SENATE BILL NO. 425

INTRODUCED BY B. BROWN, DOHERTY, RYE, BLAYLOCK, CRIPPEN, GROSFIELD, YELLOWTAIL, BARTLETT, HALLIGAN BY REQUEST OF THE SECRETARY OF STATE

IN THE SENATE

FEBRUARY 19, 1993

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

FEBRUARY 22, 1993 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

PRINTING REPORT.

- FEBRUARY 23, 1993 SECOND READING, DO PASS.
- FEBRUARY 24, 1993 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 48; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 1, 1993

APRIL 1, 1993

FIRST READING.

ON JUDICIARY.

MARCH 25, 1993 COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

MARCH 30, 1993 SECOND READING, CONCURRED IN.

> THIRD READING, CONCURRED IN. AYES, 92; NOES, 7.

INTRODUCED AND REFERRED TO COMMITTEE

RETURNED TO SENATE.

IN THE SENATE

APRIL 2, 1993 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 0835/01

1 INTRODUCED BY F 2 3 Nellowtant shouth H 4 A BILL FOR AN ACT ENTITLED: 5 "AN ACT REVISING JUDICIAL SELECTION PROCEDURES TO CONFORM TO RECENT CONSTITUTIONAL 6 7 AMENDMENTS; PROVIDING FOR SENATE CONFIRMATION OF APPOINTMENTS EXCEPT IN CERTAIN CASES; REQUIRING AN APPOINTED 8 JUDGE OR JUSTICE TO STAND FOR ELECTION AT THE FIRST GENERAL 9 10 ELECTION FOLLOWING APPOINTMENT, EXCEPT IN CASES IN WHICH THE 11 APPOINTMENT IS MADE AFTER THE CANDIDATE FILING DEADLINE FOR 12 THE OFFICE; PROVIDING FOR RETENTION ELECTIONS IN CASES IN WHICH AN INCUMBENT DOES NOT FACE AN ELECTION CHALLENGER; 13 14 AMENDING SECTIONS 3-1-1013 AND 3-1-1014, MCA; AND PROVIDING 15 AN IMMEDIATE EFFECTIVE DATE."

16

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

18 Section 1. Section 3-1-1013, MCA, is amended to read: "3-1-1013. Senate confirmation 19 ___ exception --20 nomination in the interim -- appointment contingent on 21 vacancy. (1) (a) Each--nomination Except as provided in 22 subsection (2):

23 (i) each appointment must be confirmed as--an appointment by the senate;-but-a-nomination; and 24

25 (ii) an appointment made while the senate is not in

Ha Landslating Course

1 session is effective as-an-appointment until the end of the 2 next special or regular legislative session. 3 (b) If the nomination appointment is subject to senate 4 confirmation under subsection (1)(a) and is not confirmed, 5 the office shall-be is vacant and another selection of 6 nominees and nomination appointment shall must be made. 7 (2) The following appointments are not subject to 8 senate confirmation, and there must be an election for the 9 office at the general election immediately preceding the 10 scheduled expiration of the term or following the 11 appointment, as applicable: 12 (a) an appointment made while the senate is not in 13 session if the term to which the appointee is appointed 14 expires prior to the next legislative session, regardless of 15 the time of the appointment in relation to the candidate 16 filing deadlines for the office; and 17 (b) an appointment made while the senate is not in 18 session if a general election will be held prior to the next legislative session and the appointment is made prior to the 19 20 candidate filing deadline for primary elections held pursuant to 13-1-107, in which case the position is subject 21 22 to election at the next primary and general elections. 23 (2)(3) No A nomination is not effective unless a vacancy in office occurs." 24

Section 2. Section 3-1-1014, MCA, is amended to read: 25

-2- 5B 425 INTRODUCED BILL

LC 0835/01

1 *3-1-1014. Duration of appointment -- election for 2 remainder of term. (1) An If an appointment subject to 3 3-1-1013(1) is confirmed by the senate, the appointee confirmed--by--the--senate-serves shall serve until the next 4 5 succeeding appointee or another person elected at the first 6 general election after confirmation is elected and 7 qualified. The candidate elected at that election holds the 8 office for the remainder of the unexpired term. 9 (2) If an appointment is subject to 3-1-1013(2), the appointee shall serve until the day before the first Monday 10 11 of January following the first general election after 12 appointment. The candidate elected at that election holds 13 the office for the full term to which elected or for the 14 remainder of the unexpired term, as applicable. 15 (3) If an incumbent judge or justice files for election 16 to the office to which the judge or justice was elected or 17 appointed and no other candidate files for election to that 18 office, the name of the incumbent must nevertheless be 19 placed on the general election ballot to allow voters of the 20 district or state to approve or reject the incumbent. If an 21 incumbent is rejected at an election for approval or 22 rejection, the incumbent shall serve until the day before 23 the first Monday of January following the election, at which

25 appointment must be made."

24

1 NEW SECTION. Section 3. Effective date. [This act] is

2 effective on passage and approval.

-End-

time the office is vacant and another selection and

-4-

53rd Legislature

LC 0835/01

APPROVED BY COMMITTEE ON JUDICIARY

1 Senate BILL NO. 4 INTRODUCED BY 2 3 BY REQUEST OF THE SECRETARY OF STATE Montant Cartlet 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JUDICIAL SELECTION PROCEDURES TO CONFORM TO RECENT CONSTITUTIONAL 6 7 AMENDMENTS; PROVIDING FOR SENATE CONFIRMATION OF 8 APPOINTMENTS EXCEPT IN CERTAIN CASES; REQUIRING AN APPOINTED 9 JUDGE OR JUSTICE TO STAND FOR ELECTION AT THE FIRST GENERAL 10 ELECTION FOLLOWING APPOINTMENT, EXCEPT IN CASES IN WHICH THE 11 APPOINTMENT IS MADE AFTER THE CANDIDATE FILING DEADLINE FOR 12 THE OFFICE; PROVIDING FOR RETENTION ELECTIONS IN CASES IN WHICH AN INCUMBENT DOES NOT FACE AN ELECTION CHALLENGER; 13 AMENDING SECTIONS 3-1-1013 AND 3-1-1014, MCA; AND PROVIDING 14 15 AN IMMEDIATE EFFECTIVE DATE." 16

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

18 Section 1. Section 3-1-1013, MCA, is amended to read: 19 "3-1-1013. Senate confirmation -- exception --20 nomination in the interim -- appointment contingent on 21 vacancy. (1) (a) Each--nomination Except as provided in 22 subsection (2):

23 (i) each appointment must be confirmed es--an
24 appointment by the senater-but-s-nomination; and

25 (ii) an appointment made while the senate is not in



LC 0835/01

1	session is effective as-an-appointment until the end of the		
2	next special or regular legislative session.		
3	(b) If the nomination appointment is subject to senate		
4	confirmation under subsection (1)(a) and is not confirmed,		
5	the office sha ll-be is vacant and another selection of		
6	nominees and nomination appointment shall must be made.		
7	(2) The following appointments are not subject to		
8	senate confirmation, and there must be an election for the		
9	office at the general election immediately preceding the		
10	scheduled expiration of the term or following the		
11	appointment, as applicable:		
12	(a) an appointment made while the senate is not in		
13	session if the term to which the appointee is appointed		
14	expires prior to the next legislative session, regardless of		
15	the time of the appointment in relation to the candidate		
16	filing deadlines for the office; and		
17	(b) an appointment made while the senate is not in		
18	session if a general election will be held prior to the next		
19	legislative session and the appointment is made prior to the		
20	candidate filing deadline for primary elections held		
21	pursuant to 13-1-107, in which case the position is subject		
22	to election at the next primary and general elections.		
23	$\frac{1}{2}$ No <u>A</u> nomination is <u>not</u> effective unless a		
24	vacancy in office occurs."		
25	Section 2. Section 3-1-1014, MCA, is amended to read:		

-2- 5B 425

SECOND READING

1 "3-1-1014. Duration of appointment -- election for 2 remainder of term. (1) An If an appointment subject to 3 3-1-1013(1) is confirmed by the senate, the appointee confirmed--by--the--senate-serves shall serve until the next 4 succeeding appointee or another person elected at the first 5 general election after confirmation is elected and 6 7 qualified. The candidate elected at that election holds the 8 office for the remainder of the unexpired term.

9 (2) If an appointment is subject to 3-1-1013(2), the 10 appointee shall serve until the day before the first Monday 11 of January following the first general election after appointment. The candidate elected at that election holds 12 13 the office for the full term to which elected or for the 14 remainder of the unexpired term, as applicable. 15 (3) If an incumbent judge or justice files for election 16 to the office to which the judge or justice was elected or 17 appointed and no other candidate files for election to that office, the name of the incumbent must nevertheless be 18 19 placed on the general election ballot to allow voters of the district or state to approve or reject the incumbent. If an 20 21 incumbent is rejected at an election for approval or 22 rejection, the incumbent shall serve until the day before 23 the first Monday of January following the election, at which time the office is vacant and another selection and 24 25 appointment must be made."

LC 0835/01

1 NEW SECTION. Section 3. Effective date. [This act] is

2 effective on passage and approval.

-End-

-3-

-4-

LC 0835/01

1 Senate BILL NO. 44 INTRODUCED BY Bos Brown Deheuty 6 m Bay 2 BY REQUEST OF THE SECRETARY OF STATE 3 BY REQUEST OF THE SECRETARY OF STATE (4 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JUNICIAL 6 SELECTION PROCEDURES TO CONFORM TO RECENT CONSTITUTIONAL 7 PROVIDING FOR AMENDMENTS ; SENATE CONFIRMATION OF 8 APPOINTMENTS EXCEPT IN CERTAIN CASES: REQUIRING AN APPOINTED JUDGE OR JUSTICE TO STAND FOR ELECTION AT THE FIRST GENERAL 9 10 ELECTION POLLOWING APPOINTMENT, EXCEPT IN CASES IN WHICH THE APPOINTMENT IS MADE APTER THE CANDIDATE FILING DEADLINE FOR 11 THE OFFICE; PROVIDING FOR RETENTION ELECTIONS IN CASES IN 12 WHICH AN INCUMBENT DOES NOT FACE AN ELECTION CHALLENGER; 13 14 AMENDING SECTIONS 3-1-1013 AND 3-1-1014, MCA; AND PROVIDING 15 AN INMEDIATE EFFECTIVE DATE." 16 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 18 Section 1. Section 3-1-1013, MCA, is amended to read: *3-1-1013. Senate confirmation -- exception 19 20 nomination in the interim -- appointment contingent on 21 vacancy. (1) (a) Bach -- nomination Except as provided in 22 subsection (2): 23 (i) each appointment must be confirmed 88--88 24 appointment by the senate;-but-a-nomination; and

25 (ii) an appointment made while the senate is not in

session is effective as-an-appointment until the end of the
next special or regular legislative session.

3 (b) If the nomination appointment is subject to senate 4 confirmation under subsection (1)(a) and is not confirmed, 5 the office shall-be is vacant and another selection of 6 nominees and nomination appointment shall must be made.

7 (2) The following appointments are not subject to 8 senate confirmation, and there must be an election for the 9 office at the general election immediately preceding the 10 scheduled expiration of the term or following the 11 appointment, as applicable:

12 (a) an appointment made while the senate is not in 13 session if the term to which the appointee is appointed 14 expires prior to the next legislative session, regardless of

- 15 the time of the appointment in relation to the candidate
- 16 filing deadlines for the office; and

17(b) an appointment made while the senate is not in18session if a general election will be held prior to the next19legislative session and the appointment is made prior to the20candidate filing deadline for primary elections held

21 pursuant to 13-1-107, in which case the position is subject

22 to election at the next primary and general elections.

23 $(\frac{27}{3})$ No <u>A</u> nomination is <u>not</u> effective unless a 24 vacancy in office occurs."

25 Section 2. Section 3-1-1014, MCA, is amended to read:

-2- **3B 425** THIRD READING

LC 0835/01

1

*3-1-1014. Duration of appointment -- election for 1 2 remainder of term. (1) An If an appointment subject to 3-1-1013(1) is confirmed by the senate, the appointee 3 confirmed--by--the--senate-serves shall serve until the mext 4 succeeding appointee or another person elected at the first 5 general election after confirmation is elected and 6 7 qualified. The candidate elected at that election holds the office for the remainder of the unexpired term. 8

9 (2) If an appointment is subject to 3-1-1013(2), the appointee shall serve until the day before the first Monday 11 of January following the first general election after 12 appointment. The candidate elected at that election holds 13 the office for the full term to which elected or for the 14 remainder of the unexpired term, as applicable.

15 (3) If an incumbent judge or justice files for election 16 to the office to which the judge or justice was elected or 17 appointed and no other candidate files for election to that 18 office, the name of the incumbent must nevertheless be 19 placed on the general election ballot to allow voters of the 20 district or state to approve or reject the incumbent. If an 21 incumbent is rejected at an election for approval or 22 rejection, the incumbent shall serve until the day before 23 the first Monday of January following the election, at which 24 time the office is vacant and another selection and 25 appointment must be made."

NEW SECTION. Section 3. Effective date. [This act] is

2 effective on passage and approval.

-End-

SB 0425/02

1	SENATE BILL NO. 425	1	(ii) an appointment made while the senate is not in
2	INTRODUCED BY B. BROWN, DOHERTY, RYE, BLAYLOCK, CRIPPEN,	2	session is effective as-an-appointment until the end of the
3	GROSFIELD, YELLOWTAIL, BARTLETT, HALLIGAN	3	next special or regular legislative session.
4	BY REQUEST OF THE SECRETARY OF STATE	4	(b) If the nomination appointment is subject to senate
5		5	confirmation under subsection (1)(a) and is not confirmed,
6	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING JUDICIAL	6	the office shall-be is vacant and another selection of
7	SELECTION PROCEDURES TO CONFORM TO RECENT CONSTITUTIONAL	7	nominees and nomination appointment shall must be made.
8	AMENDMENTS; PROVIDING FOR SENATE CONFIRMATION OF	8	(2) The following appointments are not subject to
9	APPOINTMENTS EXCEPT IN CERTAIN CASES; REQUIRING AN APPOINTED	9	senate confirmation, and there must be an election for the
10	JUDGE OR JUSTICE TO STAND FOR ELECTION AT THE FIRST GENERAL	10	office at the general election immediately preceding the
11	ELECTION FOLLOWING APPOINTMENT, EXCEPT IN CASES IN WHICH THE	11	scheduled expiration of the term or following the
12	APPOINTMENT IS MADE AFTER THE CANDIDATE FILING DEADLINE FOR	12	appointment, as applicable:
13	THE OFFICE; PROVIDING FOR RETENTION ELECTIONS IN CASES IN	13	(a) an appointment made while the senate is not in
14	WHICH AN INCUMBENT DOES NOT FACE AN ELECTION CHALLENGER;	14	session if the term to which the appointee is appointed
15	AMENDING SECTIONS 3-1-1013 AND 3-1-1014, MCA; AND PROVIDING	15	expires prior to the next legislative session, regardless of
16	AN IMMEDIATE EFFECTIVE DATE."	16	the time of the appointment in relation to the candidate
17		17	filing deadlines for the office; and
18	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	18	(b) an appointment made while the senate is not in
19	Section 1. Section 3-1-1013, MCA, is amended to read:	19	session if a general election will be held prior to the next
20	*3-1-1013. Senate confirmation exception	20	legislative session and the appointment is made prior to the
20	nomination in the interim appointment contingent on	21	candidate filing deadline for primary elections held
22	vacancy. (1) (a) Eachnomination Except as provided in	22	pursuant to 13-1-107, in which case the position is subject
22	subsection (2):	23	to election at the next primary and general elections.
23 24	(i) each appointment must be confirmed asan	24	<pre>f2;(3) No A nomination is not effective unless a</pre>
24 25	appointment by the senater-but-a-nomination; and	25	vacancy in office occurs."
20	appointment of the benater bat a new transmission		

-2-

SB 425 REFERENCE BILL

SB 0425/02

SB 425

1 Section 2. Section 3-1-1014, MCA, is amended to read: "3-1-1014. Duration of appointment -- election for 2 3 remainder of term. (1) An If an appointment subject to 3-1-1013(1) is confirmed by the senate, the appointee 4 5 confirmed--by--the--senate-serves shall serve until the next 6 succeeding appointee or another person elected at the first 7 general election after confirmation is elected and 8 qualified. The candidate elected at that election holds the 9 office for the remainder of the unexpired term.

10 (2) If an appointment is subject to 3-1-1013(2), the appointee shall serve until the day before the first Monday 12 of January following the first general election after 13 appointment. The candidate elected at that election holds 14 the office for the full term to which elected or for the 15 remainder of the unexpired term, as applicable.

16 (3) If an incumbent judge or justice files for election 17 to the office to which the judge or justice was elected or 18 appointed and no other candidate files for election to that 19 office, the name of the incumbent must nevertheless be 20 placed on the general election ballot to allow voters of the 21 district or state to approve or reject the incumbent. If an 22 incumbent is rejected at an election for approval or 23 rejection, the incumbent shall serve until the day before 24 the first Monday of January following the election, at which 25 time the office is vacant and another selection and

1 appointment must be made."

2 NEW SECTION. Section 3. Effective date. [This act] is

3 effective on passage and approval.

-End-