

Decoding the Income Tax Earmark: Proposed Changes to Utah's Constitution

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On the November 2024 ballot, voters will decide whether or not to amend the Utah Constitution to allow the use of income tax revenue for any public function, contingent on maintaining certain school funding provisions. Constitutional amendments in recent decades expanded the eligible uses of income tax revenue, with the most recent changes allowing funding for non-education services for children and people with disabilities. The proposed 2024 amendment would embed a K-12 public funding framework in the Utah Constitution and increase state budget flexibility, allowing the Legislature to use income tax revenue for a broader range of state functions. This brief provides voters with key information on the proposed constitutional change.

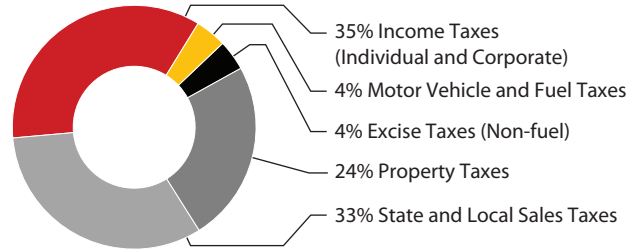
Utah's Income Tax Overview

Income taxes, comprising 35% of Utah state and local taxes, serve as the state's largest tax revenue source (Figure 1). In recent decades, income tax revenue growth outpaced growth in the two other major taxes, local property taxes and state and local sales and use taxes, even with income tax rate cuts (Figure 2). This robust growth helps offset the slower growth of state-imposed fuel taxes and sales and use taxes, the other sizable state budget revenue sources (Figure 3).

Income Tax Earmark History

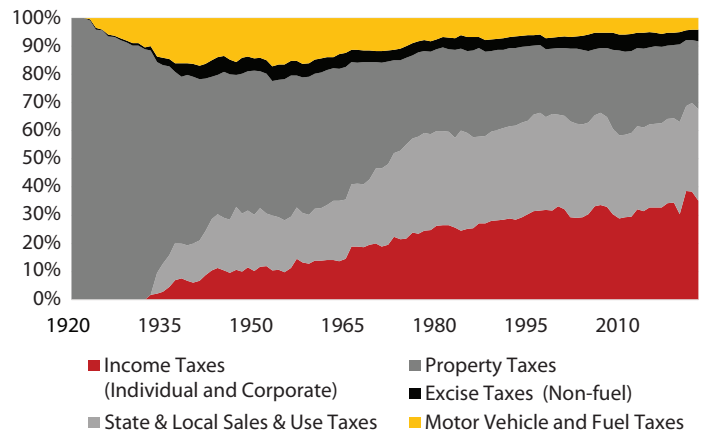
The original income tax earmark (added to the Utah Constitution in 1931 during the Great Depression) allocated 75% of income tax revenue for public education, with the remaining 25% deposited into the state's General Fund which funds most other public services. While not embedded in the Constitution, Utah first implemented a general sales and use tax in 1933, contributing additional dollars to the state's General Fund. Beginning in 1947, the Utah Constitution limited income tax revenue's use solely to public education, concurrent with the creation of the state Minimum School Program. Effective in 1997, a constitutional amendment expanded the use of income tax revenue to include higher education. Throughout Utah's history, differing levels of General Fund revenue also funded public and higher education.

Figure 1: Utah State and Local Tax Revenue by Source, FY 2023



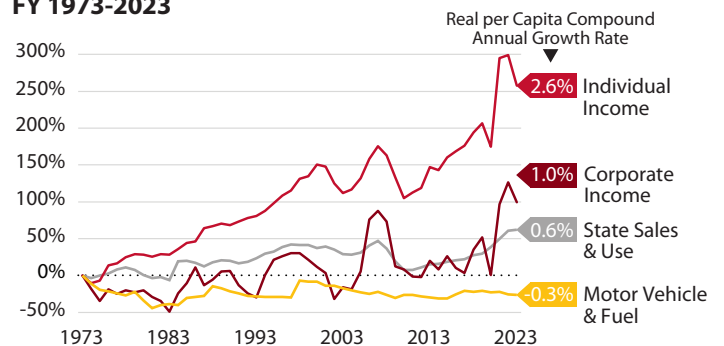
Source: Kem C. Gardner Policy Institute analysis of Utah State Tax Commission data

Figure 2: Utah State and Local Tax Revenue Sources as Shares of Total, FY 1920-2023



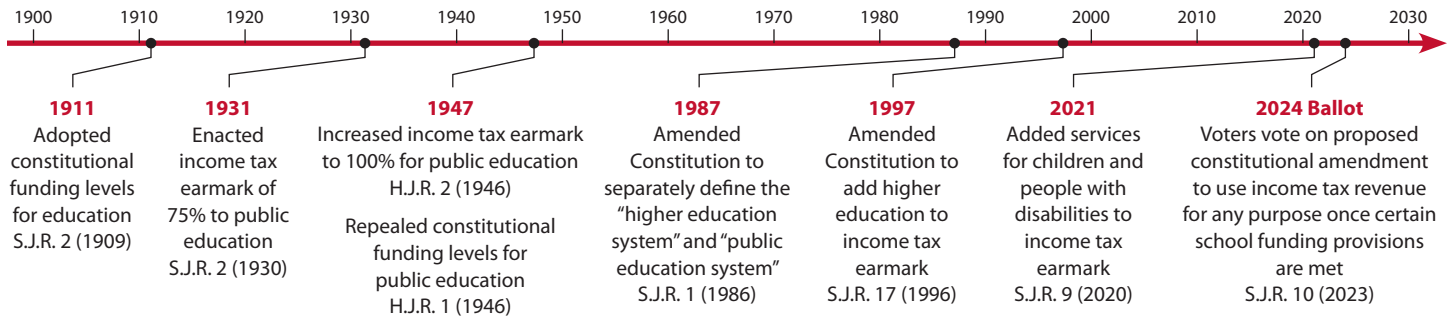
Source: Kem C. Gardner Policy Institute analysis of Utah State Tax Commission data

Figure 3: Growth in Largest State of Utah Tax Revenues, Cumulative and Annual Percent Change by Tax Type, FY 1973-2023



Source: Kem C. Gardner Policy Institute analysis of Utah State Tax Commission data

Figure 4: Timeline of Utah's Constitutional Income Tax Earmark



Note: The timeline shows when the policy took effect, with the year the Legislature passed the bill in parentheses next to the bill number.
Source: Kem C. Gardner Policy Institute analysis of historical Utah constitution and code language

In 2020, voters passed Amendment G, allowing income tax revenue to fund non-education services for children or individuals with a disability. In the 2023 General Session, the Utah Legislature approved a measure for the 2024 ballot that would further increase constitutional flexibility in the use of Utah's income taxes, provided certain school funding provisions remain in place.

Constitutional Language Changes Through Time

1931
"All revenue received from taxes on income or from taxes on intangible property shall be allocated as follows: 75 per cent thereof to the State district school fund and 25 per cent thereof to the State General Fund and the State levies for such purposes shall be reduced annually in proportion to the revenues so allocated; provided that any surplus above the revenue required for the State district school fund as provided in Section 7 of this Article shall be paid into the State General Fund."

1947
"All revenue received from taxes on income or from taxes on intangible property shall be allocated to the support of the public school system as defined in Article X, Section 2 of this Constitution."

1997
"All revenue received from taxes on income or from taxes on intangible property shall be allocated to the support of the public education system and the higher education system as defined in Article X, Section 2 of this Constitution."

2021 (current)
"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."

2024 Ballot (proposed – S.J.R. 10, 2023)
"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;
(b) to maintain a statutory public education funding framework that:
(i) uses a portion of revenue growth for expenditures from the Uniform School Fund for changes in student enrollment and long-term inflation; and
(ii) provides a budgetary stabilization account;
(c) to support children and to support individuals with a disability; and
(d) to support other state needs after the fulfillment of the requirements in Subsection (5)(b)."

Education-Related Income Tax Earmarks in Other States

Forty-three states impose a state income tax and eight earmark a portion of this revenue for education. Three states embed these earmarks in their constitution. The amount earmarked varies across states but is generally much smaller than the Utah earmark. Additionally, some states allocate portions of other revenue sources for education.

Table 1: Income Tax Earmarks for Education in the U.S.

State	Earmark Description	Citation
Alabama	Some income tax revenue dedicated to public school teachers' salaries	Ala. Code § 40-18-58
Colorado	0.033% of taxable income deposited in state education fund	Colo. Const. Art. IX, sec. 17
Idaho	50% of income taxes paid on state lottery winnings support public school substance abuse programs	ID Code § 63-3067; ID Code § 63-3035A
Michigan	A percentage of gross income tax revenue contributed to the state school aid fund	Mich. Comp. Laws § 206.51
New York	Earmarks the amount necessary to fund the School Tax Relief Fund	N.Y. Law § 97-rrr
Ohio	A portion of income tax revenue collected by the state is returned to local school districts	Ohio Const. Art. XII, sec. 9
Oklahoma	A portion of income tax revenue earmarked for teacher retirement and education reform programs	Okla. Stat. Tit. 68 § 2352;2355.1B
Utah	Income tax revenue is earmarked for public education, higher education, and services for children and people with disabilities	Utah Const. Art. XIII, sec. 5

Source: Kem C. Gardner Policy Institute analysis of state code and constitutions

The Proposed Amendment

The proposed 2024 amendment (S.J.R. 10) would permit the Legislature to use income tax revenue for any public purpose if the state maintains “a statutory public education funding framework” that:

- (i) uses a portion of revenue growth for expenditures from the Uniform School Fund for changes in student enrollment and long-term inflation; and
- (ii) provides a budgetary stabilization account.

This amendment would embed a basic K-12 public funding framework in the Utah Constitution. State law, which can be changed, currently provides for funding K-12 public education enrollment growth, inflation, and budget stabilization. In practice, this constitutional change could allow the Legislature to use income taxes for any public purpose if specified education funding provisions continue.

Companion Bills Triggered if Amendment Passes

If passed, the proposed amendment will trigger implementation of two companion bills from the 2023 Legislative General Session:

- H.B. 394 *Hold Harmless for Public Education Enrollment*
- H.B. 54 *Tax Revisions* (Repealing the state portion of sales tax on food)

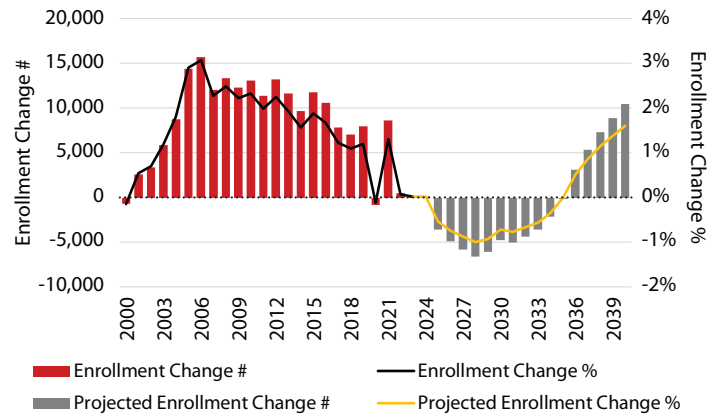
H.B. 394 Hold Harmless for Public Education Enrollment

Student counts drive a large portion of state K-12 funding, so enrollment declines could reduce future state funding (by up to several hundred million dollars over the next five to ten years). This bill ensures that certain state public education funding would remain in place even if enrollment drops in future years as expected. Instead, certain state public education funding would be “held harmless,” with those potential enrollment-driven budget savings allocated to increase the weighted pupil unit (WPU) every year for five years (FY 2026 – FY 2030), with a potential extension for an additional five years (FY 2031 – FY 2035) after a sunset review. Given demographic projections showing a school-age population decline over the next decade, this would likely increase state per-pupil funding over the next five to ten years (Figure 5).¹

H.B. 54 Tax Revisions (Repealing the state portion of sales tax on food)

The State of Utah currently imposes a 1.75% sales tax on groceries, defined statutorily as “food and food ingredients.” Local governments levy an additional 1.25% on groceries (municipal rate of 1.0% and county rate of 0.25%). H.B. 54 removes the 1.75% state portion of sales tax on grocery food if voters approve the constitutional amendment expanding the eligible uses of income tax revenue. If the constitutional amendment passes, this would take effect January 1, 2025. The local 1.25% tax will still remain in effect.

Figure 5: Utah Change in K-12 School Enrollment, 2000-2040



Note: Enrollment projections calculated using the average enrollment share of the school-age population from 2020-2022 (94.5%).
 Source: Kem C. Gardner Policy Institute analysis of Utah State Board of Education, Utah Superintendent Annual Reports, Bureau of Economic and Business Research, and Kem C. Gardner Policy Institute Population Estimates and Long-term Population Projections data

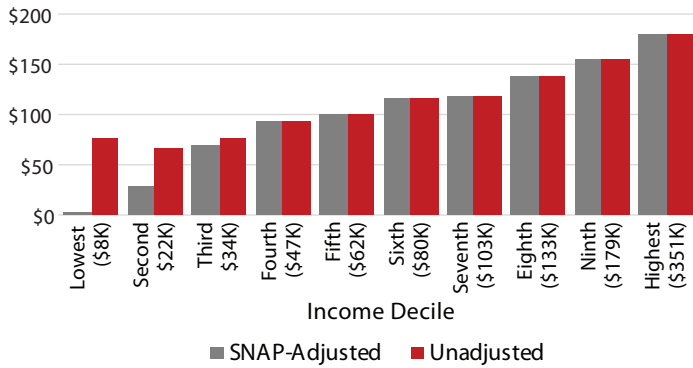
While higher-income households spend a higher dollar amount on groceries, lower-income households spend a larger share of their income on groceries, making the sales tax on food regressive. Approximations derived using national data estimate that the average Utah household pays roughly \$110 annually in state sales tax on food. For those not receiving any food assistance, this ranges from about \$75 on average for the lowest income decile (lowest 10% of households ranked by income) to an average of around \$180 for the highest income decile (highest 10% of households ranked by income). We estimate that the 30% of households with the highest incomes will receive about 40-50% of the proposed tax cut, while the 30% of households with the lowest incomes will receive about 10-20% of the tax cut. The middle 40% of households will receive about 35-45% of the tax cut.

For those not receiving food assistance, state sales tax on food as a share of household income amounts to about 0.9% for the lowest decile and less than 0.1% for the highest income decile. Removing the state sales tax on food creates a less regressive tax structure but gives higher-income households the largest dollar benefit.

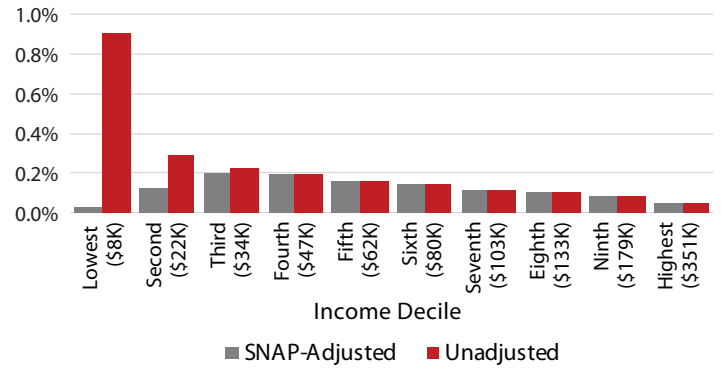
Many low-income families receive food assistance from public programs, churches, and nonprofits. State law already exempts this food assistance from sales tax, which removes a sizable degree of sales tax regressivity for recipients. For example, the Supplemental Nutrition Assistance Program (SNAP), formerly known as “food stamps”, is a federal program providing monthly allotments to low-income households to purchase food. State and federal law exempts food purchased with SNAP dollars from state and local sales taxes on food. Figure 6 shows estimates for two scenarios – one scenario assumes all households eligible for SNAP benefits receive them, and the other assumes no Utah

Figure 6: Estimated State Sales Tax on Food by Household Income Decile, 2022

Average State Sales Tax on Food Paid Per Household

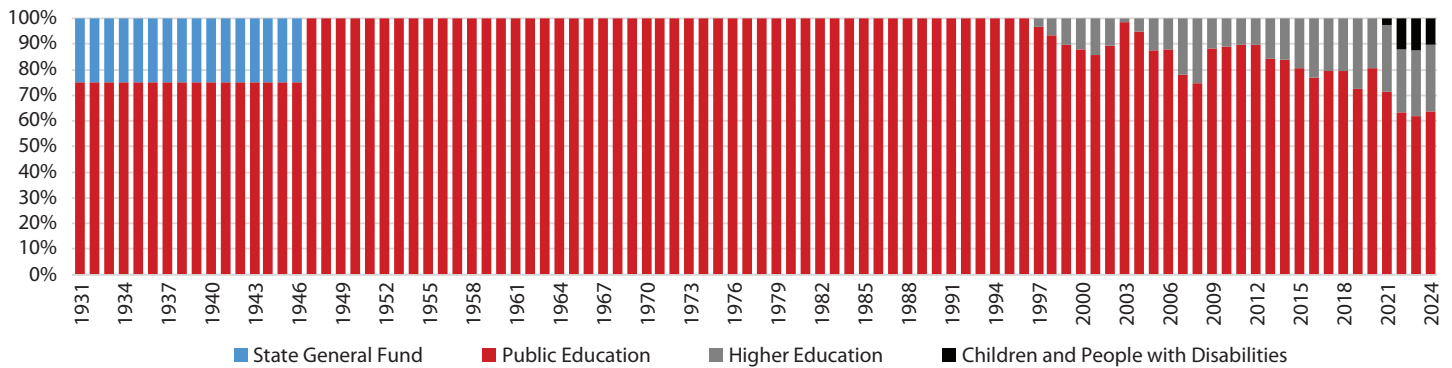


State Sales Tax on Food as a Share of Household Income



Note: SNAP-adjusted values assume all households eligible for SNAP benefits receive some level of SNAP benefits, while the unadjusted values assume no households receive SNAP benefits. Values reflect national spending data and therefore represent estimates for Utah households. Average income within each decile listed in parentheses. Source: Kem C. Gardner Policy Institute analysis of U.S. Bureau of Labor Statistics and Utah Department of Workforce Services data

Figure 7: Use of Income Tax Revenue, 1931-2024



Note: Each program also funded by other revenue sources. Source: Kem C. Gardner Policy Institute analysis of Utah Office of the Legislative Fiscal Analyst and Governor's Office of Planning and Budget data

households receive SNAP benefits. For low-income households in the SNAP-adjusted scenario, the state sales tax on food makes up a comparable share of household income for both low- and high-income households, with middle-income households paying the highest share of their income in sales tax on food.

In addition to SNAP, benefit recipients already do not pay sales tax on food assistance provided through an array of public and private food programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), school breakfast and lunch programs, food provided through church-based welfare programs, or through assistance provided through local food pantries.

Budget Flexibility

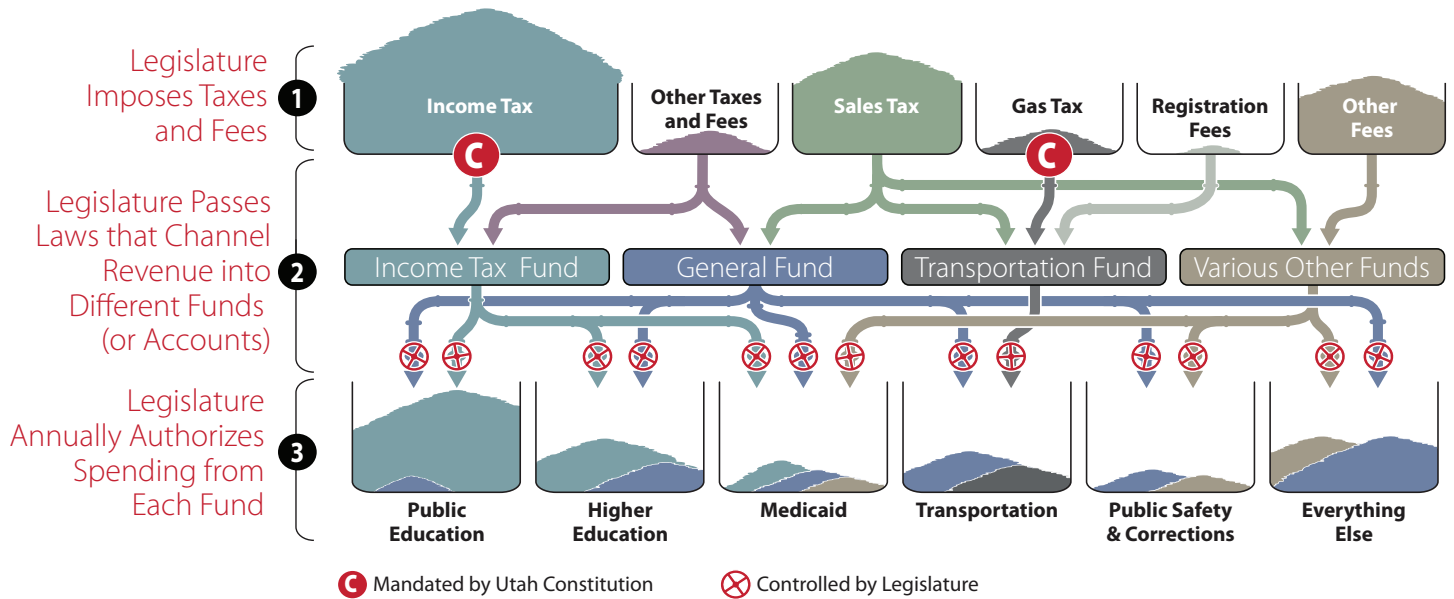
While income tax revenue primarily funded public education in recent years, the share funding higher education and services for children and people with disabilities grew (Figure 7). In the past few budget cycles, the Legislature generally maxed out its budget flexibility on a one-time basis under existing constitutional arrangements. The Legislature shifted dollars between state accounts near the maximum extent

possible under conventional interpretations of its budget flexibility. Although roughly \$1.5 billion in ongoing funding flexibility remains available, largely using one-time flexibility in recent budget cycles highlights the state's flexibility challenge. Depending on other policy decisions, reduced flexibility over time potentially impairs the Legislature's ability to fund General Fund programs such as law enforcement and public safety, housing, water (including the Great Salt Lake) and other infrastructure, air quality, mental health services, and other health care services, including Medicaid.

Other Earmarked Revenue

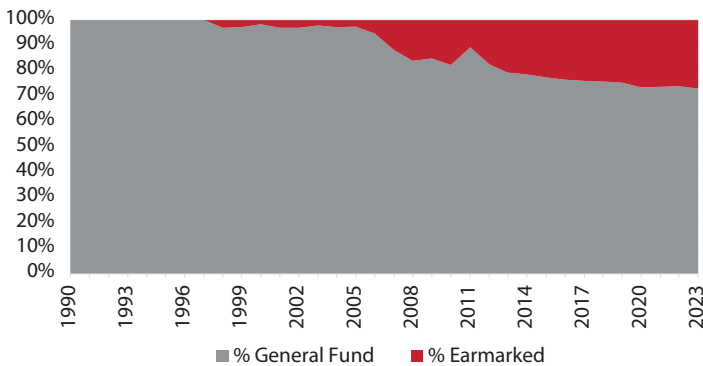
Statutory earmarks could counteract some of the budget flexibility benefits of changing the constitutional earmark. While not mandated by the Utah Constitution, statutory earmarks reduce budget flexibility by decreasing the share of unrestricted revenue available to fund general government. This direct funding advantages these programs compared to programs competing for unrestricted revenue, which income taxes could become if the constitutional amendment passes.

Figure 8: Utah’s State Budget Allocation Process



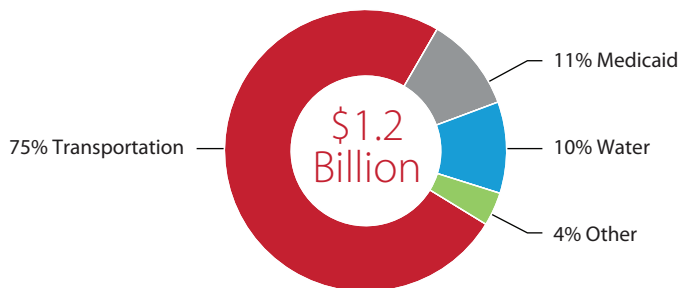
Source: Kem C. Gardner Policy Institute analysis of Utah Legislative Fiscal Analyst Office and Governor’s Office of Planning and Budget data

Figure 9: Share of State Sales Tax Deposited into General Fund vs. Earmarked, FY 1990–2023



Source: Kem C. Gardner Policy Institute analysis of Utah State Tax Commission data

Figure 10: Distribution of State Sales Tax Earmarks, FY 2023



Source: Kem C. Gardner Policy Institute analysis of Utah State Tax Commission data

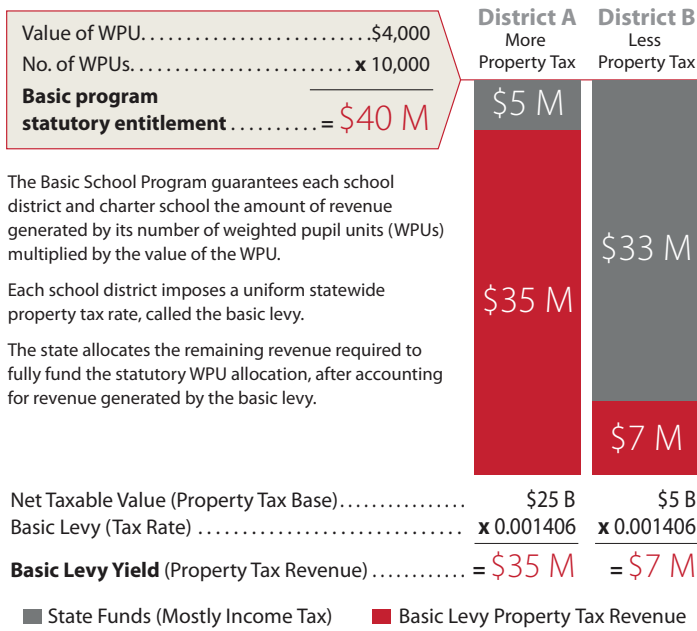
For example, in FY 2023, the state earmarked 27% of state sales tax revenue, up from 3% in FY 1998 (Figure 9). Approximately 20% of all state sales tax revenue (\$893 million in FY 2023) goes to transportation. Additional earmarks fund Medicaid, water projects, outdoor recreation, and emergency food agencies (Figure 10). The growing scope of state sales tax earmarks reduces the share of unrestricted sales tax revenue available to fund general government. This policy choice compounds the budget flexibility challenge legislators face.

K-12 Education Funding

The income tax currently plays a significant role in equalizing K-12 education funding. Each school district imposes a statewide property tax (the basic levy) to fund schools. Since property values vary across school districts, the state uses income tax revenue to equalize the weighted pupil unit (WPU) funding received through the basic program (Figure 11). Additionally, income tax revenue funds various other public education programs, higher education, and services for children and people with disabilities (including Medicaid).

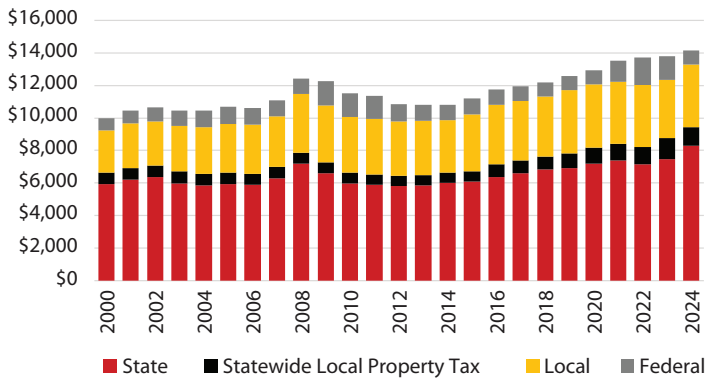
While the share of income tax revenue appropriated to public education decreased starting in FY 1997 (Figure 7), real total per-pupil spending increased over the same period, from roughly \$10,000 per pupil in 2000 to roughly \$14,000 per pupil in 2024 (Figure 12). However, education spending as a share of personal income (often used as a measure of education spending effort), declined over this period (Figure 13). In 2002, Utah’s education expenditures equaled 5.1% of the state’s total personal income, the sixteenth highest share nationwide. In 2022, this share fell to 3.5%, and Utah ranked 40th among states.

Figure 11: Basic School Program for Two Hypothetical School Districts



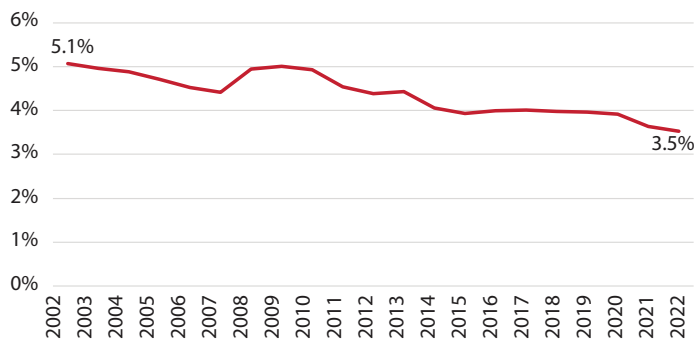
Source: Kem C. Gardner Policy Institute

Figure 12: Real (2024 dollars) Total Per Student Funding, 2000–2024



Source: Kem C. Gardner Policy Institute analysis of Utah Governor's Office of Planning and Budget data

Figure 13: Utah's Education Expenditures as a Percentage of Personal Income, FY 2002–2022



Source: Kem C. Gardner Policy Institute analysis of U.S. Census Bureau Survey of State and Local Finances and U.S. Bureau of Economic Analysis (BEA) data

Frequently Asked Questions

Q: *To what extent does the current constitutional earmark guarantee K-12 education funding?*

A: The Utah Constitution does not require Utah to impose an income tax at any particular level or even impose an income tax at all. It simply specifies that when Utah imposes an income tax, the money can only fund certain programs (public education, higher education, and services for children and people with disabilities). Moreover, lawmakers use other revenue sources to fund each of these public services and can shift funding between existing state accounts to meet this requirement and support other General Fund services.

Growth in education spending does not correlate closely with growth in income tax revenue over time (Figure 14). In practice, the income tax earmark does not directly guarantee K-12 education funding levels.

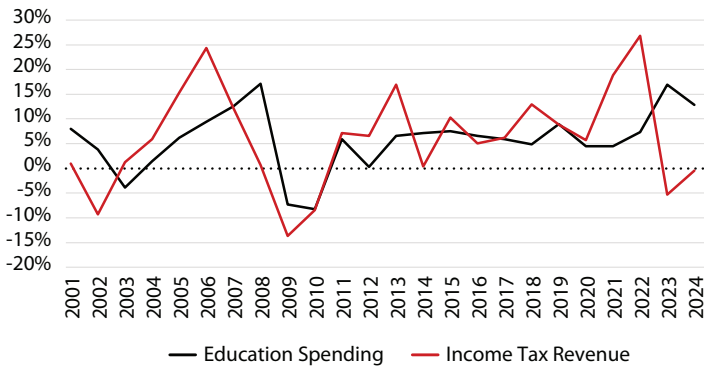
Q: *To what extent does the proposed amendment guarantee K-12 education funding?*

A: While the proposed amendment allows use of income tax revenue to “support other state needs”, the Legislature must fund the basic education funding framework as specified in the proposed amendment before using income tax revenue to fund other state purposes. Current Utah code includes funding enrollment growth and long-term inflation (Utah Code 53F-2-208) and maintaining a budgetary stabilization account (Utah Code 53F-9-204). While the current statute remains in effect, it guarantees specific education funding, despite the vague constitutional language. However, changes to this statute could reduce or change this guaranteed funding. While the Legislature controls state appropriations, the constitutional framework provides some security for certain education funding before the Legislature can fund state purposes outside of public education, higher education, and services for children and people with disabilities.

Q: *How does the income tax earmark impact state higher education funding?*

A: Following the 1996 constitutional amendment, in 1997 the state began to provide a portion of higher education funding from what is now called the Income Tax Fund, whereas the state previously funded higher education through the General Fund. While the share of higher education funding sourced from the Income Tax Fund fluctuates (often increasing during recessions), it generally increased for the last two decades (Figure 15). In 2000, the Income Tax Fund provided 35% of state higher education funding. In fiscal years 2021–2023, the state covered General Fund ongoing spending from the Income Tax Fund on a one-time basis, resulting in nearly 100% of state higher education funding coming from the Income Tax Fund.

Figure 14: Year-Over Percent Change in Nominal State Education Spending and Income Tax Revenue, FY 2001-2024



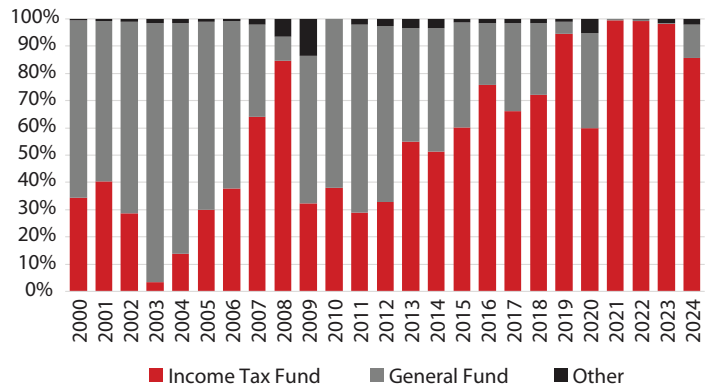
Note: The COVID-19 pandemic income tax filing deadline delay from April 15 to July 15, 2020 artificially shifted nearly \$750 million from FY 2020 into FY 2021. These funds were included in FY 2020 in this graph to remove this artificial spike.
 Source: Kem C. Gardner Policy Institute analysis of Utah State Tax Commission and Governor’s Office of Planning and Budget data

This freed up General Fund revenue for other purposes, including transportation. The passage of Amendment G (2020) amplified this shift. While FY 2024 shows a return of some General Fund spending on higher education, the flexibility to continue to shift funds in this way is limited. While the income tax earmark influences the state account from which higher education receives funding to some degree, like K-12 education, the current income tax earmark does not directly impact higher education funding levels. The proposed amendment does not provide any additional assurances for higher education.

Q: Can the Legislature use income tax revenue to pay for roads?

A: The current constitutional income tax earmark prevents the Legislature from using income tax revenue to pay for roads directly. However, the Legislature can use income tax revenue growth to fund education or social services for

Figure 15: State Funding for Higher Education in Utah by Source, FY 2000-2024



Source: Kem C. Gardner Policy Institute analysis of Governor’s Office of Planning and Budget data

people with disabilities or children previously funded through the General Fund. This frees up General Fund revenue to pay for roads or other services. The proposed amendment would allow the Legislature to directly fund roads (among other state purposes) with income tax revenue once the basic education funding framework is met.

Q: Is removing the constitutional earmark the only alternative to maintain budget flexibility?

A: Removing the constitutional earmark would improve budget flexibility for state lawmakers. The Legislature could also potentially balance the budget through various other mechanisms. Lawmakers could increase infrastructure user fees (such as the gas tax and water fees to free up statutory earmarks), alter its tax portfolio by adjusting tax rates (such as by reducing the income tax and increasing the sales tax), decrease funding for some services, or shift expenditures across funds. Each option carries various tradeoffs.

How can the Legislature respond to Utah’s state budget flexibility challenge?

Replace Sales Taxes for Infrastructure with User Fees

Increase user charges to pay for transportation and water infrastructure, freeing up over \$1 billion in sales tax revenue shifted from the General Fund to transportation and water funds in recent decades.

Adjust State Revenue Source Composition

Cut income taxes and/or increase sales taxes.

Limit Funding for General Fund Programs

Limit state funding for General Fund programs (law enforcement & public safety, housing, water, air quality, mental health services, and health care services, including Medicaid).

Re-evaluate Budget Flexibility Options Under Existing Constitutional Language

Reconsider interpretations of funding for public education, higher education, services for children, and services for people with disabilities. Different budget flexibility interpretations may carry different risks of violating the Utah Constitution.

Amend Utah Constitution to Enhance State Budget Flexibility

Amend the Utah Constitution to increase budget flexibility in use of income taxes.

Endnote

1. Kem C. Gardner Policy Institute. (2023). Opportunity Knocks: The Fiscal Impacts of Declining School-age Population in Utah. <https://d36oiwf74r1rap.cloudfront.net/wp-content/uploads/PublicEducation-Oct2023.pdf>

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