

## **Article VII Executive Department**

### **Article VII, Section 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.
- (2) Each officer shall:
  - (a) hold office for four years beginning on the first Monday of January next after their election;
  - (b) during their terms of office reside within the state; and
  - (c) perform such duties as are prescribed by this Constitution and as provided by statute.

### **Article VII, Section 2 [Election of officers -- Governor and Lieutenant Governor elected jointly.]**

- (1) The officers provided for in Section 1 shall be elected by the qualified voters of the state at the time and place of voting for members of the Legislature. The candidates respectively having the highest number of votes cast for the office voted for shall be elected. If two or more candidates have an equal and the highest number of votes for any one of the offices, the two houses of the Legislature at its next session shall elect by joint ballot one of those candidates for that office.
- (2) In the election the names of the candidates for Governor and Lieutenant Governor for each political party shall appear together on the ballot and the votes cast for a candidate for Governor shall be considered as also cast for the candidate for Lieutenant Governor.

### **Article VII, Section 3 [Qualifications of officers.]**

- (1) To be eligible for the office of Governor or Lieutenant Governor a person shall 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 be 25 years of age or older, at the time of election, admitted to practice before the Supreme Court of the State of Utah, and 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 is eligible to any of the offices provided for in Section 1 unless at the time of election that person is a qualified voter and has been a resident citizen of the state for five years next preceding the election.

### **Article VII, Section 4 [Governor commander-in-chief.]**

The Governor shall be Commander-in-Chief of the military forces of the State, except when they shall be called into the service of the United States. The Governor shall have power to call out the militia to execute the laws, to suppress insurrection, or to repel invasion.

### **Article VII, Section 5 [Executive power vested in Governor -- Duties -- Legal counsel.]**

- (1) The executive power of the state shall be vested in the Governor 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. The Governor may at any time when the Legislature is not in session, 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 annual general session and recommend such measures as may be deemed expedient.
- (4) The Governor may appoint legal counsel to advise the Governor.

**Article VII, Section 6 [Convening of extra sessions of Legislature -- Advance public notice.]**

- (1)
  - (a) On extraordinary occasions, the Governor may convene the Legislature by proclamation, in which shall be stated the purpose for which the Legislature is to be convened, and it may transact no legislative business except that for which it was especially convened, or such other legislative business as the Governor may call to its attention while in session, subject to Subsection (1)(b). The Legislature, however, may provide for the expenses of the session and other matters incidental thereto.
  - (b) The Legislature may not transact any legislative business in a special session convened under Subsection (1)(a) for which the Governor has not provided 48 hours advance public notice, except in cases of declared emergency or with the concurrence of two-thirds of all members elected to each house.
- (2) The Governor may also by proclamation convene the Senate in extraordinary session for the transaction of executive business.

**Article VII, Section 7 [Adjournment of Legislature by Governor.]**

In case of a disagreement between the two houses of the Legislature at any special session convened by the Governor under Article VII, Section 6, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as the Governor may think proper if it is not beyond the time fixed for the convening of the next Legislature.

**Article VII, Section 8 [Bills presented to governor for approval and veto -- Items of appropriation -- Legislative session to consider vetoed items.]**

- (1) Each bill passed by the Legislature, before it becomes a law, shall be presented to the governor. If the bill is approved, the governor shall sign it, and thereupon it shall become a law. If the bill is disapproved, it shall be returned with the governor's objections to the house in which it originated. That house shall then enter the objections 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. If legislative adjournment prevents return of the bill, it shall become a law unless the governor within twenty days after adjournment files the objections 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. 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 for disapproval, and the item or items 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 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.

**Article VII, Section 9 [Governor may fill certain vacancies.]**

When any State or district office shall become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have the power to fill the same by granting a commission, which shall expire at the next election, and upon qualification of the person elected to such office.

**Article VII, Section 10 [Governor's appointive power -- Governor to appoint to fill vacancy in other state offices -- Vacancy in the office of the Lieutenant Governor.]**

- (1)
  - (a) The Governor shall nominate, and by and with consent of the Senate, appoint all State and district officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for.
  - (b) If, during the recess of the Senate, a vacancy occurs in any State or district office, the Governor shall appoint some qualified person to discharge the duties thereof until the next meeting of the Senate, when the Governor shall nominate some person to fill such office.
- (2) If the office of State Auditor, State Treasurer, or Attorney General be vacated by death, resignation, or otherwise, it shall be the duty of the Governor to fill the same by appointment, from the same political party as the removed person; and the appointee shall hold office until a successor shall be elected and qualified, as provided by law.
- (3)
  - (a) A vacancy in the office of Lieutenant Governor occurs when:
    - (i) the Lieutenant Governor dies, resigns, is removed from office following impeachment, becomes Governor under Article VII, Section 11, ceases to reside within the State, or is determined, as provided in Subsection (3)(b), to have a disability that renders the Lieutenant Governor unable to discharge the duties of office for the remainder of the Lieutenant Governor's term of office; or
    - (ii) the Lieutenant Governor-elect fails to take office because of the Lieutenant Governor-elect's death, failure to qualify for office, or disability, determined as provided in Subsection (3)(b),

that renders the Lieutenant Governor-elect unable to discharge the duties of office for the Lieutenant Governor-elect's full term of office.

- (b)
  - (i) Except when the disability of a Lieutenant Governor is determined under Article VII, Section 11, Subsection (6) because the Lieutenant Governor is acting as Governor under Article VII, Section 11, Subsection (5), the disability of a Lieutenant Governor or Lieutenant Governor-elect shall be determined by a written declaration stating that the Lieutenant Governor or Lieutenant Governor-elect is unable to discharge the powers and duties of the office.
  - (ii) The written declaration under Subsection (3)(b)(i) shall be transmitted to the Supreme Court and shall be signed by:
    - (A) the Governor; or
    - (B)
      - (I) the Lieutenant Governor, if the Lieutenant Governor is the subject of the declaration; or
      - (II) the Lieutenant Governor-elect, if the Lieutenant Governor-elect is the subject of the declaration.
  - (iii) If the Lieutenant Governor or Lieutenant Governor-elect, as the case may be, disputes a declaration transmitted by the Governor under Subsection (3)(b)(i), the Lieutenant Governor or Lieutenant Governor-elect may, within ten days after the declaration is transmitted to the Supreme Court, file a petition requesting the Supreme Court to determine whether a disability exists as stated in the Governor's declaration.
  - (iv) In determining whether a disability exists, the Supreme Court shall follow procedures that the Court establishes, unless the Legislature by statute establishes procedures for the Supreme Court to follow in determining whether a disability exists.
  - (v) A determination of disability under this Subsection (3)(b) is final and conclusive.
- (c)
  - (i) If a vacancy in the office of Lieutenant Governor occurs, the Governor shall, with the consent of the Senate, appoint a person as Lieutenant Governor, to serve:
    - (A) except as provided in Subsection (3)(c)(i)(B), the remainder of the unexpired term; or
    - (B) until the first Monday in January of the year following the next regular general election after the vacancy occurs, if an election is held for Governor and Lieutenant Governor under Article VII, Section 11, Subsection (4).
  - (ii) The person appointed as Lieutenant Governor under Subsection (3)(c)(i) shall be from the same political party as the Governor.
  - (iii) Neither the President of the Senate nor the Speaker of the House of Representatives may, while acting as Governor under Article VII, Section 11, Subsection (5), appoint a person as Lieutenant Governor to fill a vacancy in that office.

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

- (1) A vacancy in the office of Governor occurs when:
  - (a) the Governor dies, resigns, is removed from office following impeachment, ceases to reside within the state, or is determined, as provided in Subsection (6), to have a disability that renders the Governor unable to discharge the duties of office for the remainder of the Governor's term of office; or
  - (b) the Governor-elect fails to take office because of the Governor-elect's death, failure to qualify for office, or disability, determined as provided in Subsection (6), that renders the Governor-elect unable to discharge the duties of office for the Governor-elect's full term of office.

- (2) If a vacancy in the office of Governor occurs, the Lieutenant Governor shall become Governor, to serve:
  - (a) until the first Monday in January of the year following the next regular general election after the vacancy occurs, if the vacancy occurs during the first year of the term of office; or
  - (b) for the remainder of the unexpired term, if the vacancy occurs after the first year of the term of office.
- (3)
  - (a) In the event of simultaneous vacancies in the offices of Governor and Lieutenant Governor, the President of the Senate shall become Governor, to serve:
    - (i) until the first Monday in January of the year following the next regular general election after the vacancy occurs, if the vacancy occurs during the first year of the term of office; or
    - (ii) for the remainder of the unexpired term, if the vacancy occurs after the first year of the term of office.
  - (b) In the event of simultaneous vacancies in the offices of Governor, Lieutenant Governor, and President of the Senate, the Speaker of the House of Representatives shall become Governor, to serve:
    - (i) until the first Monday in January of the year following the next regular general election after the vacancy occurs, if the vacancy occurs during the first year of the term of office; or
    - (ii) for the remainder of the unexpired term, if the vacancy occurs after the first year of the term of office.
- (4) If a vacancy in the office of Governor occurs during the first year of the term of office, an election shall be held at the next regular general election after the vacancy occurs to elect a Governor and Lieutenant Governor, as provided in Article VII, Section 2, to serve the remainder of the unexpired term.
- (5)
  - (a) If the Governor is temporarily unable to discharge the duties of the office because of the Governor's temporary disability, as determined under Subsection (6), or if the Governor-elect is temporarily unable to assume the office of Governor because of the Governor-elect's temporary disability, as determined under Subsection (6), the powers and duties of the Governor shall be discharged by the Lieutenant Governor who, in addition to discharging the duties of the office of Lieutenant Governor, shall, without additional compensation, act as Governor until the disability ceases.
  - (b)
    - (i) If, during a temporary disability of the Governor or Governor-elect, as determined under Subsection (6), a vacancy in the office of Lieutenant Governor occurs or the Lieutenant Governor is temporarily unable to discharge the duties of the office of Governor because of the Lieutenant Governor's temporary disability, as determined under Subsection (6), the powers and duties of the Governor shall be discharged by the President of the Senate who shall act as Governor until the Governor or Governor-elect's disability ceases or, in the case of the Lieutenant Governor's temporary disability, the Lieutenant Governor's disability ceases, whichever occurs first.
    - (ii) If, during a temporary disability of the Governor or Governor-elect, as determined under Subsection (6), neither the Lieutenant Governor nor the President of the Senate is able to discharge the duties of the office of Governor because of a vacancy in the office of Lieutenant Governor or President of the Senate, or both, or because of a temporary disability of either or both officers, as determined under Subsection (6), or a combination of vacancy and temporary disability, the powers and duties of the Governor shall be discharged by the Speaker of the House of Representatives who shall act as Governor until

the Governor's disability ceases or until the vacancy, if applicable, in the office of President of the Senate is filled or the temporary disability, if applicable, of the Lieutenant Governor or President of the Senate ceases, whichever occurs first.

- (c)
    - (i) During the time that the President of the Senate acts as Governor under this Subsection (5), the President may not exercise the powers and duties of President of the Senate or Senator. The powers and duties of President of the Senate may be exercised during that time by an acting President, chosen by the Senate.
    - (ii) During the time that the Speaker of the House of Representatives acts as Governor under this Subsection (5), the Speaker may not exercise the powers and duties of Speaker of the House of Representatives or Representative. The powers and duties of Speaker of the House of Representatives may be exercised during that time by an acting Speaker, chosen by the House of Representatives.
  - (d) When acting as Governor under this Subsection (5), the President of the Senate or Speaker of the House of Representatives, as the case may be, shall be entitled to receive the salary and emoluments of the office of Governor.
- (6)
- (a) A disability of the Governor, Governor-elect, or person acting as Governor shall be determined by:
    - (i) the written declaration of the Governor, Governor-elect, or person acting as Governor, transmitted to the Supreme Court, stating an inability to discharge the powers and duties of the office; or
    - (ii) a majority of the Supreme Court upon the joint request of the President or, if applicable, acting President of the Senate and the Speaker or, if applicable, acting Speaker of the House of Representatives.
  - (b) The Governor or person acting as Governor shall resume or, in the case of a Governor-elect, shall assume the powers and duties of the office following a temporary disability upon the written declaration of the Governor, Governor-elect, or person acting as Governor, transmitted to the Supreme Court, that no disability exists, unless the Supreme Court, upon the joint request of the President or, if applicable, acting President of the Senate and the Speaker or, if applicable, acting Speaker of the House of Representatives, or upon its own initiative, determines that the temporary disability continues and that the Governor, Governor-elect, or person acting as Governor is unable to discharge the powers and duties of the office.
  - (c) Each determination of a disability under Subsection (6)(a) shall be final and conclusive.
- (7) The Supreme Court has exclusive jurisdiction to determine all questions arising under this section.

**Article VII, Section 12 [Board of Pardons and Parole -- Appointment -- Powers and procedures -- Governor's powers and duties -- Legislature's powers.]**

- (1) There is created a Board of Pardons 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 other conditions as provided by statute, may grant parole, remit fines, forfeitures, and restitution orders, commute punishments, and grant pardons after convictions, in all cases except treason and impeachments, subject to regulations as provided by statute.

- (b) A fine, forfeiture, or restitution order may not be remitted and 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 the hearing has been given.
  - (c) The proceedings and decisions of the board, the reasons therefor in each case, and the dissent of any member who may disagree shall be recorded and filed as provided by statute with all papers used upon the hearing.
- (3)
- (a) The Governor may grant respites or reprieves in all cases of convictions for offenses against the state except treason or conviction on impeachment. These respites or reprieves may not extend beyond the next session of the board. At that session, the board shall continue or determine the respite or reprieve, commute the punishment, or pardon the offense as provided in this section.
  - (b) In case of conviction for treason, the Governor may suspend execution of the sentence until the case is reported to the Legislature at its next annual general session, when the Legislature shall pardon or commute the sentence, or direct its execution. If the Legislature takes no action on the case before adjournment of that session, the sentence shall be executed.

**Article VII, Section 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;
- (2) perform such duties as may be delegated by the Governor; and
- (3) perform other duties as may be provided by statute.

**Article VII, Section 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.
- (2) The State Treasurer shall be the custodian of public moneys.
- (3) Each shall perform other duties as provided by statute.

**Article VII, Section 16 [Duties of Attorney General.]**

The Attorney General shall be the legal adviser of the State officers, except as otherwise provided by this Constitution, and shall perform such other duties as provided by law.

**Article VII, Section 18 [Compensation of state and local officers.]**

- (1) The Governor, Lieutenant Governor, State Auditor, State Treasurer, Attorney General, and any other state officer as the Legislature may provide, shall receive for their services a fixed and definite compensation as provided by law.
- (2)
- (a) The compensation provided for in Subsection (1) shall be in full for all services rendered by those officers in any official capacity or employment during their terms of office.

- (b) An officer may not receive for the performance of any official duty any fee for personal use, but all fees fixed by the Legislature for the performance by any of them of any official duty shall be collected in advance and deposited with the appropriate treasury.
- (c) The Legislature may provide for the payment of actual and necessary expenses of those officers while traveling in the performance of official duties.

**Article VII, Section 19 [Grants and commissions.]**

All grants and commissions shall be in the name and by the authority of the State of Utah, sealed with the Great Seal of the State, signed by the Governor, and countersigned by such officer as provided by law.

**Article VII, Section 20 [The Great Seal.]**

There shall be a seal of the State, which shall be called "The Great Seal of the State of Utah," and shall be kept by such officer as provided by law.

**Article VII, Section 21 [United States' officials ineligible to hold state office.]**

No person, while holding any office under the United States' government, shall hold any office under the State government of Utah.