

JOINT RESOLUTION ON EQUAL TREATMENT

BY GOVERNMENT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

Cosponsor: Carl Wimmer

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to enact a provision prohibiting discrimination and preferential treatment by government entities.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ prohibit the State, public institutions of higher education, and political subdivisions from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin with respect to public employment, public education, or public contracting; and
- ▶ provide exceptions;
- ▶ authorize the Legislature to provide a remedy for a violation and provide limits for a remedy; and
- ▶ provide that the prohibition is self-executing.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2011 for this proposal.

Utah Constitution Sections Affected:



28 ENACTS:

29 **ARTICLE I, SECTION 30**



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

33 Section 1. It is proposed to enact Utah Constitution Article I, Section 30, to read:

34 **Article I, Section 30. [Prohibition against discrimination and preferential**
35 **treatment.]**

36 (1) Each of the following is subject to this section:

37 (a) the State, including any department, agency, or other governmental instrumentality
38 of the State;

39 (b) each public institution of higher education; and

40 (c) each county, city, town, school district, local district, special service district, and
41 other political subdivision of the State.

42 (2) An entity that is subject to this section may not discriminate against, or grant
43 preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or
44 national origin with respect to public employment, public education, or public contracting.

45 (3) Subsection (2) may not be construed to:

46 (a) prohibit a bona fide qualification based on sex that is reasonably necessary to the
47 normal functioning of public employment, public education, or public contracting;

48 (b) invalidate a court order or consent decree in force on January 1, 2011;

49 (c) prohibit action required to be taken to establish or maintain eligibility for a federal
50 program, if ineligibility would result in a loss of federal funds; or

51 (d) affect an action taken before January 1, 2011.

52 (4) (a) The Legislature may by statute provide a remedy for a violation of Subsection
53 (2).

54 (b) A remedy for a violation based on discrimination may not be substantially different
55 than a remedy for a violation based on preferential treatment.

56 (c) A remedy for a violation based on discrimination or preferential treatment may not
57 differ based on the race, sex, color, ethnicity, or national origin of a person or group.

58 (5) Subsection (2) is self-executing.

59 Section 2. **Submittal to voters.**

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

62 Section 3. **Effective date.**

63 If the amendment proposed by this joint resolution is approved by a majority of those
64 voting on it at the next regular general election, the amendment shall take effect on January 1,
65 2011.

Legislative Review Note
as of 1-22-10 1:45 PM

Office of Legislative Research and General Counsel

H.J.R. 24 - Joint Resolution on Equal Treatment by Government

Fiscal Note

2010 General Session
State of Utah

State Impact

Publication and distribution cost to put this resolution on the ballot will require a one-time FY 2011 appropriation of \$14,700 from the General Fund.

	<u>FY 2010 Approp.</u>	<u>FY 2011 Approp.</u>	<u>FY 2012 Approp.</u>	<u>FY 2010 Revenue</u>	<u>FY 2011 Revenue</u>	<u>FY 2012 Revenue</u>
General Fund, One-Time	\$0	\$14,700	\$0	\$0	\$0	\$0
Total	\$0	\$14,700	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.