

1                   **SPECIAL CONGRESSIONAL ELECTION AMENDMENTS**

2                                   2019 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Daniel McCay**

5                                   House Sponsor: \_\_\_\_\_

---

---

7   **LONG TITLE**

8   **General Description:**

9           This bill amends the Election Code in relation to filling a vacancy in Congress.

10 **Highlighted Provisions:**

11       This bill:

12           ▶ modifies a provision relating to a temporary appointment to fill a vacancy in the  
13 office of United States senator, pending a special election to fill the office;

14           ▶ describes requirements and procedures relating to a special election to fill a vacancy  
15 in the office of United States representative;

16           ▶ establishes different requirements and procedures for a special election described in  
17 this bill based on the nearness of the date of vacancy to the regular primary or  
18 regular general election;

19           ▶ describes when a vacancy occurs in a congressional office;

20           ▶ grants authority to the governor to establish, consistent with the requirements of this  
21 bill, the deadlines, time frames, and procedures relating to a special election  
22 described in this bill; and

23           ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25       None

26 **Other Special Clauses:**

27       This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-1-502**, as enacted by Laws of Utah 1993, Chapter 1

31 ENACTS:

32 **20A-1-502.5**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **20A-1-502** is amended to read:

36 **20A-1-502. Midterm vacancies in office of United States senator.**

37 ~~[(1) When a vacancy occurs for any reason in the office of a representative in~~  
38 ~~Congress, the governor shall issue a proclamation calling an election to fill the vacancy.]~~

39 ~~[(2)(a)]~~ (1) When a vacancy occurs in the office of [U.S. senator, it] United States  
40 senator, the vacancy shall be filled for the unexpired term at the next regular general election.

41 ~~[(b)]~~ (2) The governor shall appoint [a person] an individual nominated by the  
42 Legislature, who is a member of the same political party as the prior officeholder, to serve as  
43 [U.S.] United States senator until the vacancy is filled by election [from one of three persons  
44 nominated by the state central committee of the same political party as the prior officeholder].

45 (3) A vacancy in the office of United States senator does not occur unless the  
46 senator:

47 (a) has left the office; or

48 (b) submits an irrevocable letter of resignation to the governor or the president of the  
49 United States Senate.

50 Section 2. Section **20A-1-502.5** is enacted to read:

51 **20A-1-502.5. Midterm vacancy in office of United States representative.**

52 (1) (a) Except as provided in Subsection (2), when a vacancy occurs in the office of  
53 United States representative, the governor shall, within seven days after the day on which the  
54 vacancy occurs:

55 (i) issue a proclamation calling a special congressional election to fill the vacancy; and

56 (ii) post the proclamation on the lieutenant governor's website.

57 (b) An individual who fills a vacancy under this section shall serve until the end of the  
58 current term for which the vacancy exists.

59 (2) If the vacancy occurs on or after the date of the regular general election, and before  
60 the beginning of the term for the office of United States representative:

61 (a) the governor may not call a special congressional election to fill the vacancy; and

62 (b) the office shall remain vacant for the remainder of the current term.

63 (3) If the vacancy occurs 90 or fewer days before the day of the next regular general  
64 election:

65 (a) the governor shall, in the proclamation described in Subsection (1)(a), set the date  
66 of the special congressional election on the same date as the regular general election; and

67 (b) the same candidate who wins the election for the term beginning on January 1 shall  
68 fill the vacancy for the remainder of the current term or, if the candidate refuses to fill the  
69 vacancy, the office shall remain vacant for the remainder of the current term.

70 (4) If the vacancy occurs on or after the day of the regular primary election and more  
71 than 90 days before the next regular general election:

72 (a) the governor shall, in the proclamation described in Subsection (1)(a), set the date  
73 of the special congressional election no sooner than 90 days after the date of the vacancy and  
74 no later than the date of the regular general election;

75 (b) (i) a candidate who qualifies for placement on the regular general election ballot for  
76 the office of United States representative shall appear as a candidate on the special  
77 congressional election ballot if the candidate files a declaration of candidacy to fill the vacancy  
78 within the later of three days after:

79 (A) the day on which the governor issues the proclamation described in Subsection  
80 (1)(a); or

81 (B) the day of the canvass for the regular primary election; and

82 (ii) if a candidate described in Subsection (4)(b)(i) fails to timely file a declaration of  
83 candidacy to fill the vacancy, the candidate shall be replaced on the special congressional  
84 election ballot using the candidate vacancy procedures described in this part, within deadlines  
85 established by the governor in the proclamation described in Subsection (1)(a); and

86 (c) the candidate who wins the special congressional election shall fill the vacancy for  
87 the remainder of the current term.

88 (5) If the vacancy occurs before the date of the regular primary election, and after the  
89 beginning of a term for the office of United States representative, the governor shall, in the

90 proclamation described in Subsection (1)(a):

91 (a) set the date of the special congressional election to fill the vacancy no sooner than  
92 90 days after the date of the vacancy and no later than 110 days after the date of the vacancy;

93 (b) state that the winner of the election:

94 (i) will be determined in a single election, without a primary election; and

95 (ii) will fill the vacancy for the remainder of the current term;

96 (c) permit each registered political party at least 30 days to select one candidate, in a  
97 manner determined by the registered political party, as the only candidate for the registered  
98 political party;

99 (d) consistent with the requirements of this section, establish the deadlines, time  
100 frames, and procedures for filing a declaration of candidacy for a candidate described in  
101 Subsection (5)(c), giving notice of an election, and other election requirements; and

102 (e) require an election officer to send ballots to military and overseas voters no later  
103 than 45 days before the date of the special congressional election.

104 (6) If, for any reason, a candidate vacancy occurs in a special congressional election at  
105 least one day before the day on which the lieutenant governor certifies the names to be included  
106 on the special congressional election ballot, the registered political party of the candidate shall  
107 certify a replacement candidate to the lieutenant governor before a deadline established by the  
108 lieutenant governor.

109 (7) A vacancy in the office of United States representative does not occur unless the  
110 representative:

111 (a) has left the office; or

112 (b) submits an irrevocable letter of resignation to the governor or to the speaker of the  
113 United States House of Representatives.

114 **Section 3. Effective date.**

115 If approved by two-thirds of all the members elected to each house, this bill takes effect  
116 upon approval by the governor, or the day following the constitutional time limit of Utah  
117 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
118 the date of veto override.