



# Montana Legislative Services Division

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## Office of Research and Policy Analysis

March 31, 2008

TO: Law and Justice Interim Committee Members

FROM: Sheri Heffelfinger, Legislative Research Analyst

RE: Judicial Salaries

At the February 28-29, 2008, Law and Justice Interim Committee meeting, the Committee voted to examine how Montana sets the salary for district court judges, which are state-paid elected officials under the Judicial Branch. This memorandum summarizes the issue and provides some reading materials for review.

### Background

- Prior to the 1995 legislative session, salaries for district court judges were set according to the specific dollar amount specified in statute.
- In 1995, the statewide pay plan bill (HB 17) replaced the specified salaries for state elected executive branch officials, district judges, supreme court justices, and the daily expense rate for legislators during sessions with language specifying that the salaries (and daily expense rate for legislators during sessions) would be determined according to a biennial salary survey conducted by the Department of Administration. The salary survey was to be conducted prior to June 30 in each even numbered year to determine an average salary. The salary survey was to include North Dakota, South Dakota, Wyoming, Idaho, and the salary currently paid in Montana. The new salary was to be the average salary determined by this survey. (See attached MCA sections.)
- Because of certain statutory language in current law, justice of the peace and county attorney salaries are affected by district judge salaries.
- County attorney salaries were amended last session when the legislature enacted the Law and Justice Interim Committee's bill revising county attorney salaries (HB 12). One provision of the bill effectively capped county attorney salary increases by stating that a county attorney is not entitled to an increase if the increase would cause the county attorney's salary to exceed the salary of a district judge. (See attached MCA sections.)

### At issue

- Montana's current salary for a supreme court justice and a district court judge is the lowest in the nation. (See attached article from the National Center for State Courts).

- By requiring that the survey be conducted prior to June 30 in the even-numbered year, the current statute effectively excludes any pay increases that would be effective at the beginning of the fiscal year (July 1) in the year before a legislative session.
- Including Montana's current salary and the lowest salary effectively lowers the average.
- The statutory language is specific and does not allow for any adjustment of the data to "inflate" or "age" the salaries to compensate for the fact that the data is outdated.
- The states selected for inclusion in the salary survey are also ranked among the lowest in the nation.

### **Other considerations**

- Any change in the statutory language governing how district court salaries are determined should take into consideration:
  - similar language in the statutes governing salaries for state elected officials of the executive branch, legislators (with respect to the daily expense allowance), and supreme court justices; and
  - the impact on county governments with respect to justice of the peace and county attorney salaries.
- Some options for adjusting the survey in a manner that would increase the salary include (but need not be limited to):
  - changing which states are included in the salary survey;
  - changing when the salary survey is conducted; and/or
  - authorizing collected data to be "inflated" or "aged".

### **Reading materials**

Attached are the following reading materials:

- The MCA sections related to salary surveys and judicial salaries.
- The National Center for State Courts article on judicial salaries.
- Two tables provided by the Department of Administration showing Montana's district judge salary compared to the other states in the 2006 salary survey. Table 1 shows the difference in the salary if Montana's salary was excluded from the survey (a change

suggested by Senator Shockley as a starting point for discussion). Table 2 shows what a district judge's salary would be if it were increased the equivalent of 3%, 4%, 5%, or 6%.

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