

**RESOLUTION URGING EXCLUSION OF
CERTAIN MEMBERS FROM SERVICE IN THE
2001 LEGISLATURE**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Glenn L. Way

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES RELATING TO LEGISLATIVE
SERVICE; EXPRESSING A LEGISLATIVE POLICY ABOUT EXCLUDING
LEGISLATORS-ELECT FROM THE FIFTY-FOURTH LEGISLATURE WHO HAVE
CERTAIN CONFLICTS OF INTEREST.

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, Utah's government is a republic, which is a representative form of
government;

WHEREAS, Utah's Legislature is the governmental institution that establishes a
representative form of government in Utah in its purest form;

WHEREAS, Utah's Legislature must have and continue to have the trust of the people in
order to effectively exercise its function within that representative form of government;

WHEREAS, some persons elected to the Utah Legislature are employed by executive
branch agencies of the state and state institutions of higher education;

WHEREAS, funding for all of those agencies and institutions is established and received
in whole or in part from the Utah Legislature;

WHEREAS, many members of the public believe that a direct and absolute conflict of
interest exists when persons employed by executive branch agencies of the state and state
institutions of higher education make decisions about the funding that their employers receive;

WHEREAS, that perceived conflict of interest brings the Utah Legislature into disrepute
and undermines the people's trust in the Legislature and in our representative form of government;

WHEREAS, Article V, Section 1 of Utah's constitution prohibits persons exercising the

powers of one department or branch of government from exercising the functions of another branch or department of government;

WHEREAS, it is the opinion of some constitutional scholars that Article V, Section 1 prohibits legislators from also serving in the executive branch of Utah state government;

WHEREAS, Article VI, Section 10 of Utah's Constitution vests each house of the Utah Legislature with the power to determine the election and qualification of its members; and

WHEREAS, the Utah Legislature may exercise that power by excluding, or refusing to seat, a member elected to the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the state of Utah that when the Fifty-fourth Legislature convenes and organizes on January 15, 2001, members of the Fifty-third Legislature that become members of the Fifty-fourth Legislature intend to make motions to exclude any person elected to the Utah Legislature who is employed by an executive branch agency of the state or of any state institution of higher education.

BE IT FURTHER RESOLVED that, if the motion passes, each legislator-elect who is employed by an executive branch agency of the state or employed by a state institution of higher education will not be sworn in and will not be seated or allowed to perform legislative business.

BE IT FURTHER RESOLVED that the Lieutenant Governor provide a copy of this resolution to each person who files a declaration of candidacy for a seat in the Utah House of Representatives for the Fifty-fourth Legislature beginning in January, 2001.

Legislative Review Note

as of 1-25-00 8:37 AM

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

Office of Legislative Research and General Counsel