

HOUSE BILL NO. 488

INTRODUCED BY BROOKE, JOHNSON, RICE, CONNELLY,
COCCHIARELLA, RANEY, WYATT, MCCORMICK, BACHINI, J. BROWN

IN THE HOUSE

JANUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 30, 1989	FIRST READING.
FEBRUARY 9, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 10, 1989	PRINTING REPORT.
FEBRUARY 11, 1989	SECOND READING, DO PASS.
FEBRUARY 13, 1989	ENGROSSING REPORT.
FEBRUARY 14, 1989	THIRD READING, PASSED. AYES, 92; NOES, 5.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1989	SECOND READING, CONCURRED IN.
MARCH 14, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 15, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *488*
 2 INTRODUCED BY *Timothy J. Johnson Vice Council*
 3 *Coccolinda Roney Wyatt - McDaniel Rustine J. Brown*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TIME
 5 DEADLINES FOR REPLACING A CANDIDATE OR FOR WITHDRAWAL OF A
 6 CANDIDATE PRIOR TO A PRIMARY OR GENERAL ELECTION; AND
 7 AMENDING SECTIONS 5-2-406 AND 13-10-325 THROUGH 13-10-327,
 8 MCA."

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

11 **Section 1.** Section 5-2-406, MCA, is amended to read:

12 **"5-2-406. Elections to fill vacancies in senate. (1)**
 13 Whenever a vacancy occurs 75 85 days or more before the
 14 general election held during the second year of the term, an
 15 individual shall be elected to complete the term at that
 16 general election. The election procedure to be used to elect
 17 the successor is as follows:

18 (a) Whenever the vacancy occurs 75 85 days or more
 19 prior to the primary election during the second year, the
 20 same procedure as is used for senators who will be elected
 21 to full 4-year terms at that general election shall be
 22 utilized.

23 (b) Whenever the vacancy occurs on or after the 75th
 24 85th day prior to the primary election, any political party
 25 desiring to enter a candidate in the general election shall

1 select a candidate as provided in 13-10-327 and 13-38-204.
 2 A political party shall notify the secretary of state of the
 3 party nominee. A person desiring to be a candidate as an
 4 independent shall follow the procedures provided in
 5 13-10-501 and 13-10-502. The petition for an independent
 6 candidate shall be filed with the secretary of state on or
 7 before the 65th 85th day prior to the general election.

8 (2) Whenever a vacancy occurs on or after the 75th
 9 85th day prior to the general election held during the
 10 second year of the term, the person appointed by the board
 11 under 5-2-402 shall serve until the end of the term."

12 **Section 2.** Section 13-10-325, MCA, is amended to read:

13 **"13-10-325. Withdrawal from nomination. (1)** A
 14 candidate for nomination or candidate for election to an
 15 office may withdraw from the election by sending a statement
 16 of withdrawal to the officer with whom his declaration,
 17 petition, or acceptance of nomination was filed. The
 18 statement must contain all information necessary to identify
 19 the candidate and the office sought and the reason for
 20 withdrawal. It shall be sworn or affirmed before an officer
 21 empowered to administer oaths. A candidate may not withdraw
 22 later than 75 85 days before an election.

23 (2) Filing fees paid by the candidate may not be
 24 refunded."

25 **Section 3.** Section 13-10-326, MCA, is amended to read:

"13-10-326. Vacancy prior to primary election. (1) If a candidate for nomination for a partisan office dies or withdraws 75 85 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327.

(2) If the death or withdrawal occurs less than 75 85 days before the primary, the affected political party shall appoint a candidate after the primary as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election. This section does not allow a political party to appoint a candidate for an office if no candidate for nomination by that party filed for the office before the primary election."

Section 4. Section 13-10-327, MCA, is amended to read:

"13-10-327. Vacancy after primary and prior to general election. (1) If a party candidate dies or withdraws after the primary and before the general election, the affected political party shall appoint someone to replace the candidate in one of the following ways:

(a) For offices to be filled by the state at large, the state central committee shall make the appointment as provided by the rules of the party.

(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall

make the appointment. Procedures for the appointment of the committee and making the appointment shall be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment shall be made under rules adopted by the county central committee.

(2) Appointments to fill vacancies must be made no later than 65 75 days before the election. A candidate may not officially withdraw 75 85 days or less before a general election. However, if a candidate for partisan office dies less than 75 85 days before the general election, the affected political party shall appoint a candidate within 5 days after being notified of the vacancy. The procedures provided in 13-12-204 shall be used to place the name of the appointee on the ballot if necessary.

(3) The appointing committee shall send a certificate to the officer with whom a declaration for nomination for the office would be filed, with the information required on a declaration for nomination and the name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance of the appointment and the filing fee for the office.

(4) The officer receiving the certificate of appointment, accompanied by a statement of acceptance and

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1 the filing fee, shall certify the name of the appointee for
2 the ballot."

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 488

INTRODUCED BY BROOKE, JOHNSON, RICE, CONNELLY,

COCCHIARELLA, RANEY, WYATT, MCCORMICK, BACHINI, J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE TIME DEADLINES FOR REPLACING A CANDIDATE OR FOR WITHDRAWAL OF A CANDIDATE PRIOR TO A PRIMARY--OR GENERAL ELECTION; AND AMENDING SECTIONS 5-2-406, AND 13-10-325, THROUGH AND 13-10-327, MCA."

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

Section 1. Section 5-2-406, MCA, is amended to read:

"5-2-406. Elections to fill vacancies in senate. (1) Whenever a vacancy occurs 75 85 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 elect the successor is as follows:

(a) Whenever the vacancy occurs 75 85 75 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.

(b) Whenever the vacancy occurs on or after the 75th 85th 75TH day prior to the primary election, any political

party desiring to enter a candidate in the general election shall select a candidate as provided in 13-10-327 and 13-38-204. A political party shall notify the secretary of state of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate shall be filed with the secretary of state on or before the 65th 85th day prior to the general election.

(2) Whenever a vacancy occurs on or after the 75th 85th day prior to the general election held during the second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the term."

Section 2. Section 13-10-325, MCA, is amended to read:

"13-10-325. Withdrawal from nomination. (1) A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom his declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. It shall be sworn or affirmed before an officer empowered to administer oaths. A candidate may not withdraw later than 75 85 days before an A GENERAL election OR 75 DAYS BEFORE A PRIMARY ELECTION.

(2) Filing fees paid by the candidate may not be refunded."

Section 3. ~~Section 13-10-326, MCA, is amended to read:~~

~~"13-10-326. Vacancy prior to primary election. (1) If a candidate for nomination for a partisan office dies or withdraws 75 85 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327.~~

~~(2) If the death or withdrawal occurs less than 75 85 days before the primary, the affected political party shall appoint a candidate after the primary as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election. This section does not allow a political party to appoint a candidate for an office if no candidate for nomination by that party filed for the office before the primary election."~~

Section 3. Section 13-10-327, MCA, is amended to read:

"13-10-327. Vacancy after primary and prior to general election. (1) If a party candidate dies or withdraws after the primary and before the general election, the affected political party shall appoint someone to replace the candidate in one of the following ways:

(a) For offices to be filled by the state at large, the state central committee shall make the appointment as provided by the rules of the party.

(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall make the appointment. Procedures for the appointment of the committee and making the appointment shall be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment shall be made under rules adopted by the county central committee.

(2) Appointments to fill vacancies must be made no later than 65 75 days before the election. A candidate may not officially withdraw 75 85 days or less before a general election. However, if a candidate for partisan office dies less than 75 85 days before the general election, the affected political party shall appoint a candidate within 5 days after being notified of the vacancy. The procedures provided in 13-12-204 shall be used to place the name of the appointee on the ballot if necessary.

(3) The appointing committee shall send a certificate to the officer with whom a declaration for nomination for the office would be filed, with the information required on a declaration for nomination and the name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance of the

1 appointment and the filing fee for the office.

2 (4) The officer receiving the certificate of
3 appointment, accompanied by a statement of acceptance and
4 the filing fee, shall certify the name of the appointee for
5 the ballot."

-End-

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

Section 1. Section 5-2-406, MCA, is amended to read:**"5-2-406. Elections to fill vacancies in senate. (1)**

Whenever a vacancy occurs 75 85 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 elect the successor is as follows:

(a) Whenever the vacancy occurs 75 85 75 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.

(b) Whenever the vacancy occurs on or after the 75th 85th 75TH day prior to the primary election, any political

party desiring to enter a candidate in the general election shall select a candidate as provided in 13-10-327 and 13-38-204. A political party shall notify the secretary of state of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate shall be filed with the secretary of state on or before the 65th 85th day prior to the general election.

(2) Whenever a vacancy occurs on or after the 75th 85th day prior to the general election held during the second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the term."

Section 2. Section 13-10-325, MCA, is amended to read:

"13-10-325. Withdrawal from nomination. (1) A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom his declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. It shall be sworn or affirmed before an officer empowered to administer oaths. A candidate may not withdraw later than 75 85 days before an A GENERAL election OR 75 DAYS BEFORE A PRIMARY ELECTION.

(2) Filing fees paid by the candidate may not be refunded."

Section 3. ~~Section 13-10-326, MCA, is amended to read:~~

~~"13-10-326. Vacancy prior to primary election. (1) If a candidate for nomination for a partisan office dies or withdraws 75-85 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327.~~

~~(2) If the death or withdrawal occurs less than 75-85 days before the primary, the affected political party shall appoint a candidate after the primary as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election. This section does not allow a political party to appoint a candidate for an office if no candidate for nomination by that party filed for the office before the primary election."~~

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(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall make the appointment. Procedures for the appointment of the committee and making the appointment shall be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment shall be made under rules adopted by the county central committee.

(2) Appointments to fill vacancies must be made no later than 65 75 days before the election. A candidate may not officially withdraw 75 85 days or less before a general election. However, if a candidate for partisan office dies less than 75 85 days before the general election, the affected political party shall appoint a candidate within 5 days after being notified of the vacancy. The procedures provided in 13-12-204 shall be used to place the name of the appointee on the ballot if necessary.

(3) The appointing committee shall send a certificate to the officer with whom a declaration for nomination for the office would be filed, with the information required on a declaration for nomination and the name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance of the

1 appointment and the filing fee for the office.

2 (4) The officer receiving the certificate of
3 appointment, accompanied by a statement of acceptance and
4 the filing fee, shall certify the name of the appointee for
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8 ~~the candidate by the procedure provided in 13-10-327.~~

9 ~~(2) If the death or withdrawal occurs less than 75 85~~
10 ~~days before the primary, the affected political party shall~~
11 ~~appoint a candidate after the primary as provided in~~
12 ~~13-10-327 if a candidate for that office for that party was~~
13 ~~not nominated at the primary election. This section does not~~
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22 candidate in one of the following ways:

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24 the state central committee shall make the appointment as
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1 (b) For offices to be filled in districts including
2 more than one county, a committee appointed by the county
3 central committees of all counties in the district shall
4 make the appointment. Procedures for the appointment of the
5 committee and making the appointment shall be provided in
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7 (c) For offices to be filled in counties,
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9 appointment shall be made under rules adopted by the county
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15 less than 75 85 days before the general election, the
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17 days after being notified of the vacancy. The procedures
18 provided in 13-12-204 shall be used to place the name of the
19 appointee on the ballot if necessary.

20 (3) The appointing committee shall send a certificate
21 to the officer with whom a declaration for nomination for
22 the office would be filed, with the information required on
23 a declaration for nomination and the name of the candidate
24 for whom the appointee is to be substituted. The appointee
25 shall send a signed and acknowledged acceptance of the

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1 appointment and the filing fee for the office.
2 (4) The officer receiving the certificate of
3 appointment, accompanied by a statement of acceptance and
4 the filing fee, shall certify the name of the appointee for
5 the ballot."

-End-