

1                                   **RESOLUTION REGARDING PROPERTY TAX**

2                                   **ON PERSONAL PROPERTY**

3                                   2006 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: John Dougall**

6                                   Senate Sponsor: \_\_\_\_\_

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8 **LONG TITLE**

9 **General Description:**

10           This joint resolution of the Legislature proposes to amend the Utah Constitution to  
11 revise provisions relating to the taxation of personal property.

12 **Highlighted Provisions:**

13           This resolution proposes to amend the Utah Constitution to:

14           ▶ authorize the Legislature to determine the manner of taxing or exempting tangible  
15 personal property;

16           ▶ provide a constitutional exemption for certain property that previously has been  
17 subject to a legislatively enacted exemption; and

18           ▶ eliminate a provision requiring the Legislature to provide a uniform statewide fee or  
19 rate of assessment or taxation on tangible personal property required to be registered  
20 before being used on highways, waterways, public land, or in the air, if that property  
21 was exempted from taxation.

22 **Special Clauses:**

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

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

25 **Utah Constitution Sections Affected:**

26 AMENDS:

27           **ARTICLE XIII, SECTION 2**



28 ARTICLE XIII, SECTION 3

29 ARTICLE XIII, SECTION 5



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

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

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

35 (1) So that each person and corporation pays a tax in proportion to the fair market  
36 value of his, her, or its tangible property and subject to Subsection (5), all tangible property in  
37 the State that is not exempt under the laws of the United States or under this Constitution shall  
38 be:

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

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

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

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

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

48 (5) The Legislature may by statute determine the manner and extent of taxing or  
49 exempting tangible personal property that is not exempt under Article XIII, Section 3, except  
50 that the rate of a tax on tangible personal property may not exceed the rate of a tax on real  
51 property.

52 [~~(5)~~] (6) The Legislature may by statute determine the manner and extent of taxing or  
53 exempting intangible property, except that any property tax on intangible property may not  
54 exceed .005 of its fair market value. If any intangible property is taxed under the property tax,  
55 the income from that property may not also be taxed.

56 [~~(6)~~] ~~Tangible personal property required by law to be registered with the State before it~~  
57 ~~is used on a public highway or waterway, on public land, or in the air may be exempted from~~  
58 ~~property tax by statute. If the Legislature exempts tangible personal property from property tax~~

59 ~~under this Subsection (6), it shall provide for the payment of uniform statewide fees or uniform~~  
60 ~~statewide rates of assessment or taxation on that property in lieu of the property tax. The fair~~  
61 ~~market value of any property exempted under this Subsection (6) shall be considered part of the~~  
62 ~~State tax base for determining the debt limitation under Article XIV.]~~

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

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

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

66 (a) property owned by the State;

67 (b) property owned by a public library;

68 (c) property owned by a school district;

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

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

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

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

77 (h) farm equipment and farm machinery as defined by statute; ~~and~~

78 (i) water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, power  
79 plants, and transmission lines to the extent owned and used by an individual or corporation to  
80 irrigate land that is:

81 (i) within the State; and

82 (ii) owned by the individual or corporation, or by an individual member of the  
83 corporation[-];

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

125 (a) the annual interest; and

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

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

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

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

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

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

140 (c) driver education;

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

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

146 (7) ~~[Fees and]~~ If property taxes or fees in lieu of property taxes are imposed on tangible  
147 personal property [imposed under Section 2, Subsection (6) of this article] required by law to  
148 be registered with the State before being used on a public highway or waterway, on public land,  
149 or in the air, those taxes and fees are not subject to Subsection (6) of this Section 5 [and] but  
150 shall be distributed to the taxing districts in which the property is located in the same  
151 proportion as that in which the revenue collected from real property tax is distributed.

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

154 Section 4. **Submittal to voters.**

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

157 Section 5. **Effective date.**

158 If the amendment proposed by this joint resolution is approved by a majority of those  
159 voting on it at the next regular general election, the amendment shall take effect on January 1,  
160 2007.

**Legislative Review Note**  
**as of 9-1-05 3:33 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
**as of 12-15-05 10:20 AM**

The Revenue and Taxation Interim Committee recommended this bill.

**Mixed Membership Committee Note**  
**as of 12-15-05 10:20 AM**

The Tax Reform Task Force recommended this bill.

Membership: 13 legislators 2 non-legislators  
Legislative Vote: 7 voting for 3 voting against 3 absent

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**Fiscal Note**  
**Bill Number HJR001**

**Resolution Regarding Property Tax on Personal Property** 17-Jan-06

2:24 PM

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**State Impact**

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

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$11,500	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$11,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**