

1                                   **RESOLUTION ON INVESTMENT OF STATE**  
2                                   **SCHOOL FUND AND UNIFORM SCHOOL FUND**

3                                   2002 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Lyle W. Hillyard**

6   **This joint resolution proposes to amend the Education Article of the Utah Constitution. The**  
7   **joint resolution eliminates a requirement that a portion of interest earnings from the State**  
8   **School Fund, equal to the rate of inflation, be retained in the fund and also eliminates related**  
9   **language. The joint resolution requires at least half of the State School Fund principal to be**  
10   **invested in equities and expands what may be expended to support the public education**  
11   **system to include dividends. The joint resolution also directs the lieutenant governor to**  
12   **submit this proposal to voters, makes technical changes, and provides an effective date.**

13   This resolution proposes to change the Utah Constitution as follows:

14   AMENDS:

15                                   **ARTICLE X, SECTION 5**

16   *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of*  
17   *the two houses voting in favor thereof:*

18                                   Section 1. It is proposed to amend Utah Constitution Article X, Section 5, to read:

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

21                                   (1) There is established a permanent State School Fund which shall consist of revenue  
22   from the following sources:

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

25                                   (b) 5% of the net proceeds from the sales of United States public lands lying within this  
26   state;

27                                   (c) all revenues derived from nonrenewable resources on state lands, other than sovereign



28 lands and lands granted for other specific purposes;

29 (d) all revenues derived from the use of school trust lands;

30 (e) revenues appropriated by the Legislature; and

31 (f) other revenues and assets received by the fund under any other provision of law or by  
32 bequest or donation.

33 (2) ~~[The]~~ (a) (i) Subject to Subsection (2)(a)(ii), the State School Fund principal shall be  
34 safely invested and held by the state in perpetuity.

35 (ii) At least half of the State School Fund principal shall be invested in equities.

36 (b) Only the interest and dividends received from investment of the State School Fund may  
37 be expended for the support of the public education system as defined in Article X, Section 2 of  
38 this constitution.

39 (c) The Legislature may make appropriations from school trust land revenues to provide  
40 funding necessary for the proper administration and management of those lands consistent with  
41 the state's fiduciary responsibilities towards the beneficiaries of the school land trust. Unexpended  
42 balances remaining from the appropriation at the end of each fiscal year shall be deposited in the  
43 State School Fund. ~~[A portion of the interest earnings of the State School Fund, in an amount equal~~  
44 ~~to the total balance in the State School Fund at the close of each calendar year multiplied by the~~  
45 ~~annual rate of inflation for the preceding year, as determined by the state treasurer, shall be retained~~  
46 ~~in the State School Fund and added to the principal.]~~

47 (d) The State School Fund shall be guaranteed by the state against loss or diversion.

48 (3) There is established a Uniform School Fund which shall consist of revenue from the  
49 following sources:

50 (a) interest and dividends from the State School Fund remaining after deduction of ~~[the~~  
51 ~~amount]~~ amounts retained in the State School Fund to protect the fund against losses ~~[due to~~  
52 ~~inflation]~~;

53 (b) revenues appropriated by the Legislature; and

54 (c) other revenues received by the fund under any other provision of law or by donation.

55 (4) The Uniform School Fund shall be maintained and used for the support of the state's  
56 public education system as defined in Article X, Section 2 of this constitution and apportioned as  
57 the Legislature shall provide.

58 (5) (a) The state may guarantee the debt of school districts created in accordance with

59 Article XIV, Section 3, and may guarantee debt incurred to refund the school district debt. Any  
60 debt guaranty, the school district debt guaranteed thereby, or any borrowing of the state undertaken  
61 to facilitate the payment of the state's obligation under any debt guaranty shall not be included as  
62 a debt of the state for purposes of the 1.5% limitation of Article XIV, Section 1.

63 (b) The Legislature may provide that reimbursement to the state shall be obtained from  
64 monies which otherwise would be used for the support of the educational programs of the school  
65 district which incurred the debt with respect to which a payment under the state's guaranty was  
66 made.

67 Section 2. **Submittal to voters.**

68 The lieutenant governor is directed to submit this proposed amendment to the voters of the  
69 state at the next regular general election in the manner provided by law.

70 Section 3. **Effective date.**

71 If the amendment proposed by this joint resolution is approved by a majority of those  
72 voting on it at the next regular general election, the amendment shall take effect on January 1,  
73 2003.

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### Legislative Review Note as of 12-17-01 1:24 PM

This joint resolution proposes to amend the Utah Constitution to provide, among other things, that dividends received from investment of the State School Fund may be expended for the support of the public education system. This joint resolution also provides that certain dividends from the State School Fund constitute a revenue source for the Uniform School Fund. This provision relating to dividends may be subject to challenge under the Enabling Act passed by Congress in 1894 authorizing Utah to become a state. Section 10 of the Enabling Act states that "interest of [the State School Fund] only shall be expended for the support of" schools. A court may give a broad interpretation to the term "interest," as used in the Enabling Act, and determine that the term includes "dividends," as used in this joint resolution. In that case, the language of this joint resolution would be consistent with the language of the Enabling Act and, therefore, valid. However, if a court gives a more narrow, technical interpretation to the term "interest," as used in the Enabling Act, it might conclude that the term does not include "dividends." In that case, the provision in this joint resolution relating to dividends would be inconsistent with the Enabling Act and, therefore, invalid.

Office of Legislative Research and General Counsel