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The Federal Disparity Test for Impact Aid and Exceptions to Maximum Local K-12 Education Funding Limits

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You asked how other states address the funding disparity test associated with federal impact aid. You also requested examples of states that allow local funding of school districts outside formulaic limits.¹

Federal Impact Aid

Enacted in 1950, the Federal impact aid (FIA) is a program to directly compensate individual school districts for the loss of tax revenue caused by land within the district being owned by the federal government, which is not subject to state or local property taxes (*20 USC 7701, et seq.*). Pursuant to the “disparity test” codified at *20 USC 7709*, states are prohibited from reducing aid to school districts based on receipt of FIA unless the formula for allocating state funding among districts includes an “equalization standard” that ensures the difference in per-pupil funding between the highest and lowest funded districts does not exceed 25%. Under the equalization formula, districts below the 5th and above the 95th percentiles in revenues are not considered.

It is important to note that **Alaska is the only state that offsets its education funding with FIA. It is also, therefore, the only state for which the federal disparity test for FIA is currently relevant.** Specifically, following annual certification and approval from the U.S. Department of Education, Alaska opts to deduct 90% of FIA awards from the amount of state funding provided to the districts that receive FIA. Therefore, although we provide information below on states’ requirements and limits on school districts’ revenues and/or spending in excess of maximum funding formula amounts, those legal provisions are unrelated to the FIA disparity test.

There are five types of categorical payments made through FIA. By a wide margin, the category receiving the largest overall appropriation is codified at *20 USC 7703*—“payments for federally connected children,” also known as “basic support.” According to the *U.S. Department of Education*, this category provides funding attached to children who:

¹ This report assumes a basic understanding of federal impact aid. More information on the program and its history is available from the *National Association of Federally Impacted Schools* and its booklet *Basics of Impact Aid*. Your original request asked about local funding requirements and limits in state funding formulas. After discussing the issue with your staff, we narrowed our review to funding of items, programs, and other elements not directly addressed in those formulas.

... reside with a parent on active duty in the Uniformed Services, reside on Indian lands, reside on Federal property, or who have a parent that is employed on Federal property. Additionally, Section 7003 also provides payments for certain federally connected children with disabilities who are eligible under the Individuals with Disabilities Education Act (IDEA).

In federal fiscal year (FY) 2025, Section 7703 funding comprised roughly \$1.47 billion, or about 94%, of the \$1.62 billion of total FIA expenditures nationally. The *FIA appropriations* among all categories for were as follows:

- Basic Support - Section 7003(b): \$1,474,000,000
- Federal Property - Section 7002: \$79,000,000
- Children with Disabilities - Section 7003(d): \$48,316,000
- Construction - Section 7007(a) Formula Grants: \$19,000,000
- Dept. of Education-Owned Schools - Section 7008: \$4,835,000²

Although the total amount of FIA funding appears significant, it is important to recognize that only about 1,100, or 8%, of the nation's approximately 13,250 school districts have *historically received* FIA funds. The FY 2025 budget request for FIA funding to individual school districts indicates payments range from \$500 to \$5 million, so there is wide variability in the significance of those dollars in individual district revenues. It is clear, however, that FIA is a relatively small portion of total state K-12 education funding. Specifically, according to the *National Association of Federally Impacted Schools*, Arizona received the largest allocation of FIA among states in FY 2024 at nearly \$219 million. That represented just 1.7% of the \$13.1 billion in *overall K-12 spending* in the state that year. The \$138.7 million of FIA Alaska received is the second-highest state total. At roughly 5.2% of the nearly \$2.7 billion in total FY 24 *K-12 budget* from all revenue sources, the FIA funding in Alaska was highest among the states as a *percentage* of overall education funding.³

We cannot say with certainty why states have chosen to forego attempts to meet the FIA disparity test. It is clear, however, that savings available from deducting FIA from state aid to school districts is a relatively insubstantial portion of overall K-12 budgets. It further appears that many states view allowing districts the FIA funds due to them without reducing state funds as a matter of fairness and equity. The inequitable impact of such reductions on Native American schools and communities was cited explicitly when *New Mexico halted offsetting state funding* with FIA appropriations in 2021. Likewise, the sponsor of *legislation* removing the FIA offset from the Kansas education funding formula

² Additional details on FIA categorical payment is available in the *U.S. Department of Education handbook* for applicants and grantees.

³ See slide 5 of the Alaska Department of Education and Early Development FY 2024 *Education Financial Deep Dive* presentation.

in 2022 cited disproportionate impacts on school serving the military and Native American communities.

Local Contribution Requirements and Limits for K-12 Education Funding in Alaska

The Alaska school *foundation funding formula* includes a local contribution requirement, defined in [AS 14.17.990\(6\)](#) as “appropriations and the value of in-kind services made by a district.”⁴ The requirement is codified in [AS 14.17.410\(b\)\(2\)](#), which reads as follows:

(2) the required local contribution of a city or borough school district is the equivalent of a 2.65 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](#), not to exceed 45 percent of a district’s basic need for the preceding fiscal year as determined under (1) of this subsection.

In addition to the required contribution, the statutory formula establishes a limit on *voluntary* local funding of education at [AS 14.17.410\(c\)](#), which reads:

(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.

Funding “Outside the Cap”

Maximum local contributions for Alaska districts can be found on page 4 of the *Foundation Report* for each year. As defined by [4 AAC 09.990\(b\)\(1\)](#), limitations to the local contributions apply only to a district’s operating fund. Some school districts have provided additional funding considered “outside of the cap.” One justification for allowing this exception is 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 nonetheless required. Districts have also spent outside the cap for maintenance, extracurricular activities, after-school childcare, preschool, sports equipment, community school programs, and student nutrition.

⁴ The forms of local contributions are further defined in regulation at [4 AAC 09.990\(b\)](#) as follows: 1) “appropriations” means money appropriated to a district's school operating fund by the city or borough; and 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.

Notable Differences in Municipal Taxing Authority Between Alaska and Other States

Among the numerous differences between Alaska and other states is the requirement under Article VII, Section 1, of the Alaska Constitution that the legislature “establish and maintain a system of public schools open to all children . . .” Although most state constitutions include a similar clause, through a series of decisions and settlements (consent decrees), Alaska courts have interpreted Section 1 and state and federal constitutional equal protection clauses to require the state to fund construction and operation of schools in rural communities.⁵

Further, a large portion of the state’s geographic area comprises the “unorganized borough,” wherein all but 40 of its 177 communities either lack taxing authority or have not enacted through ordinance any levies. Of the state’s 54 school districts, 19 operate within the unorganized borough and are known as regional education attendance areas (REAA; [AS 14.08](#)). Although other states have unincorporated communities, there does not appear to be a direct analog to the unorganized borough or its REAAs.⁶

A related issue unique to Alaska are the limitations in Article X, Sections 1 and 2, of the state constitution on delegating the state’s taxing authority. Specifically, those sections respectively seek to permit a “minimum of local government units . . . to prevent duplication of tax-levying jurisdictions,” and allow the state to provide taxing powers only to organized boroughs and cities.⁷ Many other states delegate such authority to political subdivisions, including school districts, specifically for raising revenues to fund education.

Local Funding of Education Costs Beyond Statutory Formula Limits in Other States

As we noted above, Alaska is the only state that seeks to meet the federal disparity test to allow deductions of FIA from state funding amounts to local schools. Therefore, local contribution requirements and limits of other states are intended to equalize funding among districts to meet goals of educational quality and equity. Further, the information below on other states’ funding limits on tax revenues and/or spending are elements of interrelated formulas and mechanisms that are universally complex. This renders caps and their exceptions difficult to understand outside the context of overall funding models. As we discussed with your staff, a comprehensive review of states’ education funding

⁵ Additional information on relevant litigation is available in [LRS Report 03-129](#) and the publication “[Alaska’s Constitution: A Citizen’s Guide](#)” beginning on page 123 (p. 135 of the .pdf file).

⁶ The publication [Alaska Taxable](#) from the Department of Commerce, Community, and Economic Development provides, among other information, the value of taxable property and collection amounts for sales, property, and other forms of taxes levied by local governments. A full explanation of municipal tax laws and powers is outside the scope of this report; however, that information is detailed on pages 7-12 of [Alaska Taxable](#) (pp. 11-16 of the pdf file). Table 1A of the report provides an account of total tax collections for each community and reports those amounts on a per capita basis.

⁷ The text of these sections and accompanying historical commentary are available in “[Alaska’s Constitution: A Citizen’s Guide](#)” beginning on page 169 (p. 181 of the .pdf file).

formulas is both outside the scope of this report and unlikely to be relevant to your interests given their numerous differences with Alaska's current foundation funding formula.

The following examples of local education funding mechanisms that are outside state formula caps are summaries, nearly verbatim in certain parts, from source material, links to which are embedded in the headings below.

Arizona

The qualifying tax rate (QTR) is a statutory primary rate used to determine the amount of revenue that will be generated from local taxpayers in support of the Basic State Aid formula. The actual overall primary tax rate for a school district may be lower than the QTR, or higher if the district is allowed, following approval through statutory processes, to budget for items outside of the aid formula. The specific budget items that be funded through higher QTR assessments are:

Adjacent ways ([ARS 15-995](#))—The governing board of a school district may contract for constructing, maintaining or otherwise improving a public way adjacent to any parcel of land owned by the school district or leased for school purposes, or an intersection of any public way adjoining a quarter block in which the parcel of land is situated. Funds may further be used for constructing sidewalks, sewers, utility lines, roadways, and other related improvements in or along such streets. Generally, a school district may not use any portion of monies generated from the special assessment for construction, maintenance, or other improvements to the school district's property unless for public safety reasons.

Small school adjustment ([ARS 15-949](#))—Elementary and middle schools with student counts of 125 or fewer, and high schools serving 100 students or fewer, may seek approval for a budget in excess of the general limit provided that the excess expenditures is attributable to the higher cost of educating the smaller student populations. In effect, the exception is to account for a lack of economies of scale. The adjustment is also available as a budget revision due to student counts in small schools that were above those anticipated in the original budget. The amount of the adjustment is derived through a statutory formula.

Liabilities in excess ([ARS 15-907](#))—In the event of excessive and unexpected legal expenses or an emergency for which the school district did not receive funding because there were insufficient monies in the emergency deficiencies correction fund, the governing board may petition to incur liabilities in excess of the school district budget.

Colorado

With voter approval, state law allows school districts to raise and spend, through mill levy overrides, property taxes above those required under the school finance act. The act limits override revenue to 25% (30% for small rural districts) of a district's total funding, prior to application of the budget

stabilization factor, or \$200,000, whichever is greater, plus supplemental cost-of-living adjustments. Other sources of revenue may limit a district's ability to request voter approval for a property tax increase equal to the full amount of the limit.

Growth districts with supplemental enrollment counts that increase by at least 1% or 50 students, whichever is less, may request voter approval to levy additional property taxes of up to one mill for capital projects. The money must be deposited into the district's capital reserve fund and can be used to pay for projects outright or to repay applicable state loans.

The number of mills a growth district may levy is based on a district's property wealth relative to the statewide average. A district with an assessed value per pupil that exceeds the statewide average may impose an additional levy of up to one mill. The number of mills a district may levy increases as district property wealth decreases below the state average, up to a maximum of five mills. For instance, a district with an assessed value per pupil of \$20,000 could impose five mills, if the statewide average assessed value per pupil was \$100,000.

Transportation levies may be requested by district to pay for transportation costs not reimbursed by the state.

Districts with **full-day kindergarten** may seek voter approval to raise additional property taxes to pay for the relevant excess operating costs. Those levies must be deposited in a full-day kindergarten fund, and if an election includes a levy for capital purposes, the proceeds of such a levy must be deposited in the capital construction account of the fund.

Special building or technology levies of up to ten mills may be approved by voters for a maximum of three years.

Kansas

Kansas Statute 72-5143 requires every school district to adopt a local option budget (LOB) of at least 15.0 percent of the district's total foundation aid. The decision to adopt a LOB exceeding that percentage is made by local school boards. Any board can adopt an LOB up to the statewide average from the preceding school year.

For school year 2021-2022, that statewide average was 31.8 percent. Therefore, any school board in Kansas can adopt an LOB of up to 31.8 percent of the district's Total Foundation Aid during the current school year. However, statute also allows school boards to adopt an LOB up to 33.0 percent of total aid. To do so, a school board must adopt a resolution providing for LOB authority of up to 33.0 percent and publish the resolution in the local newspaper of record. That resolution is then subject to a protest petition of the school district's qualified voters. If a petition with the signatures of at least 10.0 percent of voters is filed within 40 days of the publication of the resolution, then an election will be held on whether to raise the district's LOB authority. If no petition is filed, then the school board's decision is approved.

Montana

Each school district in Montana establishes a minimum Basic Amount for School Equity (BASE) budget and a maximum (MAX) budget, based on percentages of school funding components. There are certain exceptions that allow a district to adopt a budget slightly over MAX, primarily due to declining enrollment. Outside the funding formula, several categories of expenditures may be funded through either permissive levies, which require only district school board approval, or voted levies, which require voter approval.

- **Permissive levy funds**—employee retirement, transportation, adult education, special education tuition, bus depreciation, and a “flexibility fund” used for technology hardware, maintenance, and training.
- **Voter levy funds**—debt service, technology.
- In addition, a building reserve fund **blends permissive and voter levies** to pay for major maintenance and safety improvements.

South Dakota

School districts that cannot meet operating (general fund) or capital costs (capital outlay fund) may “opt out” of limitations in the state funding formula and impose additional tax levies. Such levies for operations are limited to an amount equal to the difference between demonstrated budget needs minus the sum of state aid formula funding and revenues received outside the formula. Capital cost opt-out levies are limited to three mills.

Opting out requires a two-thirds vote of the governing body on or before July 15th. The decision must be published within ten days and may be referred to a vote upon a petition signed by at least five percent of the registered voters in the taxing district and filed with the governing body within twenty days of the first publication.

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