

JOINT RESOLUTION ON RECALL ELECTIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to allow the removal of specified officers by recall election.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ make the Governor, State Auditor, State Treasurer, and Attorney General subject to removal from office by a recall election, as provided in statute.

Special Clauses:

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

This resolution provides a contingent effective date of January 1, 2015 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VII, SECTION 11

ENACTS:

ARTICLE VII, SECTION 25

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

Section 1. It is proposed to amend Utah Constitution Article VII, Section 11, to read:

Article VII, Section 11. [Vacancy in office of Governor -- Determination of



28 **disability.]**

29 (1) A vacancy in the office of Governor occurs when:

30 (a) the Governor dies, resigns, is removed from office following impeachment or recall
31 election, ceases to reside within the state, or is determined, as provided in Subsection (6), to
32 have a disability that renders the Governor unable to discharge the duties of office for the
33 remainder of the Governor's term of office; or

34 (b) the Governor-elect fails to take office because of the Governor-elect's death, failure
35 to qualify for office, or disability, determined as provided in Subsection (6), that renders the
36 Governor-elect unable to discharge the duties of office for the Governor-elect's full term of
37 office.

38 (2) If a vacancy in the office of Governor occurs, the Lieutenant Governor shall
39 become Governor, to serve:

40 (a) until the first Monday in January of the year following the next regular general
41 election after the vacancy occurs, if the vacancy occurs during the first year of the term of
42 office; or

43 (b) for the remainder of the unexpired term, if the vacancy occurs after the first year of
44 the term of office.

45 (3) (a) In the event of simultaneous vacancies in the offices of Governor and
46 Lieutenant Governor, the President of the Senate shall become Governor, to serve:

47 (i) until the first Monday in January of the year following the next regular general
48 election after the vacancy occurs, if the vacancy occurs during the first year of the term of
49 office; or

50 (ii) for the remainder of the unexpired term, if the vacancy occurs after the first year of
51 the term of office.

52 (b) In the event of simultaneous vacancies in the offices of Governor, Lieutenant
53 Governor, and President of the Senate, the Speaker of the House of Representatives shall
54 become Governor, to serve:

55 (i) until the first Monday in January of the year following the next regular general
56 election after the vacancy occurs, if the vacancy occurs during the first year of the term of
57 office; or

58 (ii) for the remainder of the unexpired term, if the vacancy occurs after the first year of

59 the term of office.

60 (4) If a vacancy in the office of Governor occurs during the first year of the term of
61 office, an election shall be held at the next regular general election after the vacancy occurs to
62 elect a Governor and Lieutenant Governor, as provided in Article VII, Section 2, to serve the
63 remainder of the unexpired term.

64 (5) (a) If the Governor is temporarily unable to discharge the duties of the office
65 because of the Governor's temporary disability, as determined under Subsection (6), or if the
66 Governor-elect is temporarily unable to assume the office of Governor because of the
67 Governor-elect's temporary disability, as determined under Subsection (6), the powers and
68 duties of the Governor shall be discharged by the Lieutenant Governor who, in addition to
69 discharging the duties of the office of Lieutenant Governor, shall, without additional
70 compensation, act as Governor until the disability ceases.

71 (b) (i) If, during a temporary disability of the Governor or Governor-elect, as
72 determined under Subsection (6), a vacancy in the office of Lieutenant Governor occurs or the
73 Lieutenant Governor is temporarily unable to discharge the duties of the office of Governor
74 because of the Lieutenant Governor's temporary disability, as determined under Subsection (6),
75 the powers and duties of the Governor shall be discharged by the President of the Senate who
76 shall act as Governor until the Governor or Governor-elect's disability ceases or, in the case of
77 the Lieutenant Governor's temporary disability, the Lieutenant Governor's disability ceases,
78 whichever occurs first.

79 (ii) If, during a temporary disability of the Governor or Governor-elect, as determined
80 under Subsection (6), neither the Lieutenant Governor nor the President of the Senate is able to
81 discharge the duties of the office of Governor because of a vacancy in the office of Lieutenant
82 Governor or President of the Senate, or both, or because of a temporary disability of either or
83 both officers, as determined under Subsection (6), or a combination of vacancy and temporary
84 disability, the powers and duties of the Governor shall be discharged by the Speaker of the
85 House of Representatives who shall act as Governor until the Governor's disability ceases or
86 until the vacancy, if applicable, in the office of President of the Senate is filled or the
87 temporary disability, if applicable, of the Lieutenant Governor or President of the Senate
88 ceases, whichever occurs first.

89 (c) (i) During the time that the President of the Senate acts as Governor under this

90 Subsection (5), the President may not exercise the powers and duties of President of the Senate
91 or Senator. The powers and duties of President of the Senate may be exercised during that time
92 by an acting President, chosen by the Senate.

93 (ii) During the time that the Speaker of the House of Representatives acts as Governor
94 under this Subsection (5), the Speaker may not exercise the powers and duties of Speaker of the
95 House of Representatives or Representative. The powers and duties of Speaker of the House of
96 Representatives may be exercised during that time by an acting Speaker, chosen by the House
97 of Representatives.

98 (d) When acting as Governor under this Subsection (5), the President of the Senate or
99 Speaker of the House of Representatives, as the case may be, shall be entitled to receive the
100 salary and emoluments of the office of Governor.

101 (6) (a) A disability of the Governor, Governor-elect, or person acting as Governor shall
102 be determined by:

103 (i) the written declaration of the Governor, Governor-elect, or person acting as
104 Governor, transmitted to the Supreme Court, stating an inability to discharge the powers and
105 duties of the office; or

106 (ii) a majority of the Supreme Court upon the joint request of the President or, if
107 applicable, acting President of the Senate and the Speaker or, if applicable, acting Speaker of
108 the House of Representatives.

109 (b) The Governor or person acting as Governor shall resume or, in the case of a
110 Governor-elect, shall assume the powers and duties of the office following a temporary
111 disability upon the written declaration of the Governor, Governor-elect, or person acting as
112 Governor, transmitted to the Supreme Court, that no disability exists, unless the Supreme
113 Court, upon the joint request of the President or, if applicable, acting President of the Senate
114 and the Speaker or, if applicable, acting Speaker of the House of Representatives, or upon its
115 own initiative, determines that the temporary disability continues and that the Governor,
116 Governor-elect, or person acting as Governor is unable to discharge the powers and duties of
117 the office.

118 (c) Each determination of a disability under Subsection (6)(a) shall be final and
119 conclusive.

120 (7) The Supreme Court has exclusive jurisdiction to determine all questions arising

121 under this section.

122 Section 2. It is proposed to enact Utah Constitution Article VII, Section 25, to read:

123 **Article VII, Section 25. [Removal of officers by recall election.]**

124 The Governor, State Auditor, State Treasurer, and Attorney General are subject to
125 removal from office by a recall election, as provided by statute.

126 Section 3. **Submittal to voters.**

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

129 Section 4. **Effective date.**

130 If the amendment proposed by this joint resolution is approved by a majority of those
131 voting on it at the next regular general election, the amendment shall take effect on January 1,
132 2015.

Legislative Review Note
as of 11-20-13 6:19 PM

Office of Legislative Research and General Counsel