

1 **CANDIDATE FILING REQUIREMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Carol Spackman Moss**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill requires a candidate for vice president of the United States to file a declaration
10 of candidacy and meet other related requirements.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires a candidate for vice president of the United States to file a declaration of
14 candidacy and meet other related requirements;
- 15 ▶ creates requirements for a declaration of candidacy for vice president of the United
16 States; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **20A-9-201**, as last amended by Laws of Utah 2016, Chapter 28

25 **20A-9-202**, as last amended by Laws of Utah 2015, Chapter 296

26 **20A-9-504**, as enacted by Laws of Utah 1996, Chapter 258

27 **20A-9-601**, as last amended by Laws of Utah 2014, Chapter 169



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

Section 1. Section **20A-9-201** is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the person is a member; or

(ii) that the person is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) A person may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the person resigns the person's candidacy for the other office after the person is officially nominated for president or vice president of the United States.

(ii) A person may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) A person may file a declaration of candidacy for lieutenant governor even if the person filed a declaration of candidacy for another office in the same election year if the person withdraws as a candidate for the other office in accordance with Subsection [20A-9-202\(6\)](#) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for ~~[presidential candidates]~~ a candidate for president or vice

59 president of the United States, before the filing officer may accept any declaration of
60 candidacy, the filing officer shall:

61 (A) read to the prospective candidate the constitutional and statutory qualification
62 requirements for the office that the candidate is seeking; and

63 (B) require the candidate to state whether the candidate meets those requirements.

64 (ii) Before accepting a declaration of candidacy for the office of county attorney, the
65 county clerk shall ensure that the person filing that declaration of candidacy is:

66 (A) a United States citizen;

67 (B) an attorney licensed to practice law in Utah who is an active member in good
68 standing of the Utah State Bar;

69 (C) a registered voter in the county in which the person is seeking office; and

70 (D) a current resident of the county in which the person is seeking office and either has
71 been a resident of that county for at least one year or was appointed and is currently serving as
72 county attorney and became a resident of the county within 30 days after appointment to the
73 office.

74 (iii) Before accepting a declaration of candidacy for the office of district attorney, the
75 county clerk shall ensure that, as of the date of the election, the person filing that declaration of
76 candidacy is:

77 (A) a United States citizen;

78 (B) an attorney licensed to practice law in Utah who is an active member in good
79 standing of the Utah State Bar;

80 (C) a registered voter in the prosecution district in which the person is seeking office;
81 and

82 (D) a current resident of the prosecution district in which the person is seeking office
83 and either will have been a resident of that prosecution district for at least one year as of the
84 date of the election or was appointed and is currently serving as district attorney and became a
85 resident of the prosecution district within 30 days after receiving appointment to the office.

86 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the
87 county clerk shall ensure that the person filing the declaration of candidacy:

88 (A) as of the date of filing:

89 (I) is a United States citizen;

90 (II) is a registered voter in the county in which the person seeks office;
91 (III) (Aa) has successfully met the standards and training requirements established for
92 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and
93 Certification Act; or

94 (Bb) has met the waiver requirements in Section 53-6-206; and

95 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
96 53-13-103; and

97 (B) as of the date of the election, shall have been a resident of the county in which the
98 person seeks office for at least one year.

99 (v) Before accepting a declaration of candidacy for the office of governor, lieutenant
100 governor, state auditor, state treasurer, attorney general, state legislator, or State Board of
101 Education member, the filing officer shall ensure:

102 (A) that the person filing the declaration of candidacy also files the financial disclosure
103 required by Section 20A-11-1603; and

104 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is
105 provided to the lieutenant governor according to the procedures and requirements of Section
106 20A-11-1603.

107 (b) If the prospective candidate states that the qualification requirements for the office
108 are not met, the filing officer may not accept the prospective candidate's declaration of
109 candidacy.

110 (c) If the candidate meets the requirements of Subsection (3)(a) and states that the
111 requirements of candidacy are met, the filing officer shall:

112 (i) inform the candidate that:

113 (A) the candidate's name will appear on the ballot as the candidate's name is written on
114 the declaration of candidacy;

115 (B) the candidate may be required to comply with state or local campaign finance
116 disclosure laws; and

117 (C) the candidate is required to file a financial statement before the candidate's political
118 convention under:

119 (I) Section 20A-11-204 for a candidate for constitutional office;

120 (II) Section 20A-11-303 for a candidate for the Legislature; or

121 (III) local campaign finance disclosure laws, if applicable;

122 (ii) except for a presidential candidate, provide the candidate with a copy of the current
 123 campaign financial disclosure laws for the office the candidate is seeking and inform the
 124 candidate that failure to comply will result in disqualification as a candidate and removal of the
 125 candidate's name from the ballot;

126 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
 127 Electronic Voter Information Website Program and inform the candidate of the submission
 128 deadline under Subsection 20A-7-801(4)(a);

129 (iv) provide the candidate with a copy of the pledge of fair campaign practices
 130 described under Section 20A-9-206 and inform the candidate that:

131 (A) signing the pledge is voluntary; and
 132 (B) signed pledges shall be filed with the filing officer;

133 (v) accept the candidate's declaration of candidacy; and
 134 (vi) if the candidate has filed for a partisan office, provide a certified copy of the
 135 declaration of candidacy to the chair of the county or state political party of which the
 136 candidate is a member.

137 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
 138 officer shall:

139 (i) accept the candidate's pledge; and
 140 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
 141 candidate's pledge to the chair of the county or state political party of which the candidate is a
 142 member.

143 (4) (a) Except for [~~presidential candidates~~] a candidate for president or vice president
 144 of the United States, the form of the declaration of candidacy shall:

145 (i) be substantially as follows:
 146 "State of Utah, County of ____
 147 I, _____, declare my candidacy for the office of _____, seeking the
 148 nomination of the ____ party. I do solemnly swear that: I will meet the qualifications to
 149 hold the office, both legally and constitutionally, if selected; I reside at _____
 150 in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not
 151 knowingly violate any law governing campaigns and elections; I will file all campaign

152 financial disclosure reports as required by law; and I understand that failure to do so will result
153 in my disqualification as a candidate for this office and removal of my name from the ballot.

154 The mailing address that I designate for receiving official election notices is

155 _____.

156 _____

157 Subscribed and sworn before me this _____(month\day\year).

158 _____ Notary Public (or other officer qualified to administer oath)."; and

159 (ii) require the candidate to state, in the sworn statement described in Subsection

160 (4)(a)(i):

161 (A) the registered political party of which the candidate is a member; or

162 (B) that the candidate is not a member of a registered political party.

163 (b) An agent designated to file a declaration of candidacy under Section 20A-9-202

164 may not sign the form described in Subsection (4)(a).

165 (5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy
166 is:

167 (i) \$50 for candidates for the local school district board; and

168 (ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the
169 person holding the office for all other federal, state, and county offices.

170 (b) Except for presidential candidates, the filing officer shall refund the filing fee to
171 any candidate:

172 (i) who is disqualified; or

173 (ii) who the filing officer determines has filed improperly.

174 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received
175 from candidates.

176 (ii) The lieutenant governor shall:

177 (A) apportion to and pay to the county treasurers of the various counties all fees
178 received for filing of nomination certificates or acceptances; and

179 (B) ensure that each county receives that proportion of the total amount paid to the
180 lieutenant governor from the congressional district that the total vote of that county for all
181 candidates for representative in Congress bears to the total vote of all counties within the
182 congressional district for all candidates for representative in Congress.

183 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy
184 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by
185 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,
186 a financial statement filed at the time the affidavit is submitted.

187 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

188 (iii) (A) False statements made on an affidavit of impecuniosity or a financial
189 statement filed under this section shall be subject to the criminal penalties provided under
190 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

191 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be
192 considered an offense under this title for the purposes of assessing the penalties provided in
193 Subsection 20A-1-609(2).

194 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in
195 substantially the following form:

196 "Affidavit of Impecuniosity

197 Individual Name

198 _____ Address _____

199 Phone Number _____

200 I, _____ (name), do solemnly [swear] [affirm], under penalty of law
201 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by
202 law.

203 Date _____ Signature _____

204 Affiant

205 Subscribed and sworn to before me on _____ (month\day\year)

206 _____
207 (signature)

208 Name and Title of Officer Authorized to Administer Oath _____"

209 (v) The filing officer shall provide to a person who requests an affidavit of
210 impecuniosity a statement printed in substantially the following form, which may be included
211 on the affidavit of impecuniosity:

212 "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a
213 candidate who is found guilty of filing a false statement, in addition to being subject to criminal

214 penalties, will be removed from the ballot."

215 (vi) The filing officer may request that a person who makes a claim of impecuniosity
216 under this Subsection (5)(d) file a financial statement on a form prepared by the election
217 official.

218 (6) (a) If there is no legislative appropriation for the Western States Presidential
219 Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for
220 president of the United States who is affiliated with a registered political party and chooses to
221 participate in the regular primary election shall:

222 (i) file a declaration of candidacy, in person or via a designated agent, with the
223 lieutenant governor:

224 (A) on a form developed and provided by the lieutenant governor; and

225 (B) on or after the second Friday in March and before 5 p.m. on the third Thursday in
226 March before the next regular primary election;

227 (ii) identify the registered political party whose nomination the candidate is seeking;

228 (iii) provide a letter from the registered political party certifying that the candidate may
229 participate as a candidate for that party in that party's presidential primary election; and

230 (iv) pay the filing fee of \$500.

231 (b) An agent designated to file a declaration of candidacy may not sign the form
232 described in Subsection (6)(a)(i)(A).

233 (7) Any person who fails to file a declaration of candidacy or certificate of nomination
234 within the time provided in this chapter is ineligible for nomination to office.

235 (8) A declaration of candidacy filed under this section may not be amended or
236 modified after the final date established for filing a declaration of candidacy.

237 Section 2. Section **20A-9-202** is amended to read:

238 **20A-9-202. Declarations of candidacy for regular general elections.**

239 (1) (a) Each person seeking to become a candidate for an elective office that is to be
240 filled at the next regular general election shall:

241 (i) file a declaration of candidacy in person with the filing officer on or after January 1
242 of the regular general election year, and, if applicable, before the candidate circulates
243 nomination petitions under Section [20A-9-405](#); and

244 (ii) pay the filing fee.

245 (b) Each county clerk who receives a declaration of candidacy from a candidate for
246 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of
247 candidacy to the lieutenant governor within one working day after it is filed.

248 (c) Each day during the filing period, each county clerk shall notify the lieutenant
249 governor electronically or by telephone of candidates who have filed in their office.

250 (d) Each person seeking the office of lieutenant governor, the office of district attorney,
251 or the office of president or vice president of the United States shall comply with the specific
252 declaration of candidacy requirements established by this section.

253 (2) (a) Each person intending to become a candidate for the office of district attorney
254 within a multicounty prosecution district that is to be filled at the next regular general election
255 shall:

256 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement
257 creating the prosecution district on or after January 1 of the regular general election year, and
258 before the candidate circulates nomination petitions under Section 20A-9-405; and

259 (ii) pay the filing fee.

260 (b) The designated clerk shall provide to the county clerk of each county in the
261 prosecution district a certified copy of each declaration of candidacy filed for the office of
262 district attorney.

263 (3) (a) On or before 5 p.m. on the first Monday after the third Saturday in April, each
264 lieutenant governor candidate shall:

265 (i) file a declaration of candidacy with the lieutenant governor;

266 (ii) pay the filing fee; and

267 (iii) submit a letter from a candidate for governor who has received certification for the
268 primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate
269 as a joint-ticket running mate.

270 (b) Any candidate for lieutenant governor who fails to timely file is disqualified. If a
271 lieutenant governor is disqualified, another candidate shall file to replace the disqualified
272 candidate.

273 (4) ~~[Each]~~ On or before August 31, each registered political party shall:

274 (a) certify the names of its candidates for president and vice president of the United
275 States to the lieutenant governor [~~no later than August 31~~]; or

276 (b) provide written authorization for the lieutenant governor to accept the certification
277 of candidates for president and vice president of the United States from the national office of
278 the registered political party.

279 (5) (a) A declaration of candidacy filed under this section is valid unless a written
280 objection is filed with the clerk or lieutenant governor within five days after the last day for
281 filing.

282 (b) If an objection is made, the clerk or lieutenant governor shall:

283 (i) mail or personally deliver notice of the objection to the affected candidate
284 immediately; and

285 (ii) decide any objection within 48 hours after it is filed.

286 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the
287 problem by amending the declaration or petition within three days after the objection is
288 sustained or by filing a new declaration within three days after the objection is sustained.

289 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

290 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable
291 by a district court if prompt application is made to the court.

292 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
293 of its discretion, agrees to review the lower court decision.

294 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by
295 filing a written affidavit with the clerk.

296 (7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement
297 in this section to file a declaration of candidacy in person, a person may designate an agent to
298 file the form described in Subsection 20A-9-201(4) in person with the filing officer if:

299 (a) the person is located outside the state during the filing period because:

300 (i) of employment with the state or the United States; or

301 (ii) the person is a member of:

302 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or
303 Coast Guard of the United States who is on active duty;

304 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the
305 commissioned corps of the National Oceanic and Atmospheric Administration of the United
306 States; or

307 (C) the National Guard on activated status;

308 (b) the person communicates with the filing officer using an electronic device that
309 allows the person and filing officer to see and hear each other; and

310 (c) the person provides the filing officer with an email address to which the filing
311 officer may send the copies described in Subsection 20A-9-201(3).

312 (8) (a) Except ~~H~~→ for a candidate who is certified by a registered political party under
312a Subsection (4), and except ~~H~~ as provided in Section 20A-9-504, on or before August 31 of a
312b general

313 election year, each individual running as a candidate for vice president of the United States
314 shall:

315 (i) file a declaration of candidacy, in person or via designated agent, on a form
316 developed by the lieutenant governor, that:

317 (A) contains the individual's name, address, and telephone number;

318 (B) states that the individual meets the qualifications for the office of vice president of
319 the United States;

320 (C) names the presidential candidate, who has qualified for the general election ballot,
321 with which the individual is running as a joint-ticket running mate;

322 (D) states that the individual agrees to be the running mate of the presidential candidate
323 described in Subsection (8)(a)(i)(C); and

324 (E) contains any other necessary information identified by the lieutenant governor;

325 (ii) pay the filing fee, if applicable; and

326 (iii) submit a letter from the presidential candidate described in Subsection (8)(a)(i)(C)
327 that names the individual as a joint-ticket running mate as a vice presidential candidate.

328 (b) A designated agent described in Subsection (8)(a)(i) may not sign the declaration of
329 candidacy.

330 (c) A vice presidential candidate who fails to meet the requirements described in this
331 Subsection (8) may not appear on the general election ballot.

332 Section 3. Section 20A-9-504 is amended to read:

333 **20A-9-504. Unaffiliated candidates -- Governor and president of the United**
334 **States.**

335 (1) (a) Each unaffiliated candidate for governor shall, before July 1 of the regular
336 general election year, select a running mate to file as an unaffiliated candidate for the office of
337 lieutenant governor.

338 ~~[(2)]~~ (b) The unaffiliated lieutenant governor candidate shall, by July 1 of the regular
339 general election year, file as an unaffiliated candidate by following the procedures and
340 requirements of this part.

341 (2) (a) Each unaffiliated candidate for president of the United States shall, before 5
342 p.m. on August 15 of a regular general election year, select a running mate to file as an
343 unaffiliated candidate for the office of vice president of the United States.

344 (b) Before 5 p.m. on August 15 of a regular general election year, the unaffiliated
345 candidate for vice president of the United States described in Subsection (2)(a) shall comply
346 with the requirements of Subsection 20A-9-202(8).

347 Section 4. Section **20A-9-601** is amended to read:

348 **20A-9-601. Qualifying as a write-in candidate.**

349 (1) (a) Each person wishing to become a valid write-in candidate shall file a declaration
350 of candidacy in person, or through a designated agent for a candidate for president or vice
351 president of the United States, with the appropriate filing officer not later than 60 days before
352 the regular general election or a municipal general election in which the person intends to be a
353 write-in candidate.

354 (b) (i) The form of the declaration of candidacy for all offices, except president or vice
355 president of the United States, is substantially as follows:

356 "State of Utah, County of ____
357 I, _____, declare my intention of becoming a candidate for the office of
358 ____ for the ____ district (if applicable). I do solemnly swear that: I will meet the
359 qualifications to hold the office, both legally and constitutionally, if selected; I reside at
360 _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will
361 not knowingly violate any law governing campaigns and elections; I will file all campaign
362 financial disclosure reports as required by law; and I understand that failure to do so will result
363 in my disqualification as a candidate for this office and removal of my name from the ballot.
364 The mailing address that I designate for receiving official election notices is
365 _____.

366 _____
367 Subscribed and sworn before me this _____(month\day\year).

368 Notary Public (or other officer qualified to administer oath)."

369 (ii) The form of the declaration of candidacy for president of the United States is
 370 substantially as follows:

371 "State of Utah, County of _____

372 I, _____, declare my intention of becoming a candidate for the office of the
 373 president of the United States. I do solemnly swear that: I will meet the qualifications to hold
 374 the office, both legally and constitutionally, if selected; I reside at _____ in the City
 375 or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate
 376 any law governing campaigns and elections. The mailing address that I designate for receiving
 377 official election notices is _____. I designate _____ as
 378 my vice presidential candidate.

379 _____

380 Subscribed and sworn before me this _____ (month\day\year).

381 Notary Public (or other officer qualified to administer oath.)"

382 (iii) A declaration of candidacy for a write-in candidate for vice president of the United
 383 States shall be in substantially the same form as a declaration of candidacy described in
 384 Subsection 20A-9-202(8).

385 [~~(iii)~~] (iv) An agent designated to file a declaration of candidacy under Subsection (2)
 386 may not sign the form described in Subsection (1)(b)(i) or (ii).

387 (c) (i) The filing officer shall:

388 (A) read to the candidate the constitutional and statutory requirements for the office;
 389 and

390 (B) ask the candidate whether or not the candidate meets the requirements.

391 (ii) If the candidate cannot meet the requirements of office, the filing officer may not
 392 accept the write-in candidate's declaration of candidacy.

393 (2) Notwithstanding the requirement in Subsection (1) to file a declaration of
 394 candidacy in person, a person may designate an agent to file the declaration of candidacy in
 395 person with the filing officer if:

396 (a) the person is located outside the state during the filing period because:

397 (i) of employment with the state or the United States; or

398 (ii) the person is a member of:

399 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or

400 Coast Guard of the United States who is on active duty;

401 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the
402 commissioned corps of the National Oceanic and Atmospheric Administration of the United
403 States; or

404 (C) the National Guard on activated status; and

405 (b) the person communicates with the filing officer using an electronic device that
406 allows the person and filing officer to see and hear each other.

407 (3) By November 1 of each regular general election year, the lieutenant governor shall
408 certify to each county clerk the names of all write-in candidates who filed their declaration of
409 candidacy with the lieutenant governor.

Legislative Review Note
Office of Legislative Research and General Counsel