



# MINIMUM SCHOOL PROGRAM CATEGORICAL PROGRAM OVERSIGHT

EXECUTIVE APPROPRIATIONS COMMITTEE  
STAFF: BEN LEISHMAN AND JILL CURRY

ISSUE BRIEF

## **SUMMARY**

A recent review of categorical programs in the Minimum School Program (MSP) reaffirmed that certain programs and expenditures are not reported in a manner to provide general transparency to the public and aid in appropriate oversight by the Legislature. First, several categorical programs appropriated by the Legislature each year have sub-programs that distribute funding to Local Education Agencies (LEAs) in a manner that is not transparent and not always supported by statute. Second, the State Board of Education has authorized the use of programmatic funding for state-level administrative costs at the Utah State Office of Education (USOE) but has not reported expenditures in a transparent manner.

## ***Legislative Action***

Evaluate the following issues and recommendations related to the transparency of MSP categorical programs and the use of MSP funding for administrative costs.

Recommendations include the following:

- Increase the number of MSP categorical programs to eliminate categorical sub-programs in two programs, namely, Grades 1-12 and Special Education State Programs.
- Transfer funding from certain MSP categorical programs to the USOE line-item to properly account for current budgetary practices.
- Amend statute for several programs to implement the recommendations outlined in this brief.

## **CATEGORICAL SUB-PROGRAMS**

The Legislature appropriates funding to approximately 42 categorical programs within the MSP each year. Several of these programs have sub-programs that are contained within the appropriated amount and not independently reported. As a result, the Legislature may not be fully aware of how programmatic funding is distributed to provide appropriate oversight on the use of state funding.

Sub-programs have a long history, and in many cases may be decades old. Over the course of this time, the Legislature has created, eliminated, combined, or block-granted programs or functions and changed statute in a way that questions the continuation of historic practice.

This brief will focus on two programs in the Basic School Program (BSP): Grades 1-12 and Special Education State Programs. Figure 1 details the categorical programs within the BSP. The Legislature appropriated \$2.53 billion to the program in FY 2016.

Figure 1

<b>Basic School Program (Weighted Pupil Unit Programs)</b>				
<i>Primary WPU Value:</i>		<b>\$2,972</b>		<b>\$3,092</b>
<i>Add-on WPU Value:</i>		<b>\$2,726</b>		<b>\$2,837</b>
<i>Basic Tax Rate:</i>		<b>0.001419</b>		<b>0.001764</b>
<b>Revenue Sources</b>		<b>Amount</b>		<b>Amount</b>
A. State Revenue				
1. Education Fund		\$2,076,971,300		\$2,125,931,500
a. Education Fund, One-time		(4,000,000)		(10,000,000)
2. Uniform School Fund		30,000,000		27,000,000
a. Uniform School Fund, One-time		4,000,000		10,000,000
B. Local Property Tax Revenue - Basic Levy		296,709,700		380,172,300
C. Transfers to Education Fund, One-time <sup>(1)</sup>		(54,504,000)		0
D. Beginning Nonlapsing Balances		72,977,900		18,473,900
E. Closing Nonlapsing Balances		(18,473,900)		(18,473,900)
<b>Total Revenue:</b>		<b>\$2,403,681,000</b>		<b>\$2,533,103,800</b>
<b>Expenditures by Program</b>	<b>WPU</b>	<b>Amount</b>	<b>WPU</b>	<b>Amount</b>
A. Regular Basic School Program				
1. Kindergarten	29,215	\$86,827,000	28,319	\$87,562,300
2. Grades 1-12	555,130	1,649,846,400	562,824	1,740,251,800
3. Necessarily Existent Small Schools	9,357	27,809,000	9,357	28,931,800
4. Professional Staff	53,041	157,637,800	53,751	166,198,100
5. Administrative Costs	1,505	4,472,900	1,505	4,653,500
<b>Subtotal:</b>	<b>648,248</b>	<b>\$1,926,593,100</b>	<b>655,756</b>	<b>\$2,027,597,500</b>
B. Restricted Basic School Program				
1. Special Education - Regular - Add-on WPU	72,991	\$198,973,400	75,134	\$213,155,100
2. Special Education - Regular - Self-Contained	14,285	42,455,000	13,925	43,056,100
3. Special Education - Pre-School	9,753	28,985,900	9,878	30,542,800
4. Special Education - Extended Year Program	429	1,275,000	429	1,326,500
5. Special Education - State Programs	2,907	8,639,600	3,258	10,073,700
<b>Subtotal:</b>	<b>100,365</b>	<b>\$280,328,900</b>	<b>102,624</b>	<b>\$298,154,200</b>
6. Career & Technical Education - District Add-on	29,705	\$80,975,800	30,085	\$85,351,100
7. Class Size Reduction	38,958	\$115,783,200	39,457	\$122,001,000
<b>Subtotal:</b>	<b>169,028</b>	<b>\$477,087,900</b>	<b>172,166</b>	<b>\$505,506,300</b>
<b>Total Expenditures:</b>	<b>817,276</b>	<b>\$2,403,681,000</b>	<b>827,922</b>	<b>\$2,533,103,800</b>

**GRADES 1-12**

The Grades 1-12 program is the largest program in the MSP. Funding supports general educational services provided by LEAs for 1<sup>st</sup> through 12<sup>th</sup> grade. As an unrestricted program, LEAs may use allocations for any general educational purpose determined by the local governing board. The program is funded by weighted pupil units (WPU) as outlined in statute. In FY 2016, the Legislature appropriated \$1.74 billion to the Grades 1-12 program.

The program contains three sub-programs: Foreign Exchange Students, Centennial Scholarships, and Out-of-State Tuition. Figure 2 provides the funding amounts for each program.

Figure 2

Categorical Program Detail: Grades 1-12 Estimated Sub-Program Amounts		
Program	WPU's	Amount
<b>Grades 1-12 (Total Program)</b>	<b>562,824</b>	<b>\$1,740,251,800</b>
Foreign Exchange Students	328	1,014,200
Centennial Scholarships		185,700
Out of State Tuition		198,200
<b>Sub-Program Total</b>	<b>328</b>	<b>\$1,398,100</b>

### **Foreign Exchange Students**

Statute, 53A-2-206, allows up to 328 foreign exchange students to be funded through the MSP. These 328 students are in addition to any one-for-one student exchanges and are funded based on the number of foreign exchange students enrolled in the prior school year. LEAs that enroll a foreign exchange student will receive a reimbursement of up to 1 WPU, or \$3,092 in FY 2016. LEAs do not receive funding from other MSP categorical programs for these students. In FY 2016, a total of 328 WPUs were included in the Grades 1-12 program for foreign exchange students, for a total of \$1,014,200.

### **Centennial Scholarships**

High school students that graduate from school prior to the end of the 12<sup>th</sup> grade may receive a Centennial Scholarship. Statute, 53A-15-102, provides that if a student graduates at the conclusion of the 11<sup>th</sup> grade they “shall receive a centennial scholarship in the lesser amount of full tuition for one year or \$1,000.” If a student graduates in the 12<sup>th</sup> grade, but prior to the graduation of the class, the student will receive a pro-rated scholarship amount. The scholarship may be used at any USHE or UCAT institution and any institution accredited by the Northwest Association of Schools and Colleges that offers postsecondary courses in Utah.

Each public high school also receives half of the scholarship amount awarded to the each student who graduates early.

Statute requires the Utah State Board of Education (Board) to administer the scholarship program. Statute also requires the Legislature to appropriate funding for the program:

*“The Legislature shall make an annual appropriation from the Uniform School Fund to the State Board of Education for the costs associated with the Centennial Scholarship Program based on the projected number of students who will graduate before the conclusion of the twelfth grade in any given year. It is understood that the appropriation is offset by the state money that would otherwise be required and appropriated for these students if they were enrolled in an additional grade for a full year.”*

The Legislature does not provide a specific annual appropriation from the Uniform School Fund for the program. The program is funded within the Grades 1-12 program by using prior-year nonlapsing balances. Language in the second sentence of the statute quoted above has been used as authorization for the current practice, namely, the “appropriation is offset by the state money that would otherwise be required and appropriated for these students.” Approximately \$185,000 in nonlapsing balance funding is used each year to fund the scholarship payments to students and LEAs.

### **Out-of-State Tuition**

Since the early 1980s, certain school districts have received payment for a portion of the costs of out-of-state tuition when a resident student attends school in a neighboring state. The Legislature does not

provide an annual appropriation for these costs and they are funded out of prior-year nonlapsing balances. Historically, the state has paid the difference between the invoiced tuition amount and the cost of instructional and support WPU (K-12, Professional Staff, Administrative Costs, and Accelerated Learning Programs).<sup>1</sup>

Approximately \$198,200 in nonlapsing balance funding is used each year to fund out-of-state tuition costs. Three school districts currently receive reimbursement, namely, Box Elder, Kane, and South Summit.

Statute allows LEAs to count these out-of-state tuition students in average daily membership counts and the LEA receives state funding for the student. Statute, 53A-2-204 states the following:

- (1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the State Board of Education.*
- (2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.*
- (3) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved by the State Board of Education.*

There is no recent history of the Board approving in advance reimbursements above the State's contribution. Similarly, the Board does not have rules or policies in place to govern the process of filing agreements and request reimbursement.

Including students in the ADM count of the district generates more funding through categorical programs than the current methodology. As stated previously, the USOE has provided the difference between the tuition cost and per-student funding received from the Kindergarten, Grades 1-12, Professional Staff, Administrative Costs, and Accelerated Learning Programs. The ADM of a district is also used in the funding allocations for the following programs: Class Size Reduction, Flexible Allocation, K-3 Reading, and the Voted & Board Local Levy guarantees.

## **Recommendations**

The Legislature may wish to consider the following recommendations:

### *Foreign Exchange Students*

- Separate 328 WPUs from the Grades 1-12 program into a new categorical program for Foreign Exchange Students.

### *Centennial Scholarships*

- Transfer \$185,000 from the Grades 1-12 Program to a new program in the Related to Basic School Program (below-the-line).
- Amend statute to change the revenue source to the Education Fund and eliminate the sentence that states "It is understood that the appropriation is offset by the state money that would otherwise be required and appropriated for these students if they were enrolled in an additional grade for a full year."
- As a possible alternative, transfer funding to the Utah System of Higher Education which would allow for coordination of all scholarship programs within that system.

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<sup>1</sup> Utah State Office of Education, Out of State Tuition Payments Memorandum, November 2015.

*Out-of-State Tuition*

- Eliminate additional state funding for Out-of-State tuition.
- Amend statute to eliminate “unless otherwise approved by the State Board of Education.”

**SPECIAL EDUCATION – STATE PROGRAMS**

Special Education – State Programs is a grouping of three sub-programs to meet varied special education goals. These programs include Impact Aid, Intensive Services, and the Extended Year for Special Educators Program. The program was appropriated 3,258 WPUs in FY 2016 for total funding of \$10,073,700. Figure 3 provides a funding break-down of the three programs.

**Figure 3**

<b>Categorical Program Detail: Special Education - State Programs</b>		
Estimated Sub-Program Amounts		
<b>Program</b>	<b>WPUs</b>	<b>Amount</b>
<b><i>Special Education - State Programs</i></b>	<b>3,258</b>	<b>\$10,073,700</b>
Impact Aid		5,628,700
Impact Aid - Prisoner Special Education		409,400
Intensive Services		1,225,000
Extended Year for Special Educators	909	2,810,600
<b>Sub-Program Total</b>		<b>\$10,073,700</b>
Intensive Services - One-time Funding		2,000,000
<b>Total Funding</b>		<b>\$12,073,700</b>

***Impact Aid***

The Impact Aid categorical program provides funding to LEAs on a formula basis. The FY 2016 budget includes a total of \$6,038,100 in funding for Impact Aid. Funding is targeted to three primary functions:

1. To pay for higher administrative costs associated with providing special education services to students;
2. To pay special education costs for students state custody (prisons, detention facilities, and the state hospital); and
3. To provide additional funding for students with low-incidence disabilities.

***Intensive Services***

The Intensive Services categorical program provides funding to LEAs on an application basis. In the FY 2016 budget, the Legislature has appropriated a total of \$3,225,000 in state funds. Federal IDEA funding contributes an additional \$1,000,000. Appropriated funding supports LEA expenditures on students whose special education services cost more than three-times the state average.

LEAs with expenditures in excess of three-times the state average apply to the State Board of Education to receive a supplemental reimbursement. LEA allocations are pro-rated based on the amount of funding available.

***Extended Year for Special Educators***

Funding provides additional contract days for special education teachers in order to meet the added duties and responsibilities associated with complying with state and federal regulations. Program participation is voluntary for educators. Teachers may receive a \$200 stipend per additional day of

work (up to a maximum of 10 days). The number of additional days available is limited based on the amount of funding appropriated by the Legislature. In FY 2016, funding provides for up to five days.

The FY 2016 budget includes 909 WPU's for the program. These WPU's generate \$2,810,600 in funding for the extended year stipends.

**Recommendations**

The Legislature may wish to consider the following recommendations:

- Divide the current WPU's and funding for Special Education State Programs into three categorical programs as follows:
  - Impact Aid – 1,952 WPU's and \$6,035,600 in funding;
  - Intensive Services – 397 WPU's and \$1,227,500 in funding; and
  - Extended Year for Special Educators – 909 WPU's and \$2,810,600 in funding.
- Amend statute to authorize each program, require the Board to develop performance metrics, and determine any additional reporting requirements.

**STATE-LEVEL ADMINISTRATIVE COSTS**

Traditionally, funding appropriated by the Legislature for MSP categorical programs is directly distributed to LEAs through formula allocations or grants. The funding for costs associated with executing these formula or grant programs is appropriated to the Utah State Office of Education line-item. Over-time the State Board of Education (Board) has authorized, in limited cases, the use of MSP categorical funding for administrative expenses at the Utah State Office of Education.

Figure 4 provides a listing of each MSP categorical program where administrative expenditures have been authorized by the Board or statute. All categorical programs where funding is used for administrative costs are in the Related to Basic School Program (below-the-line).

**Figure 4**

<b>Minimum School Program: Expenditures from Categorical Programs on State Administration</b>					
Program Appropriation and Administrative Expenditure Amount by Program					
FY 2016					
Program	FY 2016 Appropriation	Administrative Expenditures	Percent of Appropriation	Authorization	
				Statute	Rule
Comprehensive Guidance	\$9,504,300	\$182,700	1.9%	No	Yes
Enhancement for At-Risk Students - Regular	24,481,000	244,800	1.0%	No	Yes
Enhancement for At-Risk Students - Gang Prevention	1,200,000	60,000	5.0%	No	Yes
<b>Subtotal Enhancement for At-Risk Students</b>	<b>25,681,000</b>	<b>304,800</b>	<b>1.2%</b>		
Youth-in-Custody	20,974,500	419,500	2.0%	No	Yes
Adult Education	10,303,400	206,100	2.0%	No	Yes
Critical Languages & Dual Immersion <sup>(1)</sup>	2,915,400	209,400	7.2%	No	No
Beverly Taylor Sorenson Arts Learning Program	6,500,000	120,000	1.8%	Yes	No
<b>Total</b>	<b>\$75,878,600</b>	<b>\$1,442,500</b>	<b>1.9%</b>		

(1) State administrative expenditures are not currently made from the Critical Languages & Dual Immersion program. Program managers would like the State Board of Education to authorize use for administrative expenditures through Board rule.  
Source: Utah State Office of Education, School Finance.

(2) See UCA 53A-17a-162(7).

Prepared by: Office of the Legislative Fiscal Analyst (1/16BL).

Although the Board authorized this use, this practice may violate the Budgetary Procedures Act. Statute states that “money may not be transferred from one item of appropriation to any other item of appropriation” (63J-1-206). The MSP is made up of three budgetary line-items, namely, the Basic School Program, the Related to Basic School Program, and the Voted & Board Local Levy Programs. The USOE is a separate budgetary line-item. Statute, 63J-1-206(3)(f)(ii), provides an exception to this restriction to allow the state superintendent to move between line-items of the Minimum School Program as outlined in 53A-17a-105.

In addition to moving funding between items of appropriation, the expenditures on USOE administration were not accounted for in the MSP categorical program but in the USOE line-item. This practice results in obscuring the true cost of statewide administration at the USOE and potentially double-counting programmatic expenditures.

### ***Changes from Interim Report***

The amount for Youth-in-Custody was reduced from \$1,048,700 to \$419,500. The USOE clarified that 2 percent of the total appropriation is used for administrative expenses. The remaining 3 percent funds special project grants in the LEAs. The special projects grants can continue to be funded out of the Minimum School Program since the LEAs are the recipients of the funding.

The amounts for the Enhancement for At-Risk Students were subtotaled to show that the combined amounts do not exceed 2 percent of the total program appropriation.

### **Recommendations**

The Legislature may wish to consider the following recommendations:

- Transfer the above funding amounts from the various MSP categorical programs to a new USOE line-item to pay for statewide administrative expenditures directly related to MSP programs.
- Amend the statute for the Beverley Taylor Sorenson Arts Learning Program to specify that administrative expenditures at the USOE are not covered by the appropriation in the MSP, but a specific appropriation to the new USOE line-item.