

An Act

ENROLLED SENATE
BILL NO. 959

By: Paxton of the Senate

and

Hilbert of the House

An Act relating to vacancies in office; amending 26 O.S. 2011, Section 12-101, as last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp. 2020, Section 12-101), which relates to vacancies in Congress; modifying procedure for filling vacancy in office of United States Senator; providing for irrevocable resignation on a date certain; amending 51 O.S. 2011, Section 10, which relates to vacancies and special elections; specifying certain duties of Governor; requiring certain appointment; providing for special elections; requiring submission of oath to Secretary of State for certain persons; requiring publication of oath on certain website; updating statutory language; prohibiting severability; providing for noncodification; and declaring an emergency.

SUBJECT: Vacancies in office

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 26 O.S. 2011, Section 12-101, as last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp. 2020, Section 12-101), is amended to read as follows:

Section 12-101. A. Except as otherwise provided by law, whenever a vacancy shall occur in the office of a member of the ~~United States Senate or~~ United States House of Representatives from Oklahoma, such vacancy shall be filled at a Special Election to be

called by the Governor, who shall issue a Writ of Election within thirty (30) days after such vacancy occurs.

~~B. No special election shall be called if such a vacancy occurs in the office of a member of the United States Senate in an even-numbered year if the term of the office expires the following year. In such case, the candidate elected to the office at the regular General Election shall be appointed by the Governor to fill the unexpired term.~~

~~C. If such a~~ the vacancy occurs in the office of a member of the United States House of Representatives in an even-numbered year, the Regular Primary Election, Runoff Primary Election or General Election for that office shall be deemed to also serve as a Special Election to fill the unexpired term as designated by the Governor. Within thirty (30) days after such vacancy occurs, the Governor shall issue a Writ of Election declaring the same, and the candidate elected at the Regular Election shall be deemed to have also been elected at a Special Election to fill the unexpired term.

~~D. C.~~ If a vacancy or irrevocable resignation occurs in the office of a member of the United States Senate from Oklahoma, the vacancy shall be filled as provided in subsection C of Section 10 of Title 51 of the Oklahoma Statutes. The special election called by the Governor shall be subject to the following provisions:

1. A Special Primary, Runoff Primary and General Election shall be held concurrently with the next available regularly scheduled statewide Primary, Runoff Primary and General Election, and a special candidate filing period shall be on the same dates as the regular candidate filing period for those elections;

2. Provided, if a vacancy occurs in an even-numbered year on or before March 1, then the special election, if necessary, shall be held that same year in the manner provided in paragraph 1 of this subsection. However, if the vacancy occurs after March 1 in an even-numbered year, then the special election shall be held at the next subsequent regularly scheduled statewide regular Primary, Runoff Primary and General Elections;

3. Provided, if the vacant office is already scheduled to be filled for a full term at the next available regularly scheduled

election, then no special election shall be called. In such case, the candidate elected to the office at the regularly scheduled election shall be deemed to also have been elected to fill the vacancy and shall be eligible to assume the office upon the official certification of the election by the State Election Board.

4. An irrevocable resignation shall occur when a member of the United States Senate from Oklahoma provides a written letter of resignation to the Secretary of State as provided in Section 12-119 of this title that serves notice of the Senate member's resignation on a date certain.

D. The proclamation required by Section 12-102 of this title shall serve as the Writ of Election described in this section.

SECTION 2. AMENDATORY 51 O.S. 2011, Section 10, is amended to read as follows:

Section 10. A. All vacancies in state offices, except in offices of the members of the Legislature, and members of the House of Representatives from Oklahoma in the Congress of the United States of America ~~and members of the Senate of the United States of America~~, shall be filled by appointment by the Governor.

B. When a vacancy occurs in the office of district judge, associate district judge, or judge of any intermediate appellate court, the Governor shall, in filling such vacancy, utilize the services of the Judicial Nominating Commission in the manner as provided for in the filling of judicial offices under Section 4, Article ~~7B~~ VII-B of the Oklahoma Constitution.

C. When a vacancy occurs in the office of a member of the United States Senate from Oklahoma, the Governor shall, within thirty (30) days of occurrence of the vacancy:

1. Appoint a person eligible to hold such office, who has been a registered voter of the party of the predecessor in Oklahoma for at least five (5) years preceding the date that the vacancy was created, to serve in such office until a successor is elected; and

2. Call a special election, if necessary, to fill such vacancy, as provided in Section 12-101 of Title 26 of the Oklahoma Statutes.

D. Prior to an appointment pursuant to paragraph 1 of subsection C of this section, a person who is a prospective appointee shall submit to the Secretary of State an oath affirming that the person will not file as a candidate for the office when it next appears on the ballot. The Secretary of State shall prescribe the oath required by this paragraph, and any oath submitted shall be public record and published on the website of the Office of the Secretary of State.

~~B.~~ E. All vacancies in county offices except the board of county commissioners or except for any elective county office of any county in the State of Oklahoma having a population of more than six hundred thousand (600,000), according to the latest Federal Decennial Census shall be filled by appointment by the board of county commissioners. If such an appointment is made prior to the prescribed filing period for county officers in accordance with the provisions of Section 131 of Title 19 of the Oklahoma Statutes, the county commissioners shall, at the time ~~said~~ the appointment is made, proclaim a special election to fill the balance of the unexpired term, providing the balance of the term does not expire in the year following the next succeeding general election. In making the proclamation, the county commissioners shall establish the dates for the filing period, primary election, runoff primary election and general election to be the same as the next succeeding filing period, primary election, runoff primary election and general election for county officers. The appointee shall be eligible to become a candidate at ~~said~~ the special election, providing ~~said~~ the appointee is otherwise qualified. The office to be filled shall be printed on the same ballot as other county offices.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The provisions of this act shall not be severable. If any provision of this act is found to be unconstitutional and void, the remaining provisions of the act shall also be void.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of May, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____