

CONSTITUTIONAL AMENDMENT

C

Shall the Utah Constitution be amended to allow a property tax exemption for tangible personal property that is leased by the state or by a county, city, town, school district, or other political subdivision of the state?

Ballot Title

FOR

AGAINST

Legislative Votes

Utah Senate

26 Yes 0 No 3 Not Present

Utah House of Representatives

61 Yes 10 No 4 Not Present

Bill Title & Session

Senate Joint Resolution (S.J.R.) 3

2016 Legislative General Session

IMPARTIAL ANALYSIS

Constitutional Amendment C modifies a provision of the Utah Constitution relating to property tax exemptions. The Amendment authorizes the creation of a property tax exemption for tangible personal property--such as machinery, office furniture, or equipment--that is leased by the state or by a political subdivision of the state, as the Legislature provides by statute.

Property Tax on Leased Property Under the Current Utah Constitution

Under the current Utah Constitution, the state does not pay property tax on property the state owns. Likewise, counties, cities, towns, school districts, and other political subdivisions of the state do not pay property tax on property they own. The reason is that under the Utah Constitution, property that is owned by the state or by a political subdivision of the state is exempt from property tax.

The state and political subdivisions of the state do not own all the property they use. Sometimes the state or a political subdivision leases property from a private owner. Because that leased property is owned by a private owner, it is subject to property tax. The property tax exemption for property owned by the state or a political subdivision does not apply because the property is not owned by the state or political subdivision; it is owned by a private owner. The cost of the property tax paid by the private owner is factored into the amount the owner charges the state or political subdivision for the lease of that property. In effect, the state or political subdivision ends up paying some or all of the property tax on that leased property.

Effect of Constitutional Amendment C

Constitutional Amendment C authorizes the Legislature to provide by statute for a property tax exemption for tangible personal property that is leased by the state or by a political subdivision of the state. The Amendment does not allow for the exemption of all property leased by the state or a political subdivision. It does not allow for the exemption of leased real property, such as land or buildings. The Amendment allows for a property tax exemption only for tangible personal property, such as machinery, office furniture, or equipment, that is leased by the state or a political subdivision. Because the tangible personal property is exempt from property tax "as provided by statute," the Legislature has flexibility to fashion the exemption as it determines best.

Implementing Legislation

During the 2016 General Session of the Legislature, the Legislature enacted S.B. 68, Property Tax Amendments, which takes effect at the same time as Constitutional Amendment C if the Amendment is approved by voters. S.B. 68 provides

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a property tax exemption for machinery and equipment leased by the state or by a political subdivision of the state. To qualify for the exemption, the machinery or equipment must have an economic life of three years or more and be subject to a lease with a term of one year or more.

Effective Date

If approved by voters, Constitutional Amendment C takes effect January 1, 2017.

Fiscal Impact

Constitutional Amendment C has no fiscal impact on state and local government revenue. The Amendment may result in a reduction in leasing costs for those state or local government entities that lease tangible personal property that becomes exempt from property tax under the Amendment.

Constitutional Amendment C may result in a slight shift in property tax burden as some previously taxable property drops off the property tax rolls because of the property tax exemption allowed under the Amendment. For an owner of a \$250,000 residential home, the shift is estimated to result in an annual property tax increase of \$0.01. For the owner of a \$1,000,000 business, the shift is estimated to result in an annual property tax increase of \$0.05.

ARGUMENT IN FAVOR

Transparency and Accountability:

This amendment clarifies that a taxing entity that imposes and collects a tax will keep that tax and will use it and be accountable for the purpose for which it was imposed.

Currently in the Constitution:

Currently, the Constitution provides a property tax exemption for State owned property. When the State leases tangible property (truck, server, office equipment for example) from a private owner, there is no property tax exemption. The private owner receives a property tax bill from the county and sends it to the leasing governmental entity for payment. This process launches a shell game with the property tax between governmental entities and costs the State and taxpayers more money.

The Current Problem:

Currently, the property tax revenue on the leased item is distributed to other taxing entities that did not vote to impose the tax. Transparency is clouded and receiving entities benefit without full accountability to the taxpayers and voters for the extra shared revenue they received.

School District Example:

Under current provisions, if a school district signs a long term lease of a copy machine, they are required to pay the annual property tax on that equipment. That tax payment is made to the county. The county then divides the school district's paid tax according to the apportionment formula. The county then sends the tax paid by the school district out to the other taxing entities in the county such as the city, county and special service districts. If a school district pays \$2,000, for example, of taxes they may get \$700 back and the rest is divided up to the other taxing entities that did not impose the tax.

What this amendment does:

This amendment would expand the property tax exemption to include leased tangible properties with life expectancies of at least 3 years. This would treat government leased property the same as all government owned property for the duration of the lease. This also prevents the tax revenue from the leased property from being shared with outside taxing

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entities that did not vote to impose the tax.

Why this amendment?

- Strengthens transparency and accountability
- Encourages representation with taxation
- Promotes correct fiscal procedures
- Keeps the property tax with the entity that imposes it
- Reduces government spending on leased tangible property

How does this impact me?

- Gives you greater power to hold taxing entities accountable for tax revenue and votes they make

What this is all about:

Should a city, county or school district keep the property taxes its elected officials have imposed or should some of its taxes be shared with other taxing entities? When taxes are shared with outside taxing entities there is a lack of transparency and accountability to the voter. That is the heart of this constitutional amendment.

Please vote yes on Amendment (C) to provide clarity, transparency and improve our tax process.

Senator Wayne Harper
Representative Ken Ivory

REBUTTAL TO ARGUMENT IN FAVOR

Those favoring Amendment C misunderstand the property tax process. They say that if a school district leases a copy machine, the school district has to pay property tax. This is factually wrong. The *owner* of the copy machine pays the property tax, not the school district. Whether that business owner passes that property tax on to the school district, absorbs that cost, or passes it on to their other customers is up to the business owner. Current law does not require the business owner to pass the tax on to the school district.

Those favoring Amendment C don't identify what problem they are trying to solve or explain why we need to amend our state Constitution to solve it. In fact, there is no problem with the current way we handle property taxes for individuals and corporations that lease property to the state of Utah. Amendment C simply allows a few owners of personal property in Utah off the hook for paying their fair share of property taxes.

This proposal does not help Utahns. It helps a very small, specific group of business owners get a little more profit out of their contracts with the state of Utah. Our Constitution should only be changed when it is in the best interest of all Utahns, not just a select few.

Vote "no" on Amendment C.

Representative Brian King

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ARGUMENT AGAINST

Constitutional Amendment C would change Utah's Constitution to exclude certain businesses from being required to pay property tax. It would allow a few companies owning equipment and machinery to keep the property tax money they now have to pay under the Constitution. This proposed Constitutional amendment is unnecessary, unwise, and violates basic principles of good tax policy.

First, it is unnecessary. Utah's state Constitution is the document that, along with the U.S. Constitution, governs our state laws. It has been amended at various times in Utah's 120-year history. But it is not something that we have changed unless we have good, important reasons. This amendment to the Constitution would affect only a few businesses which own equipment or machinery they lease to the state of Utah or its subdivisions such as counties, cities, or towns. Is it really a good idea to go to the extreme length of amending the state constitution just so a few for-profit businesses can save tax dollars each year? I don't think so.

Second, it is unwise. Each of us pays our fair share of tax dollars so we can all get important services from our government. Our money pays for essential services like educating our children, building and fixing our roads, making sure our air and water are clean, maintaining the beauty of our canyons and parks, paying our firefighters and police officers, and delivering clean water to our homes. We want as many people as possible pushing the wagon up the hill and as few as possible riding in the wagon. I've listened carefully for a good reason why these businesses should be relieved of their fair share of property taxes that other owners of machinery and equipment have to pay. No one has explained to me why these companies should be able to save themselves money and get a break from helping pay for the critical things that make our state run smoothly.

Finally passing this proposal is **not good tax policy**. For years we have heard tax experts say that good tax policy "broadens the base and lowers the rate." What does that mean? It means that, generally, we want more, rather than fewer, people to pay the cost of operating government. We want more people pushing the wagon and fewer people getting a free ride in it. Generally we want more people contributing the money we need to run the state because that is the best way to keep the tax rates for everyone as low as possible.

However, this constitutional proposal takes us away from the broad tax base that calls for everyone to pay a fair share. If it passes, some taxpayers will pay no taxes on income they receive from the lease of equipment to the state government and other taxpayers will have to pay more to make up for that loss. That's bad tax policy.

Vote No on Constitutional Amendment C.

Representative Brian King

REBUTTAL TO ARGUMENT AGAINST

The opposition response has three errors in it.

Erroneous Claim 1

The opposition to Amendment C asserts that it will unfairly advantage a select few businesses. This is not true. The businesses that lease property to a city or county are not the ones paying property tax as things currently stand. When a city or county leases equipment they pay the property tax, not the business. When the lease ends, the owner of the property resumes payment of the property tax.

Erroneous Claim 2

The opposition claims there will be a large tax burden imposed on the taxpayers. As shown in the fiscal impact analysis, the impact on the general public will be negligible.

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Erroneous Claim 3

Also worth noting is the blatantly incorrect claim that this amendment will exempt business owners who lease property to the state from paying taxes on income from the leased property. This amendment has nothing to do with income tax. Property owners will still pay income tax.

Transparency & Accountability

Under the constitution, we are currently forcing some taxing entities to pay property taxes which are then distributed to other taxing entities.

This amendment enhances transparency, simplicity and the voice of the taxpayer by keeping all collected taxes within the taxing entity so citizens are able to hold the entity responsible. Presently, there is a shell game occurring where the taxes are shuffled between agencies and different taxing entities – this Amendment will end the shell game. This amendment promotes transparency, simplicity, and government accountability.

Senator Wayne Harper
Representative Ken Ivory

FULL TEXT OF CONSTITUTIONAL AMENDMENT C

PROPOSAL TO AMEND UTAH CONSTITUTION -- PROPERTY TAX EXEMPTIONS

2016 GENERAL SESSION

Utah Constitution Sections Affected:

AMENDS:

ARTICLE XIII, SECTION 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 Utah Constitution, Article XIII, Section 3, to read:

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

(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;
- (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; and
 - (j) (i) if owned by a nonprofit entity and used within the State to irrigate land, provide domestic water, as defined by statute, or provide water to a public water supplier:
 - (A) water rights; and
 - (B) reservoirs, pumping plants, ditches, canals, pipes, flumes, and, as defined by statute, other water infrastructure;
 - (ii) land occupied by a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is owned by the nonprofit entity that owns the reservoir, ditch, canal, or pipe; and
 - (iii) land immediately adjacent to a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is:

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(A) owned by the nonprofit entity that owns the adjacent reservoir, ditch, canal, or pipe; and
(B) reasonably necessary for the maintenance or for otherwise supporting the operation of the reservoir, ditch, canal, or pipe.

(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;

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

(vi) tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue.

(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;

(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) real property owned by a person in the military or the person's spouse, or both, and used as the person's primary residence, if the person serves under an order to federal active duty out of state for at least 200 days in a calendar year or 200 consecutive days[:]; and

(d) tangible personal property leased by the State or by a political subdivision of the State.

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

Section 2. **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 3. **Contingent 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, 2017.