

Judiciary and Law Enforcement: Gross, Chair; Clark of Cerro Gordo and Swartz.

To Pass 4/10/81 (p. 1020)

Bill 1

Senate File 276

Judiciary and Law Enforcement: Poffenberger, Chair; Pelton and Jochum.

NATE FILE 276

Amended from 52571

To Pass 2/31 (p. 146)

FILED

BY COMMITTEE ON JUDICIARY
approved 2/19 (p. 522)
(FORMERLY SSB 222)

Passed Senate, Date 3-4-81 (p. 647)

Passed House, Date 4-6-82 (p. 1270)

Vote: Ayes 50 Nays 0

Vote: Ayes 95 Nays 1

Disapproved 5-19-82

Proposed Senate as amended by House & further amended by Senate

Repassed House as amended by Senate

4-15-82 (p. 1232)

4-21-82 (p. 1614)

A BILL FOR

1 An Act relating to the number of members to be appointed and
2 elected to the state judicial nominating commission and
3 providing a January 1 effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5
6

SENATE FILE 276

H-3499

- 1 Amend Senate File 276 as passed by the Senate
- 2 as follows:
- 3 1. Page 1, line 10, by inserting after the
- 4 word "expire" the words "at midnight April 30 of".
- 5 2. Page 1, line 32, by striking the word "July"
- 6 and inserting in lieu thereof the word "May".
- 7 3. Page 1, line 33, by striking the words "on
- 8 June" and inserting in lieu thereof the words "at
- 9 midnight April".
- 10 4. Page 2, line 3, by striking the words "on
- 11 June" and inserting in lieu thereof the word "April".
- 12 5. Page 2, line 14, by striking the words "June
- 13 thirtieth" and inserting in lieu thereof the word and
- 14 figure "April 30".

H-3499 FILED APRIL 6, 1981

BY SPEAR of Lee

Adopted 4/6 (p. 1270)

SENATE FILE 276

H-3500

- 1 Amend Senate File 276 as passed by the Senate
- 2 as follows:
- 3 1. Page 1, line 10, by inserting after the word
- 4 "the" the word "appointed".
- 5 2. Page 1, line 33, by inserting after the word.
- 6 "the" the word "elected".

H-3500 FILED APRIL 6, 1981

BY SPEAR of Lee

Adopted 4/6 (p. 1270)

1 Section 1. Section 46.1, Code 1981, is amended by striking
2 the section and inserting in lieu thereof the following:

3 46.1 APPOINTMENT OF STATE JUDICIAL NOMINATING COMMIS-
4 SIONERS.

5 1. The appointed membership of the state judicial nominat-
6 ing commission consists of one eligible elector from each
7 congressional district appointed by the governor, subject
8 to confirmation by the senate. A commissioner serves for
9 a six-year term commencing in an odd-numbered year. The terms
10 of approximately one-third of the commissioners expire each
11 odd-numbered year.

12 2. The governor shall appoint, subject to confirmation
13 by the senate, an eligible elector from each congressional
14 district where the term of that district's appointed commis-
15 sioner expires in that year.

16 3. If the number of congressional districts in the state
17 changes, the governor shall at the next opportunity appoint
18 a greater or lesser number of electors to the commission in
19 order that the number of appointed commissioners equals the
20 number of congressional districts in the state. If neces-
21 sary, the governor shall shorten one appointee's term to less
22 than six years in order that the terms of approximately one-
23 third of the appointed commissioners expire in each odd-
24 numbered year.

25 Sec. 2. Section 46.2, Code 1981, is amended by striking
26 the section and inserting in lieu thereof the following:

27 46.2 ELECTION OF STATE JUDICIAL NOMINATING COMMISSIONERS.

28 1. The elected membership of the state judicial nominating
29 commission consists of one eligible elector from each congres-
30 sional district elected by the resident members of the bar
31 of that district. A commissioner serves for a six-year term
32 commencing July 1 of an odd-numbered year. The terms of
33 approximately one-third of the commissioners expire on June
34 30 of each odd-numbered year.

35 2. The resident members of the bar of a congressional

1 district shall elect, in January of an odd-numbered year,
2 an eligible elector from the district where the term of that
3 district's elected commissioner expires on June 30 of that
4 year.

5 3. If the number of congressional districts in the state
6 changes, the court administrator of the judicial department
7 shall at the next opportunity direct that a greater or lesser
8 number of electors be elected to the commission in order that
9 the number of elected commissioners equals the number of con-
10 gressional districts in the state. If necessary, the court
11 administrator shall direct that one elected member's term
12 be shortened to less than six years in order that the terms
13 of approximately one-third of the elected commissioners expire
14 on June thirtieth of each odd-numbered year.

15 Sec. 3. This Act is effective January 1 following its
16 enactment.

17 EXPLANATION

18 Several years ago the Attorney General ruled that the re-
19 duction in the number of Iowa congressional districts from
20 seven to six did not affect the state judicial nominating
21 commission, which had been established at the time the state
22 had seven congressional districts. This bill makes it explicit
23 that the state judicial nominating commission membership
24 is to follow the number of congressional districts, and
25 provides methods for making the necessary adjustments when
26 the number of districts changes. The bill also establishes
27 the current terms, approximately one-third of which expire
28 each odd-numbered year, as the required terms. The bill
29 becomes law on January 1 following its enactment.

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SENATE AMENDMENT TO HOUSE AMENDMENT TO
SENATE FILE 276

H-5876

1 Amend the House amendment, S-5528, to Senate File
2 276 as passed by the Senate as follows:

3 1. Page 1, by inserting after line 6 the following:

4 "_____. Page 1, by inserting after line 24 the
5 following:

6 "4. If at any time there are two or more appointed
7 members who are from the same congressional district,
8 each of the appointed members from that district shall
9 share equally in deciding how the single vote of the
10 appointed membership for that district shall be cast
11 on a question before the state judicial nominating
12 commission.""

13 2. Page 1, by inserting after line 18 the
14 following:

15 "_____. Page 2, by inserting after line 14 the
16 following:

17 "4. If at any time there are two or more elected
18 members who are from the same congressional district,
19 each of the elected members from that district shall
20 share equally in deciding how the single vote of the
21 elected membership for that district shall be cast
22 on a question before the state judicial nominating
23 commission.""

24 3. Page 2, by inserting after line 32 the
25 following:

26 "Sec. _____. Chapter 46, Code 1981, is amended by
27 adding the following new section:

28 NEW SECTION. EXPENSES. Appointed and elected
29 members of the state and district judicial nominating
30 commissions shall be reimbursed for actual and
31 necessary expenses incurred in the performance of
32 duties not to exceed maximum amounts for reimbursement
33 as set by the supreme court by rule prescribing the
34 maximum amounts, terms and conditions of reimbursement.
35 These reimbursements shall be paid out of funds
36 appropriated to the supreme court for this purpose."

37 4. Renumbering as necessary.

H-5876 FILED APRIL 19, 1982

RECEIVED FROM THE SENATE

House concurred 4/21 (p 1614)

House Amendment to Senate File 276

S-5528

1 Amend Senate File 276 as passed by the Senate as
2 follows:

3 1. Page 1, line 10, by inserting after the word
4 "the" the word "appointed".

5 2. Page 1, line 10, by inserting after the word
6 "expire" the words "at midnight April 30 of".

7 3. Page 1, line 32, by striking the word "July"
8 and inserting in lieu thereof the word "May".

9 4. Page 1, line 33, by inserting after the word
10 "the" the word "elected".

11 5. Page 1, line 33, by striking the words "on
12 June" and inserting in lieu thereof the words "at
13 midnight April".

14 6. Page 2, line 3, by striking the words "on June"
15 and inserting in lieu thereof the word "April".

16 7. Page 2, line 14, by striking the words "June
17 thirtieth" and inserting in lieu thereof the word
18 and figure "April 30".

19 8. Page 2, by inserting after line 14 the
20 following:

21 "Sec. ____ . Section 46.5, Code 1981, is amended
22 by adding the following new unnumbered paragraph:
23 NEW UNNUMBERED PARAGRAPH. When a vacancy in an
24 office of an elective judicial nominating commissioner
25 occurs, the clerk of the supreme court shall arrange
26 for the publication of a notice stating the existence
27 of the vacancy and the manner in which the vacancy
28 will be filled in those publications which the clerk
29 of the supreme court deems likely to give reasonable
30 notice to the eligible voting members of the bar of
31 the district in which the vacancy occurs. The election
32 of a district judicial nominating commissioner or
33 the close of nominations for a state judicial
34 nominating commissioner shall not occur until thirty
35 days after the publication of the notice.

36 Sec. ____ . Section 46.7, Code 1981, is amended
37 to read as follows:

38 46.7 ELIGIBILITY TO VOTE. To be eligible to vote
39 in elections of judicial nominating commissioners,
40 a member of the bar must ~~have-registered-in-writing~~
41 ~~with-the-clerk-of-the-district-court-of-the-county~~
42 ~~of-his-residence-at-the-last-bar-registration-preceding~~
43 ~~such-election~~ be a resident of the state of Iowa and
44 of the appropriate congressional district as shown
45 by the mailing address of the member on the member's
46 most recent filing with the supreme court for the
47 purposes of showing compliance with continuing legal
48 education requirements. A judge who has been admitted
49 to the bar of the state of Iowa shall be considered
50 a member of the bar.

1 Sec. ____ Section 46.8, Code 1981, is amended
2 by striking the section and inserting in lieu thereof
3 the following:

4 46.8 CERTIFIED LIST. On October 1 of each year
5 the clerk of the supreme court shall certify a list
6 of the names, addresses and years of admission of
7 members of the bar who are eligible to vote for state
8 and district judicial nominating commissioners.

9 Sec. ____ Section 46.9, unnumbered paragraph 4,
10 Code 1981, is amended to read as follows:

11 Vote for (state number) for Iowa State (or Iowa
12 Judicial District) judicial nominating
13 commissioner(s) for term commencing

14 _____ JOHN-DOE CANDIDATE'S NAME
15 _____ RICHARD-ROE CANDIDATE'S NAME

16 _____
17 _____

18 Sec. ____ Section 602.18, unnumbered paragraph
19 14, Code 1981, is amended to read as follows:

20 Election district 5A shall ~~consist~~ consists of
21 the counties of Guthrie, Dallas, ~~Polk~~, Jasper, Madison,
22 Warren, and Marion. Election district 5B shall ~~consist~~
23 consists of the counties of Adair, Adams, Union,
24 Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
25 Election district 5C consists of the county of Polk.

26 Sec. ____ Section 602.45, Code 1981, is amended
27 to read as follows:

28 602.45 ELIGIBILITY TO VOTE. Eligibility to vote
29 in elections of judicial magistrate appointing
30 commissioners within a county shall be ~~registration~~
31 ~~as-a-member-of-the-bar~~ in accordance with sections
32 46.7 and 46.8, and residency within the county.

5575

33 Sec. ____ Sections 1 and 2 of this Act shall not
34 cause the removal from office of any appointive or
35 elective member of the state judicial nominating
36 commission in office on the effective date of this
37 Act. Those persons shall be entitled to serve the
38 remainder of the respective terms to which appointed
39 or elected."

40 9. Page 2, by striking lines 15 and 16.

41 10. Renumber sections as necessary.

42 11. Amend the title, line 1, by inserting after
43 the words "relating to" the words "the Iowa judicial
44 system, and providing for the reorganization of
45 judicial district five into three judicial election
46 districts, and providing for".

SENATE FILE 276

S-5552

- 1 Amend the House Amendment S-5528 to Senate File 276
2 as passed by the Senate as follows:
3 1. Page 2, by striking lines 18 through 25.
4 2. Page 2, by striking lines 42 through 46.

S-5552 FILED
APRIL 12, 1982

Loose 4/15 (p. 1231)

BY LUCAS J. DeKOSTER
A.R. BUD KUDART
BOB RUSH

SENATE FILE 276

S-5570

- 1 Amend the House amendment, S-5528 to Senate File
2 276 as passed by the Senate, as follows:
3 1. Page 1, by inserting after line 6 the following:
4 " Page 1, by inserting after line 24 the
5 following:
6 "4. If at any time there are two or more appointed
7 members who are from the same congressional district,
8 each of the appointed members from that district shall
9 share equally in deciding how the single vote of the
10 appointed membership for that district shall be cast
11 on a question before the state judicial nominating
12 commission.""
13 2. Page 1, by inserting after line 18 the
14 following:
15 " Page 2, by inserting after line 14 the
16 following:
17 "4. If at any time there are two or more elected
18 members who are from the same congressional district,
19 each of the elected members from that district shall
20 share equally in deciding how the single vote of the
21 elected membership for that district shall be cast
22 on a question before the state judicial nominating
23 commission.""
24 3. By renumbering as necessary.

S-5570 FILED
APRIL 13, 1982

Adopted 4/15 (p. 1231)

BY BOB RUSH

SENATE FILE 276

S-5575

- 1 Amend the House amendment S-5528 to Senate File
2 276, as passed by the Senate, as follows:
3 1. Page 2, by inserting after line 32 the
4 following:
5 "Sec. Chapter 46, Code 1981, is amended by
6 adding the following new section:
7 NEW SECTION. EXPENSES. Appointed and elected
8 members of the state and district judicial nominating
9 commissions shall be reimbursed for actual and
10 necessary expenses incurred in the performance of
11 duties not to exceed maximum amounts for reimbursement
12 as set by the supreme court by rule prescribing the
13 maximum amounts, terms and conditions of reimbursement.
14 These reimbursements shall be paid out of funds
15 appropriated to the supreme court for this purpose."

S-5575 FILED
APRIL 13, 1982

BY BOB RUSH

SENATE FILE 276

657

1 Amend Senate File 276 as passed by the Senate as
2 follows:

3 1. Page 2, by inserting after line 14 the
4 following:

5 "Sec. _____. Section 46.5, Code 1981, is amended
6 by adding the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. When a vacancy in an
8 office of an elective judicial nominating commissioner
9 occurs, the clerk of the supreme court shall arrange
10 for the publication of a notice stating the existence
11 of the vacancy and the manner in which the vacancy
12 will be filled in those publications which the clerk
13 of the supreme court deems likely to give reasonable
14 notice to the eligible voting members of the bar of
15 the district in which the vacancy occurs. The election
16 of a district judicial nominating commissioner or
17 the close of nominations for a state judicial
18 nominating commissioner shall not occur until thirty
19 days after the publication of the notice.

20 Sec. _____. Section 46.7, Code 1981, is amended
21 to read as follows:

22 46.7 ELIGIBILITY TO VOTE. To be eligible to vote
23 in elections of judicial nominating commissioners,
24 a member of the bar must ~~have registered in writing~~
25 ~~with the clerk of the district court of the county~~
26 ~~of his residence at the last bar registration preceeding~~
27 ~~such election~~ be a resident of the state of Iowa and
28 of the appropriate congressional district as shown
29 by the mailing address of the member on the member's
30 most recent filing with the supreme court for the
31 purposes of showing compliance with continuing legal
32 education requirements. A judge who has been admitted
33 to the bar of the state of Iowa shall be considered
34 a member of the bar.

35 Sec. _____. Section 46.8, Code 1981, is amended
36 by striking the section and inserting in lieu thereof
37 the following:

38 46.8 CERTIFIED LIST. On October 1 of each year
39 the clerk of the supreme court shall certify a list
40 of the names, addresses and years of admission of
41 members of the bar who are eligible to vote for state
42 and district judicial nominating commissioners.

43 Sec. _____. Section 46.9, unnumbered paragraph 4,
44 Code 1981, is amended to read as follows:

45 Vote for (state number) for Iowa State (or Iowa
46 Judicial District) judicial nominating
47 commissioner(s) for term commencing

48 _____ JOHN-BOB CANDIDATE'S NAME
49 _____ RICHARD-ROE CANDIDATE'S NAME
50 _____

1
 2 Sec. ____. Section 602.18, unnumbered paragraph
 3 14, Code 1981, is amended to read as follows:
 4 Election district 5A ~~shall consist~~ consists of
 5 the counties of Guthrie, Dallas, ~~Polk,~~ Jasper, Madison,
 6 Warren, and Marion. Election district 5B ~~shall consist~~
 7 consists of the counties of Adair, Adams, Union,
 8 Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
 9 Election district 5C consists of the county of Polk.
 10 Sec. ____. Section 602.45, Code 1981, is amended
 11 to read as follows:
 12 602.45 ELIGIBILITY TO VOTE. Eligibility to vote
 13 in elections of judicial magistrate appointing
 14 commissioners within a county shall be ~~registration~~
 15 ~~as-a-member-of-the-bar~~ in accordance with sections
 16 46.7 and 46.8, and residency within the county."
 17 2. Renumber sections as necessary.
 18 3. Amend the title, line 1, by inserting after
 19 the words "relating to" the words "the Iowa judicial
 20 system, and providing for the reorganization of
 21 judicial district five into three judicial election
 22 districts, and providing for".

0728
5716

H-5657 FILED MARCH 31, 1982 BY COMMITTEE ON JUDICIARY
Adopted or amended by 5726
4/6 (p. 1269) & LAW ENFORCEMENT
 CONLON, Chair
 SENATE FILE 276

H-5725

1 Amend the amendment H-5657 to Senate File 276 as
 2 passed by the Senate, as follows:
 3 1. Page 2, by inserting after line 16 the
 4 following:
 5 "Sec. ____ Chapter 46, Code 1981, is amended by
 6 adding the following new section:
 7 NEW SECTION. APPOINTED MEMBERS TO STATE JUDICIAL
 8 NOMINATING COMMISSION. In addition to the members
 9 of the state judicial nominating commission, there
 10 shall be two persons appointed by the governor, who
 11 shall possess the same powers as the elected members
 12 and who shall not be members of the legal profession."

H-5725 FILED APRIL 6, 1982 BY SCHROEDER of Pottawattamie
 WITHDRAWN (p. 1268)
 SENATE FILE 276

H-5726

1 Amend amendment H-5657 to Senate File 276 as follows:
 2 1. Page 2, by inserting after line 16 the following:
 3 "Sec. ____ Sections 1 and 2 of this Act shall
 4 not cause the removal from office of any appointive or
 5 elective member of the state judicial nominating
 6 commission in office on the effective date of this Act.
 7 Those persons shall be entitled to serve the remainder
 8 of the respective terms to which appointed or elected."
 9 2. Page 2, by inserting after line 16 the following:
 10 "2. Page 2, by striking lines 15 and 16."

H-5726 FILED APRIL 6, 1982 BY POFFENBERGER of Dallas
 ADOPTED (p. 1269)

SENATE FILE 276

H-3651

1 Amend Senate File 276 as passed by the Senate as
2 follows:

3 1. Page 2, by inserting after line 14 the
4 following:

5 "Sec. 3. Section 602.18, unnumbered paragraph
6 14, Code 1981, is amended to read as follows:

7 Election district 5A ~~shall consist~~ consists of
8 the counties of Guthrie, Dallas, ~~Polk,~~ Jasper, Madison,
9 Warren, and Marion. Election district 5B ~~shall consist~~
10 consists of the counties of Adair, Adams, Union,
11 Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
12 Election district 5C consists of the county of Polk.

13 Sec. 4. The membership of district judicial
14 nominating commissions for judicial election districts
15 5A and 5C shall be as provided in chapter 46, subject
16 to the following transition provisions:

17 1. Those judicial nominating commissioners of
18 judicial election district 5A who are residents of
19 Polk county shall be disqualified from serving in
20 election district 5A on the effective date of this
21 Act, and their offices shall be deemed vacant. The
22 vacancies thus created shall be filled as provided
23 in section 46.5 and for the remainder of the unexpired
24 terms.

25 2. After the effective date of this Act the
26 governor shall appoint five eligible electors of
27 judicial election district 5C to the district judicial
28 nominating commission for terms commencing immediately.
29 Two of the appointees shall serve terms ending January
30 31, 1982, two of the appointees shall serve terms
31 ending January 31, 1984, and the remaining appointee
32 shall serve a term ending January 31, 1986, as
33 determined by the governor. At the end of these terms
34 and each six years thereafter the governor shall
35 appoint commissioners pursuant to section 46.3.

36 3. After the effective date of this Act elective
37 judicial nominating commissioners for judicial election
38 district 5A shall be elected as provided in chapter
39 46 to terms of office commencing immediately. Two
40 of those elected shall serve terms ending January
41 31, 1982, two shall serve terms ending January 31,
42 1984, and the remaining number shall serve a term
43 ending January 1, 1986, as determined by the drawing
44 of lots by the persons elected. At the end of these
45 terms and every six years thereafter elective
46 commissioners shall be elected pursuant to chapter
47 46.

48 Sec. 5. As soon as practicable after the effective
49 date of this section, the supreme court administrator
50 shall recompute the number of judgeships to which

1 each of the judicial election districts as redefined
2 in section 3 of this Act is entitled, as provided
3 in section 602.18, subsection 2. The administrator
4 shall submit the results of this recomputation to
5 the judges of the supreme court as soon as it has
6 been completed. The supreme court shall reassign
7 judges between judicial districts as necessary to
8 maintain continuity of judicial business within the
9 judicial election districts which are affected by
10 the provisions of section 3 of this Act. Commencing
11 on the effective date of this Act, vacancies within
12 the judicial election districts as redefined in section
13 3 of this Act shall be determined and filled according
14 to the provisions of and subject to the conditions
15 contained in section 602.18, subsections 3, 4, 5,
16 6 and 7.

17 For purposes of the recomputations required by
18 this section, the supreme court administrator shall
19 determine the average case filings for the latest
20 available three-year period by reallocating the actual
21 case filings during the three-year period used to
22 the judicial election districts as they would have
23 existed during the three-year period if the provisions
24 of section 3 of this Act had been in continuous effect
25 throughout the three-year period during which those
26 cases were filed."

27 2. By renumbering the remaining sections of the
28 bill.

29 3. Amend the title, line 1, by inserting after
30 the words "relating to" the words "the Iowa judicial
31 system, and providing for the reorganization of
32 judicial district five into three judicial election
33 districts, and providing for".

H-3651 FILED
APRIL 14, 1981
*15 4/6 (p. 1270)

BY POFFENBERGER of Dallas
GROSS of Ringgold



Office of the Governor

STATE CAPITOL
DES MOINES, IOWA 50319

ROBERT D. RAY
GOVERNOR

May 19, 1982

Let 209

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

I am enclosing Senate File 276, an act relating to the Iowa judicial system, and providing for the reorganization of judicial district five into three judicial election districts, and providing for the number of members to be appointed and elected to the State Judicial Nominating Commission and providing a January 1 effective date, which, in accordance with Article III, Section 16, Constitution of the state of Iowa, I hereby disapprove and transmit to the Secretary of State.

The Judicial Nominating Commission consists of one public member appointed by the Governor and one member elected from the bar from each judicial nominating district. Members of the Commission are responsible for selecting those who can be considered by the Governor for appointment to the Supreme Court and Court of Appeals.

Senate File 276 reduces the number of state judicial nominating districts from seven to six and makes the boundaries of the six nominating districts consistent with the present six congressional districts in the state. The bill also provides for a change in the number of judicial nominating districts in the future in conformance with changes in the number of congressional districts in the state. Current judicial nominating commissioners are allowed to serve out the remainder of their terms in office. However, where that results in two or more appointed or two or more elected members from the same congressional district, each of the members is to share equally in deciding how the single vote from the appointed or elected membership from that district is cast.

In addition, Senate File 276 changes the registration requirement for members of the bar who wish to vote in the election of the bar member of each nominating district. The bill also allows for the payment of expenses for each Commission member and creates a new judicial election district of 5C consisting only of Polk County.

The Honorable Mary Jane Odell
Page 2
May 19, 1982

Prior to outlining the rationale for vetoing this bill, some background information is in order.

When the statute creating the State Judicial Nominating Commission was enacted in 1963, the legislature specified that one public and one bar member should come from each congressional district then in existence. At that time, there were seven congressional districts, and, despite the 1970 census which reduced the number of Iowa congressional districts to six, it continued to be the practice of the Governor to make and of the Senate to approve seven appointments to the Commission.

This practice was not without legal foundation since a 1971 Attorney General's Opinion concluded that judicial commissioners should continue to be appointed or elected from the seven congressional districts. The Attorney General reasoned that "the manifest purpose (of using congressional district boundaries for judicial nominating district purposes) was to provide a geographical distribution of the membership of the Commission. . . . (T)here being no relationship whatever between the congress and the judicial commission, there is no reason for a subsequent change in (judicial nominating) districting." (Turner to Murray, 1972 Op. Atty Gen. 68.)

However, during the 1981 session of the Sixty-ninth General Assembly several senators questioned the legality of the seven districts and asked for another opinion from the Attorney General on this issue. The Attorney General reaffirmed the 1971 opinion and said that any change in the number of judicial nominating districts would require legislative action.

Therefore, this year the General Assembly passed Senate File 276 which statutorily tied the number of the judicial nominating districts to the present and future congressional districts. By reducing the number of nominating districts from seven to six while "grandfathering in" present Commission members, the legislature placed two bar members in the new sixth district and two public members in the new third district. This fact, combined with the single vote procedure outlined in the bill for districts with multiple members makes the legislation unworkable and unacceptable.

There are three reasons for this conclusion:

1. The single vote procedure may effectively disenfranchise the bar or public member in the judicial nominating district. The bill requires the multiple members of the district to agree prior to casting the single vote of

that district. If, as is conceivable when human judgment is involved, the two members cannot agree on the vote, then the district would effectively lose its vote. As a result, the purpose of the judicial nominating districts-- to provide for the geographic distribution of viewpoints in the judicial nominating process--would be lost.

2. The loss of a bar or public vote on the Commission could adversely affect the orderly selection of judges in Iowa. Nominees must receive approval from a majority of the full statutory number of Commission members in order to be nominated. If two of the 12 votes are not able to be cast, then only four Commission members, rather than the statutory majority of seven, could reject a candidate for nomination. This could paralyze the Commission's decision-making process.
3. The possible disenfranchisement of nominating districts could affect the judicial nominating process for a substantial time. Both the sixth district bar members and the third district public members would be affected by the single vote procedure for three years. That is too long to disrupt the nomination of Supreme Court and Court of Appeals justices in Iowa. Indeed, drafters of the single vote mechanism were unaware of the duration its impact and acknowledge that a different mechanism would have been sought if its three-year impact would have been known.

Therefore, because of the possible substantial and lengthy disruption of the judicial nominating process, I must veto this bill. With the rejection of this bill, we will maintain our seven nominating districts which were given sanction by two Attorney General opinions. Should the legislature in the future decide to tie the nominating districts to their congressional counterparts, a more reasonable and workable voting mechanism should be worked out.

This is not to pass judgment on the other substantive sections of the bill, including the creation of a new judicial election district for Polk County. Those substantive provisions may be meritorious in their own right and deserve to be studied separately by future legislatures.

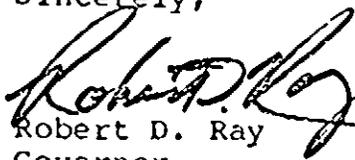
The Honorable Mary Jane Odell

Page 4

May 19, 1982

For the reasons enumerated in this letter, I hereby respectfully disapprove this Senate File 276.

Sincerely,



Robert D. Ray
Governor

RDR:cg

cc: Secretary of the Senate
Chief Clerk of the House

SENATE FILE 276

AN ACT

RELATING TO THE IOWA JUDICIAL SYSTEM, AND PROVIDING FOR THE REORGANIZATION OF JUDICIAL DISTRICT FIVE INTO THREE JUDICIAL ELECTION DISTRICTS, AND PROVIDING FOR THE NUMBER OF MEMBERS TO BE APPOINTED AND ELECTED TO THE STATE JUDICIAL NOMINATING COMMISSION AND PROVIDING A JANUARY 1 EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 46.1, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

46.1 APPOINTMENT OF STATE JUDICIAL NOMINATING COMMISSIONERS.

1. The appointed membership of the state judicial nominating commission consists of one eligible elector from each congressional district appointed by the governor, subject to confirmation by the senate. A commissioner serves for a six-year term commencing in an odd-numbered year. The terms of approximately one-third of the appointed commissioners expire at midnight April 30 of each odd-numbered year.

2. The governor shall appoint, subject to confirmation by the senate, an eligible elector from each congressional district where the term of that district's appointed commissioner expires in that year.

3. If the number of congressional districts in the state changes, the governor shall at the next opportunity appoint a greater or lesser number of electors to the commission in order that the number of appointed commissioners equals the number of congressional districts in the state. If necessary, the governor shall shorten one appointee's term to less than six years in order that the terms of approximately one-third of the appointed commissioners expire in each odd-numbered year.

4. If at any time there are two or more appointed members who are from the same congressional district, each of the appointed members from that district shall share equally in deciding how the single vote of the appointed membership for that district shall be cast on a question before the state judicial nominating commission.

Sec. 2. Section 46.2, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

46.2 ELECTION OF STATE JUDICIAL NOMINATING COMMISSIONERS.

1. The elected membership of the state judicial nominating commission consists of one eligible elector from each congressional district elected by the resident members of the bar of that district. A commissioner serves for a six-year term commencing May 1 of an odd-numbered year. The terms of approximately one-third of the elected commissioners expire at midnight April 30 of each odd-numbered year.

2. The resident members of the bar of a congressional district shall elect, in January of an odd-numbered year, an eligible elector from the district where the term of that district's elected commissioner expires April 30 of that year.

3. If the number of congressional districts in the state changes, the court administrator of the judicial department shall at the next opportunity direct that a greater or lesser number of electors be elected to the commission in order that the number of elected commissioners equals the number of congressional districts in the state. If necessary, the court administrator shall direct that one elected member's term be shortened to less than six years in order that the terms of approximately one-third of the elected commissioners expire on April 30 of each odd-numbered year.

4. If at any time there are two or more elected members who are from the same congressional district, each of the elected members from that district shall share equally in deciding how the single vote of the elected membership for that district shall be cast on a question before the state judicial nominating commission.

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Sec. 3. Section 46.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a vacancy in an office of an elective judicial nominating commissioner occurs, the clerk of the supreme court shall arrange for the publication of a notice stating the existence of the vacancy and the manner in which the vacancy will be filled in those publications which the clerk of the supreme court deems likely to give reasonable notice to the eligible voting members of the bar of the district in which the vacancy occurs. The election of a district judicial nominating commissioner or the close of nominations for a state judicial nominating commissioner shall not occur until thirty days after the publication of the notice.

Sec. 4. Section 46.7, Code 1981, is amended to read as follows:

46.7 ELIGIBILITY TO VOTE. To be eligible to vote in elections of judicial nominating commissioners, a member of the bar must ~~have registered in writing with the clerk of the district court of the county of his residence at the last bar registration preceding such election~~ be a resident of the state of Iowa and of the appropriate congressional district as shown by the mailing address of the member on the member's most recent filing with the supreme court for the purposes of showing compliance with continuing legal education requirements. A judge who has been admitted to the bar of the state of Iowa shall be considered a member of the bar.

Sec. 5. Section 46.8, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

46.8 CERTIFIED LIST. On October 1 of each year the clerk of the supreme court shall certify a list of the names, addresses and years of admission of members of the bar who are eligible to vote for state and district judicial nominating commissioners.

Sec. 6. Section 46.9, unnumbered paragraph 4, Code 1981, is amended to read as follows:

Vote for (state number) for Iowa State (or Iowa Judicial District) judicial nominating commissioner(s) for term commencing

- ___ JOHN-RØE CANDIDATE'S NAME
- ___ RICHARD-RØE CANDIDATE'S NAME
- ___
- ___

Sec. 7. Section 602.18, unnumbered paragraph 14, Code 1981, is amended to read as follows:

Election district 5A ~~shall consist~~ consists of the counties of Guthrie, Dallas, Polk, Jasper, Madison, Warren, and Marion. Election district 5B ~~shall consist~~ consists of the counties of Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne. Election district 5C consists of the county of Polk.

Sec. 8. Section 602.45, Code 1981, is amended to read as follows:

602.45 ELIGIBILITY TO VOTE. Eligibility to vote in elections of judicial magistrate appointing commissioners within a county shall be ~~registration as a member of the bar~~ in accordance with sections 46.7 and 46.8, and residency within the county.

Sec. 9. Chapter 46, Code 1981, is amended by adding the following new section:

NEW SECTION. EXPENSES. Appointed and elected members of the state and district judicial nominating commissions shall be reimbursed for actual and necessary expenses incurred in the performance of duties not to exceed maximum amounts for reimbursement as set by the supreme court by rule prescribing the maximum amounts, terms and conditions of reimbursement. These reimbursements shall be paid out of funds appropriated to the supreme court for this purpose.

Sec. 10. Sections 1 and 2 of this Act shall not cause

the removal from office of any appointive or elective member of the state judicial nominating commission in office on the effective date of this Act. Those persons shall be entitled to serve the remainder of the respective terms to which appointed or elected.

TERRY E. BRANSTAD
President of the Senate

DELWYN STROMER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 276, Sixty-ninth General Assembly.

Vetted
Approved May 19, 1982

K. MARIE THAYER
Secretary of the Senate

ROBERT D. RAY
Governor