

HB 4021 A STAFF MEASURE SUMMARY**Carrier:** Rep. Kropf**House Committee On Rules**

Action Date: 02/27/24
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-3-0-0
Yeas: 4 - Fahey, Kropf, Nosse, Valderrama
Nays: 3 - Helfrich, Scharf, Wallan
Fiscal: Fiscal impact issued
Revenue: No revenue impact
Prepared By: Melissa Leoni, LPRO Analyst
Meeting Dates: 2/8, 2/27

WHAT THE MEASURE DOES:

The measure allows the Governor to temporarily fill vacancies for United States Senator by appointment, in addition to the current requirement that a vacancy be filled by special election. It also requires the special election to occur at least 80 days, and not more than 150 days, after the vacancy occurs, if the vacancy occurs within 62 days before a general election.

Detailed Summary

Requires the Governor to appoint a United States Senator within 30 days of when a vacancy in office occurs. Requires the appointee to be a citizen qualified to hold office and affiliated with the same political party as the Senator who vacated the office for at least 180 days before the vacancy occurred. Expires the appointment when the term of office ends or a successor to the office is elected by special election, whichever comes first. Clarifies that the special election called by the Governor to fill a vacancy that occurs after the 62nd day before the general election, but before the general election, must occur at least 80 days, and not more than 150 days, after the vacancy occurs. Allows each major political party to select nominees without a primary election only for vacancies in Representative in Congress when the special election is called before the 80th day after the vacancy occurs.

ISSUES DISCUSSED:

- Oregon history in electing U.S. Senators
- Timing of the special election and whether it could be standardized with a temporary appointment
- Criteria and safeguards for appointment of U.S. Senator
- Giving the Governor the authority to appoint a U.S. Senator
- U.S. Constitution not allowing the state to limit an appointee from running for the office

EFFECT OF AMENDMENT:

The amendment clarifies that a special election, called by the Governor to fill a vacancy in the office of United States Senator that occurs within 62 days before a general election, must occur at least 80 days, and not more than 150 days, after the vacancy occurs. It also allows each major political party to select nominees without a primary election only for vacancies in Representative in Congress when the special election is called before the 80th day after the vacancy occurs.

BACKGROUND:

Under Article I, Section 2 of the United States (U.S.) Constitution, vacancies in the U.S. House of Representatives must be filled by elections. The 17th Amendment of the U.S. Constitution provides that Senate vacancies may be filled by temporary appointment if a legislature gives the governor such authority.

Oregon currently fills vacancies in the office of U.S. Representative and Senator by special election (ORS 188.120). Prior to 1986, Section 16, Article V of the Oregon Constitution required the Governor to fill a vacancy in the office

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of U.S. Senator by appointment until a successor could be elected at the next general election. The 1985 Legislative Assembly referred House Joint Resolution 30 (Measure 4) and passed House Bill 2603 to provide that a vacancy in the office of U.S. Senator would be filled at a special election called by the Governor in the same manner as vacancies for U.S. Representative. Measure 4 was approved with 56 percent of the vote in May 1986.

According to the [National Conference of State Legislatures](#), 37 states authorize the governor to fill a U.S. Senate vacancy by appointment, and the appointee serves until the next regularly scheduled general election. Of these states, nine require the appointee to be from the same political party as the Senator who vacated the office.

Of the 13 states that require a special election to fill a U.S. Senate vacancy, nine allow the governor to make a temporary appointment, in certain circumstances. Oregon, North Dakota, Rhode Island, and Wisconsin do not allow temporary appointments before the special election is held.