

1 *Senate* BILL NO. *191*
 2 INTRODUCED BY *Hazen Murray Bergren*
 3 *Turner Robert STEPHENS*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 FILLING OF VACANCIES AND ANTICIPATED VACANCIES IN THE
 6 LEGISLATURE; AMENDING SECTIONS 43-202, 43-215, AND 43-216,
 7 R.C.M. 1947; AND REPEALING SECTION 59-604, R.C.M. 1947."
 8

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

10 Section 1. Section 43-202, R.C.M. 1947, is amended to
 11 read as follows:

12 "43-202. Term of office. The term of office of a
 13 senator is ~~four~~ 4 years or until his successor is elected
 14 and qualified; and of a representative ~~two~~ 2 years or until
 15 his successor is elected and qualified; and the term of
 16 service thereof shall begin on the first Monday of January
 17 next succeeding his election; ~~and--if~~ If a senator or
 18 ~~representative--be~~ is elected to fill a vacancy, his term of
 19 service shall begin on the next day after his election."
 20

21 Section 2. Section 43-215, R.C.M. 1947, is amended to
 22 read as follows:

23 "43-215. Filling vacancies in ~~legislative--assembly~~ the
 24 ~~legislature~~ -- appointment by board of county commissioners
 25 -- calling of board meeting -- ~~election~~ -- ~~appointment~~
 requirements. (1) When a vacancy occurs, in either house--of

1 the ~~legislative--assembly~~ legislature, the vacancy shall be
 2 filled by appointment by the board of county commissioners,
 3 or, in the event of a multicounty district, the boards of
 4 county commissioners comprising the district sitting as one
 5 appointing board.

6 (2) The chairman of the board of county commissioners
 7 of the county in which the person resided whose vacancy is
 8 to be filled shall call a meeting for the purpose of
 9 appointing the member of the ~~legislative--assembly~~
 10 legislature, and he shall act as the presiding officer of
 11 the meeting.

12 (3) (a) ~~Whenever the vacancy occurs in the house of~~
 13 ~~representatives, the appointee shall serve until the end of~~
 14 ~~the term to which his predecessor was elected.~~

15 (b) ~~Whenever the vacancy occurs in the senate, the~~
 16 ~~appointee shall serve until a successor can be elected as~~
 17 ~~provided in subsection (4).~~

18 (4) (a) ~~As used in subsection (4), "term" means the~~
 19 ~~4-year period to which a senator is normally elected in the~~
 20 ~~absence of a vacancy.~~

21 (b) ~~Whenever a vacancy occurs 40 days or more before~~
 22 ~~the general election held during the second year of the~~
 23 ~~term, an individual shall be elected to complete the term at~~
 24 ~~that general election. The election procedure to be used to~~
 25 ~~elect the successor is as follows:~~

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1 (i) Whenever the vacancy occurs 40 days or more prior
 2 to the primary election during the second year, the same
 3 procedure as is used for senators who will be elected to
 4 full 4-year terms at that general election shall be
 5 utilized.

6 (ii) Whenever the vacancy occurs on or after the 40th
 7 day prior to the primary election, any political party
 8 desiring to enter a candidate in the general election shall
 9 select a candidate by means of a party caucus for the
 10 appropriate senate district. A political party may adopt
 11 rules for the conduct of such a caucus and shall notify the
 12 secretary of state and the appropriate county clerk and
 13 recorders of the party nominee. A person desiring to be a
 14 candidate as an independent shall follow the procedures
 15 provided in subsections (1) through (4) of 23-3318. The
 16 petition for an independent candidate shall be filed with
 17 the secretary of state on or before the 30th day prior to
 18 the general election.

19 (c) Whenever a vacancy occurs on or after the 40th day
 20 prior to the general election held during the second year of
 21 the term, the person appointed by the board under subsection
 22 (1) shall serve until the end of the term.

23 (5) (a) Whenever his predecessor served as a member of
 24 a political party, the appointee named under subsection (1)
 25 shall be a member of the same political party and shall be

1 selected from a list of three individuals provided by the
 2 county central committees, acting together, of the counties
 3 wherein a portion of the senate district lies. Whenever the
 4 appointing board is unable to elect an appointee from the
 5 submitted list, they shall request a second list of three
 6 names from the county central committees. The second list
 7 may not contain any of the names submitted on the first
 8 list. The appointing board shall then select an appointee
 9 from the individuals named on both lists.

10 (b) The provisions of subsection (5)(a) do not apply
 11 if his predecessor served as an independent.

12 (6) The appointment of a legislator under this section
 13 must take place within 15 days after the vacancy occurs."

14 Section 3. Section 43-216, R.C.M. 1947, is amended to
 15 read as follows:

16 "43-216. Alternate method of selection -- failure of
 17 one candidate to receive majority vote. In the event that a
 18 decision cannot be made by the appointing board because of
 19 failure of any candidate to receive a majority of the votes,
 20 the final decision may be made by lot from ~~a number of~~
 21 ~~candidates--not exceeding the number of counties comprising~~
 22 ~~the district~~ the first and second lists of candidates as
 23 provided by 43-215(5)(a), or from a list of three
 24 individuals if the predecessor served as an independent, in
 25 accordance with rules of selection adopted by the appointing

1 board."

2 Section 4. There is a new R.C.M. section that reads as
3 follows:

4 Anticipated vacancy. (1) Whenever it appears that a
5 vacancy will exist in the legislature because of the
6 inability of an elected legislator to take office at the
7 commencement of the term to which he was elected, an
8 appointee may be selected in advance of the commencement of
9 the term under the provisions of 43-215 and 43-216.

10 (2) For purposes of determining the term of office of
11 the appointee and the 15-day period of 43-215(6), the
12 vacancy occurs on the first day of the term to which his
13 predecessor was elected.

14 (3) An appointee under this section may take office
15 only if the vacancy in fact exists at the commencement of
16 the term of office.

17 Section 5. Repealer. Section 59-604, R.C.M. 1947, is
18 repealed.

-End-

Approved by Committee
on State Administration

SENATE BILL NO. 191

INTRODUCED BY HAGER, MURRAY,
BERGREN, TURNAGE, ROBERTS, STEPHENS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
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next succeeding his election. ~~end--if~~ If a senator or
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"43-215. Filling vacancies in ~~legislative-assembly~~ the
legislature -- appointment by board of county commissioners
-- calling of board meeting -- election -- appointment

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the ~~legislative--assembly~~ legislature, the vacancy shall be
filled by appointment by the board of county commissioners,
or, in the event of a multicounty district, the boards of
county commissioners comprising the district sitting as one
appointing board.

(2) The chairman of the board of county commissioners
of the county in which the person resided whose vacancy is
to be filled shall call a meeting for the purpose of
appointing the member of the ~~legislative--assembly~~
legislature, and he shall act as the presiding officer of
the meeting.

(3) (a) Whenever the vacancy occurs in the house of
representatives, the appointee shall serve until the end of
the term to which his predecessor was elected.

(b) Whenever the vacancy occurs in the senate, the
appointee shall serve until a successor can be elected as
provided in subsection (4).

(4) (a) As used in subsection (4), "term" means the
4-year period to which a senator is normally elected in the
absence of a vacancy.

(b) Whenever a vacancy occurs 40 days or more before
the general election held during the second year of the
term, an individual shall be elected to complete the term at
that general election. The election procedure to be used to

1 elect the successor is as follows:

2 (i) Whenever the vacancy occurs 40 days or more prior
 3 to the primary election during the second year, the same
 4 procedure as is used for senators who will be elected to
 5 full 4-year terms at that general election shall be
 6 utilized.

7 (ii) Whenever the vacancy occurs on or after the 40th
 8 day prior to the primary election, any political party
 9 desiring to enter a candidate in the general election shall
 10 select a candidate by means of a party caucus for the
 11 appropriate senate district AS PROVIDED IN 23-3406. A
 12 political party may adopt rules for the conduct of such a
 13 caucus THE SELECTION PROCESS and shall notify the secretary
 14 of state and the appropriate county clerk and recorders of
 15 the party nominee. A person desiring to be a candidate as an
 16 independent shall follow the procedures provided in
 17 subsections (1) through (4) of 23-3318. The petition for an
 18 independent candidate shall be filed with the secretary of
 19 state on or before the 30th day prior to the general
 20 election.

21 (c) Whenever a vacancy occurs on or after the 40th day
 22 prior to the general election held during the second year of
 23 the term, the person appointed by the board under subsection
 24 (1) shall serve until the end of the term.

25 (5) (a) Whenever his predecessor served as a member of

1 a political party, the appointee named under subsection (1)
 2 shall be a member of the same political party and shall be
 3 selected from a list of three individuals provided by the
 4 county central committees, acting together, of the counties
 5 wherein a portion of the senate district lies. Whenever the
 6 appointing board is unable to elect an appointee from the
 7 submitted list, they shall request a second list of three
 8 names from the county central committees. The second list
 9 may not contain any of the names submitted on the first
 10 list. The appointing board shall then select an appointee
 11 from the individuals named on both lists.

12 (b) The provisions of subsection (5)(a) do not apply
 13 if his predecessor served as an independent.

14 (6) The appointment of a legislator under this section
 15 must take place within 15 days after the vacancy occurs."

16 Section 3. Section 43-216, R.C.M. 1947, is amended to
 17 read as follows:

18 "43-216. Alternate method of selection — failure of
 19 one candidate to receive majority vote. In the event that a
 20 decision cannot be made by the appointing board because of
 21 failure of any candidate to receive a majority of the votes,
 22 the final decision may be made by lot from a number of
 23 candidates, not exceeding the number of counties comprising
 24 the district the first and second lists of candidates as
 25 provided by 43-215(5)(a), or from a list of three

1 individuals if the predecessor served as an independent, in
2 accordance with rules of selection adopted by the appointing
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4 Section 4. There is a new R.C.M. section that reads as
5 follows:

6 Anticipated vacancy. (1) Whenever it appears that a
7 vacancy will exist in the legislature because of the
8 inability of an elected legislator to take office at the
9 commencement of the term to which he was elected, an
10 appointee may be selected in advance of the commencement of
11 the term under the provisions of 43-215 and 43-216.

12 (2) For purposes of determining the term of office of
13 the appointee and the 15-day period of 43-215(6), the
14 vacancy occurs on the first day of the term to which his
15 predecessor was elected.

16 (3) An appointee under this section may take office
17 only if the vacancy in fact exists at the commencement of
18 the term of office.

19 Section 5. Repealer. Section 59-604, R.C.M. 1947, is
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Section 1. Section 43-202, R.C.M. 1947, is amended to read as follows:

"43-202. Term of office. The term of office of a senator is four 4 years or until his successor is elected and qualified, and of a representative two 2 years or until his successor is elected and qualified; and the term of service thereof shall begin on the first Monday of January next succeeding his election, and--if If a senator or representative be is elected to fill a vacancy, his term of service shall begin on the next day after his election."

Section 2. Section 43-215, R.C.M. 1947, is amended to read as follows:

"43-215. Filling vacancies in legislative-assembly the legislature -- appointment by board of county commissioners -- calling of board meeting -- election -- appointment

requirements. (1) When a vacancy occurs, in either-house-of the legislative--assembly legislature, the vacancy shall be filled by appointment by the board of county commissioners, or, in the event of a multicounty district, the boards of county commissioners comprising the district sitting as one appointing board.

(2) The chairman of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislative--assembly legislature, and he shall act as the presiding officer of the meeting.

(3) (a) Whenever the vacancy occurs in the house of representatives, the appointee shall serve until the end of the term to which his predecessor was elected.

(b) Whenever the vacancy occurs in the senate, the appointee shall serve until a successor can be elected as provided in subsection (4).

(4) (a) As used in subsection (4), "term" means the 4-year period to which a senator is normally elected in the absence of a vacancy.

(b) Whenever a vacancy occurs 40 days or more before the general election held during the second year of the term, an individual shall be elected to complete the term at that general election. The election procedure to be used to

1 elect the successor is as follows:

2 (i) Whenever the vacancy occurs 40 days or more prior
 3 to the primary election during the second year, the same
 4 procedure as is used for senators who will be elected to
 5 full 4-year terms at that general election shall be
 6 utilized.

7 (ii) Whenever the vacancy occurs on or after the 40th
 8 day prior to the primary election, any political party
 9 desiring to enter a candidate in the general election shall
 10 select a candidate by means of a party caucus for the
 11 appropriate senate district AS PROVIDED IN 23-3406. A
 12 political party may adopt rules for the conduct of such a
 13 caucus THE SELECTION PROCESS and shall notify the secretary
 14 of state and the appropriate county clerk and recorders of
 15 the party nominee. A person desiring to be a candidate as an
 16 independent shall follow the procedures provided in
 17 subsections (1) through (4) of 23-3318. The petition for an
 18 independent candidate shall be filed with the secretary of
 19 state on or before the 30th day prior to the general
 20 election.

21 (c) Whenever a vacancy occurs on or after the 40th day
 22 prior to the general election held during the second year of
 23 the term, the person appointed by the board under subsection
 24 (1) shall serve until the end of the term.

25 (5) (a) Whenever his predecessor served as a member of

1 a political party, the appointee named under subsection (1)
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13 the appointee and the 15-day period of 43-215(6), the
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