

Senator Daniel McCay proposes the following substitute bill:

ELECTION PROCESS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This bill amends provisions of the Election Code.

Highlighted Provisions:

This bill:

- ▶ modifies the deadline for a political party's central committee to certify a replacement name for a ballot when a candidate vacancy occurs;
- ▶ modifies a provision relating to a temporary appointment to fill a vacancy in the office of United States senator, pending a special election to fill the office;
- ▶ describes requirements and procedures relating to a special election to fill a vacancy in the office of United States representative;
- ▶ establishes different requirements and procedures for a special election described in this bill based on the nearness of the date of vacancy to the regular general election;
- ▶ describes when a vacancy occurs in a congressional office;
- ▶ grants authority to the governor to establish, consistent with the requirements of this bill, the deadlines, time frames, and procedures relating to a special election described in this bill; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **20A-1-501**, as last amended by Laws of Utah 2016, Chapter 16

32 **20A-1-502**, as enacted by Laws of Utah 1993, Chapter 1

33 ENACTS:

34 **20A-1-502.5**, Utah Code Annotated 1953



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

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

38 **20A-1-501. Candidate vacancies -- Procedure for filling.**

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

45 (a) for a registered political party that will have a candidate on a ballot in a primary
46 election, after the close of the period for filing a declaration of candidacy and continuing
47 through the day before the day on which the lieutenant governor provides the list described in
48 Subsection **20A-9-403(4)(a)**:

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

51 (ii) one or both:

52 (A) dies;

53 (B) resigns because of acquiring a physical or mental disability, certified by a
54 physician, that prevents the candidate from continuing the candidacy; or

55 (C) is disqualified by an election officer for improper filing or nominating procedures;

56 (b) for a registered political party that does not have a candidate on the ballot in a

57 primary, but that will have a candidate on the ballot for a general election, after the close of the
58 period for filing a declaration of candidacy and continuing through the day before the day on
59 which the lieutenant governor makes the certification described in Section 20A-5-409, the
60 party's candidate:

61 (i) dies;

62 (ii) resigns because of acquiring a physical or mental disability as certified by a
63 physician;

64 (iii) is disqualified by an election officer for improper filing or nominating procedures;

65 or

66 (iv) resigns to become a candidate for president or vice president of the United States;

67 or

68 (c) for a registered political party with a candidate certified as winning a primary
69 election, after the deadline described in Subsection (1)(a) and continuing through the day
70 before that day on which the lieutenant governor makes the certification described in Section
71 20A-5-409, the party's candidate:

72 (i) dies;

73 (ii) resigns because of acquiring a physical or mental disability as certified by a
74 physician;

75 (iii) is disqualified by an election officer for improper filing or nominating procedures;

76 or

77 (iv) resigns to become a candidate for president or vice president of the United States.

78 (2) If no more than two candidates from a political party have filed a declaration of
79 candidacy for an office elected at a regular general election and one resigns to become the party
80 candidate for another position, the state central committee of that political party, for candidates
81 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for
82 legislative candidates whose legislative districts encompass more than one county, and the
83 county central committee of that political party, for all other party candidates, may certify the
84 name of another candidate to the appropriate election officer.

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

87 (4) (a) The name of a candidate who is certified under Subsection (1)(a) ~~after the~~

88 ~~deadline described in Subsection (1)(a)]~~ may not appear on the primary election ballot[;] if the
 89 central committee makes the certification after the earlier of:

90 (i) 21 days after the day on which an event described in Subsection (1)(a)(ii) occurs; or
 91 (ii) the first Tuesday after the third Saturday in April.

92 (b) The name of a candidate who is certified under Subsection (1)(b) [~~after the deadline~~
 93 ~~described in Subsection (1)(b)]~~ may not appear on the general election ballot[;] if the central
 94 committee makes the certification after the earlier of:

95 (i) 21 days after the day on which an event described in Subsections (1)(b)(i) through
 96 (iv) occurs; or
 97 (ii) August 30.

98 (c) The name of a candidate who is certified under Subsection (1)(c) [~~after the deadline~~
 99 ~~described in Subsection (1)(c)]~~ may not appear on the general election ballot[;] if the central
 100 committee makes the certification after the earlier of:

101 (i) 21 days after the day on which an event described in Subsections (1)(c)(i) through
 102 (iv) occurs; or
 103 (ii) August 30.

104 (5) A political party may not replace a candidate who is disqualified for failure to
 105 timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and
 106 Financial Reporting Requirements, or Section 17-16-6.5.

107 Section 2. Section **20A-1-502** is amended to read:

108 **20A-1-502. Midterm vacancies in office of United States senator.**

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

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

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

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

119 (a) has left the office; or
120 (b) submits an irrevocable letter of resignation to the governor or the president of the
121 United States Senate.

122 Section 3. Section **20A-1-502.5** is enacted to read:

123 **20A-1-502.5. Midterm vacancy in office of United States representative.**

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

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

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

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

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

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

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

135 (3) If the vacancy occurs 96 or fewer days before the day of the next regular general
136 election:

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

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

142 (4) If a vacancy occurs more than 96 days before a regular general election:

143 (a) the governor shall, no later than seven days after the day on which the vacancy
144 occurs:

145 (i) set the date of a primary election and a general election to fill the vacancy;

146 (ii) consistent with the requirements of this section, establish the deadlines, time

147 frames, and procedures for filing a declaration of candidacy to fill the vacancy, giving notice of
148 an election, and other election and campaign finance reporting requirements;

149 (iii) for each registered political party that desires to submit a candidate to fill the

150 vacancy:

151 (A) require the registered political party to submit to the lieutenant governor the names
152 of two members of the registered political party, who timely file a declaration of candidacy to
153 fill the vacancy, before the deadline established under Subsection (4)(a)(ii); or

154 (B) if only one member of the registered political party files a declaration of candidacy,
155 instruct the lieutenant governor to place that member on the congressional special election
156 general election ballot for that registered political party;

157 (iv) for each registered political party that desires to submit a candidate to fill the
158 vacancy:

159 (A) require the registered political party to select the members described in Subsection
160 (4)(a)(iii) at a convention held by the registered political party; and

161 (B) require that only party delegates who reside in the congressional district related to
162 the vacated congressional seat may vote to select the members described in Subsection
163 (4)(a)(iii); and

164 (v) include the dates, deadlines, and other requirements described in Subsection
165 (4)(a)(i) through (iv) in the proclamation described in Subsection (1)(a); and

166 (b) the candidate who wins the general election described in Subsection (4)(a)(i) shall
167 fill the vacancy for the remainder of the term.

168 (5) If, for any reason, a candidate vacancy occurs in a special congressional election at
169 least one day before the day on which the lieutenant governor certifies the names to be included
170 on the special congressional election ballot, the registered political party of the candidate shall
171 certify a replacement candidate to the lieutenant governor before a deadline established by the
172 lieutenant governor.

173 (6) A vacancy in the office of United States representative does not occur unless the
174 representative:

175 (a) has left the office; or

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

178 **Section 4. Effective date.**

179 If approved by two-thirds of all the members elected to each house, this bill takes effect
180 upon approval by the governor, or the day following the constitutional time limit of Utah

181 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
182 the date of veto override.