

# State of North Dakota

**Barbara L. Whelan**

District Court Judge  
Northeast Judicial District

## CHAMBERS

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**Tammy Henriksen**  
Certified Court Recorder

Good Morning Chairman Nathe and members of the Committee.

My name is Barbara Whelan, and I serve as a District Court Judge from the Northeast Judicial District, which covers 11 counties in the upper northeast corner of the state.

I have been a lawyer since being admitted to the Maryland Bar in 1990. I returned to North Dakota in 1993 and have practiced here since then. I was in private practice and doing part-time State's Attorney work until 1998 when I became a full time State's Attorney in 1998. I was elected and served as State's Attorney until 2017.

In October 2017 I was appointed to the bench by Governor Burgum. I have stood for election in 2020, again in 2022, and should I choose I will be on the ballot in 2026.

While I am accustomed to the election process, make no mistake that managing an election across 11 counties is significantly more expensive than running an election in a single county. Although unopposed in my judicial elections, there is no guarantee my next campaign will be unopposed. I must plan for the financial burden of a contested election across a broad geographic area.

When the issue of judicial compensation has been discussed at various judge's meetings during my five years on the bench, I was always surprised by the conservative and sometimes apologetic nature of the sitting Judges to seek compensation raises. Often times the comments made were: the farming economy isn't that great, we can't ask for a raise; the Governor has asked us to cut the budget, and we can't cut anything else and still provide judicial services, so we can't ask for a raise; we are so shorthanded and need more Judges, so we should focus our attention on getting more Judges, rather than seeking a raise for ourselves. This reflects, in general, the North Dakota way of addressing the uncomfortable issue of compensation.

As the natural result, judicial salaries have fallen unacceptably behind inflation, behind what other North Dakota officials are making, and behind what peer states are paying their judicial officers.

Considering the five years I have been on the bench, the first salary increase was not received until 2019, and then it was capped at \$200 per month, a 1.67% raise. The following year, 2020, we received a 2.5% raise. In 2021 the raise was 1.5%. In 2022, the raise was equal to 2.0%.

As indicated on the handout provided, Judges are losing against inflation. But perhaps more concerning is the base salary itself is far below other North Dakota officials and certainly below what attorneys in private practice with similar experience are making.

District Court Judges routinely rule on cases involving attorneys employed by the State, and review actions of governmental employees and school boards. Yet, many State employees, government attorneys, and public school administrators are compensated at higher levels than the Judges deciding their cases.

The North Dakota Supreme Court is the highest court of the state. It has appellate jurisdiction, and also original jurisdiction as necessary. Our Supreme Court promulgates rules of procedure followed by all the courts, and makes rules relating to admission to practice, professional conduct, and discipline of attorneys.

The Chief Justice is the administrative head of the state's unified judicial system, a co-equal branch of government in the State of North Dakota. In addition to judicial responsibilities the Chief Justice administers an annual budget of roughly \$56.5 million, and supervises more than 360 full-time employees. Sadly, the Chief Justice's compensation is significantly less than many state employees with less formal education.

Ignoring compensation rates in the areas of athletics and medicine, many professors and administrators in our University System make more than our Justices and Judges. The Dean of Libraries at UND earns more than the Chief Justice of the North Dakota Supreme Court. The Associate Vice President of Facilities (custodial services and maintenance) at UND is paid more than the Chief Justice and all other Judges, and the comparable position at NDSU, Director of Facilities Management, is paid more than the Chief Justice and Judges. Consider the presidents of Lake Region State College, Valley City State University, Mayville State University, Dickinson State University, Bismarck State College, Minot State University, the University of North Dakota and North Dakota State University: all of these positions are compensated much higher than every member of the North Dakota Judiciary.

And even within the Law School, the Dean of UND School of Law is paid significantly more than the Chief Justice of the North Dakota Supreme Court. Some professors at UND School of Law earn more than the Chief Justice of the North Dakota Supreme Court.

These comparisons to other officials is not made to devalue the education and experience those persons bring to their service to the citizens of North Dakota. The comparisons are made simply to demonstrate the judiciary has fallen far behind, and it is time to take a serious look at compensation of our Justices and Judges.

Given the authority and responsibility carried by Judges, and the legal experience, expertise, skills and education required of them, it is not reasonable that Supreme Court Justices and District Court Judges are compensated significantly less than other public servants who have less authority, responsibility and educational requirements.

Finally, it is also true that a comparison of North Dakota's judiciary salaries with peer states shows that we lag significantly behind. I do not have the time to go through these individually, but I am certain the Judge's Association would provide that specific information to this Committee if requested. I stand on the information provided in our handout asserting we are paid 40<sup>th</sup> and 41<sup>st</sup> lowest in the nation.

These are the reasons I appear today to advocate for a significant increase in judicial salaries as set forth in the budget request by the Judicial Branch. My colleagues on the bench deserve compensation commensurate with the amount of work they do, the depth and breadth of the knowledge and experience they hold, the enormous responsibility they carry on their shoulders, and the professional and personal burdens that come with being an elected District Court Judge.

Thank you for your attention, and I would be happy to try to answer any questions you may have.

Respectfully submitted,



Barbara L. Whelan  
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