

Utah Voter Information Pamphlet

General Election November 8, 1988

COMPILED BY W. VAL OVESON, LIEUTENANT GOVERNOR

IN COOPERATION WITH THE UTAH STATE LEGISLATURE
ARNOLD CHRISTENSEN, PRESIDENT OF THE SENATE
GLEN E. BROWN, SPEAKER OF THE HOUSE

ANALYSIS BY RICHARD V. STRONG, DIRECTOR
OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL



STATE OF UTAH
Lieutenant Governor

W. Val Oveson
LIEUTENANT GOVERNOR

203 STATE CAPITOL BUILDING
SALT LAKE CITY, UTAH 84114

September 26, 1988

Dear Fellow Utahn:

On November 8, Utah voters will have the opportunity to vote on three initiatives as well as two proposed amendments to the Utah State Constitution. This Voter Information Pamphlet has been prepared to help you better understand these very important changes in our state's laws. The pamphlet contains arguments for and against each proposal, along with explanations and other information, which I believe will be of assistance to you in making your decisions how to vote.

The pamphlet also contains information on ballot-marking procedures, as well as registering to vote.

I urge you to study this pamphlet, along with other sources of information, so that when you go to the polls you will be able to make sound, intelligent and informed choices on these proposed changes.

Best wishes.

Sincerely,

W. VAL OVESON
Lieutenant Governor

TABLE OF CONTENTS

TITLE	PAGE
INSTRUCTIONS FOR READING THE TEXT OF THE PROPOSITIONS	5
PROPOSITION NO. 1 — BAIL AMENDMENT	
Ballot Title	7
Final Legislative Vote	7
Impartial Analysis	7
Arguments	8-9
Text	10
PROPOSITION NO. 2 — MISCELLANEOUS AMENDMENT	
Ballot Title	11
Final Legislative Vote	11
Impartial Analysis	11
Arguments	12-13
Text	14-15
INITIATIVE A — TAX AND SPENDING LIMITATIONS	
Ballot Title	16
Impartial Analysis	16-17
Arguments	18-19
Text	20-21
INITIATIVE B — TAX REDUCTIONS	
Ballot Title	22
Impartial Analysis	22-23
Arguments	24-25
Text	26-27
INITIATIVE C — INCOME TAX CREDIT FOR PRIVATE EDUCATION	
Ballot Title	28
Impartial Analysis	28-29
Arguments	30-31
Text	32
INSTRUCTIONS TO VOTERS	
(Beaver, Cache, Carbon, Davis, Salt Lake, Sanpete, Sevier, Summit, Uintah, Utah, Washington, and Weber counties)	34-35
INSTRUCTIONS TO VOTERS	
(All other counties)	36-38
LIEUTENANT GOVERNOR'S CERTIFICATION OF BALLOT ITEMS	inside back cover
HOW TO REGISTER TO VOTE	back cover

INSTRUCTIONS FOR READING THE TEXT OF THE PROPOSITIONS

NOTE: In reading the text of the propositions the following rules apply:

- (1) Underlined words and numbers represent new language being added to the constitution, or current language that is being moved from another section in the constitution.
- (2) Bracketed and lined-through words or numbers represent current language being deleted from the constitution, or current language that is being moved to another section in the constitution.
- (3) All other language is the current language in the constitution, which is retained without change.

Example: Sec. 8. (1) All ~~[prisoners]~~ persons charged with a crime shall be bailable ~~[by sufficient sureties,]~~ except ~~[for]~~:

(a) persons charged with a capital [offenses] offense when ~~[the proof is evident or the presumption strong or where a person is accused of the commission of]~~ there is substantial evidence to support the charge; or

Present Constitution: Sec. 8. All prisoners shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption strong or where a person is accused of the commission of . . .

Proposed Revision: Sec. 8. (1) All persons charged with a crime shall be bailable except:
(a) persons charged with a capital offense when there is substantial evidence to support the charge; or

For



Against



Proposition No. 1

BAIL AMENDMENT

Vote cast by the members of the 1988 Legislature on final passage:
HOUSE (75 members): Yeas, 63; Nays, 4; Absent or not voting, 8.
SENATE (29 members): Yeas, 26; Nays, 0; Absent or not voting, 3.

IMPARTIAL ANALYSIS

The state constitution presently allows judges to deny bail to persons who have been charged with:

(1) a capital offense; or

(2) a felony while on probation or parole or while free on bail awaiting trial.

Proposition 1 adds one more circumstance under which bail may be denied:

(3) persons who have been charged with a crime when there is clear and convincing evidence that the person would constitute a substantial danger to others or the community, or is likely to flee the court's jurisdiction if released on bail.

Proposition 1 also requires the Legislature to designate the specific crimes for which bail may be denied under this third condition. The Legislature has already passed legislation designating felonies as the only crimes for which bail may be denied. This legislation is not effective unless the voters approve Proposition 1.

Proposition 1 clarifies the constitutional bail language in two additional ways:

(1) It changes the phrase "accused of the commission" of a crime to "charged with" a crime. The second phrase is more commonly used.

Official Ballot Title:

Shall the Utah Constitution be amended to allow bail to be denied to persons charged with a serious crime if the person may be a danger to another person or to the community, or is likely to flee the court's jurisdiction if released; and to clarify language regarding necessary evidence to deny bail?

(2) It changes the phrase "when the proof is evident or the presumption strong" to "when there is substantial evidence." The second phrase is more commonly used and understood by the courts and attorneys.

Proposition 1 also adds to the state constitution the Legislature's current power to statutorily provide or deny bail for convicted persons. The current state constitution does not address the issue of bail for convicted persons awaiting an appeal. Current statute, however, allows judges to detain convicted persons if the person would constitute a danger to others or the community, or is likely to flee the court's jurisdiction if released.

Effective Date

Proposition 1 takes effect January 1, 1989. The implementing legislation takes effect on that same date if Proposition 1 is approved by the voters.

Fiscal Impact

There is no impact on state revenues but there may be some additional county jail costs of up to \$13,000 statewide.

Arguments For

The right to bail of criminally accused persons granted by the Utah Constitution goes far beyond the bail rights guaranteed by the U.S. Constitution. The current bail provision of the Utah Constitution guarantees bail to ALL prisoners except those charged with capital murder, parolees, and probationers. As a result, almost any prisoner charged with a crime has the constitutional right to bail in Utah regardless of the seriousness of the crime charged and without regard for the fact that the person may be a danger to the community if allowed to roam free. These provisions of the Utah Constitution are far more liberal than the bail rights guaranteed in the U.S. Constitution.

The Utah Constitution does not give judges the ability to deny bail when warranted. The present bail provisions of the Utah Constitution do not give Utah judges the discretion to deny bail for charges involving serious offenses such as second degree murder, criminal sexual abuse, rape, and other felonies. As a result, many dangerous persons charged with serious violent crimes are allowed to roam the streets of our cities.

Judges should be allowed to deny bail to persons who present a clear and present danger to the community. While the rights of criminal defendants are important and should continue to be considered, the general public and victims also have rights that must be protected. Persons who have been charged with serious crimes should not be allowed to continue to commit crimes against innocent victims while awaiting trial.

Judges should be allowed to deny bail to persons who are likely to flee the jurisdiction of the court. The Utah Constitution currently guarantees the right to bail for nearly all persons charged with a crime, even if those persons have shown in the past that they are likely to flee the jurisdiction of the court at the first opportunity. Judges should be given the discretion to deny bail in these cases in order to prevent circumvention of the criminal justice process.

In addition to the arguments stated, Proposition 1 would also:

1. Give judges the right to deny bail only if certain factors and criteria are present. Bail for most offenses would still be allowed.
2. Remove unreasonable restrictions on the discretion of judges by allowing bail to be set in Utah in a manner similar to that used by federal judges.

A vote for Proposition 1 is a vote for the victims of crime and for judicial restraint and efficiency in the criminal bail process.

Vote **FOR** Proposition 1!

Senator Winn L. Richards
5301 Old Post Road
Ogden, Utah 84403

Senator Darrell G. Renstrom
1145 East 1675 North
North Ogden, Utah 84404

Rebuttal to

Arguments For Proposition No. 1

Proponents of Proposition 1 beg the fundamental issues, and err in argument.

Right to bail in Utah does not go "far beyond the bail rights guaranteed by the U.S. Constitution." The Eighth Amendment simply states that "Excessive bail shall not be required, nor excessive fines imposed..." The Fourteenth Amendment applies this guarantee to the states, so that Utah, as well as Alabama, South Carolina, and Texas, must meet this minimum standard. States are free to give the accused more protection than the federal minimum. What is of concern here is the new language, not addressed in proponents' argument, as to how a "substantial evidence" standard affects our fundamental right to be free from incarceration while still presumed innocent.

Proponents appear to support a "police state" mentality where anyone the "authorities" deem "dangerous" can be locked up indefinitely in crowded, unwholesome, and often violent jails, away from their families. Often the decision to incarcerate lies more with the accused's non-conformity, poverty, appearance, or other arbitrary reason.

Let's not let our fundamental freedoms get diluted any more. Utah has too many problems with a backward image already, even though its existing constitution and appellate courts are probably of national envy. Let's not regress to the level of the pre-sixties American South.

A vote **AGAINST** Proposition 1 is a vote for liberty; for constitutional law; for our great republic; and most of all for the best Utah has to offer.

R. Clayton Huntsman, Attorney
2 West St. George Boulevard
Ancestor Square, Suite 31
St. George, Utah 84770

Arguments Against

The right to reasonable bail goes back to our revolution. The cavalier manner in which the British arrested and confined our people aroused such resentment that when we finally got free we said, "never again"—and confirmed the right to bail in the Eighth Amendment to our new constitution.

State v. Boyle defines bail's purpose: "to assure the presence of the **accused** at trial." Not "criminal," "guilty party," or "prisoner"—but "**accused.**" Our courts still try to maintain what is often forgotten: the **presumption of innocence.**

Louisiana recently tried to abridge the right to reasonable bail. The U.S. Supreme Court, in the landmark case of *Duncan v. Louisiana*, held that Louisiana's refusal to accept certain property pledged as bail was unlawful, "in bad faith and for purposes of harassment."

Every year someone tries to erode our fundamental freedoms. Police want to abridge our right to bear arms. The giant insurance companies would deny us access to the courts through "tort reform."

And now, in a topsy-turvy Alice-in-Wonderland scenario, some would have the punishment first and then trial for accused citizens, by denying bail.

Read the proposed bill carefully.

Consider Sec. 8(1)(a), where "substantial evidence" replaces "proof is evident or where the presumption strong."

What is "substantial evidence?" Words can be manipulated to mean whatever anyone — judge, dictator, general — wants them to mean. As another odd character from *Alice* said before his celebrated fall, "When I use a word, it means exactly what I want it to mean — no more and no less."

Humpty-Dumpty articulates a court's power to invent meaning capriciously: guilty is innocent, jail before trial — even while the accused is still **presumed innocent.** Why? This standard is not only vague, but is also less rigorous than "beyond a reasonable doubt."

What is "substantial evidence?" Possession of a hunting weapon? Being a passenger in a vehicle carrying improperly tagged deer or untaxed jewelry?

Also alarming is the prospect that one can be denied bail for any crime if the court also finds by "clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community or is likely to flee the jurisdiction if released on bail."

Adequately high bail already deters flight from the jurisdiction for most crimes. But should we all be at risk just to make it slightly more difficult for a suspect to flee? Should the possibility that the accused, when arrested, may have been in possession of a fishing knife, deer rifle, prescription pills, or other "evidence" of "destructive tendencies" toward others, be used as pretext to incarcerate in an overcrowded jail until trial, which may be next year or in ten years?

And with Utah's financial resources dwindling along with our constitutional rights, can we really **afford** increased pre-trial detention?

Don't let the state further erode your fundamental rights, and increase your tax burden.

Vote **AGAINST** Proposition 1!

R. Clayton Huntsman, Attorney
2 West St. George Boulevard
Ancestor Square, Suite 31
St. George, Utah 84770

Rebuttal to

Arguments Against Proposition No. 1

Proposition 1 protects the rights of victims! While we should all be concerned with preserving the right to bail of accused persons, we must also protect the rights of victims. Certainly a victim of violent crime, who is scheduled to be a witness in an upcoming trial, deserves the right to be free from fear and intimidation. Mandatory bail for the accused often results in the infringement of this right. Also, what is "reasonable" bail for one person may not be "reasonable" for another. To prevent an accused from fleeing the court's jurisdiction, one **thousand** dollars may be unreasonably high for someone whose total resources are the clothes on his back. But one **million** dollars may not be high enough for a person involved in drugs or organized crime.

Proposition 1 revises the Utah Constitution to bring it in line with bail practices allowed under federal law. Under federal law, judges can deny bail for accused persons who are dangerous. Proposition 1 simply gives Utah judges the same power.

Proposition 1 provides clear standards of evidence that do not infringe upon the presumption of innocence. Under Proposition 1, in order to deny bail a judge must find "substantial evidence" to support the charge and "clear and convincing evidence" that the accused is dangerous. These are much more clear standards than the present "proof is evident or presumption strong" standard. Also, by requiring both standards to be present, the presumption of innocence is protected.

Vote **FOR** Proposition 1!

Senator Winn L. Richards
5301 Old Post Road
Ogden, Utah 84408

Senator Darrell G. Renstrom
1145 East 1675 North
North Ogden, Utah 84404

**COMPLETE TEXT OF PROPOSITION NO. 1
BAIL AMENDMENT**

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; RELATING TO BAIL; SUBSTITUTING THIS RESOLUTION FOR A RESOLUTION PASSED AT THE 1988 GENERAL SESSION OF THE 47TH LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION REPEALS AND WITHDRAWS ENROLLED COPY S.J.R. NO. 3 PASSED AT THE 1988 GENERAL SESSION OF THE 47TH LEGISLATURE AND REPLACES IT WITH THIS RESOLUTION, AND PROPOSES TO CHANGE THE UTAH CONSTITUTION AS FOLLOWS:

AMENDS: ARTICLE I, SEC. 8

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

Section 1. It is proposed to amend Article I, Sec. 8, Utah Constitution, to read:

Sec. 8. (1) All [prisoners] persons charged with a crime shall be ballable [by sufficient sureties;] except [for]:

(a) persons charged with a capital [offenses] offense when [the proof is evident or the presumption strong or where a person is accused of the commission of] there is substantial evidence to support the charge; or

(b) persons charged with a felony while on probation or parole, or while free on bail awaiting trial on a previous felony charge, [and where the proof is evident or the presumption strong] when there is substantial evidence to support the new felony charge; or

(c) persons charged with any other crime, designated by statute as one for which bail may be denied, if there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community or is likely to flee the jurisdiction of the court if released on bail.

(2) Persons convicted of a crime are ballable pending appeal only as prescribed by law.

Section 2. Enrolled copy S.J.R. No. 3 passed at the 1988 General Session of the 47th Legislature is repealed and withdrawn in its entirety from the next general election.

Section 3. The lieutenant governor is directed to submit in lieu thereof this proposed amendment to the electors of the state of Utah at the next general election in the manner provided by law.

Section 4. If approved by the electors of the state the amendment proposed by this joint resolution shall take effect on January 1, 1989.

For



Against



Proposition No. 2

MISCELLANEOUS AMENDMENT

Vote cast by the members of the 1988 Legislature on final passage:
HOUSE (75 members): Yeas, 74; Nays, 1; Absent or not voting, 0.
SENATE (29 members): Yeas, 26; Nays, 0; Absent or not voting, 3.

Official Ballot Title:

Shall the Utah Constitution be amended to:

(1) clarify the Legislature's duty to reapportion the state after each United States census into congressional, legislative, and other districts, and clarify the number of senators and representatives;

(2) clarify an exemption from a forced sale of property; and

(3) delete provisions relating to the transfer of property owned by the Utah Territory at statehood, the location of the State Fair, and specific reference to certain public institutions?

IMPARTIAL ANALYSIS

The provisions of Proposition 2 can be divided into three categories:

1. Apportionment and Legislative Districts —

a. **Apportionment** — The present Utah Constitution provides for reapportionment of congressional districts after each apportionment made by Congress and for reapportionment of legislative districts after each United States census. No mention is made of reapportioning state school board districts, but this is done at the same time as other reapportionment. Proposition 2 clearly establishes the authority of the Legislature to divide the state into congressional, legislative, and state school board districts after each United States census.

The present Utah Constitution also requires the state to conduct a state census every tenth year beginning in 1905. This state census has never been done. Instead, Utah has always relied on the United States census figures to conduct its reapportionment. Proposition 2 eliminates this requirement of a state census.

b. **Legislature** — The present Utah Constitution provides that the minimum number of state senators shall be 18 and the minimum number of state representatives shall be 45. It allows the number of senators to be increased to 30 and allows the number of representatives to be increased, but the number of representatives can never be less than twice nor greater than three times the number of senators. There are currently 29 senators and 75 representatives. Proposition 2 limits the number of senators to 29 and retains the provision that the number of representatives can never be less than twice nor greater than three times the number of senators.

In 1964, two sections of the Utah Constitution dealing with legislative districts were held invalid under the United States Constitution. Proposition 2 eliminates these sections.

2. Homestead Exemption from Forced Sale of Property —

The present Utah Constitution provides for a \$1500 minimum exemption of a "homestead" from the forced sale of property. A forced sale of property usually occurs as the result of bankruptcy. A homestead generally consists of a home and improvements to it. Proposition 2 retains the homestead exemption but eliminates the specific \$1500 minimum amount. The Legislature has presently set the exemption at \$8000. Passage of Proposition 2 will not change this amount.

3. **Other Changes** — The present Utah Constitution requires that the state capital and the state fair be located in Salt Lake City. It provides for the transfer of territorial property and institutions to the state upon statehood. It also provides for the support and maintenance of several institutions, including reformatory and penal institutions and those for the insane, blind, deaf, and dumb. All of these institutions are currently provided for by statute. Utah's Enabling Act, the federal law that made Utah a state, also requires the maintenance of these institutions. Proposition 2 eliminates all of this language except the requirement that Salt Lake City is the state capital.

Effective Date

January 1, 1989

Fiscal Impact

None

Arguments For

Proposition 2 simply puts current apportionment practice into the constitution. The apportionment article has not been changed since it was written in 1895. It contains archaic language and practices. For example, the present constitution requires the Legislature to provide for a statewide census every ten years. The state has never conducted such a census, relying instead on the census conducted by the United States government. Also, the present constitution requires that after each census the Legislature must divide the state into new congressional and legislative districts but says nothing about reapportioning the state school board districts, which it has always done. Proposition 2 simply updates our constitution to conform with present practice.

Proposition 2 removes unconstitutional language from the state's constitution and reduces the potential size of the Legislature. The United States Supreme Court has held that legislative districts within a state must contain substantially the same number of people to ensure that every person's vote has substantially equal influence. Under this rule, two provisions of the Utah Constitution were held unconstitutional in 1964. Proposition 2 simply eliminates this unconstitutional language. It also reduces the potential size of the Legislature by reducing the number of senators from thirty to twenty-nine. Because the House membership can never be more than three times the number of senators, the potential number of legislators is reduced by four persons, three in the House and one in the Senate. This in turn reduces potential costs to the taxpayer.

Proposition 2 eliminates an inflexible dollar amount regarding the traditional homestead exemption. The Utah Constitution has always provided for a homestead exemption from judicial or forced sale. The amount exempted in the constitution is \$1500, yet today statute provides a homestead exemption of \$8000! Retaining the old dollar amount restricts the flexibility of the Legislature to deal with this issue on a timely basis. Proposition 2 simply eliminates the dollar amount from the constitution but retains the exemption.

Proposition 2 provides clear, simple constitutional language. Proposition 2 eliminates unclear and unnecessary language from the Utah Constitution. For example, it now requires that the State Fair be located in Salt Lake City. Perhaps it should be in Salt Lake City, but why say so in the constitution? This and other matters should be determined by law, not the constitution. Proposition 2 simply eliminates such outdated language.

A vote for Proposition 2 is a vote for better constitutional law. The Legislature voted almost unanimously to approve this proposition. It is also the recommendation of the Utah Constitutional Revision Commission, a body whose ongoing charge is to modernize and streamline the Utah Constitution and remove archaic provisions. With reapportionment occurring again in 1991, now is the time to clean up the language to facilitate the reapportionment process and to get rid of unconstitutional and unnecessary provisions.

Vote **FOR** Proposition 2!

Senator Lyle W. Hillyard
175 East 100 North
Logan, Utah 84321

Representative Ted D. Lewis
4505 South Wasatch Drive, Suite 310
Salt Lake City, Utah 84124

Rebuttal to

Arguments For Proposition No. 2

Proposition 2 deals too simply with apportionment. The apportionment proposal needs to have its brief statement further defined as presented in the second paragraph of the arguments against Proposition 2.

In Proposition 2, the proposals relative to some better language, the Legislature's size, and the homestead exemption are good, but not urgent, thus can wait for improvements in other provisions. Those needed improvements, in addition to further defining apportionment, include retaining portions (1) which regarding state property are historically relevant, (2) which delineate certain state responsibilities as the public good may require, and (3) which make for better organization of constitutional topics.

Without the overcorrections presented in Proposition 2, there would be even better constitutional law. Also, though talented officials support Proposition 2, the people must weigh ideas in making their decision. The ideas in the arguments against Proposition 2 are sufficient reasons to oppose it as written at this time.

There's enough time to delay changes relative to apportionment. Apportionment is important, but waiting until 1990 to approve an even better provision would still make the Utah Constitution ready for the 1991 reapportionment.

Vote **AGAINST** Proposition 2.

Marjorie Childs
342 Camaren Drive
Brigham City, Utah 84302

Arguments Against

Voters should reject Proposition 2, because certain improvements need to be made in it before consent is given for this amending of the Utah Constitution. The following arguments deal with those portions of Proposition 2 which provide reasons to oppose it at this time.

The brief proposal for Article IX, Section 1 is inadequate.

Instead of as proposed, that section needs to have a statement of the state's responsibility in the election of members of the United States House of Representatives and Senate in keeping with federal law. The section should refer to new apportionments by Congress, as well as to the United States enumeration (census) in setting forth the Legislature's duty in dividing the state accordingly. It should specify that the "districts" referred to are districts having to do with elections. It would also be a protection of fair division to specify that each is to be one whole parcel, not made up of separated parcels.

For historical sense, Article XIX, Section 1 should not be eliminated. That section ought to be retained for its historical record of part of the transition from territory to state which is of on-going consequence, not action to be reversed by repeal of the section.

The responsibility indicated in Article XIX, Section 2 should not be repealed. The part of that section beginning with "institutions" and continuing on through to the end of the section ought to be retained as a statement of state responsibility.

Appropriate parts of Article XIX, Section 3 should be retained. The last two paragraphs of that section should remain with some modification. Use the wording change: "The seat of state government shall be at Salt Lake City;" but keep it in Article XIX, Section 3 where it is appropriate, rather than moving it to become one of the miscellaneous items in Article XXII. Additionally, the last paragraph of Article XIX, Section 3 ought to be (with needed grammatical changes) retained in keeping with the statement of responsibility in Section 2 of the article.

Voters should note that the other portions of Proposition 2 are desirable, but can wait for the above improvements before being approved. Those desirable parts of Proposition 2 are not urgent because they are a matter of eliminating passe and/or ineffectual wording or deal with changes that are not of pressing need. Therefore, those revisions and the improvements suggested above can be proposed by the upcoming Legislature and approved by the voters at the next general election two years from now.

Vote "AGAINST" Proposition 2!

Marjorie Childs
342 Camaren Drive
Brigham City, Utah 84302

Rebuttal to

Arguments Against Proposition No. 2

Proposition 2 revises the Utah Constitution to bring it in line with current reapportionment practices. Proposition 2 provides the Legislature with the clear authority to reapportion congressional, legislative, and state school board districts. With a new census coming up in 1990, this authority is essential. It should not be cluttered by specific requirements for the number of congressmen to be elected, an unnecessary state census, and the shape and size of districts. All of these are already provided for by the U.S. Constitution and the U.S. Supreme Court. They need not be restated in the Utah Constitution.

Proposition 2 eliminates unnecessary language. Utah's constitution, like most state constitutions written in the late 19th century, contains a lot of detail about the day-to-day operations of government. The U.S. Constitution, on the other hand, is brief and contains very little detail. Yet it still provides us with the basic framework of government. Following that model, the constitutions of the original thirteen states are also relatively brief, as are those of recently-admitted states such as Alaska and Hawaii. Where possible, Utah's constitution should also minimize the detail and provide for the flexibility to run the day-to-day operations of government. Proposition 2 simply eliminates much of the unnecessary detail from the Utah Constitution.

Vote "FOR" Proposition 2!

Senator Lyle W. Hillyard
175 East 100 North
Logan, Utah 84321

Representative Ted D. Lewis
4505 South Wasatch Drive, Suite 310
Salt Lake City, Utah 84124

**COMPLETE TEXT OF PROPOSITION NO. 2
MISCELLANEOUS AMENDMENT**

A JOINT RESOLUTION OF THE LEGISLATURE PROPOSING TO AMEND THE UTAH CONSTITUTION; PROVIDING MISCELLANEOUS TECHNICAL AND "CLEANUP" CHANGES; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION PROPOSES TO CHANGE THE UTAH CONSTITUTION AS FOLLOWS:

AMENDS: ARTICLE IX, Sec. 1; ARTICLE XXII, SEC. 1

ENACTS: ARTICLE XXII, SEC. 3

RENUMBERS AND AMENDS: ARTICLE IX, SEC. 3 TO SEC. 2

REPEALS: ARTICLE IX, SEC. 2; ARTICLE IX, SEC. 4; ARTICLE XIX, SEC. 1; ARTICLE XIX, SEC. 2; ARTICLE XIX, SEC. 3

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

Section 1. It is proposed to amend Article IX, Sec. 1, Utah Constitution, to read:

Sec. 2. [~~One Representative in the Congress of the United States shall be elected from the State at large on the Tuesday next after the first Monday in November, A.D. 1895, and thereafter at such times and places; and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress;~~] At the session next following an enumeration made by the authority of the United States, the Legislature shall divide the state into congressional, legislative, and other districts accordingly.

Section 2. It is proposed to renumber Article IX, Sec. 3 to Article IX, Sec. 2, Utah Constitution, and amend, as renumbered, to read:

Sec. [~~3~~] 2. The Senate shall consist of [~~eighteen members, and the House of Representatives of forty-five members. The Legislature may increase the number of senators and representatives; but the senators shall never~~] a membership not to exceed [thirty] twenty-nine in number, and the number of representatives shall never be less than twice nor greater than three times the number of senators.

Section 3. It is proposed to amend Article XXII, Sec. 1, Utah Constitution, to read:

Sec. 1. The Legislature shall provide by [~~law;~~] statute for [~~the selection by each head of a family;~~] an exemption of a homestead, which may consist of one or more parcels of lands, together with the appurtenances and improvements thereon [~~of the value of at least fifteen hundred dollars~~], from sale on execution.

Section 4. It is proposed to enact Article XXII, Sec. 3, Utah Constitution, to read:

Sec. 3. The seat of state government shall be at Salt Lake City.

Section 5. It is proposed to repeal Article IX, Sec. 2, Article IX, Sec. 4, Article XIX, Sec. 1, Article XIX, Sec. 2 and Article XIX, Sec. 3, Utah Constitution.

Section 6. The lieutenant governor is directed to submit this proposed amendment to the electors of the state of Utah at the next general election in the manner provided by law.

Section 7. If approved by the electors of the state, the amendment proposed by this joint resolution shall take effect on January 1, 1989.

LANGUAGE REPEALED IN SECTION 5 OF PROPOSITION 2:

Article IX, Sec. 2. The Legislature shall provide by law for an enumeration of the inhabitants of the State, A.D. 1905, and every tenth year thereafter, and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives on the basis of such enumeration according to ratios to be fixed by law.

Article IX, Sec. 4. When more than one county shall constitute a senatorial district, such counties shall be contiguous, and no county shall be divided in the formation of such districts unless such county contains sufficient population within itself to form two or more districts, nor shall a part of any county be united with any other county in forming any district.

REPRESENTATIVE DISTRICTS

Until otherwise provided by law, representatives shall be apportioned among the several counties of the State as follows: Provided, That in any future apportionment made by the Legislature, each county shall be entitled to at least one representative.

The County of Box Elder shall constitute the First Representative District, and be entitled to one representative.

The County of Cache shall constitute the Second Representative District, and be entitled to three representatives.

The County of Rich shall constitute the Third Representative District, and be entitled to one representative.

The County of Weber shall constitute the Fourth Representative District, and be entitled to four representatives.

The County of Morgan shall constitute the Fifth Representative District, and be entitled to one representative.

The County of Davis shall constitute the Sixth Representative District, and be entitled to one representative.

The County of Tooele shall constitute the Seventh Representative District, and be entitled to one representative.

The County of Salt Lake shall constitute the Eighth Representative District, and be entitled to ten representatives.

The County of Summit shall constitute the Ninth Representative District, and be entitled to one representative.

The County of Wasatch shall constitute the Tenth Representative District, and be entitled to one representative.

The County of Utah shall constitute the Eleventh Representative District, and be entitled to four representatives.

The County of Uintah shall constitute the Twelfth Representative District, and be entitled to one representative.

The County of Juab shall constitute the Thirteenth Representative District, and be entitled to one representative.

The County of San Pete shall constitute the Fourteenth Representative District, and be entitled to two representatives.

The County of Carbon shall constitute the Fifteenth Representative District, and be entitled to one representative.

The County of Emery shall constitute the Sixteenth Representative District, and be entitled to one representative.

The County of Grand shall constitute the Seventeenth Representative District, and be entitled to one representative.

The County of Sevier shall constitute the Eighteenth Representative District, and be entitled to one representative.

The County of Millard shall constitute the Nineteenth Representative District, and be entitled to one representative.

The County of Beaver shall constitute the Twentieth Representative District, and be entitled to one representative.

The County of Piute shall constitute the Twenty-first Representative District, and be entitled to one representative.

The County of Wayne shall constitute the Twenty-second Representative District, and be entitled to one representative.

The County of Garfield shall constitute the Twenty-third Representative District, and be entitled to one representative.

The County of Iron shall constitute the Twenty-fourth Representative District, and be entitled to one representative.

The County of Washington shall constitute the Twenty-fifth Representative District, and be entitled to one representative.

The County of Kane shall constitute the Twenty-sixth Representative District, and be entitled to one representative.

The County of San Juan shall constitute the Twenty-seventh Representative District, and be entitled to one representative.

SENATORIAL DISTRICTS

Until otherwise provided by law, the Senatorial Districts shall be constituted and numbered as follows:

The Counties of Box Elder and Tooele shall constitute the First District, and be entitled to one senator.

The County of Cache shall constitute the Second District, and be entitled to one senator.

The Counties of Rich, Morgan, and Davis shall constitute the Third District, and be entitled to one senator.

The County of Weber shall constitute the Fourth District, and be entitled to two senators.

The Counties of Summit and Wasatch shall constitute the Fifth District, and be entitled to one senator.

The County of Salt Lake shall constitute the Sixth District, and be entitled to five senators.

The County of Utah shall constitute the Seventh District, and be entitled to two senators.

The Counties of Juab and Millard shall constitute the Eighth District, and be entitled to one senator.

The County of San Pete shall constitute the Ninth District, and be entitled to one senator.

The Counties of Sevier, Wayne, Piute, and Garfield shall constitute the Tenth District, and be entitled to one senator.

The Counties of Beaver, Iron, Washington, and Kane shall constitute the Eleventh District, and be entitled to one senator.

The Counties of Emery, Carbon, Uintah, Grand, and San Juan shall constitute the Twelfth District, and be entitled to one senator.

Article XIX, Sec. 1. All Institutions and other property of the Territory, upon the adoption of this Constitution, shall become the Institutions and property of the State of Utah.

Article XIX, Sec. 2. Reformatory and Penal Institutions, and those for the benefit of the Insane, Blind, Deaf and Dumb, and such other institutions as the public good may require, shall be established and supported by the State in such manner, and under such boards of control as may be prescribed by law.

Article XIX, Sec. 3. The Public Institutions of the State are hereby permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the Act of Congress approved July 16, 1894, to be disposed of and used in such manner as the legislature may provide:

First: The Seat of Government and the State Fair at Salt Lake City.

Second: All other institutions of the State to be located at such places as the legislature may provide except as otherwise specifically set forth in this constitution.

For



Against



Initiative

A

TAX AND SPENDING LIMITATIONS

Official Ballot Title:

Shall a law be enacted to:

- (1) implement limitations on growth in:
 - (a) state government appropriations to 85% of the difference between the total personal income of the current year and the prior year, and
 - (b) local government revenues to 90% of the increase in state per capita income plus the growth rate of population of the local government unit;
- (2) limit, except for legally-incurred debt:
 - (a) residential property taxes to 3/4 of 1% of fair market value, and
 - (b) non-residential property taxes to 1% of fair market value; and
- (3) require voter approval of local government proposals for new taxes or increases in non-property taxes?

IMPARTIAL ANALYSIS

Initiative A proposes three different tax and spending limitations on state and local governments. They are:

1. Spending limitation on state government and revenue limitation on local government —

These limitations already exist in law. Initiative A implements them using personal income and population estimates adopted by the Department of Employment Security. Under the limitation, state spending may not increase by more than 85% of the growth in personal income from year to year. Local government revenues may not increase by more than 90% of the growth in state per capita income plus the growth rate of population of the local government unit.

Fiscal Impact

Until personal income and population estimates are adopted by the Department of Employment Security, the impact of the spending and revenue limitations cannot be estimated. The limitation could significantly restrict some local budgets.

2. Limitations on property taxes —

a. Limitations under current law

Property tax is used to provide a variety of services to taxpayers. These include police, fire, paramedic, education, health, water, sewer, and garbage collection.

Property tax limitations already exist. They are based on the property's fair market value, services provided, and public notification and hearings on proposed tax increases.

(i) There are a variety of types of property, like business property, personal property, and homes. Each has a "fair market value." Fair market value is what a willing buyer would pay a willing seller. This fair market value is the full value of the property for some classes of property. However, the fair market value for homes and small businesses includes a 20% reduction from full value for intangible assets (like real estate fees, water hookups, etc.). Most residential property receives an additional 25% reduction in value as a residential exemption. This means cars are taxed on their full value but homes are taxed on a smaller percentage of their full value.

(ii) There is a specific limit on the tax that can be imposed for every service provided.

(iii) If there is any proposed increase in the property tax, taxpayers must be notified, and a public hearing held.

b. Limitations proposed under Initiative A

Initiative A limits property taxes regardless of the amount and type of services received. For all property, except residential property, Initiative A limits the property tax to 1% of the fair market value of the property. For residential property, the tax limit would be 3/4 of 1% of fair market value. However, these limitations do not include taxes used to pay:

- (i) existing debt; or
- (ii) debt approved at a general election.

c. Legal issues

Initiative A limitations are based on "fair market value . . . as defined in Section 59-2-103" of the Utah Code. However, that section does not define fair market value. It establishes the 25% residential exemption.

Fair market value is actually defined in Section 59-2-102. That section includes the 20% reduction for intangible assets from the full value of homes and small businesses. Using this correct definition of fair market value, Initiative A means:

(i) the tax on a typical small business property would be limited to 1% of 80% of the property's full value;

(ii) the tax on residential property would be limited to 3/4 of 1% of 80% of full value; and

(iii) the tax on other property would be limited to 1% of full value.

There are other interpretations of the meaning of the limitation. Any of these alternatives would require a special session of the Legislature to address problems with them. For example, one interpretation would not recognize the 20% reduction for intangible assets on homes and small businesses. It would limit the tax on all non-residential property to 1% of full value and the tax on residential property to 3/4 of 1% of full value. This means the tax reduction would be much smaller for homes and small businesses than for large businesses and personal property.

Another part of Initiative A requires tax cuts to be divided among programs "as provided by law." Since no such law currently exists, the Legislature or local governments, or both, would by law have to decide how budgets are cut.

Fiscal Impact

In 1987, \$724 million of property taxes were levied. Initiative A limitations would initially lower this amount to \$470 million. This is a gross reduction of revenue for education and local governments of \$254 million, but with the following adjustments:

(1) The Utah Constitution requires that property be taxed at a uniform and equal rate. This will add at least \$20 million to the loss in revenue, according to the State Tax Commission.

(2) Initiative A exempts from the limitation all taxes established to pay interest and principal on debt. Based on different interpretations of the meaning of debt, the amount of debt exempt from the limitation varies between \$90 - \$144 million. This must be subtracted from the gross reduction in revenues.

Given these and other complications, an accurate projection of revenue loss cannot be made unless Initiative A passes and final decisions are made on: (1) the impact of the uniform and equal rate of taxation principle; and (2) the kind of debt exempt from the limitation. Even then, the revenue loss will change yearly because of increases and decreases in fair market value of property, payments on debt, and the application of the uniform tax rate principle.

3. Requirement that new taxes or increases in non-property taxes for local government be approved by voters —

Local governments have only that taxing power given to them by the Legislature. For example, the Legislature allows the business franchise tax and the local option sales tax to be charged. Initiative A would prohibit local governments from imposing any new tax, or increasing an existing tax, without approval of the voters. These taxes could be voted on at special elections. Debt could only be approved at general elections.

Fiscal Impact

The cost of an election on tax proposals depends on the size of the government holding the election. For example, the current cost of an election in Salt Lake City is about \$90,000.

Effective Date

Initiative A would take effect five days after the date of the official proclamation of the vote by the governor.

Arguments For

1. **Utahns will finally be protected from unreasonable property taxes which threaten our homes and businesses.** Passage of this initiative will ensure that property taxes will be reduced by about \$80 million or 1.5% of total state and local spending as reported by the U.S. Department of Commerce. Property taxes will then be prevented from increasing beyond 3/4 of 1% of the value of a home and 1% of the value of a business. The cuts will be equally shared among all types of property.

2. **Future local tax increases and new taxes cannot be adopted without voter approval.** This puts the power back into the hands of the people, where it belongs. The tax collector will no longer be able to ignore the wishes of a majority of the voters.

3. **Bonding by local governments must be decided by voters at regularly scheduled general elections if bond payments are to be exempt from the limitation.** No longer will bond elections be slipped past the public at low-turnout special elections held at odd times during the year. Since bonding represents future tax obligations, voters have a right to decide the merits of each bond proposal during a high-profile election.

4. **State and local taxes and spending will be prohibited from growing faster than our economy.** This is the tax limitation law enacted by the Legislature ten years ago which was never implemented. Government will be able to increase its budget only as our population and personal income increases. During the last ten years, state and local taxes in Utah have grown 196%, while population has increased only 30% and per capita personal income has increased only 99%. This "tax and spend mentality" has contributed to Utah's present economic crisis and threatens the very future of our state unless Initiative A is adopted in November.

Initiative A has been carefully written over a four-year period after studying the tax limitation measures passed in other states and after considering the needs of Utah's governments, schools, and taxpayers. The measure is considered by many experts to be the most reasonable, yet comprehensive tax limitation initiative ever to be voted on anywhere in the nation.

If this initiative passes, we can expect to see economic growth and a renewed hope in the future of the state and our ability to hold on to our homes and businesses. State and local government will once again be responsive to the will of the people.

If the initiative fails to receive voter approval, we can expect to see a flood of tax increases at the state and local level and a continuation of the exodus of families and businesses from our state. Utah may well become a "ghost town" state with the remaining Utahns paying the high cost of educating our young people, only to send them to other states to find employment.

**VOTE FOR THE FUTURE OF UTAH
VOTE "FOR" INITIATIVE A**

Jack A. Olson
Utah Taxpayers Association
1578 West 1700 South
Salt Lake City, Utah 84104

Rebuttal to

Arguments For Initiative A

Supporters claim Initiative A "will ensure property taxes will be reduced by about \$80 million." Supporters are entitled to their opinion, but not to create their own facts. Actual facts show that, as written, Initiative A will cost at least twice that much under current law. This amount has been verified by the Tax Commission and the Utah Foundation, a private, non-profit corporation.

Initiative A would force average cuts in local government budgets of at least 15%, and cuts of over 25% for some counties and school districts. This impact is far greater than stated by initiative supporters. They now say that a mistake was made in the petition. They didn't mean to cut funding for education and local services so deeply. The Legislature, they claim, can change the petition so taxes will be cut less. Voters must understand that the supporters' proposed change means much smaller tax reductions for homes and small businesses. Their interpretation of Initiative A ignores a law I sponsored that now gives a benefit to homeowners and small businesses. Under their interpretation, only large businesses would really see significantly lower taxes on real property.

Initiative A gives voters a choice: drastic budget cuts far larger than those claimed by initiative supporters; or tax cuts for large businesses that generally oppose the initiative anyway. Initiative A hasn't been well thought out, would be difficult if not impossible to administer, and goes too far!

Vote AGAINST Initiative A!

Representative Franklin W. Knowlton
Chairman, Appropriations Committee
Box 426
Layton, Utah 84041

Arguments Against

Initiative A forces cuts in police, fire protection, and road repair!

Your property taxes pay for local services **you need**: police, paramedics, firefighters, roads, libraries, garbage collection, sewer, and water. By eliminating \$184 million from the money available for these essential services, Initiative A **forces** drastic cuts in these essential services. **You will feel those cuts!**

Initiative A cripples education!

Besides the essential services already mentioned, over half of the money raised by the property tax is used for education. If you cut the property tax, as Initiative A would, **you cut the money that goes to education**. Utahns believe in good education, but Initiative A makes deep cuts in education funding!

If Initiative A passes, school districts will have to eliminate some classroom teachers. It will increase classroom size and school fees. It could reduce the length of the school year and funding for kindergarten and busing. **If Initiative A passes, Utah's children will suffer!**

Utah voters have already rejected a similar proposal!

In 1980, Utah voters rejected Initiative B, the Tax Limitation Act, which limited property taxes to 1% of the property's value. They knew it would have led to unacceptable cuts in local services and education. Initiative A cuts **even more deeply**—residential property taxes would be limited to $\frac{3}{4}$ of 1%.

Initiative A will actually encourage debt!

By excluding debt from the tax limitation, Initiative A encourages borrowing! Schools and local governments will lose money if Initiative A passes. They may have to borrow money to pay for basic, ongoing services. As any consumer knows, using borrowing money for everyday expenses is bad business!

Initiative A will lead to higher bills for you!

Because it limits taxes, Initiative A forces schools and local governments to use fees to pay for basic services. You now pay fees in the form of school fees, and water, sewer, and garbage bills. If Initiative A passes, fees will increase. The increase could actually cost you more than taxes. You would certainly have to pay more for water, sewer, libraries, and garbage service. Parks, fishing, and hunting would undoubtedly cost more, too.

Initiative A will reduce your control of property taxes and government!

The power to tax is the power to govern. The property tax system responds to **local** concerns because it is a **local** tax. Initiative A does not say which programs school districts and local governments must cut. So, the **state** will have to settle local conflicts over how cuts should be made. If that happens, the decision of how property taxes are used will be taken from government that is closest to the people. **Initiative A takes power away from you!** And further — an **unelected** Department of Employment Security, instead of **your** elected officials, will determine the size of local government budgets.

The choice is clear — we want a quality future for Utah. To do that we must continue providing a high quality of local services and education for ourselves and our children.

VOTE AGAINST INITIATIVE A!

Representative Franklin W. Knowlton
Chairman, Appropriations Committee
Box 426
Layton, Utah 84041

Rebuttal to

Arguments Against Initiative A

The scare tactics used by opponents are the same ones used in numerous states where tax limitation has been adopted. The ridiculous claims of cuts in essential services and the overused exclamation marks insult the intelligence of Utah voters. Opponents make absurd claims instead of proposing to cut administration, consolidate services, eliminate duplication, and privatize government agencies.

This initiative does **not** encourage debt; voters must approve future debt. Bonding will **not** be used for day-to-day operations; this is unconstitutional. It does **not** give Employment Security budgetary powers; they merely provide the economic figures to activate the spending limitation.

Initiative A is only a statutory change; it is **not** a change to the constitution. If horror stories happen, **the Legislature can amend the limitation by a simple majority vote at any time.**

Proposition #13 cut California property taxes by 56%. Utah's initiative cuts property taxes only 11% and cuts total state and local spending only 1.5%.

The ideas in this initiative have been supported by reasonable people for years, including Nobel laureate Milton Friedman and noted economist Arthur Laffer. Even Governor Matheson proposed a 1% property tax limitation. Most of the wording of this initiative was actually enacted by the Utah Legislature ten years ago but was never activated.

Opponents say high taxes are for our own good. These are the people who got us into our present economic and tax mess. Why should we trust them to get us out of it?

VOTE FOR YOUR FUTURE

VOTE FOR INITIATIVE A

Jack A. Olson
Utah Taxpayers Association
1578 West 1700 South
Salt Lake City, Utah 84104

**COMPLETE TEXT OF INITIATIVE A
TAX AND SPENDING LIMITATIONS
(The People's Tax and Spending Limitation Amendments)**

AN ACT LIMITING RESIDENTIAL PROPERTY TAXES TO 3/4% OF FAIR MARKET VALUE AND ALL OTHER PROPERTY TAXES TO 1% OF FAIR MARKET VALUE, EXEMPTING CERTAIN TAXES LEVIED FOR PAYMENT OF LEGALLY INCURRED INDEBTEDNESS FROM THE LIMITATION, PLACING LIMITATIONS ON STATE GOVERNMENT APPROPRIATIONS AND REVENUE AND UPON THE TAXING AUTHORITY OF LOCAL GOVERNMENTAL UNITS BASED UPON CHANGES IN UTAH PERSONAL INCOME AND THE POPULATION OF UNITS OF GOVERNMENT, REQUIRING A VOTE OF THE PEOPLE TO IMPOSE NEW TAXES AND INCREASES IN TAXES OTHER THAN PROPERTY TAX BY LOCAL UNITS OF GOVERNMENT, AND REQUIRING THE DEPARTMENT OF EMPLOYMENT SECURITY TO ADOPT PERSONAL INCOME AND POPULATION FIGURES FOR IMPLEMENTATION OF REVENUE AND APPROPRIATIONS LIMITATIONS.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF UTAH:

SECTION 1. Section 59-17-101, Utah Code Annotated 1953, as enacted by Chapter 197, Laws of Utah 1979, and renumbered by Chapter 2, Laws of Utah 1987, is repealed and re-enacted to read:

59-17-101. **PURPOSE OF ACT.** It is the purpose of this Chapter to place limitations on state government appropriations and revenue and upon the taxing authority of local governmental units based upon changes in Utah personal income and the population of units of government. The limitations imposed by this chapter shall be in addition to limitations on tax levies, rates, and revenue otherwise provided for by law.

SECTION 2. Section 59-17-102, Utah Code Annotated 1953, as last amended by Chapters 21 and 47, Laws of Utah 1985, and renumbered by Chapter 2, Laws of Utah 1987, is repealed and re-enacted to read:

59-17-102. **DEFINITIONS.** As used in this chapter:

(1) "Local governmental unit" means any city, town, county, school district, special district, or any other political subdivision of the state.

(2) "Unit of government" means the state or a local governmental unit.

(3) "Legislative body" means the Legislature or the governing body of a local governmental unit.

(4) "Personal income" means the total personal income of the state as measured and estimated by the Department of Employment Security. By September 1 of each year, the Department of Employment Security shall adopt final estimates of personal income.

(5) "Population" means the number of residents of the state or local governmental unit, but in respect to school districts, "population" means the number of students in average daily membership. "Population" of special districts or special improvement districts shall be determined by the county in which the district is located, or in the case of districts encompassing more than one county, by the most populous county within the district. "Population" of all other units of government shall be estimated by the Department of Employment Security. By September 1 of each year, the respective school districts and counties and the Department of Employment Security shall adopt final population estimates.

(6) "Per capita personal income" means the result obtained for the state by dividing personal income of the state by the state's population as pursuant to Subsections (4) and (5).

(7) "Fiscal emergency" means an extraordinary occurrence requiring unanticipated and immediate expenditure to preserve the health and safety of the people.

(8) "Appropriation" means appropriation or budget, whichever is appropriate.

(9) "Revenue" means the revenue of the unit of government from every tax, penalty, receipt, and other monetary exaction and interest connected with it, except as specifically exempted by this chapter.

(10) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not such bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the Constitution or laws of the state of Utah.

SECTION 3. Section 59-17-103, Utah Code Annotated 1953, as enacted by Chapter 197, Laws of Utah 1979, and renumbered by Chapter 2, Laws of Utah 1987, is repealed and re-enacted to read:

59-17-103. **STATE APPROPRIATIONS LIMIT — FORMULA FOR CALCULATION.** There is established a state appropriations limit for each fiscal year beginning after June 30, 1988. For each of these fiscal years the annual legislative appropriations for this state, its agencies, departments, and institutions shall not exceed that sum determined by the following formula in which "R" equals the most recent year's personal income for the state, "P" equals the prior year's personal income for the state, and "A" equals the prior year's appropriation for the state, its agencies, departments, and institutions, as adjusted by the exemptions provided in section 59-17-109:

$$A \left[\frac{.85 (R-1)}{P} \right] + A = \text{maximum appropriations}$$

The recommendations and budget analysis prepared by the Office of Legislative Fiscal Analyst, as required by Chapter 12 of Title 36, shall be strictly in compliance with the limitations imposed by this Chapter.

SECTION 4. Section 59-17-104, Utah Code Annotated 1953, as enacted by Chapter 197, Laws of Utah 1979, and renumbered by Chapter 2, Laws of Utah 1987, is repealed and re-enacted to read:

59-17-104. **LOCAL GOVERNMENTAL UNIT REVENUE LIMIT — FORMULA FOR CALCULATION.** There is established a revenue limit for local governmental units for each fiscal year beginning after December 31, 1988.

For each of these fiscal years revenues of each local governmental unit shall not exceed the sum determined by the following formula in which "R" equals the current year's per capita personal income of the state, "P" equals the prior year's per capita personal income of the state, "A" equals the prior year's revenue limit of the local governmental unit, as adjusted by the exemption provided in section 59-17-109, except for the first year in which the limitation applies to a local governmental unit, "A" equals the prior year's total revenue for the local governmental unit, as adjusted by the exemptions provided for in section 59-17-109, "X" equals the current year's population of the local governmental unit, and "Y" equals the prior year's population of the local governmental unit:

$$A \left[\frac{.90 (R-1)}{P} \right] + \frac{AX}{Y} = \text{maximum revenues.}$$

SECTION 5. Section 59-17-104.5, Utah Code Annotated 1953, is enacted to read:

59-17-104.5. **PROPERTY TAX LIMITATION ON STATE AND LOCAL GOVERNMENTAL UNITS.** There is established a maximum ad valorem tax on any property in the State of Utah not to exceed three-fourths of one percent (3/4%) of the fair market value of residential property, as defined in Section 59-2-103, and one percent (1%) of the fair market value of property other than residential property. The tax shall be collected and apportioned as provided by law. The limitation provided for in this section shall not apply to

taxes levied for the payment of principal and interest on legally issued bonds, notes, leases or other indebtedness incurred prior to the passage of this act or incurred after the passage of this act with approval of a majority of the qualified electors voting thereon at a general election.

SECTION 6. Section 59-17-104.6, Utah Code Annotated 1953, is enacted to read:

59-17-104.6. TAX INCREASES OTHER THAN AD VALOREM TAXES REQUIRED TO BE SUBMITTED TO BALLOT OF

ELECTORS. New taxes and increases in the rates of any non-ad valorem taxes of any political subdivision of the state must be approved by a majority of the qualified electors thereof voting at an election called for such purpose in accordance with, so far as applicable, provisions of the Municipal Bond Act.

NOTE: See Utah Code Annotated 1953, Section 59-17-105 thru Section 59-17-112 for the complete act.

For



Against



Initiative

B

TAX REDUCTIONS

Official Ballot Title:

Shall a law be enacted to reduce:

(1) the individual income tax rates, depending on income, from 2.6% to 2%, from 3.55% to 3%, from 4.5% to 4%, from 5.45% to 5%, from 6.4% to 6%, and from 7.35% to 7%;

(2) the state sales tax rate by 1/2%;

(3) the tax on motor and special fuels by 5¢ per gallon; and

(4) the tax on cigarettes by 11¢ per pack?

IMPARTIAL ANALYSIS

Initiative B reduces four different tax rates: individual income, sales, cigarette, and motor and special fuels.

1. **Income Tax** — The Utah Constitution requires that all income tax revenues be used for public education. In 1987 federal and state tax reform changed the Utah income tax base so that it generated more revenue. All of the proposed increase in revenue from this reform was budgeted for public education (kindergarten through 12th grade). In 1988, when actual income tax revenues from the reform exceeded budgeted revenues, the Legislature refunded \$80 million and also reduced income tax rates. Initiative B further reduces the individual income tax rates on state taxable income from:

2.6% to 2% for individuals with incomes not over \$750 and for married persons filing joint returns with incomes not over \$1,500;

3.55% to 3% for individuals with incomes between \$750 and \$1,500 and for married persons filing joint returns with incomes between \$1,500 and \$3,000;

4.5% to 4% for individuals with incomes between \$1,500 and \$2,250 and for married persons filing joint returns with incomes between \$3,000 and \$4,500;

5.45% to 5% for individuals with incomes between \$2,250 and \$3,000 and for married persons filing joint returns with incomes between \$4,500 and \$6,000;

6.4% to 6% for individuals with incomes between \$3,000 and \$3,750 and for married persons filing joint returns with incomes between \$6,000 and \$7,500; and

7.35% to 7% for individuals with incomes over \$3,750 and for married persons filing joint returns with incomes over \$7,500.

Fiscal Impact

Income tax revenue used to fund public education will be reduced by \$35 million.

2. **Sales Tax** — State sales tax is used for the general operations of state government. A portion is also used to fund public education (kindergarten through 12th grade) because the revenue from state income tax is generally not enough. In 1987 the Legislature increased the state sales tax rate by 1/2%. In addition to a state sales tax there is a local sales tax. Under current law, on January 1, 1990, the state sales tax rate will be reduced from 5-3/32% to 5% to allow the local sales tax rate to be increased by an identical amount, taking it to 1%. The overall rate paid by consumers will not change. However, Initiative B reduces the state sales tax rates by an additional 1/2%, making the state sales tax rate 4-1/2%.

Initiative B does not change the rates of the local sales tax. It also does not change the public transit tax (paid by residents of Salt Lake, Utah, Weber, and Davis counties), resort communities tax (paid by residents of certain resort towns), or transient room tax rates (paid by hotel guests). These are all part of the overall sales tax paid.

Fiscal Impact

State sales tax revenue used to fund general state government operations will be reduced by \$59.3 million.

3. **Cigarette Tax** — In 1987 the Legislature increased the cigarette tax by 11¢ per pack of cigarettes. Part of this increase was designated to fund a prenatal care program. Initiative B reduces the tax on cigarettes by 11¢ per pack — from 23¢ to 12¢.

Fiscal Impact

Cigarette tax revenue used to fund general state government operations will be reduced by \$10 million.

4. **Motor and Special Fuels Tax** — The Utah Constitution requires that all taxes on motor fuels be used for highway purposes. In 1987 the Legislature increased the motor and special fuels tax by 5¢ per gallon. The increase was designated solely for road

reconstruction and repair. Initiative B reduces the tax on motor and special fuels by 5¢ per gallon — from 19¢ to 14¢ per gallon.

Fiscal Impact

Motor fuel tax revenue used for highway purposes will be reduced by \$34 million. Special fuel tax revenue used for highway purposes will be reduced by \$7.2 million.

Effective Date

December 31, 1989

Total Fiscal Impact

The Legislative Fiscal Analyst estimates that, if Initiative B passes, the total amount of state revenue reductions will be \$145.5 million.

Arguments For

The 1987 tax hike was passed with little public discussion, and the people were arrogantly denied an opportunity to vote on it. It was so poorly planned it raised \$110 million more than it was supposed to. The July special session corrected the mistake by only \$60 million and left taxpayers with a "secret" \$50 million tax increase on top of the authorized tax increase.

Approval would:

(1) Roll back the 1987 tax increases on income, sales, cigarettes, and gasoline.

(2) Eliminate the "secret" \$50 million dollar tax increase imposed by mistake.

Costs would be:

(1) The State Tax Commission estimates that approval of this act would cost \$141 million dollars. **This would be a 5% cut in the state budget of \$2.8 billion dollars or a 2.5% cut from total government spending (state and local) of \$5.5 billion (1985-86).**

(2) Tax Commission estimates did not consider that putting money in the hands of taxpayers would boost the economy and generate revenues, thus making the rollback significantly less than predicted.

(3) This initiative combined with Initiative A would cut total state and local spending by 6% using Tax Commission figures, or by less than 4% using figures developed by the Utah Taxpayers Association.

Discussion:

Utah, based on the ability of its citizens to pay, has some of the highest taxes in the nation. We were 9th highest BEFORE the largest tax hike in the history of the state. We have the highest state and local taxes per household of any of the 10 western states. We rank 48th in per capita income. **Relief now will free resources for economic growth.**

Opponents claim that passage of Initiatives A, B, & C will cause "catastrophic damage to all government services." If a 4%-6% cut will do this, what is the remaining 94%-96% of the budgets spent on?

Opponents say if we cut taxes we must cut services. Not necessarily so. The rollback would force improved efficiency, more cost-effective ways of providing services or revised priorities.

Last December the State Auditor General could not complete an audit of the State Office of Education because he could not determine what was being spent on the hundreds of programs. Yet, we are told our children are short of textbooks and supplies although these essentials represent only 1% of the state budget. Why aren't these critical items purchased first?

Despite claims of efficiency, Utah ranks 6th in the nation in the number of government employees per 1,000 households; has numerous organizations not being audited (Timp Mental Health was being audited, but not effectively) and 60% of state agencies contracting for services do so on a non-competitive basis. Every homemaker knows the savings achieved from comparison shopping.

Opponents to Initiatives A, B, & C, have used every scare tactic in the book. The same things were said in California and yet in June of this year Californians, after 10 years under Proposition 13, voted to retain tax limitation.

Vote FOR Initiative B.

J. Bracken Lee, Former Governor
Tax Limitation Coalition
P.O. Box 26246
Salt Lake City, Utah 84126

Rebuttal to

Arguments For Initiative B

Proponents claim these tax cuts won't cut basic services. They claim our education system, roads, and economy will improve. If these claims were really true, wouldn't the people who would supposedly receive these benefits support the initiatives?

HERE IS WHAT PEOPLE AND ORGANIZATIONS THAT HAVE TAKEN THE TIME TO UNDERSTAND THE INITIATIVES SAY:

PTA

"The children are hit the hardest by the initiatives. We now spend less than any state per pupil. We dare not risk their future by passing these initiatives."

American Association of Retired Persons

"For many retired persons, any modest tax savings are more than offset in Medicaid losses, service losses, and fee increases."

Police Chiefs/Sheriffs Association/Fire Chiefs

"We want to provide a safe and healthy community for Utah. The passage of these initiatives would seriously jeopardize our ability to do so."

Utah Chamber of Commerce

Farm Bureau

Cattlemen's Association

"Our organizations have always supported efficient government and low taxes, but we oppose these initiatives, because they go so far in cutting education and basic services that they threaten our economic future."

AFL-CIO

"Working men and women and their families will be the real losers. Ultimately, these initiatives will result in the loss of jobs."

These people realize that supporters' claims are too good to be true. The Initiatives GO TOO FAR!

Please join with me and the people of Utah in ensuring a bright and prosperous future for our children and ourselves.

VOTE AGAINST INITIATIVE B.

For
Against

Scott M. Matheson
Taxpayers for Utah
1030 South 300 West
Salt Lake City, Utah

Arguments Against

You need the facts to understand the consequences of Initiative B!

FACT — Basic services we need will be cut!

Initiative B forces large cuts in services. Of the state operating budget, 52% is for public education, 19% for higher education, 8% for Social Services, 5% for Corrections, and 5% for Health. Administrative costs are low. Utah's state, city, and county governments have fewer employees per 10,000 population than any state in the nation. If Initiative B passes, the large reductions required **cannot** be made only through cuts in administration. **Basic services will be cut!**

The cuts will cause Utah to lose substantial federal funding! Federal dollars fund many state programs. Most federal grants require the state to "match" with some state dollars. In many programs, **for every state dollar cut, three federal dollars will be lost.** In the interstate road construction program, for every six state dollars cut, **ninety-four dollars will be lost!**

FACT — To prosper, businesses need the basic services Initiative B would cut!

Businesses, like people, grow in good places to live. The Grant Thornton study shows that businesses demand good schools, highways, and police services. These things are more important to business than just lower state taxes. If basic services are cut, Utah will **not** be attractive to business. Utah will not be a place where businesses or people can grow or prosper.

FACT — Initiative B goes too far!

No other state has approved such massive tax cuts. Even California refused to approve an income tax reduction. Now you are being asked to pass Initiative B, which goes far beyond the one rejected by California. It reduces cigarette, gasoline, sales, and income taxes. The total impact is over \$141,000,000. A tax cut of this size requires budget cuts of 13% in state services. **Initiative B goes too far!**

FACT — Initiative B cuts taxes needed to pay for education, health, prisons, and roads!

Our taxes provide the funding for education, roads, health care, prisons, and other vital services. **If Initiative B passes, funding for these essential services will be cut!**

FACT — Supporters are not responsible to you!

Tax protestors refuse to admit that cuts will hurt Utahns. They refuse to answer how services will be maintained:

Exactly what programs will be cut?

What services will be lost?

How can over \$330,000,000 be cut in Initiatives A, B, and C without hurting children, elderly and families?

Unlike officials you elect, the supporters of Initiative B do not answer to you.

FACT — People who understand the consequences oppose the initiatives!

Every responsible business, community, education, civic, and political leader who understands the consequences is publicly **against** Initiatives A and B. These are leaders who have to answer your questions about what tax cuts will do to you. **They know these tax cuts will cripple Utah for years!**

These facts are **not** scare tactics. They are just plain scary.

**INITIATIVE A AND B GO TOO FAR. KNOW THE FACTS!
UNDERSTAND THE CONSEQUENCES!**

Vote **AGAINST** Initiative B!

Scott M. Matheson
Taxpayers for Utah
1030 South 300 West
Salt Lake City, Utah

Rebuttal to

Arguments Against Initiative B

QUESTION — Why cut basic services before cutting waste?

The Governor's Commission on Cost Effective Government found **\$40 to \$60 million dollars waste in only three tax-supported organizations.** (Sept. '88) How much waste would a similar commission find if it examined all government organizations?

QUESTION — Why make cuts where they would cause loss of federal funds?

The 1987 tax hike brought no additional federal funds; why should we lose them when it is repealed?

FACT — Businesses need a tax break.

In a KSL/Deseret News poll late last year, 49% of businesses said high taxes were the major obstacle to expansion. 21% said their greatest concern was staying in business.

QUESTION — Since the 1987 tax hike was sold as a 5% increase, why when repealed does it become a 13% cut?

\$141 million dollars is 5% of the total state budget of \$2.8 billion.

FACT — Initiatives A & B are about making government responsible to the voters, not about voting for supporters of A, B, & C.

Initiatives A & B allow voters to set limits on government spending.

FACT — Almost every organization, union, and individual opposing passage of A, B, & C has interest in government funding.

Many, including the major media and the labor unions (UEA and UPEA), have given huge amounts of money to oppose the initiatives. **Threats to cut essential services are typical of those protecting bureaucratic turf and inefficiency.**

ROLLBACK OF THE 1987 TAX INCREASE IS ESSENTIAL TO UTAH'S ECONOMIC RECOVERY.

Vote **FOR** Initiative B.

J. Bracken Lee, Former Governor
Tax Limitation Coalition
P.O. Box 26246
Salt Lake City, Utah 84126

**COMPLETE TEXT OF INITIATIVE B
TAX REDUCTIONS
(The People's Tax Reduction Act)**

AN ACT REDUCING THE RATE OF STATE INCOME, SALES, MOTOR FUEL, AND TOBACCO PRODUCTS TAXES TO 1986 LEVELS; PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OR BY THE PEOPLE OF THE STATE OF UTAH:

SECTION 1. Section 59-10-104, Utah Code Annotated 1953, as renumbered and amended by Chapter 2, Laws of Utah 1987, is repealed and re-enacted to read:

59-10-104. A tax is hereby imposed on the state taxable income, as defined in Sections 59-10-111 and 59-10-112, of every resident individual, determined:

(1) In the case of every individual, other than a husband and wife or head of household required to use the tax table set forth in Subsection (2), a tax in accordance with the following table:

If the state taxable income is:	The tax is:
Not over \$750	2% of the state taxable income
Over \$750 but not over \$1,500	\$15, plus 3% of excess over \$750
Over \$1,500 but not over \$2,250	\$38, plus 4% of excess over \$1,500
Over \$2,250 but not over \$3,000	\$68, plus 5% of excess over \$2,250
Over \$3,000 but not over \$3,750	\$105, plus 6% of excess over \$3,000
Over \$3,750	\$150, plus 7% of excess over \$3,750

(2) In the case of a husband and wife filing a single return jointly, or a head of a household (as defined in section 2(b), Internal Revenue Code of 1954, as hereafter amended, redesignated, or re-enacted) filing a single return, a tax in accordance with the following table:

If the state taxable income is:	The tax is:
Not over \$1,500	2% of the state taxable income
Over \$1,500 but not over \$3,000	\$30, plus 3% of excess over \$1,500
Over \$3,000 but not over \$4,500	\$87, plus 4% of excess over \$3,000
Over \$4,500 but not over \$6,000	\$147, plus 5% of excess over \$4,500
Over \$6,000 but not over \$7,500	\$222, plus 6% of excess over \$6,000
Over \$7,500	\$312, plus 7% of excess over \$7,500

SECTION 2. Section 59-12-103, Utah Code Annotated 1953, as last amended by Chapter 148 and 221, Laws of Utah 1987, is repealed and re-enacted to read:

59-12-103. (1) There is levied a tax on the purchaser for the amount paid or charged for the following:

(a) retail sales of tangible personal property made within the state;

(b) amount paid to common carriers or to telephone or telegraph corporations as defined by Section 54-2-1, whether the corporations are municipally or privately owned, for all transportation, telephone service or telegraph service;

(c) gas, electricity, heat, coal, fuel oil, or other fuels sold or furnished for commercial consumption;

(d) gas, electricity, heat, coal, fuel oil, or other fuels sold or furnished for residential use;

(e) meals sold;

(f) admission to any place of amusement, entertainment, or recreation, including seats and tables reserved or otherwise, and other similar accommodations;

(g) services for repairs or renovations of tangible personal property or services to install tangible personal property in connection with other tangible personal property;

(h) cleaning or washing of tangible personal property;

(i) tourist home, hotel, motel, or trailer court accommodations and services for less than 30 consecutive days;

(j) laundry and dry cleaning services;

(k) leases and rentals of tangible personal property if the property situs is in this state, if the lessee took possession in this state, or if the property is stored, used, or otherwise consumed in this state; and

(1) tangible personal property stored, used, or consumed in this state.

(2) Except for subsection (1) (d), the rates of the tax levied under Subsection (1) shall be:

(a) 5-3/32% from July 1, 1986, through December 31, 1989; and

(b) 4-1/2% from and after January 1, 1990.

(3) The rates of the tax levied under Subsection (1) (d) shall be:

(a) 2-3/32% from July 1, 1986, through December 31, 1989; and

(b) 1-1/2% from and after January 1, 1990.

SECTION 3. Section 59-13-201, as last amended by Chapter 63 and 139, Laws of Utah 1987, is repealed and re-enacted to read:

59-13-201. (1) A tax is imposed at the rate of 14 cents per gallon upon all motor fuel that is sold, used, or received for sale or use in this state.

(2) No tax is imposed upon:

(a) motor fuel which is brought into and sold in this state in original packages as purely interstate commerce sales;

(b) motor fuel which is exported from this state, if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation. The commission may either collect no tax or upon application refund the tax paid;

(c) motor fuel which is sold to the United States, this state, or the political subdivisions of this state, where sale and delivery is made in quantities of 750 gallons or more; or

(d) motor fuel or components of motor fuel, which is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state.

(3) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund. All of the state's increase of such revenue under this part shall be used for the reconstruction and repair of highways, roads, and streets. An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(4) The Division of Finance shall place an amount equal to the amount received from the sale or use of motor fuel used in motorboats registered under the provisions of the State Boating Act, as determined by the commission, as a restricted revenue account in the General Fund of the state. The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Parks and Recreation in administering and enforcing the State Boating Act.

(5) (a) The State Tax Commission shall refund annually into the Off-Highway Vehicle Account in the General Fund an amount equal to the lesser of the following: (i) .3% of the motor fuel tax revenues collected under Section 41-11-6, or (ii) \$250,000.

(b) This amount shall be used as provided in Section 41-22-19.

SECTION 4. Section 59-13-301, as last amended by Chapter 139, Laws of Utah 1987, is repealed and re-enacted to read:

59-13-301. (1) A tax is imposed at the rate of 14 cents per gallon on the sale or use of special fuel.

(2) No tax is imposed upon special fuel which:

(a) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this

exemption applies only in those cases where the purchases or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state;

(b) is sold to the United States Government or any of its instrumentalities of this state or any of its political subdivisions; or

(c) is sold and delivered into a motor vehicle for which the owner or operator possesses an unexpired special fuel tax exemption certificate issued to that owner or operator by the commission as provided in Section 59-13-304 for vehicles powered by certain special fuels.

(3) The special fuel tax shall be paid by the user-dealer in all cases where the special fuel is sold within the state and delivered directly into the fuel supply tank of a motor vehicle unless the motor vehicle has a current special fuel permit or a special fuel exemption permit as provided in Sections 59-13-303 and 59-13-304. In all other cases, the tax shall be paid by the user of the special fuel and shall be computed on the amount of fuel used which shall be calculated from the average number of miles per gallon obtained by the user's vehicles.

(4) All revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund. All of the state's

increase of such revenue under this part shall be used for the reconstruction and repair of highways, roads, and streets. An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

SECTION 5. Section 59-14-204, Utah Code Annotated 1953, as renumbered and amended by Chapter 2 and 79, Laws of Utah 1987, is repealed and re-enacted to read:

59-14-204. (1) There is levied a tax upon the sale, use, or storage of cigarettes in the state.

The rates of the tax levied under Subsection (1) are:

(a) .6 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and

(b) 1.2 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand cigarettes.

(2) The tax levied under Subsection (1) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

(3) The tax rates specified in this section shall be increased by the State Tax Commission by the same amount as any future reduction in the federal excise tax on cigarettes.

SECTION 6. This act shall take effect on December 31, 1989.

For



Against



Initiative

C

INCOME TAX CREDIT FOR PRIVATE EDUCATION

IMPARTIAL ANALYSIS

Initiative C allows an income tax credit for a student's tuition, textbook, and transportation costs to attend a private elementary or secondary school in Utah. In order to be eligible for the tax credit, the student's parent or guardian must have paid a third party for the costs of attendance at the private school. The initiative requires that attendance at the school must satisfy the state's compulsory attendance law. Home schools, where students are taught in their homes by their parents, may qualify as private schools for the purpose of the tax credit. This initiative could allow one parent to pay the other for attendance at a home school, and claim a credit for those costs.

Initiative C limits the credit for each student in kindergarten through sixth grade to 50% of the amount of the state-supported funding unit for public education. For each student in seventh through twelfth grade, the credit is limited to 60% of the amount of the state-supported funding unit. The Legislature sets the state-supported funding unit amount each year. Currently, it is \$1,204. Using this amount, the parent or guardian could claim up to \$602 for each student in kindergarten through sixth grade and up to \$722.40 for each student in seventh through twelfth grade.

Initiative C limits the types of costs that may be claimed as a tax credit. Allowable textbook costs are for books and other materials and equipment used to teach subjects legally and commonly taught in public elementary and secondary schools. Costs for books and other materials and equipment used to teach religious doctrine or for worship are not allowed. Allowable transportation costs do not include travel to extracurricular activities or for driver's education programs.

If the claimed tax credit exceeds the tax liability for the tax year, the initiative requires that the parent receive a payment. For example, if a parent owed state taxes of \$1,000 and was able to claim the maximum credit of \$602 for a student in second grade and an additional \$602 for a student in fifth grade, the parent would be entitled to a payment of \$204.

Official Ballot Title:

Shall a law be enacted to allow individuals a credit against state income tax for tuition, textbook, and transportation costs they incur when their dependents attend a private elementary or secondary school within the state?

Constitutionality

Initiative C raises a constitutional question. Does it advance religion, which is prohibited by the First Amendment to the United States Constitution? This question has been raised by similar laws in other states. In 1973, the United States Supreme Court struck down a New York law that allowed parents a deduction against their state income tax for each student for whom they had paid tuition to attend a private elementary or secondary school. The Court declared that the program rewarded parents for sending their children to private schools. In most cases these were church-affiliated schools, so the law had the primary effect of advancing religion. It was therefore declared unconstitutional. *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756 (1973).

However, in 1983, the Supreme Court upheld a Minnesota tax benefit program that allowed parents of students to claim a state income tax deduction for the educational expenses of each student in a public or private elementary or secondary school. *Mueller v. Allen*, 676 F.2d 1195 (8th Cir. 1982), *aff'd*, 463 U.S. 388 (1983). The Court ruled that the Minnesota law was not unconstitutional since parents of **public or private** elementary and secondary school students could claim the deduction.

Initiative C, like the New York law that was declared unconstitutional, applies only to parents of students in private schools. The tax benefit is not available to parents of students in public schools as it is in Minnesota. Therefore, the Supreme Court would probably declare Initiative C unconstitutional as violating the First Amendment to the United States Constitution.

Effective Date

The initiative becomes effective at the beginning of the school year following its passage. There is no uniform date established for school to begin in Utah. The Legislature or the State Tax Commission would probably have to set a beginning date to carry out the intent of the initiative.

Fiscal Impact

It is estimated that the tax credit provided by Initiative C would reduce revenue to public education by approximately \$3.6 million annually, if the amount of the state-supported funding unit stays at \$1,204. This estimate is based on the 1987 enrollment of students in recognized private elementary and secondary schools and assumes that the maximum credit of \$602 would be claimed for each

elementary student and the maximum credit of \$722.40 would be claimed for each secondary student. It does not include the loss that may occur from students in home schools.

If enough students leave the public schools, the amount of revenues needed to fund public education would be reduced. There is no way to reasonably estimate how many students would leave the public schools if Initiative C passes.

Arguments For

This initiative could be called "The Public Education Survival Act," because it was designed to provide greater potential for helping the public education system than for helping private education.

APPROVAL OF THIS ACT WOULD:

(1) Provide a \$600 to \$700 tax credit to parents who send a child to private school. This is not an additional education cost but is taken out of the much larger amount that would otherwise be spent on the child's public education.

(2) Release for the possible use of public education all funds except the tax credit that would have been spent on the child's public education. This saving amounts to between \$1500 and \$1600 per child per year.

(3) Encourage enrollment in private schools which would: (a) reduce pressure on the public education system; (b) lower the average class size; (c) provide almost \$40 million additional dollars a year in funds that could be used for public education (if Utah reached only half the national average in private school enrollment); (d) provide lower income parents the opportunity to choose the kind of education their child needs; and (e) introduce a small amount of healthy competition into Utah education.

THE COSTS OF PASSING THE ACT:

The costs of passing the act are estimated to be \$3.1 million dollars. But what is seldom mentioned is that for each of the 5,300 children currently enrolled in private school the taxpayers are already saving \$1500. If, as a result of this act, another 3,500 students move to private schools, the \$3.1 million start-up costs will be paid for and future private school enrollment would start generating funds that could be used to support public education.

DISCUSSION:

Utah has the lowest percentage of private school enrollment in the nation, a little over 1%. The national average is close to 13%.

The tax credit would be paid only to parents who enroll their child in a school which allows that child "to fulfill the state's compulsory school attendance law."

This act would not permit funds to be used for books or instructional material of a religious nature, transportation to "extracurricular" activities or driver education.

By giving parents increased choice in selecting the school their children attend, the act encourages greater commitment on the part of families and brings more accountability to the public education system.

Rich parents have always had the opportunity to send their children to private schools. This act will allow less well-to-do parents to consider that option when they have a need. To those whose income is so low they have no tax obligation a tax refund will be given.

Choice in education is one of the real education reforms that will benefit all students. With the passage of this act Utahns have the opportunity to be leaders in real education reform in the United States.

Vote FOR Initiative C.

Senator Bill Barton
3940 West 4100 South
West Valley City, Utah 84120

Rebuttal to Arguments For Initiative C

Initiative C is unconstitutional because it violates an important provision in the U.S. Constitution — that government should not act to promote religion. In fact, a New York law very similar to Initiative C was declared unconstitutional by the U.S. Supreme Court in *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756 (1973). It is no use wasting money to defend a law that has already been shown to be unconstitutional!

Initiative C also provides a cash payment if a parent has more of a credit than taxes due, allowing the state to give cash subsidies to some parents for sending their children to private or home schools.

As chairman of the Senate Education Appropriations Subcommittee, I recognize the need to allow greater flexibility and choice in education. But Initiative C is not reasonable! Supporters claim it will not reduce education funding. They "hope" that enough students will choose to leave the schools to make up for the losses incurred from the tax credit. In fact, most of our school districts cannot reduce fixed expenditures — utilities, maintenance, or even teachers in some of our rural districts — if students leave. Yet they would have less money for schools if this passes.

Education is important to me, just as it is to you. We have developed a fine educational system that already faces great challenges. If we need to make changes to education, let's do it right.

If you don't want education to suffer, vote AGAINST Initiative C!

Senator Haven J. Barlow
P.O. Box 626
Layton, Utah 84041

Arguments Against

Initiative C does not help Utah education or Utah taxpayers!

Initiative C costs taxpayers \$ millions!

Initiative C would give parents a tax credit of up to \$722 a year for each child taught in a private school. Over 5,500 children go to private schools already, which could cost the state over \$3.5 million in the first year alone. If a person doesn't owe any taxes or enough taxes to cover the credit, **taxpayers** would have to pay that person the difference!

Initiative C destroys equality in education!

Utah has long been committed to giving children an equal education in tax-supported, free public schools. To guarantee equal education throughout Utah, the state insures that districts have about the same amount of money per child. Initiative C would damage the whole school funding process. If it passes, it may destroy Utah's ability to guarantee every child an equal education. By giving a tax credit for parents to take their children out of the public schools, it creates at least a two-level system of education. **The wealth of a child's parents would determine the quality of education a child gets!**

Parents able to put their children in private schools and claim the tax credit are usually well-off. Because the tax credit would reduce education funding, it would decrease the quality of education in public schools. **The students continuing in public schools would suffer while the wealthy benefitted.**

Initiative C increases the percentage of difficult students in public schools!

Private schools can refuse students who have discipline problems, or who need specialized programs. Public schools must educate every child. Research has shown that a core of good highly-motivated students can "lift up" an entire school. All of society benefits from good schools. The initiative takes many of the best students out of public schools. **The quality of education in public schools will suffer.**

Initiative C is unconstitutional!

In 1973, the United States Supreme Court struck down a New York law almost identical to Initiative C. The court declared that since the program rewarded parents only when they sent their children to private schools, which include religious schools, it promoted religion. Initiative C is probably also unconstitutional. If it is approved by the voters, **it could be costly to the state to defend the law!** That money could be spent on education for our children.

Initiative C encourages home schools!

Few parents have the time or skills to teach the subjects required in public schools. Many would start home schools primarily for the tax credit and not for the purpose of seeing children receive a quality education. Unregulated opportunists could take advantage of unsuspecting parents and students!

The state would need a new bureaucracy to supervise private schools!

Utah currently has no way to set or enforce standards for private schools. But if Initiative C passes, the state will have to supervise private schools to prevent fraud and abuse. **Initiative C makes a new bureaucracy necessary!**

Let's not destroy education! Vote "AGAINST" Initiative C!

Senator Haven J. Barlow
P.O. Box 626
Layton, Utah 84041

Rebuttal to

Arguments Against Initiative C

Opponents to Initiative C reflect an arrogant "big government knows best" attitude toward education. They say: **parents can't be trusted to look out for the education of their children; "unregulated opportunists" must be controlled; and, a new bureaucracy will be needed to supervise private schools.**

Claiming an initial expenditure of \$3.1 million dollars out of a billion dollar budget would damage the "whole school funding process" is ridiculous. So is the idea that public education is "free." **Those already in private schools save the state about \$12 million dollars a year.**

A tax credit would open a window of opportunity for less well-to-do parents and children. Difficult students would not be left in the public schools. **Many parents with children with special problems would have the option, with the tax credit, to seek the special help they need.**

Initiative C is not unconstitutional. President Reagan and the Department of Education have supported similar plans. Minnesota has a similar plan which was judged constitutional by the U.S. Supreme Court in 1983. The Utah Attorney General found no unconstitutional aspects in the initiative.

Opponents, whose goal is "equality" in education, instead of providing each child the opportunity to reach his or her greatest potential, would use this initiative to justify "supervising" private schools. **Utah's private schools have done an exemplary job in the past with minimal state "supervision."** **Passage of Initiative C should not be a license for increased state involvement.**

A Vote FOR Initiative C can improve ALL education.

Senator Bill Barton
3940 West 4100 South
West Valley City, Utah 84120

COMPLETE TEXT OF INITIATIVE C
INCOME TAX CREDIT FOR PRIVATE EDUCATION
(The Utah Family Choice in Education Act)

AN ACT PROVIDING PARENTS A LIMITED TAX CREDIT AGAINST INCOME TAXES IMPOSED BY THE STATE OF UTAH FOR DEPENDENT CHILDREN FOR TUITION, TEXTBOOKS, AND TRANSPORTATION OF CHILDREN ATTENDING A PRIVATE SCHOOL.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF UTAH.

SECTION 1. This act shall be known and may be cited as "The Utah Family Choice in Education Act."

SECTION 2. It is the purpose of this act to provide parents the greatest opportunities and flexibility to secure for their children an education, and it shall be presumed that the parents are best capable to decide what is best for their children. To this end this act shall be liberally construed.

SECTION 3. There is allowed to resident individuals as a credit against the income taxes imposed by the State of Utah an amount paid to others, not to exceed 50% of the weighted pupil unit for the current school year for each dependent in kindergarten through grade six and 60% of the weighted pupil unit for the current school

year for each dependent in grades seven through twelve, for tuition, textbooks, and transportation of the dependent in attendance at an elementary or secondary school, other than a public school, located in Utah and which allows the dependent to fulfill the state's compulsory school attendance law. As used in this section (1) "textbooks" includes books and other instructional material and equipment used to teach only those subjects legally and commonly taught in public elementary and secondary schools but does not include books or instructional material and equipment used in teaching religious tenets, doctrine, or worship; and (2) "transportation" does not include travel to extracurricular activities such as sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. A refund is allowed to the extent that the tax credit exceeds the income tax payable by an individual claimant for the taxable year.

SECTION 4. This act shall take effect at the beginning of the school year following passage.

Instructions to Voters

In Beaver, Cache, Carbon, Davis, Salt Lake, Sanpete, Sevier, Summit, Uintah, Utah, Washington, and Weber Counties

FOR VOTING BALLOTS

HOW TO OBTAIN A BALLOT FOR VOTING

1. Give your name and address to an election judge.
2. If your name is on the official register, and your right to vote has not been challenged, the election judge will give you one or more ballots.

NOTE: If an election judge has reason to doubt your identity, the judge is required to either, (a) request identification from you, or (b) have a known registered voter of the district identify you.

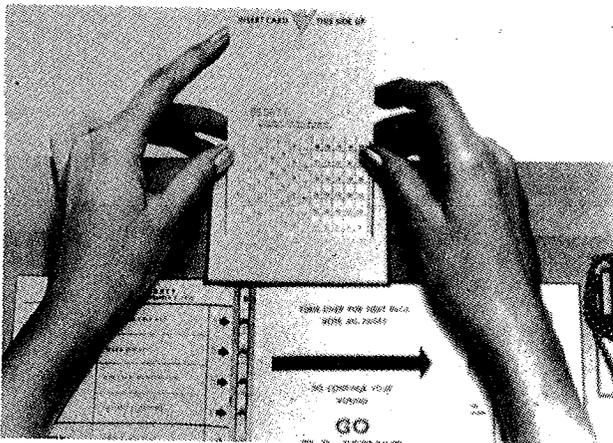
HOW TO VOTE YOUR BALLOT

DO NOT vote a ballot that has been marked, spoiled, or defaced. Identification marks or a spoiled or defaced ballot will make your vote invalid. If you make a mistake, or if you have a spoiled or defaced ballot, return it to the judge, who will cancel it and issue you a new ballot.

When you have received a ballot from the election judge, immediately go alone to one of the voting booths and vote your ballot as follows:

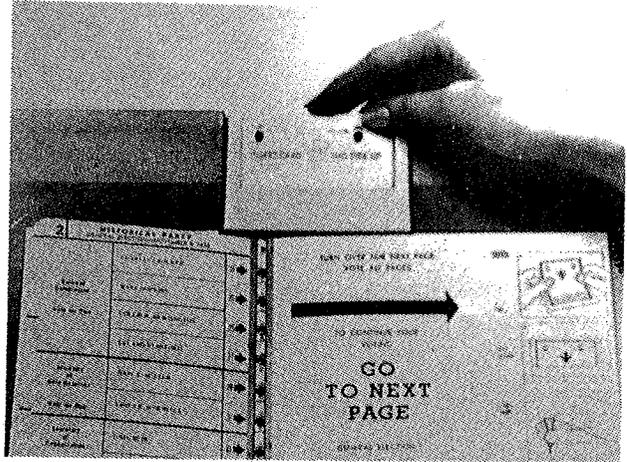
STEP 1

Using both hands, slide the ballot card all the way into the vote recorder.



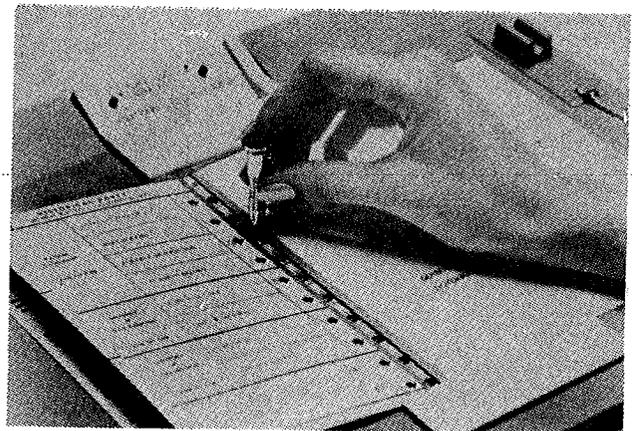
STEP 2

Be sure the two holes at the top of the card fit over the two red pins on the vote recorder.



STEP 3

To vote, hold the punch straight up and push down through the card in the box next to each of your choices. Follow the instructions, and vote all pages as instructed. Use the punch provided. Do not use pen or pencil.



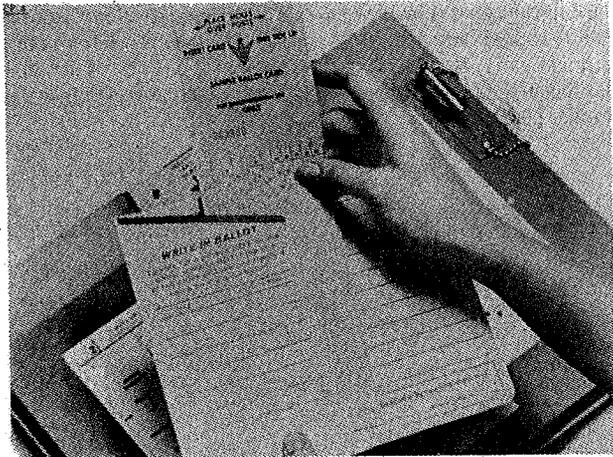
STEP 4

Voting for candidates of more than one party. If you want to vote for candidates from more than one party, you may do this by punching the ballot in the box next to the desired candidate's name on the ballot.

Voting for candidates of one party. If you want to cast a "straight party" vote for all the candidates of one party, punch the box next to the desired party on the first page of the ballot. If you vote "straight party" you vote for each candidate of that party. If you have already voted "straight party" and want to vote for a candidate of another party, you can do that by punching the ballot next to the candidate's name.

STEP 5

After voting, slide the card out of the vote recorder and place it under the flap of the write-in envelope.



STEP 6

After you have voted the ballot and placed it in the write-in ballot envelope, **RETURN IT TO THE ELECTION JUDGE.** Give your name. The judge will remove the stub from your ballot. Deposit the write-in ballot envelope, which contains the ballot card, in the ballot box. You have now finished voting.

WRITE-IN VOTING

You may also vote for a valid write-in candidate. You do this by either writing the office title and the name of the candidate on the write-in ballot envelope, or by placing a sticker with the candidate's name and office printed on it on the write-in envelope. When voting a write-in candidate, **DO NOT punch a hole in the punch card ballot for the same position.**

NON-PARTISAN CANDIDATES

Judicial, state school board, local school board, and similar offices are non-partisan contests. They are on the last pages of your ballot. The copy of the ballot attached to the vote recorder contains instructions telling how many persons should be voted for each office.

CONSTITUTIONAL AMENDMENTS AND INITIATIVES

In case of a constitutional amendment or initiative submitted to a vote of the people, you punch the ballot by the answer you want to give. The amendment or initiative will be in the form of a question. Vote "**FOR**" if you want to answer "yes", and "**AGAINST**" if you want to answer "no."

HOW TO GET HELP TO MARK YOUR BALLOT

If you are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, you may be helped by someone you choose. The person helping you cannot be your employer, an agent of your employer, or an officer or agent of your union. The person helping you cannot in any way request, persuade, or induce you to vote for or against any particular candidate or issues.

Instructions to Voters

All Counties Except Beaver, Cache, Carbon, Davis, Salt Lake, Sanpete, Sevier, Summit, Uintah, Utah, Washington, and Weber

FOR VOTING BALLOTS

HOW TO OBTAIN A BALLOT FOR VOTING

1. Give your name and address to an election judge.
2. If your name is on the official register, and your right to vote has not been challenged, the election judge will give you one or more ballots.

NOTE: If an election judge has reason to doubt your identity, the judge is required to either, (a) request identification from you, or (b) have a known registered voter of the district identify you.

HOW TO VOTE YOUR BALLOT

DO NOT vote a ballot that has been marked, spoiled, or defaced. Identification marks or a spoiled or defaced ballot will make your vote invalid. If you make a mistake, or if you have a spoiled or defaced ballot, return it to the judge, who will cancel it and issue you a new ballot.

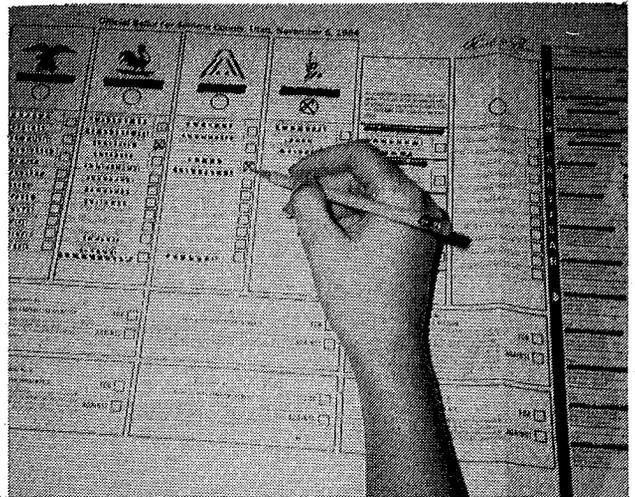
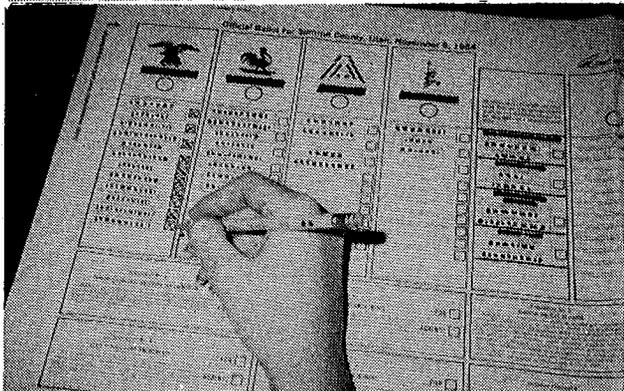
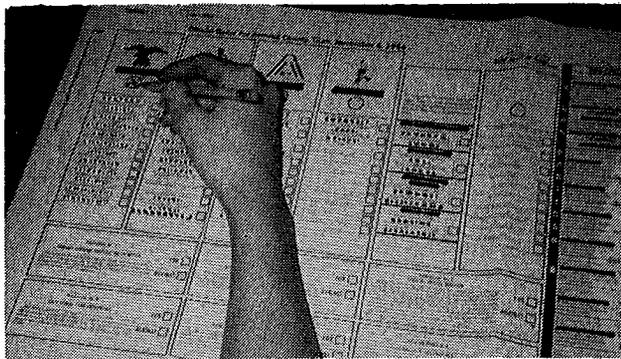
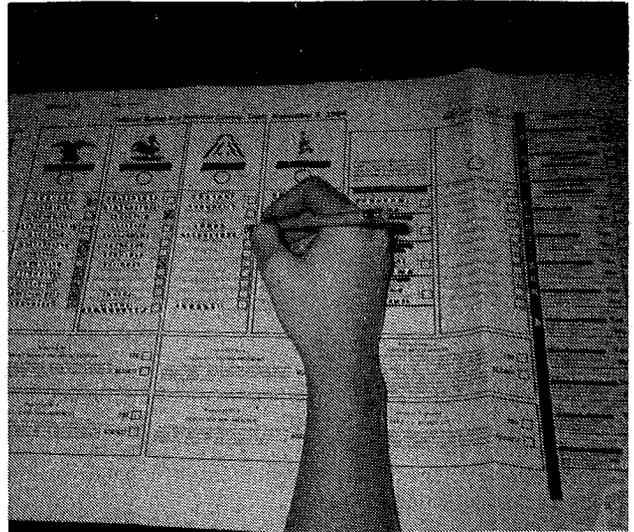
When you have received a ballot from the election judge, immediately go alone to one of the voting booths and vote your ballot by marking it with an X as follows:

VOTING FOR CANDIDATES OF ONE PARTY

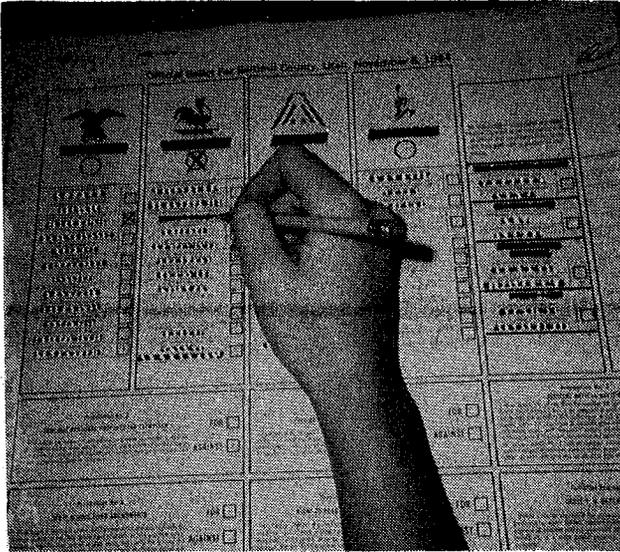
If you want to cast a "straight party" vote for all the candidates of one party, you may mark in the circle at the top of the list of that party's candidates, in the squares by the names of each candidate of that party, or in both the circle and the squares.

VOTING FOR CANDIDATES OF MORE THAN ONE PARTY

If you want to vote for candidates of more than one party, you may mark in the squares by the names of the candidates for whom you want to vote without marking in any party's circle. You may also vote "straight party" by marking in the circle above one party's list, then marking in the squares by the names of the candidates of your choice of other parties.

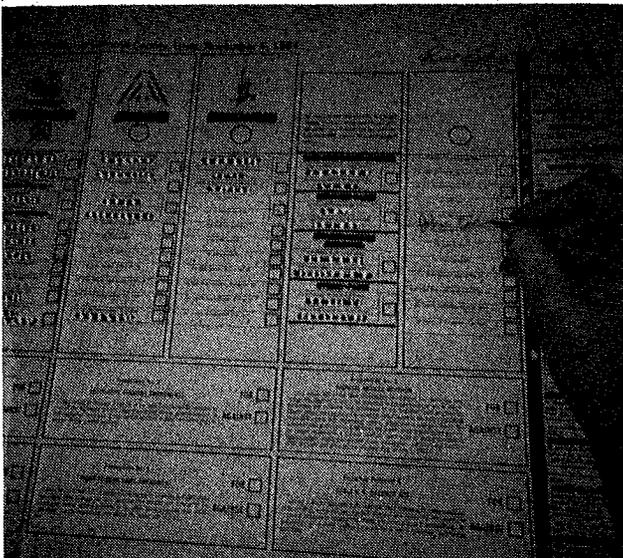


If you vote "straight party" by marking the circle above a party's list, you may draw a line through the name of any candidate of that party ticket for whom you DO NOT want to vote. However, when an office is listed that requires more than one person to be elected, you must draw a line through all the names of the persons of that party ticket for whom you do not want to vote (leaving only those for whom you wish to vote).



WRITE-IN VOTING

You may also vote for a valid write-in candidate. You do this by either writing the name of the candidate on the ballot or by placing a sticker with the candidate's name and office printed on it on the ballot. Partisan write-in candidates should be listed or stuck in the correct office space of the blank write-in column. Non-partisan write-in candidates should be listed in the blank space for that non-partisan office. If you write in a name or put a sticker on the ballot, you have voted for that person, even if you do not make an X by the write-in name.



NON-PARTISAN CANDIDATES

Judicial, state school board, local school board, and similar offices are non-partisan contests. They are located in the extreme right-hand column on the ballot. Just above the voting squares are instructions telling how many persons should be voted for each office.

NON-PARTISAN		NON-PARTISAN	
Vote One		Vote One	
Shall CHRISTINE M. DURHAM be retained in the office of Justice of the Supreme Court of Utah?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Shall MICHAEL K. BURTON be retained in the office of Judge of the Circuit Court of the Fifth Circuit?	Yes <input type="checkbox"/> No <input type="checkbox"/>
For District Judge Six Year Term, Third District	Vote for One	Shall MICHAEL K. BURTON be retained in the office of Judge of the Circuit Court of the Fifth Circuit?	Vote One
Judge EDWOTTE DALWYNIS (incumbent)	<input type="checkbox"/>	MICHAEL K. BURTON	Yes <input type="checkbox"/> No <input type="checkbox"/>
DAMOND G. LIND	<input type="checkbox"/>		
For District Judge Four Year Term, Third District	Vote for One	Shall CHRISTINE M. DURHAM be retained in the office of Judge of the Circuit Court of the Fifth Circuit?	Vote One
Judge EDWOTTE DALWYNIS (incumbent)	<input type="checkbox"/>	CHRISTINE M. DURHAM	Yes <input type="checkbox"/> No <input type="checkbox"/>
WALTER R. ELLIS	<input type="checkbox"/>		
Shall JANE BAINE be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One	Shall CHRISTINE M. DURHAM be retained in the office of Judge of the Circuit Court of the Fifth Circuit?	Vote One
JANE BAINE	Yes <input type="checkbox"/> No <input type="checkbox"/>	CHRISTINE M. DURHAM	Yes <input type="checkbox"/> No <input type="checkbox"/>
Shall CHRISTINE M. DURHAM be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One	Local School Board North Summit School District No. 1	Vote for One
CHRISTINE M. DURHAM	Yes <input type="checkbox"/> No <input type="checkbox"/>	CHRISTINE M. DURHAM	<input type="checkbox"/>
Shall CHRISTINE M. DURHAM be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One	CHRISTINE M. DURHAM	<input type="checkbox"/>
CHRISTINE M. DURHAM	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Shall DENNIS FREDERICK be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One		
DENNIS FREDERICK	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Shall CHRISTINE M. DURHAM be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One		
CHRISTINE M. DURHAM	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Shall MARGARET BLOOM be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One		
MARGARET BLOOM	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Shall CHRISTINE M. DURHAM be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One		
CHRISTINE M. DURHAM	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Shall JAMES C. GAINAN be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One		
JAMES C. GAINAN	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Shall MOMER E. WILLIAMS be retained in the office of Judge of the District Court of the Third Judicial District?	Vote One		
MOMER E. WILLIAMS	Yes <input type="checkbox"/> No <input type="checkbox"/>		

**CONSTITUTIONAL AMENDMENTS
AND INITIATIVES**

In case of a constitutional amendment or initiative submitted to a vote of the people, you make an X in the square by the answer you want to give. The amendment or initiative will be in the form of a question. Vote "**FOR**" if you want to answer "yes", and "**AGAINST**" if you want to answer "no."

HOW TO GET HELP TO MARK YOUR BALLOT

If you are blind, disabled, unable to read or write, unable to read or write the English language, or physically unable to enter a polling place, you may be helped by someone you choose. The person helping you cannot be your employer, an agent of your employer, or an officer or agent of your union. The person helping you cannot in any way request, persuade, or induce you to vote for or against any particular candidate or issues.



I, W. Val Oveson, Lieutenant Governor of the State of Utah, do hereby certify that the foregoing measures will be submitted to the voters of the State of Utah at the election to be held throughout the state on November 8, 1988, and the foregoing pamphlet is complete and correct according to law.



Witness my hand and the
Great Seal of the State of
Utah, at Salt Lake City, Utah
this 26th day of September,
1988.

W. Val Oveson

W. Val Oveson
Lieutenant Governor

*A Message from Utah's
Lieutenant Governor*

Soon you will have the opportunity to make decisions which will likely have a tremendous impact, not only on your individual life, but on the future of our state and nation.

NOVEMBER 8, 1988 IS ELECTION DAY

However, in order for you to express your opinions at the ballot box, you must be registered to vote. I have listed below the simple ways of registering to vote in Utah.

I am very proud of Utah's tradition of being among the nation's leaders in voter turnout each election year. I hope we can continue that tradition.

Remember — be informed, be registered, and be sure to vote on November 8.

See you at the polls.

Thank you,

W. Val Oveson

W. Val Oveson
Lieutenant Governor

HOW TO REGISTER TO VOTE

If you will be 18 or older and will have been a resident of the State of Utah for 30 days preceding the election on November 8, 1988, you may register to vote by one of the following methods.

- You may register with the registration agent of your election district between 8:00 a.m. and 9:00 p.m. on November 1, 2, and 3.
- You may register at the County Clerk's office in your county during regular working hours until October 18.
- You may register by mail at any time before October 18 by mailing in the Utah Election registration form. These forms may be obtained at any bank, post office, library, county clerk's office, or political party office.