

HOUSE BILL NO. 3

Introduced: 01/03/83

Referred to Committee on Judiciary: 01/03/83

Hearing: 1/11/83

Report: 01/12/83, Do Not Pass

Bill Killed: 01/13/83

1 HOUSE BILL NO. 3
2 INTRODUCED BY CURTISS
3 BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DISAPPROVE THAT PART
6 OF THE SUPREME COURT RULE ON DISQUALIFICATION AND
7 SUBSTITUTION OF JUDGES THAT ALLOWS EACH ADVERSE PARTY IN A
8 CIVIL CASE TWO SUBSTITUTIONS OF A JUDGE."

9
10 WHEREAS, the Montana Supreme Court adopted a rule on
11 June 29, 1981, on the disqualification and substitution of
12 judges, including a provision allowing each adverse party in
13 a civil case two substitutions of a judge; and

14 WHEREAS, Article VII, section 2, of the Montana
15 Constitution permits the Legislature to disapprove this rule
16 in either of the two sessions following promulgation; and

17 WHEREAS, the Legislature finds in its review of this
18 rule that one peremptory challenge in a civil case is
19 sufficient but that two challenges are excessive and delay
20 the administration of justice; and

21 WHEREAS, the Legislature recognizes that its
22 constitutional powers are limited to disapproval, rather
23 than amendment, of a Supreme Court Rule.

24 THEREFORE, the Legislature seeks to eliminate
25 peremptory challenges in civil cases by disapproving in part

1 the Supreme Court Rule and recommends that the Court amend
2 its rule to allow one peremptory challenge to each party in
3 a civil case.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
6 Section 1. Partial disapproval of supreme court rule
7 on disqualification and substitution of judges. Under
8 Article VII, section 2, of the Montana constitution, the
9 legislature disapproves that provision within the supreme
10 court order dated June 29, 1981, on the disqualification and
11 substitution of judges that allows each adverse party in a
12 civil case two substitutions of a judge.

-End-