

1 HOUSE BILL NO. 471

2 INTRODUCED BY J. ROSS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN
5 AMENDMENT TO ARTICLE VI, SECTIONS 1 THROUGH 4 AND 6 THROUGH 8, OF THE MONTANA
6 CONSTITUTION TO PROVIDE FOR A SUPERINTENDENT OF THE DEPARTMENT OF PUBLIC
7 INSTRUCTION APPOINTED BY THE GOVERNOR."

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

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11 **Section 1.** Article VI, section 1, of The Constitution of the State of Montana is amended to read:12 **"Section 1. Officers.** (1) The executive branch includes a governor, lieutenant governor, secretary of
13 state, attorney general, ~~superintendent of public instruction~~, and auditor.14 (2) Each holds office for a term of four years which begins on the first Monday of January next
15 succeeding election, and until a successor is elected and qualified.16 (3) Each shall reside at the seat of government, there keep the public records of his office, and perform
17 such other duties as are provided in this constitution and by law."

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19 **Section 2.** Article VI, section 2, of The Constitution of the State of Montana is amended to read:20 **"Section 2. Election.** (1) The governor, lieutenant governor, secretary of state, attorney general,
21 ~~superintendent of public instruction~~, and auditor shall be elected by the qualified electors at a general election
22 provided by law.23 (2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary
24 elections, or so otherwise comply with nomination procedures provided by law that the offices of governor and
25 lieutenant governor are voted upon together in primary and general elections."

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27 **Section 3.** Article VI, section 3, of The Constitution of the State of Montana is amended to read:28 **"Section 3. Qualifications.** (1) No person shall be eligible to the office of governor, lieutenant
29 governor, secretary of state, attorney general, ~~superintendent of public instruction~~, or auditor unless he is 25
30 years of age or older at the time of his election. In addition, each shall be a citizen of the United States who has

1 resided within the state two years next preceding his election.

2 (2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney
3 in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least
4 five years before election.

5 ~~(3) The superintendent of public instruction shall have such educational qualifications as are provided
6 by law."~~

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8 **Section 4.** Article VI, section 4, of The Constitution of the State of Montana is amended to read:

9 **"Section 4. Duties.** (1) The executive power is vested in the governor who shall see that the laws are
10 faithfully executed. He shall have such other duties as are provided in this constitution and by law.

11 (2) The lieutenant governor shall perform the duties provided by law and those delegated to him by the
12 governor. No power specifically vested in the governor by this constitution may be delegated to the lieutenant
13 governor.

14 (3) The secretary of state shall maintain official records of the executive branch and of the acts of the
15 legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any other duties
16 provided by law.

17 (4) The attorney general is the legal officer of the state and shall have the duties and powers provided
18 by law.

19 ~~(5) The superintendent of public instruction and the auditor shall have such duties as are provided by
20 law."~~

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22 **Section 5.** Article VI, section 6, of The Constitution of the State of Montana is amended to read:

23 **"Section 6. Vacancy in office.** (1) If the office of lieutenant governor becomes vacant by his
24 succession to the office of governor, or by his death, resignation, or disability as determined by law, the governor
25 shall appoint a qualified person to serve in that office for the remainder of the term. If both the elected governor
26 and the elected lieutenant governor become unable to serve in the office of governor, succession to the
27 respective offices shall be as provided by law for the period until the next general election. Then, a governor and
28 lieutenant governor shall be elected to fill the remainder of the original term.

29 (2) If the office of secretary of state, attorney general, or auditor, ~~or superintendent of public instruction~~
30 becomes vacant by death, resignation, or disability as determined by law, the governor shall appoint a qualified

1 person to serve in that office until the next general election and until a successor is elected and qualified. The
 2 person elected to fill a vacancy shall hold the office until the expiration of the term for which his predecessor was
 3 elected."

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5 **Section 6.** Article VI, section 7, of The Constitution of the State of Montana is amended to read:

6 **"Section 7. 20 departments.** All executive and administrative offices, boards, bureaus, commissions,
 7 agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor,
 8 secretary of state, attorney general, ~~superintendent of public instruction,~~ and auditor) and their respective
 9 functions, powers, and duties, shall be allocated by law among not more than 20 principal departments so as
 10 to provide an orderly arrangement in the administrative organization of state government. Temporary
 11 commissions may be established by law and need not be allocated within a department."

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13 **Section 7.** Article VI, section 8, of The Constitution of the State of Montana is amended to read:

14 **"Section 8. Appointing power.** (1) The departments provided for in section 7 shall be under the
 15 supervision of the governor. Except as otherwise provided in this constitution or by law, each department shall
 16 be headed by a single executive appointed by the governor subject to confirmation by the senate to hold office
 17 until the end of the governor's term unless sooner removed by the governor.

18 (2) The legislature shall provide for a department of public instruction, headed by a superintendent
 19 appointed by the governor and confirmed by the senate.

20 ~~(2)(3)~~ (3) The governor shall appoint, subject to confirmation by the senate, all officers provided for in this
 21 constitution or by law whose appointment or election is not otherwise provided for. They shall hold office until
 22 the end of the governor's term unless sooner removed by the governor.

23 ~~(3)(4)~~ (4) If a vacancy occurs in any such office when the legislature is not in session, the governor shall
 24 appoint a qualified person to discharge the duties thereof until the office is filled by appointment and
 25 confirmation.

26 ~~(4)(5)~~ (5) A person not confirmed by the senate for an office shall not, except at its request, be nominated
 27 again for that office at the same session, or be appointed to that office when the legislature is not in session."

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29 NEW SECTION. **Section 8. Submission to electorate.** This amendment shall be submitted to the
 30 qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the

