

TO: Taryn Purdy, Principal Analyst - Expenditure  
Legislative Fiscal Division

FROM: Chief Justice Karla M. Gray

RE: Senator Schmidt's memorandum of October 14, 2008

DATE: November 3, 2008

I write in response to Senator Schmidt's memorandum asking about the potential impacts of the economic downturn on the Judicial Branch.

In hard economic times, court systems generally experience increases in judicial workload. Poor economic conditions often result in increased civil litigation in many areas – home foreclosures, landlord/tenant disputes, debt collection, dissolutions of marriage and contract actions, to name a few. Crime rates also may rise adding to the criminal caseload of the courts. For example, the stress of financial uncertainty to families may lead to increases in domestic violence resulting in more criminal charges being filed. In addition, thefts and burglaries may well rise. At the same time, revenue generated from court fees and fines may decline as more and more people simply are unable to pay these court costs. Such declining revenues would impact City, County and State general funds as well as other accounts supporting programs that are statutorily designated to receive this money.

It is unlikely that the Montana Judicial Branch will avoid the negative consequences resulting from the economic downturn. Despite the additional stress placed on judicial resources, the Judiciary must continue to provide its constitutionally mandated services to the citizens of this state. It is important to note that adequate and stable funding is critical to the provision of these court services. With approximately 75% of the Judicial Branch budget in personal services, there are few ways to save money without impacting direct services to the people of Montana for whom the courts exist.

Even before the recent economic downturn, Montana's District Courts were laboring under heavy caseloads. A 2006 judicial workload assessment study, conducted through the National Center for State Courts, revealed what most court users already know – Montana District Court judges face increasingly large and complex caseloads that impact their ability to resolve cases in a timely fashion. The study showed a need for 9 to 13 additional judges with the greatest need in urban judicial districts. The 2007 case filings indicate an even greater need for additional judges. Based on this empirical data, the Judicial Branch will

present to the 2009 Legislature a proposal to create six new District Court judgeships to improve services to Montana citizens.

Another consequence of a failing economy likely will be increasing numbers of low-income Montanans, and the corresponding increase in folks being unable to hire an attorney. While hundreds of lawyers represent low-income Montanans, increasing numbers of people are being forced to represent themselves in civil actions before our courts; not surprisingly, they struggle with navigating their way through the legal process. To begin to address these unmet legal needs, the 2007 Legislature provided one-time funding to the Supreme Court to establish a self-help law program. To complement the work of this program, the Court created the statewide pro bono coordinator position, funded through a grant from the Montana Justice Foundation, to help “grow” the number of lawyers providing free legal assistance to low-income individuals. Together, the self-help law program and pro bono coordinator have been tremendously successful in their efforts. The Judicial Branch will be asking the 2009 Legislature to continue to fund these extremely valuable services so as to lose as little ground with access to justice for low-income folks as possible.

Thank you for this opportunity to share the Judiciary’s thoughts with you at this critical time. If you have additional questions, please do not hesitate to contact me.