

Part 5

Candidate Vacancy and Vacancy and Temporary Absence in Elected Office

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 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;
 - (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
 - (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 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.
- (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.
 - (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.
 - (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.
- (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.

Amended by Chapter 16, 2016 General Session

20A-1-502 Midterm vacancies in office of United States representative or 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) When a vacancy occurs in the office of U.S. senator, it shall be filled for the unexpired term at the next regular general election.
 - (b) The governor shall appoint a person to serve as U.S. 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.

Enacted by Chapter 1, 1993 General Session

20A-1-503 Midterm vacancies in the Legislature.

- (1) As used in this section:
 - (a) "Filing deadline" means the final date for filing:
 - (i) a declaration of candidacy as provided in Section 20A-9-202; and
 - (ii) a certificate of nomination as provided in Section 20A-9-503.
 - (b) "Party liaison" means the political party officer designated to serve as a liaison with the lieutenant governor on all matters relating to the political party's relationship with the state as required by Section 20A-8-401.
- (2) When a vacancy occurs for any reason in the office of representative in the Legislature, the governor shall fill the vacancy by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior representative.
- (3)
 - (a) Except as provided by Subsection (5), when a vacancy occurs for any reason in the office of senator in the Legislature, it shall be filled for the unexpired term at the next regular general election.
 - (b) The governor shall fill the vacancy until the next regular general election by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.
- (4)
 - (a) If a vacancy described in Subsection (3)(a) occurs after the filing deadline but before August 31 of an even-numbered year in which the term of office does not expire, the lieutenant governor shall:

- (i) establish a date, which is before the date for a candidate to be certified for the ballot under Section 20A-9-701 and no later than 21 days after the day on which the vacancy occurred, by which a person intending to obtain a position on the ballot for the vacant office shall file:
 - (A) a declaration of candidacy; or
 - (B) a certificate of nomination; and
- (ii) give notice of the vacancy and the date described in Subsection (4)(a)(i):
 - (A) on the lieutenant governor's website; and
 - (B) to each registered political party.
- (b) A person intending to obtain a position on the ballot for the vacant office shall:
 - (i) by the date specified in Subsection (4)(a)(i), file a declaration of candidacy or certificate of nomination according to the procedures and requirements of Chapter 9, Candidate Qualifications and Nominating Procedures; and
 - (ii) run in the regular general election if:
 - (A) nominated as a party candidate; or
 - (B) qualified as an unaffiliated candidate as provided by Chapter 9, Candidate Qualifications and Nominating Procedures.
- (c) If a vacancy described in Subsection (3)(a) occurs on or after the first Monday after the third Saturday in April and before August 31 of an even-numbered year in which the term of office does not expire, a party liaison from each registered political party may submit a name of a person described in Subsection (4)(b) to the lieutenant governor by August 30 for placement on the regular general election ballot.
- (5) If a vacancy described in Subsection (3)(a) occurs on or after August 31 of an even-numbered year in which a term does not expire, the governor shall fill the vacancy for the unexpired term by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

Amended by Chapter 327, 2011 General Session

Amended by Chapter 340, 2011 General Session

20A-1-504 Midterm vacancies in the offices of attorney general, state treasurer, state auditor, State Board of Education member, and lieutenant governor.

- (1)
 - (a) When a vacancy occurs for any reason in the office of attorney general, state treasurer, state auditor, or State Board of Education member, the vacancy shall be filled for the unexpired term at the next regular general election.
 - (b) The governor shall fill the vacancy until the next regular general election by:
 - (i) appointing a person who meets the qualifications for the office from three persons nominated by the state central committee of the same political party as the prior officeholder; or
 - (ii) for a State Board of Education vacancy, if the individual who is being replaced:
 - (A) was elected at a nonpartisan State Board of Education election, by appointing, with the consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103;
 - (B) was elected at a partisan State Board of Education election, but is not a member of a political party, by appointing, with the consent of the Senate, an individual who meets the qualifications and residency requirements for filling the vacancy described in Section 20A-14-103; or
 - (C) was elected at a partisan State Board of Education election, and is a member of a political party, by appointing an individual who meets the qualifications for the office from three

persons nominated by the state central committee of the same political party as the prior officeholder.

- (2) If a vacancy occurs in the office of lieutenant governor, the governor shall, with the consent of the Senate, appoint a person to hold the office until the next regular general election at which the governor stands for election.

Amended by Chapter 19, 2018 General Session

20A-1-506 Vacancy in the office of justice court judge.

- (1) As used in this section:

- (a) "Appointing authority" means:

- (i) for a county:

- (A) the chair of the county commission in a county having the county commission or expanded county commission form of county government; and

- (B) the county executive in a county having the county executive-council form of government; and

- (ii) for a city or town, the mayor of the city or town.

- (b) "Local legislative body" means:

- (i) for a county, the county commission or county council; and

- (ii) for a city or town, the council of the city or town.

- (2)

- (a) If a vacancy occurs in the office of a municipal justice court judge before the completion of the judge's term of office, the appointing authority:

- (i) shall fill the vacancy by following the procedures and requirements for appointments in Section 78A-7-202; and

- (ii) may contract with a justice court judge of the county, an adjacent county, or another municipality within those counties for judicial services until the vacancy is filled.

- (b) The appointing authority shall notify the Administrative Office of the Courts in writing of an appointment of a municipal justice court judge under this section within 30 days after the appointment is made.

- (3)

- (a) If a vacancy occurs in the office of a county justice court judge before the completion of the judge's term of office, the appointing authority shall fill the vacancy by following the procedures and requirements for appointments in Section 78A-7-202.

- (b) The appointing authority shall notify the Administrative Office of the Courts in writing of an appointment of a county justice court judge under this section within 30 days after the appointment is made.

- (4)

- (a) When a vacancy occurs in the office of a justice court judge, the appointing authority shall:

- (i) advertise the vacancy and solicit applications for the vacancy;

- (ii) appoint the best qualified candidate to office based solely upon fitness for office;

- (iii) comply with the procedures and requirements of Title 52, Chapter 3, Prohibiting Employment of Relatives, in making appointments to fill the vacancy; and

- (iv) submit the name of the appointee to the local legislative body.

- (b) If the local legislative body does not confirm the appointment within 30 days of submission, the appointing authority may either appoint another of the applicants or reopen the vacancy by advertisement and solicitations of applications.

Amended by Chapter 25, 2018 General Session

20A-1-508 Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a)

- (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.
- (ii) "County offices" does not include the office of county attorney, district attorney, or judge.
- (b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2)

- (a) Until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily fill the county office as a temporary manager:
 - (i) for a county office with one chief deputy, the chief deputy;
 - (ii) for a county office with more than one chief deputy:
 - (A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or
 - (B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or
 - (iii) for a county office without a chief deputy:
 - (A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;
 - (B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or
 - (C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.
- (b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily fills a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).
- (c) The temporary manager described in Subsection (2)(a) who temporarily fills a county office:
 - (i) may not take an oath of office for the county office as a temporary manager;
 - (ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;
 - (iii) unless approved by the county legislative body, may not change the compensation of an employee;
 - (iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;
 - (v) may terminate an employee only if the termination is conducted in accordance with:

- (A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and
 - (B) applicable law;
 - (vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office that the temporary manager fills was vacated;
 - (vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and
 - (viii) if approved by the county legislative body, may receive a performance award after:
 - (A) the county legislative body appoints an interim replacement under Subsection (3); and
 - (B) the interim replacement is sworn into office.
- (3)
- (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).
 - (b)
 - (i) To appoint an interim replacement, the county legislative body shall give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.
 - (ii) That party liaison shall, within 30 days, submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.
 - (iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person for the interim replacement appoint the person to serve out the unexpired term.
 - (c)
 - (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall send to the governor a letter that:
 - (A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and
 - (B) contains the name of the person to fill the vacancy submitted by the party liaison.
 - (ii) The governor shall appoint the person named by the party liaison as an interim replacement to fill the vacancy within 30 days after receipt of the letter.
 - (d) A person appointed as interim replacement under this Subsection (3) shall hold office until their successor is elected and has qualified.
- (4)
- (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:
 - (i) the vacant office has an unexpired term of two years or more; and
 - (ii) the vacancy occurs after the election at which the person was elected but before April 10 of the next even-numbered year.
 - (b)
 - (i) When the conditions established in Subsection (4)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.
 - (ii) An individual intending to become a candidate for the vacant office shall file a declaration of candidacy in accordance with:
 - (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and
 - (B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate for the vacant office or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, for the vacant office shall run in the regular general election.

- (5)
- (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:
 - (i) the vacant office has an unexpired term of two years or more; and
 - (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75 days before the regular primary election.
 - (b)
 - (i) When the conditions established in Subsection (5)(a) are met, the county clerk shall notify the public and each registered political party that:
 - (A) the vacancy exists; and
 - (B) identifies the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.
 - (ii) An individual intending to become a candidate for a vacant office shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:
 - (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and
 - (B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.
 - (iii) The county central committee of each party shall:
 - (A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and
 - (B) certify the name of the candidate or candidates to the county clerk at least 60 days before the regular primary election.
- (6)
- (a) The requirements of this Subsection (6) apply to all county offices that become vacant:
 - (i) if the vacant office has an unexpired term of two years or more; and
 - (ii) when 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.
 - (b) When the conditions established in Subsection (6)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.
- (7)
- (a) The requirements of this Subsection (7) apply to all county offices that become vacant:
 - (i) if the vacant office has an unexpired term of less than two years; or
 - (ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.
 - (b)
 - (i) When the conditions established in Subsection (7)(a) are met, the county legislative body shall give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.
 - (ii) That party liaison shall, within 30 days, submit the name of the person to fill the vacancy to the county legislative body.
 - (iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person to fill the vacancy appoint the person to serve out the unexpired term.
 - (c)

- (i) If the county legislative body fails to appoint a person to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:
 - (A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and
 - (B) contains the name of the person to fill the vacancy submitted by the party liaison.
- (ii) The governor shall appoint the person named by the party liaison to fill the vacancy within 30 days after receipt of the letter.
- (d) A person appointed to fill the vacancy under this Subsection (7) shall hold office until their successor is elected and has qualified.
- (8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.
- (9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.
- (10)
 - (a) Each person elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.
 - (b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Amended by Chapter 68, 2018 General Session
Amended by Chapter 199, 2018 General Session

20A-1-509 Definitions applicable to Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3.

As used in Sections 20A-1-509.1, 20A-1-509.2, and 20A-1-509.3:

- (1) "County clerk" means:
 - (a) for a single county, the county clerk of that county; and
 - (b) for a prosecution district, the county clerk of the most populous county within the prosecution district.
- (2) "County legislative body" includes each legislative body with the power to participate in the selection of a district attorney as provided in the interlocal prosecution district agreement.

Repealed and Re-enacted by Chapter 139, 1997 General Session

20A-1-509.1 Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

- (1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.
- (2)
 - (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:
 - (i) the vacant office has an unexpired term of two years or more; and
 - (ii) the vacancy occurs before the third Thursday in March of the even-numbered year.
 - (b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.
 - (c) All persons intending to become candidates for the vacant office shall:

- (i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;
 - (ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and
 - (iii) if elected, complete the unexpired term of the person who created the vacancy.
- (d) If the vacancy occurs after the second Friday in March and before the third Thursday in March, the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until seven days after the county clerk gives notice under Subsection (2)(b), but no later than the fourth Thursday in March.
- (3)
- (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:
 - (i) the vacant office has an unexpired term of two years or more; and
 - (ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 days before the regular primary election.
 - (b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:
 - (i) notify the public and each registered political party that the vacancy exists; and
 - (ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.
 - (c) All persons intending to become candidates for the vacant office shall:
 - (i) within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declaration of Candidacy; and
 - (ii) if elected, complete the unexpired term of the person who created the vacancy.
 - (d) The county central committee of each party shall:
 - (i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and
 - (ii) certify the name of the candidate or candidates to the county clerk at least 60 days before the regular primary election.
- (4)
- (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:
 - (i) the vacant office has an unexpired term of two years or more; and
 - (ii) 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.
 - (b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.
 - (c) The candidate elected shall complete the unexpired term of the person who created the vacancy.
- (5)
- (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:
 - (i) the vacant office has an unexpired term of less than two years; or
 - (ii) the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

- (b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political party of the prior officeholder and invite that committee to submit the names of three nominees to fill the vacancy.
 - (c) That county central committee shall, within 30 days of receiving notice from the county legislative body, submit to the county legislative body the names of three nominees to fill the vacancy.
 - (d) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.
 - (e) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:
 - (i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and
 - (ii) contains the list of nominees submitted by the party central committee.
 - (f) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 days after receipt of the letter.
 - (g) A person appointed to fill the vacancy under Subsection (5) shall complete the unexpired term of the person who created the vacancy.
- (6) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Amended by Chapter 297, 2011 General Session

Amended by Chapter 327, 2011 General Session

20A-1-509.2 Procedure for filling vacancy in county or district with fewer than 15 attorneys.

- (1) When a vacancy occurs in the office of county or district attorney, including a vacancy created by the failure of a person to file as a candidate for the office of county or district attorney in an election, in a county or district having fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.
- (2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered voter that:
 - (a) informs the attorney of the vacancy;
 - (b) invites the attorney to apply for the vacancy; and
 - (c) informs the attorney that if the attorney has not responded within 10 calendar days from the date that the letter was mailed, the attorney's candidacy to fill the vacancy will not be considered.
- (3)
 - (a)
 - (i) If, after 10 calendar days from the date the letter was mailed, more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.
 - (ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

- (b) The central committee shall nominate three of the applicants and forward the applicants' names to the county legislative body within 20 days after the date the county clerk submitted the applicants' names.
 - (c) The county legislative body shall appoint one of the nominees to fill the vacant position.
 - (d) If the central committee of the political party fails to submit at least three names to the county legislative body within 20 days after the date the county clerk submitted the applicants' names, the county legislative body shall appoint one of the applicants to fill the vacant position.
 - (e) If the county legislative body fails to appoint a person to fill the vacancy within 120 days after the vacancy occurs, the county clerk shall mail to the governor:
 - (i) a letter informing the governor that the county legislative body has failed to appoint a person to fill the vacancy; and
 - (ii)
 - (A) the list of nominees, if any, submitted by the central committee of the political party; or
 - (B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.
 - (f) The governor shall appoint, within 30 days after receipt of the letter, a person from the list to fill the vacancy.
- (4)
- (a) If, after 10 calendar days from the date the letter was mailed, three or fewer attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:
 - (i) appoint one of them to be county or district attorney; or
 - (ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).
 - (b)
 - (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.
 - (ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.
 - (c) If the legislative body fails to appoint a person to fill the vacancy within 120 days after the vacancy occurs, the county clerk shall:
 - (i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and
 - (ii) provide the governor with a list of all the applicants.
 - (d) The governor shall appoint a person to fill the vacancy within 30 days after the governor receives the notification.
- (5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

Amended by Chapter 237, 2013 General Session

20A-1-509.3 Procedure for making interim replacement.

- (1) Until the vacancy is filled as provided in Section 20A-1-509.1 or 20A-1-509.2 and the new county attorney or district attorney has qualified, the county legislative body may appoint an interim replacement to fill the vacant office by following the procedures and requirements of this subsection.
 - (a) The county legislative body shall appoint a deputy county or district attorney to serve as acting county or district attorney if there are at least three deputies in the office that has the vacancy.
 - (b) The county legislative body may contract with any member of the Utah State Bar in good standing to be acting county or district attorney if:
 - (i) there are not at least three deputies in the office that has the vacancy; or
 - (ii) there are three or more deputies in the office but none of the deputies is willing to serve.
- (2) A person appointed as interim replacement under this section shall hold office until his successor is selected and has qualified.

Enacted by Chapter 139, 1997 General Session

20A-1-510 Midterm vacancies in municipal offices.

- (1)
 - (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.
 - (b) Before acting to fill the vacancy, the municipal legislative body shall:
 - (i) give public notice of the vacancy at least two weeks before the municipal legislative body meets to fill the vacancy;
 - (ii) identify, in the notice:
 - (A) the date, time, and place of the meeting where the vacancy will be filled;
 - (B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and
 - (C) the deadline for submitting an interested individual's name; and
 - (iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.
 - (c)
 - (i) If, for any reason, the municipal legislative body does not fill the vacancy within 30 days after the day on which the vacancy occurs, the municipal legislative body shall fill the vacancy from among the names that have been submitted.
 - (ii) The two individuals having the highest number of votes of the municipal legislative body after a first vote is taken shall appear before the municipal legislative body and the municipal legislative body shall vote again.
 - (iii) If neither candidate receives a majority vote of the municipal legislative body at that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.
- (2)
 - (a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:
 - (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and

- (ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.
- (b) In appointing an interim replacement, the municipal legislative body shall:
 - (i) comply with the notice requirements of this section; and
 - (ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.
- (3)
 - (a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:
 - (i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and
 - (ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.
 - (b) While serving as acting mayor under Subsection (3)(a)(ii), the council chair continues to:
 - (i) act as a council member; and
 - (ii) vote at council meetings.

Amended by Chapter 91, 2017 General Session

20A-1-510.1 Candidate vacancies in local office.

- (1) A vacancy that occurs in a candidacy for an elected office in a local political subdivision may be filled in accordance with the requirements of this section if:
 - (a) a nonpartisan primary election is held for the office;
 - (b) the vacancy occurs after the date of the primary election but before:
 - (i) for a county office, August 31; or
 - (ii) for all other offices, 65 days before the day of the applicable general election; and
 - (c) after the vacancy occurs, the number of remaining candidates for the office is less than or equal to the number of open positions to be filled for that office in the applicable general election.
- (2) An election officer shall:
 - (a) fill a candidate vacancy described in Subsection (1) by certifying the next available candidate for the office for the general election ballot who received the highest number of votes in the primary election without receiving a sufficient number of votes to qualify for the general election ballot; and
 - (b) immediately notify the candidate described in Subsection (2)(a) that the candidate is certified for the general election ballot.

Enacted by Chapter 365, 2018 General Session

20A-1-511 Midterm vacancies on local school boards.

- (1)
 - (a) A local school board shall fill vacancies on the board by appointment, except as otherwise provided in Subsection (2).

- (b) If the board fails to make an appointment within 30 days after a vacancy occurs, the county legislative body, or municipal legislative body in a city district, shall fill the vacancy by appointment.
 - (c) A member appointed and qualified under this Subsection (1) shall serve until a successor is elected or appointed and qualified.
- (2)
- (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:
 - (i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 days before the deadline for filing a declaration of candidacy; and
 - (ii) two years of the vacated term will remain after the first Monday of January following the next school board election.
 - (b) Members elected under this Subsection (2) shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.
- (3) Before appointing an individual to fill a vacancy under this section, the local school board shall:
- (a) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;
 - (b) identify, in the notice:
 - (i) the date, time, and place of the meeting where the vacancy will be filled; and
 - (ii) the person to whom and date by which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and
 - (c) in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office, regarding the individual's qualifications.
- (4)
- (a) Subject to Subsection (4)(b), a local school board may appoint an individual to fill a vacancy described in Subsection (1) or (2) before the vacancy occurs if a member of the local school board submits a letter of resignation.
 - (b) An individual appointed under Subsection (4)(a) may not take office until on or after the day on which the vacancy occurs for which the individual is appointed.
 - (c) A member of a local school board who submits a letter of resignation under Subsection (4)(a) may not rescind the resignation after the local school board makes an appointment to fill the vacancy created by the resignation.

Amended by Chapter 61, 2017 General Session

20A-1-512 Midterm vacancies on local district boards.

- (1)
- (a) Whenever a vacancy occurs on any local district board for any reason, a replacement to serve out the unexpired term shall be appointed as provided in this section by:
 - (i) the local district board, if the person vacating the position was elected; or
 - (ii) the appointing authority, as defined in Section 17B-1-102, if the person vacating the position was appointed.
 - (b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local district board or appointing authority shall:
 - (i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy; and
 - (ii) identify, in the notice:
 - (A) the date, time, and place of the meeting where the vacancy will be filled; and

- (B) the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration and any deadline for submitting it.
- (c) An appointing authority is not subject to Subsection (1)(b) if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications.
- (2) If the local district board fails to appoint a person to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy following the procedure set forth for a local district in Subsection (1)(b).

Amended by Chapter 377, 2014 General Session

20A-1-513 Temporary absence in elected office of a political subdivision for military service.

- (1) As used in this section:
 - (a) "Armed forces" means:
 - (i) the Army of the United States;
 - (ii) the United States Navy;
 - (iii) the United States Air Force;
 - (iv) the Marine Corps;
 - (v) the Coast Guard;
 - (vi) the National Guard; or
 - (vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).
 - (b)
 - (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.
 - (ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).
 - (c)
 - (i) "Military leave" means the temporary absence from an office:
 - (A) by an elected official called to active, full-time duty in the armed forces; and
 - (B) for a period of time that exceeds 30 days and does not exceed 400 days.
 - (ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends for:
 - (A) out processing;
 - (B) an administrative delay;
 - (C) accrued leave; and
 - (D) on rest and recuperation leave program of the armed forces.
 - (d) "Political subdivision's governing body" means:
 - (i) for a county, city, or town, the legislative body of the county, city, or town;
 - (ii) for a local district, the board of trustees of the local district;
 - (iii) for a local school district, the local school board;
 - (iv) for a special service district:
 - (A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
 - (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and
 - (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

- (e) "Temporary replacement" means the person appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of the elected official who takes military leave.
- (2) Except as provided by Subsection (8), an elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces unless the elected official takes military leave as provided by this section.
- (3) Except as provided by Subsection (8), an elected official may take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave, by the later of:
 - (a) 21 days before the military leave begins; or
 - (b) the next business day after which the elected official receives an order from the armed forces calling the elected official to active, full-time duty.
- (4) An elected official's military leave:
 - (a) begins the day on which the elected official begins active, full-time duty in the armed forces; and
 - (b) ends the sooner of:
 - (i) the expiration of the elected official's term of office; or
 - (ii) the day on which the elected official ends active, full-time duty in the armed forces.
- (5) A temporary replacement shall:
 - (a) meet the qualifications required to hold the office; and
 - (b) be appointed:
 - (i) before the day on which the military leave begins; and
 - (ii)
 - (A) in the same manner as provided by this part for a midterm vacancy if a registered political party nominated the elected official who takes military leave as a candidate for the office; or
 - (B) by the political subdivision's governing body after submitting an application in accordance with Subsection (7)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.
- (6)
 - (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.
 - (b) An elected official may not exercise the powers or duties of the office while on military leave.
 - (c) If a temporary replacement is not appointed before the day on which the military leave begins as required by Subsection (5)(b)(i), no person may exercise the powers and duties of the elected official's office during the elected official's military leave.
- (7) The political subdivision's governing body shall establish:
 - (a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and
 - (b) an application form and the date by which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.
- (8) An elected official who is called to active, full-time duty in the armed forces before March 16, 2011 is on military leave.

Enacted by Chapter 42, 2011 General Session