

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 313**

Introduced by Lowe, 37.

Read first time January 11, 2023

Committee:

- 1 A BILL FOR AN ACT relating to elections; to amend sections 32-564 and
- 2 32-565, Reissue Revised Statutes of Nebraska, and section 32-405,
- 3 Revised Statutes Cumulative Supplement, 2022; to change provisions
- 4 relating to special elections and filling vacancies; and to repeal
- 5 the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-405, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3 32-405 Any special election under the Election Act shall be held on  
4 the first Tuesday following the second Monday of the selected month  
5 unless otherwise specifically provided. Except as otherwise specifically  
6 provided, no ~~No~~ special election shall be held under the Election Act in  
7 April, May, June, October, November, or December of an even-numbered year  
8 unless it is held in conjunction with the statewide primary or general  
9 election. No special election shall be held under the Election Act in  
10 September of an even-numbered year except as provided in section 32-564  
11 and except for a special election by a political subdivision pursuant to  
12 section 13-519 or 77-3444 to approve a property tax levy or exceed a  
13 property tax levy limitation. A special election for a Class III, IV, or  
14 V school district which is located in whole or in part in a county in  
15 which a city of the primary or metropolitan class is located may be held  
16 in conjunction with the primary or general election for a city of the  
17 primary or metropolitan class which is governed by a home rule charter.

18 Sec. 2. Section 32-564, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 32-564 (1) Except as otherwise provided in subsection (2) of this  
21 section:

22 (a) If a vacancy occurs in the office of Representative in Congress  
23 on or after August 1 in an even-numbered year and prior to the statewide  
24 general election in such year, the Governor shall order a special  
25 election to be held in conjunction with such statewide general election.  
26 The only candidates who may appear on the ballot for such office at such  
27 special election are those who were nominated at the statewide primary  
28 election in such year, those who comply with section 32-616, and those  
29 who comply with section 32-627 to fill a vacancy on the ballot if such a  
30 vacancy exists. The candidate receiving the most votes at such special  
31 election shall serve for the remainder of the vacated term and for the

1 succeeding term of office;

2 (b) If a vacancy occurs in the office of Representative in Congress  
3 on or after the day of the statewide general election and prior to the  
4 end of the term of the office which is vacated, no special election shall  
5 be called; and

6 (c) If a vacancy occurs in such office at any time other than as  
7 described in subdivision (a) or (b) of this subsection, the Governor  
8 shall order a special election to be held not less than seventy-five days  
9 nor more than ~~within~~ ninety days after the vacancy occurs. Such election  
10 shall be held on a Tuesday. Each political party which polled at least  
11 five percent of the entire vote in the district in which the vacancy  
12 occurs may select a candidate following the applicable procedures in  
13 subsection (2) of section 32-627, except that the certificate and filing  
14 fee shall be submitted at least sixty-seven ~~sixty-five~~ days prior to the  
15 day of the election. Any candidate so selected shall have his or her name  
16 placed on the ballot with the appropriate political party designation.  
17 Any other person may have his or her name placed on the ballot without a  
18 political party designation by filing petitions pursuant to sections  
19 32-617 and 32-618 and paying the filing fee as provided by section  
20 32-608, except that the deadline for filing the petitions and paying the  
21 fee shall be sixty-seven ~~sixty-five~~ days prior to the day of the  
22 election. The candidate receiving the most votes at such special election  
23 shall serve for the remainder of the vacated term.

24 (2)(a) If the Speaker of the United States House of Representatives  
25 announces that there are more than one hundred vacancies in the House of  
26 Representatives requiring special elections according to 2 U.S.C. 8, as  
27 such section existed on July 18, 2008, and there is any vacancy in the  
28 office of Representative in Congress representing Nebraska, the Governor  
29 shall issue a writ of election. The writ of election shall specify the  
30 date of a special election to fill such vacancy to be held within forty-  
31 nine days after the Speaker's announcement.

1 (b) The Secretary of State shall notify the chairperson and  
2 secretary of each political party which polled at least five percent of  
3 the entire vote in the district in which the vacancy occurs that the  
4 party may select a candidate following the applicable procedures in  
5 subsection (2) of section 32-627, except that the certificate and filing  
6 fee shall be submitted within seven days after notification by the  
7 Secretary of State. Any candidate so selected shall have his or her name  
8 placed on the ballot with the appropriate political party designation.

9 (c) The ballot for any voter meeting the criteria of section 32-939  
10 shall be transmitted to such voter within fifteen days after the  
11 Speaker's announcement and shall be accepted if received by the election  
12 commissioner or county clerk within forty-five days after transmission to  
13 the voter.

14 (d) The candidate receiving the most votes at such special election  
15 shall serve for the remainder of the vacated term.

16 Sec. 3. Section 32-565, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 32-565 (1) When a vacancy occurs in the representation of the State  
19 of Nebraska in the Senate of the United States, the office shall be  
20 filled by the Governor. The Governor shall appoint a suitable person  
21 possessing the qualifications necessary for senator to fill such vacancy.

22 (2)(a) If the vacancy occurs on or after August 1 ~~sixty days or less~~  
23 prior to a statewide general election and if the term vacated expires on  
24 the following January 3, the appointee shall serve until the following  
25 January 3.

26 (b) If the vacancy occurs on or after August 1 ~~sixty days or less~~  
27 prior to a statewide general election and if the term extends beyond the  
28 following January 3, the appointee shall serve until January 3 following  
29 the second statewide general election next succeeding the vacancy ~~his or~~  
30 ~~her appointment~~ and at such election a senator shall be elected to serve  
31 the unexpired term if any.

1           (c) ~~(3)~~ If the vacancy occurs at any time not described in  
2 subdivision (a) or (b) of this subsection ~~more than sixty days prior to a~~  
3 ~~statewide general election~~, the appointee shall serve until January 3  
4 following the next statewide general election next succeeding the vacancy  
5 and at such election a senator shall be elected to serve the unexpired  
6 term if any.

7           Sec. 4.     Original sections 32-564 and 32-565, Reissue Revised  
8 Statutes of Nebraska, and section 32-405, Revised Statutes Cumulative  
9 Supplement, 2022, are repealed.