

Instructional Support Program Levy

Background

A school district may establish an Instructional Support Program (ISP) to provide additional funding in the General Fund. It is funded by an Instructional Support Program Levy. It may be established by a board resolution up to five years or approved by the voters up to 10 years. The Program may be funded by all property tax or a combination of property tax and income surtax. The total Program may not exceed 10% of the district's regular program district cost.

Revenues from the Instructional Support Program may be expended for any purpose allowed from the General Fund, but may not be used to supplant funding authorized to be received for returning dropout and dropout prevention programs, gifted and talented programs, PPEL levy, Management levy, or special education deficits. Iowa Code section 257.18.

The ISP was designed to supplement school districts who wanted to implement a special program or do something above and beyond what other districts were doing. However, years of underfunding public education have forced nearly all Iowa schools to put an ISP into place just to meet routine needs. Out of 327 public school districts in the state, only *one* district, Allamakee, does not have an ISP.

Instructional Support is vital to our school district.

We are currently in Fiscal Year 2021, we will enter Fiscal Year 2022 in a little more than three months. Our district's ISP will expire at the end of FY 2022. It can be renewed for five years by a vote of the school board, or it can be renewed for up to ten years by a public vote on a November ballot.

School districts must certify their intent to participate in the ISP no later than April 15 of the fiscal year prior to the fiscal year in which the participation will be included in the budget. So, for us, if we want to participate in the ISP for fiscal year 2022-2023 (i.e., fiscal year beginning July 1, 2022 and ending June 30, 2023) then we must certify our intent to participate no later than April 15, 2022 to the Department of Management. That must be within the next 12 months.

Recommended Action:

I recommend the Board pursue a board vote. I think this levy is well-established in our school and in our community. The extension of this long-established program should not be controversial.

I further recommend a board motion to request to see a copy of an *Instructional Support Program Resolution to Consider Continued Participation* at the Board's May 20 meeting for possible board action at the following regular meeting on June 17, 2021, with a possible public hearing on continued participation on July 15, 2021.

Frequently Asked Questions Regarding the Instructional Support Program

1. **Question:** What is the procedure for a school board to participate in the Instructional Support Program (ISP) by board resolution?

Answer: The board must follow these steps:

- a. Put the proposal to implement the instructional support program including the funding method in the form of a board resolution.
- b. Publish the notice of the time and place for a public hearing on the resolution not less than ten days nor more than twenty days before the hearing in a newspaper of general circulation in the district.
- c. Take action at the public hearing or later, but no later than thirty days after the date of the hearing, to
 - (1) adopt a resolution to participate in the instructional support program for a period not exceeding five years, or
 - (2) direct the county commissioner of elections to submit the question of participation in the program for a period not exceeding ten years to the registered voters of the district at an election on a date specified in Iowa Code 39.2(4)(c).
- d. If the question is submitted to the voters and a majority favor participation in the program, the board shall adopt a resolution to participate and shall certify the results of the election to the Department of Management.
- e. If the question was not submitted to the voters, but the resolution was adopted by the board, the board shall participate in the program unless within 28 days after the board takes action on the resolution a petition is submitted to the board secretary with the required number of signatures requesting that the question be submitted to the voters. At the expiration of the 28-day period, if no petition is received, the board shall certify its action to the Department of Management.

2. **Question:** What constitutes a properly filed petition?

Answer: The petition must be signed by eligible voters in the district equal to the greater of:

- a. 100 eligible electors, or
- b. 30 percent of the number of eligible voters that voted at the last regular school election.

3. **Question:** What is an eligible elector?

Answer: An eligible elector is an individual that possesses all of the qualifications necessary to be entitled to register to vote, whether or not the individual is in fact registered.

4. **Question:** If a petition is received, is the board required to submit the question to the voters?

Answer: No. The board can rescind its resolution instead of directing the county commission of elections to submit the question to the voters.

5. **Question:** If the question is submitted to the voters and the voters do not approve the adoption of the instructional support program, how long must the board wait to take action to either adopt the instructional support program again or to resubmit the question to the voters?

Answer: At least 120 days following the election.

6. **Question:** How does the board certify to the Department of Management?

Answer: The board sends to the Department of Management not later than April 15 of the base year, a copy of the board resolution to participate in the instructional support program for the budget year or a copy of the proposition successfully submitted to the voters and the canvas of votes, the method of funding, and the amount to be raised. The base year is the fiscal year prior to the budget year. For example, if the board intends to participate beginning with budget year 2016-2017, then the board must certify to the Department of Management not later than April 15, 2016.

The resolution must be made and the 28-day period must expire before the board can adopt and certify its budget by the statutory due date of April 15.

If a petition is received and there is not sufficient time to submit the question to the electors, the board cannot implement the program for the following budget year. Likewise, if the board submits the question to the electors, the favorable election must occur in sufficient time to publish and to certify the budget by April 15 in order to implement the program for the following budget year.

7. **Question:** What is the maximum instructional support program possible?

Answer: Ten percent of the total of the regular program district cost and the budget adjustment for the budget year.

8. **Question:** How must the program be funded?

Answer: The local portion of the funding for the program may be funded in one of two ways, and this method must be included in the resolution or proposition:

- a. From a local property tax levy, or
- b. From a combination of a local property tax levy and an income surtax. The income surtax must be in whole percentage points. The combination of the instructional support income surtax and all other income surtaxes shall not exceed 20 percent.

9. **Question:** Can a program be funded totally with income surtax?

Answer: No. The method of funding which includes income surtax requires that a portion of the program shall be funded by a local property tax levy.

10. **Question:** What is the minimum local property tax levy that is required?

Answer: One dollar.

11. **Question:** If the board adopts a combination of local property tax levy and an income surtax, what is the minimum income surtax that is required?

Answer: One percent.

12. **Question:** Must the board include the percent of income surtax that will be used to support the program in the resolution or proposition?

Answer: No. The resolution must state that an instructional support income surtax will be imposed, but the board determines the percent of income surtax that will be imposed each year when it certifies its annual budget by April 15 of the base year.

13. **Question:** If the board chooses to fund the instructional support program by a combination of property tax and income surtax, can the mix between the two funding sources be changed each year?

Answer: Yes. The board has the responsibility to establish the mix for each year the program has been approved.

14. **Question:** How is the state portion of funding for the instructional support program determined?

Answer: The state portion of the funding is what is left after the local portion is subtracted from the total instructional support program. The local portion of the funding is determined by the following formula:

$$1 - (((\text{total assessed valuation in the state} / \text{total budget enrollment in the state}) / (\text{district assessed valuation} / \text{district budget enrollment})) * .25).$$
 However, the total state funding is set by the Legislature annually as an appropriation and could be zero. If the calculated amount of state funding exceeds the appropriation, then the state funding will be prorated.

15. **Question:** If the state funding is prorated, may the district levy a property tax or additional income surtax to fund the balance of the program?

Answer: No. The budget authority is reduced by the same amount as the state aid is prorated.

16. **Question:** What is income surtax, and how is it applied?

Answer: A surtax is a tax on a tax. The surtax is imposed on the income tax liability after tax credits on the Iowa Individual Income Tax returns of taxpayers residing within the district on

the last day of the tax year. The surtax is not imposed on other income tax returns such as fiduciary or corporation income tax returns.

17. **Question:** When are the property tax, state funding, and income surtax received by the district?

Answer: Property tax will be collected with other property taxes in the General Fund during the budget year. State funding will be received each month, September through June, during the budget year. Income surtax will be paid in two payments during the fiscal year following the budget year with approximately 75 percent paid December 1 and the remaining 25 percent paid February 1. Income surtax payment to the district comes from the income tax year two years previous, and the rates are established in the base year's aid and levy worksheet. The ISP income surtax is the portion attributed to the General Fund.

18. **Question:** When may the board extend the instructional support program?

Answer: At the expiration of the period for which the instructional support program was adopted by following the same procedures outlined in question 1.

19. **Question:** Can a district renew the instructional support program each year for a new five-year period?

Answer: No. The law specifies that it can be renewed at the expiration of the period for which it was adopted. However, a district could take action on a five-year renewal option some time during the fourth year in order to provide continuity of funding.

20. **Question:** How may the instructional support program funds be used?

Answer: The instructional support program funds may be used for any General Fund purpose. However, money shall not be used as, or in a manner which has the effect of, supplanting funding authorized to be received for at-risk, alternative schools, dropout prevention programs, gifted and talented programs, physical plant and equipment levy, management levy, or to cover special education deficits. Instructional support program funds may be used to supplement these other levies as appropriate from the General Fund, but cannot be used in place of these other levies for expenditures appropriate from those levies.

In other words, a district cannot use the ISP funding which is a combination of state aid, property tax, and income surtax to cover the costs of programs which by Code did not have a state aid or income surtax funding component.

21. **Question:** What happens to the instructional support program in the event of reorganization?

Answer: The instructional support program will continue in the newly reorganized district for the shortest period of time and the least amount of funding in the former districts involved in the reorganization, as long as the voters in the newly reorganized district have not voted favorably or unfavorably on a new instructional support program.

22. **Question:** Can the board of the newly reorganized district pass a resolution to participate in the instructional support program before the July 1 date on which the district is reorganized?

Answer: Yes.

23. **Question:** If a petition is filed within 28 days with the board in the newly reorganized district passing a resolution to participate in the instructional support program, what number of signatures is required?

Answer: If the board members for the newly reorganized district were elected at the regular school election, the number of signatures required is the greater of 100 eligible electors or 30 percent of the electors voting in the regular school election at which the board members were elected. If the board members were elected at a special election, the number of signatures required is 100 eligible electors.

24. **Question:** What happens if one former district is funding with a property tax and the other district is funding with a combination of a property tax and an income surtax, but the program in both districts was for the same number of years remaining and for the same 10 percent (same length of time and same funding level)?

Answer: The newly reorganized district can continue the program, but it will be all property tax funding without an income surtax portion. The "shortest amount of time and smallest amount" rule is applied to the income surtax portion, making it zero. The funding in the newly reorganized district will be all property tax.

25. **Question:** If the board rescinds its resolution after receiving a petition and does not submit the question to the voters, how long must the board wait to take action to either adopt the instructional support program again or to submit the question to the voters?

Answer: There is no time limitations placed on the board to consider the resolution anew after rescinding it due to the receipt of a petition with the requisite number of signatures. 1994 OAG 115 and *Lindstrom v. Aetna Life Ins. Co.*, 203 N.W.2d 623 (Iowa 1973).