1   SENATE BILL NO. 302

2   INTRODUCED BY D. EMRICH, S. FITZPATRICK, T. MCGILLVRAY, S. HINEBAUCH, J. TREBAS, J.

3   KASSMIER, B. PHALEN, J. BERGSTROM

4

5   A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE PARTISAN ELECTION OF SUPREME

6   COURT JUSTICES, DISTRICT COURT JUDGES, MUNICIPAL JUDGES, AND JUSTICES OF THE PEACE

7   AFTER A TOP TWO NONPARTISAN PRIMARY; ALLOWING POLITICAL PARTIES TO CONTRIBUTE TO

8   JUDICIAL CANDIDATES IN GENERAL ELECTIONS; AMENDING SECTIONS 3-2-101, 3-5-201, 3-10-201, 13-

9   10-602, 13-12-203, 13-14-212, AND 13-35-231, MCA; AND PROVIDING AN APPLICABILITY DATE."

10

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

12

13   NEW SECTION. **Section 1.   Judicial candidate in general election to designate partisan**

14   **preference -- deadline for candidate to provide political designation**. (1) If a judge or justice is qualified to

15   have the judge's or justice's name placed on the general election ballot as provided in 13-14-117, the judge or

16   justice shall file a party designation form with the secretary of state no later than the date provided in 13-12-

17   201(1) for the secretary of state to certify the names and party designations of candidates in the general

18   election. The form must allow a judge or justice to designate a political party preference. If the judge or justice

19   does not indicate a preference, the judge or justice must appear on the general election ballot with the words

20   "No Party Designation" after the judge's or justice's name.

21   (2)   In a general election to fill a judicial office, a designation of political party preference is not

22   evidence that the candidate has been nominated or endorsed by the political party or that the political party

23   approves of or associates with that candidate.

24

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

26   "**3-2-101.   Number, election, and term of office.** (1) The supreme court consists of a chief justice

27   and six associate justices who are elected by the qualified electors of the state at large at the general state

28   elections next preceding the expiration of the terms of office of their predecessors, respectively, and hold their

1   offices for the term of 8 years from and after the first Monday of January next succeeding their election.

2   (2)   (a) Except as provided in subsection (2)(b), a supreme court justice, including the chief justice,

3   must be nominated using the nonpartisan process established in Title 13, chapter 14, for primary elections and

4   be elected with a partisan designation as provided in [section 1].

5   (b)   An incumbent justice who is the only candidate for the office must be placed on the general

6   ballot as provided in Article VII, section 8, of the Montana constitution and 13-14-212.

7   (3)   Each vacancy for justice of the supreme court is a separate and independent office for election

8   purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify

9   these numbers to the office of the secretary of state."

10

11   **Section 3.** Section 3-5-201, MCA, is amended to read:

12   "**3-5-201.   ~~Election~~ Nomination, election, and oath of office.** (1) The judges of the district court,

13   except judges pro tempore, must be elected by the qualified voters of the district.

14   (2)   (a) Except as provided in subsection (2)(a), judges of the district court must be nominated

15   using the nonpartisan process established in Title 13, chapter 14, for primary elections and be elected with a

16   partisan designation as provided in [section 1].

17   (b)   An incumbent judge who is the only candidate for the office must be placed on the general

18   election ballot as provided in Article VII, section 8, of the Montana constitution and 13-14-212.

19   (3)   Each vacancy for district court office is a separate and independent office for election

20   purposes. The clerk of district court in a multijudge district shall certify the department numbers assigned

21   pursuant to 3-5-403 to the office of secretary of state for election purposes.

22   ~~(2)~~(4)   Except as provided in subsection (1), each judge of a district court shall, as soon as the judge

23   has taken and subscribed the official oath, file the official oath in the office of the secretary of state."

24

25   **Section 4.** Section 3-10-201, MCA, is amended to read:

26   "**3-10-201.   ~~Election~~ Nomination and election.** (1) Except as provided in 3-10-206, each justice of

27   the peace must be elected by the qualified electors of the county at the general state election immediately

28   preceding the expiration of the term of office of the justice of the peace's predecessor.

1   (2)   A justice of the peace must be nominated and elected ~~on the nonpartisan judicial ballot~~ in the

2   same manner as judges of the district court.

3   (3)   Each judicial office must be a separate and independent office for election purposes, each

4   office must be numbered by the county commissioners, and each candidate for justice of the peace shall

5   specify the number of the office for which the candidate seeks to be elected. A candidate may not file for more

6   than one office.

7   (4)   Section 13-35-231, prohibiting political party contributions to judicial officers <u>in primary</u>

8   <u>elections</u>, applies to justices of the peace."

9

10   **Section 5.** Section 13-10-602, MCA, is amended to read:

11   "**13-10-602.   Use of party name.** (1) Except as provided in [section 1] and subsection (3) <u>of this</u>

12   <u>section</u>, a political party and its regularly nominated candidates, members, and officers have the sole and

13   exclusive right to the use of the party name. A candidate for office may not use any word of the name of any

14   other political party or organization other than that by which the candidate is nominated in a manner that

15   indicates or implies the individual is a candidate of the nonnominating party.

16   (2)   An independent or nonpartisan candidate, except as provided in [section 1] and subsection (3)

17   <u>of this section</u>, may not use any word of the name of any existing political party or organization in the candidacy

18   in a manner that indicates or implies that the individual is a candidate of that party or organization.

19   (3)   A candidate for an elective office under an elected county official government provided for in 7-

20   3-111 who is running in an election conducted after electors have approved a change pursuant to 7-3-103(4) in

21   the type of election held from partisan to nonpartisan may use a party name or symbol in the candidate's

22   campaign material."

23

24   **Section 6.** Section 13-12-203, MCA, is amended to read:

25   "**13-12-203.   Appearance of candidate's name and party designation on ballot.** (1) <u>(a)</u> Subject to

26   13-12-202 and except as provided in 13-10-209 for nonpartisan offices<u>,</u> ~~and~~ 13-10-303 for certain other

27   candidates, <u>and subsection (1)(b) of this section for candidates for judicial office,</u> in partisan elections,

28   candidates' names must appear under the title of the office sought, with the name of the party in not more than

1   three words appearing opposite or below the name.

2   (b)   The name of a candidate for judicial office must appear under the title of the office sought, with

3   the name of the candidate's political party designation provided pursuant to [section 1] in not more than three

4   words appearing opposite or below the name.

5   (2)   Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear

6   under the title of the office sought, with no description or designation appearing with the name unless partisan

7   and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must

8   appear with the word "Nonpartisan".

9   (3)   Except as otherwise provided by this section, information about the candidate other than the

10   candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

11

12   **Section 7.** Section 13-14-212, MCA, is amended to read:

13   "**13-14-212.   Form of ballot on retention of certain incumbent judicial officers.** (1) If the

14   incumbent is the only candidate for the office of chief justice, supreme court justice, district court judge, or

15   justice of the peace, the election administrator may not include a ~~nonpartisan~~ political party designation or write-

16   in space for the office on the general election ballot. The name of the incumbent must be placed on the official

17   ballot for the general election as follows:

18   Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the

19   state of Montana be retained in office for another term?

20   (2)   Following the question, provision must be made, subject to rules adopted pursuant to 13-12-

21   202, for a voter to indicate a "yes" or "no" vote."

22

23   **Section 8.** Section 13-35-231, MCA, is amended to read:

24   "**13-35-231.   Unlawful for political party to contribute to judicial candidate.** (1) A Except as

25   provided in subsection (2), a political party may not contribute to a judicial candidate.

26   (2)   A political party may contribute to a judicial candidate who has advanced to the general

27   election."

28

1   NEW SECTION. **Section 9.   Codification instruction.** [Section 1] is intended to be codified as an

2   integral part of Title 13, chapter 12, part 2, and the provisions of Title 13, chapter 12, part 2, apply to [section 1].

3

4   NEW SECTION. **Section 10.   Saving clause.** [This act] does not affect rights and duties that

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

6

7   NEW SECTION. **Section 11.   Severability.** If a part of [this act] is invalid, all valid parts that are

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

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

10

11   NEW SECTION. **Section 12.   Applicability.** [This act] applies to elections for a judicial office

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

13   - END -