

**FINAL REPORT**

**JUDICIAL COMPENSATION COMMISSION**

**Presented to the Governor and  
the Iowa General Assembly  
January 1991**

**Prepared by the Legislative Service Bureau**

# FINAL REPORT

## JUDICIAL COMPENSATION COMMISSION

January 1991

### AUTHORIZATION AND MEMBERSHIP

The Judicial Compensation Commission is established in section 602.1514 of the Iowa Code. The Commission is charged with the review of compensation and related benefits paid to statutory judicial officers; the review of compensation and related benefits paid for comparable positions in other states, the federal government, and private enterprise; and to make recommendations concerning judicial salaries and related benefits to the Governor and the General Assembly based on the review of those benefits and other relevant factors. These recommendations are to be made no later than February 1 of each odd-numbered year.

The members of the Judicial Compensation Commission are:

Mr. Wayne Edsall, Des Moines, Chairperson, Governor's Appointee, Appointed 1990, Four Year Term, Term ends 6-30-94

Ms. Lois Bliesman, Denison, Governor's Appointee, Appointed 1988, Four Year Term, Term ends 6-30-92

Mr. Robert Van Vooren, Davenport, Governor's Appointee, Appointed 1988, Four Year Term, Term ends 6-30-92

Ms. Mary Chalupsky, Fairfax, Governor's Appointee, Appointed 1990, Four Year Term, Term ends 6-30-94

Ms. Linda Life, Oskaloosa, Legislative Council's Appointee, Appointed 1990, Four Year Term, Term ends 6-30-94

Mr. Gus Johnson, Oelwein, Legislative Council's Appointee, Appointed 1988, Four Year Term, Term ends 6-30-92

Ms. Dorothy Kerkhoff, Legislative Council's Appointee, Appointed 1990, Four Year Term, Term ends 6-30-94

Mr. Henry Elliott, Legislative Council's Appointee, Appointed 1988, Four Year Term, Term ends 6-30-92

### MEETING DAYS

The Commission met on August 6, 1990, and September 10, 1990. Mr. Wayne Edsall was reelected as Chairperson.

### INFORMATION RECEIVED

Members reviewed the following information:

1. The 1989 Final Report of the Judicial Compensation Commission.
2. Documentation prepared by the Legislative Fiscal Bureau concerning the changes in judicial compensation which were enacted in 1989 and 1990 by the General Assembly.
3. Salary information for elected officials and judges in Iowa for fiscal years 1978 through 1991.
4. A summary of salary survey information collected by the National Center for State Courts for 1990 and 1991.
5. Written testimony of the Honorable Allen L. Donielson, Judge, Iowa Court of Appeals.
6. Written testimony of the Honorable Louis A. Lavorato, Justice, Iowa Supreme Court.
7. Written testimony of the Honorable Anthony M. Critelli, Judge, Iowa District Court.
8. Correspondence from Pamela Jo Lewis, Linn County Magistrate.
9. Historical documentation concerning the judge's contribution to the judicial retirement fund as required by statute.
10. The statutory charge of the Judicial Compensation Commission.

## PRESENTATIONS

The following individuals made presentations to the Commission:

1. The Honorable Allen L. Donielson, Judge, Iowa Court of Appeals, appeared on behalf of the Iowa Judges Association. Judge Donielson highlighted the gains which have been made during the past two years with respect to judicial salaries, and encouraged the Commission to address the issues of retirement standards relating to percent of salary, accident and health insurance coverage for senior judges, and general fund support for the judicial retirement fund for costs related to increased benefits paid to judges participating as senior judges.

2. The Honorable Louis A. Lavorato, Justice, Iowa Supreme Court, appeared on behalf of the Iowa Supreme Court. Justice Lavorato indicated that the Supreme Court supports the recommendations made by the Iowa Judges Association as expressed by Judge Donielson. He noted the characteristics which qualified candidates for judgeships should possess, and discussed the responsibilities and sacrifices which judges face.

3. The Honorable William Thatcher, Magistrate, appeared on behalf of the Magistrates Association. He discussed the increasing workload shouldered by magistrates and recommended that magistrates' salaries be tied to the salaries of district associate judges.

4. Mr. Carl Nielsen, Executive Director, Iowa State Bar Association, appeared on behalf of the Iowa State Bar Association. He stated that the Bar Association supports a minimum cost-of-living increase and also recommends that benefit levels should be examined. Mr. Nielsen also commented on the improved morale among judges and the increasing need for more judges.

5. Mr. Mark Bennett, Iowa Trial Lawyers Association, appeared on behalf of the Iowa Trial Lawyers Association. He lauded the quality of justice in Iowa and noted that there have been greater numbers of qualified candidates seeking to serve on the bench as a result of the recent increase in compensation. He also voiced support for the recommendations made by Judge Donielson on behalf of the Iowa Judges Association.

6. The Honorable Anthony M. Critelli, Judge, Iowa District Court, appeared on behalf of the Iowa Judges Association. He discussed the need for cost-of-living increases and the need to assure the fiscal soundness of the judicial retirement fund without increasing the contribution rate of the judges.

7. Mr. Herbert Selby, Iowa Defense Counsel Association, appeared on behalf of the Iowa Defense Counsel Association. He declared the Association's support for adjusting the pension benefits formula, funding the increased cost of pension

benefits resulting from the senior judge program out of the general fund, and providing health insurance benefits for senior judges.

### RECOMMENDATIONS

After careful review of the information presented, the Commission adopted the following recommendations:

1. That maximum retirement benefits be adjusted from 50 to 60 percent of the basic annual salary with an increase in the annual annuity from 3 to 3.6 percent of the average annual basic salary for the judge's last three years as a judge multiplied by the number of years of service as a judge.
2. That a general fund appropriation to the judicial retirement system should be made to cover the increase in retirement benefit payments to senior judges which occurs as a result of their service as senior judges.
3. That senior judges be provided full coverage with respect to health insurance.
4. That the four percent contribution rate provided by statute to be paid by judges into the judicial retirement fund not be increased and that consideration be given to reducing or phasing out the judges contribution.
5. That cost-of-living increases in judges salaries should be tied to cost-of-living increases provided to other state employees.
6. The Commission discussed possible recommendations concerning the salary of magistrates. While the Commission acknowledged that action concerning this issue may be necessary, it decided additional information is necessary before an appropriate recommendation can be made. The Commission determined that it will continue to examine the issue and will receive additional input at subsequent meetings of the Commission.

The Commission also requested Chairperson Edsall to draft a letter summarizing the recommendations of the Commission and send that letter to the Governor, legislative leaders, and appropriate legislative Committee members.

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M I N U T E S

JUDICIAL COMPENSATION COMMISSION

August 6, 1990

PRELIMINARY BUSINESS

The Judicial Compensation Commission held its third meeting on August 6, 1990, in Room 22 of the State Capitol Building in Des Moines, Iowa. The following members attended:

Chairperson Wayne Edsall, Des Moines  
Mary Chalupsky, Fairfax  
Henry Elliott, Red Oak  
Dorothy Kerkhoff, Audubon  
Robert Van Vooren, Davenport

The meeting was called to order at 10:00 a.m. by Chairperson Edsall. Chairperson Edsall requested that the Commission members reintroduce themselves as their last meeting was held in December of 1988. After the Commission members had introduced themselves, Chairperson Edsall noted that Mr. Mark Johnson from the Legislative Service Bureau would be providing staff assistance to the Commission.

Mr. Elliott moved that the minutes of the December 7, 1988, meeting be approved as submitted. Ms. Kerkhoff seconded the motion which then carried. Chairperson Edsall recognized Mr. Johnson from the Service Bureau to review the charge of the Commission.

JUDGE ALLEN L. DONIELSON, IOWA JUDGES ASSOCIATION

Chairperson Edsall recognized Judge Allen L. Donielson of the Iowa Court of Appeals to make a presentation to the Committee. Judge Donielson spoke in his capacity as the Legislative Co-chair of the Iowa Judges Association. Judge Donielson's written statement is attached and with this reference made a part of these minutes.

Judge Donielson thanked the Commission for inviting him to appear and testify, and added that the members of the judiciary appreciate the work done by the Commission. He noted that the Commission is of particular note because it looks at the

compensation and benefits provided to the members of the judiciary separate and apart from other public officials with a realization that members serving as judges serve at the height of their legal careers.

Judge Donielson stated that enormous strides had been made as a result of recent increases in compensation and benefits for members of the judiciary. He remarked that the last two Polk County judicial vacancies had attracted more than forty individuals and that the quality of those individuals was very high overall. He observed that Iowa has positioned itself reasonably well at the present time with respect to comparable states, but cautioned against a state of complacency with respect to maintaining this position by ignoring cost of living increases afforded others.

Judge Donielson continued by outlining the three areas where action is necessary. He stated that these include adjusting the standard for retirement benefits by amending section 602.9107 of the Iowa Code and increasing the current multiplier from three percent times the number of years of service to 3.6 percent times the number of years of service, with a maximum of 60 percent; allowing those individuals participating in the senior judge program to continue to receive state benefits (life and health insurance) during the time of participation; and state appropriation of additional amounts to assure solvency of the judicial retirement fund. He commented that the judges have been contributing four percent of their salary to the fund, but asserted the Iowa Constitution provides that the "state shall provide for adequate retirement." He asserted that the judiciary's reading of this provision that "shall provide" means "shall pay for" is the only reasonable interpretation which can be given to this language.

In concluding, he again lauded the state's efforts in raising salaries for members of the judiciary and reminded the Commission that while the three areas identified for action should be the focus for further improvement within the system, salaries should not be lost sight of, and steps should be taken to assure that recent gains will not be lost.

#### COMMISSION DISCUSSION

Chairperson Edsall thanked Judge Donielson for his presentation and then invited questions from members of the Commission. Mr. Van Vooren inquired as to the percentage used to figure retirement benefits and whether or not the increase from 50 to 60 percent had been done for everyone else covered by state retirement systems. Judge Donielson responded that is the case.

Chairperson Edsall inquired as to whether or not he understood the Judge correctly that the members of the judiciary are content with the current level of salaries. Judge Donielson responded that when he first appeared before the Commission, salaries were seen as the critical issue, but recent action has resulted in an increase in salaries resulting in an increase in the number of qualified applicants seeking to become a part of the judiciary, as well as a fewer number of resignations from among those currently serving. Mr. Van Vooren commented that he is aware that the situation has improved throughout the state.

Ms. Kerkoff questioned the state's mandatory retirement age relating to judges and whether or not this provision is permissible. Judge Donielson responded that there are some cases being heard in other areas of the country looking at this issue.

Chairperson Edsall inquired as to whether or not the health and life insurance coverage currently being provided is sufficient. Judge Donielson replied that except in the instance of the senior judge program as he discussed in his presentation, current coverage is satisfactory.

Ms. Kerkoff inquired about the judges' contribution to their retirement system. Judge Donielson responded that they currently contribute four percent of their salary and he indicated that other state employees contribute slightly less than this percentage.

Mr. Elliott inquired as to whether or not there had been any change in medical benefits recently. Judge Donielson responded that there had not been.

#### REELECTION OF CHAIRPERSON

After the Commission completed its questioning of Judge Donielson, Chairperson Edsall observed that as the Commission had issued a final report two years earlier, it is probably necessary to elect a chairperson for the Commission for the current term of the Commission. He invited nominations from the members present. Mr. Van Vooren nominated Chairperson Edsall to retain his position as chairperson and Ms. Kerkoff seconded the nomination. There being no further nominations, Chairperson Edsall was again elected to serve as chairperson of the Commission.

#### FINAL COMMISSION DISCUSSION

Mr. Van Vooren inquired as to the timetable of the Commission and the procedure. Chairperson Edsall commented that it is his intention that Commission members be allowed time to review material provided to them and then meet again on September 10



which has been tentatively set as the date of the second meeting. At that meeting the Commission would make any necessary recommendations and provide directions to the staff as to the contents of the final report.

Chairperson Edsall recognized Mark Johnson, Legislative Service Bureau, to review the materials provided to the members. Mr. Johnson briefly listed the items provided which included the Commission's statutory charge, the final report issued by the Commission in January, 1989, documents listing the changes in judicial compensation enacted in 1989 and 1990, historic and current salaries of elected officials and judges in Iowa, and a summary of salary survey information collected by the National Center for State Courts for 1990 and 1991. Copies of the information are on file in the Legislative Service Bureau.

Chairperson Edsall then recognized District Judge Arthur Gamble, Legislative Co-chairperson for the Iowa Judges Association. Judge Gamble agreed with the comments of Judge Donielson and noted that the morale of judges is much better. He stated that there is a feeling that the salary level is much better, fewer members are retiring to private practice, and there are more qualified applicants. He continued by stating that judges are working hard for their salaries and continuing to try and meet established time guidelines. Chairperson Edsall thanked Judge Gamble for his comments.

After further discussion, it was decided that the Commission will continue with preparations for a meeting on September 10 and the Legislative Service Bureau is to contact the various interest groups to see if there is any input which they would care to provide the Commission.

#### ADJOURNMENT

There being no further business to come before the Commission, the meeting was adjourned at 11:05.

Respectfully submitted,

MARK JOHNSON  
Legal Counsel

# MINUTES

## JUDICIAL COMPENSATION COMMISSION

SEPTEMBER 10, 1990

### PRELIMINARY BUSINESS

The second and final meeting of the Judicial Compensation Commission was held on September 10, 1990, in Senate Room 22 of the State Capitol Building in Des Moines, Iowa. The meeting was called to order at 10:00 a.m. by Chairperson Edsall. The following members attended:

Chairperson Wayne Edsall, Des Moines  
Ms. Lois Bliesman, Denison  
Mr. Robert Van Vooren, Davenport  
Ms. Linda Life, Oskaloosa  
Mr. Gus Johnson, Oelwein  
Ms. Dorothy Kerkoff, Audubon  
Mr. Henry Elliott, Red Oak

### THE HONORABLE LOUIS A. LAVORATO, JUSTICE, IOWA SUPREME COURT

Chairperson Edsall recognized Justice Louis A. Lavorato of the Iowa Supreme Court for his presentation to the Commission. Justice Lavorato spoke on behalf of the Iowa Supreme Court. Copies of Justice Lavorato's written statement were distributed to Commission members and a copy is attached and with this reference made a part of these minutes.

Justice Lavorato thanked the Commission for the opportunity to appear and discuss the issue of compensation and benefits for judges. He briefly recounted how Chief Justice McGivern discussed the problem of low judicial compensation in his first State of the Judiciary message to the Legislature in 1988. He then thanked the Commission for its efforts which, he asserted, have in part been responsible for the increase in judicial compensation which has recently occurred. Justice Lavorato stated that the impact of that increase is an increase in number and quality of candidates for judicial vacancies.

Justice Lavorato reported that the Court supports the recommendations of the Iowa Judges Association including the following:

1. Judicial salary increases should be tied to increases received by other state employees.
2. Base for retirement benefits should be increased from 50% to 60% of salary.
3. Senior judges should receive life and health insurance benefits while serving as senior judges.
4. General fund appropriation to the judicial retirement fund to cover the increased benefits to be paid to judges as a result of their service as senior judges.

Justice Lavorato continued by stating that the quality of justice depends on the quality of judges. He stated that the American Bar Association has outlined the characteristics which a person should possess to become a judge which include the following:

1. Integrity.
2. High degree of knowledge of established legal procedure and principles and the ability to apply those principles to specific factual situations.
3. Experience as an attorney, including substantial trial experience.
4. Good judicial temperament.

Justice Lavorato commented that the judicial nominating commission has the responsibility to nominate the best qualified candidates, and the level of compensation has an impact on who applies with the commission. He concluded that competitive compensation and benefits encourage well-qualified lawyers to apply for judicial vacancies. He added that while a judge's salary may seem comfortable to some, any person contemplating such a career must be willing to make certain sacrifices. He stated that these sacrifices are a result of several factors including that a judge's life is exposed to public scrutiny, judges must travel a great deal and do not have the level of support staff available to most lawyers, and judges are somewhat isolated from the rest of the legal profession as a result of the nature of the position and because of the judicial code of ethics.

Justice Lavorato explained that the level of judicial compensation and benefits also affects who remains on the bench. He opined that in the past, some good judges have left the bench because of the compensation level, but with recent increases, that does not currently appear to be a problem. He concluded his

presentation by indicating his belief that the work of the Commission plays a significant role in maintaining the quality of justice in Iowa.

In response to a question from Chairperson Edsall, Justice Lavorato responded that the Court is not advocating that the current 4% contribution rate paid by judges into the judicial retirement fund not be eliminated, but only that it not be increased. Chairperson Edsall then inquired as to the history of the 4% contribution, but those present were uncertain as to its origin.

#### THE HONORABLE WILLIAM THATCHER, MAGISTRATE

Chairperson Edsall recognized Magistrate William Thatcher for his presentation. Judge Thatcher thanked the Commission for the opportunity to appear and for the Commission's efforts. He stated that since 1973, when he first became a magistrate, his salary has increased. He opined that magistrates throughout the state, in general are doing a better job and it is his feeling that this has resulted from higher salaries being paid to magistrates which has attracted more qualified individuals to fill magistrate positions. He also noted that magistrate vacancies now attract a larger number of applicants.

Judge Thatcher commented that the Magistrates' Association one recommendation for the Commission is to recommend to the General Assembly that the salary of magistrates be tied to the salary of the district associate judges. He observed that under current law, the district court is permitted to trade three magistrates for one additional district associate judge. He suggested that the law seems to indicate that three magistrates are the equivalent of one district associate judge, and therefore, it would be reasonable to establish the salary of magistrates at one-third the salary of the district associate judges. He noted that ten years ago, the magistrates' salaries were approximately one-third of the district associate judges.

In response to a question from Mr. Van Vooren, Judge Thatcher stated that there are 146 magistrates. In response to questions posed by Ms. Bliesman, he commented that the amount of time which he devotes to his duties as magistrate varies, but probably averages around 25%. He indicated that he holds court every morning at 9 a.m., all day Thursday, and is available on weekends as necessary.

Judge Thatcher responded that not all magistrates have been legally trained in response to a question from Mr. Johnson. Judge Donielson, who was present in the audience, added that approximately two-thirds have legal training.

Chairperson Edsall inquired as to who appoints magistrates. Judge Thatcher responded that each district hires the magistrates to serve in the district from a list of individuals provided by the judicial nominating commission. Chairperson Edsall thanked Judge Thatcher for his presentation.

MR. CARL NIELSON, EXECUTIVE DIRECTOR, IOWA STATE BAR ASSOCIATION

Chairperson Edsall recognized Mr. Carl Nielson, Executive Director of the Iowa State Bar Association, for his presentation. Mr. Nielson noted that he has been with the Bar Association for about nine years and served six years in the General Assembly prior to that. He stated that he has also served on the committee appointed to recommend the salaries of state officials which also recommended judicial salaries prior to the establishment of the Judicial Compensation Commission. He asserted that the work of the Commission has assisted state decision makers tremendously. He also indicated that the Commission and State Bar Association are helpful in providing recommendations in a meaningful manner.

At a minimum, Mr. Nielson stated that the State Bar Association supports a minimum cost-of-living increase adjustment (COLA), although he stated that the level of that increase has not been determined. He also stated that the level of benefits should be examined. Mr. Nielson cautioned the Commission that if a recommendation to increase benefits is made, a strong recommendation should also be made that the contribution level of judges into the judicial retirement system not be increased.

He commented that morale among judges has greatly improved in the last few years after the recent increases in judges' salaries. He also commented on the increasing need for more judges. In conclusion, he reiterated the State Bar Association's position in favor of a COLA increase and opposition to any increase in the retirement contribution level if any adjustment is made in benefit level.

Mr. Van Vooren inquired as to the State Bar Association's position concerning magistrates' salaries. Mr. Nielsen stated that the State Bar Association has not looked at that issue and has no position at the present time. In response to a concern raised by Mr. Johnson relating to the impact which the Commission has, Mr. Nielsen responded that the Commission's time is not wasted and the Commission has had a positive impact in achieving increased salaries for members of the judiciary.

There being no further questions, Chairperson Edsall thanked Mr. Nielsen for his presentation.

MR. MARK BENNETT, IOWA TRIAL LAWYERS ASSOCIATION

Chairperson Edsall recognized Mr. Mark Bennett of the Iowa Trial Lawyers Association for his presentation. Mr. Bennett briefly described the Association to the Commission. He also commented on the high quality of justice which the state of Iowa now benefits from as a result of the quality of the members of the Iowa judiciary.

Mr. Bennett stated that the level of compensation paid to members of the judiciary has a direct impact on the quality of justice. Specifically, he stated, with increasing levels of compensation, more qualified candidates have been attracted to the bench when vacancies occur and fewer are leaving. Nonetheless, he commented, most judges earn far less by serving on the bench rather than staying in private practice. He also expressed support for the recommendations made by Judge Donielson at the first meeting.

Concerning the issue of the judges' 4% contribution to the judicial retirement fund, Mr. Bennett expressed the belief that the statutorily required contribution is probably unconstitutional, but it does not appear that the judges will challenge the contribution at the current level. He suggested that the Commission should look at recommending a reduction in the contribution rate, and stated that there should certainly be no increase in this rate. He also suggested that increased cost-of-living increases should also be considered.

In response to an inquiry by Mr. Van Vooren, Mr. Bennett mentioned that the Iowa Trial Lawyers Association does not have a position concerning magistrates' salaries. Chairperson Edsall thanked Mr. Bennett for his comments.

THE HONORABLE ANTHONY M. CRITELLI, JUDGE, IOWA DISTRICT COURT

Chairperson Edsall recognized Judge Anthony Critelli of the Iowa District Court for his presentation. Judge Critelli noted that he is President of the Iowa Judges Association and thanked the Commission for the opportunity to appear. Copies of Judge Critelli's written statement were distributed to Commission members and a copy is attached and with this reference made a part of these minutes.

Judge Critelli indicated that while some members of the judiciary advocate higher salaries, all agree that judges have been treated fairly during the past four years. He stated that recent increases in the level of compensation paid to judges has positioned judges currently in an appropriate range when compared with other states and with salaries paid for similar work in the private sector. He indicated

that periodic annual increases consistent with the increased cost of living should be considered by the Commission in an effort to avoid dilution of salary dollars resulting from inflation. He offered that an increase in pension benefits would also be appreciated as long as there is not a corresponding increase in the contribution rate now incurred by the judges.

Judge Critelli then noted that the Senior Judge program has been of great benefit to the judicial branch and the citizens of Iowa, but the additional pension benefits paid to these judges as a result of this continued service has resulted in an increased burden on the pension fund. He stated that the fund is being depleted by approximately \$250,000 per year which will increase as judges' salaries and the number of judges serving as senior judges increase. He asserted that this increased cost of benefits is a general fund obligation and should be provided for through general fund appropriations.

Judge Critelli then noted that the current reimbursement for automobile expenses is inadequate and serious consideration should be given by the General Assembly to adjusting the reimbursement level consistent with existing facts and circumstances. He then thanked the Commission for the opportunity to make his presentation.

Mr. Van Vooren then inquired as to the history behind the 4% pension contribution level. It was noted that the actual circumstances which resulted in the required contribution were not known.

#### COMMITTEE DISCUSSION

Mr. Van Vooren expressed the belief that all of the requests appear to be reasonable and fair and that he would be supportive of recommending them in their entirety. Mr. Johnson noted that Judge Critelli's comments concerning the senior judge program and its effect on the judges' pension fund are very interesting and certainly worth consideration.

Chairperson Edsall inquired as to the disposition of the 4% contribution made by the judges. The Commission was informed that the contribution is deposited into a separate fund along with the state's share. He then commented that he appreciates the comments concerning the impact of the Commission's work and noted that he anticipates that the Commission will have greater impact in the future by increasing the exposure of the Commission's recommendations to state decision makers and given that the Commission has only been in existence a short time.

The Commission discussed the issue of magistrates' salaries and their origination. The Commission concluded that while the issue of magistrates' salaries is probably within the jurisdiction of the Commission, there currently is not enough information to act on a recommendation concerning this issue.

The Commission then directed the staff to itemize the possible recommendations as made by the presenters for discussion during the afternoon session.

### RECESS

The Commission then recessed for lunch until 1:00 p.m.

### MR. HERB SELBY, IOWA DEFENSE COUNSEL ASSOCIATION

Chairperson Edsall called the meeting back to order at 1:00 p.m. and recognized Mr. Herb Selby, representing the Iowa Defense Counsel Association, for his presentation.

Mr. Selby indicated that the Association is supportive of the following three proposals:

1. Increasing the level of pension benefits from 50% to 60% of the salary level with a corresponding adjustment in the statutory formula from 3 to 3.6 years.
2. Funding the increase in pension benefits paid out as a result of the senior judge program through a general fund appropriation.
3. Extension of benefits to senior judges, particularly regarding health and accident insurance benefits.

Mr. Selby then discussed the judges' formula and noted that the freeze in the number of judges allowed has resulted in a shortage of judges. He noted that senior judges now help fill the gap which has been created as a result of this freeze. and that the importance of this program has been highlighted as a result.

Mr. Johnson inquired as to how many judges are lacking under the formula. Mr. Selby responded that currently the formula would require the appointment of three more judges. He compared this number to the prior formula which would have required the appointment of 28 or 29 additional judges. Chairperson Edsall inquired as to whether or not there is a limit on the number of senior judges who may be appointed. Mr. Selby responded that there is no limit, but that the number actually appointed does not vary much.

Chairperson Edsall thanked Mr. Selby for his presentation and invited discussion from the Commission.



## COMMITTEE DISCUSSION

The Commission began its discussion by examining the senior judge program and clarifying the impact it has on the judicial retirement system.

Chairperson Edsall then directed the attention of the Commission to the document prepared by the staff listing possible action items. The Commission adopted the following recommendations to be made to the Governor and the General Assembly:

1. Adjustment of maximum retirement benefits from 50% to 60% of the basic annual salary with an increase in the annual annuity from 3 to 3.6% of the average annual basic salary for the judge's last three years as a judge multiplied by the number of years of service as a judge.
2. General fund appropriation to the judicial retirement system should be made to cover the increase in retirement benefit payments to senior judges which occurs as a result of their service as senior judges.
3. That senior judges be provided full year coverage with respect to health insurance.
4. That the 4% contribution rate required by statute to be paid by judges into the judicial retirement fund not be increased and that consideration be given to reducing or phasing out the judges' contribution.
5. That cost-of-living increases in judges' salaries should be tied to cost-of-living increases provided to other state employees.
6. Additionally, the Commission discussed possible recommendations concerning the salary of magistrates. While the Commission believes that action concerning this issue may be necessary, additional information is necessary before an appropriate recommendation can be made by the Commission. The Commission determined that it will continue to examine the issue and will receive additional input at subsequent meetings of the Commission.

The Commission also requested Chairperson Edsall to draft a letter summarizing the recommendations of the Commission and send that letter to the Governor, legislative leaders, and appropriate legislative committee members.

ADJOURNMENT

There being no further business before the Commission, Chairperson Edsall thanked the members of the Commission for the time and effort, and adjourned the meeting at 2:13 p.m.

Respectfully submitted,

MARK W. JOHNSON  
Legal Counsel

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mj/sc

COMMENTS BY JUSTICE LOUIS A. LAVORATO

JUDICIAL COMPENSATION COMMISSION

MONDAY, SEPTEMBER 10, 1990

I'M LOU LAVORATO AND I'M APPEARING ON BEHALF OF THE IOWA SUPREME COURT. THE COURT THANKS YOU FOR THIS OPPORTUNITY TO SPEAK ABOUT COMPENSATION AND BENEFITS FOR IOWA JUDGES.

IN JANUARY 1988, IN HIS FIRST STATE OF THE JUDICIARY MESSAGE TO THE LEGISLATURE, OUR CHIEF JUSTICE--ARTHUR MCGIVERIN--DISCUSSED THE PROBLEM OF LOW JUDICIAL COMPENSATION. HE POINTED TO MANY STATISTICS THAT ILLUSTRATED HOW LOW JUDICIAL SALARIES IN IOWA HAD PLUMMETED. FOR EXAMPLE, BETWEEN 1977 AND 1987 JUDICIAL SALARY INCREASES FAILED TO KEEP PACE WITH INFLATION, WITH INCREASES AWARDED TO OTHER STATE EMPLOYEES, OR WITH JUDICIAL COMPENSATION OF OTHER STATES.

THIS COMMISSION AND THE GOVERNOR RESPONDED TO THE PROBLEM. YOUR EFFORTS ON BEHALF OF THE JUDGES HAVE ALLOWED JUDICIAL COMPENSATION TO REACH A LEVEL WHERE IT OUGHT TO BE. AND WE THANK YOU FOR THAT.

AS LIAISON JUSTICE FOR THE FIFTH JUDICIAL DISTRICT, I'VE SEEN EVIDENCE OF WHAT THOSE EFFORTS HAVE ACCOMPLISHED. FOR EXAMPLE, THE LAST TWO VACANCIES IN POLK COUNTY BROUGHT AN AVALANCHE OF EXCELLENT CANDIDATES, AND TWO FINE JUDGES EMERGED FROM THE PROCESS.

THE RECENT VACANCY IN THE ASSOCIATE DISTRICT COURT IN POLK COUNTY, I'M SURE, WILL TRIGGER A SIMILAR RESPONSE AMONG POLK COUNTY LAWYERS. I'M HAPPY TO REPORT THIS PHENOMENON IS OCCURRING ACROSS THE STATE.

WHERE DO WE GO FROM HERE? THE COURT WHOLEHEARTEDLY SUPPORTS THE RECOMMENDATIONS OF THE IOWA JUDGES ASSOCIATION. THESE INCLUDE THE FOLLOWING:

1. PEGGING JUDICIAL SALARY INCREASES TO INCREASES RECEIVED BY OTHER STATE EMPLOYEES;
2. IMPROVING RETIREMENT BENEFITS FROM 50% OF SALARY TO 60%;
3. ALLOWING SENIOR JUDGES TO CONTINUE RECEIVING LIFE AND HEALTH BENEFITS DURING THEIR TENURE AS SENIOR JUDGES; AND
4. FULLY FUNDING--FROM GENERAL APPROPRIATIONS--THE JUDICIAL RETIREMENT SYSTEM.

AS I ALLUDED TO EARLIER, JUDICIAL COMPENSATION AND BENEFITS HAVE A DIRECT IMPACT ON OUR SYSTEM OF JUSTICE.

OUR COUNTRY PLACES A HIGH VALUE ON JUSTICE AND RIGHTLY SO. ALL OF US DEMAND INTEGRITY, FAIRNESS, AND QUALITY FROM OUR JUDICIAL SYSTEM. THE QUALITY OF JUSTICE HINGES ON THE QUALITY OF OUR JUDGES. SO TO MAINTAIN A HIGH QUALITY OF JUSTICE WE HAVE TO SELECT AND MAINTAIN THE BEST QUALIFIED INDIVIDUALS FOR POSITIONS ON THE BENCH.

WHO ARE THE BEST QUALIFIED INDIVIDUALS? THE AMERICAN BAR ASSOCIATION THINKS THOSE INDIVIDUALS SHOULD POSSESS THE FOLLOWING CHARACTERISTICS.

THE BEST QUALIFIED CANDIDATE SHOULD HAVE UNDISPUTED INTEGRITY. INTEGRITY IS THE KEYSTONE OF OUR JUDICIAL SYSTEM. SO IT IS IMPORTANT THAT A JUDICIAL CANDIDATE'S INTEGRITY AND CHARACTER BE ABOVE REPROACH. THE BEST QUALIFIED CANDIDATE WILL DISREGARD PREJUDICES AND HAVE THE MORAL COURAGE TO MAKE HARD DECISIONS.

THE BEST QUALIFIED CANDIDATE SHOULD HAVE A HIGH DEGREE OF KNOWLEDGE OF ESTABLISHED LEGAL PROCEDURE AND PRINCIPLES AND HAVE A HIGH DEGREE OF ABILITY TO INTERPRET AND APPLY THEM TO SPECIFIC FACTUAL SITUATIONS. THESE CHARACTERISTICS ARE ACQUIRED AND ENHANCED BY EXPERIENCE AND BY CONTINUING THE LEARNING PROCESS.

THE BEST QUALIFIED CANDIDATE SHOULD BE AN EXPERIENCED ATTORNEY. THE CANDIDATE SHOULD HAVE PRACTICED LAW LONG ENOUGH TO ESTABLISH A BASIS FOR EVALUATION OF HIS OR HER PERFORMANCE, SHOULD HAVE SUBSTANTIAL EXPOSURE TO LEGAL PROBLEMS AND TO THE JUDICIAL PROCESS, AND SHOULD HAVE SUBSTANTIAL TRIAL EXPERIENCE.

FINALLY, THE BEST QUALIFIED CANDIDATE SHOULD HAVE A GOOD JUDICIAL TEMPERAMENT. A GOOD JUDICIAL TEMPERAMENT INCLUDES COMMON SENSE, PASSION, DECISIVENESS, FIRMNESS, HUMILITY, OPEN-MINDEDNESS, PATIENCE, TACT, AND UNDERSTANDING.

THE JUDICIAL NOMINATING COMMISSION HAS THE RESPONSIBILITY TO NOMINATE THE BEST QUALIFIED CANDIDATES. YOUR WORK, HOWEVER, DIRECTLY AFFECTS WHETHER THE BEST QUALIFIED ATTORNEYS WILL APPLY.

WE KNOW THAT COMPETITIVE COMPENSATION BENEFITS ENCOURAGE WELL-QUALIFIED LAWYERS TO APPLY FOR JUDICIAL POSITIONS. THE LEVEL OF COMPENSATION IS PARTICULARLY IMPORTANT IF WE ARE TO ATTRACT LAWYERS OF SUBSTANTIAL EXPERIENCE--ESPECIALLY LAWYERS WITH SUBSTANTIAL TRIAL EXPERIENCE.

A JUDGE'S SALARY MAY SEEM COMFORTABLE TO MANY PEOPLE. BUT ANYONE CONTEMPLATING A JUDICIAL CAREER MUST BE WILLING TO MAKE CERTAIN SACRIPICES.

LIKE OTHER PUBLIC OFFICIALS, A JUDGE'S LIFE IS EXPOSED TO PUBLIC SCRUTINY. ADDITIONALLY, IOWA JUDGES MUST DO A LOT OF TRAVELING AND DO NOT HAVE THE LEVEL OF SUPPORT STAFF MANY IOWA LAWYERS ENJOY. FINALLY, BECAUSE OF THE NATURE OF THE POSITION AND BECAUSE OF OUR JUDICIAL CODE OF ETHICS, JUDGES ARE SOMEWHAT ISOLATED FROM THE REST OF THE PROFESSION. WE CANNOT HAVE THE SAME LEVEL AND KIND OF SOCIAL CONTACT WE ENJOYED AS LAWYERS.

THE LEVEL OF JUDICIAL COMPENSATION AND BENEFITS ALSO DETERMINES SOMEWHAT WHETHER OUR BEST JUDGES REMAIN ON THE BENCH. WE'VE LOST SOME GOOD JUDGES AND MANY YEARS OF JUDICIAL EXPERIENCE IN THE PAST BECAUSE OF LOW SALARY. I'M HAPPY TO SAY THAT YOUR EFFORTS THESE PAST SEVERAL YEARS HAVE ELIMINATED THAT LEAKAGE. COMPENSATION THAT IS COMMENSURATE WITH RESPONSIBILITIES WILL HELP US TO KEEP OUR JUDGES.

I'M SURE YOU REALIZE THAT YOUR WORK PLAYS A SIGNIFICANT ROLE IN MAINTAINING THE QUALITY OF JUSTICE THAT IOWANS EXPECT. THE COURT BELIEVES THAT THE RECOMMENDATIONS WE MAKE HERE TODAY WILL GO A LONG WAY TO HELP MAINTAIN THAT QUALITY OF JUSTICE. SIMPLY PUT, WE NEED THE BEST LAWYERS WE CAN GET TO FULFILL JUDICIAL VACANCIES. YOU CAN HELP US DO THAT.

THANK YOU. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

PREPARED REMARKS FOR  
JUDICIAL COMPENSATION COMMISSION  
SEPTEMBER 10, 1990

Mr. Chairman, Ladies and Gentlemen of the Commission:

I am Judge Anthony Critelli, President of the Iowa Judges Association. I appreciate your affording me an opportunity to share with you some ideas, observations and suggestions concerning judicial benefits, salary, pension and expenses.

We Judges consider ourselves to be part of a branch of government equal with the Legislative and the Executive. We also consider ourselves to be a responsible branch of government -- one that considers that the public should not be required to pay out public funds for unnecessary or unreasonable services.

While some of our members would seek and expect greater salary, all do agree that we have been treated quite fairly for the past four years.

The Governor and the Legislature have seen fit to increase our salary to a point where we are certainly in the appropriate



range when compared with other states and with salaries for like work in the private sector.

With a conscious understanding of the present financial condition of our state, a situation that may be at least indirectly affected by the unexpected activities in the Middle East, we have set our goals on maintaining the status quo concerning both salaries and pension.

Periodic annual increases consistent with the increased cost of living are what we seek -- our goal is to avoid the effective dilution of our salary dollars by inflation.

In regards to pension benefits, there have been suggestions that the maximum or top benefit be raised from the present 50 percent of the last three-year average salary.

While we would certainly appreciate such action, we are opposed to it if it is complimented by an increase in our current required contribution of 4 percent of all salaries without limitation.

In a word, if pension increases necessitate our contributing more than is now required, please leave the pension limit where it is.

In that respect, a point should be made. Under the present system, our Senior Judges receive a pension based on current salaries in return for their working at least 13 weeks a year. They receive no salary for this service -- only the right to pension based on current salary rather than the salary when the Judge retired.

This procedure has worked well for the citizens of Iowa. Presently, there are 20 Senior Judges in Iowa. Therefore, the judicial system has the benefit of the services and experience of the equivalent of 5 additional Judges at no salary expense to the state.

However, there is a drawback. The additional pension benefits paid to these Senior Judges is being paid out of our pension fund. Our pension fund is paying the supplemental compensation for five full-time Judges, and our pension fund

is being depleted to the tune of almost \$250,000 per year by such process.

This annual depletion will obviously increase each year as both judicial salaries and the number of Senior Judges increase.

This accounting procedure is seriously affecting the integrity and adequacy of our pension fund and should be corrected. Our fund should not be the source of such payments. They are a general fund obligation and should be treated as such.

My final area of concern has to do with the inadequacy of state reimbursement for automobile expense. The 21 cents per mile reimbursement was not adequate or fair even before the Mid-East crisis. The events of the past five weeks make it even more important and necessary that the Legislature give serious consideration to making the reimbursement for automobile expense for all state employees, including Judges, more consistent with existing facts and circumstances. We sincerely

hope that you will include such a recommendation in your report.

Thank you again for extending to me the time for this presentation. My colleagues and I are available for any questions you might have.

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