

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 959

By: Paxton

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5
6 AS INTRODUCED

7 An Act relating to vacancies in office; amending 26
8 O.S. 2011, Section 12-101, as last amended by Section
9 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp. 2020,
10 Section 12-101), which relates to vacancies in
11 Congress; modifying procedure for filling vacancy in
12 office of United States Senator; amending 51 O.S.
13 2011, Section 10, which relates to vacancies and
14 special elections; specifying certain duties of
15 Governor; requiring certain appointment; providing
16 for special elections; prohibiting eligibility for
17 certain office; updating statutory language;
18 prohibiting severability; providing for
19 noncodification; and providing an effective date.

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

21 SECTION 1. AMENDATORY 26 O.S. 2011, Section 12-101, as
22 last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp.
23 2020, Section 12-101), is amended to read as follows:

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

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

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

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

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

23 1. A Special Primary, Runoff Primary and General Election shall
24 be held concurrently with the next available regularly scheduled

1 statewide Primary, Runoff Primary and General Election, and a
2 special candidate filing period shall be on the same dates as the
3 regular candidate filing period for those elections;

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

11 3. Provided, if the vacant office is already scheduled to be
12 filled for a full term at the next available regularly scheduled
13 election, then no special election shall be called. In such case,
14 the candidate elected to the office at the regularly scheduled
15 election shall be deemed to also have been elected to fill the
16 vacancy and shall be eligible to assume the office upon the official
17 certification of the election by the State Election Board.

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

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

22 Section 10. A. All vacancies in state offices, except in
23 offices of the members of the Legislature, and members of the House
24 of Representatives from Oklahoma in the Congress of the United

1 States of America ~~and members of the Senate of the United States of~~
2 ~~America~~, shall be filled by appointment by the Governor.

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

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

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

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

18 D. Any person appointed pursuant to paragraph 1 of subsection C
19 of this section shall be ineligible to file as a candidate for the
20 office when it next appears on the ballot.

21 ~~B.~~ E. All vacancies in county offices except the board of
22 county commissioners or except for any elective county office of any
23 county in the State of Oklahoma having a population of more than six
24 hundred thousand (600,000), according to the latest Federal

1 Decennial Census shall be filled by appointment by the board of
2 county commissioners. If such an appointment is made prior to the
3 prescribed filing period for county officers in accordance with the
4 provisions of Section 131 of Title 19 of the Oklahoma Statutes, the
5 county commissioners shall, at the time ~~said~~ the appointment is
6 made, proclaim a special election to fill the balance of the
7 unexpired term, providing the balance of the term does not expire in
8 the year following the next succeeding general election. In making
9 the proclamation, the county commissioners shall establish the dates
10 for the filing period, primary election, runoff primary election and
11 general election to be the same as the next succeeding filing
12 period, primary election, runoff primary election and general
13 election for county officers. The appointee shall be eligible to
14 become a candidate at ~~said~~ the special election, providing ~~said~~ the
15 appointee is otherwise qualified. The office to be filled shall be
16 printed on the same ballot as other county offices.

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

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

22 SECTION 4. This act shall become effective November 1, 2021.
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