

STATE OF UTAH
OFFICE OF THE LIEUTENANT GOVERNOR



SPENCER J. COX
LIEUTENANT GOVERNOR

March 22, 2016

Chairman James Evans
Utah Republican Party
117 E. South Temple
Salt Lake City, Utah 84111

Chairman Peter Corroon
Utah Democratic Party
825 N. 300 W. Suite, C400
Salt Lake City, UT 84103

Chairman Hal Massey
Independent American Party
4270 Normandie Ln
Salt Lake City, Utah 84107

Dear Chairman Evans, Chairman Corroon, and Chairman Massey,

I want to inform you of an issue election officials discovered while reviewing declaration of candidacy forms submitted by candidates during the recent candidate filing period. There is a new requirement on the declaration of candidacy form which asks the candidate to indicate whether they will seek the nomination through the convention process, the signature-gathering process, or both (Utah Code 20A-9-408.5(3)). Because this is a new check box on the form, many election officers simply missed the omission as candidates were completing the form.

As our office reviewed the declaration of candidacy forms for federal, statewide and legislative candidates we found a small percentage of forms with blank check boxes where the candidate did not indicate which nomination path they would be taking.

UCA 20A-9-401(1) specifically requires election officials to construe the primary election statute "liberally so as to ensure full opportunity for persons to become candidates and for voters to

express their choice.” Clerical errors on declaration of candidacy forms do happen, fortunately the statute provides a process to allow candidates to correct the issue. UCA 20A-9-202(5) states:

- (5)(a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor within five days after the last day for filing.
- (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 within three days after the objection is sustained or by filing a new declaration within three days after 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.
- (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.

Below is a list of 15 federal, statewide and legislative candidates which did not check any nomination box:

Stoney Fanua	U.S. Senate	Independent American
Jared Green	Auditor	Independent American
Gary R. Herbert	Governor	Republican
Spencer J. Cox	Lt. Governor	Republican
Ryan Peltekian	Senate 13	Independent American
Gage Froerer	House 8	Republican
Charles M. Hansen	House 22	Republican
Trudy Turner Ellis	House 22	Democratic
Jacob Nielsen	House 27	Republican
Mark Hammond	House 32	Democratic
Mark A. Wheatley	House 35	Democratic
Marie H. Poulson	House 46	Democratic
Tommy Williams	House 60	Independent American
Howard Stone	House 61	Republican
Nathan Smith Jones	House 63	Democratic

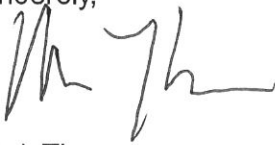
Yesterday, our office filed written notice to each of these candidates under UCA 20A-9-202(5) and instructed them to cure this issue by amending their declaration or filing a new declaration within three days.

We have already received amended forms from Gary R. Herbert, Spencer J. Cox, Nathan Jones and Jacob Nielsen and have heard from several other candidates that they plan on amending their forms as well. Trudy Turner Ellis has indicated to our office that she is withdrawing from her race.

Our office has also learned Duchesne County failed to include the new language on the declaration form. The county clerk is currently contacting each candidate that filed in her office to have them complete the correct form.

Please feel free to assist our office in contacting each of these candidates to ensure each candidate provides election officials with the appropriate information.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Thomas', written in a cursive style.

Mark Thomas

Chief Deputy/Director of Elections