Meloy Trieweiler
ATTORNEYS AT LAW

The Bluestone
80 South Warren, P.O. Box 1241
Helena, MT 59624
T 406-442-8670 F 406-442-4953

PETER MICHAEL MELOY
TERRY N. TRIEWEILER
JENNIFER S. HENDRICKS
BRIAN C. BRAMBLETT

email for Terry Trieweiler
pmjohnston@qwest.net

4
2-17-05
SB 470

February 17, 2005

Senate Judiciary Committee
State Capitol
Helena, MT 59620

Re: Senate Bill 470

Dear Committee Members:

Please accept the following remarks in support of Senate Bill 470.

Few people are aware that in addition to deciding cases the Montana Supreme Court has many important administrative responsibilities that are indistinguishable from those performed by the other two branches of government. The Supreme Court:

1. Administers the practice of law by deciding standards for admission and discipline of lawyers;

2. Enacts personnel policies for the entire state judiciary;

3. Administers the budget for the state judiciary;

4. Adopts rules of evidence and rules for practice in Montana's Courts;

5. Appoints members to numerous judicial commissions including the Board of Bar Examiners, Commission on Practice, Commission on Technology, District Court Council, and the Judicial Standards Commission which is charged with disciplining judges throughout the state.

In addition, the Montana Supreme Court performs purely political functions such as appointing members to the Judicial Nominating Commission and when necessary appointing the tie-breaking member to the Reapportionment Commission.

After serving 12-1/2 years on the Supreme Court I believe there's no practical reason why these responsibilities can't be subject to the same public scrutiny applied to other governmental agencies. More importantly, I believe that is what the constitution requires.

While the argument can and has been made that the Court can operate more efficiently without public scrutiny, that argument has been repeatedly made and rejected by the Court when applied to other public officials. The courts in this state have held that local government cannot conduct private meetings to discuss collective bargaining strategy or litigation strategy and that political caucuses at the legislature must be open to the public. Certainly all of those functions could be conducted more efficiently in private but the Supreme Court has held that the constitution does not permit private meetings of public agencies. The constitution makes no exception for the Montana Supreme Court.

Finally, I believe that public scrutiny of Supreme Court operations would serve two purposes. When the Court works well, as I believe that it does most of the time, public observation of that fact will reinforce public confidence and make the Court less vulnerable to those who wish to make it a scapegoat for their own political agenda. On the other hand, when the Court or one of its members does not function well, as occasionally happens, the people of Montana would be in a better position to understand and do something about it. Either way the state would be better served than it is by the current cloak of total secrecy surrounding the Supreme Court.

Thank you for considering my comments.

Sincerely,

MELOY TRIEWEILER

By: Terry Trieweiler
Terry N. Trieweiler

TNT:pj