

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE

5 BILL NO. 959

By: Paxton of the Senate

and

Hilbert of the House

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9 [vacancies in office - vacancy in office of United
10 States Senator - duties of Governor - special
 elections - noncodification - effective date]

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12 ~~**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**~~

13 SECTION 1. AMENDATORY 26 O.S. 2011, Section 12-101, as
14 last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp.
15 2020, Section 12-101), is amended to read as follows:

16 Section 12-101. A. Except as otherwise provided by law,
17 whenever a vacancy shall occur in the office of a member of the
18 ~~United States Senate or~~ United States House of Representatives from
19 Oklahoma, such vacancy shall be filled at a Special Election to be
20 called by the Governor, who shall issue a Writ of Election within
21 thirty (30) days after such vacancy occurs.

22 B. No special election shall be called if ~~such a~~ the vacancy
23 occurs ~~in the office of a member of the United States Senate~~ in an
24 even-numbered year if the term of the office expires the following

1 year. In such case, the candidate elected to the office at the
2 regular General Election shall be appointed by the Governor to fill
3 the unexpired term.

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

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

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

23 2. Provided, if a vacancy occurs in an even-numbered year on or
24 before March 1, then the special election, if necessary, shall be

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

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

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

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

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

22 B. When a vacancy occurs in the office of district judge,
23 associate district judge, or judge of any intermediate appellate
24 court, the Governor shall, in filling such vacancy, utilize the

1 services of the Judicial Nominating Commission in the manner as
2 provided for in the filling of judicial offices under Section 4,
3 Article ~~7B~~ VII-B of the Oklahoma Constitution.

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

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

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

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

16 ~~B.~~ E. All vacancies in county offices except the board of
17 county commissioners or except for any elective county office of any
18 county in the State of Oklahoma having a population of more than six
19 hundred thousand (600,000), according to the latest Federal
20 Decennial Census shall be filled by appointment by the board of
21 county commissioners. If such an appointment is made prior to the
22 prescribed filing period for county officers in accordance with the
23 provisions of Section 131 of Title 19 of the Oklahoma Statutes, the
24 county commissioners shall, at the time ~~said~~ the appointment is

1 made, proclaim a special election to fill the balance of the
2 unexpired term, providing the balance of the term does not expire in
3 the year following the next succeeding general election. In making
4 the proclamation, the county commissioners shall establish the dates
5 for the filing period, primary election, runoff primary election and
6 general election to be the same as the next succeeding filing
7 period, primary election, runoff primary election and general
8 election for county officers. The appointee shall be eligible to
9 become a candidate at ~~said~~ the special election, providing ~~said~~ the
10 appointee is otherwise qualified. The office to be filled shall be
11 printed on the same ballot as other county offices.

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

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

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

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19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
20 04/15/2021 - DO PASS, As Amended.

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