

## Amendment R Exempt Possessory Interests in Real Property

1 **Amendment R proposes amending the Colorado Constitution to:**

- 2       ♦ eliminate property taxes for individuals or businesses that use  
3       government-owned property for a private benefit worth \$6,000 or less  
4       in market value.

### 5 **Summary and Analysis**

6       ***Property taxes and possessory interests.*** Property taxes are primarily based  
7       on the value of land, houses, other buildings, and business equipment. Individuals  
8       and businesses pay property taxes to various local governments, such as cities,  
9       counties, school districts, and special districts, each of which imposes its own tax rate  
10      on property. Property taxes pay for a variety of local government services, including  
11      public education, police and fire services, roads and bridges, parks and recreation  
12      facilities, hospitals, and libraries.

13      When an individual or business uses government-owned land or equipment for  
14      private purposes, a possessory interest is created. Although government-owned  
15      property is exempt from taxes, the benefit that a business or individual obtains from  
16      using that land or equipment is not. For example, some ranchers lease land from the  
17      federal government for cattle grazing. Other businesses lease land to provide a  
18      recreational activity, such as skiing or river rafting, or are given a contract to provide a  
19      specific service on public land, such as operating a snack bar at a national park.  
20      Under current law, the value of a private benefit is considered a possessory interest  
21      and is subject to property taxes.

22      The market value of all possessory interests in Colorado is about \$300 million,  
23      which is less than 0.1 percent of the total market value of all property in the state. At  
24      this value, total property tax payments for possessory interests are approximately  
25      \$6 million annually. There are about 7,000 possessory interests in the state, which  
26      pay an average of \$850 in property taxes annually.

### 27 ***How does Amendment R change the taxation of possessory interests?***

28      Starting in 2012, Amendment R exempts a possessory interest from property taxation  
29      if the market value of the interest is \$6,000 or less, which equates to a maximum tax  
30      payment of \$120 annually, depending on local tax rates. For example, most cattle  
31      grazing leases with the federal government have a market value below \$6,000, and  
32      therefore this private benefit would not be taxed. In contrast, the value of private  
33      benefits obtained by ski areas exceed the \$6,000 threshold and will continue to be  
34      taxed at the full value. In budget year 2012-13, the measure is expected to reduce  
35      property taxes statewide by \$160,000. Every two years, the \$6,000 threshold is  
36      increased to account for inflation.

## 1 **Argument For**

2 Amendment R reduces the administrative burden of collecting a tax that in many  
3 cases costs more money to collect than it brings in to local governments. For  
4 example, the majority of possessory interests in the state are for agricultural leases,  
5 many of which owe less than \$10 in property taxes. The cost of administering this  
6 tax — mailing notices, maintaining tax rolls, and collecting and enforcing the  
7 tax — often exceeds this amount.

## 8 **Argument Against**

9 Amendment R provides an unfair tax break for businesses and individuals who use  
10 government-owned land and puts a greater tax burden on others to pay for local  
11 government services. The state constitution requires that taxes be charged uniformly  
12 for all taxpayers. A small tax bill does not justify exempting a business or individual  
13 from paying the tax on the private benefit they enjoy on government land. Simple  
14 fairness demands that all businesses and individuals pay taxes, no matter how small.

## 15 **Estimate of Fiscal Impact**

16 **State expenditures.** Public schools are funded from a combination of state and  
17 local revenue. Since Amendment R reduces the amount of local revenue for schools,  
18 the state's portion of school funding will increase by approximately \$46,000 beginning  
19 in budget year 2012-13.

20 **Local government impact.** The amendment is expected to reduce property taxes  
21 for local governments by up to \$160,000 per year, beginning in budget year 2012-13.  
22 Of this amount, property taxes for school districts are expected to decrease by  
23 approximately \$46,000. In addition, minor cost savings may occur in some counties  
24 because of a reduced number of mailings and fewer properties to process and value.