

HOUSE BILL NO. 86

INTRODUCED BY M. HANSON

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 13, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 14, 1993	PRINTING REPORT.
JANUARY 16, 1993	SECOND READING, DO PASS.
JANUARY 18, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 96; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 12, 1993	SECOND READING, CONCURRED IN.
FEBRUARY 13, 1993	THIRD READING, CONCURRED IN. AYES, 44; NOES, 6.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 15, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 86

INTRODUCED BY M. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING DETERMINATION OF RESIDENCY FOR CANDIDATES TO THE LEGISLATURE; REQUIRING PERSONS FILING FOR NOMINATION TO THE LEGISLATURE TO INDICATE A RESIDENCE; REQUIRING CANDIDATES FOR THE LEGISLATURE TO NOTIFY THE SECRETARY OF STATE AFTER CHANGING RESIDENCE; DIRECTING THE SECRETARY OF STATE TO DECERTIFY AND NOTIFY A LEGISLATIVE CANDIDATE WHO IS NO LONGER ELIGIBLE TO SEEK ELECTION BECAUSE OF A CHANGE IN RESIDENCE; EXCEPTING LEGISLATIVE CANDIDATES FROM THE RESTRICTION ON WITHDRAWAL FROM NOMINATION; AND AMENDING SECTIONS 13-1-112, 13-10-201, 13-10-208, 13-10-325, AND 13-12-201, MCA."

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

Section 1. Section 13-1-112, MCA, is amended to read:

"13-1-112. Rules for determining residence. For registration or, voting, or seeking election to the legislature, the residence of any individual shall must be determined by the following rules as far as they are applicable:

(1) The residence of an individual is where his the individual's habitation is fixed and to which, whenever he

the individual is absent, he the individual has the intention of returning.

(2) An individual may not gain or lose a residence while kept involuntarily at any public institution, not necessarily at public expense; as a result of being confined in any public prison; or solely as a result of residing on a military reservation.

(3) An individual in the armed forces of the United States may not become a resident solely as a result of being stationed at a military facility in the state. An individual may not acquire a residence solely as a result of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(4) An individual does not lose his residence if he the individual goes into another state or other district of this state for temporary purposes with the intention of returning, unless he the individual exercises the election franchise in the other state or district.

(5) An individual may not gain a residence in a county if he the individual comes in for temporary purposes without the intention of making that county his the individual's home.

(6) If an individual moves to another state with the intention of making it his the individual's residence, he the individual loses his residence in this state.

(7) The place where an individual's family resides is presumed to be that individual's place of residence. However, an individual who takes up or continues a residence at a place other than where his the individual's family resides with the intention of remaining is a resident of the place where he the individual resides.

(8) A change of residence ~~can~~ may be made only by the act of removal joined with intent to remain in another place."

Section 2. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration for nomination. (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall send a declaration for nomination to the secretary of state or election administrator. Each candidate for governor shall send a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination ~~shall~~ must be filed in the office of:

(a) the secretary of state for a congressional office, state or district office to be voted for in more than one county, member of the legislature, or judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the

legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. The declaration for nomination ~~shall~~ must be acknowledged by an officer empowered to acknowledge signatures if sent by mail or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his the elector's party.

(5) (a) The declaration for nomination ~~shall~~ must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6) Declarations for nomination ~~shall~~ must be filed no

sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election."

Section 3. Section 13-10-208, MCA, is amended to read:

"13-10-208. Certificate of primary ballot -- printing ballot. (1) Not more than 75 days and not less than 67 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of his the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(2) Not more than 67 days and not less than 62 days before the date of the primary election, the election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of his the election administrator's office and have the official ballots printed in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall decertify the candidate and shall

notify the candidate that the candidate is required to withdraw."

Section 4. Section 13-10-325, MCA, is amended to read:

"13-10-325. Withdrawal from nomination. (1) A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom his the declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. ~~It shall~~ The statement must be sworn or affirmed before an officer empowered to administer oaths. ~~A Except~~ for a candidate for the legislature, a candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.

(2) Filing fees paid by the candidate may not be refunded."

Section 5. Section 13-12-201, MCA, is amended to read:

"13-12-201. Secretary of state to certify ballot. (1) Seventy-five days or more before an election, except as provided in 13-10-208, the secretary of state shall certify to the election administrators the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of his the secretary of state's office, which must

1 include the notification specified in 13-37-126.

2 (2) The election administrator shall certify the name
3 and party or other designation of each candidate entitled to
4 appear on the ballot and the ballot issues as shown in the
5 official records of his the election administrator's office,
6 which must include the notification specified in 13-37-126,
7 and shall have the official ballots printed.

8 (3) If a candidate for the legislature is no longer
9 eligible under Article V, section 4, of the Montana
10 constitution to seek the office for which the candidate has
11 filed because the candidate has changed residence, the
12 secretary of state shall decertify the candidate and shall
13 notify the candidate that the candidate is required to
14 withdraw."

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 86

INTRODUCED BY M. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING DETERMINATION OF RESIDENCY FOR CANDIDATES TO THE LEGISLATURE; REQUIRING PERSONS FILING FOR NOMINATION TO THE LEGISLATURE TO INDICATE A RESIDENCE; REQUIRING CANDIDATES FOR THE LEGISLATURE TO NOTIFY THE SECRETARY OF STATE AFTER CHANGING RESIDENCE; DIRECTING THE SECRETARY OF STATE TO ~~DECEITIFY--AND~~ NOTIFY A LEGISLATIVE CANDIDATE WHO IS NO LONGER ELIGIBLE TO SEEK ELECTION BECAUSE OF A CHANGE IN RESIDENCE; ~~EXCEPTING---LEGISLATIVE---CANDIDATES--FROM--THE~~ ~~RESTRICTION-ON--WITHDRAWAL--FROM--NOMINATION;~~ AND AMENDING SECTIONS 13-1-112, 13-10-201, 13-10-208, ~~13-10-325,~~ AND 13-12-201, MCA."

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

Section 1. Section 13-1-112, MCA, is amended to read:

"13-1-112. Rules for determining residence. For registration or, voting, or seeking election to the legislature, the residence of any individual shall must be determined by the following rules as far as they are applicable:

(1) The residence of an individual is where his the individual's habitation is fixed and to which, whenever he

the individual is absent, he the individual has the intention of returning.

(2) An individual may not gain or lose a residence while kept involuntarily at any public institution, not necessarily at public expense; as a result of being confined in any public prison; or solely as a result of residing on a military reservation.

(3) An individual in the armed forces of the United States may not become a resident solely as a result of being stationed at a military facility in the state. An individual may not acquire a residence solely as a result of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(4) An individual does not lose ~~his~~ residence if he the individual goes into another state or other district of this state for temporary purposes with the intention of returning, unless he the individual exercises the election franchise in the other state or district.

(5) An individual may not gain a residence in a county if he the individual comes in for temporary purposes without the intention of making that county his the individual's home.

(6) If an individual moves to another state with the intention of making it his the individual's residence, he the individual loses ~~his~~ residence in this state.

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(8) A change of residence can may be made only by the act of removal joined with intent to remain in another place."

Section 2. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration for nomination. (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall send a declaration for nomination to the secretary of state or election administrator. Each candidate for governor shall send a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination ~~shall~~ must be filed in the office of:

(a) the secretary of state for a congressional office, state or district office to be voted for in more than one county, member of the legislature, or judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the

legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. The declaration for nomination ~~shall~~ must be acknowledged by an officer empowered to acknowledge signatures if sent by mail or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his the elector's party.

(5) (a) The declaration for nomination ~~shall~~ must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state ON A FORM PRESCRIBED BY THE SECRETARY OF STATE.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6) Declarations for nomination ~~shall~~ must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election."

Section 3. Section 13-10-208, MCA, is amended to read:

"13-10-208. Certificate of primary ballot -- printing ballot. (1) Not more than 75 days and not less than 67 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of ~~his~~ the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(2) Not more than 67 days and not less than 62 days before the date of the primary election, the election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of ~~his~~ the election administrator's office and have the official ballots printed in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the

secretary of state shall decertify the candidate and shall notify the candidate that the candidate is required to withdraw AS PROVIDED IN 13-10-325."

~~Section 4.--Section 13-10-325, MCA, is amended to read:~~

~~"13-10-325.--Withdrawal from nomination--(1)--A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom his the declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. It shall The statement must be sworn or affirmed before an officer empowered to administer oaths. A Except for a candidate for the legislature, a candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.~~

~~(2)--Filing fees paid by the candidate may not be refunded."~~

Section 4. Section 13-12-201, MCA, is amended to read:

"13-12-201. Secretary of state to certify ballot. (1) Seventy-five days or more before an election, except as provided in 13-10-208, the secretary of state shall certify to the election administrators the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official

1 records of ~~his~~ the secretary of state's office, which must
2 include the notification specified in 13-37-126.

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(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by ~~his~~ the elector's party.

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(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state ON A FORM PRESCRIBED BY THE SECRETARY OF STATE.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

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Section 3. Section 13-10-208, MCA, is amended to read:

"13-10-208. Certificate of primary ballot -- printing ballot. (1) Not more than 75 days and not less than 67 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of ~~his~~ the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

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(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the

secretary of state shall decertify the candidate and shall notify the candidate that the candidate is required to withdraw AS PROVIDED IN 13-10-325."

~~Section 4. Section 13-10-325, MCA, is amended to read:~~

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~~(2) Filing fees paid by the candidate may not be refunded."~~

Section 4. Section 13-12-201, MCA, is amended to read:

"13-12-201. Secretary of state to certify ballot. (1) Seventy-five days or more before an election, except as provided in 13-10-208, the secretary of state shall certify to the election administrators the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official

1 records of his the secretary of state's office, which must
2 include the notification specified in 13-37-126.

3 (2) The election administrator shall certify the name
4 and party or other designation of each candidate entitled to
5 appear on the ballot and the ballot issues as shown in the
6 official records of his the election administrator's office,
7 which must include the notification specified in 13-37-126,
8 and shall have the official ballots printed.

9 (3) If a candidate for the legislature is no longer
10 eligible under Article V, section 4, of the Montana
11 constitution to seek the office for which the candidate has
12 filed because the candidate has changed residence, the
13 secretary of state shall decertify-the-candidate-and-shall
14 notify the candidate that the candidate is required to
15 withdraw AS PROVIDED IN 13-10-325."

-End-