

So You Want to Get Elected?

A. So You Want To Get Elected – Title Slide

B. VIDEO CLIP – The Candidate

a. My Background in Public Service

- i. 1988-1998 Utah House of Representatives
- ii. 1998-2014 Utah Senate (Senate President 2005-2008)
- iii. 2014-Current Chairman of the Utah State Tax Commission

C. Qualifications of Elected Office

- a. Utah Constitution Article VI, Section 5
- b. Utah Code Title 20A, Part 1

Office	Min. Age	Utah Residency	Citizenship	Other Req.	Term
U.S. Senate	30	At election	9 years		6 years
U.S. House	25	At election	7 years		2 years
Governor	30	5 years	At election	1. Qualified Voter ¹ 2. No Felony Convictions ²	4 years
Lieutenant Governor	30	5 years	At election	1. Qualified Voter ¹ 2. No Felony Convictions ²	4 years
Attorney General	25	5 years	At election	1. Qualified Voter 2. No Felonies 3. Member in good standing with the Utah Bar	4 years
State Auditor	25	5 years	At election	1. Qualified Voter 2. No Felonies	4 years
State Treasurer	25	5 years	At election	1. Qualified Voter 2. No Felonies	4 years
State Senate	25	3 years (6 mo. living in Senate district)	At election	1. Qualified Voter 2. No Felonies	4 years
State House of Representatives	25	3 years (6 mo. living in House district)	At election	1. Qualified Voter 2. No Felonies	2 years

¹A qualified voter is: (1) U.S. Citizen; (2) Utah Resident for at least 30 days; (3) at least 18 years old; (4) registered to vote.

² A felony conviction will not disqualify if: (1) The felony conviction has been expunged; or (2) 10 years have passed since conviction, all restitution/fines are paid, and probation, parole, or incarceration is complete.

D. Campaign Paths to the Ballot

- a. You can choose to gather petition signatures or participate in your party's convention.
- b. You could even choose to do both

E. Choose your path but choose wisely

- a. Each path has its benefits.

F. The Signature Path

a. Gathering Signatures Path

1. Determine signature requirements based on office sought.

Office	# of Signatures
U.S. Senate	28,000
U.S. House of Representatives	7,000
Statewide Offices	28,000
Utah Senate	2,000
Utah House of Representatives	1,000

G. Gathering Signatures

a. Declare intent to gather signatures

- i. Signatures gathered before filing notice of intent to gather signatures do not count.
- ii. Must declare in person with either the Lieutenant Governor or County Clerk depending on the office sought
- iii. Must file Notice of Intent to Gather Signatures for Candidacy
- iv. Signatures must be submitted 14 days prior to the candidate's convention even candidate is not participating in the convention.

b. Gather more signatures than the bare minimum because some will not count.

- i. A signer must satisfy the following for their signature to count:
 1. registered to vote
 2. lives in the relevant district/area
 3. allowed to vote in party primary
 4. did not sign a petition of another candidate for the same office.

c. Declare Candidacy

- i. This is not the same as declaring intent to gather signatures
- ii. Must declare in person with either the Lieutenant Governor or County Clerk depending on the office sought
- iii. File the following forms:
 1. Declaration of Candidacy Form
 2. Financial Disclosure form
 3. Conflict of Interest Form
 4. Pledge of Fair Campaign Practices (optional)

H. Caucus & Convention Path

a. Declare candidacy

- i. Must be done in person with either the Lieutenant Governor or County Clerk depending on the office sought.
- ii. Declaration of Candidacy Form
- iii. Financial Disclosure form

- iv. Conflict of Interest Form
- v. Pledge of Fair Campaign Practices (optional)
- b. The Caucus Meeting
 - i. Local meeting of political party members where representatives called delegates are chosen to attend the party's convention.
 - ii. You should attend the caucus meetings and gather the support if the delegates.
- c. The Convention
 - i. Get to know your party's caucus and convention system.
 - ii. Attend caucus meeting and gather the support of delegates
 - iii. Attend your party's convention
 - iv. Depending on the office sought, you will need to attend a county or statewide convention.
 - v. Obtain party certification of your candidacy
- a. Both the Signature path and Convention path can be followed simultaneously
 - 1. Following both paths would allow you to get on the ballot even if you are unable to obtain the necessary support at the convention.
 - 2. However, the deadline for gathering signatures is 14 days before the convention so you must gather signatures not knowing whether you will be supported by the convention.

I. Campaign Finances

a. Filing Fees (2016)

Office	2016 Filing Fee
U.S. Senate	\$1,355.00
U.S. House of Representatives	\$485.00
Governor	\$800.00
Attorney General	\$762.00
Lt. Governor, State Auditor, & State Treasurer	\$725.00
State Senate	\$111.43
State House of Representatives	\$80.71

- ### b. Campaign Contributions
- i. Campaign donations may not be used for personal expenses. Be careful to keep campaign finances separate from personal/business finances
 - ii. All contributions must be documented and reported within 30 days of receipt
 - iii. Anonymous donations in excess of \$50 may not be kept. All anonymous donations must be gifted to the state, county, city or a 501(c)(3) org within 30 days of receipt.

J. Campaign Advertising

- ### a. Be Transparent!
- i. If your campaign paid for an advertisement disclose this in the advertisement.

- ii. If a third party paid for an advertisement, but it is supported by your campaign, the advertisement must disclose the sponsor and the authorization of your campaign.

K. You Won . . . Now What?

L. Video Clip – Now what do we do? - [Tell Story “I won?”]

M. The Citizen Legislator

- a. Managing a Full-time Law Practice while Serving
- b. You and your Family in the political spotlight
- c. The salary of a legislator
 - i. According to the 2016 report of the Utah Legislative Compensation Commission the legislature receives the following compensation:
 - 1. \$273 per day for authorized legislative days (\$12,285 for the General Session)
 - 2. Per Diem (\$100/night lodging in SLC, \$40/day meals, \$0.56/mile private car, \$79/month cell phone)
 - 3. After 2011 standard state employee retirement
 - 4. Standard state employee health and dental
 - ii. Approx. \$34.13/hour (per diem excluded)
 - iii. Approx. \$39.13/hour (per diem included)

N. Benefits of Lawyers in the Legislature

- a. Legal Training creates a greater ability to understand, analyze, and solve complex legal issues and minimize unintended consequences of legislation.
- b. Through legal practice, you have valuable hands-on experience with the real life application of law.

O. Legislative Rules of Ethics vs. Bar Rules of Professional Conduct

- a. Legislative Rules acknowledge potential conflicts with the outside employment of legislators.

JR6-1-101(1) The Utah Legislature consists of people who work part-time and must necessarily earn their living in other jobs and professions.

(2) It is necessary to reconcile the functions of privately employed legislators who have their own private interests with the maintenance of high ethical standards and public confidence.

(3) In seeking to balance these interests, it is necessary to avoid controls that might be so strict that they discourage capable and honorable persons from entering legislative service.

- b. However, the “controls” on outside employment for a legislator/lawyer are particularly “strict” because of the fiduciary duties owed by lawyers to their clients. These limits include:

1. JR6-1-102(2)(a) . . . any employment or other activity that would destroy or impair their independence of judgment.
 - Ex. you must vote on a piece of legislation that you know will adversely affect a current or former client.
 - **Rule 1.9(a)** A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client.
 - As a legislator, you were elected to represent constituents whose interests may be materially adverse to that of a current or former client. How do you reconcile this potential conflict?
 - Disclosure of conflict vs. duty of confidentiality to client
2. JR6-1-102(2)(b) [pay] by a person . . . to lobby, consult, or to further the interests of any legislation or legislative matter.
 - Clients pay attorneys to act with reasonable diligence in their representation. (**Rule 1.3**) Does “reasonable diligence” include the support or opposition of certain legislation that would be beneficial or detrimental to a client?
3. JR6-1-102(2)(e) . . . use [of] any nonpublic information obtained by reason of their official position to gain advantage over any business or professional competition for activities with the state and its political subdivisions.
 - If a lawyer cannot use information gained through legislative duties to benefit his client does this create a concurrent conflict of interest under Rule 1.7(a)?
 - **Rule 1.7(a)** . . . a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (a)(2) There is a significant risk that the representation . . . will be materially limited . . .
 - (b) Notwithstanding . . . a lawyer may represent a client if:
 1. (b)(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
 2. (b)(2) the representation is not prohibited by law;
 3. (b)(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
 4. (b)(4) each affected client gives informed consent, confirmed in writing.
4. JR6-1-102(2)(f) . . . any business relationship or activity that would require the disclosure of confidential information obtained because of their official position.
 - **Rule 2.1** requires candor to a client. The rule suggests that “political factors” may be relevant to such candid advice.
 - Can an attorney offer candid advice while at the same time knowingly withholding information that could be of benefit to the client?

5. JR6-1-102(2)(g) . . .use [of] their official position to secure privileges for themselves or others.
 - A lawyer’s mere identity as a legislator may offer benefits and opportunities that may be unavailable to another lawyer. If a lawyer legislator does not exercise certain opportunities on behalf of a client is it a failure of diligent representation?
6. JR6-1-102(2)(h) . . . disclose any conflict of interest on any legislation or legislative matter . . .
 - **Rule 1.6(a)** A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent . . .
 - **Rule 1.6(b)** A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary: (6) to comply with other law . . .
 - However, Rule comment [12] states that “Whether such a law supersedes Rule 1.6 is a question of law beyond the scope of these rules.”

P. Re-election

- a. Staying Power

Q. Questions?