

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on January 11, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Senators Bruce Crippen, Tom Beck, Al Bishop, Bob Brown, Mike Halligan, Joe Mazurek, R. J. "Dick" Pinsoneault and Bill Yellowtail.

Members Excused: Senators John Harp and Loren Jenkins.

Members Absent: None.

Staff Present: Valencia Lane, Staff Lawyer and Rosemary Jacoby, Committee Secretary.

Announcements/Discussion: Chairman Crippen announced that Senator Halligan would be presenting the bill on the agenda (Senate Bill 83) since the sponsor was not present.

HEARING ON SENATE BILL 83

Presentation and Opening Statement by Sponsor: Senator Mike Halligan of District 29, opened the hearing for Senator Dennis Nathe of District 10, Sheridan, who was not present.

List of Testifying Proponents and What Group they Represent:

There were none.

List of Testifying Opponents and What Group They Represent:

Ken Nordtvedt, representing the Department of Revenue.

Testimony:

Mr. Nordtvedt said the DOR opposes the bill because state law already allows a certain amount of discretion for waiving the penalty. He referred to the language

on page 1, line 20 regarding failure due to reasonable cause. He said the department felt that if there was going to be a penalty, waiving should only be allowed for exceptional circumstances. He said there would be many more late payments and felt this bill would result in making collection of taxes more difficult. He said that collection of late taxes resulted in collection of \$100,000 in 1987 liabilities paid in 1988, with one-third being paid voluntarily with the late tax payments and two-thirds through the audit activities of the department.

Questions From Committee Members: Senator Mazurek asked if Mr. Nordtvedt knew if there would be a graduated penalty. He felt if a person paid one day late, the penalty should be less than for a person paying considerably after the deadline. Mr. Nordtvedt said the penalty should be a clear motivation for paying on time. In his opinion, paying on time was a "black and white" thing and the penalty was supposed to be a deterrent to late payment. As to the topic of "degree" of lateness, he felt that should be dealt with in paying the interest, forgetting the penalty.

Senator Mazurek asked if records burned or if a person had a catastrophe, would the penalty be waived. Mr. Nordtvedt said that in extreme cases interest is paid but the penalty is waived. He felt the motivation of the taxpayer should be analyzed and suggested that a moderate stance be taken. Senator Mazurek commented that the statute appears to contain broad judgment, but that, in reality, it was not often applied.

Closing by Sponsor: Senator Halligan closed the hearing.

DISPOSITION OF SENATE BILL 83

Discussion: Chairman Crippen said he felt action should not take place on the bill because the sponsor had not been present during the hearing. It was the consensus of the committee as well.

ANNOUNCEMENTS BY THE CHAIRMAN

Senator Crippen said he had been asked to have the Judiciary Committee sponsor a committee bill or bills regarding judges salaries. The committee secretary distributed copies of the proposed bills as drafted by the Legislative Council.
(Exhibits 1 and 2)

Senator Halligan wondered if there might be a question of impropriety in having the Judiciary Committee do this since many members of the committee were lawyers. Chairman Crippen felt there would be no problem.

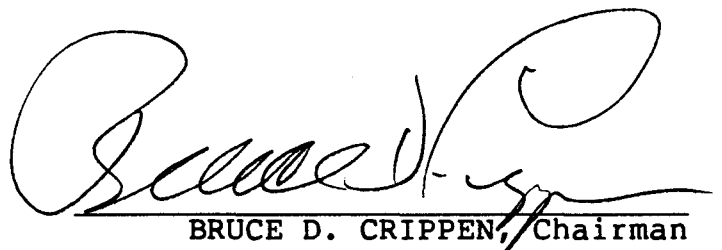
Senator Mazurek said he, too had been approached to ask the committee to sponsor committee bills regarding exemption status of public and private pensions and one regarding filing charges against a father for child support. Chairman Crippen said he would prefer that bills be sponsored by an individual senator because an individual still has to sponsor each bill.

Senator Yellowtail asked why an individual wasn't asked to carry the judges' bills rather than make them committee bills. Senator Crippen commented that it gives credence to the subject of the bills in showing committee support. Senator Yellowtail asked if the committee would have the opportunity to amend the bill and Senator Crippen answered yes, it would.

ADJOURNMENT

Adjournment At: 10:20 a.m.

BDC:rj



BRUCE D. CRIPPEN, Chairman

minutes.111

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1-11-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP			✓
SENATOR JENKINS			✓
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

LC 0313/01
SENATE JUDICIARY
EXHIBIT NO. 1
DATE Jan. 11, 1989
BILL NO. not numbered yet

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT INDEXING THE SALARIES
5 PAID SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES TO THE
6 AVERAGE SALARY PAID SIMILAR OFFICIALS IN CERTAIN WESTERN
7 STATES; AMENDING SECTIONS 2-16-405, 3-2-104, 3-5-211,
8 3-7-222, AND 7-6-2511, MCA; AND PROVIDING AN EFFECTIVE DATE
9 AND AN APPLICABILITY DATE."

10

11 WHEREAS, the salaries of Montana Supreme Court Justices
12 and District Court Judges have been frozen since fiscal year
13 1984; and

14 WHEREAS, those salaries are ranked lowest among the 50
15 states of the nation; and

16 WHEREAS, Montana's ranking among the states has
17 seriously declined in the past decade from significantly
18 higher rankings; and

19 WHEREAS, indexing the salaries of Montana Supreme Court
20 Justices and District Court Judges would provide an easily
21 implemented and equitable system for setting the salaries.

22

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 **Section 1.** Salaries of certain elected judicial
25 officials. (1) The annual salary of the chief justice of the

1 supreme court, each supreme court justice, and each district
2 court judge for the 2-year period beginning July 1 of each
3 odd-numbered year is the salary determined under subsection
4 (2).

5 (2) The supreme court administrator shall calculate
6 the annual salaries referred to in subsection (1) by August
7 15 of each even-numbered year. For budgeting purposes he
8 shall give notification of the salaries to the office of the
9 legislative fiscal analyst and the governor's office of
10 budget and program planning. The annual salary of the chief
11 justice is the average of the salaries of the chief justices
12 of Idaho, Wyoming, North Dakota, and South Dakota as of July
13 1 of the year in which the determination is made. The
14 annual salary of the supreme court justices is the average
15 of the salaries of the supreme court justices of those
16 states, to be determined by first averaging the salaries in
17 each state and then averaging the resulting averages for
18 those states. The annual salary of district court judges is
19 the average of the salaries of the general trial court
20 judges of those states, to be determined by the method used
21 to determine the Montana supreme court justices' salaries.

22 **Section 2. Salaries of certain elected judicial**
23 **officials for fiscal biennium beginning July 1, 1989. For**
24 **the fiscal biennium beginning July 1, 1989, the annual**
25 **salary of the chief justice of the Montana supreme court is**

1 \$63,054, of a supreme court justice is \$61,768, and of a
 2 district court judge is \$58,156.

3 **Section 3.** Section 2-16-405, MCA, is amended to read:

4 "2-16-405. Salaries of certain elected state
 5 officials. The salaries paid to certain elected officials of
 6 the state of Montana for fiscal year 1986 and following
 7 years are:

8	Governor	\$50,452
9	Lieutenant governor	\$36,141
10	Chief-justice-of-the-supreme-court	\$51,722
11	Justices-of-the-supreme-court, each	\$50,452
12	Attorney general	\$46,016
13	State auditor	\$33,342
14	Superintendent of public instruction	\$39,672
15	Public service commission chairman	\$37,363
16	Public service commissioners, other than	
17	chairman	\$36,141
18	Secretary of state	\$33,342
19	Clerk of the supreme court	\$32,401"

20 **Section 4.** Section 3-2-104, MCA, is amended to read:

21 "3-2-104. Salaries -- expenses. (1) The salaries of
 22 justices of the supreme court are provided for in 2-16-405
 23 [section 1].

24 (2) Actual and necessary travel expenses of the
 25 justices of the supreme court shall be the travel expenses,

1 as defined and provided in 2-18-501 through 2-18-503,
2 incurred in the performance of their official duties."

3 **Section 5.** Section 3-5-211, MCA, is amended to read:

4 "~~3-5-211. Salaries-and-expenses~~ Expenses of district
5 judges. ~~{1}--The--annual--salary--of--each--district--judge--is~~
6 ~~\$49,178.~~

7 {2} Actual and necessary expenses for each district
8 judge shall be the travel expenses, as defined and provided
9 in 2-18-501 through 2-18-503, incurred in the performance of
10 his official duties."

11 **Section 6.** Section 3-7-222, MCA, is amended to read:

12 "3-7-222. Salary -- office space. (1) The chief water
13 judge is entitled to receive the same salary and expense
14 allowance as provided for district judges in [section 1] and
15 3-5-211.

16 (2) The office of the chief water judge shall be at
17 the location that the chief justice of the Montana supreme
18 court shall designate. The Montana supreme court shall
19 provide in its budget for the salary, expenses, and office
20 and staff requirements of the chief water judge, which money
21 may be appropriated by the legislature from the water right
22 adjudication account."

23 **Section 7.** Section 7-6-2511, MCA, is amended to read:

24 "7-6-2511. County levy for district court expenses.
25 The governing body of each county may each year levy and

1 collect a tax on the taxable property of the county for all
2 district court costs, except those listed in [section 1],
3 3-5-211, 3-5-213, and 3-5-215. The tax may not exceed 6
4 mills in the first- and second-class counties, 5 mills in
5 third- and fourth-class counties, and 4 mills in fifth-,
6 sixth-, and seventh-class counties. These expenses include
7 but are not limited to salary and benefits for court clerks,
8 court reporters, youth probation officers, and other
9 employees of the district court."

10 **Section 8.** Effective date. [This act] is effective
11 July 1, 1989.

12 **Section 9.** Applicability. [Section 1] applies only to
13 the 2-year periods beginning in odd-numbered years, the
14 first of which begins July 1, 1991.

-End-

SENATE JUDICIARY

EXHIBIT NO. 2

DATE Jan. 11, 1989

BILL NO. Not numbered yet.

1 BILL NO. _____

2 INTRODUCED BY _____

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING SALARIES
5 PAID SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES;
6 SEPARATING SALARIES OF NONPARTISAN JUDICIAL OFFICERS FROM
7 SALARIES OF PARTISAN ELECTED OFFICIALS; AMENDING SECTIONS
8 2-16-405, 3-2-104, AND 3-5-211, MCA; AND PROVIDING AN
9 EFFECTIVE DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Salaries of supreme court justices. (1) The
13 salary of the chief justice of the supreme court is \$61,722
14 for the fiscal year beginning July 1, 1989, and \$64,222 for
15 each fiscal year thereafter.

16 (2) The salary of a justice of the supreme court is
17 \$60,452 for the fiscal year beginning July 1, 1989, and
18 \$62,952 for each fiscal year thereafter.

19 **Section 2.** Section 2-16-405, MCA, is amended to read:

20 "2-16-405. Salaries of certain elected state
21 officials. The salaries paid to certain elected officials of
22 the state of Montana for fiscal year 1986 and following
23 years are:

24 Governor	\$50,452
25 Lieutenant governor	\$36,141

1	Chief-justice-of-the-supreme-court	\$51,722
2	Justices-of-the-supreme-court, each	\$50,452
3	Attorney general	\$46,016
4	State auditor	\$33,342
5	Superintendent of public instruction	\$39,672
6	Public service commission chairman	\$37,363
7	Public service commissioners, other than	
8	chairman	\$36,141
9	Secretary of state	\$33,342
10	Clerk of the supreme court	\$32,401"

11 **Section 3.** Section 3-2-104, MCA, is amended to read:

12 "3-2-104. Salaries -- expenses. (1) The salaries of
13 justices of the supreme court are provided for in 2-16-405
14 [section 1].

15 (2) Actual and necessary travel expenses of the
16 justices of the supreme court shall be the travel expenses,
17 as defined and provided in 2-18-501 through 2-18-503,
18 incurred in the performance of their official duties."

19 **Section 4.** Section 3-5-211, MCA, is amended to read:

20 "3-5-211. Salaries and expenses of district judges.
21 (1) The annual salary of each district judge is \$49,178
22 \$59,178 for the fiscal year beginning July 1, 1989, and
23 \$61,678 for each fiscal year thereafter.

24 (2) Actual and necessary expenses for each district
25 judge shall be the travel expenses, as defined and provided

1 in 2-18-501 through 2-18-503, incurred in the performance of
2 his official duties."

3 **Section 5.** Effective date. [This act] is effective
4 July 1, 1989.

-End-

