

**MONTANA SECRETARY OF STATE**

SB 73: Revise U.S. Senate Vacancy Laws
Senate State Administration, Rm 335
January 21, 2015 @ 3:00 p.m.
Secretary of State Linda McCulloch's Testimony

- Good afternoon Madam. Chair, members of the committee. For the record, I am Linda McCulloch, Montana Secretary of State.
- I am here today to urge you to amend current law to allow special elections to fill vacancies in the United States Senate. Thank you Senator Facey for sponsoring this legislation for my office.
- This is the third session I have brought this bill before the legislature.
- As Montana's Chief Elections Officer, I believe voters have a fundamental right to directly elect those individuals charged with representing our state in Congress – and that includes both the House and the Senate.
- I have never believed that politicians should be put in the position to have to choose politicians to represent Montana in Congress – regardless of whether the selected replacement will serve for one day or for one year.
- This bill ensures that this right belongs solely to the people by requiring vacant U.S. Senate seats to be filled in the same manner vacant seats are filled in the U.S. House of Representatives – which is by special elections, not by gubernatorial appointment.
- This isn't a partisan bill that swings in favor of one particular party.
- This bill is simply to:
 - Provide consistency in our vacancy procedures.
 - Give the choice to Montana voters.
- These vacancies are rare, since 1913 when Montana became the 11th state to ratify the 17th Amendment to the United States Constitution - establishing direct, popular elections of United States Senators, a vacancy has occurred only three times.

- How it would work:

- May I provide the Committee three handouts?

If in the event a congressional vacancy occurs, the general rule is that a special election would be held between 85-100 days after the vacancy occurs

- As you can see on the first handout, if in the event a U.S. Senate vacancy occurs between 85 days and 150 days before an odd year Municipal general election, the vacancy would be filled in conjunction with that municipal general election.
 - If a vacancy occurs between January 1 in an even-numbered year and 85 days before a federal primary the vacancy would be filled in conjunction with the next federal primary election.
 - If a vacancy occurs less than 85 days before a June primary or between a June primary and a November general election in an even-numbered year, and occurs at least 85 days before the federal general election, the vacancy would be filled in conjunction with that federal general election.
 - These three instances would alleviate counties from additional costs necessary to run a separate election.
 - Each party would be responsible for nominating a candidate to fill this vacancy.
- The second handout is an amendment that addresses when a vacancy happens in the final year of a House or Senate term (second year in the House and 6th year in the Senate). The office would appear twice on the general election ballot and the successful candidate for the unexpired term would take office immediately upon certification of election results.
 - The third handout you have received gives a state-by-state comparison of how states across the country fill U.S. Senate vacancies. In the interest of time, I would just encourage you to look over this handout.
 - I urge you to ensure that unexpected or unscheduled vacancies in Congress are filled in the same manner for both the Senate and the House.
 - Thank you for your time today.