

# Utah Code Sections Related to Equalization



## Introduction

The Utah Code includes five programs that equalize school district per student property tax revenues:

- [Basic Program](#)
- [Voted Local Levy Guarantee Program](#)
- [Board Local Levy Guarantee Program](#)
- [Capital Outlay Foundation Program](#)
- [Capital Outlay Enrollment Growth Program](#)

Each of the program titles listed above are hyperlinked to the [Office of the Legislative Fiscal Analyst's 2016 Compendium of Budget Information](#), which provides more information about each program and appropriations for the programs. The sections of code describing each program are included below.

## Utah Code Sections

### **BASIC PROGRAM**

#### **53A-17a-102. Purpose of chapter.**

- (1) The purpose of this chapter is to provide a minimum school program for the state in accordance with the constitutional mandate. It recognizes that all children of the state are entitled to reasonably equal educational opportunities regardless of their place of residence in the state and of the economic situation of their respective school districts or other agencies.
- (2) It further recognizes that although the establishment of an educational system is primarily a state function, school districts should be required to participate on a partnership basis in the payment of a reasonable portion of the cost of a minimum program.
- (3) It is also the purpose of this chapter to describe the manner in which the state and the school districts shall pay their respective share of the costs of a minimum program. This chapter also recognizes that each locality should be empowered to provide educational facilities and opportunities beyond the minimum program and accordingly provide a method whereby that latitude of action is permitted and encouraged.

Renumbered and Amended by Chapter 72, 1991 General Session

#### **53A-17a-106. Determination of weighted pupil units.**

The number of weighted pupil units in the minimum school program for each year is the total of the units for each school district determined as follows:

- (1) The number of units is computed by adding the average daily membership of all pupils of the district attending schools, other than kindergarten and self-contained classes for children with a disability.
- (2) The number of units is computed by adding the average daily membership of all pupils of the district enrolled in kindergarten and multiplying the total by .55.
  - (a) In those districts that do not elect to hold kindergarten for a full nine-month term, the local school board may approve a shorter term of nine weeks' duration.
  - (b) Upon board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that district in the regular school year.
- (3) (a) The State Board of Education shall use prior year plus growth to determine average daily

membership in distributing money under the minimum school program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

Amended by Chapter 73, 2001 General Session

**53A-17a-136. Cost of operation and maintenance of minimum school program -- Division between state and school districts.**

(1) The total cost of operation and maintenance of the minimum school program in the state is divided between the state and school districts as follows:

(a) Each school district shall impose a minimum basic tax rate on all taxable, tangible property in the school district and shall contribute the tax proceeds toward the cost of the basic program as provided in this chapter.

(b) Each school district may also impose a levy for the purpose of participating in the levy programs provided in Section 53A-17a-133 or 53A-17a-164.

(c) The state shall contribute the balance of the total costs.

(2) The contributions by the school districts and by the state are computed separately for the purpose of determining their respective contributions to the basic program and to the levy programs provided in Section 53A-17a-133 or 53A-17a-164.

Amended by Chapter 371, 2011 General Session

**53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

*Effective 7/1/2016*

(1) As used in this section, "basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(2) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates \$392,266,800 in revenues statewide.

(b) The preliminary estimate for the 2016-17 minimum basic tax rate is .001695.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates \$392,266,800 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

(3) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the difference between:

(i) the minimum basic tax rate to be imposed under Subsection (2); and

(ii) the basic levy increment rate.

(b) In accordance with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

(4) (a) If the difference described in Subsection (3)(a) equals or exceeds the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the difference described in Subsection (3)(a) that exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

(5) The State Board of Education shall:

(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and

(b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth Account created in Section 53A-17a-135.1.

Amended by Chapter 2, 2016 General Session

### **53A-17a-135.1. Minimum Basic Growth Account.**

*Effective 7/1/2015*

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53A-17a-135.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted levy guarantee described in Subsection 53A-17a-133(4);

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Title 53A, Chapter 21, Part 2, Capital Outlay Foundation Program; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Title 53A, Chapter 21, Part 3, Capital Outlay Enrollment Growth Program.

Enacted by Chapter 287, 2015 General Session

## **VOTED AND BOARD LOCAL LEVY AUTHORIZATIONS AND GUARANTEE PROGRAMS**

### **53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.**

*Effective 1/1/2017*

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

(a) the amount appropriated for the voted and board local levy program in a fiscal year; and

(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a)(i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with

Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$35.55 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2015, the \$35.55 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from eligible new growth as defined in Section 59-2-924, without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009,

the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement: "A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Amended by Chapter 2, 2016 General Session

Amended by Chapter 350, 2016 General Session

Amended by Chapter 367, 2016 General Session

### **53A-17a-164. Board local levy -- State guarantee.**

*Effective 7/1/2016*

*(Superseded 1/1/2017)*

(1) Subject to the other requirements of this section, for a calendar year beginning on or after January 1, 2012, a local school board may levy a tax to fund the school district's general fund.

(2) (a) For purposes of this Subsection (2), "combined rate" means the sum of:

(i) the rate imposed by a local school board under Subsection (1); and

(ii) the charter school levy rate, described in Section 53A-1a-513.1, for the local school board's school district.

(b) Except as provided in Subsection (2)(c), beginning on January 1, 2017, a school district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.

(c) Beginning on January 1, 2017, a school district's combined rate may not exceed .0025 per dollar of taxable value in any calendar year if, during the calendar year beginning on January 1, 2011, the school

district's total tax rate for the following levies was greater than .0018 per dollar of taxable value:

- (i) a recreation levy imposed under Section 11-2-7;
- (ii) a transportation levy imposed under Section 53A-17a-127;
- (iii) a board-authorized levy imposed under Section 53A-17a-134;
- (iv) an impact aid levy imposed under Section 53A-17a-143;
- (v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;
- (vi) a reading levy imposed under Section 53A-17a-151; and
- (vii) a tort liability levy imposed under Section 63G-7-704.

(3) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee that each .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).

(b) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the certified tax rate.

(4) A school district that imposes a board local levy in the calendar year beginning on January 1, 2012, is exempt from the public notice and hearing requirements of Section 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to or less than the sum of the following amounts:

(a) the amount of revenue generated during the calendar year beginning on January 1, 2011, from the sum of the following levies of a school district:

- (i) a recreation levy imposed under Section 11-2-7;
  - (ii) a transportation levy imposed under Section 53A-17a-127;
  - (iii) a board-authorized levy imposed under Section 53A-17a-134;
  - (iv) an impact aid levy imposed under Section 53A-17a-143;
  - (v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is budgeted for purposes other than capital outlay or debt service;
  - (vi) a reading levy imposed under Section 53A-17a-151; and
  - (vii) a tort liability levy imposed under Section 63G-7-704; and
- (b) revenue from new growth as defined in Subsection 59-2-924(1).

(5) (a) For a calendar year beginning on or after January 1, 2017, the State Tax Commission shall adjust a board local levy rate imposed by a local school board under this section by the amount necessary to offset the change in revenues from the charter school levy imposed under Section 53A-1a-513.1.

(b) A local school board is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset described in Subsection (5)(a) to the change in revenues from the charter school levy imposed under Section 53A-1a-513.1.

(c) A local school board may not increase a board local levy rate under this section before December 31, 2016, if the local school board did not give public notice on or before March 4, 2016, of the local school board's intent to increase the board local levy rate.

(d) So long as the charter school levy rate does not exceed 25% of the charter school levy per district revenues, a local school board may not increase a board local levy rate under this section if the purpose of increasing the board local levy rate is to capture the revenues assigned to the charter school levy through the adjustment in a board local levy rate under Subsection (5)(a).

(e) Before a local school board takes action to increase a board local levy rate under this section, the local school board shall:

- (i) prepare a written statement that attests that the local school board is in compliance with Subsection (5)(d);
- (ii) read the statement described in Subsection (5)(e)(i) during a local school board public meeting where the local school board discusses increasing the board local levy rate; and
- (iii) send a copy of the statement described in Subsection (5)(e)(i) to the State Tax Commission.

## CAPITAL OUTLAY FOUNDATION PROGRAM

### 53A-21-201. Capital Outlay Foundation Program -- Creation -- Definitions.

- (1) There is created the Capital Outlay Foundation Program to provide capital outlay funding to a school district based on a district's local property tax effort and property tax yield per student compared to a foundation guarantee funding level.
- (2) As used in this part:
  - (a) "Foundation guarantee level per ADM" means a minimum revenue amount per ADM generated by the base tax effort rate, including the following:
    - (i) the revenue generated locally from a school district's combined capital levy rate; and
    - (ii) the revenue allocated to a school district by the State Board of Education in accordance with Section 53A-21-202.
  - (b) "Qualifying school district" means a school district with a property tax yield per ADM less than the foundation guarantee level per ADM.
  - (c) "Small school district" means a school district that has fewer than 1,000 pupils in average daily membership.

Amended by Chapter 185, 2010 General Session

### 53A-21-202. Capital Outlay Foundation Program -- Distribution formulas -- Allocations.

- (1) (a) The State Board of Education shall determine the foundation guarantee level per ADM that fully allocates the funds appropriated to the State Board of Education for distribution under this section.
  - (b) In determining the foundation guarantee level per ADM and a school district's allocation of funds under this part, the State Board of Education shall use data from the fiscal year that is two years prior to the fiscal year the school district receives the allocation, including the:
    - (i) number of pupils in average daily membership;
    - (ii) tax rates; and
    - (iii) derived net taxable value.
  - (2) By June 1, a county treasurer shall report to the State Board of Education the actual collections of property taxes in the school districts located within the county treasurer's county for the period beginning April 1 through the following March 31 immediately preceding that June 1.
  - (3) If a qualifying school district imposes a combined capital levy rate that is greater than or equal to the base tax effort rate, the State Board of Education shall allocate to the qualifying school district an amount equal to the product of the following:
    - (a) the qualifying school district's ADM; and
    - (b) an amount equal to the difference between the following:
      - (i) the foundation guarantee level per ADM, as determined in accordance with Subsection (1); and
      - (ii) the qualifying school district's property tax yield per ADM.
  - (4) If a qualifying school district imposes a combined capital levy rate less than the base tax effort rate, the State Board of Education shall allocate to the qualifying school district an amount equal to the product of the following:
    - (a) the qualifying school district's ADM;
    - (b) an amount equal to the difference between the following:
      - (i) the foundation guarantee level per ADM; and

- (ii) the qualifying school district's property tax yield per ADM; and
- (c) a percentage equal to:
  - (i) the qualifying school district's combined capital levy rate; divided by
  - (ii) the base tax effort rate.
- (5) (a) The State Board of Education shall allocate:
  - (i) a minimum of \$200,000 to each small school district with a property tax base per ADM less than or equal to the statewide average property tax base per ADM;
  - (ii) a minimum of \$100,000 to each small school district with a property tax base per ADM that is:
    - (A) greater than the statewide average property tax base per ADM; and
    - (B) less than or equal to two times the statewide average property tax base per ADM; and
  - (iii) a minimum of \$50,000 to each small school district with a property tax base per ADM that is:
    - (A) greater than two times the statewide average property tax base per ADM; and
    - (B) less than or equal to five times the statewide average property tax base per ADM.
- (b) The State Board of Education shall incorporate the minimum allocations described in Subsection (5)(a) in its calculation of the foundation guarantee level per ADM determined in accordance with Subsection (1).

Amended by Chapter 185, 2010 General Session

## **CAPITAL OUTLAY ENROLLMENT GROWTH PROGRAM**

### **53A-21-301. Capital Outlay Enrollment Growth Program -- Definitions.**

- (1) There is created the Capital Outlay Enrollment Growth Program to provide capital outlay funding to school districts experiencing net enrollment increases.
- (2) As used in this part:
  - (a) "Average annual net enrollment increase" means the quotient of:
    - (i) (A) enrollment in the prior fiscal year, based on October 1 enrollment counts; minus
    - (B) enrollment in the year four years prior, based on October 1 enrollment counts; divided by
    - (ii) three.
  - (b) "Eligible district" or "eligible school district" means a school district that:
    - (i) has an average annual net enrollment increase; and
    - (ii) has a property tax base per ADM in the year two years prior that is less than two times the statewide average property tax base per ADM in the year two years prior.

Amended by Chapter 185, 2010 General Session

### **53A-21-302. Capital Outlay Enrollment Growth Program -- Distribution formulas -- Allocations.**

- (1) For fiscal years beginning on or after July 1, 2008, the State Board of Education shall annually allocate appropriated funds to eligible school districts in accordance with Subsection (2).
- (2) The State Board of Education shall allocate to an eligible school district an amount equal to the product of:
  - (a) the quotient of:
    - (i) the eligible school district's average annual net enrollment increase; divided by
    - (ii) the sum of the average annual net enrollment increase in all eligible school districts; and
  - (b) the total amount appropriated for the Capital Outlay Enrollment Growth Program in that fiscal year.

Enacted by Chapter 236, 2008 General Session