_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE ENERGY AND TECHNOLOGY INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING THE SELECTION OF MEMBERS OF THE PUBLIC SERVICE COMMISSION; CREATING A PUBLIC SERVICE COMMISSION NOMINATION COMMITTEE; ESTABLISHING QUALIFICATIONS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-2601, 2-16-405, 2-16-602, 2-18-101, 2-18-104, 5-7-102, 10-1-1010, 13-12-207, 13-37-216, 13-37-240, 69-1-101, 69-1-103, 69-1-105, 69-1-106, AND 69-1-107, MCA; REPEALING SECTION 69-1-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

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

Section 1. Section 2-15-2601, MCA, is amended to read:

"**2-15-2601. Department of public service regulation -- head.** There is a department of public service regulation. The department head is ~~the public service commission provided for in 2-15-2602~~ appointed by the governor in accordance with 2-15-111."

Section 2. Section 2-16-405, MCA, is amended to read:

"**2-16-405. Salaries of certain elected state officials.** (1) The salaries paid to the following elected officials are determined as provided in subsection (2):

(a) governor;

(b) lieutenant governor;

(c) attorney general;

(d) state auditor, ex officio commissioner of securities and insurance;

(e) superintendent of public instruction;

~~(f) public service commission presiding officer;~~

~~(g) public service commissioners, other than presiding officer;~~

~~(h)~~ (f) secretary of state;

~~(i)~~ (g) clerk of the supreme court.

(2) Before June 30 of each even-numbered year, the department of administration shall conduct a salary survey of executive branch officials with similar titles to the Montana officials listed in subsection (1) for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for the Montana official in determining the average salary for the officials with similar titles. If the average salary is greater than the salary for the official in Montana, then beginning July 1 of the year following the year in which the survey is conducted, the average salary is the new salary for the official."

Section 3. Section 2-16-602, MCA, is amended to read:

"**2-16-602. Definitions.** As used in this part, the following definitions apply:

(1) "Political subdivision" means a local government unit including but not limited to a county, city, or town established under authority of Article XI, section 1, of The Constitution of the State of Montana or a school district.

(2) "Public office" means a position of duty, trust, or authority created by the constitution or by the legislature or by a political subdivision through authority conferred by the constitution or the legislature that meets the following criteria:

(a) the position must possess a delegation of a portion of the sovereign power of government to be exercised for the benefit of the public;

(b) the powers conferred and the duties to be discharged must be defined, directly or impliedly, by the constitution, the legislature, or by a political subdivision through legislative authority;

(c) the duties must be performed independently and without control of a superior power other than the law, unless the legislature has created the position and placed it under the general control of a superior office or body; and

(d) the position must have some permanency and continuity and not be only temporary or occasional.

(3) "State-district" means ~~a public service commission district,~~ a legislative representative or senatorial district~~,~~ or a judicial district."

Section 4. Section 2-18-101, MCA, is amended to read:

"**2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following definitions apply:

(1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

(2) "Base salary" means the base hourly pay rate annualized paid to an employee, excluding overtime and longevity.

(3) "Benchmark" means a representative position in a specific occupation that is used to illustrate the application of the job evaluation factor used to classify the occupation.

(4) "Blue-collar pay plan" means a strictly negotiated classification and pay plan consisting of unskilled or skilled labor, trades, and crafts occupations.

(5) "Board" means the board of personnel appeals established in 2-15-1705.

(6) "Broadband classification plan" means a job evaluation method that measures the difficulty of the work and the knowledge or skills required to perform the work.

(7) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on a classification plan, including market midpoint and occupational wage ranges.

(8) "Compensation" means the annual or hourly wage or salary and includes the longevity allowance provided in 2-18-304 and leave and holiday benefits provided in part 6 of this chapter.

(9) "Competencies" means sets of measurable and observable knowledge, skills, and behaviors that contribute to success in a position.

(10) "Department" means the department of administration created in 2-15-1001.

(11) (a) Except in 2-18-306, "employee" means any state employee other than an employee excepted under 2-18-103 or 2-18-104.

(b) The term does not include a student intern.

(12) "Job evaluation factor" means a measure of the complexities of the predominant duties of a position.

(13) "Job sharing" means the sharing by two or more persons of a position.

(14) "Market midpoint" means the median base salary that other employers pay to employees in comparable occupations as determined by the department's salary survey of the relevant labor market.

(15) "Occupation" means a generalized family of positions having substantially similar duties and requiring similar qualifications, education, and experience.

(16) "Occupational wage range" means a range of pay, including a minimum, market midpoint, and maximum salary, for a specific occupation that is most consistent with the pay being offered by competing employers for fully competent employees within that occupation. The salary for an employee may be less than the minimum salary.

(17) "Pay band" means a wide salary range covering a number of different occupations. Pay bands are used for reporting and analysis purposes only.

(18) "Pay progression" means a process by which an employee's compensation may be increased, based on documented factors determined by the department, to bring the employee's compensation to a higher rate within the occupational wage range of the employee.

(19) "Permanent employee" means an employee who is designated by an agency as permanent, who was hired through a competitive selection process unless excepted from the competitive process by law, and who has attained or is eligible to attain permanent status.

(20) "Permanent status" means the state an employee attains after satisfactorily completing an appropriate probationary period.

(21) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution or ~~by the public service commission as a whole,~~ by each director appointed by the governor as provided in 2-15-111(1)~~,~~ or by each division administrator, or equivalent, appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution.

(22) "Position" means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

(23) "Program" means a combination of planned efforts to provide a service.

(24) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights

or benefits accrued during the preceding season.

(25) "Short-term worker" means a person who:

(a) may be hired by an agency without using a competitive hiring process for an hourly wage established by the agency;

(b) may not work for the agency for more than 90 days in a continuous 12-month period;

(c) is not eligible for permanent status;

(d) may not be hired into a permanent position by the agency without a competitive selection process;

(e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter; and

(f) may be discharged without cause.

(26) "Student intern" means a person who:

(a) has been accepted in or is currently enrolled in an accredited school, college, or university and may be hired by an agency in a student intern position without using a competitive selection process;

(b) is not eligible for permanent status;

(c) is not eligible to become a permanent employee without a competitive selection process;

(d) must be covered by the hiring agency's workers' compensation insurance;

(e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter; and

(f) may be discharged without cause.

(27) (a) "Telework" means a flexible work arrangement in which a designated employee may work from:

(i) home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead of physically traveling to a central workplace; or

(ii) an alternative worksite outside the state of Montana limited to:

(A) employees who are mental health professionals as defined in 27-1-1101 involved in psychological or psychiatric evaluations and treatment;

(B) employees engaged in providing services related to information technology resources as defined in 2-17-506;

(C) employees who are medical professionals involved in medical evaluations and treatment;

(D) employees who are engaged in providing services related to economic development outside the state and whose work duties require the employees to reside out of state; or

(E) employees who are associates or fellows of the casualty actuarial society or society of actuaries.

(b) The office of budget and program planning must approve a designated employee's alternative worksite outside the state of Montana before the employee begins work.

(28) "Temporary employee" means an employee who:

(a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

(b) performs duties on a temporary basis;

(c) is not eligible for permanent status;

(d) is terminated at the end of the employment period; and

(e) is not eligible to become a permanent employee without a competitive selection process."

Section 5. Section 2-18-104, MCA, is amended to read:

"**2-18-104. Exemption for personal staff -- limit.** (1) Subject to the limitations in ~~subsections~~ subsection (2) ~~and (3)~~, members of a personal staff are exempt from parts 1 through 3 and 10.

(2) The personal staff who are exempted by subsection (1) may not exceed 10 unless otherwise approved by the department according to criteria developed by the department. Except as provided in subsection ~~(5)(a)~~ (4)(a), under no circumstances may the total exemptions of each elected official exceed 15.

~~(3) The number of members of the personal staff of the public service commission who are exempted by subsection (1) may not exceed 6.~~

~~(4)~~ (3) The number of members of the personal staff of the leadership of the legislature who are exempted by subsection (1) may not exceed:

(a) one personal staff for the speaker of the house of representatives;

(b) one personal staff for the minority leader of the house of representatives;

(c) one personal staff for the president of the senate; and

(d) one personal staff for the minority leader of the senate.

~~(5)~~ (4) (a) The number of members of the personal staff to be appointed by and serve at the pleasure

of the agency head and be exempted by subsection (1) may not exceed the following:

(i) two personal staff for the following departments:

(A) administration;

(B) agriculture;

(C) commerce; ~~and~~

(D) military affairs; and

(E) public service regulation; and

(ii) three personal staff for the following departments:

(A) corrections;

(B) environmental quality;

(C) fish, wildlife, and parks;

(D) labor and industry;

(E) natural resources and conservation;

(F) public health and human services;

(G) revenue; and

(H) transportation; and

(iii) for an agency with an elected official listed in Article VI, section 1, of the Montana constitution, a number of personal staff in excess of the limitations in subsection (2) but not to exceed 3% of the agency's full-time employees.

(b) When appointing personal staff under subsection ~~(5)(a)~~ (4)(a), only an existing full-time equivalent personnel position may be used. Agencies may not create a new full-time equivalent personnel position when appointing personal staff.

(c) For the purposes of subsection ~~(5)(a)(iii)~~ (4)(a)(iii), the number of full-time employees is determined pursuant to 2-18-204 and is within an agency's base budget as defined in 17-7-102."

Section 6. Section 5-7-102, MCA, is amended to read:

"**5-7-102. Definitions.** The following definitions apply in this chapter:

(1) "Appointed state official" means an individual who is appointed:

(a) to public office in state government by the governor or the chief justice of the Montana supreme court and who is subject to confirmation by the Montana senate;

(b) by the board of regents of higher education to serve either as the commissioner of higher education or as the chief executive officer of a campus of the Montana university system; or

(c) by the board of trustees of a community college to serve as president.

(2) "Business" means:

(a) a holding or interest whose fair market value is greater than $1,000 in a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit organizations; and

(b) present or past employment from which benefits, including retirement allowances, are received.

(3) "Commissioner" means the commissioner of political practices.

(4) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant to 5-7-201.

(5) "Elected federal official" means a person elected to a federal office, including but not limited to a member of the United States senate or house of representatives. The term includes an individual appointed to fill the unexpired term of an elected federal official and an individual who has been elected to a federal office but who has not yet been sworn in.

(6) "Elected local official" means an elected officer of a county, a consolidated government, an incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill the unexpired term of an elected local official and an individual who has been elected to a local office but who has not yet been sworn in.

(7) (a) "Elected state official" means an individual holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including but not limited to ~~public service commissioners and~~ district court judges. The term includes an individual appointed to fill the unexpired term of an elected state official and an individual who has been elected to a statewide office but who has not yet been sworn in.

(b) The term does not include a legislator.

(8) "Elected tribal official" means an elected member of a tribal council or other elected office filled

by a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected tribal official and an individual who has been elected to a tribal office but who has not yet been sworn in.

(9) "Individual" means a human being.

(10) "Legislator" means an individual holding public office as a representative or a senator in the Montana legislature. The term includes an individual who has been elected to the legislature but who has not yet been sworn in.

(11) (a) "Lobbying" means:

(i) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators; and

(ii) the practice of promoting or opposing official action of any legislator or the legislature.

(b) The term does not include:

(i) actions described in subsections (11)(a)(i) and (11)(a)(ii) when performed by a legislator, an elected state official, an appointed state official, an elected local official, an elected federal official, or an elected tribal official while acting in an official governmental capacity; or

(ii) federal lobbying as described in 5-7-120.

(12) (a) "Lobbyist" means a person who engages in the practice of lobbying.

(b) Lobbyist does not include:

(i) an individual acting solely on the individual's own behalf;

(ii) an individual working for the same principal as a licensed lobbyist if the individual does not have personal contact involving lobbying with a legislator or the legislature on behalf of the lobbyist's principal; or

(iii) an individual who receives payments from one or more persons that total less than the amount specified under 5-7-112 in a calendar year.

(c) Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to communicate with legislators or the legislature.

(13) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or to be made of money, property, or anything of value:

(i) to a lobbyist to influence legislation or official action by a legislator or the legislature;

(ii) directly or indirectly to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement for lobbying expenses; or

(iii) in support of or for assistance to a lobbyist or a lobbying activity, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist.

(b) The term does not include payments or reimbursements for:

(i) personal and necessary living expenses; or

(ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.

(14) "Person" means an individual, corporation, association, firm, partnership, state or local government or subdivision of state or local government, or other organization or group of persons.

(15) "Principal" means a person who employs a lobbyist or a person required to report pursuant to 5-7-208.

(16) "Unprofessional conduct" means:

(a) violating any of the provisions of this chapter;

(b) instigating action by a legislator or the legislature for the purpose of obtaining employment;

(c) attempting to influence the action of a legislator or the legislature on a measure pending or to be proposed by:

(i) promising financial support; or

(ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a legislator; or

(d) attempting to knowingly deceive a legislator or the legislature with regard to the pertinent facts of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a legislator or the legislature."

Section 7. Section 10-1-1010, MCA, is amended to read:

"**10-1-1010. Appointment of acting officials.** (1) When an elected official is ordered to military service, an acting official must be appointed as provided in this section if:

(a) the elected official is precluded pursuant to federal law from performing the official duties of the

office; or

(b) the elected official requests the appointment of an acting official.

(2) If an acting official is appointed, the acting official shall take any oath of office required to assume the office, shall exercise all the rights, powers, and duties vested in the office, and must be provided with all the employment rights and benefits associated with the position until the elected official is restored to office pursuant to 10-1-1008(5) or the elected official's term expires, whichever occurs first.

(3) (a) The governor shall appoint the acting official for any office elected by the state at large and for the office of district judge~~, public service commissioner,~~ or any other elected regional or district office of the state.

(b) An acting official for a legislative district must be appointed using the procedures in 5-2-402.

(c) The board of county commissioners shall appoint the acting official for any elected office of a county.

(d) The city or town council shall appoint the acting official for any elected office of a city or town.

(4) For any elected office not covered under subsection (3), the governing body shall determine the method by which an acting official may be appointed pursuant to this section.

(5) An appointment of an acting official pursuant to this section must be made for a period not to exceed the unexpired term for the office and subject to the right of the elected official to be restored to the office upon returning from the military service, as provided in 10-1-1008(5)."

Section 8. Section 13-12-207, MCA, is amended to read:

"**13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a line must be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party must be grouped together.

(b) United States senator;

(c) United States representative;

(d) governor and lieutenant governor;

(e) secretary of state;

(f) attorney general;

(g) state auditor;

(h) state superintendent of public instruction;

~~(i) public service commissioners;~~

~~(j)~~ (i) clerk of the supreme court;

~~(k)~~ (j) chief justice of the supreme court;

~~(l)~~ (k) justices of the supreme court;

~~(m)~~ (l) district court judges;

~~(n)~~ (m) state senators;

~~(o)~~ (n) members of the Montana house of representatives.

(2) The following order of placement must be observed for county offices:

(a) clerk of the district court;

(b) county commissioner;

(c) county clerk and recorder;

(d) sheriff;

(e) coroner;

(f) county attorney;

(g) county superintendent of schools;

(h) county auditor;

(i) public administrator;

(j) county assessor;

(k) county treasurer;

(l) surveyor;

(m) justice of the peace.

(3) The secretary of state shall designate the order for placement on the ballot of any offices not on the above lists, except that the election administrator shall designate the order of placement for municipal,

charter, or consolidated local government offices and district offices when the district is part of only one county.

(4) Constitutional amendments must be placed before statewide referendum and initiative measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide measures in the order designated by the election administrator.

(5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must be maintained.

(6) If there is a short-term and a long-term election for the same office, the long-term office must precede the short-term."

Section 9. Section 13-37-216, MCA, is amended to read:

"**13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows:

(i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed $1,000;

(ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed $700;

(iii) for a candidate for any other public office, not to exceed $400.

(b) Except as provided in 13-37-211 and subsection (5) of this section:

(i) a contribution to a candidate includes contributions made to any political committee organized on the candidate's behalf; and

(ii) a political committee that is not independent of the candidate is considered to be organized on the candidate's behalf.

(2) All political committees except those of political party organizations are subject to the provisions of subsection (1). Political party organizations may form political committees that are subject to the following aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all political party committees:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed $100,000;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed $75,000;

~~(c) for a candidate for public service commissioner, not to exceed $15,000;~~

~~(d)~~ (c) for a candidate for the state senate, not to exceed $3,000;

~~(e)~~ (d) for a candidate for any other public office, not to exceed $2,000.

(3) (a) The commissioner shall adjust the limitations in subsections (1) and (2) by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2021.

(b) The resulting figure must be rounded up or down to the nearest:

(i) $10 increment for the limits established in subsection (1); and

(ii) $50 increment for the limits established in subsection (2).

(c) The commissioner shall publish the revised limitations as a rule.

(4) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits in this section.

(5) For the purposes of applying the limits in this section if the contributions were received by a joint fundraising committee, a contribution must be construed to be:

(a) from the person who originally contributed funds to the joint fundraising committee; and

(b) received by the candidate participant to whom the funds were allocated by the joint fundraising committee as provided in 13-37-211.

(6) For the purposes of this section, "election" means the general election or a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only one election to which the contribution limits apply. If there is a contested primary, then there are two elections to which the contribution limits apply."

Section 10. Section 13-37-240, MCA, is amended to read:

"**13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the

candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228. In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide elected or legislative office ~~or for public service commissioner~~ may establish a continuing service account as provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the commissioner showing the disposition of any surplus campaign funds.

(2) For the purposes of this section, "personal benefit" means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family."

Section 11. Section 69-1-101, MCA, is amended to read:

"**69-1-101. ~~Definition of commission~~Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) ~~the term "commission"~~ "Commission" means the public service commission provided for in 2-15-2602.

(2) "Committee" means the public service commission nomination committee provided for in 69-1-103."

Section 12. Section 69-1-103, MCA, is amended to read:

"**69-1-103. Composition of ~~commission~~ committee -- appointments.** ~~The commission shall consist of five members, who shall be qualified electors of the district from which they are elected, with each such member elected from a separate district of the state.~~ (1) The public service commission nomination committee is composed of seven nonpartisan members who are:

(a) knowledgeable about industries regulated by the commission;

(b) not employed by or on behalf of or have a contract with a public utility that is regulated by the commission;

(c) not applicants or nominees for a position on the commission; and

(d) appointed as follows:

(i) four members, with one member appointed by the speaker of the house of representatives, one

member appointed by the minority leader of the house of representatives, one member appointed by the president of the senate, and one member appointed by the minority leader of the senate, with no more than two members being from the same political party;

(ii) one member appointed by the director of the department of environmental quality;

(iii) one member appointed by the director of the department of commerce; and

(iv) one tribal representative appointed by the state director of Indian affairs.

(2) (a) The members shall serve a 4-year term without compensation but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. Members who are full-time salaried officers or employees of this state or any political subdivisions of this state are entitled to their regular compensation.

(b) Administrative support must be provided to the committee by the department of public service regulation.

(c) Initial appointments to the committee must be made by the appointing authorities prior to February 1, 2029. Subsequent appointments must be made no later than 30 days before the end of a term.

(d) If a position on the committee becomes vacant during a term, a successor must be selected in the same manner as the original appointee for that position and shall serve for the remainder of the term of the position vacated.

(3) The first meeting of the appointed members of the committee must be held prior to March 1, 2029. The committee shall select one member to be the presiding officer and one member to be the secretary. Following the first meeting, the committee shall meet as often as necessary in order to submit a list of candidates to the governor of no fewer than four qualified nominees for appointment to the commission.

(4) The committee shall actively solicit, accept, and evaluate applications from qualified individuals for a position on the commission as established in [section 16] and may require an applicant to submit any information the committee deems relevant to the consideration of the individual's application.

(5) The committee shall select nominees for submission to the governor who, in the committee's judgement, are best qualified to serve as a member of the commission.

(6) The committee may consider incumbent commissioners to be included on a list of qualified nominees.

(7) A majority vote of all members of the committee in favor of an individual is required for that individual to be included on the list of qualified nominees submitted to the governor.

(8) All meetings of the committee must be open to the public.

(9) The department may adopt rules to implement the requirements of this section."

Section 13. Section 69-1-105, MCA, is amended to read:

"**69-1-105. ~~Term of office -- term limits~~Composition of commission -- appointments.** (1) A term for a member of the public service commission is for a period of ~~4~~ 6 years, except as provided in [section 18]. ~~A commissioner when elected shall qualify at the time and in the manner provided by law for other state officers and shall take office on the first Monday of January after the election.~~

(2) A commissioner shall serve until a successor is ~~elected and qualified~~ appointed.

~~(3) The secretary of state or other authorized official may not certify a candidate's nomination or election to the public service commission or print or cause to be printed on any ballot the name of a candidate for the public service commission if, at the end of the current term of that office, the candidate will have served in that office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years in a 16-year period.~~

~~(4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3) do not apply to time served in terms that ended during or prior to January 1995.~~

(3) The commission is composed of five members who:

~~(i)~~ (a) must be nominated by the committee pursuant to 69-1-103;

~~(ii)~~ (b) are appointed by the governor; and

~~(iii)~~ (c) are subject to confirmation by a vote of three-fifths or more of the members of the senate.

(4) The governor shall appoint an individual to serve as a commissioner from the list of qualified nominees in accordance with 69-1-103.

(5) The governor may appoint a qualified individual to discharge the duties of a commissioner until a list of qualified nominees is provided in accordance with 69-1-103 during the transition of the commission from an elected body to a body appointed by the governor.

(6) The commission may operate as a two-member body for the transaction of business during the

transition from an elected body to a body appointed by the governor."

Section 14. Section 69-1-106, MCA, is amended to read:

"**69-1-106. Vacancies -- removal.** (1) (a) For ~~Any~~ a vacancy occurring in the commission ~~must be filled by appointment by the governor as provided in this section. The appointee shall hold office until the next general election and until a successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the commission, there must be elected one member to fill out the unexpired term for which the vacancy exists.~~, the committee shall meet at least 30 days prior to the date of the beginning of the vacancy and as often as necessary afterward in order to submit a list of qualified nominees to the governor.

~~(2) (a) When a vacancy occurs, if the former incumbent represented a party eligible for primary election under 13-10-601, the person appointed by the governor must be a member of the same political party and must be selected by the governor as provided in subsections (3) and (4).~~

~~(b) If the former incumbent was an independent or was originally nominated from a party that does not meet the requirements of 13-10-601, the governor shall appoint an individual to the vacant position within 45 days of receiving notification from the secretary of state of the vacancy.~~

~~(3) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the governor and, if the former incumbent represented a party eligible for primary election under 13-10-601, the state party that was represented by the former incumbent.~~

~~(4) (a) Upon receipt of a notification of a vacancy, the state party central committee notified pursuant to subsection (3) has 30 days to forward to the governor a list of three prospective appointees, each of whom must be a resident of the district represented by the former incumbent.~~

~~(b) If the governor does not select an appointee from the list forwarded pursuant to subsection (4)(a) within 15 days, the central committee shall, within 15 days, forward a second list of three prospective appointees, each of whom must be a resident of the district represented by the former incumbent. The second list may not contain a name submitted on the first list. Within 15 days of receipt of the second list, the governor shall select an appointee from either list.~~

(2) An individual selected to serve as a commissioner may be removed by the governor only for incompetence, malfeasance, or neglect of duty. The governor's decision to remove the commissioner must be

stated in writing, and the sufficiency of the governor's stated causes for removing the commissioner is subject to judicial review.

(3) If the senate is not in session when the governor appoints a commissioner, the secretary of state shall poll the members of the senate by mail and shall send each member a copy of the list of candidates provided by the nomination committee and the governor's appointment letter. If three-fifths or more of the members of the senate vote to confirm the appointment of the commissioner, the commissioner's term begins upon certification of the vote."

Section 15. Section 69-1-107, MCA, is amended to read:

"**69-1-107. Presiding officer of commission.** A presiding officer must be selected by the commission from its membership at the first meeting of each year ~~after a general election~~."

NEW SECTION. **Section 16. Qualifications for commissioners.** (1) Appointed commissioners must be industry experts.

(2) An appointed commissioner must have a minimum of 2 years of separation from any professional affiliation with an entity or an affiliated company of an entity that is subject to regulation by the commission.

(3) An appointed commissioner or the appointee's spouse or minor children may not have financial interests in any entity or affiliated company of an entity that is subject to regulation by the commission.

(4) An appointed commissioner must be a citizen of the United States and must obtain residency in the state within 1 year following appointment.

(5) An appointed commissioner must reside within a 50-mile radius of the central office of the department of public service regulation.

(6) An appointed commissioner must have substantial experience or significant technical qualifications relevant to the laws governing and administrating the commission.

(7) In order to be qualified for office and be appointed as a commissioner, an individual must have:

(a) (i) a baccalaureate degree from an institution of higher education that is accredited by a regional or national accrediting body; and

(ii) at least 10 years of professional experience in an area regulated by the commission or in the energy sector involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, policy, engineering, or law; or

(b) 15 years of professional experience in an area regulated by the commission or in the energy sector involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, policy, engineering, or law; or

(c) a high degree of relevant education and experience, as determined by the committee.

NEW SECTION. **Section 17. Salaries of public service commissioners.** Before June 30 of each even-numbered year, the department of public service regulation shall conduct a salary survey of public utility commissioners or officials with similar titles for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall consider the current salary for Montana commissioners when determining the average salary for the commissioners. If the average salary is greater than the salary for the commissioners in Montana, then beginning July 1 of the year following the year in which the survey is conducted, the average salary is the new salary for Montana commissioners.

NEW SECTION. **Section 18. Transition.** (1) The commissioners in office on [the effective date of this act] shall serve out the remainder of their respective terms.

(2) Prior to the adjournment of the 71st legislative session, the governor shall appoint commissioners to fill the seats for the current second, third, and fourth districts when the current commissioners' terms end. The initial terms for the current second, third, and fourth districts are as follows:

(a) one commissioner appointed to a 1-year term;

(b) one commissioner appointed to a 2-year term; and

(c) one commissioner appointed to a 3-year term.

(3) Prior to the adjournment of the 72nd legislative session, the governor shall appoint commissioners to fill the seats of the current first and fifth districts when the current commissioners' terms end. The initial terms for the current first and fifth districts are as follows:

(a) one commissioner appointed to a 5-year term; and

(b) one commissioner appointed to a 6-year term.

NEW SECTION. **Section 19. Repealer.** The following section of the Montana Code Annotated is repealed:

69-1-104. Public service commission districts.

NEW SECTION. **Section 20. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. **Section 21. Codification instruction.** [Sections 16 and 17] are intended to be codified as an integral part of Title 69, chapter 1, part 1, and the provisions of Title 69, chapter 1, part 1, apply to [sections 16 and 17].

NEW SECTION. **Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 23. Effective date.** [This act] is effective on passage and approval.

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