

LEGISLATIVE RESEARCH UNIT

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STATES' METHODS FOR FILLING U.S. SENATE VACANCIES

You asked for quick research into other states' methods for filling vacancies in U.S. Senate seats.

The U.S. Constitution's Amendment 17 says that if a vacancy occurs in a U.S. Senate seat, the "executive authority" of the state is to issue a writ of election to fill it; but it adds:

Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

The Illinois General Assembly has done so in section 25-8 of the Election Code:

Sec. 25-8. When a vacancy shall occur in the office of United States Senator from this state, the Governor shall make temporary appointment to fill such vacancy until the next election of representatives in Congress, at which time such vacancy shall be filled by election, and the senator so elected shall take office as soon thereafter as he shall receive his certificate of election.¹

LRU 

We used a 2003 Congressional Research Service report² and the U.S. Senate's *Senate Election Law Guidebook 2006*³ to compile information on other states' methods for filling U.S. Senate vacancies. Those sources indicate that 47 states, including Illinois, allow their Governors to make appointments to fill vacancies in U.S. Senate seats pending election of replacements. In at least two of those 47 states, the Governor must make such appointments from lists of nominees, mostly made by the state central committee of the vacating senator's party. The remaining three states do not allow gubernatorial filling of vacancies. The provisions in the states just described, along with Alaska (whose Governor has a choice whether to appoint an interim replacement) are summarized below.

Governor Cannot Fill Vacancy Before Election (3 states)

Oklahoma

Vacancies in U.S. Senate seats are filled by special election unless a vacancy occurs after March 1 of an election year and the term of the seat being vacated would have ended the next year. In such a case, the replacement is to be elected at the general election that year, and the Governor is to appoint the winner of that election to serve until the beginning of the term to which that person was elected.⁴

Oregon

The Governor is not authorized to make temporary appointments to fill U.S. Senate vacancies. Such a vacancy is to be filled at either a special election or the next general election, depending on how long before the general election the vacancy occurs.⁵

Wisconsin

The Governor is not authorized to make temporary appointments to fill U.S. Senate vacancies. A U.S. Senate vacancy is to be filled by a special or general election, depending on how long before the general election it occurs.⁶

Governor Must Appoint From a List of Nominees (2 states)

Utah

The Governor is to appoint one of three persons nominated by the state central committee of the vacating U.S. Senator's party to fill a vacancy until the next general election.⁷

Wyoming

A vacancy in a U.S. Senate seat is to be filled by the Governor from among (a) three persons nominated by the state central committee of the vacating U.S. Senator's party and (b) qualified persons who belong to no party but are nominated for consideration by petitions signed by at least 100 voters.⁸

Governor Has Option of Making Appointment Pending Election

Alaska

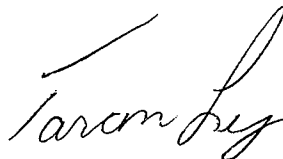
The Governor is to call a special election, to be held between 60 and 90 days after a vacancy occurs (unless the vacancy happens later than the date that is 60 days before the primary election in a general election year, in which case no special election is to be held). The Governor *may* also, between 5 and 30 days after a vacancy occurs, make a temporary appointment of a qualified replacement until the election results are certified.⁹

We hope this quick research is helpful.

Sincerely,



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DRM:TL:mf

Notes

1. 10 ILCS 5/25-8.
2. Congressional Research Service, "House and Senate Vacancies: How Are They Filled?" (order code 97-1009 GOV, updated Jan. 22, 2003), p. 2.
3. *Senate Election Law Guidebook 2006*, Sen. Doc. No. 109-10, 109th Cong., 1st Sess. (2005).
4. Okla. Stat., tit. 26, sec. 12-101.
5. Ore. Const., art. V, sec. 16.
6. Wis. Stat., sec. 17.18 and subsec. 8.50(4)(b).
7. Utah Code, sec. 20A-1-502.
8. Wyo. Stat., subsec. 22-18-111(a)(i).
9. Alaska Stat., secs. 15.40.140 and 15.40.145.