

# CONSTITUTIONAL AMENDMENT

# B

Shall the Utah Constitution be amended to authorize the creation of a property tax exemption for real property, such as land or buildings, that the state or a local government entity leases from a private owner?

## Ballot Title

☐

**FOR**

☐

**AGAINST**

## Legislative Votes

### Utah Senate

21 Yes 7 No 1 Not Present

### Utah House of Representatives

55 Yes 14 No 6 Not Present

## Bill Title & Session

2018 Legislative General Session

Senate Joint Resolution (S.J.R.) 2

*Proposal to Amend Utah Constitution  
- Property Tax Exemptions*

## IMPARTIAL ANALYSIS

Constitutional Amendment B modifies the Utah Constitution to allow for a property tax exemption for real property that the state or a local government entity leases from a private owner.

### Current Provisions of the Utah Constitution

Under the current Utah Constitution, all tangible property in the state is subject to being taxed, except for property the Constitution specifically allows to be exempt from taxation. Tangible property subject to taxation includes real property, such as land or buildings, and tangible personal property, such as machinery, office furniture, or equipment. Property tax exemptions under the Utah Constitution include an exemption for property owned by the state or by local governments, including counties, cities, towns, and school districts.

State and local governments do not necessarily own all the property they use. Sometimes they lease property from a private owner. Because that leased property is owned by a private owner, it is subject to property tax. The private owner may pass the cost of the property tax on to the state or local government that leases the property. In those cases, the state or local government ends up paying property tax on property that would not be taxed if the state or local government owned the property.

### Effect of Amendment B

Constitutional Amendment B authorizes the creation of a property tax exemption for real property that the state or a local government entity leases from a private owner. The term “local government entity” is to be defined by statute. The Amendment does not allow for the exemption of tangible personal property that the state or a local government entity leases from a private owner.

Amendment B may result in a cost saving to the state or local government entities that lease real property from a private owner. Because of the exemption, the private owner of the real property would not be required to pay property tax on that real property, allowing the saving to be passed on to the state or local government entity.

### Implementing Legislation

If Amendment B is approved by voters, a bill passed during the 2018 General Session of the Legislature will also take effect and become law. That bill is S.B. 76, Commercial Property Tax Exemptions. S.B. 76 provides a process for obtaining a property tax exemption for real property owned by a private owner but leased to the state or a local government entity. S.B. 76 defines “local government entity” as a county, city, town, school district, charter school, or other political subdivision of the state. That definition includes the same local government entities currently entitled to a property tax exemption for real property that they own.

### Effective Date

If approved by voters, Constitutional Amendment B takes effect January 1, 2019.

### Fiscal Impact

The legislative fiscal analyst estimates that the amount of property tax paid on real property that state government leases statewide from private owners is currently \$1.8 million each year. That amount is paid to local government taxing entities, which are the entities that impose property tax. The amount of annual property tax paid on real property that local government entities lease from private owners is unknown. As a local government taxing entity’s property tax revenue decreases because of exemptions claimed under Amendment B and its implementing

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legislation, other property taxpayers within the local government taxing entity may experience a property tax increase to generate enough property tax revenue to offset the decrease. The amount of any decrease in a local government taxing entity's property tax revenue and the amount of any corresponding property tax increase to other taxpayers will depend on the amount and value of the leased real property and the property tax rate on that property.

## ARGUMENT IN FAVOR

### Constitutional Amendment B: A more simple, efficient and transparent tax policy

It does not make sense to use taxes to pay taxes. This is why the Utah Constitution exempts government entities from paying property taxes on property that it owns. Amendment B simply provides real property *leased* by the state or a local government entity to also be exempt from property taxes.

- **Simplicity:** Currently, property is tax assessed on leased property, even when that property is leased by a governmental entity. In these instances, the state is essentially paying itself a property tax. This is like paying yourself to wash your own car. Whether the state owns or leases the real property it doesn't make sense to use taxpayer dollars to pay more taxes. Amendment B simplifies this process and makes the tax policy consistent whether the state owns or leases property.
- **Efficiency:** When the state allocates taxpayers dollars to a state agency or a government entity to provide services, it should avoid waste and inefficiencies. If these entities are forced to use a portion of their allocated tax dollars to pay property tax, they spend less on the services they are supposed to provide. By eliminating the property tax on property leased by these entities, more tax dollars will go toward their intended purposes and less tax dollars will go to waste.
- **Transparency:** Property taxes paid by a governmental entity on leased property is redistributed to other taxing entities that did not vote to impose the tax. For example, for a school district that leases property could lose part of their education funds to other governmental entities. Amendment B will increase transparency and accountability by ensuring that property tax stays with the entity that imposes it.
- **Fiscal Impact:** This change will not INCREASE or DECREASE revenues at all. The fiscal impact of Amendment B is revenue neutral.

Whether the state owns or leases property it does not make sense to use tax dollars to pay property taxes. Join us in voting FOR Amendment B for a more simple, efficient and transparent tax policy.

Senator Dan Hemmert  
Representative Adam Robertson

## REBUTTAL TO ARGUMENT IN FAVOR

Property owners who lease land to state or local government entities already receive the benefit of a reliable tenant leasing the land at fair market value. Amendment B seeks to provide an additional benefit to these property owners by giving them a tax exemption, to boot.

The proponents of this amendment argue that it is "revenue neutral." While technically accurate, that characterization is misleading. Passing this constitutional amendment would result in a tax cut for every property owner who leases land to the state. **This will result in a tax increase for every other taxpayer in the state.**

The choice is simple: If you lease land to the state, Amendment B will save you money. If you are like the rest of us who do not, Amendment B will raise your taxes.

Voters wisely rejected this idea a few years ago. It's time to do so again.

### Vote Against Amendment B.

- Senator Gene Davis and Representative Sandra Hollins

## ARGUMENT AGAINST

### Amendment B rewards a few at the expense of all others.

Amendment B is a government giveaway to certain property owners who voluntarily lease their property to the govern-

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ment. This is a tax exemption that every other property owner would be expected to pay.

Each year, local governments are guaranteed the same amount of revenue they received in the previous year and adjust the property tax rate to ensure this. When we grant exemptions, the share is spread among the remaining taxpayers.

The taxes the exempted property owner would have paid are then shifted to every other taxpayer to offset the difference. In short, this measure only helps a small handful of property owners while making everyone else pay the exempted owner's share.

Property tax is a vitally important source of local government funding. School districts, cities, and counties rely on property tax to provide essential services like educating our children, constructing and maintaining streets, making sure our air and water are clean, and protecting our communities.

## **Why provide a special handout to those who already benefit from leasing property to the government?**

The property owner who leases to the government is already receiving the benefit of a good and reliable tenant paying market value using public dollars. Passing this measure would provide that property owner with the additional benefit of a tax exemption.

Two years ago, the citizens of this state were asked to vote on a constitutional amendment nearly identical to this one. The people wisely rejected that change on Election Day. We ask that you make the same decision here.

The state constitution has worked well for 122 years without this property tax exemption. The constitution is intentionally hard to change. We should only tinker with it when it is absolutely necessary--when the reasons to do so are compelling and the need is vital. There is no compelling reason to make this change now.

## **Vote Against Constitutional Amendment B.**

- Senator Gene Davis and Representative Sandra Hollins

## REBUTTAL TO ARGUMENT AGAINST

Amendment B is not a giveaway to property owners who lease property to the government. The real property tax exemption that Amendment B provides ONLY applies when the government is leasing 100% of a tax parcel and paying the real property tax directly (i.e., the government writes the check directly to the county). Amendment B has zero effect on the property owner. With or without Amendment B, the property owner who leases the property to the government does not pay the property tax. The property tax exemption is not given to the property owner, it is given to the government tenant who is paying the property tax directly. The exemption terminates when the government's lease terminates. The only beneficiary from Amendment B is the government (and indirectly all taxpayers) because it no longer has to waste our tax dollars to pay taxes. Using taxes to pay taxes makes no sense, which is why this exemption already exists in our state constitution when the government owns property outright.

The local governments and school districts who rely on property tax as a revenue source will not see a change in funding as a result of Amendment B.

We the people should demand the elimination of government waste and inefficiencies. Amendment B ensures that our government is less wasteful and inefficient by stopping the use of taxes to pay taxes. Vote for amendment B!

Senator Hemmert & Representative Robertson

## FULL TEXT OF CONSTITUTIONAL AMENDMENT B

### **PROPOSAL TO AMEND UTAH CONSTITUTION -- PROPERTY TAX EXEMPTIONS**

2018 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.]**

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(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:
  - (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) real property that the State or a local government entity, as defined by statute, leases from a private owner.

(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, 2019.

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