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

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Section 1. Section 37-61-208, MCA, is amended to read:

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"37-61-208. Admission of attorneys from other states -- eligibility -- application -- fee -- discipline.

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~~(1) Every~~ A citizen of the United States or ~~person~~ resident of this state who has ~~bona fide~~ declared ~~his or her~~ the intention to become a citizen in the manner required by law and who has been admitted to practice law in the highest courts of another state or of a foreign country where the common law of England constitutes the basis of jurisprudence may be admitted to practice in the courts of this state upon the production of ~~his or her~~ the license and satisfactory evidence of good moral character, ~~but the~~. The court may examine the applicant as to ~~his or her~~ the applicant's qualifications.

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~~(2) (a) However, any~~ A person who is not a nonresident of admitted as an attorney in the state of Montana ~~and,~~ who has been admitted and is at the time authorized to practice law in the highest courts of another state or of a foreign country, and who has been retained to appear in a particular cause pending in a district court or the supreme court of this state may, upon motion of any attorney admitted to practice in the courts of this state, in the discretion of the court, be permitted by the court upon written application to appear as attorney counsel pro hac vice in any an action or proceeding in such the court if an attorney admitted to practice in the courts of this state is associated as attorney of record. and A counsel pro hac vice shall, when so permitted, be is entitled to the same rights and privileges and ~~be is~~ subject to the same duties and obligations with respect to ~~such the~~ actions or proceedings as an attorney duly admitted to practice in the courts of this state. A person is not eligible to appear as counsel pro hac vice under this section if the person is a resident of Montana, is regularly employed in Montana, or is regularly engaged

1 in substantial business, professional, or other activities in Montana. Only individuals may be admitted as
2 counsel pro hac vice under this section. Absent special circumstances, repeated appearances by a person
3 under this section are cause for denial of an application.

4 (b) Each individual wishing to appear as counsel pro hac vice in a court in this state shall file with
5 the court in which permission is sought and, concurrently, with the clerk of the supreme court if application
6 is made to a district court, a verified application, together with proof of service by mail of a copy of the
7 application and of the notice of hearing of the application, upon all parties who have appeared in the cause.
8 The application and accompanying fee must be submitted 15 days prior to any appearance in the court,
9 and the fee may not be waived absent clearly extraordinary circumstances. The application must state:

10 (i) the applicant's residence and office address;

11 (ii) the courts to which the applicant has been admitted to practice and the dates of admission;

12 (iii) that the applicant is a member in good standing in those courts;

13 (iv) that the applicant is not currently suspended or disbarred in any court;

14 (v) the title of each court and cause in which the applicant has filed an application to appear as
15 counsel pro hac vice in this state in the preceding 2 years, the date of each application, and whether or not
16 it was granted; and

17 (vi) the name, address, and telephone number of the active member of the state bar of Montana
18 who is the attorney of record.

19 (c) An applicant for permission to appear as counsel pro hac vice under this section shall, at the
20 time of application, pay a fee of \$250 to the clerk of the court to which application is made. Money
21 collected under this section by the clerk of the supreme court must be used to defray the costs of
22 administering this section. If the fee is paid to a district court, the clerk shall, on or before the 5th day of
23 the following month, pay the fee to the county treasurer. The county treasurer shall, in the manner
24 provided in 15-1-504, distribute money received under this section as follows:

25 (i) \$50 to the state treasurer for distribution to the clerk of the supreme court to be used for
26 administering the provisions of this section; and

27 (ii) \$200 to the county general fund to be used for court expenses.

28 (d) The clerk of the supreme court shall annually produce a report of applications made under this
29 section and shall provide a copy of the report to the office of the state bar of Montana and the commission
30 on practice and make it available to the public, upon request.

1 (e) A person admitted to appear as counsel pro hac vice under this section is subject to the
2 jurisdiction of the Montana courts with respect to Montana law governing the conduct of attorneys to the
3 same extent as an attorney admitted to practice in the courts of this state. The person shall study and
4 comply with the standards of professional conduct required of attorneys admitted to practice in Montana
5 and is subject to the disciplinary jurisdiction of the commission on practice with respect to any acts
6 performed in the course of the appearance.

7 (f) This section does not preclude the supreme court from permitting argument in a particular case
8 from a person who is not admitted to practice in Montana, who is licensed to practice in another
9 jurisdiction, and who possesses special expertise in the particular field affected by the proceeding."

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0065, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring an attorney who is not licensed in Montana to file an application and pay a fee to make an appearance in a district court or the Supreme Court in Montana and providing for distribution of the fee.

ASSUMPTIONS:

1. The current rate of case filings will remain constant.
2. About 100 applications will be processed annually. Of those 100, ten will be filed directly with the clerk of the Supreme Court; the remaining with district court clerks.
3. Estimated expenditures are so minimal that they can be absorbed into current budget.
4. State revenues will be deposited to the general fund (see technical note).

FISCAL IMPACT:

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
General fund (01)		
Application fees	7,000	7,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Using the above assumptions, counties would receive \$18,000 per year to be deposited in their general fund to be used for court expenses.

TECHNICAL NOTES:

No mention is made of the precise state fund that is to receive the fees. In addition, language dealing with disposition of excess monies (application revenue less application expenses per year) would provide needed clarification.

Dave Lewis 1-11-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Steve Doherty 1/12/95
STEVE DOHERTY, PRIMARY SPONSOR DATE

Fiscal Note for SB0065, as introduced

SB 65

1 SENATE BILL NO. 65

2 INTRODUCED BY DOHERTY, HALLIGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ATTORNEY WHO IS NOT LICENSED IN
5 MONTANA TO FILE AN APPLICATION AND PAY A FEE TO MAKE AN APPEARANCE IN A DISTRICT
6 COURT OR THE SUPREME COURT IN MONTANA; PROVIDING FOR DISTRIBUTION OF THE FEE;
7 REQUIRING THE CLERK OF THE SUPREME COURT TO MAKE A REPORT OF THE APPLICATIONS; AND
8 AMENDING SECTION 37-61-208, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 37-61-208, MCA, is amended to read:

13 **"37-61-208. Admission of attorneys from other states -- eligibility -- application -- fee -- discipline.**

14 (1) Every A citizen of the United States or ~~person~~ resident of this state who has ~~bona fide~~ declared his or
15 ~~her~~ the intention to become a citizen in the manner required by law and who has been admitted to practice
16 law in the highest courts of another state or of a foreign country where the common law of England
17 constitutes the basis of jurisprudence may be admitted to practice in the courts of this state upon the
18 production of ~~his or her~~ the license and satisfactory evidence of good moral character, ~~but the~~. The court
19 may examine the applicant as to ~~his or her~~ the applicant's qualifications.

20 (2) (a) However, any A person who is ~~not a nonresident of~~ admitted as an attorney in the state of
21 Montana and, who has been admitted and is at the time authorized to practice law in the highest courts
22 of another state or of a foreign country, and who has been retained to appear OR OTHERWISE SEEKS TO
23 APPEAR in a particular cause pending in a district court or the supreme court of this state may, upon
24 motion of any attorney admitted to practice in the courts of this state, in the discretion of the court, be
25 permitted by the court upon written application to appear as attorney counsel pro hac vice in any an action
26 or proceeding in ~~such~~ the court if an attorney admitted to practice in the courts of this state is associated
27 as attorney of record. and A counsel pro hac vice shall, when so permitted, be is entitled to the same
28 rights and privileges and ~~be is~~ subject to the same duties and obligations with respect to ~~such~~ the actions
29 or proceedings as an attorney duly admitted to practice in the courts of this state. A person is not eligible
30 to appear as counsel pro hac vice under this section if the person is a resident of Montana, is regularly

1 employed in Montana, or is regularly engaged in substantial business, professional, or other activities in
 2 Montana. Only individuals may be admitted as counsel pro hac vice under this section. Absent special
 3 circumstances, repeated appearances by a person under this section are cause for denial of an application.
 4 SPECIAL CIRCUMSTANCES INCLUDE BUT ARE NOT LIMITED TO SITUATIONS IN WHICH AN
 5 OUT-OF-STATE ATTORNEY HAS A DIRECT AND SUBSTANTIAL ECONOMIC INTEREST IN AN ENTITY
 6 THAT IS A PARTY TO A MATTER BEFORE A MONTANA COURT OR IS A DIRECTOR OF OR AN OFFICER,
 7 SHAREHOLDER, OR PARTNER IN THE ENTITY.

8 (b) Each individual wishing to appear as counsel pro hac vice in a court in this state shall file with
 9 the court in which permission is sought and, concurrently, with the clerk of the supreme court if application
 10 is made to a district court, a verified application, together with proof of service by mail of a copy of the
 11 application and of the notice of hearing of the application, upon all parties who have appeared in the cause
 12 FOR WHICH PERMISSION TO APPEAR IS SOUGHT. The application and accompanying fee must be
 13 submitted 15 days prior to any appearance in the court, and the fee may not be waived absent clearly
 14 extraordinary circumstances. The application must state:

15 (i) the applicant's residence and office address;

16 (ii) the courts to which the applicant has been admitted to practice and the dates of admission;

17 (iii) that the applicant is a member in good standing in those courts;

18 (iv) that the applicant is not currently suspended or disbarred in any court;

19 (v) the title of each court and cause in which the applicant has filed an application to appear as
 20 counsel pro hac vice in this state in the preceding 2 years, the date of each application, and whether or not
 21 it was granted; and

22 (vi) the name, address, and telephone number of the active member of the state bar of Montana
 23 who is the attorney of record.

24 (c) An applicant for permission to appear as counsel pro hac vice under this section shall, at the
 25 time of application, pay a fee of \$250 to the clerk of the court to which application is made. Money
 26 collected under this section by the clerk of the supreme court must be used to defray the costs of
 27 administering this section. If the fee is paid to a district court, the clerk shall, on or before the 5th 10TH
 28 day of the following month, pay the fee to the county treasurer. The county treasurer shall, in the manner
 29 provided in 15-1-504, distribute money received under this section as follows:

30 (i) \$50 to the state treasurer for distribution to the clerk of the supreme court to be used for

1 administering the provisions of this section; and

2 (ii) \$200 to the DISTRICT COURT FUND OR, IF NO DISTRICT COURT FUND EXISTS, TO THE
3 county general fund to be used for DISTRICT court expenses OPERATIONS.

4 (d) The clerk of the supreme court shall annually produce a report of applications made under this
5 section and shall provide a copy of the report to the office of the state bar of Montana and the commission
6 on practice and make it available to the public, upon request.

7 (e) A person admitted to appear as counsel pro hac vice under this section is subject to the
8 jurisdiction of the Montana courts with respect to Montana law governing the conduct of attorneys to the
9 same extent as an attorney admitted to practice in the courts of this state. The person shall study and
10 comply with the standards of professional conduct required of attorneys admitted to practice in Montana
11 and is subject to the disciplinary jurisdiction of the commission on practice with respect to any acts
12 performed in the course of the appearance.

13 ~~(f) This section does not preclude the supreme court from permitting argument in a particular case~~
14 ~~from a person who is not admitted to practice in Montana, who is licensed to practice in another~~
15 ~~jurisdiction, and who possesses special expertise in the particular field affected by the proceeding."~~

16 -END-

SENATE BILL NO. 65

INTRODUCED BY DOHERTY, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ATTORNEY WHO IS NOT LICENSED IN MONTANA TO FILE AN APPLICATION AND PAY A FEE TO MAKE AN APPEARANCE IN A DISTRICT COURT OR THE SUPREME COURT IN MONTANA; PROVIDING FOR DISTRIBUTION OF THE FEE; REQUIRING THE CLERK OF THE SUPREME COURT TO MAKE A REPORT OF THE APPLICATIONS; AND AMENDING SECTION 37-61-208, MCA."

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

Section 1. Section 37-61-208, MCA, is amended to read:

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