

## SB0123S06 compared with SB0123S05

~~{deleted text}~~ shows text that was in SB0123S05 but was deleted in SB0123S06.

Inserted text shows text that was not in SB0123S05 but was inserted into SB0123S06.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Senator Daniel McCay}~~ Representative Merrill F. Nelson proposes the following substitute bill:

### ELECTION PROCESS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

House Sponsor: ~~{John Knotwell}~~ Merrill F. Nelson

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#### 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

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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:

None

### Other Special Clauses:

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

ENACTS:

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

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*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

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Subsection 20A-9-403(4)(a):

(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;

or

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

(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

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

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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~~

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

(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 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

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(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 senator.**

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

(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-1-502.5** is enacted to read:

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

(1) (a) Except as provided in Subsection (2)(a), when a vacancy occurs in the office of United States representative, the governor shall, within seven days after the day 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~~ (a) Except as provided in Subsection (2)(b), 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

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United States representative:

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

and

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

(b) The governor shall comply with Subsection (3) ~~{If the}~~ for a vacancy ~~that~~ occurs ~~{96 or fewer days before the day of the next}~~ under Subsection (2)(a) if the individual who vacates the office is certified by the lieutenant governor as the winner of the 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}~~2)(a).~~

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

(i) ~~subject to Subsection (3)(b),~~ 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}~~3)(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

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vacancy:

(A) require the registered political party to select the members described in Subsection ~~(4)3~~(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)3~~(a)(iii); ~~and~~

(v) include the dates, deadlines, and other requirements described in Subsection ~~(4)3~~(a)(i) through (iv) in the proclamation described in Subsection (1)(a); and

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

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

~~(b)c) the~~The candidate who wins the general election described in Subsection ~~(4)3~~(a)(i) shall fill the vacancy for the remainder of the term.

~~(5)4) 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)5) 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.

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