

Representative John R. Westwood proposes the following substitute bill:

ELECTION LAW - FILING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John R. Westwood

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses certain candidate filings for office.

Highlighted Provisions:

This bill:

- changes from the lieutenant governor to the state court administrator, the individual with whom a judge is required to file for candidacy;

- changes the dates by which an unaffiliated candidate is required to submit a certificate of nomination and a nomination petition;

- provides that an unaffiliated candidate is required to file a certificate of nomination before the unaffiliated candidate collects signatures for a candidate nomination petition; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **20A-9-201**, as last amended by Laws of Utah 2016, Chapter 28

27 **20A-9-502**, as last amended by Laws of Utah 2013, Chapters 253 and 317

28 **20A-9-503**, as last amended by Laws of Utah 2013, Chapter 317

29 **20A-12-201**, as last amended by Laws of Utah 2014, Chapter 207

30 **78A-12-206**, as last amended by Laws of Utah 2011, Chapter 80

31

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

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

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

36 (1) Before filing a declaration of candidacy for election to any office, [~~a person~~] an
37 individual shall:

38 (a) be a United States citizen;
39 (b) meet the legal requirements of that office; and
40 (c) if seeking a registered political party's nomination as a candidate for elective office,
41 state:

42 (i) the registered political party of which the [~~person~~] individual is a member; or
43 (ii) that the [~~person~~] individual is not a member of a registered political party.

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

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

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

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

51 (b) (i) [~~A person~~] An individual may file a declaration of candidacy for, or be a
52 candidate for, president or vice president of the United States and another office, if the [~~person~~]
53 individual resigns the [~~person's~~] individual's candidacy for the other office after the [~~person~~]
54 individual is officially nominated for president or vice president of the United States.

55 (ii) [~~A person~~] An individual may file a [~~declaration~~] notice of candidacy described in

Section [20A-12-201](#) for, or be a candidate for, more than one justice court judge office.

(iii) ~~[A person]~~ An individual may file a declaration of candidacy for lieutenant governor even if the ~~[person]~~ individual filed a declaration of candidacy for another office in the same election year if the ~~[person]~~ individual 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, before the filing officer may accept any declaration of candidacy, the filing officer shall:

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

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

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the ~~[person]~~ individual filing that declaration of candidacy is:

(A) a United States citizen;

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

(C) a registered voter in the county in which the ~~[person]~~ individual is seeking office; and

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

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the ~~[person]~~ individual filing that declaration of candidacy is:

(A) a United States citizen;

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

(C) a registered voter in the prosecution district in which the ~~[person]~~ individual is seeking office; and

(D) a current resident of the prosecution district in which the ~~[person]~~ individual is

seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the ~~[person]~~ individual filing the declaration of candidacy:

(A) as of the date of filing:

(I) is a United States citizen;

(II) is a registered voter in the county in which the ~~[person]~~ individual 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]~~ individual 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]~~ individual 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, 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]~~ An individual 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]~~ An individual 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]~~ an individual 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]~~ an individual 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]~~ An individual 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-9-502** is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty.

~~[(1) The candidate shall:]~~

~~[(a) prepare a certificate of nomination in substantially the following form:]~~

(1) (a) An individual seeking to qualify for the regular general election ballot as an unaffiliated candidate shall, on or after the first business day and on or before the fifth business day in January of the regular general election year:

(i) file a certificate of nomination, in person with the appropriate filing officer, in substantially the following form:

"State of Utah, County of _____

I, _____, declare my intention of becoming an unaffiliated candidate for the political group designated as ____ for the office of _____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at _____ Street, in the city of _____, county of _____, state of _____, zip code _____, phone _____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; 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.

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

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

~~[(b) bind signature sheets to the certificate that:]~~

(ii) pay the filing fee.

(b) An agent designated to file a certificate of nomination under Subsection 20A-9-503(4) may not sign a nomination certificate described in Subsection (1)(a).

(c) A filing officer with whom an individual files a certificate of nomination under Subsection (1)(a) shall provide the individual with one copy of:

(i) a signature sheet described in Subsection (3)(a); and

(ii) the verification described in Subsection (3)(b).

(2) (a) After filing the certificate of nomination described in Subsection (1), an individual seeking to qualify for the general election ballot as an unaffiliated candidate shall circulate a nomination petition that complies with the requirements of this section.

(b) An individual may not circulate a nomination petition before the individual files a certificate of nomination under Subsection (1).

(3) A nomination petition that an individual circulates under this section shall:

(a) contain signature sheets, bound to a copy of the proposed candidate's nomination certificate, that:

(i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection ~~[(1)(b)(iii)]~~ (3)(a)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

~~["It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";]~~

"It is a class A misdemeanor for an individual to knowingly sign a candidate nomination petition with a name other than the individual's own name, or knowingly sign the individual's name more than once for the same candidate, or to sign a candidate nomination petition if the individual knows the individual is not a registered voter and does not intend to become registered to vote before the certification of petition names by the county clerk.";

(vi) contain the following statement directly under the statement described in

Subsection ~~[(1)(b)(v)]~~ (3)(a)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

~~[My]~~ I have written my street address ~~[is written]~~ correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in

Subsection ~~[(1)(b)(vi)]~~ (3)(a)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(C) the next column shall be 2-1/2 inches wide, headed "Holographic Signature of Registered Voter";

(D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(E) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code"; and

(F) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required[;] but [it] may be used to verify your identity with voter registration records. If you choose not to provide [it] this information, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records."; and

~~[(c) bind a final page]~~

(b) except as provided in Subsection (4), contain a final page, bound to one or more signature sheets that are bound together, that contains[; except as provided by Subsection (3),] the following printed statement:

"Verification

State of Utah, County of _____

I, _____, of _____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

(Signature) (Residence Address) (Date)".

~~[(2) An agent designated to file a certificate of nomination under Subsection 20A-9-503(4) may not sign the form described in Subsection (1)(a).]~~

~~[(3)]~~ (4) (a) The candidate shall circulate the nomination petition and ensure that the [person] individual in whose presence each signature sheet is signed:

(i) is at least 18 years old;

(ii) except as provided by Subsection ~~[(3)]~~ (4)(b), meets the residency requirements of Section 20A-2-105; and

(iii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(b) ~~[A person]~~ An individual who is not a resident may sign the verification on a petition for an unaffiliated candidate for the office of president of the United States.

(c) ~~[A person]~~ An individual may not sign the verification if the [person] individual signed a signature sheet bound to the verification.

~~[(4)]~~ (5) (a) It is unlawful for ~~[any person]~~ an individual to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with ~~[any]~~ a name other than the ~~[person's]~~ individual's own name;

(B) more than once for the same candidate; or

(C) if the [person] individual is not ~~[registered to vote in this state]~~ a registered voter and does not intend to become registered to vote ~~[in this state]~~ before the county clerk certifies the petition signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the [person] individual:

(A) except as provided by Subsection ~~[(3)]~~ (4)(b), does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by ~~[those persons]~~ the individuals whose names appear on the certificate of nomination signature sheet; or

(C) knows that ~~[a person]~~ an individual whose signature appears on the certificate of nomination signature sheet is not ~~[registered to vote in this state]~~ a registered voter and does not intend to become registered to vote ~~[in this state]~~.

(b) ~~[Any person violating]~~ A person who violates this Subsection ~~[(4)]~~ (5) is guilty of a class A misdemeanor.

~~[(5)]~~ (6) (a) The candidate shall submit the petition ~~[and signature sheets]~~ to the ~~[county clerk]~~ election officer for certification ~~[when the petition has been completed]~~ after the petition is signed by:

(i) at least 1,000 registered voters residing within the state, when the nomination is for ~~[an office to be filled by the voters of the entire state]~~ a statewide office; or

~~[(ii) at least]~~

(ii) when the petition is to nominate an individual for an office other than a statewide office, at least the lesser of:

(A) 300 registered voters residing within ~~[a political division]~~ the jurisdiction or district that the candidate is running to represent; or ~~[at least]~~

(B) 5% of the registered voters residing within ~~[a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state]~~ the jurisdiction or district that the candidate is running to represent.

(b) ~~[In reviewing the petition, the county clerk]~~ No later than 14 days after the deadline described in Subsection 20A-9-503(1), the election officer shall count and certify ~~[only those persons who signed the petition with a holographic signature]~~ the petition signatures of individuals who:

(i) are registered voters;

(ii) if the petition is to nominate an individual for an office other than a statewide office, reside within the ~~[political division that the candidate seeks to represent]~~ jurisdiction or district that the candidate is running to represent; and

~~[(ii)]~~ (iii) did not sign any other certificate of nomination for that office.

(c) The candidate may supplement or amend the certificate of nomination at any time on or before the filing deadline described in Subsection 20A-9-503(1).

Section 3. Section **20A-9-503** is amended to read:

20A-9-503. Certificate of nomination -- Filing -- Fees.

(1) ~~[After the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the]~~ An individual who seeks to qualify for the regular general election ballot as an unaffiliated candidate shall~~[(a) between the second Friday in March and], before the close of normal office hours on the [third Thursday] last business day in March of the year in which the regular general election will be held[, file the petition in person with]:~~

~~[(i) the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office; or]~~

~~[(ii) the county clerk, if the office the candidate seeks is a county office; and]~~

(a) file the nomination petition described in Section 20A-9-502 with the filing officer; and

~~[(iii)] (b) pay the filing fee[; or].~~

~~[(b) not later than the close of normal office hours on June 15 of any odd-numbered year, file the petition in person with:]~~

~~[(i) the municipal clerk, if the candidate seeks an office in a city or town;]~~

~~[(ii) the local district clerk, if the candidate seeks an office in a local district; and]~~

~~[(iii) pay the filing fee.]~~

(2) (a) At the time of filing, and before accepting the petition, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that ~~[he]~~ the candidate does not meet the requirements, the filing officer may not accept the petition.

(3) (a) ~~[Persons]~~ An individual filing a certificate of nomination for president of the United States under this section shall pay a filing fee of \$500.

(b) Notwithstanding Subsection (1), ~~[a person filing]~~ an individual who files a certificate of nomination for president or vice president of the United States:

(i) may file the certificate of nomination ~~[between the second Friday in March and]~~ or the nomination petition before the close of normal office hours on August 15 of the year in which the regular general election will be held; and

(ii) may use a designated agent to file the certificate of nomination or the nomination petition.

(c) An agent designated to file the certificate of nomination may not sign the certificate of nomination form.

(4) Notwithstanding the requirement in Subsection (1) to file a certificate of nomination or a nomination petition in person, [~~a person~~] an individual may designate an agent to file the certificate of nomination or nomination petition in person with the filing officer if:

(a) the [~~person~~] individual is located outside the state during the filing period because:

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

(ii) the [~~person~~] individual 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; and

(b) the [~~person~~] individual communicates with the filing officer using an electronic device that allows the person and the filing officer to see and hear each other.

Section 4. Section **20A-12-201** is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year in which the justice or judge is subject to a retention election[?], file a notice of candidacy with the state court administrator in a form approved by the state court administrator.

~~[(i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on April 1 and ending at 5 p.m. on April 15 in the year of a regular general election; and]~~

~~[(ii) pay a filing fee of \$50.]~~

~~[(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:]~~

~~[(A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on April 1 and ending at 5 p.m. on April 15 in the year of a regular general election; and]~~

~~[(B) pay a filing fee of \$25 for each judicial office.]~~

~~[(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election:]~~

~~[(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.]~~

(b) The state court administrator shall, no later than July 15 of a year in which a regular general election is held, transmit to the lieutenant governor a certified list of judges, including each judge's judicial office, who:

(i) are subject to a retention election under Subsection (1) that year; and

(ii) file a notice of candidacy described in Subsection (2)(a).

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit ~~[a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and]~~ the name of each judge on the certified list described in Subsection (2)(b) to the county clerk of the county in which the judge is subject to a retention election.

~~[(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office:]~~

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) (a) At the general election, the ballots shall contain, as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____ (name of justice or judge) be retained in the office of _____? (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(b) If a justice court exists by means of an interlocal agreement under Section 78A-7-102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) If a justice court judge is standing for retention for more than one office, the county clerk shall place the judge's name on the ballot separately for each office. If the justice court judge receives more no votes than yes votes in one office, but more yes votes than no votes in the other, the justice court judge shall be retained only in the office for which the judge received more yes votes than no votes.

Section 5. Section 78A-12-206 is amended to read:

78A-12-206. Publication of the judicial performance evaluation -- Response by judge.

(1) (a) The commission shall compile a retention report of its judicial performance evaluation of a judge.

(b) The report of a judicial performance evaluation nearest the judge's next scheduled retention election shall be provided to the judge at least 45 days before the last day on which the judge may file a ~~[declaration of the judge's]~~ notice of candidacy ~~[in]~~ described in Section

522 [20A-12-201](#) for the retention election.

523 (c) A report prepared in accordance with Subsection (1)(b) and information obtained in
524 connection with the evaluation becomes a public record under Title 63G, Chapter 2,
525 Government Records Access and Management Act, on the day following the last day on which
526 the judge who is the subject of the report may file a declaration of the judge's candidacy in the
527 judge's scheduled retention election if the judge declares the judge's candidacy for the retention
528 election.

529 (d) Information collected and a report that is not public under Subsection (1)(c) is a
530 protected record under Title 63G, Chapter 2, Government Records Access and Management
531 Act.

532 (2) Within 15 days of receiving a copy of the commission's report under Subsection
533 (1)(b):

534 (a) a judge who is the subject of an unfavorable retention recommendation under this
535 section may:

536 (i) provide a written response to the commission about the report; and

537 (ii) request an interview with the commission for the purpose of addressing the report;
538 and

539 (b) a judge who is the subject of a favorable retention recommendation under this
540 section may provide a written response to the commission about the commission's report.

541 (3) (a) After receiving a response from a judge in any form allowed by Subsection (2),
542 the commission may meet and reconsider its decision to recommend the judge not be retained.

543 (b) If the commission does not change its decision to recommend the judge not be
544 retained, the judge may provide a written statement, not to exceed 100 words, that shall be
545 included in the commission's report.

546 (4) The retention report of a judicial performance evaluation shall include:

547 (a) the results of the judicial performance survey, in both raw and summary form;

548 (b) information concerning the judge's compliance with the minimum performance
549 standards;

550 (c) information concerning any public discipline that a judge has received that is not
551 subject to restrictions on disclosure under Title 78A, Chapter 11, Judicial Conduct
552 Commission;

(d) a narrative concerning the judge's performance;

(e) the commission's recommendation concerning whether the judge should be retained, or the statement required of the commission if it declines to make a recommendation;

(f) the number of votes for and against the commission's recommendation; and

(g) any other information the commission considers appropriate to include in the report.

(5) (a) The commission may not include in its retention report specific information concerning an earlier judicial performance evaluation.

(b) The commission may refer to information from an earlier judicial performance evaluation concerning the judge in the commission's report only if the reference is in general terms.

(6) The retention report of the commission's judicial performance evaluation shall be made publicly available on an Internet website.

(7) The commission may make the report of the judicial performance evaluation immediately preceding the judge's retention election publicly available through other means within budgetary constraints.

(8) The commission shall provide a summary of the judicial performance evaluation for each judge to the lieutenant governor for publication in the voter information pamphlet in the manner required by Title 20A, Chapter 7, Issues Submitted to the Voters.

(9) The commission may also provide any information collected during the course of a judge's judicial performance evaluation immediately preceding the judge's retention election to the public to the extent that information is not otherwise subject to restrictions on disclosure.

(10) The commission shall provide the Judicial Council with:

(a) the judicial performance survey results for each judge; and

(b) a copy of the retention report of each judicial performance evaluation.

(11) The Judicial Council shall provide information obtained concerning a judge under Subsection (10) to the subject judge's presiding judge, if any.