

**Representative Robert M. Spendlove** proposes the following substitute bill:

**PUBLIC EDUCATION FUNDING STABILIZATION**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Robert M. Spendlove**

Senate Sponsor: Ann Millner

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**LONG TITLE**

**General Description:**

This bill provides for growth and stabilization in public education funding.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends the allowable purposes for the capital local levy in certain circumstances;
- ▶ provides for the Minimum School Program to be funded from the Uniform School Fund;
- ▶ provides for ongoing funding, including an additional amount for growth and inflation, for the Minimum School Program;
- ▶ provides for funding to and appropriations from a restricted account to stabilize education funding in circumstances in which revenues are insufficient to fund the public education system;
- ▶ provides for certain tax revenue to be distributed to the Uniform School Fund; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53F-8-303**, as last amended by Laws of Utah 2018, Chapters 281, 288, 456 and  
30 renumbered and amended by Laws of Utah 2018, Chapter 2

31 **53F-9-201**, as last amended by Laws of Utah 2019, Chapter 191

32 **53F-9-204**, as renumbered and amended by Laws of Utah 2018, Chapter 2

33 **59-7-532**, as last amended by Laws of Utah 2007, Chapter 122

34 **59-10-544**, as last amended by Laws of Utah 2009, Chapter 212

35 ENACTS:

36 **53F-2-208**, Utah Code Annotated 1953

37 **53F-9-201.1**, Utah Code Annotated 1953

38 REPEALS:

39 **53F-9-202**, as last amended by Laws of Utah 2019, Chapter 186



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

42 Section 1. Section **53F-2-208** is enacted to read:

43 **53F-2-208. Cost of adjustments for growth and inflation.**

44 (1) In accordance with Subsection (2), the Legislature shall annually determine:

45 (a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a  
46 rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations  
47 to the following programs:

48 (i) the Youth in Custody Program, described in Section [53E-3-503](#);

49 (ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program

50 (Weighted Pupil Units), except for charter school administration described in Section

51 [53F-2-306](#);

52 (iii) the Adult Education Program, described in Section [53F-2-401](#);

52a ↗ (iv) state support of pupil transportation, described in Section [53F-4-402](#); ↖

53 ↗ [(iv)] (v) ↖ the Enhancement for Accelerated Students Program, described in Section

54 [53F-2-408](#);

55 ↗ [(v)] (vi) ↖ the Concurrent Enrollment Program, described in Section [53F-2-409](#);

56 ↗ [(vi)] (vii) ↖ the Enhancement for At-Risk Students Program, described in Section

56a [53F-2-410](#);

57 and

58 ~~Ĥ~~→ [(vii)] (viii) ←Ĥ Centennial Scholarships, described in Section [53F-2-501](#); and  
 59 (b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year,  
 60 the current fiscal year's ongoing state tax fund appropriations to the following programs:

61 (i) a program described in Subsection (1)(a), including charter school administration  
 62 described in Section [53F-2-306](#);

63 (ii) educator salary adjustments, described in Section [53F-2-405](#);

64 (iii) the Teacher Salary Supplement Program, described in Section [53F-2-504](#);

65 (iv) the Voted and Board Local Levy Guarantee programs, described in Section  
 66 [53F-2-601](#); and

67 (v) charter school local replacement funding, described in Section [53F-2-702](#).

68 (2) (a) In or before December each year, the Executive Appropriations Committee shall  
 69 determine:

70 (i) the cost of the inflation adjustment described in Subsection (1)(a); and

71 (ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

72 (b) The Executive Appropriations Committee shall make the determinations described  
 73 in Subsection (2)(a) based on recommendations developed by the Office of the Legislative  
 74 Fiscal Analyst, in consultation with the state board and the Governor's Office of Management  
 75 and Budget.

76 Section 2. Section **53F-8-303** is amended to read:

77 **53F-8-303. Capital local levy.**

78 (1) As used in this section:

79 (a) "Cost of the basic program" means the cost of the programs described in Title 53F,  
 80 Chapter 2, Part 3, Basic Program (Weighted Pupil Units) in a school district.

81 (b) "Low-revenue year" means a fiscal year for which the Legislature appropriates  
 82 ongoing funding from the Public Education Economic Stabilization Restricted Account under  
 83 Subsection [53F-9-204\(3\)](#).

84 [(+)] (2) Subject to the other requirements of this section, a local school board may  
 85 levy a tax to fund the school district's:

86 (a) capital projects; [or]

87 (b) technology programs or projects[-]; or

88 (c) subject to Subsection (4), operational expenses for a low-revenue year.

89 ~~[(2)]~~ (3) A tax rate imposed by a school district pursuant to this section may not exceed  
90 .0030 per dollar of taxable value in any calendar year.

91 (4) For a low-revenue year, a local school board may use an amount of revenue from  
92 the local school board's capital levy for the local school board's school district for operational  
93 expenses equal to:

94 (a) for a local school board in a county of the first, second, or third class, up to .0002  
95 per dollar of taxable value of the capital local levy; or

96 (b) for a county of the fourth, fifth, or sixth class, up to the lesser of:

97 (i) 10% of the cost of the basic program; or

98 (ii) 25% of the revenue that the school district's capital local levy generates.

99 (5) (a) The Office of the Legislative Fiscal Analyst shall notify the state board in the  
100 event of a low-revenue year.

101 (b) The state board shall notify local school boards of the notification described in  
102 Subsection (5)(a).

103 Section 3. Section **53F-9-201** is amended to read:

104 **53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

105 (1) As used in this section:

106 (a) "Annual distribution calculation" means, for a given fiscal year, the average of:

107 (i) 4% of the average market value of the State School Fund for that fiscal year; and

108 (ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

109 (A) one;

110 (B) the percent change in student enrollment from the school year two years prior to  
111 the prior school year; and

112 (C) the actual total percent change of the consumer price index during the last 12  
113 months as measured in June of the prior fiscal year.

114 (b) "Average market value of the State School Fund" means the results of a calculation  
115 completed by the SITFO director each fiscal year that averages the value of the State School  
116 Fund for the past 12 consecutive quarters ending in the prior fiscal year.

117 (c) "Consumer price index" means the Consumer Price Index for All Urban  
118 Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of

119 the United States Department of Labor.

120 (d) "SITFO director" means the director of the School and Institutional Trust Fund  
121 Office appointed under Section [53D-1-401](#).

122 (e) "State School Fund investment earnings distribution amount" or "distribution  
123 amount" means, for a fiscal year, the lesser of:

124 (i) the annual distribution calculation; or

125 (ii) 4% of the average market value of the State School Fund.

126 (2) The Uniform School Fund, a special revenue fund within the Education Fund,  
127 established by Utah Constitution, Article X, Section 5, consists of:

128 (a) distributions derived from the investment of money in the permanent State School  
129 Fund established by Utah Constitution, Article X, Section 5;

130 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform  
131 Unclaimed Property Act; and

132 (c) all other constitutional or legislative allocations to the fund, including:

133 (i) appropriations for the Minimum School Program, enrollment growth, and inflation  
134 under Section [53F-9-201.1](#); and

135 (ii) revenues received by donation.

136 (3) (a) There is created within the Uniform School Fund a restricted account known as  
137 the Trust Distribution Account.

138 (b) The Trust Distribution Account consists of:

139 (i) in accordance with Subsection (4), quarterly deposits of the State School Fund  
140 investment earnings distribution amount from the prior fiscal year;

141 (ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

142 (iii) any unused appropriation for the administration of the School LAND Trust  
143 Program, as described in Subsection [53F-2-404\(1\)\(c\)](#).

144 (4) If, at the end of a fiscal year, the Trust Distribution Account has a balance  
145 remaining after subtracting the appropriation amount described in Subsection [53F-2-404\(1\)\(a\)](#)  
146 for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount  
147 of the remaining balance from the prior fiscal year toward the current fiscal year's distribution  
148 amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the  
149 remaining balance from the prior fiscal year.

150 (5) On or before October 1 of each year, the SITFO director shall:  
151 (a) in accordance with this section, determine the distribution amount for the following  
152 fiscal year; and  
153 (b) report the amount described in Subsection (5)(a) as the funding amount, described  
154 in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:  
155 (i) the State Treasurer;  
156 (ii) the Legislative Fiscal Analyst;  
157 (iii) the Division of Finance;  
158 (iv) the director of the Land Trusts Protection and Advocacy Office, appointed under  
159 Section 53D-2-203;  
160 (v) the School and Institutional Trust Lands Administration created in Section  
161 53C-1-201;  
162 (vi) the State Board of Education; and  
163 (vii) the Governor's Office of Management and Budget.  
164 (6) The School and Institutional Trust Fund Board of Trustees created in Section  
165 53D-1-301 shall:  
166 (a) annually review the distribution amount; and  
167 (b) make recommendations, if necessary, to the Legislature for changes to the formula  
168 for calculating the distribution amount.  
169 (7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust  
170 Distribution Account funds for the School LAND Trust Program as described in Subsections  
171 53F-2-404(1)(a) and (c).  
172 Section 4. Section 53F-9-201.1 is enacted to read:  
173 **53F-9-201.1. Appropriations to the Minimum School Program from the Uniform**  
174 **School Fund.**  
175 (1) As used in this section:  
176 (a) "Base budget" means the same as that term is defined in legislative rule.  
177 (b) "Enrollment growth and inflation estimates" means the cost estimates regarding  
178 enrollment growth and inflation described in Section 53F-2-208.  
179 (2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or  
180 after July 1, 2021, when preparing the Public Education Base Budget, the Office of the

181 Legislative Fiscal Analyst shall include appropriations to the Minimum School Program from  
182 the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education  
183 Economic Stabilization Restricted Account, in an amount that is greater than or equal to:

184 (a) the ongoing appropriations to the Minimum School Program in the current fiscal  
185 year; and

186 (b) subject to Subsection 53F-9-204(3)(b), enrollment growth and inflation estimates.

187 (3) The total annual amount deposited into the Uniform School Fund, including the  
188 deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given  
189 fiscal year may not exceed the amount appropriated from the Uniform School Fund for that  
190 fiscal year.

191 Section 5. Section 53F-9-204 is amended to read:

192 **53F-9-204. Public Education Economic Stabilization Restricted Account.**

193 (1) There is created within the Uniform School Fund a restricted account known as the  
194 "[~~Growth in Student Population~~] Public Education Economic Stabilization Restricted  
195 Account."

196 (2) (a) [~~The~~] Except as provided in Subsection (2)(b), the account shall be funded from  
197 the following revenue sources:

198 [~~any voluntary contributions received to help alleviate the anticipated surge in~~  
199 ~~student growth in public elementary and secondary schools during the early part of the 21st~~  
200 ~~Century; and]~~

201 [~~appropriations made to the fund by the Legislature.]~~

202 [~~(3) The account shall be used to help school districts meet the challenges created by~~  
203 ~~anticipated significant increases in student growth in the state's public schools.]~~

204 (i) 15% of the difference between, as determined by the Office of the Legislative Fiscal  
205 Analyst:

206 (A) the estimated amount of Education Fund and Uniform School Fund revenue  
207 available for the Legislature to appropriate for the next fiscal year; and

208 (B) the amount of ongoing appropriations from the Education Fund and Uniform  
209 School Fund in the current fiscal year; and

210 (ii) other appropriations as the Legislature may designate.

211 (b) If the appropriation described in Subsection (2)(a) would cause the ongoing

212 appropriations to the account to exceed 11% of Uniform School Fund appropriations described  
 213 in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those  
 214 funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform  
 215 School Fund appropriations for that fiscal year.

216 (3) Subject to the availability of ongoing appropriations to the account, in accordance  
 217 with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the  
 218 account shall be used to fund:

219 (a) except for a year described in Subsection (3)(b), one-time appropriations to the  
 220 public education system; and

221 (b) the Minimum School Program for a year in which Education Fund revenue and  
 222 Uniform School Fund revenue are insufficient to fund:

223 (i) ongoing appropriations to the public education system; and

224 (ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

225 (4) (a) The account shall earn interest.

226 (b) All interest earned on account money shall be deposited in the account.

227 (5) On or before December 31, 2023, and every three years thereafter, the Office of the  
 228 Legislative Fiscal Analyst shall:

229 (a) review the requirements described in Subsections (1)(a)(i) and (1)(b); and

230 (b) recommend to the Executive Appropriations Subcommittee any changes based on  
 231 the review described in Subsection (5)(a).

232 Section 6. Section 59-7-532 is amended to read:

233 **59-7-532. Revenue received by commission -- Deposit with state treasurer --**

234 **Distribution or crediting to Education Fund -- Refund claim payments.**

235 (1) (a) All revenue collected or received by the commission under this chapter shall be  
 236 deposited daily with the state treasurer.

237 (b) ~~[Such]~~ The revenue described in Subsection (1)(a), subject to the refund provisions  
 238 of this section, shall be periodically distributed or credited ~~[to]~~, based on a pro rata share of  
 239 Education Fund and Uniform School Fund appropriations for the current fiscal year, to:

240 (i) the Education Fund~~[-];~~ and

241 (ii) the Uniform School Fund in accordance with Section 53F-9-201.1.

242 (2) The commission shall from time to time certify to the state auditor the amount of



243 any refund authorized by it, the amount of interest computed on it under the provisions of  
244 Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid,  
245 and such refund claims shall be paid in order out of the funds first accruing to the Education  
246 Fund from the provisions of this section.

247 Section 7. Section 59-10-544 is amended to read:

248 **59-10-544. General powers and duties of the commission -- Deposit, distribution,**  
249 **or credit of revenues -- Refund reverts to state under certain circumstances.**

250 (1) (a) The commission shall administer and enforce a tax imposed under this chapter  
251 for which purpose it may divide the state into districts in each of which a branch office of the  
252 commission may be maintained.

253 (b) A county may not be divided in forming a district.

254 (2) (a) The commission shall daily deposit all revenue collected or received by the  
255 commission under this chapter with the state treasurer.

256 (b) Subject to Sections 59-10-529 and 59-10-531, the balance of the revenue described  
257 in Subsection (2)(a) shall be periodically distributed and credited [to], based on a pro rata share  
258 of Education Fund and Uniform School Fund appropriations for the current fiscal year, to:

259 (i) the Education Fund[-]; and

260 (ii) the Uniform School Fund in accordance with Section 53F-9-201.1.

261 (c) If a refund the commission makes is not claimed within two years from the date the  
262 commission issues the refund:

263 (i) the refund reverts to the state to be credited to the Education Fund; and

264 (ii) no further claim may be made on the commission for the amount of the refund.

265 Section 8. **Repealer.**

266 This bill repeals:

267 Section 53F-9-202, **Duty of Division of Finance -- Apportionment of fund by state**  
268 **board -- Certification of apportionments.**

269 Section 9. **Effective date.**

270 This bill takes effect January 1, 2021, if the amendment to the Utah Constitution  
271 proposed by S.J.R. 9, Proposal to Amend Utah Constitution - Use of Tax Revenue, 2020  
272 General Session, passes the Legislature and is approved by a majority of those voting on it at  
273 the next regular general election.