

CHAPTER NO. 463

SENATE BILL NO. 232

INTRODUCED BY S. BROWN

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Judiciary.
February 10, 1979	Committee recommend bill do pass as amended. Report adopted.
February 13, 1979	Printed and placed on members' desks.
February 14, 1979	Second reading, do pass.
February 15, 1979	Considered correctly engrossed.
February 16, 1979	Third reading, passed. 38 ayes, 11 nayes. Transmitted to second house.

IN THE HOUSE

February 17, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be not concurred in.
March 20, 1979	Report adopted.

IN THE SENATE

March 21, 1979	Returned from second house. Not concurred in.
March 27, 1979	On motion request of House granted for return of Senate Bill No. 232 for further consideration. Motion adopted. Transmitted to second house.

IN THE HOUSE

March 27, 1979

On motion of March 26, bill  
requested returned from Senate  
for further consideration.

On motion bill placed on  
second reading.

March 28, 1979

Second reading, concurred in.

March 30, 1979

Third reading, concurred in.  
71 ayes, 14 nayes.

IN THE SENATE

March 31, 1979

Returned from second house.  
Concurred in. Sent to enrolling.

Reported correctly enrolled.

*George* BILL NO. 232  
INTRODUCED BY S. Brown

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE  
2 QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII,  
3 SECTION 11, OF THE MONTANA CONSTITUTION TO REQUIRE THAT  
4 CERTAIN DOCUMENTS OF THE JUDICIAL STANDARDS COMMISSION BE  
5 AVAILABLE FOR PUBLIC INSPECTION; TO REQUIRE COMMISSION  
6 MEMBERS TO BE SUBJECT TO SENATE CONFIRMATION; AND TO REQUIRE  
7 THE COMMISSION TO FILE A BIENNIAL REPORT WITH THE SUPREME  
8 COURT, THE GOVERNOR, AND THE LEGISLATURE."

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

10 Section 1. Article VII, section 11 of the Montana  
11 constitution is amended to read:

12 "Section 11. Removal and discipline. (1) The  
13 legislature shall create a judicial standards commission  
14 consisting of five persons and provide for the appointment  
15 thereto of two district judges, one attorney, and two  
16 citizens who are neither judges nor attorneys. All  
17 appointees shall be subject to confirmation by the senate.

18 (2) The commission shall investigate complaints, and  
19 make rules implementing this section---and---keep---its  
20 proceedings--confidential. It may subpoena witnesses and  
21 documents.

22 (3) Upon recommendation of the commission, the supreme  
23 court may:

24 (a) Retire any justice or judge for disability that  
25 seriously interferes with the performance of his duties and  
is or may become permanent; or

26 (b) Censure, suspend, or remove any justice or judge  
27 for willful misconduct in office, willful and persistent  
28 failure to perform his duties, or habitual intemperance.

29 (4) The proceedings of the commission are confidential  
30 except as follows:

31 (a) When the supreme court retires, censures,  
32 suspends, or removes a justice or judge, all of the  
33 commission's transcripts and documents concerning that judge  
34 shall be available for public inspection.

35 (b) The commission shall submit a report to the  
36 legislature, the governor, and the supreme court each year  
37 the legislature meets in regular session. The legislature  
38 shall specify the content of the report but may not require  
39 the disclosure of information that would affect the  
40 confidentiality of any proceeding which did not result in  
41 the retirement, censure, suspension, or removal of a justice  
42 or judge."

43 Section 2. Effective date. If approved by the  
44 electorate, this amendment is effective January 1, 1981.

45 Section 3. Submission to electors. This amendment

1 shall be submitted to the electors of the state of Montana  
2 at the general election to be held in November, 1930, by  
3 printing on the ballot the full title of this act and the  
4 following:

5        FOR requiring certain documents of the judicial  
6        standards commission to be public, senate  
7        confirmation of commission members, and a biennial  
8        report by the commission.

9        AGAINST requiring certain documents of the judicial  
10      standards commission to be public, senate  
11      confirmation of commission members, and a biennial  
12      report by the commission.

-End-

Approved by Committee  
on Judiciary

1                   SENATE BILL NO. 232

2                   INTRODUCED BY S. BROWN

3

4   A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE  
5   QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII,  
6   SECTION 11, OF THE MONTANA CONSTITUTION TO REQUIRE--THAT  
7   CERTAIN ALLOW STATUTORY EXCEPTIONS TO THE CONFIDENTIALITY OF  
8   THE DOCUMENTS OF THE JUDICIAL STANDARDS COMMISSION BE  
9   AVAILABLE--FOR--PUBLIC--INSPECTION--TO--REQUIRE--COMMISSION  
10   MEMBERS--TO--BE--SUBJECT--TO--SENATE--CONFIRMATION--AND--TO--REQUIRE  
11   THE--COMMISSION--TO--FILE--A--BIEENNIAL--REPORT--WITH--THE--SUPREME  
12   COURT--THE--GOVERNOR--AND--THE--LEGISLATURE."

13

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

15   Section 1. Article VII, section 11 of the Montana  
16   constitution is amended to read:

17   "Section 11. Removal and discipline. (1) The  
18   legislature shall create a judicial standards commission  
19   consisting of five persons and provide for the appointment  
20   thereto of two district judges, one attorney, and two  
21   citizens who are neither judges nor attorneys. ~~All~~  
22   ~~appointees shall be subject to confirmation by the senator~~

23   (2) The commission shall investigate complaints and  
24   make rules implementing this section--and--keep--its  
25   proceedings--confidential. It may subpoena witnesses and

1   documents.

2                   (3) Upon recommendation of the commission, the supreme  
3   court may:

4                   (a) Retire any justice or judge for disability that  
5   seriously interferes with the performance of his duties and  
6   is or may become permanent; or

7                   (b) Censure, suspend, or remove any justice or judge  
8   for willful misconduct in office, willful and persistent  
9   failure to perform his duties, or habitual intemperance.

10                   ~~(4) The proceedings of the commission are confidential  
11   except as follows:~~

12                   ~~that--When--the--supreme--court--retires--or--censures--or--  
13   suspends--or--removes--a--justice--or--judge--all--of--the  
14   commission's--transcripts--and--documents--concerning--that--judge  
15   shall--be--available--for--public--inspection.~~

16                   ~~that--The--commission--shall--submit--a--report--to--the  
17   legislature--the--governor--and--the--supreme--court--each--year  
18   the--legislature--meets--in--regular--session--the--legislature  
19   shall--specify--the--content--of--the--report--but--may--not--require  
20   the--disclosure--of--information--that--would--affect--the  
21   confidentiality--of--any--proceeding--which--did--not--result--in  
22   the--retirement--censure--suspension--or--removal--of--a--justice  
23   or--judge--AS--PROVIDED--BY--STATUTE.~~

24                   Section 2. Effective date. If approved by the  
25   electorate, this amendment is effective January 1, 1981.

1       Section 3. Submission to electors. This amendment  
2 shall be submitted to the electors of the state of Montana  
3 at the general election to be held in November, 1980, by  
4 printing on the ballot the full title of this act and the  
5 following:

6       FOR requiring--certain--documents--of--the--judicial--  
7 standards--commission--to---be---public---senate  
8 confirmation--of--commission-members--and-a-bienniat  
9 report--by---the---commission   ALLOWING--STATUOY  
10 EXCEPTIONS--TO--THE--CONFIDENTIALITY--OF--THE--DOCUMENTS  
11 OF--THE--JUDICIAL--STANDARDS--COMMISSION.

12       AGAINST requiring--certain--documents--of--the--judicial--  
13 standards--commission--to---be---public---senate  
14 confirmation--of--commission-members--and-a-bienniat  
15 report--by---the---commission   ALLOWING--STATUOY  
16 EXCEPTIONS--TO--THE--CONFIDENTIALITY--OF--THE--DOCUMENTS  
17 OF--THE--JUDICIAL--STANDARDS--COMMISSION.

-End-

## SENATE BILL NO. 232

INTRODUCED BY S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 11, OF THE MONTANA CONSTITUTION TO REQUIRE--THAT CERTAIN ALLOW STATUTORY EXEPTIONS TO THE CONFIDENTIALITY OF THE DOCUMENTS OF THE JUDICIAL STANDARDS COMMISSION BE AVAILABLE--FOR--PUBLIC--INSPECTION--TO--REQUIRE--COMMISSION MEMBERS--TO--BE SUBJECT--TO--SENATE--CONFIRMATION--AND--TO--REQUIRE THE--COMMISSION--TO--FILE--A--BIEENNIAL--REPORT--WITH--THE--SUPREME COURT--THE--GOVERNOR--AND--THE--LEGISLATURE."

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

Section 1. Article VII, section 11 of the Montana constitution is amended to read:

"Section 11. Removal and discipline. (1) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereto of two district judges, one attorney, and two citizens who are neither judges nor attorneys. All appointees shall be subject to confirmation by the senate.

(2) The commission shall investigate complaints and make rules implementing this section,--and--keep--its proceedings--confidential. It may subpoena witnesses and

documents.

(3) Upon recommendation of the commission, the supreme court may:

(a) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent; or

(b) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, or habitual intemperance.

(4) The proceedings of the commission are confidential except as follows:

if--when--the--supreme--court--retires--or--censures--or--suspends--or--removes--a--justice--or--judge--all--of--the--commission's--transcripts--and--documents--concerning--that--judge--shall--be--available--for--public--inspection.

ifth--the--commission--shall--submit--a--report--to--the--legislature--the--governor--and--the--supreme--court--each--year--the--legislature--meets--in--regular--session--the--legislature--shall--specify--the--content--of--the--report--but--may--not--require--the--disclosure--of--information--that--would--affect--the--confidentiality--of--any--proceeding--which--did--not--result--in--the--retirement--censure--suspension--or--removal--of--a--justice--or--judge AS PROVIDED BY STATUTE.

Section 2. Effective date. If approved by the electorate, this amendment is effective January 1, 1981.

1       Section 3. Submission to electors. This amendment  
2 shall be submitted to the electors of the state of Montana  
3 at the general election to be held in November, 1980, by  
4 printing on the ballot the full title of this act and the  
5 following:

6       FOR requiring--certain--documents--of--the-judicial  
7 standards---commission---to---be---public---senate  
8 confirmation--of--commission-members, and a biennial  
9 report--by---the---commission ALLOWING STATUTORY  
10 EXCEPTIONS TO THE CONFIDENTIALITY OF THE DOCUMENTS  
11 OF THE JUDICIAL STANDARDS COMMISSION.

12 AGAINST requiring--certain--documents--of--the-judicial  
13 standards---commission---to---be---public---senate  
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20 thereto of two district judges, one attorney, and two  
21 citizens who are neither judges nor attorneys. All  
22 appointees shall be subject to confirmation by the senators.

23 (2) The commission shall investigate complaints and  
24 make rules implementing this section---end---keep---its  
25 proceedings--confidential. It may subpoena witnesses and

1 documents.

10            (4) The proceedings of the commission are confidential  
11 except as follows:

16        ~~the commission shall submit a report to the~~  
17        ~~legislature, the governor and the supreme court each year~~  
18        ~~the legislature meets in regular session, the legislature~~  
19        ~~shall specify the content of the report but may not require~~  
20        ~~the disclosure of information that would affect the~~  
21        ~~confidentiality of any proceeding which did not result in~~  
22        ~~the retirement, censure, suspension or removal of a justice~~  
23        ~~or judge AS PROVIDED BY STATUTE."~~

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-End-