

**Unofficial Draft Copy**

As of: June 8, 2018 (8:57am)

LCsa01

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act revising laws related to federal office vacancies; eliminating the ability of the governor to make a temporary appointment in the office of United States representative; amending section 13-25-203, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 13-25-203, MCA, is amended to read:

**"13-25-203. Vacancy in office of United States senator or representative.** (1) If a vacancy occurs in the office of ~~United States senator or~~ United States representative, the governor shall immediately order an election to be held to fill the vacancy, except as provided in subsection (3).

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

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

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

the federal primary election;

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

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

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

(3) ~~(a)~~ If a vacancy in the office of United States representative occurs between the federal primary and the federal general election in even-numbered years, the candidate elected to the office for the succeeding full term shall immediately take office to fill the unexpired term.

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

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

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

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~~certified.~~

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

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

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

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

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

~~{ Internal References to 13-25-203: None. }~~

NEW SECTION. **Section 2. Vacancy in office of United States**

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**senator.** (1) If a vacancy occurs in the office of United States senator, the governor shall immediately order an election to be held to fill the vacancy, except as provided in subsection (3).

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

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

(b) between January 1 in an even-numbered year and 85 days before a federal primary election, the election must be held with the federal primary election;

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

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

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

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

commence with the new term.

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

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

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

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

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

(ii) Within 15 days after being notified of the vacancy, the

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state party central committee shall forward to the governor a list of three prospective appointees.

(iii) Unless the governor chooses not to make an appointment to the office of United States senator, the governor shall select an appointee from the list within 15 days after receiving it.

**NEW SECTION. Section 3. {standard} Codification**

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

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

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