

Constitutional Amendment B

Ballot Title

Shall the Utah Constitution be amended to increase the limit on the annual distributions from the State School Fund to public schools from 4% to 5% of the fund?

Legislative Votes

Utah Senate:

66 Yes 0 No 9 Not Present

Utah House:

27 Yes 0 No 2 Not Present

Ballot Title & Session

2023 Legislative General Session

House Joint Resolution (H.J.R.) 18

Proposal to Amend Utah Constitution - State School Fund

Impartial Analysis

Current Provisions of the Utah Constitution

The Utah Constitution establishes the State School Fund to benefit the state's public schools. The fund accumulates money from sources specified in the Utah Constitution, and the state invests that money. The state may spend only earnings received from the investment of money in the fund, and the state may spend those earnings only for the support of public schools. The Utah Constitution currently limits how much of the earnings the state may distribute annually from the fund to 4% of the fund. What constitutes 4% of the fund is determined using a calculation provided in statute. Other than those allowed expenditures, any money deposited into the fund and any unspent earnings remain in the fund.

Effect of Constitutional Amendment B

Constitutional Amendment B would increase the limit on the annual distributions from the State School Fund from 4% of the fund to 5% of the fund.

Implementing Legislation

State statute currently provides that the annual distributions from the fund may not exceed 4% of the average market value of the fund. If the voters approve Constitutional Amendment B, H.B. 421, School Land Trust Program Amendments, from the 2023 legislative session would also take effect. H.B. 421 changes the statute to align with the constitutional change by increasing the 4% in the annual distribution amount formula to 5%.

Effective Date

If approved by voters, Constitutional Amendment B takes effect on January 1, 2025. H.B. 421 also takes effect on January 1, 2025, if the voters approve Constitutional Amendment B.

Fiscal Impact

The Legislative Fiscal Analyst has determined that approval of Constitutional Amendment B will have an uncertain ongoing fiscal impact because of unpredictable market conditions. However, compared to current requirements, it will increase distributions to public schools and reduce growth in the State School Fund. Had Constitutional Amendment B been in effect in fiscal year 2024, it would have increased State School Fund distributions to public schools by \$13.2 million (from \$101.8 million to \$115.0 million) and decreased the State School Fund balance by \$13.2 million, resulting in a loss of investment revenue of approximately \$650,000 and a remaining State School Fund balance of \$3.08 billion.

Argument in Favor

Argument in Favor (HJR18- Proposal to Amend Utah Constitution - State School Fund)

One of the very first actions the founders of our country took was to set aside lands to support public education. When Utah became a state, it received a grant of six million acres of trust lands dedicated to education and created a permanent school fund to hold trust land revenue. Money from this fund is distributed to every school in the state, and community councils of parents, teachers, administrators, and community members make decisions about how to use the money in their local schools.

Voting yes on Constitutional Amendment B will allow more of the money generated by these trust lands to be used in our schools for today's most pressing education needs.

5% Cap Benefits Current Students and Still Protects Future Students

Constitutional Amendment B will increase the cap on money distributed to schools today from the permanent school fund from 4% to 5% of the fund's value.

In 2013, a state task force recommended a distribution cap for the permanent school fund. The intent of the cap was to ensure the state was protecting the funds for future students. A conservative 4% cap was initially chosen because this was a new fund management model. However, a 5% distribution is much more common in other areas of charitable fund management. Furthermore, federal tax law requires private foundations to distribute **at least** 5% of their fund value to demonstrate they are benefiting the community.

In the years since the new distribution model was adopted, the fund has grown rapidly and it has become clear over the past ten years that if we increase the money going to schools today from 4% to 5%, the fund will continue to grow long into the future.

Voting yes on Amendment B will allow more money from the fund to go to each school to benefit current students and will protect the Permanent School Fund for generations to come.

Rep. Jefferson Moss and Sen. Ann Millner

Rebuttal to Argument in Favor

Amendment B (HJR 18) is simply a legal path for our legislature to access income tax dollars for pet projects. By changing our state constitution, they would be given access to a “surplus” that would be used for other projects. The authors of HJR 18 do not even have a suggestion for where they plan to use those funds, they just want access to tax dollars they currently cannot touch.

As HJR 18’s authors pointed out, federal law requires “at least 5% of a fund value to prove they are benefiting the community”. Utah just increased spending to the federal minimum of 5%. In other words, our legislature is doing the bare minimum to assist those who need help the most.

The problem is this false surplus our representatives pretend we have: legislators have placed an artificial cap on the amount of money the state can spend on education and people with disabilities, which are currently the only two categories where these income tax dollars can be spent. They could spend more, but they won’t. They want access to the money for other things.

Currently, over 6000 Utahans are receiving state assistance, but over 4000 disabled Utahans are on a waiting list for services. These citizens, who need state help so desperately, are unable to access services due to purposeful underfunding of Utah’s Division of Services for People with Disabilities (DSPD). As an example, my disabled adult daughter has been on a waiting list since she turned 21.

Douglas Rice
Former President
Epilepsy Association of Utah

Argument Against

Many Utahans have disabilities that result in the individual being unable to care for themselves. These disabilities range from brain injuries to muscular and neurologic conditions. The Utah State Constitution provides for income tax collections to be used only for two purposes: education and services for disabled people. This assistance allows disabled citizens to lead more self-sufficient lives, or to provide services when a person cannot care for themselves. In the past, Utah has not spent the entire amount of collected income tax on education or assistance for disabled persons, resulting in a false surplus. There has always been a need for those tax dollars, but our legislature has chronically underfunded the state agencies providing assistance to disabled citizens.

Disabled Utahans are provided assistance through the Division of Services for People with Disabilities (DSPD). In fiscal year 2023, over 6800 Utahans received home and community-based services from DSPD, ranging from physical therapy or skilled nursing services to personal care. Currently, DSPD also has a waiting list of over 4700 citizens waiting for assistance.

This waiting list is not a recent development; citizens have been waiting for DPSD services for decades. Yet even with the existence of this waiting list of thousands of Utahans, HJR 18 would remove restrictions on income tax, and would allow those funds to be spent elsewhere by our legislators, even though they have not expressed any need for those monies elsewhere. It's all based on a fear with no basis in fact.

In FY 2023, this income tax fund had a deficit of \$119,187,000. This deficit appeared after Gov. Cox signed SB 69 into law. SB 69 resulted in a reduction of income tax collected by \$167,000,000. In other words, the deficit in this budget is a direct result of our legislature passing a tax cut.

The authors of HJR 18 provide no reason whatsoever for diversion of income tax dollars into other funds. It is entirely based on a speculative future need, while our legislature has shown the inability to provide assistance for those in our state with existing tax dollars that have already been collected. HJR 18 allows funds to be diverted once education and DSPD needs are supposedly met. But there is no language in HJR 18 that would require full funding of education and DSPD, but rather allows for an arbitrary spending ceiling to be decided by our legislature.

HJR 18 is NOT in the best interest of Utah citizens, and is most certainly not in the interest of those who need our help the most- the disabled citizens of Utah.

Douglas Rice
Former President
Epilepsy Association of Utah

Rebuttal to Argument Against

The argument against this amendment claims this will somehow limit assistance provided through the Division of Services for People with Disabilities (DSPD), but the revenue addressed in Amendment B is unrelated to people with disabilities. The income tax fund discussed in the argument is unrelated to the permanent State School Fund, which is derived from the proceeds of public lands granted to Utah and is constitutionally required to be used to support public elementary and secondary schools. Amendment B increases the distribution of funds from the permanent State School Fund to schools in Utah. This money is ineligible to be spent on assistance through the DSPD. **Amendment B is completely unrelated to the Division of Services for People with Disabilities and will benefit students in Utah now and in the future.**

– Rep. Jefferson Moss and Sen. Ann Millner

Full Text of Constitutional Amendment B

PROPOSAL TO AMEND UTAH CONSTITUTION - STATE SCHOOL FUND

2023 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 consists of:

- (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;
- (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 permanent State School Fund under any other provision of law or by bequest or donation.

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

(b) Only earnings received from investment of the permanent State School Fund may be 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%~~] 5% of the fund, calculated as provided by statute.

(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.

(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 consists of:

- (a) money from the permanent State School Fund;
- (b) revenues appropriated by the Legislature; and
- (c) other revenues received by the 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 January 1, 2025.