

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

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; making conforming  
4 amendments; repealing obsolete provisions; and providing  
5 for an effective date.

6

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

8

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

1 through 22-18-109, 22-18-111(a) (intro) and (iii) (intro) and  
2 28-1-106 are 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~~ more than one hundred ten (110)  
17 days before the date for an election under W.S. 22-2-104(d)  
18 occurring before a general election the person acting as  
19 governor shall ~~issue an additional proclamation calling for~~  
20 ~~the election of a governor to fill the unexpired term,~~  
21 ~~which election shall take place at the same time as the~~  
22 ~~general election, and the election, together with the~~  
23 ~~returns and canvass thereof, shall be conducted in all~~

1 ~~respects as though it was an original election for~~  
2 ~~governor. When the state canvassing board canvasses the~~  
3 ~~vote of the election and declares a person at the election~~  
4 ~~to be elected as governor, the person~~ call for a special  
5 election as provided in W.S. 22-18-103 through 22-18-109.  
6 The candidate issued a certificate of election pursuant to  
7 W.S. 22-18-109 shall, within thirty (30) days after the  
8 ~~canvass~~ issuance of the certificate, or as soon thereafter  
9 as possible, qualify and assume the duties and powers of  
10 governor, and shall be the governor of the state of Wyoming  
11 for the 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 22-18-109. For purposes of W.S.  
11 22-18-103 through 22-18-109, "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 call ~~such~~  
19 ~~special election~~ for the vacancy to be filled by issuing a  
20 writ of election to the county clerk of each county voting  
21 for the office and to the secretary of state. The writ  
22 shall be issued within five (5) days after the vacancy

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

1 election. If the vacancy occurs less than one hundred ten  
2 days (110) days before the next election specified in W.S.  
3 22-2-104(d), the vacancy shall be filled at the next  
4 following election date specified in W.S. 22-2-104(d).

5

6 **22-18-106. Filling vacancies in federal and state**  
7 **offices; nominations.**

8

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

14

15 APPLICATION TO FILL VACATED OFFICE BY SPECIAL ELECTION

16

17 State of Wyoming )

18

19 ) ss

20

21 County of .... )

22

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

14

15 (If for the office of United States senator or  
 16 representative in congress) I have not, at any time when  
 17 knowingly seeking nomination or election to this office,  
 18 claimed or been currently claiming any residence or  
 19 received the benefits of residency from any other state,  
 20 excluding the benefits of residency related to or  
 21 incidental from maintaining a residence at or near the  
 22 United States capital.

23

1 (If for the office of governor) I have resided at the  
2 following physical residential addresses during the past  
3 five (5) years:

4

5 (Residence) (Date)

6

7 1. ....

8 2. ....

9

10 Dated the .... day of ...., (year).

11

12 ..... (Signature)

13

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

20

21 **22-18-107. Filling vacancies in federal and state**  
22 **offices; certification of candidates.**

23

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

7

8 **22-18-108. Filling vacancies in federal and state**  
9 **offices; party requirements.**

10

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

19

20 **22-18-109. Conduct of special election; preparation**  
21 **of ballot.**

22



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

4

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

7

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

12

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

19

20       (ii) If the special election to fill a vacancy  
21 is not conducted concurrently with any other election, the  
22 special election ballot shall be printed in substantial  
23 compliance with this format:

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23

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

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

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

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

(E) The names of partisan party candidates, if candidates have filed, and independent candidates, if candidates have filed, shall be printed in a separate column or columns, row or rows, and the name of the party represented or the word "Independent" shall be printed directly above the candidate's name or at the end of the

1 row. If there are a number of candidates representing a  
2 party, or independents, the county clerk at his discretion  
3 may designate a separate vertical column or columns, or row  
4 or rows to said candidates and print the name of said party  
5 or the word "Independent" at the top of the column or  
6 beginning of the row;

7  
8 (F) Below the names of candidates for each  
9 office shall be printed blank lines for write-in candidates  
10 equal in number to the number of persons to be elected;

11  
12 (G) Adjacent to the name of each candidate  
13 shall be printed a square for marking the vote. No square  
14 shall appear at the top of a column.

15  
16 (iii) Candidates to fill the vacated office  
17 shall appear in alphabetical order and shall be rotated as  
18 prescribed in 22-6-122, provided that candidates whose  
19 political affiliation is the same as the last incumbent at  
20 the time of their election shall appear before candidates  
21 of other political parties at all times.

22

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

4

5        **22-18-111. Vacancies in other offices; temporary**  
6 **appointments.**

7

8        (a) Any vacancy in any other elective office in the  
9 state except ~~representative in congress or~~ the offices  
10 specified in W.S. 22-18-103 or the board of trustees of a  
11 school or community college district, shall be filled by  
12 the governing body, or as otherwise provided in this  
13 section, by appointment of a temporary successor. The  
14 person appointed shall serve until a successor for the  
15 remainder of the unexpired term is elected at the next  
16 general election and takes office on the first Monday of  
17 the following January. ~~Provided~~ Except as provided in W.S.  
18 22-18-105, if a vacancy in a four (4) year term of office  
19 occurs in the term's second or subsequent years after the  
20 first day for filing an application for nomination pursuant  
21 to W.S. 22-5-209, no election to fill the vacancy shall be  
22 held and the temporary successor appointed shall serve the  
23 remainder of the unexpired term. The following apply:

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(iii) Notwithstanding W.S. 22-18-103, if a  
vacancy occurs in the office of a member of the state  
legislature not more than forty-five (45) days before the  
first day of the general or budget session of the  
legislature:

\*\*\*\*\*  
\*\*\*\*\*  
STAFF COMMENT  
This provision was included in 2022 House Bill 142 as  
previously discussed by the Committee, but the timing would  
no longer work given the longer time frame for special  
elections to occur. If the vacancy is not able to be filled  
at an election in November, it would be vacant until May.  
It would be recommended to revise this date or remove this  
provision.  
If the provision is revised, it may be advisable to clarify  
whether or not the appointment under this provision is  
temporary and specify the timing of the special election or  
whether the appointment would be for the remainder of the  
term.  
\*\*\*\*\*  
\*\*\*\*\*

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

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

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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)