

## HOUSE BILL NO. HB0063

Vacancies in elected office.

Sponsored by: Joint Corporations, Elections & Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to elections; amending procedures for  
2 filling vacancies in specified federal and state offices;  
3 requiring special elections as specified if more than half  
4 of the term of the office remains at the time of the  
5 vacancy; making conforming amendments; repealing  
6 provisions; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10           **Section**           **1.** W.S.           9-1-212,           9-1-802(e),  
11 22-2-101(a)(iii), 22-2-104(d), 22-2-109(a) and (b)(intro),  
12 22-2-110(a), 22-2-111(a), 22-6-112, 22-6-117(a)(intro),  
13 22-6-121(a), 22-6-122, 22-6-125(a)(intro), 22-18-103  
14 through 22-18-109, 22-18-111(a)(intro), (iii)(intro), (A)

1 and by creating a new subparagraph (E) and 28-1-106 are  
2 amended to read:

3

4 **9-1-212. Vacancy in office of governor; term of**  
5 **successor; when election held to fill unexpired term;**  
6 **requirements of elections; term of person elected.**

7

8 Whenever the powers and duties of the office of the  
9 governor of the state of Wyoming devolve upon any other  
10 person as provided in W.S. 9-1-211(a), the person acting as  
11 governor shall continue to act as governor until the end of  
12 the term of the governor if the office is assumed less than  
13 ~~sixty (60) days~~ one hundred ten (110) days before the last  
14 date for an election under W.S. 22-2-104(d) occurring  
15 before the next general election. If the office is assumed  
16 more than ~~sixty (60) days~~ one hundred ten (110) days before  
17 the date for an election under W.S. 22-2-104(d) occurring  
18 before a general election the person acting as governor  
19 shall ~~issue an additional proclamation calling for the~~  
20 ~~election of a governor to fill the unexpired term, which~~  
21 ~~election shall take place at the same time as the general~~  
22 ~~election, and the election, together with the returns and~~  
23 ~~canvass thereof, shall be conducted in all respects as~~

1 ~~though it was an original election for governor. When the~~  
2 ~~state canvassing board canvasses the vote of the election~~  
3 ~~and declares a person at the election to be elected as~~  
4 ~~governor, the person~~ call for a special election as  
5 provided in W.S. 22-18-103 through 22-18-109. The candidate  
6 issued a certificate of election pursuant to W.S. 22-18-109  
7 shall, within thirty (30) days after the ~~canvass~~ issuance  
8 of the certificate, or as soon thereafter as possible,  
9 qualify and assume the duties and powers of governor, and  
10 shall be the governor of the state of Wyoming for the  
11 remainder of the unexpired term of the governor.

12

13 **9-1-802. Election; term; qualifications; full-time;**  
14 **private practice prohibited; exception; salary; vacancies.**

15

16 (e) A vacancy in the office of district attorney  
17 shall be filled by the board or boards of county  
18 commissioners under the procedure for filling vacancies in  
19 the office of a member of the state legislature or state  
20 senator established by W.S. ~~22-18-111~~ 22-18-111(a)(iii)(A)  
21 through (D). Vacancies shall be filled until the next  
22 general election and the appointee shall be qualified  
23 pursuant to subsections (b) and (c) of this section.

1

2           **22-2-101. Applicability and construction of Election**  
3 **Code generally.**

4

5           (a) Chapters 1 through 28 of this Election Code apply  
6 to the following elections:

7

8                   (iii) Special elections to fill vacancies ~~in the~~  
9 ~~office of representative in congress~~ under W.S. 22-18-103  
10 through 22-18-109;

11

12           **22-2-104. Election dates.**

13

14           (d) Every bond election and every special election  
15 held for the purpose of filling a vacancy pursuant to W.S.  
16 22-18-103 through 22-18-109 shall be held on the same day  
17 as a primary election or a general election, or on the  
18 first Tuesday after the first Monday in May or November, or  
19 on the first Tuesday after the third Monday in August.

20

21           **22-2-109. County clerk to publish proclamation.**

22

1           (a) Between one hundred one (101) and ninety-one (91)  
2 days before each primary election and each special election  
3 held in August as provided in W.S. 22-2-104(d) for the  
4 purpose of filling a vacancy pursuant to W.S. 22-18-103  
5 through 22-18-109, the county clerk in each county shall  
6 publish at least once in a newspaper of general circulation  
7 in the county and post in the county clerk's office and at  
8 the place where each municipality within the county  
9 regularly holds its council meetings a proclamation setting  
10 forth the date of the election, the offices to be filled at  
11 the election including the terms of the offices, the number  
12 of persons required by law to fill the offices, the filing  
13 deadline for the offices and the requirements for filing  
14 statements of campaign contributions and expenditures. The  
15 proclamation shall also include the aforementioned  
16 information regarding offices to be filled at the general  
17 election and any other pertinent primary election  
18 information. In addition, the description of any ballot  
19 proposition submitted to the voters of the state, a  
20 political subdivision thereof, county or other district  
21 shall be included.

22

1           (b) Between ninety (90) and seventy (70) days before  
2 each general election and each special election held in May  
3 or November as provided in W.S. 22-2-104(d) for the purpose  
4 of filling a vacancy pursuant to W.S. 22-18-103 through  
5 22-18-109, the county clerk in each county shall publish at  
6 least once in a newspaper of general circulation in the  
7 county and post in the county clerk's office and at the  
8 place where each municipality within the county regularly  
9 holds its council meetings a proclamation setting forth the  
10 following:

11

12           **22-2-110. Computing periods of time.**

13

14           (a) ~~Except for special elections to fill vacancies~~  
15 ~~for a congressman under W.S. 22-18-105 through 22-18-109,~~

16 Periods of time are computed by excluding the specific day  
17 and counting the prescribed number of days, including  
18 Saturdays, Sundays and full legal holidays. If the first  
19 day of a time period falls on a Saturday, Sunday or full  
20 legal holiday, the preceding day which is not a Saturday,  
21 Sunday or full legal holiday shall be used. If the last day  
22 of a time period falls on a Saturday, Sunday or full legal  
23 holiday, the next day which is not a Saturday, Sunday or

1 full legal holiday shall be used. All days, except the  
2 specific day, but including the last day, shall be used to  
3 compute the time limits established under W.S. ~~22-18-105~~  
4 22-18-103 through 22-18-109 unless the last day of a time  
5 period falls on a Saturday, Sunday or full legal holiday in  
6 which case the next day which is not a Saturday, Sunday or  
7 full legal holiday shall be used.

8

9 **22-2-111. Employees time off to vote.**

10

11 (a) Any person entitled to vote at any primary or  
12 general election or special election to fill a vacancy ~~in~~  
13 ~~the office of representatives in the congress of the United~~  
14 ~~States~~ under W.S. 22-18-103 through 22-18-109 is, on the  
15 day of such election, entitled to absent himself from any  
16 service or employment in which he is then engaged or  
17 employed for a period of one (1) hour, other than meal  
18 hours, the hour being at the convenience of the employer,  
19 between the time of opening and closing of the polls. Such  
20 elector shall not, because of so absenting himself, lose  
21 any pay, providing he actually casts his legal vote.

22

23 **22-6-112. Name to appear only once; exception.**

1

2 (a) Except as provided in W.S. 22-18-103 through  
3 22-18-109, no candidate's name shall appear on the partisan  
4 ballot more than once, except that of a candidate for the  
5 office of precinct committeeman or committeewoman, who may  
6 also seek the office of president or vice president of the  
7 United States or another office on the same partisan  
8 primary ballot.

9

10 (b) Except as provided in W.S. 22-18-103 through  
11 22-18-109, no candidate's name shall appear on the general  
12 election ballot more than once, except that a candidate for  
13 a partisan office may also seek the office of president or  
14 vice president of the United States or a nonpartisan office  
15 on the same general election ballot in accordance with W.S.  
16 22-2-116.

17

18 **22-6-117. Order of listing offices in partisan**  
19 **elections.**

20

21 (a) Except as provided in W.S. 22-18-103 through  
22 22-18-109, the major party primary and general partisan



1 election ballots shall contain the offices to be voted on  
2 in the following order:

3

4 **22-6-121. Political party ballot position on general**  
5 **election ballot; order of candidates' names.**

6

7 (a) Except as provided in W.S. 22-18-103 through  
8 22-18-109, political party position shall be determined on  
9 the general election ballot according to the number of  
10 votes received by each party within the county for the  
11 office of representative in congress at the last preceding  
12 general election. The party receiving the highest number  
13 of votes shall appear first following the names of the  
14 offices to be voted for and other parties shall follow in  
15 the order of their respective numbers of such votes. The  
16 order of any provisional parties will be drawn by the  
17 secretary of state. Any independent candidates shall  
18 appear following the last party and shall be listed in  
19 alphabetical order, subject to rotation. When more than  
20 one (1) candidate is to be elected to a particular office,  
21 the names of candidates shall be printed in alphabetical  
22 order, subject to rotation, on all ballots for electronic  
23 and machine voting systems as defined by W.S. 22-1-102.

1

2           **22-6-122. Rotation of candidates' names; equal lines**  
3 **on voting machines.**

4

5 Except as provided in W.S. 22-18-103 through 22-18-109, the  
6 names of candidates for each office shall be rotated on all  
7 ballots by precinct for all elections. In each county the  
8 name of each candidate shall appear substantially an equal  
9 number of times at the top, at the bottom, and in each  
10 intermediate place. In a voting machine polling place, if  
11 candidates for the same office occupy more than one (1)  
12 line on the voting machine, the number of names appearing  
13 on each line shall be as nearly equal as possible.

14

15           **22-6-125. Order of offices and ballot propositions on**  
16 **nonpartisan ballots.**

17

18           (a) Except as provided in W.S. 22-18-103 through  
19 22-18-109, the nonpartisan ballot shall contain the offices  
20 and ballot propositions to be voted on in the following  
21 order:

22

1           **22-18-103. Filling vacancies in federal and state**  
2 **offices; generally.**

3  
4 A vacancy in the office of United States senator,  
5 representative in congress, member of the state legislature  
6 or an elected state official shall be filled ~~for the~~  
7 ~~unexpired term at a special election called for the purpose~~  
8 ~~by the governor, provided the vacancy does not occur within~~  
9 ~~six (6) months of the next general election as provided in~~  
10 W.S. 22-18-103 through 22-18-111. For purposes of W.S.  
11 22-18-103 through 22-18-111, "vacated office" means an  
12 office specified in this section.

13  
14           **22-18-104. Filling vacancy of in federal and state**  
15 **offices; procedure; qualification to vote.**

16  
17 The governor or acting governor pursuant to W.S. 9-1-212(a)  
18 shall declare a vacancy under W.S. 22-18-103 and unless the  
19 vacancy will be filled by appointment under W.S. 22-18-111  
20 shall call ~~such special election~~ for the vacancy to be  
21 filled by issuing a writ of election to the county clerk of  
22 each county voting for the office and to the secretary of  
23 state. The writ shall be issued within five (5) days after

1 the vacancy occurs and shall specify the day of the  
2 election and the office to be filled.

3

4 **22-18-105. Filling vacancy in federal and state**  
5 **offices; whether filled at general or special election;**  
6 **procedure.**

7

8 ~~If the~~ Except for appointments as specified in W.S.  
9 22-18-111, a vacancy in the office of representative in  
10 congress occurs within six (6) months prior to the next  
11 general election, the vacancy under W.S. 22-18-103 shall be  
12 filled at the general election. Otherwise the special  
13 election shall occur on the Tuesday following the  
14 eighty ninth day after the vacancy occurs, unless that  
15 Tuesday falls on a full legal holiday in which case the  
16 election shall occur on the next Tuesday which is not a  
17 full legal holiday. The governor shall declare the vacancy  
18 and issue the writ of election within five (5) days after  
19 the vacancy occurs for the remainder of the unexpired term  
20 at a special election as specified in this section. A  
21 vacancy shall be filled at a special election on the next  
22 date for an election specified in W.S. 22-2-104(d) if the  
23 vacancy occurs not less than one hundred ten (110) days

1 prior to that election. If the vacancy occurs less than one  
 2 hundred ten days (110) days before the next election  
 3 specified in W.S. 22-2-104(d), the vacancy shall be filled  
 4 at the next following election date specified in W.S.  
 5 22-2-104(d). All costs incurred in carrying out a special  
 6 election under this section that is not concurrent with an  
 7 election under W.S. 22-2-104(a) or (b) shall be borne by  
 8 the secretary of who shall reimburse the county treasurer  
 9 for the costs paid by the county for the special election.

10  
 11 **22-18-106. Filling vacancies in federal and state**  
 12 **offices; nominations.**

13  
 14 (a) An elector qualified to hold ~~the~~ a vacated office  
 15 ~~of representative in congress~~ shall ~~be nominated by the~~  
 16 ~~state central committee of the respective parties to fill a~~  
 17 ~~vacancy for the unexpired term of that office.~~ file a  
 18 signed petition in substantially the following form:

19  
 20 APPLICATION TO FILL VACATED OFFICE BY SPECIAL ELECTION

21  
 22 State of Wyoming )  
 23

1                                    ) ss

2

3 County of .... )

4

5 I, ....., swear or affirm that I was born on ....., (year),  
6 that I have been a resident of the state of Wyoming since  
7 ....., and that I am a registered voter of Election  
8 District No. ...., in Precinct No. ...., residing at ....,  
9 in County of ....., (if for the office of state senator or  
10 representative) in Senate (House) District ....., state of  
11 Wyoming, and registered as a member of .... party, (if for  
12 the office of governor) and that I resided at the physical  
13 residential addresses listed below during the past five (5)  
14 years, and I hereby request that my name be printed upon  
15 the official ballot as a candidate to fill the vacated  
16 office of ....., and hereby declare that if nominated and  
17 elected, I will qualify for the office.

18

19 (If for the office of United States senator or  
20 representative in congress) I have not, at any time when  
21 knowingly seeking nomination or election to this office,  
22 claimed or been currently claiming any residence or  
23 received the benefits of residency from any other state,

1 excluding the benefits of residency related to or  
 2 incidental from maintaining a residence at or near the  
 3 United States capital.

4  
 5 (If for the office of governor) I have resided at the  
 6 following physical residential addresses during the past  
 7 five (5) years:

8  
 9 (Residence) (Date)

10  
 11 1. ....

12 2. ....

13  
 14 Dated the .... day of ...., (year).

15  
 16 .....(Signature)

17  
 18 (b) Nominations ~~from such parties~~ shall be filed with  
 19 the secretary of state and fees paid within seven (7) days  
 20 after the vacancy is officially declared. ~~Independent~~  
 21 ~~candidates shall file an application and pay the filing fee~~  
 22 ~~with the secretary of state within seven (7) days after the~~  
 23 ~~vacancy is officially declared.~~

1

2           **22-18-107. Filling vacancies in federal and state**  
3 **offices; certification of candidates.**

4

5 Within five (5) days after the end of the candidate filing  
6 period specified in W.S. 22-18-106, the secretary of state  
7 shall certify to the clerks of counties voting to fill the  
8 vacancy the name of each candidate qualified to appear on  
9 the ballot, and ~~his~~ the candidate's party affiliation or  
10 independent status, if declared.

11

12           **22-18-108. Filling vacancies in federal and state**  
13 **offices; party requirements.**

14

15 A candidate for the unexpired term of ~~the~~ a vacated office  
16 ~~of representative in congress~~ may seek election only as a  
17 candidate of the political party in which ~~he~~ the candidate  
18 was registered on the date the vacancy occurred. A  
19 candidate for the unexpired term of a vacated office ~~of~~  
20 ~~representative in congress~~ who was not registered with a  
21 party on the date the vacancy occurred may run only as an  
22 independent.

23



1           **22-18-109. Conduct of special election; preparation**  
2 **of ballot.**

3  
4           (a) A special election to fill a vacancy shall be  
5 conducted by the county clerk as nearly as possible in the  
6 manner of a general election.

7  
8           (b) The proclamation of the special election shall be  
9 published as provided in W.S. 22-2-109.

10  
11           (c) The county clerk shall ~~have twelve (12) days to~~  
12 prepare the special election ballot after the secretary of  
13 state's certification under W.S. 22-18-107. The ballot  
14 shall be prepared as follows:

15  
16           (i) If the special election to fill a vacancy is  
17 conducted concurrently with any other election, the special  
18 election ballot shall be combined with the ballot of that  
19 election and the vacated office shall be printed on the  
20 official ballot of that election and shall be the first  
21 office to be voted on;

22

1           (ii) If the special election to fill a vacancy  
2 is not conducted concurrently with any other election, the  
3 special election ballot shall be printed in substantial  
4 compliance with this format:

5  
6           (A) Across the top shall be printed  
7 "Official Special Election Ballot";

8  
9           (B) On the first line shall be printed the  
10 name of the county in which the ballot is used, the date of  
11 the election and blank lines for entry of the election  
12 district and precinct number;

13  
14           (C) On the second line shall be printed the  
15 same instructions as prescribed for primary elections in  
16 W.S. 22-6-119;

17  
18           (D) The designation of offices and the  
19 applicable term of office shall be printed preceding the  
20 names of candidates for the office;

21  
22           (E) The names of partisan party candidates,  
23 if candidates have filed, and independent candidates, if

1 candidates have filed, shall be printed in a separate  
2 column or columns, row or rows, and the name of the party  
3 represented or the word "Independent" shall be printed  
4 directly above the candidate's name or at the end of the  
5 row. If there are a number of candidates representing a  
6 party, or independents, the county clerk at his discretion  
7 may designate a separate vertical column or columns, or row  
8 or rows to said candidates and print the name of said party  
9 or the word "Independent" at the top of the column or  
10 beginning of the row;

11

12 (F) Below the names of candidates for each  
13 office shall be printed blank lines for write-in candidates  
14 equal in number to the number of persons to be elected;

15

16 (G) Adjacent to the name of each candidate  
17 shall be printed a square for marking the vote. No square  
18 shall appear at the top of a column.

19

20 (iii) Candidates to fill the vacated office  
21 shall appear in alphabetical order and shall be rotated as  
22 prescribed in W.S. 22-6-122, provided that candidates whose  
23 political affiliation is the same as the last incumbent at

1 the time of their election shall appear before candidates  
2 of other political parties at all times.

3

4 (d) The candidate who receives a plurality of the  
5 votes at a special election shall be issued a certificate  
6 of election as provided by law.

7

8 **22-18-111. Vacancies in other offices; temporary**  
9 **appointments.**

10

11 (a) Any vacancy in any other elective office in the  
12 state except ~~representative in congress or~~ the offices  
13 specified in W.S. 22-18-103, which shall be filled by  
14 special election or by appointment as provided in paragraph  
15 (iii) of this subsection and except for the board of  
16 trustees of a school or community college district, shall  
17 be filled by the governing body, or as otherwise provided  
18 in this section, by appointment of a temporary successor.  
19 The person appointed shall serve until a successor for the  
20 remainder of the unexpired term is elected at the next  
21 general election and takes office on the first Monday of  
22 the following January. ~~Provided~~ Except as provided in W.S.  
23 22-18-105, if a vacancy in a four (4) year term of office

1 occurs in the term's second or subsequent years after the  
2 first day for filing an application for nomination pursuant  
3 to W.S. 22-5-209, no election to fill the vacancy shall be  
4 held and the temporary successor appointed shall serve the  
5 remainder of the unexpired term. The following apply:

6

7 (iii) Notwithstanding W.S. 22-18-103, if a  
8 vacancy occurs in one (1) of the ~~office of a member of the~~  
9 ~~state legislature~~ offices specified in W.S. 22-18-103 and  
10 there is less than one-half (1/2) of the term for which the  
11 office was elected remaining, the office shall be filled by  
12 appointment as provided in this paragraph:

13

14 (A) For vacancies other than resignations  
15 in the office of a member of the state legislature, the  
16 board of county commissioners of the county or counties in  
17 which the vacancy occurs shall immediately notify in  
18 writing the chairman of the state central committee of the  
19 political party which the former incumbent represented at  
20 the time of his election under W.S. 22-6-120(a)(vii), or at  
21 the time of his appointment if not elected to office. For  
22 resignations in the office of a member of the state  
23 legislature, the governor shall notify the appropriate

1 state central committee or the appropriate board of county  
2 commissioners in accordance with W.S. 28-1-106. For all  
3 vacancies in which the incumbent represented a political  
4 party at the time of his election or appointment to the  
5 office, the state central committee of the political party  
6 of the former incumbent shall notify the precinct  
7 committeemen and committeewomen for that party for each  
8 precinct within the legislative district which is vacant  
9 and arrange a meeting of those precinct committeemen and  
10 committeewomen at which they will select a list of three  
11 (3) persons qualified to hold the office to fill the  
12 vacancy. Only those persons serving as committeemen and  
13 committeewomen at least thirty (30) days prior to the  
14 vacancy, or if the vacancy occurs within thirty (30) days  
15 after the first Monday in January in odd-numbered years,  
16 those precinct committeemen and committeewomen elected at  
17 the immediate past primary election and those selected by  
18 appointment prior to December 2 of the year in which the  
19 election occurred for vacant positions, shall be authorized  
20 to vote under this subparagraph. The meeting shall be held  
21 not later than fifteen (15) days after the state central  
22 committee is notified of the vacancy. The state central  
23 committee of each political party shall establish

1 procedures for conducting the vote required under this  
2 subparagraph and may delegate the authority to call the  
3 meeting required under this subparagraph;

4  
5 (E) If a vacancy occurs in any office  
6 specified under W.S. 22-18-103 other than the governor or  
7 member of the state legislature, the governor shall  
8 immediately notify in writing the chairman of the state  
9 central committee of the political party which the last  
10 incumbent represented at the time of his election under  
11 W.S. 22-6-120(a)(vii), or at the time of his appointment if  
12 not elected to office. The chairman shall call a meeting of  
13 the state central committee to be held not later than  
14 fifteen (15) days after he receives notice of the vacancy.  
15 At the meeting the state central committee shall select and  
16 transmit to the governor the names of three (3) persons  
17 qualified to hold the office. Within five (5) days after  
18 receiving these three (3) names, the governor shall fill  
19 the vacancy by temporary appointment of one (1) of the  
20 three (3) to hold the office. If the incumbent who has  
21 vacated office did not represent a political party at the  
22 time of his election, or at the time of his appointment if  
23 not elected to office, the governor shall notify in writing

1 the chairman of all state central committees of parties  
2 registered with the secretary of state. The state central  
3 committees shall submit to the governor, within fifteen  
4 (15) days after notice of the vacancy, the name of one (1)  
5 person qualified to hold the office. The governor shall  
6 also cause to be published in a newspaper of general  
7 circulation in the state notice of the vacancy in office.  
8 Persons qualified to hold the office who do not belong to a  
9 party may, within fifteen (15) days after publication of  
10 the vacancy in office, submit a petition signed by one  
11 hundred (100) registered voters, seeking consideration for  
12 appointment to the office. Within five (5) days after  
13 receiving the names of persons qualified to hold the  
14 office, the governor shall fill the vacancy by temporary  
15 appointment to the office, from the names submitted or from  
16 those petitioning for appointment.

17

18 **28-1-106. Resignation of office.**

19

20 (a) Resignation of the office of a member of the  
21 senate or house of representatives shall be made to the  
22 governor, who shall immediately notify the following of the  
23 resignation:



1

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21

22

(i) The secretary of state who shall notify the county clerks of the counties in which the legislative district is located;

(ii) The presiding officer of the house of which the person is a member;

(iii) If the resignation occurs in the time periods specified in W.S. 22-18-111(a)(iii), the state central committee of the party which the member represented at the time of ~~his~~ election under W.S. 22-6-120(a)(vii), or at the time of ~~his~~ appointment if not elected to office, ~~of the resignation.~~ If the resigning member did not represent a political party at the time of ~~his~~ election, or at the time of ~~his~~ appointment if not elected to office, the governor shall notify the appropriate boards of county commissioners who shall proceed in accordance with W.S. 22-18-111(a)(iii)(C).

(b) For purposes of this section a person shall be considered to "represent" a political party if ~~he~~ the

1 person was a nominee of that political party when elected  
2 to office or when appointed to fill a vacancy in office.

3

4 **Section 2.** W.S. 22-18-111(a)(i) is repealed.

5

6 **Section 3.** This act is effective immediately upon  
7 completion of all acts necessary for a bill to become law  
8 as provided by Article 4, Section 8 of the Wyoming  
9 Constitution.

10

11

(END)