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SENATE BILL NO. 291

INTRODUCED BY LENSINK

BY REQUEST OF THE SECRETARY OF STATE AND THE ATTORNEY GENERAL

IN THE SENATE

January 30, 1979		Introduced and referred to Committee on State Adminis- tration.
February 9, 1979		Committee recommend bill do pass. Report adopted.
February 10, 1979		Printed and placed on members' desks.
February 12, 1979		Second reading, do pass.
February 13, 1979		Considered correctly engrossed.
February 14, 1979		Third reading, passed. Transmitted to second house.
	IN THE HOU	JSE .
February 15, 1979		Introduced and referred to Committee on Judiciary.
March 19, 1979		Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1979		Second reading, concurred in.
March 23, 1979		Third reading, concurred in as amended.
	IN THE SEN	IATE
Manah 24 1070		Deturned from second house

March 24, 1979 Returned from second house. . Concurred in as amended.

March 26, 1979	Second reading, pass con- sideration until March 28, 1979.
March 28, 1979	Second reading, amendments adopted.
March 29, 1979	Third reading, amendments adopted. Sent to enrolling.
	Reported correctly enrolled.

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Jeach BILL NO. 291 1 INTRODUCED BY _ 2 BY REQUEST OF THE SECRETARY OF STATE AND THE ATTORNEY GENERAL 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS 6 RELATING TO FILLING VACANCIES IN COUNTY AND LEGISLATIVE 7 DEFICES: ALLOWING POLITICAL PARTIES TO NOMINATE CANDIDATES 8 IN SOME INSTANCES; AMENDING SECTIONS 5-2-406, 7-4-2106, AND 9 7-4-2206, MCA."

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

12 Section 1. Section 5-2-406, MCA, is amended to read: 13 "5-2-406. Elections to fill vacancies in senate. (1) 14 Whenever a vacancy occurs 40 50 days or more before the 15 general election held during the second year of the term, an 16 individual shall be elected to complete the term at that 17 general election. The election procedure to be used to elect 18 the successor is as follows:

(a) Whenever the vacancy occurs 40 50 days or more
prior to the primary election during the second year. the
same procedure as is used for senators who will be elected
to full 4-year terms at that general election shall be
utilized.

24 (b) Whenever the vacancy occurs on or after the 40th

<u>SOth</u> day prior to the primary election, any political party 1 desiring to enter a candidate in the general election shall 2 3 select a candidate as provided in 13-38-101 13-10-327 and 4 13-38-204. A political party may-adopt-rules-for-the-conduct of-the-selection-process-and shall notify the secretary of 5 state and the appropriate county clerk and recorders of the 6 party nominee. A person desiring to be a candidate as an 7 independent shall follow the procedures provided in я 13-10-501 and 13-10-502. The petition for an independent 9 candidate shall be filed with the secretary of state on or 10 before the 30th 40th day prior to the general election. 11

12 (2) Whenever a vacancy occurs on or after the 40th 13 <u>50th</u> day prior to the general election held during the 14 second year of the term, the person appointed by the board 15 under 5-2-402 shall serve until the end of the term.*

16 Section 2. Section 7-4-2106, MCA, is amended to read: 17 "7-4-2106. Vacancy on board of county commissioners. 18 <u>(1)</u> For the purposes of this part, "vacancy" has the same 19 meaning as prescribed in 2-16-501.

20 <u>(2)</u> Whenever a vacancy occurs in the board of county 21 commissioners from a failure to elect or otherwise, the 22 district judge or judges in whose district the vacancy 23 occurs must fill the vacancy, and such appointee shall hold 24 office until the next general election <u>unless</u> otherwise 25 provided in subsection (3) or (4).

> -2- SE 521 INTRODUCED BILL

1	(3) Whenever a vacancy occurs 50 days or more before
2	the general election held during the second or fourth year
3	of the terms an individual shall be elected to complete the
4	term at that general election. The election procedure to be
5	used to elect the successor is as follows:
6	(a) <u>Whenever the vacancy occurs 50 days or more before</u>
7	the primary election during the second or fourth year of the
8	terms the same procedure shall be utilized as is used to
9	elect county compissioners to full 6-year terms.
10	(b) Whenever the vacancy occurs after the 50th day
11	preceding the primary election, any political party desiring
12	to enter a condidate in the general election shall select a
13	candidate as provided in 13-38-204. A political party shall
14	notify the clerk and recorder of the party nomines. A
15	person desiring to be a condidate as an independent shall
16	follow_the_procedures_previded_in_13-10-501 and 13-10-502.
17	The petition for an independent condidate shall be filed
18	with the clark and recorder on or before the 40th day prior
19	<u>to the general elections A condidate for a nonpartisan</u>
20	office shall file as provided in [Title 13, chapter 14].
21	(4) Whenever a vacancy occurs after the SOth day
22	preceding the general election beld during the fourth year
23	of the term, the person appointed by the district judge
24	under 7-4-2106(2) shall serve until the end of the terms"
25	Section 3. Section 7-4-2206; MCA, is amended to read:

1	#7-4-2206。 Vacancies. <u>(1) For the purposes of this</u>
2	parts "vacancy" bas the same meaning as prescribed in
3	2-16-501a
4	(1)(2) Vacancies in all country-townships-and-precimet
5	offices, except that of county commissioner and justice of
6	the peace, shall be filled by appointment by the board of
7	county commissioners. (2) The appointee shall hold his
6	office, if elective, until the next general election unless
9	otherwise provided in subsections [3] or [4], and if not
10	elective, the appointee serves at the pleasure of the
11	commissioners
12	131 Hhenever a vacancy occurs 50 days or pore before
13	the general election held during the second year of the
14	terms an individual shall be elected to complete the term at
15	that general election. The election procedure to be used to
16	elect the successor is as follows:
17	(a) Whenever the vecaney occurs 50 days or more before
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19	same procedure shall be utilized as is used to elect a
20	parson to that office for a full 4-year terms
21	(b) Whenever the vacancy occurs after the 50th day
22	preceding the primary election, any political party desiring
23	to enter a condidate in the general election shall select a
24	Candidate as provided in 13-28-20%. A political patty shall
25	notify the clerk and recerder of the party mobilines. A

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1	person desiring to be a candidate as an independent shall
2	follow_the_procedures_provided_in_13-10-501_and_13-10-502.
3	The petition for an independent candidate shall be filed
4	with the clerk and recorder on or before the 40th day prior
č	to the general election. A condidate for a nonpartisan
6	office_shall_file_as_provided_in_[litle_l3chapter_l4].
7	14) Whenever a vacancy occurs after the 40th day
8	preceding the general election held during the second year
9	of the term, the person appointed by the commissioners under
10	7-4-2206(2) shall serve until the end of the term."

-End-

SE 291

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46th Legislature

Approved by Committee on State Administration

ALL BILL NO. 291 1 INTRODUCED BY 2

BY REQUEST OF THE SECRETARY OF STATE And the attorney general

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS 6 RELATING TO FILLING VACANCIES IN COUNTY AND LEGISLATIVE 7 OFFICES; ALLOWING POLITICAL PARTIES TO NOMINATE CANDIDATES 8 IN SOME INSTANCES; AMENDING SECTIONS 5-2-406, 7-4-2106, AND 9 7-4-2206, MCA."

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(a) Whenever the vacancy occurs 40 50 days or more
prior to the primary election during the second year, the
same procedure as is used for senators who will be elected
to full 4-year terms at that general election shall be
utilized.

24 (b) Whenever the vacancy occurs on or after the 40th

50th day prior to the primary election, any political party 1 desiring to enter a candidate in the general election shall 2 3 select a candidate as provided in 13-38-101 13-10-327 and 13-38-204. A political party may-adopt-rules-for-the-conduct 4 5 of-the-selection-process-and shall notify the secretary of state and-the-appropriate-county-clerk-and-recorders of the 6 party nominee. A person desiring to be a candidate as an 7 independent shall follow the procedures provided in я 9 13-10-501 and 13-10-502. The petition for an independent 10 candidate shall be filed with the secretary of state on or 11 before the 30th 40th day prior to the general election. 12 (2) Whenever a vacancy occurs on or after the 40th 13 50th day prior to the general election held during the 14 second year of the term, the person appointed by the board 15 under 5-2-402 shall serve until the end of the term." 16 Section 2. Section 7-4-2106, MCA, is amended to read: 17 *7-4-2106. Vacancy on board of county commissioners. 18 (1) For the purposes of this parts "vacancy" has the same 19 meaning as prescribed in 2-16-501. 20 [2] Whenever a vacancy occurs in the board of county

20 <u>121</u> whenever a vacancy occurs in the board of county 21 commissioners from a failure to elect or otherwise, the 22 district judge or judges in whose district the vacancy 23 occurs must fill the vacancy, and such appointee shall hold 24 office until the next general election <u>unless_otherwise</u> 25 provided in subsection (3) or (4).

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SECOND READING

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8	terms the same procedure shall be utilized as is used to
9	elect county commissioners to full 6-year terms.
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11	praceding the primary election, any political party desiring
12	to enter a candidate in the general election shall select a
13	candidate as provided in 13-38-204. A political party shall
14	notify the clerk and recorder of the party nominee. A
15	person desiring to be a candidate as an independent shall
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17	The petition for an independent candidate shall be filed
18	with the clerk and recorder on or before the 40th day prior
19	<u>to the general election. A candidate for a nonpartisan</u>
20	office shall file as provided in [Title 13. chapter 14].
21	[4] Whenever a vacancy occurs after the 50th day
22	preceding_the_general_election_beld_during_thefourthyear
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24	under 7-4-2106(2) shall serve until the end of the terms*
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the peace, shall be filled by appointment by the board of
county commissioners. <pre>t2</pre> The appointee shall hold his
office, if elective, until the next general election unless
otherwise provided in subsections [3] or (4). and if not
elective, the appointee serves at the pleasure of the
comissioners.

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16	elect the successor is as follows:
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1	person_desiring_to_be_a_candidate_asanindependentshall
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5	to the general election. A candidate for a nonpartisan
6	office_shall_file_as_provided_in_[[]tle_13+_cbapter_14]+
7	[4] Whenever a vacancy occurs after the 40th day
8	preceding the general election held during the second year
9	of the terms the person appointed by the commissioners under
10	<u>7-4-2206(2)_shall_serve_until_the_end_of_the_terms</u> "

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-End-

5B 291

LC 0597/01 .

Sante BILL NO. 291 1 INTRODUCED BY 2

BY REQUEST OF THE SECRETARY OF STATE And the attorney general

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20 prior to the primary election during the second year, the
21 same procedure as is used for senators who will be elected
22 to full 4-year terms at that general election shall be
23 utilized.

24 (b) Whenever the vacancy occurs on or after the 40th

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 17
 #7-4-2106- Vacancy on board of county commissioners.

 18
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20 <u>(2)</u> Whenever a vacancy occurs in the board of county 21 commissioners from a failure to elect or otherwise, the 22 district judge or judges in whose district the vacancy 23 occurs must fill the vacancy, and such appointee shall hold 24 office until the next general election <u>unless_otherwise</u> 25 provided in subsection (3) or (4).

SB 291 THIRD READING

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17	The petition for an independent candidate shall be filed
18	with the clerk and recorder on or before the 40th day prior
19	to the general election. A candidate for a nonpartisan
20	office shall file as provided in [Title 13. chapter 14].
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1	<u>person desiring to be a candidate as an independent, shall</u>
2	follow_the_procedures_provided_in_13-10-501_and_13-10-502_
3	<u>The petition for an independent candidate shall be filed</u>
4	with the clerk and recorder on or before the 40th day prior
5	to the general election. A candidate for a nonpartisan
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7	(4) Whenever a vacancy occurs after the 40th day
8	preceding the general election held during the second year
9	of the terms the person appointed by the commissioners under
10	7-4-2206(2) shall serve until the end of the terms"

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-End-

. SB 291

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46th Legislature

\$3 0291/02

1	SENATE BILL NO. 291
2	INTRODUCED BY LENSINK
3	BY REQUEST OF THE SECRETARY OF STATE
4	AND THE ATTORNEY GENERAL

5 A BILL FUR AN ACT ENTITLED: "AN ACT TO REVISE THE LANS 6 RELATING TO FILLING VACANCIES IN COUNTY AND LEGISLATIVE 7 OFFICES; ALLUHING POLITICAL PARTIES TO NOMINATE CANDIDATES 8 IN SOME INSTANCES; AMENDING SECTIONS 5-2-406, 7-4-2106, AND 9 7-4-2206, MCA+"

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REFERENCE BILL

SB 291

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SB 291

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1 131_Whenever_a_vacancy_occurs_50_days_or_more_before 2 the general election held during the second or fourth year 3 of__the_termi_ao_individual_shall_be_elected_to_complete_the term_at_that_general_election____lbe_election_procedure_to_be 5 used_to_elect_the_successor_is_as_follows: 6 7 the primary election during the second or fourth year of the 8 term: the same procedure spall be utilized as is used to с elect_county_commissioners_to_full_6-year_terms. 10 (b) Whenever the vacancy occurs after the 50th day preceding the primary election, any political party desiring 11 12 to_enter_a_candidate_in_the_general_election_shall_select__a 13 candidate_as_provided_in_13=38=204+__A_political_party_shall 14 notify_the_clerk_and_recorder_of_the_narty_nominees__A 15 person_desiring_to_be_a_candidate_as__an__independent__shall 16 follow_the_procedures_provided_in_13-10-501_and_13-10-502+ 17 The petition for an independent condidate shall be filed 18 with_the_clerk_and_recorder_on_or_before_the_40th_day_prior 19 to the general __elections__A__candidate__for__a__nonpartisan 20 office_shall_file_as_provided_ip_[litle_13, chapter_14]a 21 [4]_Whenever__a_vacancy_occurs_after_the_50th_day 22 preceding_the_general_election_held_during_the__fourth__year ٤3 of__tbe__term:__tbe__person_appointed_by_tbe_district_iudge upper_I=5=2106(2)_sball_serve_until_the_end_of_the_terms" 24 25 Section 3. Section 7-4-2206, MCA, is amended to read:

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1 "7-4-2206. Vacancies. (11_For_the_purposes of this wartr_"yacancy"__has__tbe__same__meaning__as__prescribed__in 2-16-501. tit(2) Vacancies in all countyy-townshipy-and-precinct offices, except that of county commissioner and justice of therefore, shall be filled by appointment by the board of county commissioners.

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the general election held during the second year of the 14 15 terms an individual shall be elected to complete the term at that_general_election.__Ibe_election_procedure_to_be_used_to 16 17 elect_the_successor_is_as_follows: 18 (a) _Whenever_the_vacancy_occurs_50_days_or_more_before

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58 291

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SB 0291/02

1	notify the clerk and recorder of the party nominee. A
2	<u>person_desiring_to_be_a_candidate_as_an_independent_shall</u>
3	follow the procedures provided in 13-10-501 and 13-10-502.
4	The petition for an independent candidate shall be filed
5	with the clerk and recorder on or before the 40th day prior
6	<u>to the general election. A candidate for a nonpartisan</u>
7	office shall file as provided in [Title 13, chapter 14].
8	(4)Whenever_a_vacancy_occurs_after_the 40th SOIH day
9	preceding_the_general_election_held_during_the_second_year
10	of the term: the person appointed by the commissioners under
11	7-4-2206(2) shall serve until the end of the terms
12	15) VACANCIES OCCURRING IN THE DEFICE DE JUSTICE DE
13	THE PEACE SHALL BE FILLED AS PROVIDED IN TITLE 3+ CHAPTER
14	10+ PART 2+*

-End-

-5-

58 291

March 6, 1979

HOUSE OF REPRESENTATIVES

JUDICIARY Committee amendments to SENATE BILL NO. 291, third reading copy, as follows:

1. Page 4, lines 5 and 6.
Strike: "and justice of the peace"

2. Page 4, line 7.
Following "{2}"
Strike: "The"
Insert: "Except for the justice of the peace, the"

3. Page 5, line 7. Following: "the" Strike: "40th" Insert: "50th"

4. Page 5, line 11. Following: line 10

Insert: "(5) Vacancies occurring in the office of justice of the peace shall be filled as provided in Title 3, chapter 10, part 2"