

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. Concurred in. Sent to enrolling.

Reported correctly enrolled.

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*Steve* JOINT RESOLUTION NO. *20*  
INTRODUCED BY *Crippen J. O'Hara Berg Alan*  
*Bob Brown* BY REQUEST OF THE SENATE JUDICIARY COMMITTEE *Truitt Maguire*  
*Mike Anderson* *Steve Brown*

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA 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.

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

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

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

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

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

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

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

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, 19 81, 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).

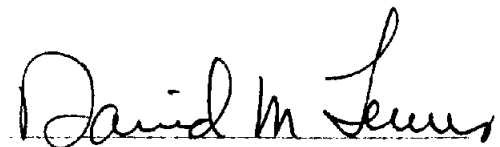
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

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</u>		
<u>FOR PROPOSED LEGISLATION</u>	<u>\$10,688</u>	<u>\$8,792</u>



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-6-81

Approved by Committee  
on Judiciary

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S. BROWN, HALLIGAN

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF  
REPRESENTATIVES OF THE STATE OF MONTANA 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.

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

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

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

WHEREAS, the Montana Supreme Court would be greatly  
affected by changes in the statutory provisions on evidence  
because of the impact of the changes on the practicing bar  
and the close connection between the statutory provisions on  
evidence and the Supreme Court-promulgated Montana Rules of  
Evidence; and

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

WHEREAS, the Montana Supreme Court Commission on Rules  
of Evidence, which prepared the Montana Rules of Evidence,  
is still in existence and has in its membership the proper  
QUALIFIED persons to effectively study and prepare suggested  
legislation on evidentiary conflicts in the law, the end  
product of which could be complementary to the Montana Rules  
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10 (2) draft legislation for the 48th Legislature to  
11 eliminate such evidence conflicts and in connection  
12 therewith to propose any substantive changes in statutory  
13 provisions on evidence it considers advisable; and

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

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

-End-

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

-End-

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