

1 HB BILL NO. 118  
 2 INTRODUCED BY J. Burnett Kevin Seifert  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT ALL  
 5 MEMBERS OF THE LEGISLATURE RESIGN PRIOR TO BECOMING  
 6 CANDIDATES FOR OTHER ELECTIVE OFFICES WHENEVER THE TERM FOR  
 7 WHICH THEY WERE ELECTED TO THE LEGISLATURE OVERLAPS THE TERM  
 8 OF THE OTHER OFFICE AND TO PROVIDE FOR THE FILLING OF  
 9 VACANCIES SO CREATED; AMENDING SECTION 43-215, R.C.M. 1947;  
 10 AND REPEALING SECTION 59-604, R.C.M. 1947."

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

13 Section 1. There is a new R.C.M. section that reads as  
 14 follows:

15 Resignation of legislator prior to seeking new office.

16 (1) No member of the legislature may be a candidate for any  
 17 public office without resigning his position in the  
 18 legislature whenever all or part of the term for which he  
 19 was elected to the legislature runs concurrently with all or  
 20 part of the term of the office for which he desires to be a  
 21 candidate.

22 (2) The resignation shall be in writing and submitted  
 23 to the secretary of state.

24 (3) As used in this section, "candidate" includes any  
 25 individual who has publicly declared his intention to seek

1 office and "public office" includes national offices.

2 (4) The letter of resignation shall be submitted,  
 3 whenever possible, early enough to permit the election of a  
 4 person to fill the vacancy created by the resignation at the  
 5 same time the election is held for the position for which  
 6 the resigning legislator is a candidate.

7 Section 2. There is a new R.C.M. section that reads as  
 8 follows:

9 Secretary of state to notify registrar and county  
 10 commissioners. Upon receiving a letter of resignation as  
 11 provided for in [section 1], the secretary of state shall  
 12 notify the registrars and county commissioners of the county  
 13 or counties containing the district represented by the  
 14 resigning legislator.

15 Section 3. There is a new R.C.M. section that reads as  
 16 follows:

17 Election to complete term of resigning legislator. (1)  
 18 Whenever a vacancy occurs due to a resignation as provided  
 19 in [section 1], an election shall be held to select a person  
 20 to serve for the remainder of the resigning legislator's  
 21 term.

22 (2) Whenever possible the election required by  
 23 subsection (1) shall be held at the same time as the  
 24 election at which the position for which the legislator  
 25 resigned is to be filled. For this purpose, the secretary of

1 state may waive the 40-day requirement of 23-3305. The  
 2 election required by subsection (1) may be held in  
 3 conjunction with any other election and must be held within  
 4 8 months of receipt of the letter of resignation by the  
 5 secretary of state. The secretary of state shall determine  
 6 the dates relevant to this election, including the date of  
 7 the primary, and shall notify the appropriate county  
 8 officials. The general election laws apply to this election  
 9 whenever practical.

10 (3) The individual elected to complete the term of the  
 11 resigning legislator shall take office upon issuance of the  
 12 commission by the governor, as provided in 23-4018.

13 Section 4. Section 43-215, R.C.M. 1947, is amended to  
 14 read as follows:

15 "43-215. Filling vacancies in ~~legislative assembly~~  
 16 legislature -- appointment by board of county commissioners  
 17 -- calling of board meeting -- resignations to seek other  
 18 office. (1) Except as provided in subsection (2), when ~~when~~  
 19 a vacancy occurs, in either house of the ~~legislative~~  
 20 ~~assembly legislature~~, the vacancy shall be filled by  
 21 appointment by the board of county commissioners, or, in the  
 22 event of a multicounty district, the boards of county  
 23 commissioners comprising the district sitting as one  
 24 appointing board. The chairman of the board of county  
 25 commissioners of the county in which the person resided

1 whose vacancy is to be filled shall call a meeting for the  
 2 purpose of appointing the member of the ~~legislative assembly~~  
 3 legislature, and he shall act as the presiding officer of  
 4 the meeting.

5 (2) Whenever a vacancy occurs due to a resignation as  
 6 provided in [section 1 of this act] and the county  
 7 commissioners are notified of the resignation as provided in  
 8 [section 2 of this act], the vacancy shall be filled by  
 9 appointment as provided in subsection (1) until an  
 10 individual is elected to complete the term of the resigning  
 11 legislator."

12 Section 5. Repealer. Section 59-604, R.C.M. 1947, is  
 13 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 47-77

FISCAL NOTE

Form BD-15

In compliance with a written request received Jan. 10, 19 77, there is hereby submitted a Fiscal Note for HB 118 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF LEGISLATION

An act requiring that all members of the legislature resign prior to becoming candidates for other elective offices whenever the term for which they were elected to the legislature overlaps the term of the other office, and to provide for the filling of vacancies so created.

ASSUMPTIONS

1. Cost to state is minimal.
2. Counties bear costs of elections.
3. Cost of special election is as follows:
  - a. Per county cost for supplies, printing, and salaries - \$10,000
  - b. Per precinct cost for election judges - \$350
4. The largest legislative district in the state consists of 6 counties and 50 precincts; the smallest legislative district consists of 1 county and 1 precinct.

FISCAL IMPACT

No cost to the state.

LOCAL IMPACT

Each special election would cost from \$10,350 to \$77,500 per legislative district. If the election as required were held with a regular election, the additional cost would be from \$50 to \$500 per legislative district.

TECHNICAL NOTE

Page 3, line: Per the Secretary of State, the line should read . . . . . waive the filing time requirement of 23-3305. It is indicated that the filing time of 40 days may be changed.

*Richard L. Drury*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 1-11-77

Approved by Committee  
on State Administration

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2 INTRODUCED BY J. BURNETT, MOORE, SEIFERT

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21 to serve for the remainder of the resigning legislator's  
22 term.

23 (2) Whenever possible the election required by  
24 subsection (1) shall be held at the same time as the  
25 election at which the position for which the legislator

SECOND READING

1 resigned is to be filled. For this purpose, the secretary of  
 2 state may waive the ~~40-day~~ FILING TIME requirement of  
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