

Chairman Nathe and members of the Education and Environment Division of House Appropriations. My name is Zack Pelham.

I submit this written testimony in support of SB 2002, the judicial branch budget. Specifically, I urge your support of the portion of the budget, which seeks to increase judicial salaries to the national average — an increase of about 8% for district court judges and about 11% for supreme court justices. The Senate sent the bill to you with salary increases of 7% for district court judges and 8.5% for supreme court judges — less than the national average.

I've been in private practice for many years and am an active member of the state bar. Currently, I'm the managing member of the Pearce Durick law firm in Bismarck. My practice focuses on insurance defense, oil and gas law, product liability defense, employment and labor law, and general business representation. I am a past president of the State Bar Association, current board member of the State Bar Association, past president of the Big Muddy Bar Association, past president of the North Dakota Defense Lawyers Association, and current Chair of the Commission on Legal Counsel for Indigents. I write to you today, however, in my individual capacity as a private practice attorney and North Dakota citizen.

Current judicial compensation is inadequate to attract highly qualified individuals from private practice. When I first starting practicing law in 2004, judicial vacancies used to routinely have 10 or more candidates, many from private practice. That is no longer the case. The vast majority of recent judicial applicants are individuals moving from one government position to another or candidates with limited legal experience. To be clear, these are good people. I worked with some of them when I was an assistant attorney general before moving into private practice in 2007. The reason we have few applicants, and almost no applicants from private practice, for state judicial vacancies is in large part because of current judicial compensation. I can tell you that is not a problem for federal judicial vacancies — of which I have applied for. I can tell you with certainty that a successful, mid-career private practitioner in North Dakota, who is typically at the height of their earning capacity, simply cannot take a significant pay cut in becoming a state court judge. For me, with a wife and four children, I can tell you the numbers do not add up—I have done the math.

We are fortunate in North Dakota to have a great bench from a diversity of life and professional experiences. However, as our current judges retire and judicial salaries continue to lag behind real-dollar increases realized by private practitioners, judicial recruitment and the quality of our bench is at serious risk. Having a broad based judiciary, made up of professionals from public *and* private practice is imperative for a healthy judicial system in North Dakota.

I believe that the very best attorneys in our state should consider being judges. If money were no object, the applications from attorneys to be a judge would be voluminous. Money is a factor, it always is. It is the more established and experienced attorneys who are often the most compensated. This does not happen overnight and requires continuous work to maintain. And while pay for a judge will never get to the point of a hard-working and established private practice attorney in North Dakota, our state must remain competitive so as to allow the Governor to choose from a pool of the very best attorneys.

As such, I urge you to support the judiciary's request for a \$2.1 million dollar increase to its biannual budget to provide our judges and justices with salaries at an amount that are at least marginally competitive in the current North Dakota legal market.

Thank you, Chairman Nathe.