

1 SENATE BILL NO. 301

2 INTRODUCED BY D. BROWN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO FEDERAL OFFICE VACANCIES;
 5 ELIMINATING THE ABILITY OF THE GOVERNOR TO MAKE A TEMPORARY APPOINTMENT IN THE OFFICE
 6 OF UNITED STATES REPRESENTATIVE; AMENDING SECTION 13-25-203, MCA; AND PROVIDING AN
 7 IMMEDIATE EFFECTIVE DATE."

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

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 11 **Section 1.** Section 13-25-203, MCA, is amended to read:
 12 **"13-25-203. Vacancy in office of United States ~~senator or representative.~~** (1) If a vacancy occurs
 13 in the office of ~~United States senator or~~ United States representative, the governor shall immediately order an
 14 election to be held to fill the vacancy, except as provided in subsection (3).
 15 (2) The election to fill the unexpired term must be held no less than 85 and no more than 100 days from
 16 the date on which the vacancy occurs, except that if the vacancy occurs:
 17 (a) between 85 days and 150 days before a municipal general election, the election must be held with
 18 the municipal general election;
 19 (b) between January 1 in an even-numbered year and 85 days before a federal primary election, the
 20 election must be held with the federal primary election;
 21 (c) less than 85 days before a federal primary election, the election must be held with the federal general
 22 election;
 23 (d) between the federal primary election and 85 days before a federal general election, the election must
 24 be held with the federal general election;
 25 (e) less than 85 days before a municipal general election or federal general election, the election must
 26 be held no less than 85 days and no more than 100 days after the date of the general election.
 27 (3) ~~(a)~~ If a vacancy in the office of United States representative occurs between the federal primary and
 28 the federal general election in even-numbered years, the candidate elected to the office for the succeeding full
 29 term shall immediately take office to fill the unexpired term.
 30 ~~(b) If a vacancy in the office of United States senator occurs in the last year of the office's term, an~~

1 election for the remainder of the term may not be held if the vacancy occurs between 85 days before the federal
 2 primary election and the end of the term. The term of office for a candidate elected to the senate seat at the
 3 regularly scheduled general election must commence with the new term:

4 ~~(4) (a) (i) The governor may make a temporary appointment to fill a vacancy until the election to fill the~~
 5 ~~vacancy is held:~~

6 ~~———(ii) (A) If the vacancy is subject to the provisions of subsection (3)(b), the governor may make a temporary~~
 7 ~~appointment until the results of the regularly scheduled general election are certified:~~

8 ~~(B) When the results are certified, the governor shall appoint the candidate who won the election for the~~
 9 ~~senate seat to fill the remainder of the vacancy:~~

10 ~~———(b) Unless the appointment is made pursuant to subsection (4)(a)(ii)(B), when a vacancy occurs, if the~~
 11 ~~vacating officeholder represented a political party eligible for primary election under 13-10-601, the person~~
 12 ~~appointed by the governor pursuant to subsection (4)(a)(i) or (4)(a)(ii) must be of the same political party and~~
 13 ~~must be selected by the governor as provided in subsections (5) and (6): However, if the individual vacating the~~
 14 ~~office changed political party affiliations after taking office, the individual who is appointed to fill the vacancy must~~
 15 ~~be of the same political party that the vacating officeholder was when the vacating officeholder was elected or~~
 16 ~~appointed to that office:~~

17 ~~———(5) Within 3 days after being notified of a vacancy, the governor shall notify the political party that was~~
 18 ~~represented by the vacating officeholder:~~

19 ~~———(6) (a) Within 15 days after being notified of a vacancy, the state party central committee shall forward~~
 20 ~~to the governor a list of three prospective appointees:~~

21 ~~———(b) The governor shall select an appointee from the list within 15 days after receiving it."~~

22
 23 **NEW SECTION. Section 2. Vacancy in office of United States senator.** (1) If a vacancy occurs in
 24 the office of United States senator, the governor shall immediately order an election to be held to fill the vacancy,
 25 except as provided in subsection (3).

26 (2) The election to fill the unexpired term must be held no less than 85 and no more than 100 days from
 27 the date on which the vacancy occurs, except that if the vacancy occurs:

28 (a) between 85 days and 150 days before a municipal general election, the election must be held with
 29 the municipal general election;

30 (b) between January 1 in an even-numbered year and 85 days before a federal primary election, the

1 election must be held with the federal primary election;

2 (c) less than 85 days before a federal primary election, the election must be held with the federal general
3 election;

4 (d) between the federal primary election and 85 days before a federal general election, the election must
5 be held with the federal general election;

6 (e) less than 85 days before a municipal general election or federal general election, the election must
7 be held no less than 85 days and no more than 100 days after the date of the general election.

8 (3) If a vacancy in the office of United States senator occurs in the last year of the office's term, an
9 election for the remainder of the term may not be held if the vacancy occurs between 85 days before the federal
10 primary election and the end of the term. The term of office for a candidate elected to the senate seat at the
11 regularly scheduled general election must commence with the new term.

12 (4) (a) The governor may make a temporary appointment to fill a vacancy in the office of United States
13 senator until the election to fill the vacancy is held.

14 (b) (i) If the vacancy is subject to the provisions of subsection (3), the governor may make a temporary
15 appointment until the results of the regularly scheduled general election are certified.

16 (ii) When the results are certified, the governor shall appoint the candidate who won the election for the
17 senate seat to fill the remainder of the vacancy.

18 (c) Unless the appointment is made pursuant to subsection (4)(b)(ii), when a vacancy occurs, if the
19 vacating officeholder represented a political party eligible for primary election under 13-10-601, the person
20 appointed by the governor must be of the same political party and must be selected by the governor pursuant
21 to the procedure outlined in subsection (4)(d). However, if the individual vacating the office changed political party
22 affiliations after taking office, the individual who is appointed to fill the vacancy must be of the same political party
23 that the vacating officeholder was when the vacating officeholder was elected or appointed to that office.

24 (d) (i) Within 3 days after being notified of a vacancy in the office of United States senator, the governor
25 shall notify the political party that was represented by the vacating officeholder.

26 (ii) Within 15 days after being notified of the vacancy, the state party central committee shall forward to
27 the governor a list of three prospective appointees.

28 (iii) Except as provided in subsection (4)(a), the governor shall select an appointee from the list within
29 15 days after receiving it.

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1 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
2 integral part of Title 13, chapter 25, part 2, and the provisions of Title 13, chapter 25, part 2, apply to [section 2].

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4 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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