

Representative Brad M. Daw proposes the following substitute bill:

NOMINATION PETITION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to a petition to nominate a candidate for office.

Highlighted Provisions:

This bill:

- ▶ establishes a procedure for an individual to remove the individual's signature from a candidate nomination petition;
- ▶ recodifies and clarifies criminal provisions relating to a candidate nomination petition;
- ▶ provides that criminal provisions relating to a candidate nomination petition apply to both a candidate nomination petition for a registered political party and a candidate nomination petition for a qualified political party;
- ▶ imposes criminal and civil penalties when a signature gatherer intentionally misrepresents the purpose of a nomination petition or certain other information relating to the petition;
- ▶ requires a signature gatherer to display certain information relating to a candidate for whom they are collecting signatures;
- ▶ requires a signature gatherer to be a registered voter;



- 26 ▶ prohibits a person from paying an individual to collect signatures for a candidate
- 27 nomination petition; and
- 28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

- 35 **20A-9-403**, as last amended by Laws of Utah 2016, Chapter 28
- 36 **20A-9-405**, as enacted by Laws of Utah 2014, Chapter 17
- 37 **20A-9-408**, as last amended by Laws of Utah 2016, Chapter 28
- 38 **20A-9-411**, as enacted by Laws of Utah 2015, Chapter 296



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

41 Section 1. Section **20A-9-403** is amended to read:

42 **20A-9-403. Regular primary elections.**

43 (1) (a) Candidates for elective office that are to be filled at the next regular general
 44 election shall be nominated in a regular primary election by direct vote of the people in the
 45 manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is
 46 designated as regular primary election day. Nothing in this section shall affect a candidate's
 47 ability to qualify for a regular general election's ballot as an unaffiliated candidate under
 48 Section **20A-9-501** or to participate in a regular general election as a write-in candidate under
 49 Section **20A-9-601**.

50 (b) Each registered political party that chooses to have the names of its candidates for
 51 elective office featured with party affiliation on the ballot at a regular general election shall
 52 comply with the requirements of this section and shall nominate its candidates for elective
 53 office in the manner prescribed in this section.

54 (c) A filing officer may not permit an official ballot at a regular general election to be
 55 produced or used if the ballot denotes affiliation between a registered political party or any
 56 other political group and a candidate for elective office who was not nominated in the manner

57 prescribed in this section or in Subsection 20A-9-202(4).

58 (d) Unless noted otherwise, the dates in this section refer to those that occur in each
59 even-numbered year in which a regular general election will be held.

60 (2) (a) Each registered political party, in a statement filed with the lieutenant governor,
61 shall:

62 (i) either declare their intent to participate in the next regular primary election or
63 declare that the registered political party chooses not to have the names of its candidates for
64 elective office featured on the ballot at the next regular general election; and

65 (ii) if the registered political party participates in the upcoming regular primary
66 election, identify one or more registered political parties whose members may vote for the
67 registered political party's candidates and whether ~~[or not persons]~~ individuals identified as
68 unaffiliated with a political party may vote for the registered political party's candidates.

69 (b) (i) A registered political party that is a continuing political party must file the
70 statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on
71 November 15 of each odd-numbered year.

72 (ii) An organization that is seeking to become a registered political party under Section
73 20A-8-103 must file the statement described in Subsection (2)(a) at the time that the registered
74 political party files the petition described in Section 20A-8-103.

75 (3) (a) Except as provided in Subsection (3)(e), ~~[a person who has submitted]~~ an
76 individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a
77 candidate for elective office on the regular primary ballot of the registered political party listed
78 on the declaration of candidacy only if the ~~[person]~~ individual is certified by the appropriate
79 filing officer as having submitted a set of nomination petitions that was:

80 (i) circulated and completed in accordance with Section 20A-9-405; and

81 (ii) signed by at least two percent of the registered political party's members who reside
82 in the political division of the office that the ~~[person]~~ individual seeks.

83 (b) A candidate for elective office shall submit nomination petitions to the appropriate
84 filing officer for verification and certification no later than 5 p.m. on the final day in March.
85 Candidates may supplement their submissions at any time on or before the filing deadline.

86 (c) The lieutenant governor shall determine for each elective office the total number of
87 signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number

88 of ~~[persons]~~ individuals residing in each elective office's political division who have designated
89 a particular registered political party on their voter registration forms as of November 1 of each
90 odd-numbered year. The lieutenant governor shall publish this determination for each elective
91 office no later than November 15 of each odd-numbered year.

92 (d) The filing officer shall, subject to Section 20A-9-411:

93 (i) verify signatures on a nomination ~~[petitions]~~ petition in a transparent and orderly
94 manner;

95 (ii) certify signatures on a nomination petition no sooner than February 20;

96 ~~[(ii)]~~ (iii) for all qualifying candidates for elective office who submitted nomination
97 petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5
98 p.m. on the first Monday after the third Saturday in April;

99 ~~[(iii)]~~ (iv) consider active and inactive voters eligible to sign nomination petitions;

100 ~~[(iv)]~~ (v) consider ~~[a person]~~ an individual who signs a nomination petition a member
101 of a registered political party for purposes of Subsection (3)(a)(ii) if the ~~[person has designated]~~
102 individual designates that registered political party as the ~~[person's]~~ individual's party
103 membership on the ~~[person's]~~ individual's most recent voter registration form that was signed
104 by the individual; and

105 ~~[(v)]~~ (vi) utilize procedures described in Section 20A-7-206.3 to verify submitted
106 nomination petition signatures, or use statistical sampling procedures to verify submitted
107 nomination petition signatures pursuant to rules made under Subsection (3)(f).

108 (e) Notwithstanding any other provision in this Subsection (3), a candidate for
109 lieutenant governor may appear on the regular primary ballot of a registered political party
110 without submitting nomination petitions if the candidate files a declaration of candidacy and
111 complies with Subsection 20A-9-202(3).

112 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
113 director of elections, within the Office of the Lieutenant Governor, shall make rules that:

114 (i) provide for the use of statistical sampling procedures that:

115 (A) filing officers are required to use to verify signatures under Subsection (3)(d); and

116 (B) reflect a bona fide effort to determine the validity of a candidate's entire
117 submission, using widely recognized statistical sampling techniques; and

118 (ii) provide for the transparent, orderly, and timely submission, verification, and

119 certification of nomination petition signatures.

120 (g) The county clerk shall:

121 (i) review the declarations of candidacy filed by candidates for local boards of
122 education to determine if more than two candidates have filed for the same seat;

123 (ii) place the names of all candidates who have filed a declaration of candidacy for a
124 local board of education seat on the nonpartisan section of the ballot if more than two
125 candidates have filed for the same seat; and

126 (iii) determine the order of the local board of education candidates' names on the ballot
127 in accordance with Section [20A-6-305](#).

128 (h) An individual who collects signatures for a candidate under this section shall, while
129 collecting the signatures, wear or carry a hat, shirt, tag, sign, or other item that contains the
130 following information, plainly visible to an individual from whom the signature gatherer is
131 requesting a signature:

132 (i) the name of each individual on whose behalf the signature gatherer is collecting
133 signatures; and

134 (ii) the following information for each individual described in Subsection (3)(h)(i):

135 (A) the party for which the individual is seeking nomination;

136 (B) the office that the individual is seeking; and

137 (C) if applicable, the district in which the individual is running for office.

138 (i) A person may not pay an individual to collect signatures for a candidate nomination
139 petition.

140 (4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant
141 governor shall provide to the county clerks:

142 (i) a list of the names of all candidates for federal, constitutional, multi-county, and
143 county offices who have received certifications under Subsection (3), along with instructions
144 on how those names shall appear on the primary-election ballot in accordance with Section
145 [20A-6-305](#); and

146 (ii) a list of unopposed candidates for elective office who have been nominated by a
147 registered political party under Subsection (5)(c) and instruct the county clerks to exclude such
148 candidates from the primary-election ballot.

149 (b) A candidate for lieutenant governor and a candidate for governor campaigning as

150 joint-ticket running mates shall appear jointly on the primary-election ballot.

151 (c) After the county clerk receives the certified list from the lieutenant governor under
152 Subsection (4)(a), the county clerk shall post or publish a primary election notice in
153 substantially the following form:

154 "Notice is given that a primary election will be held Tuesday, June ____,
155 ____ (year), to nominate party candidates for the parties and candidates for nonpartisan
156 State Board of Education and local school board positions listed on the primary ballot. The
157 polling place for voting precinct ____ is ____ . The polls will open at 7 a.m. and continue open
158 until 8 p.m. of the same day. Attest: county clerk."

159 (5) (a) Candidates, other than presidential candidates, receiving the highest number of
160 votes cast for each office at the regular primary election are nominated by their registered
161 political party for that office or are nominated as a candidate for a nonpartisan State Board of
162 Education or local school board position.

163 (b) If two or more candidates, other than presidential candidates, are to be elected to
164 the office at the regular general election, those party candidates equal in number to positions to
165 be filled who receive the highest number of votes at the regular primary election are the
166 nominees of their party for those positions.

167 (c) A candidate who is unopposed for an elective office in the regular primary election
168 of a registered political party is nominated by the party for that office without appearing on the
169 primary ballot. A candidate is "unopposed" if no [~~person~~] individual other than the candidate
170 has received a certification under Subsection (3) for the regular primary election ballot of the
171 candidate's registered political party for a particular elective office.

172 (6) (a) When a tie vote occurs in any primary election for any national, state, or other
173 office that represents more than one county, the governor, lieutenant governor, and attorney
174 general shall, at a public meeting called by the governor and in the presence of the candidates
175 involved, select the nominee by lot cast in whatever manner the governor determines.

176 (b) When a tie vote occurs in any primary election for any county office, the district
177 court judges of the district in which the county is located shall, at a public meeting called by
178 the judges and in the presence of the candidates involved, select the nominee by lot cast in
179 whatever manner the judges determine.

180 (7) The expense of providing all ballots, blanks, or other supplies to be used at any

181 primary election provided for by this section, and all expenses necessarily incurred in the
182 preparation for or the conduct of that primary election shall be paid out of the treasury of the
183 county or state, in the same manner as for the regular general elections.

184 (8) An individual may not file a declaration of candidacy for a registered political party
185 of which the individual is not a member, except to the extent that the registered political party
186 permits otherwise under the registered political party's bylaws.

187 Section 2. Section **20A-9-405** is amended to read:

188 **20A-9-405. Nomination petitions for regular primary elections.**

189 (1) This section [~~shall apply~~] applies to the form and circulation of nomination
190 petitions for regular primary elections described in Subsection **20A-9-403(3)(a)**.

191 (2) A candidate for elective office, and the agents of the candidate, may not circulate
192 nomination petitions until the candidate has submitted a declaration of candidacy in accordance
193 with Subsection **20A-9-202(1)**.

194 (3) The nomination petitions shall be in substantially the following form:

195 (a) the petition shall be printed on paper 8-1/2 inches long and 11 inches wide;

196 (b) the petition shall be ruled with a horizontal line 3/4 inch from the top, with the
197 space above that line blank for purposes of binding;

198 (c) the petition shall be headed by a caption stating the purpose of the petition and the
199 name of the proposed candidate;

200 (d) the petition shall feature the word "Warning" followed by the following statement
201 in no less than eight-point, single leaded type: "It is a class A misdemeanor for anyone to
202 knowingly sign a certificate of nomination signature sheet with any name other than the
203 [~~person's~~] individual's own name or more than once for the same candidate or if the [~~person~~]
204 individual is not registered to vote in this state and does not intend to become registered to vote
205 in this state before signatures are certified by a filing officer.";

206 (e) the petition shall feature 10 lines spaced one-half inch apart and consecutively
207 numbered one through 10;

208 (f) the signature portion of the petition shall be divided into columns headed by the
209 following titles:

210 (i) Registered Voter's Printed Name;

211 (ii) Signature of Registered Voter;

- 212 (iii) Party Affiliation of Registered Voter;
 - 213 (iv) Birth Date or Age (Optional);
 - 214 (v) Street Address, City, Zip Code; and
 - 215 (vi) Date of Signature; and
 - 216 (g) a photograph of the candidate may appear on the nomination petition.
- 217 (4) If one or more nomination petitions are bound together, a page shall be bound to
 218 the nomination petition(s) that features the following printed verification statement to be signed
 219 and dated by the petition circulator:

220 "Verification
 221 State of Utah, County of _____
 222 I, _____, of _____, hereby state under that:
 223 I am a [~~Utah resident and am at least 18 years old~~] registered voter in Utah;
 224 All the names that appear on the signature sheets bound to this page were, to the best of
 225 my knowledge, signed by the [~~persons~~] individuals who professed to be the [~~persons~~]
 226 individuals whose names appear on the signature sheets, and each of [~~them~~] the individuals
 227 signed the [~~person's~~] individual's name on the signature sheets in my presence;
 228 I believe that each has printed and signed the [~~person's~~] individual's name and written
 229 the [~~person's~~] individual's street address correctly, and that each signer is registered to vote in
 230 Utah or will register to vote in Utah before the county clerk certifies the signatures on the
 231 signature sheet."

232 (5) The lieutenant governor shall prepare and make public model nomination petition
 233 forms and associated instructions.

234 (6) A nomination petition circulator must be [~~at least 18 years old and a resident of the~~
 235 ~~state~~] a registered voter in the state, but may affiliate with any political party.

- 236 [~~(7) It is unlawful for any person to:~~]
- 237 [~~(a) knowingly sign the nomination petition sheet described in Subsection (3):~~]
- 238 [~~(i) with any name other than the person's own name;~~]
- 239 [~~(ii) more than once for the same candidate; or~~]
- 240 [~~(iii) if the person is not registered to vote in this state and does not intend to become~~
 241 ~~registered to vote in this state prior to 5 p.m. on the final day in March;~~]
- 242 [~~(b) sign the verification of a certificate of nomination signature sheet described in~~]

243 Subsection (4) if the person:]

244 [~~(i) does not meet the residency requirements of Section 20A-2-105;~~]

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

247 [~~(iii) knows that a person whose signature appears on the certificate of nomination~~
248 ~~signature sheet is not registered to vote in this state and does not intend to become registered to~~
249 ~~vote in this state;]~~

250 [~~(c) pay compensation to any person to sign a nomination petition; or]~~

251 [~~(d) pay compensation to any person to circulate a nomination petition, if the~~
252 ~~compensation is based directly on the number of signatures submitted to a filing officer rather~~
253 ~~than on the number of signatures verified or on some other basis.]~~

254 [~~(8) Any person violating Subsection (7) is guilty of a class A misdemeanor.]~~

255 [~~(9) Withdrawal of petition signatures shall not be permitted.]~~

256 Section 3. Section 20A-9-408 is amended to read:

257 **20A-9-408. Signature-gathering process to seek the nomination of a qualified**
258 **political party.**

259 (1) This section describes the requirements for a member of a qualified political party
260 who is seeking the nomination of the qualified political party for an elective office through the
261 signature-gathering process described in this section.

262 (2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of
263 candidacy for a member of a qualified political party who is nominated by, or who is seeking
264 the nomination of, the qualified political party under this section shall be substantially as
265 described in Section 20A-9-408.5.

266 (3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection
267 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the
268 nomination of the qualified political party for an elective office that is to be filled at the next
269 general election shall:

270 (a) within the period beginning on January 1 before the next regular general election
271 and ending on the third Thursday in March of the same year, and before gathering signatures
272 under this section, file with the filing officer on a form approved by the lieutenant governor a
273 notice of intent to gather signatures for candidacy that includes:

274 (i) the name of the member who will attempt to become a candidate for a registered
275 political party under this section;

276 (ii) the name of the registered political party for which the member is seeking
277 nomination;

278 (iii) the office for which the member is seeking to become a candidate;

279 (iv) the address and telephone number of the member; and

280 (v) other information required by the lieutenant governor;

281 (b) file a declaration of candidacy, in person, with the filing officer on or after the
282 second Friday in March and before 5 p.m. on the third Thursday in March before the next
283 regular general election; and

284 (c) pay the filing fee.

285 (4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political
286 party who, under this section, is seeking the nomination of the qualified political party for the
287 office of district attorney within a multicounty prosecution district that is to be filled at the next
288 general election shall:

289 (a) on or after January 1 before the next regular general election, and before gathering
290 signatures under this section, file with the filing officer on a form approved by the lieutenant
291 governor a notice of intent to gather signatures for candidacy that includes:

292 (i) the name of the member who will attempt to become a candidate for a registered
293 political party under this section;

294 (ii) the name of the registered political party for which the member is seeking
295 nomination;

296 (iii) the office for which the member is seeking to become a candidate;

297 (iv) the address and telephone number of the member; and

298 (v) other information required by the lieutenant governor;

299 (b) file a declaration of candidacy, in person, with the filing officer on or after the
300 second Friday in March and before 5 p.m. on the third Thursday in March before the next
301 regular general election; and

302 (c) pay the filing fee.

303 (5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate
304 who files as the joint-ticket running mate of an individual who is nominated by a qualified

305 political party, under this section, for the office of governor shall submit a letter from the
306 candidate for governor that names the lieutenant governor candidate as a joint-ticket running
307 mate.

308 (6) The lieutenant governor shall ensure that the certification described in Subsection
309 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party
310 under this section.

311 (7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who
312 is nominated by a qualified political party under this section, designate the qualified political
313 party that nominated the candidate.

314 (8) A member of a qualified political party may seek the nomination of the qualified
315 political party for an elective office by:

316 (a) complying with the requirements described in this section; and

317 (b) collecting signatures, on a form approved by the lieutenant governor, during the
318 period beginning on January 1 of an even-numbered year and ending 14 days before the day on
319 which the qualified political party's convention for the office is held, in the following amounts:

320 (i) for a statewide race, 28,000 signatures of registered voters in the state who are
321 permitted by the qualified political party to vote for the qualified political party's candidates in
322 a primary election;

323 (ii) for a congressional district race, 7,000 signatures of registered voters who are
324 residents of the congressional district and are permitted by the qualified political party to vote
325 for the qualified political party's candidates in a primary election;

326 (iii) for a state Senate district race, 2,000 signatures of registered voters who are
327 residents of the state Senate district and are permitted by the qualified political party to vote for
328 the qualified political party's candidates in a primary election;

329 (iv) for a state House district race, 1,000 signatures of registered voters who are
330 residents of the state House district and are permitted by the qualified political party to vote for
331 the qualified political party's candidates in a primary election;

332 (v) for a State Board of Education race, the lesser of:

333 (A) 2,000 signatures of registered voters who are residents of the State Board of
334 Education district and are permitted by the qualified political party to vote for the qualified
335 political party's candidates in a primary election; or

336 (B) 3% of the registered voters of the qualified political party who are residents of the
337 applicable State Board of Education district; and

338 (vi) for a county office race, signatures of 3% of the registered voters who are residents
339 of the area permitted to vote for the county office and are permitted by the qualified political
340 party to vote for the qualified political party's candidates in a primary election.

341 (9) (a) In order for a member of the qualified political party to qualify as a candidate
342 for the qualified political party's nomination for an elective office under this section, the
343 member shall:

344 (i) except as otherwise provided in Section 20A-9-411, collect the signatures on a form
345 approved by the lieutenant governor, using the same circulation and verification requirements
346 described in Sections 20A-7-204 and 20A-7-205; and

347 (ii) submit the signatures to the election officer no later than 14 days before the day on
348 which the qualified political party holds its convention to select candidates, for the elective
349 office, for the qualified political party's nomination.

350 (b) An individual may not gather signatures under this section until after the individual
351 files a notice of intent to gather signatures for candidacy described in this section.

352 (c) An individual who files a notice of intent to gather signatures for candidacy,
353 described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files
354 the notice of intent to gather signatures for candidacy:

355 (i) required to comply with the reporting requirements that a candidate for office is
356 required to comply with; and

357 (ii) subject to the same enforcement provisions, and civil and criminal penalties, that
358 apply to a candidate for office in relation to the reporting requirements described in Subsection
359 (9)(c)(i).

360 (d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the
361 election officer shall, no later than one day before the day on which the qualified political party
362 holds the convention to select a nominee for the elective office to which the signature packets
363 relate:

364 (i) check the name of each individual who completes the verification for a signature
365 packet to determine whether each individual is a ~~[resident of Utah and is at least 18 years old]~~
366 registered voter in the state;

367 (ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a
368 [~~Utah resident or who is not at least 18 years old~~] registered voter in the state to the attorney
369 general and the county attorney;

370 (iii) determine whether each signer is a registered voter who is qualified to sign the
371 petition, using the same method, described in Section [20A-7-206.3](#), used to verify a signature
372 on a petition;

373 (iv) no sooner than February 20, certify whether each name is that of a registered voter
374 who is qualified to sign the signature packet; and

375 (v) notify the qualified political party and the lieutenant governor of the name of each
376 member of the qualified political party who qualifies as a nominee of the qualified political
377 party, under this section, for the elective office to which the convention relates.

378 (e) Upon receipt of a notice of intent to gather signatures for candidacy described in
379 this section, the lieutenant governor shall post the notice of intent to gather signatures for
380 candidacy on the lieutenant governor's website in the same location that the lieutenant governor
381 posts a declaration of candidacy.

382 (10) If a qualified political party restricts, based on party affiliation, the voters who are
383 eligible to vote for the qualified political party's candidates in a primary election, the election
384 officer shall determine a voter's party affiliation, for purposes of determining whether the
385 individual is qualified to sign a nomination petition, based on the declaration of party
386 affiliation made in the voter's most recent voter registration form that was signed by the voter.

387 (11) An individual who collects signatures for a candidate under this section shall,
388 while collecting the signatures, wear or carry a hat, shirt, tag, sign, or other item that contains
389 the following information, plainly visible to an individual from whom the signature gatherer is
390 requesting a signature:

391 (a) the name of each individual on whose behalf the signature gatherer is collecting
392 signatures; and

393 (b) the following information for each individual described in Subsection (11)(a):

394 (i) the party for which the individual is seeking nomination;

395 (ii) the office that the individual is seeking; and

396 (iii) if applicable, the district in which the individual is running for office.

397 (12) A person may not pay an individual to collect signatures for a candidate

398 nomination petition.

399 Section 4. Section **20A-9-411** is amended to read:

400 **20A-9-411. Signing multiple nomination petitions -- Removing signatures --**

401 **Unlawful conduct.**

402 (1) An individual who signs a petition, described in Section [20A-9-403](#) or [20A-9-408](#),
403 to nominate a candidate may not sign a petition to nominate another candidate for the same
404 office.

405 (2) If an individual signs more than one petition in violation of Subsection (1), the
406 election officer may only count the signature on the first petition that the election officer
407 reviews for that office.

408 (3) (a) An individual who signs a petition, described in Section [20A-9-403](#) or
409 [20A-9-408](#), to nominate a candidate may remove the individual's signature from the petition by
410 submitting, to the filing officer who is required to verify the signatures on the petition, a
411 written request that the individual's signature be removed.

412 (b) The filing officer shall comply with a request described in Subsection (3)(a) if the
413 filing officer receives the request before the filing officer verifies the individual's signature.

414 (c) The filing officer may not comply with a request described in Subsection (3)(a) if:

415 (i) the filing officer receives the request after the deadline described in Subsection

416 (3)(b); or

417 (ii) the request does not comply with the requirements of this Subsection (3).

418 (d) The request described in Subsection (3)(a) shall include:

419 (i) the name of the individual;

420 (ii) the resident address at which the individual is registered to vote;

421 (iii) the name of the candidate from whose petition the individual desires the

422 individual's signature to be removed; and

423 (iv) the signature of the individual.

424 (4) An individual is guilty of a class A misdemeanor if the individual knowingly signs
425 a petition, described in Section [20A-9-403](#) or [20A-9-408](#):

426 (a) with a name other than the individual's own name; or

427 (b) more than once for the same candidate.

428 (5) An individual is guilty of a class A misdemeanor if at the time that the individual

429 signs a petition, described in Section 20A-9-403 or 20A-9-408, the individual:

430 (a) is not registered to vote in this state; and

431 (b) does not intend to become registered to vote in this state before the deadline for
432 submitting signatures for the petition.

433 (6) An individual who signs the verification for a signature sheet for a petition,
434 described in Section 20A-9-405 or 20A-9-408, is guilty of a class A misdemeanor if the
435 individual:

436 (a) is not a registered voter in the state;

437 (b) did not witness the signing by the individuals whose names appear on the signature
438 sheet; or

439 (c) knows that an individual whose signature appears on the signature sheet is not
440 registered to vote in this state and does not intend to become registered to vote in this state.

441 (7) A person is guilty of a class A misdemeanor if the person:

442 (a) pays compensation to an individual to sign a nomination petition, described in
443 Section 20A-9-403 or 20A-9-408; or

444 (b) pays compensation to a person to circulate a nomination petition.

445 (8) A person that circulates a nomination petition, described in Section 20A-9-403 or
446 20A-9-408, is guilty of a class A misdemeanor if the person intentionally misrepresents:

447 (a) the purpose of the petition;

448 (b) the name or political party of the candidate to be nominated by the petition;

449 (c) the office for which the candidate is seeking to be nominated by the petition; or

450 (d) that the candidate seeking nomination by the petition is or is not an incumbent of
451 the office for which the candidate is seeking nomination by the petition.

452 (9) (a) An election officer shall impose a \$100 civil fine against a candidate if a person
453 who is authorized by the candidate or the candidate's campaign to circulate a nomination
454 petition for the candidate violates Subsection (8) in relation to the nomination petition.

455 (b) An election officer shall impose a separate fine under Subsection (9)(a) for each
456 violation of Subsection (8).

Legislative Review Note

02-06-17 4:41 PM

The Utah Legislature's Joint Rule 4-2-402 requires legislative general counsel to place a

legislative review note on legislation. The Legislative Management Committee has further directed legislative general counsel to include legal analysis in the legislative review note only if legislative general counsel determines there is a high probability that a court would declare the legislation to be unconstitutional under the Utah Constitution, the United States Constitution, or both. As explained in the legal analysis below, legislative general counsel has determined, based on applicable state and federal constitutional language and current interpretations of that language in state and federal court case law, that this legislation has a high probability of being declared unconstitutional by a court.

This bill, as stated in the third substitute, would prohibit a person from paying an individual to collect signatures for a candidate nomination petition. In addition, this bill would require a nomination petition circulator to be a registered voter in the state.

Prohibition on Paid Signature Collectors

The United States Supreme Court held that a Colorado law prohibiting initiative petition circulators from being paid was an unconstitutional limitation on political expression under the First and Fourteenth Amendments. Meyer v. Grant, 486 U.S. 414, 428 (1988). "Core political speech," as opposed to commercial speech, which involves a commercial transaction, is "interactive communication concerning political change." Id. at 421-22. Protection for political expression is "at its zenith" and is "subject to exacting scrutiny." Id. at 425. The Court identified two ways in which prohibiting payment to petition circulators restricts political expression: first, it "limits the size of the audience [the petition circulators] can reach," and second, "it makes it less likely that [petition circulators] will garner the number of signatures necessary to place the matter on the ballot." Id. at 422-23.

The Supreme Court and the Tenth Circuit have applied strict scrutiny to laws that restrict political speech. See Meyers, 486 U.S. at 423-424; Chandler v. City of Arvada, 292 F.3d 1236, 1241-42 (10th Cir. 2002) (striking down ordinance provisions prohibiting nonresidents from circulating initiative petitions). In Meyers, the Court concluded that the Colorado prohibition on payment to circulators "restrict[ed] access to the most effective, fundamental, and perhaps economical avenue of political discourse, direct one-on-one communication," and the fact that it left open other "avenues of communication, d[id] not relieve its burden on First Amendment expression." Id. at 424. Specifically, the state's interest in fraud detection was not enough to overcome the restriction on political exchange. Id. at 426.

Although the Colorado restriction on paying a petition circulator involved an initiative petition rather than a candidate petition, they are both examples of political expression in promoting public support for access to the ballot. See Buckley v. Am. Constitutional Law Found., 525 U.S. 182, 191 (1999) ("Initiative-petition circulators also resemble candidate-petition signature gatherers . . . for both seek ballot access."). The Supreme Court similarly stated that "[L]egislative restrictions on advocacy of the election or defeat of political candidates are wholly at odds with the guarantees of the First Amendment." Buckley v. Valeo, 424 U.S. 1, 50 (1976).

Based on this precedent, there is a high probability that a court would hold that prohibiting

signature collectors for a candidate nomination petition from being paid restricts political speech and thus violates the First and Fourteenth Amendments.

Requirement that Circulators must be registered to vote in Utah

The United States Supreme Court held that a Colorado law requiring initiative petition circulators to be registered voters "impose[d] a burden on political expression that the State has failed to justify" and affirmed the Tenth Circuit's invalidation of the provision. Buckley v. Am. Constitutional Law Found., 525 U.S. 182, 195 (1999). Referring back to its holding in Meyer, the Court concluded that the registered voter requirement "decrease[d] the pool of potential circulators as certainly as that pool is decreased by the prohibition of payment to circulators Both provisions . . . cut down 'the size of the audience proponents can reach.'" Buckley, 525 U.S. at 194-95 (quoting Meyer, 486 U.S. at 422-23). Further, the Court upheld the Tenth Circuit's strict scrutiny analysis in failing to find justification for the limitation on political speech. Id. at 196-97. The ease of policing circulators who violated the law when gathering signatures was not sufficient justification for requiring them to be registered voters, and this state interest was better served by requiring circulators to submit an affidavit containing information to locate the circulator. Id. at 196.

Based on this precedent, there is a high probability that a court would hold that requiring a nomination petition circulator to be a registered voter in Utah impinges on political expression and thus violates the First and Fourteenth Amendments.

Office of Legislative Research and General Counsel