

CANDIDATE FILING REQUIREMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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



28
29 *Be it enacted by the Legislature of the state of Utah:*

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

31 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
32 **more than one political party prohibited with exceptions -- General filing and form**
33 **requirements -- Affidavit of impecuniosity.**

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

35 (a) be a United States citizen;

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

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

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

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

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

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

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

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

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

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

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

58 (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;

(II) is a registered voter in the county in which the person seeks office;

(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

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

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

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

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

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

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

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

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

(i) inform the candidate that:

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

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

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

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

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

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

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

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

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

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer;

(v) accept the candidate's declaration of candidacy; and

(vi) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

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

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

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

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign

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

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

_____.

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

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

(ii) require the candidate to state, in the sworn statement described in Subsection (4)(a)(i):

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

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

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (4)(a).

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

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

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

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

(i) who is disqualified; or

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

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

(ii) The lieutenant governor shall:

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

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

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

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

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

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

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

"Affidavit of Impecuniosity

Individual Name _____

_____ Address _____

Phone Number _____

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

Date _____ Signature _____

Affiant

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

(signature)

Name and Title of Officer Authorized to Administer Oath _____"

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

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

penalties, will be removed from the ballot."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) pay the filing fee.

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

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

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

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

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

(ii) pay the filing fee.

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

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

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

(ii) pay the filing fee; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the person is a member of:

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

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

(C) the National Guard on activated status;

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

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

(8) (a) Except as provided in Section 20A-9-504, on or before August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"State of Utah, County of ____

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

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

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

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

"State of Utah, County of _____

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

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

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

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

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

(c) (i) The filing officer shall:

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

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

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

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

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

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

(ii) the person is a member of:

(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