

MINUTES OF THE JUDICIARY COMMITTEE
January 21, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 9:00 a.m. in Room 224A of the Capitol. All members were present. Brenda Desmond, Legislative Council, was present.

HOUSE BILL 179

REP. BARDANOUVE, sponsor, stated House Bill 179 would revise the uniform disposition of Unclaimed Property Act to conform with the United States Supreme Court decision in Texas v. New Jersey.

The original statute that this bill updates was passed in 1963. The law has been very beneficial to Montana. In 1963 there were 94 members of the House, all of whom voted for the passage of the law. That legislation has brought revenue to Montana. The money collected from the unclaimed accounts goes towards the education funds in Montana.

REP. BARDANOUVE stated any person can make a claim on property to which they are entitled to. In fact, \$194,000 has been returned to citizens during the last ten years under this act. The people of Montana are not charged anything. Bankers must remove accounts that are abandoned after a certain time limit. If the institution must return the money to the accountholder, the institution does not really bother looking for the person, because he probably has been out of contact with the financial institution for a number of years. When the money from an unclaimed account is given to the state, however, that makes the financial institution look harder for the accountholder.

REP. BARDANOUVE stated the states of New Jersey and Pennsylvania were involved in a lawsuit with Texas concerning which state would receive unclaimed funds. The Supreme Court ruled in favor of Texas; which was the last known address of the accountholder.

The first part of this bill adopts the supreme court ruling. If a Californian has an account in a bank, such as the Bank of America, and the last known address of the accountholder is Montana, the state of Montana would be able to claim that money. If there is money in a Montana bank and the last known address of the accountholder is California, the state of California would be able to claim the money.

Page 10 of the bill concerns the new language that clarifies the publication notice. A publication must be made in order for the state to claim the items, providing the accountholder does not claim the items.

The statute of limitation is set at ten years under this bill. Under the present law the length of the statute of limitations is unclear.

Page 13 of the bill requires the financial institutions to keep records for ten years. A 1% penalty per month is charged against anyone who holds property reportable under this chapter without complying with the law.

The effective date of the act would be July 1, 1983.

DOROTHY MCCARTER, Attorney General's Office, was in support of the bill. She noted she drafted the amendments from the Unclaimed Property Act.

JIM MADISON, Department of Revenue, was also in favor of the bill. On May 8, 1982 he gave a report on the proposed revision of unclaimed property to the legal financial community. Members felt the enforcement provisions would result in better compliance with the law. The penalties are criminal penalties. The 1% per month penalty is identical to the Coal Severance Tax.

MADISON stated the financial institutions must report unclaimed property on a yearly basis. Corporations must report unclaimed property on a three year basis. The Department of Revenue checks all unclaimed property that banks have listed. The Department checks on a random sample the corporation's listings.

JOHN CADBY, representing the Montana Bankers Association, was in favor of the bill. Dormant accounts are a problem in the banking industry. This bill will help eliminate fees the banks assess to dormant accounts. The ten year statute of limitations is good for the banking industry. It would be impossible, however, for the banks to recreate old records that have been destroyed.

CADBY suggested that the provision that requires notices to be published if the account is less than \$50 should be increased to \$100.

There were no further proponents.

There were no opponents.

In closing, REP. BARDANOUVE stated under new Section 5, Money Orders, an assessment on the money order would be made before being turned over to Montana. Thus the state would be treated the same as the original owner.

REP. KEYSER asked if the Department of Revenue would object to the \$100 amendment, to which MADISON replied no. To issue a refund through the state system is difficult. This could save the state time and money.

REP. RAMIREZ asked if eliminating the fee for the banks would increase the number of collections that go into the fund. The sponsor replied it would be a small increase.

REP. EUDAILY asked if the unclaimed accounts go into the earmarked fund. The sponsor replied yes, it then goes into the foundation fund.

REP. ADDY asked how expensive it is to process a refund. MADISON stated approximately \$20.00 per warrant.

CADBY stated in Washington state the amount of \$75.00 is the minimum amount an account may contain for the state to be required to publish a notice of unclaimed funds. CADBY felt \$100.00 is a fair amount.

REP. ADDY asked about the July 1st effective date. REP. BARDAN-OUVE stated the Legislative Council drafted that date as part of the bill. He would agree to an immediate effective date.

The hearing on House Bill 179 closed.

The committee then went into Executive Session.

EXECUTIVE SESSION

HOUSE BILL 179

The motion of DO PASS was made by REP. KEYSER. REP. IVERSON seconded the motion.

REP. HANNAH asked about lines 5 and 14 concerning unclaimed property and intangible property. It was replied that unclaimed property is all property. That particular section was the definition section of the bill.

REP. SEIFERT moved to amend page 10, line 4 and page 12, line 5 striking \$50 and inserting \$100. He also moved the bill have an immediate effective date. The motion was seconded by REP. KEYSER.

REP. ADDY noted CADBY stated to him that making the bill immediately effective would not give the banks enough time

to train their personnel. REP. SEIFERT withdrew the immediate effective date portion of the amendment motion.

The amendment carried unanimously.

REP. KEYSER moved DO PASS AS AMENDED, seconded by REP. JENSEN. As all were in favor of the motion, House Bill 179 left the committee as DO PASS AS AMENDED.

The committee recessed until 10:00 a.m. for a joint hearing with the Senate Judiciary Committee.

SENATE BILLS 26 and 52

The committee reconvened in Room 325 of the Capitol at 10:00 a.m. for a joint hearing on Senate Bills 26 and 52. See the transcript (EXHIBIT A) and EXHIBITS B through U.

The hearing adjourned at 12:30 p.m.



DAVE BROWN, Chairman



Maureen Richardson, Secretary

STANDING COMMITTEE REPORT

January 21,

83

19.....

MR. **SPEAKER:**.....

We, your committee on..... **JUDICIARY**.....

having had under consideration..... **HOUSE**..... Bill No. **179**.....

First reading copy (**white**)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT TO CONFORM WITH THE UNITED STATES SUPREME COURT DECISION IN TEXAS V. NEW JERSEY, 379 US 670, AND WITH CURRENT APPLICABLE FEDERAL STATUTES; AMENDING SECTIONS 70-9-101, 70-9-102, 70-9-301, 70-9-302, 70-9-307, 70-9-314, AND 70-9-316, MCA; REPEALING SECTION 70-9-103, MCA; AND PROVIDING AN EFFECTIVE DATE.."

Respectfully report as follows: That..... **HOUSE**..... Bill No. **179**.....

BE AMENDED AS FOLLOWS:

1. Page 10, line 4.

Following: "of"

Strike: "\$50"

Insert: "\$100"

2. Page 12, line 5.

Following: "than"

Strike: "\$50"

Insert: "\$100"

AND AS AMENDED

DO PASS

JOINT SENATE AND HOUSE JUDICIARY COMMITTEE
January 20, 1983

Exhibit A
1/21/83

SENATOR TURNAGE: The joint meeting of the Senate and House Judiciary committees will please come to order. The secretary will note the roll. We have two bills today that deal with the district court systems in Montana and I believe that both are sponsored by Senator Mazurek and if you wish, Senator, to discuss them as one bill, that will be fine. Senator Mazurek you may speak.

SENATOR MAZUREK: Mr. Chairman, if I might, the redistricting plan, which is Senate Bill 26, and the third judge of the first judicial district, which is Senate Bill 52, both of these bills contain an additional judge for the first judicial district and I think to test the petitions separately would be redundant and I would ask that the proponents in favor of the addition of judges in the first judicial district to speak as part of the redistricting plan. Is that acceptable, Mr. Chairman?

SENATOR TURNAGE: That would be acceptable.

SENATOR MAZUREK: Thank you. Chairman Turnage, Chairman Brown, and members of the two committees. I am Joe Mazurek, from District 16 here in Helena. I was a member of the Inner Subcommittee on Judiciary together with Representative Curtiss.

We are sponsoring SB 52, which is the judicial redistricting proposal. You may recall the history of SR 2 during the last session. There were proposals to add additional district judges in the first judicial district, which is Lewis and Clark and Broadwater counties, and the seventh judicial district represented on the white map.

. Lois Menzies, who is with me here today and who will assist me, she was the researcher who assisted the committee during the interim. Additional judges were sought in both of those districts during the last session. It was approved in the Senate, a judge in District 1, and went to the House and was defeated, both the judges for the first judicial district and for the seventh judicial district, very narrowly.

The first district the judicial judge had been justified by the case filings, in particular the increase in activity as a result of appeals and administrative decisions and constitutional challenges as the result of the state government being here in Helena. In the Seventh Judicial District, as a result of case filings and growth as a result of energy development. The last session, not wanting to approach the addition of judges in this fashion, passed Senate Joint Resolution 2, which required the evaluation of study of the entire judicial system. That resolution passed both houses and it was the second priority of the rating system for interim studies at the end of the last session. The interim committee is made up of representatives of both houses, chaired by Senator Aklestad. The Senate members were Steve Brown, Allen Kolstad, myself, Representatives Keedy, Andreason, Curtiss, who co-sponsored this bill, and Representative Kessler, Billings. We devoted a substantial part of our time during the interim even though we had two resolutions to judicial redistricting. I think our goal is to equitably apportion the work load of the judicial courts in Montana. I think this plan goes a long way towards doing that. We recognize that

with legislative reapportionment its a difficult task. Its a task that is difficult to come up with a perfect result given financial constraints, county budgets, political realities. We realize that the plan is not a perfect one, but we think its a good one. We think it balances the workload by adding a net increase of three new judges and shifting some boundaries.

One of the first things we learned was that you can't do this on the basis of the case filings alone. We considered a number of factors. Before I go into those, I would like to just give you a little bit of history of what the committee did to hopefully point out to you how we arrived at the plan we have.

We relied very heavily upon the Montana Judges Association earlier in our committee meetings. They came to the committee and expressed their interest in working with the committee. The judges were polled on factors that should be considered, provided information that related to miles traveled and all sorts of other factors that the judges felt we should consider. The judges, in fact, came up with two other proposals for redistricting which became the basis of the committee's deliberations. We also received a great deal of help from Mike Abley, the Supreme Court Administrators office on statistic, case filings from around the state and from Lois Menzies of the legislative counseling staff. We don't think we're proposing any radical changes; we think we've made some good logical changes which will be the operation of the district courts in Montana.

The factors which the committee attempted to consider were probably foremost work case filings. Although when we got into the study, we learned that travel time is a major factor which we had to take into consideration. Particularly we noticed in the Eastern part of the state, given the size of the districts, you have two judges in most of those districts. One, I guess, in District 16, existing Districts 13 and 16, excuse me, let me back up, 16 has two judges and to cover all those counties they have to travel an inordinate amount of time. The same in 7, 15, 17, 12, 10 and 14. So case filings alone was not a good factor what with geography, road systems, regional interests were also considered.

Finally, the factor which became fairly important, and I know it is a concern in Yellowstone County and Missoula County, is the availability of court house facilities. While the state pays the salary and fringe benefits of the judges, the courtroom space, court reporters, secretarial costs and the additional workload, are all chargeable to the counties. In Yellowstone County the county commissioners wrote to us saying they simply don't have room in their present county facilities for additional judges. Missoula County expressed the same concern, Lewis & Clark County, while we have room in the existing courthouse, there is concern and a desire for some assistance. Initially, the committee considered two concepts; first Plan 3, or the Gordon Bennett plan, which was initially adopted by the committee, was the plan by which we limited the number of districts to 10, centered around the

major metropolitan areas of Montana. The idea being, if we could concentrate the judges in the districts where the workloads were, we could spread the cases among a greater number of judges. We felt we could reduce travel and all judges would be coming from urban areas. We backed away from that plan and considered what became known as the Coat Plan. This plan called for the addition of 6 additional court judges. We thought, that given the political and financial realities, this would never be feasible in the legislature, so the committee came up with a plan which is represented by the colored map which is presented in the right hand chart. There are currently 19 judicial districts which would remain the same. The number of district judges would increase from 32 to 35. Initially the number of judges would be 36. Under the bill, as proposed, Silver Bow would lose a judge in 1989, bringing the net increase to 35 judges. None of the districts keep their same boundaries. The First Judicial District is with Lewis & Clark and Broadwater; the second Silver Bow; the third Powell, Deer Lodge and Granite; the fifth Madison, Beaverhead and Jefferson; Flathead, District 11; District 15, Daniels, Sheridan and Roosevelt; District 18, Gallatin County; District 19, Lincoln County. The boundaries in District 10, in the center of the state, were expanded to include the boundaries in District 14. The idea behind those changes were to create a multi-judge district where you have basically the same area.

The feeling was in the event of disqualifications or inability of a judge to sit, that there would be a judge close by called.

The four new judgeships, the first in Lewis & Clark County is addressed in SB 26 and SB 52. During the last session, both the Senate Administration and the House Judiciary committees recommended approval of the third judgeship in Lewis & Clark County based primarily on the number of case filings and complexity of litigation relating to government cases. I don't mean to suggest that the cases here are different, but review of administrative decisions, such as the Colstrip 3 and 4 case, the Beavercreek South case, the PSC appeals, the coal tax case, the challenge to initiatives, are filed in Lewis & Clark County.

Generally those involve a great deal of judicial time reviewing administrative transcripts and the testimony during the last session was one that deprives the general populous in Lewis & Clark County of judicial time. It is not necessarily in court time, but it is productive time that is not available to the tax payers in Lewis & Clark county. Counties were added to Park and Sweetgrass Counties and with the addition of two counties an additional judge was added. In District 7 two counties were added: Garfield and Prairie, I believe. An additional judge was added that also covers the Sidney area and Glendive area where there has been a major impact of case filings as a result of energy development and population increases in those areas. In District 14, a new District 14 would be proposed to create Ravalli County as a separate judicial district. The case filings of Missoula County indicate a need for an additional judge in that area. The problem we run into is there is simply not enough court house space for an additional judge in Missoula County. The committee felt that one way

to address that problem was to pull Ravalli County away from Missoula County and make it a separate district. There has been some indication of concern that that wouldn't take as much workload away from Missoula County as it would if Lake and Sanders counties were separated away and it would also eliminate travel time for Missoula judges. The committee adopted proposals to create Ravalli County as a separate district.

Finally, the boundaries remain the same for District 2. The plan calls for the elimination in 1989 of a judge in Butte. The decision was made primarily upon a declining population. The case load, as you can see by the statistics in District 2, would be 1,200 for the one judge, which is similar to what other judges in other areas are carrying if you look at Great Falls, Billings and Missoula. The committee did acknowledge at its last meeting Judge Olson from Butte. I think the committee recognizes that the Butte judges do spend a great deal of time in District 3 on prison matters and they have been willing to travel and cover other districts. The reason that the change did not get adopted until 1989, if it is adopted, is because Article 7, Section 6 of the constitution does not allow the removal of a judge as a result of boundary relocations during his elected term.

I know there are concerns. For example, in Yellowstone County and Missoula County and in Cascade County, or there were concerns, many of those counties would like to have additional judges. Because of the concern for space in the court houses, we addressed the problem in a different way. In Yellowstone County we separated

away three counties. I think they are Treasure, Stillwater, and Carbon counties; leaving Big Horn County in hopes that we will reduce travel time and to some degree case filings. The committee acknowledged that there were a large number of case filings in those other counties, but by limiting travel time we felt that we were affording some relief. The same in Cascade County. Chouteau County was eliminated from Cascade County making it a single county district and in District 4, Ravalli County was separated to new District 14.

I might direct your attention to the bill, at this point, because I think it is the best means of showing you the new boundary line and where the boundary changes were made. Section 1 of the bill establishes the new boundaries. Section 2 creates the additional judgeships. Section 3 establishes the number of judges effective in January of 1989 in Silver Bow County and Section 4 of the bill provides that the judges will be elected in 1984. It does provide, however, that the majority of the county commissioners in the counties affected agree that a special election can be held in 1983. Section 5 and 6 of the bill makes the terms of the judges all expire together.

One of the problems we ran into, quite frankly, is that as judges have been added, the dates of expiration of their terms haven't coincided. So anytime you undertake redistricting, you can't do it, and this year was a good example. All of the judges have just been re-elected and we face the problem that we could not very well move them around or eliminate positions because of the constitutional provision.

I guess in summary, Mr. Chairman, the committee recognizes that it faces a very difficult task in not only legislative reporting; and I think we have made a substantial effort to try to equalize the workload of the judges. Recognizing that it is not purely a matter of the number of cases, we tried to look at all the factors that affect the delivery of justice services. I think it was fair to say the committee would like to have added more judges than we did, but we recognize that it's not realistic, fiscally or politically. We think the plan is defensible. Quite frankly we welcome your suggested approvals, but I think the bottom line that the committee came up with was we recognized the need to add additional judges. We've done that. I think we have tried to do it in areas where the assistance is needed. It's not perfect. I think it's a good plan and we hope the committee will look on it with favors. Thank you.

SENATOR TURNAGE: Thank you Senator Mazurek. Any more proponents? Representative Curtiss.

REPRESENTATIVE CURTISS: For the record, I'm Aubyn Curtiss, District 20. Senator Turnage, Representative Brown, members of the Judiciary Committee.

It has been my privilege to serve as a member of the Interim Sub-committee on the Judiciary. As a member of that committee I've co-sponsored SB 26. Those of you who have previously contemplated modifications of the judicial districts in some nature can appreciate the subsidy of attempting to acceptably equalize caseloads and at the same time maintain what each judge perceived to be the unique requirements of the area he or she serves. SB 26 is a product of our joint efforts and it is

appropriate. I wish now to express appreciation to Lois Menzies, staff researcher, and David Niss, staff attorney, without whos dedicated perserverance our task would have been even more difficult, and also to the members of the Judicial system who appeared before our committee. Several of the judges gave recommendation to the committee. Judge Bennett and Judge Coder were particularly helpful in each came before the committee with the detailed proposal which they thought should be a desirable opposition. We recognize that what we have in force may not be attractive to everyone, but we respectfully submit it as our best efforts to accomodate most pressing needs to reduce travel and relieve expenses, equalize caseloads, and make more productive use of the juges time. We urge your concurrence.

SENATOR TURNAGE: Thank you and next is her opponent, Margaret Davis.

MARGARET DAVIS: Chairman Turnage, Chairman Brown, members of the committee. I am Margaret Davis and I'm president of the League of Women Voters of Montana, and I have prepared a testimony for which I will submit for all here today.

The League of Women Voters supports SB 26 and we are not speaking today on the basis of our Judiciary position which called for an equitable distribution of work on court judges. After sitting through 6 hours of hearings now on Legislative reapportionment, I approach the subject with some hesitation. But our real concern as league members, is how law people in Montana can best express their convictions in this area. We are concerned that the more periodical interests of those directly involved in the court system may exert a good portion

amount of impulse on the legislature's final exposition of this bill as planned. There may be a need cause for amendments to this plan but, to scrap redistricting entirely will be disservice to the citizens. The present plan or system of district court boundaries is definately out of whack and it cannot respond to quick fixes that have been put on it in the past in efforts to cope with rising caseloads and changes in a populations distribution. We are concerned that the judges in each district are there because the caseloads demand it and that the other criteria that the committee considered demands it and that there be a clean plan at this stage that will serve the state well for the coming years. The report on the subcommittee on the judiciary which went during the interim and which Representative Curtiss has looked into, sufficiently summerizes deliberations of that committee and pages 1-13 are well worth reading. If anything, the committee was overly cautious and overly conservative in recommending the plan put forth in SB 26, while retaining many features of the present district court system. It did, however, supply some very meaningful criteria to the compostion of the 19th district and did address the number of judges needed and so for those reasons we do support this plan. Our recommendations did not make it through the whole process. The least position on the Judiciary was adopted in 1974 and was augmented in 1976, and since then we have followed court legislation, served on committees dealing with court related issues, and kept our members informed. It is not unusual for the league to be the only non-legal professional group to take an

interest in these matters. For that reason I would submit to you that our point of view may be unique and worthy of your consideration as a point of view of the average citizen.

The joint committee gave one factor more significance in its final plan than we believe to be valid. The weight given to splitting or segregating urban counties from rural counties is not fully justified. It is important to remember that judges are not appointed or elected to represent people, more often they represent the state's ability to provide roughly equal access to the judicial system. There should be little, if anything, done to encourage the distinction between city and county style law, or city and county style administration of justice, mobility, higher educational standards of the legal profession in technology. Better communications have all pretty well dispelled foundations for motions of this sort.

I would like to thank the staff members of ~~the~~ **Joint** Committee on the Judiciary and the staff who have spent 17 months considering this task and a special acknowledgement should go to those judges who participated early on the committee's deliberations, in particular to Judge Bennett and Judge Coder. The redrawing of district court boundaries is definitely needed and overdue and additional judges is also needed in the lease. We urge you to pass SB 26.

SENATOR TURNAGE: Thank you Miss Davis. We have a large number of witnesses, so we will move right along.

STEVE BROWN: Senator Turnage, Chairman Brown, members of the Joint committee on Judiciary. My name is Steve Brown, and I am here today representing only myself.

As you know, I've never been shy about expressing opinions and I was a member of the Judiciary Subcommittee which came up with the redistricting plan. I'm also a registered lobbyist of the Judges' Association and I imagine that this proposal has created quite a debate amongst the judges.

I do not speak on their behalf today, and I also want to emphasize that I think the criticisms you are going to hear of the plan today, be fully considered, because this plan does provide flexibility. It can be amended to deal with legitimate criticisms about judicial redistricting. My purpose in testifying is simply to give you a little more background on the balance of judgements that have to be made and to perhaps point out some areas of flexibility where this plan could be amended to deal with some criticisms you're going to hear. It is, in fact, a good faith best effort to redraw judicial boundaries in the state of Montana. It is, in fact, based on the available information that we had at that time, and that doesn't mean that there isn't other information that will come before you that should be considered as you pass judgement on the plan. The judges who appear primarily are Judges Coder, Bennett, Olson, Weiless and Langen who were very influential and very good because they do not appear to present simply parochial views. They came to the committee with ideas about what would be best in the overall judicial system in the state of Montana and I would think that this is the ultimate issue which you're going to have to resolve deciding whether or not to reapportion the judicial districts. Senator Mazurek and I sponsored a bill to add the third judge to the first judicial district last session. I think we received

concurrence from both houses that an additional judge was needed. But the message we also were given, was we did not want to add that judge until someone has looked at the overall judicial system in the state of Montana. That is what the Subcommittee on Judiciary did. I don't know whether that sentiment still prevails. I think that it dies in large measures. I think there is going to continue to be a reluctance on the part of legislature to add judges on a piecemeal basis. That is why we tried to come up with an overall conceptional plan for the re-drawing of the judicial boundaries. As Senator Mazurek and Representative Curtiss indicated, we considered every possible factor; the judges, the public, the lawyers, anyone interested in this matter could bring before us. We did, in fact, consider caseload population, windshield time, (the time the judges spent traveling) geographic barriers, courthouse problems, and anything else that was relevant to determine of how the caseload should be allocated. We came up with I think, some very interesting results. What we really found was that when you get into judicial urban districts you are talking about caseloads in excess of a 1,000 cases per judge. That is a lot of work in the course of a year. When you get into the more sparsely populated rural districts where judges have to travel a good deal of the time, you are looking at 6, 7, 800 cases per judge per area. So what we found was that every judge in the state of Montana ought to handle a thousand cases or 900 cases or 1100 cases. You have to, in fact, recognize the amount of travel time and those criterias decide what is a fair case load for each judge.

From a personal prospective I think we need more than three

additional district court judges in the state of Montana.

But I am also a realist and as a former legislator I know that there is a tremendous competition for general fund dollars each session. And so quite frankly, the committee tried to make practical political judgements about how many judges could be added at this time. If this committee and this legislature believes that there is sufficient general fund money available to add additional judges, then we would probably solve almost everybody's problem. We can keep the second judge in Butte, we can give Yellowstone county a fifth judge, and we can deal with those concerns. But if as the majority of the committee surmised the competition of the general fund dollars is so keen that you may have to make value judgements and you will probably decide to add fewer than 5, 6, or 7 judges. Flexibility is the plan that does not have to be defeated simply because there are objections. For example, the Missoula-Ravalli county area is the perfect example. We decided to create Ravalli county as a separate judicial district. The caseload there is 838 cases that a judges would be handling. Quite frankly, if you were to scrap that and make Sanders and Lake county a separate district, you would wind up with a higher caseload.. I think that close to a thousand, in fact, a little over a thousand, and probably of course would then reduce the caseload on the four remaining judges in Missoula-Ravalli and Mineral counties. That, in fact, would be important, but you would also accomplish something else. We subsequently learned that the Ravalli county commissioners are concerned about creating the 14th district as a new district because they would have to remodel the courthouse. If you, in

fact, make Sanders and Lake counties a separate district up there, the judge can then preside in Lake county courthouse. So that is an example of how this plan can be modified so that they can deal with the competing concerns that you are going to be hearing about in this district.

Yellowstone county, as I say, is another tough example even with the reduction of three counties from that judicial district the judges there are handling over 1,300 cases per judge. That is a significant load. I'm the first to admit that this district probably deserves another judge. But you are going to have to make the value judgement on whether that judge is added now, in addition to the three that we proposed, or perhaps wait two years and add a judge there at that time.

The Butte situation is probably the most difficult part of the plan. We took a look at caseloads and we also recognize that there were two good judges down there that are willing to travel outside of their district to serve in cases in other areas. We did, in fact, consider all options. At one time we discussed the possibility of putting Silver Bow, Beaverhead, and Madison into one judicial district. Judge Olson came over and I think correctly pointed out that just was not politically feasible. The residents of Silver Bow county did not want to be included with those rural counties and, of course, the residents of Beaverhead and Madison would be very concerned in terms of their votes. Their voting power diluted to the point that it would always wind up that the judges being elected out of Silver Bow county and that is a very militant concern.

So those are the kinds of valued judgements and considerations that we tried to make. If in fact, this committee and the legislature can find the general fund money to add more than three judges, as I say, it would solve everybody's problem. I am convinced that we need to redistrict and we need to do it now and that you can use this plan as a basis to deal with some of the criticisms and comments you are going to receive. We will, in fact, have a better system of justices and impoverty if we do go ahead and redistrict at this time. Thank you very much.

SENATOR TURNAGE: Thank you Mr. Brown. It doesn't appear that there will be any total oppositon or witnesses for the opposition. So we will go ahead with those who do not have any amendment requests. Mr. McGrath.

MIKE McGRATH: Thank you Mr. Chairman, members of the committee. My name is Mike McGrath and I am the County Attorney here in Lewis & CLark county and I would like to speak on one portion of this plan and that is the addition of the third judge here in Lewis & Clark county.

I would like to make primarily two points in that regard. I approach this bill form two prospectives. First, is that for six years, I wish to state, I was Assistant Attorney General for the state of Montana and handled primarily civil litigations in the Attorney General's office, in fact, my responsibilities were representing the state and the constitutional challenges to initiatives and cases of that nature. In the six years that I worked as an Assistant Attorney General virtually every case that I worked on, was filed and handled in the first judicial district, thats Helena,

Lewis & Clark county. The impact of that, as Senator Mazurek pointed out earlier, the point actually, often times those cases that are brought in this county against the state of Montana tend to be complex pieces of litigation. The result of that is that it takes a lot of judicial time working to prepare opinions, review administrative transcripts. The judges in this county, quite frankly as a result, are overworked.

The second prospective that I bring is that I now am the County Attorney here in Lewis & Clark county and responsible for bringing criminal defendants to trial within a reasonable amount of time. Just as they have a right to a speedy trial, we have an obligation on the part of the state to bring criminal defendants to trial.

In that regard, I would like to show the committee what is our trial calendar for this month in the district court. Traditionally, the way cases are handled in this district the cases are set as many as, well on the 10th we had eight cases in one court, five cases in the second judicial district. All those are filing criminal trials that are set for trial in the district court on a certain day. Obviously, only two of those can go. One in each court.. That means that we are either under obligation to settle these other cases by means of plea bargaining or we're under obligation to vacate that hearing and reset it for trial on another date. Now the dates, these are Mondays that these district court trials are scheduled in this district. Each one of these lines indicates a major felony trial that is set for trial. A few of these are JP courts but most of them are trials for hearings or motions set for later on in the week in front

of the same district judges.

Now the state law requires that criminal matters take priority over virtually all other forms of litigations. What that means is that with the criminal caseload we have in this district, we are going to virtually monopolize the district courts and the district judges with criminal cases. That does not leave much room for district judges in this district to deal with civil litigations. It does not leave a lot of time for the district judges in this district to deal with cases that are brought against the state of Montana, challenges, various legislative matters or whatever.

For these reasons, Mr. Chairman, I would urge your concurrence in particularly SB 52 that adds a new district judge in the first judicial district. We desperately need another district judge. The old adage goes that justice delayed is justice denied. And thats the situation we're faced with in this county. Thank you very much.

SENATOR TURNAGE: Thank you Mr. McGrath.

PAT MELBY: Senator Turnage, Representative Brown, members of the committee. My name is Pat Melby. I am a lawyer here in Helena, and a member of the firm of Luxan and Murfitt. I am also a trustee on the board of trustees of the State Bar of Montana and I am here representing the State Bar of Montana today, in support of both the bill for the third judges in the first judicial district and for the redistricting plan.

Our support for those reasons so well stated by Senator Mazurek and Representative Curtiss. Our support for the redistricting plan, of course, also includes the support for that particular. The determination of redistricting be best left to this legislative process. Thank you.

SENATOR TURNAGE: Thank you Mr. Melby. Mr. Keller.

PAUL KELLER: I am Paul Keller, Attorney, practicing law with the firm of Keller, Reynolds, Drake, Sternhagen, and Johnson and I speak on behalf of both of these bills. I am also chairman of the Judiciary Committee of State Law. I would address my remarks as a member of the State Bar on SB 26, which pertains to the redistricting and speaking as an individual as to SB 52, which relates to the addition of a judge to the Lewis and Clark County.

Now, first I want to say that the Judiciary Committee of the State Bar met and we discussed redistricting and everybody felt that it was about as well done as it could be, taking into consideration the work load in each county. Now, these people have been told by ex-Senator Brown, and Senator Joe Mazurek, they sat down and worked on the case loads in each county and attempted, as well as they could, to redistrict the state on the basis of that caseload. Now that's as close as you can get, as they both said it isn't perfect but you have to start someplace and you have to end someplace. We have needed to reform for a long time. This is about as close as your're going to get in my opinion. As I said, my committee studied it, we had some objections and you will hear from those people later on this morning. By and large, everyone agreed that the way it was done was about as well as it could be done and, as I say, it is a needed reform. We should do this more often than we have done it, and as I have said, after studying it thoroughly, we have come to the conclusion

that this is about as good as you are going to get.

Now I know you are going to get objections. I was asked by the President of the Bar _____. Which I did. I heard from three local bars, you will hear from them here today. They are all represented here and they will tell you their problems with this present redistricting plan. It doesn't make any difference what you come up with, you are going to get someone who isn't going to be happy. But you have a plan proposed before you that is about as good as you are ever going to get and I speak that from 50 years of practice in the state of Montana, or I should say almost 50 years of practice. At one time I had practiced before every judge, or tried a case before every judge, in the state of Montana. I can't say that now because I am no longer trying cases. But in any event, there are several things I could point out to you. It is very important to redistribute the judges as this plan does because we're constantly disqualifying the judges for one reason or another, which is a plan I also support. To be able to disqualify a judge you are not happy with; and as a consequence we have to have judges we can call in from other places and this plan provides for that. So, this is a good plan and I hope you will support it.

Now, coming back to the First Judicial District Court here. Having practiced for many years, I say that I have watched two overworked judges for too long. Our judges work every Saturday. I don't think that they should have to do that. They should be able to give a little time to their own life and to the life of

their family. They shouldn't have to work Saturdays and nights to keep up but that is going on here and it is going to continue to go on until we get a third judge. There is entirely too much of a work load for two men. We have the building space. We have the facilities, most of you know the majority of the city-county offices took over the old federal building, we now occupy the first legislative building or first state capitol, as our county court house where the court meets and we do have room there for another court. So, I also urge you to approve SB 52. Thank you.

SENATOR TURNAGE: Thank you, Mr. Keller. The Chair recognizes Mr. Walter Murfitt.

WALTER MURFITT: I support both pieces of legislation. I approve of the redistricting but I want to grasp particularly the addition of the judge in the District Court here in Lewis and Clark County and Broadwater County in this district. I represent just people. Members of my firm and me have difficulty as you heard outlined. The problems of the criminals get the first shot and the complicated cases coming from the government. We, who represent these people, are sitting at the tail end of the dog so to speak and are so far back that we sometimes don't even wag. It is my perception that we need this judge in this county for the citizens should have justice to move their cases along. Simple matters are delayed for months, which certainly doesn't promote the justice system. I would only ask that you support this bill.

TOM BUDEWITZ: Senator Turnage, Mr. Chairman, my name is Tom

Budewitz. I am an attorney from Townsend and I am the County Attorney. The lawyers here in Helena generally consider Broadwater County as being one of the better counties in this district. I speak for both of the bills you have before you today.

I am principally concerned with the bill which would add the third judge to Helena. And I want to concur with my prestigious witnesses from Helena who have testified that, (1) The judges are being overworked and (2) They work darn hard.

Judge Meloy, recently retired, was known to schedule matters at 7:00 or 7:30 in the morning on a regular basis and there is every indication that Judge Bennett is going to work equally hard. We have been well served in Townsend up until the recent retirement of Judge Meloy. He came to Townsend every Friday morning at 9:00. He showed up exactly on time and went into court exactly on time and stayed as long as he had to and then went back to Helena. We liked that system. We liked having a judge in Townsend. We liked having access to a judge. And that, really, is what both of these bills are about. Access to the judges.

Most of the witnesses you will hear will be lawyers and judges but it is not the lawyers and judges interests you have considered. It is the access of the citizens of Montana to the courts. In Helena, because of the work load that they have on criminal cases, described by Mr. McGrath, but the _____ caused by virtue of the fact that it is the seat of government. Mr. McGrath referred to the Coal Tax case. He was on one side of that case while _____ and I were on the other side. We can verify the fact that Judge Meloy worked extremely hard. He had 100 case briefs

to go through to determine the constitutionality of Montana's thirty percent severance tax. It was not an easy case. We have tremendous respect for the work that Judge Meloy did in that case even though he ruled against us.

Not only is it important, however, to the First Judicial District in Helena and Townsend but it is important to all the state. As I look at the colored map I see two districts that concern me because one has had a lot of work in that district and the other because we have several pending cases. Looking at the brown district in the center which would be new district 10 and in comparing that with the old map of current districts, it consolidates districts 10 and 14.

District 14 is the district formerly occupied by Judge Nat Allen and that includes Roundup; and it covers an entire district. I don't know how many miles that is but it takes in a good part of the state. His practice was to schedule matters that pertained to White Sulphur Springs in Meagher County, which was on the opposite end of the district. Say he has scheduled matters at Golden Valley County and Musselshell and travels it all across in one day. Now, I would imagine that there was not too much business in both Valley County and Ryegate. There is a substantial number of cases in White Sulphur. I have had cases in Harlowton at 11:00 with Judge Allen and then would meet with him at 2:00 in the afternoon in White Sulphur Springs.

It seems to me that it would be a part of the system to

consolidate with two districts, with one adding another judge, thereby splitting that caseload. You may not be adding geographical area to a single district, you may not be eliminating a lot of travel time, but you are providing two judges instead of one and I believe that two judges would be better able to divide their own time that way than having one single judge with two separate districts.

Covering basically the same geographical area, the other district I'm looking at is what would be the new District 14, the orange district that would partake of Ravalli County. We have experienced in a case we had in Ravalli County, where they are now serviced by judges out of Missoula, every time you go to a hearing on the same case in Ravalli County you have a different judge. I am not suggesting that this is the only way to cancel that problem. I understand there is an alternative proposed _____ northern end of existing District 4. I'm not sure which would be better for the people in those districts but I certainly support the dividing of that district to some extent; whatever manner is appropriate to solve the problem of access to courts and certainly have some continuity with the judges. For those reasons I support both the bills before you. Thank you Mr. Chairman.

SENATOR TURNAGE: Thank you Mr. Budewitz. If I may present Representative Shontz. Mr. Shontz.

REPRESENTATIVE SHONTZ: Thank you Mr. Chairman, members of the committee. For the record my name is John Shontz. I am the Representative from District 53.

The only comment I'd like to make, Mr. Chairman, is that there are several people who are here from the 7th Judicial District. I would like to speak for them.

We support the redistricting plan, particularly we want to thank the Interum Committee for considering the fact that geography does play a very important role in the dispensing of justice in Montana in lower case courts. So with that, Mr. Dick Phillips will lead off.

SENATOR TURNAGE: Very well. We will appreciate that and I know you will understand that there are many others, that we cannot deny their right to speak, so go right ahead.

REPRESENTATIVE SHONTZ: Thank you.

RICHARD PHILLIPS: Thank you very much. My name is Richard Phillips. I am an attorney in Sidney and I am here representing the Richland County Bar Association representing all the attorneys from Sidney and I address my remarks as being supported also by the attorneys from Dawson County.

I have prepared some graphs that are being passed around for you to look at. I will address my remarks to the concerns we have on the eastern edge of the state. We have, for the last several years, been dealing with an extremely increased rate of case filings.

We have one judge in a large district that has to be traveled quite a bit. Richland County receives the judge one day a week, if we're lucky, and that is only if he is not scheduled for trial elsewhere. The case filings in Richland County, about for the last

four years, have increased over 300 percent; at the same time we decided the _____ by about the same proportion.

The only remarks that I wanted to make is that we strongly support whatever final plan is adopted by the legislature that will provide a second judge for the Seventh District. Thank you.

SENATOR TURNAGE: Thank you Mr. Phillips.

PAT HANSON: Thank you for this opportunity today. My name is Pat Hanson, I am Deputy County Attorney of Richland County and I am here to speak for the County Attorney's Office.

You have heard from the County Attorney from Lewis & Clark County. We have much the same circumstances in Richland County. In 1981 we worked 674 cases of all kinds. In 1982 there were 858. If the present rate of case filings keeps up, and there is nothing to indicate it won't, we will have close to 970 cases of all kinds filed in Richland County. And what does that mean? In 1980 that meant that the judge was presented with 1,580 things to look at on the 42 days he was in Richland County. Of what we had handled, 37 cases a day of that total, almost half, are criminal.

We were lucky in Richland County that we only had two trials last year. At the present time we have ten trials scheduled. We are booked for criminal trials through April 7, 1983. A criminal case is time consuming. The best of circumstances, from the prosecution's point of view, we are faced with three appearances. The initial appearance, or the filing of information, the entering of plea and sentencing. Rarely ever does a criminal case take less

than four, five or six hearings. The problems that this causes are numerous. We are booked, like I said, through April 7, 1983 for criminal cases. That means that we cannot hear anything of a civil nature until after that. Giving you some indication of how many numbers the judge handles.

While there are a lot of things that aren't reflected in the numbers there are suppression hearing areas, all motions and decrees that accompany those must be looked at. All youth court matters that are not formerly filed must be reviewed by the judge.

There are now three attorneys at the County Attorney's Office in Richland County and it seems incredible that one judge can handle what we can put out in one day a week.

As was noted before, we cannot take shortcuts and devious routes and cut off the rights of the accused to their procedural records. At the present time, this one day a week means that only criminal cases may be taken care of in Richland County.

I want to thank you.

SENATOR TURNAGE: Thank you sir. Are there some more from Richland?

BOB MULLEN: Mr. Chairman, members of the committee. I'm Bob Mullen, Vice-chairman of the Board of County Commissioners of Richland County. I'm here in favor of the judicial redistricting proposal that would add a second judgeship to District Seven.

In the last few years, as my colleagues have pointed out, we have had a tremendous increase in the district court case load to the point where one judge cannot handle caseload in a timely

fashion.

I'm here today basically to assure you that Richland County fully intends to take whatever necessary action to insure that a judge be placed in our district. We will find the funds and the space necessary to get the additional judge. Thank you.

SENATOR TURNAGE: Thank you, Mr. Mullen. Any further from Richland County: Judge McDonough.

RUSSELL McDONOUGH: Mr. Chairman and members of the committee, I'm Russell McDonough, the judge of the Seventh Judicial District. I was just elected and just took office in January. Prior to that I have practiced law for 35 years in Glendive. Whatever you want to comment _____ about figures, and I don't think that there is any question to the case load increase, but I'm sure it will be up 100 or more over last year.

There might be some comment that with the energy boom tapering off, that the case load might drop. There will be some drop. But basically the drop will be 10 to 20 percent. We have a number of oil wells up there that will be producing. Sidney has quite a large population as you _____. Another service that is performed is this energy situation. After the boom in the fifties Minot didn't lose too much population. Young people are the ones who commit the crimes. They have cosmetic problems and they drive the automobiles too fast. The cases take a lot of briefing and office time. So there actually isn't going to be any significant decrease in the number of cases because of the drop of exploration of oil. If the coal is developed, this district has the _____
_____. If that is all from Richland County, I'm

sorry to turn you back a time or two. Thank you.

SENATOR TURNAGE: Thank you Judge McDonough.

JOHN GREEF. Mr. Chairman, members of the committee, my name is John Greef and I am here on behalf of the Ravalli County Bar Association.

We have met before several times and discussed SB 26 and have unanimously supported the bill. Before I go into this there are a few brief points I'd like to correct, one statement from our commissioners. About two or three years ago Ravalli County built a court house. We have a brand new courtroom, we have chambers for a judge, we have a jury room, we have room for a court stenographer. So we have facilities that the Ravalli County Bar Association feel are more than adequate to consider another judge in our area without the need for remodeling and that sort of thing. I think the commissioners concern stems from the fact that the judge's chambers is a small room with no windows and they are concerned that perhaps the judge will get in there and demand that he have more elaborate quarters and our Bar Association feels unanimously that the facilities we have are more than adequate.

I have passed around some statistical information which demonstrates the fact that I believe most everybody is aware of. Ravalli County has been the second fastest growing county in the State of Montana. It is a popular area for the retiring community and we have every reason to expect that Ravalli County will continue to grow. Perhaps not at the second fastest rate, but we are a growing area. I've been in private practice in Ravalli County for approximately nine year. When I first got here it

used to be that you start court at 9:45 and at 11:00 we'd be having coffee with those in favor. Everything was done. The fact is now that a client walks into my office with a civil problem, I might add that civil cases take up approximately 80 percent of the case filing load. The client walks in with a civil problem in our county, it is a complex civil case, I have to tell him to be honest with him that it is going to be three or four years before I can get this case heard in a courtroom. A relatively simple case is going to take a year to 18 months to get that civil case heard in a courtroom. And the reason for that is our county is served by four judges out of Missoula who are very overworked. Missoula monopolizes their time and there is very little time left over for Ravalli county, Lake county and the other outlying towns.

I would also like to point out to this committee that the filing load of Ravalli county is up over 800 cases per year now which approaches the average caseload for each judge in the state of Montana. With respect to portions of Lake county versus Ravalli county I think that imposes a problem. All that I would really like to say is that I think both of our counties have a problem. Now our counties are constantly changing. We are no longer a quiet, sleepy little area but we are getting to be more of an urban community ourselves. _____ that either one of these counties can be effectively served by the city of Missoula. As an alternative, if you think an alternative is necessary, I would propose that you consider breaching off

Lake county and Sanders county as a separate district in a district to Ravalli county.

I would like to point out that even with the proposed re-districting the judge in Missoula would have the second highest caseload per judge, and this additional district would relieve that. Thank you very much.

SENATOR TURNAGE: Thank you.

JOHN ROBINSON: Mr. Chairman, members of the committee. My name is John Robinson. I practice law in Ravalli county. The reason I am here today is because the Bar Association of Ravalli county wanted you to know that some of us older fellows were interested in this matter too. So they came to the rest home this morning and gave me an extra helping of porridge and I am here today.

I come from Chicago originally, about 17 years ago. I practiced law in Chicago and I watched justice and civil systems deteriorate to the point of an absolute absurdity. Seven years is what I used to tell people to take their case to trial in Chicago civil cases and I keep in touch with Chicago and it is still seven years back there. That is not justice.

I am totally in favor of increasing the number of judges in the state of Montana because the justice must be provided equally for the people of Montana.

Ravalli county is kind of like the tail of an elephant. If you look at the map and if Missoula rolls over, it sometimes hides

them. I feel that we have a caseload in Ravalli county now that requires a judicial personage in the county at all times. We are frustrated constantly of not being able to get things done. The time delays are astounding. Thank you.

REPRESENTATIVE SWIFT: Mr. Chairman, members of the committee. My name is Bernie Swift. I will be very brief. I am in support of these bills particularly in SB 26 for the reason stated by John Greef who is an attorney in Ravalli county.

I'm speaking for the folks in Ravalli county. We are having problems in getting our cases heard in a reasonable time frame. We would particularly like to have you seriously consider SB 26 from the standpoint.

I don't know that there is a serious problem with the travel situation in Missoula. I also recognize that they probably have some of the same problems in Lake county. I would like to say to you today that I am in support of the bill and strongly suggest that we get some increase in judgeships in these districts. Thank you very much.

SENATOR TURNAGE: Thank you Bernie Swift. That is all on the list that I have been provided in support. Now there is a number that want to speak with proposed amendments. So those who may want to speak who have an amendment suggestion. Mr. Poore.

BOB POORE: Mr. Chairman, Representative Brown. My name is Bob Poore of Poore Roth Robischon & Robinson PC. I am chairman of the delegation here from Butte, Silver Bow county. We have been invited to speak. We have been advised we have ten minutes and I will take no more than that.

We are not opposed or proponents to redistricting persay. We do feel that there would be a great injustice of the citizens of Silver Bow county in section three of the SB 26 to have the one judge taken away from us. Our first speaker is Bill Murray a practicing lawyer in Butte, Vice-president of the Silver Bow county Bar Association. Mr. Murray.

BILL MURRAY: Mr. Chairman, members of the committee, ladies and gentlemen. I will make my remarks very brief and not for the record that I have included them in more detail for the secretary to be included in the record*

The Joint Interim Judicial Sub-committee deserves a great deal of credit, I believe, for the task they undertook. However, I'm afraid that in accordance with the statistics or figures that they are using that they have been in error in some regard. For example, attached to the bill as introduced, was a statement and I have attached it to my testimony as "Exhibit A". It was a comparison before and after redistricting. The figure used by the joint sub-committee indicated that the case filings in Silver Bow county for the second judicial district was 600 per judge. That is in error. The actual caseload for 1981, and I use 1981 figures because that is the year that the joint sub-committee used. The actual caseload in Silver Bow county per judge was 741. The way those figures were arrived at by me was principally by use of the book that was attached to my testimony as "Attachment B". That is the letter from the clerk of the court of the second

*See Attached

judicial district indicating that the case filings for 1981 totaled 1, 372 cases. In addition to that, there were no figures showing the assumption of jurisdiction by our judges from other judges who had been disqualified for and unable to sit on a particular case.

Judge Olson estimates that he assumed in 1981 sixty to seventy cases. As you will note by that map the decoded number two is surrounded by white, single judge district areas. Our judges are constantly traveling to these single judge districts to relieve caseload problems in that area, largely because of disqualifications. As a matter of fact, Judge Sullivan had about 49 cases assumed in 1981 and he authorized me yesterday to tell you that this month alone, he has assumed 12 cases from other districts, eight of them alone from Powell county in district three. So you assume that those additional cases by substance on top of figures given by clerk and reporter will show you that there were 1, 482 case filings in the Butte area.

I want the members of these committees to be cognizant of the dispute for the difference in these figures. I am not at all complaining about the excellent work done by the staff of the joint sub-committee in compiling what figures they did, it is just that I think that we have found additional figures for your consideration.

There is another thing you heard Senator Mazurek indicate that much of the consideration given in redistricting and the number of judges had to travel inside their districts. There is

no travel inside our district. All of the travel is outside, ladies and gentlemen. That statement is not included in the sub-committee report as a consideration. In addition, Mr. Poore will be talking to you about other facts of consideration that don't relate to statistics, for our position to retain the two judges in the second judicial district.

In closing, just let me say to you this: True I am Vice-president of the Bar Association in Silver Bow county. True, I am an attorney speaking as a member of the Bar Association. But don't forget, we attorneys and I'm sure you are aware of, represent people. We are lawyers helping people. People in Silver Bow county and our surrounding districts need a two judge district. Thank you.

COMMITTEE MEMBER: Mr. Murray, before you sit down, in the event one judge were to be taken away from Silver Bow county, what would that do to the caseload of the remaining judge?

BILL MURRAY: The caseload for the remaining judges would be, on 1981 figures, 1, 472 cases per judge. That is the highest level in the state even using the joint sub-committee's figures. In addition, using the joint sub-committee's figures, that would mean one judge per 38,000 population and that too would be the highest judge per populous figures.

COMMITTEE MEMBER: Thank you.

BOB POORE: Ladies and Gentlemen, members of the committee. I am Bob Poore. As I mentioned before, I practiced law in Butte for many years. I am now retired.

I speak not as a member of the Bar Association. I speak here as a citizen born and raised in Butte and proudly continue to live there with great optimism for myself, my family, my children, and grandchildren. We're in the news because the Anaconda Company has seen fit to reduce the employment force in our area, Silver Bow County - Butte, by some 700 people. I speak to the proposition that our community is stable. That it has great vitality and excellent growth prospects for continued vitality and growth. I will give you some illustrations of it. I'll try to be brief on these points. Montana Tech and I've lived my life in the shadow of that. When I was a little kid running around there, I guess being obnoxious I suppose, that was both famous around the world and a very large part of our community. Now I am a student up there. There are 217 registered students at Montana Tech. Just three years ago there were 1,386. All these students face excellent prospects of hiring because of the technical training they get in computerization and other things. The mining industry and the administration advises me that they expect a very stable and increasing attendance rate. All these examples I cite and other speakers have brought this to your attention are people to people relationships which tend to increase case loads to judges, either by deaths, births, criminal involvements, contracts, you name it. In that regard, to say that the Anaconda Company is moving out 700 employees and trying to get the state of Montana is certainly a great impact upon our local community. It wouldn't have a great effect on the caseloads of our judges is nonsense.

I can't tell you how all those problems can be resolved but there is only a resolution that applies on the course. We're the transportation hub of Montana, and I'm told the United States for we have crisscrossing railroads, major highways, U.S. highways both north and south and also the airways. Again, this is people people serving people if you will, for it's said that we're the safeway distribution center for the court of Butte where they have flight service stations there and are optimistic that they will have total services for the state of Montana. We are rapidly becoming the southwest medical center for the state of Montana. I'm sure that if I semi-embarrassed anyone here by asking how many employees you think are in our St. James Community Hospital you'd be amazed. Seven hundred and ninety-two employees of St. James Community Hospital. This weekend they're kicking off an addition of the St. James East. As you know the Sisters of St. James have taken over what used to be our county run hospital. We have five banks, we have two savings and loans, five credit unions, all of these are orient a relationship that doesn't immediately pertain to create problems for our district courts.

We are the state headquarters of the Montana Power Company with 1,100 people. We have Vo-tech which apparently doesn't involve us in other areas but there are several hundred students that attend day and night schools at that place. We are a federal center in the sense that we have the Federal District Court there, all are attaches of the Forest Service. I mentioned

the Flight Service Station. We have the BLM Office which I mentioned before the Forest Service itself. We have the MHD of which we are very proud of the 250 employees and together it is a very stable source of our community, but again bringing in problems of a potentially judicious nature.

Finally, I pause again mentioning the fact that while the Anaconda Company's apparent withdrawal from our area, at least for the time being, has had a notorious impact upon us, how that can finally be resolved with all these other problems we have and all of the potential for growth, without resort to our court system as it presently exists with adequate court space and operating effectively for 75 years, I don't see. As a citizen of our Butte area I strongly urge you to decide the redistricting as you see fit, but do not remove the judge from our judicial district which serves not only us but the surrounding areas and very effectively.

Our final speaker is Mr. Charles Harrington.

CHARLES HARRINGTON: Chairman Turnage, Chairman Brown, members of the Judiciary Committee, I would just comment briefly that we have submitted amendments to SB 26 as introduced. The sole type of these amendments will be to continue the existing number of judges in the second Judicial District. These amendments would have no other effect on the redistricting and changes in the number of judges under the proposed Senate Bill 26 as introduced. Briefly, this eliminates section three and it's proposal to . Thank you.

SENATOR TURNAGE: Any further comments from the floor?

MR. POORE: I would just like to state that while we do not have any kind of a presentation by these people the remarks that have been made are fully supported by our Chief Executive, Mr. Don Peoples. Don would you stand?

Consolidated Butte Silver Bow county by the county attorney Mr. Bob McCarthy and by Judge Olson one of our hard working judges and Judges Sullivan could not be here because of the fact that he is trying a case there in Butte.

JUDGE OLSON: Mr. Chairman, Chairman Brown, members of the committee. I am Judge Olson of Montana. I have appeared in every courthouse in Montana in my practice of law and I would like to say that we have been going in the wrong direction in Montana in so far as providing justice of the people.

In the thirties when, I am referring to the session in 1931, the Silver Bow county lost a judge there were three judges but at that time the optimum caseload recommended for judges was in 500 and 600 file caseloads. Since that time, we have lagged in the providing of judges for the people of Montana to where we have these outrageous figures of altogether too many cases per judge.

Butte, Silver Bow has maintained the same approximate caseloads since 1932. On the board I don't know why they continue to figure 1, 200. It has never been 1,200, it has always been more than 1,200 and it's been in the range that Mr. Murray testified to. It is 1, 300 and closer to 1,400 cases. Further-

single county districts such as Silver Bow and

Linclon and Gallatin get absolutely no credit for taking a case in another county and get absolutely no credit for the travel time. In all the other districts they get credit in their figures and their figures are credited with travel time and with cases to several counties. We get no credit in Butte, Lincoln, Gallatin, or Bozeman for cases taken out of county.

county alone. This can be expected to increase for two reasons. The population is increasing, our economic activity is increasing. We have the 13th Judicial District with Yellowstone county and several other outlying counties. If you take the Yellowstone county filings alone, 5,000 divided by four you come up with 1,250 cases. Likewise, that is not half the problem there. The population growth and the economic growth factors linked to a type of case that simply take a great deal of judicial time. In Yellowstone county we have a bad situation. And it is becoming worse, and over the next four to six years it will become worse yet.

NEIL KEEFER: Now the solution that has been proposed, is to remove Carbon and Stillwater counties from the 13th and add those two counties to the sixth Judicial District which would be Livingston and Big Timber. Now this does not make sense. The sixth Judicial District has one judge. He is not all that busy. Fortunately, Judge Hamstrom over the last ten years has come to Billings a great deal and for which we are grateful and adds to the funtion of Judge Allen and several others. However, both Carbon county and Stillwater county have a very

low caseload and it doesn't make much sense to take counties with or two counties with practically no cases (200 cases approximately apiece per year) and add those two counties to the sixth where you know that the judge is totally busy anyhow and then add another judge to that district. That solution simply does not regress our 1,250 cases per judge in Yellowstone county in a situation that is getting worse because of the population growth and economic growth. In Billings we are fortunate to have both.

Now, I wrote a comprehensive letter to the committee and hopefully it does, when filed, support our position and our reasoning behind it and our proposal is simply this; leave Carbon and Stillwater in the 13th Judicial District. Admittedly, the removal of Treasure county probably makes sense because Hysham is only 40 miles from Forsyth and its 80 miles from Billings and there is really not much going on there anyhow so I take no position on that.

Then if you would leave Carbon and Stillwater counties with us, I have done some personal checking and visited with some people. These counties are in the Billings economic area and there is considerable feeling that I have been able to ascertain that their judicial needs, court needs, can better be handled from Billings than lets say a judge living in Livingston. Then either give us an additional judge in District 13, or we would wholeheartedly support two bills which Judge Wilson has proposed. One would be for greater utilization of district judges which has been filed, I believe, and will

eventually come before the committee. The second bill would be for an addition of a referee for domestic and family court matters when the volume of those cases reaches a certain amount.

The 1,250 cases per judge that we have in Yellowstone county alone is a problem because it takes a great deal of judicial time and if you deal in civil litigation here at the end of the track, so to speak, and other things must come first. We are starting to have this problem so you can address it by either giving us another judge or by giving us devices whereby judicial time can be reduced in domestic relation matters and in court matters and you can utilize retired judges to help on the caseload. We simply have a problem that we had to come up here to complain about because it doesn't appear that Senate Bill 26 and the joint committee, when they drafted it, really considered our problem and our growing problem. Thank you.

SENATOR TURNAGE: Thank you Mr. Keefer. Your letter will be made a part of the record and will be available to the committee.*

MR. NEIL KEEFER: Thank you.

SENATOR TURNAGE: Mr. Hoff.

JOHN HOFF: Mr. Chairman, and members of the Senate and House Joint Judiciary Committee. My name is John Hoff. I am also here from Billings as a representative of the Yellowstone county Bar Association. I will try to be brief and not paraphrase anything the Mr. Keefer has already covered.

I would like to point out just a few things. First of all, the Yellowstone County Bar Association recognizes the need for redistricting. We recognize the complexity of the problem and we appreciate the efforts of those that have worked hard at it and tried to come up with an equitable plan. But the plan as we see it now as proposed, doesn't address the problem we have in the 13th Judicial District at all. If you follow the proposal in the 13th district and separate Carbon and Stillwater and Treasure Counties and leave Yellowstone and Big Horn Counties. I would suggest that probably with the 1982 figures available, you would find a greater disproportionment than what is reflected in the 1980 figures. If you compared that with your proposal for example the 10th Judicial District, where the two judges there would handle 520 cases. In the 13th District they would handle two and a half almost three times the litigation per judge as they would there. I think all these figures are available for example in Silver Bow County. I have figures of 100, I guess it depends on whose figures you want to believe. But if you look all the way down the line and add up the figures on the proposed redistricting, you will find the same story is true. The caseload in the 13th district is far higher and they can't keep up with it.

Again you should keep in mind that more than a 7th of the state's total population is right in Yellowstone County. More than a seventh of the state's population is Yellowstone County. Big Horn is Yellowstone County and there are people

to be served.

As far as courtroom space is concerned, I see that as no problem. There are four courtrooms in the Yellowstone County Court House and, of course, Hardin in Big Horn has a courtroom. I am there probably more days than not and seldom can I remember that all four courtrooms were in use for a hearing or a trial at the same time. It is not a matter that if we were to have another judge then we would have to build another courthouse and courtroom. That just isn't true. It is only a matter of scheduling. They are not all trying cases or hearing arguments at the same time so that is no problem within our county.

I don't have a proposal of my own. I think we should keep the, Mr. Keefer has some good suggestions. I think this is a good bill. Judge Wilson has offered to create the position of referee or magistrate, or administrative or whatever you would call it to hear matters in youth court proceedings and domestic relations, in substantives, and such as that which would take a lot of the load off of our present district judges. Thank you.

SENATOR TURNAGE: Thank you Mr. Hoff. I think we have two more witnesses listed on the schedule.

PETER RAPKOCH: Senator Turnage and Representative Brown, and ladies and gentlemen of this committee. I am Peter Rapkoch. I'm the newly elected District Judge of the 10th Judicial

District on the white map and proposed under SB 26 as one of the judges under the newly expanded new 10th district. I rise to as Chairman of the Delegation of the 10th District being the whole delegation I elected myself chairman. I call your attention to the fact comparing the two maps that this SB 26 as far as it relates to the 10th district and the fourteenth district does nothing more than erase the line between the two districts and take out of the map number 14. I say that with due attention to Tom Budewitz's remarks about the White Sulphur Springs with which I can sympathize.

I asked Judge Rodeghiero for the distance between Round-up where Judge Allen has sat and White Sulphur. He says it is 130 miles. I computed and added up the distance from Lewistown to White Sulphur Springs and it is 122 miles. So it doesn't really solve Mr. Budewitz's problem or the problem of those attorneys coming out of the first district and practicing in White Sulphur. If there were two cases on that problem if there were two cases one in Harlow and the other in White Sulphur Springs, both in the new tenth Judicial District and permitted half a day to each case I'm sure the same disposition and the same handling of those two cases would be had under and existing new system. It just seems rational.

In our area Judy McDonough's seventh and in most of the eastern Montana districts we compensate for a relative light work load by humungous distances. It's 57 miles from Lewistown to Winnett, 45 miles on to Stanford, 57 miles down to Harlowton, 120

to White Sulphur and 75 over to Roundup. I therefore, submit that once again this does absolutely nothing and that in my mind creates a death note to the proposed legislation as far as that is concerned, because there must be an advantage to be served by the proposal, and I hasten to make sure that the work that has been done and by the remarks and by the provisions of the proposal showed the only service that the interim committee has devoted to this problem.

My point, gentlemen and ladies, is simply this: Leave 10th and 14th Judicial districts alone. Leave them just alone. Now, one change that this would make that has been mentioned to me is that with a two (2) judge district. You have automatic substitution. One is substituted out, the other automatically takes in. In a practical order we have had no problems in District 10 and I have been there about 27 years practicing. We have had no problems getting substitute judges between Judge Allen and Judge McDonough who do ample travel. We have had no problem in getting a substitute judge between us. I have had no problem getting a substitution from Judge Ettien at Havre and from Judge Robb in Livingston and have never had that problem. So that's not the problem. So being no problem there may be no solution.

We, therefore, submit that we should leave the 10th and the 14th district alone. There is no problem with division of labor because the workloads are about the same. And once again, no problem; no solution. We recommend that

The SB 26 be amended by the deletion of changes in regard to the 10th and the 14th Judicial districts. Thank you.

ROY RODEGHIERO: Ladies and gentlemen. My name is Roy Rodeghiero. I am the judge in the 14th Judicial District. That's the one that my predecessor Judge Nat Allen presided and I of course endorse, as Judge stated, that I'm not here to ask for anything that will cost anymoney. I ask for just to keep the present 14th Judicial district as is and to keep the present 10th Judicial district as is. I visited with many people during the last campaign and these people want the 14th just as is and I urge you to consider that.

SENATOR TURNAGE: Thank you Judge Rodeghiero. We have one more witness. Representative Spaeth will make a statement for the record.

REPRESENTATIVE SPAETH: Thank you Mr. Chairman. Chairman Turnage, Chairman Brown and members of the committee.

I will make a very brief statement realizing the hour of the day. I appear here for two things. One as a person that's involved in the governmental agencies her in the first judicial district. Right now it is almost impossible for those of us who are outside the district to have trial time or any court time herein the first judicial district because of the case over load. I think it is absolutely necessary that we add a judge in the first judicial district.

I also represent Carbon county which is part of the 13th judicial district. At the present time, we will be included in the 6th judicial district which concerns the attorneys and their clients and the county people in Carbon county is that right now

we only have the judge coming to town, Red Lodge, about twice a month. But we do hear an extensive amount of business before the judges in Billings. Billings is not that far away and if we cooperate, the judges from Billings will just drive down to Billings. People are asked to it is not particularly expensive for our clients but if we go to the 6th judicial district, Livingston will probably become the head-quarter city of that particular district. Driving from Red Lodge to Livingston to take care of matters that can't be taken care of in the two days of the month is going to add an additional expense on the cases that we handled. It's not going to cause any major problems, I suppose, with the attorneys. Their time is charges to their clients but it will cause an additional cost to the cost of doing business. My particular county and beings Billings is nearby, we can widely see some type of arrangement mad or at least so that we don't have to go to Livingston. The county commissioners support something being done so that we don't have to go to Livingston. They are undertaking right now extensive renovation of our courtrooms which is quite expensive, so we urge that the members of the committee take a very close look at what is being done in Carbon and Stillwater counties in this judicial district. Thank you.

SENATOR TURNAGE: Thank you Representative Spaeth. Chairman Brown, do you want to close or do you want to wait for the questions.

CHAIRMAN BROWN:

CHAIRMAN TURNAGE: Chairman Brown will handle the questions.

CHAIRMAN BROWN: Any questions from members of the committee?

REPRESENTATIVE JAN BROWN: Yes Chairman, I have a technical question on SB 26. I was wondering if there was any on page 3 line 13-21 on duplication of lines 3 thru 12?

CHAIRMAN BROWN: I think the computer stuttered, Jan.

REPRESENTATIVE ADDY: Senator Mazurek I have a question I am sure the commission considered. I wonder if it might not be feasible to include Deer Lodge county and Granite county and Silver Bow in the same judicial district and put Powell county in with Lewis & Clark. The reason was simple it was a geographical area problem. You've got Deer Lodge Valley here, not real problem with access but here you've got McDonald Pass to get to Deer Lodge. Those districts have a community interest and wanted to stay together for that reason.

SENATOR TURNAGE: Additional questions by the committee? Any additional question? Looks like I got away with the easy part.

SENATOR MAZUREK: I will speak very briefly. I want to address a couple of things. I did earlier refer to the fiscal note. There is a fiscal note which indicates that if all the judges were elected in 1984 take office in 1985 there would be a \$110,000 dollar general fund impact in 1985. With respect to Silverbow county, I understand the problem there is, in fact, it is something that I think that we don't need to address right now. The bill would not be effective until 1989 in the situation we're looking at.

In defense of the committee, I have to say this; the case loads statistics was looked at again here last week. I guess

that suggestion came from Mike Adam. The filings we showed there are not all the case filings, it does not include the miscellaneous case filings and that would and if you increase all case loads to reflect all cases in Silver Bow county you have to do the same thing across the board.

And another thing, is that we did look at all travel times by judges that we have in fact lead a very comprehensive study written by Lois Menzies. We did look at all travel time by judges in the state in particular in Silver Bow. I direct your attention to table 16 and 17 in the manual if you want to get further information on travel. The only other thing I wanted to mention with respect to Lewis & Clark county and SB 26 , I have made an effort in preparing a study of the jurisdiction requirements for Lewis & Clark county and just for your information, there are 20 mandatory types of cases which must be brought into Lewis & Clark county. There are 27 discretionary and I offer that for the committees information as well as the minutes form the Senate Judiciary, the Senate State Administration and House Judiciary committee from last session. I think there have been some good suggestions made and I think that the concern is make the time to act now and I know that you will exercise your best judgment in considering the proposal. We just hope that you will attempt to adopt the redistricting plan and adopt redistricting plan taking into account all that was said today. Thank you.

SENATOR TURNAGE: Thank you Senator. Please make items available for the record and I might say that we are asking that the legislative council will transcribe the testimony today and

hopefully we can get it copied so that you can deliberate
on the bill

The meeting is adjourned.

* * * * *

Exhibit B
1/21/83

APPENDIX A: CURRENT JUDICIAL DISTRICTS

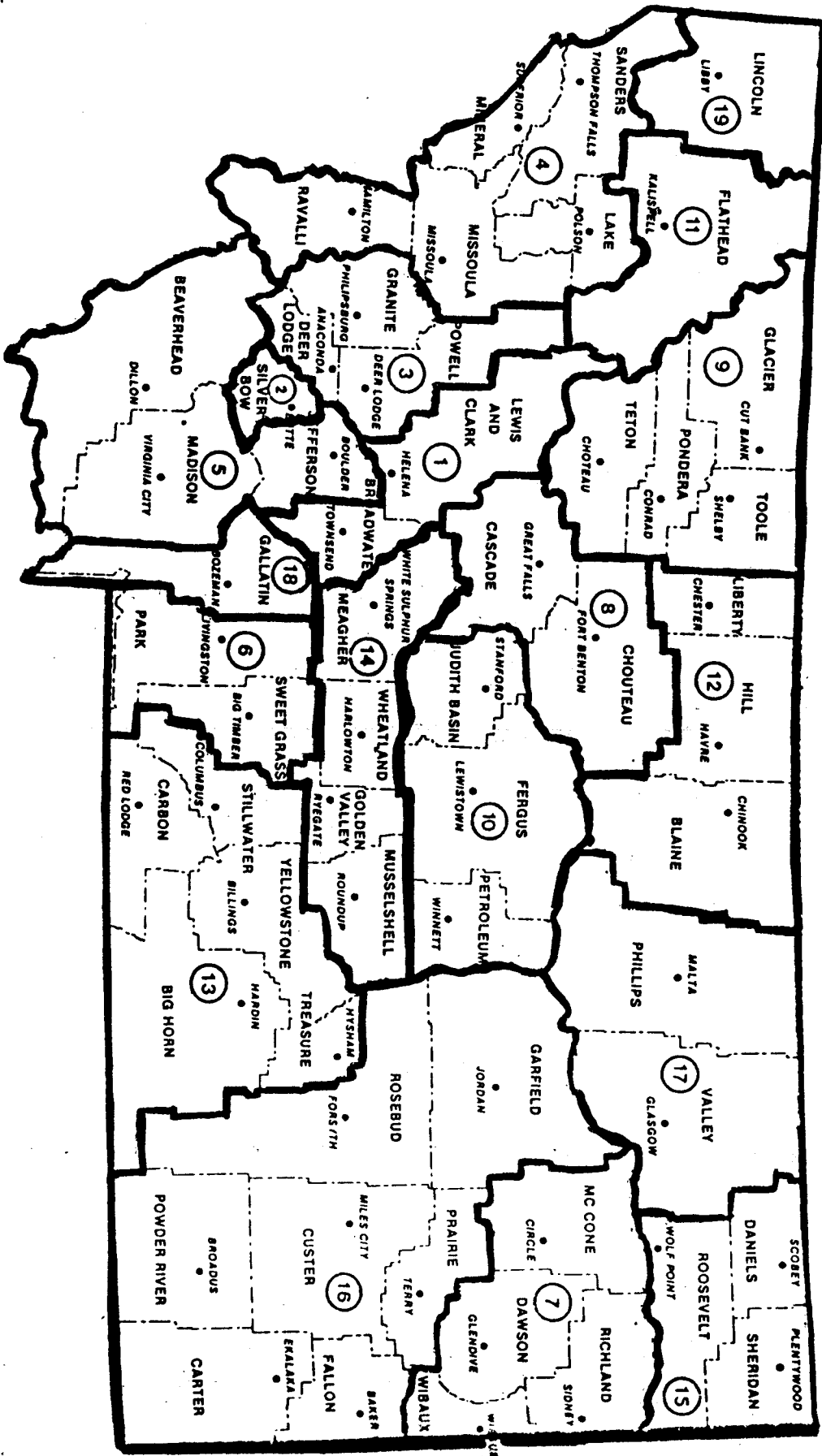
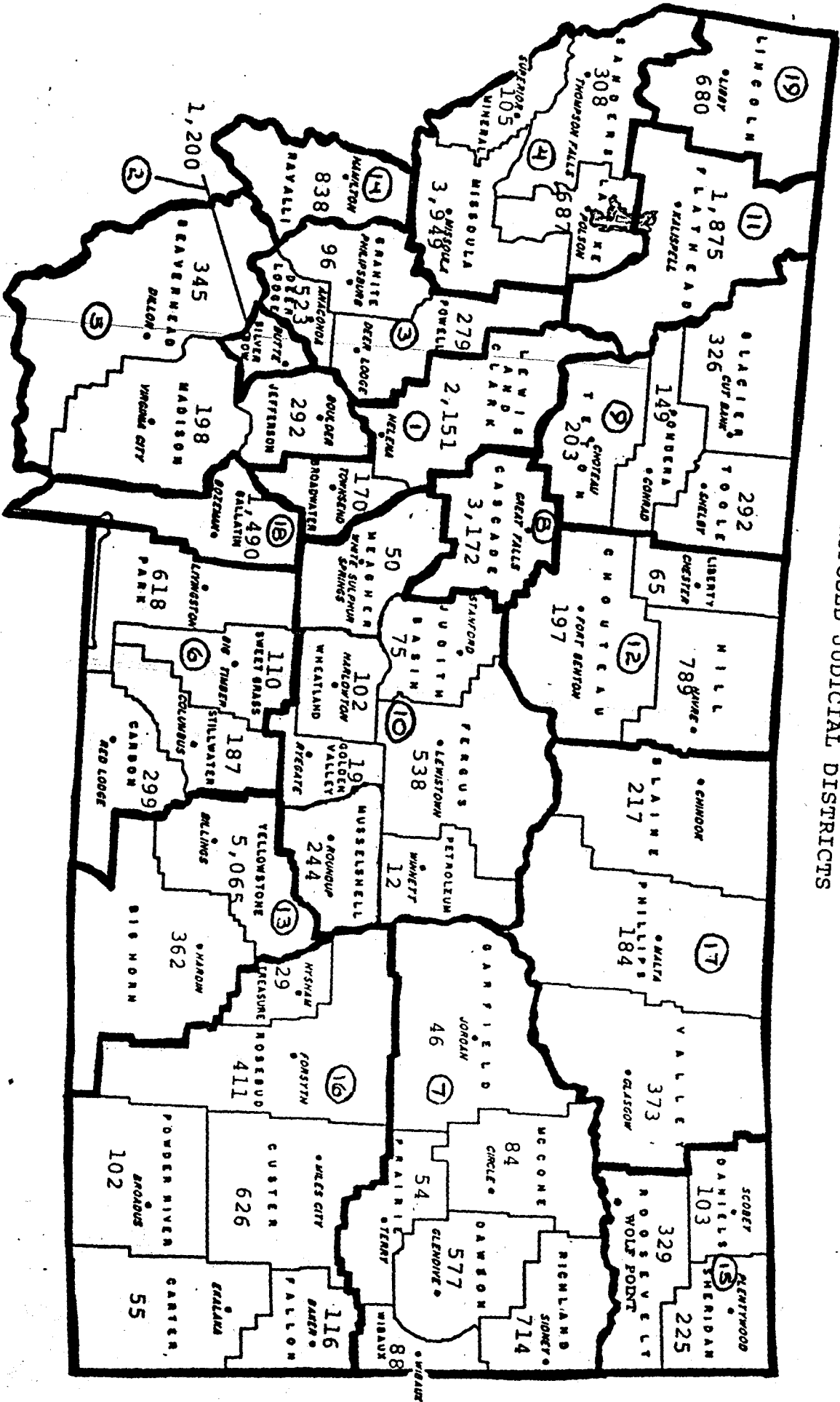


Exhibit C
1/21/83

PROPOSED JUDICIAL DISTRICTS



(1981 casefilings are contained within each county)

Exhibit D
1/21/83

MILES TRAVELED BY JUDGES: FY 1981

<u>District</u>	<u>Miles Traveled Within District</u>	<u>Miles Traveled Outside District</u>	<u>Total Miles Traveled (In & Out of District)</u>
1	3,882	2,080	5,962
2	1,099	4,515	5,614
3	6,698	746	7,444
4	50,074	2,482	52,556
5	17,030	1,068	18,098
6	3,630	12,314	15,944
7	7,497	4,899	12,396
8	4,359	3,921	8,280
9	11,448	4,521	15,969
10	6,412	6,044	12,456
11	1,399	2,675	4,074
12	9,564	3,058	12,622
13	11,034	288	11,322
14	4,533	9,828	14,361
15	4,954	9,490	14,444
16	17,791	2,574	20,365
17	10,104	3,824	13,928
18	2,081	6,105	8,186
19	1,340	10,780	12,120
	174,929	91,212	266,141

A map of Montana showing its 16 counties, each with a number and name. The counties are: 1. Lincoln (6051), 2. Glacier (1399), 3. Flathead (11), 4. Sanders (11), 5. Mineral (50074), 6. Lewis and Clark (3882), 7. Cascade (6412), 8. Fergus (6412), 9. Petroleum (7497), 10. Garfield (11354), 11. McCone (4616), 12. Daniels (4616), 13. Sheridan (15), 14. Beaverhead (17030), 15. Madison (17030), 16. Jefferson (3630), 17. Gallatin (3630), 18. Sweet Grass (8264), 19. Stillwater (8264), 20. Yellowstone (8264), 21. Treasure (8264), 22. Custer (10875), 23. Powder River (10875), 24. Fallon (10875), 25. Carter (10875). The map also shows major rivers and lakes.

4362

Exhibit E
1/24/83

Comparison Before and After Redistricting

District	Counties	Before			After			
		No. of Judges	Cases per Judge	Pop. per Judge	Counties	No. of Judges	Cases per Judge	Pop. per Judge
1	Lewis and Clark Broadwater	2	1,160	23,153	Lewis and Clark Broadwater	3	774	15,435
2	Silver Bow	2	600	19,046	Same	1	1,200	38,092
3	Powell Granite Deer Lodge	1	898	22,176	-----District Unchanged-----			
4	Missoula Mineral Lake Sanders Ravalli	4	1,472	32,479	Missoula Mineral Lake Sanders	Same	1,262	26,855
5	Jefferson Beaverhead Madison	1	835	20,663	-----District Unchanged-----			
6	Park Sweet Grass	1	728	15,876	Park Sweet Grass Stillwater Carbon	2	607	14,786
7	Dawson McCone Richland Wibaux	1	1,463	28,226	Dawson McCone Richland Wibaux Garfield Prairie	2	781	15,859
8	Cascade Chouteau	3	1,123	28,929	Cascade	Same	1,057	26,899
9	Teton Pondera Toole Glacier	1	970	29,409	-----District Unchanged-----			

<u>District</u>	<u>Counties</u>	<u>Before</u>		
		<u>No. of Judges</u>	<u>Cases per Judge</u>	<u>Pop. per Judge</u>
10	Judith Basin Fergus Petroleum	1	625	16,377
11	Flathead	2	938	25,983
12	Liberty Hill Blaine	1	1,071	27,313
13	Yellowstone Big Horn Carbon Stillwater Treasure	4	1,485	33,452
14	Meagher Wheatland Golden Valley Musselshell	1	415	9,967
15	Daniels Sheridan Roosevelt	1	657	18,716
16	Rosebud Custer Fallon Powder River Carter Prairie Garfield	2	705	17,291
17	Phillips Valley	1	557	15,617
18	Gallatin	2	745	21,432
19	Lincoln	1	680	17,752

<u>Counties</u>	<u>After</u>		
	<u>No. of Judges</u>	<u>Cases per Judge</u>	<u>Pop. per Judge</u>
Judith Basin Fergus Petroleum Meagher Wheatland Golden Valley Musselshell	2	520	13,172
-----District Unchanged-----			
Liberty Hill Chouteau	Same	1,051	26,406
Yellowstone Big Horn	Same	1,357	29,783
Ravalli	1	838	22,493
-----District Unchanged-----			
Rosebud Custer Fallon Powder River Carter Treasure	Same	669	16,035
Phillips Valley Blaine	Same	774	22,616
-----District Unchanged-----			
-----District Unchanged-----			

Exhibit F
1/22/83



League of Women Voters of Montana
917 Harrison, Helena, Montana 59601
21 January 83

SB 26 - An act to alter certain
judicial districts and change the
number of judges....

The League of Women Voters of Montana Supports passage of
Senate Bill 26 on the basis of its judiciary position which
calls for an equitable distribution of work among Montana's district court judges.

After sitting through over six hours of hearings on Legislative reapportionment, I approach the subject of judicial redistricting with some hesitation. How can the lay people of Montana best express their convictions in this area? Will the mere parochial interests of those directly involved in the court system exert a disproportionate amount of influence on Legislature's disposition of this bill? There may indeed be cause for amendments to this plan, but to scrap redistricting entirely would be a serious disservice to the citizens of Montana. The present system is out of whack and cannot respond to the quick fixes of the past.

The report of the Joint Subcommittee on the Judiciary which met during the interim succinctly summarizes the deliberations of that committee. Pages 1 through 13 are well worth reading. If anything, the committee was overly cautious or conservative in recommending the plan put forth in SB 26. While retaining many features of the present district court system, it did however apply some very meaningful criteria to the ~~numerical~~ composition of the 19 districts and the number of judges needed to serve them.

The Joint Committee gave one factor more significance than the League believes to be valid. The weight given to splitting or segregating urban counties from rural counties is not fully justified. It is important to remember that judges are not appointed or elected to represent people. Rather they represent the state's ability to provide roughly equal access to the judicial system. There should little, if any-~~acknowledged~~ thing, done to encourage a distinction between city and country style law or city and country style administration of justice. Mobility, higher standards of legal education, and technology have pretty well dispelled the foundation for notions of this sort.

The League's position on the Judiciary was adopted in 1974 and 1976. Since then we ^{have} followed court legislation, served on committees dealing with judicial issues, and kept our members informed. It is not unusual for the League to be the only ~~League~~ non-legal profession group to take an interest in these matters. For that reason, I submit that our point of view may be unique and worthy of attention.

I would like to thank the members of the Joint Subcommittee on the Judiciary and its staff who spent 17 months considering this task. Special acknowledgement should also be made of those judges who participated early on in the committee's deliberations, particularly Judge Benneth and Judge Coate.

The redrawing of district court boundary lines and the addition of needed judges is overdue. The League of Women Voters of Montana urges the passage of SB 26.

Margaret S. Davis, president

Margaret S. Davis



Exhibit 6
1/23/83

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MONTANA SEN. LARRY TVEIT,
District 27, Route 1, Box 117, Fair-
view

Our appreciation to the Tribune
for the extensive coverage of judi-
cial redistricting. A proposal is
currently being circulated for com-
ment by district court judges,
judicial system personnel and the
public.

The proposal has received care-
ful scrutiny from an interim com-
mittee of the Legislature. It was
developed primarily by two district
court judges who polled their peers
and actively sought the advice of
other judges. A number of other
judges representing a variety of
districts, urban and rural, ap-
peared before the interim commit-
tee. The districting plan was not
drafted by the Supreme Court nor
its administrator.

The last major reorganization of
the district court system took place
in 1932. Figures from 1970 to 1980
show a 113 percent increase in
cases and a 20 percent increase in
judges. Some districts are seri-
ously overburdened while others
operate with a below average case-
load.

While many judges are gener-
ous in assisting their harder-
pressed brethren, this is not suffi-
cient to address the basic inequi-
ties between Montana's judicial
districts.

Positive approaches to defining
judicial districts are called for.
The concept of multi-judge dis-
tricts offers a more flexible means
of meeting the judicial needs of the
district's citizens. Judges in these
districts may develop better means
of serving these needs than they
have relied on in the past.

Legislators are rightfully wary
of adding more judges to some dis-
tricts while "overlooking" the
judges in districts with far less
than average case loads.

The public would be well served
by a thoughtful remapping of dis-
trict court boundaries.

MARGARET S. DAVIS, president,
League of Women Voters of Mon-
tana, 917 Harrison, Helena

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Exhibit H

1/28/83

RICHLAND COUNTY

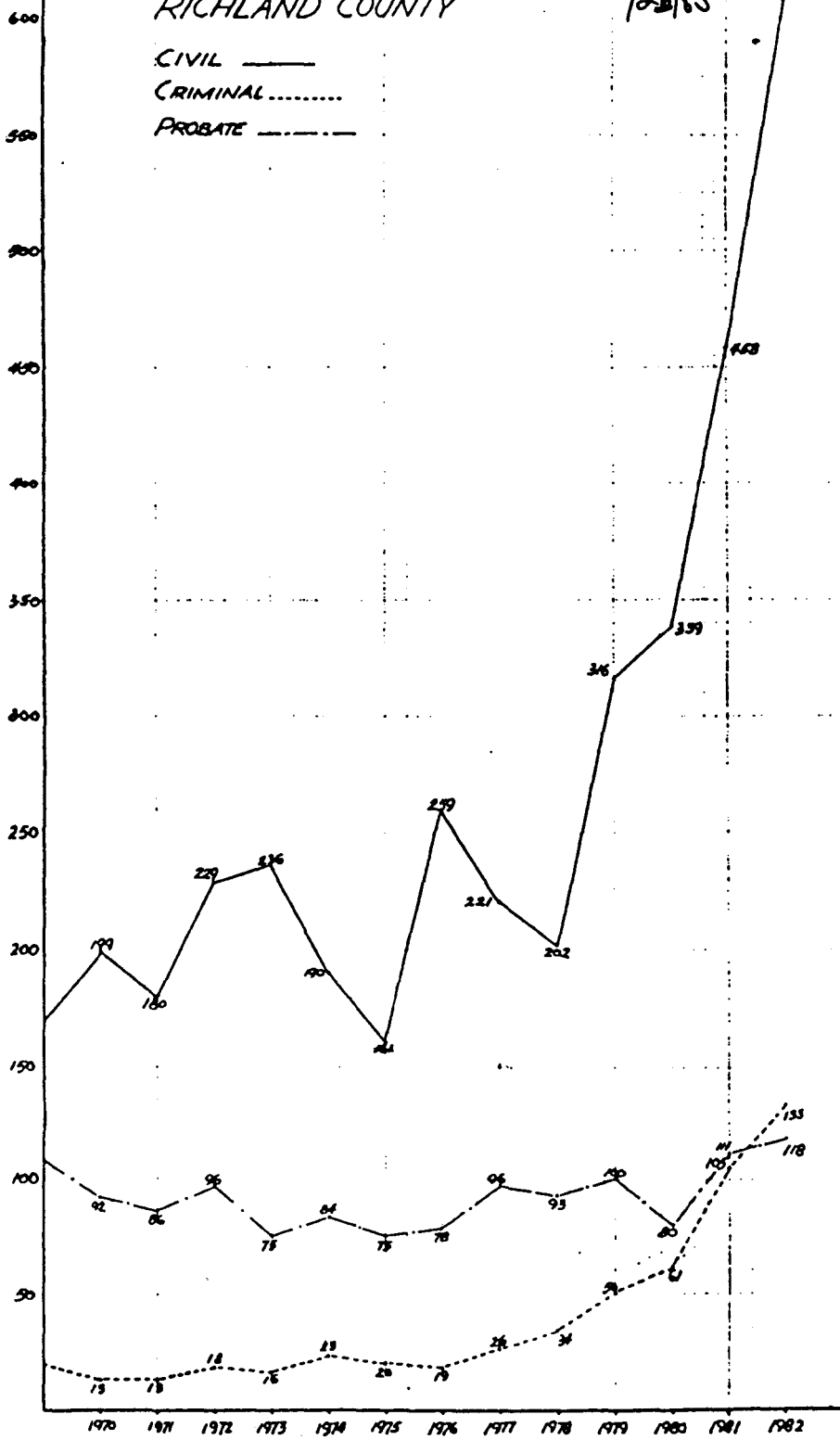
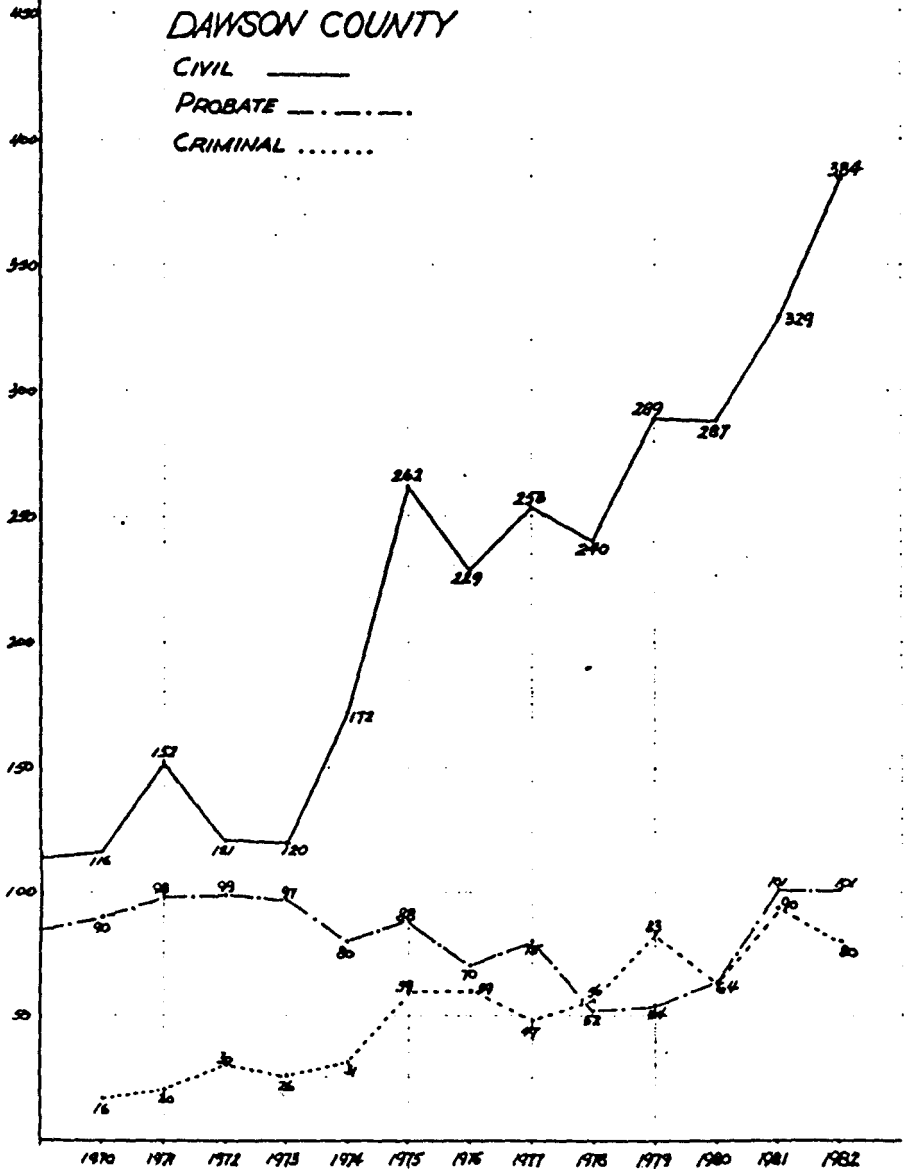


Exhibit I
1/21/83



January 21, 1983

Exhibit J
1/23/83

To: Members of the Senate Judiciary Committee

I have been designated by the Ravalli County Bar Association to inform the committee that we unanimously support Senate Bill No. 26, the Judicial Redistricting Bill.

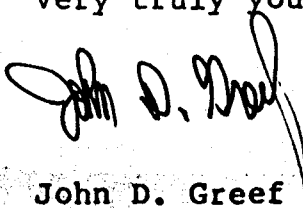
I have summarized some of the relevant statistical information for Ravalli County as follows:

1. Total Filings
 - a. 1975 554
 - b. 1979 733
 - c. 1980 767
 - d. 1981 806
2. Civil Filings v. Trials
 - a. 1980
 - (1) 522 civil cases filed
 - (2) 28 jury demands
 - (3) 2 completed trials by jury
 - (4) 9 completed non-jury trials
 - b. 1981
 - (1) 573 civil cases filed
 - (2) 27 jury demands
 - (3) 5 completed trials by jury
 - (4) 22 completed non-jury trials
 - c. 1982
 - (1) 486 civil cases filed
 - (2) 19 jury demands
 - (3) 4 completed trials by jury
 - (4) 20 completed non-jury trials
3. Cases At Issue (waiting for trial)
 - a. Civil jury cases 68
 - b. Civil non-jury cases ... 127

The statistics on the total number of filings is particularly relevant because of the fact that the Ravalli County case load is about average for district judges on a state-wide basis.

The problem with Ravalli County being served by the Fourth Judicial District is that there is simply not enough judge time available to serve us. This probably results from the fact that the judges are based in Missoula. Our clients presently have approximately a three (3) to four (4) year wait for a jury or complex non-jury trial and approximately eight (8) months to one (1) year for a simple non-jury trial.

Very truly yours,



John D. Greef

Chairman of the Ravalli County
Bar Redistricting Committee

OBJECTIONS BY SILVER BOW COUNTY BAR ASSOCIATION
TO SENATE BILL #26 AS INTRODUCED

Exhibit K
1/23/83

TO: Members, Senate Judiciary Committee
Members, House Judiciary Committee

FROM: Silver Bow County Bar Association

RE: Senate Bill #26; 48th Legislature

The Silver Bow County Bar Association is opposed to Section 3 of the bill as introduced. Section 3 provides for the reduction of one (1) district Judge in the Second Judicial District (Silver Bow County) beginning January 2, 1989.

The bill was recommended by the Joint Interim Subcommittee on Judiciary based substantially on statistics provided by the Supreme Courts Judicial Management Information System, the Department of Revenue and possibly from other sources.

I. CASES PER JUDGE

The Joint Subcommittee, in its "Comparison Before and After Redistricting" report (Attachment "A") shows present Silver Bow County cases of 600 per judge. THIS IS AN ERROR.

Attachment "B" is a letter from Dan Bukvich, Clerk of the Second Judicial District Court, in which he shows 1981 cases as 1372 or 686 per judge. The Joint Subcommittee used 1981 statistics and our figures will relate to that year also.

A reduction of one judge in Silver Bow County will result in 1372 cases per year for the remaining judge exclusive of any additional cases resulting from assumption of jurisdiction from other districts. THIS WILL BE THE HIGHEST CASE PER JUDGE WORKLOAD IN THE STATE!

II. ADDITIONAL CASES VIA ASSUMPTION OF JURISDICTION

Silver Bow County is surrounded by single judge districts and notably one of those district (third) includes the Montana State Prison and the facilities at Warm Springs and Galen.

Judge Olsen, in Silver Bow County, estimates he assumed 60 to 70 1981 cases from other judges and principally from the districts immediately surrounding Silver Bow County.

Judge Sullivan assumed more than 50 cases in 1981.

This results in a 1981 case per judge of 741 workload.

AFTER REDUCTION OF A JUDGE IN SILVER BOW COUNTY THE CASE-LOAD WILL BE 1482 FOR 1 JUDGE AND NOT 1200 as shown in Attachment "A".

III. TRAVEL

One of the reasons given by the Joint Subcommittee for a reduction in judges is that "little travel is required within the district to detract from the time spent on the bench" (see Subcommittee Report page 6, paragraph 4(e)).

As explained in Section II, above, Second District Judges are frequently called in by other judges. THIS NECESSITATES TRAVEL OUTSIDE THE DISTRICT.

IV. DECLINING POPULATION

Another reason for eliminating a judge according to the Joint Subcommittee is "declining population and case filings in recent years".

In only the three areas of (1) Criminal cases, (2) Probate cases, and (3) Civil cases (omitting Juvenile, Distrant, Miscel-

laneous, Abstract, U.R.E.S.A., Mental Health and Adoption cases), the Second District had a six (6) year (1976 through 1981) average of 1041 case filings (see Attachment "C" prepared from the Clerk of the Court files).

There is no reason to believe that Silver Bow County's population or case filings will significantly decline in future years according to our local bar association. Mr. Robert Poore's testimony will address this point.

BASED ON THE 1981 FIGURES SILVER BOW COUNTY, AFTER ELIMINATION OF 1 JUDGE, WILL HAVE A POPULATION PER JUDGE OF 38,092, THE HIGHEST OF ALL DISTRICTS. (see Attachement "A").

V. RECOMMENDED MAXIMUM CASELOAD PER JUDGE

All testimony before the Joint Subcommittee stated that more than 825 cases per judge is an unmanageable workload.

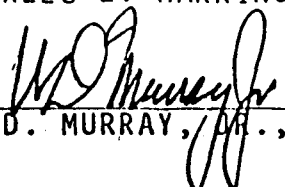
Senate Bill 26, as introduced, would increase the Silver Bow County workload by 55.6% over the 825 figure. [$825 \div 1482$ (see Section II, above)].

VI. For all of the above reasons we urge the Legislature not to reduce one judge in the Second Judicial District.

Respectfully submitted,
January 21, 1983.

SILVER BOW COUNTY BAR ASSOCIATION


CHARLES L. HARRINGTON - President


W. D. MURRAY, JR., - Vice-President

Before

Sliver box	2	600	19,046
------------	---	-----	--------

	1	898	22,176
Pratt			
Granite			
Deer Lodge			

4	Missoula	4	1,472	32,479
---	----------	---	-------	--------

Lake
Sanders
Ravalli

5	Jefferson Beaverhead Madison	1	835	20,663
---	------------------------------------	---	-----	--------

Park Sweet Grass	1	728	15,876
------------------	---	-----	--------

Dawson	1	1,463	28,226
McCone			
Richland			
Wibaux			

Cascade	3	1,123	28,929
Chouteau			

Telon	1	970	29,409
Ponders			
Toole			
Glacier			

2025

<u>Countries</u>	<u>No. of Judges</u>	<u>Cases per Judge</u>	<u>Pop. per Judge</u>
Lewis and Clark	3	774	15,435
Broadwater			

Same	1	1,200	36,090
------	---	-------	--------

-----District Uncharged-----

Missoula	Same	1,262	26,855
Mineral			
Lake			
Sanders			

-----District Unchanged-----

Park	2	607	14,786
Sweet Grass			
Stillwater			
Carbon			

Dawson	2	781	15,859
McConc			
Richland			
Wibaux			
Garfield			
Prairie			

Cascade	Same	1,057	26,099
---------	------	-------	--------

-----District Unchanged-----

	<u>District</u>	<u>Counties</u>	<u>No. of Judges</u>	<u>Cases per Judge</u>	<u>Pop. per Judge</u>
10		Judith Basin Fergus Petroleum	1	625	16,377
11		Flathead	2	938	25,983
12		Liberty Hill Blaine	1	1,071	27,313
13		Yellowstone Big Horn Carbon Stillwater Treasure	4	1,485	33,452
14		Meagher Wheatland Golden Valley Musselshell	1	415	9,967
15		Daniels Sheridan Roosevelt	1	657	18,716
16		Rosebud Custer Fallon Powder River Carter Prairie Garfield	2	705	17,291
17		Phillips Valley	1	557	15,617
18		Gallatin	2	745	21,432
19		Lincoln	1	680	17,752

	<u>District</u>	<u>Counties</u>	<u>No. of Judges</u>	<u>Cases per Judge</u>	<u>Pop. per Judge</u>
		Judith Basin Fergus Petroleum Meagher Wheatland Golden Valley Musselshell	2	520	13,172
	-----District Unchanged-----				
		Liberty Hill Chouteau	Same	1,051	26,406
		Yellowstone Big Horn	Same	1,357	29,783
		Ravalli	1	838	22,493
	-----District Unchanged-----				
		Rosebud Custer Fallon Powder River Carter Treasure	Same	669	16,035
		Phillips Valley Blaine	Same	774	22,616
	-----District Unchanged-----				
	-----District Unchanged-----				

DAN BUKVICH

CLERK OF THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF MONTANA
IN AND FOR THE COUNTY OF SILVER BOW

Butte, MT. 59701

Phone: 723-8262 Ext. 279-280

 ARTCRAFT, BUTTE

November 5, 1982

Honorable Mark P. Sullivan
District Judge
Silver Bow County Courthouse
Butte, Montana 59701

Dear Judge Sullivan:

Pursuant to your request I have enumerated below the figures for the various cases filed in the 2nd Judicial District Court for the calendar year 1981. These are the same figures I have previously sent to the Court Administrator.

CRIMINAL CASES	92
CIVIL CASES	704
JUVENILE CASES	79
DISTRANT CASES	104
MISCELLANEOUS CASES	28
ABSTRACT CASES	83
U.R.E.S.A.	10
PROBATE	189
MENTAL HEALTH	44
ADOPTIONS	39
TOTAL	1372

Sincerely,

Dan Bukvich

DAN BUKVICH
CLERK OF THE COURT

ATTACHMENT "B"

	<u>CIVIL</u>	<u>PROBATE</u>	<u>CRIMINAL</u>	<u>TOTAL</u>
27	724	256	93	1073
28	728	268	63	1059
	728	307	54	1089
30	750	295	77	1122
31	782	250	82	1114
32	654	205	51	910
33	512	205	53	770
34	536	199	38	773
35	544	242	91	877
36	590	238	36	864
37	682	267	74	1023
38	568	215	51	834
39	562	231	53	846
40	696	234	52	982
41	628	241	50	919
42	584	218	32	834
43	522	236	32	790
44	446	253	34	733
45	524	237	35	796
46	646	274	47	967
47	640	264	47	951
48	546	240	42	828
49	536	209	48	793
50	534	243	72	849
51	604	249	47	900
52	741	240	49	1030
53	772	324	57	1153
	646	255	44	945
55	658	311	48	1017
56	658	322	47	1027
7	632	330	41	1003
58	642	291	56	989
59	578	342	21	941
0	544	304	31	879
1	452	266	27	745
62	586	271	27	884
63	622	345	53	1020
64	586	351	45	982
65	600	380	28	1008
66	612	338	39	989
7	586	357	32	975
68	592	309	16	917
69	664	305	32	1001
0	676	319	34	1029
1	870	361	65	1296
72	892	338	43	1273
3	918	346	32	1296
4	918	272	53	1243
75	960	251	65	1276
75	818	189	76	1083
7	768	179	62	1009
7	812	191	62	1065
7	798	217	69	1084
0	768	195	59	1022
1	704	189	92	985

Exhibit L
1/24/83

AMENDMENTS TO SB 26 AS INTRODUCED

1. Page 3, Line 12 through Line 21.
Strike: Section 3 in its entirety
Renumber: All subsequent sections and references
to subsequent sections accordingly

2. Page 5, Lines 2 and 3
Strike: "and terminates Jan. 2, 1989"

3. Page 5, Line 7
Strike: Line 7 in its entirety
Renumber: The subsequent subsection

Comment: The sole effect of these amendments would
be to continue the existing number of two
(2) judges in the Second Judicial District
(Silver Bow County).

These amendments would have no other effect
on the redistricting and changes in the number
of judges proposed in SB-26, as introduced.

Briefly, this eliminates Section 3 and its'
proposed effective dates.

MONTANA LEGISLATURE



ADMINISTRATIVE CODE COMMITTEE

Exhibit M
1/23/83

SENATE MEMBERS
LAWRENCE G. STIMATZ
VICE CHAIRMAN
H.W. "SWEDIE" HAMMOND
PETE STORY
BILL THOMAS
ROOM 118
STATE CAPITOL
HELENA 59620
(406) 449-3064

November 24, 1982

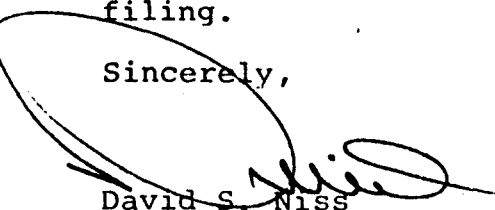
Senator Joe Mazurek
516 Hayes
Helena, MT 59601

Dear Senator Mazurek:

I have enclosed for your use a listing of the MCA sections which require or allow actions to be filed in the First Judicial District. In some instances, the statute specifically speaks to a filing in Lewis and Clark County; in others it speaks only to a filing in the First Judicial District. In those instances in which filing in the First Judicial District is optional, the other county in which filing is usually allowed is the county in which the cause of action arose or the county in which the plaintiff, defendant, or appellant resides.

After requesting a search of both "Lewis and Clark County" and "First Judicial District", the computer has given me 47 MCA sections in which a filing is required or specifically allowed in the First Judicial District or Lewis and Clark County. Of these 47, 27 sections of law allow an optional filing and 20 require a filing.

Sincerely,


David S. Niss
Staff Attorney

DSN:hm
Enc.

Filings Required or Allowed in
Lewis and Clark County or the First Judicial District

Mandatory

1. 13-27-316(1) and (2) - Actions by proponents and opponents to review Attorney General summaries of ballot issues.
2. 15-1-303(2)(b) - Appeal from a tax assessment made by the Department of Revenue after the taxpayer fails to disclose the contents of books and records.
3. 15-2-303(3) - Review of a decision by the State Tax Appeals Board relating to a company under the jurisdiction of the Public Service Commission.
4. 15-31-505(1) - Enforcement of subpoenas by the Department of Revenue.
5. 15-70-111 - Review of decisions made by the State Tax Appeals Board regarding collection of gasoline and vehicle fuels taxes.
6. 16-11-204 - Action to enjoin nonpayment of tobacco taxes.
7. 33-1-702(2) - Action to enforce a stay of an order issued under the state insurance code by the state insurance commissioner.
8. 33-1-711(1) - Appeal from certain orders of the insurance commissioner.
9. 33-2-1123(1) and (3) - Appeal from insurance commissioner orders regarding securities tradings and mandamus to compel the insurance commissioner to act pursuant to the securities laws.
10. 44-1-9011) - Appeal by a member of the Montana Highway Patrol from disciplinary action taken against him.
11. 50-30-102(2) - Appeal from a determination by the Department of Health and Environmental Sciences that certain toys present a hazard.
12. 61-4-209 - Action by the Motor Vehicle Division to enforce a cease and desist order requiring cessation of motor vehicle sales without a license.
13. 61-6-144 - Appeal of orders by the Insurance Commissioner relating to his apportionment of high risk insurance policies among certain insurance companies.

14. 70-9-313 - Appeal of decisions by the State Tax Appeals Board regarding unclaimed property.
15. 72-14-301(1) - Actions against the Montana State Treasurer to recover escheated property.
16. 72-16-804 - Appeal from determinations by the Department of Revenue regarding payment of estate taxes by nonresident decedents.
17. 75-20-404(2) - Mandamus actions to enforce the Major Facilities Siting Act.
18. 75-20-408(1)(c) and (3) - Collection of penalties for violations of the Major Facilities Siting Act and injunctive relief.
19. 81-22-103(3) - Review of rules governing manufactured dairy products.
20. 81-23-204(2) - Collection of civil penalties for violation of milk price control laws, rules, and orders.

Optional

21. 2-9-303 - Approval of settlement of tort actions against the state.
22. 2-9-312(1) - General venue statute for tort actions against the state.
23. 15-2-303(2) - Judicial review of contested cases before the State Tax Appeals Board.
24. 13-37-113 - Prosecutions for violations of Title 13, chapters 35 through 37 (elections and campaign practices).
25. 15-30-148(1) - Judicial review of determinations of the State Tax Appeals Board regarding individual income taxes.
26. 30-14-111(3) - Actions to enjoin violations of the Uniform Trade and Consumer Protection Act of 1973.
27. 30-14-112 - Court approval of assurances of compliance with the Unfair Trade and Consumer Protection Act of 1973.
28. 30-14-113(2) - Petitions to extend the time for return to investigative demands for enforcement of the Unfair Trade and Consumer Protection Act of 1973.
29. 32-1-912 - Enforcement of orders of the director of the Department of Commerce to remove certain officers of financial institutions.

30. 33-1-711(1) - Appeal of license revocations under the state insurance code.
31. 33-2-1118 - Actions to enjoin violations of the state insurance code.
32. 33-2-1119(2) and (3) - Actions to enjoin trading of securities in violation of rules or orders of the Insurance Commissioner.
33. 33-2-1120(1) - Criminal actions for willful violations of the insurance security laws.
34. 33-16-113 - Appeal of decisions of the Insurance Commissioner concerning insurance rates.
35. 35-1-1304(2) and (3) - Appeal of decisions of the Secretary of State disapproving or revoking certificates or articles of incorporation or other corporate documents for business corporations.
36. 35-2-1103(2) and (3) - Appeal from decisions of the Secretary of State disapproving or revoking articles or certificates of incorporation or other corporate documents for nonprofit corporations.
37. 39-3-212 - Enforcement of wage orders by the Commissioner of Labor and Industry.
38. 39-7-209(2) - Actions to enforce orders of the Commissioner or Labor and Industry relating to maternity leave.
39. 39-31-106(2) - Enforcement of subpoenas by the Board of Personnel Appeals.
40. 80-8-306(2) - Actions by Department of Agriculture to enjoin violations of the Montana Pesticides Act.
41. 82-4-141(1) - Collection of penalties for violation of the Strip and Underground Mines Siting Act.
42. 82-4-142(2) - Mandamus actions to enforce the Strip and Underground Mines Siting Act.
43. 82-4-252(2) - Mandamus actions to enforce the Montana Strip and Underground Mine Reclamation Act.
44. 82-4-254(2) - Collection of civil penalties for violation of the Montana Strip and Underground Mine Reclamation Act.
45. 82-4-361(1) - Collection of civil penalties for violation of the metal mine reclamation laws.

46. 82-4-441(1) - Collection of civil penalties for violation of the Open Cut Mining Act.
47. 85-6-109(2) - Appeals from decisions by the Board of Natural Resources and Conservation concerning maintenance of water user association projects.

STATE OF MONTANA

FISCAL NOTE

1482
Exhibit N
REQUEST NO. 1/21/83

Form BD-15

In compliance with a written request received _____, 19 _____, there is hereby submitted a Fiscal Note for Senate Bill 26 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 26 is an act to alter certain Judicial District boundaries and to change the number of judges in certain Judicial Districts; providing for the election of new judges; providing abbreviated terms of office for certain judges; amending Sections 3-5-101, 3-5-102 and 3-5-203, MCA; and providing a termination date and effective dates.

ASSUMPTIONS:

- 1) Each additional judge will be elected in the 1983 general election.
- 2) Each additional judge and staff will take office or begin work on or about January 1, 1984.
- 3) Each additional judge will have a staff consisting of one secretary and court reporter.

FISCAL IMPACT:

(State Expenditures)

Proposed Law

	<u>FY83-84</u>	<u>FY84-85</u>
Personal Services	104,500	209,000
Operating Expenses	6,000	12,000
Capital Outlay	-0-	-0-
Additional Expenditures for Proposed Law	\$110,500	\$221,000

LOCAL IMPACT:

(County Expenditures)

Personal Services	72,000	144,000
Operating Expenses	6,800	13,600
Capital Outlay	22,800	-0-
Additional Expenditures for Proposed Law	\$101,600	\$157,600

NOTES:

- 1) New Section 5 abbreviates the term for certain elected District Court judges and apparently is in direct conflict with Article VII, Section 7(2) of the Montana Constitution which says the term shall be six years.
- 2) Estimates above are based on FY83 expenditure levels.

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

STATE OF MONTANA

REQUEST NO. 008-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 4, 19 83, there is hereby submitted a Fiscal Note or Senate Bill 26 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 26 is an act to alter certain judicial district boundaries and to change the number of judges in certain judicial districts; providing for the election of new judges; providing abbreviated terms of office for certain judges; amending Sections 3-5-101, 3-5-102, and 3-5-203, MCA; and providing a termination date and effective dates. This bill adds four judges.

ASSUMPTIONS:

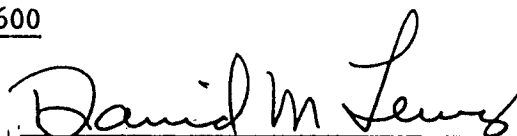
- 1) Each additional judge will be elected in the 1984 general election.
- 2) Each additional judge and staff will take office or begin work on or about January 1, 1985.
- 3) Each additional judge will have a staff consisting of one secretary and court reporter.

FISCAL IMPACT:

(State Expenditures)	<u>FY 83-84</u>	<u>FY 84-85</u>
Proposed Law		
Personal Services	-0-	104,500
Operating Expenses	-0-	6,000
Capital Outlay	-0-	-0-
Additional Expenditures for Proposed Law	-0-	\$110,500

LOCAL IMPACT:

(County Expenditures)		
Personal Services	-0-	72,000
Operating Expenses	-0-	6,800
Capital Outlay	-0-	22,800
Additional Expenditures for Proposed Law	-0-	\$101,600

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83

NOTES:

- 1) New Section 5 abbreviates the term for certain elected district court judges and apparently is in direct conflict with Article VII, Section 7(2) of the Montana Constitution which says the term shall be six years.
- 2) Estimates above are based on FY 83 expenditure levels.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 21, 1981

De Pass - Unanimous
Exhibit
3-38-81
SB 113
Exhibit 0
1/21/83

The tenth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date, in Room 442 of the State Capitol Building at 10:00.

ROLL CALL: All members of the committee were present except Senator Johnson.

CONSIDERATION OF SENATE BILL NO. 113:

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A THIRD DISTRICT COURT JUDGE IN THE FIRST JUDICIAL DISTRICT."

Senator Steve Brown, Helena, District 15, sponsor of the bill, stated that it is a simple bill. There are many reasons why we need another judge in the first judicial district. This request is based upon the case load statistics themselves. This district has the third highest case loads. All complicated state cases are tried in the first judicial district. This amounts to about 12 to 15 cases a year. He alluded to complex examples: the coal tax, Colstrip Appeal, the Beaver Creek South case, and Northern Tier Pipe Line. Those appeals go through the first judicial district.

Senator Brown introduced the attorney in the room; then he called on Senator Joe Mazurek, District 16, Helena, who submitted a copy of a letter from Judge Peter Meloy. Senator Mazurek said there are 43,000 people in Lewis and Clark County, more in Broadwater County, and Jefferson County that are included in the first district. The reason for their request for a third judge is the government is here in Helena in the first district. He acknowledged that the district is very fortunate that they have two very good judges. They have a large amount of research to do and a huge complex volume of work.

PROPOSERS:

Pat Hooks from Townsend stated they had received a judge from Helena every other week. Presently, they are scheduled every Friday, with the last week of each month for trial. If a judge cannot come to Townsend, they have a delay. Sometimes they have to bring trials to Helena, which is not right. District one has cases that are unique, and these take time away from other matters. He told the committee there is need for another judge, and there is space in the court house.

De Pass - Unanimous

January 21, 1981

State Administration Meeting Minutes

Senator Towe asked where would the third judge be located?
The answer was that there is adequate space in the courthouse.

Senator Ryan asked Senator Brown why he was only asking for one more judge. He responded by saying that they think they have addressed the problem well and feel that one will suffice.

Senator Brown closed by saying the bill should be passed for these reasons: 1. Space is available. 2. The judges are working too hard. 3. The types of cases the judges have to deal with are lengthy and complex.

The hearing of Bill No. 113 was closed.

ACTION ON SENATE BILL NO. 113: Senator Kolstad moved that this bill DO PASS. It carried by a unanimous oral vote.

ACTION ON SENATE BILL #114: Senator Towe moved that this bill DO NOT PASS. It passed by unanimous oral vote.

ACTION ON SENATE BILL #142: Senator Hafferman moved that this bill DO PASS. It passed by unanimous oral vote.

ADJOURNMENT: 10:50



SENATOR PETE STORY, Chairman

Judiciary Committee

March 5, 1981

Page 4

There were no further proponents.

There were no opponents.

REP. EUDAILY stated line 19 in the case of a teacher who takes action, a suit could be three years before the case is ever heard. SMITH replied the purpose is to avoid that. Without that language the Human Rights Commission might be sitting on that complaint for three years.

REP. YARDLEY asked if it was common to file at both places at the same time. SMITH replied currently there are two separate cases that are doing that.

REP. YARDLEY stated in most cases school employees would not have a case heard in front of the Human Rights Commission because they would not have jurisdiction. SMITH replied only if there was a race or age discrimination. If a person had a grievance he would go to the Human Service Commission and they would direct the case to the district court.

SENATE BILL 113 SENATOR S. BROWN stated this bill is to amend section 3-5-102 to provide for a third district court judge in the first judicial district. The judge would be elected in the '82 election. EXHIBIT 3, a letter from Michael Abley, Court Administrator of the Supreme Court, was given to the committee. Presently there are 746 cases per judge in this district. This jurisdiction has the greatest amount of civil filings. There are many complex cases and many appeals are heard. Because of the heavy caseload one case was heard over five separate days when it could be worked into the schedule. There is a definite effect on adoption cases and divorce cases. Many people who have disputes come to appeal this. A new courthouse will not have to be built as there would be enough room for an additional judge.

The final point is that this is not a case where the two present judges are not putting in their time. They are working hard yet there is a need for an additional judge.

SENATOR JOE MAZUREK gave the committee EXHIBIT 4. This would service not only the residents of this county but also the people who have cases against the state. It is more appropriate to have cases against the state in Lewis & Clark county because the state agencies are located here and the necessary paperwork and files are easier to maintain during the case.

LARRY HUSS was in favor of the bill. Approximately 60% of his time is devoted to government litigation. These are difficult cases and it takes time to educate the judges and attorneys.



3-31-81
SB113
Exhibit

District Court

First Judicial District

Helena, Montana 59601

Don R. Bennett
District Judge

January 14, 1981

Peter G. Meloy
District Judge

The Honorable G. Steven Brown
Senate Chambers
State Capitol
Helena, Montana 59601

The Honorable Joseph P. Mazurek
Senate Chambers
State Capitol
Helena, Montana 59601

Gentlemen:

With regard to your bill to expand the judiciary for this district to three judges, we have been doing a little research, which we will pass on to you.

Volume 8 of the Reports (1889) discloses that the district at that time consisted of [redacted] The next volume (1890) discloses that the district was reduced to Lewis & Clark County alone and a single judge presided. Volume 10 (1891) discloses that the district continued to consist of Lewis & Clark County alone and a single judge presided. The 1892 census gave Lewis & Clark County 12,150 population. It should also be noted that [redacted] The earliest statute book that we have is that for [redacted] The earliest legislation [redacted] The litigation arising from [redacted] usually is filed and handled in this first judicial district. The Administrative Procedure Act alone has added considerably to the work load of this district in which most of the appeals are filed. In the majority of the administrative appeals the records of the agency, which must be read by the Court, are very voluminous and the legal questions very complex.

On a modest scale, this district is comparable in this particular function to the United States Court of Appeals for the District of Columbia. Chief Justice Warren E. Burger in his year-end report to Congress on December 29, 1980, had this to say about that court:

"The haphazard way in which judgeships are created, in large numbers after long periods of adding none at all,

The Honorable G. Steven Brown
The Honorable Joseph P. Mazurek
January 14, 1981

Page Two

merely compounds this problem [of court overload] and underscores the dire need for some better means of allocating new judgeships at the district and circuit level. Of special importance is the need for additional judges for the United States Court of Appeals for the D.C. Circuit. The unique jurisdiction of that court has placed an unrealistic burden on its judges. That court must have additional judges."

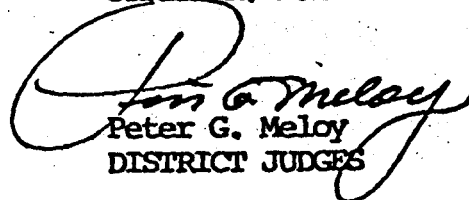
In this the Chief Justice was "singing our song."

The adding of a third judge in this district is a matter of urgency and we respectfully request that this legislation be implemented as soon as possible.

Very truly yours,



Gordon R. Bennett



Peter G. Meloy
DISTRICT JUDGE

hb

Exhibit P
1/21/83

THE DISTRICT COURTS IN MONTANA

A Report to the Subcommittee on Judiciary

September, 1981

**Prepared by: Lois Menzies, Researcher
Montana Legislative Council
Helena, Montana**

Attempts at restructuring Montana's district court system have been numerous in recent years. Following the defeat of three bills creating three new judgeships and an additional district during the 1975 legislative session,¹ an interim committee was "charged with developing a proposal for presentation to the 1977 legislature that would reorganize the judicial districts to account for inequalities that had arisen as the result of changes in populations and caseloads."² The committee's work resulted in the passage of a bill in 1977 creating three new judgeships and a new judicial district.³ In 1979, an additional judgeship was created,⁴ but legislation to establish a new district failed.⁵ Also defeated was an attempt to assign another interim committee "to evaluate Montana's judicial district boundaries, number of judges, and court support services."⁶ However, the 1981 legislature, while rejecting two bills creating two more judgeships,⁷ passed Senate Joint Resolution 2 requesting a study on judicial redistricting and other issues concerning criminal justice. In a poll of the legislature after the session, the resolution was ranked second on a priority list of issues to be studied during the 1981-1982 interim.

As part of the study of judicial redistricting mandated by Senate Joint Resolution 2, the following information presents a general description of Montana's judicial structure, an overview of the district courts, a legislative history of redistricting, and statistics on district court activities.

MONTANA'S JUDICIAL SYSTEM

Article VII of the Montana Constitution vests the state's judicial power in one supreme court, district and justice courts, and other courts as provided by law.

The Montana Supreme Court, the state court of last resort, consists of one chief justice and six justices elected for eight-year terms.⁸ The court has both original and appellate jurisdiction. In exercising its original jurisdiction, the court may issue, hear, and determine extraordinary writs including writs of mandamus, certiorari, prohibition, injunction, and habeas corpus. In its appellate function, the court may "affirm, reverse, or modify any judgment or order appealed from and may direct the proper judgment or order to be entered or direct a new trial or further proceedings to be had."⁹ The court also has supervisory control over the lower courts.

In Montana, the district courts are the trial courts of general jurisdiction.¹⁰ The state is divided into four single-county and

15 multi-county districts. These nineteen districts are served by 32 judges who are elected to six-year terms. The district courts have both original and appellate jurisdiction. The courts' original jurisdiction extends to criminal felony cases, civil and probate matters, cases in law and at equity, and some misdemeanor cases. District courts also have concurrent original jurisdiction with the justices' courts in some criminal misdemeanor cases. In addition, they have the power to issue writs appropriate to their districts. In their appellate function, the district courts hear appeals from justices', city, and municipal courts.

The justices', municipal, and city courts comprise the courts of limited jurisdiction in Montana. Each county must have at least one justice's court located at the county seat and may authorize one additional court to be located anywhere in the county.¹¹ Effective October 1, 1981, a justice's court also may be located in each city with a population over 5,000. The term of office for justice of the peace is four years. The original jurisdiction of the justice's court extends to most civil cases where a recovery will not exceed \$1,500¹² and to misdemeanor cases punishable by a fine of \$500 or less or imprisonment not exceeding six months or both. Justices' courts have concurrent jurisdiction with district courts in actions of forcible entry and unlawful detainer. These courts also are used for initial appearances and preliminary hearings in felony cases.

A municipal court may be established in any city with a population of 10,000 or more.¹³ Currently Missoula has the only municipal court in Montana. Municipal judges are elected to four-year terms. A municipal court has jurisdiction coordinate and coextensive with the justices' courts of the county where the city is located and exclusive jurisdiction of civil and criminal cases involving violations of city ordinances.

Unless a city has a municipal court, a city court must be established in each city or town in the state.¹⁴ City judges are elected to four-year terms. In a town, the justice of the peace of the county in which the town is situated may act as city judge. A city court has concurrent jurisdiction with the justice's court in all misdemeanors punishable by a fine of \$500 or less or by imprisonment not exceeding six months or by both. It exercises exclusive jurisdiction over municipal ordinances.

The following diagram summarizes the jurisdiction exercised by the courts.

SUMMARY OF JURISDICTION EXERCISED BY MONTANA COURTS

• CONSTITUTIONAL WRITS

Supervisory Control
Other Necessary Writs

Mandamus
Certiorari
Prohibition
Injunction
Quo Warranto
Habeas Corpus

SUPREME COURT
Chief Justice & Six
Associate Justices

• CIVIL ACTIONS

Equitable Remedies

Claims Exceeding \$1,500¹

Claims Less Than \$1,500¹

Divorce
Annulment
Bankruptcy
Probate

Forcible Entry and
Unlawful Detainer

DISTRICT COURTS
19 Judicial Districts
32 District Judges

**JUSTICE OF THE PEACE
COURTS**

• CRIMINAL PROSECUTIONS

Felonies

Misdemeanors

Misdemeanors—
Fine less than \$501;
Imprisonment not
exceeding 6 months

CITY COURTS

MUNICIPAL COURTS

• MUNICIPAL ORDINANCES

Licenses
Traffic Violations
Municipal Taxes

Original Action Taken ———→
Appeal Taken —————→

Source: Montana Supreme Court, 1978 Annual Report, p. 11. (Updated by Montana Session Laws).

¹ Increased to \$3,500 on October 1, 1981.

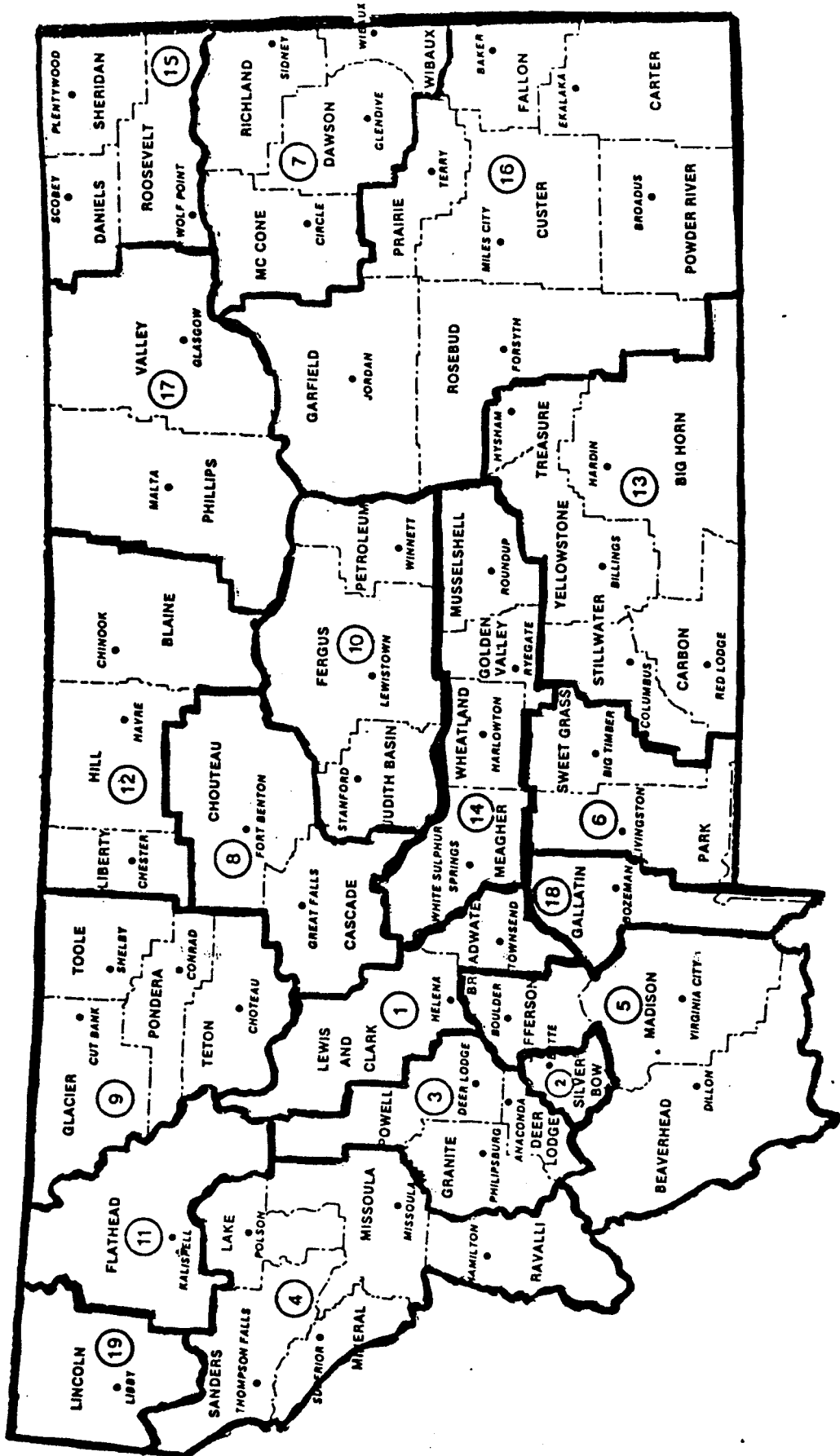
THE DISTRICT COURTS

As mentioned earlier, Montana's district court system consists of four single-county and fifteen multi-county districts for a total of nineteen. The size, population, and density varies greatly among districts. For instance, the largest district in the state is 23,212 square ^{miles} ~~feet~~ (District 16) while the smallest district is 715 square ~~feet~~ ^{miles} (District 2). The population of the districts range from 133,809 in District 13 to 9,967 in District 14. District 2 is the most densely populated with 53.27 people per square mile; District 14 has the lowest density with 1.49 people per square mile. (See map and Tables 1 and 2.)

Eleven of the judicial districts are served by one judge each; five districts have two judges each; one district has three judges; and two districts have four judges each for a total of thirty-two district court judges. (See Appendix A for a list of district court judges.) Judges are elected on a nonpartisan basis to serve six-year terms. If a vacancy in office occurs, the governor nominates a replacement subject to senate confirmation. Following senate confirmation, the appointee must run for office during the next general election. Twenty-eight of the judges' terms expire in January, 1982; the remainder expire in 1984 or 1986.¹⁵ The annual salary for a district court judge is \$42,273 for fiscal year 1982 and \$45,841 for fiscal year 1983. Judges' salaries, travel expenses, and benefits (insurance, unemployment compensation, social security, retirement, etc.) are funded by the state.

The remaining district court costs are financed by the counties. These expenses include salary and benefits for court clerks, court reporters, youth probation officers, and other court employees; office supplies and printing; jury and witness expenses; defense costs; guidance and counseling services; law library costs; and psychiatric evaluations for defendants. To finance district court operations, a county may levy an annual tax on property within its boundaries. This tax may not exceed six mills in first- and second-class counties, five mills in third- and fourth-class counties, and four mills in fifth-, sixth-, and seventh-class counties.¹⁶ If court costs exceed the sum derived from the mill levy, a county may apply to the Montana Department of Administration for a state grant to meet its district court obligations. This grant money may be used for all expenses except for building, capital, and library maintenance, replacement, and acquisition. The 1981 legislature appropriated \$375,000 in grant money for fiscal year 1982 and the same amount for fiscal year 1983.¹⁷ In August, 1981, thirteen counties received district court grants ranging in amounts from \$96,675 to \$360.¹⁸

MONTANA'S DISTRICT COURTS



JUDICIAL DISTRICTS, 1981

Dist.	No. Judges	Counties	Population*	County Area Sq. Miles	District Population	District Area Sq. Miles	Populatio Per Judge
1	2	Lewis and Clark Broadwater	43,039 3,267	3,476 1,193	46,306	4,669	23,153
2	2	Silver Bow	38,092	715	38,092	715	19,046
3	1	Powell Granite Deer Lodge	6,958 2,700 12,518	2,336 1,733 740	22,176	4,809	22,176
4	4	Missoula Mineral Lake Ravalli Sanders	76,016 3,675 19,056 22,493 8,675	2,612 1,222 1,494 2,382 2,798	129,915	10,509	32,478.
5	1	Beaverhead Jefferson Madison	8,186 7,029 5,448	5,551 1,652 3,528	20,663	10,731	20,663
6	1	Park Sweet Grass	12,660 3,216	2,626 1,840	15,876	4,466	15,876
7	1	Dawson McCone Richland Wibaux	11,805 2,702 12,243 1,476	2,370 2,607 2,079 890	28,226	7,946	28,226
8	3	Cascade Chouteau	80,696 6,092	2,661 3,927	86,788	6,588	28,929.
9	1	Teton Pondera Toole Glacier	6,491 6,731 5,559 10,628	2,294 1,645 1,950 2,964	29,409	8,851	29,409
10	1	Fergus Judith Basin Petroleum	13,076 2,646 655	4,242 1,880 1,655	16,377	7,777	16,37

TABLE 1 (Continued)

Dist.	No. Judges	Counties	Population*	County Area Sq. Miles	District Population	District Area Sq. Miles	Population Per Judge
11	2	Flathead	51,966	5,137	51,966	5,137	25,983
12	1	Liberty Hill Blaine	2,329 17,985 6,999	1,439 2,927 4,265	27,313	8,631	27,313
13	4	Yellowstone Big Horn Carbon Stillwater Treasure	108,035 11,096 8,099 5,598 981	2,642 5,023 2,066 1,794 985	133,809	12,510	33,452.
14	1	Meagher Wheatland Golden Valley Musselshell	2,154 2,359 1,026 4,428	2,354 1,420 1,176 1,887	9,967	6,837	9,967
15	1	Roosevelt Daniels Sheridan	10,467 2,835 5,414	2,385 1,443 1,694	18,716	5,522	18,716
16	2	Custer Carter Fallon Prairie Powder River Garfield Rosebud	13,109 1,799 3,763 1,836 2,520 1,656 9,899	3,756 3,313 1,633 1,730 3,288 4,455 5,037	34,582	23,212	17,291
17	1	Phillips Valley	5,367 10,250	5,213 4,974	15,617	10,187	15,617
18	2	Gallatin	42,865	2,517	42,865	2,517	21,432.
19	1	Lincoln	17,752	3,714	17,752	3,714	17,752

*County population and area figures from U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1980. (P.L. 94-171. Population Counts, Montana).

Population, Population Density, Area, and Ranks

Dist.	No. Judges	1980 Population	Pop. Density (Per Sq. Mi.)	Area Sq. Miles	1980 Pop. Rank	Dist. Rank	Pop. Density Rank	Dist. Area Rank
1	2	46,306	9.92	4,669	5	7	15	15
2	2	38,092	53.27	715	7	1	19	19
3	1	22,176	4.61	4,809	12	9	14	14
4	4	129,915	12.36	10,509	2	4	4	4
5	1	20,663	1.92	10,731	13	15	3	3
6	1	15,876	3.55	4,466	17	10	16	16
7	1	28,226	3.55	7,946	10	8	8	8
8	3	86,788	13.17	6,588	3	3	11	11
9	1	29,409	3.32	8,851	9	12	6	6
10	1	16,377	2.11	7,777	16	14	9	9
11	2	51,966	10.17	5,137	4	6	13	13
12	1	27,313	3.16	8,631	11	13	7	7
13	4	133,809	10.70	12,510	1	5	2	2
14	1	9,967	1.46	6,837	19	18	10	10
15	1	18,716	3.39	5,522	14	11	12	12
16	2	34,582	1.49	23,212	8	17	1	1
17	1	15,617	1.53	10,187	18	16	5	5
18	2	42,865	17.03	2,517	6	2	18	18
19	1	17,752	4.78	3,714	15	8	17	17

As the following table illustrates, district court costs for both the state and the counties have accelerated rapidly in recent years. Between fiscal years 1973 and 1980, state general fund appropriations increased 102% while county expenditures increased 281%.

Table 3

State and County District Court Costs

	<u>FY 1973*</u>	<u>FY 1975*</u>	<u>FY 1977*</u>	<u>FY 1980**</u>
State General Fund Appropriation	\$ 688,418	837,216	850,860	1,391,263
County Expenditures	<u>\$1,743,592</u>	<u>2,437,549</u>	<u>4,567,223</u>	<u>6,655,429</u>
Total	\$2,432,010	3,274,765	5,418,083	8,046,692

* Source: Lee B. Heiman, Jr., State Assumption of Costs for District Court Operations, Local Government Review Bulletin, Vol. 4, No. 4, April, 1977, pp. 19, 29. (1977 figures represent budgeted, rather than actual, expenditures.)

** Source: Office of the Supreme Court Administrator, District Court Financial Summary, November, 1980.

JUDICIAL REDISTRICTING

Article VII, section 6 of the Montana Constitution authorizes the legislature to divide the state into judicial districts and to provide for the number of judges in each district. The districts must be formed of compact territory and bounded by county lines. The constitution prohibits any judge from being removed from office during his elected or appointed term because of judicial redistricting.

In 1889, the state's sixteen counties were divided into eight judicial districts with one judge per district. Additional districts and judges followed with increases in the state's population. In 1919, the number of districts reached a peak of twenty with a total of thirty judges. Following a comprehensive legislative study of district court caseloads, the number of districts was reduced to seventeen and the number of judges to twenty-three in 1929. After the 1929 redistricting, the number of districts remained fairly constant with only two districts created over a fifty-two year period; the 18th District was created in 1947 and the 19th in 1977. During the same period, the number of judges increased incrementally; nine new judgeships were created including the most recent addition of a fourth judge in District 4 in 1979.

Table 4 shows the evolution of judicial districts and judgeships between 1889 and 1979.

Table 4

Changes in Number of Districts and Judges (1889-1979)

<u>Year Enacted</u>	<u>No. of Districts</u>	<u>No. of Judges</u>
1889	8	8
1895	11	13
1901	12	15
1907	13	17
1909	13	19
1911	13	21
1913	14	23
1915	17	25
1917	18	27
1919	20	30
1929	17	23
1947	18	24
1955	18	25
1957	18	26
1959	18	27
1963	18	28
1977	19	31
1979	19	32

Source: Constitution of Montana (1889); Laws of Montana (1901, 1907, 1909, 1911, 1913, 1915, 1917, 1919, 1929, 1947, 1955, 1957, 1959, 1963, 1977, and 1979).

DISTRICT COURT STATISTICS

The collection and analysis of trial court data in the past was sporadic. In 1927, the House of Representatives passed a resolution requesting the appointment of a special committee "for the purpose of assembling data concerning the volume of business transacted by the various judicial districts and district courts of the state."¹⁹ The committee gathered statistics for the years 1922 through 1926. This data was later used by the 1929 legislature for redistricting purposes. In 1967 the Montana Supreme Court sent questionnaires to the county attorneys to collect statistics on county caseloads.²⁰ Again in 1973, the clerks of court were surveyed "to give the Supreme Court basic information as to the volume and kind of work performed by the trial courts."²¹ The Subcommittee on Judiciary also polled the clerks in 1975 for caseload data to assist them in their district court study.

Despite careful efforts to collect accurate and complete data, most compilers expressed doubts as to the reliability of their judicial statistics.²² All recognized the need for a uniform method of collecting and analyzing court statistics on a continuous basis.

In response to the need for reliable, continuous statistics, the Montana Supreme Court established the Judicial Management Information System in the Office of the Court Administrator in 1977. This statewide information-gathering system provides statistical data on district court operations. When a case is filed in district court, the clerk of court notifies the court administrator of the casefiling on a standard form. Upon receipt of the form, the administrator enters and stores this information into a computer base. The clerk again notifies the court administrator when the case is terminated, and this information is also recorded and stored. Although initially some problems developed in the collection of data for the system, many of these difficulties have been resolved.²³ Compared to the ad hoc collection methods of the past, the Judicial Management Information System is a convenient source for statistical data to monitor and evaluate district court activity.

Based on data from the Judicial Management Information System and other earlier sources, the following information provides a statistical picture of the structure and operation of the district courts.

Casefilings

During calendar year 1980, a total of 31,345 cases were originally filed or reopened in Montana's 19 judicial districts. The majority of these filings involved civil cases (72% or 22,468 cases). Nineteen percent or 6,100 of the cases were categorized as juvenile, probate, insanity, or adoption cases. The remaining 9% or 2,771 were criminal cases.

On a district-wide level, casefilings varied substantially among districts. District 13 experienced the highest number of filings (5,871 cases or 18%) including the greatest number of criminal (521), civil (4,359), and juvenile, probate, insanity, and adoption cases (991). The fewest cases were filed in District 14 (369 or 1.2%), including the least number of civil (203) and juvenile, probate, etc. cases (106). District 17 had the smallest number of criminal casefilings (30). On an average, 1,648 cases were filed per district in 1980, and five districts exceeded this average. (See Table 5.)

The range of casefilings per judge extends from 1,879 cases in District 4 to only 369 cases in District 14. Based on a districtwide average of 979 cases per judge, 14 judges in six districts exceeded the average while 17 judges in 13 districts fell below the mean.

Wide variations also existed in the number of cases filed in each county. Yellowstone County in District 13 lead the counties in the highest number of casefilings with 5,132, including the greatest number of criminal (426), civil (3,902), and juvenile, probate, insanity, and adoption cases (804). On the bottom of the list was Petroleum County in District 10 with only 19 casefilings in 1980; this county also had the fewest criminal (0) and civil casefilings (5). Treasure County in District 13 received the fewest juvenile, probate, insanity, and adoption cases filed (6). Seven counties received over 1,000 filings each in 1981 (Lewis and Clark, Silver Bow, Missoula, Cascade, Flathead, Yellowstone, and Gallatin) for a total of 60% of all casefilings. Eight counties had over 500 but less than 1,000 filings for a total of 16% of the filings, while the remaining 41 counties each received 500 or less cases for a total of 24%. (See Table 6.)

Using casefiling data from past studies, comparisons can be made in the number of cases filed in the trial courts over the last 20 years. As illustrated in Table 7, the number of cases filed increased from 12,863 in 1960 to 31,345 in 1980, a 144% increase. District casefilings ranged from 2,341 to 207 in 1960; from 2,867 to 204 in 1970; and from 5,871 to 369 in 1980.

Between 1960 and 1970, casefilings increased in 13 districts. In some districts, the increases were relatively small: 7% in District 2, 9% in District 3, 17% in District 9, 1% in District 15, and 8% in District 16. In others, increases exceeded 60%: 73% in District 1, 60% in District 4, and 43% in District 5. However, Districts 6, 7, 8, 12, and 14 experienced a decline in casefilings. The increases in cases filed were even more dramatic between 1970 and 1980.²⁴ Except for a 3% decrease in the number of cases filed in District 17, all of the districts experienced substantial increases ranging from 13% in Districts 3 and 11 to 201% in District 4.

The number of casefilings per judge also rose between 1960 and 1980. In 1960, 28 judges received an average of 459 casefilings each. By 1980, the number of judges increased to 31 and the average number of casefilings per judge to 1,011, a 113% increase (See Table 8.)

Table 9 summarizes the casefiling statistics for 1960-1980.

TABLE 5
1980 CASEFILINGS BY DISTRICT

<u>District</u>	<u>Criminal</u>	<u>Civil</u>	<u>Juvenile, Adoption, Probate, Insanity</u>	<u>Total</u>	<u>Casefilings per Judge</u>
1	198	1,844	324	2,366	1,183
2	63	899	341	1,303	651
3	78	492	213	783	783
4	467	4,398	773	5,638	1,879
5	99	489	188	776	776
6	96	433	137	666	666
7	145	730	328	1,203	1,203
8	224	2,510	678	3,412	1,137
9	75	624	266	965	965
10	57	382	177	616	616
11	153	1,437	284	1,874	937
12	94	759	264	1,117	1,117
13	521	4,359	991	5,871	1,468
14	60	203	106	369	369
15	35	256	220	511	511
16	162	896	312	1,370	685
17	30	277	132	439	439
18	118	1,024	250	1,392	696
19	<u>96</u>	<u>456</u>	<u>122</u>	<u>674</u>	674
	2,771	22,468	6,106	31,345	

Source: Judicial Management Information System, Office of Supreme Court Administrator

TABLE 6
1980 CASEFILINGS BY COUNTY

<u>District</u>	<u>Counties</u>	<u>Criminal</u>	<u>Civil</u>	<u>Juvenile, Adoption, Probate, Insanity</u>	<u>Total</u>
1	Lewis & Clark	192	1,732	312	2,236
	Broadwater	6	112	12	130
2	Silver Bow	63	899	341	1,303
3	Powell	64	212	43	319
	Granite	5	100	18	123
	Deer Lodge	9	180	152	341
4	Missoula	245	3,069	392	3,706
	Mineral	10	98	18	126
	Lake	86	456	136	678
	Ravalli	82	586	159	827
	Sanders	44	189	68	301
5	Beaverhead	31	193	96	320
	Jefferson	52	191	51	294
	Madison	16	105	41	162
6	Park	79	356	99	534
	Sweet Grass	17	77	38	132
7	Dawson	68	297	145	510
	McCone	4	35	28	67
	Richland	68	352	116	536
	Wibaux	5	46	39	90
8	Cascade	212	2,402	623	3,237
	Chouteau	12	108	55	175
9	Teton	13	129	56	198
	Pondera	17	101	39	157
	Toole	18	145	92	255
	Glacier	27	249	79	355
10	Fergus	50	311	139	500
	Judith Basin	7	66	24	97
	Petroleum	0	5	14	19

TABLE 6 (Continued)
1980 CASEFILINGS BY COUNTY

<u>District</u>	<u>Counties</u>	<u>Criminal</u>	<u>Civil</u>	<u>Juvenile, Adoption, Probate, Insanity</u>	<u>Total</u>
11	Flathead	153	1,437	284	1,874
12	Liberty	4	42	23	69
	Hill	66	549	177	792
	Blaine	24	168	64	256
13	Yellowstone	426	3,902	804	5,132
	Big Horn	52	147	79	278
	Carbon	19	180	59	258
	Stillwater	23	117	43	183
	Treasure	1	13	6	20
14	Meagher	1	41	16	58
	Wheatland	10	51	19	80
	Golden Valley	3	13	11	27
	Musselshell	46	98	60	204
15	Roosevelt	24	145	74	243
	Daniels	2	34	64	100
	Sheridan	9	77	82	168
16	Custer	88	414	126	628
	Carter	4	30	36	70
	Fallon	14	100	28	142
	Prairie	5	30	17	52
	Powder River	7	62	23	92
	Garfield	6	18	18	42
	Rosebud	38	242	64	344
17	Phillips	9	109	52	170
	Valley	21	168	80	269
18	Gallatin	118	1,024	250	1,392
19	Lincoln	96	456	122	674

Source: Judicial Management Information System, Office of Supreme Court Administrator

TABLE 7
CASEFILINGS PER DISTRICT
1960 - 1980

<u>District</u>	<u>1960</u>	<u>1970*</u>	<u>1980**</u>	<u>% Change 1960-1970</u>	<u>% Change 1970-1980</u>
1	602	1,039	2,366	+ 73%	+128%
2	986	1,058	1,303	+ 7%	+ 23%
3	634	691	783	+ 9%	+ 13%
4	1173	1,875	5,638	+ 60%	+201%
5	277	395	776	+ 43%	+ 96%
6	343	273	666	- 20%	+144%
7	542	513	1,203	- 5%	+134%
8	2,341	1,665	3,412	- 29%	+105%
9	673	787	965	+ 17%	+ 23%
10	207	257	616	+ 24%	+140%
11***	793	1,664	1,874	+110%	+ 13%
12	681	524	1,117	- 23%	+113%
13	2,205	2,867	5,871	+ 30%	+105%
14	228	204	369	- 10%	+ 89%
15	305	309	511	+ 1%	+ 65%
16	460	495	1,370	+ 8%	+177%
17	336	454	439	+ 35%	- 3%
18	595	798	1,392	+ 34%	+ 74%
19***	---	---	674	---	---
Totals	12,863	14,941	31,345		

* Source: Subcommittee on Judiciary, Montana's District Courts, (Helena, Montana: Montana Legislative Council, 1976), p. 20.

** Source: Judicial Management Information System, Office of Supreme Court Administrator.

*** 1977 legislation removed Lincoln County from District 11 and created District 19 consisting of Lincoln County.

TABLE 8

CASEFILINGS PER JUDGE: 1960 - 1980

Dist.	1960*		1970*		1980**	
	No. of Judges	CPJ	No. of Judges	CPJ	No. of Judges	CPJ
1	2	301	2	520	2	1,183
2	2	493	2	529	2	651
3	1	634	1	691	1	783
4	3	391	3	625	3	1,879
5	1	277	1	395	1	776
6	1	343	1	273	1	666
7	1	542	1	513	1	1,203
8	3	780	3	555	3	1,137
9	1	673	1	787	1	965
10	1	207	1	257	1	616
11***	2	397	2	832	2	937
12	1	681	1	524	1	1,117
13	3	735	3	956	4	1,468
14	1	228	1	204	1	369
15	1	305	1	309	1	511
16	2	230	2	248	2	685
17	1	336	1	454	1	439
18	1	595	1	798	2	696
19***					1	674

* Source: Subcommittee on Judiciary, Montana's District Courts, (Helena, Montana: Montana Legislative Council, 1976), p. 21

* Source: Judicial Management Information System, Office of Supreme Court Administrator

* 1977 legislation removed Lincoln County from District 11 and created District 19 consisting of Lincoln County.

TABLE 9

CASEFILING SUMMARY: 1960 - 1980

<u>Year</u>	<u>Case- filings</u>	<u>No. Dist.</u>	<u>Aver. Per Dist.</u>	<u>Dist. Above Mean</u>	<u>Dist. Below Mean</u>	<u>Range Per Dist.</u>	<u>No. Judges</u>	<u>Aver. Per Judge</u>	<u>Judges Above Mean</u>	<u>Judges Below Mean</u>	<u>Range Per Judge</u>
1960	12,863	18	715	5	13	2,341 - 207	28	459	13	15	780 - 20
1970	14,941	18	830	6	12	2,867 - 204	28	534	14	14	956 - 20
1980	31,345	19	1,648	5	14	5,871 - 369	31	1,011	14	17	1,879 - 36

Dispositions

In 1980, the trial courts disposed of 26,850 cases. Of this total, 73% of the dispositions (19,520) were civil cases; 17% (4,699) were juvenile, adoption, probate, and insanity cases; and the remaining 10% (2,631) were criminal cases. Between 1978 and 1980, the total number of dispositions increased 14% from 23,472 to 26,850.

As illustrated in Table 10, the judges in District 13 disposed of the most cases (5,757 cases or 21%), including the greatest number of criminal (567), civil (4,283), and juvenile, adoption, probate, and insanity cases (907). District 17 disposed of the fewest cases (343 cases or 1%). The number of criminal case dispositions was lowest in District 15 (23 cases). District 14 disposed of the fewest civil cases and District 19 the fewest juvenile, adoption, probate, and insanity cases. Five districts exceeded the average disposition per district of 1,413 cases.

The number of dispositions per judge ranged from 1,476 in District 4 to 343 in District 17 in 1980, while the average disposition per judge was 866. Of the 31 judges, 14 judges in seven districts exceeded the average and 17 judges in 12 districts fell below the mean.

On a countywide level, Yellowstone County in District 13 disposed of the greatest number of criminal (482), civil (3,819), and juvenile, adoption, probate, and insanity (757) cases for a total of 5,058 cases. Petroleum County in District 10 had the fewest total dispositions (13) and the fewest dispositions for civil cases (5). Two counties, Meagher and Petroleum, disposed of no criminal cases. Broadwater County had the fewest dispositions in the category of juvenile, adoption, probate, and insanity cases with 4. (See Table 11).

Within the state, the average lifespan for all case types, from filing to disposition, was 199 days in 1980. Juvenile, adoption, probate, and insanity cases lasted over three times as long as criminal cases: 304 days compared to 91 days; civil cases averaged 189 days statewide. Between 1978 and 1980, the average number of days to dispose of a case increased 30% from 153 to 199 days.

Among the judicial districts, the length of time for all case types ranged from 101 days in District 19 to 379 days in District 3. Criminal cases lasted from 33 days (District 6) to

154 days (District 9). District 19 experienced the shortest disposition average for civil cases (94 days) and juvenile, adoption, probate, and insanity cases (145 days), while District 3 had the longest average for these two case types (322 days for civil and 574 days for juvenile, etc.) (See Table 12).

Table 13 illustrates the differences in disposition times across counties. For all types of cases, the average number of days to dispose of a case extended from 70 days in Broadwater County (District 2) to 812 days in Carter County (District 16). The range for criminal cases was 1 day in Golden Valley County to 467 days in Powder River County; for civil cases, 67 days in Broadwater and Pondera counties to 1,100 days in Carter County; and for juvenile, adoption, probate, and insanity cases, 148 days in Musselshell County to 639 days in Deer Lodge County.

TABLE 10
1980 DISPOSITIONS BY DISTRICT

<u>District</u>	<u>Criminal</u>	<u>Civil</u>	<u>Juvenile, Adoption, Probate, Insanity</u>	<u>Total</u>	<u>Dispositions per Judge</u>
1	175	1,257	204	1,636	818
2	53	691	206	950	475
3	69	558	273	900	900
4	409	3,447	671	4,427	1,476
5	89	561	134	784	784
6	83	293	76	452	452
7	144	703	258	1,105	1,105
8	229	2,306	477	3,012	1,004
9	71	626	240	937	937
10	47	336	135	518	518
11	150	1,272	215	1,637	818
12	86	647	213	946	946
13	567	4,283	907	5,757	1,439
14	64	198	85	347	347
15	23	205	157	385	385
16	155	756	258	1,169	584
17	28	229	86	343	343
18	108	747	131	986	493
19	<u>81</u>	<u>405</u>	<u>73</u>	<u>559</u>	559
Totals	2,631	19,520	4,699	26,850	

Source: Judicial Management Information System, Office of Supreme Court Administrator

TABLE 15

1980 THRUPUT STATISTICS BY COUNTY

<u>District</u>	<u>Counties</u>	<u>Criminal</u>	<u>Civil</u>	<u>Juvenile, Adoption, Probate, Insanity</u>	<u>Average All Cases</u>
1	Lewis & Clark	89	69	64	70
	Broadwater	83	59	33	58
2	Silver Bow	84	77	60	73
3	Powell	81	119	95	108
	Granite	83	107	67	100
	Deer Lodge	144	110	145	126
4	Missoula	86	76	66	76
	Mineral	90	82	67	80
	Lake	88	84	99	88
	Ravalli	90	83	65	80
	Sanders	89	82	90	85
5	Beaverhead	74	68	52	64
	Jefferson	88	183	102	152
	Madison	125	76	78	81
6	Park	84	66	47	65
	Sweet Grass	100	75	70	79
7	Dawson	110	107	86	102
	McCone	125	94	82	91
	Richland	85	89	81	87
	Wibaux	120	83	41	67
8	Cascade	101	91	69	87
	Chouteau	117	113	87	105
9	Teton	92	109	79	99
	Pondera	71	75	113	84
	Toole	133	96	102	101
	Glacier	85	108	73	99
10	Fergus	78	88	72	83
	Judith Basin	114	85	113	94
	Petroleum	0	100	57	68

TABLE 15 (Continued)

1980 THRUPUT STATISTICS BY COUNTY

<u>District</u>	<u>Counties</u>	<u>Criminal</u>	<u>Civil</u>	<u>Juvenile, Adoption, Probate, Insanity</u>	<u>Average All Cases</u>
11	Flathead	98	89	76	87
12	Liberty	150	90	91	94
	Hill	82	85	85	85
	Blaine	108	85	66	82
13	Yellowstone	113	98	94	99
	Big Horn	83	88	73	83
	Carbon	95	111	85	104
	Stillwater	96	105	84	99
	Treasure	200	92	100	100
14	Meagher	0	105	63	91
	Wheatland	140	88	84	94
	Golden Valley	100	85	55	74
	Musselshell	102	101	88	98
15	Roosevelt	63	72	86	76
	Daniels	150	79	48	61
	Sheridan	56	95	76	83
16	Custer	92	84	79	84
	Carter	50	117	119	114
	Fallon	100	76	89	81
	Prairie	40	50	82	60
	Powder River	143	103	87	102
	Garfield	100	78	39	64
	Rosebud	105	85	78	86
17	Phillips	111	68	77	73
	Valley	86	92	58	81
18	Gallatin	92	73	52	71
19	Lincoln	84	89	60	83

Source: Judicial Management Information System, Office of Supreme Court Administrator

Travel Data

As illustrated in Table 16, the miles traveled by district court judges fluctuated over the last five years from a low of 216,486 miles in 1976 to a high of 265,125 miles in 1980. During each of these years, District 4 (Missoula, Mineral, Lake, Ravalli, and Sanders counties) lead the jurisdictions in annual mileage. Except for 1979, the districts recorded a steady increase in miles traveled per district from 12,027 miles in 1976 to 13,954 miles in 1980. Miles per judge ranged from 7,732 in 1976 to 9,013 for the following year. For 1980, the average miles per district was 13,954, and the average per judge was 8,552.

For some districts, a close relationship existed between district size and miles traveled by judges: the larger the district, the greater the mileage. For example, the two judges in District 16, the largest judicial district in square miles, were ranked second in miles driven; the judge in the third largest district ranked third; and the four judges in the fourth largest district ranked first. Conversely, the smaller the district, the fewer miles driven. In the smallest district (District 2), the two judges ranked last in total mileage. However, in some districts, the relationship is nonexistent: the four judges in District 13, the second largest district, ranked 13th in miles traveled. (See Table 17.)

TABLE 16

MILES TRAVELED BY DISTRICT COURT JUDGES -- 1976 - 1980

<u>Judicial District</u>	<u>Number Judges</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
1	2	5,546	7,784	6,540	6,394	7,816
2	2	3,234	6,795	7,211	7,167	4,045
3	1	11,281	10,509	8,837	3,490	7,897
4	3	28,266	28,805	40,859	41,381	45,859
5	1	16,325	20,161	20,618	19,354	18,546
6	1	7,462	12,974	10,082	8,260	13,681
7	1	11,493	18,535	17,168	17,535	14,371
8	3	5,530	5,626	5,602	6,330	7,987
9	1	12,667	11,404	17,467	17,757	16,662
10	1	16,346	17,235	16,114	11,863	12,919
11	2	15,596	16,898	5,768	4,126	4,773
12	1	9,602	10,680	12,983	17,149	13,291
13	3	10,634	13,855	7,690	9,753*	10,953
14	1	15,632	24,473	18,360	15,666	14,880
15	1	13,821	20,322	10,300	12,216	14,964
16	2	23,393	27,810	27,108	18,570	21,032
17	1	5,956	3,656	12,990	9,387	13,448
18	1	3,702	2,294	3,114	6,728**	7,913
19	1	-----	1,566	9,231	10,101***	14,078
<u>TOTAL</u>		<u>216,486</u>	<u>261,382</u>	<u>258,042</u>	<u>243,227</u>	<u>265,125</u>

* The 13th Judicial District added a fourth judge, Hon. Diane Barz on 01/03/79.

** The 18th Judicial District added a second judge, Hon. Joseph Gary on 01/03-79.

*** Hon. Robert Holter was sworn in as the 19th Judicial District Judge on 07/26/77.

TABLE 17

MILES TRAVELED BY JUDGES AND DISTRICT AREA: 1980

<u>Dist.</u>	<u>No. Judges</u>	<u>Area Square Miles</u>	<u>Miles Driven 1980</u>	<u>Dist. Area Rank</u>	<u>Rank By Miles Driven</u>
1	2	4,669	7,816	15	17
2	2	715	4,045	19	19
3	1	4,809	7,897	14	16
4	4	10,509	45,859	4	1
5	1	10,731	18,546	3	3
6	1	4,466	13,681	16	9
7	1	7,946	14,371	8	7
8	3	6,588	7,987	11	14
9	1	8,851	16,662	6	4
10	1	7,777	12,919	9	12
11	2	5,137	4,773	13	18
12	1	8,631	13,291	7	11
13	4	12,510	10,953	2	13
14	1	6,837	14,880	10	6
15	1	5,522	14,964	12	5
16	2	23,212	21,032	1	2
17	1	10,187	13,448	5	10
18	2	2,517	7,913	18	15
19	1	3,714	14,078	17	8

Source: Office of Supreme Court Administrator

Footnotes

¹Senate Bills 204, 228, and House Bill 605 (1975).

²Subcommittee on Judiciary, Montana's District Courts (Helena, Montana: Montana Legislative Council, 1976), p. 6.

³House Bill 4 (Chapter 517, Laws of Montana, 1977).

⁴Senate Bill 202, (Chapter 542, Laws of Montana, 1979).

⁵Senate Bill 219 (1979).

⁶House Joint Resolution 55 (1979).

⁷Senate Bill 113 and House Bill 658 (1981).

⁸Title 3, chapter 2, MCA, governs the structure and operation of the Montana Supreme Court.

⁹Section 3-2-204, MCA.

¹⁰Title 3, chapter 5, MCA, governs the structure and operation of the district courts.

¹¹Title 3, chapter 10, MCA, governs the structure and operation of the justices' courts.

¹²Effective October 1, 1981, this amount will be increased to \$3,500 (Chapter 348, Laws of Montana, 1981).

¹³Title 3, chapter 6, MCA, governs the structure and operation of municipal courts.

¹⁴Title 3, chapter 11, MCA, governs the structure and operation of city courts.

¹⁵The terms of Judges Diane Barz (District 13) and Joseph Gary (District 18) expire in January, 1984; the terms of Judges Douglas Harkin (District 4) and Robert Holter (District 19) expire in January, 1986.

¹⁶Section 7-6-2511, MCA.

¹⁷During the 1981 session, two conflicting bills were passed concerning state grants for district court operations. Senate Bill 300 (Chapter 465, Laws of 1981), amended section 7-6-2352, MCA, to require the Department of Administration to make grants for the general operation of the district courts to counties meeting certain criteria. However, HB 500, a bill appropriating \$750,000 in grant money for the 1981-1982 biennium, specifically restricted the use of these funds for emergency purposes only. In a recent opinion (Opinion No. 25, Volume No. 39, 14 July 1981), the attorney general ruled that the department should follow the substantive provisions of section 7-6-2352 as amended by SB 303 and disregard

the restrictive language contained in HB 500. The opinion stated that the title of HB 500 could be unconstitutional because it made no mention of the restrictions placed on the appropriation. In addition, the opinion held that appropriation bills may not repeal or restrict substantive provisions in statutes.

¹⁸The following is a list of amounts requested and received by the thirteen counties:

<u>County</u>	<u>Requested</u>	<u>Awarded</u>
Broadwater	\$ 35,175	\$21,795
Jefferson	29,438	18,240
Lincoln	64,351	39,877
Fergus	38,809	24,048
Meagher	12,408	7,687
Butte Silver Bow	155,017	96,075
Cascade	156,013	96,675
Park	18,804	11,663
Wheatland	4,728	2,928
Lewis and Clark	54,242	33,611
Powell	21,890	13,563
Granite	13,676	8,475
Treasure	580	360

¹⁹House Resolution 5 (1927).

²⁰David R. Mason and William F. Crowley, Montana's Judicial System -- A Blueprint for Modernization," Montana Law Review, Vol. 29 (Winter, 1967), p.4.

²¹Erwin L. Anzjon and James W. Zion, "The Montana Judicial System: Survey and Analysis", unpublished research report for the Montana Supreme Court, 1974, p.8.

²²House Journal of the Twentieth Legislative Assembly, Sixtieth Legislative Day, March 3, 1927, p.638; Anzjon-Zion, "The Montana Judicial System: "Survey and Analysis," p.8; Subcommittee on Judiciary, Montana District Courts, pp.6-7.

²³Montana Supreme Court, 1978 Annual Report (Helena, Montana", Office of Court Administrator, 1978), p.24.

²⁴It should be noted that some of the differences in case-filings between 1970 and 1980 could be attributed to the different methods used to collect the statistics. The 1970 data, along with the 1960 numbers were compiled from a survey of district court clerks conducted by the 1975-1976 Subcommittee on Judiciary. The 1980 figures were supplied by the Judicial Management Information System.

²⁵Montana Supreme Court, 1978 Annual Report, p.22.

APPENDIX A

DISTRICT JUDGE SERVICE STATISTICS AS OF AUGUST, 1981

<u>JUDGE</u>	<u>DISTRICT</u>	<u>D/O/B</u>	<u>AGE</u>	<u>AGE</u> <u>SWEARING</u> <u>IN</u>	<u>SWORN</u> <u>IN</u>	<u>YEARS</u> <u>SERVICE</u>
W. W. Lessley	18	05/27/07	74	41	01/03/49	32
LeRoy L. McKinnon	10	12/16/11	69	43	07/01/55	25
L. C. Gulbrandson	7	10/28/22	58	37	01/04/60	21
Nat Allen	14	02/22/10	71	50	01/04/60	21
Ronald D. McPhillips	9	03/14/32	49	30	01/05/63	18
Jack L. Green	4	05/18/22	59	41	05/01/63	17
Jack D. Shanstrom	6	11/30/32	48	32	01/04/65	16
Arthur B. Martin	16	01/16/13	68	52	05/25/65	15
Alfred B. Coate	16	03/20/27	54	40	04/16/67	13
Charles Luedke	13	05/26/19	62	48	09/01/67	13
Robert C. Sykes	11	02/24/19	62	48	09/11/67	13
Bernard W. Thomas	12	01/26/15	66	52	10/01/67	13
M. James Sorte	15	02/22/31	50	38	08/01/69	11
Robert H. Wilson	13	09/23/29	51	40	10/01/69	11
Frank E. Blair	5	08/24/90	91	80	11/21/70	10
Gordon R. Bennett	1	07/19/22	59	48	01/01/71	10
Peter G. Meloy	1	02/22/08	73	63	01/03/72	9
Robert J. Boyd	3	07/18/23	58	49	01/01/73	8
Arnold Olsen	2	12/17/16	64	58	02/28/75	5
James M. Salansky	11	02/04/27	54	49	06/28/76	4
H. William Coder	8	05/05/27	54	49	01/03/77	4*
Joel G. Roth	8	06/06/29	52	47	01/03/77	4**
Leonard H. Langen	17	09/12/14	66	62	01/03/77	4
Robert Holter	19	03/13/27	54	50	07/26/77	4
Diane Barz	13	08/18/43	38	36	01/03/79	2
Joseph Gary	18	04/12/22	59	57	01/03/79	2
John M. McCarvel	8	06/06/21	60	58	01/03/79	2
James B. Wheelis	19	01/18/42	39	37	01/03/79	2
John S. Henson	4	09/28/40	40	38	05/17/79	2
William J. Speare	13	02/14/29	52	50	10/01/79	2
Mark Sullivan	2	02/24/28	53	52	10/21/80	1
Douglas G. Harkin	4	05/21/43	38	37	01/06/81	0

* 9 years Great Falls City Judge

** 4 years Cascade Justice of the Peace

Source: Office of Supreme Court Administrator

THIRTEENTH JUDICIAL DISTRICT

COUNTIES:

SIOUX
CARBON
STILLWATER
TREASURE
YELLOWSTONE

Robert H. Wilson

District Judge
P.O. Box 35028
Billings, Montana 59107

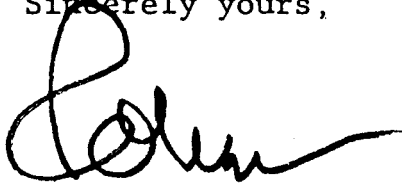
* N O T E *

Exhibit Q
1/21/83

Dear Bruce:

The graph showing the caseload per judge in the Thirteenth Judicial District previously forwarded to you was in error in respect to the 1981 figures. Attached is a corrected graph and on this graph we have placed an "x" indicating the caseload per judge for the year 1981 in each of the other judicial districts in the State.

Sincerely yours,

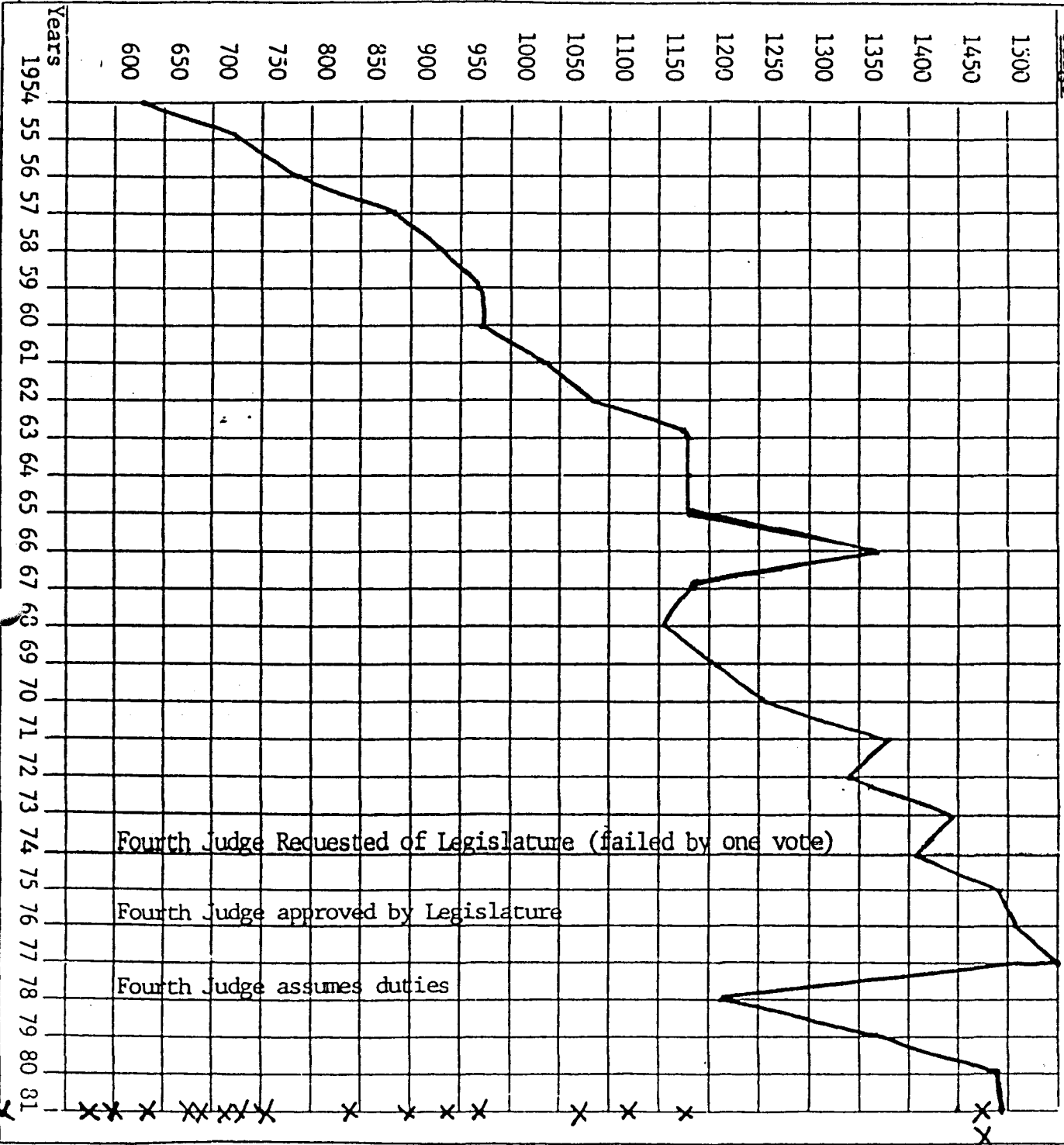


ROBERT H. WILSON
District Judge

RHW:s1

THIRTEENTH JUDICIAL DISTRICT

Caseload per
Judge



KEEFER, ROYBAL, HANSON, STACEY & JARUSSI

ATTORNEYS AT LAW

P.O. BOX 1475

SUITE 412 HART ALBIN BUILDING

BILLINGS, MONTANA 59103

Exhibit R
1/21/83

PHONE 259-4546
AREA CODE 406

NEIL S. KEEFER
J. DWAIN ROYBAL
EARL J. HANSON
CALVIN J. STACEY
GENE R. JARUSSI

January 10, 1983

Senate Judiciary Committee
Montana State Senate
State Capitol
Helena, Montana 59601

Gentlemen:

I am writing this letter in my capacity as Vice-President of the Yellowstone County Bar Association. The letter is written to set forth for the benefit of the Committee the position of the Yellowstone County Bar Association upon Senate Bill No. 26 entitled:

"An Act to Alter Certain Judicial District Boundaries and to Change the Number of Judges in Certain Judicial Districts; providing for the Election of New Judges; providing Abbreviated Terms of Office for Certain Judges; Amending §§ 3-5-101, 3-5-102, and 3-5-203, MCA; and providing a Termination Date and Effective Dates."

I have been advised that Senate Bill 26 has been set for hearing on Friday, January 14, 1983, at 10:00 a.m. Please file this letter with the Committee records as setting forth the official position of the Yellowstone County Bar Association.

The Yellowstone County Bar Association opposes Senate Bill No. 26 as presently constituted, for the reason that the proposed Bill simply does not address the judicial case load problem faced by the 13th Judicial District, principally Yellowstone County. I made the position of the Yellowstone County Bar Association clear to the Legislative Council, by letter of October 13, 1982, a copy of which is enclosed.

The judicial case load problem in Yellowstone County is very bad and is getting worse each year. Last year there were 5,065 case filings in Yellowstone County. There were 362 case filings in Big Horn County. This totals 5,427 case filings. This means that each one of the four existing district judges has a case load of 1,356.75 cases.

The case load is becoming greater. The economic growth of the Yellowstone County area means that case filings increase each year. In addition, the type of case that economic growth and population growth generate, are cases that require an in-

ordinate amount of judicial time. This is true for both Yellowstone and Big Horn Counties.

The proposal of the redistricting Bill to remove Stillwater County (187 case filings) and Carbon County, (299 case filings) and add these counties to the 6th Judicial District, and give that district one additional judge, does not solve the case load of 1,356 cases per judge that would be left in the 13th Judicial District. It likewise does not address the problem of a rapidly expanding case load over the next several years in the 13th Judicial District occasioned by economic activity and population growth.

This is a matter of great concern to the Yellowstone County Bar Association. Our four district judges are working at capacity. They are likewise faced with an expanding case load that will inevitably arise from expanding population and increased economic activity. This is of great concern to the Yellowstone County Bar Association as the Association is deeply concerned about maintaining a viable district court system in the 13th Judicial District.

The Yellowstone County Bar Association takes no position on the removal of Treasure County from the 13th Judicial District, because of the very low case load. Treasure County can no doubt be handled much better from the 16th Judicial District. Stillwater County and Carbon County do not have a large case load in any event. There is considerable feeling that since these two counties are in the Billings economic orbit, that they could be served much better by Billings judges, than by a judge living in Livingston.

The basic problem remains. Yellowstone County alone has over 5,000 case filings per year and that is increasing. Likewise, Big Horn County currently has 362 case filings, and these cases are of a nature that take considerable judicial time. The recommendation of the Yellowstone County Bar Association is as follows:

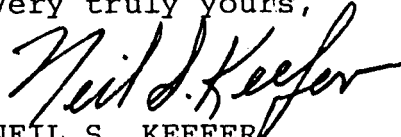
Retain Stillwater and Carbon Counties in District 13. Delete the proposed extra judge in District 6. Do one of two things in District 13 - either add an additional district judge for this district as currently constituted, or make provision to ease the case load. There are two Bills that have been proposed that would accomplish this. One Bill would add a referee to hear family, youth and probate court matters. This referee would be under the supervision of the district court. A great deal of judicial time would be saved. The second proposal is a bill for greater utilization of retired district judges. This Bill would apply to retired judges or those who had voluntarily retired after 12 years service. There are a number of these judges in the area at this time and properly utilized they could handle a large number of excess cases.

The basic problem is the large judicial case load per judge in Yellowstone County. The solution is not to add a judge in the 6th Judicial District and remove two counties with relatively

minor case loads from the 13th Judicial District and add those counties to the 6th Judicial District. The most cost effective interim solution would be to enact the referee Bill and enact the Bill allowing greater utilization of retired judges. The alternate solution would be simply to add an additional judge to the existing 13th Judicial District.

I am certain that the Legislative Council gave this matter considerable thought on a state wide basis. However, it is the unanimous position of the Yellowstone County Bar Association that the problems faced by the judiciary in Yellowstone County were simply not addressed. The Yellowstone County Bar Association accordingly opposes the judicial redistricting plan as presently constituted, insofar as it affects the 13th Judicial District. The Yellowstone County Bar Association likewise will go on record as supporting the referee Bill and the greater utilization of retired judges Bill. Both of these Bills, if passed, will go a long way toward easing the judicial time required with the current case load. It would likewise seem that both of these proposals are cost effective and would be much cheaper than the creation of an additional district judge in the 6th Judicial District. It would be appreciated if the Committee would take note of our position and give our position consideration.

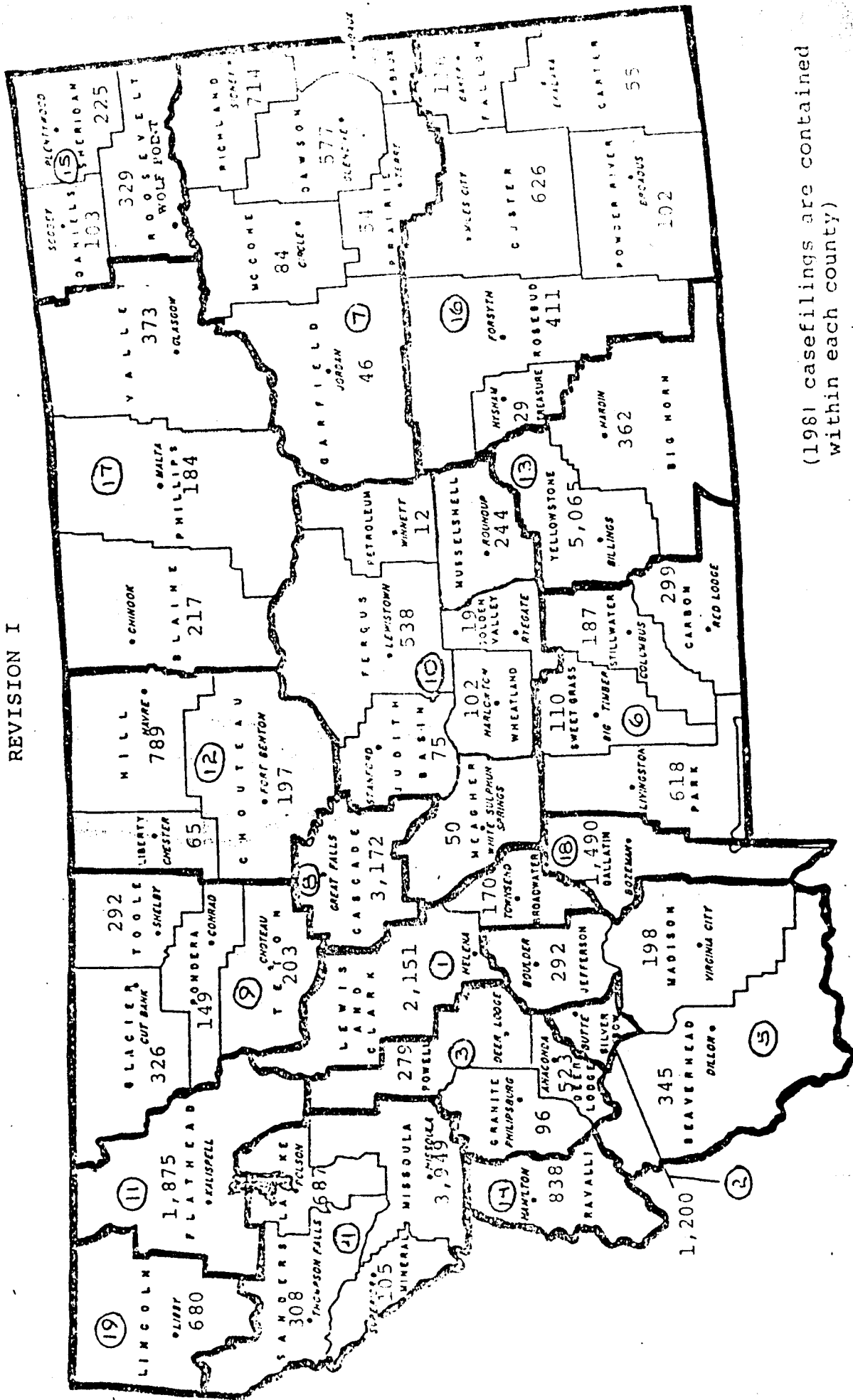
Very truly yours,


NEIL S. KEEFER

NSK/pw

cc: Yellowstone County District Judges
Yellowstone County Senators

REVISION I



(1981 casefilings are contained within each county)

Revised 9/27/82

KEEPER, ROYBAL, HANSON, STACEY & JARUSSI

ATTORNEYS AT LAW

P.O. BOX 1475

SUITE 412 HAILEY ALBION BUILDING

BILLINGS, MONTANA 59103

NEIL S. KEEPER
J. DWAIN ROYBAL
EARL J. HANSON
CALVIN J. STACEY
GENE R. JARUSSI

PHONE 258-4648
AREA CODE 406

October 15, 1982

Montana Legislative Council
State Capitol
Helena, Montana 59620

Attention: Lois Menzies
Staff Researcher

Dear Ms. Menzies:

I am writing this letter in my capacity as Vice-President of the Yellowstone County Bar Association. The comments contained in this letter relative to the proposed judicial redistricting plan are to be considered the position and viewpoint of the Yellowstone County Bar Association.

The proposed plan was made available to the Yellowstone County Bar Association by the District Judges for the Thirteenth Judicial District. The proposals have been considered by the Board of Directors of the Yellowstone County Bar Association. There has been considerable discussion of the plan by the membership.

The Yellowstone County Bar Association is deeply concerned about maintaining a viable district court system, particularly in Yellowstone County where the membership practices. The Yellowstone County Bar Association does not feel that the judicial redistricting plan as presently proposed begins to address the problems faced by the court system of the Thirteenth Judicial District. All that the plan does is remove three counties from the district. Treasure County has a very low case load, and can no doubt be handled better with the Sixteenth Judicial District. Stillwater and Carbon Counties do not have a large case load in any event. These counties are in the Billings economic area and thus there is considerable argument that these counties could better be serviced in the Thirteenth Judicial District as now constituted. In any event, Stillwater County only had 187 filings in 1981 and Carbon County had 299 filings, for a total of 486 case filings. For the same year Treasure County only had 29 filings. The arithmetic is very simple. The removal of these three counties does not address the problem created by the 5,065 case filings in Yellowstone County alone.

In 1981 Yellowstone County had 5,065 case filings. Big Horn County had 362. This totals 5,427. This still leaves a case load of 1,357 cases each for the four District Judges in the Thirteenth Judicial District. Without any outside counties whatsoever, Yellowstone County with the present four District Judges would still have a case load of 1,266 cases per judge.

Billings is rapidly gaining in population. Billings is likewise rapidly gaining in economic activity. These two factors have created and will continue to create an expanding case load in Yellowstone County. The nature of the cases thus created are such that considerable judicial time is required.

Without considering any outside county, Yellowstone County still has 5,065 case filings in 1981. As previously pointed out this can be expected to increase. Taking 1981 statistics, and considering only Yellowstone County and Big Horn County, and adding one additional judge for the slimmed down district, you would still have a case load of 1,085 cases per judge. Even adding another judge would still leave a very high case load for this new proposed two county judicial district.

It is the feeling of the Yellowstone County Bar Association that our four District Judges are hard working and conscientious individuals. The simple fact is, however, that these judges are working at capacity. They are likewise faced with an expanding case load that will inevitably arise from expanding population and increased economic activity. This is the problem purely and simply. Removing Stillwater, Carbon and Treasure Counties from the Thirteenth Judicial District simply fails to address the problem. The simple arithmetic contained in this letter explains the problem far better than words.

It is not the purpose of this letter to propose any particular plan or alignment of counties. It does seem obvious, however, that the Montana Legislative Council must consider the population in this general area, and then make provisions for one or more additional judgeships that will be capable of handling the caseload. Because this problem does directly affect the practice of law in the Thirteenth Judicial District, the Yellowstone County Bar Association wants to point out the simple arithmetic to the Montana Legislative Council, and make its position quite clear. The Yellowstone County Bar Association will be more than happy to work with the Legislative Council, if it wishes, to attempt to develop more specific proposals. The Bar Association is more interested in alleviating the present caseload problem and providing for the inevitable future increase, than it is in espousing any particular plan at this time. If the Yellowstone County Bar Association can be of any further assistance, please direct all such inquiry to me, and

October 15, 1954
Montana Legislative Council

I will process it in the proper manner. I appreciate the opportunity to set forth our position.

Very truly yours,


NEIL S. KEEFER

NSK/pw

cc: Officers and Directors,
Yellowstone County Bar Association
District Judges

WITNESS STATEMENT

Exhibit S
1/21/83

NAME Dorrie Swift BILL No. 26
ADDRESS SF 206 Box 100 Hamilton, HI DATE 1/21/83
WHOM DO YOU REPRESENT Hamilton - Dist. 91 - Ravalli Co.
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The case load information on the attached summary by John Dreef, Chairman of the Ravalli Co. Bar Redistricting Committee, indicates the scope of the problem related to Ravalli Co. (Present District 4) and calls for either enactment of Bill 26 as is or the addition of another judge to share the heavy case load in the 5 County area of District 4 (current). There are alternatives such as the one of setting up Lake County to work with one of the adjacent counties rather than the single judgeship for Ravalli Co. The cost of these should be ~~weighed~~ weighed and the most efficient and cost beneficial plan should be adopted. ~~including~~ ~~including~~ Case some action is needed to cope with the Fourth District Court Problem - Thank you

WITNESS STATEMENT

Exhibit T
1/21/83

NAME Patrick E. Melby BILL No. S.B. 26. + 52.
ADDRESS 723 Gilbert, P.O. Box 1144 DATE 1-21-82
WHOM DO YOU REPRESENT ^{Idelena} State Bar of Montana
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

Exhibit U

1/21/83

NAME

Paul T. Keller

BILL No.

26 and 52

ADDRESS

38 So. Jackson Gulch
Helena, Montana

DATE

WHOM DO YOU REPRESENT

State Bar of Montana Judiciary Comm.

SUPPORT

yes

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The redistricting being suggested arose out of a Legislative study based on the work load shown by cases filed in each district court of the 56 counties.

Long needed reform

Carrossed all local bar president heard from three.

First district has building space
Heavy case load

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 179

DATE January 21, 1983

SPONSOR Rep. Bardanouve

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

TAXATION

SB 26, 52
VISITORS' REGISTER

NAME (PLEASE PRINT)	REPRESENTING	BILL #	Check One	
			Support	Oppose
Steve Brown	Self	26 52	✓	✓
MIKE M'GRATH	"	52	X	✓
Margaret Davis	League of Women Voters	52	X	✓
Robert A. Poor	Silver Bow County Citizens	SB 26		seek amendment ✓
Robert M. Kelly	Silver Bow County	26		amendment ✓
W.D. Murray, Jr.	Silver Bow Co. Bar Assoc	26		" ✓
C.L. Harrington	" " " " "	26		" ✓
Don Peoples	Butte Silver Bow Co. 6014	26		" ✓
John G. Hauf	Yellowstone County Bar Assoc	26		" ✓
RICHARD PHILLIPS	RICHLAND COUNCIL BAR ASS			✓
Ben Ancianux	Richland County Attorney's Office			✓
Roy Radeghiero	Self	26		Partially ✓
Neil S. Keefer	V.P. Yell. Co. Bar Assn	26		Partially ✓
PETER L. RAPKOCH	SELF	26		Partially ✓
Russell Mc Donagh	Self	26	✓	✓
Janet Dean	MTLA			
Tim M'Cauley	Lewis Clark County	26/52		✓
Margaret Shivers	League of Women Voters	SB 26	X	

Maurice
Room 224
1/28

VISITOR'S REGISTER

HOUSE & SENATE JUDICIARY

COMMITTEE

BILL Senate Bill 26DATE January 21, 1983SPONSOR Senator Mazurek

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Karen Sedlock		Supreme Court		
Mary Burgess		Carroll College		
John Grzes		Hamilton Mont	X	
John W. Kolman		Hamilton Mont	X	
Mike Abley	Helena	Supreme Court		
Paul A. Keller		Lawyer		
Pat Melby	Helena	State Bar of Montana	✓	
Mark Katkov	Boz	MTN News		
Sam Korsmeyer	Helena	" "		
Walter A. Mayfield	Helena		✓	
Tom B. Burt	Townsend	Self	✓	
Dupe Johnson	Home	Probation Officer		
Bernie Swift	Hamilton	Hamilton	✓	
Patrick Gierke	Helena	Aide-Sen. Mazurek		
John Moran	Troy	SD 11		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE & SENATE JUDICIARY

COMMITTEE

BILL Senate Bill 52

DATE January 21, 1983

SPONSOR Senator Mazurek

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.