

**RULES
OF
THE TENNESSEE DEPARTMENT OF EDUCATION
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-02
DISTRICT AND SCHOOL OPERATIONS**

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0520-01-02-.33 FISCAL CAPACITY FORMULA REVIEW AND APPROVAL.

- (1) The Tennessee Investment in Student Achievement (“TISA”) Act passed by the Tennessee General Assembly in 2022 established a new student-based funding formula for Tennessee public schools, beginning in the 2023-24 school year.
- (2) T.C.A. § 49-3-104 requires that the fiscal capacity formula be evaluated by the Comptroller of the Treasury and approved by the State Board. Additionally, Department of Education TISA Rule 0520-12-05-.08 provides that the Comptroller of the Treasury may make recommendations on any changes to the fiscal capacity formula to the State Board, and that the State Board shall establish a process and timeline for approval of the formulas.
- (3) The purpose of this Rule is to set forth the process and timeline for the State Board to approve the fiscal capacity formula after receipt of an evaluation of the formula from the Comptroller of the Treasury and any accompanying recommendations or considerations.
- (4) Review and Approval Process.
 - (a) Prior to the implementation of TISA in the 2023-24 school year, the State Board shall review the evaluation report of the fiscal capacity formula from the Comptroller of the Treasury, along with any recommendations or considerations from the Comptroller of the Treasury and approve the formula.
 - (b) The Comptroller of the Treasury shall conduct a new evaluation of the fiscal capacity formula and provide the evaluation report and any recommendations or considerations to the State Board no more than five (5) years from the date the formula was last approved. The evaluation report shall be submitted to the State Board on or before January 1 of the fifth (5th) year.

- (c) If the Comptroller of the Treasury's evaluation report includes recommendations or considerations regarding changes to the fiscal capacity formula, the evaluation report shall include:
1. A detailed description of the proposed change and the rationale for the proposed change;
 2. The expected fiscal or other impact of the proposed change on school districts and/or local governments;
 3. A detailed description of options to mitigate any negative fiscal impact to school districts and/or local governments, including, but not limited to the appropriation of additional state funding external to the TISA formula by the Tennessee General Assembly or the passage of legislation;
 4. Any methods for implementing the proposed change, and
 5. Any additional information the Comptroller of the Treasury determines will aid the State Board in evaluating the proposed change.
- (d) If the Comptroller of the Treasury's evaluation report includes recommendations or considerations regarding changes to the fiscal capacity formula, the State Board may approve the formula, with or without the change(s). The approval of any changes to the fiscal capacity formula that includes a request for an adjustment in state appropriations shall be done in consultation with the Department of Finance and Administration.
1. If changes to the formula are approved by the State Board, the Department shall incorporate the revised fiscal capacity estimates received from TACIR and CBER into preliminary TISA allocations provided to districts in the first fiscal year following adoption of the changes. For the second fiscal year following adoption of the changes, the Department shall incorporate revised fiscal capacity estimates into final TISA allocations provided to districts.
 2. The State Board may also place additional requirements on the implementation of any approved changes to the formula, including, but not limited to, the occurrence of certain conditions specified by the State Board or delayed implementation of changes beyond the timelines set forth in paragraph (4)(d)(1) of this Rule, according to a schedule specified by the State Board. If the State Board approves changes to the fiscal capacity formula contingent on additional state appropriations from the General Assembly external to the TISA formula, the approved changes shall not take effect pursuant to the schedule set forth in paragraph (4)(d)(1) of this Rule until such funds are appropriated by the General Assembly.
- (e) The State Board may request that the Comptroller of the Treasury evaluate potential changes to the fiscal capacity formula outside of the five (5) year cycle established above if the State Board receives a request from the Tennessee Advisory Commission on Intergovernmental Relations ("TACIR"), the Boyd Center for Business and Economic Research at the

University of Tennessee (“CBER”), the TISA Review Committee, the Commissioner of Finance and Administration, both chairs of the Finance Ways and Means Committees of the Tennessee House and Senate, or the Commissioner of Education to undertake an off-cycle evaluation of changes to the fiscal capacity formula. Requests shall be submitted to the Executive Director of the State Board (“Executive Director”).

1. A request to undertake an off-cycle evaluation of changes to the fiscal capacity formula submitted by TACIR or CBER shall include all information set forth in paragraphs (4)(c)(1) through (4) of this Rule and any additional information that would aid the State Board and the Comptroller of the Treasury in evaluating the proposed change. Requests that do not contain all of the required information will not be considered.
2. A request to undertake an off-cycle evaluation of changes to the fiscal capacity formula submitted by the TISA Review Committee, the Commissioner of Finance and Administration, both chairs of the Finance Ways and Means Committees of the Tennessee House and Senate, or the Commissioner of Education shall include a justification for the off-cycle review request and any information that would aid the State Board and the Comptroller of the Treasury in evaluating the request for the off-cycle evaluation and proposed change. Requests that do not contain all of the required information will not be considered.
3. After receipt of a complete request, the Executive Director shall conduct a review of the request and make a recommendation to the State Board. The Executive Director may recommend that the request for an off-cycle review be approved, denied, or that the request be considered by the Comptroller of the Treasury during the next scheduled five (5) year review.
4. If the State Board votes to request the Comptroller of the Treasury to conduct an off-cycle evaluation of proposed changes to the fiscal capacity formula, the Executive Director shall work with the Comptroller of the Treasury to determine an appropriate timeframe within which the evaluation of changes to the formula shall be submitted by the Comptroller of the Treasury to the State Board for review.
5. The Comptroller of the Treasury shall submit its evaluation of the proposed changes to the fiscal capacity formula to the State Board by the deadline agreed upon by the Executive Director and the Comptroller of the Treasury. The evaluation report shall include:
 - (i) A detailed description of the proposed change and the rationale for the proposed change;
 - (ii) The expected fiscal or other impact of the proposed change on school districts and/or local governments;
 - (iii) A detailed description of options to mitigate any negative fiscal impact to school districts and/or local governments, including, but not limited to, the appropriation of additional state funding external to the TISA formula by the

Tennessee General Assembly or the passage of legislation;

- (iv) Any methods for implementing the proposed change, and
- (v) Any additional information the Comptroller of the Treasury determines will aid the State Board in evaluating the proposed change.

6. Upon receipt of the Comptroller's report evaluating the proposed change, the State Board may take no action on the report or may vote to approve the changes to the fiscal capacity formula. The approval of any changes to the fiscal capacity formula that includes a request for an adjustment in state appropriations shall be done in consultation with the Department of Finance and Administration.

- (i) If changes to the formula are approved by the State Board, the Department shall incorporate the revised fiscal capacity estimates received from TACIR and CBER into preliminary TISA allocations provided to districts in the first fiscal year following adoption of the changes. For the second fiscal year following adoption of the changes, the Department shall incorporate revised fiscal capacity estimates into final TISA allocations provided to districts.
- (ii) The State Board may also place additional requirements on the implementation of any approved changes to the formula, including, but not limited to, the occurrence of certain conditions specified by the State Board or delayed implementation of changes beyond the timelines set forth in paragraph (4)(e)(6)(i) of this Rule, according to a schedule specified by the State Board. If the State Board approves changes to the fiscal capacity formula contingent on additional state appropriations from the General Assembly external to the TISA formula, the approved changes shall not take effect pursuant to the schedule set forth in paragraph (4)(e)(6)(i) of this Rule until such funds are appropriated by the General Assembly.

Authority: T.C.A. §§ 49-3-104, 49-1-302, and 4-5-102. **Administrative History:**