

Written Testimony in Opposition to HCR 3021

House Judiciary Committee

Date of Hearing: February 17, 2025

Debra L. Hoffarth, 1320 11th Street SW, Minot, ND 58701

This written testimony is presented in opposition to HCR 3021, which would remove all civil or criminal judicial immunity for members of the judiciary; render any judgment in violation of due process, state or federal law, or the Constitution of North Dakota or the Constitution of the United States void; and require each judicial vacancy in the supreme court or district court to be filled through appointment by a bipartisan committee.

While accountability in government is essential, the proposed resolution would severely undermine the independence and effectiveness of our judicial system, ultimately harming the fair administration of justice.

The legislative, executive, and judicial branches are coequal branches of government. The judicial branch is non-partisan. Judges make decisions based upon the facts and the law. Their fealty is to the law, ensuring justice is administered fairly and without political influence.

JUDICIAL IMMUNITY

The doctrine of judicial immunity exists to protect judges from undue influence, undue pressure, and politically motivated lawsuits, discouraging them from making difficult but necessary rulings. Judges are not immune from liability for illegal acts or acts outside their judicial capacity. Judges are also subject to rules of ethics, complaints to the Judicial Conduct Commission, appeals, and elections. Without immunity, judges would be subject to public or political pressure for specific outcomes, rather than legal principles. Judges should enjoy the same immunity as other state employees, including legislators, under North Dakota Century Code § 32-12.2-02(3)(d). The proposed resolution will erode the public trust in the judicial system as people will question the impartiality of the court

DECLARATION OF VOID JUDGMENTS

The language in the proposed resolution relating to “void” judgments is ambiguous and could cause confusion in the judicial system. Whether a judgment is void is a determination to be made by the Court, including the appeals process.

JUDICIAL NOMINATING COMMITTEE

The Judicial Nominating Committee is nonpartisan, and its role and obligations are outlined in North Dakota Century Code 27-25. The proposed resolution to change judicial appointments from the Judicial Nominating Committee to a “bipartisan committee established by law” is vague. It does not state with particularity how such a committee would be chosen. This proposed legislation

also takes authority from the Executive Branch and places it with the Legislature. Partisan politics has no place in the judiciary. The North Dakota judiciary system is designed to be impartial. The Judicial Nominating Committee is selected by the Governor, the Chief Justice, and the President of the State Bar Association. The committee's role is to hire the most qualified judicial candidate, considering legal knowledge and ability, judicial temperament, experience, and moral character. Use of a bipartisan committee could cause delays in appointment of judicial vacancies, lack of public oversight, and put politics over judicial qualifications. The current process of the Judicial Nominating Committee has led to the successful appointment of qualified and ethical judges throughout the North Dakota judicial system.

Please oppose HCR 3021.

Debra L. Hoffarth