_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: “AN ACT PROVIDING THAT MEMBERSHIP IN AND PAYING DUES TO THE STATE BAR OF MONTANA IS VOLUNTARY.”

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

NEW SECTION. **Section 1. Legislative findings.** (1) In 1885 the Montana bar association was established as voluntary group.

(2) In 1974 the Montana supreme court by court order created the state bar of Montana and made membership mandatory, requiring lawyers to join and pay dues to the state bar of Montana as condition of their law license.

(3) Nearly half the states currently have voluntary bar associations that do not require lawyers to join as condition of their law license.

(4) Article VII, section 2(3), of the Montana constitution provides in part that the Montana supreme court "may make rules governing appellate procedure, practice and procedure for all other courts, admission to the bar and the conduct of its members".

(5) The state bar of Montana does not perform the Montana supreme court's constitutional charge to make rules regarding admission to the bar for lawyers. This function is handled by the attorneys' examining board, a committee the supreme court appoints pursuant to 37-61-102 and Article VII, section 2(3), of the Montana constitution.

(6) The state bar of Montana does not perform the supreme court's constitutional charge to make rules regarding "the conduct of [the bar's] members." This function is handled by the office of disciplinary counsel, established by the Montana supreme court pursuant to the authority of the judicial branch found in Article VII, section 2(3), of the Montana constitution.

(7) The Montana constitution does not grant power to the Montana supreme court to require lawyers to join the state bar of Montana as a condition of their law license.

(8) The state bar of Montana regularly lobbies the Montana legislature on various controversial issues.

(9) In 2018 the United States supreme court held in Janus v. AFSCME, 585 U.S. 878 (2018), that the government could not compel government workers to pay union dues and had violated employees' free speech rights under the first amendment to the United States constitution.

(10) Montana lawyers have the same first amendment right to associate or not associate with groups, particularly groups that may take positions politically that Montana lawyers may not agree with, including the personal decision to join the state bar of Montana.

(11) The Montana legislature finds that, consistent with Montana's constitution and the Janus decision, lawyers should not be forced to join or pay dues to the state bar of Montana as a condition of practicing law in the state of Montana.

NEW SECTION. **Section 2. Membership in state bar voluntary.** An attorney admitted by the supreme court to practice law within the state of Montana may not be compelled to join or pay bar dues to the state bar of Montana as a condition of licensure.

NEW SECTION. **Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 61, part 2, and the provisions of Title 37, chapter 61, part 2, apply to [sections 1 and 2].

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