

1 **AUTHORIZATION OF OPINION QUESTIONS**
2 **TO VOTERS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ed Mayne**

6 House Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill establishes processes for submitting a nonbinding opinion question to the
11 voters of Utah.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ establishes procedures for submitting a nonbinding opinion question to the voters of
- 15 Utah;
- 16 ▶ outlines duties of the lieutenant governor and election officials in submitting a
- 17 nonbinding opinion question to the voters;
- 18 ▶ establishes procedures for ballot form, manner of voting, and the canvass of returns
- 19 of a nonbinding opinion question; and
- 20 ▶ repeals Sections 36-16a-101 through 36-16a-108 on January 1, 2007.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill has an immediate effective date.

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **36-16a-101**, Utah Code Annotated 1953



28 **36-16a-102**, Utah Code Annotated 1953
 29 **36-16a-103**, Utah Code Annotated 1953
 30 **36-16a-104**, Utah Code Annotated 1953
 31 **36-16a-105**, Utah Code Annotated 1953
 32 **36-16a-106**, Utah Code Annotated 1953
 33 **36-16a-107**, Utah Code Annotated 1953
 34 **36-16a-108**, Utah Code Annotated 1953
 35 **63-55b-136**, Utah Code Annotated 1953

36

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **36-16a-101** is enacted to read:

39 **CHAPTER 16a. ELECTION PROCESS FOR STATEWIDE PUBLIC OPINION**

40 **36-16a-101. Definitions.**

41 As used in this chapter:

42 (1) "Election official" means the county clerk or municipal clerk.

43 (2) "Opinion question" means a nonbinding question submitted to all the legal voters of
 44 the state according to the procedures established in this chapter.

45 (3) "Originating house" means the Utah House of Representatives if the resolution is a
 46 House joint resolution or the Utah Senate if the resolution is a Senate joint resolution.

47 (4) "Regular general election" has the same meaning as provided under Section
 48 20A-1-102.

49 Section 2. Section **36-16a-102** is enacted to read:

50 **36-16a-102. Submission of opinion questions to Utah voters.**

51 (1) The Legislature may submit an opinion question to the legal voters of the state by
 52 passing a joint resolution meeting the requirements of this section.

53 (2) The joint resolution required under Subsection (1) shall include:

54 (a) the language of the opinion question as it will appear on the ballot;

55 (b) a statement directing that the lieutenant governor submit the language of the
 56 opinion question to the legal voters of the state for their approval or rejection; and

57 (c) language designating the regular general election date for the election.

58 (3) After passage by ~~§~~→ **two-thirds vote of** ←~~§~~ both houses of the Legislature, the
 58a originating house shall submit

59 the joint resolution to the lieutenant governor with instructions that the opinion question
60 specified in the joint resolution be submitted to the legal voters on the election date specified in
61 the resolution.

62 Section 3. Section **36-16a-103** is enacted to read:

63 **36-16a-103. Lieutenant governor's duties.**

64 (1) After receipt of a joint resolution on an opinion question that has been submitted
65 under Section 36-16a-102, the lieutenant governor shall:

66 (a) submit the opinion question to the legal voters of Utah as required by the
67 resolution;

68 (b) comply with the procedures of Section 36-16a-106; and

69 (c) except as provided in Section 36-16a-105, comply with all relevant provisions of
70 Title 20A, Election Code, relating to the conduct of general elections.

71 (2) The lieutenant governor may establish additional requirements for election officials
72 to facilitate the conduct of the election.

73 Section 4. Section **36-16a-104** is enacted to read:

74 **36-16a-104. Election official duties.**

75 Each election official shall comply with the requirements of Title 20A, Election Code,
76 relating to general elections, the requirements of Section 36-16a-106, and any other
77 requirement imposed by the lieutenant governor.

78 Section 5. Section **36-16a-105** is enacted to read:

79 **36-16a-105. Exemption.**

80 Title 20A, Chapter 7, Issues Submitted to the Voters, does not apply to an opinion
81 question submitted under the authority of this chapter.

82 Section 6. Section **36-16a-106** is enacted to read:

83 **36-16a-106. Procedures for submission of opinion questions to popular vote.**

84 (1) The lieutenant governor, the Office of Legislative Research and General Counsel,
85 and each election official shall comply with the procedures contained in this section whenever
86 the Legislature submits an opinion question under Section 36-16a-102.

87 (2) Not later than 60 days before the date of the election, the Office of Legislative
88 Research and General Counsel shall:

89 (a) designate each opinion question by number and order of presentation on the ballot;

90 (b) draft and designate a ballot title that summarizes the subject matter of each opinion
91 question; and

92 (c) deliver the materials created under Subsections (2)(a) and (b) to the lieutenant
93 governor.

94 (3) Not later than 35 days before the date of the election, the lieutenant governor shall
95 certify the number and ballot title of each opinion question to each election official.

96 (4) Not later than 30 days before the date of the election, the lieutenant governor shall
97 cause the full text of the opinion question to be published in at least one newspaper in every
98 county of the state where a newspaper is published.

99 (5) Each election official shall cause both the number and title of the opinion question
100 to be printed on the ballot to be used on election day, and on the sample ballots, and publish
101 them as provided by law.

102 Section 7. Section **36-16a-107** is enacted to read:

103 **36-16a-107. Ballot form -- Manner of voting.**

104 (1) The lieutenant governor shall ensure that a ballot containing an opinion question
105 includes:

106 (a) a printed number and ballot title;

107 (b) the printed text of the opinion question; and

108 (c) the words "YES" and "NO", each followed by a square which the voter may select
109 or mark to indicate his vote.

110 (2) (a) Voters desiring to vote "yes" on the opinion question shall select or mark the
111 appropriate square opposite the word "YES".

112 (b) Voters desiring to vote "no" on the opinion question shall select or mark the
113 appropriate square opposite the word "NO".

114 Section 8. Section **36-16a-108** is enacted to read:

115 **36-16a-108. Canvass of returns.**

116 (1) The county legislative body shall conduct a public canvass of the returns from the
117 opinion question election no later than 14 days after the election.

118 (2) Each election official shall:

119 (a) make a certified abstract of the record of the canvassers detailing the votes given for
120 and against the opinion question; and

121 (b) seal the transcript, endorse it "Election Returns," and transmit it to the lieutenant
122 governor's office so that the lieutenant governor receives it by the fifth day before the day
123 designated for the meeting of the state board of canvassers.

124 (3) The state board of canvassers established by Section 20A-4-306 shall meet to
125 compute and determine the vote on the opinion question.

126 (4) After consulting existing statutes governing elections, the lieutenant governor may
127 determine any issues relating to the canvassing process that are not governed by this section.

128 Section 9. Section **63-55b-136** is enacted to read:

129 **63-55b-136. Repeal dates -- Title 36.**

130 Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2007.

131 Section 10. **Effective date.**

132 If approved by two-thirds of all the members elected to each house, this bill takes effect
133 upon approval by the governor, or the day following the constitutional time limit of Utah
134 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
135 the date of veto override.

Legislative Review Note
as of 1-5-06 9:33 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Provisions of this bill can be enacted within existing budgets. It is unknown at this time how many of these opinion questions will be presented to the voters. It is estimated that publication and distribution costs to put each opinion question on the ballot will be \$11,500 from the General Fund.

Individual and Business Impact

No fiscal impact.