

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT RESOLUTION NO. 1

BY WAYS AND MEANS COMMITTEE

A JOINT RESOLUTION

1 PROPOSING AN AMENDMENT TO SECTION 3, ARTICLE VIII, OF THE CONSTITU-  
2 TION OF THE STATE OF IDAHO, RELATING TO LIMITATIONS ON COUNTY  
3 AND MUNICIPAL INDEBTEDNESS TO DEFINE "SUBDIVISION OF THE STATE"  
4 AS A COUNTY, CITY, BOARD OF EDUCATION OR SCHOOL DISTRICT OR  
5 OTHER ENTITY THAT HAS THE POWER TO LEVY TAXES, TO PROVIDE THAT  
6 NO SUBDIVISION OF THE STATE SHALL INCUR ANY INDEBTEDNESS, OR  
7 LIABILITY, IN ANY MANNER, OR FOR ANY PURPOSE THAT, TOGETHER WITH  
8 ALL OTHER OBLIGATIONS, EXCEEDS IN THAT FISCAL YEAR, THE INCOME  
9 AND REVENUE PROVIDED FOR IT FOR SUCH YEAR UNLESS PRIOR TO  
10 INCURRING THE INDEBTEDNESS OR LIABILITY, THE QUALIFIED ELECTORS  
11 OF SUCH SUBDIVISION ASSENT BY TWO-THIRDS OF THOSE VOTING AT AN  
12 ELECTION TO BE HELD FOR THAT PURPOSE ON THE DATE SPECIFIED BY  
13 LAW, TO PROVIDE AN EXCEPTION FOR CERTAIN REVENUE-GENERATING  
14 PUBLIC FACILITIES UPON THE CONDITION THAT THE REPAYMENTS ON  
15 SUCH INDEBTEDNESS OR LIABILITY SHALL BE PAID SOLELY FROM THE  
16 NON-TAX REVENUE GENERATED BY THE FACILITY, TO PROVIDE THAT  
17 REVENUE-GENERATING PUBLIC FACILITIES INCLUDE MUNICIPAL UTILITY  
18 SYSTEMS AND ARE THOSE USED TO PROVIDE GOODS OR SERVICES TO  
19 THE GENERAL PUBLIC BUT SHALL NOT INCLUDE POWER GENERATING,  
20 TRANSMISSION OR DISTRIBUTION FACILITIES AND TO PROVIDE THAT  
21 NON-TAX REVENUE IS INCOME FROM THE SALE OF GOODS OR SERVICES  
22 AND DOES NOT INCLUDE TAXES, FINES, COURT COSTS OR OTHER SIMILAR  
23 CHARGES PRESCRIBED BY LAW, TO PROVIDE AN EXCEPTION FOR CER-  
24 TAIN TERMINABLE CONTRACTS, TO PROVIDE CRITERIA FOR TERMINABLE  
25 CONTRACTS AND TO PROVIDE THAT THE LEASING OF REAL OR PERSONAL  
26 PROPERTY FOR A TERM EXTENDING BEYOND THE END OF THE FISCAL  
27 YEAR IS NOT PERMITTED BY THE EXCEPTION FOR TERMINABLE CON-  
28 TRACTS IF THE SUBDIVISION HAS AN OPTION TO PURCHASE THE PROPERTY  
29 LEASED OR IF ANY PORTION OF THE LEASE PAYMENTS WOULD BE APPLIED  
30 TO THE PURCHASE OF THE PROPERTY, TO PROVIDE AN EXCEPTION FOR  
31 CERTAIN SHORT-TERM CONTRACTS TO LEASE OR PURCHASE PERSONAL  
32 PROPERTY OR FIXTURES, TO PROVIDE CRITERIA FOR SHORT-TERM CON-  
33 TRACTS AND TO DELETE LANGUAGE REGARDING CITIES ISSUING REVENUE  
34 BONDS FOR CERTAIN FACILITIES, TO PROVIDE AN EXCEPTION FOR CERTAIN  
35 PORT DISTRICTS IN ACCORDANCE WITH LAW AND TO PROVIDE CORRECT  
36 TERMINOLOGY, TO PROVIDE AN EXCEPTION FOR CERTAIN CITIES OWNING  
37 A MUNICIPAL ELECTRIC SYSTEM IN ACCORDANCE WITH LAW, TO PROVIDE  
38 THAT SUCH CITIES MAY ACQUIRE OR CONSTRUCT POWER GENERATING,  
39 TRANSMISSION AND DISTRIBUTION FACILITIES FOR THE PURPOSE OF  
40

1 SUPPLYING POWER TO CUSTOMERS LOCATED WITHIN THE SERVICE AREA  
 2 OF SUCH SYSTEM ESTABLISHED BY LAW, PROVIDED ANY INDEBTEDNESS  
 3 OR LIABILITY IS PAID SOLELY THROUGH THE NON-TAX REVENUE OF THE  
 4 SYSTEM, TO PROVIDE THAT SUCH CITIES MAY ENTER INTO AGREEMENTS  
 5 TO PURCHASE, SHARE OR EXCHANGE WHOLESALE POWER OUTSIDE THE  
 6 CORPORATE LIMITS OF THE CITY FOR THE USE AND BENEFIT OF ITS  
 7 CITIZENS AND TO PROVIDE ANY INDEBTEDNESS OR LIABILITY INCURRED  
 8 CONTRARY TO SECTION 3, ARTICLE VIII, OF THE CONSTITUTION OF THE  
 9 STATE OF IDAHO SHALL BE VOID; STATING THE QUESTION TO BE SUB-  
 10 MITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL  
 11 TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE  
 12 SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS  
 13 REQUIRED BY LAW.

14 Be It Resolved by the Legislature of the State of Idaho:

15 SECTION 1. That Section 3, Article VIII, of the Constitution of the State of Idaho be  
 16 amended to read as follows:

17 SECTION 3. LIMITATIONS ON COUNTY AND MUNICIPAL INDEBT-  
 18 EDNESS. ~~No~~ As used in this section of the constitution, a "subdivision of the state"  
 19 is a county, city, board of education, or school district, or other subdivision of the  
 20 state, entity that has the power to levy taxes.

21 (1) Indebtedness and liability. Except as hereinafter provided, no subdivision of  
 22 the state shall incur any indebtedness, or liability, in any manner, or for any purpose  
 23 that, together with all other obligations, exceeds in that fiscal year, the income  
 24 and revenue provided for it for such year unless:

25 (a) Prior to incurring the indebtedness or liability, ~~without the assent of two-thirds~~  
 26 (2/3) of the qualified electors thereof of such subdivision assent by two-thirds of  
 27 those voting at an election to be held for that purpose, ~~nor unless, on the date speci-~~  
 28 fied by law; and

29 (b) ~~B~~efore or at the time of incurring such indebtedness, provisions shall be made  
 30 for the collection of an annual tax sufficient to pay the interest on such indebtedness  
 31 as it falls due, and also to constitute a sinking fund for the payment of the principal  
 32 thereof, within thirty years from the time of contracting the same. ~~Any indebted-~~  
 33 ness or liability incurred contrary to this provision shall be void: ~~Provided, that this~~

34 (2) Ordinary and necessary expenses. This section shall not be construed to apply  
 35 to the ordinary and necessary expenses authorized by the general laws of the state.

36 (3) Revenue-generating public facilities. Without complying with subsection (1) of  
 37 this section, a subdivision may incur indebtedness or liability to purchase, construct,  
 38 extend, refurbish or equip within and without the corporate limits of such subdivi-  
 39 sion, any revenue-generating public facility upon the condition that the repayments  
 40 on such indebtedness or liability shall be paid solely from the non-tax revenue gen-  
 41 erated by the facility. Such indebtedness or liability shall not be a general obliga-  
 42 tion of the subdivision, and only the non-tax revenue generated by the facility shall  
 43 be liable for the repayment of such indebtedness or liability.

1 A revenue-generating public facility includes a municipal utility system and is one  
 2 of those used to provide goods or services to the general public but shall not include  
 3 power generating, transmission or distribution facilities. Non-tax revenue is income  
 4 from the sale of goods or services, and does not include taxes, fines, court costs or  
 5 other similar charges prescribed by law.

6 (4) Terminable contracts. (a) Without complying with subsection (1) of this  
 7 section, a subdivision of the state may enter into a contract that extends beyond the end  
 8 of the fiscal year to obtain goods or services or to lease real or personal property if:

9 (i) The contract obligation payable, together with all other obligations, during any  
 10 fiscal year does not exceed the income and revenue provided for the subdivision  
 11 during that fiscal year; and

12 (ii) The political subdivision has the option, exercisable in its sole discretion, no  
 13 less frequently than annually, to terminate the contract without further liability.

14 (b) The leasing of real or personal property for a term extending beyond the end of  
 15 the fiscal year is not permitted by this subsection (4) if the subdivision has an option  
 16 to purchase the property leased or if any portion of the lease payments would be  
 17 applied to the purchase of the property.

18 (5) Short-term contracts to lease or purchase personal property or fixtures. Without  
 19 complying with subsection (1) of this section, a subdivision may incur indebtedness  
 20 or liability exceeding in that fiscal year the income and revenue provided for it for  
 21 such year in order to lease or purchase personal property or fixtures if:

22 (a) The term of the contract does not exceed five years; and

23 (b) The contract obligation payable, together with all other obligations in any fiscal  
 24 year does not exceed the income and the revenue of the entity provided for that fis-  
 25 cal year. and provided further that any city may own, purchase, construct, extend,  
 26 or equip, within and without the corporate limits of such city, off street parking fa-  
 27 ilities, public recreation facilities, and air navigation facilities, and for the purpose  
 28 of paying the cost thereof may, without regard to any limitation herein imposed,  
 29 with the assent of two thirds of the qualified electors voting at an election to be held  
 30 for that purpose, issue revenue bonds therefor, the principal and interest of which  
 31 to be paid solely from revenue derived from rates and charges for the use of, and  
 32 the service rendered by, such facilities as may be prescribed by law, and provided  
 33 further, that any city or other political subdivision of the state may own, purchase,  
 34 construct, extend, or equip, within and without the corporate limits of such city  
 35 or political subdivision, water systems, sewage collection systems, water treatment  
 36 plants, sewage treatment plants, and may rehabilitate existing electrical generating  
 37 facilities, and for the purpose of paying the cost thereof, may, without regard to  
 38 any limitation herein imposed, with the assent of a majority of the qualified electors  
 39 voting at an election to be held for that purpose, issue revenue bonds therefor, the  
 40 principal and interest of which to be paid solely from revenue derived from rates  
 41 and charges for the use of, and the service rendered by such systems, plants and  
 42 facilities, as may be prescribed by law; and provided further that

43 (6) Port districts. Without complying with subsection (1) of this section, any port  
 44 district in accordance with law, for the purpose of carrying into effect all or any  
 45 of the powers now or hereafter granted to port districts by the laws of this state,

1 may contract indebtedness and issue revenue bonds evidencing such indebtedness,  
2 without the necessity of the voters of the port district authorizing the same; if:

3 (a) Such revenue bonds are to be payable solely from all or such part of the  
4 revenues of the port district derived from any source whatsoever excepting only  
5 those revenues derived from ~~ad-valorem~~ property taxes, as the port commission  
6 thereof may determine; and

7 (b) Such revenue bonds are not to be in any manner or to any extent a general  
8 obligation of the port district issuing the same, nor a charge upon the ~~ad-valorem~~  
9 property tax revenue of such port district.

10 (7) Power facilities. Any city owning a municipal electric system in accordance  
11 with law may acquire or construct power generating, transmission and distribution  
12 facilities for the purpose of supplying power to customers located within the service  
13 area of such system established by law without complying with the provisions of  
14 subsection (1) of this section, provided any indebtedness or liability is paid solely  
15 through the non-tax revenue of the system. Any city owning a municipal electric  
16 system in accordance with law may enter into agreements to purchase, share or  
17 exchange wholesale power outside the corporate limits of the city for the use and  
18 benefit of its citizens without complying with subsection (1) of this section.

19 (8) Any indebtedness or liability incurred contrary to this section of the constitution  
20 shall be void.

21 SECTION 2. The question to be submitted to the electors of the State of Idaho at the  
22 next general election shall be as follows:

23 "Shall Section 3, Article VIII, of the Constitution of the State of Idaho be amended to:

24 (1) Define "subdivision of the state" as a county, city, board of education or school dis-  
25 trict or other entity that has the power to levy taxes;

26 (2) Provide that no subdivision of the state shall incur any indebtedness, or liability,  
27 in any manner, or for any purpose that, together with all other obligations, exceeds in that  
28 fiscal year, the income and revenue provided for it for such year unless prior to incurring the  
29 indebtedness or liability, the qualified electors of such subdivision assent by two-thirds (2/3) of  
30 those voting at an election to be held for that purpose on the date specified by law;

31 (3) Provide exceptions for specified provisions relating to indebtedness and liability as  
32 follows: (a) To provide exceptions for revenue-generating public facilities upon the condition  
33 that the repayments on such indebtedness or liability shall be paid solely from the non-tax  
34 revenue generated by the facility, to provide that revenue-generating public facilities include  
35 municipal utility systems and are those used to provide goods or services to the general public  
36 but shall not include power generating, transmission or distribution facilities and to provide that  
37 non-tax revenue is income from the sale of goods or services and does not include taxes, fines,  
38 court costs or other similar charges prescribed by law; (b) To provide exceptions for terminable  
39 contracts, to provide criteria for terminable contracts and to provide that the leasing of real or  
40 personal property for a term extending beyond the end of the fiscal year is not permitted by  
41 the exception for terminable contracts if the subdivision has an option to purchase the property  
42 leased or if any portion of the lease payments would be applied to the purchase of the property;  
43 (c) To provide exceptions for short-term contracts to lease or purchase personal property or fix-  
44 tures, to provide criteria for short-term contracts and to delete language regarding cities issuing  
45 revenue bonds for certain facilities; (d) To provide exceptions for port districts in accordance  
46 with law and to provide correct terminology; and (e) To provide an exception for any city own-

1 ing a municipal electric system in accordance with law, to provide that such cities may acquire  
2 or construct power generating, transmission and distribution facilities for the purpose of sup-  
3 plying power to customers located within the service area of such system established by law,  
4 provided any indebtedness or liability is paid solely through the non-tax revenue of the system,  
5 and to provide that such cities may enter into agreements to purchase, share or exchange whole-  
6 sale power outside the corporate limits of the city for the use and benefit of its citizens.

7 (4) Provide any indebtedness or liability incurred contrary to Section 3, Article VIII, of  
8 the Constitution of the State of Idaho shall be void?"

9 SECTION 3. The Legislative Council is directed to prepare the statements required by  
10 Section 67-453, Idaho Code, and file the same.

11 SECTION 4. The Secretary of State is hereby directed to publish this proposed constitu-  
12 tional amendment and arguments as required by law.