



Utah's Constitutional Amendment G: Not the Solution to Utah's State Budget Problems

Voices for Utah Children opposes Constitutional Amendment G. The proposal not only won't solve Utah's state budget woes, it is likely to delay the real fiscal policy changes that are needed.

Ironically, one wouldn't know how significant a change it proposes based on the wording that voters will see on the ballots they receive in the mail later this month. Here is the exact wording of the question that will appear on the ballot for Amendment G:

"Shall the Utah Constitution be amended to expand the uses of money the state receives from income taxes and intangible property taxes to include supporting children and supporting people with a disability?"

If the ballot question receives a majority vote, the Utah Constitution Article XIII, Section 5, paragraph 5 will change from

"All revenue from taxes on intangible property or from a tax on income shall be used to support the systems of public education and higher education as defined in Article X, Section 2."

to the following:

"All revenue from taxes on intangible property or from a tax on income shall be used:

- (a) to support the systems of public education and higher education as defined in Article X, Section 2; and
- (b) to support children and to support individuals with a disability."

This is a very significant change because it means that Utah will no longer be the only state in the nation whose Constitution dedicates all income tax revenue to education, as we have since 1946. The income tax (both personal and corporate) has evolved into Utah's top source of revenue, comprising 45% of all state revenues in FY19 -- \$4.8 billion out of a total of \$10.7 billion.¹ (The mention of "taxes on intangible property" can be ignored, since Utah has long exempted intangible property from taxation.²)

Background: A History of Pride and Frustration

Utah's state income tax first went into effect in 1932. In 1946, voters approved the Constitutional amendment to dedicate all income tax revenue to public education. Then in 1996, the Constitutional was amended again to allow the income tax to be used for both K-12 education and higher education.

¹ Utah Tax Commission FY 2019 Annual Report, p. 9 <https://tax.utah.gov/commission/reports/fy19report.pdf>

² https://gardner.utah.edu/_documents/publications/finance-tax/tax-policy-principles-final.pdf

This dedication of the income tax to education has been a source of both pride and frustration for Utahns. Utah stands alone in this earmarking of the income tax for education, yet we have ranked last in the nation for K-12 education investment since 1988.³ Often it has seemed as if the Constitutional earmark has served as nothing more than an excuse for policymakers' not doing more for education, with legislators or governors responding to questions about why Utah remains in last place in per pupil education investment by explaining that they are Constitutionally required to dedicate every dollar of the income tax to education -- as if that absolves them of responsibility for not doing more. In this context, one positive effect of passage of Amendment G might be to take away this perennial excuse!

Legislative leaders have expressed frustration for years with the way that the Constitutional earmark ties their hands and keeps them from enjoying the same flexibility that legislatures in other states have to move funds around as they see fit. This frustration provided a major impetus for the 2019 tax restructuring effort, which sought to "rebalance" revenues by moving about half a billion dollars of state revenue from the income tax to the sales tax.⁴ As we know, that mighty effort foundered in the end on the shoals of public opposition to restoring the full sales tax on food and was repealed in January 2020, barely more than a month after it was passed. Interestingly, the amount of state revenue that would have been shifted from the Education Fund to the General Fund is roughly equivalent to what would be allowed under Constitutional Amendment G.

Yet, even if the Constitutional earmark has failed to help Utah invest more in education, provides an excuse to policymakers for not doing more, and frustrates legislators who want greater budgeting flexibility, an important question remains to be answered: How will getting rid of it improve matters?

Certainly it will provide legislators with the enhanced flexibility they have long sought. But if that flexibility is the flexibility to transfer funds (up to \$600 million⁵) away from the worst-funded public education system in the nation, will Utah's children really be better off?

The Real Root of Utah's Budget Woes

This question gets to the real root of Utah's budget woes: the chronic revenue shortages that have resulted from decades of tax cutting that have left Utah's overall level of taxation at its lowest level in generations, according to the Utah State Tax Commission⁶:

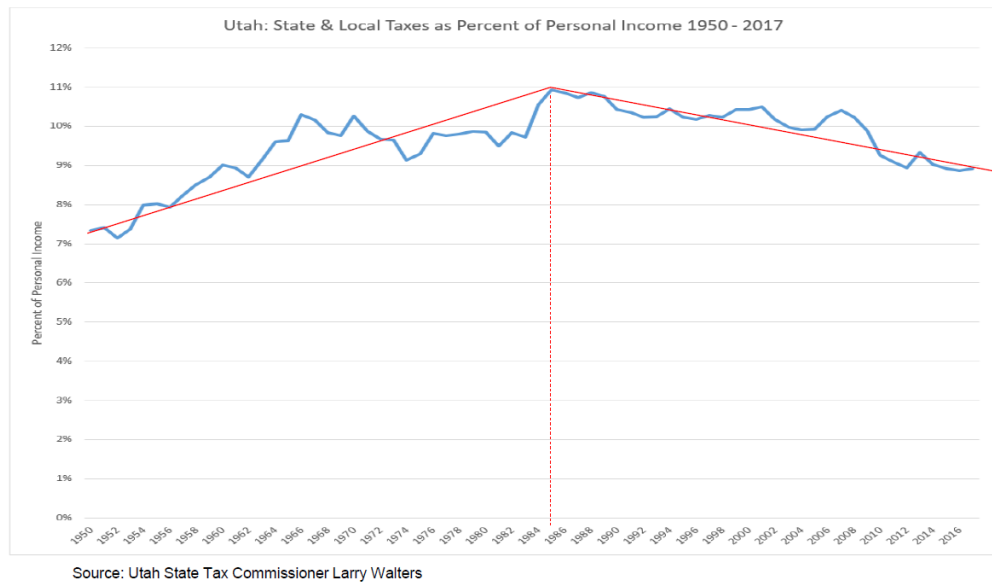
³ www.utahfoundation.org/reports/utahs-education-funding-effort-state-faces-long-term-challenges/

⁴ The "rebalancing" argument is based on the fact that as recently as the 1990s, sales tax revenues roughly matched income tax revenues. Since then, income tax revenues have grown much faster as inequality has grown, shifting income up the economic scale, a national trend that makes more personal income subject to the income tax, the state's only non-regressive tax, that roughly matches the state's income distribution, in which about 3/5ths of all income is earned by the top 1/5th of tax filers, according to the Utah State Tax Commission. At the same time, sales tax revenue has grown more slowly as the economy has shifted from goods to services, most of which are not taxed.

⁵ <https://voteinfo.utah.gov/wp-content/uploads/sites/42/2020/09/Constitutional-Amendment-G-1.pdf>

⁶ <https://le.utah.gov/interim/2019/pdf/00003720.pdf>

Overall Utah Tax Burden



The unfortunate reality is that getting rid of the Constitutional earmark of income tax for education does nothing to solve the real problem, which is the fact that nearly every area of state responsibility – education, social services, public health, transportation infrastructure, rural development, and many others – is dangerously underfunded.

There is certainly no doubt that the education community has made heroic efforts to convince policymakers to change course. Last spring, education advocates reached an agreement with policymakers to support the Constitutional amendment in exchange for two unprecedented commitments:

- 1) A 6% increase in the WPU for FY21 (the current 20-21 school year)
- 2) A promise that in future recessions, the state would always increase education funding by enough to cover at least inflation and enrollment growth. This did not happen during the recovery from the Great Recession a decade ago, and that's why it took eight years to restore per-student, inflation-adjusted funding to its pre-recession level.⁷

Unfortunately, the first unprecedented commitment was based on the booming economy pre-COVID that was thought to have created a budget surplus of nearly \$1 billion⁸ – a surplus that evaporated with the economic impact of the coronavirus pandemic over the last six months. The result was a \$140 million cut in June to the FY21 education budget just passed three months earlier.

⁷ <https://www.utahchildren.org/component/k2/item/961-utah-children-s-budget-report-2019>

⁸ <https://www.sltrib.com/news/politics/2020/02/20/utah-legislature-has/>

The second unprecedented commitment – to maintain real per-student funding through future recessions – is incorporated into separate legislation – [HB 357](#) – that only goes into effect if Amendment G passes, and which can be changed or repealed at any time by any future Legislature. In other words, this commitment is based completely on the good faith of the current crop of legislative leaders. And, to their credit, they did keep their word to cover inflation and enrollment growth in the revised FY21 budget passed at the June special legislative session. But what about the legislative leaders who will be in power a decade or two from now?

If this promise was truly meant to be a guarantee, it would have been included in the Constitutional Amendment. Presumably it was not because legislators wanted to preserve the flexibility to change or eliminate it in a future recession when they are faced with the Sophie's choice of cutting either education funding or life-saving social and healthcare services in the middle of an economic downturn.⁹

It's Time to Invest in Utah's Future

The issue ultimately comes down to whether Utah's leaders will at some point be prepared to restore public revenue levels closer to where they were in previous decades, before tax cutting fever took hold. Recent polling data from the Utah Foundation indicates that Utahns' appetite for tax cuts appears to have waned considerably.¹⁰ But will future Legislatures be driven by overall public opinion or by lobbying pressure from interests seeking yet more tax cuts? It does not require an overabundance of political cynicism to fear that the answer may well be the latter.

Economists will undoubtedly debate for decades to come the question of whether the repeated rounds of tax cuts (such as the Huntsman tax cuts in 2007 that reduced the income tax rate on high incomes from 7% to 5% or the 2018 decision to cut it further from 5% to 4.95%) are what fueled Utah's strong economy over recent decades or whether our abundant economic advantages would have produced that strong growth regardless. But now that Silicon Slopes has taken off and Utah has worked our way out of our low-wage-state status of 20 years ago, the appropriate question to ask ourselves now is: What does Utah's economy need going forward? Is it more tax cuts or greater investment in our physical and human resources? If our taxes are now lower than they've been since the 1960s and our economy is doing better than nearly any other state (even this year), while our education and air quality have emerged as major economic development challenges, perhaps it's time to give serious consideration to a shift in state fiscal policy.

⁹ One innovation of HB 357 is that it establishes a "Public Education Economic Stabilization Restricted Account" to save money during good times for use during the next recession. In effect, this means that schools will get less money during good times and more during recession years, smoothing out education funding, but not changing the amount that education receives over the course of the full economic cycle. If this idea is supported by education leaders, it can easily be implemented with or without Constitutional Amendment G.

¹⁰ <https://www.utahfoundation.org/reports/utah-priority-no-2-state-taxes-and-spending/>

As Utah parents regularly remind their children, sometimes you have to eat your broccoli if you want to grow up to be big and strong and smart and a high-wage state.

We should note that some continue to cast doubt on the very need for additional education investment, given Utah's impressive ability to "do more with less" better than just about any other state. But test scores and graduation rate data make it undeniable that Utah is experiencing growing educational achievement gaps between haves and have-nots and gaps between whites and non-whites that are larger than nationally.¹¹ As the state becomes more diverse, allowing these gaps to fester and grow threatens Utah's ability to thrive and prosper for generations to come.¹²

Will Passage or Defeat of Amendment G Make a Solution More Likely?

The logical next question is, will passing or defeating Amendment G make the needed shift in state fiscal policy more likely?

Voices for Utah Children's decision to oppose Amendment G is based on our conclusion that passage of Amendment G would give policymakers the flexibility they have been seeking, taking the pressure off of them to grapple with the real roots of the state's fiscal problems, likely delaying any real action to solve the problem by 5-10 years or more.

On the other hand, defeat of Amendment G could ensure that the next round of tax restructuring under the new governor would be more likely to grapple with the state's chronic revenue shortages -- and possibly even consider public opinion in a way that it has not until now.

Utahns are justifiably skeptical of politicians coming around in an election year and promising that everyone can have more of everything they want – education, public health, clean air, poverty prevention, transportation infrastructure, etc – without paying any price. The Utah Foundation's recent survey found that the overwhelming majority of Utahns express support for raising taxes for vital public investments and oppose tax cuts that undermine those investments.¹³ Defeating Amendment G would send a message to legislators to set aside the free-lunch mentality and consider the common sense of Utah citizens.

Defeat of Amendment G will send Utah's elected leaders a message that, despite the pandemic and all its distractions, Utahns remain focused on what our state truly needs to create the best possible future for all our children.

¹¹ <https://utahchildren.org/newsroom/press-releases/item/1012-poverty-advocates-tax-reform-letter>

¹² <https://gardner.utah.edu/wp-content/uploads/Informed-Decisions-2020-Election-Brief.pdf>

¹³ <https://www.utahfoundation.org/reports/utah-priority-no-2-state-taxes-and-spending/>