

HB0312S02 compared with HB0312S01

~~{deleted text}~~ shows text that was in HB0312S01 but was deleted in HB0312S02.

inserted text shows text that was not in HB0312S01 but was inserted into HB0312S02.

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Representative Jordan D. Teuscher proposes the following substitute bill:

STATE RESIDENCY AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the Election Code regarding residency determinations for candidates.

Highlighted Provisions:

This bill:

- ▶ clarifies when a presumption of residency applies;
- ▶ provides that a statement made in a declaration of candidacy is subject to the penalties of perjury;
- ▶ ~~{requires an individual who has been absent from the state for an extended period of time to provide evidence of residency with the individual's}~~addresses when a rebuttable presumption of residency applies for an individual filing a declaration of candidacy ~~{ for certain political offices, with some exceptions}~~; and

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- ▶ modifies deadlines for objecting to a person's declaration of candidacy.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-105, as last amended by Laws of Utah 2014, Chapter 260

20A-9-201, as last amended by Laws of Utah 2020, Chapter 22

20A-9-202, as last amended by Laws of Utah 2020, Chapter 22

20A-9-203, as last amended by Laws of Utah 2020, Chapter 22

20A-9-408.5, as enacted by Laws of Utah 2015, Chapter 296

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

Section 1. Section **20A-2-105** is amended to read:

20A-2-105. Determining residency.

(1) As used in this section:

(a) "Principal place of residence" means the single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(b) "Resident" means a person whose principal place of residence is within a specific voting precinct in Utah.

(2) Election officials and judges shall apply the standards and requirements of this section when determining whether a person is a resident for purposes of interpreting this title or the Utah Constitution.

(3) (a) A person resides in Utah if:

(i) the person's principal place of residence is within Utah; and

(ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely.

(b) A person resides within a particular voting precinct if, as of the date of registering to vote, the person's principal place of residence is in that voting precinct.

(c) A person's principal place of residence does not change solely because the person is

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present in Utah, present in a voting precinct, absent from Utah, or absent from the person's voting precinct because the person is:

- (i) employed in the service of the United States or of Utah;
- (ii) a student at an institution of learning;
- (iii) incarcerated in prison or jail; or
- (iv) residing upon an Indian or military reservation.

(d) (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at a military facility within Utah.

(ii) In order to be a resident of Utah, a member of the armed forces described in this Subsection (3)(d) shall meet the other requirements of this section.

(e) (i) Except as provided in Subsection (3)(e)(ii) or (iii), a person has not lost the person's principal place of residence in Utah or a precinct if that person moves to a foreign country, another state, or another voting precinct within Utah, for temporary purposes with the intention of returning.

(ii) If a person leaves the state or a voting precinct and votes in another state or voting precinct, the person is no longer a resident of the state or voting precinct that the person left.

(iii) A person loses the person's principal place of residence in Utah or in a precinct, if, after the person moves to another state or another precinct under Subsection (3)(e)(i), the person forms the intent of making the other state or precinct the person's principal place of residence.

(f) A person is not a resident of a county or voting precinct if that person comes for temporary purposes and does not intend to make that county or voting precinct the person's principal place of residence.

(g) A person loses the person's principal place of residence in Utah or in a precinct if the person moves to another state or precinct with the intention of making the other state or precinct the person's principal place of residence.

(h) If a person moves to another state or precinct with the intent of remaining there for an indefinite time as the person's principal place of residence, the person loses the person's residence in Utah, or in the precinct, even though the person intends to return at some future time.

- (4) An election official or judge shall, in determining a person's principal place of

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residence, consider the following factors, to the extent that the election official or judge determines the factors to be relevant:

- (a) where the person's family resides;
- (b) whether the person is single, married, separated, or divorced;
- (c) the age of the person;
- (d) where the person usually sleeps;
- (e) where the person's minor children attend school;
- (f) the location of the person's employment, income sources, or business pursuits;
- (g) the location of real property owned by the person;
- (h) the person's residence for purposes of taxation or tax exemption; and
- (i) other relevant factors.

(5) (a) A person has changed the person's principal place of residence if the person:

- (i) acts affirmatively to move from the state or a precinct in the state; and
- (ii) has the intent to remain in another state or precinct.

(b) A person may not have more than one principal place of residence.

(c) A person does not lose the person's principal place of residence until the person establishes another principal place of residence.

(6) In computing the period that a person is a resident, a person shall:

(a) include the day on which the person establishes the person's principal place of residence; and

(b) exclude the day of the next election.

(7) (a) [~~There~~] ~~{For purposes of registering and allowing a person to vote}~~ Except as provided in Subsection (10), there is a rebuttable presumption that a person's principal place of residence is in Utah and in the voting precinct claimed by the person if the person makes an oath or affirmation upon a registration application form or declaration of candidacy that the person's principal place of residence is in Utah and in the voting precinct claimed by the person.

(b) [~~The~~] Except as provided in Subsection (10), the election officers and election officials shall allow a person described in Subsection (7)(a) to register and vote, or accept the person's declaration of candidacy, unless, upon a challenge by a registrar or some other person, it is shown by law or by clear and convincing evidence that:

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(i) the person's principal place of residence is not in Utah; or

(ii) the person is incarcerated in prison or jail and did not, before the person was incarcerated in prison or jail, establish the person's principal place of residence in the voting precinct.

(8) (a) The criteria described in this section for establishing a person's principal place of residence for voting purposes do not apply in relation to the person's location while the person is incarcerated in prison or jail.

(b) For voting registration purposes, the principal place of residence of a person incarcerated in prison or jail is the state and voting precinct where the person's principal place of residence was located before incarceration.

(9) If a person's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that person shall be considered a resident of the county in which a majority of the residential parcel lies.

(10) (a) If an individual seeking to become a candidate for a political office that includes a durational residency requirement has been absent from the state for a period of more than 180 consecutive days during the applicable residency period, the individual ~~shall~~ may, at the time that the candidate files a declaration of candidacy, submit evidence to the filing officer to show that the individual intended to return to the state during the time of the individual's absence from the state.

(b) ~~ff~~ There is a rebuttable presumption that an individual described in Subsection (10)(a) ~~does not submit evidence to the filing officer sufficient to rebut a presumption that the individual did not intend~~ intended to return to the state during the individual's absence ~~if~~ if:

(i) ~~the individual submits evidence of the individual's intent to~~ the filing officer ~~may not accept~~ at the time that the ~~individual's~~ individual files a declaration of candidacy ~~;~~ or

(~~fc~~ii) ~~Subsections (10)(a) and (b) do not apply to an~~ the individual ~~who~~ was absent from the state because the individual was:

(~~fi~~A) ~~employed in the service of the United States or of Utah;~~

(~~fi~~B) ~~a student at an institution of learning; or~~

(~~fi~~C) ~~engaged solely in religious, missionary, philanthropic, or humanitarian activities.~~

(c) ~~If a written objection to an individual's declaration of candidacy is filed, there is a~~

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rebuttable presumption that an individual described in Subsection (10)(a) did not intend to return to the state during the individual's absence if:

(i) the individual did not submit evidence of the individual's intent to the filing officer at the time that the individual filed a declaration of candidacy; and

(ii) the individual's absence from the state was not for one of the reasons described in Subsection (10)(b)(ii).

(d) An individual must rebut the presumption described in this Subsection (10) by clear and convincing evidence.

Section 2. Section **20A-9-201** is amended to read:

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

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

(a) be a United States citizen;

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

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

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

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

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

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

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

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

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

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

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the 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) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i); ~~and~~

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office~~[-];~~ and

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

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

(i) a United States citizen;

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

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

(iv) a current resident of the county in which the 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.

(c) 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 individual filing that declaration of candidacy is:

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(i) a United States citizen;

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

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

(iv) a current resident of the prosecution district in which the 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.

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

(i) is a United States citizen;

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

(iii) (A) 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

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

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

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

(e) 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:

(i) that the individual filing the declaration of candidacy also makes the conflict of interest disclosure required by Section 20A-11-1603; and

(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification

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requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

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

(a) inform the individual that:

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

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

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

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

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

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

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

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

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

(i) signing the pledge is voluntary; and

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

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

(f) if the individual 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 individual is a member.

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

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(a) accept the candidate's pledge; and

(b) 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.

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

(i) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear, under penalty of perjury, 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; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; 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

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

(8) (a) Except for a candidate for president or vice president of the United States, 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

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person holding the office for all other federal, state, and county offices.

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

- (i) who is disqualified; or
- (ii) who the filing officer determines has filed improperly.

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

(ii) The lieutenant governor shall:

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

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

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

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

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

(B) Conviction of a criminal offense under Subsection (8)(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 _____

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

Date _____ Signature _____

Affiant

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

(signature)

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

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

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

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

(9) 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.

(10) 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 3. Section **20A-9-202** is amended to read:

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

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

(i) except as provided in Subsection (1)(c), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Unless expressly provided otherwise in this title, for a registered political party that

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is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.

(c) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

- (i) the individual is located outside of the state during the entire filing period;
- (ii) the designated agent appears in person before the filing officer;
- (iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and
- (iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

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

(e) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed a declaration of candidacy with the county clerk.

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

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

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

(ii) pay the filing fee.

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

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(3) (a) Before the deadline described in Subsection (1)(b), each lieutenant governor candidate shall:

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

(ii) pay the filing fee; and

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

(b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

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

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. [~~within five days after the last day for filing~~] on the last business day that is at least 10 days before the deadline described in Subsection 20A-9-409(4)(c).

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

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

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

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition before 5 p.m. within three days after the day on which the objection is sustained or by filing a new declaration before 5 p.m. within three days after the day on which the objection is sustained.

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

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

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

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

(7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

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

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

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

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

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

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

(ii) pay the filing fee; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

(8) An individual filing a declaration of candidacy for president or vice president of the United States shall pay a filing fee of \$500.

Section 4. Section **20A-9-203** is amended to read:

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

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

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

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each

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other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

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

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

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

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

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) 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

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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; and

(v) accept the declaration of candidacy or nomination petition.

(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.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first sworn and under penalty of perjury, say that I reside at _____ Street, City of _____, County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. 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. I request that my name be printed upon the applicable official ballots. (Signed) _____

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

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

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate

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(name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

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

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

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

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

(a) publish a list of the names of the candidates as they will appear on the ballot:

(i) (A) in at least two successive publications of a newspaper of general circulation in the municipality;

(B) if there is no newspaper of general circulation in the municipality, by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(C) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for seven days;

(iii) in accordance with Section 45-1-101, for seven days; and

(iv) if the municipality has a website, on the municipality's website for seven days; and

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

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within [~~five~~] 10 days after the last day for filing.

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(b) If a person files an objection, the clerk shall:

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

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

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

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

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

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

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 5. Section **20A-9-408.5** is amended to read:

20A-9-408.5. Declaration of candidacy form for qualified political party.

The declaration of candidacy form described in Sections 20A-9-407 and 20A-9-408 shall:

(1) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear, under penalty of perjury, 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

_____.

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Subscribed and sworn before me this _____(month\day\year). Notary Public (or other officer qualified to administer oath).";

(2) direct the candidate to state, in the sworn statement described in Subsection (1):

(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; and

(3) direct the candidate to indicate whether the candidate is seeking the nomination

using:

(a) the convention process described in Section 20A-9-407;

(b) the signature-gathering process described in Section 20A-9-408; or

(c) both processes described in Subsections (3)(a) and (b).