

1 **ELECTION REFORM**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: L. Alma Mansell**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Election Code to provide the option to file a pledge of fair
10 campaign practices and to establish criminal penalties related to issuing false
11 information during campaigns.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that each candidate for public office in the state be presented with a pledge
15 of fair campaign practices;

16 ▶ provides that a candidate may voluntarily elect to sign and file the pledge;

17 ▶ provides that the pledge is a public document and shall be maintained by the filing
18 officer for a defined period after the election ends;

19 ▶ requires political action committees to designate and disclose the names of two
20 officers having primary decision-making authority for the political action
21 committee;

22 ▶ requires a political action committee to notify the lieutenant governor of a change in
23 its primary officer; and

24 ▶ provides a criminal penalty for providing false information on a statement of
25 organization for a political action committee or notice of change of officer.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **20A-9-201**, as last amended by Chapter 140, Laws of Utah 2003

33 **20A-9-203**, as last amended by Chapter 209, Laws of Utah 2004

34 **20A-11-601**, as enacted by Chapter 1, Laws of Utah 1995

35 ENACTS:

36 **20A-9-205**, Utah Code Annotated 1953



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

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

40 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
41 **more than one political party prohibited with exceptions -- General filing and form**
42 **requirements.**

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

44 (a) be a United States citizen; and

45 (b) meet the legal requirements of that office.

46 (2) (a) Except as provided in Subsection (2)(b), a person may not:

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

49 (ii) appear on the ballot as the candidate of more than one political party.

50 (b) A person may file a declaration of candidacy for, or be a candidate for, President or
51 Vice President of the United States and another office, if the person resigns the person's
52 candidacy for the other office after the person is officially nominated for President or Vice
53 President of the United States.

54 (3) If the final date established for filing a declaration of candidacy is a Saturday or
55 Sunday, the filing time shall be extended until 5 p.m. on the following [~~Monday~~] business day.

56 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any
57 declaration of candidacy, the filing officer shall:

58 (A) read to the prospective candidate the constitutional and statutory qualification

59 requirements for the office that the candidate is seeking; and

60 (B) require the candidate to state whether or not the candidate meets those
61 requirements.

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

64 (A) a United States citizen;

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

67 (C) a registered voter in the county in which he is seeking office; and

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

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

74 (A) a United States citizen;

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

77 (C) a registered voter in the prosecution district in which he is seeking office; and

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

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

84 (A) as of the date of filing:

85 (I) is a United States citizen;

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

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

90 (Bb) has passed a certification examination as provided in Section 53-6-206; and
91 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
92 53-13-103; and

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

95 (b) If the prospective candidate states that he does not meet the qualification
96 requirements for the office, the filing officer may not accept the prospective candidate's
97 declaration of candidacy.

98 (c) If the candidate states that he meets the requirements of candidacy, the filing officer
99 shall:

100 (i) provide the candidate with a copy of the pledge of fair campaign practices described
101 under Section 20A-9-205 and inform the candidate that:

102 (A) signing the pledge is voluntary; and

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

104 [(+)] (ii) accept the candidate's declaration of candidacy; and

105 [(+)] (iii) if the candidate has filed for a partisan office, provide a certified copy of the
106 declaration of candidacy to the chair of the county or state political party of which the
107 candidate is a member.

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

110 (i) accept the candidate's pledge; and

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

114 (5) Except for presidential candidates, the form of the declaration of candidacy shall be
115 substantially as follows:

116 "State of Utah, County of _____

117 I, _____, declare my intention of becoming a candidate for the office of
118 _____ as a candidate for the _____ party. I do solemnly swear that: I can qualify to hold that
119 office, both legally and constitutionally, if selected; I reside at _____ in the City or
120 Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law

121 governing campaigns and elections; and I will qualify for the office if elected to it. The
122 mailing address that I designate for receiving official election notices is

123 _____.

124 _____

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

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

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

130 (i) \$25 for candidates for the local school district board; and

131 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person
132 holding the office, but not less than \$5, for all other federal, state, and county offices.

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

135 (i) who is disqualified; or

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

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

139 (ii) The lieutenant governor shall:

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

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

146 (d) (i) Each person who is unable to pay the filing fee may file a declaration of
147 candidacy without payment upon a prima facie showing of impecuniosity as evidenced by an
148 affidavit of impecuniosity filed with the filing officer.

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

151 "Affidavit of Impecuniosity

152 Individual Name

153 _____ Address _____

154 Phone Number _____

155 I, _____ (name), do solemnly [swear] [affirm] that, owing to my
156 poverty, I am unable to pay the filing fee required by law.

157 Date _____ Signature _____

158 Affiant

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

160 _____
161 (signature)

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

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

165 Section 2. Section **20A-9-203** is amended to read:

166 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

167 (1) (a) A person may become a candidate for any municipal office if the person is a
168 registered voter and:

169 (i) the person has resided within the municipality in which that person seeks to hold
170 elective office for the 12 consecutive months immediately before the date of the election; or

171 (ii) if the territory in which the person resides was annexed into the municipality, the
172 person has resided within the annexed territory or the municipality for 12 months.

173 (b) In addition to the requirements of Subsection (1)(a), candidates for a municipal
174 council position under the council-mayor or council-manager alternative forms of municipal
175 government shall, if elected from districts, be residents of the council district from which they
176 are elected.

177 (c) Pursuant to Utah Constitution Article IV, Section 6, any mentally incompetent
178 person, any person convicted of a felony, or any person convicted of treason or a crime against
179 the elective franchise may not hold office in this state until the right to vote or hold elective
180 office is restored as provided by statute.

181 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
182 become a candidate for a municipal office shall file a declaration of candidacy in person with

183 the city recorder or town clerk during office hours and not later than 5 p.m. between July 15
184 and August 15 of any odd numbered year and pay the filing fee, if one is required by municipal
185 ordinance.

186 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of
187 persons registered to vote in the municipality on the January 1 of the municipal election year.

188 (ii) A third, fourth, or fifth class city that used the convention system to nominate
189 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
190 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
191 convention system to nominate candidates in the last municipal election as authorized by
192 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
193 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
194 for municipal office file a nominating petition signed by a percentage of registered voters at the
195 same time that the candidate files a declaration of candidacy.

196 (iii) The ordinance shall specify the number of signatures that the candidate must
197 obtain on the nominating petition in order to become a candidate for municipal office under
198 this Subsection (2), but that number may not exceed 5% of registered voters.

199 (c) Any resident of a municipality may nominate a candidate for a municipal office by
200 filing a nomination petition with the city recorder or town clerk during office hours but not
201 later than 5 p.m. between July 15 and August 15 of any odd numbered year and pay the filing
202 fee, if one is required by municipal ordinance.

203 (d) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5
204 p.m. on the following Monday.

205 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
206 petition, the filing officer shall:

207 (i) read to the prospective candidate or person filing the petition the constitutional and
208 statutory qualification requirements for the office that the candidate is seeking; and

209 (ii) require the candidate or person filing the petition to state whether or not the
210 candidate meets those requirements.

211 (b) If the prospective candidate does not meet the qualification requirements for the
212 office, the filing officer may not accept the declaration of candidacy or nomination petition.

213 (c) If it appears that the prospective candidate meets the requirements of candidacy, the

214 filing officer shall:

215 (i) provide the candidate with a copy of the pledge of fair campaign practices described
216 under Section 20A-9-205 and inform the candidate that:

217 (A) signing the pledge is voluntary; and

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

219 (ii) accept the declaration of candidacy or nomination petition.

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

222 (i) accept the candidate's pledge; and

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

226 (4) The declaration of candidacy shall substantially comply with the following form:

227 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
228 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
229 registered voter; and that I am a candidate for the office of ____ (stating the term). I request
230 that my name be printed upon the applicable official ballots. (Signed) _____

231 Subscribed and sworn to (or affirmed) before me by ____ on this
232 _____(month\day\year).

233 (Signed) _____ (Clerk or other officer qualified to administer oath)"

234 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
235 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
236 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
237 for municipal office by submitting a petition signed by:

238 (i) 25 residents of the municipality who are at least 18 years old; or

239 (ii) 20% of the residents of the municipality who are at least 18 years old.

240 (b) (i) The petition shall substantially conform to the following form:

241 "NOMINATION PETITION

242 The undersigned residents of (name of municipality) being 18 years old or older
243 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
244 applicable)."

245 (ii) The remainder of the petition shall contain lines and columns for the signatures of
246 persons signing the petition and their addresses and telephone numbers.

247 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized
248 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
249 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
250 signed by the same percentage of registered voters in the municipality as required by the
251 ordinance passed under authority of Subsection (2)(b).

252 (b) (i) The petition shall substantially conform to the following form:

253 "NOMINATION PETITION

254 The undersigned residents of (name of municipality) being 18 years old or older
255 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
256 whichever is applicable)."

257 (ii) The remainder of the petition shall contain lines and columns for the signatures of
258 persons signing the petition and their addresses and telephone numbers.

259 (7) If the declaration of candidacy or nomination petition fails to state whether the
260 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
261 the four-year term.

262 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
263 voters.

264 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
265 print the candidate's name on the ballot.

266 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
267 clerk shall:

268 (a) cause the names of the candidates as they will appear on the ballot to be published
269 in at least two successive publications of a newspaper with general circulation in the
270 municipality; and

271 (b) notify the lieutenant governor of the names of the candidates as they will appear on
272 the ballot.

273 (10) (a) A declaration of candidacy or nomination petition filed under this section is
274 valid unless a written objection is filed with the clerk within five days after the last day for
275 filing.

276 (b) If an objection is made, the clerk shall:

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

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

280 (c) If the clerk sustains the objection, the candidate may correct the problem by
281 amending the declaration or petition within three days after the objection is sustained or by
282 filing a new declaration within three days after the objection is sustained.

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

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

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

288 (11) Any person who filed a declaration of candidacy and was nominated, and any
289 person who was nominated by a nomination petition, may, any time up to 23 days before the
290 election, withdraw the nomination by filing a written affidavit with the clerk.

291 Section 3. Section 20A-9-205 is enacted to read:

292 **20A-9-205. Fair campaign practices -- Voluntary pledge -- Pledge is a public**
293 **record -- Retention requirements.**

294 (1) Each person seeking to become a candidate for any elective office that is to be
295 filled at the next election shall be provided with a copy of the pledge of fair campaign
296 practices.

297 (2) The pledge shall be in the following form:

298 "PLEDGE OF FAIR CAMPAIGN PRACTICES

299 There are basic principles of decency, honesty, and fair play which every candidate for
300 public office in the State of Utah has a moral obligation to observe and uphold, in order that,
301 after vigorously contested but fairly conducted campaigns, our citizens may exercise their right
302 to a free election, and that the will of the people may be fully and clearly expressed on the
303 issues.

304 THEREFORE:

305 I SHALL conduct my campaign openly and publicly, discussing the issues as I see
306 them, presenting my record and policies with sincerity and frankness, and criticizing, without

307 fear or favor, the record and policies of my opponents that I believe merit criticism.

308 I SHALL NOT use nor shall I permit the use of whispering campaigns or scurrilous
309 attacks on any candidate. I shall not participate in or nor shall I permit the use of defamation,
310 libel, or slander against any candidate. I shall not participate in or shall I permit the use of any
311 other criticism of any candidate that I do not believe to be truthful, provable, and relevant to my
312 campaign.

313 I SHALL NOT appeal to nor shall I permit an appeal to negative prejudices based on
314 race, gender, religion, national origin, physical disability, or age.

315 I SHALL NOT use or nor shall I permit the use of any practice that tends to corrupt or
316 undermine our American system of free elections, or that hinders or prevents the free
317 expression of the will of the voters, including practices intended to hinder or prevent any
318 eligible person from registering to vote or voting.

319 I SHALL NOT coerce election help or campaign contributions for myself or for any
320 other candidate from my employees or volunteers.

321 I SHALL immediately and publicly repudiate support deriving from any individual or
322 group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to
323 methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take
324 firm action against any subordinate who violates any provision of this pledge or the laws
325 governing elections.

326 I SHALL defend and uphold the right of every qualified American voter to full and
327 equal participation in the electoral process.

328 I, the undersigned, candidate for election to public office in the State of Utah, hereby
329 voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in
330 accordance with the above principles and practices."

331 Name: _____

332 Signature: _____ Date: _____

333 (3) The filing officer shall print, or cause to be printed, blank forms of the pledge to be
334 distributed to persons filing a declaration of candidacy.

335 (4) A pledge that is submitted for filing by a candidate is a public record under Title
336 63, Chapter 2, Government Records Access and Management Act.

337 (5) The filing officer shall:

- 338 (a) accept all signed pledges that are submitted for filing; and
339 (b) retain each filed pledge for public inspection for 30 calendar days after the election.
340 (6) A candidate may not be required to subscribe to, endorse, or sign the pledge of fair
341 campaign practices.

342 Section 4. Section **20A-11-601** is amended to read:

343 **20A-11-601. Political action committees -- Registration -- Criminal penalty for**
344 **providing false information.**

345 (1) Each political action committee shall file a statement of organization with the
346 lieutenant governor's office no later than seven days after:

347 (a) receiving contributions totaling at least \$750 in any calendar year; or

348 (b) distributing expenditures for political purposes totaling at least \$750 in any
349 calendar year.

350 (2) Each political action committee shall designate two officers that have primary
351 decision-making authority for the political action committee.

352 [~~(2)~~] (3) The statement of organization shall include:

353 (a) the name and address of the political action committee;

354 (b) the name, address, occupation and title of the two primary officers designated under
355 Subsection (2);

356 [~~(b)~~] (c) the name, address, occupation, and title of [~~each officer~~] all other officers of
357 the political action committee;

358 [~~(c)~~] (d) the name and address of the organization, individual corporation, association,
359 unit of government, or union that the political action committee represents, if any;

360 [~~(d)~~] (e) the name and address of all affiliated or connected organizations and their
361 relationships to the political action committee;

362 [~~(e)~~] (f) the name, address, business address, occupation, and phone number of the
363 committee's treasurer or chief financial officer; and

364 [~~(f)~~] (g) the name, address, and occupation of each member of the governing [~~board~~]
365 and advisory boards, if any.

366 [~~(3)~~] (4) (a) Any registered political action committee that intends to permanently cease
367 operations shall file a notice of dissolution with the lieutenant governor's office.

368 (b) Any notice of dissolution filed by a political action committee does not exempt that

369 political action committee from complying with the financial reporting requirements of this
370 chapter.

371 (5) (a) For a period of one year after the date of filing of a statement of organization, a
372 political action committee shall file with the lieutenant governor's office a notice of any change
373 of an officer described in Subsection (2).

374 (b) Notice of a change in a primary officer described in Subsection (2) shall:

375 (i) be filed within ten days of the date of the change; and

376 (ii) contain the name and title of the officer being replaced and the name, address,
377 occupation, and title of the new officer.

378 (6) (a) A person is guilty of providing false information in relation to a political action
379 committee if the person intentionally or knowingly gives false or misleading material
380 information in the statement of organization or notice of change of primary officer.

381 (b) Providing false information in relation to a political action committee is a third
382 degree felony.

Legislative Review Note

as of 1-6-06 3:16 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0055

Election Reform

18-Jan-06

11:29 AM

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst