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SENATE BILL NO. 109
INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 2, OF THE MONTANA CONSTITUTION TO REESTABLISH THE PRINCIPLE OF SEPARATION OF POWERS BETWEEN THE THREE BRANCHES OF GOVERNMENT AND TO GIVE THE CITIZENS OF MONTANA MORE EFFECTIVE CONTROL OVER THE STATE JUDICIARY BY AUTHORIZING THE LEGISLATURE TO MAKE RULES GOVERNING COURT PROCEDURES AND THE PRACTICE OF LAW AND TAKING THAT AUTHORITY AWAY FROM THE SUPREME COURT."

WHEREAS, The Constitution of the State of Montana states in Article II, section 1, "Popular sovereignty. All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole"; and

WHEREAS, The Constitution of the State of Montana states in Article III, section 1, "Separation of powers. The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted"; and

WHEREAS, the Montana Supreme Court has held that legislative veto power is not extended to admission to the practice of law or for rules issued by the court relative to the practice of law or the conduct of lawyers and that under the present construction of Article VII, section 2, of the Montana Constitution, rules of appellate and civil procedure are subject only to disapproval by the Legislature after being legislated by the Supreme Court (see *In re the Petitions of McCabe & Zeman*, 168 Mont. 334, 544 P.2d 825 (1975)); and

WHEREAS, some of the laws and rules relating to the conduct of the courts and the practice of law are not published in the Montana Code Annotated and some of them are not uniform throughout the state.

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

