

HOUSE JOINT RESOLUTION NO. HJ0002

Taxpayer's bill of rights.

Sponsored by: Representative(s) Gray, Jennings and Salazar
and Senator(s) Biteman, Bouchard and James

A JOINT RESOLUTION

for

1 A JOINT RESOLUTION proposing to amend the constitution by
2 creating a new section establishing the taxpayer's bill of
3 rights and taxpayer standing; prohibiting any tax increase by
4 the state or any local government or increase of debt unless
5 approved by the voters; specifying ballot requirements;
6 providing for the refund of excess taxes; providing for
7 emergency taxes; prohibiting increasing state expenditures;
8 providing for distribution of surplus state funds; providing
9 definitions; authorizing persons to commence a civil action
10 against state governmental entities and officials as
11 specified; allowing the state to intervene in actions; and
12 providing for an award of litigation costs as specified.

13

14 *BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF WYOMING,*
15 *two-thirds of all the members of the two houses, voting*
16 *separately, concurring therein:*

1

2 **Section 1.** The following proposal to amend Wyoming
3 Constitution, Article 1, by creating a new Section 40 is
4 proposed for submission to the electors of the State of
5 Wyoming at the next general election for approval or rejection
6 to become valid as a part of the Constitution if ratified by
7 a majority of the electors at the election:

8

9 **Article 1, Section 40. Taxpayer's bill of rights and**
10 **taxpayer standing.**

11

12 (a) Taxpayer's bill of rights. The following shall
13 apply:

14

15 (i) Districts shall have voter approval in advance
16 for:

17

18 (A) Any new tax, tax rate increase, mill levy
19 above the mill levy for the prior year, valuation or
20 assessment ratio increase for any property class, extension
21 of an expiring tax or adoption of any tax policy directly
22 causing a net tax revenue gain to any district; and

23

1 (B) The creation of any multiple fiscal year
2 direct or indirect district debt if the district does not
3 have adequate present cash reserves pledged irrevocably and
4 held for payments on the debt in all future years, except for
5 refinancing district bonded debt at a lower interest rate or
6 adding new employees to existing district pension plans.

7

8 (ii) The requirements of paragraph (i) of this
9 subsection requiring voter approval shall not apply:

10

11 (A) To an emergency tax or budget increase.
12 An emergency shall be declared only after approval by a
13 two-thirds (2/3) vote of all members of each of the two (2)
14 houses of the Wyoming legislature, voting separately, and
15 signature by the governor for a state tax or budget increase
16 or by two-thirds (2/3) of the members elected to the governing
17 body of any other district imposing or increasing a tax. Any
18 revenue raised under this subsection that is not expended on
19 the emergency for which it was raised shall be refunded to
20 taxpayers in the fiscal year following the expiration of the
21 emergency. An emergency tax imposed under this subsection
22 shall be approved by the voters at the next regular election
23 that is more than sixty (60) days following the declaration

1 of the emergency. If the emergency is not approved under this
2 subsection, the emergency tax shall end on the first day of
3 the month immediately following the month the election
4 results are reported; or

5

6 (B) When annual district revenue is less than
7 annual payments on general obligation bonds, pensions and
8 final court judgments. This paragraph shall only apply for
9 the amount of time necessary to address the deficiency.

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11 (iii) Ballot issues shall be decided at a state
12 general election, biennial local district election or on the
13 first Tuesday in November of odd-numbered years. At least
14 thirty (30) days before a ballot issue election, districts
15 shall mail at the least cost, and as a package where districts
16 with ballot issues overlap, a titled notice or set of notices
17 addressed to "All Registered Voters" at each address with one
18 (1) or more active registered electors. Title notices shall
19 have this order of preference: "NOTICE OF ELECTION TO INCREASE
20 TAXES/TO EXTEND TAXES/TO INCREASE DEBT/ON A CITIZEN
21 PETITION/ON A REFERRED MEASURE." Except for district voter
22 approved additions, notices shall include only:

23

1 (A) The election date, hours, ballot title,
2 text of the ballot and local election office address and
3 telephone number;

4

5 (B) For proposed district tax or bonded debt
6 increases, the estimated or actual total of district fiscal
7 year spending for the current year and each of the past four
8 (4) years, and the overall percentage and dollar change;

9

10 (C) For the first full fiscal year of each
11 proposed district tax increase, an estimate of the maximum
12 dollar amount of each increase and of district fiscal year
13 spending without the increase;

14

15 (D) For proposed district bonded debt, the
16 principal amount of proposed debt and the maximum annual and
17 total district repayment cost, the principal balance of total
18 current district bonded debt and the maximum annual and
19 remaining total district repayment cost;

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21 (E) Two (2) summaries, of not more than five
22 hundred (500) words each, one (1) for and one (1) against the
23 proposal, of written comments filed with the election officer

1 not more than forty-five (45) days before the election. No
2 summary shall include the name of any person or private group
3 or any endorsement of or resolution against the proposal.
4 Petition representatives following these rules shall write
5 the summary for the petition. The election officer shall
6 maintain and accurately summarize all other relevant written
7 comments.

8
9 (iv) Unless authorized by later voter approval, if
10 a tax increase or fiscal year spending exceeds the estimate
11 provided in subparagraph (iii)(C) of this subsection for the
12 same fiscal year, the tax increase shall thereafter be reduced
13 up to one hundred percent (100%) in proportion to the combined
14 excess revenue, and the combined excess revenue shall be
15 refunded to taxpayers in the next fiscal year;

16
17 (v) District bonded debt shall not be issued on
18 terms that could exceed its share of its maximum repayment
19 costs as provided in subparagraph (iii)(D) of this
20 subsection;

21
22 (vi) Ballot titles for tax or bonded debt
23 increases under this section shall begin, "SHALL (DISTRICT)

1 TAXES BE INCREASED (amount of first year dollar amount, or if
2 phased in, the final full fiscal year dollar amount)
3 ANNUALLY?" or "SHALL (DISTRICT) DEBT BE INCREASED (principal
4 amount), WITH A REPAYMENT COST OF (maximum total district
5 cost)?";

6

7 (vii) In addition to the limits on increasing
8 taxes under paragraph (i) of this subsection, the maximum
9 annual percentage change in state fiscal year spending shall
10 not exceed inflation in the prior calendar year plus three-
11 fourths (3/4) of any positive percentage change in state
12 population in the prior calendar year, adjusted for revenue
13 changes approved by voters after the effective date of this
14 section. Expenditures shall be made using a zero-based
15 budgeting process as determined by the legislature. Any
16 negative population change shall not be deducted in the
17 calculation of the maximum spending limit under this
18 subsection. Population shall be determined by annual federal
19 census estimates and the population shall be adjusted every
20 decade to match the federal census;

21

22 (viii) Any surplus annual funds after the spending
23 limits under paragraph (vii) of this subsection are met shall

1 be distributed as determined by the legislature in the
2 following amounts:

3
4 (A) Eighty percent (80%) to ninety percent
5 (90%) of the surplus shall be deposited into reserve accounts,
6 provided that not more than fifteen percent (15%) of this
7 amount shall be placed in the permanent Wyoming mineral trust
8 fund or other inviolate account. Funds deposited into reserve
9 accounts under this subsection shall not be expended in the
10 same fiscal biennium that the funds were determined to be
11 surplus annual funds;

12
13 (B) Ten percent (10%) to fifteen percent
14 (15%) of the surplus shall be deposited into capital accounts
15 for future construction projects or other future
16 improvements. Funds deposited into capital accounts under
17 this subsection shall not be expended in the same fiscal
18 biennium that the funds were determined to be surplus annual
19 funds;

20
21 (C) Five percent (5%) shall be returned to
22 the voters of Wyoming via a rebate check.

23

1 (ix) The intent of this section is to reasonably
2 restrain the growth of government. All provisions of this
3 section shall supersede conflicting state constitutional
4 provisions. Any other limits on district revenue, spending
5 and debt shall be removed or limited only through voter
6 approval under paragraph (iii) of this subsection;

7

8 (x) Individual or class action enforcement suits
9 may be filed for any violation of this section and shall have
10 the highest civil priority of resolution. Successful
11 plaintiffs under this paragraph shall be awarded allowed
12 costs and reasonable attorney fees. A district shall not be
13 entitled to costs or fees for a suit under this paragraph
14 unless the suit is ruled frivolous. Revenue collected, kept
15 or spent illegally before a suit is filed under this paragraph
16 shall be refunded with ten percent (10%) annual simple
17 interest from the initial conduct. Subject to judicial
18 review, districts may use any reasonable method for refunds
19 under this paragraph, including temporary tax credits or rate
20 reductions;

21

1 (xi) Nothing in this section shall be interpreted
2 to increase the taxing authority of any district prior to the
3 effective date of this section;

4

5 (xii) As used in this subsection:

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7 (A) "District" means the state, any local
8 government, political subdivision or other entity created by
9 a state or local government that has authority to charge or
10 impose a tax;

11

12 (B) "Emergency" shall not include ordinary
13 economic conditions including a structural budget deficit or
14 salary or benefit increases;

15

16 (C) "Fiscal year spending" means all state
17 expenditures and appropriations including expenditures from
18 reserves. "Fiscal year spending" shall not include:

19

20 (I) Appropriations for schools from the
21 school foundation program account or expenditures for school
22 capital construction;

23

1 (II) Refunds made in the current or next
2 fiscal year;

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4 (III) Expenditures made from gifts or
5 bequests made for purposes specified by the donor including
6 any proceeds from those gifts or bequests;

7

8 (IV) Expenditures or appropriations of
9 funds received from the federal government for specific
10 purposes. This subparagraph shall not apply to federal
11 mineral royalties or coal lease bonus payments;

12

13 (V) Collections for another government;

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15 (VI) Pension contributions by
16 employees, pension fund distributions and pension fund
17 earnings;

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19 (VII) Damage awards;

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21 (VIII) Property sales;

22

1 (IX) Principal and interest on bonded
2 indebtedness;

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4 (X) Expenditures funded by unemployment
5 and disability insurance funds;

6

7 (XI) Expenditures for tax relief;

8

9 (XII) Workers' compensation benefits.

10

11 (D) "Inflation" means the percentage change
12 in the annualized Wyoming cost-of-living index produced for
13 the second quarter by the state of Wyoming economic analysis
14 division or a similar state agency;

15

16 (E) "Tax" means any financial charge, however
17 denominated, imposed by a district and from which revenue
18 accrues to government, other than:

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20 (I) The price paid in a voluntary
21 transaction in a competitive market where the item for which
22 the price is being imposed is not monopolized by government,
23 including educational tuition; or

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(II) Civil and criminal fines and other charges collected in cases of restitution or violation of law or contract.

(b) Taxpayer standing. The following shall apply:

(i) Any citizen of the state of Wyoming may commence a civil action on his own behalf against the state of Wyoming, any state governmental entity or official for alleged violations or to compel compliance with the constitution and laws of the state of Wyoming;

(ii) Any action filed pursuant to this subsection shall be filed in the district court for Laramie county;

(iii) The state of Wyoming may intervene as a matter of right in any action filed pursuant to this subsection;

(iv) The court, in issuing any final order in any action brought pursuant to this subsection, may award costs

1 of litigation including attorney and expert witness fees to
2 any party;

3

4 (v) The availability of other judicial review
5 shall not be construed to limit the operation of rights
6 established in this subsection;

7

8 (vi) Nothing in this subsection shall limit any
9 existing civil or criminal penalty or right arising out of a
10 violation of any provision of the constitution or laws of the
11 state of Wyoming pertaining to separation of powers,
12 procurement and state contracts.

13

14 **Section 2.** That the Secretary of State shall endorse
15 the following statement on the proposed amendment:

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17 The adoption of this amendment would establish the taxpayer's
18 bill of rights and taxpayer standing. The taxpayer's bill of
19 rights prohibits state and local governments from imposing
20 new taxes, increasing existing taxes or increasing debt
21 without voter approval. The taxpayer's bill of rights
22 establishes requirements for ballots and provides for a
23 refund of taxes collected in excess of the maximum amount

1 specified on the ballot. The amendment would also limit state
2 spending and would specify how surplus state funds are
3 required to be distributed. The taxpayer's bill of rights
4 authorizes emergency taxes in specified circumstances and
5 provides that emergency taxes shall expire if not approved by
6 voters at the next election. Taxpayer standing under this
7 amendment would authorize citizens to commence a civil action
8 against state governmental entities and officials and allow
9 the state to intervene in those actions.

10

11

(END)