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Maximum Local Contributions by School Districts

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You requested information about statutes related to a cap on local contributions by school districts. You also asked what is considered spending outside of the cap, and which municipalities are funding up to the cap and outside of the cap.

Alaska's public school funding formula calculates required state and local funding based on the basic need of each district. Districts may provide additional funding, but the amount is limited by statute. However, some districts have historically provided funding "outside the cap" with allocations for services or programs unaddressed by the funding formula. In 2023, the Department of Education and Early Development challenged the practice, but ultimately approved its continuance. Despite a proposal to amend regulatory language to clarify acceptable funding, no change has been made to date.

We queried the Department of Education and Early Development (DEED) about the technical budgetary portion your request to identify which districts provide the maximum voluntary local contribution (VLC) under the formula and those that fund outside of the cap. We will forward to you the department's response.

Statutory and Regulatory Language

The statutory cap on local contributions was adopted in 1987 to equalize opportunities for students across the state (Ch. 91 SLA 1987). This was, in part, to comply with a federal disparity test that requires a difference of 25% or less between high and low revenue districts.¹ Passing the test allows the state to consider a portion of federal impact aid payments as local resources in determining state aid entitlements.

The cap was raised in 1989 because of decreasing state revenues resulting in less education funding and budget shortfalls for school districts (Ch. 65 SLA 1989). A document from the bill file (Attachment A) reads:

¹ Districts above the 95th percentile and above the 5th percentile per adjusted average daily membership (AADM) are not factored into the test, which is codified as *20 USC 7709*.

“The Limit or CAP is established on operating funds only. The City and Borough of Juneau could provide additional funds for three (3) special revenue funds including pupil transportation... community schools... and pupil activities.”

In 1998, the formula for public school funding was substantially amended, but the cap was maintained and codified as *AS 14.17.410(c)* (*Ch. 83 SLA 1998*). It states that, in addition to a required local contribution (RLC), a city or borough school districts may not make a VLC greater than:

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under *AS 14.17.510* and *AS 29.45.110*; or

(2) 23 percent of the total of the district's basic need for the fiscal year under (b)(1) of this section and any additional funding distributed to the district in a fiscal year according to (b) of this section.

Local contribution is defined in *AS 14.17.990(6)* as “appropriations and the value of in-kind services made by a district.” These terms are further defined in *4 AAC 09.990(b)* as:

(1) "appropriations" means money appropriated to a district's school operating fund by the city or borough;

(2) "value of in-kind services" means the documented fair market value of insurance, utilities, energy, audits, and maintenance of facilities provided at no charge to a district by the city or borough as reported in the district's school operating fund.

District Funding Outside of the Cap

Maximum local contributions for districts can be found on page 4 of *Annual Foundation Reports*. As defined by *4 AAC 09.990(b)(1)*, limitations to the local contributions appear to apply only to a district’s operating fund. Therefore, some school districts have provided additional funding considered “outside of the cap.” One justification for this interpretation is the fact that certain budget items, such as transportation for pupils (*AS 14.09.010*), are not included in the funding formula for determining basic need but are required nonetheless. In addition to transportation, districts have spent outside of the cap for maintenance, extracurricular activities, after-school child care, preschool, sports equipment, community school programs, and feeding students.

The state has continued to pass the disparity test despite this additional spending. However, in fiscal year (FY) 2022, the U.S. Department of Education requested the state include transportation costs in the test for the first time. The state successfully appealed this decision and ultimately met the test requirements and excused from including transportation costs in future tests.²

It stands to reason that more populated districts with larger tax bases will make larger local contributions both inside and outside of the cap. According to “*Alaska school districts could take financial hit as education department considers tighter limits on local funding*,” a KTOO article from November 2024, the Municipality of Anchorage and the City and Borough of Juneau have, “long funded education beyond the state’s cap in areas they consider outside of operating expenses.”

2023 Challenge by the Department of Education and Early Development

In June 2023, Department of Education and Early Development (DEED) sent a letter to the Juneau School District (JSD) stating that while the state had recently passed the disparity test, the district’s outside of the cap spending may impact state funding.³

The following month, DEED sent a *memo* to all districts expressing similar concerns that funding outside the cap creates inequity and has repercussions related to the disparity test. It included the federal definition for current expenditures considered for the disparity test which excludes those for community services, capital outlay, and debt services. Districts were warned that, “Labeling funds as “outside the funding cap” or identifying the allocation to a special revenue fund does not make it compliant.” Additionally, it said that funds spent outside of the cap in FY 2024 would have to be reimbursed to the city or borough or state aid would be reduced to maintain compliance with the disparity test.

A *response from JSD to DEED* defended its practice, emphasizing a difference between instructional costs and non-instructional spending from a special revenue fund. It explained that certain spending has been deemed compliant in the past. It requested that DEED clarify its June 2023 letter by “articulating its rationale, including legal citations.”

In December, a follow-up *letter from DEED to JSD* clarifies that the disparity test, while related to state funding, “it is a separate requirement for the state and does not control the interpretation of the state statutes governing school funding and the local contribution.” It stated that although the regulatory

² State of Alaska Department of Law memo to the State Board of Education and Early Development, February 13, 2023, https://education.alaska.gov/State_Board/pdf/March2023/14E.0%20AG%20Standing%20Report.pdf.

³ We are unable to find a copy of this letter. References to content are found in the *July 28, 2023 letter* from the Juneau School District to Lori Weed, DEED School Finance Manager.

definition of appropriations, which is limited to operating funds, is no longer consistent with that of the federal Impact Aid Program, DEED would honor JSD's interpretation and that it could continue its practice until a new regulation was in place.

In its letter, DEED further stated it would be proposing an amendment to, "make clear that "local contribution," as used in AS 14.17.410, is not limited to funds appropriated to or reported in a district's school operating fund." In 2024, DEED *drafted a proposed regulation change* that would remove references to a school's operating fund from 4 AAC 09.990 to conform with federal language. However, the code remains unchanged and it does not appear in any *online public notices*. Further context for this situation can be found in a *2024 letter from the US. Department of Education director of the Impact Aid Program*.

The *FY25 budget* for JSD includes a section for Requests Outside of the Cap (PDF p. 16). Categories include operations and maintenance, high school and middle school activities, transportation, food service, preschool programs, community schools, the Learn to Swim program, and RALLY.

We hope this is helpful. If you have questions or need additional information, please let us know.

Attachment A

Backup Material for HB 233 (Ch. 65 SLA 1989)

Discussion of Local Contribution Limitations

Discussion of Local Contribution Limitations

	100% State <u>Funding</u>	95% State <u>Funding</u>
Formula Generated State Revenue*	\$17,908,367	\$16,740,801
Other Revenue--Federal & Indirect	153,000	153,000
Sub-total	18,061,367	16,893,801
Local Maximum Revenue	10,180,033	9,935,529
Total Allowable Revenue	28,241,400	26,829,330
Allowable <u>Additional</u> Local Contribution	499,033	254,529
Projected Shortfall for Program Rollover	70,000	1,481,932

Explanation

By law, a limit is set on the amount of money a District may have to operate. This limit or CAP is established to assure equal opportunity for all students across our state. Essentially, state law prohibits more than a 25% difference in funding among Districts.

This limit or CAP is established on operating funds only. The City and Borough of Juneau could provide additional funds for three (3) special revenue funds including pupil transportation (150,000), community schools (86,000) and pupil activities (107,000).

February 15, 1989

*Adjusted to reflect projected student enrollment of 4702.