

1 **DECLARATION OF CANDIDACY AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Evan J. Vickers**

5 House Sponsor: Brady Brammer

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the information disclosure that a filing officer is required to make to
10 an individual who files a declaration of candidacy.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires a filing officer to, when an individual files a declaration of candidacy for
14 legislative office, inform the individual that the Utah Constitution prohibits a person
15 who holds a public office of profit or trust from being a member of the Legislature.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **20A-9-201**, as last amended by Laws of Utah 2018, Chapter 11

23 **20A-9-601**, as last amended by Laws of Utah 2018, Chapters 11 and 80

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

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

27 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
28 **more than one political party prohibited with exceptions -- General filing and form**
29 **requirements -- Affidavit of impecuniosity.**

30 (1) Before filing a declaration of candidacy for election to any office, an individual
31 shall:

32 (a) be a United States citizen;

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

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

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

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

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

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

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

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

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

49 (ii) An individual may file a declaration of candidacy for, or be a candidate for, more
50 than one justice court judge office.

51 (iii) An individual may file a declaration of candidacy for lieutenant governor even if
52 the individual filed a declaration of candidacy for another office in the same election year if the
53 individual withdraws as a candidate for the other office in accordance with Subsection
54 [20A-9-202\(6\)](#) before filing the declaration of candidacy for lieutenant governor.

55 (3) (a) Except for a candidate for president or vice president of the United States,
56 before the filing officer may accept any declaration of candidacy, the filing officer shall:

57 (i) read to the individual the constitutional and statutory qualification requirements for

58 the office that the individual is seeking; ~~and~~

59 (ii) require the individual to state whether the individual meets those requirements[-];

60 and

61 (iii) if the declaration of candidacy is for a legislative office, inform the individual that
62 Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit
63 or trust, under authority of the United States or Utah, from being a member of the Legislature.

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

66 (i) a United States citizen;

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

69 (iii) a registered voter in the county in which the individual is seeking office; and

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

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

77 (i) a United States citizen;

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

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

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

86 office.

87 (d) Before accepting a declaration of candidacy for the office of county sheriff, the
88 county clerk shall ensure that the individual filing the declaration:

89 (i) is a United States citizen;

90 (ii) is a registered voter in the county in which the individual seeks office;

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

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

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

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

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

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

104 (ii) if the filing officer is not the lieutenant governor, that the individual provides the
105 financial disclosure to the lieutenant governor in accordance with Section 20A-11-1603.

106 (4) If an individual who files a declaration of candidacy does not meet the qualification
107 requirements for the office the individual is seeking, the filing officer may not accept the
108 individual's declaration of candidacy.

109 (5) If an individual who files a declaration of candidacy meets the requirements
110 described in Subsection (3), the filing officer shall:

111 (a) inform the individual that:

112 (i) the individual's name will appear on the ballot as the individual's name is written on
113 the individual's declaration of candidacy;

114 (ii) the individual may be required to comply with state or local campaign finance
115 disclosure laws; and

116 (iii) the individual is required to file a financial statement before the individual's
117 political convention under:

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

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

120 (C) local campaign finance disclosure laws, if applicable;

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

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

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

130 (i) signing the pledge is voluntary; and

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

132 (e) accept the individual's declaration of candidacy; and

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

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

138 (a) accept the candidate's pledge; and

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

142 (7) (a) Except for a candidate for president or vice president of the United States, the
143 form of the declaration of candidacy shall:

144 (i) be substantially as follows:

145 "State of Utah, County of _____

146 I, _____, declare my candidacy for the office of _____, seeking the
147 nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to
148 hold the office, both legally and constitutionally, if selected; I reside at _____
149 in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not
150 knowingly violate any law governing campaigns and elections; if filing via a designated
151 agent, I will be out of the state of Utah during the entire candidate filing period; I will
152 file all campaign financial disclosure reports as required by law; and I understand that
153 failure to do so will result in my disqualification as a candidate for this office and
154 removal of my name from the ballot. The mailing address that I designate for receiving
155 official election notices is _____.

156 _____

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

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

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

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

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

163 (b) An agent designated under Subsection 20A-9-202(1)(b) to file a declaration of
164 candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

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

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

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

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

172 (i) who is disqualified; or

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

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

176 (ii) The lieutenant governor shall:

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

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

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

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

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

191 (B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be
192 considered an offense under this title for the purposes of assessing the penalties provided in
193 Subsection 20A-1-609(2).

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

196 "Affidavit of Impecuniosity

197 Individual Name

198 _____ Address _____

199 Phone Number _____

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

203 Date _____ Signature _____

204 Affiant

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

206 _____
207 (signature)

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

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

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

215 (vi) The filing officer may request that a person who makes a claim of impecuniosity
216 under this Subsection (8)(d) file a financial statement on a form prepared by the election
217 official.

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

- 222 (i) file a declaration of candidacy, in person or via a designated agent, with the
- 223 lieutenant governor:
 - 224 (A) on a form developed and provided by the lieutenant governor; and
 - 225 (B) on or after the second Friday in March and before 5 p.m. on the third Thursday in

226 March before the next regular primary election;
227 (ii) identify the registered political party whose nomination the candidate is seeking;
228 (iii) provide a letter from the registered political party certifying that the candidate may
229 participate as a candidate for that party in that party's presidential primary election; and
230 (iv) pay the filing fee of \$500.

231 (b) A designated agent described in Subsection (9)(a)(i) may not sign the form
232 described in Subsection (9)(a)(i)(A).

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

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

237 Section 2. Section **20A-9-601** is amended to read:

238 **20A-9-601. Qualifying as a write-in candidate.**

239 (1) (a) Except as provided in Subsection (1)(b), an individual who wishes to become a
240 valid write-in candidate shall file a declaration of candidacy in person, or through a designated
241 agent for a candidate for president or vice president of the United States, with the appropriate
242 filing officer not later than 60 days before the regular general election or a municipal general
243 election in which the individual intends to be a write-in candidate.

244 (b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a
245 declaration of candidacy for president of the United States.

246 (ii) Subject to Subsection (2)(d), an individual may designate an agent to file a
247 declaration of candidacy with the appropriate filing officer if:

- 248 (A) the individual is located outside of the state during the entire filing period;
- 249 (B) the designated agent appears in person before the filing officer; and
- 250 (C) the individual communicates with the filing officer using an electronic device that
251 allows the individual and filing officer to see and hear each other.

252 (2) (a) The form of the declaration of candidacy for all offices, except president or vice
253 president of the United States, is substantially as follows:

254 "State of Utah, County of ____
 255 I, _____, declare my intention of becoming a candidate for the office of
 256 ____ for the ____ district (if applicable). I do solemnly swear that: I will meet the
 257 qualifications to hold the office, both legally and constitutionally, if selected; I reside at
 258 _____ in the City or Town of ____, Utah, Zip Code ____, Phone No. ____; I will
 259 not knowingly violate any law governing campaigns and elections; if filing via a designated
 260 agent, I will be out of the state of Utah during the entire candidate filing period; I will file all
 261 campaign financial disclosure reports as required by law; and I understand that failure to do so
 262 will result in my disqualification as a candidate for this office and rejection of any votes cast
 263 for me. The mailing address that I designate for receiving official election notices is
 264 _____.

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

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

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

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

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

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

281 (c) A declaration of candidacy for a write-in candidate for vice president of the United

282 States shall be in substantially the same form as a declaration of candidacy described in
283 Subsection 20A-9-202(7).

284 (d) An agent described in Subsection (1)(a) or (b) may not sign the form described in
285 Subsection (2)(a) or (b).

286 (3) (a) The filing officer shall:

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

288 [~~and~~]

289 (ii) ask the candidate whether or not the candidate meets the requirements~~[-]; and~~

290 (iii) if the declaration of candidacy is for a legislative office, inform the individual that
291 Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit
292 or trust, under authority of the United States or Utah, from being a member of the Legislature.

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

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