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November 13, 2002

To: Members of the Legislative Council

From: Susan Byorth Fox, Research Analyst

Re: Judicial Redistricting Project

**Background:** In 1999, legislation was passed (HB 339, Ch. 338, L. 1999) requesting that an interim committee study the issue of whether the state's judicial districts should be redistricted. The Legislative Council assumed the responsibility for the study and appointed a subcommittee. Judge John Warner was appointed by the Montana Judges Conference to work with the subcommittee. Staff prepared background information and presented some hypothetical scenarios to the subcommittee in a September 8, 2000, meeting. The subcommittee forwarded and the Legislative Council accepted a recommendation to not redistrict at that time. The Legislative Council decided to continue to study the issue and appoint a similar subcommittee.

In the 2001 legislative session, two related bills passed. District court judges were added in Ravalli and Cascade Counties (HB 214, Ch. 497, L. 2001), and the state assumed district court costs (SB 176, Ch. 585, L. 2001).

In the 2000 general election, 31 district court judges were up for election. In the 2002 general election, 10 district court judges were up for election. In the 2004 general election, there will be only 1 district court judge up for election. The 2003 legislative session would be an opportune time to redistrict, but the above cycle will repeat and provide future opportunities for redistricting. Any redistricting will be more easily accepted the earlier that it is done to allow time for current judicial officers to plan ahead.

The staff contacted the Montana Judges Conference and was notified that Judge John Warner was appointed to the new District Court Council and so a new judge, Judge John McKeon, was

appointed to work as a liaison for judicial redistricting. Judge McKeon received the packet of materials developed in the past, and in a written response he indicated frustration with the use of caseload data that appeared to have an urban bias and stressed that the courts are all about justice.

The staff proposal had been to postpone further study until the transition to state assumption had progressed further and to analyze and develop additional information when possible.

**Update:** The state assumption of district court costs was effective July 1, 2002, and the staff monitored the progress of the District Court Council.

The District Court Council has not pursued any potential judicial redistricting but has chosen to study resource allocation and appointed a workgroup chaired by Judge John Warner. The District Court Council is currently looking at ways to analyze staff resources for each judicial officer and collecting data on youth courts.

Although theoretically 2003 would be an ideal time to redistrict the judicial districts because it would give ample notification to judges whose terms would be ending in 2005 and 2007, it does not appear realistic at this date. Because of the extent of the reorganization triggered by state assumption of district court costs and the budget crunch, judicial redistricting has not been on the forefront of discussion. More importantly, the District Court Council is looking at the bigger picture of resource allocation between the judicial districts, including support positions and youth court. A broader approach may correct for any bias that relying solely on caseload numbers and the number of district court judges may have produced. The District Court Council may produce additional data, such as ratios or benchmarks, that may be useful.

**Options:** The Legislative Council has no specific directive and therefore can choose from numerous options. It can discontinue its judicial redistricting study or continue it for another interim. It could assign this topic to the Law and Justice Interim Committee and require it to monitor resource allocation as part of its monitoring of the Judicial Branch in general and to monitor the progress of the District Court Council specifically. If it finds a necessity for redistricting, it could assume the responsibility of proposing it.

It is recommended that the concentration on a study of judicial redistricting be broadened to a study of or monitoring "resource allocation, including the distribution of district court judges and judicial districts" to ensure that the urban and rural concerns are addressed and that the political nature of the judicial redistricting itself be acknowledged. The Law and Justice Interim Committee could be directed to work with the District Court Council in monitoring its progress regarding resource allocation.

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