

HB0357S02 compared with HB0357S01

~~text~~ shows text that was in HB0357S01 but was deleted in HB0357S02.

text shows text that was not in HB0357S01 but was inserted into HB0357S02.

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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

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 enrollment 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

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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:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

ENACTS:

53F-2-208, Utah Code Annotated 1953

53F-9-201.1, Utah Code Annotated 1953

REPEALS:

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

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

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

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

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

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

(i) ~~the Youth~~education for youth in ~~Custody Program~~custody, described in Section 53E-3-503;

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

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(Weighted Pupil Units), except for charter school administration described in Section 53F-2-306;

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

(iv) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(v) the Concurrent Enrollment Program, described in Section 53F-2-409;

(vi) the Enhancement for At-Risk Students Program, described in Section 53F-2-410;

and

(vii) Centennial Scholarships, described in Section 53F-2-501; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

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

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

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

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

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

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

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

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

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

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

53F-8-303. Capital local levy.

(1) As used in this section:

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

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

~~(1)~~ (2) Subject to the other requirements of this section, a local school board may levy a tax to fund the school district's:

- (a) capital projects; ~~or~~
- (b) technology programs or projects~~[-];~~ or
- (c) subject to Subsection (4), operational expenses for a low-revenue year.

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

(4) For a low-revenue year, a local school board may ~~use~~ transfer an amount of revenue from the ~~local~~ school ~~board's~~ district's capital ~~levy~~ project fund to the school district's general fund for the local school board's school district for operational expenses in an amount equal to:

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

(b) for a local school board in a county of the fourth, fifth, or sixth class, up to the lesser of:

- (i) 10% of the cost of the basic program; or
- (ii) 25% of the revenue that the school district's capital local levy generates.

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

~~(b) } The state board shall notify local school boards~~ of the notification described in Subsection (5)(a); school district superintendents, and business administrators in the event of a low-revenue year.

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

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

(1) As used in this section:

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

- (i) 4% of the average market value of the State School Fund for that fiscal year; and
- (ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

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(A) one;

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

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

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

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

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

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

(i) the annual distribution calculation; or

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

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

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

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

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

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

(ii) revenues received by donation.

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

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund

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investment earnings distribution amount from the prior fiscal year;

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

(iii) any unused appropriation for the administration of the School LAND Trust

Program, as described in Subsection 53F-2-404(1)(c).

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

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the State Board of Education; and

(vii) the Governor's Office of Management and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections

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53F-2-404(1)(a) and (c).

Section 4. Section **53F-9-201.1** is enacted to read:

53F-9-201.1. Appropriations to the Minimum School Program from the Uniform School Fund.

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to:

(a) the ongoing **Education Fund and Uniform School Fund** appropriations to the Minimum School Program in the current fiscal year; and

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

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

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

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

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

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

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

~~[(b) appropriations made to the fund by the Legislature.]~~

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

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

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

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

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

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

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

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

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

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

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

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

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

(a) review the ~~requirements~~ **percentages** described in Subsections (1)(a)(i) and (1)(b); and

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

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

59-7-532. Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Education Fund -- Refund claim payments.

(1) (a) ~~[A#]~~ The commission shall deposit at least quarterly all revenue collected or received by the commission under this chapter ~~[shall be deposited daily]~~ with the state treasurer.†

~~— (b) † [Such †{The} revenue †{described in Subsection (1)(a)}]~~

(b) The commission shall, subject to the refund provisions of this section, ~~[shall be periodically distributed or credited †{to}]~~ distribute or credit, at least quarterly and based on a pro rata share of Education Fund and Uniform School Fund appropriations for the current fiscal year, †{to} the revenue described in Subsection (1)(a) to:

(i) the Education Fund[-]; and

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

(c) The commission may credit to or draw from the Education Fund and the Uniform School Fund:

(i) annually to adjust for differences between estimates and actual amounts; or

(ii) in the proportion described in Subsection (1)(b) to issue a refund.

(2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the Education Fund from the provisions of this section.

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

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

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

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

(2) (a) The commission shall ~~[daily]~~ deposit at least quarterly all revenue collected or received by the commission under this chapter with the state treasurer.

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(b) Subject to Sections 59-10-529 and 59-10-531, the ~~[balance of the revenue described in Subsection (2)(a)]~~ commission shall ~~[be periodically distributed and credited {to}]~~ distribute and credit, at least quarterly and based on a pro rata share of Education Fund and Uniform School Fund appropriations for the current fiscal year, ~~{to}~~ the revenue described in Subsection (2)(a) to:

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

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

(c) The commission may credit to or draw from the Education Fund and the Uniform School Fund:

(i) annually to adjust for differences between estimates and actual amounts; or

(ii) in the proportion described in Subsection (2)(b) to issue a refund.

~~[(c)]~~ (d) If a refund the commission makes is not claimed within two years from the date the commission issues the refund:

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

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

Section 8. Repealer.

This bill repeals:

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

Section 9. Effective date.

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