

CONSTITUTIONAL AMENDMENT

B

Shall State School Fund provisions of the Utah Constitution be amended to:

- modify the description of what can be distributed from the State School Fund from "interest and dividends" to "earnings";
- limit annual distributions from the State School Fund to 4% of the Fund; and
- modify the standard governing how the state is required to invest money in the Fund.

Ballot Title

FOR

AGAINST

Legislative Votes

Utah Senate

26 Yes 1 No 2 Not Present

Utah House of Representatives

72 Yes 0 No 3 Not Present

Bill Title & Session

Senate Joint Resolution (S.J.R.) 12

2016 Legislative General Session

IMPARTIAL ANALYSIS

Constitutional Amendment B modifies a provision of the Utah Constitution relating to the permanent State School Fund. The Amendment makes three main changes:

1. it changes the description of what can be distributed from the State School Fund from "interest and dividends" to "earnings";
2. it limits the amount of money that can be distributed from the State School Fund to 4% of the Fund, calculated as provided by statute; and
3. it changes the standard for how the state is required to invest the State School Fund from "safely" to "prudently."

The Amendment also makes technical changes that do not affect the substance of the current Utah Constitution.

Background on the State School Fund

The State School Fund is a fund that was established by the Utah Constitution at statehood. The purpose of the State School Fund is to accumulate money from specified sources to benefit public schools in the state. The Utah Constitution requires that the Fund be safely invested by the state. Expenditures from the Fund may only be for the purpose of supporting public schools. Originally, only "interest" derived from the investment of money in the Fund could be spent for the support of public schools. Later, that was changed to "interest and dividends." Other than those allowed expenditures, any money deposited into the Fund and any unspent interest and dividends are required to remain in the Fund. The current Utah Constitution does not limit how much of the "interest and dividends" may be spent for the support of public schools.

Effect of Constitutional Amendment B

1. Change from "interest and dividends" to "earnings"

The Utah Constitution currently provides that only "interest and dividends" received from investment of the State School Fund may be spent for the support of public schools. The language "interest and dividends" does not capture all

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the ways that the Fund could generate earnings. For example, "interest and dividends" does not include earnings that result from increases in the value of stock that the Fund purchases and later sells at a higher price. Under the current Utah Constitution, money earned from investment of the Fund that is not "interest and dividends" cannot be spent for the support of public schools.

Constitutional Amendment B modifies the description of what can be distributed from the State School Fund. The Amendment replaces "interest and dividends" with "earnings." The term "earnings" includes interest and dividends but also includes other ways the Fund earns money on the investment of money in the State School Fund. This change means that all money earned from the investment of money in the Fund – not just money earned as interest or dividends – will be available to be distributed for the support of public schools.

2. Limit on distributions from the State School Fund

The Utah Constitution currently does not contain a limit on the amount of "interest and dividends" that may be expended for the support of public schools. Under the current Utah Constitution, all interest and dividends earned in any given year could be spent for the support of public schools.

Constitutional Amendment B provides that annual distributions from the State School Fund may not exceed 4% of the Fund. What constitutes 4% of the Fund is to be calculated as provided by statute.

That statutory calculation is provided in S.B. 109, School and Institutional Trust Lands Amendments, which passed during the 2016 General Session of the Legislature and takes effect at the same time as Constitutional Amendment B if the Amendment is approved by voters. S.B. 109 defines the limit on distribution from the State School Fund as 4% of the average market value of the Fund over the past 12 consecutive quarters.

3. Change from "safely" to "prudently"

The Utah Constitution currently requires the State School Fund to be "safely" invested by the state. The dictionary meaning of "safely" suggests that the investment is done in a manner that is free from harm or risk. The term is not commonly used in the investment community to describe how an investment manager should invest money. There is a risk associated with any investment.

Constitutional Amendment B changes the description of how the state is required to invest money in the State School Fund. The Amendment replaces "safely" with "prudently." The dictionary meaning of "prudently" suggests that the investment is done in a manner marked by wisdom or judiciousness. The term "prudent" or "prudently" is commonly used in the investment community to describe the responsibility of someone investing money on behalf of another.

Effective Date

If approved by voters, Constitutional Amendment B takes effect July 1, 2017.

Fiscal Impact

The State School Fund has approximately \$2.1 billion in assets. Under Constitutional Amendment B, the amount of cash the State School Fund will receive as "earnings" from the investment of the Fund during the first year the Amendment is implemented is estimated to be \$79,000,000. That amount is \$22,000,000 more than the \$57,000,000 that the Fund is estimated to receive from "interest and dividends" alone. The fiscal impact of Constitutional Amendment B will depend on how much of the additional "earnings" that exceed "interest and dividends" is distributed for the support of public schools and how much is retained in the Fund to increase the total dollar value of the Fund. The greater the amount of "earnings" that are distributed, the less the Fund increases in dollar value, and the less money there is to generate future "earnings."

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ARGUMENT IN FAVOR

Amendment B is a small update in the state constitution that will make a big difference.

If you approve this amendment, the state will be allowed to implement best practices in investment management to continue building the School Trust Fund while still balancing our responsibilities to support current and future students. The state will be able to prudently increase the distribution from the School Trust Lands program by up to 50% over the next few years while adding millions of dollars to our educational system.

Result: the fund will be better managed, distributions will be grounded in economic principles, and local schools will receive more money, both now and in the future.

Education leaders support Amendment B. Increasing distributions will allow our school community councils to continue the work of meaningful school improvement. These local teams decide the best academic use for the funds - school by school.

Financial leaders support Amendment B. By updating the distribution policy from the School Trust Fund to consider a percentage of earnings, student enrollment growth and inflation, instead of simple interest and dividends, the School and Institutional Trust Fund Board of Trustees will be able to apply best investment practices to growing the fund while also increasing distributions.

Student Advocates Support Amendment B. The amendment includes a 4% cap on the distribution so the fund will continue to build. This will protect the fund principal, allow it to grow and provide more money to schools now and in the future.

State Officials support Amendment B. The State Board of Education, as well as the Governor, State Treasurer, Trust Land Board of Trustees and Trust Fund Board of Trustees, State House of Representatives, and the State Senate all support Amendment B.

Thank you for your concern for our state's finances and schoolchildren. We hope you will join with all of us and vote YES on Amendment B!

Ann Millner
Utah State Senator

Mel Brown
Utah State Representative

David Damschen
Utah State Treasurer

REBUTTAL TO ARGUMENT IN FAVOR

The money sent annually to the Community Council of each Utah school from Utah's School Trust Fund is some of the most scrutinized and well spent money in the state. Thoughtful parents and other Community Council members diligently evaluate the most effective way to utilize the monies for their school's specific needs. The community councils then appropriate the money accordingly for the unique needs of their own neighborhood schools.

The proposed Constitutional Amendment will not only change investment strategies by having fewer eyes reviewing the management plans, but it will also prescribe a set amount of money to be given annually to each school. The Community Councils will now know exactly how much money is coming each year, and the option to automatically build that annual distribution from SITLA in to the school budget will result in a lack of opportunity for parental review and annual decision making. Opportunities to address a new or current need could be lost.

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The current successful strategy grows the fund at a competitive rate, earning millions of dollars for Utah's schools annually without touching the 'seed' money of the fund. Distributions are made that reflect the markets, allowing the corpus to continue to grow and enhance education budgets.

This is the prudent path forward.

Vote no on Amendment B

Margaret Dayton – Utah State Senate

Scott Jenkins – Utah State Senate

ARGUMENT AGAINST

This resolution proposes to change the management of Utah's State School Trust Fund, both in investment strategy and in the fund's distribution to Utah's schools.

It would be a mistake to modify the fund for the following reasons:

- The current fund works
- Changing it could be reckless
- The focus should be on the long-term health and sustainability of student funding

In the last thirty years, the fund has grown from \$18m to approximately \$2b! The growth has been safe, predictable, and beneficial to public education. Only the interest and dividends from those investments may be expended for the support of the public education system. The current plan has been a boon to all of public education.

This resolution will modify the current successful fund plan to follow an endowment model of investment. As endowments have gained attention and support over the years, some investment analysts have warned that endowments may not always be the right solution for institutional investors.

Utah's current fund strategy has done well in comparison to other western states. In 2012, a USU study analyzed the management of funds in the 20 states that still hold school trust lands. The study indicated that Utah enjoyed the second highest rate of growth among all of the western states, including those using an endowment investment strategy.

It is clear that Utah has been very competitive in its current investment strategy even in comparison to those currently using an endowment model. Utah should maintain that successful course.

While this strategy could perhaps increase the fund's annual distribution, that increase would be achieved at the expense of predictable and demonstrated long-term growth.

Under the current strategy, Utah's fund has grown to around \$2b today. It would be a mistake to treat this burgeoning fund recklessly and sacrifice growth and stability to benefit some schools now to the detriment of schools in the future.

Vote No on Constitutional Amendment B

Margaret Dayton – Utah State Senate

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REBUTTAL TO ARGUMENT AGAINST

It is not often that a small change will provide dramatic results. Passage of Amendment B will make the School Trust Fund's annual distribution more stable, predictable and fair. It will safeguard the fund while providing a more consistent revenue stream. The fund will distribute more to meet current needs while continuing to grow for future needs.

Amendment B will update an outdated distribution policy with one that is based on best practices from trust management. Lessons from past market cycles and simulations of future scenarios were extensively studied and incorporated into the design of this proposal. This is an important and necessary step to increase current funding, stabilize the annual distribution, and improve long term results.

We have a responsibility to school children today and in the future to make sure we have the best investment and distribution policy available. After careful study and expert analysis, we agree that Amendment B is a simple change that makes important improvements over the current, outdated policy. That's why we encourage you to vote YES on Amendment B!

Utah State Board of Education
Salt Lake Chamber of Commerce
Utah Charter Advocates
Utah PTA
Prosperity 2020
Utah Education Association
Education First
Utah Association of Elementary School Principals
Utah Association of Secondary School Principals

Ann Millner
Utah State Senator

Mel Brown
Utah State Representative

FULL TEXT OF CONSTITUTIONAL AMENDMENT B

PROPOSAL TO AMEND UTAH CONSTITUTION -- CHANGES TO SCHOOL FUNDS

2016 GENERAL SESSION

Utah Constitution Sections Affected:

AMENDS:

ARTICLE X, SECTION 5

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 X, Section 5, to read:

Article X, Section 5. [State School Fund and Uniform School Fund -- Establishment and use -- Debt guaranty.]

(1) There is established a permanent State School Fund which ~~[shall consist]~~ consists of ~~[revenue from the following sources]:~~

(a) proceeds from the sales of all lands granted by the United States to this state for the support of the public elementary and secondary schools;

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- (b) 5% of the net proceeds from the sales of United States public lands lying within this state;
- (c) all revenues derived from nonrenewable resources on state lands, other than sovereign lands and lands granted for other specific purposes;
- (d) all revenues derived from the use of school trust lands;
- (e) revenues appropriated by the Legislature; and
- (f) other revenues and assets received by the ~~[fund]~~ permanent State School Fund under any other provision of law or by bequest or donation.

(2) (a) The permanent State School Fund ~~[principal]~~ shall be ~~[safely]~~ prudently invested by the state and shall be held by the state in perpetuity.

(b) Only ~~[the interest and dividends]~~ earnings received from investment of the permanent State School Fund may be ~~[expended]~~ distributed from the fund, and any distribution from the fund shall be for the support of the public education system as defined in Article X, Section 2 of this constitution.

(c) Annual distributions from the permanent State School Fund under Subsection

(2)(b) may not exceed 4% of the fund, calculated as provided by statute.

~~[(c)]~~ (d) The Legislature may make appropriations from school trust land revenues to provide funding necessary for the proper administration and management of those lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the school land trust. Unexpended balances remaining from the appropriation at the end of each fiscal year shall be deposited in the permanent State School Fund.

~~[(d)]~~ (e) The permanent State School Fund shall be guaranteed by the state against loss or diversion.

(3) There is established a Uniform School Fund which ~~[shall consist of revenue from the following sources]~~ consists of:

- (a) ~~[interest and dividends]~~ money from the permanent State School Fund;
 - (b) revenues appropriated by the Legislature; and
 - (c) other revenues received by the ~~[fund]~~ Uniform School Fund under any other provision of law or by donation.
- (4) The Uniform School Fund shall be maintained and used for the support of the state's public education system as defined in Article X, Section 2 of this constitution and apportioned as the Legislature shall provide.
- (5) (a) Notwithstanding Article VI, Section 29, the State may guarantee the debt of school districts created in accordance with Article XIV, Section 3, and may guarantee debt incurred to refund the school district debt. Any debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken to facilitate the payment of the state's obligation under any debt guaranty shall not be included as a debt of the state for purposes of the 1.5% limitation of Article XIV, Section 1.
- (b) The Legislature may provide that reimbursement to the state shall be obtained from monies which otherwise would be used for the support of the educational programs of the school district which incurred the debt with respect to which a payment under the state's guaranty was made.

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 July 1, 2017.