

1 **SPECIAL CONGRESSIONAL ELECTION AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel McCay**

5 Senate Sponsor: Lincoln Fillmore

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Election Code in relation to a special election to fill a vacancy in
10 Congress.

11 **Highlighted Provisions:**

12 This bill:

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

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

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

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

33

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 vacancy 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.] United States senator, [it]
40 the vacancy shall be filled for the unexpired term at the next regular general election.41 ~~[(b)]~~ (2) The governor shall appoint [a person] ~~to~~ **→** [an individual, nominated by the] one of
41a **three individuals, nominated by the Legislature, who are members of the same** ~~←~~ state
42 political party ~~to~~ **→** [of] as ~~←~~ the prior officeholder, to serve as [U.S.] United States senator until
42a the
43 vacancy is filled by election [~~from one of three persons nominated by the state central~~
44 ~~committee of the same political party as the prior officeholder~~].45 Section 2. Section **20A-1-502.5** is enacted to read:46 **20A-1-502.5. Midterm vacancy in office of United States representative.**47 (1) (a) Except as provided in Subsection (2), when a vacancy occurs in the office of
48 United States representative, the governor shall, within seven days after the day on which the
49 vacancy occurs:50 (i) issue a proclamation calling a special congressional election to fill the vacancy; and51 (ii) post the proclamation on the lieutenant governor's website.52 (b) An individual who fills a vacancy under this section shall serve until the end of the
53 current term for which the vacancy exists.54 (2) If the vacancy occurs on or after the date of the regular general election, and before
55 the beginning of the term for the office of United States representative:56 (a) the governor may not call a special congressional election to fill the vacancy; and57 (b) the office shall remain vacant for the remainder of the current term.58 (3) If the vacancy occurs 90 or fewer days before the day of the next regular general

59 election:

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

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

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

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

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

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

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

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

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

83 (5) If the vacancy occurs before the date of the regular primary election, and after the
84 beginning of a term for the office of United States representative, the governor shall, in the
85 proclamation described in Subsection (1)(a):

86 (a) set the date of the special congressional election to fill the vacancy no sooner than
87 90 days after the date of the vacancy and no later than 110 days after the date of the vacancy;

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

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

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

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

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

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

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

104 Section 3. **Effective date.**

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

Legislative Review Note
Office of Legislative Research and General Counsel