

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2173

By: Hilbert and **Fugate** of the  
House

and

**Taylor** of the Senate

11                               COMMITTEE SUBSTITUTE

12           An Act relating to vacancies in office; amending 26  
13           O.S. 2011, Section 12-101, as last amended by Section  
14           1, Chapter 341, O.S.L. 2019 (26 O.S. Supp. 2020,  
15           Section 12-101) and 51 O.S. 2011, Section 10, which  
16           relate to procedures for filling vacancies; modifying  
17           procedure for filling vacancy in office of United  
18           States Senator; requiring certain appointment;  
19           providing for special elections; specifying certain  
20           duties of Governor; and declaring an emergency.

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

22           SECTION 1.           AMENDATORY           26 O.S. 2011, Section 12-101, as  
23           last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp.  
24           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

1 ~~United States Senate or~~ United States House of Representatives from  
2 Oklahoma, such vacancy shall be filled at a Special Election to be  
3 called by the Governor, who shall issue a Writ of Election within  
4 thirty (30) days after such vacancy occurs.

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

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

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

22 E. Whenever a vacancy shall occur in the office of a member of  
23 the United States Senate from Oklahoma, such vacancy shall be filled  
24 as provided in subsection C of Section 10 of Title 51 of the

1 Oklahoma Statutes. The special election called by the Governor  
2 shall be subject to the following provisions:

3 1. If the vacancy occurs in an odd-numbered year and the vacant  
4 office is not scheduled to be filled for a full term at the  
5 regularly scheduled elections to be held the following year, the  
6 special Primary, Runoff Primary and General Elections shall be held  
7 concurrently with the regularly scheduled statewide regular Primary,  
8 Runoff Primary and General Elections in the following year;

9 2. If the vacancy occurs in an even-numbered year and the  
10 vacant office is not scheduled to be filled for a full term at the  
11 regularly scheduled elections held during that year, the special  
12 Primary, Runoff Primary and General Elections shall be held  
13 concurrently with the regularly scheduled statewide Primary, Runoff  
14 Primary and General Elections in the next even-numbered year;

15 3. If the vacancy occurs in an odd-numbered year and the vacant  
16 office is scheduled to be filled for a full term at the regularly  
17 scheduled elections to be held the following year, no special  
18 election shall be called. In such case, the candidate elected to  
19 the office at the regularly scheduled statewide elections shall be  
20 deemed to also have been elected to fill the vacancy and shall be  
21 eligible to assume the office upon the official certification of the  
22 election by the State Election Board; and

23 4. If the vacancy occurs in an even-numbered year and the  
24 vacant office is scheduled to be filled for a full term at the

1 regularly scheduled elections to be held during that year, no  
2 special election shall be called. In such case, the candidate  
3 elected to the office at the regularly scheduled statewide elections  
4 shall be deemed to also have been elected to fill the vacancy and  
5 shall be eligible to assume the office upon the official  
6 certification of the election by the State Election Board.

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

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

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

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

23 1. Appoint a person to hold such office until a successor is  
24 elected, with the advice and consent of the Oklahoma State Senate,

1 from a list of at least three eligible nominees submitted by the  
2 Speaker of the Oklahoma House of Representatives; and

3 2. Call a special election to fill such vacancy, as provided in  
4 Section 12-101 of Title 26 of the Oklahoma Statutes, unless the  
5 vacancy occurs in an even-numbered year and the term of the vacant  
6 office expires in January of the following year.

7 For purposes of this subsection, "eligible nominee" means a person  
8 qualified to hold the office, who has been an eligible voter in  
9 Oklahoma of the same political party of the predecessor for at least  
10 the last five (5) years preceding the date that the vacancy  
11 occurred. The Oklahoma State Senate may convene in special session  
12 for the purpose of the confirmation or may consider the eligible  
13 nominee in regular session. The events described in this subsection  
14 may all occur on the same day. If the Oklahoma State Senate rejects  
15 the appointment of the Governor, the Speaker of the Oklahoma House  
16 of Representatives shall submit an additional eligible nominee.

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

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

13 SECTION 3. It being immediately necessary for the preservation  
14 of the public peace, health or safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

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18 COMMITTEE REPORT BY: COMMITTEE ON ELECTIONS AND ETHICS, dated  
19 02/11/2021 - DO PASS, As Amended and Coauthored.  
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