

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - 2nd SPECIAL SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By REP. WILLIAM S. STRIZICH, CHAIRMAN, on July 9,  
1992 at 8:30 a.m.

**ROLL CALL**

**Members Present:**

Bill Strizich, Chairman (D)  
Vivian Brooke, Vice-Chair (D)  
Arlene Becker (D)  
Dave Brown (D)  
Robert Clark (R)  
Paula Darko (D)  
Budd Gould (R)  
Royal Johnson (R)  
Vernon Keller (R)  
Thomas Lee (R)  
Bruce Measure (D)  
Charlotte Messmore (R)  
Linda Nelson (D)  
Jim Rice (R)  
Jessica Stickney (D)  
Howard Toole (D)  
Tim Whalen (D)  
Diana Wyatt (D)

**Members Absent:**

Rep. William Boharski (R)  
Rep. Angela Russell (D)

**Staff Present:** John MacMaster, Legislative Council  
Jo Lahti, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Announcements/Discussion:** HB 18 and HB 28 were to be considered.

**REP. STRIZICH, CHAIRMAN,** limited testimony on both sides of these  
issues to about 15 minutes.

**HEARING ON HOUSE BILL 18**

HB 18 is an act abolishing the 21st Judicial District; Amending  
Section 3-5-101, MCA; Repealing Section 2, Chapter 642, Laws of

1991; and Providing an immediate Effective Date.

Hearing and Opening Statement by Sponsor:

REP. BOB RANEY, Chief Sponsor of HB 18, Livingston, explained this bill is to abolish the 21st Judicial District which was created out of a perceived need by the last Legislature for a district court in Ravalli County. It has also been created at a time of fiscal crisis in Montana where expansion of government is being resisted. The Legislature is mandated to resist more taxes. Government should not be expanded in a time when all other areas of services are being cut. There is a problem as far as the delivery of judicial services in that area of Montana. Montana also has a smaller population than it did a decade ago. That being the case, why go from 20 districts to 21? The cost is not significant. According to the fiscal note it would only be \$34,000-\$68,000, which as we all know will grow, to provide the space and other services as needed by this court district. In the name of holding down the cost of government he asked the bill be passed.

Proponents' Testimony: None

Opponents Testimony:

REP. FRED THOMAS, Ravalli County, Stevensville, urged defeat of HB 18. The citizens have worked long and hard to achieve this district which is needed not only for Ravalli County, but for Missoula County as well. Technically, the district has been in effect since last October. Cases have been delayed and delayed because of the prospect of this new judge being available, so HB 18 would put them in a very bad position if it passed. Every statistical way shows this judgeship is needed, justified and deserved. The judicial system is one of the most important areas of government in delivery of this vital service. It is funded and needed. It will take more than \$35,000 to balance the budget.

Ed McLean, District Judge, Fourth Judicial District, opposes HB 18 because of the heavy case load in Ravalli County as compared to other counties in Montana. Ravalli County is approximately the sixth most populous county, yet the case load in that county exceeds the case load of both counties that REP. RANEY'S judicial district comprises. In 1991 Ravalli County had a total of 725 cases filed. The sixth judicial district which comprises part of Sweetgrass County filed a total of 577 cases. The reason reapportionment cannot be done is because there are not enough judgeships to cover the different case loads in some of the less populated counties where one judge is covering five or six or seven counties. They cannot be handled just on a square mile basis by any less manpower. One judge could not possibly cover all those counties. There are a total of 36 district judges in Montana at the present time whose case loads average about 850. The judges in Missoula County are carrying about 1070 cases. If

Ravalli County were broken off, the judges in the fourth judicial district would still be handling approximately 890 cases per judge, more than the average case load in the state. This geographical situation cannot be resolved by reapportionment, it is necessary to set up a separate judicial district just to handle the case load.

The projections for Ravalli County are that the population influx is going to equal that of the 1970s during which time Ravalli County grew by about 56%. Not only is it growing populationwise, Ravalli County is approximately 49th in per capita income for Montana. Per capita income has a direct correlation of what can be anticipated to happen in the criminal justice theater. We are compelled to give people speedy access to the courts. That is not happening with the present population growth. By not accepting the \$35,000 expense, the quality that a populous county deserves as far as access to the courts is concerned is very poor. He asked the Committee to reaffirm their position taken in the last session and to defeat HB 18.

**SEN. BERNIE SWIFT, District 32,** said the case load is spiralling. The delay for case loads is now four months. Cases are extended. It was agreed a judge was needed very badly, and what was looked at in the past is expanding now, and the situation is worsening. He asked consideration of what was passed last year, and to give the people of Ravalli County the service they need and have needed for some time.

**George Corn, Ravalli County Attorney,** for the last 18 months, was in private practice for ten years representing civil defense cases. He has seen the delay in the Ravalli County court system. It is very difficult to have to tell someone that they will have to drive two hours to Missoula to get a temporary restraining order to get an abusive spouse out of the house. On the criminal side he has told people who can't raise money for bail, they will have to stay in jail for the next six months because they can't get a trial faster than that. He has had to tell parents of a victim a trial can't be obtained faster than 4-5 months. A judgeship for their county will alleviate that. They have been living with some very difficult situations in Ravalli County for the last ten years. That is the reason he is opposed to this bill and would like to see it defeated.

The handout **EXHIBIT 1,** a breakdown of the number of filings and how the judgeship was compared, shows Ravalli County would have a judge who would be in the middle of things immediately. He would already have more cases than many counties that already have a judgeship. **EXHIBIT 2, STATISTICS ON SELECTED JUDICIAL DISTRICTS,** show statistics for several judgeships. These figures are now outdated. The trend has gotten worse which is another reason to kill this bill.

There also is a question of legality. A primary election has been held. The Montana Constitution has the Right of Suffrage which

reads that no power shall interfere with the right of the people to exercise their vote. Where does HB 18 leave us? He hoped the Committee would consider this when considering HB 18. Without an answer to those questions, it would certainly be ill-advised to pass this bill. He emphasized the citizens of Ravalli County are embarrassed. They were told they were going to have a judgeship, people filed for the judgeship, there was a primary election with 48% voter turnout, and now if this passes citizens will be told that it was a mistake, you are not going to be able to afford the judgeship and so your work meant nothing. That would send a message of cynicism home. He asked the bill be defeated just on the issue of fairness. The county is growing. This is a nonpartisan bill. He urged the Committee kill HB 18.

**Steve Powell, Ravalli County Commissioner**, voiced the importance of this issue to all of Ravalli County. Despite the difficulty in funding the additional cost, most of Ravalli County is committed to the establishment of a new district. This judge is needed very badly. They hardly have a civil court in Ravalli County. He urged defeat of HB 18.

**Russell B. Hill, Executive Director of Montana Trial Lawyers Association**, handed out a letter stating reasons the MTLA oppose HB 18, **EXHIBIT 2A**. The rapid growth in Ravalli County has not just the effect of increasing the case load, it has the effect of many unplanned property and water suits that clog the courts.

**Jeff Langton, a candidate for this newly created position**, stated he has an obvious reason for killing this bill. One thing that has never been an issue, is the need for this position. As a private attorney his civil clients have access to the district judge one day a month. The population is 25,000, case load is 725 new cases per year. The criminal cases only have access to the court one day a week; trial settings are three times a year. This is a very difficult situation. Beyond the mere money involved, this has caused undue loss of time, aggravation, and hardship to numerous people over the past decade, particularly since this county has grown. This is a situation that needs to happen.

The savings to the state by eliminating this position are minuscule in comparison to the budget deficit here. The savings in time to the public in Ravalli and Missoula Counties should not be dismissed. The judges in Missoula County have some of the highest case loads in the state. Even with this judgeship they would still have significantly more cases than the state average. This is something that is desperately needed in Missoula and Ravalli Counties. He strongly urged HB 18 be killed and the district be maintained.

**REP. CAROLYN SQUIRES, HD 58, Missoula**, stated she was in support of this legislation in the last session. Since her county is impacted by the heavy case load, she is in strong support of killing HB 18.

**REP. STEVE BENEDICT, HD 64, Ravalli County,** thinks this is not a cost effective bill. It will cost Missoula County more in the long run than it is ever going to save. He asked HB 18 be killed.

Other opponents sending written objections are: **Williams & Ranney, P.C.,; Connell, Beers & Alterowitz; Mullendore & Watt; T.K.Botsford,** all from Missoula, MT. See EXHIBITS #3.

Questions from Committee Members:

**REP. TOOLE** asked if this legislation is intended to help with the present fiscal crisis? **REP. RANEY** said it is intended to stop the growth of government. It would be very small assistance to the crisis. **REP. TOOLE** asked if the Committee should turn this into a bill that looks at redistricting and studies the whole structure of the judicial districts in the state? If so, isn't that more appropriate for the regular session? Also if, in terms of reducing the cost of government, something might have been done to judicial salaries across the board rather than this for which the need has been so clearly demonstrated in the past? **REP. RANEY** answered he brought a bill that will reduce the cost of government.

**REP. BECKER** asked what this judge's salary would be. **REP. RANEY** thought the personal services was the salary of the judge, \$65,012. The cost of office space, electricity, etc. will be picked up by Ravalli County. About \$100,000 is fairly close according to the LFA, and according the Legislative Council. When you consider all costs of the position, going beyond salary and office space, it will approach that amount of money.

Closing by Sponsor:

**REP. RANEY** stated he didn't deny the need for the services in Ravalli County. His own judge is handling 300 cases himself. That is all the more reason to pass HB 18 than amend it by calling for reapportionment. If he is only doing 500+ cases and other judges are doing 800-900 to 1,000 cases, then it is a crime that he is escaping. There are other judicial districts where there is an out-migration of people, so if Ravalli County is growing and other counties are shrinking, and it is obvious from the statewide population that is the case, then redistricting is the answer rather than resorting to growth in government, or to having some judges handle 500 cases if they are capable of handling 800.

He is offended by some people in Ravalli County saying it is only \$35,000 this year, but when it is \$140,000 for the biennium, it sounds like real money. It is real money. We came here to figure out ways to reduce the cost of government or to tax the people so it is painless. This is one of the ways although it won't be painless. The situation could be better resolved by moving the

workload all around Montana rather than increasing the size of government. They need more judicial help in that county. Adding another judicial district is not the answer.

### HEARING ON HB 28

HB 28 is an act eliminating scheduled salary increases for Supreme Court justices, District Court judges, and the Chief Water judge; amends Sections 2-16-404 and 3-5-211, MCA; and provides an immediate effective date.

**REP. LINDA NELSON, HD 19, Medicine Lake,** explained HB 228 in the 1991 Legislature gave the supreme court and district court judges, which includes the water court judge, an \$8,000 salary increase over the biennium to be given in six-month increments. As of July 1 they received their third increment and they now receive \$6,000 extra. HB 28 would not cut this salary, but would freeze it at the current level. These are desperate times and call for sacrifices on all levels, and a \$6,000 increase in eighteen months is a respectable increase for anyone in Montana. This will save approximately \$90,000. She would appreciate Committee concurrence.

**Proponents:** None

**Opponents:**

**Jim Oppedahl, Administrator of Montana Supreme Court,** was asked by the Chief Justice of the Supreme Court to present a written statement to the Committee. He read **EXHIBIT 4** respectfully asking salaries of the Supreme Court Justices not be diminished. The increase enacted into law in 1991 is entirely paid for through district court filing fees and not from the general fund. The salaries of the Supreme Court and District Court judges in Montana are almost the lowest in the nation. He asked the Committee support a DO NOT PASS recommendation for HB 28. He also brought copies of **EXHIBIT 5, "A Judicial Salary Study and Recommendations to the Montana Supreme Court";** and **EXHIBIT 6, "1991 Judicial Report".**

**Jacqueline Lenmark, Lawyer in Helena, president of the First Judicial District Bar Association,** was representing the State Bar of Montana which very respectfully opposes HB 28. She feels privileged to practice before one of the finest Supreme Courts in Montana and some of the most competent District judges in years. Montana judges have enhanced and continually talk about the important aspects of the practice of law. Those judges are the ultimate arbiters of the matters that are most important to the citizens of Montana. They are already compensated at embarrassingly low disproportionate fractions of their federal counterparts and to many of the lawyers who practice before them. It is critical to our judicial system that we maintain and defend

the present competency of our judiciary. It is critical that candidates are attracted who are equal to or exceed the competence of the present judiciary. She strongly urged this bill be given a DO NOT PASS recommendation.

**Ronald F. Waterman, attorney in Helena**, is one of the small number of attorneys practicing in Helena who have monitored judicial compensation as well as judicial issues for over 20 years. He has lobbied to retain the current member size of the court to undertake the responsibilities they have. One of the more lasting efforts of this small group of lawyers has been to lobby for an increase in judicial salaries. Promises were made prior to the 1991 session that salary increases dearly justified by all of the figures and the evidence would come at a later time. 1991 was the final fulfillment of that long delayed promise. Now that promise seems to be in the process of being rolled back. The salaries which are already the lowest in the United States should not be diminished further.

He does not believe this bill is constitutional. The Montana Constitution explicitly addresses issues of what can be done with respect to salaries for sitting justices and judges. It provides "all justices and judges shall be paid as provided by law, but salaries shall not be diminished during terms of office". In 1991 the salary of the justices and judges in this state were increased by \$8,000. The action that HB 28 proposes to do would decrease that salary during the terms of all these individuals who are sitting on courts of this state. The bill is directly unconstitutional. He asked HB 28 be thrown out.

#### Questions from the Committee:

**REP. STICKNEY** asked if the salaries of the justices and district court judges also determine salaries of those who work in the court system? Will those also be affected? **Jim Oppedahl** explained other salaries would not be affected.

**REP. ROYAL JOHNSON** asked about the constitutionality of this bill. **REP. NELSON** said it says in the Constitution that their salary cannot be diminished, but we are not diminishing it, it is being frozen at the current level. She thought it was constitutional or the Legislative Council would have brought it to her attention if it had not been constitutional. **Jim Oppedahl** was aware of the constitutional language, the courts would have to interpret it.

#### Closing by Sponsor:

**REP. NELSON** said in dire times it is necessary to consider any impact however small. In speaking to things in the future, we are looking at increases for everybody. Montana Legislators are some of the lowest paid in the whole country. Most elected officials are poorly paid, but that does not mean they are less qualified. Most elected officials have voluntarily given up their pay

increases at this time, and their increases only amount to \$1,248. They have asked that a bill be drafted stating this. Good candidates run for these positions simply because they believe in what they are doing. Times are not right for increases. She asked for concurrence in this bill.

**EXECUTIVE ACTION ON HB 18**

**Motion:** REP. DAVE BROWN moved to TABLE HB 18 for all the reasons that were heard. This is not an instantaneous decision. The expansion of the judicial in this area happened over a four-year period of discussion in at least three different judiciary sessions. The decision was not arrived at until the case had been made that it was required because of the case load. There should not be any attempts to change this to legislation that might be a judicial study. He reserved his motion for any further discussion.

REP. RICE said there is a virtual fundamental breakdown in the judicial system in Ravalli County. People there are not getting access to justice. Although there is a need to cut, previous actions should be kept intact.

REP. GOULD, Missoula, agreed. On numerous occasions he has been unable to get the judge, he is always away so he has to call Hamilton if he can get that judge. This district has been talked about for at least five years. It is something that definitely is past its time. There is a rising population in that area, especially Ravalli and Flathead Counties have become very strong areas of retirement, and there are times when a judge is needed. Instead of having to bring juveniles to Missoula or a judge going down there at night, etc., they need a judge that is located in Hamilton so he can be there when one is needed. He supports this motion when made.

REP. TOOLE said the statistics for this Ravalli County area show about a 50% growth in two years in the criminal filings which mirrors the growth in the County. It is not just a matter of Missoula, Ravalli County has a tremendous growth rate. The construction boom is not abating. If in 1990 the case load in Ravalli County was as large as any single judge district in the state, it is probably substantially larger than any single judge district today. This judge is badly needed. There are a lot of ways to save \$30,000 for this emergency other than this.

REP. MEASURE explained the reapportionment committee that met after the 1981 session indicated the direst need for a new judgeship was in Ravalli County. There is no question a judge is still needed. Without a study of reapportionment the last session stayed away from the issue of whether there are places in the state that have too many judges, and there certainly are. There are declining populations all over the state. He will vote to terminate this position at this time, however, maybe now is not the fiscal time to institute a study. The Committee should have

created a study commission last time because there are people who are skating out there and that is the way we are going to get judicial services, not by just willy nilly placing judicial districts all over the place.

**Motion:** REP. BROWN moved to TABLE HB 18.

**Vote:** Unanimous AYE vote.

#### **EXECUTIVE ACTION ON HB 28**

**Motion:** REP. NELSON moved HB 28 DO PASS.

#### **Discussion:**

REP. BROWN considered also Tabling this bill. His concern was salary increases for judges had been considered in this committee for at least four sessions. Increases were not passed easily, nor without substantial consideration of what was being done. The action last session was very difficult. Although not intended, this legislation is punitive in its application because it does not do anything significant in the way of general fund savings since all of these costs are borne by fees paid inside the court system. Punishing the judiciary for pay increases out of non-general fund source, even though at a time when the rest of the state is undergoing a severe fiscal crisis, seems to not be reasonable. He will make a motion to table.

REP. GOULD opposes because he thinks all of the judges in Montana are honorable men and women and underpaid. In the 1991 session filing fees were raised, and that should have more than covered any raises allowed.

REP. WHALEN said the bill was brought in during the special session after compromises. There were two purposes for the salary increase, especially for high elected officials, to compensate that individual, and to confer some respect and status on the office of the judiciary, the third branch of government, which is being undercompensated. A great deal of responsibility is placed upon those individuals who serve in those capacities. When school administrators are being compensated at \$80-90,000 a year, a city administrator is getting \$100,000 which is more than the chief justice of the Supreme Court, that raises a question as to what extent we value our judiciary. Ill-advised cuts could be mistakes. The retirement benefits these judiciary individuals receive is based on the last three years of service. Testimony to raise these salaries was that they have been wanting for at least a decade. Those already retired have received inadequate benefits.

REP. WYATT agreed with much of what has been said, but the Legislature has taken from women, children, non-able-bodied citizens making about only \$1,000 a month, their medical payments

to hospitals and doctors which is part of their salary, which means they are probably making \$2-300 a month. That is taking food, shelter, health care out of their mouths for the sake of Montana justice. Montana babies of this community also need some kind of justice in terms of where some of the money is put.

**REP. TOOLE** disagreed. There are a lot of problems based on the inadequacy of judiciary compensation, but those are problems the Legislature will have to deal with over the long term. Not only is the compensation for the judiciary in Montana far, far behind, so is the university system which is ten years behind other states, so are many of the people who work for governments. The spirit of this Legislature is that everyone ought to bear the burden of cuts and increased taxes if that happens. He would like to defer any increases for at least six months and let the 1993 Legislature decide when the real dimensions of this crisis is known, and whether tax reform will or will not bring additional revenue. If the sponsor agrees he would make a motion to defer until July 1, 1993 the final amount which is being frozen in this bill.

**REP. NELSON** asked the committee for their feelings on this. **REP. LEE** perceived these salaries are not paid by the general fund, and therefore do not impact the general fund. He suggested the court be allowed to settle this themselves.

**REP. ROYAL JOHNSON** asked about the constitutionality of these raises, and would the Legislature be back in court if a change is made in the situation. **Mr. Waterman** thought it is constitutional. The salaries are not really diminished. It goes into effect January 1, 1994.

**REP. BROOKE** did not agree with the proposed amendment. In looking at the broad picture and at all the salaries the Legislature deals with and struggled with the last session, decisions made last session should be honored and respected. Those salary agreements would affect the general fund. The philosophy seems to be those are in place and the contracts have been signed. He would prefer to cut out whole programs rather than once again go into the battleground of salaries to hack away savings here and there. This bill does not really appear to save anything in the general fund, but if it is agreed to do this type of limiting or freezing salaries, then it opens the door for other salary freezes. Such action might go into university and pay plan schedules and if it were felt there was an open door to start hacking away there, once again we would find ourselves in that same painful 1991 struggle. It would be better to leave these salaries in place and honor these agreements and get on with finding cuts in the general fund.

**REP. NELSON** was not aware this didn't have a general fund impact. **John MacMaster, LFA**, was not aware of this either. He had not thought about that. He agrees it is funded through the court.

**REP. BROWN** doesn't think passing this bill will help fund welfare families. He believes firmly that most salaries across the board in Montana in any government position, teaching profession, or at the university system, or wherever, are already down.

**Motion:** **REP. DAVE BROWN** moved to TABLE HB 28.

**VOTE:** Motion to TABLE carried 15 to 5 with **REPS. DARKO, NELSON, STICKNEY, TOOLE, WYATT** opposed.

ADJOURNMENT

Adjournment: 10:00 a.m.



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REP. BILL STRIZICH, CHAIRMAN



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Jo Lahti, Secretary

BS/jl

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE

*July 9, 1992*

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI		✓	
REP. DAVE BROWN	✓		
REP. ROBERT CLARK	✓		
REP. PAULA DARKO	✓		
REP. BUDD GOULD	✓		
REP. ROYAL JOHNSON	✓		
REP. VERNON KELLER	✓		
REP. THOMAS LEE	✓		
REP. BRUCE MEASURE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. LINDA NELSON	✓		
REP. JIM RICE	✓		
REP. ANGELA RUSSELL		✓	
REP. JESSICA STICKNEY	✓		
REP. HOWARD TOOLE	✓		
REP. TIM WHALEN	✓		
REP. DIANA WYATT	✓		
REP. BILL STRIZICH, CHAIRMAN	✓		

EXHIBIT 1

DATE July 9, 1992

HB 118

CASELOAD IN 4th JUDICIAL DISTRICT WITHOUT RAVALLI COUNTY FILINGS

CRIMINAL FILINGS	CIVIL FILINGS	DOMESTIC RELATIONS	ADOPTIONS	SANITY	JUVENILE	PROBATE
616	1283	847	67	52	154	286

-Proportionately, the four judges in the Fourth Judicial District would still have equal to or greater case load than the judges referred to in the sheet on "Statistics on Selected Judicial District".

-These figures were compiled by subtracting the figures supplied by Jane Hayden, the Data Control Clerk for the Montana Supreme Court, from the 1990 judicial report entitled "Montana Courts" prepared by the Court Administrator for the Montana Supreme Court.

EXHIBIT 1  
DATE July 9, 1992  
HB 18

CASELOAD IN 4th JUDICIAL DISTRICT WITHOUT RAVALLI COUNTY FILINGS

CRIMINAL FILINGS	CIVIL FILINGS	DOMESTIC RELATIONS	ADOPTIONS	SANITY	JUVENILE	PROBATE
616	1283	847	67	52	154	286

-Proportionately, the four judges in the Fourth Judicial District would still have equal to or greater case load than the judges referred to in the sheet on "Statistics on Selected Judicial District".

-These figures were compiled by subtracting the figures supplied by Jane Hayden, the Data Control Clerk for the Montana Supreme Court, from the 1990 judicial report entitled "Montana Courts" prepared by the Court Administrator for the Montana Supreme Court.

EXHIBIT 2  
 DATE July 9, 1992  
 HB 180

STATISTICS ON SELECTED JUDICIAL DISTRICTS \*

District and County	Population 1990	Criminal Filings 1990	Civil Filings 1990	Domestic Relations 1990	Adoption 1990	Sanity 1990	Juvenile 1990	Probate 1990	Number of Judges
PROPOSED 21st Judicial Dist. Ravalli County	25,004 **	101	302	144	30	8	53	66	None at Present 1 Proposed
3rd Judicial Dist. Deer Lodge, Granite and Powell Counties	19,326	101	314	150	7	108	76	125	One
5th Judicial Dist. Beaverhead, Jefferson and Madison Counties	22,338	124	268	110	20	15	69	122	One
6th Judicial Dist. Park and Sweetgrass Counties	17,609	44	226	151	9	11	43	80	One
12th Judicial Dist. Chouteau, Hill and Liberty Counties	25,305	77	301	151	29	5	45	143	One
19th Judicial Dist. Lincoln County	17,454	135	247	136	20	7	44	63	One

The 7th, 10th, 14th and 15th Judicial Districts also have less population and less case load than Proposed Judicial District 21. Each of these Districts has its own Judge.

\* These figures, except the Ravalli County figures, were taken from the 1990 judicial report entitled "Montana Courts" prepared by the Court Administrator for the Montana Supreme Court. The Ravalli County figures were supplied by Jane Hayden, the Data Control Clerk for the Montana Supreme Court.

\*\* 1990 U.S. Census figure supplied by the Ravalli County Clerk and Recorder's Office.

# Montana Trial Lawyers ASSOCIATION

DATE July 9, 1992  
HB 18

**Directors:**

Wade Dahood  
Director Emeritus  
Monte D. Beck  
Thomas J. Beers  
Joe R. Bottomly  
Michael D. Cok  
Dennis P. Conner  
Karl J. Englund  
Robert S. Fain, Jr.  
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Peter M. Meloy  
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**Officers:**

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Thomas J. Beers  
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Vice President  
Gregory S. Munro  
Secretary-Treasurer  
William A. Rossbach  
Governor  
Donald W. Molloy  
Governor

July 9, 1992

Rep. Bill Strizich, Chair  
House Judiciary Committee  
Room 312-1, State Capitol  
Helena, MT 59620

Dear Rep. Strizich:

The Montana Trial Lawyers Association opposes House Bill 18, which repeal Section 2, Chapter 642, Laws of 1991 (House Bill 934) and abolish the 21st Judicial District. MTLA supported H.B. 934 during the 1991 session and now opposes H.B. 18 for many of the same reasons:

1. Numerous Ravalli County officials, representing local taxpayers who assumed the greatest share of costs in creating a new judicial district, testified in favor of H.B. 934 during the 1991 session. No opponents testified against the bill.
2. The county attorney and sheriff for Ravalli County testified in 1991 that, due to the backlog of cases and inconvenience of transporting criminal defendants to district court in Missoula, prisoners spend an inordinate amount of time in the county's substandard jail, at greater expense and risk to the county. At least one case required a three-year wait before it could be tried in Missoula.
3. The Ravalli County attorney testified in 1991 that, due to the backlog of cases and inconvenience of transporting patients to Missoula, mental commitments to St. Patrick Hospital take an average of five days at a cost of \$1,000 per day.
4. The Ravalli County attorney also testified in 1991 that that Missoula County alone had as many criminal cases filed as the entire 13th Judicial District, which includes Yellowstone County and is almost twice as populous.
5. According to the sponsor of H.B. 934 in the 1991 session, Rep. Fred Thomas, the population served by the existing 4th Judicial District is 20 percent larger than average for Montana and the caseload of the existing 4th Judicial District is more than 30 percent larger than the average for Montana.

6. According to the Court Administrator of the Montana Supreme Court, the 21st Judicial District will serve more citizens and assume a heavier case load than at least four other existing districts (the 7th, 10th, 14th, and 15th Judicial Districts), each of which has its own judge.

7. According to the Court Administrator of the Montana Supreme Court, even with the creation of a 21st Judicial District the four Missoula judges in the 4th Judicial District will continue to assume equal or greater caseloads than judges in at least six other districts (the 3rd, 5th, 6th, 12th, 19th, and 21st districts).

8. According to U.S. Census Bureau figures, the population of Ravalli County increased more than 11 percent between 1980 and 1990, making it one of the seven fastest-growing counties in the state.

9. Members of MTLA who engage in criminal defense work report that the backlog of cases in Missoula, and the delay and extra costs which result from that backlog, persuade prosecutors to offer more lenient plea bargains than they otherwise would. MTLA members also report that rapid, unplanned growth in Ravalli County has resulted in large numbers of property disputes which contribute to the clogged dockets of the 4th Judicial District.

MTLA knows of no evidence indicating that the testimony in support of H.B. 934 during the 1991 session is either inaccurate or outdated. MTLA also notes that the 1991 regular session, faced with similar budget realities, devoted considerable attention and discussion to this issue and concluded that a new judicial district serving Ravalli County was justified. MTLA urges this committee to preserve the 21st Judicial District and reject H.B. 18.

Respectfully,



Russell B. Hill  
Executive Director

DATE July 9, 1992  
HB 18

# WILLIAMS & RANNEY, P.C.

235 East Pine, P.O. Box 9440  
Missoula, Montana 59807-9440  
Telephone 406/721-4350  
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Shelton C. Williams  
Richard Ranney  
Paul M. Sharkey  
Nancy P. Gibson  
Cynthia K. Smith

July 8, 1992

HOUSE JUDICIARY COMMITTEE  
MONTANA HOUSE OF REPRESENTATIVES  
HELENA, MONTANA

Dear Judiciary Committee Members:

I have learned that House Bill 18 would eliminate the new judgeship now planned for Ravalli County. I urge you to vote against this bill. A separate judgeship for Ravalli County is vitally necessary for the efficient administration of justice in Missoula and Ravalli Counties. Under the current system the four Missoula judges, with their court reporters, each travel the 100 mile round trip from Missoula to Hamilton and back many times per month to hear the Ravalli County cases. This current system results in the following waste and inefficiency:

1. Actual dollar expense of transportation of judges and court reporters to and from Hamilton many times per year. I believe the State pays mileage and meals for this expense, which could easily be quantified.
2. Wasted time of judges and court reporters while traveling. Judges and court reporters are highly trained, valuable professionals. It makes no sense to use their valuable time, which could and should be used for hearing, deciding and reporting on cases, in driving back and forth to Hamilton many times per year. Though judges and court reporters are paid by annual salary, if the cost per hour is figured, the State is in effect paying the judges and court reporters many thousands of dollars per year simply to drive from Missoula to Hamilton and back.
3. Increased exposure of the State to Workers Compensation claims. So far as I know, no judge or court reporter has ever been injured in an accident in driving to or from Hamilton. However, this is an obvious risk of traveling this busy and dangerous highway. Since the judges and court reporters are "on the job" while traveling, the risk of injury to these state employees is a risk of loss that the State now bears under the current system. It is also obviously a personal risk now born by the current judges and court reporters.
4. Increased traffic on Highway 93 from the above transportation of judges and court reporters. Though obviously a small addition to a heavily traveled highway, this increased burden on the highway

HOUSE JUDICIARY COMMITTEE  
July 8, 1992  
Page -2-

and the other members of the traveling public should be considered. In its naive attempt to save dollars, House Bill 18 ignores all the "little" and "invisible" burdens like this that the current system imposes on the People and the State itself. Though each may be small, their sum total is obviously large.

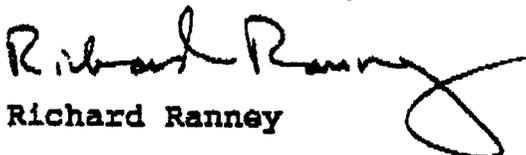
5. Waste of natural resources. The state should have a policy of encouraging fuel conservation. The current system unnecessarily wastes gasoline, tires, vehicles, etc., which a new judgeship would save.

6. Increased delay in administration of justice in Missoula and Ravalli counties. The most obvious and profound effect of a new judgeship for Ravalli County would be the increased efficiency and speed of judicial proceedings in these two counties. Because of the elimination of the wasted travel time, this increase would obviously be far more than a "one judge" unit. The cost to the people and to the State of a slow and inefficient judicial system is not easy to quantify, but it is obviously very great. Many studies have shown that criminal sanctions are more effective at deterrence the more quickly after the offense they are applied. Speed is likewise valuable for civil cases. One social purpose for the civil justice system is to act as a sort of lubricant for the "friction" (i.e. civil disputes) that would otherwise quickly overwhelm society and the economy. The quicker the civil justice system can respond to the many civil disputes arising among the people, the more efficient our economy, and our society, will be. An efficient economy is a competitive one, and the one thing we all agree we need to do is to ensure that Montana's economy is as efficient as possible, in this very competitive world.

I urge you to defeat the short-sighted attempt of House Bill 18 to eliminate the planned new judgeship for Ravalli County. Though it might seem to save a few dollars, in reality the elimination of this new judgeship would actually cost the State much more than is "saved".

Yours truly,

WILLIAMS & RANNEY, P.C.

  
Richard Ranney

RR:lb

cc

Dorothy Bradley, Representative  
Attorney General Marc Racicot  
Jeffrey H. Langton, Esq.

EXHIBIT  
DATE July 9, 1992  
HB 18

**CONNELL, BEERS & ALTEROWITZ**

ATTORNEYS AT LAW

234 East Pine P.O. Box 7307  
Missoula, Montana 59807-7307

MARK S. CONNELL  
THOMAS J. BEERS  
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TELEPHONE:  
(406) 728-8796  
TELEFAX:  
(406) 728-8878

July 8, 1992

To Whom It May Concern:

We are writing to voice our strong opposition to House Bill 18. The court system in Missoula has always been backlogged and eliminating the new judgeship in Ravalli County would be a travesty.

Very truly yours,

CONNELL, BEERS & ALTEROWITZ

BY Thomas J. Beers  
THOMAS J. BEERS

BY Michael G. Alterowitz  
MICHAEL G. ALTEROWITZ

BY Philip J. O'Connell  
PHILIP J. O'CONNELL

TJB/kg

DATE July 9, 1988  
HB 18

ROBERT G. MULLENDORE  
WILLIAM C. WATT  
ALAN F. BLAKLEY  
PAUL R. LARSON, Ph. D.  
BUSINESS CONSULTANT

**MULLENDORE & WATT**

ATTORNEYS AT LAW

310 WEST SPRU  
MISSOULA, MONTANA 598  
TELEPHONE: (406) 721-88  
FACSIMILE: (406) 721-63

VIA FACSIMILE - 444-3036

TO: THE MONTANA LEGISLATURE

We understand that a bill has been introduced, H.B. 18, to eliminate the 21st Judicial District which the 1991 Legislature finally authorized for Ravalli County beginning in 1993.

This is to express our opposition to the elimination of this new judgeship, in the interests of sound and efficient administration of the civil justice system in Western Montana.

Our firm has done substantial civil litigation in Ravalli County. Combined with their duties in Missoula and Mineral County, the judges of the Fourth Judicial District now serving Ravalli County have a very heavy caseload. Further, at the present time, each judge is able to hold law-and-motion day only once per month in Hamilton. Thus, many important hearings, along with minor procedural matters, are routinely delayed for nearly a month until the judge assigned to that case is back in Ravalli County.

We understand the difficult situation the Legislature must deal with during this special session. However, we believe that funding for this judicial district is just as important as investments in infrastructure which yield long-term benefits (and tax revenues) for the State of Montana. Apart from the economic dividends of quicker and more efficient resolution of disputes for businesses and individuals, the new judgeship in Ravalli County will help improve the public's perception of the effectiveness of government in general, and the judicial system in particular.

We urge the Legislature to reject H.B. 18, and to retain the new judicial district for Ravalli County.

Sincerely,

MULLENDORE & WATT



William C. Watt

LAW OFFICES OF

*T. K. Botsford*

EXHIBIT 3

DATE July 9, 1992

HB 18 P.O. BOX 8213  
MISSOULA, MT 59807  
406/728-1562

July 8, 1992

TO WHOM IT MAY CONCERN:

Montana Legislature...

This transmittal conveys my opposition to House Bill No. 18 as introduced today and which would eliminate the District Judge for Ravalli County. There is a great need for a local distric judge in that area.

Sincerely,



T.K. BOTSFORD

THE SUPREME COURT OF MONTANA

J. A. TURNAGE  
CHIEF JUSTICE

JUSTICE BUILDING  
215 NORTH SANDERS  
HELENA, MONTANA 59620-3001  
TELEPHONE (406) 444-2621



July 8, 1992

Representative William S. "Bill" Strizich, Chairman  
House Judiciary Committee  
Montana House of Representatives  
State Capitol  
Helena, Montana 59620

Dear Representative Strizich:

I would like respectfully to ask that the House Judiciary Committee reject any attempts at diminishing the salary established by the 1991 Regular Session for Montana Justices and Judges.

All members of the Montana Judiciary are aware of the difficult job that the Legislature has in balancing the state budget. HB 28 will not have any significant impact in balancing that budget. The judicial salary increase enacted into law in 1991 was phased in over a two-year period and is **entirely paid for through district court filing fees -- not the state general fund.**

Montana deserves a first rate judicial system -- in good times and in bad.

We made the case for salary increases in the 1991 Session based on decades of neglect in providing fair and reasonable compensation to judges. We demonstrated in a clear and convincing manner that by every comparison, our judges have not been adequately compensated. And, we explained the dangers of setting judicial compensation so low that good candidates would not apply for judicial positions and good judges would not remain on the bench.

The modest salary increases provided by the 1991 Legislature were supported by a broad spectrum of individual Montanans and organizations concerned about low judicial salaries. They represented Montana's business community, workers, and concerned citizens interested in maintaining a first-rate judiciary. Our efforts also received strong editorial support from almost all of Montana's daily newspapers.

For years we have been reporting that Montana's judicial salaries are dead-last, at the bottom of the heap, and even below the

salaries paid comparable judges in Guam, Puerto Rico, and the Virgin Islands. In that ranking, we have not changed a bit -- we are still the lowest paid judges in the nation. What really illustrates the deplorable state of judicial pay however is to realize that even neighboring states are significantly above Montana and the gap seems still to be widening.

That gap is dramatic. Under HB 28, on January 1, 1993 a Justice on the Montana Supreme Court will be paid \$22,548 less than his counterpart on the Wyoming Supreme Court, \$12,249 less than his counterpart in Idaho and \$9,103 less than a justice in North Dakota.

Montana District Court Judge's salaries demonstrate a similar dramatic gap.

Montanans want judicial salaries set at a level that will maintain the high caliber of judges now on the bench and salaries that will attract the best and brightest judges in the future.

The House Judiciary Committee has always strongly supported these goals and has been very instrumental in supporting judicial salary adjustments. HB 28 would be a move in the wrong direction -- and we ask that the Committee support a DO NOT PASS recommendation for the bill.

Sincerely,

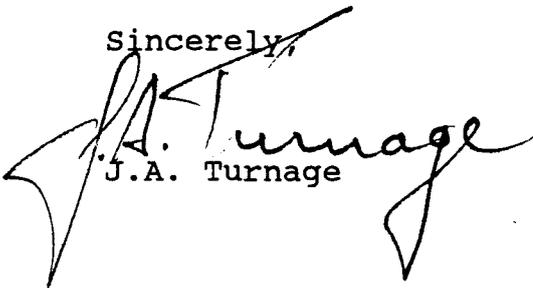
  
J.A. Turnage

EXHIBIT 5  
DATE July 9, 1991  
HB 28

A JUDICIAL SALARY STUDY  
AND RECOMMENDATIONS TO THE  
MONTANA SUPREME COURT

*Prepared by the  
Office of the Court Administrator  
Montana Supreme Court*

*January 1, 1991*

Copies of This Study Are Not Printed At Public Expense

Exhibit 6  
July 9, 1992  
HB 28

ANNUAL REPORT OF THE  
MONTANA JUDICIAL SYSTEM  
CALENDAR YEAR 1991

J. A. TURNAGE  
CHIEF JUSTICE

A PUBLICATION OF THE  
OFFICE OF THE  
COURT ADMINISTRATOR  
ROOM 315, JUSTICE BUILDING  
215 NORTH SANDERS  
HELENA, MT 59620

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 13

DATE July 9, 1991 SPONSOR(S) REP. RANEY, et al

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPS
Ed McLEAN	Dist Court		✓
JEFF LAUGTON	SELF		✓
George CORN	Ravalli County		X
Russell B. Hill	Montana Trial Lawyers		✓
Russell Smith	Ravalli Co. Leg.		✓
Ed Sheehy, Jr.	Self		✓
Donald J. Whitman	Self		✓
Steve Powell	Ravalli County Commission		✓

**PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.**

