



# Why Judicial Compensation Must be Addressed This Legislative Session

*As the Third Branch of Government, we provide access to justice through the timely, fair, and impartial resolution of cases.*

- 1. BIG TURNOVER IS COMING.** A full 60% of the District Judges, and 8 of the 9 Appellate Judges, will be eligible to retire within the next 5 years. Of even more immediacy, 12 District Judges and 7 Appellate Judges are eligible to retire now.
- 2. TOO FEW APPLICANTS.** From 2000 to the present, the Governor has appointed 43 District Judges. The Governor has only received a full slate of 4 candidates 30% of the time; and has received the minimum 2 candidates 26% of the time.
- 3. INADEQUATE COMPENSATION** is the key reason. Both the practicing bar and judges state that the number one impediment to judicial recruitment is the low salary.
- 4. THREE BRANCH COOPERATION** provides a well-reasoned solution. When all 3 branches have come together and tackled a problem and crafted a solution, the citizens of Idaho are well served. It is beyond debate that a turnover of District Judges means a less experienced trial bench, which in turn can impact litigants and businesses in every area of this state in very important ways. Significant numbers of new judges amplifies the importance of having applicants with extensive experience apply for these positions so that they can more readily adapt to their new role as judges.
- 5. TWO RECESSIONS** have left their mark. As a result of the two debilitating economic recessions since 2000, judicial salaries have not kept pace with other professions, negatively and materially affecting the recruitment of highly qualified judges, and in particular, District Judges.
- 6. LOWEST SALARIES IN THE REGION** is a factor. No matter the comparison group – national, regional, or neighboring states – Idaho District Judge salaries of \$114,300 are at the bottom. Nationally, District Judge salaries range from \$111,631 to \$182,429, with an average of \$139,166; Idaho ranks 46th. The average District Judge salary for the 13 western states is \$140,861. Of the 6 western states which geographically touch Idaho (Montana, Wyoming, Utah, Nevada, Oregon, Washington), the average is \$138,113, and Idaho is the lowest. The target salary for a District Judge in Idaho at \$135,000 is necessary to begin to effectively influence recruitment from both the practicing bar and the Magistrate Judge bench.
- 7. SALARY COMPRESSION** is a significant factor which must be addressed. The Idaho Judiciary has a significant salary compression issue between the levels of judges which must be addressed as part of the overall recruitment solution. Establishing a salary differential between the two levels of trial judges and the two levels of appellate judges in the range of \$15,000 to \$20,000 should address both the compression issue and materially assist with recruitment. A salary enhancement for the vital leadership roles of Chief Justice, Chief Judge, and Administrative District Judge is also being proposed.
- 8. WHO WE ARE TRYING TO RECRUIT** needs to be well understood. Idaho's judicial recruitment situation is exacerbated by additional factors. Nowhere else in state government does the unique challenge exist of trying to recruit highly-qualified professionals into a new career path who are otherwise already in their mid-to-late working careers and well-established in their positions.

*Report to Governor C.L. "Butch" Otter  
and the 2nd Regular Session of the 62nd Idaho Legislature*

- 9. LEAVING ONE CAREER FOR ANOTHER** has to be worth it. The realities of a professional career switch to the Idaho Judiciary also include the following : (1) by joining the district bench, these highly qualified lawyers typically incur a substantial pay cut; (2) they are changing their basic compensation structure from being driven by their own ambition, ability, and work ethic to a fixed salary set by the legislature which includes an ethical and statutory prohibition on other work; and, (3) they lose their client base, which took years to build, face the possibility of a career-ending contested election after turning over their clients to other attorneys, and some incur substantial uncompensated relocation expenses.
- 10. JUDGES HAVE TO ABIDE BY DIFFERENT RULES** than others. The ethical canons which govern a Judge's work also greatly restrict their extra-judicial activities - personal, public, and business. Because a Judge's most important responsibility is to uphold the integrity and independence of the judiciary, Judges must avoid even the appearance of impropriety, and at all times must conduct themselves in a manner that does not detract from public confidence in the integrity and impartiality of the Idaho Judiciary. The power and strength of our judicial system in protecting the rule of law rests on the judges, both individually and collectively, together with the public's confidence that our courts are timely, neutral and open.
- 11. COMPETITIVE SALARY LEVELS** directly influence the judicial applicant pools. While it is recognized that money alone is not the sole reason practicing lawyers choose to seek a judgeship, it is undeniable that the level of Judicial salaries will determine, in good measure, both the number and the caliber of applicants the Judiciary can expect to apply for these openings. If salaries are not addressed, the Judiciary will be required to recruit for these numerous vacancies all across the state without the benefit of competitive salaries, and the likelihood of receiving the high caliber of applicants for these all important constitutional officers will be diminished. And because most lawyers who choose to become judges do so with a career change in mind, another practical consideration in recruiting applicants of the highest quality is that once selected, and unless defeated in a subsequent election, these will likely be Idaho's judiciary for a good number of years.
- 12. IDAHO CITIZENS, TAXPAYERS AND BUSINESSES HAVE MANY REASONS TO CARE** about who their Judiciary is. Judges are highly trained professionals who are given the responsibility to decide disputes of all sorts, to mete out sentences to convicted criminals, to decide the fate of the many families and children who find themselves in crisis, and to unravel the most controversial, sensitive and thorny problems of our communities. In performing this critical work, Judges are also expected to be scrupulously fair and unbiased in the performance of those varied and complex duties. Idaho's citizens, taxpayers, and businesses all have a vested interest in a high caliber judiciary.
- 13. OTHER LEGISLATIVE CONSIDERATIONS:**
- Following resolution of a satisfactory recruitment proposal, all 3 Branches may wish to consider whether to tie future judicial salary increases to State changes to employee compensation (CEC).
  - Any salary proposal to effectively promote recruitment may need to be phased in over more than one year. Salary proposals must also be evaluated in light of potential impacts on the Judges Retirement Fund (JRF).
  - It is necessary to maintain a statutory tie of Magistrate Judge salaries to District Judge salaries, and maintain a statutory tie of Court of Appeals Judge salaries to Supreme Court Justice salaries; both expressed in terms of set dollar amounts.
  - The positions of Chief Justice, Chief Judge of the Court of Appeals, and the Administrative District Judge constitute the leadership positions within the Idaho Judiciary. Each of these positions is statutorily created and assigned significant additional responsibilities and duties in addition to the regular work load assigned to that judge. Adjustments must be made.

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