

CRS Report for Congress

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Vacancies and Special Elections: 107th Congress

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There were eleven vacancies in the 107th Congress—ten in the House and one in the Senate. Of the ten House vacancies, five were caused by death of these incumbents: Julian Dixon (32nd District of California), Patsy Mink (2nd District of Hawaii), John Joseph Moakley (9th District of Massachusetts), Norman Sisisky (4th District of Virginia), and Floyd Spence (2nd District of South Carolina). Four vacancies were caused by resignation of these incumbents: Bud Shuster (9th District of Pennsylvania), Joe Scarborough (1st District of Florida), Asa Hutchinson (3rd District of Arkansas) and Steve Largent (1st District of Oklahoma). The remaining House vacancy was caused by expulsion of James A. Traficant, Jr., on July 24, 2002. The sole Senate vacancy was caused by the death of Senator Paul Wellstone (of Minnesota) who was killed in a plane crash on October 25, 2002.

Procedure for Filling Vacancies in Congress

Vacancies in Congress occur when a Senator or Representative dies, resigns, declines to serve, or is expelled or excluded by either house. The Constitution requires that vacancies in both houses be filled by special election; but in the case of the Senate, it empowers the state legislatures to provide for temporary appointments to the Senate by the governor until special elections can be scheduled.¹

Senate. Prevailing practice for Senate vacancies is for state governors to fill them by appointment, with the appointee serving until a special election can be held. The winner of the special election then serves for the balance of the term. In the event the seat becomes vacant between the time of a statewide election and the expiration of the term, the appointee usually serves the remainder of the term. Oregon and Wisconsin are the only states that do not provide for gubernatorial appointments; their Senate vacancies can only be filled by election.

House of Representatives. All House vacancies are filled by special election. Scheduling for special elections is largely dependent on the amount of time remaining

¹ For House vacancies, see U.S. Constitution, Article I, Section 2, clause 4, and (2 U.S.C.8). For Senate vacancies, see U.S. Constitution, Article I, Section 3, and Amendment 17, paragraph 2.

before the next regular elections for the House. When a vacancy occurs during the first session of Congress, a special election is always scheduled for the earliest possible time, preferably to coincide with elections regularly scheduled for other purposes in the district.

If, however, a seat becomes vacant within 6 months of the end of a Congress, some states hold a special election for the balance of the congressional term on the same day as the regular election. Winners of special elections in these cases are sometimes not sworn in immediately as Members of the House, Congress having often adjourned *sine die* before election day. They are, however, accorded the status of incumbent Representatives for the purposes of seniority, office selection, and staffing. Other states do not provide for a special election in these circumstances, and the seat remains vacant for the balance of that particular Congress.

For additional information, see CRS Report 97-1009, *House and Senate Vacancies: How Are They Filled?*, by Sula P. Richardson and Thomas H. Neale.

Table 1. Special Elections in the U.S. House of Representatives: 107th Congress (2001-2002)

State-District	Incumbent (party)	Cause and date of vacancy		Candidates (party) (winner in bold type)	Date elected	Date sworn in
		Cause	Date			
AR- 3 rd	Asa Hutchinson (R)	Resigned	Aug. 6, 2001	John Boozman (R) ^a Mike Hathorn (D)	Nov. 20, 2001 ^a	Nov. 29, 2001
CA- 32 nd ^b	Julian C. Dixon (D) ^c	Death	Dec. 8, 2000	Diane E. Watson (D) Donna J. Warren (G) Noel Irwin Hentschel (R) Ezola Foster (Ref)	June 5, 2001	June 7, 2001
FL- 1 st	Joe Scarborough (R)	Resigned	Sept. 5, 2001 ^d	Jeff Miller (R) Steve Briese (D)	Oct. 16, 2001	Oct. 23, 2001
HA	Patsy Mink (D)	Died	Sept. 28, 2002	Ed Case (D) ^e John F. Mink (D)	Nov. 30, 2002	e
MA- 9 th ^e	John Joseph Moakley (D)	Death	May 28, 2001	Stephen F. Lynch (D) JoAnn Sprague (R)	Oct. 16, 2001	Oct. 23, 2001
OH- 17 th	James A. Traficant, Jr. (D)	Expulsion	July 24, 2002	f	f	f
OK- 1 st	Steve Largent (R)	Resigned	Feb. 15, 2002 ^g	John Sullivan (R) Doug Dodd (D) Neil Mavis (I) David Fares (I)	Jan. 8, 2002 ^g	Feb. 27, 2001
PA- 9 th ^h	Bud Shuster (R)	Resigned	Feb. 2, 2001	William (Bill) Shuster (R) ^h H. Scott Conklin (D) Alanna K. Hartzok (G)	May 15, 2001	May 17, 2001
SC- 2 nd	Floyd Spence (R)	Death	Aug. 16, 2001	Addison "Joe" G. Wilson (R) Brent Weaver (D)	Dec. 18, 2001 ⁱ	Dec. 19, 2001
VA- 4 th	Norman Sisisky (D)	Death	Mar. 29, 2001	J. Randy Forbes (R) L. Louise Lucas (D)	June 19, 2001	June 26, 2001

^a In Arkansas, Rep. Asa Hutchinson resigned from the House on Aug. 6, 2001, having been appointed Administrator of the Drug Enforcement Agency (DEA). A special primary election was held on Sept. 25, 2001. Because no candidate received 50% of the votes, a runoff primary was held on Oct. 16, 2001, between Republican candidates John Boozman and Gunner DeLay and Democratic candidates Mike Hathorn and Jo Ellen Carson. In the special general election held on Nov. 20, 2001, John Boozman defeated Mike Hathorn.

^b In California, for the special open primary election, which was held on Apr. 10, 2001, the names of 16 candidates (regardless of party) appeared on a single ballot and voters could choose any party candidate. A candidate who received a majority of the votes would have been elected to the office. Because no candidate received a majority of the votes, a special runoff general election was held on June 5, 2001, and the name of the top vote-getter from each party in the Apr. 10, 2001 election was on the June 5, 2001 ballot.

^c Rep. Dixon died before the commencement of the 107th Congress, to which he had been reelected.

^d In Florida, Rep. Joe Scarborough resigned from the House effective close of business on Sept. 5, 2001. Steve Briese (D) and Jeff Miller (R) competed in a special general election on Oct. 16, 2001.

^e In Hawaii, for the special election which was held on Nov. 30, 2002, the candidates were John F. Mink (husband of the late Rep. Patsy Mink) and thirty-seven other persons: Whitney T. Anderson (R), John L. Baker (D), Walter R. Barnes (R), Paul Britos (D), John S. Carroll, Ed Case (D), Brian G. Cole (D), Dan A. Cole (N), Chas Collins (D), Joe Conner (R), Lawrence (Lehr) DuQuesnes (L),, Doug Fairhurst (R), Michael Gagne (D), Carolyn Martinez Golojuch (R), G. (limz) Goodwin (G), Richard H. Haake (R), S.J. Harlan (N), Lillian Lai Lam Wang Hong (N), Ron (Whodaguy) Jacobs (N), Kekoa D. Kaapu (D), Kimo Kaloi (R), Jeff Mallan (L), Robert M. Martin Jr. (N), John Mayer (N), Mark McNett (N), Soloman Naluai (D), Nick Mikhilanada (G), John Parker (N), Joseph (Papa Joe) Payne (R), John (Jack) Randall (N), Mike Rethman (N), Art P. Reyes (D), Clifford P. Rhodes (R), Bill Russell (N), Bob Schieve (R), Steve Tataii (D), and Timmy Yuen (R). The winner of the election—Ed Case—served for the remainder of 107th Congress but was not sworn in, as Congress was not in session. The late Rep. Patsy Mink’s name remained on the general election ballot for the 108th Congress, and she was re-elected posthumously to the 108th Congress. Mr. Case was also elected in the special election (held on Jan. 4, 2003) to fill that vacancy.

^f In Massachusetts, a special primary election was held on Sept. 11, 2001. Stephen F. Lynch (D) and JoAnn Sprague (R) competed in a special general election on Oct. 16, 2001.

^g In Ohio, Rep. Traficant was expelled from the House (pursuant to H. Res. 495) on July 24, 2002. The seat formerly held by Mr. Traficant remained vacant for the remainder of the 107th Congress.

^h In Oklahoma, John Sullivan was elected on Jan. 8, 2002 in anticipation of the vacancy caused by the resignation of Rep. Steve Largent, effective Feb. 15, 2002.

ⁱ In Pennsylvania, Bill Shuster was elected to fill the vacancy caused by the resignation of his father, Bud Shuster, and took his seat on May 17, 2001.

^j In South Carolina, a special primary election was held on Oct. 30, 2001 and a special general election was held on Dec. 18, 2001 to fill the vacancy caused by the death of Rep. Floyd Spence.

Key to Abbreviations for Party Affiliation:

- D Democrat
- F Free Energy
- G Green
- L Libertarian
- NL Natural Law
- N Nonpartisan
- NS Nonpartisan Special
- I Independent
- R Republican
- Ref Reform

Table 2. Vacancies, Appointments, and Special Elections in the U.S. Senate: 107th Congress (2001-1002)

State	Incumbent (party)	Cause and date of vacancy		Successor (party)	Date appointed or elected	Date sworn in
		Cause	Date			
MN	Paul Wellstone (D)	Death	Oct. 25, 2002	Dean Barkley (I)	Nov. 4, 2002 ^a	Nov. 12, 2002

^a In Minnesota, Senator Paul Wellstone was killed in a plane crash on October 25, 2002. (Senator Wellstone's term would have expired on Jan. 3, 2003. He was however, running for reelection and if successful would have been elected to the 6-year term which began on Jan. 3, 2003.) On November 4, 2002, Governor Jesse Ventura appointed Dean Barkley (I) to fill the unexpired term of the late Sen. Wellstone (107th Congress). On November 5, 2002, Norm Coleman (R) was elected to represent Minnesota for the 6-year term that would begin on Jan. 3, 2003 (108th Congress).