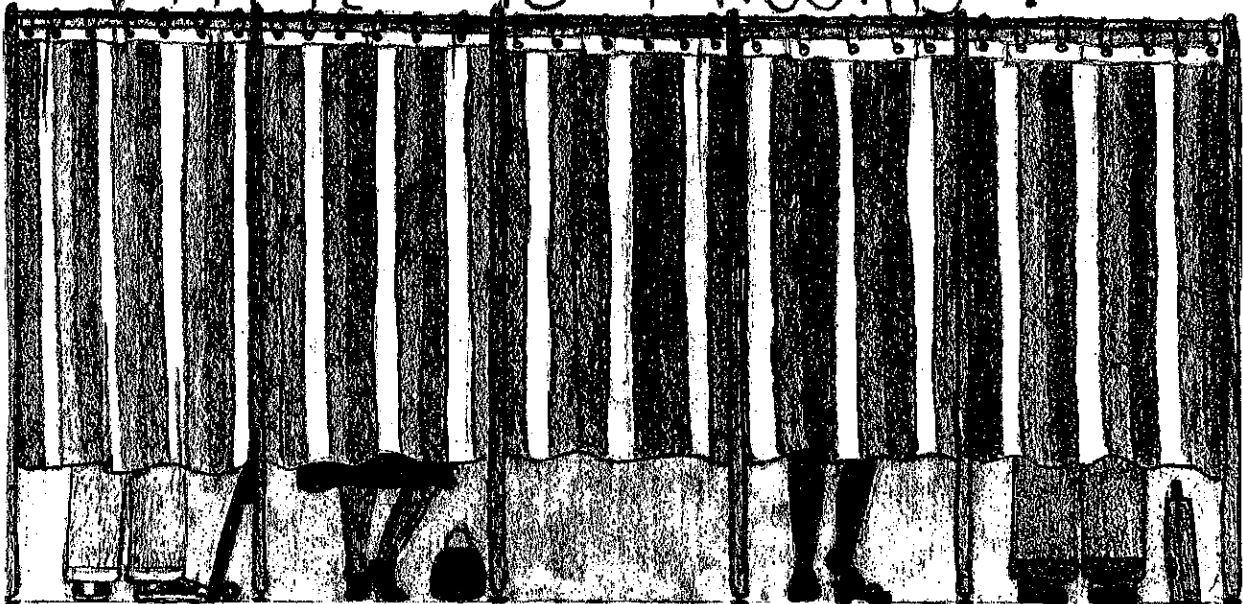


Utah Voter Information Pamphlet

General Election
November 7, 2000

What is Missing?



YOU! ☒ote

Prepared under the direction of
Olene S. Walker
Lieutenant Governor

Impartial Analysis by
Richard V. Strong, Director
Office of Legislative Research
and General Counsel

In cooperation with the Utah State Legislature
Lyle W. Hillyard, President of the Senate
Martin R. Stephens, Speaker of the House

Information pertaining to
judicial retention provided by
the Judicial Council

Cover art work by Michelle Cotton, age 15 from Davis school district. Used with permission.



STATE OF UTAH
OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114-0601

MICHAEL O. LEAVITT
GOVERNOR

OLENE S. WALKER
LIEUTENANT GOVERNOR

September 1, 2000

Dear Fellow Utahn:

As we, the citizens of Utah, begin the new millennium, we have a great opportunity to impact the future of this great state and nation. This is a monumental year because of the opportunity each of us has to express ourselves by voting for political offices. It is also the beginning of a new century where we look toward the future and educate our children about the rights and freedoms we enjoy as citizens of this great country.

In an effort to energize the young people of Utah about the electoral process, we conducted an art contest among school-age children where they expressed their ideas about voting and being civically minded. We were very excited about the entries we received and are happy to be able to display our winner on the cover of the *2000 Voter Information Pamphlet*.

To help the voters of Utah become more informed about the candidates and the issues, we have also included many web sites for national and local news media and other organizations in this pamphlet. This pamphlet also contains the web site addresses for state candidates where they are available.

I hope this pamphlet will help you make an educated decision about the leaders and policies that will govern the future of Utah. Let's continue the tradition of being a state that cares and actively participates in the democratic process. Remember to vote on Tuesday, November 7, 2000!

Sincerely,

A handwritten signature in black ink that reads "Olene S. Walker".

Olene S. Walker
Lieutenant Governor

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For More Information

The following list of websites and phone numbers, although not comprehensive, is provided to give voters the opportunity to become better informed.

News Media:

National

<http://www.cnn.com/ALLPOLITICS/>
<http://www.c-span.org/campaign2000/>
<http://www.usatoday.com/news/politics/campfront.htm>
<http://www.pbs.org/democracy/>
<http://www.washingtonpost.com/wp-dyn/politics/elections/2000/>

Local

<http://deseretnews.com/dn/elx/>
<http://www.sltrib.com/>
<http://www.utahpress.com/>
<http://www.voteutah.org/>

Government:

<http://www.governor.state.ut.us/elections>
<http://www.fec.gov/>

Youth Voting Sites:

<http://www.youthvote2000.org/>
<http://www.rockthevote.com/>
http://www.mtv.com/nav/intro_chooseorlose.html
<http://www.generationvote.com/>
<http://www.yvote2000.com/>

Other Political Sites:

<http://www.vote-smart.org/>
<http://www.nod.org/vote2000/vote2000.html>
<http://commoncause.org/campaign2000/>
<http://www.y2vote.org/>

STATE SCHOOL BOARD

STATE BOARD OF EDUCATION DISTRICT #2

Richard T. London (801) 829-3588
A. Earl McCain (801) 876-3282

STATE BOARD OF EDUCATION DISTRICT #4

Cheryl C. Ferrin (435) 745-0442
Teresa L. Theurer (435) 753-0740

STATE BOARD OF EDUCATION DISTRICT #6

Bruce G. Parry (801) 825-6512
Joyce W. Richards (801) 479-5370

STATE BOARD OF EDUCATION DISTRICT #8

Ralph D. Chipman (801) 484-2244
Jill G. Kennedy (801) 583-2425

STATE BOARD OF EDUCATION DISTRICT #11

Grant Hurst (801) 942-4832
David L. Moss (801) 572-6144

STATE BOARD OF EDUCATION DISTRICT #12

Laurel Brown (801) 261-4221
Robert L. Tempest (801) 277-5137

STATE BOARD OF EDUCATION DISTRICT #14

Mike Anderson (801) 785-1212
Tim R. Eisenhart (801) 768-8471

STATE BOARD OF EDUCATION DISTRICT #15

Linnea S. Barney (801) 225-4149
Nathan Rathbun (801) 356-6424

POLITICAL PARTIES

There are seven political parties registered in Utah. If you would like to contact them or any of their candidates, they are listed below in alphabetic order.

Constitution Party
(435) 835-1701

Democratic Party
(801) 328-1212
www.utdemocrats.org

Independent American Party
(801) 375-8833
www.usiap.org

Libertarian Party
(801) 534-8872 or
(800) 280-7900
www.lputah.org

Natural Law Party
(801) 582-3246

Reform Party
(801) 943-9665

Republican Party
(801) 533-9777
www.utgop.org

PRESIDENTIAL CANDIDATES

Harry Browne
Libertarian Party

Pat Buchanan
Reform Party
www.buchananreform.com

George W. Bush
Republican
www.georgebush.com

Al Gore
Democratic Party
www.AlGore2000.com

John Hagelin
Natural Law Party

James Harris
Socialist Workers Party

Ralph Nader
Green Party
www.votenader.com

Howard Phillips
Independent American Party

Louie G. Youngkeit
Unaffiliated

CANDIDATES

The following 10 pages list the candidates who are running for U.S. Senate, U.S. House of Representatives, Governor, Lt. Governor, Attorney General, State Auditor and State Treasurer. The candidates for federal and state executive offices were given the opportunity to submit a 100 word statement and photograph. The Lt. Governor's office had no editorial authority over these statements. The candidate order was determined by alphabetical order.

U.S. Senate



**Carlton
Edward
Bowen**

Independent
American

America's a great land, choice above all others, but we're abandoning the God who made us great. Traditional marriage, between a man and a woman, is under attack. What a terrible toll on the family divorce has taken. We're reaping the rewards of socially accepting humanism, the false philosophy that puts man above God. Our courts have embraced and forced this religion upon us. Judicial activism, where judges make their own laws, is destroying our freedom. Hatch has been in a unique position to stop these abuses but has failed to do so. Carlton Edward Bowen will make a difference.



Jim Dexter

Libertarian

I offer Utah voters a way to be represented by someone who does not worship Teddy Kennedy. In the past six years, Orrin Hatch has proved he was absolutely right when he said that anyone who has served three Senate terms has been there too long. In his fourth term alone, Hatch has betrayed the people of Utah with his a) flag-burning amendment, b) anonymous attempt to extend Schering-Plough's impressive Claritin profits, c) sneak-and-peek anti-meth bill, and d) arrangement for a federally-subsidized road to his Snow Basin property. I will serve one term only.



**Orrin G.
Hatch**

Republican

While serving as Utah's Senator, Orrin Hatch has battled for Utah interests to keep Hill Air Force Base open, expand compensation for downwind cancer victims of atomic testing, support Utah's industries, and assist local law enforcement. Always striving to protect the principles of limited government, tax restraint, and integrity in public service - Senator Hatch has been a leader in developing bipartisan legislation to balance the budget; protect Medicare and Social Security; lower taxes; and improve health care services. Currently, Senator Hatch is playing a lead role to simplify the U.S. tax code, and provide relief for Utahns.



**Scott N.
Howell**

Democrat

Utah State Senate Democratic Leader for the past 8 years, is a Utah native and a 10-year veteran of the Utah State Senate. Scott has fought for our children's education, bringing millions of dollars for technology to the classroom, cutting class size, and making kindergarten an integral part of the public school curriculum. Scott's 23-year career as an IBM executive and his legislative leadership uniquely qualify him to represent Utah in this dramatically changing world of e-commerce and global markets. Active in community, church, and civic affairs, Scott and his wife Linda have four sons.

U.S. Congressional District #1



**Hartley D.
Anderson**

Independent
American

I don't believe the greatness and future of our country lies in the United Nations, Clinton and Bush's "new world order", nor those leaders who support them. I believe our glorious destiny depends on this nation returning to our Divine Constitution and the teachings of Jesus Christ. We Must: create a fair tax system by pulling the IRS out by its roots, not support NAFTA, GATT, WTO, and IMF, not go around the world in undeclared wars killing innocent people because they have corrupt leaders. We have some of those ourselves. More info: hartleya@efortress.com



**Kathleen
McConkie
Collinwood**

Democrat

Education: B.A. from BYU, JD from Hamline University Law School; additional legal study at Oxford University. Experience: Twenty years as a practicing attorney in Utah including arguing cases before the Utah Supreme Court. Legal counsel for a Utah adoption agency. Several years as a public school teacher. Candidate for Davis County Commissioner. Family: Married to Dean Collinwood, a professor of management at the University of Utah; raised 10 children. Issues: Safety for children in schools; protection of Social Security system for seniors; balanced use of our environment; keeping Utah nuclear waste free; decorum and decency in government.



**Matthew D.
Frandsen**

Natural Law

In this campaign, I have strengthened my resolve to reduce the nation's medical costs thru medical tuition grants, propose legislation to increase the IRA deduction limit and to combat local corporate tax subsidies in order to better fund our public schools. I will fight for energy efficiency and high-speed regional rail. My spearheading efforts in rural dental care and prison reform will continue in the 107th Congress. I will continue to stand for overseas US troop reductions, international justice and disarmament. Finally, real living standards in America must improve! Please visit my web site before you vote. www.naturallaw.net/ut.



**James V.
Hansen**

Republican

Because of the Republican Congress' leadership and resolve, we have balanced the federal budget for two straight years, paid down the national debt by \$360 billion this year alone, and cut taxes. We reformed welfare, rescued Medicare from bankruptcy and shored-up Social Security. If re-elected, I will work to reverse eight years of shameful neglect in national defense readiness, bolster Hill Air Force Base, preserve Lake Powell, increase funding for Utah public schools by passing land trade legislation with the federal government, preserve 2nd Amendment rights, and continue to advocate for environmentally-sensitive and balanced multiple uses of Utah's public lands.



**David Starr
Seely**

Libertarian

No Statement Submitted

U.S. Congressional District #2



**Bruce
Bangerter**

Independent
American

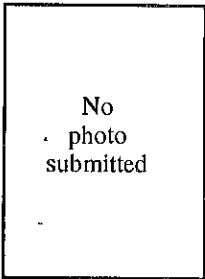
Bruce Bangerter, 62, is National Chairman of the Independent American Party, former Vice chairman and Executive Director of the Utah IAP, self-employed programmer, married, life-time resident, former Marine and BYU attendee. "I am greatly concerned about the Culture War in America, the shredding of our Constitution, and the global threat to our freedom. We must prevail in our battles against immorality, abortion, drugs and violence to ensure strong family and a strong society for our nation. We must fight for our constitution and sovereignty. We must restore character patriotism, and a love for God, family and country in America!"



**Jim
Matheson**

Democrat

I am a sixth-generation Utahn and a proud product of public schools. I am a successful businessman who has worked in the energy industry for twelve years, most recently as the head of my own business. We need leaders who will focus on the next generation, not the next election. As your representative, I will take a common sense approach to securing the future of Social Security and Medicare, paying down our national debt, and pursuing spending cuts and targeted tax relief. I'll work to make education better, protect our quality of life, and make prescription drugs more affordable.



**Peter
Pixton**

Libertarian

No Statement Submitted



**Derek W.
Smith**

Republican

I am running for Congress because I care about the direction of this country, the future of Utah and the people of the Salt Lake Valley. Government should serve the people, not the other way around. That means lower taxes; local control of education; and limited but responsive government. I have created jobs in the 2nd District and served my community as a sheriff's search and rescue officer. I believe in service, hard work and courage of conviction. That is how we built America. That is how we will improve America and build a better Utah.



**Steve
Alberts
Voris**

Unaffiliated

Experienced in money and finance, principally related to Federal Economics. I was a short time economist for the war production board. A US Air Force gunnery instructor in WWII. I have been a trust officer, banker, publisher's representative. Medicare and Medicaid should contain dental provisions; teeth cause heart, lung, and other problems. It is my desire to see changes necessary, including constitutional, to have a three year term for congressmen. It is simply too expensive to require an election every two years. I have recommendations for American Veterans Hospitals. I want a section for intelligence medicine.

U.S. Congressional District #3

No
photo
submitted

**Kitty K.
Burton**

Libertarian

I have carefully studied the United States Constitution since becoming an American citizen on May 21, 1959. I grew interested in Utah's Constitution in 1980 and am now thoroughly familiar with its contents and intents. Today's Republican politicians have forgotten that the purpose of these founding documents was to secure the rights of the people. Very few in the old, tired parties seem to remember that government is supposed to protect people, not tax and regulate them to death. Whether I am elected or not, I will continue working diligently to restore basic Constitutional values to this great nation.



**Chris
Cannon**
Republican

This election will be a battle between two opposing philosophies. One supports protecting basic freedoms and conservative principles. The other advocates government making the decisions for you. Whichever philosophy prevails will set us on a course with critical implications for future generations. In Congress, I have fought to empower individuals and families to control their own lives and I will continue that fight. We must reduce the power of the federal government, cut taxes, restore moral leadership, continue the economic expansion and maintain a strong national defense. Working together we can accomplish these goals.



**Donald
Dunn**

Democrat

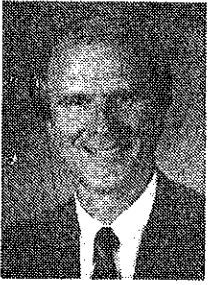
Donald Dunn is a fourth generation Utahn who grew up in Rose Park. He graduated from the University of Utah with a degree in political science and a teaching certificate. Donald started his public service career early by working for Salt Lake Mayor Palmer DePaulis as the Mayor's Youth Volunteer Council Coordinator and then later for Salt Lake County Commissioners developing a similar Council. In 1994, Donald was hired on the White House staff, and later appointed Director of Public Affairs and marketing at the U.S. Trade and Development Agency. Donald is ready to work hard for the families of Utah.



**Mike
Lehman**

Independent
American

I am running for Congress because I am concerned about the continual shift of power to the federal government. The federal government was setup with a limited set of powers. When the federal government oversteps its powers, our ability to self govern is diminished. For true self-government, power must be as close to the people as possible. As a Congressman I will not support any bills that are not within the enumerated powers of the federal branch of government. I will actively seek to repeal the Internal Revenue Code and implement a national sales tax on all non-necessities.



Randall Tolpinrud

Natural Law

I face a daunting challenge as a Natural Law Party candidate, but it is important to speak out. We must bring the light of science into the political process and significantly campaign finance reform by eliminating soft money contributions and publically funding all federal elective offices, we must focus on prevention-oriented government such as crime prevention (not just gun control) and preventative health-care programs proven to reduce costs; and we must strengthen our commitment to the environment by a national effort away from fossil fuels to renewable energy and sustainable development.

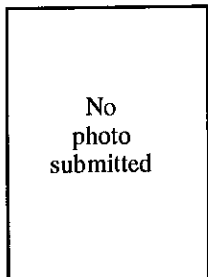
Governor and Lieutenant Governor



**Jeremy
Friedbaum**

Governor
Independent
American

I, Jeremy Friedbaum, as an Independent American Party Candidate, am committed to the restoration of divinely inspired constitutional principles brought forth by the founding fathers. I want every Utah parent to have the choice of how to spend the educational funds collected for their children. I want all the public lands in Utah to be controlled by Utah's public, not the federal government. I will vigorously support the right to life, the un-infringed right to bear arms, the state's right to control its own affairs, and all other rights due a people who recognize God as our Sovereign.



**Lee
McKenzie**

Lt. Governor
Independent
American

No statement submitted



**Michael
O. Leavitt**

Governor
Republican

Utah is moving in the right direction.

- Over 250,000 new jobs have been created in the past eight years.
- Crime is at a twenty-year low.
- In education, we're investing, expecting more, and students are learning more.
- Our roads and highways are being rebuilt - I-15 over 80 % complete and on-budget.

We're doing more while taxing less! On average, Utah families are paying 5% less in state taxes since 1992. Education will always remain a top priority.

- Students must read at grade level by the third grade.
- High school students must pass a basic skills exam.



**Olene S.
Walker**

Lt. Governor
Republican

I'm proud the Leavitt/Walker Team has been able to attract higher-paying jobs and Utahns are earning more. Under Mike Leavitt, the economy has soared. Household incomes have risen from 29th to the 8th highest among the states.

- Our goals include:
- Continue building our solid economic prosperity.
 - Give our workers skills for 21st century jobs.
 - Maintain healthy business growth.

We must maintain our Utah quality of life. We need to continue to protect the things that matter most: our families, our safety, our environment, and our way of life. Please visit our campaign web site at www.MikeLeavitt.com. Thanks.



Bill Orton

Governor

Democrat

Bill Orton is a tax attorney and businessman who represented Utah in Congress (1991-1997) where he was recognized as an expert on budget, finance, and tax issues. He was known for working across political lines to develop substantive solutions to our nation's problems. As Governor, Bill will make education Utah's top priority and keep Utah the best place for our children to live through planning for growth and transportation, reducing crime, protecting the environment, and developing economic opportunities for all Utahns. Other priorities - campaign finance reform, term limits, open government, tax reform. Bill and Jacquelyn have two young boys.



Karen Hale

Lt. Governor

Democrat

Karen Hale, elected to the State Senate in 1998, is a member of the Transportation & Public Safety, Education, and Education Appropriations Committees. Karen is co-founder of the Coalition for Quality Public Education, a nonpartisan group of legislators, educators, parents, business and community leaders finding solutions to critical funding needs for Utah's education system. Karen, a native Utahn, graduated from the University of Utah. She is actively involved in public schools, environmental education, church and community affairs, and the former publisher/editor of Parent Express, a magazine for Utah families. Karen and her husband Jon are the parents of five children.



Dub Richards

Governor

Natural Law

Dub Richards, a State licensed Private Investigator, who has served as a Community Councilman, Boy Scout leader, and Citizen's Activist now with his running mate R. Ken Larsen (Phd. Biologist) intends to help transform Utah into the "True Pioneer State of the Nation," if citizens will elect and support him as Governor; a man who really is "For the Constitution."

1) Individual's, State's Community's Rights Protected 2) Justice Advanced
3) Environmental Preservation, and 4) Home, Family, Cultural and Religious circles preserved.

Elect "The Man with the Plan," "The Dream Team for Utah;" Richards & Larsen: "For the People"

Attorney General



**W. Andrew
McCullough**

Libertarian

I have practiced law since 1973; specializing in Constitutional law. The present Attorney General is more interested in supporting state agencies than in protecting the rights of the people. I will expect government officials to follow the law and to work for the common good. Much of law practice is negotiation. There needs to be more of that, which may reduce the size of the office. I am a former assistant to senator James Buckley (R-NY); a former state Young Republican treasurer, and a board member of the ACLU. I believe I have the experience to make government more responsive.



**Reed M.
Richards**

Democrat

As current Chief Deputy Attorney General, I have led and administered the daily operation of the office - 175 attorneys plus hundreds of support staff - for seven years. With a Masters degree in Business Administration combined with a law degree, I have the necessary leadership experience and education to serve as attorney general. As a two term elected county attorney, I personally prosecuted hundreds of serious criminal violations including dozens of murder cases. I have provided legal advice to government agencies on a variety of legal and contractual issues. Will work with law enforcement to prevent crime and protect families.



**Mark
Shurtleff**

Republican

It's time for the Attorney General to get back to basics: protecting the Constitution, defending families and fighting crime. It's time to partner with local law enforcement and restore positive working relationships with the state and its agencies. As a Navy JAG prosecutor, 20-year Scoutmaster, leader in the Attorney General's Office and Salt Lake County Commissioner, I effectively fought crime through innovative, real-world strategies. My service in public AND private sectors has earned the endorsement of over 100 elected county officers - including the vast majority of sheriffs - and scores of state legislators. Together, we can safeguard Utah's future. WWW.MARKSHURTLEFF.COM.

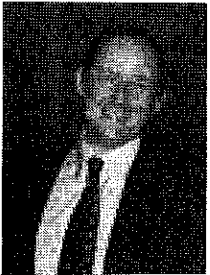
State Auditor



**Austin G.
Johnson III**

Republican

I'm proud to have had the opportunity to serve as your State Auditor for the last five years. During that time, my staff and I have worked very hard to be accountable to you, the citizens of Utah, by ensuring the integrity of the State's accounting systems, and the accuracy of the audited financial reports. I will continue to see that the State follows the most current and appropriate accounting standards, and will continue to prepare for changes caused by the advent of E-Government. I thank you for your support in the past, and ask for your support in November.

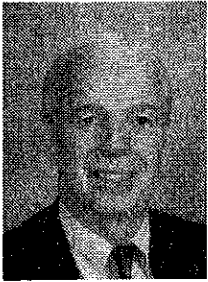


**Jim
Elwell**

Libertarian

All current state-level officials are Democrats or Republicans, and as such, having a Democrat or Republican as State Auditor does not create the "arms-length" independence for this office that citizens have a right to expect. I have spent sixteen years as a business owner, running a local manufacturing company. This has given me broad experience managing complex operations, and many years of experience managing accounting and auditing functions. This management experience makes me better suited to this position.

State Treasurer



**Edward T.
Alter**

Republican

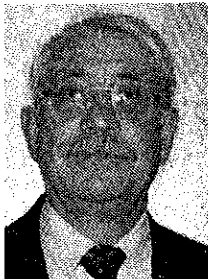
Ed Alter has the right training to qualify for reelection as State Treasurer with a degree in Banking and Finance and a Masters Degree in Business Administration. His experience includes public accounting as a CPA and many years as a public treasurer. Ed has been recognized for Utah's top ranking in financial management by Financial World and Governing magazines. He has maintained Utah's AAA credit rating resulting in the lowest possible borrowing cost for the State. His efficient investment program invests money for most cities, counties and school districts. Ed earned over \$250 million for Utah taxpayers last year alone.



**Hugh A.
Butler**

Libertarian

Utah voters should consider a Libertarian option in 2000. My candidacy for Utah State Treasurer is about Liberty, about open government, about you controlling your life. The company I founded in 1977 has provided Utahns with millions of dollars in jobs and benefits. Utah state government can best add value to our state by radically retracting from its intrusive role. If elected, I promise to treat the Treasurer's Office with the respect and dignity which ought to be afforded this important citizen's position - and to eliminate the conception that we are subject to the whims of a career functionary.



**Elliot J.
Hulet**

Natural Law

I am running for Utah State Treasurer because I believe the Natural Law Party's platform must be part of the political debate. The NLP's platform recognizes that in every area of national life there already exist proven programs that maximize our nation's resources in a natural way... for example, prevention-oriented health care, sustainable agriculture, scientifically proven solutions for crime reduction, renewable energy production and conservation programs. The NLP is not beholden to special interests nor caught up in partisan politics. The NLP calls for campaign finance reform so that government programs will be implemented based on their scientific merit.

CANDIDATES APPEARING ON YOUR BALLOT

The following information is provided to give voters the opportunity to become better informed on the candidates and issues. If a candidate has provided contact information and a website address, it can be found in alphabetical order on the following pages (reading across the page under district). To find out which district you are in, contact your county clerk (clerk information available on page 86).

Candidates for the U.S. Congress

U.S. Senate

Carlton Edward Bowen
Independent American
(801) 565-0580
www.carltonian.com

Jim Dexter
Libertarian
(801) 963-1028
www.lputah.org

Orrin G. Hatch
Republican
(801) 994-2000
www.orrinhatch.org

Scott N. Howell
Democrat
(801) 486-4662
www.scotthowell2000.com

U.S. House District 1

Hartley D. Anderson
Independent American
(435) 279-8498

Kathleen McConkie Collinwood
Democrat
(801) 497-9809
www.mcconkie.org

Matthew D. Frandsen
Natural Law
(801) 745-4403
www.naturallaw.net/ut/

James V. Hansen
Republican
(801) 451-6500
www.hansenforcongress.com

Dave Starr Seely
Libertarian
(435) 673-1936

U.S. House District 2

Bruce Bangerter
Independent American
(801) 262-8852
www.usiap.org

Jim Matheson
Democrat
(801) 359-5474
www.matheson2000.com

Peter Pixton
Libertarian
(801) 281-5746

Derek W. Smith
Republican
(801) 521-5500
www.smith4congress.com

Steven Alberts Voris
Unaffiliated
(801) 581-9425

U.S. House District 3

Kitty K. Burton
Libertarian
(801) 254-3834

Chris Cannon
Republican
1-800-263-9883
www.chriscannon.org

Donald Dunn
Democrat
(801) 373-DUNN
www.donalddunn2000.com

Michael J. Lehman
Independent American
(801) 235-1703

Randall Tolpinrud
Natural Law
(801) 278-7649
www.utah-natural-law.org

State Executive Candidates

Governor/Lt. Governor

Jeremy Friedbaum
Independent American
(801) 375-1995
www.usiap.org

Michael O. Leavitt
Republican
(801) 994-7261
www.mikeleavitt.com

Bill Orton
Democrat
(801) 532-0800
www.billorton.com

Dub Richards
Natural Law
(801) 487-3737

Lee McKenzie
Independent American
(801) 254-7515

Olene S. Walker
Republican
(801) 994-7261

Karen Hale
Democrat
(801) 538-1086

Attorney General

W. Andrew McCullough
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INSTRUCTIONS FOR READING THE TEXT OF THE BALLOT PROPOSALS

- (1) Underlined words and numbers represent new language being added or current language that is being moved from another section.
- (2) Bracketed and lined-through words or numbers represent current language being deleted or current language that is being moved to another section.
- (3) All other language is the current language, which is retained without change.

Example: (1) The members of the House of Representatives~~[- after the first election,]~~ shall be chosen biennially on even-numbered years by the qualified voters of the respective representative districts, on the first Tuesday after the first Monday in November~~[- 1896, and biennially thereafter].~~

Present Language: (1) The members of the House of Representatives, after the first election, shall be chosen by the qualified voters of the respective representative districts, on the first Tuesday after the first Monday in November, 1896, and biennially thereafter.

Proposed Revision: (1) The members of the House of Representatives shall be chosen biennially on even-numbered years by the qualified voters of the respective representative districts, on the first Tuesday after the first Monday in November.

For ☐

Against ☐

Proposition No. 1

RESOLUTION AMENDING STATE AND LOCAL GOVERNMENT PROVISIONS

Votes cast by the members of the Legislature at the 1999 General Session on final passage:

HOUSE (75 members): Yeas, 62; Nays, 0; Absent, 13.

SENATE (29 members): Yeas, 23; Nays, 4; Absent, 2.

Votes cast by the members of the Legislature at the 2000 General Session on final passage.

HOUSE (75 members): Yeas, 70; Nays, 1; Absent, 4.

SENATE (29 members): Yeas, 28; Nays, 0; Absent, 1.

Proposition 1 is a composite of a resolution passed by the Legislature during the 1999 General Session and another passed during the 2000 General Session.

Official Ballot Title:

Shall the Utah Constitution be amended to: (1) modify terms used to identify certain local government entities; (2) expand the types of services special service districts may be authorized to provide; (3) authorize the Legislature to provide for the creation of local government entities in addition to counties, municipalities, school districts, and special service districts; (4) modify county seat and optional forms of county government provisions; (5) require the Legislature to provide in statute for municipal dissolution; (6) clarify election provisions; (7) modify the exclusive uses of specified highway revenues; and (8) repeal language that is redundant or obsolete relating to state and local government?

Impartial Analysis

Proposition 1 amends several state and local government provisions of the Utah Constitution. These amendments are explained below with the numbered items corresponding to the numbers in the ballot title above.

1. Modify terms used to identify certain local government entities

The Utah Constitution uses the phrase "Municipal and School officers" when referring to local government officers that are the subject of a provision relating to the time of their election. Proposition 1 changes that phrase to "officers of each city, town, school district, and other political subdivisions of the State." The effect of this change is to identify more precisely the local government entities to which this provision applies and to broaden its application to include political subdivisions of the state whose officers are elected, such as certain special districts that provide water services, sewer services, etc.

The Utah Constitution allows voters of any "legal subdivision" to initiate any desired legislation or to require legislation passed by the lawmaking body of the "legal subdivision" to be submitted to voters before taking effect. Proposition 1 replaces the term "legal subdivision" with "county, city, or town." Under this proposition, counties, cities, and towns would be the only local government entities whose voters would be able to initiate legislation or require legislation passed by the local lawmaking body to be submitted to voters before it may take effect.

The Utah Constitution prohibits "corporations for municipal purposes" from being created by a law with specific rather than general application. Proposition 1 replaces the phrase "corporations for municipal purposes" with the phrase "cities or towns."

The Utah Constitution prohibits the Legislature from imposing taxes for the purpose of any county, city, town, "or other municipal corporation." Proposition 1 replaces the more narrow term "municipal corporation" with the broader term "political subdivision of the State."

The Utah Constitution empowers the Legislature to authorize a county, city, or town to establish special districts. Proposition 1 changes the terminology of that provision from "special district" to "special service district." Because the term "special district" includes a larger class of local governmental entities than the term "special service district," Proposition 1 may narrow the class of entities affected by the constitutional provision containing that terminology.

2. Expand the types of services provided by special service districts

The Utah Constitution lists nine services that a special district may provide. Proposition 1 eliminates the list of nine services and replaces it with more expansive language stating that special service districts may provide whatever services they are allowed by statute to provide.

Impartial Analysis (continued)

3. Authorize the Legislature to provide for the establishment of additional local government entities

Proposition 1 explicitly authorizes the Legislature to provide for the establishment of political subdivisions or other governmental entities, in addition to counties, cities, towns, school districts, and special service districts. It also provides that those political subdivisions or other governmental entities may provide services and facilities, exercise powers, and perform functions as provided by statute.

4. Modify county seat and optional forms of county government provisions

The Utah Constitution imposes certain conditions on the removal or relocation of a county seat. Proposition 1 replaces the removal and relocation language with language relating to any effort to "move" a county seat, while preserving the two-thirds vote requirement presently in the constitution.

This proposition also gives the Legislature greater flexibility in providing for optional forms of county government. The adoption of an optional form of government by a county would continue to require county voter approval.

5. Provide for municipal dissolution

The Utah Constitution requires the Legislature to provide for the incorporation, organization, and classification of cities and towns. Proposition 1 also requires the Legislature to provide for their dissolution.

6. Clarify election provisions

The Utah Constitution states that all general elections shall be held in November. Proposition 1 confirms current practice and clarifies that general elections are held in November of even-numbered years.

The Utah Constitution provides that legislation initiated by the people is to be submitted to a vote of the people for approval or rejection. Proposition 1 clarifies that, except for an initiative on wildlife, the vote required to pass legislation initiated by the people is "a majority vote of those voting on the legislation." An initiative on wildlife would continue to require a vote of two-thirds of those voting to pass.

7. Modify the exclusive uses of specified highway revenues

The Utah Constitution requires proceeds from the imposition of any license tax, registration fee, driver education tax, or other charge related to the operation of a motor vehicle and the proceeds from the imposition of an excise tax on gasoline to be used exclusively for specific highway purposes stated in the constitution, including the construction, improvement, repair, and maintenance of roads. Proposition 1 provides that those highway purposes include the repayment of debt incurred for the construction, improvement, repair, and maintenance of roads. Proposition 1 also eliminates "tourists and publicity expense" as one of the highway purposes for which the proceeds must be used.

8. Repeal redundant or obsolete language

Proposition 1 repeals language in the Utah Constitution that is redundant or obsolete. For example, it eliminates one of two almost identical provisions prohibiting the imposition of a property qualification on a person in order to vote or hold office. In addition, Proposition 1 deletes language in the Utah Constitution recognizing school districts as legal subdivisions of counties. School districts are now widely acknowledged to be political subdivisions of the state.

Statutory provisions effective on passage of Proposition 1

If Proposition 1 passes, H.B. 58, Local Government Amendments, 2000 General Session, will become law on January 1, 2001. This bill adds - consolidated 911 and emergency dispatch - to the list of services that a special service district may provide.

Effective date

Proposition 1 takes effect January 1, 2001.

Fiscal impact

Proposition 1 has no fiscal impact.

Arguments For

Voters should vote for Proposition 1 so that local government provisions of the Utah Constitution will be clarified and modernized. The current constitutional provisions on local government are in many instances unclear, incomplete, and outdated.

Proposition 1 is the culmination of two years of study by the Utah Constitutional Revision Commission. The Commission is given the statutory duty to study the constitution and recommend any changes to make it better. The Commission studied the local government article partly because much of it was written over a hundred years ago when conditions at the local government level were much different. The Commission unanimously recommends the changes in Proposition 1 in order to clarify and modernize the local government provisions of the Utah Constitution.

One of the Commission's recommendations contained in Proposition 1 deals with special districts. Special districts were unknown in Utah in 1896, while today they are an important part of the local government landscape, providing many services that Utahns regularly depend on such as water purification and delivery, sewer services mosquito abatement, etc. Despite their prominence as an element of local government in Utah, special districts are not even mentioned in the current local government article of the Utah Constitution. The Commission feels that the constitution ought to contain basic, fundamental principles concerning such a substantial aspect of local government. Proposition 1 establishes those basic principles for special districts and clarifies the status of special service districts.

Additionally, some of the current constitutional provisions relating to local government are inconsistent and unclear, making them subject to differing interpretations. Other provisions are simply outdated and need to be modernized to reflect current understanding and practice. Proposition 1 modernizes local government provisions of the Utah Constitution and adds precision and clarity where they were lacking.

The changes contained in Proposition 1 are recommended by the Utah Constitutional Revision Commission and have the near unanimous support of the Utah Legislature. A vote for Proposition 1 is a vote for a clearer, more understandable constitution better suited to address modern-day local government issues.

Vote FOR Proposition 1.

Senator Howard C. Nielson
State Senate District 16

Rebuttal To

(No opposing argument was submitted.)

Arguments Against

(No argument was submitted.)

Rebuttal To

(No opposing argument was submitted.)

**COMPLETE TEXT OF PROPOSITION NO. 1
RESOLUTION AMENDING STATE
AND LOCAL GOVERNMENT PROVISIONS**

COMPLETE TEXT OF SJR 5, 1999 GENERAL SESSION

**RESOLUTION AMENDING STATE
AND LOCAL GOVERNMENT PROVISIONS**

Sponsor: Howard C. Nielson

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; AMENDING AND ENACTING PROVISIONS RELATING TO LOCAL GOVERNMENT; REPEALING DUPLICATIVE LANGUAGE PROHIBITING A PROPERTY QUALIFICATION TO VOTE OR HOLD OFFICE; MODIFYING GENERAL AND SPECIAL ELECTION PROVISIONS; EXPANDING THE PROHIBITION AGAINST LENDING PUBLIC CREDIT TO A PRIVATE INDIVIDUAL OR CORPORATION; PROVIDING FOR POWERS OF OTHER POLITICAL SUBDIVISIONS OF THE STATE; MODIFYING PROVISIONS FOR MOVING A COUNTY SEAT; MODIFYING SPECIAL SERVICE DISTRICT PROVISIONS; EXPANDING PROHIBITION AGAINST IMPOSING TAXES FOR LOCAL PURPOSES; MODIFYING DEBT PROVISIONS; MODIFYING HIGHWAY PURPOSES FOR WHICH REVENUE FROM HIGHWAY USER AND MOTOR FUEL TAXES ARE TO BE USED; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This resolution proposes to change the Utah Constitution as follows:

AMENDS:

ARTICLE I, SECTION 4
ARTICLE IV, SECTION 9
ARTICLE VI, SECTION 1
ARTICLE VI, SECTION 29
ARTICLE XI, SECTION 1
ARTICLE XI, SECTION 2
ARTICLE XI, SECTION 4
ARTICLE XI, SECTION 5
ARTICLE XIII, SECTION 5
ARTICLE XIII, SECTION 13
ARTICLE XIV, SECTION 3

ENACTS:

ARTICLE XI, SECTION 7
ARTICLE XI, SECTION 8
ARTICLE XI, SECTION 9

REPEALS:

ARTICLE XII, SECTION 8
ARTICLE XIV, SECTION 8

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution Article I, Section 4, to read:

Article I, Section 4. [Religious liberty.]

The rights of consciences shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of Church and State, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment. [No property qualification shall be required of any person to vote, or hold office, except as provided in this Constitution.]

Section 2. It is proposed to amend Utah Constitution Article IV, Section 9, to read:

Article IV, Section 9. [General and special elections -- Terms -- Election of local officers.]

(1) [All] Each general [elections, except for municipal and school officers,] election shall be held on the Tuesday next following the first Monday in November of [the] each even-numbered year [in which the election is held].

(2) Special elections may be held as provided by [law] statute.

(3) The [terms] term of [all officers] each officer, except legislator, elected at [any] a general election [except legislators,] shall commence on the first Monday in January next following the date of [their] the election.

(4) [Municipal and School] The election of officers of each city, town, school district, and other political subdivision of the State shall be [elected] held at [such] the time [as may be] and in the manner provided by [law] statute.

Section 3. It is proposed to amend Utah Constitution Article VI, Section 1, to read:

Article VI, Section 1. [Power vested in Senate, House, and People.]

(1) The Legislative power of the State shall be vested in:

[1.-In] (a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah[-]; and

[2.-In] (b) the people of the State of Utah[-as hereinafter stated-] as provided in Subsection (2).

(2)(a)(i) The legal voters [or such fractional part thereof,] of the State of Utah [as may be provided by law,] in the numbers, under [such] the conditions [and], in [such] the manner, and within [such] the time [as may be] provided by [law] statute, may;

(A) initiate any desired legislation and cause [the same] it to be submitted to [a vote of] the people for [approval or rejection,] adoption upon a majority vote of those voting on the legislation, as provided by statute; or [may]

(B) require any law passed by the Legislature, [(except those laws passed by a two-thirds vote of the members elected to each house of the Legislature)], to be submitted to the voters of the State, as provided by statute, before [such] the law [shall] may take effect. [Legislation]

(ii) Notwithstanding Subsection (2)(a)(i)(A), legislation initiated to allow, limit, or prohibit the taking of wildlife or the season for or method of taking wildlife shall be adopted upon approval of two-thirds of those voting.

(b) The legal voters [or such fractional part thereof as may be provided by law,] of any [legal subdivision of the State] county, city, or town, in the numbers, under [such] the conditions [and], in [such] the manner, and within [such] the time [as may be] provided by [law] statute, may;

(i) initiate any desired legislation and cause [the same] it to be submitted to [a vote of] the people of [said legal subdivision] the county, city, or town for [approval or rejection,] adoption upon a majority vote of those voting on the legislation, as provided by statute; or [may]

(ii) require any law or ordinance passed by the law making body of [said legal subdivision] the county, city, or town to be submitted to the voters thereof, as provided by statute, before [such] the law or ordinance [shall] may take effect.

Section 4. It is proposed to amend Utah Constitution Article VI, Section 29, to read:

Article VI, Section 29. [Lending public credit forbidden -- Exception.]

The Legislature [shall] may not authorize the State, or any county, city, town, [township,] school district, or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph or other private

individual or corporate enterprise or undertaking, except as provided in Article X, Section 5.

Section 5. It is proposed to amend Utah Constitution Article XI, Section 1, to read:

ARTICLE XI. LOCAL GOVERNMENTS

Article XI, Section 1. [Counties recognized as legal subdivisions -- Powers of counties.]

(1) The [several] counties of the [Territory] State of Utah [existing at the time of the adoption of this Constitution] are [hereby] recognized as legal subdivisions of this State [and the precincts, and school districts]. The counties now existing [in said counties, as legal subdivisions thereof, and they] shall [so] continue until changed as provided by [law in pursuance of this article] statute.

(2) Counties may:

(a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and collect special assessments for benefits conferred; and

(b) provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as the Legislature limits or prohibits by statute.

Section 6. It is proposed to amend Utah Constitution Article XI, Section 2, to read:

Article XI, Section 2. [Moving a county seat.]

[No County Seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to re-locate a county seat.] A county seat may be moved only when at a countywide general election two-thirds of those voting on the proposition vote in favor of moving the county seat. A proposition [of removal shall] to move the county seat may not be submitted in the same county more than once in four years.

Section 7. It is proposed to amend Utah Constitution Article XI, Section 4, to read:

Article XI, Section 4. [Optional forms of county government.]

The Legislature shall by [general law prescribe] statute provide for optional forms of county government [and shall allow each county to select, subject to referendum in the manner provided by law, the prescribed]. The selection of an optional form [which best serves its needs, and by general laws shall provide for precinct and township organizations] shall be subject to voter approval as provided by statute.

Section 8. It is proposed to amend Utah Constitution Article XI, Section 5, to read:

Article XI, Section 5. [Cities and towns not to be created by special laws -- Legislature to provide for the incorporation, organization, dissolution, and classification of cities and towns -- Charter cities.]

[Corporations for municipal purposes shall]

The Legislature may not [be created] create cities or towns by special laws.

The Legislature by [general laws] statute shall provide for the incorporation, organization [and classification], and dissolution of cities and towns and for their classification in proportion to population [which laws may be altered, amended or repealed]. Any incorporated city or town may frame and adopt a charter for its own government in the following manner:

The legislative authority of the city may, by two-thirds vote of its members, and upon petition of qualified electors to the number of fifteen per cent of all votes cast at the next preceding election for the office of the mayor, shall forthwith provide by ordinance for the submission to the electors of the question: "Shall a commission be chosen to frame a charter?" The ordinance shall require that the question be submitted to the electors at the next regular municipal election. The ballot containing such question shall also contain the names of candidates for members of the proposed commission, but without party designation. Such candidates shall be

nominated in the same manner as required by law for nomination of city officers. If a majority of the electors voting on the question of choosing a commission shall vote in the affirmative, then the fifteen candidates receiving a majority of the votes cast at such election, shall constitute the charter commission, and shall proceed to frame a charter.

Any charter so framed shall be submitted to the qualified electors of the city at an election to be held at a time to be determined by the charter commission, which shall be not less than sixty days subsequent to its completion and distribution among the electors and not more than one year from such date. Alternative provisions may also be submitted to be voted upon separately. The commission shall make provisions for the distribution of copies of the proposed charter and of any alternative provisions to the qualified electors of the city, not less than sixty days before the election at which it is voted upon. Such proposed charter and such alternative provisions as are approved by a majority of the electors voting thereon, shall become an organic law of such city at such time as may be fixed therein, and shall supersede any existing charter and all laws affecting the organization and government of such city which are now in conflict therewith. Within thirty days after its approval a copy of such charter as adopted, certified by the mayor and city recorder and authenticated by the seal of such city, shall be made in duplicate and deposited, one in the office of the secretary of State and the other in the office of the city recorder, and thereafter all courts shall take judicial notice of such charter.

Amendments to any such charter may be framed and submitted by a charter commission in the same manner as provided for making of charters, or may be proposed by the legislative authority of the city upon a two-thirds vote thereof, or by petition of qualified electors to a number equal to fifteen per cent of the total votes cast for mayor on the next preceding election, and any such amendment may be submitted at the next regular municipal election, and having been approved by the majority of the electors voting thereon, shall become part of the charter at the time fixed in such amendment and shall be certified and filed as provided in case of charters.

Each city forming its charter under this section shall have, and is hereby granted, the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law, and no enumeration of powers in this constitution or any law shall be deemed to limit or restrict the general grant of authority hereby conferred; but this grant of authority shall not include the power to regulate public utilities, not municipally owned, if any such regulation of public utilities is provided for by general law, nor be deemed to limit or restrict the power of the Legislature in matters relating to State affairs, to enact general laws applicable alike to all cities of the State.

The power to be conferred upon the cities by this section shall include the following:

(a) To levy, assess and collect taxes and borrow money, within the limits prescribed by general law, and to levy and collect special assessments for benefits conferred.

(b) To furnish all local public services, to purchase, hire, construct, own, maintain and operate, or lease, public utilities local in extent and use; to acquire by condemnation, or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and within its powers regulate the exercise thereof.

(c) To make local public improvements and to acquire by condemnation, or otherwise, property within its corporate limits necessary for such improvements; and also to acquire an excess over than [that] needed for any such improvement and to sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(d) To issue and sell bonds on the security of any such excess property, or of any public utility owned by the city, or of the revenues thereof, or both, including, in the case of public utility, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

Section 9. It is proposed to enact Utah Constitution Article XI, Section 7, to read:

Article XI, Section 7. [Special service districts.]

(1) The Legislature may by statute authorize:

(a) a county, city, or town to establish a special service district within all or any part of the county, city, or town, to be governed by the governing authority of the county, city, or town, and to provide services as provided by statute;

(b) a county, city, or town to levy taxes upon the taxable property in the special service district for the purpose of acquiring, constructing, equipping, operating, and maintaining facilities required for any or all of the services the special service district is authorized to provide; and

(c) a special service district to issue bonds of the special service district for the purpose of acquiring, constructing, and equipping any of the facilities required for any or all of the services the special service district is authorized to provide, without regard to the limitations of Article XIV, Sections 3 and 4, but subject to such limitation on the aggregate amount of the bonds outstanding at any one time as may be provided by statute.

(2) The authority to levy taxes upon the taxable property in a special service district and to issue bonds payable from taxes levied on the taxable property in the special service district shall be conditioned upon the assent of a majority of the qualified electors of the special service district voting in an election for this purpose to be held as provided by statute.

(3) A special service district created by a county may contain all or part of one or more cities or towns, but only with the consent of the governing authority of each city or town to be included in the special service district.

Section 10. It is proposed to enact Utah Constitution Article XI, Section 8, to read:

Article XI, Section 8. [Political subdivisions of the State or other governmental entities in addition to counties, cities, towns, school districts, and special service districts.]

The Legislature may by statute provide for the establishment of political subdivisions of the State, or other governmental entities, in addition to counties, cities, towns, school districts, and special service districts, to provide services and facilities as provided by statute. Those other political subdivisions of the State or other governmental entities may exercise those powers and perform those functions that are provided by statute.

Section 11. It is proposed to enact Utah Constitution Article XI, Section 9, to read:

Article XI, Section 9. [Consent of local authorities necessary for use of streets.]

The Legislature may not grant the right to construct and operate a street railroad, telegraph, telephone, or electric light plant within a city or town without the consent of the local authorities who have control of the street or highway proposed to be occupied for such purposes.

Section 12. It is proposed to repeal Utah Constitution Article XII, Section 8:

Article XII, Section 8. [Consent of local authorities necessary for use of streets.]

[No law shall be passed granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city or incorporated town, without the consent of the local authorities who have control of the street or highway proposed to be occupied for such purposes.]

Section 13. It is proposed to amend Utah Constitution Article XIII, Section 5, to read:

Article XIII, Section 5. [Counties, cities, towns, school districts, or other political subdivisions to levy local taxes -- Sharing tax and revenues by political subdivisions -- Debt guaranty.]

(1) The Legislature [shall] may not impose taxes for the purpose of any county, city, town, school district, or other [municipal corporation] political subdivision of the State, but may, by [law] statute, vest in the [corporate authorities] governing bodies thereof, respectively, the power to assess and collect taxes for all purposes of such [corporation] political subdivision.

(2) Notwithstanding anything to the contrary contained in this Constitution, political subdivisions may share their tax and other revenues with other political subdivisions as provided by statute and the State may guarantee the debt of school districts and may guarantee debt incurred to refund the school district debt as provided in Article X, Section 5.

Section 14. It is proposed to amend Utah Constitution Article XIII, Section 13, to read:

Article XIII, Section 13. [Revenue from highway user and motor fuel taxes to be used for highway purposes.]

The proceeds from the imposition of any license tax, registration fee, driver education tax, or other charge related to the operation of any motor vehicle upon any public highway in this State, and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuels used for propelling such vehicle, except for statutory refunds and adjustments allowed thereunder and for costs of collection and administration, shall be used exclusively for highway purposes as follows:

(1) the construction, improvement, repair and maintenance of city streets, county roads, and State highways, including but not restricted to payment for property taken for or damaged by rights of way, and for administrative costs necessarily incurred for said purposes[-];

(2) the administration of a driver education program[-];

(3) the enforcement of State motor vehicle and traffic laws[-]; and

(4) [Tourists and publicity expense in any single biennium not in excess of the lesser of the following: (a) 5 percent of the total biennial revenues from motor fuel taxes, or (b) an amount equal to the 1959-1961 biennium.] the payment of the principal of and interest on any obligation of the State or any city or county, issued for any of the highway purposes set forth in Subsection (1), and to which any of the proceeds described in this section have been pledged, including any of such proceeds paid to the State or any city or county, as provided by statute.

Section 15. It is proposed to amend Utah Constitution Article XIV, Section 3, to read:

Article XIV, Section 3. [Certain debt of counties, cities, towns, school districts, and other political subdivisions not to exceed revenue -- Exception.]

No debt issued by a county, city, town, school district, or other political subdivision of the State and directly payable from and secured by ad valorem property taxes levied by the issuer of the debt may be created in excess of the taxes for the current year [shall be created by any county or subdivision thereof, or by any school district therein, or by any city, town or village, or any subdivision thereof in this State;] unless the proposition to create [such] the debt [-shall have] has been submitted to a vote of [such] qualified [electors as shall have paid a property tax therein, in the year preceding such election] voters at the time and in the manner provided by statute, and a majority of those voting thereon [shall have] has voted in favor of incurring [such] the debt.

Section 16. It is proposed to repeal Utah Constitution Article XIV, Section 8:

Article XIV, Section 8. [Special service districts.]

[(1) The Legislature by general statute may authorize:]

[(a) any county, city, or town to establish special districts within all or any part of the county, city, or town to be governed by the governing authority of the county, city, or town, and each special district may provide water, sewerage, drainage, flood control, garbage, transportation, recreation, health care, and fire protection services or any combination of those services in accordance with that statute;]

[(b) any county, city, or town to levy taxes upon the taxable property in such special district for the purpose of acquiring, constructing, equipping, operating, and maintaining facilities required for any or all of such services; and]

[(c) any special district to issue bonds of the special district for the purpose of acquiring, constructing, and equipping any of these facilities without regard to the limitations of Sections 3 and 4 of this Article XIV but subject to such limitation on the aggregate amount of these bonds which may be outstanding at any one time as may be provided by statute.]

~~[(2) The authority to levy taxes upon the taxable property in these districts and to issue bonds of these districts payable from taxes levied on the taxable property in them shall be conditioned upon the assent of a majority of the qualified electors of the district voting in an election for this purpose to be held as provided by statute.]~~

~~[(3) Any such district created by a county may contain all or part of any incorporated municipality or municipalities but only with the consent of the governing authorities thereof.]~~

Section 17. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 18. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2001.

COMPLETE TEXT OF SJR 8, 2000 GENERAL SESSION

RESOLUTION AMENDING LOCAL GOVERNMENT PROVISIONS

Sponsor: Howard C. Nielson

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; CLARIFYING STATUS OF COUNTIES; PROVIDING LEGISLATIVE INTENT; DIRECTING THE LIEUTENANT GOVERNOR TO INCLUDE CHANGES MADE BY THIS JOINT RESOLUTION IN PREVIOUS JOINT RESOLUTION AND TO SUBMIT THE PREVIOUS JOINT RESOLUTION, AS MODIFIED, TO VOTERS; AND PROVIDING AN EFFECTIVE DATE.

This resolution proposes to change the Utah Constitution as follows:

AMENDS:

ARTICLE XI, SECTION 1

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution Article XI, Section 1, to read:

ARTICLE XI. LOCAL GOVERNMENTS

Article XI, Section 1. [Counties recognized as legal subdivisions.]

The [several] counties of the [Territory] State of Utah [existing at the time of the adoption of this Constitution] are [hereby] recognized as legal subdivisions of this State [and the precincts, and school districts]. The counties now existing [in said counties, as legal subdivisions thereof, and they] shall [so] continue until changed as provided by [law in pursuance of this article] statute.

Section 2. Replacing portions of previous resolution -- Submittal to voters.

(1) It is the intent of the Legislature that:

(a) Article XI, Section 1 of the Utah Constitution, as proposed to be amended in this joint resolution, replace and supersede that same section as proposed to be amended in S.J.R. 5, Resolution Amending State and Local Government Provisions, passed during the 1999 General Session;

(b) Article XI, Section 7 of the Utah Constitution, as proposed to be enacted in S.J.R. 5, Resolution Amending State and Local Government Provisions, passed during the 1999 General Session, be deleted and the remaining sections of Article XI as proposed to be enacted in S.J.R. 5 be renumbered accordingly;

(c) S.J.R. 5, Resolution Amending State and Local Government Provisions, passed during the 1999 General Session, be submitted to voters with the changes in this joint resolution described in Subsections (1)(a) and (b) included in S.J.R. 5 as though S.J.R. 5 included those changes at the time it passed the Legislature in the 1999 General Session; and

(d) because the amendments in this joint resolution replace and supersede amendments in S.J.R. 5 and become a part of that resolution, the amendments proposed by this joint resolution not be submitted separately to the voters of the state.

(2) The lieutenant governor is directed to modify S.J.R. 5, Resolution Amending State and Local Government Provisions, passed during the 1999 General Session, as proposed by this joint resolution and to submit S.J.R. 5, as modified, to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

In accordance with Section 2 of this act, the amendments proposed by this joint resolution shall have the same effective date as S.J.R. 5, Resolution Amending State and Local Government Provisions, passed during the 1999 General Session, if S.J.R. 5 is approved by a majority of those voting on it at the next regular general election.

For ☐

Against ☐

Proposition No. 2

Resolution Creating Constitutional Trust Fund

Votes cast by the members of the Legislature at the 2000 General Session on final passage:

HOUSE (75 members): Yeas, 55; Nays, 15; Absent, 5.

SENATE (29 members): Yeas, 21; Nays, 7; Absent, 1.

Official Ballot Title:

Shall the Utah Constitution be amended to: establish a permanent state trust fund consisting of tobacco settlement money designated by statute or appropriation and specified private donations, with income from the trust fund to be deposited into the state's General Fund and the principal to be preserved in the trust fund unless the governor and three-fourths of both the Senate and the House of Representatives agree to remove money or assets from the trust fund for deposit into the state's General Fund?

Impartial Analysis

Proposition 2 amends the Utah Constitution to establish a permanent state trust fund whose assets are to be preserved and invested by the state treasurer, as provided by statute. The trust fund consists of: (1) money designated by statute or appropriation from proceeds that the state receives from the November 1998 settlement agreement between the state and leading tobacco manufacturers; and (2) any money and assets that the trust fund receives through a will or other private donation.

This proposition requires the income from the trust fund to be deposited into the General Fund of the state. Once placed in the General Fund, that money would be subject to legislative appropriation on the same basis as other General Fund money. The proposition provides that money or assets in the trust fund may be removed from the trust fund and deposited into the state's General Fund only if the governor and three-fourths of both the Senate and the House of Representatives agree.

Statutory provisions effective on passage of Proposition 2

If Proposition 2 passes, certain provisions of S.B.15, Use of Tobacco Settlement Revenues, 2000 General Session, will become

law on January 1, 2001. Those provisions require 50% of all money received by the state related to the November 1998 tobacco settlement agreement to be deposited into the permanent state trust fund established by Proposition 2. The percentage of tobacco settlement money to be deposited into the trust fund would increase to 60% as of July 1, 2003. S.B. 15 requires all tobacco settlement money set aside statutorily before the establishment of the permanent state trust fund to be deposited into the trust fund. The bill also requires half of the trust fund income to remain in and become part of the principal of the trust fund.

Effective Date

The effective date of Proposition 2 is January 1, 2001.

Fiscal Impact

The Legislative Fiscal Analyst estimates that \$17,894,600 will be transferred in January 2001 into the permanent state trust fund established by Proposition 2. An additional \$18,414,500 will be deposited into the trust fund between January 2001 and June 30, 2002. Interest earnings as of June 30, 2002 are estimated at \$3,197,000.

Arguments For

"Sometimes life hands us an opportunity, such as inheritance money or some other unexpected financial windfall. We can choose to use such an opportunity wisely, or not. Utah is faced with such an opportunity in the form of the Tobacco Settlement moneys. It makes no sense to treat this one time windfall as income, spending it all. The programs we spend it on would become "needs", and when the income runs out we will have no means of sustaining payment for these programs without raising taxes. Wisdom suggests reserving a significant portion of this money in a permanent trust fund, so that income will be generated in perpetuity. Proposition 2 provides for such a permanent trust fund.

Proposition 2 does four things. It establishes a permanent trust fund with a portion of the Tobacco Settlement moneys, the principal of which can never be spent except with the agreement of the governor and three fourths of each house of the legislature. Income from the trust goes to the general fund of the state. Investment of the trust fund is authorized. These items are all necessary to create a constitutionally protected fund.

Proposition 2 takes a long-term view. It creates a permanent funding source for the state and relieves taxpayers to that extent. Voting for proposition 2 will continue to count Utah among states with foresight and conservative fiscal practices. It shows bond rating firms and others that we can resist the temptation to squander an opportunity for a permanent gain in order to enjoy a short term spending spree. The emergency provisions of Proposition 2 allow the trust fund to be a "last resort" rainy day fund, in which moneys accumulated in good times are held against a day of serious need. Proposition 2 is wise philosophy, sound business, and responsible government.

Vote for Proposition 2. Our children and their children will thank you."

Steven Poulton
Utah State Senator

Edward T. Alter
Utah State Treasurer

Rebuttal To

Utah has within its reach a tobacco free future, where our children would no longer suffer from the deadly effects of tobacco addiction. However, we can never achieve that goal without addressing the immediate need for adequate smoking prevention and cessation. Saving Utah's tobacco money for a "rainy day" shows total disregard for Utah's growing youth tobacco problem.

While we support the idea of fiscal responsibility, including saving a portion of Utah's settlement proceeds for the future, to designate 50 percent of the money to the fund is penny-wise, but pound-foolish. If this proposition passes, the State will continue to spend millions of dollars treating smoking-related diseases, while ignoring the opportunity to save that money and lives by investing now in prevention and cessation.

As it stands, the proposition does not specifically designate how the interest generated by the fund would be spent. It does not provide taxpayers with any assurances that even a minimal portion of the earnings would be used for tobacco prevention or treatment, thus failing to demonstrate any long-term commitment to the goal of becoming a tobacco-free state.

Every year, smoking kills more Utahns than fires, drugs, alcohol, AIDS, homicides, suicides, and car accidents-combined. Investing in tobacco prevention would not "squander an opportunity for a permanent gain in order to enjoy a short term spending spree," as proponents suggest. Proponents want to establish a huge untouchable trust fund for its own sake. We want to use the money to ensure long life and good health for future generations.

Representative David M. Jones
Minority Leader

Jan Graham
Attorney General

Arguments Against

Voters should vote against Proposition 2. This proposition will squander the once-in-a-lifetime opportunity the state now has to use tobacco settlement money for the purposes for which the lawsuit was intended -- to help prevent our youth from starting to smoke and to help those who have started to quit the deadly habit.

The percentage of 7th to 12th graders who smoke in Utah has increased over 52% since 1984. Every year about 8,000 youngsters in Utah begin smoking. Of those, 1,200 will die prematurely from smoking-related illness. Smoking harms more than just the smoker. Unborn babies of smokers and those subjected to second-hand smoke also suffer from smoking's detrimental effects.

Tobacco companies spend \$34 million per year -- or over \$17 per person -- trying to persuade Utahns to buy their deadly product. An effective program to keep our youth from starting to smoke is badly needed. The Centers for Disease Control and Prevention estimate that Utah needs to spend \$15 to \$30 million annually for an effective anti-smoking campaign. This year the Legislature appropriated a mere \$4 million for tobacco and drug prevention programs. Who is likely to win this war?

With the tobacco settlement money coming to the state over the next several years, we have a once-in-a-lifetime opportunity to implement an effective program to keep young people from ever starting to smoke and to help those who now smoke to kick the habit. But instead of using that tobacco settlement money how it was intended, Proposition 2 would divert that money into another state fund. Only the interest from that money could be used, and there is no guarantee that even the interest from the tobacco settlement money would ever be used as it was intended, for smoking prevention and cessation programs. That money will more likely be used to fill gaps in state government funding than to keep our youth from starting a habit that will rob them and possibly others of their health and eventually their life.

Unless voters defeat Proposition 2, Utah will continue to underfund badly needed programs to keep our youth from smoking and to help smokers to quit. Instead, the money will go into a state fund whose interest will be spent at the whims of some future Legislature. Unless we vote against Proposition 2, we may be writing off an entire generation and leaving them to the powerful influences of a well financed tobacco company advertising campaign.

Because of the tobacco settlement, we have the resources now to make a difference. Voters should vote against Proposition 2 so that the tobacco settlement money will not be

siphoned off to fill potholes or fund pet projects. The money should be used now to fight back against big tobacco companies and help keep our youth away from the deadly effects of tobacco.

Vote AGAINST Proposition 2.

Representative David M. Jones
Minority Leader
House District # 25
Jan Graham
Utah Attorney General

Rebuttal To

The arguments of the opponents completely misstate the purpose of Proposition 2. Consider the following:

* Proposition 2 does not determine in any way whether the tobacco money will be spent for smoking prevention programs or whether it will be invested in a permanent trust fund. Those decisions have already been made by the State Legislature, which has determined that a large portion of the settlement money will be spent on prevention and health related programs. Proposition 2 will not get one additional dime for prevention programs.

* Tobacco payments will not last forever. The Legislature has determined that a portion of this one-time tobacco "inheritance" should go into a permanent trust fund which will grow over time through additional deposits and investment earnings. It can provide a permanent funding source for smoking prevention and health related programs to benefit future generations. This is a long-term battle which cannot be won by programs which must be terminated when tobacco money runs out.

* Proposition 2 gives important constitutional protection to the trust fund to assure that it remains inviolate for future generations and is not used for casual expenditures.

Short-sighted opponents of Proposition 2 want to squander every dime as it comes. They would eat all of the seed corn, leaving nothing for future generations. Proposition 2 is your chance to think long-term and provide important resources for the future.

Think of our children and grandchildren. Vote for Proposition 2.

Senator Steve Poulton
Assistant Majority Whip

Edward T. Alter
State Treasurer

COMPLETE TEXT OF PROPOSITION NO. 2
Resolution Creating Constitutional Trust Fund

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; ESTABLISHING A STATE TRUST FUND; PROVIDING FOR PRINCIPAL TO BE HELD IN PERPETUITY; PROVIDING AN EXCEPTION; PROVIDING FOR USE OF INCOME; DIRECTING THE LIEUTENANT GOVERNOR TO SUBMIT THE PROPOSAL TO VOTERS; AND PROVIDING AN EFFECTIVE DATE.

This resolution proposes to change the Utah Constitution as follows:

ENACTS:

ARTICLE XXII, SECTION 4

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to enact Utah Constitution Article XXII, Section 4, to read:

Article XXII, Section 4. [State trust fund -- Principal to be held in perpetuity -- Use of income.]

(1) There is established a permanent state trust fund consisting of:

(a) as provided by statute or appropriation, funds that the state receives relating to the November 1998

settlement agreement with leading tobacco manufacturers; and

(b) other funds and assets that the trust fund receives by bequest or private donation.

(2) Except as provided in Subsection (4), the state treasurer shall, as provided by statute, hold all trust funds and assets in trust and invest them for the benefit of the people of the state in perpetuity.

(3) The income from the state trust fund shall be deposited into the General Fund.

(4) With the concurrence of the governor and three-fourths of each house of the Legislature, funds or assets in the trust fund may be removed from the fund for deposit into the General Fund.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2001.

For ☐

Against ☐

Initiative

A

ENGLISH AS THE OFFICIAL LANGUAGE OF UTAH

The above ballot title was certified by the Utah Supreme Court.

Official Ballot Title:

Shall a law be enacted to:

(1) declare English Utah's official and sole language for state and local government documents and action;

(2) exempt those documents and actions required by the United States and Utah constitutions; federal law and regulations; law enforcement, public safety, and health requirements; public and higher education; certain judicial proceedings; economic development and tourism; and libraries;

(3) require public and higher education to enact rules to promote learning and using English and encourage learning foreign language; and

(4) return to the General Fund monies appropriated or designated for services in another language, and require accounting?

Impartial Analysis

Initiative A declares English to be the official language of Utah. With certain exceptions, it makes English the sole language of government and requires all documents and actions of the state and its political subdivisions to be in English. Initiative A requires the adoption of rules for the public and higher education systems to assist non-English speaking persons to learn English and to encourage foreign language instruction. Initiative A requires any state funds affected by its implementation to remain in the state's General Fund, requires an accounting of those funds, and authorizes the Legislature to appropriate those funds for programs for English as a second language.

English as the official language of Utah and the sole language of government, with exceptions

Initiative A declares English to be the official language of Utah. It makes English the sole language of government, but allows a language other than English to be used when required:

- by the Utah or federal constitution or federal law or regulation;
- by law enforcement or for public health and safety needs;
- to comply with rules made by the State Board of Education or State Board of Regents as required under Initiative A;
- in judicial proceedings, when necessary to insure that justice is served;

e. to promote and encourage tourism and economic development, including the hosting of events such as the Olympics; and

f. by libraries to collect and promote foreign language materials and to provide foreign language services and activities.

Subject to those exceptions, Initiative A requires all official documents, transactions, proceedings, meetings, and publications of the state and its political subdivisions to be in English. Political subdivisions of the state include counties, cities, towns, school districts, and special districts such as water conservancy districts and mosquito abatement districts.

Adoption of rules for public and higher education systems

Initiative A requires the State Board of Education for the public education system (kindergarten through 12th grade), and the State Board of Regents for the higher education system to make rules to:

- help non-English speaking persons learn to read, write, and understand English as quickly as possible;
- encourage foreign language instruction;
- initiate, continue, and expand programs for English as a second language; and

Impartial Analysis (*continued*)

d. establish communication between public schools and non-English speaking parents of children within the public school system to maximize understanding, while encouraging those parents to become more proficient in English.

State funds affected by implementation of Initiative A

Initiative A requires all state funds appropriated or designated for printing or translating materials or providing services or information in a foreign language to be kept in the state's General Fund. This requirement does not apply to funds used for any of the exceptions noted above. Initiative A requires state agencies which have been appropriated those funds and the State Division of Finance which disburses those funds to make an accounting of

those funds. Initiative A authorizes the Legislature to appropriate any of those identified funds to the State School Board for use in programs for English as a second language.

Effective Date

Initiative A takes effect five days after the date of the official proclamation of the vote by the governor.

Fiscal Impact

The Legislative Fiscal Analyst projects that there may be some minimal agency savings from not having to print material in a foreign language.

Arguments For

More than just about any state in the Union, we in Utah understand the value of speaking more than one language. So it should surprise no one that we reject the notion of "English Only." But more than just about any state in the Union, we in Utah recognize that communication between people from different countries is only possible if we have a language in common. That is why we should vote Yes on Initiative A, which would make Utah the 26th state with English as the official language. There are two major reasons why this measure deserves support: It continues an American tradition of uniting under a common language; and it will benefit the many immigrants to our state.

When our nation was in its infancy, our Founders didn't see any need to make English official. It was self-evident that the language of the Constitution would be the language of our land. A century ago, as America experienced its First Great Wave of Immigration, newcomers from every corner of the globe came to become Americans. On the surface, these individuals had very little in common—different religions, ethnicities, and languages. But they became part of a United States by adopting a new language and a new national identity.

But beginning in the 1960s, politically correct "multiculturalists" argued that today's immigrants shouldn't be expected to assimilate into our culture. Instead, they say, immigrants should maintain their own national identity, and Americans should be expected to learn the language of the immigrants. And so today, in many parts of our country, immigrants can get a driver's license, go to school, pay their taxes, and vote for President without ever having to learn English. And this push for new language rights is only getting worse. On August 8th, 2000, Bill Clinton issued an executive order forcing the federal government to vastly expand the number of languages in which it routinely operates. Passing Initiative A will be our way of saying "We will not let that happen in Utah."

Instead, we should take proactive measures to teach immigrants English, rather than slowing down the assimilation process with a multilingual government. Initiative A will not force newcomers to know English immediately. Instead, the measure requires routine government business to be conducted in English, with common-sense exceptions, like medical care, to provide for the needs of the justice system, and to host the Olympics. In Utah's great tradition, the measure encourages the teaching of foreign languages. Immigrants will benefit, since they will become a true part of their new country as rapidly as possible. Our state will also benefit. Instead of being a Tower of Babel of nationalities divided by language, we will be a state where people from all nations become part of a

United States by communicating in a common language. By voting Yes on Initiative A, we can affirm that for Utah, a common language makes common sense.

Utahns for Official English
David Atkinson, Incorporator
Eric Stone, Incorporator

Rebuttal To

(No opposing argument was submitted.)

Arguments Against

As Utahns we know the tremendous value of reaching out across cultures and lands to embrace others. Initiative A could potentially create great suffering in Utah by drawing legal lines between English speakers and those who have not yet gained English proficiency. Public policies that put barriers between people lead to hostility, distrust, and isolation, reactions that will permeate our schools, businesses, and communities. Initiative A could have disastrous impacts for Utah.

English is already the common language of our nation and our state. A law declaring English Utah's official language will not help our government operate more efficiently, save money, help children learn, or speed the assimilation of immigrants. It will not prevent future problems or unify Utahns. It will establish potentially unconstitutional policies and expose Utah to costly legal challenges. Voting NO on Initiative A is important because:

1. It is an unnecessary government mandate that will interfere with local school and municipal control in Utah communities. Because Initiative A includes so many exceptions it will have no positive impacts on how our government works. Furthermore, state agencies do not know how the law will impact them and may become exposed to legal challenges if they misinterpret the law. This is a hard to enforce and unnecessary law.
2. It will cost Utahns millions in lawsuits because it will be challenged as unconstitutional. Initiative A will be the most restrictive Official English law in the nation if passed. Arizona, Alabama, and Alaska are already involved in expensive lawsuits trying to defend their Official English laws. Utah taxpayers can expect to spend millions defending this poorly written and potentially unconstitutional law.
3. It will not help Utah's immigrants become productive members of our communities. If Initiative A becomes law, Utah will do away with vitally important language services that help immigrants learn English and become successful members of our communities. Without language services, immigrants have a harder time becoming Utahns.
4. It is unfair, mean-spirited, and goes against Utah's spirit of tolerance and our missionary heritage. Passing the nation's most restrictive Official English law will create an atmosphere of hostility and division in our communities. We don't want a hostile environment for

Utah school children, during the Olympics, in business and trade, or in our communities.

People from around the world overcome great barriers to come to Utah looking for opportunities for themselves and their families. Once here they continue to work hard to become part of our communities. One of the first things new immigrants do is learn English, that is why English as a Second Language classes are filled to capacity with long waiting lists. In just two generations, children of immigrants speak English as their first language. We can be proud of the services we offer our newest residents that help them learn and use English as quickly as possible. Yes, let's promote English, but let's not divide Utah. That is why voting NO on Initiative A makes sense.

Utah Common Voices and The Democracy Project

Rebuttal To

Opponents of Initiative A predict "disastrous impacts" to our education system, state government, and civic culture. Twenty five states have made English official. Were there any evidence of this "disaster," surely Initiative opponents would furnish it. They haven't.

It would be harmful if our state doesn't take proactive steps to help the increasing number of immigrants to assimilate and become Americans.

Our education system will actually be strengthened, since the initiative encourages efforts to teach foreign languages. Furthermore, the measure leaves authority to decide policy where it already is--with state education officials.

State government operations won't be hindered, since there are numerous necessary exceptions to the English in government rule. But with other states taking the nonsensical step of offering routine government services in dozens of languages, it's important to prevent Utah government from making the same mistake. And it is disingenuous for opponents to claim that this will subject the state to expensive lawsuits, since it is they who will be filing any lawsuit!

Finally, Initiative A will reaffirm our commitment to, instead of "Giving a man a fish, so he can eat for a day, teach a man to fish, so he can eat for a lifetime." By Voting Yes, we will reaffirm our emphasis on learning the common language of any nation in which we live, which allows people of diverse backgrounds to communicate. And we will reaffirm the tradition that, in America, that common language is English.

Utahns for Official English

COMPLETE TEXT OF INITIATIVE A ENGLISH AS THE OFFICIAL LANGUAGE OF UTAH

AN ACT RELATING TO STATE AFFAIRS IN GENERAL;
DECLARING ENGLISH TO BE THE OFFICIAL LANGUAGE
FOR THE CONDUCT OF GOVERNMENT BUSINESS IN UTAH;
REQUIRING THE RETURN TO THE GENERAL FUND OF ANY
FUNDS APPROPRIATED OR DESIGNATED FOR
PROVIDING SERVICES IN ANOTHER LANGUAGE; AND
PROVIDING EXCEPTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

63-13-1.5. Utah Code Annotated 1953

Section 1: Section 63-13-1.5 is enacted to read:

63-13-1.5. Official state language.

- (1) English is declared to be the official language of Utah.
- (2) As the official language of this State, the English language is the sole language of the government, except as otherwise provided in this section.
- (3) Except as provided in Subsection (4), all official documents, transactions, proceedings, meetings, or publications issued, conducted, or regulated by, on behalf of, or representing the state and its political subdivisions shall be in English.
- (4) Languages other than English may be used when:
 - (1) required by the United States Constitution, the Utah State Constitution, federal law, or federal regulation;
 - (2) required by law enforcement or public health and safety needs;
 - (3) required by public and higher education systems according to rules made by the State Board of Education and the State Board of Regents to comply with Subsection (5);
 - (4) required in judicial proceedings, when necessary to insure that justice is served;
 - (5) required to promote and encourage tourism and economic development, including the hosting of international events such as the Olympics; and
 - (6) required by libraries to:
 - (1) collect and promote foreign language materials; and
 - (2) providing foreign language services and activities.

(5) The State Board of Education and the State Board of Regents shall make rules governing the use of foreign languages in the public and higher education systems that promote the following principles:

- (1) non-English speaking children and adults should become able to read, write, and understand English as quickly as possible;
- (2) foreign language instruction should be encouraged;
- (3) formal and informal programs in English as a second language should be initiated, continued, and expanded; and
- (4) public schools should establish communication with non-English speaking parents of children within their systems, using a means designed to maximize understanding when necessary, while encouraging those parents who do not speak English to become more proficient in English.

(6) Unless exempted by Subsection (4), all state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall be returned to the General Fund.

(1) Each state agency that has state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall:

- (1) notify the Division of Finance that those monies exist and the amount of those monies; and
- (2) return those monies to the Division of Finance.

(2) The Division of Finance shall account for those monies and inform the Legislature of the existence and amount of those monies at the beginning of the Legislature's annual general session.

(3) The Legislature may appropriate any monies received under this section to the State School Board for use in English as a second language programs.

(7) Nothing in this section affects the ability of government employees, private businesses, non-profit organizations, or private individuals to exercise their rights under:

- (1) the First Amendment of the United States Constitution; and
- (2) Utah Constitution, Article I, Sections 1 and 15.

(8) If any provision of this section, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this act shall be given effect without the invalid provision or application.

For ☐

Against ☐

Initiative B

UTAH PROPERTY PROTECTION ACT

The above ballot title was certified by the Utah Supreme Court.

Official Ballot Title:

Shall a law be amended to:

(1) forbid forfeiture (seizure and sale) of property involved in crime where an innocent owner neither knew of nor consented to the crime;

(2) create uniform procedures to protect property owners where forfeiture is sought by the government;

(3) require the government to prove property is subject to forfeiture, and to reimburse owners for damage to property in custody;

(4) require distribution of forfeiture proceeds, after deductions for court costs and victim losses, to schools instead of counties or the state;

(5) clarify valuation methods for forfeited property, and require tracking and reporting of all money from its sale?

Impartial Analysis

Forfeiture background

In the provisions of Utah law affected by Initiative B, the term forfeiture means the loss of ownership of property to the government because of the property's involvement in the commission of a crime. Forfeiture is typically preceded by seizure, which is a government agency taking into custody the property sought to be forfeited. Seizure results in the loss of the owner's possession of the property, while forfeiture is the actual loss of ownership. In order for a forfeiture to occur, the government must prove all of the required elements of forfeiture. After property has been forfeited, it belongs to the government, which may sell or otherwise dispose of the property.

The crimes for which forfeiture is authorized under the provisions of Utah law amended by Initiative B are: racketeering, money laundering, gambling, fleeing police, wildlife poaching, felonies in which a firearm or explosive device is used, and crimes involving illegal drugs, cigarettes, or alcohol. There are different statutory forfeiture procedures and standards for each of these crimes.

Provisions enacted by Initiative B

Initiative B modifies current forfeiture law by enacting provisions that apply to all situations where property is seized under a law subjecting the property to forfeiture. These provisions:

(1) require an agency seizing property to prepare an inventory of the seized property, notify the prosecuting attorney, and give written notice to all owners of the property;

(2) give an owner the right to:

(a) void a forfeiture if the owner was entitled to be notified but was not notified of a seizure, unless the agency shows good cause for the failure to notify or that the owner had actual notice;

(b) obtain the immediate release of seized property in specified hardship situations;

(c) a jury trial in civil forfeiture proceedings;

(d) sue a seizing agency for the negligent damage or loss of the seized property; and

(e) reasonable attorneys' fees and costs of suit if the owner prevails on the forfeiture claim;

(3) include a procedure for the forfeiture of property involved in the commission of a crime and for a person claiming an interest in the property to challenge the forfeiture;

(4) prohibit the civil forfeiture of property owned by an "innocent owner," defined in the Initiative as a person who owns or legitimately acquires property without knowledge of the crime subjecting the property to seizure or who took reasonable actions to prohibit the use of the property in the crime;

(5) give an indigent owner a right to an appointed attorney in forfeiture proceedings;

(6) increase, in most instances, the government's burden of proof in forfeiture proceedings;

(7) prohibit forfeiture unless the forfeiture is substantially proportional to both the use of the property in committing or facilitating the commission of the crime, and the value of the property;

(8) impose triple damages, court costs, and attorney's fees on an agency that violates provisions relating to the transfer of seized property to or sharing of seized property with a federal agency; and

(9) require proceeds from the sale of forfeited property to be deposited in the Uniform School Fund, after deducting the costs of maintaining and storing the forfeited property, administering the forfeiture proceeding, paying for an appointed attorney, and compensating victims of the conduct that led to the forfeiture.

Provisions amended by Initiative B

Initiative B makes conforming amendments to current statutes on forfeiture and related matters. These changes include:

(1) eliminating language providing for forfeiture proceeds to be distributed to:

(a) the Wildlife Resources Account;

(b) the state's General Fund;

(c) the Drug Forfeiture Account;

(d) the Financial Fraud and Money Laundering Forfeiture Account;

(e) the Department of Public Safety for training peace officers, funding public awareness programs, and aiding enforcement efforts to combat drug trafficking and financial criminal activity;

(f) an agency requesting the funds for drug enforcement; and

(g) a local government that prosecuted a gambling violation;

(2) eliminating a presumption that the owner of a vehicle involved in illegally fleeing police was the driver of the vehicle;

(3) making cars, boats, and planes used or intended for use to transport or facilitate the transportation, sale, receipt, simple possession, or concealment of illegal drugs no longer subject to

forfeiture, unless used or intended for use to facilitate the distribution or possession with intent to distribute illegal drugs;

(4) expanding the exception to property subject to forfeiture for a racketeering violation so that property exchanged or to be exchanged for services given to defend the criminal charges or any related criminal charges is not subject to forfeiture;

(5) eliminating a presumption that money, coins, and currency are subject to forfeiture if found close to illegal drugs and drug paraphernalia subject to forfeiture; and

(6) narrowing the class of racketeering defendants subject to an alternative fine and reducing the maximum allowable amount of that fine.

Effective date

Initiative B takes effect on March 20, 2001.

Fiscal impact

The Legislative Fiscal Analyst estimates the following fiscal impacts from Initiative B for the next fiscal year:

- Currently annual revenue of approximately \$1.5 million from the sale of forfeited property is used by state agencies and local governments for law enforcement. Under Initiative B, those revenues will no longer be available for this use. State agencies and local governments that use those forfeiture revenues will have to replace those revenues or reduce the level of law enforcement.

- Under Initiative B, forfeiture revenues will be used to pay for appointed attorneys, maintaining and storing forfeited property, administering forfeiture proceedings, and compensating crime victims; remaining revenues, estimated to be less than \$50,000, will go to the Uniform School Fund.

- New costs to the state courts under Initiative B are estimated at \$50,000 in General Funds.

- In order for certain state agencies and local governments to be eligible for certain federal funds, federal law requires forfeiture revenues to be used for wildlife management and law enforcement functions. Because Initiative B prohibits the use of forfeiture revenues for those purposes, it is estimated that \$10.6 million of federal funds will be at risk. State agencies and local governments that use those federal funds will have to replace any lost funds or reduce the level of services.

Arguments For

Current law. It is hard to believe, but current law permits your property to be seized and sold by the government (in a process called "forfeiture") if your property is used in a crime -- even if you, the owner, did not know about or consent to the crime. Anyone can be an "innocent owner" -- parents whose kids use their cars, homeowners who rent their homes, hunters who loan their trucks and guns to friends, and business owners whose employees run afoul of the law at work. And when the police forfeit your property, they get to keep the money from the sale. Between 1998 and 1999, forfeitures increased 700% in Utah.

This initiative protects innocent owners by prohibiting forfeiture unless the government proves that the owner actually committed or consented to the crime. The government -- not you -- would be required to prove that your property is subject to forfeiture. And the government would be required to compensate you for damaging your property while it is in government custody. If you can't afford an attorney to help you get your property back, the government would be required to provide you an attorney. While the court decides whether your property should be forfeited, you can keep your property if its loss creates a hardship, such as if you need it to run the family business, or care for your children or an elderly or disabled relative.

This initiative makes the government accountable and creates uniform procedures to treat people fairly and equally. A recent audit of Utah forfeitures concluded there is no legislative oversight of the forfeiture process and law enforcement is not reporting the value of forfeited property. The audit also found many violations of law, including seized drugs and cash missing from evidence rooms, forfeiture proceeds being used to pay informants, and forfeitures used for general expenditures rather than drug enforcement. For the first time, this initiative requires tracking and auditing of how much property is being forfeited and how the money is spent, and mandates that the audit be made public.

This initiative ensures the integrity of law enforcement while maintaining their ability to fight crime. It does not restrict in any way the power of the police to seize drug dealers' profits, illegal drugs, contraband or meth labs. Under the initiative, however, law enforcement would not be able to keep forfeited property because that creates an incentive to abuse the forfeiture process. Instead, the initiative requires that all forfeiture proceeds go first to pay for administrative and court costs, then to compensate victims of forfeiture-related crimes, and any remainder would go to the schools, as was the case before 1986.

Utahns for Property Protection
Pete Kutulus,

Former Salt Lake County Commissioner and Sheriff
Nick Morgan, Former Deputy Sheriff, Salt Lake County

Rebuttal To

Utah law enforcement uses asset forfeiture prudently and properly, as stated clearly in a comprehensive audit performed by the Utah State Legislative Auditor General, and released to the public in November 1999. The auditor suggested minor changes to accounting procedures at some departments; these changes have been made.

Proponents of Initiative B have used the press to spread fabricated stories about "innocent owners" losing property. In its comprehensive report, the Auditor General's office was unable to find a single example of an innocent owner losing property to asset forfeiture. To date, not one of the "horror stories" produced by proponents of Initiative B has held up under close examination.

Fact: Innocent owners are fully protected under current Utah law. Forfeitures are subject to full due process and judicial review.

Fact: Utahns believe in the integrity of Utah law enforcement, and suggestions otherwise from out-of-state drug-legalization groups are offensive.

Fact: Proceeds from asset forfeiture shift the cost of drug enforcement from taxpayers to criminals. This should happen more, not less.

Fact: Initiative B makes police liable to criminal prosecution for any errors--even those made acting in good faith.

Fact: Utah's police chiefs' and sheriffs' organizations are unanimous in opposition to "B", as are law officers and prosecutors.

Fact: "B" is a backdoor attempt by drug-legalization forces outside of Utah to pave the way to their ultimate goal. It helps two groups: drug dealers and defense lawyers.

Don't handcuff our police-Vote "NO" on Initiative "B".

Representative Gary Cox

Arguments Against

Asset forfeiture is a viable and legitimate tool for law enforcement in combating criminal enterprise. Asset forfeiture was developed to meet four major objectives:

- 1.) To keep criminal resources from being used for future criminal activities.
- 2.) To discourage criminal activity by removing its profit motive.
- 3.) To keep "dirty money" from corrupting legitimate businesses.
- 4.) To direct criminal profits into restitution to the community for its losses.

Initiative B will effectively defeat every one of those objectives. Initiative B will:

- 1.) Create dozens of legal loopholes by which criminals will retain illegitimate assets.
- 2.) Ensure that criminal assets will compensate defense attorneys instead of communities.
- 3.) Increase the cost of law enforcement to taxpayers by funding endless legal maneuvering over asset recovery.
- 4.) Increase the cost to taxpayers by ending a legitimate source of funding for anti-drug operations.
- 5.) Decrease the effectiveness of anti-drug efforts by making interagency cooperation illegal.

The Auditor General of the Utah State Legislature recently completed an audit of asset forfeiture procedures by Utah law enforcement. The audit concluded that Utah police agencies use forfeiture in a just and prudent manner, in compliance with constitutional provisions. In fact, the auditor found not a single example of an "innocent owner" being deprived of his or her property.

The proponents of this initiative cite numerous anecdotes of asset forfeiture abuse. Virtually all these anecdotes - many of which have later proven unfounded - are from out of state. But Initiative B is not about federal law, or about any other state's activities. Initiative B is about Utah, and Utah citizens are experiencing no such abuse.

Parties from outside our state have instigated and funded this initiative effort. Many of those parties are dedicated to narcotics legalization efforts across the nation. Initiative B is intended to make things easier for drug dealers and other criminals, while making things more difficult for police and prosecutors.

Just as our form of government operates more justly and effectively for its system of checks and balances, so the application of asset forfeiture protects the innocent while punishing the guilty. Asset forfeiture in Utah is subject to careful scrutiny by the judicial branch. A judge must determine that seized assets were derived from criminal activity, and that the amount seized is proportional.

The proponents also imply that Utah police agencies have corrupt financial motives for pursuing asset forfeiture. This is as false as it is insulting. Existing Utah law prohibits the use of forfeited assets for routine departmental budgets. The proceeds from forfeited assets go exclusively to equipment and operations targeted primarily at drug operations. It makes sense to use criminal assets to fight drugs, rather than higher taxes. Taxpayers, not police, reap the financial benefit from asset forfeiture.

Utah's entire law enforcement community is united in opposition to Initiative B. It is reasonable to assume the entire drug culture is united in favor. Please support Utah police by voting "No" on Initiative B.

Representative Gary F. Cox

Rebuttal To

The current forfeiture process is corrupt. Simply put, police now get to keep all the money from property they forfeit, and you can tell they want that money. Unfortunately, some police officers and politicians care more about their budgets than the Constitutional principle that no one should be deprived of property without due process.

They claim this Initiative helps drug dealers. Not true. Initiative B protects innocent owners who have never been charged with any crime. Drug dealers will still lose their ill-gotten gains because under the Initiative, police would still be able to seize any property they have probable cause to believe is being used in a crime. The initiative only changes what happens after the government has custody of your property - what protections and rights you have as an owner to get it back. It establishes uniform procedures for the first time to ensure that property owners are treated fairly.

They claim that an audit found no abuses in the forfeiture process. What they don't say is that the audit reviewed only 65 cases out of thousands. Even this tiny sample found the police violated state and federal laws, spent cash before it was forfeited, innocent owners had to pay steep impound fees to get their property back, assets were stolen or lost while in police custody, and that police have used seized property for their own personal use. Initiative B would make government accountable and establish Legislative oversight for the first time and stop "policing for profit."

COMPLETE TEXT OF INITIATIVE B UTAH PROPERTY PROTECTION ACT

AN ACT RELATING TO FORFEITURE OF ASSETS AND PROPERTY; ESTABLISHING UNIFORM PROCEDURES FOR THE FORFEITURE OF PROPERTY; FORBIDDING FORFEITURE AGAINST INNOCENT OWNERS; PERMITTING LAW ENFORCEMENT OFFICIALS TO SEIZE CONTRABAND AND THE PROCEEDS AND INSTRUMENTALITIES OF CRIME; AND PROVIDING THAT ALL PROPERTY, ASSETS, MONEY OR OTHER THINGS OF VALUE WHICH ARE LAWFULLY SEIZED AND FORFEITED BE SOLD OR AUCTIONED AND THAT ALL MONIES WHICH RESULT FROM THE SALE OF FORFEITED ASSETS BE DEPOSITED IN THE UNIFORM SCHOOL FUND.

This Act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

24-1-1 et seq., Utah Code Annotated 1953.

AMENDS:

23-20-1, as last amended by Chapters 140 and 282, Laws of Utah 1998

32A-13-103, as last amended by Chapter 5, Laws of Utah 1991

41-6-13.7, as last amended by Chapter 198, Laws of Utah 1996

53-10-303, as last amended by Chapter 36, Laws of Utah 1996 and renumbered by Chapter 263, Laws of Utah 1998

53A-16-101, as last amended by Chapter 38, Laws of Utah 1997

58-37-13, as last amended by Chapters 198 and 294, Laws of Utah 1996

58-37-20, as last amended by Chapter 36, Laws of Utah 1996

58-37a-6, as enacted by Chapter 76, Laws of Utah 1981, declared unconstitutional by 10th Circuit (742 F.2d 564, 1984), repealed by Utah Code Ann. & sect. 63-55-258 (effective date July 1, 2007)

58-37e-15, as enacted by Chapter 155, Laws of Utah 1992

58-37d-7, as enacted by Chapter 156, Laws of Utah 1992

59-14-207, as enacted by Chapter 58, Laws of Utah 1986 and renumbered by Chapter 2, Laws of Utah 1987

63-30-7, as enacted by Chapter 139, Laws of Utah 1965

76-3-501, as last amended by Chapter 97, Laws of Utah 1999

76-10-1107, as enacted by Chapter 196, Laws of Utah 1973

76-10-1108, as enacted by Chapter 196, Laws of Utah 1973

76-10-1603.5, as last amended by Chapter 38, Laws of Utah 1993

76-10-1908, as last amended by Chapter 198, Laws of Utah 1996

Be it enacted by the people of the State of Utah:

Section 1. Section 24-1-1 is enacted to read:

24-1-1. Title. This chapter shall be cited as the "Utah Uniform Forfeiture Procedures Act."

Section 2. Section 24-1-2 is enacted to read:

24-1-2. Purpose. It is the intent of this chapter to:

(1) provide for a uniform set of procedures and substantive standards for the criminal and civil forfeiture of property within the State of Utah;

(2) permit law enforcement personnel to deter crime by lawfully seizing and forfeiting contraband and the instrumentalities and proceeds of criminal conduct;

(3) protect innocent owners from the wrongful taking of their property;

(4) ensure that seizures and forfeitures of property from private citizens are not disproportionate to the violation or crime committed;

(5) ensure direct control and accountability over the use and sale of forfeited property and the proceeds generated therefrom; and

(6) direct that any and all revenues resulting from the sale of forfeited property be contributed to the Uniform School Fund.

Section 3. Section 24-1-3 is enacted to read:

24-1-3. Definitions. As used in this section:

(1) "Agency" shall mean any agency of municipal, county, or state government, including law enforcement agencies, law enforcement personnel, and multi-jurisdictional task forces.

(2) "Contraband" shall mean any property which is unlawful to produce or to possess under state or federal law.

(3) "Multi-jurisdictional task force" shall mean a law enforcement task force or other agency comprised of persons who are employed by or acting under the authority of different governmental authorities, including federal, state, county or municipal governments, or any combination thereof.

(4) "Owner" shall mean any person or entity that possesses a legal or equitable interest in real or personal property, including a security interest.

(5) "Property" shall mean all property, whether real or personal, tangible or intangible.

(6) "Prosecuting Attorney" shall mean the public attorney authorized by a specific provision of state law to initiate forfeiture proceedings under this chapter.

(7) "State law" means all Utah law, including municipal, county and state law.

Section 4. Section 24-1-4 is enacted to read:

24-1-4. Civil Procedures.

(1) An agency which seizes property under any provision of state law subjecting an owner's property to civil forfeiture shall, as soon as practicable, but in no case more than 30 days after seizure:

(a) prepare a detailed inventory of all property seized and transfer the seized property to a designated official within the agency, who shall be responsible for holding and maintaining seized property pending a court order of release or final determination of forfeiture and disposition of property under this chapter;

(b) notify the prosecuting attorney responsible for initiating civil forfeiture proceedings under this chapter of the items of property seized, the place of the seizure and any persons arrested at the time of seizure; and

(c) give written notice to all owners known, or reasonably discoverable after due diligence, of the following items:

(i) the date of the seizure and the property seized;

(ii) the owner's rights and obligations under this chapter, including the availability of counsel and hardship relief in appropriate circumstances; and

(iii) an outline of the steps in the proceedings by which property is forfeited under this chapter.

(2) If the seizing agency fails to provide notice as required in subparagraph (1)(c), an owner entitled to notice who does not receive notice may void the forfeiture with respect to the owner's interest in the property by bringing a motion before the appropriate district court and serving it upon the seizing agency. Such motion may be brought at any time prior to the final disposition of the property under this chapter. If an owner brings a motion to void the forfeiture for lack of notice under subparagraph (1)(c), the court shall void the forfeiture unless the seizing agency demonstrates:

(a) good cause for the failure to give notice to that owner; or

(b) that the owner otherwise had actual notice of the seizure.

(3) (a) Within 90 days of any seizure, the prosecuting attorney shall file a complaint for forfeiture in the appropriate district court and serve a copy of the complaint upon all owners known to the prosecuting attorney to have an interest in the property by one of the following methods:

(i) personal service upon each owner whose name and address is known, or by mailing a copy to the last known address; or

(ii) upon all other owners whose addresses are not known, by publication in a newspaper of general circulation in the county where the seizure was made for a period of two consecutive weeks.

(b) The complaint shall describe with reasonable particularity:

(i) the property which is the subject matter of the forfeiture proceeding;

(ii) the date and place of seizure; and

(iii) the allegations which constitute a basis for forfeiture.

(4) If the prosecuting attorney does not timely file a complaint for forfeiture of the property in accordance with subparagraph (3), the agency shall promptly return the property to its owner and the prosecuting attorney shall take no further action to effect the forfeiture of such property. If the agency knows of more than one owner, it shall return the property to the owner who was in possession at the time of the seizure.

(5) In any case where the prosecuting attorney files a complaint for forfeiture of property, an owner may file a claim and an answer to the complaint. The claim and answer shall be filed within 30 days after the complaint is served in person or by mail, or where applicable, within 30 days after publication under subparagraph (3)(a)(ii).

(6) (a) Except as otherwise provided in this chapter, civil forfeiture proceedings are governed by the Utah Rules of Civil Procedure.

(b) The court shall take all reasonable steps to expedite forfeiture proceedings and shall give such proceedings the same priority as is given to criminal cases.

(c) In all suits or actions brought for the civil forfeiture of any property under this chapter, the burden of proof is on the prosecuting attorney to establish, by clear and convincing evidence, to what extent, if any, property is subject to forfeiture.

(d) The right to trial by jury applies to civil forfeiture proceedings.

Section 5. Section 24-1-5 is enacted to read:

24-1-5. No bond required in civil cases. Any person may assert an interest in seized property or file an answer to a complaint for civil forfeiture without posting bond with respect to the property which is the subject of the seizure or forfeiture action.

Section 6. Section 24-1-6 is enacted to read:

24-1-6. Innocent owners.

(1) An innocent owner's interest in property shall not be forfeited civilly under any provision of state law.

(2) The prosecuting attorney shall have the burden of establishing by clear and convincing evidence that an individual is not an innocent owner.

(3) With respect to an ownership interest in existence at the time the conduct subjecting the property to seizure took place, the term "innocent owner" means an owner who:

(a) did not have actual knowledge of the conduct subjecting the property to seizure; or

(b) upon learning of the conduct subjecting the property to seizure, took reasonable steps to prohibit such use of the property.

(4) For purposes of subparagraph (3)(b), no owner shall be required to take steps that he reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical harm or danger. An

owner may demonstrate that he took reasonable action to prohibit such use of the property by, for example:

(a) timely notifying a law enforcement agency of information that led the owner to know that conduct subjecting the property to seizure would occur, was occurring, or has occurred; or

(b) timely revoking or attempting to revoke permission for those engaging in such conduct to use the property; or

(c) taking reasonable actions to discourage or prevent the illegal use of the property.

(5) With respect to an ownership interest acquired after the conduct subjecting the property to seizure has occurred, the term "innocent owner" means a person who, at the time he acquired the interest in the property, had no knowledge that the illegal conduct subjecting the property to seizure had occurred or that the property had been seized for forfeiture, and:

(a) acquired the property in a bona fide transaction for value;

(b) was a person, including a minor child, who acquired an interest in property through probate or inheritance; or

(c) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

(6) No owner may assert, under this paragraph, an ownership interest in contraband.

Section 7. Section 24-1-7 shall be enacted to read:

Section 24-1-7. Hardship Release of Seized Property.

(1) An owner is entitled to the immediate release of seized property from the seizing agency pending the final determination of civil forfeiture if:

(a) the owner has a possessory interest in the property;

(b) continued possession by the agency or the state pending the final disposition of the forfeiture proceedings will cause substantial hardship to the owner, such as:

(i) preventing the functioning of a legitimate business;

(ii) preventing any individual from working;

(iii) preventing any minor child or student from attending school;

(iv) preventing or hindering any person from receiving necessary medical care;

(v) hindering the care of an elderly or disabled dependent child or adult;

(vi) preventing an owner from retaining counsel to provide a defense in the forfeiture proceeding; or

(vii) leaving any individual homeless, or any other condition that the court determines causes a substantial hardship; and

(c) the hardship from the continued possession by the agency of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the owner during the pendency of the proceeding.

(2) The right to appointed counsel under Section 24-1-9 applies throughout civil forfeiture proceedings, including an owner's motion for hardship release. An owner may file a motion for hardship release:

(i) in the court in which forfeiture proceedings have commenced; or

(ii) in any district court having jurisdiction over the property, if forfeiture proceedings have not yet commenced.

(3) The court shall render a decision on a motion or complaint filed under subparagraph (2) not later than 10 days after the date of filing, unless the ten-day period is extended by the consent of the parties or by the court for good cause shown.

(4) If the owner demonstrates substantial hardship pursuant to subparagraph (1), the court shall order the property immediately released to the owner pending completion of proceedings by the government to obtain forfeiture of the property.

The court may place such conditions on release of the property as it finds are necessary and appropriate to preserve the availability of the property or its equivalent for forfeiture.

(5) Subparagraph (1) shall not apply if the seized property is:

(a) contraband;

(b) currency or other monetary instrument or electronic funds, unless such property is used to pay for the costs of defending against the forfeiture proceeding or constitutes the assets of a legitimate business; or

(c) likely to be used to commit additional illegal acts if returned to the owner.

Section 8. Section 24-1-8 is enacted to read:

24-1-8. Criminal Procedures.

(1) In cases where an owner is criminally prosecuted for conduct giving rise to forfeiture, the prosecuting attorney may elect to forfeit the owner's interest in the property civilly or criminally, provided that no civil forfeiture judgment may be entered with respect to the property of a defendant who is acquitted of the offense on which the forfeiture claim is based.

(2) If the prosecuting attorney elects to criminally forfeit the owner's interest in the property, the information or indictment must state that the owner's interest in the specifically described property is subject to criminal forfeiture and the basis for the forfeiture.

(3) (a) Upon application of the prosecuting attorney, the court may enter restraining orders or injunctions, or take other reasonable action to preserve for forfeiture under this section any forfeitable property if, after notice to persons known or discoverable after due diligence, to have an interest in the property and after affording them an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being sold, transferred, destroyed or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property or prevent its sale, transfer, destruction or removal through the entry of the requested order outweighs the hardship against any party against whom the order is to be entered.

(b) A temporary restraining order may be entered ex parte upon application of the prosecuting attorney before or after an information or indictment has been filed with respect to the property, if the prosecuting attorney demonstrates that:

(i) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be subject to forfeiture under this section; and

(ii) provision of notice would jeopardize the availability of the property for forfeiture or would jeopardize an ongoing criminal investigation.

(c) The temporary order expires not more than 10 days after entry unless extended for good cause shown or unless the party against whom it is entered consents to an extension. An adversarial hearing concerning an order entered under this paragraph shall be held as soon as practicable and prior to the expiration of the temporary order.

(d) The court is not bound by the Utah Rules of Evidence regarding evidence it may receive and consider at any hearing under this paragraph.

(4) (a) Upon conviction by a jury of an owner for conduct giving rise to criminal forfeiture, the jury shall be instructed and asked to return a special verdict as to the extent of the property identified in the information or indictment, if any, that is forfeitable.

(b) Whether property is forfeitable shall be proven beyond a reasonable doubt.

(5) Upon conviction of a person for violating any provision of state law subjecting an owner's property to forfeiture and upon the jury's special verdict that the property is forfeitable, the court shall enter a judgment and order the property forfeited to the state treasurer upon the terms stated by the court in its order. Following the entry of an order declaring property forfeited, the court may, upon application of the prosecuting attorney, enter appropriate restraining orders or

injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the state in property ordered forfeited.

(6) (a) After property is ordered forfeited under this section, the state treasurer shall direct the disposition of the property under Section 24-1-16. Any property right or interest not exercisable by or transferable for value to the state expires and does not revert to the defendant. The defendant or any person acting in concert with or on behalf of the defendant is not eligible to purchase forfeited property at any sale held by the state treasurer unless approved by the judge.

(b) The court may stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture if the defendant demonstrates that proceeding with the sale or disposition of the property may result in irreparable injury, harm or loss to him.

(7) Except under Subparagraphs (3) or (10), a party claiming an interest in property subject to criminal forfeiture under this section:

(a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of property under this section; and

(b) may not commence an action at law or equity against the state or the county concerning the validity of his alleged interests in the property subsequent to the filing of an indictment or an information alleging that the property is subject to forfeiture under this section.

(8) The district court of the state which has jurisdiction of a case under this part may enter orders under this section without regard to the location of any property which may be subject to forfeiture under this section, or which has been ordered forfeited under this section.

(9) To facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the state treasurer, the court, may upon application of the prosecuting attorney, order that the testimony of any witness relating to the property forfeited be taken by deposition, and that any book, paper, document, record, recording, or other material not privileged shall be produced as provided for depositions and discovery under the Utah Rules of Civil Procedure.

(10) (a) Following the entry of an order of forfeiture under this section, the prosecuting attorney shall publish notice of the order's intent to dispose of the property as the court may direct. The prosecuting attorney shall also provide direct written notice to any person known to have an alleged interest in the property subject to the order of forfeiture.

(b) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the state treasurer under this section may, within 30 days of the final publication of notice or his receipt of written notice under subparagraph (a), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. Any genuine issue of material fact, including issues of standing, is triable to a jury upon demand of any party.

(c) The petition shall be in writing and signed by the petitioner under penalty of perjury. It shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, and any additional facts supporting the petitioner's claim and the relief sought.

(d) The trial or hearing on the petition shall be expedited to the extent practicable. The court may consolidate a trial or hearing on the petition and any petition filed by any other person under this section other than the defendant. The court shall permit the parties to conduct pretrial discovery pursuant to the Utah Rules of Civil Procedure.

(e) At the trial or hearing, the petitioner may testify and present evidence and witnesses on his own behalf and cross-examine witnesses who appear at the hearing. The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim to the property and cross-examine witnesses who appear. In addition to testimony and evidence presented at the trial or hearing, the court may consider the relevant portion of the record of the criminal case which resulted in the order of forfeiture. Any trial or hearing shall be conducted pursuant to the Utah Rules of Evidence.

(f) The court shall amend the order of forfeiture in accordance with its determination. If after the trial or hearing, the court or jury determines that the petitioner has established by a preponderance of the evidence that:

(i) the petitioner has a legal right, title, or interest in the property, and the right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts or conduct which gave rise to the forfeiture of the property under this section; or

(ii) the petitioner acquired the right, title or interest in the property in a bona fide transaction for value and, at the time of such acquisition, the petitioner did not know that the property was subject to forfeiture.

(g) Following the court's disposition of all petitions filed under this paragraph, or if no petitions are filed following the expiration of the period provided in subparagraph (b) for the filing of petitions, the state treasurer has clear title to property subject to the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

Section 9. Section 24-1-9 is enacted to read:

24-1-9. Appointment of counsel for indigent claimants in civil and criminal forfeiture proceedings.

(1) The court may appoint counsel to represent indigent persons in civil and criminal forfeiture proceedings, including owners in criminal forfeiture proceedings who are not charged as criminal defendants. In determining whether to appoint counsel, the court shall take into account such factors as:

(a) the person's asserted interest in the property;

(b) the person's standing to contest the forfeiture; and

(c) whether the person's allegations appear to be in good faith or to be frivolous.

(2) The court shall set compensation for counsel in forfeiture proceedings at a level equivalent to compensation provided for counsel appointed in criminal cases.

Section 10. Section 24-1-10 is enacted to read:

Section 24-1-10. Pre-judgment and post-judgment interest. In any civil or criminal proceeding to forfeit currency or other negotiable instruments under this chapter, the court shall award a prevailing owner pre-judgment and post-judgment interest on the currency or negotiable instruments at the legal rate of interest established by Section 15-1-1 of the Utah Code.

Section 11. Section 24-1-11 is enacted to read:

Section 24-1-11. Attorneys' fees and costs. In any civil or criminal proceeding to forfeit seized property under this chapter, the court shall award a prevailing owner reasonable attorneys' fees and other costs of suit reasonably incurred by the owner. An owner who prevails only in part shall be entitled to recover reasonable attorneys' fees and reasonable costs of suit related to those issues on which he prevailed.

Section 12. Section 24-1-12 is enacted to read:

Section 24-1-12. Compensation for Damaged Property.

(1) In any civil or criminal proceeding, an owner shall have a private right of action against a seizing agency for any claim based upon the negligent destruction, loss, damage or other injury to seized property while in the possession or custody of a state agency, if the property was seized for the purpose of initiating forfeiture proceedings under this chapter.

(2) For the purposes of this section, "damage or other injury" does not include normal depreciation, deterioration or ordinary wear and tear.

Section 13. Section 24-1-13 is enacted to read:

Section 24-1-13. Limitation on Fees for Holding Seized Property. In any civil or criminal proceeding under this chapter in which a judgment is entered in favor of an owner, or where a forfeiture proceeding against an owner is voluntarily dismissed by the prosecuting attorney, the seizing agency shall be prohibited from charging that owner any fee for holding seized property.

Section 14. Section 24-1-14 shall be enacted to read:

Section 24-1-14. Proportionality. An owner's interest in property, excluding contraband, shall not be civilly or criminally forfeited under a provision of state law unless such forfeiture is substantially proportional to both the use of the property in committing or facilitating a violation of state law and the value of the property. Forfeiture of property used solely in a manner that is merely incidental and not instrumental to the commission or facilitation of a violation of law is not proportional, as a matter of law. The prosecuting attorney has the burden to demonstrate that any forfeiture is proportional to an alleged violation of state law. It is the province of the court, not the jury, to decide questions of proportionality.

Section 15. Section 24-1-15 is enacted to read:

Section 24-1-15. Transfer and Sharing Procedures.

(1) For purposes of Section 24-1-15, property is deemed to be "seized" whenever any agency takes possession of the property or exercises any degree of control over the property.

(2) (a) Transfer of Seized Property. Seizing agencies or prosecuting attorneys authorized to bring civil or criminal forfeiture proceedings under this chapter shall not directly or indirectly transfer seized property to any federal agency or any governmental entity not created under and subject to state law unless the court enters an order, upon petition of the prosecuting attorney, authorizing the property to be transferred. The court may not enter an order authorizing a transfer unless:

(i) the activity giving rise to the investigation or seizure is interstate in nature and sufficiently complex to justify such transfer;

(ii) the seized property may only be forfeited under federal law; or

(iii) pursuing forfeiture under state law would unduly burden prosecuting attorneys or state law enforcement agencies.

(b) Notwithstanding Subparagraph 2(a), the court may refuse to enter an order authorizing a transfer to the federal government if such transfer would circumvent the protections of the Utah Constitution or this chapter that would otherwise be available to the property owner.

(c) Prior to granting any order to transfer pursuant to subparagraph (2)(a), the court must give any owner the right to be heard with regard to the transfer.

(3) (a) Sharing of Seized Property. All property, money or other things of value received by an agency pursuant to federal law which authorizes the sharing or transfer of all or a portion of forfeited property or the proceeds of the sale of forfeited property to an agency shall be promptly transferred to the state treasurer and sold and deposited in the Uniform School Fund as provided under Section 24-1-16.

(b) Subject to subparagraph (3)(a), state agencies are encouraged to seek an equitable share of property forfeited by the federal government and to cooperate with federal law enforcement agencies in all cases in which such cooperation is in the interest of this state.

(4) Any agency that violates subparagraph (2) or (3) is civilly liable to the state for three times the amount of the forfeiture diverted and for costs of suit and reasonable attorneys' fees. Any damages awarded to the state shall be paid to the Uniform School Fund. Any agent, including state law enforcement officers who are detached to, deputized or commissioned by, or working in conjunction with a federal agency, who knowingly transfers or otherwise trades seized property in violation of subparagraph (2)(a) or who receives property, money or other things of value under subparagraph 3(a) and knowingly fails to transfer such property to the state treasurer is guilty of a Class B misdemeanor.

Section 16. Section 24-1-16 is enacted to read:

Section 24-1-16. Disposition of proceeds from criminal or civil forfeiture.

(1) When any property is civilly or criminally forfeited under this chapter by a finding of the court that no person is entitled to recover the property, the property shall be sold by the state treasurer, or destroyed if unfit for sale, and all revenue or proceeds therefrom shall be deposited in the Uniform School Fund after deducting the costs and expenses of:

- (a) maintaining and storing the forfeited property;
- (b) administering the forfeiture proceeding;
- (c) appointed counsel under Section 24-1-9; and
- (d) payment of money to compensate victims of conduct giving rise to or related to the forfeiture, or of conduct which is part of the same scheme that led to the forfeiture under this chapter.

(2) No property either seized or forfeited, whether civilly or criminally, nor any revenues or proceeds therefrom shall be paid to, appropriated for, or used for the benefit, directly or indirectly, of law enforcement officers, law enforcement agencies or agencies performing law enforcement functions.

(3) No property either seized or forfeited, whether civilly or criminally, nor any revenue or proceeds therefrom shall be, directly or indirectly, paid to, appropriated for, or used for the benefit of persons acting as:

- (a) informants in any law enforcement function;
- (b) witnesses in any administrative or judicial forum; or
- (c) prosecutors in any state or federal actions.

(4) The state treasurer shall maintain an accounting of all properties which are either civilly or criminally forfeited and subsequently sold and all proceeds therefrom, and the state auditor shall perform an annual audit of such proceeds and communicate the results of the audit to the state treasurer and to the legislature. All accounting and audit records generated under this subparagraph shall be available and open to the public.

Section 17. Section 23-20-1 is amended to read:

23-20-1. Enforcement authority of conservation officers -- Seizure and disposition of property.

(1) Conservation officers of the division shall enforce the provisions of this title with the same authority and following the same procedures as other law enforcement officers.

(2) (a) Conservation officers shall seize any protected wildlife illegally taken or held.

(b) (i) Upon determination of a defendant's guilt by the court, the protected wildlife shall be confiscated by the court and sold or otherwise disposed of by the division.

(ii) Proceeds of the sales shall be deposited in the Wildlife Resources Account.

(iii) Migratory wildfowl may not be sold, but must be given to a charitable institution or used for other charitable purposes.

(3) [(a)] Materials and devices used for the unlawful taking or possessing of protected wildlife shall be seized, and upon a finding by the court that they were used in the unlawful taking or possessing of protected wildlife, the materials and devices shall be [(i) confiscated by the court; (ii) conveyed to the division; and (iii) upon the expiration of time for appeal, sold at a public auction or otherwise disposed of by the division.] subject to criminal or civil forfeiture under the procedures and substantive protections established in the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code. [(b) Any proceeds from the sale of the material or device shall be deposited into the Wildlife Resources Account.] [(4) (a) (i) As used in Subsection (4), "owner" means a person, other than a person with a security interest, having a property interest in title to a vehicle and entitled to the use and possession of a vehicle. (ii) "Owner" includes a renter or lessee of a vehicle. (b) (i)]

(4) (a) Conservation officers may seize and impound a vehicle used for the unlawful taking or possessing of protected wildlife for any of the following purposes:

[(A)] (i) to provide for the safekeeping of the vehicle, if the owner or operator is arrested;

[(B)] (ii) to search the vehicle as provided in Subsection (2)(a) or as provided by a search warrant; or

[(C)] (iii) to inspect the vehicle for evidence that protected wildlife was unlawfully taken or possessed.

[(4)] (b) The division shall store any seized vehicle in a public or private garage, state impound lot, or other secured storage facility.

[(4)] (5) A seized vehicle shall be released to the owner no later than 30 days after the date the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person who is charged with committing a felony under this title.

[(e) (4)] (6) (a) Upon a finding by a court that the person who used the vehicle for the unlawful taking or possessing of wildlife is guilty of a felony under this title, the vehicle may be [(A) confiscated by the court; (B) conveyed to the division; and (C) upon expiration of time for appeal, sold at a public auction or otherwise disposed of by the division. (ii) Any proceeds from the sale shall be deposited into the Wildlife Resources Account. (iii) If the vehicle is not confiscated by the court, it shall be released to the owner.] subject to criminal or civil forfeiture under the procedures and substantive protections established in the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code.

[(4) (i)] (b) The owner of a seized vehicle is liable for the payment of any impound fee if he [the person who] used the vehicle for the unlawful taking or possessing of wildlife and is found by a court to be guilty of a violation of this title.

[(ii)] (c) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

[(A)] (i) no charges are filed or all charges are dropped which involve the use of the vehicle for the unlawful taking or possessing of wildlife; [or]

[(B)] (ii) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty [or]; or

[(iii) the owner did not consent to a use of the vehicle which violates this chapter.

Section 18. Section 32A-13-103 is amended to read:

32A-13-103. Searches, seizures, and forfeitures.

(1) The following are subject to forfeiture [and no property right exists in them] pursuant to the procedures and substantive protections established in the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code:

(a) all alcoholic products possessed, used, offered for sale, sold, given, furnished, supplied, received, purchased, stored, warehoused, manufactured, adulterated, shipped, carried, transported, or distributed in violation of this title or commission rules;

(b) all packages or property used or intended for use as a container for an alcoholic product in violation of this title or commission rules;

(c) all raw materials, products, and equipment used, or intended for use, in manufacturing, processing, adulterating; delivering, importing, or exporting any alcoholic product in violation of this title or commission rules;

(d) all implements, furniture, fixtures, or other personal property used or kept for any violation of this title or commission rules;

(e) all conveyances including aircraft, vehicles, or vessels used or intended for use, to transport or in any manner facilitate the transportation, sale, receipt, possession, or concealment of property described in Subsection (a), (b), (c), or (d); except that: (i) a conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to had knowledge of a violation of this title or commission rules; (ii) a conveyance may not be forfeited under this section by reason of any act or omission established by the owner to have been committed or omitted without the owner's knowledge or consent; and (iii) any forfeiture of a conveyance subject to a bona fide security interest shall be subject to the interest of the secured party upon the party's showing that the party could not have known did not know in the exercise of reasonable diligence that a violation would take place in the use of the conveyance; and

(f) all books, records, receipts, ledgers, or other documents used or intended for use in violation of this title or commission rules.

(2) Any of the property subject to forfeiture under this title may be seized by any peace officer of this state or any other person authorized by law upon process issued by any court having jurisdiction over the property in accordance with the procedures provided in Title 77, Chapter 23, Part 2, Search Warrants. However, seizure without process may be made when:

(a) the seizure is incident to an arrest or search under a search warrant or an inspection under an administrative inspection warrant;

(b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this title;

(c) the peace officer or other person authorized by law has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) the peace officer or other person authorized by law has probable cause to believe that the property is being or has been used, intended to be used, held, or kept in violation of this title or commission rules.

(3) If the property is seized pursuant to a search or administrative warrant, the peace officer or other person authorized by law shall make a proper receipt, return, and inventory and ensure the safekeeping of the property as required by Sections 77-23-206 through 77-23-208, Utah Code of Criminal Procedure. If the magistrate who issued the warrant is a justice court judge, upon the filing of the return the jurisdiction of the justice court shall cease and the magistrate shall certify the record and all files without delay to the district court of the county in which the property was located. From the time of this filing, the district court has jurisdiction of the case.

(4) In the event of seizure of property without process, the peace officer or other person authorized by law shall make a return of his acts without delay directly to the district court of the county in which the property was located, and the district court shall have jurisdiction of the case. The return shall describe all property seized, the place where it was seized, and any persons in apparent possession of the property. The officer or other person shall also promptly deliver a written inventory of anything seized to any person in apparent authority at the premises where the seizure was made, or post it in a conspicuous place at the premises. The inventory shall state the place where the property is being held. ~~[(5) Any peace officer or other person authorized by law who seizes any property subject to seizure under this title shall notify the agency responsible for prosecuting the action without delay and shall file a report with the department detailing information on the property seized, the location of the seizure, and any persons arrested.]~~

~~[(6)]~~ (5) Property taken or detained under this section is not repleviable but is considered in custody of the law enforcement agency making the seizure subject only to the orders of the court or the official having jurisdiction. When property is seized under this title, the appropriate person or agency may:

(a) place the property under seal;

(b) remove the property to a place designated by it or the warrant under which it was seized; or

(c) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

~~[(7)]~~ (6) When any property is subject to forfeiture under this section, [a determination for forfeiture to the state shall be made in the following manner:] proceedings shall be instituted in accordance with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code.

~~[(a)]~~ A complaint verified on oath or affirmation shall be prepared by the county attorney or, if within a prosecution district, the district attorney where the property was seized or is to be seized and shall be filed in the district court. The complaint shall describe with reasonable particularity:

(i) the property that is the subject of the proceedings;

(ii) the date and place of seizure, if known; and

(iii) the allegations that constitute a basis for forfeiture.

(b) Upon filing the complaint, the clerk of the district court shall issue a warrant for seizure of the property that is the subject matter of the action without delay and deliver it to the sheriff for service, unless the property has previously been seized.

(c) Notice of the seizure and intended forfeiture shall be filed with the county clerk and served together with a copy of the complaint, at the place where the property was or is about to be seized by conspicuous posting at the premises, and served upon all persons known to the county attorney or, if within a prosecution district, the district attorney to have a claim in the property by one of the following methods:

(i) upon each claimant whose name and address is known at the last known address of the claimant; or

(ii) upon each owner whose right, title, or interest is of record in the Division of Motor Vehicles, by mailing a copy of the notice and complaint by registered mail to the address given upon the records of the Division of Motor Vehicles; and

(iii) upon all other claimants whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

(d) Except as provided in Subsection (e), any claimant or interested party shall file with the court a verified answer to the complaint within 20 days after service has been obtained.

(e) When property is seized under this title, any interested person or claimant of the property, before being served with a complaint under this section, may file a petition in the district court for release of the person's interest in the property. The petition shall specify the claimant's interest in the property and the claimant's right to have it released. A copy shall be served upon the county attorney or, if within a prosecution district, a district attorney in the county of the seizure, who shall answer the petition within 20 days. Any person petitioning is not required to answer a complaint of forfeiture. If no complaint or petition is filed within 60 days after seizure of the property or after the final disposition of any criminal proceedings involving the property, whichever occurs last, the property shall automatically escheat to the state and shall be delivered to the custody of the appropriate agency for disposition as provided in Subsection (8).

(f) After 20 days following service of a complaint or petition for release, the court shall examine the record, and if no answer is on file, the court shall allow the complainant or petitioner an opportunity to present evidence in support of the claim and order forfeiture or release of the property as the court may determine. If the county attorney or district attorney has not filed an answer to a petition for release and the court determines from the evidence that the petitioner is not entitled to recovery of the property, it shall enter an order directing the county attorney or district attorney to answer the petition within ten days. If no answer is filed within that period, the court shall order the release of the property to the petitioner entitled to receive it.

(g) When an answer to a complaint or petition appears of record at the end of 20 days, the court shall set the matter for hearing within 20 days. At the hearing all interested parties may present evidence of their right of release of the property following the state's evidence for forfeiture. The court shall determine by a preponderance of the evidence the issues in the case and order forfeiture or release of the property as it determines proper.

(h) Proceedings under this section are independent of any other proceedings, whether civil or criminal, under this title or the laws of this state.

(i) When the court determines that claimants have no right in the property, in whole or in part, it shall declare the property forfeited and direct it delivered to the custody of the department if the property is an alcoholic product or a package used as a container for an alcoholic product, or to the Department of Administrative Services in all other cases. The appropriate department shall dispose of the property as provided in Subsection (8).

(j) When the court determines that property, in whole or in part, is subject to forfeiture, it shall order release of the property to the proper claimant. If the court determines that the property is subject to forfeiture and release in part, it shall order partial release and partial forfeiture. When the property cannot be properly divided for partial forfeiture and release, the court shall order it sold and the proceeds distributed as follows:

(i) first, proportionally among the legitimate claimants;

(ii) second, to defray the costs of the action, including seizure, storage of the property, and costs of sale; and

(iii) third, to the state treasurer for the General Fund.

(k) In any proceeding under this section where forfeiture is declared, in whole or in part, the court shall assess all costs of the forfeiture proceeding, including seizure and storage of the property, against the individual or individuals whose conduct was the basis of the forfeiture, and may assess costs against any other claimant or claimants to the property as the court considers equitable.

(l) Any party to a forfeiture proceeding, including the state, has the right of appeal from any judgment of forfeiture or release as to the whole or any part of the property in issue in the forfeiture proceedings.]

[(8)] (7) When any property is ordered forfeited under [this title] the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code by a finding of the court that no person is entitled to recover the property:

(a) the property, if an alcoholic product or a package used as a container for an alcoholic product, shall be [deposited in the custody of the department and disposition of the property] disposed of as follows:

(i) If the alcoholic product is unadulterated, pure, and free from crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid, and is otherwise in saleable condition, [the department may sell the alcoholic product and any package or container used to contain the alcoholic product, as appropriate, and forward the proceeds to the state treasurer for deposit in the General Fund. The department shall first cover its own costs and then reimburse the appropriate agency or agencies for costs expended in seizing, storing, and obtaining forfeiture of the property] sold in accordance with Section 24-1-16 of the Utah Uniform Forfeiture Procedures Act.

(ii) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, it and its package or container shall be destroyed by the department under competent supervision.

[(b)] The property, if other than an alcoholic product, package, or container used to contain the alcoholic product shall be deposited in the custody of the Department of Administrative Services and disposition of the property shall be as follows:

(i) Any state agency, bureau, county, or municipality that demonstrates a need for specific property or classes of property subject to forfeiture may make application for the property to the executive director of the Department of Administrative Services, and shall clearly state in the application its need for the property and the use for which the property is intended.

(ii) The executive director of the Department of Administrative Services shall review all applications for property submitted, make a determination based on necessity and advisability as to final disposition, and notify the designated applicant who may obtain the property upon payment of all costs to that department. That department shall reimburse the appropriate agency or agencies for costs expended in seizing, storing, and obtaining forfeiture of the property.

(iii) If no disposition is made upon an application, the executive director of the Department of Administrative Services shall dispose of the property by public bidding, or if considered appropriate by the executive director, by destruction. Proof of destruction shall be upon oath of two officers or employees of the Department of Administrative Services verified by the executive director of that department or the executive director's designee.]

Section 19. Section 41-6-13.7 is amended to read:

41-6-13.7. Vehicle subject to forfeiture -- Seizure -- Procedure.

(1) Any conveyance, including vehicles, aircraft, water craft, or other vessel used in violation of Section 41-6-13.5 shall be subject to forfeiture [and no property right exists in it] pursuant to the procedures and substantive protections established in the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, Utah Code, [except that:

(a) a conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to violation of this chapter;

(b) a conveyance may not be forfeited under this section by reason of any act or omission committed or omitted without the owner's knowledge or consent; and

(c) any forfeiture of a conveyance subject to a bona fide security interest is subject to the interest of a secured party who could not have known in the exercise of reasonable diligence that a violation would or did take place in the use of the conveyance.]

(2) Property subject to forfeiture under this section may be seized by any peace officer of this state upon notice and service of process issued by any court having jurisdiction over the property. However, seizure without notice and service of process may be made when:

(a) the seizure is incident to an arrest under a search warrant or an inspection under an administrative inspection warrant;

(b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(c) the peace officer has probable cause to believe that the property has been used in violation of the provisions of Section 41-6-13.5.

[(3)] In the event of seizure under Subsection (2), proceedings under Subsection (6) shall be instituted without unreasonable delay.]

[(4)] (3) Property taken or detained under this section is not replevable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of the court or the official having jurisdiction. When property is seized under this section, the appropriate person or agency may:

(a) place the property under seal;

(b) remove the property to a place designated by the warrant under which it was seized; or

(c) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

[(5)] When any property is forfeited under this section after a finding of the court that no person is entitled to recover the property, it shall be deposited in the custody of the Division of Surplus Property. The director of the Division of Surplus Property shall dispose of the property by public bidding. The net proceeds of such sale shall be paid to the Department of Public Safety Support Fund for use in training peace officers in pursuit driving and providing a public awareness program regarding police pursuits. Property forfeited under this section may not be applied by the court to costs or fines assessed against any defendant in the case.]

[(6)] When any property is subject to forfeiture under this part, a determination for forfeiture to the state shall be made as follows:

(a) A complaint verified on oath or affirmation shall be prepared by the county attorney where the property was seized or is to be seized. The complaint shall be filed in the district court. The complaint shall describe with reasonable particularity:

(i) the property which is the subject matter of the proceedings;

(ii) the date and place of seizure, if known; and

(iii) the allegations which constitute a basis for forfeiture.

(b) Upon filing the complaint, the clerk of the court shall forthwith issue a warrant for seizure of the property which is the subject matter of the action and deliver it to the sheriff for service, unless the property has previously been seized without a warrant under Subsection 41-6-13.7(2).

(c) Notice of the seizure and intended forfeiture shall be filed with the court clerk and served together with a copy of the complaint, upon all persons known to the county attorney to have a claim in the property by one of the following methods:

(i) upon each claimant whose name and address is known, at the last known address of the claimant, or upon each owner whose right, title, or interest is of record in the Division of Motor Vehicles, by mailing a copy of the notice and complaint by certified mail to the address given upon the records of the division, which service is considered complete even though the mail is refused or cannot be forwarded; and

(ii) upon all other claimants whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

(d) Any claimant or interested party shall file with the court a verified answer to the complaint within 20 days after service has been obtained.

(e) When property is seized under this chapter, any interested person or claimant of the property, prior to being served with a complaint under this section, may file a petition in the court having jurisdiction for release of his interest in the property. The petition shall specify the claimant's interest in the property and his right to have it released. A copy shall be served upon the county attorney in the county of the seizure, who shall answer the petition within 20 days. A petitioner need not answer a complaint of forfeiture.

(f) After 20 days following service of a complaint or petition for release, the court shall examine the record and if no answer is on file, the court shall allow the complainant or petitioner an opportunity to present evidence in support of his claim and order forfeiture or release of the property as the court determines. If the county attorney has not filed an answer to a petition for release and the court determines from the evidence that the petitioner is not entitled to recovery of the property, it shall enter an order directing the county attorney to answer the petition within ten days. If no answer is filed within that period, the court shall order the release of the property to the petitioner entitled to receive it.

(g) When an answer to a complaint or petition appears of record at the end of 20 days, the court shall set the matter for hearing within 20 days. At this hearing, all interested parties may present evidence of their rights of release of the property following the state's evidence for forfeiture. The court shall determine by a preponderance of the evidence the issues in the case and order forfeiture or release of the property as it determines.

(h) Proceedings of this section are independent of any other proceedings, whether civil or criminal, under this chapter or the laws of this state.

(i) When the court determines that claimants have no right in the property in whole or in part, it shall declare the property to be forfeited and direct it to be delivered to the custody of the Division of Finance. The division shall dispose of the property under Subsection (5).

(j) When the court determines that property, in whole or in part, is not subject to forfeiture, it shall order release of the property to the proper claimant. If the court determines that the property is subject to forfeiture and release in part, it shall order partial release and partial forfeiture. When the property cannot be divided for partial forfeiture and release, the court shall order it sold and the proceeds distributed:

(i) first, proportionally among the legitimate claimants;

(ii) second, to defray the costs of the action, including seizure, storage of the property, legal costs of filing and pursuing the forfeiture, and costs of sale; and

(iii) third, to the Division of Finance for the General Fund.

(k) In a proceeding under this section where forfeiture is declared, in whole or in part, the court shall assess all costs of the forfeiture proceeding, including seizure and storage of the property, against the individual or individuals whose conduct was the basis of the forfeiture, and may assess costs against any other claimant or claimants to the property as appropriate.]

[(7) For purposes of this section, it shall be a rebuttable presumption that the owner of a vehicle was the operator of the vehicle at the time of the offense.]

Section 20. Section 53-10-303 is amended to read:

[53-10-303. Financial Fraud and Money Laundering Forfeiture Account created -- Revenue sources -- Use of account designated.]

[(1) (a) There is created in the General Fund a restricted account called the "Financial Fraud and Money Laundering Forfeiture Account." (b) All monies forfeited or seized to the state through the state or federal court process as a result of investigations regarding suspicious cash transactions, fraud, and money laundering shall be deposited into this account.]

[(2) The Department of Public Safety may expend amounts as appropriated by the Legislature from this account to aid in enforcement efforts to combat financial criminal activity.] [(3) That portion of funds forfeited or seized that are required to be disbursed to other governmental entities under existing contractual agreements are exempt from this section.] [(4) The Department of Public Safety as part of the annual budget hearings shall provide the Executive Offices, Criminal Justice, and Legislature Appropriations Subcommittee with a complete accounting of expenditures and revenues from the funds under this section.] [(5) The Legislature may annually provide, in the Appropriations Act, legislative direction for anticipated expenditures of the monies received under this section.]

Section 21. Section 53A-16-101 is amended to read:

53A-16-101. Uniform School Fund - Sources enumerated.

The Uniform School Fund established by Utah Constitution, Article X, Section 5, consists of money received in the state treasury from the following sources:

(1) interest on the State School Fund;

(2) escheats and forfeitures and proceeds from the sale or other disposition of property that may accrue to the state by escheat or forfeiture [except under Section 58-37-13, regarding controlled substances, and Section 41-6-13.7, regarding vehicles involved in police pursuits];

(3) unclaimed shares and proceeds from the sale or other disposition of those shares and unclaimed dividends of any corporation incorporated under Utah law;

(4) all revenues derived from renewable resources on school and state lands, other than those granted for specific purposes;

(5) the proceeds derived from the leasing or renting of school lands and other state lands, including all forfeitures, penalties, and grazing and other fees received in connection with the leases and rentals;

(6) money received from leases or rentals of land acquired by the state through foreclosure of mortgages securing common school fund or through deeds from mortgagors or owners of those lands; and

(7) all other constitutional or legislative allocations to the fund, including revenues received under Utah Constitution, Article XIII, Section 12(3), from taxes on income or intangible property, except for those income tax revenues appropriated to the state's higher education system.

Section 22. Section 58-37-13 is amended to read:

58-37-13. Property subject to forfeiture -- Seizure -- Procedure.

(1) As used in this section:

(a) "Claimant" means:

(i) any owner as defined in this section; or

(ii) any interest holder as defined in this section and any other person or entity who asserts a claim to any property seized for forfeiture under this section;

(a) "Complain" means a verified civil in rem complaint seeking forfeiture or any criminal information or indictment which contains or is amended to include a demand for forfeiture of a defendant's in personam interest in any property which is subject to forfeiture.]

(b) "Drug distributing paraphernalia" means any property used or designed to be used in the illegal transportation, storage, shipping, or circulation of a controlled substance. Property is considered "designed to be used" for one or more of the above-listed purposes if the property has been altered or modified to include a feature or device which would actually promote or conceal a violation of this chapter.

(c) "Drug manufacturing equipment or supplies" includes any illegally possessed controlled substance precursor, or any chemical, laboratory equipment, or laboratory supplies possessed with intent to engage in clandestine laboratory operations as defined in Section 58-37d-3.

(d) "Interest holder" means a secured party, as defined in Section 70A-9-105(1)(m), a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value. A person who holds property

for the benefit of or as an agent or nominee for another, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an interest holder.

(e) "Owner" means an individual or entity who possesses a legal or equitable ownership in real or personal property.

[(e)] (f) "Proceeds" means property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose.

(g) "Real Property" means:

(i) land; and

(ii) any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

[(h)] (i) "Resolution of criminal charges" occurs at the time a claimant who is also charged with violations under Title 58, Chapters 37, 37a, 37b, 37c, or 37d enters a plea, upon return of a jury verdict or court ruling in a criminal trial, or upon dismissal of the criminal charge.

[(h)] (j) "Violation of this chapter" means any conduct prohibited by Title 58, Chapters 37, 37a, 37b, 37c, or 37d or any conduct occurring outside the state which would be a violation of the laws of the place where the conduct occurred and which would be a violation of Title 58, Chapters 37, 37a, 37b, 37c, or 37d if the conduct had occurred in this state.

(2) The following are subject to criminal or civil forfeiture pursuant to the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code [and no property right exists in them]:

(a) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(b) all raw materials, products, and equipment of any kind used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(c) all property used or intended for use as a container for property described in Subsections (2)(a) and (2)(b);

(d) all hypodermic needles, syringes, and other paraphernalia, not including capsules used with health food supplements and herbs, used or intended for use to administer controlled substances in violation of this chapter;

(e) all conveyances including aircraft, vehicles, or vessels used or intended [for use] to be used to [transport, or in any manner] facilitate the [transportation, sale, receipt, simple possession, or concealment of] distribution or possession with intent to distribute the property described in Subsections (2)(a) and (2)(b) [except that:

(i) a conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless the owner or other person in charge of the conveyance was a consenting party or knew or had reason to know of the violation of this chapter;

(ii) a conveyance may not be forfeited under this section by reason of any act or omission committed or omitted without the owner's knowledge or consent; and

(iii) any forfeiture of a conveyance is subject to the claim of an interest holder who did not know or have reason to know after the exercise of reasonable that a violation would or did take place in the use of the conveyance];

(f) all books, records, and research, including formulas, microfilm, tapes, and data used or intended for use in violation of this chapter;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of this chapter, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter. An interest in property may not be civilly forfeited under this subsection unless it is proven by [a preponderance of the] clear and convincing evidence that the owner or any interest holder knew of [had reason to know of, or

consented to] the conduct which made the property subject to forfeiture. The burden of presenting this evidence is [shall be] on [upon] the state;

(h) all imitation controlled substances as defined in Section 58-37b-2, Imitation Controlled Substances Act;

(i) (i) all warehousing, housing, and storage facilities, or interest in real property of any kind used, or intended for use, in producing, cultivating, warehousing, storing, distributing [protecting,] or manufacturing any controlled substances in violation of this chapter but only if: [except that:

(i) any forfeiture of a housing, warehousing or storage facility or interest in real property is subject to the claim of an interest holder who did not know or have reason to know after the exercise of reasonable diligence, that a violation would take place on the property; and

(ii) an interest in property may not be forfeited under this subsection if the owner or any interest holder did not know or have reason to know of the conduct which made the property subject to forfeiture, or did not willingly consent to the conduct;

(iii) unless the premises are used in producing, cultivating, or manufacturing controlled substances, a housing, warehousing, or storage facility or interest in real property may not be forfeited under this subsection unless]

(A) the cumulative sales of controlled substances on the property within a two-month period total or exceed \$1,000; or

(B) the street value of any controlled substances found on the premises at any given time totals or exceeds \$1,000, but only after the judge makes a specific finding of proportionality under Section 24-1-14, and subject to the condition that even if proportionality is found, the judge shall have discretion not to forfeit real property which is a primary residence.

(ii) A narcotics officer experienced in controlled substances law enforcement may testify to establish the street value of the controlled substances for purposes of this subsection;

(i) any firearm, weapon, or ammunition carried or used [during or in relation to] in connection with a violation of this chapter or any firearm, weapon, or ammunition kept or located within the proximity of controlled substances [or other property subject to forfeiture under this section];

(k) all proceeds traceable to any violation of this chapter. [There is a rebuttable presumption that all money, coins, and currency found in proximity to forfeitable controlled substances, drug manufacturing equipment or supplies, drug distributing paraphernalia, or forfeitable records of importation, manufacture, or distribution of controlled substances are proceeds traceable to a violation of this chapter. The burden of proof is upon the claimant of the property to rebut this presumption.]

(3) [(4)] Property subject to forfeiture under this chapter may be seized by any peace officer of this state upon process issued by any court having jurisdiction over the property. However, seizure without process may be made when:

[(4)] (a) the seizure is incident to an arrest or search under a search warrant or an inspection under an administrative inspection warrant;

(ii) (b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter;

(iii) (c) the peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

[(iv)] (d) the peace officer has probable cause to believe that the property has been used or intended to be used in violation of this chapter and has probable cause to believe the property will be damaged, intentionally diminished in value, destroyed, concealed, or removed from the state.

[(b) Upon the filing of a complaint, the court shall immediately issue to the seizing agency a warrant for seizure of any property subject to forfeiture which had been seized without a warrant in a manner described in this subsection.]

[(4) In the event of seizure under Subsection (3), forfeiture proceedings under Subsection (9) shall be instituted within 90 days of the seizure. The time period may be extended by the court having jurisdiction over the property upon notice to all claimants and interest holders and for good cause shown.]

[5] (4) Property taken or detained under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of the court or the official having jurisdiction. When property is seized under this chapter, the appropriate person or agency may:

- (a) place the property under seal;
- (b) remove the property to a place designated by it or the warrant under which it was seized; or
- (c) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

[6] (5) All substances listed in Schedule I that are possessed, transferred, distributed, or offered for distribution in violation of this chapter are contraband and no property right shall exist in them. All substances listed in Schedule I which are seized or come into the possession of the state may be retained for any evidentiary or investigative purpose, including sampling or other preservation prior to disposal or destruction by the state.

[7] (6) All marijuana or any species of plants from which controlled substances in Schedules I and II are derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or are wild growths, may be seized and retained for any evidentiary or investigative purpose, including sampling or other preservation prior to disposal or destruction by the state. Failure, upon demand by the department or its authorized agent, of any person in occupancy or in control of land or premises upon which species of plants are growing or being stored, to produce an appropriate license or proof that he is the holder of a license, is authority for the seizure and forfeiture of the plants.

[8] When any property is forfeited under this chapter by a finding of the court that no person is entitled to recover the property, it shall be deposited in the custody of the Division of Finance. Disposition of all property is as follows:

(a) The state may include in its complaint seeking forfeiture, a request that the seizing agency be awarded the property. Upon a finding that the seizing agency is able to use the forfeited property in the enforcement of controlled substances laws, the court having jurisdiction over the case shall award the property to the seizing agency. Each agency shall use the forfeited property for controlled substance law enforcement purposes only. Forfeited property or proceeds from the sale of forfeited property may not be used to pay any cash incentive, award, or bonus to any peace officer or individual acting as an agent for the agency, nor may it be used to supplant any ordinary operating expense of the agency. The seizing agency shall pay to the prosecuting agency the legal costs incurred in filing and pursuing the forfeiture action. Property forfeited under this section may not be applied by the court to costs or fines assessed against any defendant in the case.

(b) The seizing agency, or if it makes no application, any state agency, bureau, county, or municipality, which demonstrates a need for specific property or classes of property subject to forfeiture shall be given the property for use in enforcement of controlled substances laws upon the payment of costs to the county attorney or, if within a prosecution district, the district attorney for legal costs for filing and pursuing the forfeiture and upon application for the property to the director of the Division of Finance. The application shall clearly set forth the need for the property and the use to which the property will be put.

(c) The director of the Division of Finance shall review all applications for property submitted under Subsection (8)(b) and, if the seizing agency makes no application, make a determination based on necessity and advisability as to final disposition and shall notify the designated applicant or seizing agency, where no application is made, who may obtain the property upon payment of all costs to the appropriate department. The Division of Finance shall in turn reimburse the prosecuting agency or agencies for costs of filing and pursuing the forfeiture action, not to exceed the amount of the net proceeds received for the sale of the property. Any proceeds remaining after payment shall be returned to the seizing agency or agencies.

(d) If no disposition is made upon an application under Subsection (8)(a) or (b), the director of the Division of Finance shall dispose of the property by public bidding or as considered appropriate, by destruction. Proof of destruction shall be upon oath of two officers or employees of the department having charge of the property, and verified by the director of the department or his designated agent.]

(7) Forfeiture proceedings shall [be commenced as follows:] conform with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code.

[a] For actions brought under Subsections (2)(a) through (2)(f), a complaint shall be prepared by the county attorney, or if within a prosecution district, the district attorney, or the attorney general, and filed in a court of record where the property was seized or is to be seized. In cases in which the claimant of the property is also charged as a criminal defendant, the complaint shall be filed in the county where the criminal charges arose, regardless of the location of the property. The complaint shall include:

- (i) a description of the property which is subject to forfeiture;
- (ii) the date and place of seizure, if known; and
- (iii) the allegations of conduct which gives rise to forfeiture.

[b] In cases where a claimant is also charged as a criminal defendant, the forfeiture shall proceed as part of the criminal prosecution as an in personam action against the defendant's interest in the property subject to forfeiture. A defendant need not file a written answer to the complaint, but may acknowledge or deny interest in the property at the time of first appearance on the criminal charges. If a criminal information or indictment is amended to include a demand for forfeiture, the defendant may respond to the demand at the time of the amendment.

[c] Unless motion for disposition is made by the defendant, the determination of forfeiture shall be stayed until resolution of the criminal charges. Hearing on the forfeiture shall be before the court without a jury. The court may consider any evidence presented in the criminal case, and receive any other evidence offered by the state or the defendant. The court shall determine by a preponderance of the evidence the issues in the case and order forfeiture or release of the property as it determines.

[d] A defendant may move the court to transfer the forfeiture action, to stay all action, including discovery, in the forfeiture, or for hearing on the forfeiture any time prior to trial of the criminal charges. Either party may move the court to enter a finding of forfeiture as to defendant's interest in part or all of the property, either by default or by stipulation. Upon entry of a finding, the court shall stay the entry of judgment until resolution of the criminal charges. Any finding of forfeiture entered by the court prior to resolution of the criminal charges may not constitute a separate judgment, and any motion for disposition, stay, severance, or transfer of the forfeiture action may not create a separate proceeding. Upon the granting of a motion by the defendant for disposition, stay, severance, or transfer of the forfeiture action, the defendant shall be considered to have waived any claim that the defendant has been twice put in jeopardy for the same offense.

[e] Any other person claiming an interest in property subject to forfeiture under this subsection may not intervene in a trial or appeal of a complaint filed under this subsection. Following the entry of an in personam forfeiture order, or upon the filing of a petition for release under Subsection (e), the county attorney, district attorney, or attorney general may proceed with a separate in rem action to resolve any other claims upon the property subject to forfeiture.

[f] A complaint seeking forfeiture under Subsection (2)(g) shall be prepared by the county attorney, or if within a prosecution district, the district attorney, or by the attorney general, either in personam as part of a criminal prosecution, or in a separate civil in rem action against the property alleged to be proceeds, and filed in the county where the property is seized or encumbered, if the proceeds are located outside the state. A finding that property is the proceeds of a violation of this chapter does not require proof that the property is the proceeds of any particular exchange or transaction. Proof that property is proceeds may be shown by evidence which establishes all of the following by a preponderance of the evidence:

- (i) that the person has engaged in conduct in violation of this chapter;
- (ii) that the property was acquired by the person during that period when the conduct in violation of this chapter occurred or within a reasonable time after that period; and
- (iii) that there was no likely source for the property other than conduct in violation of the chapter.

[g] Notice of the seizure and intended forfeiture shall be filed with the clerk of the court, and served upon all persons known to the county attorney or district attorney to have a claim in the property by:

(i) personal service upon a claimant who is charged in a criminal information or indictment; and

(ii) certified mail to each claimant whose name and address is known or to each owner whose right, title, or interest is of record in the Division of Motor Vehicles to the address given upon the records of the division, which service is considered complete even though the mail is refused or cannot be forwarded. The county attorney, district attorney, or attorney general shall make one publication in a newspaper of general circulation in the county where the seizure was made for all other claimants whose addresses are unknown, but who are believed to have an interest in the property.

(e) Except under Subsection (9)(a) in personam actions, any claimant or interest holder shall file with the court a verified answer to the complaint within 20 days after service. When property is seized under this chapter, any interest holder or claimant of the property, prior to being served with a complaint under this section, may file a petition in the court having jurisdiction for release of his interest in the property. The petition shall specify the claimant's interest in the property and his right to have it released. A copy shall be served upon the county attorney or, if within a prosecution district, the district attorney in the county of the seizure, who shall answer the petition within 20 days. A petitioner need not answer a complaint of forfeiture.

(f) For civil actions in rem, after 20 days following service of a complaint or petition for release, the court shall examine the record and if no answer is on file, the court shall allow the complainant or petitioner an opportunity to present evidence in support of his claim and order forfeiture or release of the property as the court determines. If the county attorney or district attorney has not filed an answer to a petition for release and the court determines from the evidence that the petitioner is not entitled to recovery of the property, it shall enter an order directing the county attorney or district attorney to answer the petition within ten days. If no answer is filed within that period, the court shall order the release of the property to the petitioner entitled to receive it.

(g) When an answer to a complaint or petition appears of record at the end of 20 days, the court shall set the matter for hearing. At this hearing all interested parties may present evidence of their rights of release of the property following the state's evidence for forfeiture. The court shall determine by a preponderance of the evidence the issues in the case and order forfeiture or release of the property as it determines.

(h) When the court determines that claimants have no right in the property in whole or in part, it shall declare the property to be forfeited.

(i) When the court determines that property, in whole or in part, is not subject to forfeiture, it shall order release of the property to the proper claimant. If the court determines that the property is subject to forfeiture and release in part, it shall order partial release and partial forfeiture. When the property cannot be divided for partial forfeiture and release, the court shall order it sold and the proceeds distributed:

(i) first, proportionally among the legitimate claimants;

(ii) second, to defray the costs of the action, including seizure, storage of the property, legal costs of filing and pursuing the forfeiture, and costs of sale; and

(iii) third, to the Division of Finance for the General Fund.

(j) In a proceeding under this section where forfeiture is declared, in whole or in part, the court shall assess all costs of the forfeiture proceeding, including seizure and storage of the property, against the individual or individuals whose conduct was the basis of the forfeiture, and may assess costs against any other claimant or claimants to the property as appropriate.]

Section 23. Section 58-37-20 is amended to read:

[58-37-20. Drug Forfeiture Account created — Revenue sources — Use of account designated.]

[4](a) There is created in the General Fund a restricted account called the "Drug Forfeiture Account." (b) All monies forfeited or seized to the state through the state or federal court process as a result of activity involving a controlled substance violation as provided under Title 58, Chapter 37, 37a, 37b, 37c, or 37d, or prohibited under federal law shall be deposited into the Drug Forfeiture Account.]

[2] The Department of Public Safety may expend amounts as appropriated by the Legislature from the Drug Forfeiture Account to aid in enforcement efforts to combat drug trafficking.]

[3] That portion of funds forfeited or seized that are required to be disbursed to other governmental entities under existing contractual agreements are exempt from this section.]

[4] Funds forfeited or seized as a result of the Salt Lake Airport Drug Program, not to exceed the Department of Public Safety's expenditure to that program, are exempt from this section.]

[5] The Department of Public Safety as part of the annual budget hearings shall provide the Executive Offices, Criminal Justice, and Legislature Appropriations Subcommittee with a complete accounting of expenditures and revenues from the funds under this section.]

[6] The Legislature may annually provide, in the Appropriations Act, legislative direction for anticipated expenditures of the monies received under this section.]

Section 24. Section 58-37a-6 is amended to read:

58-37a-6. Seizure -- Forfeiture -- Property rights. Drug paraphernalia is subject to seizure and forfeiture in accordance with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, of the Utah Code.

Section 25. Section 58-37c-15 is amended to read:

58-37c-15. Civil Forfeiture. The following shall be subject to forfeiture [to the state under the procedures of Section 58-37-13 and no property right shall exist in them] in accordance with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code:

(1) all listed controlled substance precursor chemicals regulated under the provisions of this chapter which have been distributed, possessed, or are intended to be distributed or otherwise transferred in violation of any felony provision of this chapter; and

(2) all property used by any person to facilitate, aid, or otherwise cause the unlawful distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled substance precursor chemical in violation of any felony provision of this chapter.

Section 26. Section 58-37d-7 is amended to read:

58-37d-7. Seizure and forfeiture. Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real property used in furtherance of a clandestine laboratory operation are subject to seizure and forfeiture under the procedures [of Section 58-37-13] and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1 of the Utah Code.

Section 27. Section 59-14-207 is amended to read:

59-14-207. Unstamped cigarettes -- Contraband goods -- Seizure -- Public auction -- Proceeds of sale.

(1) Any cigarettes found in this state which have been within the state for 72 hours or longer in the possession of any wholesaler, distributor, or retailer or have been sold by that wholesaler, distributor, or retailer not having affixed to the package or container the stamps required by this chapter, are contraband goods and may be seized without a warrant by the commission, its employees, or by any peace officer of the state or its political subdivisions.

(2) The seized goods shall be delivered to the commission [for sale at public auction to the highest bidder after due advertisement. Before delivering the goods,] and the commission shall [require the person receiving the goods to] affix the proper amount of stamps to the individual packages or containers, prior to instituting forfeiture proceedings under the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1 of the Utah Code.

[3] The proceeds of any goods sold as provided under Subsection (2), after paying the costs of confiscation and sale, shall be turned over to the state treasurer to the credit of the state General Fund.]

Section 28. Section 63-30-7 is amended to read:

63-30-7. Waiver of immunity for negligent damage, destruction or loss of seized property.

Immunity from suit of all governmental entities is waived as to any claim based on the negligent destruction, damage or loss of goods, merchandise or other property while in the possession of any officer or agency of state or local government, including law enforcement officers, if the property was seized for the purpose of forfeiture under any provision of state law.

Section 29, Section 76-3-501 is amended to read:

76-3-501. Vehicle subject to forfeiture -- Seizure -- Procedure.

(1) Any vehicle used in the commission of, attempt to commit, or flight after commission of any felony in which a firearm or other dangerous weapon as defined in Section 76-10-501, or explosive, chemical, or incendiary device or parts as defined in Section 76-10-306 is used, or any vehicle used in the commission of the illegal possession or sale of a firearm in or from the vehicle, is subject to forfeiture. [and no property right exists in it if the owner of the vehicle was a knowing participant in the offense or voluntarily allowed the vehicle to be used, knowing that it would probably be used to commit the offense.]

(2) Any forfeiture of a vehicle subject to a bona fide security interest is subject to the interest of a secured party who could not have known in the exercise of reasonable diligence that a violation would or did take place in the use of the vehicle.]

[(3)] (2) Vehicles subject to forfeiture under this section may be seized by any peace officer of this state upon process issued by any court having jurisdiction over the vehicle. However, seizure without process may be made when:

- (a) the seizure is incident to a lawful arrest, with or without an arrest warrant;
- (b) the vehicle is seized incident to a lawful search with or without a search warrant or an inspection under an administrative inspection warrant;
- (c) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or
- (d) the peace officer seizing the vehicle has probable cause to believe that the vehicle has been used or is intended to be used in violation of this section and the peace officer reasonably believes that the vehicle will be lost, damaged, or used in further violation of law if the officer delays seizure to obtain a warrant.

[(4)] (3) In the event of seizure under Subsection (2), [Forfeiture proceedings under this section [Subsection (5)] shall be instituted promptly in accordance with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code.]

[(5)] (4) Any vehicle taken or detained under this section is not replevable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of the court or the official having jurisdiction. When a vehicle is seized under this chapter the appropriate person or agency may:

- (a) remove the vehicle to a place designated by the court, official, or the warrant under which the vehicle was seized; or
- (b) take custody of the vehicle and remove it to an appropriate location for disposition in accordance with law.

[(6)] When any vehicle is subject to forfeiture, determination for forfeiture to the state shall be made as follows:

(a) A complaint verified on oath or affirmation shall be prepared by the county attorney, or if within a prosecution district the district attorney, where the vehicle was seized or is to be seized. The complaint shall be filed in the district court where the vehicle was seized. The complaint shall describe with reasonable particularity the:

- (i) vehicle which is the subject matter of the proceeding;
- (ii) date and place of seizure, if known; and
- (iii) allegations which constitute the basis for forfeiture.

(b) Upon filing the complaint, the clerk of the court shall forthwith issue a warrant for the seizure of the vehicle which is the subject matter of the action and deliver it to the sheriff for service upon the seizing person or agency.

(c) Notice of the seizure and intended forfeiture shall be filed with the county clerk, and served together with a copy of the complaint, upon all persons known to the county attorney or district attorney to have a claim in the vehicle by one of the following methods: (i) upon each claimant whose name and address is known, at the last known address of the claimant, or upon each owner whose right, title, or interest is of record in the Division of Motor Vehicles, by mailing a copy of the notice and complaint by certified mail to the address given upon the records of the division, which service is considered complete even though the mail is refused or cannot be forwarded; and (ii) upon all other claimants whose addresses are unknown, but who are believed to have an interest in the vehicle, by publication in a newspaper of general circulation in the county where the seizure was made. (d) Any claimant or interested party shall file with the court a verified answer to the complaint within 20 days after service has been obtained.

(e) When a vehicle is seized under this section, any interested person or claimant of the vehicle, prior to being served with a complaint under this section, may file a petition in the court having jurisdiction for release of his interest in the vehicle. The petition shall specify the claimant's interest in the vehicle and his right to have it released. A copy shall be served upon the county attorney or, if within a prosecution district the district attorney in the county of the seizure, who shall answer the petition within 20 days. A petitioner under this subsection need not answer a complaint of forfeiture. (f) After 20 days following service of a complaint or petition for release, the court shall examine the record and if no answer is on file, the court shall allow the complainant or petitioner an opportunity to present evidence in support of his claim and order forfeiture or release of the vehicle as the court determines. If the county attorney or district attorney has not filed an answer to a petition for release and the court determines from the evidence that the petitioner is not entitled to recovery of the vehicle, it shall enter an order directing the county attorney or district attorney to answer the petition within ten days. If no answer is filed within that period, the court shall order the release of the vehicle to the petitioner entitled to receive it. (g) When an answer to a complaint or petition appears of record at the end of 20 days, the court shall promptly set the matter for hearing. At this hearing all interested parties may present evidence of their rights of release of the vehicle following the state's evidence for forfeiture. The court shall determine by a preponderance of the evidence the issues in the case and order forfeiture or release of the vehicle as it determines. (h) Proceedings of this section are independent of any other proceedings, whether civil or criminal, under the laws of this state. (i) When the court determines that claimants have no right in the vehicle in whole or in part, it shall declare the vehicle to be forfeited and direct it to be delivered for disposition in accordance with Subsection (7). (j) When the court determines that the vehicle, in whole or in part, is not subject to forfeiture, it shall order release of the vehicle to the proper claimant. If the court determines that the vehicle is subject to forfeiture in part and release in part, it shall order partial release and partial forfeiture. When the vehicle cannot be divided for partial forfeiture and release, the court shall order it sold and the proceeds distributed: (i) first, proportionally among the legitimate claimants; (ii) second, to defray the costs of the action, including seizure, storage of the vehicle, legal costs of filing and pursuing the forfeiture, and costs of sale; and (iii) third, in accordance with Subsection (7). (k) In a proceeding under this section where forfeiture is declared, in whole or in part, the court shall assess all costs of the forfeiture proceeding, including seizure and storage of the vehicle, against the individual or individuals whose conduct was the basis of the forfeiture, and may assess costs against any other claimant or claimants to the vehicle as appropriate. [(7) When any vehicle is forfeited under this section by a finding of the court that no person is entitled to recover it or that the vehicle is subject to forfeiture in part and release in part to a claimant, a court shall order that the vehicle be delivered to the seizing agency for sale as the court directs. The court shall also order that the proceeds from the sale of the vehicle be distributed in accordance with the provisions of Subsection (6)(j).] [(8) When the court orders that a vehicle be forfeited, in whole or in part, under this section, it shall direct that the proceeds from the sale of the forfeited vehicle, or part thereof, be divided or distributed as follows: (a) 3/4 to the agency making the seizure; and (b) 1/4 to the state treasurer for deposit into the General Fund. (9) If the vehicle is found by the court not to be subject to forfeiture, it shall be released to the owner.]

Section 30, Section 76-10-1107 is amended to read:

76-10-1107. Seizure and sale of devices or equipment used for gambling.

(1) Whenever any magistrate shall determine that any devices or equipment is used or kept for the purpose of being used for gambling, the magistrate may authorize the county commissioner of the county wherein the seizure occurred, in conjunction with the sheriff, or if the seizure occurred within the limits of an

Incorporated city or town, may authorize its governing body, in conjunction with its chief law enforcement officer, to seize the devices [and sell them for the best price obtainable] or equipment and institute forfeiture proceedings in accordance with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code. [The sale must be made to a person of good character and repute who is a bona fide resident of a state where it is lawful to use the equipment. The officials conducting the sale shall place the equipment on a public carrier, properly consigned to the purchaser at the place of his residence.] (2) The proceeds of any sale shall be paid [into the treasury, for welfare purposes only, of the county or political unit conducting the sale] to the Uniform School Fund, Title 53A, Chapter 16, Section 101 of the Utah Code. [(3) If no sale is consummated within ninety days of the authorization therefor, the devices or equipment shall be destroyed under the direction of the magistrate.]

Section 31. Section 76-10-1108 is amended to read:

76-10-1108. Seizure and disposition of gambling debts or proceeds.

(1) [At the commencement of any prosecution for a violation of this part, any] Any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized [and they shall be held pending the disposition of the proceedings. At the conclusion of the proceedings, any person who is found guilty of a violation of this part shall forfeit any sums held by the court which were acquired or being used in violation of this part] for forfeiture pursuant to the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1 of the Utah Code. [Any sums not identifiable, or in the event the individual is found not guilty, the sums shall be returned to him.]

[(2) A commencement of prosecution shall occur upon arrest, issuance of a complaint, or indictment, whichever ever occurs first.]

[(3)](2) All sums forfeited under this section shall be paid [into the treasury of the county or political unit conducting the prosecution,] to the Uniform School Fund, Title 53A, Chapter 16, Section 101 of the Utah Code.

Section 32. Section 76-10-1603.5 is amended to read:

76-10-1603.5. Violation a felony -- Costs -- Forfeiture -- Fines -- Divestiture -- Restrictions -- Dissolution or reorganization -- Restraining orders and Injunctions -- Hearings -- Special verdict -- Findings -- Judgment and order of forfeiture -- Seizure of property -- Sale -- Proceeds -- Petitions for remission or mitigation of forfeiture -- Hearing -- Disposition.

(1) A person who violates any provision of Section 76-10-1603 is guilty of a second degree felony. In addition to penalties prescribed by law, the court may order the person found guilty of the felony to pay to the state, if the attorney general brought the action, or to the county, if the county attorney or district attorney brought the action, the costs of investigating and prosecuting the offense and the costs of securing the forfeitures provided for in this section. The person shall forfeit to the [state or the county] Uniform School Fund, Title 53A, Chapter 16, Section 101, of the Utah Code:

(a) any interest acquired or maintained in violation of any provision of Section 76-10-1603; (b) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of in violation of Section 76-10-1603; and (c) any property constituting or derived from [any] the net proceeds which the person obtained, directly or indirectly, from the conduct constituting the pattern of unlawful activity or from any act or conduct constituting the pattern of unlawful activity proven as part of the violation of any provision of Section 76-10-1603. (2) If a violation of Section 76-10-1603 is based on a pattern of unlawful activity consisting of acts or conduct in violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the property subject to forfeiture under this section is limited to property, the seizure or forfeiture of which would not constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Article I, Sec. 15 of the Utah Constitution, or would not otherwise unlawfully interfere with the exercise of those rights. (3) In lieu of a fine otherwise authorized by law for a violation of Section 76-10-1603, a defendant who derives net [profits or other] proceeds from a conduct prohibited by

Section 76-10-1603, may be fined not more than twice the amount of the [gross] net [profits or other] proceeds. (4) [Except under Subsection (2),] Property subject to criminal forfeiture in accord with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act Title 24, Chapter 1, of the Utah Code includes: (a) real property, including things growing on, affixed to, and found in land; and (b) tangible and intangible personal property including money, rights, privileges, interests, claims, and securities of any kind; (c) but does not include property [legitimately] exchanged or to be exchanged for services rendered in connection with [a defendant's exercise of his rights under the Sixth Amendment to the Constitution of the United States and the right to appear and be defended by counsel in criminal prosecutions guaranteed by Article I, Sec. 12 of the Utah Constitution] the defense of the charges or any related criminal case. (5) Upon conviction for violating any provision of Section 76-10-1603, and in addition to any penalty prescribed by law and in addition to any forfeitures provided for in this section, the court may do any or all of the following: (a) order the person to divest himself of any interest in or any control, direct or indirect, of any enterprise; (b) impose reasonable restrictions on the future activities or investments of any person, including prohibiting the person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or (c) order the dissolution or reorganization of any enterprise. (6) If a violation of Section 76-10-1603 is based on a pattern of unlawful activity consisting of acts or conduct in violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court may not enter any order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Article I, Sec. 15 of the Utah Constitution. (7) [(a)] All rights, title, and interest in forfeitable property described in Subsections (1) and (2) vest in the [state if the action was brought by the attorney general or in the county if the action was brought by a county attorney or district attorney,] state treasurer, on behalf of the Uniform School Fund, upon the commission of the act or conduct giving rise to the forfeiture under this section.

[(8) For purposes of this section, the "net proceeds" of an offense means property acquired as a result of the violation minus the direct costs of acquiring the property, [(b) Any forfeitable property that is subsequently transferred to a person other than the defendant may be the subject of a special proceeding and an order that the property be forfeited to the state or the county unless the transferee establishes in a hearing held under Subsection (16) that he is a bona fide purchaser for value of the property who at the time of purchase reasonably believed that the property was not subject to forfeiture under this section.]

[(8)(a) Upon application of the attorney general, the county attorney, or district attorney, the court may enter restraining orders or injunctions, require the execution of satisfactory performance bonds, or take any other action to preserve for forfeiture under this section any forfeitable property described in Subsections (1) and (2)

(i) upon filing of an indictment or an information charging a violation of Section 76-10-1603 and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(ii) prior to the filing of the indictment or information, if, after notice to persons appearing to have an interest in the property and after affording them an opportunity for a hearing, the court determines that:

(A) there is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(B) the need to preserve the availability of the property or prevent its sale, distribution, exhibition, destruction, or removal through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;]

(iii) an order entered under Subsection (ii) is effective for no more than 90 days, unless extended by the court for good cause shown or unless an indictment or information as described in Subsection (i) has been filed;]

(b) A temporary restraining order may be entered upon application of the attorney general, county attorney, or a district attorney without notice or opportunity for a hearing, when an information or indictment has not yet been filed with respect to the property, if the attorney general, county attorney, or a district attorney demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to

forfeiture under this section and that provision of notice would jeopardize the availability of the property for forfeiture or would jeopardize an ongoing criminal investigation. The temporary order expires not more than ten days after it is entered unless extended for good cause shown or unless the party against whom it is entered consents to an extension. A hearing concerning an order entered under this subsection shall be held as soon as possible, and prior to the expiration of the temporary order.

(c) The court is not bound by the Utah Rules of Evidence regarding evidence it may receive and consider at any hearing held under this subsection.]

[(9) Upon conviction of a person for violating any provision of Section 76-10-1603, the jury, if the case was tried to a jury, shall be instructed and asked to return a special verdict as to whether any of the extent of the property identified in the information or indictment, if any, that is forfeitable under Subsections 76-10-1603.5 (1) and (2)

(b) If the case is tried without a jury, the judge shall make specific written findings if he determines that the property identified in the information or indictment is forfeitable under Subsections 76-10-1603.5 (1) and (2). Whether property is forfeitable shall be proven beyond a reasonable doubt.]

[(10)(a) Upon conviction of a person for violating any provision of Section 76-10-1603 and upon the jury's special verdict or the judge's finding that the property is forfeitable, the court shall enter a judgment and order of forfeiture of the property to the state or the county and shall authorize the attorney general, the county attorney, or, if within a prosecution district, the district attorney to seize all property ordered forfeited upon the terms stated by the court in its order. Following the entry of an order declaring property forfeited, the court may, upon application of the attorney general, the county attorney, or the district attorney, enter appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the state or county in property ordered forfeited.

(b) Any income accruing to, or derived from, an enterprise or an interest in an enterprise or property which has been ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the state or county or third parties.]

[(11)(a) After seizure of property ordered forfeited under this section, the attorney general, the county attorney, or the district attorney shall direct the disposition of the property by sale or any other commercially feasible means, making provision for the rights of any innocent persons. Any property right or interest not exercisable by or transferable for value to the state or the county, expires and does not revert to the defendant. The defendant or any person acting in concert with or on behalf of the defendant is not eligible to purchase forfeited property at any sale held by the attorney general or the county attorney.

(b) The court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property would may result in irreparable injury, harm, or loss to him.

(c) The proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited may be used first to pay expenses of the forfeiture and the sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs.]

[(12) Regarding property ordered forfeited under this section, the attorney general, the county attorney, or, if within a prosecution district, the district attorney may: (a) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons in the interest of justice and as is consistent with the provisions of this section;

(b) compromise claims arising under this section;

(c) award compensation to persons providing information resulting in a forfeiture under this section;

(d) direct the disposition by the state or the county of all property ordered forfeited under this section by public sale or any other commercially feasible means, making provision for the rights of innocent persons;

(e) destroy or otherwise dispose of property determined to be obscene or pornographic; and

(f) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.]

[(13) Except under Subsection (16), a party claiming an interest in property subject to forfeiture under this section: (a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of property under this section; and

(b) may not commence an action at law or equity against the state or the county concerning the validity of his alleged interests in the property subsequent to the filing of an indictment or an information alleging that the property is subject to forfeiture under this section.]

[(14) The district court of the state which has jurisdiction of a case under this part may enter orders under this section without regard to location of any property which may be subject to forfeiture under this section, or which has been ordered forfeited under this section.]

[(15) To facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the state or county, the court may, upon application of the attorney general, the county attorney, or the district attorney order that the testimony of any witness relating to the property forfeited be taken by deposition, and that any book, paper, document, record, recording, or other material not privileged shall be produced as provided for depositions and discovery under the Utah Rules of Civil Procedure.]

[(16) Following the entry of an order of forfeiture under this section, the attorney general, the county attorney, or the district attorney shall publish notice of the order and of its intent to dispose of the property as the court may direct. The attorney general, the county attorney, or the district attorney may also provide direct written notice to any person known to have an alleged interest in the property subject to the order of forfeiture, as a substitute for published notice as to those persons so notified.

(b) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the state or to the county under this section may, within 30 days of the final publication of notice or his receipt of notice under Subsection (a), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing is held before the court without a jury.

(c) The petition shall be in writing and signed by the petitioner under penalty of perjury. It shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, and any additional facts supporting the petitioner's claim, and the relief sought.

(d) The hearing on the petition shall, to the extent practicable, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition and any petition filed by any other person under this section, other than the defendant.

(e) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf and cross-examine witnesses who appear at the hearing. The attorney general, county attorney, or district attorney may present evidence and witnesses in rebuttal and in defense of the claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portion of the record of the criminal case which resulted in the order of forfeiture. The court is not bound by the Utah Rules of Evidence at a hearing held under this subsection.

(f) The court shall amend the order of forfeiture in accordance with its determination, if after the hearing the court determines that the petitioner has established by a preponderance of the evidence that: (i) the petitioner has a legal right, title, or interest in the property, and the right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the act or conduct which

gave rise to the forfeiture of the property under this section; or (ii) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and at the time of purchase reasonably believed that the property was not subject to forfeiture under this section.

(g) Following the court's disposition of all petitions filed under this subsection, or if no petitions are filed following the expiration of the period provided in Subsection (b) for the filing of petitions, the state or the county has clear title to property subject to the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.]

Section 33. Section 76-10-1908 is amended to read:

76-10-1908. Forfeiture -- Grounds -- Procedure -- Disposition of property forfeited.

(1) (a) Any of the following property shall be subject to civil or criminal forfeiture [and no property right exists in it]:

[(a)] (i) any conveyance including vehicles, aircraft, watercraft, or other vessel used in violation of Section 76-10-1904; and [(e)]

[(ii)] any [monetary instruments or funds which are the subject] property which is the net proceeds of a violation of Section 76-10-1903, 76-10-1904, or 76-10-1906. (b) For purposes of this section, the "net proceeds" of an offense means property acquired as a result of the violation minus the direct costs of acquiring the property.

(2) Property subject to forfeiture under Subsection (1) may be seized by any peace officer of this state upon process issued by any court having jurisdiction over the property. However, seizure without process may be made when:

(a) the seizure is incident to an arrest or search under a search warrant, an inspection under an administrative inspection warrant, under a writ of attachment, or under a writ of garnishment;

(b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(c) the peace officer has probable cause to believe that the property has been used in violation of Section 76-10-1903, 76-10-1904, or 76-10-1906.

(3) [In the event of seizure under Subsection (2),] Forfeiture proceedings under this section shall be commenced in accordance with the procedures and substantive protections of the Utah Uniform Forfeiture Procedures Act, Title 24, Chapter 1, of the Utah Code. [under Subsection (4)] shall be instituted promptly.]

(4) Property taken or detained under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of the court or the official having jurisdiction. When property is seized under this chapter, the appropriate person or agency may:

(a) place the property under seal;

(b) remove the property to a place designated by it or the warrant under which it was seized; or

(c) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

[(5) When any property is subject to civil forfeiture, a determination for forfeiture to the state shall be made as follows:

(a) A complaint verified on oath or affirmation shall be prepared by the prosecuting agency where the property was seized or is to be seized. A complaint shall be filed in the district court. The complaint shall describe with reasonable particularity:

(i) the property which is the subject matter of the proceedings;

(ii) the date and place of seizure, if known; and

(iii) the allegations which constitute a basis for forfeiture.

(b) Upon filing the complaint, the clerk of the court shall forthwith issue a warrant for seizure of the property which is the subject matter of the action and deliver it to a

peace officer for service, unless the property has previously been seized without a warrant under Subsection (2). If the property was seized under Subsection (2), the warrant of seizure shall be delivered to the officer having custody of the property who shall proceed as directed in the warrant.

(c) Notice of the seizure and intended forfeiture shall be filed with the county clerk, and served together with a copy of the complaint, upon all persons known to the prosecuting agency to have a claim in the property by one of the following methods:

(i) upon each claimant whose name and address is known, at the last known address of the claimant, or upon each owner whose right, title, or interest is of record in the Division of Motor Vehicles, by mailing a copy of the notice and complaint by certified mail to the address given upon the records of the division, which service is considered complete even though the mail is refused or cannot be forwarded; and

(ii) upon all other claimants whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

(d) Except under Subsection (5)(e), any claimant or interested party shall file with the court a verified answer to the complaint within 20 days after service has been obtained.

(e) When property is seized under this section, any interested person or claimant of the property, prior to being served with a complaint under this section, may file a petition in the court having jurisdiction for release of his interest in the property. The petition shall specify the claimant's interest in the property and his right to have it released. A copy shall be served upon the county attorney in the county of the seizure, who shall answer the petition within 20 days. A petitioner need not answer a complaint of forfeiture.

(f) After 20 days following service of a complaint or petition for release, the court shall examine the record and if no answer is on file, the court shall allow the complainant or petitioner an opportunity to present evidence in support of his claim and order forfeiture or release of the property as the court determines. If a prosecuting agency has not filed an answer to a petition for release and the court determines from the evidence that the petitioner is not entitled to recovery of the property, it shall enter an order directing the prosecuting agency to answer the petition within ten days. If no answer is filed within that period, the court shall order the release of the property to the petitioner entitled to receive it.

(g) When an answer to a complaint or petition appears of record at the end of 20 days, the court shall set the matter for hearing within 20 days. At this hearing all interested parties may present evidence of their rights of release of the property following the state's evidence for forfeiture. The court shall determine by a preponderance of the evidence the issues in the case and order forfeiture or release of the property as it determines.

(h) When the court determines that claimants have no right in the property in whole or in part, it shall declare the property to be forfeited and direct it to be delivered as provided in Subsection (6).

(i) When the court determines that property, in whole or in part, is not subject to forfeiture, it shall order release of the property to the proper claimant. If the court determines that the property is subject to forfeiture and release in part, it shall order partial release and partial forfeiture. When the property cannot be divided for partial forfeiture and release, the court shall order it sold and the proceeds distributed:

(i) first, to defray the costs of the action, including seizure, storage of the property, legal costs of filing and pursuing the forfeiture, and costs of sale;

(ii) second, proportionally among the legitimate claimants; and (iii) third, as provided under Subsection (6).]

[(6) Disposition of all property forfeited under Subsections (1) through (5) by a finding of the court that no person is entitled to recover the property shall be as follows:

(a) Property forfeited under Subsection (1)(a), (b), or (c), if the property is involved in a financial transaction in violation of Section 76-10-1903 or is transported in violation of Section 76-10-1904, may be awarded to the seizing agency upon a petition by the seizing agency of the property in the complaint filed

under Subsection (5)(a) and a finding by the court that the seizing agency is able to use the forfeited property in the enforcement of offenses under Title 58 and Title 76, Chapter 10.

(b) If the seizing agency makes no application or the court does not make a finding under Subsection (6)(a) that the seizing agency should be awarded the property, the forfeited property shall be deposited in the custody of the Division of Finance. Any state agency, bureau, county, municipality, or drugstrike force which demonstrates a need for specific property or classes of property which has been forfeited shall be given the property for use in enforcement of laws prohibiting specified unlawful activity or in enforcement of this part after payment to the prosecuting agency of legal costs for filing and pursuing the forfeiture and upon the application for the property to the director of the Division of Finance. The application shall clearly set forth the need for the property and the use to which the property will be put.

(c) The director of the Division of Finance shall review all applications for property deposited under Subsection (6)(b) and make a determination based on necessity and advisability as to final disposition and shall notify the designated applicant, who may obtain the property after payment of all costs to the appropriate department. The Division of Finance shall reimburse the prosecuting agency for costs of filing and pursuing the forfeiture action, not to exceed the amount of the net proceeds received from the sale of the property.

(d) If no disposition is made upon an application under Subsection (6)(a), (b), or (c), the Division of Finance shall dispose of the property by public bidding, or, as considered appropriate, by destruction. Proceeds from the sale of the property under this subsection shall be distributed as provided in Subsection (e).

(e) Property forfeited under Subsection (1)(c) for violation of Section 76-10-1906 and proceeds from the sale of the property under Subsection (6)(d) shall be awarded and ordered distributed to the General Fund.]

[(7) Any person who violates any provision of Section 76-10-1903, 76-10-1904, or 76-10-1906 shall forfeit to the state all property, funds, or monetary instruments involved in the violation or, if unavailable for forfeiture in species, its value whether or not located in this state.]

[(8) Upon conviction for violating any provision of Section 76-10-1903, 76-10-1904, or 76-10-1906, the court may make an order with respect to any property of the defendant, or in which the defendant has an interest, whether or not in this state, to accomplish or further the forfeiture provided under Subsection (7) or the collection of costs under this section.]

[(9) All rights, title, and interest in forfeitable property described in this section vest in the state upon the commission of the act or conduct giving rise to the forfeiture under this section.]

[(10) (a) After forfeiture of property under this section, the court shall direct the disposition of the property by sale or other commercially feasible means, making provision for the rights of any innocent persons. Any property right or interest not exercisable by or transferable for value to the state expires and does not revert to the defendant. The defendant or any person acting in concert with or on behalf of the defendant is not eligible to purchase forfeited property at any sale ordered by the court.

(b) The court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the

applicant demonstrates that proceeding with the sale or disposition of the property would result in irreparable injury, harm, or loss to him.

(c) The proceeds of any sale or other disposition of property forfeited under this section or any monies forfeited may be used first to pay the expenses of the forfeiture and the sale including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs.

(d) Disposition of property forfeited under Subsections (7) through (13) shall be as provided in Subsection (6).

(e) Notwithstanding any provisions of this section to the contrary, the state is obligated to search the lien records applicable to the forfeitable property to determine whether any valid lien against the property has been perfected. As long as the lien holder did not violate the provisions of this section, title to forfeitable property shall be subject to such lien, and the state will either give possession of the property to the lien holder or pay to the lien holder the amount secured by the lien.]

[(11) In any forfeiture proceeding under Subsections (7) through (13), the prosecutor prosecuting the defendant may:

(a) petition the court for mitigation or remission of forfeiture, for restoration of forfeited property to victims of a violation of this section or to take any other action to protect the rights of innocent persons in the interest of justice and the court may, in its discretion, grant the petition;

(b) compromise claims arising under this section;

(c) award compensation to persons providing information resulting in a forfeiture under this section; or

(d) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.]

[(12) In a proceeding under this section where forfeiture is declared, in whole or in part, the court shall:

(a) determine the costs incurred by the prosecuting agency prosecuting the forfeiture which shall be paid by the recipient of forfeited assets from the proceeds from the assets; and

(b) assess all costs of the forfeiture proceeding including seizure and storage of the property against the individual or individuals whose conduct was the basis for the forfeiture, and may assess costs against any other claimant or claimants to the property as appropriate.]

[(13) Proceedings under this section are independent of any other proceedings whether civil or criminal under this section or the laws of this state.]

Section 34. Severability.

If any provision of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this Act shall not be affected thereby but shall be given effect without the invalid provision.

Section 35. Effective Date.

If approved by the voters in this state, this initiative shall take effect on March 20, 2001.

INFORMATION ABOUT JUDGES APPEARING ON YOUR BALLOTS

Merit Selection of Judges

The office of judge is unique in our society. A judge is a public servant holding an office of high public trust and so should answer to the public. However, the obligation of a judge is to resolve disputes impartially and to base decisions solely upon the facts of the case and the law. A judge, therefore, should be insulated from public pressure.

Merit selection of judges was developed as an alternative to requiring judges to run in contested elections. The Judicial Article of the Utah Constitution, revised effective July 1, 1985, establishes merit selection as the exclusive method of choosing a state court judge. As stated in the Utah Constitution: "*Selection of judges shall be based solely upon consideration of fitness for office without regard to any partisan political consideration.*"

There are four steps in the Utah merit selection plan: nomination, appointment, confirmation and retention election. The nomination of judges is by a committee of lawyers and non-lawyers selected by the Governor. The judicial nominating commission nominates between three and five of the best qualified candidates from among all applicants. The Governor appoints one of the nominees, who then must be confirmed by a majority of the Utah State Senate.

Judicial Retention Elections

Under the Utah Constitution, judges must stand for retention election at the end of each term of office. The public has the opportunity to vote whether to retain the judge for another term. Before a judge stands for retention election, he or she is evaluated by the Judicial Council. The Judicial Council is established by the Utah Constitution as the policy making body for the judicial branch of government and is required by its own rules and by statute to evaluate the performance of all judges. As a result of the evaluation, the Judicial Council certifies whether the judge is qualified for retention election. The results of individual evaluations are published in the voter information pamphlet.

Performance Evaluation Program

The judicial performance evaluation program is required by statute and developed by rule of the Judicial Council. The purpose of the program is two-fold:

- To provide each judge with information for his or her self improvement.
- To provide the public with information upon which to make knowledgeable decisions regarding retention election.

The evaluation of each judge's performance is conducted every two years regardless of whether the judge is standing for retention election. An independent surveyor conducts a poll of lawyers appearing before each judge and asks the lawyer to anonymously evaluate the judge based on several criteria. In addition, a similar survey of jurors is conducted for district court judges. Prior to the close of a judge's term of office, the Judicial Council reviews the results of the attorney and juror polls and other standards of performance and determines whether the judge is qualified for retention.

Criteria for Performance Evaluation

(A) Integrity:

- (1) avoidance of impropriety and appearance of impropriety;
- (2) freedom from personal bias;
- (3) ability to decide issues based on the law and the facts without regard to the identity of the parties or counsel, the popularity of the decision, and without concern for or fear of criticism;
- (4) impartiality of actions;
- (5) compliance with the Code of Judicial Conduct.

(B) Knowledge and understanding of the law:

- (1) the issuance of legally sound decisions;
- (2) understanding of the substantive, procedural, and evidentiary law of the state;
- (3) attentiveness to the factual and legal issues before the court;
- (4) the proper application of judicial precedents and other appropriate sources of authority.

(C) Ability to communicate:

- (1) clarity of bench rulings and other oral communications;
- (2) quality of written opinions with specific focus on clarity and logic, and the ability to explain clearly the facts of a case and the legal precedents at issue;
- (3) sensitivity to impact of demeanor and other nonverbal communications.

(D) Preparation, attentiveness, dignity and control over proceedings:

- (1) courtesy to all parties and participants; and
- (2) willingness to permit every person legally interested in a proceeding to be heard, unless precluded by law or rules of courts.

(E) Skills as a manager:

- (1) devoting appropriate time to all pending matters;
- (2) discharging administrative responsibilities diligently;
- (3) where responsibility exists for a calendar, knowledge of the number, age, and status of pending cases.

(F) Punctuality:

- (1) the prompt disposition of pending matters; and
- (2) meeting commitments on time and according to rules of the court.

Minimum Standards for Performance

The Judicial Council has established the following minimum standards for judicial performance. Some standards apply to all judges and some standards apply to judges of a specific court.

- A minimum score of 70% on at least 75% of the questions on the attorney survey.
- A minimum score of 70% on at least 75% of the questions on the juror survey.
- For justices of the Supreme Court, circulating no more than six principal opinions more than 180 days after submission.
- For judges of the Court of Appeals, circulating not more than six principal opinions more than 180 days after submission; and achieving a final average time to circulation of a principal opinion of not more than 120 days after submission.
- For judges of the trial court, no cases under advisement for more than 180 days and no more than 6 cases under advisement for more than 60 days.
- At least 30 hours of judicial education per year.
- Compliance with Code of Judicial Administration and the Code of Judicial Conduct.
- Physical and mental fitness for office.

A judge who fails to meet one or more of these standards may appear before the Judicial Council and show cause why he or she should nevertheless be certified.

Attorney Survey Questions

A random sample of attorneys appearing before each judge was asked to rate the judge as "excellent", "more than adequate", "adequate", "less than adequate", and "inadequate" on the following questions. A satisfactory response is "excellent", "more than adequate", or "adequate". To be certified the judge must receive a 70% satisfactory response rate to at least 75% of the following questions and an overall satisfactory response rate of at least 70%.

Questions of Attorneys About Appellate Judges

- 1) Behavior is free from impropriety or the appearance of impropriety.
- 2) Behavior is free from bias.
- 3) Avoids ex parte communications.
- 4) Understands the rules of procedure and evidence.
- 5) Understands the substantive law.
- 6) Understands recent legal developments.
- 7) Perceives legal and factual issues.
- 8) Properly applies the law to the facts of the case.
- 9) Is prepared for oral argument.
- 10) Maintains the quality of questions and comments during oral argument.
- 11) Demonstrates appropriate demeanor.
- 12) Issues opinions without unnecessary delay.
- 13) Opinions are well written.
- 14) Opinions demonstrate scholarly legal analysis.
- 15) Taking everything into account, do you recommend this justice or judge be certified for election?

Questions of Attorneys About Trial Court Judges

- 1) Behavior is free from impropriety and appearance of impropriety.
- 2) Behavior is free from bias and favoritism.
- 3) Avoids ex parte communication.
- 4) Understands the rules of procedure and evidence.
- 5) Properly applies the law to the facts of the case.
- 6) Is prepared for hearings and trials.
- 7) Demonstrates appropriate demeanor.
- 8) Maintains order in the courtroom.
- 9) Allows sufficient time to present case.
- 10) Weighs all evidence fairly and impartially before rendering a decision.
- 11) Clearly explains oral decisions.
- 12) Opinions, memorandum decisions and orders are well written.
- 13) Issues orders and opinions without unnecessary delay.
- 14) Effectively uses pretrial procedures to narrow and define the issues.
- 15) Taking everything into account, do you recommend this judge be certified for election or this commissioner be reappointed?

Juror Survey Questions

All jurors trying a case before a district court judge were asked to answer "yes" or "no" to each of the following questions. To be certified the judge must receive a 70% satisfactory response rate to at least 75% of the following questions and an overall satisfactory response rate of at least 70%. There are no jurors in the Supreme Court, Court of Appeals, or juvenile court, and some district court judges are assigned only cases for which there are no jury trials.

Questions of Jurors About District Court Judges

- 1) Does the judge avoid "playing favorites?"
- 2) Does the judge's behavior appear to be free from bias?
- 3) Does the judge conduct proceedings in a fair and impartial manner?
- 4) Does the judge clearly explain court procedures?
- 5) Does the judge clearly explain reasons for delay?
- 6) Does the judge clearly explain responsibilities of the jury?
- 7) Does the judge behave in a dignified manner?
- 8) Does the judge behave in a courteous manner?
- 9) Does the judge avoid arrogance?
- 10) Does the judge display patience?
- 11) Does the judge display attentiveness?
- 12) Does the judge treat people with respect?
- 13) Does the judge convene court without undue delay?
- 14) Did you find the recesses to be frequent enough and long enough to attend to your personal needs?
- 15) Would you be comfortable having your case tried before this judge?



**Judge Jeffery "R" Burbank - Juvenile Court for the First Judicial District
(Serving Box Elder, Cache, and Rich counties of Utah)**

Judge Jeffrey "R" Burbank was appointed to the First District Juvenile Court in March 1996 by Gov. Michael O. Leavitt. He received his law degree from Western State University of Law in San Diego in 1980. Judge Burbank served as Deputy Cache County Attorney from 1983 until his appointment to the bench. He also served as a partner in the law firm of Jenkins & Burbank and as an assistant Logan City Attorney. He also taught a number of classes for various law enforcement agencies, including serving as a regular instructor for Peace Officers Standards and Training (POST). Judge Burbank is a charter member of Utah State University Associates. He is currently a member of the Board of Juvenile Court Judges and serves on the Uniform Fine & Bail Schedule Committee. He also serves as the Presiding Judge of the First District Juvenile Court.

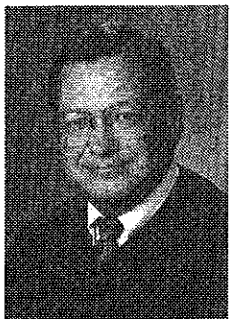
Judge Burbank met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Burbank.

There were 28 attorney survey respondents for Judge Burbank.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	100%	100%	100%	98%	93%	96%	99%	100%	100%	100%	100%	100%	100%	100%	100%

There are no jury surveys for Judge Burbank during the reporting period.



Judge Rodney S. Page - 2nd District, District Court (Davis, Morgan, Weber)

Judge Rodney S. Page was appointed to the Second District Court in April 1984 by Gov. Scott M. Matheson. After graduating from the University of Utah College of Law in 1969, he was a partner in the law firm of Hess, Palmer, Van Wagenen & Page until 1984. He was the Davis County Attorney from 1976 to 1984. Judge Page is a past member of the Board of District Court Judges, the Judicial Performance Evaluation Committee and the Supreme Court Advisory Committee on Criminal Procedure. He has also served on the Utah Judicial Council.

Judge Page met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Page.

There were 109 attorney survey respondents for Judge Page.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	94%	89%	98%	95%	88%	95%	94%	99%	96%	89%	93%	93%	92%	95%	93%

There were 48 juror respondents for Judge Page.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	100%	100%	100%	100%	98%	100%	100%	100%	98%	100%	100%	100%	98%	98%	100%



Judge W. Brent West - 2nd District, District Court (Davis, Morgan, Weber)

Judge W. Brent West was appointed to the Second Circuit Court in April 1984 by Gov. Scott M. Matheson. He became a judge in the District Court in July 1996. Judge West received his law degree from Southern Methodist University in 1975 and was in private practice from 1976 to 1979. He served as Assistant Corporate Counsel, Assistant City Attorney and Chief Prosecutor for Ogden City from 1976 until his appointment to the bench. He currently serves as the Presiding Judge for the Second Judicial District and chairs the Uniform Fine and Bail Schedule Committee. He is a former member of the Utah Judicial Council, a former member and chair of the Board of Circuit Court Judges and a former chair of the Collections and Warrants Ad Hoc Committee. He is also a former member of the Statewide Transition Team and the Audio-Video Technology Evaluation Committee. He served on the Utah Task Force on Gender and Justice and currently serves on the Utah Task Force on Racial and Ethnic Fairness in the Legal System. Judge West received the Circuit Court Judge of the Year Award in 1989, the Utah Justice Court's Friend of the Court Award in 1991, and the Judge of the Year Award in 1997.

Judge West met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge West.

There were 106 attorney survey respondents for Judge West.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	100%	96%	99%	99%	96%	99%	99%	100%	100%	97%	99%	95%	96%	99%	96%

There were 82 juror respondents for Judge West.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	96%	100%	99%	100%	99%	100%	100%	100%	100%	100%	99%	100%	99%	99%	97%



Judge Stephen A. Van Dyke - 2nd District, District Court (Davis, Morgan, Weber)

Judge Stephen A. Van Dyke was appointed to the Juvenile Court in July 1985 by Gov. Norman H. Bangerter. A 1980 graduate of the J. Reuben Clark Law School and former member of the Law Review at Brigham Young University, he also has a Ph.D. from Bowling Green State University in Ohio in 1976. He has served on the State Master Planning Task Force for Judicial Facilities and the Master Planning Task Force for Youth Corrections. He was a member of the Board of Juvenile Court Judges for ten years and served as chair in 1990. He was elected as Presiding Judge in the Second District Juvenile Court from 1992 to 1996, and elected to a term as a member of the Utah Judicial Council from 1997 to 1999. Judge Van Dyke is the author of two articles on juvenile justice and works as a volunteer in several community organizations to improve the lives of children.

Judge Van Dyke met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Van Dyke.

There were 46 attorney survey respondents for Judge Van Dyke.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	100%	100%	95%	98%	93%	98%	100%	98%	98%	98%	96%	97%	100%	95%	98%

There are no jury surveys for Judge Van Dyke during the reporting period.



Judge Diane W. Wilkins - 2nd District, District Court (Davis, Morgan, Weber)

Judge Diane W. Wilkins was appointed to the Second District Juvenile Court in July 1990 by Gov. Norman H. Bangerter. She graduated from the University of Utah College of Law in 1979. Prior to her appointment to the bench she was a Deputy Salt Lake County Attorney, in private practice, an Assistant Utah Attorney General and Deputy Chief of Staff to the Governor. Judge Wilkins is a member of the Court Interpreter Advisory Panel and Presiding Judge of the 2nd District Juvenile Court. She has been chair and served on the Board of Juvenile Court Judges and the Judicial Ethics Advisory Opinion Committee. She has been a member of the Court Commissioner Conduct Committee and the Commission on Criminal and Juvenile Justice. She is currently a member of the National Council of Juvenile and Family Court Judges, the National Association of Women Judges and the American Judicature Society.

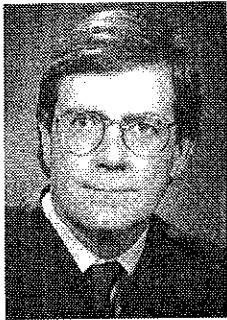
Judge Dutson met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Wilkins.

There were 53 attorney survey respondents for Judge Wilkins.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	96%	92%	98%	98%	89%	96%	92%	100%	98%	83%	92%	94%	98%	96%	87%

There are no jury surveys for Judge Wilkins during the reporting period.



Judge William W. Barrett - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge William W. Barrett was appointed to the Third District Court in January 1996 by Gov. Michael O. Leavitt. Judge Barrett received his law degree from the University of Utah College of Law in 1973. At the time of his appointment, he was a shareholder with the law firm of Kipp & Christian. Prior to this, Judge Barrett was an associate and partner with the law firm of Marsden, Orton & Liljenquist from 1979 to 1984. He was an Assistant Attorney General from 1973 to 1979. Judge Barrett served on the Model Utah Jury Instructions Drafting Committee from 1991 to 1992. He was accepted into the American Board of Trial Advocates as an associate in March 1994. During his tenure on the bench, Judge Barrett has been a member of the Quick Court Advisory Board. He currently presides over the misdemeanor drug court program.

Judge Barrett met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Barrett.

There were 115 attorney survey respondents for Judge Barrett.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	90%	86%	92%	82%	81%	88%	88%	97%	92%	82%	83%	83%	88%	88%	85%

There were 38 juror respondents for Judge Barrett.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	100%	100%	100%	100%	97%	100%	100%	100%	100%	100%	97%	100%	100%	100%	97%



Judge Ann Boyden - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge Ann Boyden was appointed to the Third District Court in October 1997 by Gov. Michael O. Leavitt. She received her law degree from the University of Utah College of Law in 1987. She was Deputy District Attorney for Salt Lake County from 1987 until her appointment to the bench. She has been a felony prosecutor for the Salt Lake County District Attorney's Major Drug Team, Special Victim Team, and Major Felony Offender Team. She was a member of the Council for Special Education for the Salt Lake City School District from 1987-89. Judge Boyden received her undergraduate and Master degrees in Education, and has been actively involved teaching and supervising in paralegal, law student, attorney, and currently, judicial education programs. Her assignments since being appointed to the Third District have been in the Salt Lake, West Valley and Tooele Departments.

Judge Boyden met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Boyden.

There were 59 attorney survey respondents for Judge Boyden.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	98%	97%	98%	95%	95%	100%	100%	100%	100%	97%	96%	97%	100%	98%	98%

There were 29 juror respondents for Judge Boyden.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	97%	100%	100%	100%	100%	100%	100%	100%	100%	97%	97%	100%	100%	96%	100%



Judge Joseph C. Fratto, Jr. - 3rd District, Juvenile Court (Salt Lake, Summit, Tooele)

Judge Joseph C. Fratto, Jr. was appointed to the Third District Court in January 1997 by Gov. Michael O. Leavitt. Judge Fratto received his law degree from the University of Utah College of Law in 1975. Prior to his appointment to the bench, he practiced law for 21 years in Salt Lake City in areas of civil and criminal litigation. Judge Fratto has taught in the paralegal programs at both Westminster College and Salt Lake Community College.

Judge Fratto met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Fratto.

There were 93 attorney survey respondents for Judge Fratto.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	98%	95%	95%	88%	89%	94%	96%	98%	98%	93%	89%	91%	97%	94%	93%

There were 76 juror respondents for Judge Fratto.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	95%	99%	100%	100%	88%	100%	100%	100%	99%	100%	99%	100%	94%	97%	99%



Judge Dennis Frederick -3rd District, District Court (Salt Lake, Summit, Tooele)

Judge J. Dennis Frederick was appointed to the Third District Court in October 1982 by Gov. Scott M. Matheson. After graduating from the University of Utah College of Law in 1966, he was an officer and director with the Salt Lake law firm of Kipp & Christian until his appointment to the bench. Judge Frederick was Deputy District Attorney from 1968 to 1971. He served on the Utah Judicial Council from 1986 to 1992 and was vice-chair from 1989 to 1992. He served on the Board of Trustees, University of Utah College of Law Alumni Association from 1989 to 1993. In 1987, Judge Frederick received the first Utah Bar Foundation Achievement Award. He was named District Court Judge of the Year in 1988 by the Utah State Bar.

Judge Frederick met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Frederick.

There were 120 attorney survey respondents for Judge Frederick.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	78%	70%	91%	91%	78%	83%	63%	92%	65%	67%	76%	81%	88%	83%	71%

There were 147 juror respondents for Judge Frederick.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	94%	99%	99%	99%	100%	99%	99%	99%	97%	93%	97%	99%	99%	98%	99%



Judge Timothy R. Hanson - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge Timothy R. Hanson was appointed to the Third District Court in October of 1982 by Gov. Scott M. Matheson. Prior to his appointment to the bench, he was a partner in the Salt Lake City law firm of Hanson, Russon, Hanson, & Dunn, where he worked as a trial lawyer since his graduation from the University of Utah College of Law in 1970. Judge Hanson is a former member of the Utah Judicial Council, the Utah Supreme Court Advisory Committee on Rules of Evidence, and the Supreme Court Advisory Committee on Rules of Civil Procedure. He is a former member of the Board of District Court Judges, where he served as chair in 1992 to 1993. Judge Hanson was a member of the Third District/Circuit Court Transition Team on Consolidation, was a member of the Judicial Council's Gender and Justice Task Force, co-chair of the Judicial Council's Gender and Justice Implementation Committee, and is a former member and chair of the Judicial Conduct Commission.

Judge Hanson met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Hanson.

There were 121 attorney survey respondents for Judge Hanson.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	97%	93%	98%	95%	93%	96%	87%	99%	94%	88%	93%	97%	94%	93%	96%

There were 158 juror respondents for Judge Hanson.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	94%	98%	99%	99%	99%	99%	99%	99%	99%	99%	99%	99%	98%	98%	97%



Judge Leslie A. Lewis - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge Leslie A. Lewis was appointed to the Third District Court in January 1991 by Gov. Norman H. Bangerter. She was elected as Presiding Judge of the Third District on two occasions, and served from 1995 to 1998. Prior to her appointment to the bench she was a partner with the law firm of Jones, Waldo, Holbrook & McDonough. She worked for the Salt Lake County Attorney's Office from 1978 to 1988, where she was trial team leader for the Special Victim's Prosecution Unit. She worked at the law firm of Bile, Harlem & Hatch after graduation from law school. She graduated from the University of Utah College of Law in 1974. Judge Lewis is a former Chair and past member (two terms) of the Board of District Court Judges. She is a member of Sutherland II Inns of Court and past president. She was a member of the State's Sentencing Commission, the State's Commission on the Prevention of Child Abuse, and Chair of the Gender & Justice Implementation Task Force. She is a member of the Salt Lake County Bar Executive Committee and is on the Standing Committee for the Model Utah Jury Instructions, and chairs the Criminal Jury Instructions Committee. Judge Lewis was selected by the State Bar as Judge of the Year in 1996. She was selected by the YWCA as an Outstanding Woman of Achievement in 1998. She was selected for the Governor's Woman of Achievement Award in 1998. She was selected by the Utah Business and Professional Women's Association as Professional Woman of the Year in 1995. She was selected as Woman Lawyer of the Year in 1995. Judge Lewis is a member of the National Association of Women Judges, and has twice been its National Membership Chair and also its Program Chair. She authored the District Court Judge's "Bench book" in 1993. Judge Lewis is also a Fellow of the American Bar Foundation.

Judge Lewis met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Lewis.

There were 120 attorney survey respondents for Judge Lewis

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	65%	61%	77%	90%	83%	86%	56%	93%	86%	79%	87%	88%	87%	91%	68%

There were 8 juror respondents for Judge Lewis.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%
Judge's Favorable Response	88%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%



Judge Sheila K. McCleve - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge Sheila K. McCleve was appointed to the Third Circuit Court in March 1984 by Gov. Scott M. Matheson. She became a judge in Third District Court in July 1996. She received her law degree from the J. Reuben Clark College of Law at Brigham Young University in 1976. She was a Deputy Salt Lake County Attorney, an Assistant Salt Lake City Prosecutor, and an Administrative Law Judge for the Utah Public Service Commission. She also worked as a Senior Research Attorney for Justice Richard C. Howe at the Utah Supreme Court before her appointment to the bench. Judge McCleve is a former member of the Board of Circuit Court Judges, the Supreme Court Ethics Advisory Committee, the Judicial Performance Evaluation Committee, and the Sentencing Commission Subcommittee on Restoration of Justice. She is currently a member of the Uniform Fine/Bail Schedule Committee, the Judicial Council Standing Subcommittee on Court Facilities Planning and the Executive Committee on Judicial Branch Education.

Judge McCleve met or exceeded the standards of performance outlined on page 68.

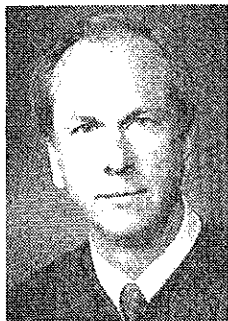
The Judicial Conduct Commission entered no disciplinary sanctions against Judge McCleve.

There were 118 attorney survey respondents for Judge McCleve.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	92%	83%	89%	87%	87%	91%	92%	96%	92%	86%	88%	89%	89%	93%	88%

There were 36 juror respondents for Judge McCleve.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	100%	100%	100%	97%	97%	97%	100%	100%	100%	95%	100%	97%	100%	100%	100%



Judge Anthony B. Quinn - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge Anthony B. Quinn was appointed to the Third District Court in September 1997 by Gov. Michael O. Leavitt. Judge Quinn received his law degree magna cum laude from Brigham Young University in 1980 where he served as Note and Comment editor of the Brigham Young University Law Review. After a one year clerkship with U.S. District Judge David K. Winder he maintained a civil trial practice until his appointment to the bench. Judge Quinn is a member of the bar of Utah as well as the United States Supreme Court. He currently serves on the Supreme Court Advisory Committee on Rules of Civil Procedure.

Judge Quinn met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Quinn.

There were 66 attorney survey respondents for Judge Quinn.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	95%	89%	98%	98%	92%	94%	98%	100%	97%	89%	95%	100%	100%	100%	95%

There were 63 juror respondents for Judge Quinn.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	97%	100%	100%	100%	100%	100%	98%	100%	100%	100%	100%	100%	100%	97%	97%



Judge Anne M. Stirba - 3rd District, District Court (Salt Lake, Summit, Tooele)

Judge Anne M. Stirba was appointed to the Third District Court in March 1991 by Gov. Norman H. Bangertter. She received her law degree from the University of Utah College of Law in 1978. From 1978 to 1980 she served as a law clerk in the Utah Supreme Court. From 1980 to 1986 she served as an Assistant Attorney General, representing natural resource and public utilities agencies. Judge Stirba was an Administrative Law Judge for the Utah Public Service Commission from 1986 to 1987 and was appointed as Assistant United States Attorney, U.S. Department of Justice, for the District of Utah in 1987. As a judge she has served on the Supreme Court Advisory Committee on Rules of Civil Procedure and chaired the Utah Judicial Council's Court Technology Committee. She currently is a member of the Utah Judicial Council and chairs the Council's Management Committee. Judge Stirba is a Master of the Bench in the American Inns of Court. She was named Outstanding Young Lawyer of the Year by the Utah State Bar in 1987 and received the Par Excellence Award from the University of Utah Young Alumni Association in 1993.

Judge Stirba met or exceeded the standards of performance outlined on page 68.

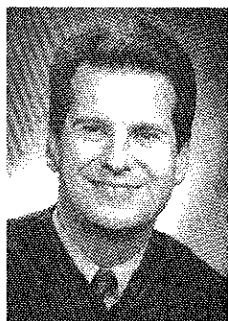
The Judicial Conduct Commission entered no disciplinary sanctions against Judge Stirba.

There were 119 attorney survey respondents for Judge Stirba.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	95%	94%	98%	93%	93%	97%	97%	98%	97%	94%	94%	93%	93%	94%	95%

There were 42 juror respondents for Judge Stirba.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	95%	98%	100%	100%	98%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%



Judge Charles D. Behrens, Jr. - 3rd District , District Court (Salt Lake, Summit, Tooele)

Judge Charles D. Behrens, Jr. was appointed to the Third District Juvenile Court in July 1997 by Gov. Michael O. Leavitt. He received his law degree from the Lewis and Clark Law School in Portland, Oregon in 1982. After receiving his law degree, Judge Behrens worked as a deputy district attorney in Colorado before joining the Salt Lake County Attorney's Office in 1988. He prosecuted cases involving drugs and child abuse and chaired the Youth Parole Authority. In 1995, he was appointed chief deputy for the juvenile division of the Salt Lake County District Attorney's office, supervising all juvenile cases in Salt Lake County until his appointment to the bench.

Judge Behrens met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Behrens.

There were 52 attorney survey respondents for Judge Behrens.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	94%	90%	93%	90%	92%	96%	94%	96%	96%	88%	92%	81%	94%	93%	92%

There are no jury surveys for Judge Behrens during the reporting period.



Judge Gary D. Stott - 4th District, District Court (Juab, Millard, Utah, Wasatch)

Judge Gary D. Stott was appointed to the Fourth District Court in January 1997 by Gov. Michael O. Leavitt. Judge Stott received his law degree from the University of Utah College of Law in 1968. Prior to his appointment to the bench, he was a senior shareholder/director with the law firm of Richards, Brandt, Miller & Nelson. From 1973 to 1979 Judge Stott was a senior partner with the law firm of Stott, Young & Wilson. He was an associate with the law firm of Ivied & Young from 1968 to 1973. Judge Stott is also a member of the Wyoming Bar Association and past president of the Central Utah Bar Association.

Judge Stott met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Stott.

There were 72 attorney survey respondents for Judge Stott.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	97%	90%	97%	91%	83%	89%	89%	96%	96%	81%	84%	81%	94%	89%	86%

There were 40 juror respondents for Judge Stott.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	90%	100%	100%	98%	100%	100%	100%	100%	98%	98%	98%	100%	95%	100%	100%



Judge James L. Shumate - 5th District, Juvenile Court (Beaver, Iron, Washington)

Judge James L. Shumate was appointed to the Fifth Circuit Court in January 1991 by Governor Norman H. Bangerter. He became a District Court Judge in January 1992. He received his law degree from the University of Utah College of Law in 1975. He was Iron County Attorney from 1979 to 1982. Judge Shumate is a member of the Utah Substance Abuse and Anti-Violence Coordinating Council.

Judge Shumate met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Shumate.

There were 74 attorney survey respondents for Judge Shumate.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	95%	92%	93%	95%	86%	93%	92%	96%	88%	78%	82%	89%	93%	89%	91%

There were 20 juror respondents for Judge Shumate.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	95%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	95%	100%



Judge Larry A. Steele - 8th District, Juvenile Court (Daggett, Duchesne, Uintah)

Judge Larry A. Steele was appointed to the Eighth District Juvenile Court in October 1996 by Gov. Michael O. Leavitt. Judge Steele received his law degree from the Pepperdine University School of law in 1977. From 1977 to 1982, he served as Chief of Military Justice, Area Defense Counsel and other positions in the Air Force. Judge Steele began his civilian legal career in 1982 as a trial attorney and shareholder with Jones, Waldo, Holbrook & McDonough. In 1987, he formed his own firm in Vernal, served as Vernal City Attorney, as Eighth District Guardian ad Litem and as attorney for the Uintah School District. He is currently a member of and chair elect of the Utah State Board of Juvenile Court Judges, a member of the Utah Supreme Court Advisory Committee on the Rules of Juvenile Court Procedure, a member of the Tribal/State/Federal Court Forum, and a member of the National Council of Juvenile and Family Court Judges.

Judge Steele met or exceeded the standards of performance outlined on page 68.

The Judicial Conduct Commission entered no disciplinary sanctions against Judge Steele.

There were 23 attorney survey respondents for Judge Steele.

<i>Certification Question (see page 69)</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Standard Favorable Response	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	
Judge's Favorable Response	91%	87%	83%	87%	86%	100%	96%	96%	91%	87%	78%	86%	82%	83%	91%

There are no jury surveys for Judge Steele during the reporting period.

Instructions to Voters

In Beaver, Box Elder, Cache, Carbon, Davis, Duchesne, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, and Weber Counties.

HOW TO OBTAIN A BALLOT FOR VOTING

1. Give your name and address to an election judge.
2. If your name is on the official register and your right to vote has not been challenged, the election judge will give you one or more ballots.

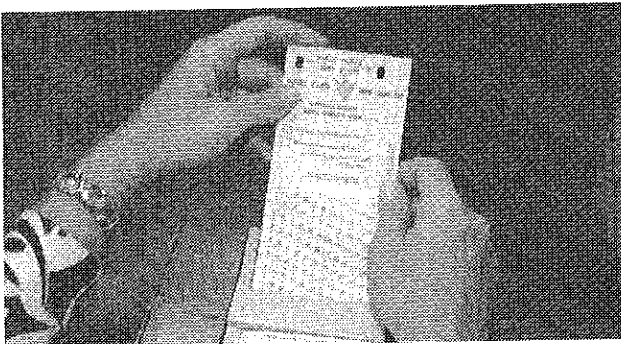
NOTE: If an election judge has reason to doubt your identity, the judge is required either, (a) to request identification from you, or (b) to have a known registered voter of the district identify you.

HOW TO VOTE YOUR BALLOT

DO NOT vote a ballot that has been marked, spoiled, or defaced. Identification marks or a spoiled or defaced ballot will make your vote invalid. If you make a mistake, or if you have a spoiled or defaced ballot, return the ballot to the election judge who will issue you a new ballot.

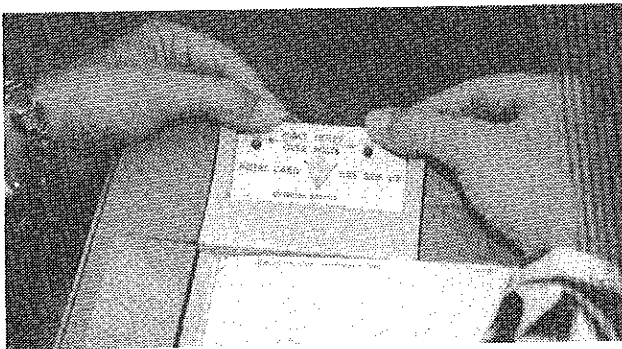
STEP 1

Using both hands, slide the ballot card all the way into the ballot holder.



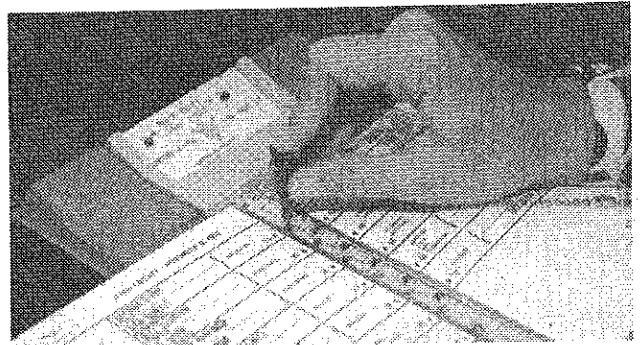
STEP 2

Be sure the two holes at the top of the ballot card fit over the two red pins on the ballot holder.



STEP 3

To vote, place the punch pin next to each of your choices on the ballot, hold the pin straight up, and push it through the ballot card. Follow the instructions, and vote all pages as instructed. Use the punch pin provided. Do not use a pen or pencil.



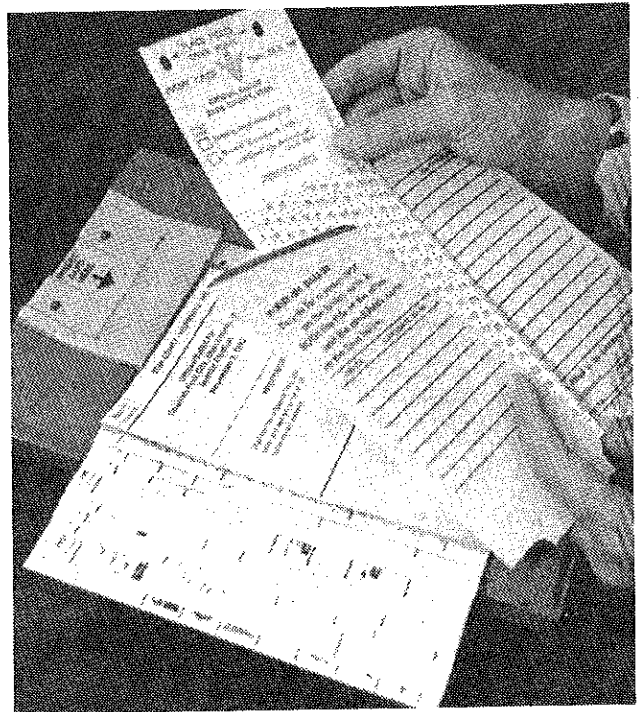
STEP 4

Voting for candidates of more than one party. If you want to vote for candidates from more than one party, you may do so by punching the ballot card next to the candidate's name for whom you wish to vote.

Voting for candidates of one party. If you want to cast a "straight party" vote, you may do so by punching the ballot card next to the desired party at the beginning of the ballot. If you vote "straight party" and decide to vote for a candidate from a different party, you may do so by punching the ballot next to the candidate's name. A "straight party" vote is counted as a vote for all candidates of that party except where the voter punches the ballot next to the name of a candidate(s) from a different party.

STEP 5

After voting, slide the ballot card out of the ballot holder and place it under the flap of the envelope provided with the ballot.



STEP 6

When you have placed your ballot card under the flap of the envelope, **RETURN THE ENVELOPE CONTAINING THE BALLOT CARD TO THE ELECTION JUDGE.** The election judge will verify your identity and remove the stub from your ballot. Then deposit the envelope containing the ballot card in the ballot box. You have now finished voting.

WRITE-IN VOTING

You may also vote for a valid write-in candidate. To do this, you may either write the candidate's name and the title of the office for which the candidate is running on the envelope provided with the ballot card or place a sticker containing this information on the envelope.

When voting for a write-in candidate, **DO NOT** punch a hole in the punch card for any candidate running for the same office.

NON-PARTISAN CANDIDATES

Judicial, state school board, local school board, and similar offices are non-partisan contests. Your ballot will contain instructions designating the numbers of candidates that should be voted for in each office.

CONSTITUTIONAL AMENDMENTS AND INITIATIVES

Constitutional amendments and initiatives appear on the ballot in the form of a question. A vote "FOR" an amendment or initiative means that you want to answer "yes" to the question. A vote "AGAINST" an amendment or initiative means that you want to answer "no" to the question. To vote on constitutional amendments and initiatives, read the ballot title provided on the ballot card, decide whether you are "FOR" or "AGAINST" the amendment or initiative, and use the punch pin to punch a hole on the appropriate response.

HOW TO GET HELP TO MARK YOUR BALLOT

Voters who are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, may be helped by someone of their choice provided that the person helping is not a candidate, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union. The person helping cannot in any way request, persuade, or induce the voter to vote for or against any particular candidate or issue.

Instructions to Voters

In Daggett, Piute, Rich, and Wayne counties.

HOW TO OBTAIN A BALLOT FOR VOTING

1. Give your name and address to an election judge.
2. If your name is on the official register, and your right to vote has not been challenged, the election judge will give you one or more ballots.

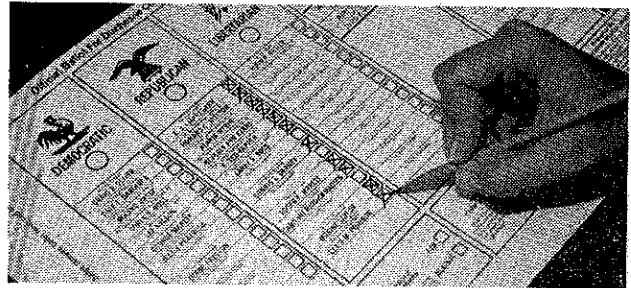
NOTE: If an election judge has reason to doubt your identity, the judge is required either, (a) to request identification from you, or (b) to have a known registered voter of the district identify you.

HOW TO VOTE YOUR BALLOT

DO NOT vote a ballot that has been marked, spoiled, or defaced. Identification marks or a spoiled or defaced ballot will make your vote invalid. If you make a mistake, or if you have a spoiled or defaced ballot, return the ballot to the election judge who will issue you a new ballot.

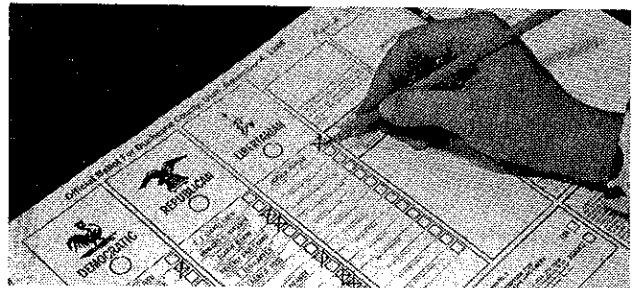
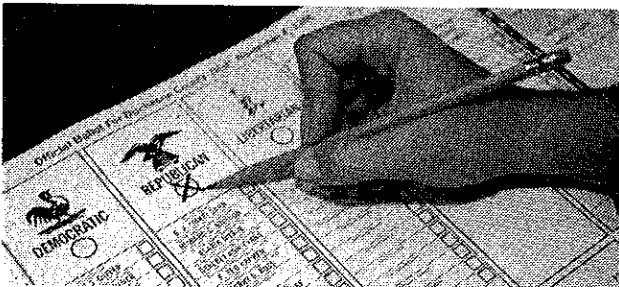
VOTING FOR CANDIDATES OF ONE PARTY.

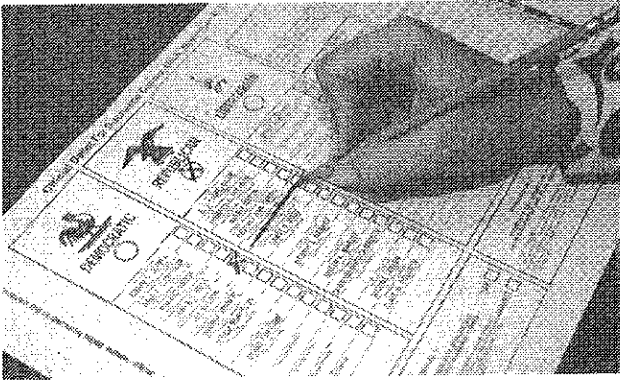
If you want to cast a "straight party" vote, simply mark an "X" in the circle at the top of the list of that party's candidates. You may also mark an "X" in the box next to the candidate's name, but this is not necessary if you marked an "X" in the circle next to the party's symbol.



VOTING FOR CANDIDATES OF MORE THAN ONE PARTY

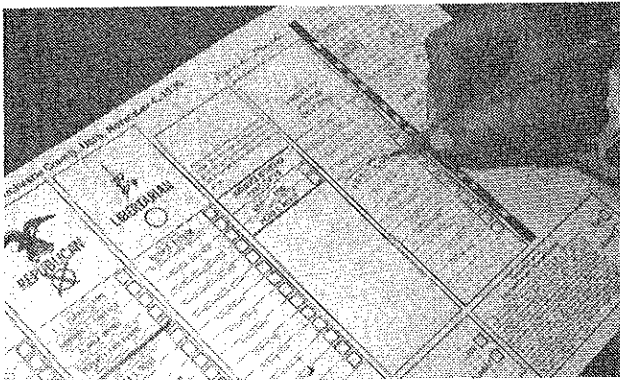
If you want to vote for candidates from more than one party, mark an "X" in the square next to the names of the candidates for whom you want to vote. If you have already voted "straight party" and then decide to vote for a candidate from another party, you must mark an "X" next to the candidate for whom you want to vote, and then, under the party for whom you cast a "straight party" vote, cross out the name of the candidate(s) running for that office.





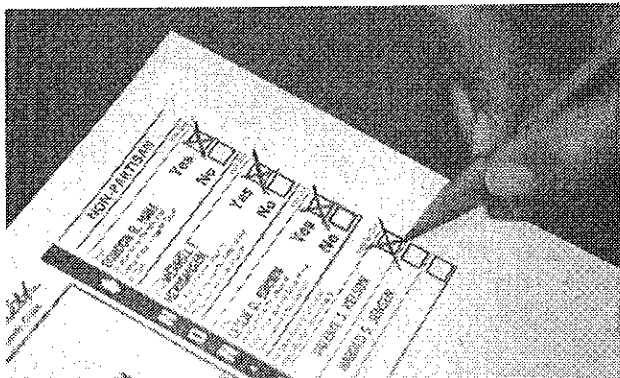
WRITE-IN VOTING

You may also vote for a valid write-in candidate. To do this, locate the write-in column and identify whether the candidate for whom you wish to vote is running for a partisan or non-partisan office. Write the candidate's name and the title of the office for which the candidate is running on the ballot or place a sticker containing this information on the ballot. An "X" does not need to be placed next to the write-in candidate's name. The appearance of the candidate's name constitutes a vote for that candidate.



NON-PARTISAN CANDIDATES

Judicial, state school board, local school board, and similar offices are non-partisan contests. They are located in the extreme right-hand column of the ballot. Your ballot will contain instructions designating the number of candidates that should be voted for in each office.



CONSTITUTIONAL AMENDMENTS AND INITIATIVES

Constitutional amendments and initiatives appear on the ballot in the form of a question. A vote "FOR" an amendment or initiative means that you want to answer "yes" to the question. A vote "AGAINST" an amendment or initiative means that you want to answer "no" to the question. To vote on constitutional amendments and initiatives, read the ballot title provided on the ballot, decide whether you are "FOR" or "AGAINST" the amendment or initiative, and mark an "X" on the appropriate response.

HOW TO GET HELP TO MARK YOUR BALLOT

Voters who are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, may be helped by someone of their choice provided that the person helping is not a candidate, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union. The person helping cannot in any way request, persuade, or induce the voter to vote for or against any particular candidate or issue.

Instructions to Voters

In Emery and San Juan counties.

HOW TO OBTAIN A BALLOT FOR VOTING

1. Give your name and address to an election judge.
2. If your name is on the official register and your right to vote has not been challenged, the election judge will give you one or more ballots.

NOTE: If an election judge has reason to doubt your identity, the judge is required either (a) to request identification from you, or (b) to have a known registered voter of the district identify you.

HOW TO VOTE YOUR BALLOT

Mark your ballot only with the marker provided by the election judge. If you use any other type of pen or pencil, your vote may not be counted by the optical scanner.

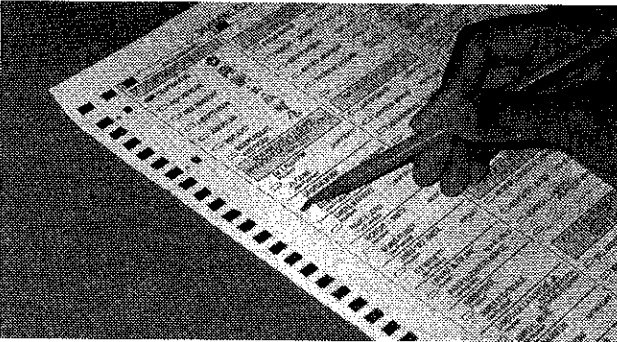
Completely fill in the oval next to the party or candidate of your choice. If an oval is not completely filled in, your vote may not be counted by the optical scanner.

Ballots may be printed on both the front and back. Do not forget to vote on issues that are listed on the reverse side of the ballot.

DO NOT vote a ballot that has been marked, spoiled, or defaced. Identification marks or a spoiled or defaced ballot will make your vote invalid. If you make a mistake, do not attempt to erase a mark. Instead, return your ballot to the election judge who will cancel the ballot and issue you a new ballot.

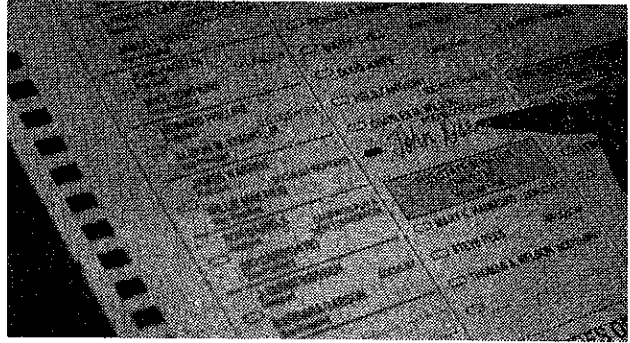
VOTING FOR CANDIDATES OF ONE PARTY

If you want to cast a "straight party" vote for all the candidates of one party, fill in the oval next to the party symbol at the top of the list of that party's candidates. You may also fill in the ovals next to each candidate's name, but this is not necessary if you filled in the oval next to the party symbol.



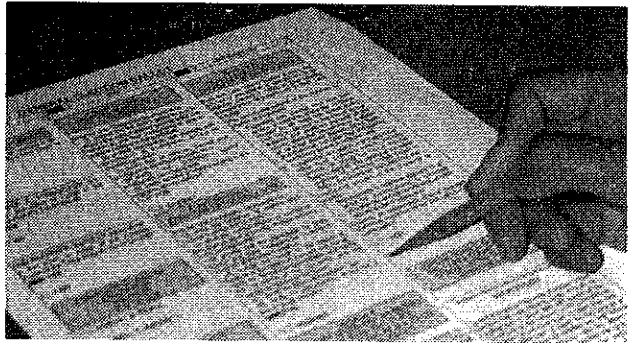
VOTING FOR CANDIDATES OF MORE THAN ONE PARTY

If you want to vote for candidates from more than one party, fill in the oval by the names of the candidates for whom you want to vote. If you have already voted "straight party" and then decide to vote for a candidate from another party, simply mark the oval next to the other candidate(s) of your choice. The optical scanner will interpret a "straight party" vote as a vote for all candidates of that party except where you fill in an oval for candidate(s) of a different party.



WRITE-IN VOTING

You may also vote for a valid write-in candidate. You do this by legibly writing the name of the write-in candidate in the space provided on the ballot or by placing in that space a sticker containing the office and write-in candidate's name. You should also fill in the oval next to the write-in candidate's name.



NON-PARTISAN CANDIDATES

Judicial, state school board, local school board, and similar offices are non-partisan contests. They are located either in the right column or on the reverse side of the ballot. The ballot contains instructions designating the number of candidates that should be voted for in each office.

CONSTITUTIONAL AMENDMENTS AND INITIATIVES

Constitutional amendments and initiatives appear on the ballot in the form of a question. A vote "FOR" an amendment or initiative means that you want to answer "yes" to the question. A vote "AGAINST" an amendment or initiative means that you want to answer "no" to the question. To vote on constitutional amendments and initiatives, read the ballot title provided on the ballot, decide whether you are "FOR" or "AGAINST" the amendment or initiative, and fill in the oval for the appropriate response.

HOW TO GET HELP MARKING A BALLOT

Voters who are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, may be helped by someone of their choice provided that the person helping is not a candidate, the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union. The person helping cannot in any way request, persuade, or induce the voter to vote for or against any particular candidate or issue.

HOW TO REGISTER TO VOTE

If you will be 18 or older and will have been a resident of the State of Utah for 30 days preceding the election on November 7, 2000, you may register to vote by one of the following methods.

- You may register by mail until October 18 by sending in a Mail-in Registration Form. These forms may be obtained at any county clerk's office or political party office. They are also available at post offices, libraries, and other public locations. You may also use the form provided in this pamphlet on page 85.
- You may register at any satellite registration location in your county between 8:00 a.m. and 8:00 p.m. on October 27 and 30. Please contact your county clerk (see page 86) for satellite registration locations.
- You may register at the County Clerk's office in your county of residence during regular working hours until October 30.

Mail-In Voter Registration Form



State of
Utah

You can use this form to:

- ☐ register to vote in Utah
- ☐ let us know that your name or address has changed
- ☐ register with a party or change parties

Need Assistance?

If you need voter registration information or assistance, contact your county clerk or call the Lieutenant Governor's Office at (801) 538-1041 or 1-800-995-VOTE.

To register to vote in Utah, you must:

- ☐ be a citizen of the United States
- ☐ have resided in Utah for 30 days immediately before the next election
- ☐ be at least 18 years old on or before the next election

Deadline information:

This form must be received by the county clerk postmarked at least 20 days before an election or hand delivered to the county clerk 8 days before the election for you to be eligible to vote.

Mail-In Registration Instructions

- ☐ Complete all information in boxes 1 through 14 on the voter registration form below. (Boxes 3, 9, 10, and 11 are optional)
- ☐ If you previously registered to vote with a different name or address, complete box 13.
- ☐ Make sure you read the voter declaration in box 14 and **sign in the box** below it.
- ☐ Look up the address of your county clerk in this pamphlet.
- ☐ Mail it or hand deliver to your county clerk.

PLEASE NOTE: If you are qualified and the information on your form is complete, you will be mailed a confirmation of your voter registration from your county clerk.

Use pen - please print clearly

1 Reason(s) for Completing this Form <input type="checkbox"/> New registration <input type="checkbox"/> Party affiliation change <input type="checkbox"/> Address change <input type="checkbox"/> Name change		2 U.S. Citizen <input type="checkbox"/> Yes <input type="checkbox"/> No You must be a U.S. citizen to register to vote.		3 Daytime Telephone	
4 Last Name		First Name		Middle Name	
5 Street Address (principal place of residence)		County	City	State	Zip Code
6 Mailing Address (if different from #5)			City	State	Zip Code
7 Date of Birth (mo/day/yr)		8 Place of Birth (state or country)		9 Disabled (optional) <input type="checkbox"/> Yes <input type="checkbox"/> No	
10 Last Four Digits of Social Security Number		11 Utah Driver License Number or State Identification Number		14 Voter Declaration - read and sign below	
<div><div><input type="checkbox"/> American <input type="checkbox"/> Constitution <input type="checkbox"/> Democrat <input type="checkbox"/> Green <input type="checkbox"/> Unaffiliated (no party preference) <input type="checkbox"/> Other (please specify) _____</div><div><input type="checkbox"/> Independent American <input type="checkbox"/> Libertarian <input type="checkbox"/> Natural Law <input type="checkbox"/> Socialist Workers</div><div><input type="checkbox"/> Reform <input type="checkbox"/> Populist <input type="checkbox"/> Republican</div></div>		<p>I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that:</p> <ul style="list-style-type: none">I am a citizen of the United States and a resident of the state of Utah, residing at the above address.I will be at least 18 years old on or before the next election.I will have resided in Utah for 30 days immediately before the next election.I am not a convicted felon currently incarcerated for commission of a felony. <p>▼ SIGN on line in box below</p> <div>Signature _____ Date (mo/day/yr) _____</div> <div>For Office Use Only</div> <div>Voting Precinct _____ Official Date _____</div> <div>Utah Elections 5/00</div>			
12 Political Party (check one box only)					
13 Name and Address on Your Last Voter Registration					
Name on Last Registration _____					
Street Address on Last Registration _____					
City _____ County _____ State _____ Zip _____					

County Clerks

Paul B. Barton
Beaver County Clerk
435-438-6463 Fax 438-6481
P.O. Box 392
Beaver, UT 84713-0392

Luann Adams
Box Elder County Clerk
435-734-2031 Fax 734-2038
01 S. Main Street
Brigham City, UT 84302-2599

Daryl Downs
Cache County Clerk
435-716-7150 Fax 752-3597
170 N. Main Street
Logan, UT 84321-4567

Robert P. Pero
Carbon County Clerk/Auditor
435-636-3224 Fax 636-3210
120 East Main
Price, UT 84501-3057

Vicky McKee
Daggett County Clerk/Auditor
435-784-3154 Fax 784-3335
P.O. Box 218
Manila, UT 84046-0218

Steve Rawlings
Davis County Clerk/Auditor
801-451-3213 Fax 451-3421
P.O. Box 618
Farmington, UT 84025-0618

Diane Freston
Duchesne County Clerk
435-738-1102 Fax 738-5522
P.O. Box 270
Duchesne, UT 84021-0270

Bruce C. Funk
Emery County Clerk/Auditor
435-381-5106 Fax 381-5183
P.O. Box 907
Castle Dale, UT 84513-0907

Camille Moore
Garfield County Clerk/Auditor
435-676-8826 Fax 676-8239
P.O. Box 77
Panguitch, UT 84759-0077

Fran Townsend
Grand County Clerk/Auditor
435-259-1322 Fax 259-2959
125 E. Center
Moab, UT 84532-2492

David I. Yardley
Iron County Clerk
435-477-8340 Fax 477-8847
P.O. Box 429
Parowau, UT 84761-0429

Patricia Ingram
Juab County Clerk/Auditor
435-623-3410 Fax 623-5936
160 N. Main
Nephi, UT 84648-1412

Karla Johnson
Kane County Clerk/Auditor
435-644-2458 Fax 644-2052
76 North Main
Kanab, UT 84741-0050

Norma Brunson
Millard County Clerk
435-743-6223 Fax 743-6923
765 S. Highway 99
Fillmore, UT 84631-5002

Stacy Lafitte
Morgan County Clerk/Auditor
801-845-4011 Fax 829-6176
P.O. Box 886
Morgan, UT 84050-0886

Valeen H. Brown
Piute County Clerk/Auditor
435-577-2840 Fax 577-2433
P.O. Box 99
Junction, UT 84740-0099

Pamela Shaul
Rich County Clerk/Auditor
435-793-2415 Fax 793-2410
20 South Main
P.O. Box 218
Randolph, UT 84064-0218

Sherrie Swensen
Salt Lake County Clerk
Elections Division
801-468-3427 Fax 468-3473
2001 S. State Street, #S1100
Salt Lake City, UT 84190-1051

Norm Johnson
San Juan County Clerk/Auditor
435-587-3223 Fax 587-2425
P.O. Box 338
Monticello, UT 84535-0338

Kristine Frischnect
Sanpete County Clerk
435-835-2131 Fax 835-2135
160 N. Main
Manti, UT 84642-1268

Steven C. Wall
Sevier County Clerk
435-896-9262 Fax 896-8888
P.O. Box 517
Richfield, UT 84701-0517

Kent Jones
Summit County Clerk
435-336-4451 Fax 336-3030
P.O. Box 128
Coalville, UT 84017-0128

Dennis D. Ewing
Tooele County Clerk
435-843-3140 Fax 882-7317
47 S. Main
Tooele, UT 84074-2194

Pat S. McNeill
Uintah County Clerk
435-781-5360 Fax 781-6701
147 East Main
Vernal, UT 84078-2643

Arlin V. Kuhni
Utah County Clerk
801-370-8128 Fax 343-8012
100 East Center, Rm 3100
Provo, UT 84606-3106

Brent R. Titcomb
Wasatch County Clerk
435-654-3211 Fax 654-5116
25 N. Main
Heber City, UT 84032-1827

Calvin R. Robison
Washington County Clerk
435-634-5712 Fax 634-5763
197 E. Tabernacle
St. George, UT 84770-3473

Sandra Rees
Wayne County Clerk
435-836-2731 Fax 836-2479
P.O. Box 189
Loa, UT 84747-0189

Linda Lunceford
Weber County Clerk/Auditor
801-399-8400 Fax 399-8300
2380 Washington Blvd.,
3rd Floor
Ogden, UT 84401-1456

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

I, OLENE S. WALKER, LIEUTENANT GOVERNOR OF THE
STATE OF UTAH, DO HEREBY CERTIFY that the foregoing measures
will be submitted to the voters of the State of Utah at the election to be held
throughout the state on November 7, 2000, and that the foregoing pamphlet is
complete and correct according to the law.

DATED September 1, 2000

A handwritten signature in cursive script, reading "Olene S. Walker".

OLENE S. WALKER
Lieutenant Governor



