Justice – Replies yes and also the NW district.

Senator Nething – Asks if Jamestown and Minot have the facilities to house the judges.

Chief Justice – Their courthouses are not designed for more but they do have some room. The judges need a home base. Fargo is working on accommodations. There is some talk of moving them out to the Law Enforcement Center.

Senator Fiebiger – Asks if there are things we could be looking into for the future.

Chief Justice - Says Fargo's model is to have small town come to Fargo to the judges. It doesn't work that way for most of ND and would be a dis-service to the people in rural areas of ND.

Senator Olafson – Seems you are looking for 3 additional judges but the bill reflects more.

Chief Justice – This bill is a cleanup then adds 3 additional judges. He also adds that Fargo handles things very efficiently and they do a great job.

Gary Lee – Minot District Judge – Explains the court house in Minot is very crowded, but they would make space for an additional judge and clerk. They do have an additional courtroom on the main floor that could be used for the new judge. He said they have seen a lot of new cases dealing with mineral rights. They have revamped they're case management. They also have Juvenile Drug Court and Adult Court.

Bill Neuman – ND Bar Association – In support of this bill. He explains they have a Legislative Committee that goes over the new bills and they send it on to a Board to decide if they support it or not.

Senator Nelson – Asks how many makes up the committee.

Neumann – Replies the Board of Governors is made up of a member of each 7 judicial districts.

Neumann – Discusses the make-up of the Bar Association committees.

Chief Justice – Discusses the districts and court administrators and how all have tried to provide staff to be more efficient.

Closed hearing on 2121.

Motion is made for a do pass by Senator Nelson, seconded by Senator Lyson.

Voted on do pass – 6 yes, 0 no.

Carrier – **Senator Fiebiger**

FISCAL NOTE
Requested by Legislative Council
04/02/2009

Amendment to: SB 2121

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						
Expenditures			\$875,094		\$886,000	
Appropriations			\$875,094		\$886,000	

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).*

This bill increases the number of District Court judges from 42 to 44 and provides the necessary appropriation for the new judgeships.

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.*

The appropriation is for the salaries and wages for two new judges, two court reporter positions and the related operating costs necessary for these positions.

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.*

N/A

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.*

This bill increases the total number of District Court judges from 42 to 44. Anticipated expenditures include salaries and wages of the two new judges, two new court reporter positions and related operating costs necessary for the new positions.

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.*

Senate Bill No. 2121 includes an appropriation of \$875,094. The bill as introduced would have given the Supreme Court authority to increase the number of District Court judges to 45 during the 2011-13 biennium. The House amendment removed the authority for the Supreme Court to add a judgeship during the 2011-13 biennium.

Name:	Don Wolf	Agency:	ND Supreme Court
Phone Number:	328-3509	Date Prepared:	04/02/2009

Date: 1/13/09
Roll Call Vote #: 1

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

582121

Senate JUDICIARY

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☒ Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen. Nelson Seconded By Sen. Lysen

[illegible]

Total (Yes) 6 (N) 0

Absent

Floor Assignment Senator Fiebigers

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

REPORT OF STANDING COMMITTEE

SB 2121: 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 2121 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

SB 2121

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2121

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 01-22-09

Recorder Job Number: 7542

Committee Clerk Signature

Minutes:

Chairman Holmberg called the committee hearing to order at 11:18 am in regards to SB 2121 concerning the appropriations of the judicial branch and number of judgeships.

Chairman Holmberg said this bill is being moved up from this afternoon to accommodate **Chief Justice VandeWalle** who has a conflict.

Chairman Holmberg stated that this bill has to do with the number of judgeships and the corresponding dollar amounts. Even though the judiciary is asking for additional judgeships, the money is in the separate bill, not in the budget bill that the subcommittee will have.

Senator Christmann: Will these other two bills be the responsibility of the subcommittee?

Chairman Holmberg: Yes.

Gerald VandeWalle, Chief Justice of ND Supreme Court

(Written testimony # 1)

Chairman Holmberg: You mentioned delaying the project in the Central judicial district to give county time to complete the building project, are they currently involved in actual projects or is it discussion phase in Cass County?

Gerald VandeWalle: I think it's beyond discussion. We helped bring in a consultant to deal with court facilities. There's no point in putting a judge there if they are going to use split shifts. One is going to come in and use the office, and it's just not that efficient.

Chairman Holmberg: When you look at that need, I noticed that you had two points for a nine judge shortage. You are pretty even in the Northeast Central districts. Has there ever been discussion at looking at how those counties were divided 109 years or whenever it was? Would it make a difference if Traill County went into the Northeast Central, but Grand Forks County would say they don't have room either?

Gerald VandeWalle: When I came onto court (in 1978), we realigned districts. I think the theory of redesigning the districts then was to try and maintain some rural counties in each district. We've done some fine tuning; I would be reluctant to put two larger districts together. I think that might create more problems, particularly with judges being separated 80 miles.

Chairman Holmberg: There might be those that would criticize the legislature if we were to approve this position in Cass County, saying that it's just being done to put pressure on Cass County to get moving on handling their court situation.

Gerald VandeWalle: If you look at the statistics, if I didn't ask for another judgeship in Cass County, they would say that Cass County shows the most need, why aren't you asking for a judgeship there? Someone suggested that I just not include it at all, but then how do we explain the others need one when we're not asking for one for Cass County when it shows the greatest need.

Chairman Holmberg closed the hearing on SB 2021.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2121

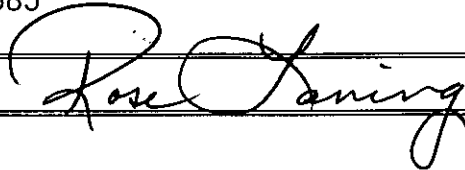
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 01-22-09

Recorder Job Number: 7585

Committee Clerk Signature



Minutes:

Chairman Holmberg reconvened the committee hearing at 2:19 pm in regards to SB 2121 concerning expenses to the judicial branch.

Chairman Holmberg: We will go back to SB2121 and just to remind the committee that **Chief Justice Gerald VandeWalle** gave his testimony (attachment # 1)

Brad Cruft, SE Judicial District, Valley City.

(No written testimony) Testified in favor of SB 212, and concurs with the chief justices' testimony.

Senator Warner asked, with the lack of judges, are we approaching a constitutional issue in a citizen's right to a speedy trial.

Brad Cruft replied that if the defense bar would throw a motion for speedy trial, things could be a mess and if we didn't have the bar that we do and it would be a serious issue.

Russell Myhre, SE Judicial District Bar Association, Valley City, owner, private law firm.

(No written testimony) Testified in favor of SB 2121

.Once the demand for a speedy trial is made, the trial has to be scheduled within 90 days.

There are certain exceptions under the law, but generally has to be made in 90 days. He

concurred with the chief justice and strongly urged support.

Sally Holewa, Court Administrator

Handed out the Appropriation Request for New Judges (attachment #2) and Judgeship Vacancy Chart (attachment #3)

Senator Mathern had a question of inadequate space and not moving ahead with judgeship.

Don't people raise questions about professionalism – not just having judgeship?

Sally Holewa: As administrator and court professional, our need should draw judges and not office space. We thought Fargo was moving ahead and had plans. We're saying our need is great. We're looking at this say our need is great - we've been getting by. As a court professional, if you're running 20 people in an hour for arraignment and each person is getting 5 minutes to explain why they should have bail and be released from jail. It's efficient and it's getting the job done, but is it something that we want to continue?

Chairman Holmberg stated that the Chief Justice was very clear and that the rationale for putting this judgeship in this budget, even though it would not require any funding this time, was because of the demonstrated need on the basis of the surveys that were done. He asked for what is demonstrated as the largest need. If legislature says why are we creating something that we're not going to use, we can make that decision, irrespective of what the study showed.

V. Chair Grindberg asked for comment on the weighted case load study for the National Center for State Courts.

Sally Holewa: Essentially, when you boil it all down and it's time and motion. You have people coming in and recording how long a judge works on a case. First of all, they check on the bench, recording how much time people spend with each case from the bench. They then track it through and find out how much time they spend following up writing decisions. They average that state wide and try to take into account vacation and windshield time. Essentially

it's a time and motion study.

V. Chair Grindberg What kind of skill sets or what entity or legal group, so it's kind of birds of feather looking out after each other or is it an independent, unbiased evaluation that doesn't have any connections with the judicial system?

Sally Holewa: Not quite, but sort of. The National Center for State Courts is a think tank that was established by Chief Justice Berger in the 1970s and their goal is to study state courts system. Prior to that, only the federal court system had ever been studied. They gather data from all 50 states and Washington, DC and our protectorates in the common wealth and they provide research services, so when you set out to do one of these studies, you contract them and they send not lawyers, but researchers out. The people who come actually have degrees in statistics and are not lawyers.

V. Chair Grindberg: Following downsizing of government, and certainly the judicial branch which started in 1991, I believe, if counsel could put together a spread sheet that shows the number of case loads that are tracked by the regions so we know an actual case load volume since 1991 that would give us some kind of indication that's more based on actual rather than a national model. With the population that's not growing, one could argue, how can the case loads be growing? I think we need to look at numbers we have in the state.

Chairman Holmberg: When you are evaluating the court in a region, do you visit with the bar or does bar have any input into the decision making because if you are in a city with 5 or 6 judges, and you talk to members of the bar, there are X number that they like because they expedite things. And there are X number that they never want to go to because they can never make a decision. Is there any looking at the judges in a particular district as to their productivity?

Sally Holewa stated that they don't look at that. One reason is that they don't have any choice but to work with the judges that are elected. It would be pretty fruitless. We send them to training, we encourage them to get training, we encourage them to mentor each other if there are problems, but ultimately, they are put there by the electorate and the electorate judges their productivity and their skills. We look at efficiencies; we look at assigning judges appropriately. We do take those things into account.

Chairman Holmberg If you see a situation in a district that appears to be not very efficient in use of their time, do you go in and give advice or training or do you just let it slip.

Sally Holewa stated that they we have fairly new child court administrators who are professionally trained administrators who are skilled and trained in court administration. We work with those, sit down and do an analysis on the case load finding where they could be more efficient.

Senator Robinson: We heard 2, 4, 6, years ago about back log and how that relates to case load. Where are we with issue of back log? We're touching on it now with productivity, efficiency, case load and so on. Is it that not almost a separate issue?

Sally Holewa: Yes and no. There is definitely a backlog of cases and the cases are not meeting the standards. For example, felony cases, from start to final sentencing, are supposed to be taken care of in 180 days. We know there is a significant backlog. They are somewhat related.

Senator Robinson: Are we making progress or not, in that area? As far as the backlog, are we making ground?

Sally Holewa: We can concentrate resources in an area on a particular case type, which is what we did in the SE and concentrate on misdemeanors and brought them close to under

control and at the same when we re-allocate that, the other pops up. It's difficult to say what plainly it is because what one district does doesn't necessarily affect what other district does.

Chairman Holmberg related an example of a civil case and asked who pays in the instance where the judge I'd like your side to write up what a good order would look like. Who pays for that order, the client or the court?

Sally Holewa: I would assume that the client is paying for it. In my experience, they are reluctant to ask attorneys to draft opinions.

30:21

Senator Krebsbach: Not all cases end up in incarceration, is there a correlation between your number of cases that you hear and the numbers of the court in incarceration? If so, would that be also something to include within the council's report to us?

Sally Holewa: I can't answer definitively. My professional experience would say that delay in cases is causing more local jail time because you're sitting in jail longer and waiting. I don't know that there's a direct correlation.

V. Chair Bowman reported an experience of sitting in a federal court and relayed all the unending questioning about trivial things and asked if a judge have authority to say let's go on to something else.

Sally Holewa: The judge walks a fine line. Part of what we know from our studies on public trust and confidence is that people are more satisfied if they feel they had a chance to talk. The judge has the responsibility to keep things moving. If the judge is too rigid, they get complaints of litigants not having enough time.

Senator Christmann: Getting back to bill, could you walk me through the Jamestown or Minot judgeship? The support – is that secretarial type positions or do we need to add another TD

or do we just pay money to ones who are there because there's another judge? Travel & meetings for each of these - an existing judge drives 100 miles to hear a case in three months from now and we hurry up and have a new judge driving 100 miles in a month from now. Are these located in a complex like a courthouse? Are these judges unable to share law books? Does everything have to be completely duplicated?

Sally Holewa: Court staff is a court recorder. That's the person who actually sits in court with the judge and takes down the verbatim record. It's a position that is needed, so two judges need two recorders. As far as the law books, we have a subscription based on the number of users. There is actually a great deal of savings because the court organization can negotiate one price but it is based on users. There are two different kinds of travel – travel to court (county to county) or travel to Bismarck to come for committee meetings. We strongly encourage all of our judges to work on court committees. That is how the court makes most of its rules is that they usually have one or two judges on them. They also travel for education. Because we are such a small judiciary, we offer instate education opportunities, but we also encourage them to go out at least once a year to get some other education. ND is really a very closed system. Most of the lawyers grew up in ND, practiced at UND law school, but when they travel they learn other ideas and other ways. They usually come back grateful to be in ND.

Chairman Holmberg: Any more questions? Closed the hearing on SB 2121.

Also received a Resolution of the Southeast Judicial District Bar Association

From Fallon M. Kelly, President, SE Judicial District Bar Association

(Written attached testimony # 4)

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2121

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 18, 2009

Recorder Job Number: 9650

Committee Clerk Signature

Rose Loring

Minutes:

Chairman Holmberg called the committee hearing to order on SB 2121.

Senator Mathern moved Do Pass.

Senator Wardner seconded.

Chairman Holmberg said this bill creates three judgeships, funds two of them and the third judgeship goes into effect the next biennium.

A Roll Call vote was taken. Yea: 11 Nay: 3 Absent: 0

The bill goes back to the Judiciary committee.

Date: 2-18-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2121

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Mather Seconded By Wardner

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

Total Yes 11 No 3

Absent 0

Floor Assignment judiciary Senator Lieberman

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

REPORT OF STANDING COMMITTEE (410)
February 18, 2009 9:27 a.m.

Module No: SR-32-3235
Carrier: Flebiger
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2121: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2121 was placed on the
Eleventh order on the calendar.

2009 HOUSE JUDICIARY

SB 2121

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2121

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/9/09

Recorder Job Number: 10424, 10435

Committee Clerk Signature *A. Penrose*

Minutes:

Ch. DeKrey: We will open the hearing on SB 2121.

Chief Justice Gerald VandeWalle, ND Supreme Court: Sponsor, support (attachment).

Chairman DeKrey: This is in your budget?

Chief Justice Gerald VandeWalle: It's in the bill. The amount in the bill includes the judgeship and support staff for each judge. I didn't put this in my budget, because I wanted this to stand on its own. I didn't want to hide the figures in the budget and have you try to dig them out.

Chairman DeKrey: I was here in 1991 over in the Senate; there were many things that we wanted with the court unification. We wanted judicial services in every county in the state. The purpose of the way that we run the judiciary is not for efficiency. We run it for service, and the reason you ended up with less judges than you should have was because of money. People weren't real thrilled with it in the first place and if we had added even more money, it probably wouldn't have passed in the first place. That's how we got to where we are today; we've been short of judges ever since 1991.

Rep. Delmore: How do you determine where referees hold positions within the Court, and does that take away some of the load.

Chief Justice Gerald VandeWalle: I think we've added a half of a referee position since 1991; we created a full position out of a half position. When this discussion came up about the unifying the system, yet referees do help. We decided at that time we were not going to set up a system of not electing judges; referees are cheaper to use, they don't get as much salary, they are now elected. They can't do everything. Referees were included in the case study.

Rep. Klemin: Why aren't you asking for a judge in South Central?

Chief Justice Gerald VandeWalle: I tried to explain that. The one thing our case study doesn't take into account is the economy of scale of having all of the judges in one courthouse. Frankly, if one judge is ill, another judge can probably fill in the South Central district. But a judge in a district with only one judge doesn't have anyone to fill in for them unless they come from another county, which sometimes can be many miles away. That district would need someone far more than a district where there are a number of judges already assigned. South Central would like another judge, but it's not critical. Law clerks do help the judges in the urban areas, but we can't afford to have a law clerk in each district and they weren't included in the study.

Rep. Kretschmar: My recollection from the 1991 session, the House wanted 46 judges and the Senate wanted only 42. In conference committee, the Senate prevailed. I'm glad to see that we are nearing the House number now.

Chief Justice Gerald VandeWalle: This is needed. It won't reduce the time spent, because we are seeing more self-represented parties which take more court time because they aren't always familiar with proper court procedures. This is happening at the district level and at the Supreme Court level. Those are some of the things that go into what happens with the need

for judges. In fact, if our economy does go south, we will see more cases in court than we do when the economy is good.

Rep. Delmore: On your chart, you have a minus where something is needed.

Chief Justice Gerald VandeWalle: We have the authority to move judges around. But you can't move a portion of a judge. We can't move anything under a full judgeship.

Chairman DeKrey: Thank you. Further testimony in support.

Judge William McLees, Presiding Judge of NW Judicial District: Support. I have been every kind of judge you can be in this district, starting back in 1978, I was a county justice. Of course, at that time, it was a part-time position and continued to practice law. Sometimes my clients came before me, so that wasn't a real good system. Of course, that changed in 1983 with the advent of the full-time county judges. At that point in time, I became a full-time county judge, no longer authorized to practice law and that system actually worked pretty well for a number of years. The way the process worked across the state was that initially most counties had their own county judge at the outset. As time went on, many of the counties combined. Before 1990, I had been chambered in Watford City for many years. At the start of 1990 we entered an agreement with a four county area and did that for four years. That worked very well. Actually, if the county judges had been allowed to assume the district court caseload agreements, I think that might have worked pretty well. That didn't happen. We changed the entire system in 1995. I have a wealth of experience in this system. As Chief said, before consolidation there were 53 county and district judges. I actually served on the ad hoc committee to try and figure out what was the appropriate number of judges. I don't think there was a great deal of science that went into that figure of 42 judges. We ended up with 42. I knew that the judiciary needed to be at the forefront of cost cutting in county and state government. It really has come at a price. For our district, prior to consolidation there were 9

district and county judges. When consolidation came along, we lost 1, when another judge retired; the decision was made not to fill that judgeship in Minot because the court was trying to reduce the number of judges down to the 42 number. Now we are down to 7. When a judge died in 2001, then the Supreme Court again had a difficult decision to make because we were still in the middle of trying to get down to 42. The decision was made to transfer that judgeship from Minot down to Fargo. That took us down to 6. At that point in time, we huddled together as district judges in 2001, and tried to determine how we were going to do the job and who was going to move to Minot, where the concentration of cases tended to be. I ended up moving in 2002 to Minot. In 2007, we transferred another position from Stanley to Minot. Beyond those measures, we tried to address the caseload and we've gone through a number of case management plans (three different plans). We're in our third plan now and the way that we assign and handle cases. We've also experimented with a civil and criminal location, similar to what Fargo had. But as the Chief Justice said, we just don't have the economy of scale in our district. We have two population centers, Minot and Williston, and they are 125 miles apart. Realistically we can't make anything approaching of a regular use of our Williston judge to help process the Minot caseload. It just doesn't make sense, it's too much windshield time, 4 - 4½ hours a day, in winter time like today, it just isn't practical. There is also more to our jobs than just deciding cases. We're also required as judges to serve on several Supreme Court committees that meet on a fairly regular basis; we have to take time to do that. We need continuing education, 15 hours per year; we have to find time to do that. From time to time we're asked to sit on the Supreme Court due to certain disqualifications. We like to be able to assist in that regard as well. The real difficulty that I have as a presiding judge since 2004, due to the judge shortage, we've never been able to build in opinion writing time into our schedules, it just hasn't happened. I don't see it happening anytime soon, unless we're able to

obtain at least one more position. I'm not pushing for two positions, but I do believe that one position is very definitely needed. Other impacts on our caseloads and time, we're cutting more and more problem solving type courts. We now have two juvenile drug courts in both Minot and Williston and also an adult drug court in Minot that was added in January. We're hoping that will decrease the criminal caseload as time goes on. In Montana, they've added a mental health court and that might not be too far down the road. Family courts, that's another area that could help out. We do have a referee in Minot that deals with small claim court, juvenile matters, and child support cases. She does perform a very valuable service. Without her taking those cases, I don't know where we would be in all honesty today. Those matters take a lot of time.

Ch. DeKrey: Thank you. Further testimony in support.

Brad Cruft, SE Judicial District: Support. (Attachment/Resolution of SE Judicial District Bar Association.) We've been short for a number of years and that causes a delay in many of the cases where a judge is needed, and that results in justice being denied for a lot of our residents in our district. Prior to being a state's attorney, I was in private practice and a lot of what I did was family law. When your life is in the balance, you have those clients in custody or in a shelter in the court cases that is a very stressful thing that those families are going through. When you have months of delay just getting before the judge, and then the judge has to take several months to make a decision, that is something that no family should have to go through. In my current practice as state's attorney, it is also a problem for me, in that the defense attorney never pushes for a speedy trial, very rarely. The reason for that is because the delay works to their advantage. The defense requests a jury trial on misdemeanor or felony cases, and that automatically pushes it back for a time period of 6-8 months in our district for the case to be heard. During that time period, I lose my witnesses, there is turnover

in law enforcement and sometimes we have to dismiss those cases outright because those officers no longer choose to participate. So those cases ultimately end up getting reduced sentences or dismissed. That's not justice for the victims in those cases, especially in the cases where we have some type of restitution issue and then the victim doesn't get made whole. We don't have any referees in the SE district and they're probably not a good fit because of their limited jurisdiction; they can generally do the child support cases. When you only have a case here or there in each of 11 rural counties, that person is going to be on the road all the time.

Rep. Delmore: I didn't mean that they would replace judges, but it would be a tool that could help lighten the load.

Brad Cruff: Sure, but in our district it's not very workable because you have no large criminal population center. We've also looked into drug court, trying to find techniques to alleviate our court caseload and that also does not work very well in our district, because we can't get the services from the DHS, because we don't have that caseload.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

(Reopened later in the same session.)

Chairman DeKrey: We will take a look at SB 2121. What are the committee's wishes?

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

Rep. Griffin: Second.

11 YES 0 NO 2 ABSENT

DO PASS WITH REREFERRAL TO APPROPRIATIONS

CARRIER: Rep. Wolf

Date: 3/9
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2121

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number refer to App

Action Taken ☒ DP ☐ DNP ☐ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Wol Seconded By Grif

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	<input checked="" type="checkbox"/>		Rep. Delmore	<input checked="" type="checkbox"/>	
Rep. Klemin	<input checked="" type="checkbox"/>		Rep. Griffin	<input checked="" type="checkbox"/>	
Rep. Boehning	<input checked="" type="checkbox"/>		Rep. Vig	<input checked="" type="checkbox"/>	
Rep. Dahl	<input checked="" type="checkbox"/>		Rep. Wolf	<input checked="" type="checkbox"/>	
Rep. Hatlestad	<input checked="" type="checkbox"/>		Rep. Zaiser		
Rep. Kingsbury	<input checked="" type="checkbox"/>				
Rep. Koppelman	<input checked="" type="checkbox"/>				
Rep. Kretschmar	<input checked="" type="checkbox"/>				

Total (Yes) 11 No 1

Absent 2

Floor Carrier: Wol

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

REPORT OF STANDING COMMITTEE

SB 2121: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2121 was rereferred to the Appropriations Committee.

2009 HOUSE APPROPRIATIONS

SB 2121

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2121

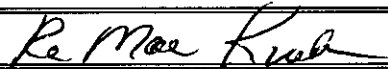
House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: March 13, 2009

Recorder Job Number: 10935

Committee Clerk Signature



Minutes:

Chairman Delzer opened the budget hearing on 2121.

Rep. Dekrey: SB 2121 is a bill from the Judiciary Committee for three more judges. Section 1 is the appropriation of \$875,000. The rest of the bill is cleaning up the language so it fits where they have the judges now. Supreme Court has the authority to move the judges around the state where they think they are most needed.

Chairman Delzer: Did you get into it as to how much money they needed for each judge?

Rep. Dekrey: We didn't talk about the money. We have a weighted case study that they've done that goes through the state wide that shows the work load that the judges in different districts are under. They have plenty of proof to show that they need three judges.

Chairman Delzer: Section 6 of the bill actually sets up the fact that only two of these are funded. Section 7 would make the difference of that one person. Section 2 would be ineffective after two years and then three would take over.

Rep. Pollert: How does that work?

Rep. Dekrey: Instead of coming in and asking for three judges outright and the funding, they've asked for three judges so they have three positions but only funded two. At a future date the funding would kick in for the third judge.

Chairman Delzer: The next biennium they would put the funding into the budget bill. If we pass it as it is, we would be agreeing to the three FTEs.

Rep. Dekrey: The Judiciary Committee knew there would be questions on the three judges. This way the legislature would have it easy to see what it was going to cost.

Chairman Delzer: What about the language that says they don't have to hold an election?

Rep. Dekrey: We didn't talk about it in committee.

Chairman Delzer: Page 3 overstruck language?

Rep. Dekrey: I don't think we talked about that.

The Supreme Court can put the judges where they want. A lot of the language in the bill was when we did court unification, that the legislature said specifically that they had judicial services in all 53 counties. So it specified where they were going to be to satisfy the legislature. It's been done now so the language isn't that important any more.

Chairman Delzer: Don, the \$875,000, do you have a breakdown of that is used.

Don Wolf: The funding for each judge, there would be the two judges, that is \$310,701. That totals up to \$621,402 for the two judges. That is just salary and wages. Each judge would also have a court reporter. The salary for the court reporter for the biennium would be \$94,346 for each one, or \$188,692. So out of the \$810,000, \$875,000 is for salaries.

Chairman Delzer: So we are talking 4 FTE's?

Don Wolf: Correct.

Chairman Delzer: But it doesn't say that anywhere.

Don Wolf: No, it is not in the bill.

Chairman Delzer: Then we would have to add the 4 FTE's in the judicial budget to make this work. There is nothing in the bill about the court reporters. We would have to add that in the judicial budget.

Rep. Berg: Or you could do it in this budget so it is all together.

Chairman Delzer: You'd have to write a section saying reporters go with them. I imagine judicial thinks that is standard procedure but I don't see it anywhere in code. Unless there is another section of code that says every judge has a reporter.

Rep. Berg: We don't want to add it in the budget section. If the Senate kills this bill, that goofs things up.

Chief Justice Gerald VandeWalle: I don't think we have ever had a statute that says you have X number of FTEs. It has always been included in the appropriations. FTEs have been added before by simply appropriating the money to them.

Chairman Delzer: In your budget you have a set list of FTEs.

Chief Justice Gerald VandeWalle: We do because that is what the budget requires.

Chairman Delzer: We've changed our budgeting statute now to have FTEs listed in the budget bill.

Chief Justice Gerald VandeWalle: This is the ordinary type of bill that judiciary has provided in the last years.

Rep. Kaldor: In the budget bill that is also before this committee, does that contain the FTEs that are included in this?

Chief Justice Gerald VandeWalle: No. As Don indicated, I wanted this to stand on its own.

Rep. Kaldor: With the passage of this bill, we would want to amend your budget to reflect those added personnel.

Chief Justice Gerald VandeWalle: The Cass Co. judge shows the greatest need. If the question comes up why we didn't add one there, they do not have room. They are contemplating a new building.

Chairman Delzer: How big is the survey that you did?

Chief Justice Gerald VandeWalle: (hands out **testimony given to Judiciary Committee**) If you look at the last two pages which is a map of the judicial districts and the number of judges, the very last page is our weighted case load summary. It shows where the judges are. Where there is a parenthesis, it shows a shortage. With no parenthesis there is a plus.

Chairman Delzer: You are talking about putting one in the northwest and one in the southeast.

Chief Justice Gerald VandeWalle: The southeast is a district where the judges are spread all over. There is no concentration of case load in the southeast like there is in Bismarck, Fargo, and Grand Forks. The judges from Minot and Williston can't help each other out that easy on the spur of the moment being 125 miles apart.

Rep. Kaldor: The case load study does bring to mind the process we go through in reapportionment where we actually draw different boundary lines. I wonder if any thought is given to moving counties from one district of shortage to a district of surplus.

Chief Justice Gerald VandeWalle: When I came to the court, I signed a redistricting order. The blood is still flowing from that. The administrative council will be meeting where it is suggested to take a look at redistricting. If we start adding rural areas to Cass County, we are going to destroy the efficiency.

Chairman Delzer: The issue of Cass County not having any space, what makes you think it will be different in two years?

Chief Justice Gerald VandeWalle: I pointed out to them there may be some stimulus money. It is for infrastructure and goes to public safety. The courthouse in Cass County is a public safety issue. They have a number of prisoners brought in from their law enforcement center.

It is not a secure area. They use the same stairways as the public, etc.

Chairman Delzer: The current number of judges is 42?

Chief Justice Gerald VandeWalle: Yes.

Chairman Delzer: How long have we been at 42?

Chief Justice Gerald VandeWalle: Whatever year we were required to cut some positions.

We cut one in the Southwest. We started with 56. So we spent 10 years cutting judges. The legislature required us to cut. But every time we cut a judge in a district, the legislators from that district said they wanted it cut from a different district.

Chairman Delzer: It looks like in the new language you are putting them by district instead of the overall number. Is that the way you want it?

Chief Justice Gerald VandeWalle: Generally the legislature has said we want to assign the judges by district. That is existing law.

Chairman Delzer: The numbers don't add up.

Chief Justice Gerald VandeWalle: This bill was never amended after the unification. You have county judges and district judges. This is purely clean up. If you don't pass the bill from that standpoint it is not going to make any difference because our rule assigns the judges by district. As we reduced the number of judges it was never taken care of. In some instances it looks like we are increasing judges. That's because the statute never accounted for the time when the county judges were made district judges. The bill was never amended to increase the number of judges for the district.

Chairman Delzer: That's what I wondered. When I added it up there were only 24.

Chief Justice Gerald VandeWalle: To start with there were 27 district judges and 26 county judges. We had to cut 11 of them.

Chairman Delzer: We'll hold this one until we work the Judicial Branch.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2121

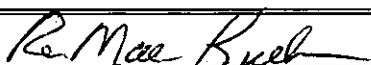
House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: March 13, 2009 (Discussion)

Recorder Job Number: 10939

Committee Clerk Signature



Minutes:

Chairman Delzer: I have Becky drafting a couple different scenarios on SB 2121. I am uncomfortable giving them the third judge to come back in two years. I think they need to come back and sell it at that time again if it is really needed. To do that you would have to take out Section 6, 7, and 3. That would give them the two judges. The other option I asked Becky to draft is to do that same thing and yet on section 2—change that to say the number of district court judges is 44. The Supreme Court will decide the districting and location of them, which is what they have been doing. I don't know that we need to set where the judges are located.

Representative Kempenich: We talked a little bit about it.

Chairman Delzer: I am really uncomfortable giving them that FTE for another two years out. I think that is the decision of the next legislature.

Representative Berg: I agree. If they need two, let's fund two and their staff. They can come back in next session and ask for another one.

Chairman Delzer: So the question for the committee is, "What about the issue of numbering the judges for each district?"

Representative Kaldor: I think I agree with the idea behind that. Except I think I would rather have them drive that, rather than us tell them.

Chairman Delzer: That is the issue though. They currently aren't paying any attention to what the law says.

Representative Kaldor: I don't disagree with that. I am just thinking that is an issue that will foster some potential floor debate that may be unnecessary.

Representative Kempenich: We brought that up. He more or less says he runs his own shop.

Chairman Delzer: That is all of the changing that would say. They say where they go.

Representative Kaldor: This could be a policy issue. This was generated from policies that go way back when we had the county districts. If the court wants to tell us that this is something they'd like to do, I'd feel more comfortable with it.

Chairman Delzer: They've told us but they don't pay attention to what we tell them.

Representative Meyer: The two judges would be the Northwest and Southeast. But it doesn't include Fargo.

Chairman Delzer: Becky, you are going to have to adjust on Section 2, the East Central from 8 to 7 to get to 44. That is the third judge that we are not giving them.

Chairman Delzer: Back on 2002, what is the committee's thought. Do we need to add the two FTEs for the court reporter positions?

Becky Keller, Legislative Council: To clarify, if we leave Section 2 in the bill, that is just showing the two new judges? Section 3 is where they added the judge for East Central that you don't want to give them.

Chairman Delzer: So we don't need to mess with Section 2, just leave it in the bill.

Chairman Delzer: Lori, do we need to add those two court reporters to 2002? We are giving them the two judges in 2121.

Lori Laschkewitsch, OMB: Yes you would.

Chairman Delzer: The money is in 2121 but the FTEs would be for 2002.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2121

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 25, 2009

Recorder Job Number: 11526

Committee Clerk Signature

Ellen Li Tang

Minutes:

Rep. Delzer: They request three new judges. The bill has money for two of the three. The areas where they wanted to put them was the Northwest, Southeast (Jamestown) & the Fargo area. There is not room in the Fargo area for a judge. In the bill we are going to add the two FTE's for the judges and clerks with the \$875,000. There is no Fiscal Note but there is an amendment. The FTE's will be added in the Judicial Budget.

Chm. Svedjan: The FTE's are in the budget. So you have amendment 0104?

Rep Delzer: Move to adopt amendment 0104. to SB 2121.

Rep Kempenich: Second.

Chm. Svedjan: Any discussion?

Rep. Wieland: Are we going to be at a total of 46 district court judges?

Rep. Delzer: It will be 44.

Voice vote for amendment 0104 with all ayes.

Rep Delzer: Move a Do Pass as Amended for SB 2121.

Rep Kempenich: Second.

Roll call vote was taken for a Do Pass as Amended with 20 ayes, 0 nays, 5 absent and

Rep Kaldor is the carrier.

March 16, 2009

VR
3/31/0

PROPOSED AMENDMENTS TO SENATE BILL NO. 2121

Page 1, line 2, replace "three" with "two" and after the semicolon insert "and"

Page 1, line 4, replace "; to provide an" with a period

Page 1, remove line 5

Page 1, replace lines 14 through 24 with:

"27-05-01. Judicial districts - Number of judges.

4- The judicial districts in this state and the number of judges in each of the judicial districts are as designated by rule of the supreme court. The number of judges in each of the judicial districts is as follows:

- a- ~~The northwest judicial district shall have five judges.~~
- b- ~~The northeast judicial district shall have three judges.~~
- c- ~~The northeast central judicial district shall have four judges.~~
- d- ~~The east central judicial district shall have four judges.~~
- e- ~~The southeast judicial district shall have three judges.~~
- f- ~~The south central judicial district shall have five judges.~~
- g- ~~The southwest judicial district shall have three judges."~~

Page 2, remove lines 5 through 21

Page 5, remove lines 1 through 9

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces the new judgeships from three to two and amends North Dakota Century Code Section 27-05-01 to provide that the number of judges in each judicial district shall be determined by rule of the Supreme Court.

Date: "Click here to type Date" 3/18/09
Roll Call Vote #: "Click here to type Roll Call Vote #"

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

SB 2121

House House Appropriations- Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98078.0104

Action Taken Do Pass As Amended

☐ Voice Vote

☐ Roll Call Vote

Motion Made By Representative Kaldor: Seconded By Vice Chairman Thoreson:

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) 6 No 0

Absent 2

Floor Assignment Representative Kaldor:

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

Date: 3/25/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2121

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98078. 0104

Action Taken adopt amendment . 0104

Motion Made By Delzer Seconded By Kempenich

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. Glassheim		
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 Veris Vote - carries

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

Date: 3/25/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2/21

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0104

Action Taken No Pass as Amended

Motion Made By Delzer Seconded By Kemperich

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. Glassheim	✓	
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) 20 No 0

Absent 5

Floor Assignment Rep. Kaldor

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

REPORT OF STANDING COMMITTEE

SB 2121: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). SB 2121 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "three" with "two" and after the semicolon insert "and"

Page 1, line 4, replace "; to provide an" with a period

Page 1, remove line 5

Page 1, replace lines 14 through 24 with:

"27-05-01. Judicial districts - Number of judges.

- ~~1. The judicial districts in this state and the number of judges in each of the judicial districts are as designated by rule of the supreme court. The number of judges in each of the judicial districts is as follows:~~
- ~~a. The northwest judicial district shall have five judges.~~
 - ~~b. The northeast judicial district shall have three judges.~~
 - ~~c. The northeast central judicial district shall have four judges.~~
 - ~~d. The east central judicial district shall have four judges.~~
 - ~~e. The southeast judicial district shall have three judges.~~
 - ~~f. The south central judicial district shall have five judges.~~
 - ~~g. The southwest judicial district shall have three judges."~~

Page 2, remove lines 5 through 21

Page 5, remove lines 1 through 9

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment reduces the new judgeships from three to two and amends North Dakota Century Code Section 27-05-01 to provide that the number of judges in each judicial district shall be determined by rule of the Supreme Court.

2009 TESTIMONY

SB 2121

Senate Bill 2121
Senate Judiciary Committee
by Chief Justice Gerald VandeWalle

Good morning, Chairman Nething and members of the Senate Judiciary Committee. My name is Gerald VandeWalle. I am the Chief Justice of the North Dakota Supreme Court.

I am here today to present Senate Bill 2121 and to testify in favor of its passage.

The bill before you includes a request for three new judgeships. We are asking you to approve and fund two of those judgeships for this biennium, and to approve an additional judgeship in the 2011-2013 biennium, subject to appropriation by the 62nd Legislative Assembly. The judgeships for this biennium are intended for the Southeast Central judicial district and the Northwest judicial district. The judgeship for the next biennium is intended for the East Central judicial district. I have attached a map showing the boundaries of the judicial districts. We anticipate that these judges would be chambered in Jamestown, Minot and Fargo.

There are currently 42 district court judge positions for the state. In 1991 legislation (House Bill 1517) was enacted that provided for the establishment of a single-tier court system and the reduction in the total number of judges to 42 before

January 2, 2001. This legislation was the culmination of various court unification efforts that began nearly 25 years earlier, in 1975, with the adoption of House Concurrent Resolution No. 3056. The resolution proposed a constitutional amendment establishing a unified judicial system. The constitutional amendment was subsequently approved by the voters.

House Bill 1517, the central feature of which was codified as N.D.C.C. §27-05.2-01, abolished the then existing office of county court judge at the completion of the terms of all county judges on January 1, 1995, and established additional district court judgeships on that same date. The number of additional district court judgeships was based on the *lesser* of the number of county judges on January 1, 1991, or the number of county judges on January 1, 1994. This resulted in the total number of judgeships being 53, the combined total of 27 district court judges and 26 county court judges.

The legislation required the Supreme Court to reduce the number of judgeships to 42 either through attrition or abolition of a sitting judgeship. Reduction through attrition proved to be the satisfactory method of meeting the statutory requirement for all but one reduction. The Supreme Court abolished the first judgeship, chambered in Linton, in August 1991. By 1999, the number of judgeships in the state had been

reduced to 43. Section 27-05.2-01 required the Supreme Court to consider the abolition of a sitting judgeship if the number of judgeships was more than 42 on July 1, 1999, and there were no impending resignations or retirements sufficient to achieve the reduction. To achieve the final reduction, the Supreme Court reviewed all judgeships whose term expired in December 2000. Following consultations with judges from numerous judicial districts and consideration of vacancy review criteria established by court rule, the Supreme Court abolished the Bowman judgeship and achieved the statutory reduction to 42 judgeships. We have always been concerned that this cut was too deep and we have struggled to maintain an acceptable level of service to support it.

We use a weighted caseload study developed by the National Center for State Courts to determine judge need. This method of determining judge need has been tested and validated in multiple court jurisdictions. Understood in its simplest form, a weighted caseload is a time and motion study. To determine the base weights for each case types, judge activity for all judges in the state is captured over a period of time. The data is then used to assign “weights” to various case types based on how much judge time is needed to process a typical case of that type. This includes the time from filing through disposition and any post-disposition activity. The weight is

then multiplied by the number of cases filed and then a formula using the number of judge minutes available per year is applied to that data.

To determine judge need and where judges should be located we use a number of factors, including the weighted caseload, the number of counties within a judicial district, the amount of travel required between courthouses in a judicial district, the number of other judges within the district, the location of the judges in relation to each other, and the anticipated growth or stagnation within a geographic region.

The 2007 weighted caseload indicates a statewide judge shortage of 7.52 judges. When we average that with the 2006 weighted caseload data, it reduces the need to 5.11, which still represents a shortage of over 10%. The judge need is scattered across the seven districts, with the East Central, Northwest, South Central, and Southeast districts all showing a judge shortage greater than one.

Based on the two-year average, the shortage in the East Central is 2.49 judges, the shortage in the Northwest is 1.88 judges, the shortage in the South Central is 1.64 judges, and the shortage in the Southeast is 1.02 judges.

We are asking that the appointment of a judge to the East Central judicial district be delayed until the next biennium to give the county time to complete the building project it is currently involved in. Although the South Central judicial district has a

judge need greater than that of the Southeast, there are two reasons why we believe the judgeship should go to the Southeast. If you will refer to the map I have attached, you will see that the Southeast encompasses 11 counties. The judges in that district are spread between Valley City, Jamestown, New Rockford, Ellendale, and Wahpeton. Although they do assist each other, it would be impossible for them to divide all cases equally and rotate through every county. This is less of an issue in the South Central where the judges are grouped in Bismark and Mandan. In addition, there are two referees in the South Central. There are no referees in the Southeast. For these reasons, we believe the best placement of a judge at this time is in the Southeast Judicial District.

Our caseload numbers have not increased dramatically over the years but what has increased dramatically over the years is the dynamics of the cases coming before us. Relatively straightforward cases and routine contractual agreements are settling in mediation without the case ever being filed in court. Similarly, low level offenses, especially those involving juveniles, are being diverted out of the court system. Without this growth in alternative dispute resolution, the North Dakota court system would have been overrun long ago.

The cases the court gets today are substantially more complex and time-consuming. They present genuine issues of fact and conflicting interpretations of law. They include class action lawsuits, product liability, medical malpractice, and many other serious matters. The changing nature of society itself has impacted the issues to be determined in cases. There are more hearings on custody, visitation, and child support. There are issues of grandparent and non-marital partner visitation. Cases may involve the mentally ill, developmentally disabled or vulnerable adults. The expectation of how judges handle these issues has changed, too. Judges no longer just hand down opinions but are expected to be actively involved in identifying underlying issues and monitoring the progress of cases.

Nationally, the ratio of judges is 9 judges for every 100,000 people. North Dakota has a ratio of 7 judges for every 100,000 people. Our judges are working hard to maintain the speed with which cases are handled. However, we don't want to get to the point where the focus is just moving cases through the system. This type of case processing has been referred to "McJustice" in other jurisdictions. We believe that our citizens deserve more than a drive-through approach to justice.

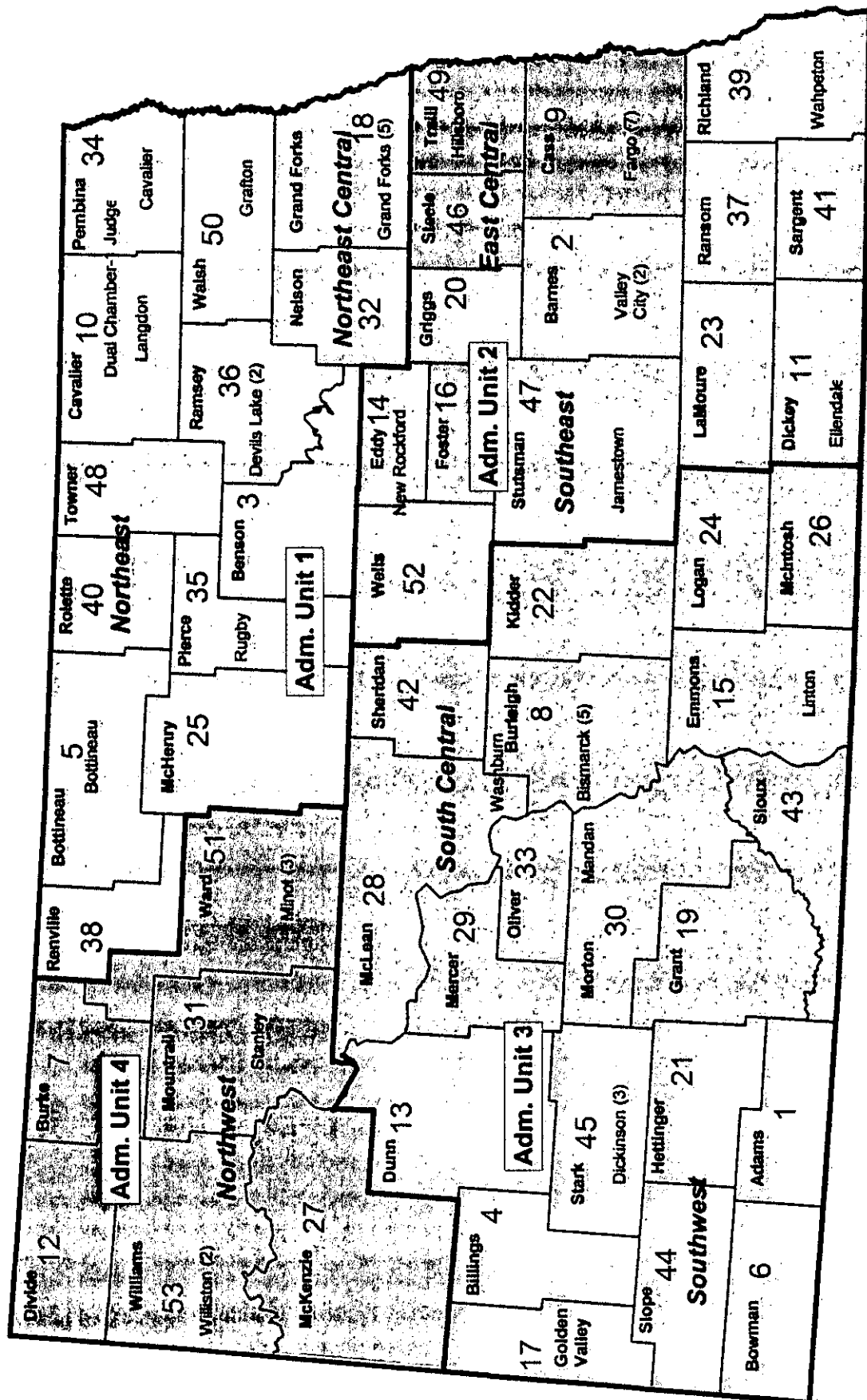
The cost to add two additional judgeships this biennium is \$875,094. This includes salaries, benefits, and operating costs for two judges and two support positions to provide court reporting services for those judges.

Conclusion

We believe these additional judgeships are needed to assure that there will be no reduction in service to the citizens of our state. North Dakota can be justifiably proud of its court system. Our judges work hard to ensure that every case that comes before them is given their full attention and that everyone who comes before them is given a fair shake. Adding these three judges is an important step in guaranteeing that our courts can maintain this quality of justice.

Thank you.

North Dakota Administrative Units & Chamber Cities - 2009



Senate Bill 2121
Senate Appropriations Committee
by Chief Justice Gerald VandeWalle

Mr. Chairman and members of the Senate Appropriations Committee:

I am submitting written testimony in favor of the passage of Senate Bill 2121 because I am unable to testify at the hearing. We have a previously scheduled court hearing today that I must preside over.

The bill before you includes a request for three new judgeships. We are asking you to approve and fund two of those judgeships for this biennium, and to approve an additional judgeship in the 2011-2013 biennium, subject to appropriation by the 62nd Legislative Assembly. The judgeships for this biennium are intended for the Southeast Central judicial district and the Northwest judicial district. We anticipate that these judges would be chambered in Jamestown and Minot. The judgeship for the next biennium is intended for the East Central judicial district and would be chambered in Fargo. I have attached a map showing the boundaries of the judicial districts. I have also attached a map showing where our current judges are located, and where our weighted caseload study indicates that more judges are needed.

There are currently 42 district court judge positions for the state. In 1991 legislation (House Bill 1517) was enacted that provided for the establishment of a

single-tier court system and the reduction in the total number of judges to 42 before January 2, 2001. This legislation was the culmination of various court unification efforts that began nearly 25 years earlier, in 1975, with the adoption of House Concurrent Resolution No. 3056. The resolution proposed a constitutional amendment establishing a unified judicial system. The constitutional amendment was subsequently approved by the voters.

House Bill 1517, the central feature of which was codified as N.D.C.C. §27-05.2-01, abolished the then existing office of county court judge at the completion of the terms of all county judges on January 1, 1995, and established additional district court judgeships on that same date. The number of additional district court judgeships was based on the *lesser* of the number of county judges on January 1, 1991, or the number of county judges on January 1, 1994. This resulted in the total number of judgeships being 53, the combined total of 27 district court judges and 26 county court judges.

The legislation required the Supreme Court to reduce the number of judgeships to 42 either through attrition or abolition of a sitting judgeship. Reduction through attrition proved to be the satisfactory method of meeting the statutory requirement for all but one reduction. The Supreme Court abolished the first judgeship, chambered

in Linton, in August 1991. By 1999, the number of judgeships in the state had been reduced to 43. Section 27-05.2-01 required the Supreme Court to consider the abolition of a sitting judgeship if the number of judgeships was more than 42 on July 1, 1999, and there were no impending resignations or retirements sufficient to achieve the reduction. To achieve the final reduction, the Supreme Court reviewed all judgeships whose term expired in December 2000. Following consultations with judges from numerous judicial districts and consideration of vacancy review criteria established by court rule, the Supreme Court abolished the Bowman judgeship and achieved the statutory reduction to 42 judgeships. We have always been concerned that this cut was too deep and we have struggled to maintain an acceptable level of service to support it.

We use a weighted caseload study developed by the National Center for State Courts to determine judge need. This method of determining judge need has been tested and validated in multiple court jurisdictions. Understood in its simplest form, a weighted caseload is a time and motion study. To determine the base weights for each case types, judge activity for all judges in the state is captured over a period of time. The data is then used to assign “weights” to various case types based on how much judge time is needed to process a typical case of that type. This includes the

time from filing through disposition and any post-disposition activity. The weight is then multiplied by the number of cases filed and then a formula using the number of judge minutes available per year is applied to that data.

To determine judge need and where judges should be located we use a number of factors, including the weighted caseload, the number of counties within a judicial district, the amount of travel required between courthouses in a judicial district, the number of other judges within the district, the location of the judges in relation to each other, and the anticipated growth or stagnation within a geographic region.

The 2007 weighted caseload indicates a statewide judge shortage of 7.52 judges. When we average that with the 2006 weighted caseload data, it reduces the need to 5.11, which still represents a shortage of over 10%. The judge need is scattered across the seven districts, with the East Central, Northwest, South Central, and Southeast districts all showing a judge shortage greater than one.

Based on the two-year average, the shortage in the East Central is 2.49 judges, the shortage in the Northwest is 1.88 judges, the shortage in the South Central is 1.64 judges, and the shortage in the Southeast is 1.02 judges.

We are asking that the appointment of a judge to the East Central judicial district be delayed until the next biennium to give the county time to complete the building

project it is currently involved in. Although the South Central judicial district has a judge need greater than that of the Southeast, there are two reasons why we believe the judgeship should go to the Southeast. If you will refer to the map I have attached, you will see that the Southeast encompasses 11 counties. The judges in that district are spread between Valley City, Jamestown, New Rockford, Ellendale, and Wahpeton. Although they do assist each other, it would be impossible for them to divide all cases equally and rotate through every county. This is less of an issue in the South Central where the judges are grouped in Bismark and Mandan. In addition, there are two referees in the South Central. There are no referees in the Southeast. For these reasons, we believe the best placement of a judge at this time is in the Southeast Judicial District.

Our caseload numbers have not increased dramatically over the years but what has increased dramatically over the years is the dynamics of the cases coming before us. Relatively straightforward cases and routine contractual agreements are settling in mediation without the case ever being filed in court. Similarly, low level offenses, especially those involving juveniles, are being diverted out of the court system. Without this growth in alternative dispute resolution, the North Dakota court system would have been overrun long ago.

The cases the court gets today are substantially more complex and time-consuming. They present genuine issues of fact and conflicting interpretations of law. They include class action lawsuits, product liability, medical malpractice, and many other serious matters. The changing nature of society itself has impacted the issues to be determined in cases. There are more hearings on custody, visitation, and child support. There are issues of grandparent and non-marital partner visitation. Cases may involve the mentally ill, developmentally disabled or vulnerable adults. The expectation of how judges handle these issues has changed, too. Judges no longer just hand down opinions but are expected to be actively involved in identifying underlying issues and monitoring the progress of cases.

Nationally, the ratio of judges is 9 judges for every 100,000 people. North Dakota has a ratio of 7 judges for every 100,000 people. Our judges are working hard to maintain the speed with which cases are handled. However, we don't want to get to the point where the focus is just moving cases through the system. This type of case processing has been referred to "McJustice" in other jurisdictions. We believe that our citizens deserve more than a drive-through approach to justice.

The cost to add two additional judgeships this biennium is \$875,094. This includes salaries, benefits, and operating costs for two judges and two support positions to provide court reporting services for those judges.

Conclusion

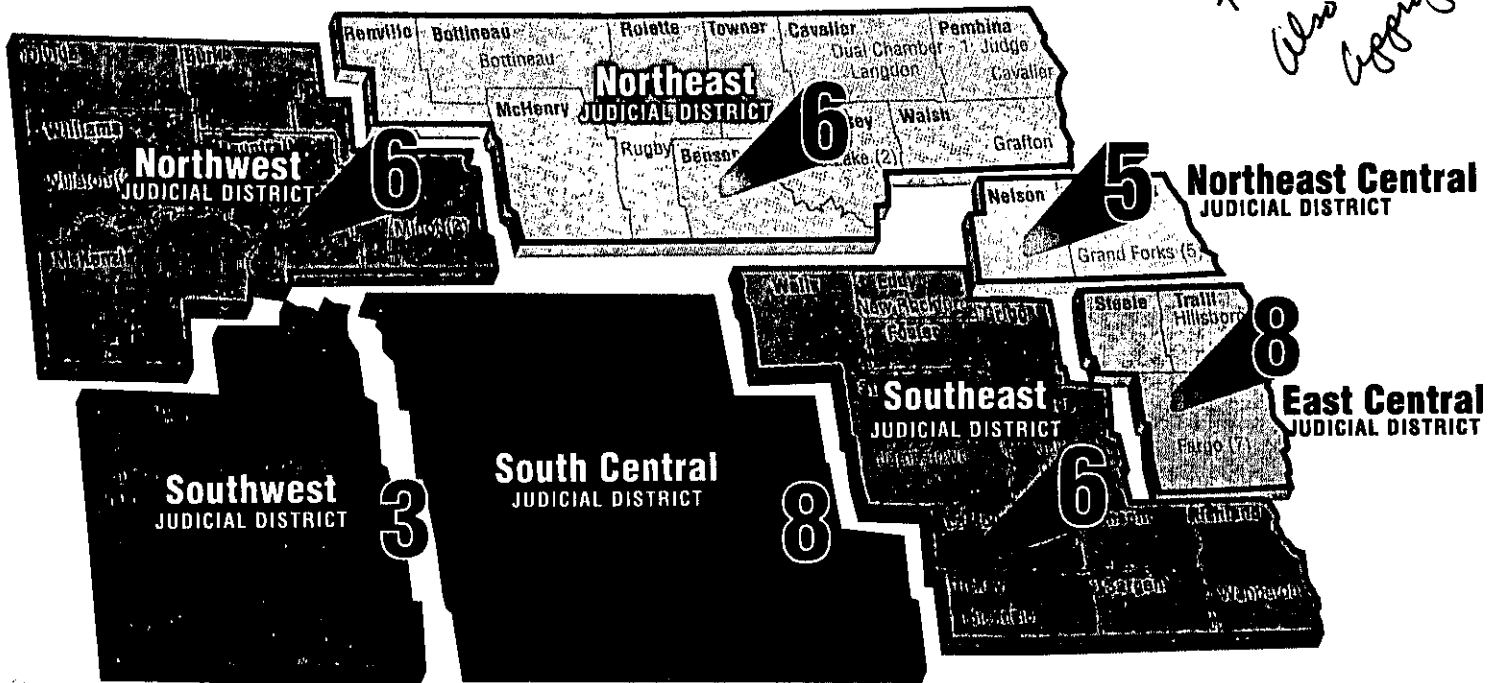
We believe these additional judgeships are needed to assure that there will be no reduction in service to the citizens of our state. North Dakota can be justifiably proud of its court system. Our judges work hard to ensure that every case that comes before them is given their full attention and that everyone who comes before them is given a fair shake. Adding these three judges is an important step in guaranteeing that our courts can maintain this quality of justice.

Thank you.

Where the Judges are Now

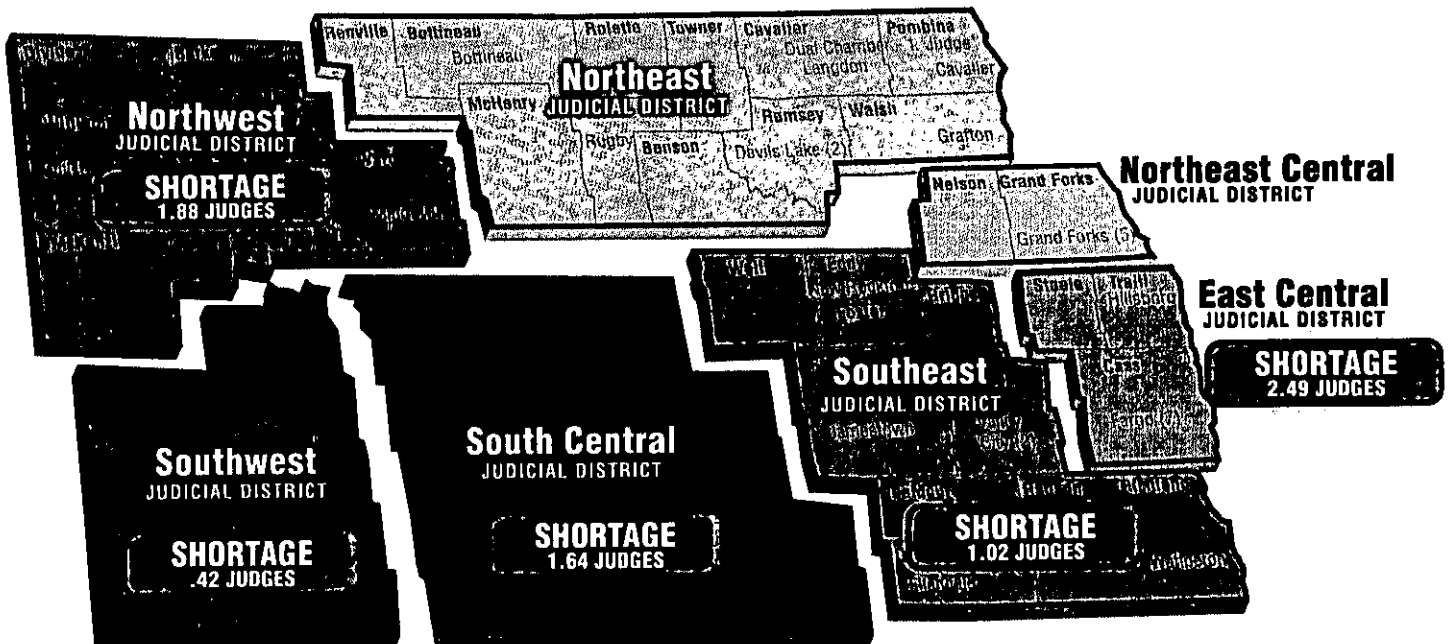
JANUARY 2009

Same number given to House Judiciary also House Appropriates



Additional Judge Need

JANUARY 2009



#2

APPROPRIATION REQUEST FOR NEW JUDGES

<u>Salaries:</u>	<u>SE Judge</u>	<u>NW Judge</u>	<u>Total</u>
Judge	\$310,701	\$310,701	\$621,402
Support	\$94,346	\$94,346	\$188,692
Total salaries	\$405,047	\$405,047	\$810,094
<u>Operations:</u>			
Furniture (desks, chairs, etc.)	\$15,000	\$15,000	\$30,000
Computers and printers	\$6,000	\$6,000	\$12,000
Travel and meetings	\$6,000	\$6,000	\$12,000
Dues and memberships	\$3,000	\$3,000	\$6,000
Books, office supplies, misc.	\$2,500	\$2,500	\$5,000
Total Operations	\$32,500	\$32,500	\$65,000
Total Appropriation	\$437,547	\$437,547	\$875,094

Judgeship Vacancy Chart

Case No.	Location	Disposition	Citation
910166	Linton	Position abolished 8-16-91 (resignation of Judge Hatch; included a petition to relocate chambers)	<u>473 N.W. 2d 134</u>
910220	Williston	Position abolished 8-16-91 (resignation of Judge Wilson)	<u>473 N.W. 2d 134</u>
910375	Jamestown	Position retained 12-19-91 (resignation of Judge Hoberg)	<u>522 N.W. 2d 745</u>
920312	Minot	Position retained 11-12-92 (resignation of Judge Holum to run for district judge)	<u>523 N.W. 2d 63</u>
930010	Bottineau	Position abolished 4-5-93 (resignation of Judge Neumann)	<u>522 N.W. 2d 425</u>
940016	Grafton	Position abolished 3-9-94 (Judge O'Keefe did not run for re-election)	<u>512 N.W. 2d 723</u>
940026	Bismarck	Position retained 2-16-94 (resignation of Judge Glaser)	<u>522 N.W. 2d 425</u>
940027	Lisbon	Position abolished 3-23-94 (Judge Tjon did not run for district judge)	<u>522 N.W. 2d 747</u>
940049	Hillsboro	Position retained 3-31-94 (Judge Uglem did not run for district judge)	<u>522 N.W. 2d 746</u>
940090	Rugby	Position retained 4-27-94 (Judge McClintock did not run for district judge)	<u>522 N.W. 2d 745</u>
940102	Washburn	Position retained 5-18-94 (Judge Schulz did not run for district judge)	<u>522 N.W. 2d 747</u>

940216	Rugby	Position retained 7-18-94 (death of Judge McClintock)	<u>519 N.W.2d 28</u>
950024	Linton	Position abolished but judicial position transferred from Hettinger in SW District 3-16-95 (death of Judge Wolberg)	<u>529 N.W.2d 870</u>
950338	Wahpeton	Position abolished 1-3-96 (resignation of Judge Eckert)	<u>575 N.W.2d 634</u>
970365	Jamestown	Position abolished 2-3-98 (death of Judge Wright)	<u>1998 ND 25</u> <u>574 N.W.2d 199</u>
970402	Minot	Position abolished 3-10-98 effective upon expiration of Judge Berning's term (Berning did not seek re- election)	<u>1998 ND 59</u> <u>574 N.W.2d 591</u>
980005	Mandan	Position abolished 3-10-98 effective 5 p.m., March 11, 1998, when Judge Hodny resigns (Hodny did not seek re-election)	<u>1998 ND 58</u> <u>574 N.W.2d 593</u>
980111	Bismarck	Position retained 4-30-98 (Judge Dennis Schneider not seeking re-election)	<u>1998 ND 98</u> <u>577 N.W.2d 328</u>
980112	Linton	Request to relocate chambers from Linton to Mandan denied 7-1-98	<u>1998 ND 136</u> <u>582 N.W.2d 1</u>
990033	Jamestown	Position retained 4-22-99 (resignation of Judge Hoffman)	<u>1999 ND 69</u> <u>592 N.W.2d 557</u>
990224 990246 990247 990248 990249	multiple judgeships in multiple districts	NEJD 6 & 7 retained NECJD 2 retained NWJD 6, 7, 8 retained SCJD 4 & 9 retained SWJD 1 & 3 retained SWJD 5 abolished 12-2-99, effective 12-31-2000	<u>1999 ND 226</u> <u>603 N.W.2d 57</u>

20000048	Grand Forks	Position retained 2-25-2000 (Judge Kirk Smith did not seek re-election)	<u>2000 ND 35</u> <u>606 N.W.2d 907</u>
20000362	Bowman	Request to change chambers from Dickinson to Bowman denied 1-3-2001	<u>2001 ND 1</u> <u>621 N.W.2d 148</u>
20010229	Minot	Position transferred to Fargo from Minot 12-14-2001 (death of Judge Dill)	<u>2001 ND 199</u> <u>637 N.W.2d 3</u>
20020004	Minot	Position retained 1-5-2002 (Judge Olson not seeking re-election)	<u>2002 ND 12</u> <u>638 N.W.2d 540</u>
20020048	Watford City	Petition to move judgeship from Watford City to Minot granted 4-8-2002, effective 1-1-2003	<u>2002 ND 54</u> <u>650 N.W.2d 812</u>
20020057	Valley City	Petition to move judgeship from Valley City to Jamestown denied 8-2-2002	<u>2002 ND 124</u> <u>650 N.W.2d 808</u>
20030073	Hillsboro	Position retained 3-26-2003 (resignation of Judge Erickson)	<u>2003 ND 49</u> <u>659 N.W.2d 863</u>
20030290	Bismarck	Position retained 10-29-2003 (resignation of Judge Graff)	<u>2003 ND 163</u> <u>670 N.W.2d 646</u>
20030326	Grand Forks	Position retained 12-19-2003 (Judge Bohlman not seeking re-election)	<u>2003 ND 189</u> <u>672 N.W.2d 463</u>
20030333	Fargo	Position retained 12-19-2003 (Judge McGuire not seeking re-election)	<u>2003 ND 190</u> <u>672 N.W.2d 464</u>
20040008	Fargo	Position retained 1-14-2004 (resignation of Judge Backes)	<u>2004 ND 2</u> <u>673 N.W.2d 613</u>
20040017	Minot	Position retained 2-18-2004 (Judge Holum not seeking re-election)	<u>2004 ND 32</u> <u>674 N.W.2d 808</u>

20040029	Fargo	Position retained 1-28-2004 (Judge Leclerc not seeking re-election)	<u>2004 ND 19</u> <u>673 N.W.2d 928</u>
20050304 (consolidated with 20050361)	Stanley	Petition to transfer from Stanley to Minot upon Judge Holte's retirement granted 12-20-2005, effective 1-1-2007	<u>2005 ND 221</u> <u>707 N.W.2d 251</u>
20050361 (consolidated with 20050304)	Stanley	Position retained 12-20-2005 (retirement of Judge Holte)	<u>2005 ND 221</u> <u>707 N.W.2d 251</u>
20050369	Bottineau	Position retained 11-17-2005 (resignation of Judge Ketterling)	<u>2005 ND 195</u> <u>705 N.W.2d 862</u>
20060004	Bismarck	Position retained 1-27-2006 (retirement of Judge Riskedahl)	<u>2006 ND 4</u> <u>708 N.W.2d 858</u>
20060035	Ellendale	Position retained 4-26-2006 (retirement of Judge Goodman)	<u>2006 ND 88</u> <u>713 N.W.2d 95</u>
20060098	Dickinson	Position retained 5-4-2006 (retirement of Judge Hilden)	<u>2006 ND 89</u> <u>713 N.W.2d 99</u>
20070368	Fargo	Position retained 2-4-2008 (Judge Rothe-Seeger not seeking re-election)	<u>2008 ND 15</u> <u>744 N.W.2d 723</u>

*Same
handout given
to House
Judiciary.*

(4)

RESOLUTION OF THE SOUTHEAST JUDICIAL DISTRICT BAR ASSOCIATION

RE: RESOLUTION IN SUPPORT OF S.B. 2121 ESTABLISHING AN ADDITIONAL JUDGESHIP IN THE SOUTHEAST JUDICIAL DISTRICT

Be it resolved by the Southeast Judicial District Bar Association:

WHEREAS, effective January 1, 2001, the number of district judges was reduced to 42, resulting in the SEJD previously having nine judges serving ten counties to six judges currently serving eleven counties; and

WHEREAS, the Honorable Chief Justice Gerald W. VandeWalle indicated in his 2009 State of the Judiciary Address that he has concerns forty-two judges may not be enough to assure our citizens the access to justice without delay required by the North Dakota Constitution;

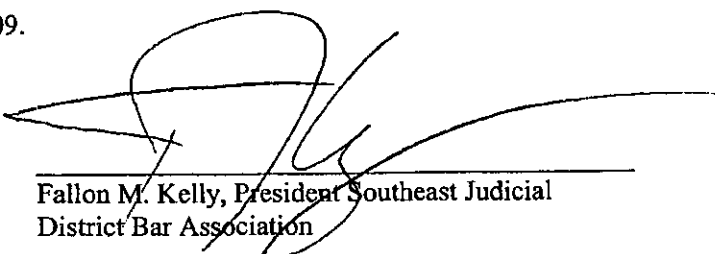
WHEREAS, the 2007 weighted caseload studies now indicate a statewide shortage of 7.52 judges, with the SEJD short 1.10 judicial FTEs;

WHEREAS, the district courts have developed better case management to meet the growing demand, but the needs of litigants to reach the courtroom in a timely fashion is at the price of rationing the amount of time they may spend there.

NOW, THEREFORE, BE IT RESOLVED, that the Southeast Judicial District Bar Association hereby supports the establishment and maintenance of an additional judgeship in the Southeast Judicial District;

BE IT FURTHER RESOLVED, that the President has appointed Russell J. Myhre and Bradley A. Cruff as members and registered lobbyists of the Southeast Judicial District Bar Association duly authorized to present this resolution on behalf of the Southeast Judicial District Bar Association at all hearings of the 2009 North Dakota Legislature.

Dated this 20th day of January, 2009.


Fallon M. Kelly, President Southeast Judicial
District Bar Association

Senate Bill 2121
House Judiciary Committee
by Chief Justice Gerald VandeWalle

*Same
testimony given
to House
Gov. Operations
Division.*

Chairman DeKrey and members of the House Judiciary Committee:

The bill before you includes a request for three new judgeships. We are asking you to approve and fund two of those judgeships for this biennium, and to approve an additional judgeship in the 2011-2013 biennium, subject to appropriation by the 62nd Legislative Assembly. The judgeships for this biennium are intended for the Southeast judicial district and the Northwest judicial district. We anticipate that these judges would be chambered in Jamestown and Minot. The judgeship for the next biennium is intended for the East Central judicial district and would be chambered in Fargo. I have attached a map showing the boundaries of the judicial districts. I have also attached a map showing where our current judges are located, and where our weighted caseload study indicates that more judges are needed. A summary of the weighted caseload results is also attached.

There are currently 42 district court judge positions for the state. In 1991 legislation (House Bill 1517) was enacted that provided for the establishment of a single-tier court system and the reduction in the total number of judges from 53 to 42 before January 2, 2001. This legislation was the culmination of various court

unification efforts that began nearly 25 years earlier, in 1975, with the adoption of House Concurrent Resolution No. 3056. The resolution proposed a constitutional amendment establishing a unified judicial system. The constitutional amendment was subsequently approved by the voters.

House Bill 1517, the central feature of which was codified as N.D.C.C. §27-05.2-01, abolished the then existing office of county court judge at the completion of the terms of all county judges on January 1, 1995, and established additional district court judgeships on that same date. The number of additional district court judgeships was based on the *lesser* of the number of county judges on January 1, 1991, or the number of county judges on January 1, 1994. This resulted in the total number of judgeships being 53, the combined total of 27 district court judges and 26 county court judges.

The legislation required the Supreme Court to reduce the number of judgeships to 42 either through attrition or abolition of a sitting judgeship. Reduction through attrition proved to be the satisfactory method of meeting the statutory requirement for all but one reduction. The Supreme Court abolished the first judgeship, chambered in Linton, in August 1991. By 1999, the number of judgeships in the state had been reduced to 43. Section 27-05.2-01 required the Supreme Court to consider the

abolition of a sitting judgeship if the number of judgeships was more than 42 on July 1, 1999, and there were no impending resignations or retirements sufficient to achieve the reduction. To achieve the final reduction, the Supreme Court reviewed all judgeships whose term expired in December 2000. Following consultations with judges from numerous judicial districts and consideration of vacancy review criteria established by court rule, the Supreme Court abolished the Bowman judgeship and achieved the statutory reduction to 42 judgeships. We have always been concerned that this cut was too deep and we have struggled to maintain an acceptable level of service to support it.

We use a weighted caseload study developed by the National Center for State Courts to determine judge need. This method of determining judge need has been tested and validated in multiple court jurisdictions. Understood in its simplest form, a weighted caseload is a time and motion study. To determine the base weights for each case types, judge activity for all judges in the state is captured over a period of time. The data is then used to assign “weights” to various case types based on how much judge time is needed to process a typical case of that type. This includes the time from filing through disposition and any post-disposition activity. The weight is

then multiplied by the number of cases filed and then a formula using the number of judge minutes available per year is applied to that data.

To determine judge need and where judges should be located we use a number of factors, including the weighted caseload, the number of counties within a judicial district, the amount of travel required between courthouses in a judicial district, the number of other judges within the district, the location of the judges in relation to each other, and the anticipated growth or stagnation within a geographic region.

The 2007 weighted caseload indicates a statewide judge shortage of 7.52 judges. When we average that with the 2006 weighted caseload data, it reduces the need to 5.11, which still represents a shortage of over 10%. The judge need is scattered across the seven districts, with the East Central, Northwest, South Central, and Southeast districts all showing a judge shortage greater than one.

Based on the two-year average, the shortage in the East Central is 2.49 judges, the shortage in the Northwest is 1.88 judges, the shortage in the South Central is 1.64 judges, and the shortage in the Southeast is 1.02 judges.

We are asking that the appointment of a judge to the East Central judicial district be delayed until the next biennium to give the county time to complete the building project it is currently contemplating. Although the South Central judicial district has

a judge need greater than that of the Southeast, there are two reasons why we believe the judgeship should go to the Southeast. If you will refer to the map I have attached, you will see that the Southeast encompasses 11 counties. The judges in that district are spread between Valley City, Jamestown, New Rockford, Ellendale, and Wahpeton. Although they do assist each other, it would be impossible for them to divide all cases equally and rotate through every county. This is less of an issue in the South Central where the judges are grouped in Bismarck and Mandan. In addition, there are two referees in the South Central. There are no referees in the Southeast. For these reasons, we believe the best placement of a judge at this time is in the Southeast Judicial District.

Our caseload numbers have increased, but not dramatically, over the years; what has increased dramatically over the years is the dynamics of the cases coming before us. Relatively straightforward cases and routine contractual agreements are settling in mediation without the case ever being filed in court. Similarly, low level offenses, especially those involving juveniles, are being diverted out of the court system. Without this growth in alternative dispute resolution, the North Dakota court system would have been overrun long ago.

The cases the court gets today are substantially more complex and time-consuming. They present genuine issues of fact and conflicting interpretations of law. They include class action lawsuits, product liability, medical malpractice, and many other serious matters. The changing nature of society itself has impacted the issues to be determined in cases. There are more hearings on custody, visitation, and child support. There are issues of grandparent and non-marital partner visitation. Cases may involve the mentally ill, developmentally disabled or vulnerable adults. The expectation of how judges handle these issues has changed, too. Judges no longer just hand down opinions but are expected to be actively involved in identifying underlying issues and monitoring the progress of cases.

Nationally, the ratio of judges is 9 judges for every 100,000 people. North Dakota has a ratio of 7 judges for every 100,000 people. Our judges are working hard to maintain the speed with which cases are handled. However, we do not want to get to the point where the focus is just moving cases through the system. This type of case processing has been referred to as “McJustice” in other jurisdictions. We believe that our citizens deserve more than a drive-through approach to justice.

The cost to add two additional judgeships this biennium is \$875,094. This includes salaries, benefits, and operating costs for two judges and two support positions to provide court reporting services for those judges.

Conclusion

We believe these additional judgeships are needed to assure that there will be no reduction in service to the citizens of our state. North Dakota can be justifiably proud of its court system. Our judges work hard to ensure that every case that comes before them is given their full attention and that everyone who comes before them is given a fair shake. Adding these three judges is an important step in guaranteeing that our courts can maintain this quality of justice.

Thank you.

**ND JUDICIAL WEIGHTED CASE LOAD STUDY
2 YEAR AVERAGE 2006 and 2007 DATA
USING CIVIL FILINGS & UNIQUE DISPOSITION CRIMINAL DATA (NO REOPENS)**

Same numbers given to House Appropri.

Case Type	Case Weight	EC	NEC	NE	NW	SC	SE	SW	ALL
Civil	70.66	3,548	1,432	1,211	2,420	3,385	1,659	870	14,523
Small Claims	18.32	1,232	762	672	644	833	691	228	5,061
Divorce	97.24	567	290	156	436	473	270	115	2,305
Child Support	23.23	1,191	487	441	541	761	491	218	4,129
Domestic-Other	52.44	405	361	327	531	684	388	119	2,815
Felonies	133.98	1,335	545	541	798	1,203	493	305	5,218
Misdemeanors	28.70	4,587	3,380	3,147	3,715	4,579	3,344	1,696	24,447
Traffic	0.35	16,015	9,702	13,110	12,447	17,749	14,550	6,213	89,786
Probate/Mental Health	45.96	638	359	529	946	658	764	347	4,240
Juvenile Dependency	223.94	216	193	67	103	70	49	46	742
Juvenile Delinquency	117.76	511	258	234	204	353	149	53	1,761
Admin. Appeals	248.21	32	28	13	25	79	18	28	222
Weighted Filings		838,970	443,967	377,533	580,156	759,582	422,707	219,154	3,642,070
Judge Year (Minutes)		70,520	70,520	70,520	70,520	70,520	70,520	70,520	
Adjusted Judge Year Value		68,470	68,470	61,295	66,420	66,420	61,295	66,420	
Number of Judges		8	5	6	6	8	6	3	42
Judge Minutes Available (Judge year * # of Judges)		547,760	342,350	367,770	398,520	531,360	367,770	199,260	2,754,790
Referee Year (Minutes)		73,272	72,207	63,687	73,272	72,207	73,272	73,272	
Number of Referees		20	20	10	10	20	0	0	800
Referee Minutes Available (Referee yr * # of Refs)		146,544	144,414	63,687	73,272	144,414	0	0	572,331
Total Minutes Available (Judge and Referee)		694,304	486,764	431,457	471,792	675,774	367,770	199,260	3,327,121
Workload compared to Resources (in minutes)		144,666	42,797	-53,924	108,364	83,808	54,937	19,894	314,949
Additional Judges Needed (Based on Judge Year)		2.11	-0.63	-0.88	1.63	1.26	0.90	0.30	4.70
Weighted Case Filing Judicial Officer Need		12.11	6.37	6.12	8.63	11.26	6.90	3.30	54.70
Presiding Judge Need		0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.84
Drug Court Need		0.255	0.125	0	0.125	0.255	0	0	0.76
Total Judicial Officer Need		12.49	6.62	6.24	8.88	11.64	7.02	3.42	56.30
Current Total Judges/Referees		10	7	7	7	10	6	3	50.00
Excess (Shortage) of Judicial FTE - 2006/2007		(2.49)	0.38	0.76	(1.88)	(1.64)	(1.02)	(0.42)	(6.30)
2005/2006 Excess (Shortage) of Judicial FTE		(1.95)	0.67	0.55	(1.27)	(1.74)	(1.04)	(0.33)	(5.11)