

SB0080S01 compared with SB0080

~~{deleted text}~~ shows text that was in SB0080 but was deleted in SB0080S01.

Inserted text shows text that was not in SB0080 but was inserted into SB0080S01.

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Senator Lincoln Fillmore proposes the following substitute bill:

SCHOOL FUNDING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Bradley G. Last

Cosponsors: Howard A. Stephenson Todd Weiler
Ann Millner Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends school funding provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~{directs}~~requires the ~~{Legislature to annually appropriate an amount equal to one-third of the funds allocated for an increase in the weighted pupil unit value to increase the number of}~~state, under certain requirements, to guarantee:
 - the board local levy guaranteed local levy increments~~}~~

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- directs the State Board of Education to use the appropriation to increase:
- the number of above four increments; and
 - the voted local levy guaranteed local levy increments ~~{ giving first priority to guarantee board local levy increments and second priority to guarantee voted local levy increments; and~~
- the guaranteed amount for each local levy increment per weighted pupil unit ~~after increasing the number of guaranteed local levy~~ above 16 increments;
 - ▶ directs the Office of the Legislative Auditor General to conduct an audit of the amount of money appropriated for and use of increased local levy guaranteed increments;
 - ▶ directs a local school board to use funds received from the state local levy guarantee for a public education purpose;
 - ▶ recodifies and enacts language governing:
 - a voted local levy;
 - the use of guaranteed local levy increments; and
 - a board local levy;
 - ▶ repeals outdated language related to a local school board receiving the state guarantee for a tax imposed before December 31, 2011; and
 - ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53A-1a-513, as last amended by Laws of Utah 2016, Chapter 229

53A-2-206, as last amended by Laws of Utah 2012, Chapter 398

53A-17a-105, as last amended by Laws of Utah 2016, Chapter 229

53A-17a-133, as last amended by Laws of Utah 2016, Chapters 2, 350, and 367

53A-17a-134, as last amended by Laws of Utah 2013, Chapter 178

53A-17a-135.1, as enacted by Laws of Utah 2015, Chapter 287

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53A-17a-136, as last amended by Laws of Utah 2011, Chapter 371

53A-17a-146, as last amended by Laws of Utah 2011, Chapters 371 and 381

53A-17a-164, as last amended by Laws of Utah 2016, Chapters 229, 350, and 367

53A-19-102, as last amended by Laws of Utah 2016, Chapter 363

ENACTS:

53A-17a-133.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-1a-513** is amended to read:

53A-1a-513. Funding for charter schools.

(1) As used in this section:

(a) "Basic program" means the same as that term is defined in Section 53A-17a-103.

~~[(e)]~~ (b) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53A-1a-513.1.

~~[(b)]~~ (c) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(b)(ii) by the number of students enrolled in charter schools on the previous October 1.

(d) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53A-17a-133;

(ii) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

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(iii) a capital local levy imposed under Section 53A-16-113; and

(iv) a guarantee described in Section [~~53A-17a-133, 53A-17a-164~~] 53A-17a-133.5, 53A-21-202, or 53A-21-302.

(e) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(f) "Resident student" means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.

(g) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(g)(i) by statewide school district average daily membership.

(2) (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

(b) For the 2015-16 school year, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:

(i) based on the higher of:

(A) October 1 enrollment in the current school year; or

(B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and

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(ii) weighted as provided in Subsection (3)(c).

(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

- (i) .55 for kindergarten pupils;
- (ii) .9 for pupils in grades 1 through 6;
- (iii) .99 for pupils in grades 7 through 8; and
- (iv) 1.2 for pupils in grades 9 through 12.

(4) (a) (i) A school district shall allocate a portion of school district revenues for each resident student of the school district who is enrolled in a charter school on the previous October 1 equal to 25% of the district per pupil local revenues excluding the amount of revenues:

(A) described in Subsection (1)(d)(iv) collected by the district; and

(B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.

(ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program established under Chapter 28, Utah School Bond Guaranty Act.

(b) The State Board of Education shall:

(i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and

(ii) remit the money to the student's charter school.

(c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:

(i) unrestricted revenues available to the school district; or

(ii) the revenue sources listed in Subsection (1)(d) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(d).

(d) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).

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(ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and

(B) statewide average debt service revenues.

(iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).

(iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(e) (i) Except as provided in Subsection (4)(e)(ii), of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.

(ii) Subsection (4)(e)(i) does not apply to an online charter school.

(f) This Subsection (4) is repealed July 1, 2017.

(5) (a) As described in Section 53A-1a-513.1, the State Board of Education shall distribute charter school levy per pupil revenues to charter schools.

(b) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection (5)(a).

(ii) Except as provided in Subsection (5)(b)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(B) statewide average debt service revenues.

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(iii) If the total of charter school levy per pupil revenues and the amount provided by the state under Subsection (5)(b)(ii) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under this Subsection (5).

(iv) (A) If the appropriation provided under this Subsection (5)(b) is less than the amount prescribed by Subsection (5)(b)(ii) or (5)(b)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (5)(b)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(c) (i) Of the money provided to a charter school under this Subsection (5), 10% shall be expended for funding school facilities only.

(ii) Subsection (5)(c)(i) does not apply to an online charter school.

(d) This Subsection (5) is effective July 1, 2017.

(6) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

(7) The State Board of Education shall distribute funds for charter school students directly to the charter school.

(8) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

(c) The governing board of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or parents.

(9) (a) (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.

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(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

(10) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Section 2. Section **53A-2-206** is amended to read:

53A-2-206. Interstate compact students -- Inclusion in attendance count -- Funding for foreign exchange students -- Annual report -- Requirements for exchange student agencies.

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(2) (a) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2)(b) through (d).

(b) (i) Notwithstanding Section 53A-17a-106, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(ii) Subject to the limitation in Subsection (2)(c), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the

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number of foreign exchange students who were:

(A) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(B) sponsored by an agency approved by the district's local school board or charter school's governing board.

(c) (i) The total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2)(b) shall be the lesser of:

(A) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(B) 328 foreign exchange students.

(ii) The State Board of Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2)(b).

(d) Notwithstanding [~~Sections 53A-17a-133 and 53A-17a-164~~] Section 53A-17a-133.5, weighted pupil units in the grades 1 through 12 basic program for foreign exchange students, as determined by Subsections (2)(b) and (c), may not be included for the purposes of determining a school district's state guarantee money under the voted or board local levies.

(3) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and

(b) pay for the costs of those students with other funds available to the school district or charter school.

(4) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (3), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.

(5) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.

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(6) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency has complied with all applicable policies of the board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(7) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

(8) Notwithstanding Subsection (2)(c)(i), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

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- (a) is sponsored by an agency approved by the State Board of Education;
- (b) attends the same school during the same time period that another student from the

school is:

- (i) sponsored by the same agency; and
- (ii) enrolled in a school in a foreign country; and
- (c) is enrolled in the school for one year or less.

Section 3. Section **53A-17a-105** is amended to read:

53A-17a-105. Powers and duties of State Board of Education to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

- (1) For purposes of this section:

- (a) "Board" means the State Board of Education.
- (b) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C.

Sec. 6301 et seq.

- (c) "LEA" means:

- (i) a school district; or
- (ii) a charter school.

(d) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

- (i) Basic Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

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(b) to support the state guarantee per weighted pupil unit provided under the voted local levy [~~program established in Section 53A-17a-133~~] or the board local levy [~~program established in Section 53A-17a-164~~] in accordance with Section 53A-17a-133.5, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53A-1a-513; or

(d) to support a school district with a loss in student enrollment as provided in Section 53A-17a-139.

(4) If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are overestimated, the board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are underestimated, the board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the board shall reduce the guarantee per weighted pupil unit as described in Section 53A-17a-133.5 provided under the voted local levy program established in Section 53A-17a-133 or board local levy program established in Section 53A-17a-164, if:

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(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) (a) The board may use program funds as described in Subsection (7)(b) if:

(i) the state loses flexibility due to the U.S. Department of Education's rejection of the state's renewal application for flexibility under the ESEA; and

(ii) the state is required to fully implement the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001.

(b) Subject to the requirements of Subsections (7)(a) and (c), for fiscal year 2016, after any transfers or adjustments described in Subsections (2) through (6) are made, the board may use up to \$15,000,000 of excess money appropriated to a program, remaining at the end of fiscal year 2015, to mitigate a budgetary impact to an LEA due to the LEA's loss of flexibility related to implementing the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001.

(c) In addition to the reporting requirement described in Subsection (9), the board shall report actions taken by the board under this Subsection (7) to the Executive Appropriations Committee.

(8) Money appropriated to the board is nonlapsing.

(9) The board shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 4. Section **53A-17a-133** is amended to read:

53A-17a-133. Voted local levy -- Election requirements -- Reconsideration of the program.

~~[(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~~

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~~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.]~~

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~~[(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.]~~

(1) As used in this section, "voted local levy" means a local levy imposed in accordance with this section by a local school board.

(2) (a) A local school board ~~shall~~ may impose or modify a voted local levy on ~~real~~ property located in the school district of the local school board if a majority of the electors of the school district voting at an election in the manner set forth in Subsections (8) and (9) vote in favor of imposing or modifying the voted local levy.

(b) The tax rate of the imposed or modified voted local levy may not exceed .002 per dollar of taxable value.

(3) The local school board shall hold an election to consider imposing or modifying the voted local levy if:

(a) (i) 10% of the electors of the school district who voted at the last preceding general election sign an initiative petition; and

(ii) the initiative petition is presented to the local school board; or

(b) a majority of the local school board vote in favor of holding the election.

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~~[(5)]~~ (4) (a) An election to modify an existing voted local levy is not a reconsideration of the local school board's existing voted local levy authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the ~~[district]~~ local school board of authority to continue the voted local levy.

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

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

~~[(6)]~~ (5) Notwithstanding Section 59-2-919, a local school ~~[district]~~ board 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)]~~ (8) and ~~[(10)]~~ (9) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the local school ~~[district]~~ board 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]~~ local school board complies with the requirements of Subsection ~~[(8)]~~ (7).

~~[(7)]~~ (6) Notwithstanding Section 59-2-919, a local school ~~[district]~~ board may levy a voted local levy 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 voted local levy exceeds the certified tax rate as the result of ~~[a school district]~~

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the local school board 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]~~ is approved:

(i) in accordance with Subsections ~~[(9)]~~ (8) and ~~[(10)]~~ (9) on or after January 1, 2003;

and

(ii) within the four-year period immediately preceding the year in which the local school ~~[district]~~ board 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]~~ local school board complies with requirements of Subsection ~~[(8)]~~ (7).

~~[(8)]~~ (7) For purposes of Subsection ~~[(6)]~~ (5)(b) or ~~[(7)]~~ (6)(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)]~~ (8) (a) Before ~~[imposing a property tax]~~ a local school board may impose a voted local levy pursuant to this section, a local school ~~[district]~~ board shall submit an opinion question to the school district's registered voters voting on the imposition of the voted local levy 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)]~~ (8) 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)]~~ (8)(a) and (b), beginning on or after January 1, 2012, a local school ~~[district]~~ board may levy a voted local levy tax rate in accordance with this section without complying with the requirements of Subsections ~~[(9)]~~

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(8)(a) and (b) if the local school [~~district~~] board 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)]~~ (9) If a local school [~~district~~] board determines that a majority of the school district's registered voters voting on the imposition of the voted local levy tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection ~~[(9)]~~ (8), the local school [~~district may~~] board ~~{shall}~~may impose the tax rate.

(10) ~~{(a) Except as provided in Subsection (10)(b), in}~~ In order for a school district to receive a state guarantee described in Section 53A-17a-133.5 the first year a voted local levy is imposed, a local school board shall receive voter approval no later than December 1 of the year before implementation.

~~{~~ ~~— (b) Beginning on or after January 1, 2012, a local school board may, on behalf of the school district, receive the state guarantee in accordance with Section 53A-17a-133.5 without complying with the requirements of Subsection (10)(a) 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.~~

~~†~~ Section 5. Section **53A-17a-133.5** is enacted to read:

53A-17a-133.5. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of certified tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53A-17a-164.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and

~~(2)(~~b~~)~~a~~(~~ii~~)~~iii~~(A); or~~

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and

~~(2)(~~b~~)~~a~~(~~ii~~)~~iii~~(B).~~

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) ~~{(f)}~~ "Voted and board local levy funding balance" means the difference between:

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~~(A)~~(i) the amount appropriated for the guaranteed local levy increments of the voted local levy and board local levy in a fiscal year; and

~~(B)~~(ii) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

~~(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).~~

~~(e) "Voted local levy" means a local levy described in Section 53A-17a-133.~~

(2) (a) In addition to revenue a school district collects from the imposition of a voted local levy or a board local levy, the state shall guarantee:

(i) subject to ~~Subsections (2)(b)(ii)(C) and~~ Subsection (3)(a), for each guaranteed local levy increment an amount sufficient to guarantee \$35.55 per weighted pupil unit; ~~and~~

~~(ii) except as provided in Subsection (2)(b)(ii):~~

~~(A) for a board local levy, the amount described in Subsection (2)(a)(i) for the first four local levy increments a local school board imposes under the board local levy; and~~

~~(B) for a voted local levy, the amount described in Subsection (2)(a)(i) for the first 16 local levy increments a local school board imposes under the voted local levy;~~ and

~~(b) (i) (iii) Subject to future budget constraints and~~ Subsection (2)(c), the Legislature shall annually appropriate an amount equal to one-third of the funds allocated for an increase in the weighted pupil unit value to ~~(b) and legislative appropriations, for a fiscal year that begins on or after July 1, 2017:~~

(A) for the board local levy, increase the number of guaranteed local levy increments ~~in accordance with Subsection (2)(b)(ii):~~

~~(ii) The State Board of Education shall, for a fiscal year beginning on or after July 1, 2017, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:~~

~~(A) by up to two increments for any given fiscal year the number of board local levy~~ above four by increasing the number of ~~guaranteed local levy increments~~ ~~above four:~~

~~(B) by up to two increments for any given fiscal year the number of~~ by two each fiscal year; and

(B) for the voted local levy, increase the number of ~~guaranteed local levy increments~~ above 16; ~~and~~

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~~(C)~~ by increasing the number of guaranteed ~~{ amount for each }~~ local levy {increment per weighted pupil unit described in Subsection (2)(a)(i); increments by two each fiscal year.

~~(c)~~ b The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 38 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(3) (a) Beginning July 1, 2015, the \$35.55 guarantee described in Subsection (2)(a)(i) shall be indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

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

(4) (a) The amount of guaranteed local levy increment money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in a certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guaranteed local levy increments from the imposition of a voted local levy do 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 described in Section 53A-17a-133 conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

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

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and

(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).

(b) The State Board of Education shall report action taken under Subsection (6)(a) to

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the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for any public education purpose.

(8) (a) Subject to the prioritization of the Audit Subcommittee, the Office of the Legislative Auditor General established under Section 36-12-15 shall on or before November 1, 2019:

(i) conduct an audit of money appropriated under Subsection (2)(a)(iii); and

(ii) prepare and submit a written report of the audit in accordance with Subsection 36-12-15(4)(b)(ii).

(b) The audit shall include:

(i) the annual amount of money appropriated under Subsection (2)(a)(iii);

(ii) (A) which school districts received money under Subsection (2)(a)(iii); and

(B) what expenses each school district paid for with the money;

(iii) how an increase in the number of guaranteed local levy increments described in Subsection (2)(a)(iii)(A) and (B) affected differences in per student property tax revenue between school districts within the state; and

(iv) what effects, if any, an increase in the number of guaranteed local levy increments described in Subsection (2)(a)(iii)(A) and (B) has had on statewide education, including any discrepancies between the effect on school districts and charter schools.

Section 6. Section **53A-17a-134** is amended to read:

53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.

(1) Except as provided in Subsection (9), a local school board may levy a tax rate of up to .0004 per dollar of taxable value to maintain a school program above the cost of the basic school program as follows:

(a) a local school board shall use the money generated by the tax for class size reduction within the school district;

(b) if a local school board determines that the average class size in the school district is not excessive, it may use the money for other school purposes but only if the board has declared the use for other school purposes in a public meeting prior to levying the tax rate; and

(c) a district may not use the money for other school purposes under Subsection (1)(b)

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until it has certified in writing that its class size needs are already being met and has identified the other school purposes for which the money will be used to the State Board of Education and the state board has approved their use for other school purposes.

(2) (a) The state shall contribute an amount sufficient to guarantee \$27.36 per weighted pupil unit for each .0001 per dollar of taxable value.

(b) The guarantee shall increase in the same manner as provided for the voted local levy guarantee in Subsection [~~53A-17a-133(4)(c)~~] 53A-17a-133.5(3)(a).

(c) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (2) 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 (2)(c)(i) applies for a period of five years following any such change in the certified tax rate.

(d) The guarantee provided under this section does not apply to:

(i) a board-authorized leeway in the first fiscal year the leeway is in effect, unless the leeway was approved by voters pursuant to Subsections (4) through (6); or

(ii) the portion of a board-authorized leeway rate that is in excess of the board-authorized leeway rate that was in effect for the previous fiscal year.

(3) The levy authorized under this section is not in addition to the maximum rate of .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax rate under that section.

(4) As an exception to Section 53A-17a-133, the board-authorized levy does not require voter approval, but the board may require voter approval if requested by a majority of the board.

(5) An election to consider disapproval of the board-authorized levy is required, if within 60 days after the levy is established by the board, referendum petitions signed by the number of legal voters required in Section 20A-7-301, who reside within the school district, are filed with the school district.

(6) (a) A local school board shall establish its board-approved levy by April 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an election is required under this section, the levy applies to the fiscal year beginning July 1 of the

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next calendar year.

(b) The approval and disapproval votes authorized in Subsections (4) and (5) shall occur at a general election in even-numbered years, except that a vote required under this section in odd-numbered years shall occur at a special election held on a day in odd-numbered years that corresponds to the general election date. The school district shall pay for the cost of a special election.

(7) (a) Modification or termination of a voter-approved leeway rate authorized under this section is governed by Section 53A-17a-133.

(b) A board-authorized leeway rate may be modified or terminated by a majority vote of the board subject to disapproval procedures specified in this section.

(8) A board levy election does not require publication of a voter information pamphlet.

(9) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 7. Section **53A-17a-135.1** is amended to read:

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

(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 local levy guarantee described in [~~Subsection 53A-17a-133(4)~~] Section 53A-17a-133.5;

(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

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Enrollment Growth Program as provided in Title 53A, Chapter 21, Part 3, Capital Outlay Enrollment Growth Program.

Section 8. Section **53A-17a-136** is amended to read:

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:

(a) the basic program; and [tø]

(b) (i) the levy programs provided in Section 53A-17a-133 or 53A-17a-164[-]; and

(ii) the state guarantee of the levy programs as described in Section 53A-17a-133.5.

Section 9. Section **53A-17a-146** is amended to read:

53A-17a-146. Reduction of district allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) the state-supported voted local levy [~~program~~] and board local levy programs pursuant to Section [~~53A-17a-133; (b) the state-supported board local levy program pursuant to Section 53A-17a-164]~~ 53A-17a-133.5; and

~~[(c)]~~ (b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53A-1a-513.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each school district and charter school, shall allocate the reduction among school districts and charter schools in proportion to each school

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district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a school district or charter school shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A school district or charter school may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

- (a) educator salary adjustments provided in Section 53A-17a-153;
- (b) the Teacher Salary Supplement Program provided in Section 53A-17a-156;
- (c) the extended year for special educators provided in Section 53A-17a-158;
- (d) USTAR centers provided in Section 53A-17a-159;
- (e) the School LAND Trust Program created in Section 53A-16-101.5; or
- (f) a special education program within the Basic School Program.

(6) A school district or charter school may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A school district or charter school that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Section 10. Section **53A-17a-164** is amended to read:

53A-17a-164. Board local levy.

(1) As used in this section, "board local levy" means a local levy imposed in accordance with this section by a local school board.

~~[(1)]~~ (2) 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)]~~ (3) (a) For purposes of this Subsection ~~[(2)]~~ (3), "combined rate" means the sum of:

- (i) the rate imposed by a local school board under Subsection ~~[(1)]~~ (2); and
- (ii) the charter school levy rate, described in Section 53A-1a-513.1, for the local school

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board's school district.

(b) Except as provided in Subsection ~~[(2)]~~ (3)(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) 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

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requirements of Section 59-2-919 for an offset described in Subsection (4)(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 (4)(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 (4)(d);

(ii) read the statement described in Subsection (4)(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 (4)(e)(i) to the State Tax Commission.

Section 11. Section **53A-19-102** is amended to read:

53A-19-102. Local governing board budget procedures.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) "Governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) (a) For a school district, before June 22 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.

(b) For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with

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Section 59-2-919 in adopting the budget, except as provided by Section [~~53A-17a-133~~]
53A-17a-133.5.

(3) (a) For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.

(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (3)(a), at least 10 days prior to the public hearing, a local school board shall:

(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;

(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;

(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and

(iv) post the proposed budget on the school district's Internet website.

(c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections (3)(b)(iii) and (iv).

(4) For a charter school, before June 22 of each year, a charter school governing board shall adopt a budget for the next fiscal year.

(5) Within 30 days of adopting a budget, a governing board shall file a copy of the adopted budget with the state auditor and the State Board of Education.

Section 12. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~