

**RESOLUTION AMENDING REVENUE AND
TAXATION PROVISIONS OF UTAH
CONSTITUTION**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

This joint resolution of the Legislature proposes to amend the Revenue and Taxation Article of the Utah Constitution. This joint resolution modernizes the makeup of County Boards of Equalization to accommodate current county governmental structure. This joint resolution clarifies and reorganizes provisions relating to revenue and taxation and makes technical changes. This joint resolution directs the lieutenant governor to submit the proposal to voters and provides an effective date. This joint resolution provides a coordination clause.

This resolution proposes to change the Utah Constitution as follows:

AMENDS:

ARTICLE XIII, SECTION 1

ENACTS:

ARTICLE XIII, SECTION 4

ARTICLE XIII, SECTION 7

ARTICLE XXII, SECTION 5

REPEALS AND REENACTS:

ARTICLE XIII, SECTION 2

ARTICLE XIII, SECTION 3

ARTICLE XIII, SECTION 5

ARTICLE XIII, SECTION 6

ARTICLE XIII, SECTION 8

REPEALS:

ARTICLE XIII, SECTION 9

ARTICLE XIII, SECTION 10

ARTICLE XIII, SECTION 11

ARTICLE XIII, SECTION 12

ARTICLE XIII, SECTION 13

ARTICLE XIII, SECTION 14

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 Utah Constitution Article XIII, Section 1, to read:

Article XIII, Section 1. [Fiscal year.]

The Legislature shall by statute establish the fiscal year of the State.

Section 2. It is proposed to repeal and reenact Utah Constitution Article XIII, Section 2, to read:

Article XIII, Section 2. [Property tax.]

~~[(1) All tangible property in the state, not exempt under the laws of the United States, or under this Constitution, shall be taxed at a uniform and equal rate in proportion to its value, to be ascertained as provided by law.]~~

~~[(2) The following are property tax exemptions:]~~

~~[(a) the property of the state, school districts, and public libraries;]~~

~~[(b) the property of counties, cities, towns, special districts, and all other political subdivisions of the state, except that to the extent and in the manner provided by the Legislature the property of a county, city, town, special district, or other political subdivision of the state located outside of its geographic boundaries as defined by law may be subject to the ad valorem property tax;]~~

~~[(c) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;]~~

~~[(d) places of burial not held or used for private or corporate benefit; and]~~

~~[(e) farm equipment and farm machinery as defined by statute. This exemption shall be implemented over a period of time as provided by statute.]~~

~~[(3) Tangible personal property present in Utah on January 1, held for sale or processing and~~

~~which is shipped to final destination outside this state within twelve months may be deemed by law to have acquired no situs in Utah for purposes of ad valorem property taxation and may be exempted by law from such taxation, whether manufactured, processed or produced or otherwise originating within or without the state.]~~

~~[(4) Tangible personal property present in Utah on January 1, held for sale in the ordinary course of business and which constitutes the inventory of any retailer, or wholesaler or manufacturer or farmer, or livestock raiser may be deemed for purposes of ad valorem property taxation to be exempted.]~~

~~[(5) Water rights, ditches, canals, reservoirs, power plants, pumping plants, transmission lines, pipes and flumes owned and used by individuals or corporations for irrigating land within the state owned by such individuals or corporations, or the individual members thereof, shall be exempted from taxation to the extent that they shall be owned and used for such purposes.]~~

~~[(6) Power plants, power transmission lines and other property used for generating and delivering electrical power, a portion of which is used for furnishing power for pumping water for irrigation purposes on lands in the state of Utah, may be exempted from taxation to the extent that such property is used for such purposes. These exemptions shall accrue to the benefit of the users of water so pumped under such regulations as the Legislature may prescribe.]~~

~~[(7) The taxes of the poor may be remitted or abated at such times and in such manner as may be provided by law.]~~

~~[(8) The Legislature may provide by law for the exemption from taxation: of not to exceed 45% of the fair market value of residential property as defined by law; and all household furnishings, furniture, and equipment used exclusively by the owner thereof at his place of abode in maintaining a home for himself and family.]~~

~~[(9) Property owned by disabled persons who were disabled in the line of duty during any war, international conflict, or military training in the military service of the United States or of the state of Utah and by the unmarried surviving spouses and minor orphans of such disabled persons or of persons who during any war, international conflict, or military training in the military service of the United States or the state of Utah were killed in action or died in the line of duty as a result~~

of such service may be exempted as the Legislature may provide.]

~~[(10) Intangible property may be exempted from taxation as property or it may be taxed as property in such manner and to such extent as the Legislature may provide, but if taxed as property the income therefrom shall not also be taxed. Provided that if intangible property is taxed as property the rate thereof shall not exceed five mills on each dollar of valuation.]~~

~~[(11) The Legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the state for each fiscal year. For the purpose of paying the state debt, if any there be, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest and to pay the principal of such debt, within twenty years from the final passage of the law creating the debt.]~~

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

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

(b) taxed at a uniform and equal rate.

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

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

(4) The Legislature may by statute determine the manner and extent of taxing livestock.

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

(6) Tangible personal property required by law to be registered with the State before it is used on a public highway or waterway, on public land, or in the air may be exempted from property

tax by statute. If the Legislature exempts tangible personal property from property tax under this Subsection (6), it shall provide for the payment of uniform statewide fees or uniform statewide rates of assessment or taxation on that property in lieu of the property tax. The fair market value of any property exempted under this Subsection (6) shall be considered part of the State tax base for determining the debt limitation under Article XIV.

Section 3. It is proposed to repeal and reenact Utah Constitution Article XIII, Section 3, to read:

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

~~[(1) The Legislature shall provide by law a uniform and equal rate of assessment on all tangible property in the state, according to its value in money, except as otherwise provided in Section 2 of this Article. The Legislature shall prescribe by law such provisions as shall secure a just valuation for taxation of such property, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its tangible property, provided that the Legislature may determine the manner and extent of taxing livestock.]~~

~~[(2) Land used for agricultural purposes may, as the Legislature prescribes, be assessed according to its value for agricultural use without regard to the value it may have for other purposes.]~~

(1) The following are exempt from property tax:

(a) property owned by the State;

(b) property owned by a public library;

(c) property owned by a school district;

(d) property owned by a political subdivision of the State, other than a school district, and located within the political subdivision;

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

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

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

(h) farm equipment and farm machinery as defined by statute; and
(i) water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, power plants, and transmission lines to the extent owned and used by an individual or corporation to irrigate land that is:

(i) within the State; and

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

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

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

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

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

(iv) up to 45% of the fair market value of residential property, as defined by statute; and

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

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

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

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

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

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

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

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

Section 4. It is proposed to enact Utah Constitution Article XIII, Section 4, to read:

Article XIII, Section 4. [Other taxes.]

(1) Nothing in this Constitution may be construed to prevent the Legislature from providing by statute for taxes other than the property tax and for deductions, exemptions, and offsets from those other taxes.

(2) In a statute imposing an income tax, the Legislature may:

(a) define the amount on which the tax is imposed by reference to a provision of the laws of the United States as from time to time amended; and

(b) modify or provide exemptions to a provision referred to in Subsection (2)(a).

Section 5. It is proposed to repeal and reenact Utah Constitution Article XIII, Section 5, to read:

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

~~[(1) The Legislature may not impose taxes for the purpose of any county, city, town, school district, or other political subdivision of the State, but may, by statute, vest in the governing bodies thereof, respectively, the power to assess and collect taxes for all purposes of such political subdivision.]~~

~~[(2) Notwithstanding anything to the contrary contained in this Constitution, political subdivisions may share their tax and other revenues with other political subdivisions as provided by statute and the State may guarantee the debt of school districts and may guarantee debt incurred to refund the school district debt as provided in Article X, Section 5.]~~

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

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

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

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

(a) the annual interest; and

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

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

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

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

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

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

(c) driver education;

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

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

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

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

Section 6. It is proposed to repeal and reenact Utah Constitution Article XIII, Section 6, to read:

Article XIII, Section 6. [State Tax Commission.]

~~[An accurate statement of the receipts and expenditures of the public moneys, shall be published annually in such manner as the Legislature may provide.]~~

(1) There shall be a State Tax Commission consisting of four members, not more than two of whom may belong to the same political party.

(2) With the consent of the Senate, the Governor shall appoint the members of the State Tax Commission for such terms as may be provided by statute.

(3) The State Tax Commission shall:

(a) administer and supervise the State's tax laws;

(b) assess mines and public utilities and have such other powers of original assessment as the Legislature may provide by statute;

(c) adjust and equalize the valuation and assessment of property among the counties;

(d) as the Legislature provides by statute, review proposed bond issues, revise local tax levies, and equalize the assessment and valuation of property within the counties; and

(e) have other powers as may be provided by statute.

(4) Notwithstanding the powers granted to the State Tax Commission in this Constitution, the Legislature may by statute authorize any court established under Article VIII to adjudicate, review, reconsider, or redetermine any matter decided by the State Tax Commission relating to revenue and taxation.

Section 7. It is proposed to enact Utah Constitution Article XIII, Section 7, to read:

Article XIII, Section 7. [County boards of equalization.]

(1) In each county, there shall be a county board of equalization consisting of elected county officials as provided by statute.

(2) Each county board of equalization shall adjust and equalize the valuation and assessment of the real and personal property within its county, subject to the State Tax Commission's regulation and control as provided by law.

(3) The county boards of equalization shall have other powers as may be provided by statute.

(4) Notwithstanding the powers granted to the State Tax Commission in this Constitution, the Legislature may by statute authorize any court established under Article VIII to adjudicate,

review, reconsider, or redetermine any matter decided by a county board of equalization relating to revenue and taxation.

Section 8. It is proposed to repeal and reenact Utah Constitution Article XIII, Section 8, to read:

Article XIII, Section 8. [Annual statement.]

~~[The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.]~~

The State shall publish annually an accurate statement of the receipt and expenditure of public money in a manner provided by statute.

Section 9. It is proposed to repeal Utah Constitution Article XIII, Section 9:

Article XIII, Section 9. [State expenditure to be kept within revenues.]

~~[No appropriation shall be made or any expenditure authorized by the Legislature if the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by law and applicable for the particular appropriation or expenditure, unless the Legislature making the appropriation shall provide for levying a sufficient tax to pay the appropriation or expenditure within the current fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrections, defend the State, or assist in defending the United States in time of war.]~~

Section 10. It is proposed to repeal Utah Constitution Article XIII, Section 10:

Article XIII, Section 10. [All property taxable where situated.]

~~[All corporations or persons in this State, or doing business herein, shall be subject to taxation for State, County, School, Municipal or other purposes, on the real and personal property owned or used by them within the Territorial limits of the authority levying the tax.]~~

Section 11. It is proposed to repeal Utah Constitution Article XIII, Section 11:

Article XIII, Section 11. [Creation of State Tax Commission -- Membership -- Governor to appoint -- Terms -- Duties -- County boards -- Duties.]

~~[(1) There shall be a State Tax Commission consisting of four members, not more than two of whom shall belong to the same political party.]~~

~~[(2) The members of the Commission shall be appointed by the Governor, by and with the consent of the Senate, for such terms of office as may be provided by law.]~~

~~[(3) (a) The State Tax Commission shall administer and supervise the tax laws of the State.]~~

~~[(b) It shall assess mines and public utilities and adjust and equalize the valuation and assessment of property among the several counties.]~~

~~[(c) It shall have such other powers of original assessment as the Legislature may provide.]~~

~~[(d) Under such regulations in such cases and within such limitations as the Legislature may prescribe, it shall review proposed bond issues, revise the tax levies of local governmental units, and equalize the assessment and valuation of property within the counties.]~~

~~[(4) The duties imposed upon the State Board of Equalization by the Constitution and Laws of this State shall be performed by the State Tax Commission.]~~

~~[(5) Notwithstanding the powers granted to the State Tax Commission in this Constitution, the Legislature may authorize any court established under Article VIII to adjudicate, review, reconsider, or redetermine any matter decided by the State Tax Commission or by a County Board of Equalization relating to revenue and taxation as provided by statute.]~~

~~[(6) In each county of this State there shall be a County Board of Equalization consisting of the Board of County Commissioners of said county.]~~

~~[(7) The County Boards of Equalization shall adjust and equalize the valuation and assessment of the real and personal property within their respective counties, subject to such regulation and control by the State Tax Commission as may be prescribed by law.]~~

~~[(8) The State Tax Commission and the County Boards of Equalization shall each have such other powers as may be prescribed by the Legislature.]~~

Section 12. It is proposed to repeal Utah Constitution Article XIII, Section 12:

Article XIII, Section 12. [Stamp, income, occupation, license or franchise tax permissible -- Reference to United States laws in imposition of income taxes -- Income or intangible property taxes allocated to public education system and higher education system.]

~~[(1) Nothing in this Constitution shall be construed to prevent the Legislature from providing a stamp tax, or a tax based on income, occupation, licenses, franchises, or other tax provided by law.]~~

~~The Legislature may provide for deductions, exemptions, or offsets on any tax based upon income, occupation, licenses, franchises, or other tax as provided by law pursuant to this section.]~~

~~[(2) Notwithstanding any provision of this Constitution, the Legislature, in any law imposing income taxes, may define the amount on, in respect to, or by which the taxes are imposed or measured, by reference to any provision of the laws of the United States as the same may be or become effective at any time or from time to time and may prescribe exemptions or modifications to any such provision.]~~

~~[(3) All revenue received from taxes on income or from taxes on intangible property shall be allocated to the support of the public education system and the higher education system as defined in Article X, Section 2 of this Constitution.]~~

Section 13. It is proposed to repeal Utah Constitution Article XIII, Section 13:

Article XIII, Section 13. [Revenue from highway user and motor fuel taxes to be used for highway purposes.]

~~[The proceeds from the imposition of any license tax, registration fee, driver education tax, or other charge related to the operation of any motor vehicle upon any public highway in this State, and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuels used for propelling such vehicle, except for statutory refunds and adjustments allowed thereunder and for costs of collection and administration, shall be used exclusively for highway purposes as follows:]~~

~~[(1) the construction, improvement, repair and maintenance of city streets, county roads, and State highways, including but not restricted to payment for property taken for or damaged by rights of way, and for administrative costs necessarily incurred for said purposes;]~~

~~[(2) the administration of a driver education program;]~~

~~[(3) the enforcement of State motor vehicle and traffic laws; and]~~

~~[(4) the payment of the principal of and interest on any obligation of the State or any city or county, issued for any of the highway purposes set forth in Subsection (1), and to which any of the proceeds described in this section have been pledged, including any of such proceeds paid to the State or any city or county, as provided by statute.]~~

Section 14. It is proposed to repeal Utah Constitution Article XIII, Section 14:

Article XIII, Section 14. [Tangible personal property tax exemption.]

~~[Aircraft, watercraft, motor vehicles, and other tangible personal property, not otherwise exempt under the laws of the United States or under this Constitution, may be exempted from taxation as property by the Legislature. In the exercise of the discretion granted under this section, however, the legislature may only exempt tangible personal property that is required by law to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air. If the legislature exempts tangible personal property from taxation under this section, it shall provide for uniform statewide fees or uniform statewide rates of assessment or levy in lieu of the tax on such property. The value of any tangible personal property exempted from taxation, however, shall remain and be considered as part of the state tax base for the purpose of determining debt limitations as set forth in Article XIV of this Constitution. The proceeds from such a tax or fee are not subject to Sec. 13 of this Article and shall be distributed to the taxing districts in which the exempted property is located in the same proportion as the revenue collected from real property tax is distributed to such districts.]~~

Section 15. It is proposed to enact Utah Constitution Article XXII, Section 5, to read:

Article XXII, Section 5. [Officers may not profit.]

Each public officer who makes a profit from public money or uses public money for a purpose not authorized by law shall be guilty of a felony and shall be punished as provided by law, but part of the punishment shall be disqualification to hold public office.

Section 16. **Submittal to voters.**

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

Section 17. **Effective date.**

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2003.

Section 18. **Coordination clause.**

If this joint resolution and H.J.R. 30, Resolution to Expand the Government Property Tax Exemption, both pass and are approved by a majority of those voting on the joint resolutions at the

next regular general election, it is the intent of the Legislature and the people of the state that the Office of Legislative Research and General Counsel, in preparing the Utah Constitution database for publication, combine and coordinate the amendments made to Article XIII in H.J.R. 30 with Subsection (3) of Article XIII, Section 3, as set forth in this joint resolution, so that Subsection (3) of Article XIII, Section 3, as coordinated with the amendments made in H.J.R. 30, reads as follows:

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

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

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

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

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

(c) property that is not owned but is used, controlled, and possessed by the State or a political subdivision of the State."