

Utah Voter Information Pamphlet

**General Election
November 3, 1992**



Compiled by **W. VAL OVESON, LIEUTENANT GOVERNOR**

In cooperation with the Utah State Legislature
Arnold Christensen, President of the Senate
H. Craig Moody, Speaker of the House

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

Information pertaining to judicial
retention provided by the **Judicial Council**



STATE OF UTAH
Lieutenant Governor

W. Val Oveson
LIEUTENANT GOVERNOR

203 STATE CAPITOL BUILDING
SALT LAKE CITY, UTAH 84114

September 25, 1992

Dear Fellow Utahn:

1992 is a very important election year. Due to increased political interest, there have been a record number of political parties qualifying for the ballot and candidates filing for office in Utah. This is in part due to the large number of offices where no incumbent is running. Coinciding with this increased interest has been the realignment of boundaries in congressional, state house and senate, and school board districts as a result of reapportionment. I am also pleased to report that Utahns have been responding to all this political activity by registering to vote in record numbers.

On November 3rd, you will have the opportunity to participate in one of the greatest privileges that we as Americans enjoy -- the right to freely elect our public office holders. This is a right in which I encourage all of you to participate.

Along with the privilege of voting for the candidates of your choice, you will also have the opportunity to vote on the retention of judges, three proposed amendments to the Utah State Constitution and an initiative.

This Voter Information Pamphlet has been prepared to help you better understand the judicial retention ballot, the proposed amendments to the state's constitution and the initiative. Also included is information on how to register to vote and balloting procedures. I trust this information will assist you in your responsibility to be an informed voter.

I urge you to study the pamphlet, along with other information, so that when you go to the polls you will be able to make wise choices on these very important issues.

Best wishes and let's make this a record voter turn-out year in Utah by voting on November 3rd.

Sincerely,

W. Val Oveson
Lieutenant Governor

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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: 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

Official Ballot Title:

Shall the Utah Constitution be amended to:

- (1) clarify that legislative terms of office begin January 1;
- (2) change the beginning date of the annual general session of the Legislature from the second to the third Monday of January;
- (3) place a 60-day time limit on when the Legislature may consider any items vetoed by the governor; and
- (4) extend the time to consider judicial appointments by the Utah Senate from 30 days to 60 days?

LEGISLATIVE ARTICLE REVISION

Votes cast by the members of the Legislature at the 1992 General Session on final passage:

HOUSE (75 members): Yeas, 55; Nays, 7; Absent, 13.

SENATE (29 members): Yeas, 20; Nays, 8; Absent, 1.

Votes cast by the members of the Legislature regarding the beginning date of terms for state senators, as amended at the 1992 Third Special Session on final passage:

HOUSE (75 members): Yeas, 71; Nays, 0; Absent, 4.

SENATE (29 members): Yeas, 27; Nays, 0; Absent, 2.

Impartial Analysis

Proposal

The Utah Constitution provides the basic framework by which the Utah Legislature operates. Included in that framework are provisions relating to: (1) terms of office; (2) when the annual general session begins; (3) veto override sessions; and (4) the length of time the Utah Senate has to consider judicial appointments.

Proposition 1 changes the following four provisions:

1. Terms of Office — The Utah Constitution contains two provisions regarding legislators' terms of office. One specifies that legislative terms begin January 1 after the election. Another specifies that terms of office of all state officers elected at a general election begin the first Monday of January after the election. Proposition 1 clarifies that all legislators' terms begin January 1 and that all other state elected officers begin the first Monday of January.

Note: The two separate votes (see above) taken by the Legislature on this provision were to reconcile differences in the beginning dates of the terms of office for senators and representatives. The length of terms remains the same.

2. Beginning of the Annual General Session — The Utah Constitution requires the annual 45-day general session of the Legislature to begin on the second Monday in January. Proposi-

tion 1 moves the beginning day one week later, to the third Monday in January. The 45-day length of the session remains the same.

3. Veto Override Session — The Utah Constitution authorizes the Legislature to call itself into a session for the sole purpose of considering items vetoed by the governor. However, it does not place any time limit on when such a veto override session may be called. Proposition 1 imposes a time limit of 60 days after a legislative session to call a session to override any vetoes of items passed at the legislative session. This 60 day limit coincides with the 60 day time limit required by the constitution by which all bills (without a specific effective date) take effect. Proposition 1 also provides that vetoed items that have been overridden take effect on their original effective date.

4. Judicial Appointments — The Utah Constitution gives the Utah Senate up to 30 days to approve or reject all judicial appointments made by the governor. Proposition 1 would extend the allowable time to up to 60 days.

Effective Date

Proposition 1 takes effect January 1, 1993.

Fiscal Impact

There is no fiscal impact.

Arguments For

The Legislative General Session Would Start One Week Later To Allow Consideration of the Budget Using More Up-To-Date Fiscal Data

Up-to-date fiscal data is currently not available until near the end of the annual General Session, leaving the Legislature precious little time to consider budgetary matters. This revision would move the beginning date of the session to one week later, giving the Legislature a much needed extra seven days at the end of the session to consider the budget using more accurate figures.

The Legislature Would Have 60 Days to Consider Overriding a Governor's Veto

Currently, the constitution provides no time limit on when the Legislature may consider a governor's veto. This revision would require the Legislature to consider a vetoed item within 60 days after the session in which that item was passed. This would prevent a future legislature from overriding a veto that took place months or even years before the override attempt. The Legislature now by rule sets a 60-day deadline, but rules can be changed by a simple majority vote.

The Senate Would Have More Time to Consider Judicial Appointments

The Senate now has 30 days to consider a judicial appointment made by the Governor. The Legislature is part time and meets only once a month when not in session. On these monthly meetings the Senate will generally meet to consider the Governor's appointments. Sometimes the Senate will have only a day or two to consider the nominee before the 30-day limit ends. This revision would extend the 30-day limit to 60 days, to give the Senate adequate time to consider these important judicial appointments. This would enable the Senate to consider these nominees at its regularly scheduled monthly meeting and not be forced to meet in a special additional meeting at taxpayer expense while not unduly delaying an appointment.

All Legislative Terms Would Begin on the Same Day

Currently, there are two conflicting provisions in the constitution. One states that legislators' terms begin on the first **Monday** of January—the other states that they begin on the **first day** of January. This revision simply clarifies this ambiguity and provides that all legislative terms begin on the first day of January.

Senator Lyle W. Hillyard
175 East First North
Logan, Utah 84321

Rebuttal To

Arguments For Proposition No. 1

(No opposing argument was submitted.)

Arguments Against

(No argument was submitted.)

Rebuttal To

*Arguments Against Proposition No. 1
(No opposing argument was submitted.)*

COMPLETE TEXT OF PROPOSITION NO. 1
LEGISLATIVE ARTICLE REVISION

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; RELATING TO THE LEGISLATURE; INCLUDING THE AMENDMENT ADOPTED DURING THE 1992 THIRD SPECIAL SESSION RELATING TO SENATE TERMS; CLARIFYING CERTAIN POWERS AND PROCEDURES OF THE LEGISLATURE; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION PROPOSES TO CHANGE THE UTAH CONSTITUTION AS FOLLOWS:

AMENDS: ARTICLE IV, SEC. 9; ARTICLE VI, SEC. 2; ARTICLE VI, SEC. 3; ARTICLE VI, SEC. 4; ARTICLE VII, SEC. 8; ARTICLE VIII, SEC. 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 Article IV, Sec. 9, Utah Constitution, to read:

Sec. 9. [General and special elections — Terms.]

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

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

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

(4) Municipal and School officers shall be elected at such time as may be provided by law.

Section 2. It is proposed to amend Article VI, Sec. 2, Utah Constitution, to read:

Sec. 2. [Time of general sessions.]

Annual general sessions of the Legislature shall be held at the seat of government and shall begin on the ~~second~~ third Monday in January.

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

Sec. 3. [Election of House members — Terms.]

(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]~~.

(2) Their term of office shall be two years~~[-]~~ from the first day of January next after their election.

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

Sec. 4. [Election of Senators — Terms.]

(1) The senators shall be chosen by the qualified voters of the respective senatorial districts, at the same times and places as members of the House of Representatives~~[-and their-]~~.

(2) Their term of office shall be four years from the first day of January next after their election ~~[and as]~~.

(3) As nearly one-half as may be practicable shall be elected in each biennium as the Legislature shall determine by law with each apportionment.

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

Sec. 8. [Bills presented to governor for approval and veto — Items of appropriation — Legislative session to consider vetoed items.]

~~[Every]~~ (1) Each bill passed by the Legislature, before it becomes a law, shall be presented to the governor~~[-if]~~. If the bill is approved, the governor shall sign it, and thereupon it shall become a law~~[-but if]~~. If the bill is disapproved, ~~[the bill]~~ it shall be returned with the governor's objections to the house in which it originated~~[-which]~~. That house shall then enter the objections ~~[at large]~~ upon its journal and proceed to reconsider the bill. If upon reconsideration the bill again passes both houses by a yea and nay vote of two-thirds of the members elected to each house, it shall become a law.

(2) If any bill is not returned by the governor within ten days after it has been presented to the governor, Sunday and the day it was received excepted, it shall become a law without a signature~~[-but if]~~. If legislative adjournment prevents return of the bill, it shall become a law unless the governor within twenty days after adjournment files the objections ~~[thereto]~~ to it with such officers as provided by law.

(3) The governor may disapprove any item of appropriation contained in any bill while approving other portions of the bill~~[-and in]~~. In such case the governor shall append to the bill at the time of signing it a statement of the item or items which are disapproved, together with the reasons ~~[therefor]~~ for disapproval, and ~~[such]~~ the item or items ~~[shall]~~ may not take effect unless passed over the governor's objections as provided in this section.

(4) If the governor disapproves any bill or item of appropriation after the adjournment sine die of any session of the Legislature, the presiding officer of each house shall poll the members of that house on the matter of reconvening the Legislature. If two-thirds of the members of each house are in favor of reconvening, the Legislature shall be convened in a session that shall begin within 60 days after the adjournment of the session at which the disapproved bill or item of appropriation passed. This session may not ~~[to]~~ exceed five calendar days and shall be convened at a time set jointly by the presiding officer of each house~~[-]~~ solely for the purpose of reconsidering the bill or item of appropriation disapproved. If upon reconsideration, the bill or item of appropriation again passes both houses of the Legislature by a yea and nay vote of two-thirds of the members elected to each house, the bill shall become law or the item of appropriation shall take effect on the original effective date of the law or item of appropriation.

Section 6. It is proposed to amend Article VIII, Sec. 8, Utah Constitution, to read:

Sec. 8. [Vacancies — Nominating commissions — Senate approval.]

(1) When a vacancy occurs in a court of record, the governor shall fill the vacancy by appointment from a list of at least three nominees certified to the governor by the Judicial Nominating Commission having authority over the vacancy. The governor shall fill the vacancy within 30 days after receiving the list of nominees. If the governor fails to fill the vacancy within the time prescribed, the chief justice of the Supreme Court shall within 20 days make the appointment from the list of nominees.

(2) The Legislature by statute shall provide for the nominating commissions' composition and procedures. No member of the Legislature may serve as a member of, nor may the Legislature appoint members to, any Judicial Nominating Commission.

(3) The Senate shall consider and render a decision on each judicial appointment within [30] 60 days of the date of appointment.

If necessary, the Senate shall convene itself in extraordinary session for the purpose of considering judicial appointments. The appointment shall be effective upon approval of a majority of all members of the Senate. If the Senate fails to approve the appointment, the office shall be considered vacant and a new nominating process shall commence.

(4) Selection of judges shall be based solely upon consideration of fitness for office without regard to any partisan political consideration.

Section 7. Submittal to Voters.

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

Section 8. Effective Date.

If approved by the electors of the state, the amendment proposed by this joint resolution shall take effect on January 1, 1993.

For



Against



Proposition No. 2

CORPORATIONS ARTICLE REVISION

Votes cast by the members of the 1992 Legislature on final passage:
HOUSE (75 members): Yeas, 53; Nays, 22; Absent, 0.
SENATE (29 members): Yeas, 23; Nays, 0; Absent, 6.

Official Ballot Title:

Shall the Utah Constitution be amended to:

- (1) provide that the state's policy be one in which a free market system governs trade and commerce, and that conspiracies to restrain trade or commerce are prohibited;
- (2) prohibit monopolies, and attempts and conspiracies to monopolize, except as provided by statute;
- (3) clarify that all common carriers shall provide services without discrimination;
- (4) clarify the prohibition against employment blacklisting; and
- (5) delete detailed provisions relating to the regulation of corporations?

Impartial Analysis

Proposal

The Corporations Article comprises various sections relating to the regulation of corporations and business practices. At statehood, the article contained 20 sections. Section 17 was repealed in 1982. Of the remaining 19 sections, Proposition 2 amends 5 of these, repeals 13, and leaves one unchanged. The provisions of the Corporations Article Revision can be divided into three general categories:

1. Monopolies Prohibition and Free Market System — The Utah Constitution prohibits the controlling of prices and costs. Proposition 2 expands this to prohibit all forms of restraint of trade or commerce. It would also prohibit, except as otherwise provided by statute, monopolies, attempts to monopolize, and combinations or conspiracies to monopolize any part of trade or commerce. It states that the free market system shall govern trade and commerce to promote the dispersion of economic and political power and to promote the general welfare of all people.

2. Blacklisting Prohibition — The Utah Constitution forbids the blacklisting of employees by prohibiting employers and other persons from "maliciously interfering" with or "hindering" any person from obtaining employment or "enjoying" employment already obtained. Proposition 2 retains the basic prohibition but simplifies the language.

3. Other Sections Repealed or Amended — The Utah Constitution was originally drafted in 1895 during an era when corporate regulation was relatively unknown and railroads were the only large corporations affected by the actions of the states. As a result, Utah's constitution, and others like it adopted in the 19th century, tended to place corporate regulations and restrictions on railroads in their constitutions. Since then, a large body of statutes, both state and federal, has grown to regulate in great detail the existence and activity of all corporations, including railroads. One can argue that most of this detail originally found in 19th century constitutions need not remain there since corporate and railroad regulation is now so thoroughly covered under state and federal statutes. Proposition 2 takes this approach by repealing 13 and amending five of the detailed provisions of Utah's constitution regarding corporations, including railroads.

a. Repealed Provisions — The 13 provisions repealed by Proposition 2 contain the type of detail described above. For example, Section 2 invalidates all corporate charters and franchises that have not been organized by the time the constitution was adopted in 1895 and requires corporations existing at that same time to file an "acceptance" of the constitution. Proposition 2 repeals this section, which is essentially transitional in nature. Section 9 requires corporations doing business in Utah to

Impartial Analysis (*continued*)

have a place of business with an authorized agent for receiving process and to file its articles of incorporation with the Secretary of State. Proposition 2 repeals this section because authorized agents are required under existing statutes and Utah no longer has a Secretary of State. The other provisions repealed by Proposition 2 are treated by state or federal statute or case law.

b. Amended Provisions — Two of the five provisions amended but retained by Proposition 2, the blacklisting prohibition and the monopolies prohibition, are identified above. The

other three amended provisions are: (i) a prohibition on the formation of corporations by special acts; (ii) the right of corporations to sue and be sued; and (iii) a requirement that all common carriers provide services without discrimination.

Effective Date

Proposition 2 takes effect January 1, 1993.

Fiscal Impact

There is no fiscal impact.

Arguments For

Removes Archaic and Unnecessary Language from Our Fundamental Charter — The Utah Constitution

These changes have been recommended as part of a continual process of revision to the Utah Constitution to remove archaic and unnecessary language. Five whole articles have already been revised in this fashion. This is the sixth.

The state constitution should be a fundamental charter of government, containing only broad principles of individual rights and a basic government structure. Too much detail in a state constitution results in the overfrequent need to amend the document. This revision removes all language relating to corporations that is not fundamental to the basic government charter of the state. For example, provisions in the state constitution relating to the issuance of stock and the rates to be charged for hauling freight are already under the control of federal laws and need not be in the constitution. Requirements that non-Utah corporations operate on a level playing field with Utah businesses is already required under U.S. cases. The definition of "corporation", when and where an agent receives process, and other technical requirements are not of such a fundamental nature as to require inclusion in the constitution. This revision updates the existing corporations provisions, leaving only those that are necessary to good, fundamental government.

Replaces the Current Price Fixing Prohibition with a Broader Monopolies Prohibition

The current constitution only prohibits price fixing and not other monopolistic practices. This revision would expand the prohibition to include all aspects of antitrust activities, including monopolies, restraint of trade, and conspiracy, a prohibition modeled largely after federal antitrust laws. It also contains a policy affirmatively stating that a free market system governs trade and commerce in Utah. This would result in a more effective control over unfair practices while leaving the state economy to continue to operate under the general principles of a free market.

Senator Haven J. Barlow
P.O. Box 626
Layton, Utah 84041

Rebuttal To

Arguments For Proposition No. 2

Proponents of this radical and extensive set of amendments would have Utah citizens swallow some dubious assertions. **Please, read the proposal before voting and you will reject those assertions.**

Assertion: This change is simply part of a smoothly running process, which has revised five other constitutional articles.

FACT: Five other articles have been revised with little opposition. This controversial set of amendments was rejected on several previous occasions and should be rejected again.

Assertion: This proposal only removes unnecessary language.

FACT: Constitutional language proposed for elimination protects basic rights that need greater safeguards than simple statutes which can be amended or eliminated by the whim of any legislature or judge.

Assertion: Current language is too detailed and creates an "over-frequent need for constitutional amendments."

FACT: No changes have been needed for nearly 100 years. That certainly isn't "over-frequent need for amendment."

Assertion: Several specific narrow examples are presented as representing the essence of these amendments.

FACT: Many safeguards having tremendously wide-spread implications, are eliminated or crippled as described previously in the initial "con" section.

Assertion: This proposal leaves only elements necessary for good fundamental government.

FACT: This revision eliminates many provisions necessary for good fundamental government, and also free-market/free-enterprise and fair labor standards, essential in operating responsible businesses.

Utah citizens, before voting, carefully read this proposal. **Don't trade existing constitutional safeguards for watered-down provisions that can be eliminated at the whim of any future legislature or judge.**

Rep. Grant D. Protzman
House Asst. Minority Whip
3073 North 575 East
North Ogden, Utah 84414

Rep. Kurt E. Oscarson
9504 S. Mumford Drive
Sandy, Utah 84094

Arguments Against

Citizens of the state of Utah should read this proposal very carefully and consider the value of the elements proposed for elimination before voting. This amendment is laden with negative implications and hazards. While some of the elements of this proposed amendment have merit and deserve support, many are dangerous and unmerited.

Safeguards that protect legitimate Utah businesses and responsible Utah citizens would be eliminated if this proposal were adopted as written. Constitutional protections that ensure Utah does not become the fraud capitol of the United States are unceremoniously discarded in this proposal. Protection of individual rights would be seriously eroded if this proposal were to be implemented.

Here are a few examples of safeguards and protections this proposal would cripple:

Constitutional protections that guard against stock fraud including fictitious increase of stock are eliminated in section five.

Common sense protections that ensure a level playing field between instate and out of state businesses are discarded in section six. This could easily open the door to unfairly treating existing Utah businesses in the effort to attract outside business to the state.

The basic requirement that to do business in Utah, a corporation must have an authorized place of business and agent who can be accountable to the laws of the state is removed in section eight. This opens the door to false front corporations that traffic in international fraud using Utah as a home base and leaving the state with virtually no recourse to correct this abuse.

Section seventeen removes the long-standing protection against corporate or association use of force. This opens the door to potential strong arm and intimidation tactics.

Safeguards to protect against "Black Listing," an odious and shameful practice that was so popular during the McCarthy era and was also used at the height of the industrial revolution to unfairly treat employees are effectively eliminated in the rewriting of section nineteen.

The anti-trust provisions and protections from restraint of trade that have been enjoyed in this state for nearly a century are removed in section twenty. This could severely undermine the operation of the free market system in Utah.

Many who support this proposal claim these concerns are covered in statute. However, laws can be easily changed. **The above mentioned concerns are so important and far reaching they deserve the special protection of the constitution,** which cannot be altered by every whim or fancy.

In summary, adoption of this danger-laden proposal, as written, serves a few large corporate interests and many questionable or illegitimate business practitioners. It opens the door of opportunity to the worst kind of opportunistic venturing. **It removes long-standing safeguards that protect individual rights and responsible business practices.** As written this proposal does a disservice to the state of Utah and should be defeated.

Once again we urge Utah citizens to **carefully read this proposal and consider the value of the elements that are proposed for elimination** and we think you will agree this amendment goes way too far.

Rep. Grant D. Protzman
House Asst. Minority Whip
3073 North 575 East
North Ogden, Utah 84414

Rep. Kurt E. Oscarson
9504 S. Mumford Drive
Sandy, Utah 84094

Rebuttal To

Arguments Against Proposition No. 2

I agree — citizens of the state of Utah **should** read this proposal very carefully. They will find that there is nothing deleted in this proposal where an important right or protection is not already covered by the U.S. Constitution, federal law, or federal cases.

For example:

- Stock fraud is already heavily regulated by the Securities and Exchange Commission, which supersedes state constitutional or statutory law.
- The "level playing field" is already guaranteed by the Commerce Clause of the U.S. Constitution.
- Federal Courts require corporations to have an authorized place of business.
- Use of private "armies" is already outlawed under federal law.

The proposal **retains** such fundamental protections as:

- Prohibiting the creation of private corporations by special act.
- Permitting corporations to sue and be sued.
- Requiring common carriers to provide services without discrimination.
- **Retaining and simplifying** the blacklisting prohibition, not deleting it as opponents claim.
- **Broadening and making tougher** the anti-trust provision, not deleting it as opponents claim.

This proposal makes Utah's Constitution a simpler, broader document like the U.S. Constitution, containing all the fundamental protections—not detailed provisions that get in the way of business development.

Vote FOR the future of Utah. Vote FOR Proposition 2.

Senator Haven J. Barlow
P.O. Box 626
Layton, Utah 84041

COMPLETE TEXT OF PROPOSITION NO. 2 CORPORATIONS ARTICLE REVISION

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; CLARIFYING CERTAIN PROVISIONS OF THE CORPORATIONS ARTICLE, INCLUDING THE ANTITRUST PROVISION, AND REPEALING OTHERS; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION PROPOSES TO CHANGE THE UTAH CONSTITUTION AS FOLLOWS:

AMENDS: ARTICLE XII, SEC. 1; ARTICLE XII, SEC. 4; ARTICLE XII, SEC. 12; ARTICLE XII, SEC. 19; ARTICLE XII, SEC. 20.

REPEALS: ARTICLE XII, SEC. 2; ARTICLE XII, SEC. 3; ARTICLE XII, SEC. 5; ARTICLE XII, SEC. 6; ARTICLE XII, SEC. 7; ARTICLE XII, SEC. 9; ARTICLE XII, SEC. 10; ARTICLE XII, SEC. 11; ARTICLE XII, SEC. 13; ARTICLE XII, SEC. 14; ARTICLE XII, SEC. 15; ARTICLE XII, SEC. 16; ARTICLE XII, SEC. 18.

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 Article XII, Sec. 1, Utah Constitution, to read:

Sec. 1. [Corporations formation.]

Corporations may be formed under general laws[;] but [shall] may not be created by special acts. [All laws relating to corporations may be altered, amended or repealed by the Legislature, and all corporations doing business in this State, may, as to such business, be regulated, limited or restrained by law.]

Section 2. It is proposed to repeal Article XII, Sec. 2, Utah Constitution:

Sec. 2. [Existing corporations to accept Constitution.]

[All existing charters, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity; and no corporation in existence at the time of the adoption of this Constitution shall have the benefit of future legislation without first filing in the office of the Secretary of State, an acceptance of the provisions of this Constitution.]

Section 3. It is proposed to repeal Article XII, Sec. 3, Utah Constitution:

Sec. 3. [Legislature not to extend or validate franchises.]

[The Legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.]

Section 4. It is proposed to amend Article XII, Sec. 4, Utah Constitution, to read:

Sec. 4. [Suits.]

[The term "Corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all] All corporations [shall have the right to] may sue[;] and [shall be subject to] be sued, in all courts, in like cases as natural persons.

Section 5. It is proposed to repeal Article XII, Sec. 5, Utah Constitution:

Sec. 5. [Corporate stock — Issuance, increase, and fictitious increase.]

[Corporations shall not issue stock, except to bona fide subscribers thereof or their assignee, nor shall any corporation issue any bond, or other obligation, for the payment of money, except for money or property received, or labor done. The stock of corporations shall not be increased, except in pursuance of general law, nor shall any law authorize the increase of stock without the consent of the person or persons holding the larger amount in value of the stock, or without due notice of the proposed increase having previously been given in such manner as may be prescribed by law. All fictitious increase of stock or indebtedness shall be void.]

Section 6. It is proposed to repeal Article XII, Sec. 6, Utah Constitution:

Sec. 6. [Privileges of foreign corporations.]

[No corporations organized outside of this State, shall be allowed to transact business within the State, on conditions more favorable than those prescribed by law to similar corporations, organized under the laws of this state.]

Section 7. It is proposed to repeal Article XII, Sec. 7, Utah Constitution:

Sec. 7. [Limitation on alienation of franchise.]

[No corporation shall lease or alienate any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor, or grantor, lessee, or grantee, contracted or incurred in operation, use or enjoyment of such franchise or any of its privileges.]

Section 8. It is proposed to repeal Article XII, Sec. 9, Utah Constitution:

Sec. 9. [Places of business, process agent, filing of certified copy of articles.]

[No corporation shall do business in this State, without having one or more places of business, with an authorized agent or agents, upon whom process may be served; nor without first filing a certified copy of its articles of incorporation with the Secretary of State.]

Section 9. It is proposed to repeal Article XII, Sec. 10, Utah Constitution:

Sec. 10. [Corporations limited to authorized objects.]

[No corporation shall engage in any business other than that expressly authorized in its charter, or articles of incorporation.]

Section 10. It is proposed to repeal Article XII, Sec. 11, Utah Constitution:

Sec. 11. [Franchises may be taken for public use.]

[The exercise of the right of eminent domain shall never be so abridged or construed, as to prevent the Legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals.]

Section 11. It is proposed to amend Article XII, Sec. 12, Utah Constitution, to read:

Sec. 12. [Common carriers — No discrimination.]

All [railroad and other transportation companies are declared to be] common carriers[, and subject to legislative control; and such companies] shall [receive and transport each other's passengers and freight;] provide services without discrimination [or unnecessary delay].

Section 12. It is proposed to repeal Article XII, Sec. 13, Utah Constitution:

Sec. 13. [Competing railroads not to consolidate.]

[No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a competing line.]

Section 13. It is proposed to repeal Article XII, Sec. 14, Utah Constitution:

Sec. 14. [Rolling stock considered personal property.]

[The rolling stock, and other movable property, belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to taxation and to execution and sale, in the same manner as the personal property of individuals, and such property shall not be exempted from execution and sale.]

Section 14. It is proposed to repeal Article XII, Sec. 15, Utah Constitution:

Sec. 15. [Legislature to prescribe maximum rates — Discriminations.]

[The Legislature shall pass laws establishing reasonable maximum rates of charges, for the transportation of passengers and freight, for correcting abuses, and preventing discrimination and extortion in rates of freight and passenger tariffs by the different railroads, and other common carriers in the State, and shall enforce such laws by adequate penalties.]

Section 15. It is proposed to repeal Article XII, Sec. 16, Utah Constitution:

Sec. 16. [Armed bodies not to be brought into state.]

[No corporation or association shall bring any armed person or bodies of men into this State for the preservation of the peace, or the suppression of domestic troubles without authority of law.]

Section 16. It is proposed to repeal Article XII, Sec. 18, Utah Constitution:

Sec. 18. [Liability of stockholders of banks.]

[The legislature may provide by law that the stockholders in every corporation and joint stock association organized for banking purposes, or the holders of any one or more of the classes of

stock issued by any such corporation in addition to the amount of capital stock subscribed and fully paid by them shall be individually responsible for an additional amount equal to not exceeding the amount of their stock in such corporation, or the amount of their stock of any particular class in such corporation, for all its debts and liabilities of every kind.]

Section 17. It is proposed to amend Article XII, Sec. 19, Utah Constitution, to read:

Sec. 19. [Blacklisting forbidden.]

[Every] Each person in [this State shall be] Utah is free to obtain and enjoy employment whenever possible, and [any] a person[;] or corporation, or their agent, servant, or employee [thereof;] may not maliciously [interfering or hindering in any way;] interfere with any person from obtaining employment or enjoying employment already obtained[;] from any other person or corporation [or person; shall be deemed guilty of a crime. The Legislature shall provide by law for the enforcement of this section].

Section 18. It is proposed to amend Article XII, Sec. 20, Utah Constitution, to read:

Sec. 20. [Free market system as state policy — Restraint of trade and monopolies prohibited.]

[Any combination by individuals, corporations, or associations, having for its object or effect the controlling of the price of any products of the soil, or of any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited, and hereby declared unlawful, and against public policy. The Legislature shall pass laws for the enforcement of this section by adequate penalties, and in case of incorporated companies, if necessary for that purpose, it may declare a forfeiture of their franchise.] It is the policy of the state of Utah that a free market system shall govern trade and commerce in this state to promote the dispersion of economic and political power and the general welfare of all the people. Each contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is prohibited. Except as otherwise provided by statute, it is also prohibited for any person to monopolize, attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of trade or commerce.

Section 19. Coordinating clause.

If the Legislature passes both this resolution and Senate Joint Resolution 3, Article XII, Section 19, shall be repealed rather than amended.

Section 20. Coordinating clause.

If the voters approve the amendment proposed by this joint resolution and that proposed by Senate Joint Resolution 3, Article XII, Section 19, shall be repealed rather than amended.

Section 21. Submittal to voters.

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

Section 22. Effective date.

If approved by the voters of the state, the amendment proposed by this joint resolution shall take effect on January 1, 1993.

For



Against



Proposition No. 3

EXECUTIVE ARTICLE REVISION

Votes cast by the members of the 1992 Legislature on final passage:
HOUSE (75 members): Yeas, 55; Nays, 15; Absent, 5.
SENATE (29 members): Yeas, 27; Nays, 0; Absent, 2.

Official Ballot Title:

Shall the Utah Constitution be amended to:

- (1) allow the Governor to appoint legal counsel to advise the Governor;
- (2) allow the Judicial Branch to appoint its own legal counsel to provide all legal services in the Judicial Branch;
- (3) provide that the candidates for State Auditor and State Treasurer be at least 25 years old at the time of election;
- (4) change the name of the Board of Pardons to the Board of Pardons and Parole, clarify the board's responsibilities, and clarify the functions of the Governor and the Legislature relating to the Board;
- (5) delete the Board of Examiners; and
- (6) clarify the compensation of and use of fees by public officials?

Impartial Analysis

Proposal

The Utah Constitution specifies certain public officials and establishes their qualifications, eligibility, terms, duties, and functions, including the Governor, Lieutenant Governor, Attorney General, State Auditor, State Treasurer, the Judicial Council, the Board of Pardons, the Board of Examiners, and the Utah Legislature.

Proposition 3 either changes or clarifies the qualifications, eligibility, terms, duties, and functions of the following public officials:

1. Governor's Legal Counsel — The Utah Constitution does not specify whether or not the Governor may use any counsel other than the Attorney General for advice. Proposition 3 authorizes the Governor to appoint legal counsel solely to advise the Governor.

2. Independent Legal Counsel for Each of the Three Branches of Government — The Utah Constitution establishes three distinct branches of government — Legislative, Executive, and Judicial — two of which have independent legal counsel specified in the constitution. The Legislature has independent legal counsel and the Attorney General serves as the legal counsel for the Executive Branch. Proposition 3 authorizes the Judicial Branch, through the Judicial Council, to also have

independent legal counsel. The language concerning the duties and functions of all three counsels is clarified.

3. Minimum Age Requirement for Election — The Utah Constitution requires the Governor and Lieutenant Governor to be at least 30 years old at the time of election and the Attorney General to be at least 25 years old at the time of election. There is no age requirement for the other two state elected officials, the State Auditor and State Treasurer. Proposition 3 provides a minimum age requirement of 25 years for these two officials. The language concerning the qualifications, eligibility, terms, and duties of each of these state elected officials is clarified.

4. Board of Pardons — The Utah Constitution establishes the Board of Pardons and authorizes it to grant pardons, remit fines and forfeitures, and commute punishments. Proposition 3 changes the name of the Board of Pardons to the Board of Pardons and Parole, which more accurately reflects its function. The proposition specifies that the Board is to be appointed by the Governor with the consent of the Senate. It clarifies the Board's various powers and procedures to include the power to remit restitution orders. Proposition 3 also clarifies the Governor's power to grant respites and reprieves and the Governor's and Legislature's power to suspend and commute sentences for treason. The proposition specifies that if the Legislature takes no action on a case of treason the sentence is to be carried out.

Impartial Analysis (*continued*)

5. Board of Examiners — The Utah Constitution originally established a Board of Examiners to approve all claims made against the state. In 1980, the voters approved a change to provide that the Board of Examiners was to perform those duties until otherwise provided by law. Since then, the Legislature has provided for the powers and functions of the Board of Examiners by law, which is that the Board has the power to approve only those claims made against the state for which funding has not been appropriated or otherwise made available. Proposition 3 deletes reference to the Board of Examiners from the constitution.

6. Compensation of State Officials — The Utah Constitution contains two provisions regarding compensation of public officials. The first specifies that state elected officials are to receive a fixed compensation, which shall be in full for their services,

and that fees collected by them are not part of that compensation but are to be deposited in the appropriate treasury. The second specifies that, until otherwise provided by law, all state and local officers are to receive fixed and definite salaries and that fees collected by them are to be accounted for and paid into the proper treasury. The Legislature has provided by law for a separate salary structure for local officials. Proposition 3 therefore deletes the second provision but retains and clarifies the first, including the requirement that fees not be used as compensation.

Effective Date

Proposition 3 takes effect January 1, 1993.

Fiscal Impact

While there is no direct fiscal impact, the appointment of legal counsel would require budgetary action.

Arguments For

Allows the Governor to Appoint His Own Legal Counsel to Advise Him

This revision allows the Governor to appoint his own legal counsel to advise him. This would provide easier and more immediate access to legal advice when needed without having to wait for more formal opinions from the Attorney General. But it would not empower this legal counsel to supersede the Attorney General's legal advice. **The Attorney General would still be the preeminent legal advisor for the Executive Branch.**

Allows the Judicial Branch to Appoint Its Own Independent Counsel

This revision allows the Judicial Branch to appoint its own independent legal counsel. This is a logical change since the Utah Constitution already provides the Executive Branch and the Legislative Branch with their own legal counsels. As a coequal branch of government the Judiciary should be given coequal powers.

Requires Candidates for State Treasurer and State Auditor to Be At Least 25 Years Old, Just Like the Attorney General

This revision requires candidates for State Treasurer and State Auditor to be at least 25 years old. Currently, candidates for Attorney General must be 25 years old and candidates for Governor and Lieutenant Governor must be 30 years old. There is no reason why some state officers should have a minimum age requirement and not others.

Changes the Name of the Board of Pardons to the Board of Pardons and Parole and Updates its Powers and Duties to Reflect Current Practice

This revision changes the name of the Board of Pardons to the Board of Pardons and Parole to more accurately reflect its true function. It also updates its constitutional powers and duties to reflect current practice.

Deletes from the Constitution the Reference to the Board of Examiners

This revision deletes from the constitution the reference to the Board of Examiners. That board's powers were changed dramatically in an earlier amendment adopted in 1980, making it unnecessary to maintain its constitutional status. The board will continue to function under statutory authority, however.

Senator Lyle W. Hillyard
175 East First North
Logan, Utah 84321

Rebuttal To

Arguments For Proposition No. 3
(No opposing argument was submitted.)

Arguments Against

(No argument was submitted.)

Rebuttal To

Arguments Against Proposition No. 3

(No opposing argument was submitted.)

COMPLETE TEXT OF PROPOSITION NO. 3

EXECUTIVE ARTICLE REVISION

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; MAKING CHANGES IN QUALIFICATIONS, ELIGIBILITY, DUTIES, AND FUNCTIONS OF CERTAIN OFFICES, BOARDS, AND COUNSEL; REPEALING THE REFERENCE TO THE BOARD OF EXAMINERS; CLARIFYING THE COMPENSATION AND FEES OF CERTAIN OFFICES; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION PROPOSES TO CHANGE THE UTAH CONSTITUTION AS FOLLOWS:

AMENDS: ARTICLE VI, SEC. 32; ARTICLE VII, SEC. 1; ARTICLE VII, SEC. 2; ARTICLE VII, SEC. 3; ARTICLE VII, SEC. 5; ARTICLE VII, SEC. 12; ARTICLE VII, SEC. 14; ARTICLE VII, SEC. 15; ARTICLE VII, SEC. 18; ARTICLE VIII, SEC. 12.

REPEALS: ARTICLE VII, SEC. 13; ARTICLE XXI, SEC. 1; ARTICLE XXI, SEC. 2.

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 Article VI, Sec. 32, Utah Constitution, to read:

Sec. 32. [Appointment of additional employees — Legal counsel.]

(1) The Legislature may appoint temporary or permanent non-member employees for work during and between sessions[~~including independent~~].

(2) The Legislature may appoint legal counsel which shall provide and control all legal services for the Legislature [except as the Legislature by law shall authorize performance thereof by the attorney general] unless otherwise provided by statute.

Section 2. It is proposed to amend Article VII, Sec. 1, Utah Constitution, to read:

Sec. 1. [Executive Department officers — Terms, residence, and duties.]

(1) The elective constitutional officers of the Executive Department shall consist of Governor, Lieutenant Governor, State Auditor, State Treasurer, and Attorney General[~~each of whom~~].

(2) Each officer shall:

(a) hold office for four years[~~beginning on the first Monday of January next after their election~~]. ~~The officers of the Executive Department;~~

(b) during their terms of office[~~shall~~] reside within the state; and [shall keep the public records, books and papers as provided by law. They shall]

(c) perform such duties as are prescribed by this Constitution and as provided by [law] statute.

Section 3. It is proposed to amend Article VII, Sec. 2, Utah Constitution, to read:

Sec. 2. [Election of officers — Governor and Lieutenant Governor elected jointly.]

(1) The officers provided for in Section [one of this article] 1 shall be elected by the qualified voters of the state at the time and place of voting for members of the Legislature[~~and the persons~~]. The candidates respectively having the highest number of votes cast for the office voted for shall be elected[~~but if~~]. If two or more [shall] candidates have an equal and the highest number of votes for any one of [said] the offices, the two houses of the Legislature[~~shall~~] at its next session[~~shall~~] shall elect [forthwith] by joint ballot one of [such persons] those candidates for [said] that office.

(2) In the election[~~shall~~] the names of the candidates for Governor and Lieutenant Governor for each political party shall appear together on the ballot[~~shall~~] and the votes cast for a candidate for Governor shall be considered as also cast for the candidate for Lieutenant Governor.

Section 4. It is proposed to amend Article VII, Sec. 3, Utah Constitution, to read:

Sec. 3. [Qualifications of officers.]

(1) To be eligible for the office of Governor or Lieutenant Governor a person shall [have attained the age of thirty] be 30 years of age or older at the time of election.

(2) To be eligible for the office of Attorney General a person shall[~~at the time of election, have attained the age of twenty-five~~] be 25 years of age or older, at the time of election, [be] admitted to practice before the Supreme Court of the State of Utah, and [be] in good standing at the bar.

(3) To be eligible for the office of State Auditor or State Treasurer a person shall be 25 years of age or older at the time of election.

(4) No person [shall be] is eligible to any of the offices provided for in Section 1 [of this article] unless at the time of election that person is a qualified voter and [shall have] has been a resident citizen of the state for five years next preceding the election.

Section 5. It is proposed to amend Article VII, Sec. 5, Utah Constitution, to read:

Sec. 5. [Executive power vested in Governor — Duties — Legal counsel.]

(1) The executive power of the state shall be vested in the Governor[~~shall~~] who shall see that the laws are faithfully executed.

(2) The Governor shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the Executive Department, and from the officers and managers of state institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions[~~and~~]. The Governor may at any time when the Legislature is not in session[~~may~~], if deemed necessary, appoint a committee to investigate and report to the Governor upon the condition of any executive office or state institution.

(3) The Governor shall communicate by message the condition of the state to the Legislature at every [regular] annual general session[;] and recommend such measures as may be deemed expedient.

(4) The Governor may appoint legal counsel to advise the Governor.

Section 6. It is proposed to amend Article VII, Sec. 12, Utah Constitution, to read:

Sec. 12. [Board of Pardons and Parole — Appointment — Powers and procedures — Governor's powers and duties — Legislature's powers.]

[Until otherwise provided by law, the Governor, Justices of the Supreme Court and Attorney General shall constitute]

(1) There is created a Board of Pardons[; a majority of whom, including the] and Parole. The Governor[;] shall appoint the members of the board with the consent of the Senate. The terms of office shall be as provided by statute.

(2)(a) The Board of Pardons and Parole, by majority vote and upon [such] other conditions as [may be established] provided by [the Legislature] statute, may grant parole, remit fines, [and] forfeitures, and restitution orders, commute punishments, and grant pardons after convictions, in all cases except treason and impeachments, subject to [such] regulations as [may be] provided by [law, relative to the manner of applying for pardons; but no] statute.

(b) A fine [or], forfeiture [shall], or restitution order may not be remitted[;] and [no] a commutation, parole, or pardon may not be granted[;] except after a full hearing before the board, in open session, and after previous notice of the time and place of [such] the hearing has been given.

(c) The proceedings and decisions of the board, [with] the reasons therefor in each case, [together with] and the dissent of any member who may disagree[;] shall be [reduced to writing;] recorded and filed as provided by statute with all papers used upon the hearing[; in the office of such officer as provided by law].

(3)(a) The Governor [shall have power to] may grant respites or reprieves in all cases of convictions for offenses against the state[;] except treason or conviction on impeachment[; but such]. These respites or reprieves [shall] may not extend beyond the next session of the board [of Pardons; and such Board;]. At [such] that session, the board shall continue or determine [such] the respite or reprieve, [or they may] commute the punishment, or pardon the offense as [herein] provided in this section.

(b) In case of conviction for treason, the Governor [shall have the power to] may suspend execution of the sentence[;] until the case [shall be] is reported to the Legislature at its next [regular] annual general session, when the Legislature shall [either] pardon[;] or commute the sentence, or direct its execution[; and the Governor shall communicate to the Legislature at each regular session, each case of remission of fine or forfeiture, reprieve, commutation, or pardon granted since the last previous report, stating the name of the convict, the crime for which convicted, the sentence and its date, the date of remission, commutation, pardon, or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the board made thereto]. If the Legislature takes no ac-

tion on the case before adjournment of that session, the sentence shall be executed.

Section 7. It is proposed to amend Article VII, Sec. 14, Utah Constitution, to read:

Sec. 14. [Duties of Lieutenant Governor.]

The Lieutenant Governor shall:

(1) serve on all boards and commissions in lieu of the Governor whenever so designated by the Governor[; shall];

(2) perform such duties as may be delegated by the Governor[;] and [shall]

(3) perform [such] other duties as may be provided by [law] statute.

Section 8. It is proposed to amend Article VII, Sec. 15, Utah Constitution, to read:

Sec. 15. [Duties of State Auditor and State Treasurer.]

(1) The State Auditor shall perform financial post audits of public accounts[;] except as otherwise provided by this Constitution[; and the].

(2) The State Treasurer shall be the custodian of public moneys[; and each].

(3) Each shall perform [such] other duties as provided by [law] statute.

Section 9. It is proposed to amend Article VII, Sec. 18, Utah Constitution, to read:

Sec. 18. [Compensation of state and local officers.]

(1) The Governor, Lieutenant Governor, State Auditor, State Treasurer, Attorney General, and [such] any other state [and District officers] officer as [provided for by law] the Legislature may provide, shall receive for their services a fixed and definite compensation as [fixed] provided by law.

(2)(a) The compensation provided for [said officers as provided in all laws enacted pursuant to this Constitution;] in Subsection (1) shall be in full for all services rendered by [said] those officers[; respectively;] in any official capacity or employment during their [respective] terms of office.

(b) [No such] An officer [shall] may not receive for the performance of any official duty any fee for personal use, but all fees fixed by [law] the Legislature for the performance by [either] any of them of any official duty[;] shall be collected in advance and deposited with the [State Treasurer monthly to the credit of the State] appropriate treasury.

(c) The Legislature may provide for the payment of actual and necessary expenses of [said] those officers while traveling in the performance of official duties.

Section 10. It is proposed to amend Article VIII, Sec. 12, Utah Constitution, to read:

Sec. 12. [Judicial Council — Chief justice as administrative officer — Legal counsel.]

[A] (1) There is created a Judicial Council [is established;] which shall adopt rules for the administration of the courts of the state.

(2) The Judicial Council shall consist of the chief justice of the Supreme Court, as presiding officer, and [such] other justices, judges, and other persons as provided by statute. There shall be at least one representative on the Judicial Council from each court established by the Constitution or by statute.

(3) The chief justice of the Supreme Court shall be the chief administrative officer for the courts and shall implement the rules adopted by the Judicial Council.

(4) The Judicial Council may appoint legal counsel which shall provide all legal services for the Judicial Department unless otherwise provided by statute.

Section 11. It is proposed to repeal Article VII, Sec. 13, Utah Constitution.

Sec. 13. [Board of Examiners.]

[Until otherwise provided by law, the Governor, Attorney General, and State Auditor shall constitute a Board of Examiners, with power to examine all such claims against the State as provided by law, and perform such other duties as provided by law; and no such claim against the State shall be passed upon by the Legislature without having been considered and acted upon by the Board of Examiners.]

Section 12. It is proposed to repeal Article XXI, Sec. 1, Utah Constitution.

Sec. 1. [Officers to be paid salaries.]

[Unless otherwise provided by law, all state, district, city, county, town, and school officers shall be paid fixed and definite salaries.]

Section 13. It is proposed to repeal Article XXI, Sec. 2, Utah Constitution.

Sec. 2. [Legislature to provide fees — Accounting.]

[The Legislature shall provide by law for the fees to be collected by all officers within the state. All state, district, county, city, town, and school officers shall be required by law to keep a true and correct account of all fees collected by them, and to pay the same into the proper treasury, and the officer whose duty it is to collect such fees shall be held responsible under his bond for the same.]

Section 14. Submittal to Voters.

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

Section 15. Effective Date.

If approved by the electors of the state, the amendment proposed by this joint resolution shall take effect on January 1, 1993.

For ☐

Against ☐

Initiative

A

County Option on Pari-mutuel Wagering, and State Promotion and Regulation of Horse Races

Official Ballot Title:

Shall a law be enacted to:

- (1) allow the voters of each county to authorize, by a simple majority vote, pari-mutuel wagering on horse races in their county;
- (2) create a Utah Horse Racing Commission to promote and regulate all horse racing in Utah and all pari-mutuel wagering in counties where wagering has been authorized by the voters;
- (3) specify the distribution of monies wagered; and
- (4) prohibit persons under 21 years of age from placing a wager?

Impartial Analysis

Proposal

Initiative A authorizes a county vote to allow pari-mutuel wagering at horse races and establishes a state horse racing commission to promote and regulate horse racing and pari-mutuel wagering.

1. County Option on Pari-mutuel Wagering — Initiative A states that the people of each county shall have the right to approve or reject pari-mutuel horse races in their county by a simple majority vote. This means each county must hold an election to give county voters the opportunity to vote to approve or reject pari-mutuel wagering at horse races and that a majority vote is necessary for approval. The initiative does not specify when an election will be held, who calls the election, or any other particulars of the election process.

2. State Promotion and Regulation of Horse Races — Initiative A states that pari-mutuel wagering and horse races will be promoted and regulated at the state level.

a. Utah Horse Commission Abolished — Initiative A abolishes the Utah Horse Commission created by the Legislature in 1992 and specifies that the \$100,000 appropriated to that commission shall be returned. However, of the money allocated to the commission on April 27, 1992, \$15,000 to \$20,000 will have been spent by the November 3, 1992 election date.

b. Utah Horse Racing Commission Created — Initiative A creates a five member Utah Horse Racing Commission, appointed by the Governor within 30 days after the initiative takes effect, to both promote and regulate horse racing in Utah and pari-mutuel wagering in those counties that approve it by majority vote. The commission must consist of three members appointed from those counties that have approved pari-mutuel wagering and at least one member from each of Utah's three congressional districts. This means that to satisfy this provision,

by February 4, 1993 at least one county must have held an election and approved pari-mutuel wagering or the commission cannot be appointed as the initiative requires. Commission member terms are for six years except that initial members are appointed to serve terms of two and four years so that the terms eventually become staggered. Commission members annually elect a chairperson and four members constitute a quorum.

c. Commission Duties — Initiative A authorizes the Utah Horse Racing Commission to "license, regulate, and facilitate" all horse racing in Utah and all pari-mutuel wagering in those counties that have approved it. This authority to license, regulate, and facilitate is of a general nature and is limited only by other provisions in the initiative. Specifically, the initiative authorizes the commission to make uniform rules for horse racing and pari-mutuel wagering, to establish reasonable requirements and fees for licensees, to approve racing dates, and to require that 50% of races at each race meet must be written for quarter-horses. It also creates a Utah Bred Incentive Fund to encourage horse breeding in Utah through races and purses limited to Utah bred horses. Even though this provision parallels an unchallenged 1983 Oklahoma law, these limitations may violate the Commerce Clause of the U.S. Constitution.

d. Distribution of Wagered Money — Initiative A distributes money wagered on each race as follows:

- 80% to those holding winning tickets
- 6% for horsemen's purses
- 6% to licensees
- 3% to the "Utah Education Fund"
- 3% to the authorizing county
- 1% to the Utah Horse Racing Commission
- 1% to the Utah Bred Incentive Fund.

Impartial Analysis (*continued*)

The initiative does not specify how the 6% for licensees is to be distributed and in what proportions. The "Utah Education Fund" does not exist in law nor is it created by the initiative.

e. Other Restrictions — Initiative A prohibits:

- persons under the age of 21 years from wagering; and
- all forms of gambling other than pari-mutuel wagering at horse races.

3. Impact on Indian Reservations — Initiative A states that Indian tribes on reservations in Utah shall have the right to approve or reject pari-mutuel wagering on their reservations "to the same, but no greater, extent as a county." In 1988, the United States Congress passed the Indian Gaming Regulatory Act (IGRA) to regulate gaming activities on Indian reservations. The IGRA divides gaming activities into class I gaming (traditional or tribal forms of gaming), class II gaming (bingo), and class III gaming (all other forms of gaming, including pari-mutuel wagering, lotteries, and casinos.)

The IGRA specifically states that class III gaming is lawful on Indian lands only if it is located in a state that permits such gaming for any purpose, is conducted in conformance with a tribal-state compact, and approved by the tribal and federal governments. If Initiative A passes, pari-mutuel wagering on horse races would be allowed on Indian reservations in Utah under the authority of the IGRA, whether or not any county authorizes pari-mutuel wagering.

Court decisions have held that Indian tribes may not engage in gaming activities that states specifically prohibit by law,

which Initiative A attempts to do. However, at least one federal district court has held that if one form of class III gaming is specifically permitted in a state, then all other class III forms may be allowed.

Courts have also required that such gaming be subject to state-tribal negotiation under the IGRA. Another federal district court has held that state-tribal negotiation may no longer be required.

Effective Date

Initiative A takes effect January 5, 1993.

Fiscal Impact

Direct costs to the state to operate the Utah Horse Racing Commission are estimated at \$212,000 annually. County costs of holding a special election vary—two examples are \$65,000 in Salt Lake and \$12,000 in Washington.

Direct revenues depend on the number of races held and wagers placed. If 50 days of races were held each year, with a take of \$150,000 per day, the revenues would be \$7,500,000 annually. The state would receive 1% (\$75,000) to offset the \$212,000 estimated cost of the commission and 3% (\$225,000) for education. The participating counties would divide 3% (\$225,000) for economic development and tax reduction. Additional revenues may be generated by fees imposed by the commission on licensees.

Indirect costs and revenues are clearly present but difficult to quantify.

Arguments For

Initiative A gives the people of each county the right to approve or reject pari-mutuel wagering at horse races held in their county by a simple majority vote. It does not authorize pari-mutuel wagering anywhere. It just allows the people of each county to decide for themselves the social and economic benefits of pari-mutuel horse racing in their own community. Lotteries and all other forms of gambling remain strictly prohibited under the Utah Constitution, Utah Criminal Code, and express terms of Initiative A.

Initiative A also establishes a properly-regulated state racing program. It creates a Utah Horse Racing Commission to license and regulate horse racing throughout the state and pari-mutuel wagering in any county that approves it, without cost to the taxpayers.

By establishing a well-regulated horse racing program, Initiative A helps over 30,000 Utah horse breeding families to stay in Utah, where horse breeding has been a mainstay of our rural economy for almost 150 years. It preserves and encourages a healthful, family oriented industry that is an integral part of Utah's western heritage.

The economic benefits of the initiative are not limited to the horse industry. It will also promote economic development, generate new recreational and tourist business, and keep recreational dollars and public revenues that Utahns are now spending in neighboring states at home. Horse breeding and horse racing creates jobs in the hotel, restaurant, service station, retail, entertainment, transportation and agricultural industries as well as the horse industry. The result is increased employment, increased tourism, increased sales tax, gasoline tax and income tax, and a new source of voluntary revenues to reduce the burden of county taxes and bolster our state educational system.

Quality horse racing is a lot of fun; it is the world's number one spectator sport. Whether to attend, and whether to place a bet, are individual decisions for those over 21. No one under 21 may wager.

Giving the people of each county the right to determine this important economic issue will not open the door to lotteries or other forms of gambling. Utah's founding fathers understood the difference between horse race wagering, which has always been recognized as a game of skill, and lotteries and other forms of gambling, which are based entirely on chance. The Utah Constitution, the Utah Criminal Code, and the express terms of Initiative A strictly prohibit lotteries and all other forms of gambling.

If Initiative A passes, Indian tribes on reservations in Utah will have the same, but no greater, right as a county to approve or reject pari-mutuel wagering at horse races held on their reservations. If they approve pari-mutuel horse racing, it will be strictly regulated under a compact between the tribe and the state.

A vote FOR Initiative A will give all Utahns the right to govern their own communities and make their own decisions while bringing substantial benefits to the entire state. Vote for the right to vote by voting FOR Initiative A.

Citizens to Put Utah First
933 Wall Avenue
Ogden, Utah 84404.

Orluff Opheikens, Chairman
1025 East 2100 North
North Ogden, Utah 84414

David Freston, Vice Chairman
3318 West 1975 North
Plain City, Utah 84404

Rebuttal To

Arguments For Initiative A

Vague Promises Are Not Enough

Parimutuel proponents have based their campaign on vague generalities. The title of Initiative A says parimutuel gambling will "promote freedom of choice, support education, further economic development, and reduce taxes in the state of Utah." None of these promises stands up to even cursory scrutiny.

Utahns Will Choose on November 3rd

Every Utah citizen can decide if state-authorized gambling is a good policy for Utah by voting for or against Initiative A. Passage of the initiative is not essential to preserving choice.

No Significant Level of Support for Education

The Utah Foundation has found that the greatest addition parimutuel could make to education funding would be 5/100 of one percent of the current budget, a truly insignificant contribution.

No Enhancements of Jobs or Economic Development

Horse betting won't spur business expansion, create jobs, or enhance Utah family income. Economist Thayne Robson says, bluntly, that parimutuel betting is "not an economic development issue."

Parimutuel Will Increase Taxes

Utah horse gambling will shift the cost of a racing commission to state taxpayers, burden counties with the cost of subsidizing tracks, and force citizens to bear the financial effects of costly litigation.

Faulty Promises, Significant Burdens

There is no evidence that parimutuel betting would be a boon for Utah. Indeed, it is patently unfair to shift the expenses of horse industry gambling onto the backs of Utah families.

Parimutuel gambling is a bad bet for Utah and Utah taxpayers. Vote AGAINST Initiative A.

Dr. T.H. Bell
Former U.S. Secretary of Education
88 East Edgcombe Drive
Salt Lake City, Utah 84103

Arguments Against

Utahns Have the Choice

On November 3rd, Utahns will have the chance to decide if parimutuel betting is worth the gamble.

Parimutuel Will Saddle Utah Taxpayers with High Costs

Passage of the initiative will trigger the following expenses:

- The initiative fails to provide enough money to fund the horse racing commission, leaving taxpayers footing the bill.
- Because most Utah race tracks are county-owned, the counties will have to build betting facilities, install computers and wagering equipment and pay operating expenses. The initiative doesn't provide enough money for these, leaving county taxpayers holding the bag.
- Flaws in the initiative may involve the state in expensive lawsuits.

Former Salt Lake Mayor Palmer DePaulis said "Horse gambling produces little economic return and burdens taxpayers with the resulting costs."

Won't Benefit Utah's Economy

As Thayne Robson, director of the University of Utah Bureau of Economic and Business Research, declared on August 18, 1992, "There is simply no evidence parimutuel will have any significant positive impact on our economy. It will not improve income or wealth in Utah."

The Utah Foundation concurred in an August 21, 1992 report that the fiscal impact would "be quite small."

Little Benefit for Education

The Utah Foundation reported that, *at best*, parimutuel betting would provide a mere \$1.38 per Utah student a year. Major Utah education organizations have failed to endorse parimutuel gambling as a source of school revenue. The PTA officially opposes Initiative A.

Cannot Work as Drafted

The initiative will require amending in order to work and avoid expensive lawsuits:

- It does not specify who calls the county elections, when they are conducted, or who pays for them.
- The racing commission has the power to both promote and regulate the horse industry, an unwise combination.
- It mandates the Governor to appoint a five-member commission within 30 days and that three commissioners must be from counties that have approved parimutuel betting. There is not time in 30 days for the counties to hold elections to approve parimutuel gambling.
- The initiative's pittance for education goes to a non-existent fund (there is no "Utah Education Fund").

Will Lead to Other Forms of Gambling

The experience of other states shows that allowing gambling in any form inevitably leads to unintended forms of gambling down the road. No state has just horse betting on live races. Idaho has simulcasting. Wyoming has off-track betting. In the past year Texas has allowed simulcasting and Oklahoma has allowed inter-track gambling. The poor economics of racetracks mean that states can't afford to draw the line at live, on-track betting.

Runs Counter to Utah's Environment

Craig Moody, Speaker of the Utah House of Representatives, notes "Gambling preys on the human weakness to obtain something for nothing. This is contrary to the philosophy of Utahns, who pride themselves on their integrity, thrift, and work-ethic—the very values that have brought Utah national and international acclaim as an ideal place to live, work, raise a family, and retire."

Vote AGAINST Initiative A. It's not worth the cost.

Dr. T.H. Bell

Former U.S. Secretary of Education
88 East Edgcombe Drive
Salt Lake City, UT 84103

Rebuttal To

Arguments Against Initiative A

We the people of Utah cannot be misled into surrendering our right to vote. Adopting Initiative A will simply give the people of each county the right to vote for or against pari-mutuel horse racing in their own county.

We taxpayers are better qualified to decide this issue than the rich bureaucrats who oppose our right to vote. That is why over 105,000 Utah voters signed Initiative A.

The opponents of Initiative A are spending millions of tax dollars to bring dirty industries from other states to Utah. By adopting Initiative A, we can foster our family-oriented horse breeding industry, with its \$1.5 billion capital investment and hundreds of millions in annual expenditures, without spending any tax dollars.

Initiative A does not require any tax money. Pari-mutuel wagering and licensing fees will cover the costs of our state racing commission, as they do in the 46 other pari-mutuel states. Twenty-seven existing racetracks which now sit idle will be used to create jobs and reduce taxes.

Initiative A means more jobs and less taxes. For every two racehorses, one new job is created in the horse industry and two additional jobs are created in other industries. Initiative A will bring Utah over \$150 million annually in new business. This will reduce the tax burden on all of us.

Remember, the greatest benefits of Initiative A are priceless—our pioneer heritage, our right to vote, and our personal freedom.

Vote for our right to vote by voting FOR Initiative A.

Citizens to Put Utah First
933 Wall Avenue
Ogden, Utah 84404

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COMPLETE TEXT OF INITIATIVE A
PEOPLE'S RIGHT TO VOTE ON A COUNTY-WIDE BASIS
TO SUPPORT PUBLIC EDUCATION, FURTHER ECONOMIC DEVELOPMENT,
AND REDUCE TAXES THROUGH PARI-MUTUEL WAGERING ON HORSE RACES

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

Section 1. The people of each county shall have the right to approve or reject pari-mutuel wagering at horse races in their county by a simple majority vote.

Section 2. The purposes of this initiative are:

- a. To promote freedom of choice, support public education, further economic development, and reduce taxes in the state of Utah;
- b. To allow the people of each county to decide whether pari-mutuel wagering shall be conducted at horse races held in their county; and
- c. To ensure the promotion and uniform regulation of horse racing in the state of Utah and pari-mutuel wagering in the counties that approve it by majority vote.

Section 3. The Utah Horse Commission created by the 1992 Utah Legislature is hereby abolished. The \$100,000 allocated to that Commission shall be returned to the Utah General Fund.

Section 4. The Utah Horse Racing Commission ("the Commission") is created for the purpose of promoting and regulating horse racing in the state of Utah and parimutuel wagering in those counties that approve it by majority vote.

- a. The Commission shall consist of five members appointed by the Governor, provided that the Commission shall at all times include at least three members selected from nominees submitted to the Governor by the county commissions of those counties that approve pari-mutuel wagering by majority vote, and at least one member from each of Utah's three Congressional Districts.
- b. The Governor shall appoint the initial members of the Commission within thirty (30) days after the effective date of this initiative: two for a term to expire on December 31, 1993, two for a term to expire on December 31, 1995, and one for a term to expire on December 31, 1997. Upon the expiration of the term of any member, a successor shall be appointed for a term of six years. Vacancies shall be filled by appointment for the unexpired term.
- c. The members of the Commission shall annually elect a chairperson. Four members of the Commission shall constitute a quorum.

Section 5. The Commission shall have the authority and duty to license, regulate and facilitate all horse racing in the state of Utah and all pari-mutuel wagering at horse races in those counties that approve it by majority vote, consistent with the purposes of this initiative. The Commission shall promulgate uniform rules and regulations for horse racing and pari-mutuel wagering, establish rea-

sonable requirements and fees for licensees, approve the dates on which licensees may conduct horse races and pari-mutuel wagering, require that 50 percent of the races at each meet be written for quarterhorses, and establish a Utah Bred Incentive Fund to encourage horse breeding within the state of Utah through races and purses limited to Utah bred horses.

Section 6. As used in this initiative,

- a. "Pari-mutuel wagering" means a form of wagering on the outcome of a horse race in which those who wager purchase tickets of various denominations on one or more horses, all wagers for each race are pooled, and the winning ticket holders are paid in amounts proportional to the total receipts in the pool.
- b. "Pool" means the total sum of all monies wagered in each race for each type of bet.

Section 7. The sums deposited in any pari-mutuel pool shall be distributed as follows:

- a. Eighty percent shall be paid to those holding winning tickets in the pool;
- b. Six percent shall be paid for horsemen's purses;
- c. Six percent shall be paid to the licensee;
- d. Three percent shall be paid to the Utah Education Fund;
- e. Three percent shall be paid to the county where the pari-mutuel wagering was conducted to promote economic development and reduce taxes in that county;
- f. One percent shall be paid to the Utah Horse Racing Commission; and
- g. One percent shall be paid to the Utah Bred Incentive Fund.

Section 8. No person under the age of 21 years shall place or be allowed to place a wager.

Section 9. All forms of gambling other than pari-mutuel wagering at horse races in accordance with this initiative and the rules and regulations promulgated by the Utah Horse Racing Commission are strictly prohibited.

Section 10. It is the intention of this initiative that Indian tribes on reservations within the state of Utah shall have the right to approve or reject pari-mutuel wagering at horse races on their reservations to the same, but no greater, extent as a county, if approved by the tribal government and Chairman and conducted in conformance with a Tribal-State compact consistent with this initiative and federal and tribal law.

Section 11. The effective date of this initiative shall be January 5, 1993.

INFORMATION ABOUT JUDGES WHO WILL APPEAR ON YOUR BALLOTS

A Judiciary Free from Electoral Politics

We don't hear as much about judges as we do about other candidates on the ballot. The reason for this is that a judge cannot participate in partisan politics. *Our government system requires a strong, independent judicial branch which can make unbiased judgments based on the facts and law.* We don't want judges' decisions based on pressures from interests groups, attempts to please powerful people, or in "re-payment" for campaign contributions.

But while we want to keep judges independent from outside pressures, *we also want to hold them accountable for doing their jobs in a competent and professional way.* To balance these needs, Utah citizens modified the Judicial Article of the State Constitution in 1985. The revised constitution removed judges from contested political elections and required them to run in uncontested retention elections where the public can vote on whether they feel a judge has upheld his or her constitutional role.

Selecting Qualified Judges

The state constitution has set up a rigorous procedure for appointing judges, aimed at encouraging the choice of the best qualified candidates:

- ✓ Every judicial applicant is screened by a bipartisan nominating commission of local citizens selected by the Governor and the Bar association. The commission selects three of the applicants, whose names are sent to the Governor.
- ✓ The Governor nominates one of these applicants after further review.
- ✓ The nominee must then face the full State Senate and be approved by a majority vote.

Evaluating Judges' Performance

After judges are appointed, they are subject to many kinds of review to ensure that they are maintaining high ethical and professional standards. These review mechanisms include:

- ✓ Nearly every decision judges make can be appealed to a higher court.
- ✓ Judges must comply with a strict Code of Judicial Conduct, which, among other things, prohibits their participation in partisan politics.
- ✓ A judge's behavior is subject to review at any time by an independent Judicial Conduct Commission made up of legislators, lawyers, citizens and a judge. With Supreme Court approval, this Commission can remove a judge from office.
- ✓ A judge is evaluated every two years by the Judicial Council. During the year that a judge is up for retention election, the Council conducts a "certification review." Judges who meet the Council's performance standards, are *certified* to the voters as having met these standards.
- ✓ Every six years (ten for the Supreme Court) a judge must stand for review by the voters, at a retention election.

Obtaining a Judges' Performance Record

How can a voter find out about the performance record of judge standing for retention election? In 1986 the legislature passed a law directing the Utah Judicial Council (the group of judges that makes policy for the courts) to report the results of the *judicial evaluation program to the public 90 days before each election.* During the first week of August, the Council released to the press its report on judges who will be on the 1992 ballot. The Council certified all 16 judges who filed

for retention election this year, as meeting the previously established performance standards. **The Judicial Council Evaluation Reports on each judge up for election are available at your local courthouse.**

The criteria used to evaluate each of the 16 judges included:

- The judge's physical and mental ability to serve another term.
- The judge's compliance with the Code of Judicial Conduct.
- A review of any formal or informal sanctions imposed by the Independent Judicial Conduct Commission.
- Compliance with Supreme Court rules.
- The number of cases retained under advisement longer than 60 days.
- The results of a poll of attorneys who have recently practiced before that judge. This poll was conducted by Dan Jones and Associates during September and October 1991.
- The completion of 30 hours of judicial education each year.
- Additional supporting material relating to a judge's off-bench service to Utah's judiciary and to the larger community.

Judges who fail to meet one or more of these criteria may appear before the Judicial Council and show cause why they should still be certified. Council members will then vote on whether or not the judge's defense of his or her record was convincing enough to merit certification with conditions. A judge who is not certified by the Judicial Council may still choose to file for election and appear on the retention ballot but will do so without the Council's endorsement.

This year one Supreme Court Justice, Richard C. Howe will be on the ballot statewide. Five judges from the District Court, five judges from the Juvenile Court, and five judges from the Circuit Court will appear on the ballots in the counties they serve as follows:

District/Counties Served by Judges Scheduled on the Ballot

1. *Box Elder, Cache and Rich:*
David W. Sorenson, Juvenile Court
Clint S. Judkins, Circuit Court
Burton H. Harris, Circuit Court
2. *Davis, Weber and Morgan:*
Stanton M. Taylor, District Court
L. Kent Bachman, Juvenile Court
Pamela G. Heffernan, Circuit Court
Roger S. Dutson, Circuit Court
3. *Salt Lake, Summit and Tooele:*
Sharon P. McCully, Juvenile Court
Roger A. Livingston, Circuit Court
4. *Juab, Millard, Utah and Wasatch:*
Leslie D. Brown, Juvenile Court
5. *Beaver, Iron and Washington:*
Joseph E. Jackson, Juvenile Court
6. *Garfield, Kane, Piute, Sanpete, Sevier and Wayne:*
Don V. Tibbs, District Court
7. *Carbon, Emery, Grand and San Juan:*
Bryce K. Bryner, District Court
8. *Daggett, Duchesne and Uintah:*
A. Lynn Payne, Jr., District Court
Leslie D. Brown, Juvenile Court

Instructions to Voters

In Beaver, Box Elder, Cache, Carbon, Davis, Duchesne, Grand, Iron, Kane, Millard, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, and Weber Counties.

FOR VOTING BALLOTS

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 to either, (a) request identification from you, or (b) have a known registered voter of the district identify you.

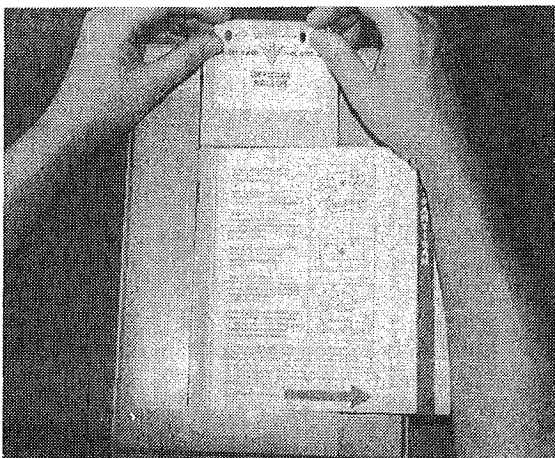
HOW TO VOTE YOUR BALLOT

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 it to the judge, who will cancel it and issue you a new ballot.

When you receive a ballot from the election judge, immediately go alone to one of the voting booths and vote your ballot as follows:

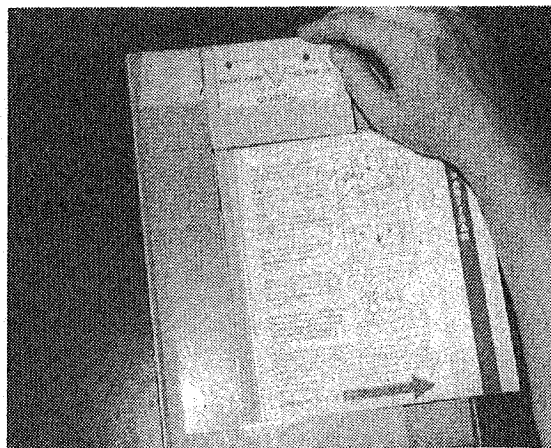
STEP 1

Using **both hands**, slide the ballot card all the way into the vote recorder.



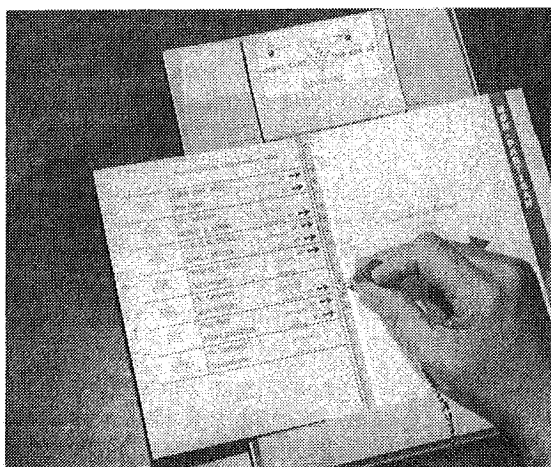
STEP 2

Be sure the two holes at the top of the card fit over the two red pins on the recorder.



STEP 3

To vote, hold the punch straight up and push down through the card in the box next to each of your choices. Follow the instructions, and vote all pages as instructed. Use the punch provided. Do not use a pen or pencil.



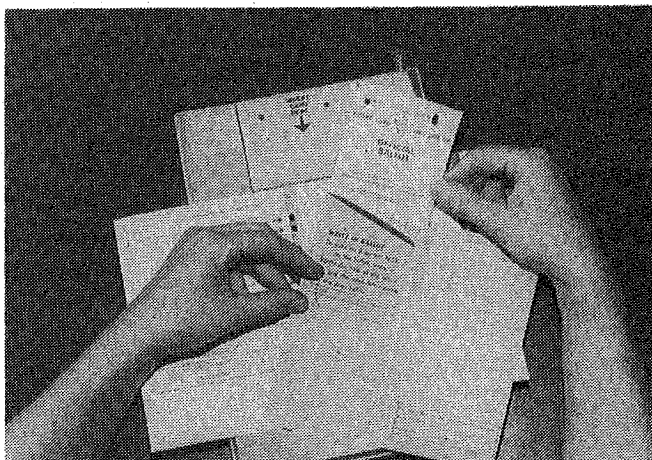
STEP 4

Voting for candidates of more than one party. If you want to vote for candidates from more than one party, you may do this by punching the ballot in the box next to the desired candidate's name on the ballot.

Voting for candidates of one party. If you want to cast a "straight party" vote for all the candidates of one party, punch the box next to the desired party on the first page of the ballot. If you vote "straight party" you vote for each candidate of that party. If you have already voted "straight party" and want to vote for a candidate of another party, you can do that by punching the ballot next to the candidate's name.

STEP 5

After voting, slide the card out of the vote recorder and place it under the flap of the write-in envelope.



STEP 6

After you have voted the ballot and placed it in the write-in ballot envelope, **RETURN IT TO THE ELECTION JUDGE.** Give your name. The judge will remove the stub from your ballot, deposit the write-in ballot envelope, which contains 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. You do this by either writing the office title and the name of the candidate on the write-in ballot envelope, or by placing a sticker with the candidate's name and office printed on it on the write-in envelope. When voting a write-in candidate, **DO NOT punch a hole in the punch card ballot for the same position.**

NON-PARTISAN CANDIDATES

Judicial, state school board, local school board, and similar offices are non-partisan contests. They are on the last pages of your ballot. The copy of the ballot attached to the vote recorder contains instructions telling the number of persons that should be voted for in each office.

CONSTITUTIONAL AMENDMENTS AND INITIATIVES

In case of a constitutional amendment or initiative submitted to a vote of the people, you punch the ballot by the answer you want to give. The amendment or initiative will be in the form of a question. Vote **"FOR"** if you want to answer **"yes"** and **"AGAINST"** if you want to answer **"no."**

HOW TO GET HELP TO MARK YOUR BALLOT

If you are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, you may be helped by someone you choose. The person helping you cannot be your employer, an agent of your employer, or an officer or agent of your union. The person helping you cannot in any way request, persuade, or induce you to vote for or against any particular candidate or issue.

Instructions to Voters

In Daggett, Emery, Garfield, Juab, Morgan, Piute, Rich, San Juan, and Wayne counties.

FOR VOTING BALLOTS

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 to either, (a) request identification from you, or (b) have a known registered voter of the district identify you.

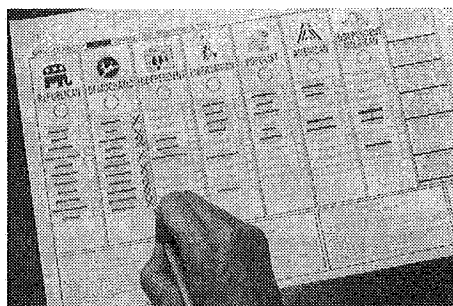
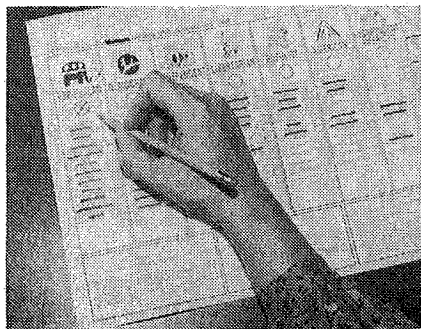
HOW TO VOTE YOUR BALLOT

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 it to the judge, who will cancel it and issue you a new ballot.

When you receive a ballot from the election judge, immediately go alone to one of the voting booths and vote your ballot by marking it with an X as follows:

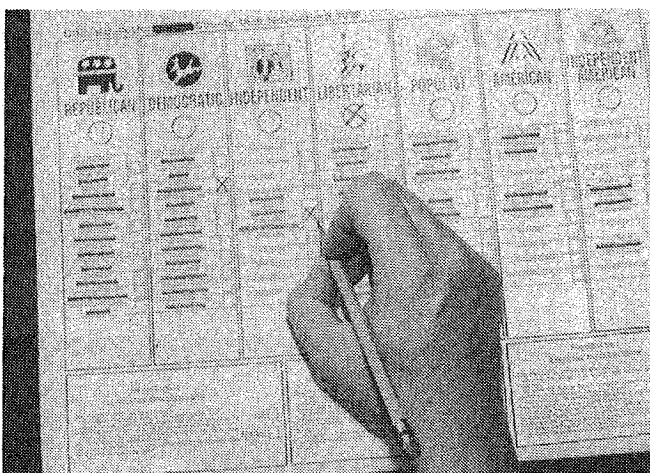
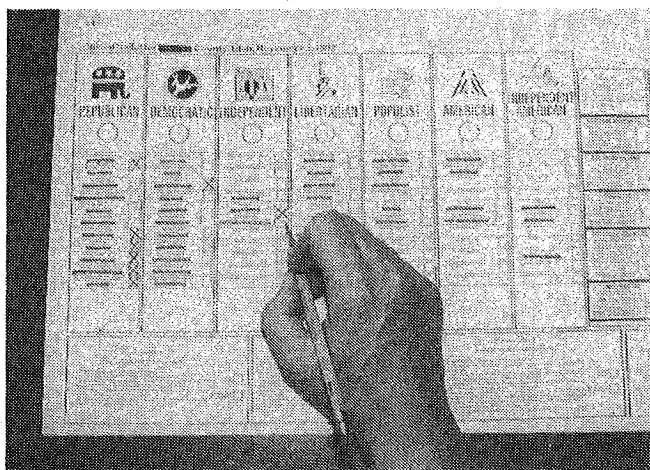
VOTING FOR CANDIDATES OF ONE PARTY.

If you want to cast a "straight party" vote for all the candidates of one party, you may mark in the circle at the top of the list of that party's candidates, in the squares by the names of each candidate of that party, or in both the circle and the squares.

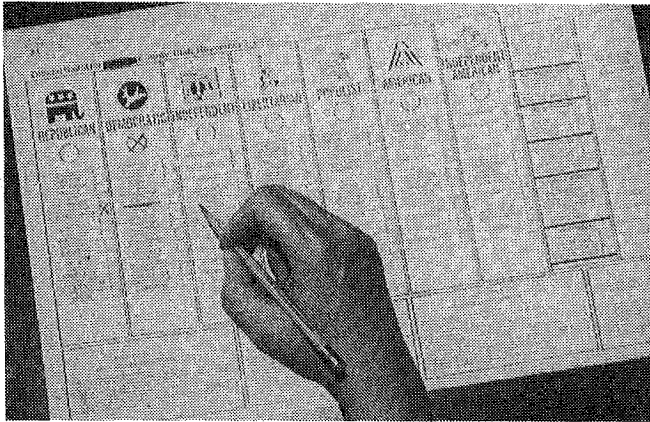


VOTING FOR CANDIDATES OF MORE THAN ONE PARTY

If you want to vote for candidates from more than one party, you may mark in the squares by the names of the candidates for whom you want to vote without marking in any party's circle. You may also vote "straight party" by marking in the circle above one party's list, then marking in the squares by the names of the candidates of your choice of other parties.

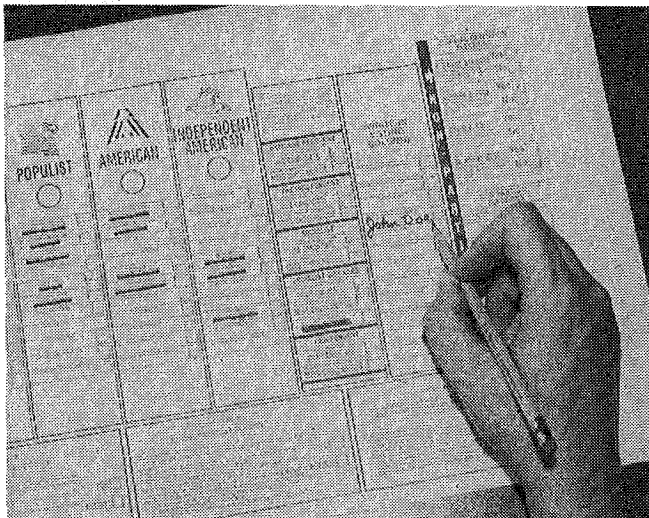


If you vote "straight party" by marking the circle above a party's list, you may draw a line through the name of any candidate of that party ticket for whom you **DO NOT** want to vote. However, when an office is listed that requires more than one person to be elected, you must draw a line through all the names of the persons of that party ticket for whom you do not want to vote (leaving only those for whom you wish to vote).



WRITE-IN VOTING

You may also vote for a valid write-in candidate. You do this by either writing the name of the candidate on the ballot or by placing a sticker with the candidate's name and office printed on it on the ballot. Partisan write-in candidates should be listed or stuck in the correct office space of the blank write-in column. Non-partisan write-in candidates should be listed in the blank space for that non-partisan office. If you write in a name or put a sticker on the ballot, you have voted for that person, even if you do not make an X by the write-in name.



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 on the ballot. Just above the voting squares are instructions telling how many persons should be voted for each office.

NON-PARTISAN		NON-PARTISAN	
Vote One		Vote One	
Shall CHRISTINE M. DURHAM Yes <input type="checkbox"/>	Shall MONAEL M. DURHAM Yes <input type="checkbox"/>	be retained in the office of Judge of the Circuit Court of the Fifth Circuit? No <input type="checkbox"/>	
be retained in the office of Justice of the Supreme Court of Utah? No <input type="checkbox"/>			
For District Judge Six Year Term, Third District Vote for One	Shall ERNEST E. BALDWIN (incumbent) Yes <input type="checkbox"/>	Shall MONAEL M. DURHAM Yes <input type="checkbox"/>	
DAMOND G. JUNG No <input type="checkbox"/>	be retained in the office of Judge of the Circuit Court of the Fifth Circuit? No <input type="checkbox"/>		
For District Judge Four Year Term, Third District Vote for One	Shall WALTER R. FLEMING (incumbent) Yes <input type="checkbox"/>	Shall MONAEL M. DURHAM Yes <input type="checkbox"/>	
WALTER R. FLEMING No <input type="checkbox"/>	be retained in the office of Judge of the Circuit Court of the Fifth Circuit? No <input type="checkbox"/>		
Shall JOHN E. DAVIS Yes <input type="checkbox"/>	Shall MONAEL M. DURHAM Yes <input type="checkbox"/>		
be retained in the office of Judge of the District Court of the Third Judicial District? No <input type="checkbox"/>	be retained in the office of Judge of the Circuit Court of the Fifth Circuit? No <input type="checkbox"/>		
Shall JOHN E. DAVIS Yes <input type="checkbox"/>	Local School Board North Summit School District No. 1 Vote for One		
be retained in the office of Judge of the District Court of the Third Judicial District? No <input type="checkbox"/>	JOHN E. DAVIS <input type="checkbox"/>		
Shall JOHN E. DAVIS Yes <input type="checkbox"/>	JOHN E. DAVIS <input type="checkbox"/>		
be retained in the office of Judge of the District Court of the Third Judicial District? No <input type="checkbox"/>			
Shall JOHN E. DAVIS Yes <input type="checkbox"/>			
be retained in the office of Judge of the District Court of the Third Judicial District? No <input type="checkbox"/>			
Shall JOHN E. DAVIS Yes <input type="checkbox"/>			
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Shall JOHN E. DAVIS Yes <input type="checkbox"/>			
be retained in the office of Judge of the District Court of the Third Judicial District? No <input type="checkbox"/>			

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In case of a constitutional amendment or initiative submitted to a vote of the people, you make an X in the square by the answer you want to give. The amendment or initiative will be in the form of a question. Vote "FOR" if you want to answer "yes" and "AGAINST" if you want to answer "no."

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If you are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, you may be helped by someone you choose. The person helping you cannot be your employer, an agent of your employer, or an officer or agent of your union. The person helping you cannot in any way request, persuade, or induce you to vote for or against any particular candidate or issue.

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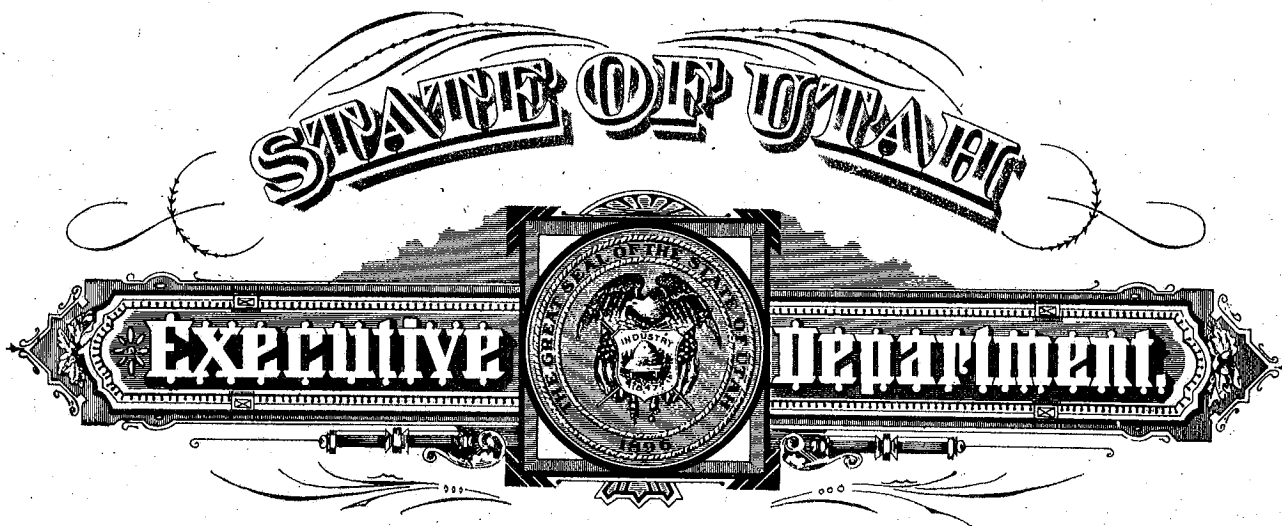
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I, W. VAL OVESON, LIEUTENANT

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 3, 1992, and that the foregoing pamphlet is complete and correct according to law.



WITNESS MY HAND and the Great Seal of the State of Utah at Salt Lake City, Utah this 14th day of September, 1992.

W. Val Oveson

W. VAL OVESON
Lieutenant Governor

A Message from Utah's Lieutenant Governor

Soon you will have the opportunity to make decisions which will likely have a tremendous impact, not only on your individual life, but on the future of our state and nation.

November 3, 1992 is Election Day

However, in order for you to express your opinions at the ballot box, you must be registered to vote. I have listed below the simple ways of registering to vote in Utah.

I am very proud of Utah's tradition of being among the nation's leaders in voter turnout each election year. I hope we can continue that tradition.

Remember—**be informed, be registered, and be sure to vote** on November 3.

See you at the polls.

Thank you,



W. Val Oveson
Lieutenant Governor



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 3, 1992, you may register to vote by one of the following methods.

- You may register with the registration agent of your election district between 8:00 a.m. and 9:00 p.m. on October 27, 28, and 29th.
- You may register at the County Clerk's office in your county during regular working hours until October 13.
- You may register by mail at any time before October 13 by mailing in the Utah Election registration form. These forms may be obtained at any bank, post office, library, county clerk's office, or political party office.