

CURRENT VERMONT GOVERNMENT SUCCESSION PROVISIONS

I. Lieutenant Governor acts in Governor’s absence (but may not be considered to have “become” Governor).

A. Vt. Const. Ch. II, § 1 [Governing Power]:

“The Commonwealth or State of Vermont shall be governed by a Governor (or Lieutenant-Governor), a Senate and a House of Representatives, in manner and form following:”

B. Vt. Const. Ch. II, § 3 [Supreme Executive Power]:

“The Supreme Executive power shall be exercised by a Governor, or in the Governor's absence, a Lieutenant-Governor.”

C. Vt. Const. Ch. II, § 19 [Powers of Senate; Lieutenant-Governor Duties]:

“The Senate shall have the like powers to decide on the election and qualifications of, and to expel any of, its members, make its own rules, and appoint its own officers, as are incident to, or are possessed by, the House of Representatives. A majority shall constitute a quorum. The Lieutenant-Governor shall be President of the Senate, except when exercising the office of Governor, or when the office of the Lieutenant-Governor shall be vacant, or in the absence of the Lieutenant-Governor, in which cases the Senate shall appoint one of its own members to be President of the Senate, pro tempore . And the President of the Senate shall have a casting vote, but no other.”

D. Vt. Const. Ch. II, § 20 [Governor; Executive Power]:

“The Governor, and in the Governor's absence, the Lieutenant-Governor, shall have power to commission all officers, and also to appoint officers, except where provision is, or shall be, otherwise made by law or this Frame of Government; and shall supply every vacancy in any office, occasioned by death or otherwise, until the office can be filled in the manner directed by law or this Constitution . . .”

E. Vt. Const. Ch. II, § 22 [Commissions; State Seal]:

“All commissions shall be in the name of The People of the State of Vermont , sealed with the State Seal, signed by the Governor, and in the absence of the Governor by the Lieutenant-Governor, and attested by the Secretary; which Seal shall be kept by the Governor.”

F. *See also:*

- Op. Att’y Gen. 91-15F 1, 7 (Vt. Setp. 3, 1991) (provided after Gov. Snelling died and Howard Dean assumed the duties of Governor).
- “A Constitutional Analysis of Gubernatorial Succession Provisions in Vermont,” J. Patrick Kennedy, 17 Vt. L. Rev. 235 (1991).

II. General Assembly provides by law who shall act as Governor when there is a vacancy in the offices of Governor and Lieutenant Governor. By law, that person is the Speaker of the House, the Senate President Pro Tempore, the Secretary of State, and the Treasurer, in that order.

A. Vt. Const. Ch. II, § 24 [Vacancy in Office of Governor, Lieutenant Governor, and Treasurer]:

“The Legislature shall provide by general law what officer shall act as Governor whenever there shall be a vacancy in both the offices of Governor and Lieutenant-Governor, occasioned by a failure to elect, or by the removal from office, or by the death or resignation of both Governor and Lieutenant-Governor, or by the inability of both Governor and Lieutenant-Governor to exercise the powers and discharge the duties of the office of Governor; and such officer so designated, shall exercise the powers and discharge the duties appertaining to the office of Governor accordingly until the disability shall be removed, or a Governor shall be elected. And in case there shall be a vacancy in the office of Treasurer, by reason of any of the causes enumerated, the Governor shall appoint a Treasurer for the time being, who shall act as Treasurer until the disability shall be removed, or a new election shall be made.”

B. 3 V.S.A. § 1 (Vacancy; Absence from State):

“(a) When there is a vacancy in the Offices of Governor and Lieutenant Governor, the Speaker of the House of Representatives shall act as Governor.

(b) When the Governor is absent from the State, the Lieutenant Governor shall act for him or her, and when both the Governor and Lieutenant Governor are absent from the State, the Speaker of the House shall act as Governor.”

C. [20 V.S.A. § 183](#) (Additional Successor to Office of Governor):

“In the event that there is a vacancy in both the offices of governor and lieutenant governor within the meaning of the constitution and the speaker of the house of representatives is unavailable, the president pro tempore of the senate, the secretary of state and the treasurer, shall, in the order named, act as governor until such vacancy is terminated, or until a governor is elected, or until such speaker or a preceding interim successor becomes available.”

III. The House chooses its Speaker and any necessary successor.

A. [Vt. Const. Ch. II, § 14](#) [Powers of House]:

“The Representatives so chosen (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two-thirds of the members elected shall be present) shall meet as required by section 7, and shall be styled the House of Representatives: they shall have power to choose their Speaker, their Clerk and other necessary officers, sit on their own adjournment subject to the limitations of section 6, judge of the elections and qualifications of their own members; they may expel members, but not for causes known to their constituents antecedent to their election, administer oaths and affirmations in matters depending before them, and impeach state criminals.”

B. House Rule 16:

“If the Speaker is absent when the House assembles for a meeting, or if the Speaker is presiding during a session and finds it necessary to retire from the chair, a member designated by the Speaker shall assume the chair and may perform all of the duties of the Speaker for not more than six days. If the member designated by the Speaker is absent, or if there has been no designation, the ranking member of the Committee on Rules shall perform the duties of the Speaker. **In the event the Speaker is unable to resume the duties of the chair within six days, due to temporary disability, the House, after the expiration of six days from the date the Speaker first left the chair, shall proceed to elect a speaker pro tempore, who shall then perform all of the duties of the Speaker, until the Speaker is once again able to resume the duties of the office. In the event of the death or resignation of the Speaker, the House shall proceed forthwith to elect a new Speaker.**”

IV. The Senate chooses its President Pro Tempore and any necessary successor.

A. Vt. Const. Ch. II, § 19 [Powers of Senate; Lieutenant Governor’s Duties]:

“The Senate shall have the like powers to decide on the election and qualifications of, and to expel any of, its members, make its own rules, and appoint its own officers, as are incident to, or are possessed by, the House of Representatives. A majority shall constitute a quorum. **The Lieutenant-Governor shall be President of the Senate, except when exercising the office of Governor, or when the office of**

the Lieutenant-Governor shall be vacant, or in the absence of the Lieutenant-Governor, in which cases the Senate shall appoint one of its own members to be President of the Senate, pro tempore. And the President of the Senate shall have a casting vote, but no other.”

B. [Senate Rule 4](#):

“The Senate shall forthwith proceed to elect by ballot and in the order named, a secretary, a president pro tempore and a senator to serve with the president and the president pro tempore as a member of the committee on committees who shall be sworn to the faithful discharge of their duties. It may also elect or designate a chaplain or chaplains. In the event of the death or resignation of the secretary or the president pro tempore or removal from office or inability to exercise the powers and discharge the duties appertaining to the office, the Senate shall as soon as practicable proceed to elect by ballot a successor who shall then be sworn to the faithful discharge of the duties of the office.”

V. Governor (or Lieutenant Governor in the Governor’s absence) appoints

successors when there is a vacancy in a State, county, or legislative office.

A. [Vt. Const. Ch. II, § 20 \[Governor; Executive Power\]](#):

“The Governor, and in the Governor's absence, the Lieutenant-Governor, shall have power to commission all officers, and also to appoint officers, except where provision is, or shall be, otherwise made by law or this Frame of Government; and shall supply every vacancy in any office, occasioned by

death or otherwise, until the office can be filled in the manner directed by law or this Constitution. . .”

B. Vt. Const. Ch. II, § 24 [Vacancy in the Office of Governor, Lieutenant Governor, and Treasurer]:

“The Legislature shall provide by general law what officer shall act as Governor whenever there shall be a vacancy in both the offices of Governor and Lieutenant-Governor, occasioned by a failure to elect, or by the removal from office, or by the death or resignation of both Governor and Lieutenant-Governor, or by the inability of both Governor and Lieutenant-Governor to exercise the powers and discharge the duties of the office of Governor; and such officer so designated, shall exercise the powers and discharge the duties appertaining to the office of Governor accordingly until the disability shall be removed, or a Governor shall be elected. And in case there shall be a vacancy in the office of Treasurer, by reason of any of the causes enumerated, the Governor shall appoint a Treasurer for the time being, who shall act as Treasurer until the disability shall be removed, or a new election shall be made.”

C. Vt. Const. Ch. II, § 32 [Filling Judicial Vacancies]:

“The Governor, with the advice and consent of the Senate, shall fill a vacancy in the office of the Chief justice of the State, associate justice of the Supreme Court or judge of any other court, except the office of Assistant Judge and of Judge of Probate, from a list of nominees presented by a judicial nominating body

established by the General Assembly having authority to apply reasonable standards of selection.”

D. Vt. Const. Ch. II, § 34 [Interim Judicial Appointments]:

“When the Senate is not in session, the Governor may make an interim appointment to fill a vacancy in the office of chief justice, associate justice of the Supreme Court or judge of any other court, except the office of Assistant Judge and of Judge of Probate, from a list of nominees presented by the judicial nominating body. A justice or judge so appointed shall hold office, with all the powers incident to the office, until the Senate convenes and acts upon the appointment submitted by the Governor. Thereafter, the appointee shall continue in office if the Senate consents to the appointment. If the appointment is not confirmed upon vote of the Senate, the appointment shall be terminated and a vacancy in the office will be created.”

E. 17 V.S.A. § 2623 (Vacancies in [Elected] Offices within this State):

“(a) In the event of a vacancy in any State, county, or legislative office, the Governor may request the political party or parties of the person whose death or resignation created the vacancy to submit one or more recommendations as to a successor. The proper committee to which a request for recommendation shall be directed shall be:

- (1) for State officers, the State committee;

(2) for county officers, except justices of the peace and Probate judges, the county committee;

(3) for State Senator, the senatorial district committee;

(4) for State Representative, the representative district committee;

(5) for justice of the peace, the town committee;

(6) for Probate judge, the probate district committee.

(b) The Governor may appoint a qualified person to fill the vacancy for the remaining portion of the term, whether or not the appointee is recommended by the party committee.”

VI. [20 V.S.A. ch. 7](#) provides emergency interim succession to other offices. See:

A. [20 V.S.A. § 181](#) (Statement of Policy):

“Because of the existing possibility of a catastrophic incident in the United States of unprecedented size and destructiveness, and in order, in the event of a catastrophic incident, to assure continuity of government through legally constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; to provide for the effective operation of governments during an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for additional officers who can exercise the powers and discharge the duties of governor; to provide for emergency interim succession to offices of this state in the event the incumbents thereof, and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise the powers and

discharge the duties of such offices (hereinafter referred to as deputies) are unavailable to perform the duties and functions of such offices; and to provide for special emergency district judges who can exercise the powers and discharge the duties of such judges in the event regular judges are unavailable.”

B. [20 V.S.A. § 183](#) (Additional Successor to the Office of Governor): Discussed *supra*.

C. [20 V.S.A. § 184](#) (Emergency Interim Successors for State Offices):

“All state officers, subject to such exceptions and regulations as the governor (or other official authorized under the constitution and this chapter or other act to exercise the powers and discharge the duties of the office of, or to act as, governor) may issue, shall, within 60 days after the approval of this chapter, and thereafter immediately after the date that they shall have been appointed and qualified, in addition to any deputy authorized pursuant to law, designate by title emergency interim successors and specify their order of succession. The officer shall, each year, review and shall revise, as necessary, designations made pursuant to this chapter to insure his or her current status. Forthwith after such designations are made and after a revision thereof the officer shall file copies in the offices of both the governor and the secretary of state. The officer shall designate a sufficient number of such emergency interim successors so that, including deputies, there will be not less than five emergency interim successors. In the event that any state officer (or his or her deputy) is unavailable, the said powers shall be exercised and

said duties shall be discharged by his or her designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the governor (or other official authorized under the constitution and this chapter or other act to exercise the powers and discharge the duties of the office of, or to act as, governor) shall, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected and qualified as provided by law; or an officer (or his or her deputy or a preceding named emergency interim successor) becomes available to resume the exercise of the powers and discharge the duties of his or her office.”

D. [20 V.S.A. § 189](#) (Period in which Authority May Be Exercised):

“Officials authorized to act as governor pursuant to this chapter, emergency interim successors and special emergency judges shall be authorized to exercise the powers and discharge the duties of an office as herein authorized only in the event that a catastrophic incident in the United States or Canada has occurred. The governor by proclamation, or the general assembly by concurrent resolution, may at any time terminate the authority of said emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as herein provided, subject to the filling of any vacancy or subject to the respective officers and judges becoming available.”