

**CANDIDATE VACANCY FOR FAILURE TO FILE
CAMPAIGN FINANCE INTERIM REPORT**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: _____

LONG TITLE

General Description:

This bill prohibits a political party from filling a candidate vacancy created by failure to file a campaign finance interim report.

Highlighted Provisions:

This bill:

- ▶ prohibits a political party from filling a candidate vacancy created by failure to file a campaign finance interim report; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-501, as last amended by Laws of Utah 2006, Chapter 264

20A-11-206, as last amended by Laws of Utah 2010, Chapter 389

20A-11-305, as last amended by Laws of Utah 2010, Chapter 389

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



28 Section 1. Section **20A-1-501** is amended to read:

29 **20A-1-501. Candidate vacancies -- Procedure for filling.**

30 (1) The state central committee of a political party, for candidates for United States
31 senator, United States representative, governor, lieutenant governor, attorney general, state
32 treasurer, and state auditor, and for legislative candidates whose legislative districts encompass
33 more than one county, and the county central committee of a political party, for all other party
34 candidates seeking an office elected at a regular general election, may certify the name of
35 another candidate to the appropriate election officer if:

36 (a) after the close of the period for filing declarations of candidacy and continuing
37 through the date 15 days before the date of the primary election:

38 (i) only one or two candidates from that party have filed a declaration of candidacy for
39 that office; and

40 (ii) one or both:

41 (A) dies;

42 (B) resigns because of becoming physically or mentally disabled as certified by a
43 physician; or

44 (C) except as provided by Subsection (5), is disqualified by an election officer for
45 improper filing or nominating procedures; or

46 (b) after the close of the primary election and continuing through the date of the voter
47 registration deadline for the general election as established in Section 20A-2-102.5, the party's
48 candidate:

49 (i) dies;

50 (ii) resigns because of becoming physically or mentally disabled as certified by a
51 physician;

52 (iii) except as provided by Subsection (5), is disqualified by an election officer for
53 improper filing or nominating procedures; or

54 (iv) resigns to become a candidate for President or Vice-President of the United States.

55 (2) If no more than two candidates from a political party have filed a declaration of
56 candidacy for an office elected at a regular general election and one resigns to become the party
57 candidate for another position, the state central committee of that political party, for candidates
58 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for

59 legislative candidates whose legislative districts encompass more than one county, and the
60 county central committee of that political party, for all other party candidates, may certify the
61 name of another candidate to the appropriate election officer.

62 (3) Each replacement candidate shall file a declaration of candidacy as required by
63 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

64 (4) A replacement candidate may not be certified for an election during the period
65 beginning on the day after the date of the voter registration deadline and continuing through the
66 date of the election.

67 (5) The state central committee of a political party or a county central committee of a
68 political party may not certify the name of another candidate to replace a candidate who is
69 disqualified for failure to file an interim report under Section 20A-11-206 or 20A-11-305.

70 Section 2. Section **20A-11-206** is amended to read:

71 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

72 (1) (a) If a state office candidate fails to file an interim report due before the regular
73 primary election, on August 31, or before the regular general election, the lieutenant governor
74 shall, after making a reasonable attempt to discover if the report was timely filed:

75 (i) inform the county clerk and other appropriate election officials who:

76 (A) (I) shall, if practicable, remove the name of the candidate from the ballots before
77 the ballots are delivered to voters; or

78 (II) shall, if removing the candidate's name from the ballot is not practicable, inform
79 the voters by any practicable method that the candidate has been disqualified and that votes
80 cast for the candidate will not be counted; and

81 (B) may not count any votes for that candidate; and

82 (ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

83 (b) Any state office candidate who fails to file timely a financial statement required by
84 Section 20A-11-204 is disqualified [~~and the vacancy on the ballot may be filled as provided in~~
85 ~~Section 20A-1-501~~].

86 (c) Notwithstanding Subsections (1)(a) and (1)(b), a state office candidate is not
87 disqualified and the lieutenant governor may not impose a fine if:

88 (i) the candidate timely files the reports required by this section no later than the due
89 date in accordance with Section 20A-11-103;

90 (ii) the reports are completed, detailing accurately and completely the information
91 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
92 and

93 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are
94 corrected in:

- 95 (A) an amended report; or
- 96 (B) the next scheduled report.

97 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
98 governor shall review each filed summary report to ensure that:

99 (i) each state office candidate that is required to file a summary report has filed one;
100 and

101 (ii) each summary report contains the information required by this part.

102 (b) If it appears that any state office candidate has failed to file the summary report
103 required by law, if it appears that a filed summary report does not conform to the law, or if the
104 lieutenant governor has received a written complaint alleging a violation of the law or the
105 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
106 violation or receipt of a written complaint, notify the state office candidate of the violation or
107 written complaint and direct the state office candidate to file a summary report correcting the
108 problem.

109 (c) (i) It is unlawful for any state office candidate to fail to file or amend a summary
110 report within 14 days after receiving notice from the lieutenant governor under this section.

111 (ii) Each state office candidate who violates Subsection (2)(c)(i) is guilty of a class B
112 misdemeanor.

113 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
114 attorney general.

115 Section 3. Section **20A-11-305** is amended to read:

116 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

117 (1) (a) If a legislative office candidate fails to file an interim report due before the
118 regular primary election, on August 31, or before the regular general election, the lieutenant
119 governor shall, after making a reasonable attempt to discover if the report was timely filed:

120 (i) inform the county clerk and other appropriate election officials who:

121 (A) (I) shall, if practicable, remove the name of the candidate from the ballots before
122 the ballots are delivered to voters; or

123 (II) shall, if removing the candidate's name from the ballot is not practicable, inform
124 the voters by any practicable method that the candidate has been disqualified and that votes
125 cast for the candidate will not be counted; and

126 (B) may not count any votes for that candidate; and

127 (ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

128 (b) Any legislative office candidate who fails to file timely a financial statement
129 required by Section 20A-11-303 is disqualified [~~and the vacancy on the ballot may be filled as~~
130 ~~provided in Section 20A-1-501~~].

131 (c) Notwithstanding Subsections (1)(a) and (1)(b), a legislative office candidate is not
132 disqualified and the lieutenant governor may not impose a fine if:

133 (i) the candidate timely files the reports required by this section no later than the due
134 date in accordance with Section 20A-11-103;

135 (ii) the reports are completed, detailing accurately and completely the information
136 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
137 and

138 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are
139 corrected in:

140 (A) an amended report; or

141 (B) the next scheduled report.

142 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
143 governor shall review each filed summary report to ensure that:

144 (i) each legislative office candidate that is required to file a summary report has filed
145 one; and

146 (ii) each summary report contains the information required by this part.

147 (b) If it appears that any legislative office candidate has failed to file the summary
148 report required by law, if it appears that a filed summary report does not conform to the law, or
149 if the lieutenant governor has received a written complaint alleging a violation of the law or the
150 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
151 violation or receipt of a written complaint, notify the legislative office candidate of the

152 violation or written complaint and direct the legislative office candidate to file a summary
153 report correcting the problem.

154 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a
155 summary report within 14 days after receiving notice from the lieutenant governor under this
156 section.

157 (ii) Each legislative office candidate who violates Subsection (2)(c)(i) is guilty of a
158 class B misdemeanor.

159 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
160 attorney general.

Legislative Review Note
as of 1-24-11 1:40 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 239

SHORT TITLE: Candidate Vacancy for Failure to File Campaign Finance Interim Report

SPONSOR: Herrod, C.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.