

1 **RESOLUTION AMENDING STATE AND LOCAL**
2 **GOVERNMENT PROVISIONS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Howard C. Nielson**

6 A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH
7 CONSTITUTION; AMENDING AND ENACTING PROVISIONS RELATING TO LOCAL
8 GOVERNMENT; REPEALING DUPLICATIVE LANGUAGE PROHIBITING A PROPERTY
9 QUALIFICATION TO VOTE OR HOLD OFFICE; MODIFYING GENERAL AND SPECIAL
10 ELECTION PROVISIONS; EXPANDING THE PROHIBITION AGAINST LENDING PUBLIC
11 CREDIT TO A PRIVATE INDIVIDUAL OR CORPORATION; PROVIDING FOR POWERS
12 OF COUNTIES, CITIES, TOWNS, AND OTHER POLITICAL SUBDIVISIONS OF THE
13 STATE; MODIFYING PROVISIONS FOR MOVING A COUNTY SEAT; REPEALING
14 CHARTER CITY PROVISIONS; MODIFYING SPECIAL SERVICE DISTRICT PROVISIONS;
15 EXPANDING PROHIBITION AGAINST IMPOSING TAXES FOR LOCAL PURPOSES;
16 MODIFYING DEBT PROVISIONS; MODIFYING HIGHWAY PURPOSES FOR WHICH
17 REVENUE FROM HIGHWAY USER AND MOTOR FUEL TAXES ARE TO BE USED;
18 MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

19 This resolution proposes to change the Utah Constitution as follows:

20 AMENDS:

21 **ARTICLE I, SECTION 4**

22 **ARTICLE IV, SECTION 9**

23 **ARTICLE VI, SECTION 1**

24 **ARTICLE VI, SECTION 29**

25 **ARTICLE XI, SECTION 1**

26 **ARTICLE XI, SECTION 2**

27 **ARTICLE XI, SECTION 4**

- 28 **ARTICLE XI, SECTION 5**
- 29 **ARTICLE XIII, SECTION 5**
- 30 **ARTICLE XIII, SECTION 13**
- 31 **ARTICLE XIV, SECTION 3**

32 ENACTS:

- 33 **ARTICLE XI, SECTION 7**
- 34 **ARTICLE XI, SECTION 8**
- 35 **ARTICLE XI, SECTION 9**
- 36 **ARTICLE XI, SECTION 10**

37 REPEALS:

- 38 **ARTICLE XII, SECTION 8**
- 39 **ARTICLE XIV, SECTION 8**

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

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

43 **Article I, Section 4. [Religious liberty.]**

44 The rights of conscience shall never be infringed. The State shall make no law respecting
45 an establishment of religion or prohibiting the free exercise thereof; no religious test shall be
46 required as a qualification for any office of public trust or for any vote at any election; nor shall
47 any person be incompetent as a witness or juror on account of religious belief or the absence
48 thereof. There shall be no union of Church and State, nor shall any church dominate the State or
49 interfere with its functions. No public money or property shall be appropriated for or applied to
50 any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment.

51 [~~No property qualification shall be required of any person to vote, or hold office, except as~~
52 ~~provided in this Constitution.~~]

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

54 **Article IV, Section 9. [General and special elections -- Terms.]**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 The Legislature ~~[shall]~~ may not authorize the State, or any county, city, town, ~~[township;]~~
 96 school district, special district, or other political subdivision of the State to lend its credit or
 97 subscribe to stock or bonds in aid of any railroad, telegraph or other private individual or corporate
 98 enterprise or undertaking, except as provided in Article X, Section 5.

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

100 **ARTICLE XI. LOCAL GOVERNMENTS**

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

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

108 (2) Counties may:

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

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

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

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

116 ~~[No County Seat shall be removed unless two-thirds of the qualified electors of the county,~~
 117 ~~voting on the proposition at a general election, shall vote in favor of such removal, and two-thirds~~
 118 ~~of the votes cast on the proposition shall be required to re-locate a county seat.]~~ A county seat may
 119 be moved only when at a countywide general election two-thirds of those voting on the proposition
 120 vote in favor of moving the county seat. A proposition ~~[of removal shall]~~ to move the county seat

121 may not be submitted in the same county more than once in four years.

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

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

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

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

130 **Article XI, Section 5. [Cities and towns -- To be created or dissolved by statute, not**
131 **special laws.]**

132 ~~[Corporations for municipal purposes shall]~~

133 (1) The Legislature may not ~~[be created]~~ create or dissolve cities or towns by special laws.

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

138 ~~[The legislative authority of the city may, by two-thirds vote of its members, and upon~~
139 ~~petition of qualified electors to the number of fifteen per cent of all votes cast at the next preceding~~
140 ~~election for the office of the mayor, shall forthwith provide by ordinance for the submission to the~~
141 ~~electors of the question: "Shall a commission be chosen to frame a charter?" The ordinance shall~~
142 ~~require that the question be submitted to the electors at the next regular municipal election. The~~
143 ~~ballot containing such question shall also contain the names of candidates for members of the~~
144 ~~proposed commission, but without party designation. Such candidates shall be nominated in the~~
145 ~~same manner as required by law for nomination of city officers. If a majority of the electors voting~~
146 ~~on the question of choosing a commission shall vote in the affirmative, then the fifteen candidates~~
147 ~~receiving a majority of the votes cast at such election, shall constitute the charter commission, and~~
148 ~~shall proceed to frame a charter.]~~

149 ~~[Any charter so framed shall be submitted to the qualified electors of the city at an election~~
150 ~~to be held at a time to be determined by the charter commission, which shall be not less than sixty~~
151 ~~days subsequent to its completion and distribution among the electors and not more than one year~~

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

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

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

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

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

181 [(b) To furnish all local public services, to purchase, hire, construct, own, maintain and
182 operate, or lease, public utilities local in extent and use; to acquire by condemnation, or otherwise,

183 ~~within or without the corporate limits, property necessary for any such purposes, subject to~~
184 ~~restrictions imposed by general law for the protection of other communities; and to grant local~~
185 ~~public utility franchises and within its powers regulate the exercise thereof.]~~

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

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

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

195 **Article XI, Section 7. [Cities and towns -- Powers.]**

196 (1) Cities and towns shall have power to:

197 (a) furnish local public services;

198 (b) purchase, hire, construct, own, maintain, and operate or lease public utilities local in
199 extent and use;

200 (c) acquire by condemnation or otherwise, within or without the corporate limits, property
201 necessary for the purposes in Subsections (1)(a) and (b), subject to restrictions imposed by statute
202 for the protection of other communities;

203 (d) grant local public utility franchises and regulate their exercise; and

204 (e) make local public improvements and acquire by condemnation or otherwise property
205 within their limits necessary for such improvements, and acquire an excess over that needed for
206 any such improvement and sell or lease such excess property with restrictions, in order to protect
207 and preserve the improvement.

208 (2) In addition to the authority provided in Subsection (1), cities and towns may:

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

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

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

215 **Article XI, Section 8. [Special service districts.]**

216 (1) The Legislature may by statute authorize:

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

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

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

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

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

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

236 **Article XI, Section 9. [Political subdivisions of the State in addition to counties, cities,**
237 **towns, school districts, and special service districts.]**

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

242 Section 12. It is proposed to enact Utah Constitution Article XI, Section 10, to read:

243 **Article XI, Section 10. [Consent of local authorities necessary for use of streets.]**

244 The Legislature may not grant the right to construct and operate a street railroad, telegraph,

245 telephone, or electric light plant within a city or town without the consent of the local authorities
 246 who have control of the street or highway proposed to be occupied for such purposes.

247 Section 13. It is proposed to repeal Utah Constitution Article XII, Section 8:

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

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

253 Section 14. It is proposed to amend Utah Constitution Article XIII, Section 5, to read:

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

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

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

265 Section 15. It is proposed to amend Utah Constitution Article XIII, Section 13, to read:

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

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

274 (1) the construction, improvement, repair and maintenance of city streets, county roads,
 275 and State highways, including but not restricted to payment for property taken for or damaged by

276 rights of way, and for administrative costs necessarily incurred for said purposes[-];

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

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

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

285 Section 16. It is proposed to amend Utah Constitution Article XIV, Section 3, to read:

286 **Article XIV, Section 3. [Debts of counties, cities, towns, school districts, special**
 287 **districts, and other political subdivisions, secured directly by property taxes, not to exceed**
 288 **revenue -- Exception.]**

289 No debt secured directly by property taxes may be created in excess of the taxes for the
 290 current year ~~[shall be created]~~ by any county ~~[or subdivision thereof, or by any school district~~
 291 ~~therein, or by any]~~, city, town ~~[or village]~~, school district, special district, or [any subdivision
 292 thereof in this] other political subdivision of the State[;] unless the proposition to create ~~[such]~~ the
 293 debt[; shall have] has been submitted to a vote of ~~[such]~~ qualified ~~[electors as shall have paid a~~
 294 ~~property tax therein, in the year preceding such election]~~ voters at the time and in the manner
 295 provided by statute, and a majority of those voting thereon ~~[shall have]~~ has voted in favor of
 296 incurring ~~[such]~~ the debt.

297 Section 17. It is proposed to repeal Utah Constitution Article XIV, Section 8:

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

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

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

305 ~~[(b) any county, city, or town to levy taxes upon the taxable property in such special~~
 306 ~~district for the purpose of acquiring, constructing, equipping, operating, and maintaining facilities~~

307 required for any or all of such services; and]

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

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

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

318 Section 18. **Submittal to electors.**

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

321 Section 19. **Effective date.**

322 If approved by a majority of the electors of the state voting at the next general election, the
323 amendment proposed by this joint resolution shall take effect on January 1, 2001.

Legislative Review Note
as of 1-6-99 11:58 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel