

1 **RESOLUTION ELIMINATING PROPERTY TAX**

2 **ON PERSONAL PROPERTY**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: John Dougall**

7 **LONG TITLE**

8 **General Description:**

9 This joint resolution of the Legislature proposes to amend the Utah Constitution to
10 modify Revenue and Taxation provisions.

11 **Highlighted Provisions:**

12 This resolution proposes to amend the Utah Constitution to:

- 13 ▶ eliminate the property tax and uniform fee on personal property; and
- 14 ▶ make conforming and technical changes.

15 **Special Clauses:**

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

17 This resolution provides a contingent effective date of January 1, 2007 for this proposal.

18 **Utah Constitution Sections Affected:**

19 AMENDS:

20 **ARTICLE XIII, SECTION 2**

21 **ARTICLE XIII, SECTION 3**

22 **ARTICLE XIII, SECTION 5**

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

26 Section 1. It is proposed to amend Utah Constitution Article XIII, Section 2, to read:

27 **Article XIII, Section 2. [Property tax.]**



28 (1) So that each person and corporation pays a tax in proportion to the fair market
29 value of his, her, or its tangible real property, all tangible real property in the State that is not
30 exempt under the laws of the United States or under this Constitution shall be:

31 (a) assessed at a uniform and equal rate in proportion to its fair market value, to be
32 ascertained as provided by law; and

33 (b) taxed at a uniform and equal rate.

34 (2) Each corporation and person in the State or doing business in the State is subject to
35 taxation on the [~~tangible~~] real property owned or used by the corporation or person within the
36 boundaries of the State or local authority levying the tax.

37 (3) The Legislature may provide by statute that land used for agricultural purposes be
38 assessed based on its value for agricultural use.

39 [~~(4) The Legislature may by statute determine the manner and extent of taxing~~
40 ~~livestock.~~]

41 [(5)] (4) The Legislature may by statute determine the manner and extent of taxing or
42 exempting intangible property, except that any property tax on intangible property may not
43 exceed .005 of its fair market value. If any intangible property is taxed under the property tax,
44 the income from that property may not also be taxed.

45 [~~(6) Tangible personal property required by law to be registered with the State before~~
46 ~~it is used on a public highway or waterway, on public land, or in the air may be exempted from~~
47 ~~property tax by statute. If the Legislature exempts tangible personal property from property tax~~
48 ~~under this Subsection (6), it shall provide for the payment of uniform statewide fees or uniform~~
49 ~~statewide rates of assessment or taxation on that property in lieu of the property tax. The fair~~
50 ~~market value of any property exempted under this Subsection (6) shall be considered part of the~~
51 ~~State tax base for determining the debt limitation under Article XIV.~~]

52 Section 2. It is proposed to amend Utah Constitution Article XIII, Section 3, to read:

53 **Article XIII, Section 3. [Property tax exemptions.]**

54 (1) The following are exempt from property tax:

55 (a) property owned by the State;

56 (b) property owned by a public library;

57 (c) property owned by a school district;

58 (d) property owned by a political subdivision of the State, other than a school district,

59 and located within the political subdivision;

60 (e) property owned by a political subdivision of the State, other than a school district,
61 and located outside the political subdivision unless the Legislature by statute authorizes the
62 property tax on that property;

63 (f) property owned by a nonprofit entity used exclusively for religious, charitable, or
64 educational purposes;

65 (g) places of burial not held or used for private or corporate benefit; and

66 [~~(h) farm equipment and farm machinery as defined by statute; and~~]

67 [~~(i) (h) [water rights;]~~ reservoirs, pumping plants, ditches, canals, pipes, flumes, power
68 plants, and transmission lines to the extent that they are tangible real property and owned and
69 used by an individual or corporation to irrigate land that is:

70 (i) within the State; and

71 (ii) owned by the individual or corporation, or by an individual member of the
72 corporation.

73 (2) (a) The Legislature may by statute exempt the following from property tax:

74 [~~(i) tangible personal property constituting inventory present in the State on January 1
75 and held for sale in the ordinary course of business;~~]

76 [~~(ii) tangible personal property present in the State on January 1 and held for sale or
77 processing and shipped to a final destination outside the State within 12 months;~~]

78 [~~(iii) (i)~~ subject to Subsection (2)(b), property to the extent used to generate and
79 deliver electrical power for pumping water to irrigate lands in the State; and

80 [~~(iv) (ii)~~ up to 45% of the fair market value of residential property, as defined by
81 statute~~;~~ and].

82 [~~(v) household furnishings, furniture, and equipment used exclusively by the owner of
83 that property in maintaining the owner's home.~~]

84 (b) The exemption under Subsection (2)(a)[~~(iii)~~](i) shall accrue to the benefit of the
85 users of pumped water as provided by statute.

86 (3) The following may be exempted from property tax as provided by statute:

87 (a) property owned by a disabled person who, during military training or a military
88 conflict, was disabled in the line of duty in the military service of the United States or the State;
89 and

90 (b) property owned by the unmarried surviving spouse or the minor orphan of a person
91 who:

92 (i) is described in Subsection (3)(a); or

93 (ii) during military training or a military conflict, was killed in action or died in the line
94 of duty in the military service of the United States or the State.

95 (4) The Legislature may by statute provide for the remission or abatement of the taxes
96 of the poor.

97 (5) An ad valorem property tax may not be imposed on personal property.

98 Section 3. It is proposed to amend Utah Constitution Article XIII, Section 5, to read:

99 **Article XIII, Section 5. [Use and amount of taxes and expenditures.]**

100 (1) The Legislature shall provide by statute for an annual tax sufficient, with other
101 revenues, to defray the estimated ordinary expenses of the State for each fiscal year.

102 (2) (a) For any fiscal year, the Legislature may not make an appropriation or authorize
103 an expenditure if the State's expenditure exceeds the total tax provided for by statute and
104 applicable to the particular appropriation or expenditure.

105 (b) Subsection (2)(a) does not apply to an appropriation or expenditure to suppress
106 insurrection, defend the State, or assist in defending the United States in time of war.

107 (3) For any debt of the State, the Legislature shall provide by statute for an annual tax
108 sufficient to pay:

109 (a) the annual interest; and

110 (b) the principal within 20 years after the final passage of the statute creating the debt.

111 (4) Except as provided in Article X, Section 5, Subsection (5)(a), the Legislature may
112 not impose a tax for the purpose of a political subdivision of the State, but may by statute
113 authorize political subdivisions of the State to assess and collect taxes for their own purposes.

114 (5) All revenue from taxes on intangible property or from a tax on income shall be used
115 to support the systems of public education and higher education as defined in Article X,
116 Section 2.

117 (6) Proceeds from fees, taxes, and other charges related to the operation of motor
118 vehicles on public highways and proceeds from an excise tax on liquid motor fuel used to
119 propel those motor vehicles shall be used for:

120 (a) statutory refunds and adjustments and costs of collection and administration;

121 (b) the construction, maintenance, and repair of State and local roads, including
122 payment for property taken for or damaged by rights-of-way and for associated administrative
123 costs;

124 (c) driver education;

125 (d) enforcement of state motor vehicle and traffic laws; and

126 (e) the payment of the principal of and interest on any obligation of the State or a city
127 or county, issued for any of the purposes set forth in Subsection (6)(b) and to which any of the
128 fees, taxes, or other charges described in this Subsection (6) have been pledged, including any
129 paid to the State or a city or county, as provided by statute.

130 [~~(7) Fees and taxes on tangible personal property imposed under Section 2, Subsection~~
131 ~~(6) of this article are not subject to Subsection (6) of this Section 5 and shall be distributed to~~
132 ~~the taxing districts in which the property is located in the same proportion as that in which the~~
133 ~~revenue collected from real property tax is distributed.]~~

134 [(8)] (7) A political subdivision of the State may share its tax and other revenues with
135 another political subdivision of the State as provided by statute.

136 Section 4. **Submittal to voters.**

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

139 Section 5. **Effective date.**

140 If the amendment proposed by this joint resolution is approved by a majority of those
141 voting on it at the next regular general election, the amendment shall take effect on January 1,
142 2007.

Legislative Review Note
as of 1-20-05 10:42 AM

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

Office of Legislative Research and General Counsel

State Impact

It is estimated that publication and distribution costs to put this resolution on the ballot will be \$11,500 from the General Fund.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$0	\$11,500	\$0	\$0
TOTAL	\$0	\$11,500	\$0	\$0

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst