

**Representative Merrill F. Nelson** proposes the following substitute bill:

**CONGRESSIONAL VACANCIES AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Merrill F. Nelson**

Senate Sponsor: Daniel W. Thatcher

---

---

**LONG TITLE**

**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.

**Utah Code Sections Affected:**



26 AMENDS:

27 **20A-1-502**, as enacted by Laws of Utah 1993, Chapter 1

28 ENACTS:

29 **20-1-502.5**, Utah Code Annotated 1953



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

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

33 **20A-1-502. Midterm vacancy in office of United States senator.**

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

36 ~~[(2)(a)]~~ (1) ~~[When]~~ Except as provided in Subsections (2) and (3), when a vacancy  
37 occurs in the office of [U.S. senator, it shall be filled for the unexpired term at the next regular  
38 general election.] United States senator, the governor shall, within seven days after the day on  
39 which the vacancy occurs, issue a proclamation calling a special congressional election to fill  
40 the vacancy that:

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

- 43 (i) a municipal general election;
- 44 (ii) a presidential primary election;
- 45 (iii) a regular primary election; or
- 46 (iv) a regular general election;

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

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

53 (d) provides each registered political party that is not a qualified political party at least  
54 21 days, but no more than 28 days, to select one candidate, in a manner determined by the  
55 registered political party, as a candidate for the registered political party;

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

57 days:

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

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

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

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

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

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

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

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

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

86 (a) the next regular general election that occurs after the day on which the vacancy  
87 occurs is the regular general election that occurs immediately before the six-year term for the

88 senate office ends; and

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

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

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

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

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

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

102 (5) An individual elected to fill a vacancy under this section shall serve until the end of  
103 the current term in which the vacancy filled by the election occurs.

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

105 (a) has left the office; or

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

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

109 **20-1-502.5. Midterm vacancy in office of United States representative.**

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

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

116 (i) a municipal general election;

117 (ii) a presidential primary election;

118 (iii) a regular primary election; or

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

150 election on a different day.

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

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

160 (5) An individual who fills a vacancy under this section shall serve until the end of the  
161 current term in which the vacancy occurs.

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

164 (a) has left the office; or

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

167 **Section 3. Effective date.**

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