

HB 1022  
House Appropriations  
Government Operations Division  
January 13, 2023  
Testimony of Zachary Pelham  
Chairman of the North Dakota Commission on Legal Counsel for Indigents

Good Morning Chairman Monson, members of the Committee, my name is Zachary Pelham and I am Chairman of the North Dakota Commission on Legal Counsel for Indigents (hereinafter "the Commission"). I am an attorney in private practice with the Pearce Durick law firm in Bismarck.

I understand it may be extraordinary to have the chairman of a board or commission within the executive branch testify at a budget hearing. However, the Commission finds itself in extraordinary times and on the verge of constitutional collapse. As Mr. Finck has indicated, we are in dire straights because we can not find enough attorneys to provide the **constitutionally mandated** services we are required to provide by Constitution and Statute. The reality is my presence today is to express we truly are in very real danger in North Dakota.

The Commission has quarterly meetings in which Mr. Finck provides updates on staffing levels and changes in contracts and contractors. I can not recall a recent meeting where it has not been brought to our attention someone leaving an office or the inability to find a law firm willing to contract with the Commission. The reality is the Commission is unable to compete with county state's attorneys and other attorneys within state government. You will hear from one of our supervisors the reality of the situation with first hand accounts. Mr. Finck has laid out a budget to try and address these concerns. Now is the time for action, we cannot afford to delay a request for employee equity increases that has been denied the last few sessions.

Furthermore, we as the Commission have the legal authority to set the rate for contracts with private firms to provide services. However, just like employee raises, we are handcuffed on what we can do without the fiscal support of the legislature. The rate for contract services has not increased since 2012. Given the cost of inflation and the cost of running a business, it is not hard to see why some will not renew contracts and why others are hesitant to contract with the agency when there has not been an increase in a decade.


The reality is, if we do not get the support we need, we may indeed fail. If we fail, this will not be an indigent defense issue. This is bigger than that. It is a constitutional failure on behalf of the State of North Dakota. It will cause delays in the processing of criminal cases in North Dakota which will undoubtedly open the state to litigation. It will cause defendants to have their access to court delayed. It will cause victims to have to wait for a resolution to their case. It will affect all North Dakotans.

Mr. Finck, Mr. Ewell, the Valley City administrative team and the employees of the Commission continue to do great work trying to hold this all together, they need our support. The private firms who provide contract services, often at a loss to their bottom line need our support. We as a Commission need your support. By supporting the Commission's budget requests, you will be on the side of supporting and safeguarding liberty.

For that reason, I respectfully request you give our budget the due consideration it deserves as one of the few constitutionally mandated services the State of North Dakota provides.

Thank you for your time and I would stand for any questions.

Respectfully submitted:



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Zachary Pelham  
Chairman of the Commission