1   SENATE BILL NO. 268

2   INTRODUCED BY BALYEAT, ESSMANN, PRIEST, HINKLE, JACKSON, VINCENT, MURPHY, ARTHUN,

3   SONJU, BUTTREY, BROWN, STAHL, HARRIS, RIPLEY, WALKER, KLOCK, SKEES, TUTVEDT, BLASDEL,

4   HALE, MOORE, HENDRICK, CLARK, BRENDEN, SALOMON, MCGILLVRAY, KNOX, LONEY, CUFFE,

5   GREEF, ROSENDALE, BRODEHL, EHLI, SKATTUM, OLSON, MCNIVEN, VANCE, BURNETT, BLYTON,

6   HOWARD, MACLAREN, WELBORN, DE. BARRETT, STEINBEISSER, O'NEIL, O'HARA, FLYNN,

7   G. BENNETT, SMALL, MORE, INGRAHAM, C. SMITH, ARNTZEN, READ, KERNS, WARBURTON, BERRY,

8   WASHBURN, WITTICH, P. CONNELL, R. HUTTON, L. JONES, B. LAKE, S. REICHNER, D. LEWIS

9

10   A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT SUPREME COURT JUSTICES BE ELECTED

11   AND APPOINTED FROM SUPREME COURT DISTRICTS; ESTABLISHING SUPREME COURT DISTRICTS;

12   PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA

13   AT A SPECIAL ELECTION TO BE HELD CONCURRENTLY WITH THE 2012 PRIMARY ELECTION;

14   AMENDING SECTIONS 3-2-101 AND 3-2-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

15   AND AN APPLICABILITY DATE."

16

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

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19   **Section 1.** Section 3-2-101, MCA, is amended to read:

20   **"3-2-101. Number, election, and term of office -- selection of chief justice.** (1) The supreme court

21   consists of a chief justice and six associate justices who ~~are elected by the qualified electors of the state at large~~

22   must be qualified electors of the district from which they are elected, with each member elected from a separate

23   district of the state as provided in [section 3]. Each justice must be elected at the general ~~state elections~~ election

24   next preceding the expiration of the ~~terms~~ term of office of ~~their predecessors, respectively,~~ the justice's

25   predecessor and ~~hold their offices~~ holds office for the term of 8 years from ~~and after~~ the first Monday of January

26   ~~next~~ succeeding ~~their~~ the justice's election.

27   (2) After the general election in 2016, the chief justice must be selected by the majority vote of the seven

28   justices at the first meeting of the court in each year after a general election."

29

30   **Section 2.** Section 3-2-102, MCA, is amended to read:

1   **"3-2-102. Qualifications and residence.** (1) A person is not eligible for the office of justice of the

2 supreme court unless the person is a citizen of the United States, has resided in the state 2 years immediately

3 before taking office, and has been admitted to practice law in Montana for at least 5 years prior to the date of

4 appointment or election.

5   (2) Justices of the supreme court must reside within the state during their terms of office. Once elected

6 from a district, a justice is not required to reside within the district during the justice's service in office.

7   (3) A supreme court justice must, at the time of initial election, be a qualified elector of the supreme court

8 district from which the justice is elected. A supreme court justice appointed to fill a vacancy must, at the time of

9 appointment, be a qualified elector of the same initial supreme court district as the justice being replaced, and

10 in an election following an appointment, the elected justice must be a qualified elector of the initial district."

11

12   NEW SECTION. **Section 3. Supreme court districts defined -- number of judges.** (1) In this state

13 there are seven supreme court judicial districts, distributed as follows:

14   (a) 1st district: Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Liberty, Meagher,

15 Pondera, Teton, and Wheatland Counties;

16   (b) 2nd district: Big Horn, Blaine, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone,

17 Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater,

18 Sweet Grass, Treasure, Valley, and Wibaux Counties;

19   (c) 3rd district: Yellowstone County;

20   (d) 4th district: Lewis and Clark, Deer Lodge, Granite, Jefferson, Ravalli, Powell, and Broadwater

21 Counties;

22   (e) 5th district: Flathead, Lincoln, Glacier, Sanders, and Toole Counties;

23   (f) 6th district: Gallatin, Madison, Beaverhead, and Silver Bow Counties;

24   (g) 7th district: Missoula, Lake, and Mineral Counties.

25   (2) There must be one supreme court justice selected from each district.

26   (3) The legislature shall review the districts after each decennial census for purposes of maintaining

27 districts with approximately equal populations while following county lines.

28

29   NEW SECTION. **Section 4. Transition.** (1) [This act] may not remove any justice that is holding office

30 on [the effective date of this act] during the term for which the justice was elected or appointed. After [the effective

1   date of this act], each sitting associate justice must be assigned to the judicial district that corresponds to the

2   associate justice's current seat number and the chief justice must be assigned to the seventh district.

3   (2) (a)   Except as provided in subsection (2)(b), each supreme court justice who chooses to seek

4   reelection at the end of the justice's current term shall run for reelection in the district to which the justice is

5   assigned under subsection (1).

6   (b)   A sitting justice that chooses to seek election in a district other than the district assigned under

7   subsection (1) may run for election in the district if the justice resigns the justice's current seat effective as of the

8   date the justice files for election in the district to which the justice seeks election.

9   (3)   In the 2012 election, the two candidates receiving the most votes in the primary for each seat up for

10   reelection advance to the 2012 general election for the district that corresponds to the same seat number.

11

12   NEW SECTION.   **Section 5.   Codification instruction.** [Section 3] is intended to be codified as an

13   integral part of Title 3, chapter 2, and the provisions of Title 3, chapter 2, apply to [section 3].

14

15   NEW SECTION.   **Section 6.   Severability.** If a part of [this act] is invalid, all valid parts that are severable

16   from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part

17   remains in effect in all valid applications that are severable from the invalid applications.

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19   NEW SECTION.   **Section 7.   Effective date.** [This act] is effective upon approval by the electorate.

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21   NEW SECTION.   **Section 8.   Applicability.** [This act] applies to the election and appointment of supreme

22   court justices to terms that begin on or after [the effective date of this act].

23

24   NEW SECTION.   **Section 9.   Submission to electorate.** [This act] shall be submitted to the qualified

25   electors of Montana at a special election to be held concurrently with the primary election held in the spring of

26   2012 by printing on the ballot the full title of [this act] and the following:

27   []   FOR requiring supreme court justices to be elected or appointed from districts with approximately

28   equal populations.

29   []   AGAINST requiring supreme court justices to be elected or appointed from districts with

30   approximately equal populations.

31   - END -