

SENATE JOINT RESOLUTION NO. 20

INTRODUCED BY CRIPPEN, J. O'HARA, BERG, OLSON,
B. BROWN, TVEIT, MAZUREK, M. ANDERSON,
S. BROWN, HALLIGAN

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

IN THE SENATE

February 13, 1981	Introduced and referred to Committee on Judiciary.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Motion pass consideration.
February 21, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Judiciary.
March 28, 1981	Committee recommend bill be concurred in. Report adopted.
March 30, 1981	Second reading, concurred in. On motion rules suspended and bill placed on third reading this day.

March 30, 1981

On motion rules suspended and
bill allowed to be transmitted
on 71st legislative day.
Motion adopted.

March 31, 1981

Third reading, concurred in.
Ayes, 94; Noes, 1.

IN THE SENATE

April 1, 1981

Returned from House. Con-
curred in. Sent to enrolling.
Reported correctly enrolled.

1 *Joint Resolution No. 20* *Submitted*
2 INTRODUCED BY *Senators J. Offman Berg, Dean*
3 *Bob Brown, Trustee* *Magrath*
4 *Mike Anderson, Steve Brown*

5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
6 REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE
7 MONTANA SUPREME COURT TO PREPARE PROPOSED LEGISLATION FOR
8 CONSIDERATION BY THE 48TH LEGISLATURE TO RECONCILE CONFLICTS
9 BETWEEN THE MONTANA RULES OF EVIDENCE AND THE STATUTORY
10 PROVISIONS ON EVIDENCE CONTAINED IN THE MONTANA CODE
11 ANNOTATED.

12 WHEREAS, The Montana Rules of Evidence were adopted in
13 1977 by order of the Montana Supreme Court as rules of
14 practice under its authority in Article VII, section 2, of
15 the Montana Constitution; and

16 WHEREAS, there are numerous statutory provisions in the
17 Montana Code Annotated regarding evidence, particularly in
18 Title 26, chapters 1 through 3; and

19 WHEREAS, the statutory provisions on evidence, which
20 predate the Montana Rules of Evidence by many decades, in
21 many cases conflict with the Montana Rules of Evidence and
22 should be reconciled with the Montana Rules of Evidence; and

23 WHEREAS, the Montana Supreme Court would be greatly
24 affected by changes in the statutory provisions on evidence

1 because of the impact of the changes on the practicing bar
2 and the close connection between the statutory provisions on
3 evidence and the Supreme Court-promulgated Montana Rules of
4 Evidence; and

5 WHEREAS, the Montana Supreme Court has continuing
6 contact with the practicing bar of Montana through the
7 authority granted it by Article XII, section 2, of the
8 Montana Constitution, through the State Bar of Montana, and
9 through the University of Montana School of Law, and these
10 contacts may be used to effectively solicit ideas for
11 necessary changes and to insure notice to the bar regarding
12 the effects of the proposed changes; and

13 WHEREAS, the Montana Supreme Court Commission on Rules
14 of Evidence, which prepared the Montana Rules of Evidence,
15 is still in existence and has in its membership the proper
16 persons to effectively study and prepare suggested
17 legislation on evidentiary conflicts in the law, the end
18 product of which could be complementary to the Montana Rules
19 of Evidence; and because the Montana Rules of Evidence have
20 been in effect for 4 years, this would be an advantageous
21 time for the Commission to recommend substantive changes in
22 statutory evidence provisions to make Montana's provisions
23 on evidence modern, effective, and efficient.

24
25 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE

1 OF REPRESENTATIVES OF THE STATE OF MONTANA:

2 That in order to reconcile conflicts between the
3 Montana Rules of Evidence and the statutory provisions on
4 evidence contained in the Montana Code Annotated, the
5 Montana Supreme Court is requested to:

6 (1) study the conflicts between the Montana Rules of
7 Evidence and current statutory provisions on evidence;

8 (2) draft legislation for the 48th Legislature to
9 eliminate such evidence conflicts and in connection
10 therewith to propose any substantive changes in statutory
11 provisions on evidence it considers advisable; and

12 (3) prepare any reports or commission comments it
13 feels would be necessary to explain the suggested
14 legislation.

15 BE IT FURTHER RESOLVED, that the Secretary of State
16 send a copy of this resolution to the Chief Justice of the
17 Montana Supreme Court.

-End-

STATE OF MONTANA

REQUEST NO. 426-81

FISCAL NOTE

Form BD-15

In compliance with a written request received March 6, 1981, there is hereby submitted a Fiscal Note for SENATE JOINT RESOLUTION #20 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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:

Senate Joint Resolution #20 is a resolution requesting the Montana Supreme Court to prepare proposed legislation for consideration by the 48th Legislature to reconcile conflicts between the Montana Rules of Evidence and the statutory provisions on evidence contained in the Montana Code Annotated.

FISCAL IMPACT:

	<u>FY 82</u>	<u>FY 83</u>
<u>Personnel</u>	\$ -0-	\$ -0-
<u>Operating</u>		
Travel (Evidence Commission Members)	\$ 5,688	\$ 3,792
Contracted (Research Attorney)	\$ 5,000	\$ 5,000
<u>Equipment</u>	\$ -0-	\$ -0-
<u>ADDITIONAL EXPENDITURES FOR PROPOSED LEGISLATION</u>	<u>\$10,688</u>	<u>\$8,792</u>

David M. Lewis
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 3-6-81

Approved by Committee
on Judiciary

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4 and the close connection between the statutory provisions on
5 evidence and the Supreme Court-promulgated Montana Rules of
6 Evidence; and

7 WHEREAS, the Montana Supreme Court has continuing
8 contact with the practicing bar of Montana through the
9 authority granted it by Article ~~III~~ VII, section 2, of the
10 Montana Constitution, through the State Bar of Montana, and
11 through the University of Montana School of Law, and these
12 contacts may be used to effectively solicit ideas for
13 necessary changes and to insure notice to the bar regarding
14 the effects of the proposed changes; and

15 WHEREAS, the Montana Supreme Court Commission on Rules
16 of Evidence, which prepared the Montana Rules of Evidence,
17 is still in existence and has in its membership the proper
18 QUALIFIED persons to effectively study and prepare suggested
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20 product of which could be complementary to the Montana Rules
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5 evidence and the Supreme Court-promulgated Montana Rules of
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7 WHEREAS, the Montana Supreme Court has continuing
8 contact with the practicing bar of Montana through the
9 authority granted it by Article XII VII, section 2, of the
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