1   SENATE BILL NO. 42

2   INTRODUCED BY D. EMRICH

3   BY REQUEST OF THE SENATE SELECT COMMITTEE ON JUDICIAL OVERSIGHT AND REFORM

4

5   A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING JUDICIAL ELECTION LAWS;

6   PROVIDING FOR THE PARTISAN NOMINATION AND ELECTION OF SUPREME COURT JUSTICES,

7   DISTRICT COURT JUDGES, JUSTICES OF THE PEACE, AND MUNICIPAL COURT JUDGES; ~~REQUIRING~~

8   ~~INDEPENDENT CANDIDATES TO BE NOMINATED IN A SEPARATE PRIMARY ELECTION CONDUCTED IN~~

9   ~~A MANNER SIMILAR TO THAT OF CANDIDATES AFFILIATED~~ WITH A POLITICAL PARTY; ~~EXEMPTING~~

10   REVISING SIGNATURE REQUIREMENTS FOR INDEPENDENT JUDICIAL CANDIDATES; ~~FROM CERTAIN~~

11   ~~SIGNATURE AND FILING DEADLINES; REQUIRING AN UNOPPOSED INDEPENDENT CANDIDATE IN A~~

12   ~~JUDICIAL PRIMARY ELECTION TO RECEIVE A MINIMUM NUMBER OF VOTES TO ADVANCE TO THE~~

13   ~~GENERAL ELECTION;~~ ALLOWING JUDICIAL CANDIDATES TO ACCEPT ENDORSEMENTS FROM

14   POLITICAL PARTIES; ALLOWING POLITICAL PARTIES TO CONTRIBUTE TO JUDICIAL CANDIDATES;

15   AMENDING SECTIONS 3-2-101, 3-5-201, 3-10-201, 3-10-206, ~~13-1-103, 13-10-501,~~ 13-10-502, ~~13-10-503,~~

16   ~~13-10-601,~~ 13-14-111, 13-14-118, AND 13-37-211, MCA; REPEALING SECTIONS 13-14-211, 13-14-212, 13-

17   14-213, AND 13-35-231, MCA; AND PROVIDING AN APPLICABILITY DATE."

18

19   WHEREAS, Montana justices, judges, and justices of the peace currently are nominated and elected

20   without political party designation; and

21   WHEREAS, the Montana Legislature has received numerous comments from constituents stating that

22   constituents have insufficient information to vote in judicial elections in an informed manner; and

23   WHEREAS, among the factors contributing to this lack of information are the absence of party labels on

24   election material, the absence of party labels on ballots, and the relative lack of information about judicial

25   candidates that is distributed by party organizations; and

26   WHEREAS, the fact that judicial candidates are barred from party primaries further reduces the public

27   scrutiny they receive; and

28   WHEREAS, an additional effect of the lack of party designation is the excessive influence on judicial

1   "**3-10-206.**   **Vacancies.** Subject to the residency requirements provided in 3-10-204 and the election

2   requirements provided in 3-10-201(2) ~~through (4)~~ and (3), a vacancy in the office of a justice of the peace must

3   be filled pursuant to 7-4-2206 until a successor is elected and qualified."

4

5   ~~S<small>ECTION</small> 6. Section 13-1-103, MCA, is amended to read:~~

6   ~~"**13-1-103.**   **Determination of winner.** (1) The Except as provided in subsection (2), the individual~~

7   ~~receiving the highest number of valid votes for any office at an election is elected or nominated to that office.~~

8   ~~(2)   To be nominated and to advance to the general election, an independent candidate for judicial~~

9   ~~office who is the only candidate in the independent primary must receive at least 5% of the total votes cast for~~

10   ~~the successful candidate with the least votes in the most recent primary held for that office."~~

11

12   ~~S<small>ECTION</small> 7. Section 13-10-501, MCA, is amended to read:~~

13   ~~"**13-10-501.**   **Petition for nomination by independent candidates or political parties not eligible**~~

14   ~~**to participate in primary election.** (1) Except as provided in 13-10-504 and 13-10-601(3), nominations for~~

15   ~~public office by an independent candidate or a political party that does not meet the requirements of 13-10-~~

16   ~~601(1) or (2) may be made by a petition for nomination.~~

17   ~~(2)   The petition must contain the same information and the oath of the candidate required for a~~

18   ~~declaration for nomination.~~

19   ~~(3)   If a petition is filed by a political party, it must contain the party name and, in five words or less,~~

20   ~~the principle that the body represents.~~

21   ~~(4)   The form of the petition must be prescribed by the secretary of state, and the secretary of state~~

22   ~~shall furnish sample copies to the election administrators and on request to any individual.~~

23   ~~(5)   Each sheet of a petition must contain signatures of electors residing in only one county."~~

24

25   **Section 6.** Section 13-10-502, MCA, is amended to read:

26   "**13-10-502.**   **Signature requirements for petition** ~~-- exception for independent judicial~~

27   ~~candidates~~. (1) The petition for nomination must be signed by electors residing within the state and district or

28   political subdivision in which the officer or officers are to be elected. Each signature line must contain spaces

1   for the signature, post-office address, and printed last name of the signer.

2   (2)   (a) ~~The~~ Except as provided in subsection (2)(b), the number of signatures must be 5% or more

3   of the total vote cast for the successful candidate for the same office at the last general election.

4   (b)   For candidates for a judicial office, the number of signatures must be 3% or more of the total

5   vote cast for the successful candidate for the same office at the last general election.

6   (3)   If the office sought is a new office or the boundaries of the district or political subdivision in

7   which the election is to be held have changed since the last election for the office, the officer with whom

8   nominations for the office sought are filed shall determine the number of signatures required for a petition of

9   nomination for that office.

10   ~~(4)   A candidate for judicial office who files for office as an independent candidate is not subject to~~

11   ~~the signature requirements provided by this section.~~"

12

13   ~~SECTION 9. SECTION 13-10-503, MCA, IS AMENDED TO READ:~~

14   ~~"13-10-503.   Filing deadlines -- exception for independent judicial candidates. (1) A petition for~~

15   ~~nomination, the affidavits of circulation required by 13-27-302, and the required filing fee must be filed with the~~

16   ~~same officer with whom other nominations for the office sought are filed. Petitions must be submitted, at least 1~~

17   ~~week before the deadline for filing, to the election administrator in the county where the signer resides for~~

18   ~~verification and certification by the procedures provided in 13-27-303 through 13-27-306. If sufficient signatures~~

19   ~~are verified and certified pursuant to 13-10-502, the county election administrator shall file the petition for~~

20   ~~nomination with the same officer with whom other nominations for the office sought are filed.~~

21   ~~(2)   Except as provided in 13-10-504, each petition for nomination and the required filing fee must~~

22   ~~be filed before the scheduled primary election or the filing deadline for the special or general election if a~~

23   ~~primary election is not scheduled.~~

24   ~~(3)   A candidate for judicial office who files for office as an independent candidate is not subject to~~

25   ~~the filing deadlines provided by this section.~~"

26

27   ~~SECTION 10. SECTION 13-10-601, MCA, IS AMENDED TO READ:~~

28   ~~"13-10-601.   Parties eligible for primary election -- petitions by minor parties -- independent~~

Legislative
Services
Division

1   ~~candidate for judicial office~~. ~~(1) Each political party that had a candidate for a statewide office in either of the~~

2   ~~last two general elections who received a total vote that was 5% or more of the total votes cast for the most~~

3   ~~recent successful candidate for governor shall nominate its candidates for public office, except for presidential~~

4   ~~electors, by a primary election as provided in this chapter.~~

5   ~~(2)   After certification of a petition by the secretary of state under 13-10-610(1), a political party that~~

6   ~~does not qualify to hold a primary election under subsection (1) shall nominate its candidates for public office by~~

7   ~~primary election. However, this section may not be construed to prohibit an election administrator from not~~

8   ~~preparing a primary election ballot pursuant to 13-10-209.~~

9   ~~(3)   (a) Except as provided in subsection (3)(b), in an election for judicial office, a candidate who~~

10 ~~chooses to run as an independent candidate must be nominated by a primary election conducted in the same~~

11 ~~manner as provided for candidates who belong to political parties covered in subsection (1).~~

12 ~~(b)   If an independent candidate for judicial office is the only candidate in the independent primary,~~

13 ~~the candidate must receive at least 5% of the total votes cast for the successful candidate with the least votes~~

14 ~~in the most recent primary held for that office.~~"

15

16   **Section 7.** Section 13-14-111, MCA, is amended to read:

17   "**13-14-111.   Application of general laws.** Except as otherwise provided in this chapter, candidates

18 for nonpartisan offices ~~, including judicial offices,~~ must be nominated and elected according to the provisions of

19 this title."

20

21   **Section 8.** Section 13-14-118, MCA, is amended to read:

22   "**13-14-118.   Vacancies among nominees after nomination and before general election.** (1) If

23 after the primary election and before the 85th day before the general election a candidate is not able to run for

24 the office for any reason, the vacancy must be filled by the candidate next in rank in number of votes received

25 in the primary election.

26   (2)   If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the

27 vacancy occurs no later than 85 days before the general election, a 10-day period for accepting declarations for

28 nomination or statements of candidacy and nominating petitions for the office must be declared by:

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1   endorsements from political parties.

2

3   NEW SECTION. **Section 11.   Repealer.** The following sections of the Montana Code Annotated are

4   repealed:

5   13-14-211.   Judicial offices separate and independent offices for election purposes.

6   13-14-212.   Form of ballot on retention of certain incumbent judicial officers.

7   13-14-213.   Form of ballot on retention for other judicial offices.

8   13-35-231.   Unlawful for political party to contribute to judicial candidate.

9

10   NEW SECTION. **Section 12.   Codification instruction.** (1) [Section 4] is intended to be codified as

11   an integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section

12   4].

13   (2)   [Section 9 ~~14~~ 10] is intended to be codified as an integral part of Title 13, chapter 35, part 2,

14   and the provisions of Title 13, chapter 35, part 2, apply to [section 9 ~~14~~ 10].

15

16   NEW SECTION. **Section 13.   Saving clause.** [This act] does not affect rights and duties that

17   matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

18

19   NEW SECTION. **Section 14.   Applicability.** [This act] applies to elections for judicial offices occurring

20   on or after [the effective date of this act].

21   - END -