

Special Election: Frequently Asked Questions

Prepared by the Office of the Lieutenant Governor

Special Election Frequently Asked Questions

In responding to the pending vacancy in the U.S. House of Representatives created by Congressman Jason Chaffetz's announced resignation, the focus of the Elections Office has been to ensure that the voters in Utah's Third Congressional District are fully able to participate in the electoral process, while providing a timely and orderly election. The following document helps to answer some of the more frequently asked questions about the upcoming special election to fill this vacancy.

When is the special election?

The Republican Special Primary Election will be held on Tuesday, August 15, 2017, the same day as the Municipal Primary Election. No other political parties will hold a primary election.

The Special General Election will be held on Tuesday, November 7, 2017, the same day as the Municipal General Election. This election will allow voters to cast a vote for affiliated, unaffiliated, and write in candidates.

Why is there a need for a special election?

On May 18, 2017, Congressman Jason Chaffetz, who represents Utah's 3rd Congressional District submitted a [letter](#) to Governor Gary R. Herbert stating he will resign from the U.S. House of Representatives effective June 30, 2017.

The Constitution of the United States requires governors to call a special election to fill such vacancies.

This is the first time in Utah's history in which a member of Congress will resign from office. The last vacancy in a Utah congressional office occurred in 1929, when Elmer O. Leatherwood passed away. Leatherwood's office remained vacant for 10 months before a special election filled his vacancy.

How do I register to vote?

There are three ways you can register to vote:

1. If you have a valid Utah driver license, you can [register to vote online](#). You must do this at least 7 days before the primary or general election.
2. You can register in person at your county clerk's office. You must do this at least 7 days before the primary or general election.
3. You can [print and complete a voter registration form](#) and submit it to your county clerk. You must do this at least 30 days before the primary or general election.

What if I won't be in town? How do I obtain a by-mail ballot?

Salt Lake, Utah, Wasatch, Grand and San Juan counties will be conducting the election entirely by mail. If you live in one of these counties, you can expect to receive your ballot approximately 21 days prior to the election.

Carbon and Emery counties will be conducting their election through traditional polling locations. If you will be out of town during the election, there are three ways you can request a by-mail ballot for your out-of-town address. Note that you must request a by-mail ballot by the Thursday before the election.

1. If you have a valid Utah driver license, you can [request a by-mail ballot online](#).
2. You can request a by-mail ballot at your county clerk's office.
3. You can print and complete a [by-mail ballot request form](#) and then send it to your county clerk.

Who can participate in the special primary election?

Because this special primary election is to allow the Republican Party to select its nominee, only registered Republican voters will be allowed to participate. Voters who are not affiliated with the Republican Party but who wish to participate in the Primary Election must affiliate with the Republican Party by submitting a new voter registration by July 17, 2017.

Voters who are not affiliated with a political party (unaffiliated voters) may affiliate at the polls on Election Day.

Who calls a special election to fill a vacancy in the U.S. House of Representatives?

U.S. Constitution Article 1, Section 2 requires the governor to issue a writ of election.

Utah Code §20A-1-502 requires the governor to issue a proclamation calling an election.

Who establishes procedures for a special election to fill a U.S. House of Representatives vacancy?

The Utah State Legislature has, through statute, designated the Lieutenant Governor as the state's chief election officer (Utah Code §67-1a-2 and §20A-2-300.6), with direct supervisory authority over federal multi-county elections (Utah Code §67-1a-2).

What role does the legislature play in a special election?

The U.S. Constitution gives the state legislature the authority to set the "time, place and manner" of all elections. The current special election law for a congressional vacancy in Utah, duly passed by the Utah Legislature, exercises that authority by directing the Governor to issue a proclamation calling a special election. That statute does not outline a more detailed procedure. The legislature opted to give the executive branch latitude in these rare special elections, presumably because such special elections are rare and can come about in very unique times and circumstances.

Some have suggested that the legislature should add greater specificity to the special election statute. That is their prerogative. In fact, during the 2017 legislative session, some lawmakers attempted to legislate more detailed procedures for special elections. That legislation, however, did not pass and the original special election statute directing the governor to issue a proclamation remains unchanged.

Furthermore, because of the interest in this congressional seat and potential candidacy of several members of the state legislature, the Governor decided it would in the best interest for the voters to follow the regular general election process, which include conventions, signature gathering, and particularly a primary.

Why can't the Governor or the political party occupying the seat simply appoint someone to finish the term?

Every elected office, other than the U.S. House of Representatives, has a procedure for appointing a person from the same party as the vacating officer to complete an unfinished term in office. However, the founders of our nation decided the "People's House" would be treated differently; the U.S. Constitution specifically requires that an election be held to fill a vacancy in the U.S. House of Representatives.

Why did the Governor choose this process?

After receiving Congressman Chaffetz's letter, Governor Herbert issued a [proclamation](#) (which was a combination of a proclamation, writ of election, and executive order) establishing the special general election date as November 7, 2017 and, if necessary, the special primary election date as August 15, 2017. These dates coincide with the scheduled municipal primary and general election dates. Choosing a process and timeframe that coincided with the existing municipal elections was critical to the Governor as it would be less confusing to voters, increase turnout and save significant taxpayer resources.

After receiving the Governor's proclamation, the Lt. Governor, who is the state's chief election officer with direct supervisory authority over federal multi-county elections, issued an [order](#) that set forth the special election process to be identical to a normal general election process with some modifications to certain deadlines.

Are there concerns with beginning the replacement process before Congressman Chaffetz actually leaves office?

Because Chaffetz's resignation does not take effect until June 30, some have questioned whether the Governor and the Lt. Governor may begin the process of filling the vacancy prior to the date of the vacancy.

Across the country, states have, as general practice, begun the election process soon after the announcement of the office holder's resignation but before effective date of the resignation.

For example, since 2001, Louisiana (2013), New York (2009), Maryland (2008), Texas (2003), Oklahoma (2002), and Florida (2001) have all begun the process of filling a U.S. House of Representatives vacancy before the office was vacant.

In fact, Florida and Texas held primaries before the effective date of the resignation. And Oklahoma held its primaries and its general/special election before the actual resignation (although the new representative wasn't sworn in until after the effective time of the resignation). No party challenged the legality of any of these elections.

In order to ensure the people of Utah's Third Congressional District are unrepresented for the shortest time possible, it was important to begin the preliminary aspects of this special election as soon as possible.

Although it was both responsible and prudent to begin the special election process once Congressman Chaffetz announced his intent to resign, Utah has ensured that no voting will occur prior to the effective date of Chaffetz resignation.

What role does the federal government play in this special election?

Ultimately, the U.S. Constitution gives the U.S. House of Representatives the authority to judge "the Elections, Returns and Qualifications of its own Members." Consultation with legal counsel for the U.S. House of Representatives has indicated that the process outlined in the Governor's proclamation/writ of election/executive order is valid and that the U.S. House of Representatives will seat the eventual winner of this special election. Subsequent conversations between Governor Herbert and Speaker of the House Paul Ryan reaffirm the House legal counsel's position.

Additionally, the Lt. Governor's Office reviewed the process of filling the vacancy with the Department of Justice (DOJ) to make sure the process complied with all federal laws and requirements. The DOJ expressed no concerns over the process. In fact, the DOJ expressed appreciation for how the Elections Office has taken care to ensure that this special election process fully protects the rights of voters.

DISCLAIMER: This document is not a substitute for the U.S. Constitution, Utah Constitution, Utah State Code, and it is not intended to be comprehensive or an authoritative statement of law.