

CONGRESSIONAL VACANCIES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 4 absent

General Description:

This bill modifies the Election Code in relation to filling a vacancy in Congress.

Highlighted Provisions:

This bill:

- ▶ 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 senator or 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 dates, 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.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-1-502**, as enacted by Laws of Utah 1993, Chapter 1

31 ENACTS:

32 **20-1-502.5**, Utah Code Annotated 1953



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] Except as provided in Subsections (2) and (3), when a vacancy
40 occurs in the office of [U.S. senator, it shall be filled for the unexpired term at the next regular
41 general election.] United States senator, the governor shall, within seven days after the day on
42 which the vacancy occurs, issue a proclamation calling a special congressional election to fill
43 the vacancy that:

44 (a) sets a date for a primary congressional special election, and a later date for a general
45 congressional special election, on the same day as one of the following elections:

- 46 (i) a municipal primary election;
- 47 (ii) a municipal general election;
- 48 (iii) a presidential primary election;
- 49 (iv) a regular primary election; or
- 50 (v) a regular general election;

51 (b) sets the date of the primary congressional special election on the same day as the
52 next election described in Subsections (1)(a)(i) through (v) that is more than 90 days after the
53 day on which the governor issues the proclamation;

54 (c) sets the date of the general special congressional election on the same day as the
55 next election described in Subsection (1)(a) that is more than 90 days after the primary special
56 congressional election described in Subsection (1)(b);

57 (d) provides each registered political party that is not a qualified political party at least
58 21 days, but no more than 28 days, to select one candidate, in a manner determined by the

59 registered political party, as a candidate for the registered political party;

60 (e) for each qualified political party, provides at least 21 days, but no more than 28
61 days:

62 (i) for the qualified political party to select one candidate, using the convention process
63 described in Section 20A-9-407, as a candidate for the qualified political party; and

64 (ii) for a member of the qualified political party to submit signatures to qualify as a
65 candidate for the qualified political party using the signature-gathering process described in
66 Section 20A-9-408;

67 (f) consistent with the requirements of this section, establishes the deadlines, time
68 frames, and procedures for filing a declaration of candidacy, giving notice of an election, and
69 other election requirements; and

70 (g) requires an election officer to comply with the requirements of Chapter 16,
71 Uniform Military and Overseas Voters Act.

72 (2) (a) The governor may set a date for a primary special congressional election or a
73 general special congressional election on a date other than a date described in Subsection (1)(a)
74 if:

75 (i) on the same day on which the governor issues the proclamation described in
76 Subsection (1) the governor calls a special session for the Legislature to appropriate money to
77 hold the election on a different day; or

78 (ii) if the governor issues the proclamation described in Subsection (1) on or after
79 January 1, but before the end of the general session of the Legislature, and requests in the
80 proclamation described in Subsection (1) that the Legislature appropriate money to hold the
81 election on a different day.

82 (b) If the Legislature does not, under Subsection (2)(a), appropriate money to hold the
83 election on a different day, the proclamation described in Subsection (1) is void and the
84 governor shall, within seven days after the day on which the Legislature declines to appropriate
85 money to hold the election on a different day, issue a proclamation, in accordance with
86 Subsection (1), that sets the special congressional primary and general elections on dates
87 described in Subsections (1)(a)(i) through (v).

88 (3) A special congressional election to fill a vacancy in the office of United States
89 senator will not be held if:

90 (a) the next regular general election that occurs after the day on which the vacancy
91 occurs is the regular general election that occurs immediately before the six-year term for the
92 senate office ends; and

93 (b) the vacancy occurs after August 1 of the year before the regular general election
94 described in Subsection (3)(a).

95 ~~[(b) The governor shall appoint a person to serve as U.S. senator until the vacancy is~~
96 ~~filled by election from one of three persons nominated by the state central committee of the~~
97 ~~same political party as the prior officeholder.]~~

98 (4) (a) The governor shall appoint an individual to temporarily fill a vacancy in the
99 office of United States senator from one of three individuals nominated by the Legislature,
100 each of whom is a member of the political party of which the officeholder was a member at the
101 time the officeholder was elected.

102 (b) The individual appointed under Subsection (4)(a) shall serve as United States
103 senator until the earlier of the day on which:

104 (i) the vacancy is filled by election under Subsection (1) or (2); or

105 (ii) the six-year term for the senate office ends.

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

107 (a) has left the office; or

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

110 Section 2. Section **20-1-502.5** is enacted to read:

111 **20-1-502.5. Midterm vacancy in office of United States representative.**

112 (1) Except as provided in Subsections (2) and (4), when a vacancy occurs in the office
113 of United States representative, the governor shall, within seven days after the day on which the
114 vacancy occurs, issue a proclamation calling a special congressional election to fill the vacancy
115 that:

116 (a) sets a date for a primary congressional special election, and a later date for a general
117 congressional special election, on the same day as one of the following elections:

118 (i) a municipal primary election;

119 (ii) a municipal general election;

120 (iii) a presidential primary election;

121 (iv) a regular primary election; or
122 (v) a regular general election;
123 (b) sets the date of the primary congressional special election on the same day as the
124 next election described in Subsections (1)(a)(i) through (v) that is more than 90 days after the
125 day on which the governor issues the proclamation;
126 (c) sets the date of the general special congressional election on the same day as the
127 next election described in Subsection (1)(a) that is more than 90 days after the primary special
128 congressional election described in Subsection (1)(b);
129 (d) provides each registered political party that is not a qualified political party at least
130 21 days, but no more than 28 days, to select one candidate, in a manner determined by the
131 registered political party, as a candidate for the registered political party;
132 (e) for each qualified political party, provides at least 21 days, but no more than 28
133 days:
134 (i) for the qualified political party to select one candidate, using the convention process
135 described in Section [20A-9-407](#), as a candidate for the qualified political party; and
136 (ii) for a member of the qualified political party to submit signatures to qualify as a
137 candidate for the qualified political party using the signature-gathering process described in
138 Section [20A-9-408](#);
139 (f) consistent with the requirements of this section, establishes the deadlines, time
140 frames, and procedures for filing a declaration of candidacy, giving notice of an election, and
141 other election requirements; and
142 (g) requires an election officer to comply with the requirements of Chapter 16,
143 Uniform Military and Overseas Voters Act.
144 (2) The governor may set a date for a primary special congressional election or a
145 general special congressional election on a date other than a date described in Subsection (1)(a)
146 if:
147 (a) on the same day on which the governor issues the proclamation described in
148 Subsection (1) the governor calls a special session for the Legislature to appropriate money to
149 hold the election on a different day; or
150 (b) if the governor issues the proclamation described in Subsection (1) on or after
151 January 1, but before the end of the general session of the Legislature, and requests in the

152 proclamation described in Subsection (1) that the Legislature appropriate money to hold the
153 election on a different day.

154 (3) If the Legislature does not, under Subsection (2), appropriate money to hold the
155 election on a different day, the proclamation described in Subsection (1) is void and the
156 governor shall, within seven days after the day on which the Legislature declines to appropriate
157 money to hold the election on a different day, issue a proclamation, in accordance with
158 Subsection (1), that sets the special congressional primary and general elections on dates
159 described in Subsections (1)(a)(i) through (v).

160 (4) A special congressional election to fill a vacancy in the office of United States
161 representative will not be held if the vacancy occurs fewer than 180 days before the next
162 regular general election.

163 (5) An individual who fills a vacancy under this section shall serve until the end of the
164 current term in which the vacancy exists.

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

167 (a) has left the office; or

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

170 **Section 3. Effective date.**

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