

Representative Merrill F. Nelson 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:

▶ allows a registered political party to replace a candidate for congressional office if the candidate resigns to accept an appointment to a federal office;

▶ 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;

▶ 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 or

57 (D) resigns to accept an appointment to a federal office, if the candidate is a candidate
58 for United States senator or United States representative;

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

64 (i) dies;

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

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

68 [or]

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

70 or

71 (v) resigns to accept an appointment to a federal office, if the candidate is a candidate
72 for United States senator or United States representative; or

73 (c) for a registered political party with a candidate certified as winning a primary
74 election, after the deadline described in Subsection (1)(a) and continuing through the day
75 before that day on which the lieutenant governor makes the certification described in Section
76 20A-5-409, the party's candidate:

77 (i) dies;

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

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

81 [or]

82 (iv) resigns to become a candidate for president or vice president of the United
83 States[-]; or

84 (v) resigns to accept an appointment to a federal office, if the candidate is a candidate
85 for United States senator or United States representative.

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

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

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

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

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

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

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

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

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

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

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

116 **20A-1-502. Midterm vacancies in office of United States senator.**

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

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

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

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

127 (a) has left the office; or

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

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

131 **20A-1-502.5. Midterm vacancy in office of United States representative.**

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

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

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

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

139 (2) (a) Except as provided in Subsection (2)(b), if the vacancy occurs on or after the
140 date of the regular general election, and before the beginning of the term for the office of
141 United States representative:

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

143 (ii) the office shall remain vacant for the remainder of the current term.

144 (b) The governor shall comply with Subsection (3) for a vacancy that occurs under
145 Subsection (2)(a) if the individual who vacates the office is certified by the lieutenant governor
146 as the winner of the regular general election described in Subsection (2)(a).

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

149 (i) subject to Subsection (3)(b), set the date of a primary election and a general election

150 to fill the vacancy;

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

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

156 (A) require the registered political party to submit to the lieutenant governor the names
157 of two members of the registered political party, who timely file a declaration of candidacy to
158 fill the vacancy, before the deadline established under Subsection (3)(a)(ii); or

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

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

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

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

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

171 (vi) establish a deadline that is not fewer than seven days after the day on which the
172 vacancy occurs by which a new political party is required to submit signatures under Section
173 [20A-8-103](#) to participate in an election to fill the vacancy.

174 (b) When setting the dates of the primary and general elections under Subsection
175 (3)(a)(i), the governor shall give priority to holding the elections on the dates of other regularly
176 scheduled primary or general elections.

177 (c) The candidate who wins the general election described in Subsection (3)(a)(i) shall
178 fill the vacancy for the remainder of the term.

179 (4) If, for any reason, a candidate vacancy occurs in a special congressional election at
180 least one day before the day on which the lieutenant governor certifies the names to be included

181 on the special congressional election ballot, the registered political party of the candidate shall
182 certify a replacement candidate to the lieutenant governor before a deadline established by the
183 lieutenant governor.

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

186 (a) has left the office; or

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

189 **Section 4. Effective date.**

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