

SENATE BILL 5

Introduced by Burnett

12/23 Introduced  
12/23 Referred to Judiciary  
1/04 First Reading  
2/16 Hearing  
2/19 Committee Report--Bill Not Passed  
2/19 Adverse Committee Report Adopted  
2/19 Motion Carried to Place on 2nd Reading  
(Proposed Constitutional Amendment  
Proceeded to 2nd Reading Vote)  
2/20 2nd Reading Do Pass Motion Failed  
(Proposed Constitutional Amendment  
Proceeded to 3rd Reading Vote)  
2/22 3rd Reading Failed  
  
Transmitted to House  
2/23 Referred to Judiciary  
2/23 First Reading  
3/16 Hearing  
3/25 Tabled in Committee

## CONSTITUTIONAL AMENDMENT

## SENATE BILL NO. 5

INTRODUCED BY BURNETT

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 9, OF THE CONSTITUTION OF THE STATE OF MONTANA ABOLISHING THE REQUIREMENT THAT A SUPREME COURT JUSTICE OR DISTRICT COURT JUDGE BE ADMITTED TO THE PRACTICE OF LAW IN MONTANA PRIOR TO THE DATE OF APPOINTMENT OR ELECTION."

WHEREAS, Article II, section 1, of The Constitution of the State of Montana provides that all political power is vested in and derived from the people and that 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, Article II, section 2, of The Constitution of the State of Montana provides that the people have the exclusive right of governing themselves as a free, sovereign, and independent state and that they may alter or abolish the constitution and form of government whenever they deem it necessary; and

WHEREAS, Article VII, section 9, of The Constitution of the State of Montana provides that a Supreme Court Justice or District Court Judge must have been admitted to the

practice of law in Montana for at least 5 years prior to the date of appointment or election; and

WHEREAS, Justices of the United States Supreme Court and of the courts of some of the states are not required to be admitted to the practice of law as a condition to taking office; and

WHEREAS, the common-sense administration of justice requires wisdom more than training or experience in the law; and

WHEREAS, the right to seek and occupy public office is a basic right under the state and federal constitutions.

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

**Section 1.** Article VII, section 9, of The Constitution of the State of Montana is amended to read:

"Section 9. Qualifications. (1) A citizen of the United States who has resided in the state two years immediately before taking office is eligible to the office of supreme court justice or district court judge ~~if admitted to the practice of law in Montana for at least five years prior to the date of appointment or election.~~ Qualifications and methods of selection of judges of other courts shall be provided by law.

(2) No supreme court justice or district court judge shall solicit or receive compensation in any form whatever

1 on account of his office, except salary and actual necessary  
2 travel expense.

3 (3) Except as otherwise provided in this constitution,  
4 no supreme court justice or district court judge shall  
5 practice law during his term of office, engage in any other  
6 employment for which salary or fee is paid, or hold office  
7 in a political party.

8 (4) Supreme court justices shall reside within the  
9 state. During his term of office, a district court judge  
10 shall reside in the district and a justice of the peace  
11 shall reside in the county in which he is elected or  
12 appointed. The residency requirement for every other judge  
13 must be provided by law."

14 NEW SECTION. **Section 2.** Submission to electorate. This  
15 amendment shall be submitted to the qualified electors of  
16 Montana at the general election to be held in November 1994  
17 by printing on the ballot the full title of this act and the  
18 following:

19 ☐ FOR abolishing the requirement that a supreme court  
20 justice or district court judge be admitted to the  
21 practice of law in Montana prior to the date of  
22 appointment or election.

23 ☐ AGAINST abolishing the requirement that a supreme  
24 court justice or district court judge be admitted to  
25 the practice of law in Montana prior to the date of

1 appointment or election.

-End-

RECOMMEND DO NOT PASS

53rd Legislature

SB 0005/01

BY COMMITTEE  
ON JUDICIARY

SB 0005/01

CONSTITUTIONAL AMENDMENT

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WHEREAS, Article II, section 1, of The Constitution of the State of Montana provides that all political power is vested in and derived from the people and that 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, Article II, section 2, of The Constitution of the State of Montana provides that the people have the exclusive right of governing themselves as a free, sovereign, and independent state and that they may alter or abolish the constitution and form of government whenever they deem it necessary; and

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