

HOUSE BILL NO. 471

Introduced: 01/24/83

Referred to Committee on Judiciary: 01/24/83

Hearing: 1/31/83

Report: 02/10/83, Do Pass, As Amended

Rereferred to Committee on Appropriations: 02/12/83

Hearing: 3/24/83

Report: 03/28/83, Do Not Pass

Bill Killed: 03/29/83

## HOUSE BILL NO. 471

INTRODUCED BY ADDY, TOWE, REGAN, CONOVER,

HAGER, SAUNDERS, SPAETH, RAMIREZ,

SANDS, J. JENSEN, HANNAH

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POSITION OF REFEREE IN CERTAIN JUDICIAL DISTRICTS; PROVIDING FOR THE APPOINTMENT, QUALIFICATIONS, TERM, AND SALARY OF A REFEREE; PROHIBITING A REFEREE FROM MEMBERSHIP IN THE JUDGES' RETIREMENT SYSTEM; DEFINING THE PROCEDURE FOR ASSIGNING CASES TO A REFEREE AND THE TYPES OF CASES THAT MAY BE ASSIGNED; PERMITTING LITIGANTS IN CONTESTED CASES TO REQUEST A REVIEW HEARING ON A REFEREE'S RECOMMENDATIONS; REQUIRING A DISTRICT COURT JUDGE TO REVIEW ALL RECOMMENDATIONS OF A REFEREE; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Referee position established. (1) On July 1, 1983, the supreme court shall order the establishment of the position of referee in each judicial district in which the total number of case filings per judge for 1982 was equal to or exceeded 1,200 cases according to statistics compiled by the court administrator.

(2) On July 1 of each year thereafter, the supreme

court shall order the establishment or continuance of the position of referee in each judicial district in which the total number of case filings per judge for the previous year was equal to or exceeded 1,200 cases according to statistics compiled by the court administrator.

Section 2. Appointment of referee -- qualifications -- term -- salary. (1) In a judicial district ordered to establish the position of referee as provided in [section 1], the district court judge in a single-judge district and the chief judge in a multijudge district, with the concurrence of the remaining judges within the district, shall appoint as referee one person to serve full time or two or more persons to collectively serve the equivalent of full time.

(2) A person appointed as referee must be an attorney admitted to practice law in Montana.

(3) A referee shall serve until removed by the district court judge in a single-judge district or the chief judge in a multijudge district.

(4) A referee serving full time is entitled to receive an annual salary equal to 80% of the annual salary of a district court judge. If two or more referees are appointed, they are collectively entitled to receive an annual salary equal to 80% of the annual salary of a district court judge. A referee's salary must be paid from

1 an appropriation for that purpose to the supreme court from  
2 the state general fund.

3 Section 3. Prohibition on membership in retirement  
4 system. A referee appointed under [section 2] may not become  
5 a member of the Montana judges' retirement system provided  
6 for in Title 19, chapter 5.

7 Section 4. Assignment of cases to referee -- services  
8 and facilities available. (1) (a) In a single-judge district  
9 in which the position of referee is established, the  
10 district court judge shall annually determine the number and  
11 the types of cases, subject to the provisions of [section  
12 5], that he will assign to a referee.

13 (b) In a multijudge district in which the position of  
14 referee is established, the district court judges within the  
15 district shall annually determine the number and the types  
16 of cases, subject to the provisions of [section 5], that  
17 they will assign to a referee. These assignments must be  
18 apportioned among the judges so as to provide an equal  
19 reduction in case filings for each judge.

20 (2) When a case is assigned to a referee, the  
21 assigning judge's court reporter shall serve as the court  
22 reporter to the referee. The referee shall have access to  
23 all other district court services and facilities in  
24 performing his duties.

25 Section 5. Types of cases to be heard by referee. (1)

1 A district court judge may assign to a referee any case  
2 filed in district court pertaining to:

3 (a) temporary orders of child support and maintenance  
4 in domestic relations proceedings;

5 (b) child support orders in the enforcement of uniform  
6 reciprocal support laws;

7 (c) mental commitment proceedings;

8 (d) probate actions;

9 (e) youth court actions; and

10 (f) guardianship proceedings.

11 (2) With the consent of the parties involved, a judge  
12 may assign to a referee any civil nonjury case filed in  
13 district court.

14 Section 6. Referee's recommendations -- review hearing  
15 in contested actions. (1) Upon conclusion of a hearing on a  
16 case assigned to him by a judge, the referee shall notify  
17 the parties to the case in writing of his recommended  
18 findings of fact, conclusions of law, and orders of  
19 judgment. The referee shall transmit the court file on the  
20 case, together with his recommended findings, conclusions,  
21 and orders, to the district court judge who assigned the  
22 case to him.

23 (2) In any contested action, a party may, within 10  
24 days after receipt of the written notice of the referee's  
25 recommendations, file a notice in district court for a

1 review hearing on a referee's recommendations before the  
2 assigning judge. The notice requesting a hearing must  
3 specify grounds for the review and the disputed provisions  
4 of the recommended findings, conclusions, or orders. Upon  
5 receipt of the notice, the judge shall set a time and place  
6 for the review hearing. Following the hearing, the judge  
7 shall act on the referee's recommendations as provided for  
8 in [section 7].

9 Section 7. Review and action by judge. Whether or not  
10 a review hearing is requested under [section 6], the  
11 assigning judge shall review all recommendations made by a  
12 referee. If the judge confirms the recommendations, these  
13 findings, conclusions, and orders become the findings,  
14 conclusions, and orders of the district court. If the judge  
15 does not confirm the recommendations, he may modify them or  
16 recommit the case to the referee with instructions.

17 Section 8. Codification instruction. Sections 1  
18 through 7 are intended to be codified as an integral part of  
19 Title 3, chapter 5, and the provisions of Title 3, chapter  
20 5, apply to sections 1 through 7.

21 Section 9. Effective date. This act is effective July  
22 1, 1983.

-End-

## STATE OF MONTANA

REQUEST NO. 271-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 19 83, there is hereby submitted a Fiscal Note for House Bill 471 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 471 establishes the position of referee in certain judicial districts; provides for the appointment, qualifications, term and salary of a referee; prohibits a referee from membership in the judges' retirement system; defines the procedure for assigning cases to a referee and the types of cases that may be assigned; permits litigants in contested cases to request a review hearing on a referee's recommendations; requires a district court judge to review all recommendations of a referee; and provides an effective date.

ASSUMPTIONS:

- 1) Based on 1981 and preliminary 1982 caseload statistics, three judicial districts, the 4th, 7th and 13th, will have more than 1,200 cases per judge in 1982 and 1983.
- 2) Each of the three districts will have a referee appointed to begin work on or about July 1, 1983.
- 3) Staff and clerical support for the referees will be provided by current level district court staff at the county level.
- 4) Operational and office maintenance costs will be paid by the counties.

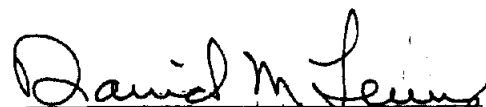
FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Personal Services	\$ 132,023	\$ 132,023

NOTE:

Estimate is based on FY 83 salary level and has not been adjusted for cost-of-living or inflation factors.

FISCAL NOTE 10:M/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-83

Approved by Committee  
on Judiciary

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(2) On July 1 of each year thereafter, the supreme

court shall order the establishment or continuance of the position of referee in each judicial district in which the total number of case filings per judge for the previous year was equal to or exceeded 1,200 cases according to statistics compiled by the court administrator.

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(2) A person appointed as referee must be an attorney admitted to practice law in Montana.

(3) A referee shall serve until removed by the district court judge in a single-judge district or the chief judge in a multijudge district.

(4) A referee serving full time is entitled to receive an annual salary equal to 80% of the annual salary of a district court judge. If two or more referees are appointed, they are collectively entitled to receive an annual salary equal to 80% of the annual salary of a district court judge. A referee's salary must be paid from

an appropriation for that purpose to the supreme court from the state general fund.

Section 3. Prohibition on membership in retirement system. A referee appointed under [section 2] may not become a member of the Montana judges' retirement system provided for in Title 19, chapter 5.

Section 4. Assignment of cases to referee -- services and facilities available. (1) (a) In a single-judge district in which the position of referee is established, the district court judge shall annually determine the number and the types of cases, subject to the provisions of [section 5], that he will assign to a referee.

(b) In a multijudge district in which the position of referee is established, the district court judges within the district shall annually determine the number and the types of cases, subject to the provisions of [section 5], that they will assign to a referee. These assignments must be apportioned among the judges so as to provide an equal reduction in case filings for each judge.

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2 assigning judge. The notice requesting a hearing must  
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