

## HOUSE JOINT RESOLUTION NO. HJ0015

Taxpayer's bill of rights and taxpayer standing.

Sponsored by: Representative(s) Gray, Bear and Jennings and  
Senator(s) Biteman

## 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

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

4

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

11

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

14

15       (a) Taxpayer's bill of rights. The following shall  
16 apply:

17

18               (i) Districts shall have voter approval in advance  
19 for:

20

21                       (A) Any new tax, tax rate increase, mill levy  
22 above the mill levy for the prior year, valuation or  
23 assessment ratio increase for any property class, extension

1 of an expiring tax or adoption of any tax policy directly  
2 causing a net tax revenue gain to any district; and

3

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

10

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

13

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

1 emergency. An emergency tax imposed under this subsection  
2 shall be approved by the voters at the next regular election  
3 that is more than sixty (60) days following the declaration  
4 of the emergency. If the emergency is not approved under this  
5 subsection, the emergency tax shall end on the first day of  
6 the month immediately following the month the election  
7 results are reported; or

8

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

13

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

1 PETITION/ON A REFERRED MEASURE." Except for district voter  
2 approved additions, notices shall include only:

3

4 (A) The election date, hours, ballot title,  
5 text of the ballot and local election office address and  
6 telephone number;

7

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

12

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

17

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

23

1                   (E) Two (2) summaries, of not more than five  
2 hundred (500) words each, one (1) for and one (1) against the  
3 proposal, of written comments filed with the election officer  
4 not more than forty-five (45) days before the election. No  
5 summary shall include the name of any person or private group  
6 or any endorsement of or resolution against the proposal.  
7 Petition representatives following these rules shall write  
8 the summary for the petition. The election officer shall  
9 maintain and accurately summarize all other relevant written  
10 comments.

11

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

19

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

1

2 (vi) Ballot titles for tax or bonded debt  
3 increases under this section shall begin, "SHALL (DISTRICT)  
4 TAXES BE INCREASED (amount of first year dollar amount, or if  
5 phased in, the final full fiscal year dollar amount)  
6 ANNUALLY?" or "SHALL (DISTRICT) DEBT BE INCREASED (principal  
7 amount), WITH A REPAYMENT COST OF (maximum total district  
8 cost)?";

9

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

1

2 (viii) Any surplus annual funds after the spending  
3 limits under paragraph (vii) of this subsection are met shall  
4 be distributed as determined by the legislature in the  
5 following amounts:

6

7 (A) Eighty percent (80%) to eighty-five  
8 percent (85%) of the surplus shall be deposited into reserve  
9 or inviolate accounts, provided that not more than fifteen  
10 percent (15%) of this amount shall be placed in the permanent  
11 Wyoming mineral trust fund or other inviolate account. Funds  
12 deposited into reserve or inviolate accounts under this  
13 subsection shall not be expended in the same fiscal biennium  
14 that the funds were determined to be surplus annual funds;

15

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

23



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

3

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

10

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

1

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

5

6 (xii) As used in this subsection:

7

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

12

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

16

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

20

21 (I) Appropriations for public  
22 elementary and secondary school operations or capital  
23 construction;

1

2

(II) Refunds made in the current fiscal year or required to be made in a succeeding fiscal year;

4

5

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

8

9

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

13

14

(V) Collections for another government;

15

16

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

19

20

(VII) Damage awards;

21

22

(VIII) Property sales;

23

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

3

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 a state agency specified by law;

14

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

18

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

23

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

4

5           (b) Taxpayer standing. The following shall apply:

6

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

13

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

16

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

20

21                   (iv) The court, in issuing any final order in any  
22 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:

16

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 general civil  
8 actions against state governmental entities and officials and  
9 allow the state to intervene in those actions.

10

11

(END)