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THE MARYLAND HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401

Testimony: HB174 - General Assembly - Special Election to Fill a Vacancy in Office

Committee: Ways and Means

Hearing Date: January 28, 2025

Position: Favorable

Thank you Chair Atterbeary, Vice Chair Wilkins and members of the Ways and Means Committee.

I am Delegate Linda Foley and I am presenting HB 174 General Assembly - Special Election to Fill a Vacancy in Office which allows Marylanders to vote on a Constitutional Amendment changing the way legislative vacancies occurring during the 4-year term of office are filled.

Currently, the County Central Committee of the departing legislator's political party recommends candidates to the Governor, who then appoints a nominee to fulfill the remainder of a departing Delegate's or Senator's term, whether it be 6 months, 2 years or, in some cases, a near-complete 4-year term.

HB 174 would inject more democracy and voter engagement in the vacancy-filling process. The Amendment, if approved by voters, would make the following change: If a vacancy occurs 55 days or more prior to the candidate filing deadline for the interim two-year mark of a term, then the individual appointed by the governor will serve until, and then subject to, a special election held during the Presidential election at the midterm of the 4-year legislative term.

The special election would be held during the regular primary and general elections in the Presidential Election year. Vacancy appointments made more than 2 years into a legislative term would not be subject to a special election.

This bill is actually a compromise. The approach to hold special elections every year would require large expenditures by local election boards and would likely result in very low-turnout elections that may not accurately reflect the will of the voters. HB 174 combines the efficiency and continuity of an appointment process with the democracy of voter input at least every 2 years, during an election that's already scheduled.

Overall, 31 states have procedures to fill legislative vacancies that include special elections in at least some circumstances. Only 9 states have a process similar to Maryland where the Governor appoints. In all, 23 percent of the 188-member Maryland General Assembly first acquired their seats through appointment, including myself.

The history of the bill goes back decades. It was first proposed in 2008 by Senator Richard Madaleno and then-Senator Jamie Raskin (District 20) to advocate for more democracy and voter engagement.

This is the third year I have put this bill before you. Prior to my sponsorship, several delegates and senators have proposed it in past years. Last session, it passed the Senate 43-2.

This year, there is again a groundswell of support in Maryland for some type of special election process to fill legislative vacancies. I urge a favorable report and I'm happy to answer any questions.

In the Senate, 6 members have been appointed since 2022, there are two vacant seats. All these appointments were members of the House at the time.

In the House, 12 members have been appointed since 2022, with one seat still vacant. All these appointments were from the outside.

In total, since the constitution was amended in the 1930's to use appointments instead of special elections, approximately 248* members have been appointed to a seat, either from the House to the Senate, or from the general public to a seat in either chamber.

The following websites from the Archives keeps track of appointments in modern history:

<https://msa.maryland.gov/msa/mdmanual/06hse/html/hseapp.html>

<https://msa.maryland.gov/msa/mdmanual/05sen/html/senapp.html>

*This is sourced from a database of legislators that the Library and Information Services of the Maryland Department of Legislative Services has been building for the past 5 years. As they researched each legislator, a record was found indicating the current or former member had been appointed to a seat at some point in their legislative career and was flagged. The total also includes post-session appointments to occupy the time between the session and election (for example: Sherod Barnes was appointed to a seat in 2010 after session and served until after the 2010 election and the elected member took office the first day of the 2011 session). This number is approximate because this is still a work in progress as they reconstruct the records.

Currently, 30 members of the House were appointed to their seats. 3 members of the Senate originally gained their General Assembly seats by appointment. They were initially appointed to the House. Interestingly, they were also appointed to the Senate from their seat in the House. All 3 have been re-elected at least once either to their House or Senate seat. A total of 14 sitting Senators were originally appointed to their current chair.

How vacancies are filled in state legislatures

The process for filling vacancies varies among the state legislatures. Some states allow the [governor](#), a political party, a legislative chamber, or county board to appoint a replacement, while some states require a special election.

This page provides information on how every state legislature fills its vacancies. The most common reasons for a vacancy in the state legislature include resignation, death, a new job, election or appointment to another office, or a conviction. The [vacancy table](#) below breaks down the different systems that each state uses to fill vacancies. Below the table, you can [find information](#) on how each state fills vacancies according to its constitution. This information varies among the states. This page also gives information on [past special elections](#) and the average number of special elections called each year.

HIGHLIGHTS



Features of State Legislatures

- Twenty-five states fill vacancies in the state legislature through special elections. Twenty-one states fill vacancies through appointments, and four states fill vacancies through a hybrid system that uses both appointments and special elections.
- From 2011-2022, the average number of special elections held per year was 73. The average number of special elections per odd year between 2011 and 2021 was 85. The average per even year between 2011 and 2022 was 61.

Length of terms: [Representatives](#) • [Senators](#)
 How vacancies are filled in state legislatures
[States with a full-time legislature](#)
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How are vacancies filled in state legislatures?

The map below displays the different ways that vacancies are filled in state legislatures according to state law.

State legislative vacancies can be filled through special elections, governor appointments, board of county commissioners appointments, political party appointments, legislative chamber appointments, or a type of hybrid system. All 50 states use one or more of these systems to fill legislative vacancies.

Click on a state below to see the process for filling legislative vacancies in that state. The map also displays who holds the real power in filling legislative vacancies. For example, in the state of Utah, the state's constitution says that the governor is responsible for filling a legislative vacancy. However, the political party actually holds the real power in filling vacancies in the [Utah State Legislature](#) since the party recommends a successor to the governor and the governor then appoints the new member.

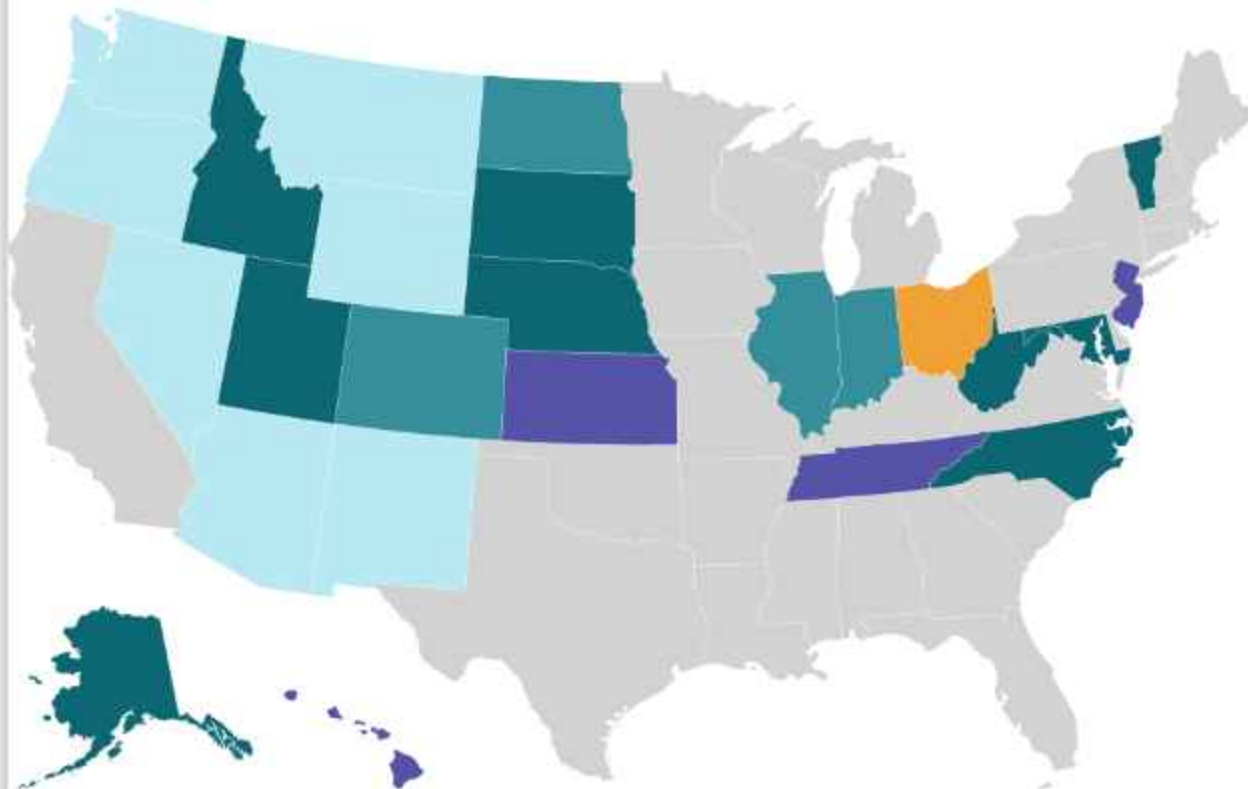
How are vacancies filled?

Choose a state below:

Alaska

Submit

How vacancies are filled in state legislatures



Board of Cty
Commissioners
Governor
Hybrid
Legislative
chamber
Political party
Special
election

BALLOTEDIA

Types of systems used to fill vacancies

How state legislatures fill vacancies?

Type of system	States
Special elections (25)	Alabama • Arkansas • California • Connecticut • Delaware • Florida • Georgia • Iowa • Kentucky • Louisiana • Maine • Massachusetts • Michigan • Minnesota • Mississippi • Missouri • New Hampshire • New York • Oklahoma • Pennsylvania • Rhode Island • South Carolina • Texas • Virginia • Wisconsin
Political party appointments (4)	Colorado • Illinois • Indiana • North Dakota

Board of county commissioners appointments (7)	Arizona • Montana • Nevada • New Mexico • Oregon • Washington • Wyoming
Governor appointments (9)	Alaska • Idaho • Maryland • Nebraska • North Carolina • South Dakota • Utah • Vermont • West Virginia
Filled by legislative chamber (1)	Ohio
Hybrid-system (4)	Hawaii • Kansas • New Jersey • Tennessee

*Note: We designate a state as having a **Hybrid-system** if a vacancy is filled by one or more of the above methods. The method employed in these states is usually dependent on the amount of time remaining in the vacant legislator's term or the time until the next general election in that state.*

State by state policies

Alaska

If there is a vacancy in the [Alaska State Legislature](#), the [governor](#) is responsible for selecting a replacement. The governor must select the replacement within 30 days after the vacancy happens. Nevertheless, if the predecessor's term is set to expire or if a special election is scheduled to fill a vacancy in the state Senate before the legislature reconvenes, the governor is not authorized to appoint someone to fill the vacancy.^[1]

 See sources: [Alaska Stat. §15.40.320](#)

Alabama

If there is a vacancy in the [Alabama State Legislature](#), a special election must generally be conducted in order to fill the vacant seat. In the event that a vacancy occurs on or after October 1 in the year of a regular election, the seat will remain vacant until filled at the regular election. Otherwise, the [governor](#) must call for a special election if the vacancy happens before the next scheduled general election and the Legislature is in session.^{[2][3]} The governor has all discretion in setting the date of the election along with the nominating deadlines.^[3]

 See sources: [Alabama Code §17-15-1](#)

Arizona

If there is a vacancy in the [Arizona State Legislature](#), the board of county supervisors must select a replacement. The [secretary of state](#) is required to contact the state party chairperson to give notice of the vacancy. The state chairperson must give notice of a meeting to fill the seat within three business days of receiving notice.^[4] The political party committee is involved in the appointment process only if the legislative district has thirty or more elected precinct committeemen.^[4]

If the legislative district has 30 or more elected precinct committeemen:

- The precinct committeemen must nominate three qualified electors as replacements. If the Legislature is in session, this must occur within five days. If the Legislature is out of session, the committeemen have 21 days to nominate potential replacements. Each elector must receive a majority of the committeemen's vote to earn a nomination. The chair then forwards the three nominees to the board of supervisors. The board of supervisors appoints a nominee from the three names. If the committeemen do not submit a list of names within the allotted timeframe, the board of supervisors proceeds with the vacancy as if the district had fewer than 30 elected precinct committeemen.^[4]

If the legislative district has fewer than 30 elected precinct committeemen:

- The board of supervisors appoints a panel of citizen supervisors within seven business days of a vacancy occurring. The citizen panel must submit the name of three qualified electors of the same political party as the previous incumbent to the board of supervisors. If the Legislature is in session, this must occur within five days. If the Legislature is out of session, the committeemen have 21 days to nominate potential replacements. The board of supervisors must select a replacement by a majority vote.^[5]
- The person selected to fill the seat serves the remainder of the unfilled term.^[5]

 See sources: [Arizona Rev. Stat. Ann. §41-1202](#)

Arkansas

If there is a vacancy in the [Arkansas General Assembly](#), the [governor](#) must call for a special election to fill the vacancy. The election must be called by the governor without delay.^{[6][7]} For all special elections in the [Senate](#), the county that first established the district is responsible for conducting the election.^[8] If the special election is to fill a [House](#) seat, the county board of election commissioners representing the vacant district conducts the election.^[9] All special elections must be held on the second Tuesday of the month, unless the second Tuesday of the month falls on a legal holiday or is in June during an even-numbered year.^[10]

See sources: [Arkansas Stat. Ann. § 7-11-103](#) and [Arkansas Cons. Art. 5, § 6](#)

California

If there is a vacancy in the [California State Legislature](#), the [governor](#) must call for a special election. The governor must call the election within 14 calendar days of the vacancy. No special election shall be held if the vacancy occurs after the nominating deadline has passed in the final year of the term of office.^[11]

See sources: [California Code, 1773](#) and [California Cons. Art. IV, § 2](#)

Colorado

If there is a vacancy in the [Colorado General Assembly](#), then the political party that last held the seat is responsible for selecting a replacement.^[12] A vacancy committee consisting of members representing the political party holding the vacant seat must conduct an election to appoint a replacement. The person selected to fill the vacant seat must be approved by a majority of the members of the vacancy committee. The committee must submit and certify their selection to the Secretary of State within 30 days of the vacancy. If, within those 30 days, the committee fails to certify a selection, the [governor](#) must select a candidate within five days that meets the appropriate qualifications. The person who is selected to fill the vacancy remains in the seat until the next scheduled general election.^[13]

If the outgoing officeholder was politically unaffiliated, or was a member of a minor-party, nominations to fill the vacancy follow the [nomination procedure](#) for regularly scheduled general elections.

See sources: [Colorado Art. 5, Sec. 2\(3\)](#), [Colorado Rev. Stat. § 1-4-802](#) and [Colorado Rev. Stat. § 1-12-203](#)

Connecticut

If there is a vacancy in the [Connecticut General Assembly](#), a special election must be conducted to fill the vacant seat. The [governor](#) must call for an election no later than 10 days after the vacancy happens. All special elections must be held no later than 46 days after a governor's declaration. If the vacancy occurs between the 125th day and the 49th day before the day of the regular election, the special election will be held on the same day as the general election. If a vacancy occurs after the 49th day before the general election but before the Wednesday following the first Monday of January of the next-succeeding year, the governor shall not call a special election unless the vacant position is that of a member-elect.^[14]

See sources: [Connecticut Gen. Stat. § 9-215](#)

Delaware

If there is a vacancy in the [Delaware General Assembly](#), the presiding officer of the house in which the vacancy happens must call for a special election within 10 days of the creation of the vacancy. The election must be called for no less than 30 days but no more than 35 days after the writ for the special election has been issued. The governor may issue a writ if the legislature is not in session.^[15]

See sources: [Delaware Code Ann. tit. 15, § 7101](#)

Florida

If there is a vacancy in the [Florida State Legislature](#), a special election must be called to fill the vacant seat.^[16] The [governor](#) is responsible for calling the election and must consult with the [secretary of state](#) to set the election dates and nominating deadlines.^[17] The person elected to fill the seat serves for the remainder of the unexpired term.^[18]

See sources: [Florida Stat. § 100.101](#)

Georgia

If there is a vacancy in the [Georgia General Assembly](#), the vacant seat must be filled by a special election. If the vacancy occurs during a legislative session, the [governor](#) must declare a special election no later than 10 days after the vacancy happens. If the vacancy occurs after the regular legislative session held during the first year of the term of office for members, the governor may order a special election at any time but no later than 60 days before the November general election. If the vacancy occurs between 60 days before the November general election and the next legislative session, the governor is required to order a special election within 10 days.^[19]

The special election must be held no less than 30 days and no later than 60 days after the governor calls for the election. The counties representing the vacant district are responsible for conducting the election.^[19]

See sources: [Georgia Code § 21-2-544](#)

Hawaii

If there is a vacancy in the [Hawaii State Legislature](#) for a term that ends at the next general election, the [governor](#) is responsible for appointing a replacement. The governor must appoint a replacement within 60 days after the vacancy happens. The candidate is selected from a list of three prospective candidates submitted by the political party that last held the vacant seat. The party has thirty days after the vacancy to submit a list of prospective candidates. If the person leaving the seat is an independent (no party affiliation), the governor must select a resident from the vacant district that is not a member of any political party.^{[20][21]}

In the event of a vacancy for a term that does not end at the next general election, the vacancy shall be filled by a special election at the next general election or by appointment. If the vacancy occurs no later than the 10th day before the close of filing for the next succeeding primary election, the unexpired term will be filled during the subsequent general election. If the vacancy occurs after the 60th day before the next succeeding primary but no later than the 50th day before the next succeeding general election, the unexpired term will be filled during the subsequent general election. The chief election officer shall issue a proclamation of the special election. If the vacancy occurs after the fiftieth day before the next succeeding general election, the governor is required to make an appointment to fill the unexpired term. The appointee will be selected from a list of three prospective candidates submitted by the political party that last held the vacant seat.^[20]

 See sources: [Hawaii Const. Art. 3, Sec. 5](#), [Hawaii Rev. Stat. §17-3](#), and [Hawaii Rev. Stat. §17-4](#)

Idaho

If there is a vacancy in the [Idaho State Legislature](#), the [governor](#) is responsible for appointing a replacement.

The political party committee that last held the vacant seat has 15 days after the vacancy occurs to submit a list of three recommended candidates to the governor. The governor makes the selection based on the recommendations.

If any party committee fails to submit a list of recommended candidates after the 15-day deadline, the governor has five days to appoint a person from the political party that last held the seat. The person appointed to the seat serves for the remainder of the unfilled term.^[22]

 See sources: [Idaho Code §59-904A](#)

Illinois

If there is a vacancy in the [Illinois General Assembly](#), the [state constitution](#) mandates that the seat must be filled by appointment when allowed by law. The appointment must be made within 30 days after the vacancy. If a vacancy occurs in the [Senate](#) with more than twenty-eight months remaining in the term, the appointment is interim until the next general election, when a special election must be held. All other [House](#) and [Senate](#) vacancies are to be filled by an appointment from the same political party that last held the seat.^[23] If the vacated seat was held by an independent (no party affiliation), the [governor](#) is to appoint an independent successor within 30 days.^[24]

The vacancy must be filled by the respective party organizations covering the legislative district.^[25] The respective committeemen and committeewomen representing the legislative district must vote on a replacement.^[26] The person selected for the seat serves for the remainder of the unfilled term.^[27]

 See sources: [Illinois Const. Art. 4, Sec. 2\(d\)](#) and [Illinois Rev. Stat. ch. 10, § 5/25-6](#)

Indiana

If there is a vacancy in the [Indiana General Assembly](#), the state committee of the party that last held the seat must appoint a replacement. This is contingent upon the approval of the respective state chairperson of the party. Any vacant seat held by an independent must be filled by a special election.^[28]

 See sources: [Indiana Code §3-13-5-0.1](#)

Iowa

If there is a vacancy in the [Iowa General Assembly](#), the vacant seat must be filled by a special election. The [governor of Iowa](#) is required within five days of a vacancy in the [General Assembly](#) to call for a special election. If the vacancy happens in session or within 45 days of the session convening, the governor must call for an election as soon as possible with at least an 18-day notice. All other special elections require a 40-day notice as long as the election does not happen on the same day as a school election within the district.^[29]

 See sources: [Iowa Code § 69.14](#)

Kansas

If there is a vacancy in the [Kansas State Legislature](#), the [governor](#) is responsible for appointing a replacement, and a special election is held if the vacancy occurs before May 1 of the second year of the officeholder's term. If the vacancy occurs after or on May 1 of the officeholder's second year, the governor is responsible for appointing a replacement, and that person serves out the rest of the term.^{[30][31][32]}

 See sources: [Kansas Stat. Ann. §25-3903](#) and [Kansas Stat. Ann. §25-312](#)

Kentucky

If there is a vacancy in the [Kentucky General Assembly](#), a special election must be held to fill the vacant seat. The [governor](#) must call for an election if the General Assembly is not in session. The presiding officer in the house where the vacancy happened must call for an election if lawmakers are in session.^[33] All nominating petitions must be filed at least 49 days before the election.^[34]

 See sources: [Kentucky Rev. Stat. § 118.730-§118.770](#)

Louisiana

If there is a vacancy in the [Louisiana State Legislature](#), the vacant seat must be filled by a special election. An election is required if there are six months or more left in the unexpired term. The presiding officer in the house where the vacancy happened must call for an election no later than 10 days after the vacancy occurred. The presiding officer must determine the dates for the election along with all filing deadlines. The person elected to the seat serves for the remainder of the unexpired term.^[35]

 See sources: [Louisiana Rev. Stat. Ann. § 18:601](#)

Maine

If there is a vacancy in the [Maine State Legislature](#), a special election must be held to fill the vacant seat.^{[36][37]} The [governor](#) must call for an election and inform political committees of the nomination deadline.^{[38][36][37]} The person elected to the seat serves for the remainder of the unexpired term.^[39]

 See sources: [Maine Rev. Stat. Ann. tit. 21-A, § 382](#) [Maine Rev. Stat. Ann. tit. 21-A, § 366](#) and [Maine Rev. Stat. Ann. tit. 21-A, § 381](#)

Maryland

If there is a vacancy in the [Maryland General Assembly](#), the [governor](#) is responsible for appointing a replacement.^[40]

The governor makes an appointment based on the recommendations of the political party committee that holds the vacant seat. The political party committee has up to 30 days after the vacancy to submit a list of recommended candidates to the governor. If the party committee fails to act by the 30-day deadline, or if the former officeholder was not affiliated with any party, the governor has 15 days to appoint a person from the political party that last held the seat.^[41]

The person appointed to the seat serves for the remainder of the unfilled term.^[42]

 See sources: [Maryland Const. Art. 3, Sec. 13](#)

Massachusetts

If there is a vacancy in the [Massachusetts General Court](#), a special election must be conducted to fill the vacant seat. The election must be held on the next regularly scheduled date on the election calendar.^[43] Local governments that conduct special elections can receive reimbursement from the state treasurer's office for costs incurred.^{[44][45]}

 See sources: [Massachusetts Gen. Laws Ann. ch. 54, § 141](#) and [Massachusetts Const. Amend. Art. 24](#)

Michigan

If there is a vacancy in the [Michigan State Legislature](#), the [governor](#) must call for a special election to fill the vacancy or direct that the vacancy be filled at the next general election.^{[46][47]}

If the vacancy happens after the statewide primary election, the party organizations in the district select the party's nominee. The nominee must be voted on no later than 21 days after the vacancy occurred and at least 10 days before the general election.^[48]

 See sources: [Michigan Const. Art. 5, § 13](#)

Minnesota

Vacancies in the [Minnesota State Legislature](#) are filled through election. If there are more than 150 days before the next state general election, and the legislature will not be in session before the results are canvassed, then any vacancy is filled at the next state general election.^{[49][50]}

If the vacancy happens during the legislative session, the [governor](#) has five days to issue a writ calling for a special election. The election must take place no more than 35 days after the issuance of the writ. If the legislature is out of session and there are fewer than 150 days before the next state general election, the governor must call for a special election so the winner of the election can take office when the legislature reconvenes.^{[50][51]}

 See sources: [Minnesota Cons. Art. 4, § 4](#) and [Minnesota Stat. § 204D.19](#)

Mississippi

If there is a vacancy in the [Mississippi State Legislature](#), a special election is required to fill the vacant seat. The [governor](#) must call for an election no later than 30 days after the vacancy happened. After the governor sets the election date, the counties conducting the election must be given at least 60 days' notice before the election. All qualifying deadlines are 50 days before the election.^[52]

The governor can choose not to issue a writ of election if the vacancy occurs in the same calendar year as the general election for state officials.^[52]

 See sources: [Mississippi Code Ann. § 23-15-851](#)

Missouri

If there is a vacancy in the [Missouri General Assembly](#), the [governor of Missouri](#) must call for a special election without delay. The election mandate is sent to the county or counties in the legislative district.^[53]

 See sources: [Missouri Cons. Art. III, § 14](#) and [Missouri Rev. Stat. tit. III Ch. 21 § 110](#)

Montana

If there is a vacancy in the [Montana State Legislature](#), the board of county commissioners of the county that comprises the legislative district of the vacant seat must select a replacement. The [secretary of state](#) must notify the board of county commissioners and the state party that holds the vacant seat no later than seven days after being informed of the vacancy. The county central committee has 45 days after receiving notice from the secretary of state to provide a list of candidates to the board of county commissioners. The board must select a replacement no later than 15 days after receiving the list of candidates. If the legislature is in session, the selection must be made no later than five days after receiving a candidate list.^[54] Any person selected to fill a [House](#) seat serves for the remainder of the unfilled term. Any person selected to fill a [Senate](#) seat serves until the next scheduled general election.^[55]

 See sources: [Montana Const. Art. 5, Sec 7](#) and [Montana Code Ann. § 5-2-402](#)

Nebraska

If there is a vacancy in the [Nebraska State Legislature](#), the [governor](#) is responsible for appointing a replacement. If the vacancy occurs after May 1 of the official's second year in office, the replacement must serve the remainder of the unexpired term. If the vacancy happens before that date, the replacement serves the remainder of the unfilled term before the next general election when a new representative is elected.^[56]

 See sources: [Nebraska Rev. Stat. § 32-566](#)

Nevada

If there is a vacancy in the [Nevada State Legislature](#), the board of county commissioners in the county representing the seat must decide on a replacement. The board of county commissioners must select a person from the same political party that last held the seat when making its decision. If the vacancy happens before the next legislative session and an election for county officers is scheduled, no replacement is named.^[57]

 See sources: [Nevada Const. Art. 4, Sec. 12](#)

New Hampshire

If there is a vacancy in the [New Hampshire General Court](#), a special election must be held to fill the vacant seat. The [governor](#) and executive council must call a special election within 21 days of receiving proof of a vacancy or a request that a vacancy be filled.^{[58][59][60]}

 See sources: [New Hampshire Cons. Part II, Articles 16 and 34](#) and [New Hampshire Rev. Stat. Ann. § 661:8](#)

New Jersey

If there is a vacancy in the [New Jersey State Legislature](#), the vacancy will be filled by an interim appointment by the county leadership of the political party that holds the seat. The office will be on the ballot in the next general election, unless the vacancy occurs within 51 days of the election. If that is the case, the appointment would stand until the following general election.^{[61][62]}

 See sources: [New Jersey Const., Art. IV, Sec. IV\(1\)](#)

New Mexico

If there is a vacancy in the [New Mexico State Legislature](#), the board of county commissioners is responsible for filling the vacancy. There are no deadlines set by [Article IV, Section 4](#) of the [New Mexico Constitution](#), which governs legislative vacancies. If the legislative district spans more than one county, the boards of county commissioners each submit one name to the governor, who appoints a candidate from the list.^[63] The appointed replacement serves for the remainder of the unfilled term.^[64]

 See sources: [New Mexico Const. Art. 4, Sec. 4](#)

New York

If there is a vacancy in the [New York Legislature](#), a special election must be held to fill the vacant seat. A special election can be held as long as the vacancy occurred before April 1 of the last year of the former officeholder's term. If a special session is called in the state legislature after this date, a special election may be called to fill the seat.^[65] The person elected to fill the vacant seat serves for the remainder of the unexpired term.^[66]

 See sources: [New York Public Officers Law § 42](#)

North Carolina

If there is a vacancy in the [General Assembly of North Carolina](#), the [governor](#) is responsible for appointing a replacement.^{[67][68]}

When making an appointment, the governor must make a decision from a list of recommended candidates submitted by the political party committee that last held the vacant seat.^[69] The appointment must be made within seven days of receiving a list of recommended candidates.^[68] The person selected to the seat serves for the remainder of the unfilled term.^[68]

 See sources: [North Carolina Const. Art. 2, Sec. 10](#) and [North Carolina Gen. Stat. § 163-11](#)

North Dakota

If there is a vacancy in the [North Dakota State Legislature](#), the vacancy is filled by the district committee of the political party that holds the seat. A replacement must be named within 21 days of the vacancy. The appointed person shall serve until the next general election which is scheduled for at least 94 days after the vacancy occurs. Qualified electors in a district where a vacancy exists can also petition for a special election to be called by the governor to fill the remaining term.^[70]

 See sources: [North Dakota Cent. Code §44-02-03.1](#)

Ohio

If there is a vacancy in the [Ohio General Assembly](#), the vacancy must be filled by an election conducted by the members of the legislative house where the vacancy happened who are members of the party that last held the seat. A simple majority vote is needed in order to approve a replacement.^[71]

 See sources: [Ohio Const. Art. 2, Sec. 11](#)

Oklahoma

If there is a vacancy in the [Oklahoma State Legislature](#), the [governor](#) must call a special election no later than 30 days after the vacancy occurs. No special election can be called if the vacancy occurs in an even-numbered year and if the term of office will expire in that year. This second provision allows special elections to be held for outgoing senators with two or more years left in their terms.^[72]

If a senator announces his or her resignation before March 1 but the effective date lies between the general election and the new session, a special election can be held on the general election dates. The winner of this election will take office upon the senator's official resignation. This only applies to senators with two or more years remaining in their terms.^[72]

 See sources: [Oklahoma Stat. Ann. tit. 26, § 12-106](#)

Oregon

If there is a vacancy in the [Oregon State Legislature](#), the board of county commissioners representing the vacant seat must select a replacement. This can only be done when the Legislature is in session or when the vacancy happens more than 61 days before the next scheduled general election.^[73] The board must select a person from the political party that last held the vacant seat. The board must consider three to five candidates, nominated by the local county party that last controlled the seat. A replacement must be selected within 30 days of the vacancy. Persons selected to fill vacancies serve until the second Monday in January following the general election.^[74]

 See sources: [Oregon Rev. Stat. §171.051](#)

Pennsylvania

If there is a vacancy in the [Pennsylvania General Assembly](#), a special election must be held to fill the vacant seat. The presiding officer in the house where the vacancy happened must call for an election. There are no deadlines set in the [state constitution](#) on when a special election can be held.^[75]

 See sources: [Pennsylvania Cons. Art. II, §2](#)

Rhode Island

If there is a vacancy in the [Rhode Island General Assembly](#), a special election must be held to fill the vacant seat. The [secretary of state](#) must call for an election to be held anywhere from 70 to 90 days after the vacancy occurred. No election can be held if the vacancy happens after the first Monday in February during an election year. The person elected to fill the seat serves for the remainder of the unfilled term.^[76]

 See sources: [Rhode Island Gen. Laws § 17-3-6](#)

South Carolina

If there is a vacancy in the [South Carolina Legislature](#), the presiding officer of the chamber in which the vacancy happens must call for a special election. If candidates plan to seek the nomination through a political party primary or a political party convention, the filing period begins on the third Friday after the vacancy occurs. The qualifying deadline is eight days after the filing period opens.^[77]

If a candidate plans to seek the nomination via petition, all signatures must be submitted to the appropriate filing officer no later than 60 days before the election. All signatures must be verified by the filing officer no later than 45 days before the election.^[78]

A primary election must be held on the eleventh Tuesday after the vacancy occurs. If necessary, a primary runoff must be held on the thirteenth Tuesday after the vacancy occurs. The special election is held on the twentieth Tuesday after the vacancy occurs. If the twentieth Tuesday after the vacancy occurs is less than 60 days prior to the general election, the special election must be held on the same day as the general election.^{[78][79]}

 See sources: [South Carolina Const. Art. III, § 25](#) and [South Carolina Code Ann. § 7-13-190](#)

South Dakota

If there is a vacancy in the [South Dakota State Legislature](#), the [governor](#) is responsible for appointing a replacement. Under the [state constitution](#), there are no deadlines set in the state constitution requiring when the governor has to fill a vacancy.^[80]

 See sources: [South Dakota Const. Art. 3, Sec. 10](#)

Tennessee

If there is a vacancy in the [Tennessee General Assembly](#), there are two ways a vacancy can be filled. When twelve months or more remain before the next general election, a special election must be held within the allowable time frame set by law. If fewer than twelve months remain before the next general election, members of the legislative body in the county where the vacancy occurred must vote on a replacement.^[81]

 See sources: [Tennessee Const. Art. 2, Sec. 15](#)

Texas

If there is a vacancy in the [Texas State Legislature](#), the [governor](#) must call a special election to fill the vacant seat.^[82] A governor's proclamation to hold a special election must be delivered to county judges in the legislative district no later than 36 days before the scheduled election.^[83]

The [secretary of state](#) can declare a candidate duly elected in a special election if there is no opposition.^[84]

 See sources: [Texas Elec. Code § 203.001 et. seq.](#)

Utah

If there is a vacancy in the [Utah State Legislature](#), the [governor](#) is responsible for selecting a replacement. A liaison for the political party that last held the seat must recommend a successor to the governor. A person who is selected to fill a vacant state House seat serves for the remainder of the unfilled term. Interim appointees to state Senate seats serve until the next regular general election.^[85]

If the vacancy happens after the nominating deadline in an election year, but before August 31, a new candidate must file a declaration of candidacy and certificate of nomination in order to be on the ballot. Nominating papers must be filed within 21 days after the vacancy occurs.^[86]

 See sources: [Utah Const. Art. 6, Sec. 13](#) and [Utah Code §20A-1-503](#)

Vermont

If there is a vacancy in the [Vermont General Assembly](#), the [governor](#) must select a replacement to fill the vacant seat.

The governor must select a replacement that will serve for the remainder of the unexpired term. There are no deadlines set by statute on when a vacancy has to be filled.^{[87][89]}

 See sources: [Vermont Const. Chap. 2, Art. 45](#), [Vermont Stat. Ann. tit. 2, §4](#), and [Vermont Stat. Ann. tit. 2, §9](#)

Virginia

If there is a vacancy in the [Virginia General Assembly](#), a special election must be conducted to fill the vacant seat. If the vacancy occurs while the legislature is in session, the presiding officer of the house in which the vacancy happens must call for a special election. If the vacancy occurs while the legislature is in recess, the [governor](#) shall call the special election. Within 30 days of a vacancy, the appropriate officeholder shall issue a writ of election. If an vacancy occurs between December 10 and March 1, the writ must declare the special election date be within 30 days of said vacancy. All special elections must be held promptly. However, no special election can be held if it occurs less than 55 days before any statewide primary or general election or if there are fewer than 75 days remaining in the vacated term.^{[89][90]}

 See sources: [Virginia Code § 24.2-216](#)

Washington

If there is a vacancy in the [Washington State Legislature](#), the board of county commissioners where the vacant seat is located has the responsibility to select a replacement. The county central committee of the political party that last held the seat must submit a list of three candidates to the board of county commissioners representing the vacant district. If the vacancy occurs in the office of a joint senator or joint representative, the state central committee is responsible for submitting the list of three candidates. A selection must be made within 60 days after the vacancy occurred. The person appointed will hold the seat until his or her successor is elected at the next general or special election in November.^[91]

 See sources: [Washington Const. Art. 2, Sec. 15](#)

West Virginia

If there is a vacancy in the [West Virginia State Legislature](#), the [governor](#) must select a replacement to fill the vacant seat.^{[92][93]}

The executive committee of the political party that held the seat before the vacancy can submit a list of three candidates to the governor. The list must be submitted to the governor within 15 days of the vacancy. The governor must make a selection within five days of receiving the list. If the committee does not submit a list within 15 days, the governor must appoint someone of the same political party as the person who left office. The person that is selected to fill the vacancy serves the remainder of the unfilled term.^[93]

See sources: [West Virginia Const. Art. 4, Sec. 7](#) and [West Virginia Code Ann. §3-10-5](#)

Wisconsin

If there is a vacancy in the [Wisconsin State Legislature](#), a special election must be held to fill the vacant seat.^[94] The [governor](#) can call for an election when allowed by law. The election cannot be held after February 1 before a spring general election, unless it is held on the same day of the election, which is the first Tuesday in April. The same requirement applies to any election preceding the fall general election (after August 1), with the exception of elections held on the first Tuesday in November.^[95] Also, all vacancies must be filled quickly as long the vacancy happened before the second Tuesday in May during an election year.^[96]

See sources: [Wisconsin Cons. Art. IV, § 14](#)

Wyoming

If there is a vacancy in the [Wyoming State Legislature](#), the board of county commissioners representing the vacant district must select a replacement. The meeting to pick the candidates should take place no later than 15 days after the state central committee is notified of the vacancy. The state central committee of the political party that last held the seat must submit a list of three candidates to the board of county commissioners. Within five days of receiving the list of three candidates, the board of county commissioners shall appoint one of the candidates to fill the vacancy.^[97]

See sources: [Wyoming Const. Art. 3, Sec. 51](#) and [Wyoming Stat., §22-18-111\(a\)\(iii\)](#)

How nominees are selected for special elections

The table below details how nominees are selected in those states that fill vacancies via special elections.





How nominees are selected for special elections	
State	Selection process
Alabama	Special primary elections are held, but parties are not required to participate in primary elections.
Arkansas	Special election nominees are chosen by a convention of party delegates if the vacancy occurs less than 180 days before the general election. If the vacancy occurs more than 180 days before the general election, the state party committees can decide whether to choose their nominees by holding a special primary election or a convention of delegates.
California	Special primary election.
Connecticut	Nominees are chosen by the political parties; no primaries are allowed.
Delaware	Nominees are chosen by the political parties. Unaffiliated candidates can run by submitting a petition with signatures of at least 1% of voters.
Florida	Special primary election.
Georgia	Special primary election.
Iowa	Nominees are chosen by the political parties.
Kentucky	Nominations are made in accordance with party rules.
Louisiana	Special primary election.
Maine	Nominees are chosen by political party committees. Unaffiliated candidates can join the race by submitting a petition.
Massachusetts	Special primary election.
Michigan	When a vacancy is filled by special election, nominees are selected in a special primary. If the vacancy falls between a regular primary and general election, the governor can choose for the vacancy to be filled at the general election. In that case, nominees are selected by political party committees.
Minnesota	Special primary election. Candidates can also be nominated by petition.
Mississippi	Special primary election.
Missouri	Nominees are chosen by political party committees.

New Hampshire	Special primary election.
New York	Nominees are chosen by political party committees.
Oklahoma	Special primary election.
Pennsylvania	Nominees are chosen by political parties.
Rhode Island	Special primary election.
South Carolina	Special primary election.
Texas	No special primary elections are conducted. Instead, all candidates run in the same special election. A runoff election is held if no candidate meets the vote requirement in special election.
Virginia	Nominees are chosen by political party committees.
Wisconsin	Special primary election (if required).

Historical data on special elections

The average number of special elections per even year between 2011 and 2024 (2012, 2014, 2016, 2018, 2020, 2022, and 2024) was 59, while the average per odd year was 80. The most special elections in a single year during that same time frame was 99, which happened in 2018.

The table below details how many state legislative seats changed parties as the result of a special election between 2011 and 2024. The numbers on the left side of the table reflect how many vacant seats were originally held by each party, while the numbers on the right side of the table show how many vacant seats each party won in special elections.

State legislative special election vacancies and results, 2011-2024								[hide]
Year	Total elections held	Vacancies before elections			Seats held after elections			Net change
		 Democrats	 Republicans	Minor party	 Democrats	 Republicans	Minor party	
2024	52	26	26	0	29	23	0	+3 D, -3 R
2023	53	33	20	0	33	20	0	-
2022	54	36	18	0	36	18	0	-
2021	66	33	33	0	33	33	0	-
2020	59	21	38	0	27	32	0	+6 D, -6 R
2019	77	39	38	0	36	40	1	-3 D, +2 R, +1 I
2018	99	42	57	0	50	49	0	+8 D, -8 R
2017	98	45	53	0	56	42	0	+11 D, -11 R
2016 *	65	37	28	0	39	24	2	+2 D, -4 R
2015 *	89	42	46	1	38	50	1	-4 D, +4 R
2014	40	22	18	0	19	21	0	-3 D, +3 R
2013	84	51	33	0	48	36	0	-3 D, +3 R
2012	46	23	23	0	25	21	0	+2 D, -2 R
2011 *	95	49	45	1	46	48	1	-3 D, +3 R
Averages	70	36	34	N/A	37	33	N/A	N/A

*Please see the year-specific pages for information regarding minor-party candidates.



See also

- [Governor](#)
- [State legislatures](#)
- [State senates](#)
- [State houses](#)
- [State legislative historical elections by year](#)

External links

- [National Conference of State Legislatures: filling legislative vacancies](#)

Footnotes

- [Alaska State Legislature, "Sec. 15.40.320. Condition and time for filling vacancy by appointment," accessed February 8, 2021 \(Statute 15.40.320\)](#)
- [Alabama Legislature, "Code of Alabama," accessed February 5, 2021 \(Section 17-15-1\)](#)
- [Alabama Legislature, "Code of Alabama," accessed February 5, 2021 \(Section 17-15-3\)](#)
- [Arizona Legislature, "Arizona Revised Statutes," accessed February 8, 2021 \(Statute 41.1202 \(A\), Arizona Revised Statutes\)](#)
- [Arizona Legislature, "Arizona Revised Statutes," accessed February 8, 2021 \(Statute 41.1202 \(B\), Arizona Revised Statutes\)](#)

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