

**House Bill 1002**  
**Government Operations Division of the Senate Appropriations Committee**

**Testimony Presented by Cynthia M Feland**  
**District Court Judge**  
**South Central Judicial District Court**  
**March 7, 2023**

Good Morning, Chairman Wanzek and members of the Committee. For the record, my name is Cynthia M Feland. I am a District Court Judge in the South Central Judicial District and submit this testimony in favor of House Bill 1002, the judicial branch appropriations bill. While joining in the comments of my colleagues, I specifically want to address the question of why judges and justices should receive higher rates of raises in HB 1002 than similar rates given to other state employees.

Judges and justices hold unique positions in government which are recognized in our Constitution and our statutes. These differences, and these authorities, deal directly with how judges and justices are compensated and justify legislating higher rates of raises for judges and justices than for regular state employees.

Unlike state employees and other elected officials, our Constitution only refers to the compensation of judges and justices. Sections 7 and 9 of Article VI of the North Dakota Constitution require compensation of judges and justices be “provided” or “fixed” by law. The citizens of North Dakota have neither “provided” nor “fixed” compensation for any other classification of public employee or official. Thus, judges and justices find themselves in a unique position in North Dakota of having Constitutional provisions which directly affect the manner in which judges and justices, as compared to regular state employees, are compensated.

As you know, in Sections 27-02-02 and 27-05-03, the legislature specifies what the salaries of all judges and justices will be for a two-year period. Any judge or justice can receive neither more nor less than this amount. Further, the salary of any individual judge or justice will remain at this amount unless and until the legislature amends these statutes in a future session. There are no similar statutory provisions for the compensation of state employee. According to the OMB website, a regular state employee’s pay falls within ten classifications (numbered 101 to 110). A state employee usually has the ability to advance to a higher level of classification over time. For example, a Highway Patrol Officer I starts with a pay grade classification of 105. That HP Officer I may then advance to a HP Officer II with a pay grade level of 106. That HP

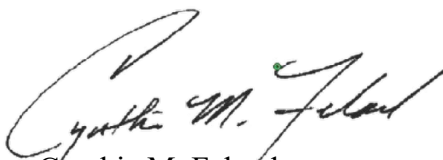
Officer may also then advance to an HP Sergeant with a pay grade level of 107. Finally, that HP Officer might advance to an HP Regional Commander with a pay grade level of 108. The difference between the minimum salary for a pay grade 105 and the maximum salary for a pay grade 108 is presently over \$100,000. Unlike the regular state employee, the judge or justice has no ability to advance in grade (and subsequently increase in salary). For a judge or justice, the increase in pay is only that which is given to them by subsequent legislatures.

More importantly, within each pay grade classification level, there is a minimum salary level and a maximum salary level. Within each pay grade classification, the maximum salary is roughly 56% higher than the minimum salary. Chapters 4-07-02 to -04 of the North Dakota Administrative Code, set forth how actual salary amounts within each pay grade classification can change. Therefore, during their tenure, a state employee may receive additional raises in pay over and above the legislative increases (such as the currently under consideration 4% and 4% increases). Again using our HP Officer as an example, the official State of North Dakota website regarding Highway Patrol Trooper salary and benefits states that after six months a Trooper's base salary increases and that "troopers receive up to nine annual raises based upon merit . . . ."

Judges and justices are not entitled to any such increases in compensation. A brand new judge earns the same amount as one who has been on the bench for 20 years. There is no higher pay grade. There is no chance for increased compensation within a pay grade. For any individual judge or justice, the only chance for increased compensation is that amount of raise provided by the legislature. Plainly put, judges and justices are already treated differently than the average state employee when it comes to increases in compensation. This is the reason that judges and justices should not be tied to the percentage increases given to state employees.

I respectfully ask that you support the compensation increases set forth in the original version of HB 1002 and not limit judicial compensation increases to those given to state employees. I urge you to adopt a Do Pass recommendation on this legislation.

Respectfully Submitted:



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South Central Judicial District