

**PROPOSAL TO AMEND UTAH CONSTITUTION -
JUDICIARY SELECTION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify provisions relating to the selection of judges of courts of record.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ modify the method of selecting judges of courts of record from appointment by the governor, from nominees certified by a nominating commission and subject to Senate approval, to nonpartisan election;
- ▶ eliminate the judicial retention election process; and
- ▶ provide for terms of judges of courts of record.

Special Clauses:

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

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VIII, SECTION 8

REPEALS:

ARTICLE VIII, SECTION 9



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

30 Section 1. It is proposed to amend Utah Constitution, Article VIII, Section 8, to read:

31 **Article VIII, Section 8. [Vacancies filled by nonpartisan election -- Terms of**
32 **office.]**

33 ~~[(1) When a vacancy occurs in a court of record, the governor shall fill the vacancy by~~
34 ~~appointment from a list of at least three nominees certified to the governor by the Judicial~~
35 ~~Nominating Commission having authority over the vacancy. The governor shall fill the~~
36 ~~vacancy within 30 days after receiving the list of nominees. If the governor fails to fill the~~
37 ~~vacancy within the time prescribed, the chief justice of the Supreme Court shall within 20 days~~
38 ~~make the appointment from the list of nominees.]~~

39 ~~[(2) The Legislature by statute shall provide for the nominating commissions'~~
40 ~~composition and procedures. No member of the Legislature may serve as a member of, nor~~
41 ~~may the Legislature appoint members to, any Judicial Nominating Commission.]~~

42 ~~[(3) The Senate shall consider and render a decision on each judicial appointment~~
43 ~~within 60 days of the date of appointment. If necessary, the Senate shall convene itself in~~
44 ~~extraordinary session for the purpose of considering judicial appointments. The appointment~~
45 ~~shall be effective upon approval of a majority of all members of the Senate. If the Senate fails~~
46 ~~to approve the appointment, the office shall be considered vacant and a new nominating~~
47 ~~process shall commence.]~~

48 ~~[(4) Selection of judges shall be based solely upon consideration of fitness for office~~
49 ~~without regard to any partisan political consideration.]~~

50 (1) A vacancy in a court of record shall be filled in a nonpartisan election, as provided
51 by statute.

52 (2) (a) The term of office of a Supreme Court justice is six years.

53 (b) The term of office of a judge of any other court of record is four years.

54 Section 2. It is proposed to repeal Utah Constitution Article VIII, Section 9:

55 **Article VIII, Section 9. [Judicial retention elections.]**

56 ~~[Each appointee to a court of record shall be subject to an unopposed retention election~~
57 ~~at the first general election held more than three years after appointment. Following initial~~
58 ~~voter approval, each Supreme Court justice every tenth year, and each judge of other courts of~~

59 ~~record every sixth year, shall be subject to an unopposed retention election at the corresponding~~
60 ~~general election. Judicial retention elections shall be held on a nonpartisan ballot in a manner~~
61 ~~provided by statute. If geographic divisions are provided for any court of record, the judges of~~
62 ~~those courts shall stand for retention election only in the geographic division to which they are~~
63 ~~selected.]~~

64 Section 3. **Submittal to voters.**

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

67 Section 4. **Contingent effective date.**

68 If the amendment proposed by this joint resolution is approved by a majority of those
69 voting on it at the next regular general election, the amendment shall take effect on January 1,
70 2021.