SENATE BILL 128

IN THE SENATE

January 16, 1979	Introduced and referred to Committee on State Adminis- tration.
January 30, 1979	Committee recommend bill, as amended.
February 1, 1979	Printed and placed on members' desks.
February 2, 1979	Second reading, as amended.
February 5, 1979	Considered correctly engrossed.
February 6, 1979	Third reading, passed.
IN THE	HOUSE
February 7, 1979	Introduced and referred to Committee on State Adminis- tration.
March 2, 1979	Committee recommend bill, concurred.
March 3, 1979	Second reading, concurred.
March 6, 1979	Third reading, concurred.
IN THE	SENATE
March 7, 1979	Returned from House, concurred.
March 7, 1979	Sent to enrolling. Correctly enrolled. Signed by President.
GOVEI	RNOR
March 15, 1979	Delivered to Governor.
March 21, 1979	Governor veto.
IN THE	SENATE
March 21, 1979	Override veto transmitted to House.
IN THE	HOUSE
April 20, 1979	No action taken in House.

LC 0566/01

INTRODUCED BY Rosmussen Hager 1 2 З

A BILL FOR AN ACT ENTITLED: PAN ACT TO REQUIRE THE PERSON 4 5 APPOINTED TO FILL A VACANCY IN AN ELECTIVE PARTISAN OFFICE TO BE A MEMBER OF THE SAME POLITICAL PARTY AS HIS 6 7 PREDECESSOR: AMENDING SECTIONS 2-16-505, 2-16-506+ 7-3-1217, 7-3-4218, 7-4-2106, 13-25-202, AND 69-1-106, MCA." 8

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10

11 NEW SECTION. Section 1. Vacancies in elective partisan offices --- appointees to be of same political 12 13 party. Whenever a vacancy occurs in an office which is 14 filled by a partisan election and when the person whose 15 position is to be filled served as a member of a political party, the individual appointed to fill the vacancy must be 16 17 a member of the same political party.

Section 2. Section 2-16-505, MCA, is amended to read: 18 #2-16-505. Filling vacancies in certain elective 19 offices. (1) A vacancy in the office of either the secretary 20 of state, state auditor, attorney general, clerk of the 21 22 supreme court, or superintendent of public instruction must 23 be filled by a person appointed by the governor, who holds 24 his office until the first Monday in January next after a 25 general election. At such election the office must be filled 1 by election for the unexpired term.

2 (2) Whenever his predecessor served as a member of a political party, the appointee must be a member of the same 3 4 political party." 5 Section 3. Section 2-16-506, MCA, is amended to read: ٨ #2-16-506. Filling vacancies -- appointee to be of 7 same_political_party -- recess appointments. (1) When any office becomes vacant and no mode is provided by law for R 9 filling the vacancy, the governor shall fill the vacancy by 10 appointing a qualified person to fill the unexpired term of person whose office became vacant. <u>Whenever his</u> 11 the 12 predecessor served as a member of a political party, the 13 appointee must be a member of the same political party. (2) If the legislature or one house of the legislature 14 15 must confirm an appointment of a person appointed by the 16 governor to fill a vacancy, the governor may appoint the 17 person to assume office before the legislature meets in its 18 next regular session to consider the appointment. A person 19 so appointed is vested with all the functions of the office upon assuming the office and is a de jure officer. 20 notwithstanding the fact that the legislature has not yet 21 22 confirmed the appointment. If the legislature does not confirm the appointment, the governor shall make a new 23 appointment to fill the unexpired term." 24 Section 4. Section 7-3-1217, MCA, is amended to read: 25 55123

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1 "7-3-1217. Vacancies. (1) If a vacancy occurs in the 2 commission. except as the result of a recall election. some eligible person shall be chosen by a majority vote of the 3 4 remaining members to fill the place for the unexpired term. 5 12) If the vacant seat was filled on a partisan basis 6 and the person whose position is being filled served as a 7 member of a political party, the individual selected to fill а the vacancy must be a member of the same political party. 3 (2)(3) Absence from all regular meetings for a period 10 of 90 days shall operate to vacate the scat of a member unless such absence be authorized by the commission." 11 12 Section 5. Section 7-3-4218. MCA. is amended to read: 13 "7-3-4218. Vacancies. (1) Vacancies in the office of 14 mayor or councilmen shall be filled by appointment made by a majority vote of the remaining members of the council. If in 15 16 filling such vacancy a tie vote should occur, then the person to fill said vacancy shall be determined by lot in 17 18 such manner as said council may provide. 19 12) If the vacant seat was filled by a partisan 20 election and the person whose position is to be filled served as a member of a political party, the individual 21 22 selected to fill the vacancy must be a member of the same 23 political party. (2)(3) A person appointed to fill any such vacancy 24 25 shall hold his office until the next general election and

expiration of the term for which the person he succeeds was 3 elected." *'*• 5 Section 6. Section 7-4-2106, MCA, is amended to read: 6 #7-4-2106. Vacancy on board of county commissioners. 7 (1) Whenever a vacancy occurs in the board of county 8 commissioners from a failure to elect or otherwise, the 9 district judge or judges in whose district the vacancy 10 occurs must fill the vacancy, and such appointee shall hold 11 office until the next general election. 12 121 Whenever his oredecessor served as a member of a 13 political party, the appointee must be a member of the same political party." 14 Section 7. Section 13-25-202, MCA, is amended to read: 15 16 *13-25-202. Vacancy in office of United States senator. (1) If a vacancy occurs in the office of United 17 18 States senator, an election to fill the vacancy shall be held at the next general election. If the election is 19 20 invalid or not held at that time, the election to fill the 21 vacancy shall be held at the next succeeding general 22 election. (2) The governor may make a temporary appointment to 23 24 fill the vacancy until the election: however, if his 25 predecessor served as a member of a political party, the

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until his successor is elected and gualified. A person

elected to fill a vacancy shall hold office until the

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1	appointee must be a member of the same political party."
2	Section 8. Section 69-1-106, MCA, is amended to read:
3	#69-1-106. Vacancies. Any vacancy occurring in the
4	commission shall be filled by appointment by the governor.
5	If bis predecessor served as a member of a political party.
6	the appointee must be a member of the same political party.
7	Such appointee shall hold office until the next general
8	election and until his successor is elected and qualified.
9	At the biennial election following the occurrence of any
10	vacancy in the commission, there shall be elected one member
11	to fill out the unexpired term for which such vacancy
12	exists."

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-End-

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SB 0128/02

Approved by Committee on State Administration

1	SENATE BILL MUS IZO
2	INTRODUCED BY RASHUSSEN, HAGER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE PERSON
5	APPOINTED TO FILL A VACANCY IN AN ELECTIVE PARTISAN OFFICE
6	TO BE A MENBER OF THE SAME POLITICAL PARTY AS HIS
7	PREDECESSOR; AMENDING SECTIONS 2-16-505, 2-16-506, 7-3-1217,
8	7-3-4218, 7-4-2106, 13-25-202, AND 69-1-106, MCA."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	<u>NEW_SECTION.</u> Section 1. Vacancies in elective
12	partisan offices appointees to be of same political
13	party. whenever a vacancy occurs in an office which is
14	filled by a partisan election and when the person whose
15	position is to be filled served as a member of a political
16	party, the individual appointed to fill the vacancy must be
17	a member of the same political party.
18	Section 2. Section 2-16-505, MCA, is amended to read:
19	"2-16-505。 Filling vacancies in certain elective
20	offices. [1] A vacancy in the office of either the secretary
21	of state, state auditor, attorney general, clerk of the
22	supreme court, or superintendent of public instruction must
23	be filled by a person appointed by the governor, who holds
24	nis office until the first Monday in January next after a

general election. At such election the office must be filled

1 by election for the unexpired term. 2 (2) Whenever his predecessor served as a member of a 3 political party, the appointee sust be a member of the same 4 political party." 5 Section 3. Section 2-16-506. MCA. is amended to read: 6 #2-16-506. Filling vacancies -- appointee to be of 7 same political party -- recess appointments. (1) When any 8 office becomes vacant and no mode is provided by law for 9 filling the vacancy, the governor shall fill the vacancy by 10 appointing a qualified person to fill the unexpired term of 11 the person whose office became vacant. Whenever his 12 predecessor served as a member of a political party, the 13 appointee must be a member of the same political party. 14 (2) If the legislature or one house of the legislature 15 must confirm an appointment of a person appointed by the 16 governor to fill a vacancy, the governor may appoint the 17 person to assume office before the legislature meets in its 18 next regular session to consider the appointment. A person 19 so appointed is vested with all the functions of the office 20 upon assuming the office and is a de jure officer. 21 notwithstanding the fact that the legislature has not yet

21 notwithstanding the fact that the regislature has not yet
22 confirmed the appointment. If the regislature does not
23 confirm the appointment, the governor shall make a new
24 appointment to fill the unexpired term.*

25 Section 4. Section 7-3-1217, MCA, is amended to read:

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1 "7-3-1217. Vacancies. (1) If a vacancy occurs in the 2 commission, except as the result of a recall election, some eligible person shall be chosen by a majority vote of the 3 remaining members to fill the place for the unexpired term. 4 5 (2) If the vacant seat was filled on a partisan basis 6 and the person whose position is being filled served as a 7 member of a political party, the individual selected to fill 8 the vacancy must be a member of the same political party. 9 t2)(3) Absence from all regular meetings for a period 10 of 90 days shall operate to vacate the seat of a member 11 unless such absence be authorized by the commission." Section 5. Section 7-3-4218, MCA, is amended to read: 12 13 "7-3-4218. Vacancies. (1) Vacancies in the office of 14 mayor or councilmen shall be filled by appointment made by a 15 majority vote of the remaining sembers of the council. If in 16 filling such vacancy a tie vote should occur, then the 17 person to fill said vacancy shall be determined by lot in 18 such manner as said council may provide. 19 [2] If the vacant seat was filled by a partisan 20 election and the person whose position is to be filled

21 served as a member of a political party, the individual selected to fill the vacancy must be a member of the same 22 23 political party.

24 (2)(3) A person appointed to fill any such vacancy 25 shall hold his office until the next general election and

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until his successor is elected and qualified. A person 1 Z elected to fill a vacancy shall hold office until the expiration, of the term for which the person he succeeds was 3 elected."

Section 6. Section 7-4-2106, NCA, is amended to read: #7-4-2106. Vacancy on board of county commissioners. 6 7 (1) whenever a vacancy occurs in the board of county commissioners from a failure to elect or otherwise, the R 9 district ludge or judges in whose district the vacancy 10 occurs must fill the vacancy, and such appointee shall hold 11 office until the next general election.

12 (2) Whenever his predecessor served as a member of a 13 political party, the appointee must be a member of the same 14 political party."

15 Section 7. Section 13-25-202, MCA, is amended to read: 16 #13-25-202. Vacancy in office of United States 17 senator. (1) If a vacancy occurs in the office of United 18 States senator, an election to fill the vacancy shall be held at the next general election. If the election is 19 20 invalid or not held at that time, the election to fill the vacancy shall be held at the next succeeding general 21 election. 22

23 (2) The governor may make a temporary appointment to 24 fill the vacancy until the election: however, if his INE 25 APPOINTEE'S predecessor served as a member of a political

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1	arty, the appointee must be a member of the same political
2	party."
3	Section 8. Section 69-1-106, MCA; is amended to read:
4	"69-1-106. Vacancies. Any vacancy occurring in the
5	commission shall be filled by appointment by the governor.
6	If bis IHE_APPOINTEE'S predecessor_served_as_a_member_of_a
7	political_party.tbe_appointee_must_be_a_member_of_tbesame
8	politicalpartys Such appointee shall hold office until the
ġ	next general election and until his successor is elected and
10	qualified. At the biennial election following the occurrence
11	of any vacancy in the commission, there shall be elected one
12	member to fill out the unexpired term for which such vacancy
13	exists."

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-End-

1	SENATE BILL NO. 128
Z	INTRODUCED BY RASMUSSEN, HAGER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE PERSON
5	APPOINTED TO FILL A VACANCY IN AN ELECTIVE PARTISAN OFFICE
6	TO BE A MEMBER OF THE SAME POLITICAL PARTY AS HIS
7	PREDECESSOR ERON A LIST PROVIDED BY THE SAME POLITICAL
8	PARIY: AMENDING SECTIONS 2-16-505, 2-16-506, 7-3-1217,
9	7-3-4218, 7-4-2106, 13-25-202, AND 69-1-106, MCA."
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11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	NEW_SECTION. Section 1. Vacancies in elective
13	partisan offices appointees to be of same political
14	party. Whenever a vacancy occurs in an office which is
15	filled by a partisan election and when the person whose
16	position is to be filled served as a member of a political
17	party, the individual appointed to fill the vacancy must be
18	a member of the same political party.
19	Section 2. Section 2-16-505. MCA. is amended to read:
20	*2-16-505. Filling vacancies in certain elective

20 "2-16-505. Filling vacancies in certain elective 21 offices. [1] A vacancy in the office of either the secretary 22 of state, state auditor, attorney general, clerk of the 23 supreme court, or superintendent of public instruction must 24 be filled by a person appointed by the governor, who holds 25 his office until the first Monday in January next after a \$

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1	general election. At such election the office must be filled
2	by election for the unexpired term.
3	(2) Whenever bis predecessor served as a member of a
4	<u>political party, the appointee must be a member of the same</u>
5	political Darty AND SHALL BE SELECTED FROM A LIST OF THREE
6	INDIVIDUALS PROVIDED BY THE STATE CENTRAL COMMITTEE OF THE
7	PREDECESSOR'S POLITICAL PARTY, WHENEVER THE GOVERNOR IS
8	UNABLE TO SELECT AN APPOINTEE FROM THE SUBMITTED LIST. THE
9	GOVERNOR SHALL REQUEST A SECOND LIST OF THREE NAMES FROM THE
10	STATE CENTRAL COMMITTEE OF THE PREDECESSOR'S POLITICAL
11	PARTY, THE SECOND LIST MAY NOT CONTAIN ANY DE THE NAMES
12	SUBMITTED ON THE FIRST LIST. THE GOVERNOR SHALL THEN SELECT
13	AN APPOINTEE FROM THE INDIVIDUALS NAMED ON BOTH LISTS.*
14	Section 3. Section 2-16-506, MCA, is amended to read:
15	#2-16-506. Filling vacancies appointee to be of
16	<pre>same political party recess appointments. (1) When any</pre>
17	office becomes vacant and no mode is provided by law for
18	filling the vacancy, the governor shall fill the vacancy by
19	appointing a qualified person to fill the unexpired term of
20	the person whose office became vacant. <u>Wheneverbis</u>
21	predecessor served as a member of a political party, the
22	appointee must be a member of the same political party AND
23	SHALL BE SELECTED FROM A LIST OF THREE INDIVIDUALS PROVIDED
24	BY THE STATE CENTRAL COMMITTEE DE THE PREDECESSOR'S
25	POLIFICAL PARTY. WHENEVER THE GOVERNOR IS UNABLE TO SELECT

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-2- SB 128 THIRD READING

Z	REQUEST A SECOND LIST OF THREE NAMES FROM THE STATE CENTRAL
3	COMMITTEE OF THE PREDECESSOR'S POLITICAL PARTY. THE SECOND
4	LIST_MAY_NOT_CONTAIN_ANY_DE_THE_NAMES_SUBMITTED_ON_THE_EIRST
5	LIST. THE GOVERNOR SHALL THEN SELECT AN APPOINTEE FROM THE
6	INDIVIDUALS_NAMED_ON_BOTH_LISTS.
7	(2) If the legislature or one house of the legislature
8	must confirm an appointment of a person appointed by the
9	governor to fill a vacancy, the governor may appoint the
10	person to assume office before the legislature meets in its
11	next regular session to consider the appointment. A person
12	so appointed is vested with all the functions of the office
13	upon assuming the office and is a de jure officer.
14	notwithstanding the fact that the legislature has not yet
15	confirmed the appointment. If the legislature does not
16	confirm the appointment, the governor shall make a new
17	appointment to fill the unexpired term."
18	Section 4. Section 7-3-1217, NCA, is amended to read:
19	#7-3-1217• Vacancies• (1) If a vacancy occurs in the
20	commission, except as the result of a recall election, some
21	eligible person shall be chosen by a majority vote of the
22	remaining members to fill the place for the unexpired term.
23	<u>121_If the vacant seat was filled on a partisan basis</u>
24	and the person whose position is being filled served as a
25	member of a political party, the individual selected to fill

AN APPOINTEE FROM THE SUBMITTED LIST. THE GOVERNOR SHALL

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1	the vacancy must be a nember of the same political party AND
2	SHALL BE SELECTED FROM A LIST OF THREE INDIVIDUALS PROVIDED
3	AY THE COUNTY CENTRAL COMMITTEE OF THE PREDECESSOR'S
4	POLITICAL PARTY. WHENEVER THE APPOINTING BOARD IS UNABLE ID
5	SELECT AN APPOINTEE FROM THE SUBMITTED LIST. THEY SHALL
6	REQUEST A SECOND LIST OF THREE NAMES FROM THE COUNTY CENTRAL
7	COMMITTEE OF THE PREDECESSOR'S POLITICAL PARTY. THE SECOND
8	LIST MAY NOT CONTAIN ANY OF THE NAMES SUBMITTED ON THE FIRST
9	LIST. THE APPOINTING BOARD SHALL THEN SELECT AN APPOINTEE
10	EROM_THE_INDIVIDUALS_NAMED_ON_BOTH_LISTS.
11	<pre>f2}(3) Absence from all regular meetings for a period</pre>
12	of 90 days shall operate to vacate the seat of a member
13	unless such absence be authorized by the commission."
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15	*7-3-4218. Vacancies. (1) Vacancies in the office of
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17	majority vote of the remaining members of the council. If in
18	filling such vacancy a tie vote should occur, then the
19	person to fill said vacancy shall be determined by lot in
20	such manner as said council may provide.
21	(2) If the vacant seat was filled by a partisan
22	election_and_the_person_whose_position_is_to_be_filled
23	<u>served as a member of a political party. the individual</u>
24	selected_to_fill_the_vacancy_must_be_a_member_of_the_same
25	political party AND_SHALL_BE_SELECTED_FROM_A_LISTOFTHREE
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INDIVIDUALS PROVIDED BY THE COUNTY CENTRAL COMMITTEE OF THE 1 PREDECESSOR'S POLITICAL PARTY. WHENEVER THE APPOINTING BOARD 2 IS UNABLE TO SELECT AN APPOINTEE FROM THE SUBMITTED LIST: 3 THEY SHALL REQUEST A SECOND LIST OF THREE NAMES FROM THE 4 COUNTY CENTRAL COMMITTEE OF THE PREDECESSOR'S POLITICAL 5 PARTY. THE SECOND LIST MAY NOT CONTAIN ANY OF THE NAMES 6 SUBNITTED ON THE FIRST LIST. THE APPOINTING BOARD SHALL THEN 7 SELECT AN APPOINTEE. FROM THE INDIVIDUALS NAMED ON BOTH 8 LISTS. Q

10 <u>(2)(3)</u> A person appointed to fill any such vacancy 11 shall hold his office until the next general election and 12 until his successor is elected and qualified. A person 13 elected to fill a vacancy shall hold office until the 14 expiration of the term for which the person he succeeds was 15 elected.^m

(2) Whenever his predecessor served as a member of a
 political party: the appointee must be a member of the same
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1 INDIVIDUALS PROVIDED BY THE COUNTY CENTRAL COMMITTEE OF THE 2 PREDECESSOR'S POLITICAL PARTY, WHENEVER THE APPOINTING BOARD з IS_UNABLE_TO_SELECT AN APPOINTEE FROM THE SUBMITTED LIST: THEY SHALL REQUEST A SECOND LIST OF THREE NAMES FROM THE COUNTY CENTRAL CONNITTEE OF THE PREDECESSOR'S POLITICAL 5 PARTYA THE SECOND LIST MAY NOT CONTAIN ANY DE THE NAMES 6 7 SUBMITTED ON THE FIRST LIST. THE APPOINTING BOARD SHALL THEN A SELECT AN APPOINTEE FROM THE INDIVIOUALS NAMED ON BOTH 9 LISIS." 10 Section 7. Section 13-25-202, MCA, is amended to read: 11 *13-25-202. Vacancy in office of United States 12 senator. (1) If a vacancy occurs in the office of United 13 States senator, an election to fill the vacancy shall be 14 held at the next general election. If the election is 15 invalid or not held at that time, the election to fill the 16 vacancy shall be held at the next succeeding general 17 election. 18 (2) The governor may make a temporary appointment to 19 fill the vacancy until the election: <u>howevers</u> if his IHE 20 APPOINTEE'S predecessor served as a member of a political 21 party, the appointee must be a member of the same political 22 DARLY AND SHALL BE SELECTED FROM A LIST OF THREE INDIVIDUALS 23 PROVIDED BY THE STATE CENTRAL COMMITTEE OF THE PREDECESSOR'S 24 POLITICAL PARTY. WHENEVER THE GOVERNOB IS UNABLE TO SELECT

25 AN APPOINTEE FROM THE SUBMITTED LIST THE GOVERNOR SHALL

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L	REQUEST A SECOND LIST OF THREE NAMES FROM THE STATE CENTRAL
2	CONNITIEE_OF_THE_PREDECESSOR'S_POLITICAL_PARTYTHESECOND
3	LIST WAY NOT CONTAIN ANY DE THE NAMES SUBBLITED ON THE FIRST
4	LISTIHEGOVERNOR_SHALL_IHEN_SELECT_AN_APPOINTEE_ERON_THE
5	INDIVIDUALS HANED ON BOTH LISTS."
6	Section 8. Section 69-1-106. MCA, is amended to read:
7	#69-1-106. Vacancies. Any vacancy occurring in the
8	commission shall be filled by appointment by the governor.
9	If bis INE_APPOINTEE'S predecessor_served_as_a_member_of_a
10	political_partys_the_appointee_must_be_a_member_of_thesame
11	political_party_AND_SHALL_BE_SELECTED_FROM_A_LIST_OF_THREE
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13	PREDECESSOR'S POLITICAL PARTY WHENEVER THE GOVERNOR IS
14	UNABLE_TO_SELECT_AN_APPOINTEE_FROM_INE_SUBMITTED_LIST*IHE
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19	AN APPOINTEE FROM THE INDIVIDUALS NAMED ON BOTH LISTS. Such
20	appointee shall hold office until the next general election
21	and until his successor is elected and qualified. At the
22	biennial election following the occurrence of any vacancy in
23	the commission, there shall be elected one member to fill
24	out the unexpired term for which such vacancy exists."

-End-

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SENATE BILL NO. 128 1 2 INTRODUCED BY RASMUSSEN. HAGER 3 A BILL FOR AN ACT ENTITLED: MAN ACT TO REQUIRE THE PERSON 4 APPOINTED TO FILL A VACANCY IN AN ELECTIVE PARTISAN OFFICE 5 TO BE A MEMBER OF THE SAME POLITICAL PARTY AS HIS 6 7 PREDECESSOR ERON A. LIST PROVIDED BY THE SAME POLITICAL PARIY: AMENDING SECTIONS 2-16-505, 2-16-506, 7-3-1217, я 9 7-3-4218, 7-4-2106, 13-25-202, AND 69-1-106, MCA."

10

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

NEW SECTION. Section 1. Vacancies 12 in elective 13 partisan offices -- appointees to be of same political 14 party. Whenever a vacancy occurs in an office which is 15 filled by a partisan election and when the person whose 16 position is to be filled served as a member of a political 17 party. the individual appointed to fill the vacancy must be 18 a member of the same political party.

19 Section 2. Section 2-16-505, MCA, is amended to read: 20 #2-16-505. Filling vacancies in certain elective 21 offices. <u>(1)</u> A vacancy in the office of either the secretary 22 of state, state auditor, attorney general, clerk of the 23 supreme court, or superintendent of public instruction must 24 be filled by a person appointed by the governor, who holds 25 his office until the first Monday in January next after a

general election. At such election the office must be filled 1 2 by election for the unexpired term. 3 [2]_Whenever_bis_predecessor_served_as_a_member_of_a 4 political_party_the_appointee_sust_be_a_sember_of_the__same 5 political party AND SHALL BE SELECTED FROM A LIST OF THREE INDIVIDUALS_PROVIDED_BY_IHE_STATE_CENTRAL_COMMITTEE_DE__THE 6 PREDECESSOR'S POLITICAL PARTY. WHENEVER THE GOVERNOR IS 7 UNABLE TO SELECT AN APPOINTEE FROM THE SUBNITIED LIST. THE 8 9 GOVERNOR SHALL REQUEST A SECOND LIST OF THREE NAMES FROM THE STATE CENTRAL COMMITTEE OF THE PREDECESSOR'S POLITICAL 10 11 PARTY_ THE SECOND LIST MAY NOT CONTAIN ANY OF THE NAMES SUBMITIED ON THE FIRST LIST. THE GOVERNOR SHALL THEN SELECT 12 13 AN APPOINTEE FROM THE INDIVIDUALS NAMED ON BOTH LISTS." 14 Section 3. Section 2-16-506, MCA, is amended to read: 15 *2-16-506. Filling vacancies -- appointee_to_be_of 16 same political party____ recess appointments. (1) When any office becomes vacant and no mode is provided by law for 17 16 filling the vacancy, the governor shall fill the vacancy by 19 appointing a qualified person to fill the unexpired term of 20 the person whose office became vacant. Whenever his 21 predecessor_served_as_a_member_of_a_political_partys_the 22 appointee_must_be_a_member_of_the_same_political_party AND 23 SHALL_BE_SELECTED_FROM_A_LIST_OF_THREE_INDIVIDUALS_PROVIDED 24 BY__IHE__SIATE__CENTRAL__COMMITTEE__OF__IHE___PREDECESSOR'S 25 POLITICAL__PARTY___WHENEYER_THE_GOVERNOR_TS_UNABLE_TO_SELECT

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REFERENCE BILL

 1
 AN_APPOINTEE_ERON_THE_SUBMITTED_LISTs_THE_GOVERNOR_SHALL

 2
 REQUEST_A_SECOND_LIST_DE_THREE_NAMES_EROM_THE_STATE_CENTRAL

 3
 COMMITTEE_OE_THE_PREDECESSOR'S_POLITICAL_PARTYS_THE_SECOND

 4
 LIST_MAY_NOT_CONTAIN_ANY_DE_THE_NAMES_SUBMITTED_ON_THE_ETRST

 5
 LIST__THE__GOVERNOR_SHALL_THEN_SELECT_AN_APPOINTEE_EROM_THE

 6
 INDIVIDUALS_NAMED_ON_BOTH_LISTS_

7 (2) If the legislature or one house of the legislature 8 must confirm an appointment of a person appointed by the governor to fill a vacancy, the governor may appoint the 9 10 person to assume office before the legislature meets in its next regular session to consider the appointment. A person 11 12 so appointed is vested with all the functions of the office 13 upon assuming the office and is a de jure officer. 14 notwithstanding the fact that the legislature has not yet 15 confirmed the appointment. If the legislature does not confirm the appointment, the governor shall make a new 16 17 appointment to fill the unexpired term."

18 Section 4. Section 7-3-1217, MCA, is amended to read: 19 #7-3-1217. Vacancies. (1) If a vacancy occurs in the 20 commission, except as the result of a recall election, some eligible person shall be chosen by a majority vote of the 21 22 remaining members to fill the place for the unexpired term. 23 121 If the vacant seat was filled on a partisan basis 24 and the person whose position is being filled served as a 25 member of a political party, the individual selected to fill

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1	the_vacancy_must_be_a_member_of_the_same_political_party_AND
2	SHALL BE SELECTED EROM & LIST OF THREE INDIVIDUALS PROVIDED
3	BYIHECOUNTYCENTRALCOMMITTEEOFIHEPREDECESSOR15
4	POLITICAL_PARTYHHENEYER_THE_APPOINTING_BOARD_IS_UNABLEIO
5	SELECT_AN_APPOINTEE_ERON_THE_SUBNITIED_LIST.THEY_SHALL
6	REQUEST A SECOND LIST DE THREE NAMES FROM THE COUNTY CENTRAL
7	CONMITTEE_OF_THE_PREDECESSOR'S_POLITICAL_PARTYTHESECOND
8	LIST MAY NOT CONTAIN ANY OF THE NAMES SUBMITTED ON THE FIRST
9	LISTA THE APPOINTING BOARD SHALL THEN SELECT AN APPOINTEE
10	FROM THE INDIVIDUALS NAMED ON BOTH LISTS.
11	<pre>{2+131 Absence from all regular meetings for a period</pre>
12	of 90 days shall operate to vacate the seat of a member
13	unless such absence be authorized by the commission.*
14	Section 5. Section 7-3-4218, MCA, is amended to read:
15	*7-3-4218. Vacancies. (1) Vacancies in the office of
16	mayor or councilmen shall be filled by appointment made by a
17	majority vote of the remaining members of the council. If in
18	filling such vacancy a tie vote should occur, then the
19	person to fill said vacancy shall be determined by lot in
20	such manner as said council may provide.
21	<pre>(2)if_theyacantseatwasfilled_bya_partisan</pre>
22	
	election_and_the_person_whose_position_is_to_be_filled
23	<pre>election_and_the_person_whose_position_is_to_be_filled served_as_a_member_of_a_political_party*_the_individual</pre>

25 political party AND_SHALL_BE_SELECTED_FROM_A_LIST_OF__IHREE

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INDIVIDUALS PROVIDED BY THE COUNTY CENTRAL COMMITTEE DE THE 1 PREDECESSOR'S POLITICAL PARTY. WHENEVER THE APPOINTING BOARD 2 IS UNABLE TO SELECT AN APPOINTEE FROM THE SUBMITTED LISTS 3 THEY SHALL REQUEST A SECOND LIST OF THREE NAMES EROM THE 4 COUNTY CENTRAL COMMITTEE OF THE PREDECESSOR'S POLITICAL 5 6 PARTY. THE SECOND LIST MAY NOT CONTAIN ANY DE THE NAMES 7 SUBMITTED ON THE FIRST LIST. THE APPOINTING BOARD SHALL THEN 8 SELECT AN APPOINTEE FROM THE INDIVIDUALS NAMED ON BOTH 9 LISTS.

10 (2)[3] A person appointed to fill any such vacancy 11 shall hold his office until the next general election and 12 until his successor is elected and qualified. A person 13 elected to fill a vacancy shall hold office until the 14 expiration of the term for which the person he succeeds was 15 elected."

Section 6. Section 7-4-2106, MCA, is amended to read: m7-4-2106. Vacancy on board of county commissioners. <u>(11)</u> Whenever a vacancy occurs in the board of county commissioners from a failure to elect or otherwise, the district judge or judges in whose district the vacancy occurs must fill the vacancy, and such appointee shall hold office until the next general election.

23 <u>f21_Whenever_bis_predecessor_served_as_a_member_of_a</u>
 24 <u>political_party_the_appointee_must_be_a_member_of_the_same</u>
 25 <u>political_party_AND_SHALL_BE_SELECTED_EROM_A_LISI_DE__IHBEE</u>

SB 128

1	INDIVIDUALSPROVIDED_BY_INE_COUNTY_CENTRAL_CONNITIEE_DE_INE
2	PREDECESSOR'S_POLITICAL_PARTYWHENEYER_IHE_APPOINTING_BOARD
3	IS_UNABLE_IQ_SELECI_AN_APPOINIEE_EROMIHESUBMITIED_LIST:
4	IMEYSHALLREQUESIASECOND_LISI_DE_IMBEE_NAMES_ERDM_IME
5	COUNTY_CENTRALCOMMITTEEOFIMEPREDECESSOR'SPOLITICAL
6	PABIYIHESECONDLISTMAYNOT_CONTAIN_ANY_DE_THE_NAMES
7	SUBMITTED_ON_THE_FIRST_LIST*_THE_APPOINTING_BOARD_SHALL_THEN
8	SELECT_AN_APPOINTEEERONIHEINDIVIDUALSNAMEDONBOTH
9	LISIS*"
10	Section 7. Section 13-25-202; MCA; is amended to read:
11	"13-25-202. Vacancy in office of United States
12	senator• (1) If a vacancy occurs in the office of United
13	States senator, an election to fill the vacancy shall be
14	held at the next general election. If the election is
15	invalid or not held at that time, the election to fill the
16	vacancy shall be held at the next succeeding general
17	election.
18	(2) The governor may make a temporary appointment to
19	fill the vacancy until the election <u>: howevers if his IHE</u>
20	APPOINIEE'S producessor served as a member of a political
21	party:_the_appointee_must_be_a_member_of_the_samepolitical
22	DALLY AND_SHALL_BE_SELECIED_FROM_A_LIST_OF_THREE_INDIVIDUALS
23	PROVIDED_BY_INE_STATE_CENTRAL_CONMITTEE_DE_THE_PREDECESSOR'S
24	POLITICALPARTYWHENEYER_INE_GOVERNOR_IS_UNABLE_IO_SELECT
25	AN_APPOINTEE_EROH_THE_SUBMITTED_LIST+THEGOVERNOBSHALL

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\$9 128

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58 0128/04

1 REQUEST _ A SECOND_LIST_OF_IHREE_NAMES_FROM_THE_STATE_CENTRAL 2 CONMITTEE OF THE PREDECESSOR'S POLITICAL PARTY. THE SECOND 3 LIST_MAY_NOT_CONTAIN_ANY_DE_IHE_NAMES_SUBMITIED_ON_THE_FIRST LIST.__INE__GOVERNOB_SHALL_THEN_SELECT_AN_APPOINTEE_EROP_INE 4 5 INDIVIDUALS_NAMED_ON_BOTH_LISIS.* 6 Section 8. Section 69-1-106, MCA, is amended to read: 7 #69-1-106. Vacancies. Any vacancy occurring in the commission shall be filled by appointment by the governor. 8 9 If bis INE_APPOINTEE'S predecessor_served_as_a_member_of_a 10 political party: the appointee sust be a member of the same 11 political party AND_SHALL_BE_SELECTED_EROM_A_LIST_OF_THREE 12 INDIVIOUALS PROVIDED BY THE STATE CENTRAL COMMITTEE OF THE 13 PREDECESSOR'S POLITICAL PARTY. WHENEVER THE GOVERNOR IS 14 UNABLE TO SELECT AN APPOINTEE FROM THE SUBMITTED LIST. THE 15 GOVERNOR SHALL REQUEST A SECOND LIST OF THREE NAMES FROM THE 16 STATE_CENTRAL_COMMITTEE_OF_THE_PREDECESSOR'S_POLITICAL 17 PARTY. THE SECOND LIST MAY NOT CONTAIN ANY DE THE NAMES 18 SUBNITTED ON THE FIRST LIST. THE GOVERNOR SHALL THEN SELECT AN APPOINTEE FROM THE INDIVIDUALS NAMED ON BOTH LISIS. Such 19 20 appointee shall hold office until the next general election 21 and until his successor is elected and gualified. At the 22 biennial election following the occurrence of any vacancy in the commission, there shall be elected one member to fill 23 24 out the unexpired term for which such vacancy exists."

-End-

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