

## SB0063S01 compared with SB0063

~~text~~ shows text that was in SB0063 but was deleted in SB0063S01.

text shows text that was not in SB0063 but was inserted into SB0063S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

### ELECTION CANDIDATE REPLACEMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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#### 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:

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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

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*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:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.
- (3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.
  - (b) "Ballot" does not include a record to tally multiple votes.
- (4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:
  - (a) an opinion question specifically authorized by the Legislature;
  - (b) a constitutional amendment;
  - (c) an initiative;
  - (d) a referendum;
  - (e) a bond proposition;
  - (f) a judicial retention question;
  - (g) an incorporation of a city or town; or
  - (h) any other ballot question specifically authorized by the Legislature.
- (5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.
- (6) "Board of canvassers" means the entities established by Sections 20A-4-301 and

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20A-4-306 to canvass election returns.

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

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

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

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

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

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

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

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

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

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

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

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

(b) does not include:

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

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

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6,

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Municipal Alternate Voting Methods Pilot Project;

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

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(b)(ii).

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

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

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

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

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

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

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

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

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

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

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

(38) "Municipal executive" means:

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

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

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

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

(40) "Municipal legislative body" means:

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

(b) the council of a metro township.

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

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

(43) "Municipal primary election" means an election held to nominate candidates for municipal office.

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

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

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

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- (a) the ballot as an official ballot;
- (b) the date of the election; and
- (c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or  
(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

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

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

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

(b) "Poll worker" includes election judges.

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

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

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

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

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

(54) "Primary convention" means the political party conventions held during the year of the regular general election.

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

(a) is built into a voting machine; and

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

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

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

- (a) whose name is not listed on the official register at the polling place;
- (b) whose legal right to vote is challenged as provided in this title; or
- (c) whose identity was not sufficiently established by a poll worker.

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

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

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

- (i) elected to public office; or
- (ii) appointed to fill a vacancy in an elected public office.

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

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

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

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

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

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

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

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

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



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

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

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

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

(a) is spoiled by the voter;

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

(c) lacks the official endorsement.

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

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

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means:

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

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

(76) "Valid voter identification" means:

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

(i) a currently valid Utah driver license;

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

(A) the state; or

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

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

(iv) a currently valid United States passport; or

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

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

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

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

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

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

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

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(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

- (a) mailing the ballot to the location designated in the mailing; or
- (b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

- (a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or
- (b) a voting device that is free standing.

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

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

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

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

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

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

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

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

- (a) the state central committee of a political party, for [~~candidates~~] a candidate for:
  - (i) United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, [and] or state auditor[~~-, and for~~]; or

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

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

~~(2) Except as provided in Subsection (6), the central committee 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[;]:~~

~~(i) 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 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 {f}~~

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

~~[(A) dies;]~~

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

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

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

~~(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 regular general election[;]:~~

~~(i) 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[;] dies, resigns as a candidate, or is disqualified as a candidate; and~~

~~[(i) dies;]~~

~~[(ii) resigns because of acquiring a physical or mental disability as certified by a~~

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~~physician or physician assistant;]~~

~~[(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]~~

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

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

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

~~[(i) dies;]~~

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

~~[(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.]~~

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

~~[(2)]~~ (3) 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)]~~ (4) Each replacement candidate shall file a declaration of candidacy as required

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by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

~~[(4)]~~ (5) (a) The name of a candidate who is certified under Subsection ~~[(1)(a)]~~ (2)(a) after the deadline described in Subsection ~~[(1)(a)]~~ (2)(a)(ii) may not appear on the primary election ballot.

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

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

~~[(5)]~~ (6) 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.

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