

SB0123S05 compared with SB0123S04

~~{deleted text}~~ shows text that was in SB0123S04 but was deleted in SB0123S05.

Inserted text shows text that was not in SB0123S04 but was inserted into SB0123S05.

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Senator Daniel McCay proposes the following substitute bill:

ELECTION PROCESS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: John Knotwell

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;~~{and~~
→ ~~modifies the deadline by which an election officer must receive a mail-in ballot. }~~
- ▶ 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

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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:

None

Other Special Clauses:

~~{None}~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

~~{20A-3-306}~~ 20A-1-502, as ~~{last amended}~~ enacted by Laws of Utah ~~{2018}~~ 1993,
Chapter ~~{206}~~ 1

ENACTS:

20A-1-502.5, Utah Code Annotated 1953

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

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

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

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

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

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

(ii) one or both:

(A) dies;

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

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

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

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

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

or

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

or

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

(i) dies;

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

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

or

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

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party

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candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

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

(4) (a) The name of a candidate who is certified under Subsection (1)(a) ~~[after the deadline described in Subsection (1)(a)]~~ may not appear on the primary election ballot[-] if the central committee makes the certification after the earlier of:

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

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

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

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

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

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

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

20A-1-502. Midterm vacancies in office of United States {representative or }senator.

~~[(1) When a vacancy occurs for any reason in the office of a representative in~~

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~~Congress, the governor shall issue a proclamation calling an election to fill the vacancy.]~~

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

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

~~— Section 2}]~~.

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

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or the president of the

United States Senate.

Section 3. Section ~~{20A-3-306}~~ 20A-1-502.5 is ~~{amended}~~ enacted to read:

~~{20A-3-306}~~ 20A-1-502. ~~{ Voting ballot -- Returning ballot}~~ 5. Midterm vacancy in office of United States representative.

(1) (a) Except as provided ~~{by Section 20A-1-308, to vote a mail-in absentee ballot, the absentee voter shall:~~

~~— (i) complete and sign the affidavit on the envelope;~~

~~— (ii) mark the votes on the absentee ballot;~~

~~— (iii) place the voted absentee ballot in the envelope;~~

~~— (iv) securely seal the envelope; and~~

~~— (v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit the envelope in the mail or deliver it in person to the election officer from whom the ballot was obtained.~~

~~— (b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the office of the election officer, the absent voter shall:~~

~~— (i) complete and sign the affidavit on the envelope;~~

~~— (ii) mark the votes on the absent-voter ballot;~~

~~— (iii) place the voted absent-voter ballot in the envelope;~~

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- ~~(iv) securely seal the envelope; and~~
- ~~(v) give the ballot and envelope to the election officer;~~
- ~~(2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:~~
- ~~(a) in the case of an absentee ballot that is voted in person, the ballot is:~~
- ~~(i) applied for and cast in person at the office of the appropriate election officer no later than the Tuesday before election day; or~~
- ~~(ii) submitted on election day at a polling location in the political subdivision where the absentee voter resides;~~
- ~~(b) in the case of an absentee ballot that is submitted by mail, the ballot is:~~
- ~~(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and~~
- ~~(ii) received} in Subsection (2), when a vacancy occurs in the office of {the election officer [before noon on the day of the official canvass following] no later than three} United States representative, the governor shall, within seven days after the day {of the election; or~~
- ~~(c) in the case of a military-overseas ballot, the ballot is submitted in accordance with Section 20A-16-404.~~
- ~~(3) An absentee voter may submit a completed absentee ballot at a polling location in a political subdivision holding the election, if the absentee voter resides in the political subdivision.~~
- ~~(4) An absentee voter may submit an incomplete absentee ballot at a polling location for the voting precinct where the voter resides, request that the ballot be declared spoiled, and vote in person:~~
- on which the vacancy occurs:
- (i) issue a proclamation calling a special congressional election to fill the vacancy; and
- (ii) post the proclamation on the lieutenant governor's website.
- (b) An individual who fills a vacancy under this section shall serve until the end of the current term for which the vacancy exists.
- (2) If the vacancy occurs on or after the date of the regular general election, and before the beginning of the term for the office of United States representative:
- (a) the governor may not call a special congressional election to fill the vacancy; and
- (b) the office shall remain vacant for the remainder of the current term.

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

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

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

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

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

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

(ii) consistent with the requirements of this section, establish the deadlines, time frames, and procedures for filing a declaration of candidacy to fill the vacancy, giving notice of an election, and other election and campaign finance reporting requirements;

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

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

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

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

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

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

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

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

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

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

(a) has left the office; or

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

Section 4. Effective date.

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