

ELECTION CANDIDATE REPLACEMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses candidate vacancies.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a vacancy;
- ▶ changes the deadline for filling a candidate vacancy;
- ▶ subject to an existing exception, for certain candidate vacancies, permits a political party to replace a candidate regardless of the reason for the vacancy; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2022, Chapters 18, 170

20A-1-501, as last amended by Laws of Utah 2019, Chapter 349

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

Section 1. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

30 (1) "Active voter" means a registered voter who has not been classified as an inactive
31 voter by the county clerk.

32 (2) "Automatic tabulating equipment" means apparatus that automatically examines
33 and counts votes recorded on ballots and tabulates the results.

34 (3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic
35 storage medium, that records an individual voter's vote.

36 (b) "Ballot" does not include a record to tally multiple votes.

37 (4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
38 on the ballot for their approval or rejection including:

39 (a) an opinion question specifically authorized by the Legislature;

40 (b) a constitutional amendment;

41 (c) an initiative;

42 (d) a referendum;

43 (e) a bond proposition;

44 (f) a judicial retention question;

45 (g) an incorporation of a city or town; or

46 (h) any other ballot question specifically authorized by the Legislature.

47 (5) "Bind," "binding," or "bound" means securing more than one piece of paper
48 together using staples or another means in at least three places across the top of the paper in the
49 blank space reserved for securing the paper.

50 (6) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
51 [20A-4-306](#) to canvass election returns.

52 (7) "Bond election" means an election held for the purpose of approving or rejecting
53 the proposed issuance of bonds by a government entity.

54 (8) "Business reply mail envelope" means an envelope that may be mailed free of
55 charge by the sender.

56 (9) "Canvass" means the review of election returns and the official declaration of
57 election results by the board of canvassers.

58 (10) "Canvassing judge" means a poll worker designated to assist in counting ballots at
59 the canvass.

60 (11) "Contracting election officer" means an election officer who enters into a contract
61 or interlocal agreement with a provider election officer.

62 (12) "Convention" means the political party convention at which party officers and
63 delegates are selected.

64 (13) "Counting center" means one or more locations selected by the election officer in
65 charge of the election for the automatic counting of ballots.

66 (14) "Counting judge" means a poll worker designated to count the ballots during
67 election day.

68 (15) "Counting room" means a suitable and convenient private place or room for use
69 by the poll workers and counting judges to count ballots.

70 (16) "County officers" means those county officers that are required by law to be
71 elected.

72 (17) "Date of the election" or "election day" or "day of the election":

73 (a) means the day that is specified in the calendar year as the day that the election
74 occurs; and

75 (b) does not include:

76 (i) deadlines established for voting by mail, military-overseas voting, or emergency
77 voting; or

78 (ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early
79 Voting.

80 (18) "Elected official" means:

81 (a) a person elected to an office under Section [20A-1-303](#) or Chapter 4, Part 6,
82 Municipal Alternate Voting Methods Pilot Project;

83 (b) a person who is considered to be elected to a municipal office in accordance with
84 Subsection [20A-1-206\(1\)\(c\)\(ii\)](#); or

85 (c) a person who is considered to be elected to a local district office in accordance with

86 Subsection [20A-1-206\(3\)\(b\)\(ii\)](#).

87 (19) "Election" means a regular general election, a municipal general election, a
88 statewide special election, a local special election, a regular primary election, a municipal
89 primary election, and a local district election.

90 (20) "Election Assistance Commission" means the commission established by the Help
91 America Vote Act of 2002, Pub. L. No. 107-252.

92 (21) "Election cycle" means the period beginning on the first day persons are eligible to
93 file declarations of candidacy and ending when the canvass is completed.

94 (22) "Election judge" means a poll worker that is assigned to:

- 95 (a) preside over other poll workers at a polling place;
- 96 (b) act as the presiding election judge; or
- 97 (c) serve as a canvassing judge, counting judge, or receiving judge.

98 (23) "Election officer" means:

- 99 (a) the lieutenant governor, for all statewide ballots and elections;
- 100 (b) the county clerk for:
 - 101 (i) a county ballot and election; and
 - 102 (ii) a ballot and election as a provider election officer as provided in Section
- 103 [20A-5-400.1](#) or [20A-5-400.5](#);
- 104 (c) the municipal clerk for:
 - 105 (i) a municipal ballot and election; and
 - 106 (ii) a ballot and election as a provider election officer as provided in Section
- 107 [20A-5-400.1](#) or [20A-5-400.5](#);
- 108 (d) the local district clerk or chief executive officer for:
 - 109 (i) a local district ballot and election; and
 - 110 (ii) a ballot and election as a provider election officer as provided in Section
- 111 [20A-5-400.1](#) or [20A-5-400.5](#); or
- 112 (e) the business administrator or superintendent of a school district for:
 - 113 (i) a school district ballot and election; and

- 114 (ii) a ballot and election as a provider election officer as provided in Section
115 [20A-5-400.1](#) or [20A-5-400.5](#).
- 116 (24) "Election official" means any election officer, election judge, or poll worker.
- 117 (25) "Election results" means:
- 118 (a) for an election other than a bond election, the count of votes cast in the election and
119 the election returns requested by the board of canvassers; or
- 120 (b) for bond elections, the count of those votes cast for and against the bond
121 proposition plus any or all of the election returns that the board of canvassers may request.
- 122 (26) "Election returns" includes the pollbook, the military and overseas absentee voter
123 registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted
124 ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and
125 the total votes cast form.
- 126 (27) "Electronic signature" means an electronic sound, symbol, or process attached to
127 or logically associated with a record and executed or adopted by a person with the intent to sign
128 the record.
- 129 (28) "Inactive voter" means a registered voter who is listed as inactive by a county
130 clerk under Subsection [20A-2-306\(4\)\(c\)\(i\)](#) or (ii).
- 131 (29) "Judicial office" means the office filled by any judicial officer.
- 132 (30) "Judicial officer" means any justice or judge of a court of record or any county
133 court judge.
- 134 (31) "Local district" means a local government entity under Title 17B, Limited Purpose
135 Local Government Entities - Local Districts, and includes a special service district under Title
136 17D, Chapter 1, Special Service District Act.
- 137 (32) "Local district officers" means those local district board members that are required
138 by law to be elected.
- 139 (33) "Local election" means a regular county election, a regular municipal election, a
140 municipal primary election, a local special election, a local district election, and a bond
141 election.

142 (34) "Local political subdivision" means a county, a municipality, a local district, or a
143 local school district.

144 (35) "Local special election" means a special election called by the governing body of a
145 local political subdivision in which all registered voters of the local political subdivision may
146 vote.

147 (36) "Manual ballot" means a paper document produced by an election officer on
148 which an individual records an individual's vote by directly placing a mark on the paper
149 document using a pen or other marking instrument.

150 (37) "Mechanical ballot" means a record, including a paper record, electronic record, or
151 mechanical record, that:

152 (a) is created via electronic or mechanical means; and

153 (b) records an individual voter's vote cast via a method other than an individual directly
154 placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

155 (38) "Municipal executive" means:

156 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

157 (b) the mayor in the council-manager form of government defined in Subsection
158 10-3b-103(7); or

159 (c) the chair of a metro township form of government defined in Section 10-3b-102.

160 (39) "Municipal general election" means the election held in municipalities and, as
161 applicable, local districts on the first Tuesday after the first Monday in November of each
162 odd-numbered year for the purposes established in Section 20A-1-202.

163 (40) "Municipal legislative body" means:

164 (a) the council of the city or town in any form of municipal government; or

165 (b) the council of a metro township.

166 (41) "Municipal office" means an elective office in a municipality.

167 (42) "Municipal officers" means those municipal officers that are required by law to be
168 elected.

169 (43) "Municipal primary election" means an election held to nominate candidates for

170 municipal office.

171 (44) "Municipality" means a city, town, or metro township.

172 (45) "Official ballot" means the ballots distributed by the election officer for voters to
173 record their votes.

174 (46) "Official endorsement" means the information on the ballot that identifies:

175 (a) the ballot as an official ballot;

176 (b) the date of the election; and

177 (c) (i) for a ballot prepared by an election officer other than a county clerk, the
178 facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

179 (ii) for a ballot prepared by a county clerk, the words required by Subsection
180 20A-6-301(1)(b)(iii).

181 (47) "Official register" means the official record furnished to election officials by the
182 election officer that contains the information required by Section 20A-5-401.

183 (48) "Political party" means an organization of registered voters that has qualified to
184 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
185 and Procedures.

186 (49) (a) "Poll worker" means a person assigned by an election official to assist with an
187 election, voting, or counting votes.

188 (b) "Poll worker" includes election judges.

189 (c) "Poll worker" does not include a watcher.

190 (50) "Pollbook" means a record of the names of voters in the order that they appear to
191 cast votes.

192 (51) "Polling place" means a building where voting is conducted.

193 (52) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
194 in which the voter marks the voter's choice.

195 (53) "Presidential Primary Election" means the election established in Chapter 9, Part
196 8, Presidential Primary Election.

197 (54) "Primary convention" means the political party conventions held during the year

198 of the regular general election.

199 (55) "Protective counter" means a separate counter, which cannot be reset, that:

200 (a) is built into a voting machine; and

201 (b) records the total number of movements of the operating lever.

202 (56) "Provider election officer" means an election officer who enters into a contract or
203 interlocal agreement with a contracting election officer to conduct an election for the
204 contracting election officer's local political subdivision in accordance with Section
205 [20A-5-400.1](#).

206 (57) "Provisional ballot" means a ballot voted provisionally by a person:

207 (a) whose name is not listed on the official register at the polling place;

208 (b) whose legal right to vote is challenged as provided in this title; or

209 (c) whose identity was not sufficiently established by a poll worker.

210 (58) "Provisional ballot envelope" means an envelope printed in the form required by
211 Section [20A-6-105](#) that is used to identify provisional ballots and to provide information to
212 verify a person's legal right to vote.

213 (59) (a) "Public figure" means an individual who, due to the individual being
214 considered for, holding, or having held a position of prominence in a public or private capacity,
215 or due to the individual's celebrity status, has an increased risk to the individual's safety.

216 (b) "Public figure" does not include an individual:

217 (i) elected to public office; or

218 (ii) appointed to fill a vacancy in an elected public office.

219 (60) "Qualify" or "qualified" means to take the oath of office and begin performing the
220 duties of the position for which the individual was elected.

221 (61) "Receiving judge" means the poll worker that checks the voter's name in the
222 official register at a polling place and provides the voter with a ballot.

223 (62) "Registration form" means a form by which an individual may register to vote
224 under this title.

225 (63) "Regular ballot" means a ballot that is not a provisional ballot.

226 (64) "Regular general election" means the election held throughout the state on the first
227 Tuesday after the first Monday in November of each even-numbered year for the purposes
228 established in Section 20A-1-201.

229 (65) "Regular primary election" means the election, held on the date specified in
230 Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan
231 local school board positions to advance to the regular general election.

232 (66) "Resident" means a person who resides within a specific voting precinct in Utah.

233 (67) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4),
234 provided to a voter with a manual ballot:

235 (a) into which the voter places the manual ballot after the voter has voted the manual
236 ballot in order to preserve the secrecy of the voter's vote; and

237 (b) that includes the voter affidavit and a place for the voter's signature.

238 (68) "Sample ballot" means a mock ballot similar in form to the official ballot,
239 published as provided in Section 20A-5-405.

240 (69) "Special election" means an election held as authorized by Section 20A-1-203.

241 (70) "Spoiled ballot" means each ballot that:

242 (a) is spoiled by the voter;

243 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

244 (c) lacks the official endorsement.

245 (71) "Statewide special election" means a special election called by the governor or the
246 Legislature in which all registered voters in Utah may vote.

247 (72) "Tabulation system" means a device or system designed for the sole purpose of
248 tabulating votes cast by voters at an election.

249 (73) "Ticket" means a list of:

250 (a) political parties;

251 (b) candidates for an office; or

252 (c) ballot propositions.

253 (74) "Transfer case" means the sealed box used to transport voted ballots to the

254 counting center.

255 (75) "Vacancy" means:

256 (a) except as provided in Subsection (75)(b), the absence of [a person] an individual to
257 serve in [any] a position created by state constitution or state statute, whether that absence
258 occurs because of death, disability, disqualification, resignation, or other cause[-]; or

259 (b) in relation to a candidate for a position created by state constitution or state statute,
260 the removal of a candidate due to the candidate's death, resignation, or disqualification.

261 (76) "Valid voter identification" means:

262 (a) a form of identification that bears the name and photograph of the voter which may
263 include:

264 (i) a currently valid Utah driver license;

265 (ii) a currently valid identification card that is issued by:

266 (A) the state; or

267 (B) a branch, department, or agency of the United States;

268 (iii) a currently valid Utah permit to carry a concealed weapon;

269 (iv) a currently valid United States passport; or

270 (v) a currently valid United States military identification card;

271 (b) one of the following identification cards, whether or not the card includes a
272 photograph of the voter:

273 (i) a valid tribal identification card;

274 (ii) a Bureau of Indian Affairs card; or

275 (iii) a tribal treaty card; or

276 (c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear
277 the name of the voter and provide evidence that the voter resides in the voting precinct, which
278 may include:

279 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
280 election;

281 (ii) a bank or other financial account statement, or a legible copy thereof;

- 282 (iii) a certified birth certificate;
- 283 (iv) a valid social security card;
- 284 (v) a check issued by the state or the federal government or a legible copy thereof;
- 285 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 286 (vii) a currently valid Utah hunting or fishing license;
- 287 (viii) certified naturalization documentation;
- 288 (ix) a currently valid license issued by an authorized agency of the United States;
- 289 (x) a certified copy of court records showing the voter's adoption or name change;
- 290 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 291 (xii) a currently valid identification card issued by:
 - 292 (A) a local government within the state;
 - 293 (B) an employer for an employee; or
 - 294 (C) a college, university, technical school, or professional school located within the
 - 295 state; or
- 296 (xiii) a current Utah vehicle registration.
- 297 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 298 candidate by following the procedures and requirements of this title.
- 299 (78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:
 - 300 (a) mailing the ballot to the location designated in the mailing; or
 - 301 (b) depositing the ballot in a ballot drop box designated by the election officer.
- 302 (79) "Voter" means an individual who:
 - 303 (a) meets the requirements for voting in an election;
 - 304 (b) meets the requirements of election registration;
 - 305 (c) is registered to vote; and
 - 306 (d) is listed in the official register book.
- 307 (80) "Voter registration deadline" means the registration deadline provided in Section
- 308 [20A-2-102.5](#).
- 309 (81) "Voting area" means the area within six feet of the voting booths, voting

310 machines, and ballot box.

311 (82) "Voting booth" means:

312 (a) the space or compartment within a polling place that is provided for the preparation
313 of ballots, including the voting enclosure or curtain; or

314 (b) a voting device that is free standing.

315 (83) "Voting device" means any device provided by an election officer for a voter to
316 vote a mechanical ballot.

317 (84) "Voting precinct" means the smallest geographical voting unit, established under
318 Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

319 (85) "Watcher" means an individual who complies with the requirements described in
320 Section 20A-3a-801 to become a watcher for an election.

321 (86) "Write-in ballot" means a ballot containing any write-in votes.

322 (87) "Write-in vote" means a vote cast for an individual, whose name is not printed on
323 the ballot, in accordance with the procedures established in this title.

324 Section 2. Section 20A-1-501 is amended to read:

325 **20A-1-501. Candidate vacancies -- Procedure for filling.**

326 (1) ~~[The state]~~ As used in this section, "central committee" means:

327 (a) the state central committee of a political party, for ~~[candidates]~~ a candidate for:

328 (i) United States senator, United States representative, governor, lieutenant governor,
329 attorney general, state treasurer, ~~[and]~~ or state auditor~~[-and for];~~ or

330 (ii) ~~[legislative candidates whose]~~ state legislator if the legislative ~~[districts encompass]~~
331 district encompasses all or a portion of more than one county~~[-and];~~ or

332 (b) the county central committee of a political party, for ~~[all other party candidates]~~ a
333 party candidate seeking an office, other than an office described in Subsection (1)(a), elected
334 ~~[at a regular general election,]~~ at an election held in an even-numbered year.

335 (2) Except as provided in Subsection (6), the central committee may certify the name
336 of another candidate to the appropriate election officer if:

337 (a) for a registered political party that will have a candidate on a ballot in a primary

338 election[;]:

339 (i) after the close of the period for filing a declaration of candidacy and continuing
340 through the day before the day on which the lieutenant governor provides the list described in
341 Subsection [20A-9-403\(4\)\(a\)](#)[;]

342 ~~[(i)],~~ only one or two candidates from that party have filed a declaration of candidacy
343 for that office[;] and

344 ~~[(ii)]~~ one or both[;] dies, resigns as a candidate, or is disqualified as a candidate; and
345 ~~[(A) dies;]~~

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

348 ~~[(C) is disqualified by an election officer for improper filing or nominating~~
349 ~~procedures;]~~

350 (ii) the central committee provides written certification of the replacement candidate to
351 the appropriate election officer before the day on which the lieutenant governor provides the
352 list described in Subsection [20A-9-403\(4\)\(a\)](#); and

353 (b) for a registered political party that does not have a candidate on the ballot in a
354 primary, but ~~[that]~~ will have a candidate on the ballot for a regular general election[;]:

355 (i) after the close of the period for filing a declaration of candidacy and continuing
356 through the day before the day on which the lieutenant governor makes the certification
357 described in Section [20A-5-409](#), the party's candidate[;] dies, resigns as a candidate, or is
358 disqualified as a candidate; and

359 ~~[(i) dies;]~~

360 ~~[(ii) resigns because of acquiring a physical or mental disability as certified by a~~
361 ~~physician or physician assistant;]~~

362 ~~[(iii) is disqualified by an election officer for improper filing or nominating procedures;~~
363 ~~or]~~

364 ~~[(iv) resigns to become a candidate for president or vice president of the United States;~~
365 ~~or]~~

366 (ii) the central committee provides written certification of the replacement candidate to
 367 the appropriate election officer before the day on which the lieutenant governor makes the
 368 certification described in Section 20A-5-409; or

369 (c) for a registered political party with a candidate certified as winning a primary
 370 election[;]:

371 (i) after the [deadline described in Subsection (1)(a)] close of the period for filing a
 372 declaration of candidacy and continuing through the day before [that] the day on which the
 373 lieutenant governor makes the certification described in Section 20A-5-409, the party's
 374 candidate[;] dies, resigns as a candidate, or is disqualified as a candidate; and

375 ~~[(i) dies;]~~

376 ~~[(ii) resigns because of acquiring a physical or mental disability as certified by a~~
 377 ~~physician or physician assistant;]~~

378 ~~[(iii) is disqualified by an election officer for improper filing or nominating procedures;~~
 379 ~~or]~~

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

381 (ii) the central committee provides written certification of the replacement candidate to
 382 the appropriate election officer before the day on which the lieutenant governor makes the
 383 certification described in Section 20A-5-409.

384 ~~[(2)] (3) If no more than two candidates from a political party have filed a declaration~~
 385 ~~of candidacy for an office elected at a regular general election and one resigns to become the~~
 386 ~~party candidate for another position, the [state] central committee of that political party[, for~~
 387 ~~candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor,~~
 388 ~~and for legislative candidates whose legislative districts encompass more than one county, and~~
 389 ~~the county central committee of that political party, for all other party candidates;] may certify~~
 390 ~~the name of another candidate to the appropriate election officer.~~

391 ~~[(3)] (4) Each replacement candidate shall file a declaration of candidacy as required~~
 392 ~~by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.~~

393 ~~[(4)] (5) (a) The name of a candidate who is certified under Subsection [(1)(a)] (2)(a)~~

394 after the deadline described in Subsection [~~(1)(a)~~] (2)(a)(ii) may not appear on the primary
395 election ballot.

396 (b) The name of a candidate who is certified under Subsection [~~(1)(b)~~] (2)(b) after the
397 deadline described in Subsection [~~(1)(b)~~] (2)(b)(ii) may not appear on the general election
398 ballot.

399 (c) The name of a candidate who is certified under Subsection [~~(1)(c)~~] (2)(c) after the
400 deadline described in Subsection [~~(1)(c)~~] (2)(c)(ii) may not appear on the general election
401 ballot.

402 [~~(5)~~] (6) A political party may not replace a candidate who is disqualified for failure to
403 timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and
404 Financial Reporting Requirements, or Section 17-16-6.5.

405 (7) This section does not apply to a candidate vacancy for a nonpartisan office.