

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1097

2007 HOUSE JUDICIARY

HB 1097

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1097

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/10/07

Recorder Job Number: 843

Committee Clerk Signature *D Penrose*

Minutes:

Chairman DeKrey: We will open the hearing on HB 1097. This is a perennial bill, I don't think we need to spend much time on it. We automatically do this and the reason that we don't make it permanent, because legislators, suspicious people that they are, are absolutely positive that this would get abused if we did that. The only time this comes up is when a judge retires or passes away, and it messes up their caseload on the Supreme Court and they have to have help to get some of this stuff adjudicated. So they temporarily hold this Court of Appeals. We've been down this road many times before, they just do not want to make it permanent, because they are just sure that if we made this permanent, this might be abused. It never has.

Mr. Gange, Supreme Court: (see attached testimony).

Chairman DeKrey: What are the committee's wishes in regard to HB 1097.

Rep. Griffin: I move a Do Pass.

14 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Rep. Griffin

FISCAL NOTE
 Requested by Legislative Council
 12/28/2006

Bill/Resolution No.: HB 1097

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 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 provides an effective date and expiration date for the temporary court of appeals. Associated costs of \$33,000 have been included in the judicial budget request.

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.*

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

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

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

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, 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.*

Name:	Susan Sisk	Agency:	ND Supreme Court
Phone Number:	328-3509	Date Prepared:	01/03/2007

Date: 1/10/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1097

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Griffin Seconded By Rep. Dahl

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	/		Rep. Delmore	/	
Rep. Klemin	/		Rep. Griffin	/	
Rep. Boehning	/		Rep. Meyer	/	
Rep. Charging	/		Rep. Onstad	/	
Rep. Dahl	/		Rep. Wolf	/	
Rep. Heller	/				
Rep. Kingsbury	/				
Rep. Koppelman	/				
Rep. Kretschmar	/				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Griffin

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

REPORT OF STANDING COMMITTEE (410)
January 10, 2007 11:28 a.m.

Module No: HR-06-0394
Carrier: Griffin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1097: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1097 was placed on the
Eleventh order on the calendar.

2007 SENATE JUDICIARY

HB 1097

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1097

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 21, 2007

Recorder Job Number: 3676

Committee Clerk Signature *Mario L. Salben*

Minutes: Relating to providing legal counsel at public expense.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

Testimony in Favor of the Bill:

Jim Gange, Supreme Court introduced the bill. The court of appeals is a stop gap measure and the cost is minimal. The money is in the budget.

Sen. Nething questioned Mr. Gange if we want to keep the process temporary? Yes

Testimony Against the bill:

None

Testimony Neutral to the bill:

None

Mr. Gange requested that the committee keep the bill open for Supreme Court Judge Vande Walle to be able to testify before the committee.

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1097

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3852

Committee Clerk Signature

Maria L. Solberg

Minutes: Relating to providing legal counsel at public expense.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following hearing:

Supreme Court Judge Chief Justice Vande Walle Introduced the bill and spoke as to why we need the court of appeals, history is to help with the case load. It is not a necessity but it has an important function. This bill gives us the authority for judges to sit on an intermediate court of appeals. We have yet to hear an appeal from this court. Spoke of – Att. #1 is a history of the ND Court of Appeals. He spoke of a new use for the court of appeals. This bill extends it for another four years. Per the legislative law, the want to review this court every four years. Spoke of the limitations; cases would not be assigned if they were constitutional of statute is one example

Sen. Nelson made the motion to Do Pass HB 1097 and **Sen. Fiebiger** seconded the motion.

All members were in favor and the motion passes.

Carrier: Sen. Fiebiger

Senator David Nething, Chairman closed the hearing.

Date: 2-26-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1097

Senate _____ Judiciary _____ Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Nelson Seconded By Sen. Fiebiger

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Fiebiger

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

REPORT OF STANDING COMMITTEE (410)
February 26, 2007 1:25 p.m.

Module No: SR-36-3870
Carrier: Flebiger
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1097: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1097 was placed on the
Fourteenth order on the calendar.

2007 TESTIMONY

HB 1097

Same testimony given to both.

AH # 1097

North Dakota Court of Appeals

The Court of Appeals was established in 1987 to assist the Supreme Court in managing its workload. In calendar year 2005, five 2004 cases were transferred to the Court of Appeals together with six 2005 cases.

Judges serving on the Court of Appeals were: the Honorable Norman J. Backes, the Honorable Bruce E. Bohlman, the Honorable Benny A. Graff, the Honorable William F. Hodny, and the Honorable Everett Nels Olson, Surrogate Judges.

Since it was established, the Court of Appeals has disposed of 86 appeals by opinion.

Cases assigned to the Court of Appeals under Administrative Rule 27 may include family law issues; appeals from administrative agency decisions; appeals from trial court orders on motions for summary judgment; appeals involving cases originating under the Uniform Juvenile Court Act; and appeals from misdemeanor convictions.

Authorization for the Court of Appeals extends to January 1, 2008.

CASELOAD SYNOPSIS OF THE COURT OF APPEALS FOR THE 2005 CALENDAR YEAR

	2005
2005 Cases Assigned	6
Civil	5
Criminal	1
2004 Cases Assigned	5
Civil	2
Criminal	3
Total Cases Docketed	11
Dispositions	11
Civil	7
Criminal	4
Cases Pending as of December 31	0

2005 DISPOSITIONS	Civil	Criminal
Affirmed	4	1
Affirmed in Part & Reversed in Part	0	1
Affirmed By Summary Disposition	2	1
Reversed and Remanded	1	1
TOTAL 2005 DISPOSITIONS	7	4