

Senator Carlene M. Walker proposes the following substitute bill:

CREATION OF NEW SCHOOL DISTRICT

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies provisions related to the creation of a new school district.

Highlighted Provisions:

This bill:

- ▶ adds a vote to elect school district board members resulting from the creation of a new school district to the list of special elections that a local political subdivision may call;
- ▶ adds a definition relating to the creation of a new school district;
- ▶ provides a process for certifying the creation of a new school district and establishes the date that the new district is created;
- ▶ clarifies the duties of a new district and the district from which the new district was created with respect to providing educational services;
- ▶ makes exceptions to requirements applicable to a proposal by interlocal agreement participants to create a new school district where the proposal would otherwise geographically isolate an area within a municipality that is served by a separate school district;
- ▶ provides for the election of school district board members of a new school district



26 and of the school district from which the new district was created, and provides for the terms of
 27 those members;

28 ▶ establishes a process for allocating the property of an existing school district
 29 between a newly created district and the school district from which it was created,
 30 including:

31 • transition teams to represent the new district and the district from which the new
 32 district was created; and

33 • a requirement that disputes about the allocation of property be decided by
 34 binding arbitration;

35 ▶ shifts from the board of a new school district to the board of the district from which
 36 the new district was created the responsibility to continue to levy a tax on property
 37 in the new district to pay the new district's proportionate share of bonds issued
 38 before the new district was created;

39 ▶ prohibits a school district board from issuing bonds approved but not issued before
 40 the creation of a new district under certain circumstances; ~~H~~→ [and]

40a ▶ authorizes a mayor or the mayor's designee of a municipality that is partly or
 40b entirely within the boundaries of a school district to attend and participate in school board
 40c meetings;

40d ▶ requires local school boards to give notice of board meetings to the mayor or the
 40e mayor's designee of each municipality that is partly or entirely within the boundaries of the
 40f school district; and ←~~H~~

41 ▶ makes technical, conforming, and clarifying changes.

42 **Monies Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 **AMENDS:**

48 **20A-1-203**, as last amended by Chapter 211, Laws of Utah 2005

49 **20A-14-201**, as last amended by Chapter 233, Laws of Utah 2005

50 **53A-2-104**, as last amended by Chapter 183, Laws of Utah 2006

51 **53A-2-105**, as last amended by Chapter 183, Laws of Utah 2006

52 **53A-2-117**, as enacted by Chapter 234, Laws of Utah 2003

53 **53A-2-118**, as last amended by Chapter 183, Laws of Utah 2006

54 **53A-2-118.1**, as enacted by Chapter 183, Laws of Utah 2006

55 **53A-2-119**, as enacted by Chapter 234, Laws of Utah 2003

56 **53A-2-120**, as enacted by Chapter 234, Laws of Utah 2003

57 53A-2-121, as enacted by Chapter 234, Laws of Utah 2003

57a1 ~~Ĥ~~→ 53A-3-409, as last amended by Chapter 78, Laws of Utah 1990 ←~~Ĥ~~

57a ~~Ŝ~~→ **Uncodified Material Affected:**

57b **ENACTS UNCODIFIED MATERIAL** ←~~Ŝ~~

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

60 Section 1. Section **20A-1-203** is amended to read:

61 **20A-1-203. Calling and purpose of special elections.**

62 (1) Statewide and local special elections may be held for any purpose authorized by
63 law.

64 (2) (a) Statewide special elections shall be conducted using the procedure for regular
65 general elections.

66 (b) Except as otherwise provided in this title, local special elections shall be conducted
67 using the procedures for regular municipal elections.

68 (3) The governor may call a statewide special election by issuing an executive order
69 that designates:

70 (a) the date for the statewide special election; and

71 (b) the purpose for the statewide special election.

72 (4) The Legislature may call a statewide special election by passing a joint or
73 concurrent resolution that designates:

74 (a) the date for the statewide special election; and

75 (b) the purpose for the statewide special election.

76 (5) (a) The legislative body of a local political subdivision may call a local special
77 election only for:

78 (i) a vote on a bond or debt issue;

79 (ii) a vote on a voted leeway program authorized by Section 53A-17a-133 or
80 53A-17a-134;

81 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedure;

82 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

83 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
84 legal boundaries should be changed; [~~or~~]

85 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act[-]; or

86 (vii) a vote to elect members to school district boards for a new school district and a
87 remaining school district, as defined in Section 53A-2-117, following the creation of a new

88 school district under Section 53A-2-118.1.

89 (b) The legislative body of a local political subdivision may call a local special election
90 by adopting an ordinance or resolution that designates:

91 (i) the date for the local special election; and

92 (ii) the purpose for the local special election.

93 Section 2. Section **20A-14-201** is amended to read:

94 **20A-14-201. Boards of education -- School board districts -- Creation --**
95 **Reapportionment.**

96 (1) (a) The county legislative body, for local school districts whose boundaries
97 encompass more than a single municipality, and the municipal legislative body, for school
98 districts contained completely within a municipality, shall divide the local school district into
99 local school board districts as required under Subsection 20A-14-202(1)(a).

100 (b) The county and municipal legislative bodies shall divide the school district so that
101 the local school board districts are substantially equal in population and are as contiguous and
102 compact as practicable.

103 (2) (a) County and municipal legislative bodies shall reapportion district boundaries to
104 meet the population, compactness, and contiguity requirements of this section:

105 (i) at least once every ten years;

106 (ii) [~~whenever~~] if a new district is created[;];

107 (A) within 45 days after the canvass of an election at which voters approve the creation
108 of a new district; and

109 (B) at least 60 days before the candidate filing deadline for a school board election;

110 (iii) whenever districts are consolidated;

111 (iv) whenever a district loses more than 20% of the population of the entire school
112 district to another district;

113 (v) whenever a district loses more than 50% of the population of a local school board
114 district to another district;

115 (vi) whenever a district receives new residents equal to at least 20% of the population
116 of the district at the time of the last reapportionment because of a transfer of territory from
117 another district; and

118 (vii) whenever it is necessary to increase the membership of a board from five to seven

119 members as a result of changes in student membership under Section 20A-14-202.

120 (b) If a school district receives territory containing less than 20% of the population of
121 the transferee district at the time of the last reapportionment, the local school board may assign
122 the new territory to one or more existing school board districts.

123 (3) (a) Reapportionment does not affect the right of any school board member to
124 complete the term for which the member was elected.

125 (b) (i) After reapportionment, representation in a local school board district shall be
126 determined as provided in Subsection (3).

127 (ii) If only one board member whose term extends beyond reapportionment lives
128 within a reapportioned local school board district, that board member shall represent that local
129 school board district.

130 (iii) (A) If two or more members whose terms extend beyond reapportionment live
131 within a reapportioned local school board district, the members involved shall select one
132 member by lot to represent the local school board district.

133 (B) The other members shall serve at-large for the remainder of their terms.

134 (C) The at-large board members shall serve in addition to the designated number of
135 board members for the board in question for the remainder of their terms.

136 (iv) If there is no board member living within a local school board district whose term
137 extends beyond reapportionment, the seat shall be treated as vacant and filled as provided in
138 this part.

139 (4) (a) If, before an election affected by reapportionment, the county or municipal
140 legislative body that conducted the reapportionment determines that one or more members
141 must be elected to terms of two years to meet this part's requirements for staggered terms, the
142 legislative body shall determine by lot which of the reapportioned local school board districts
143 will elect members to two-year terms and which will elect members to four-year terms.

144 (b) All subsequent elections are for four-year terms.

145 (5) Within ten days after any local school board district boundary change, the county or
146 municipal legislative body making the change shall send an accurate map or plat of the
147 boundary change to the Automated Geographic Reference Center created under Section
148 63F-1-506.

149 Section 3. Section **53A-2-104** is amended to read:

150 **53A-2-104. Transfer of a portion of a school district -- Board resolution -- Board**
151 **petition -- Elector petition -- Transfer election.**

152 (1) Part of a school district may be transferred to another district in one of the
153 following ways:

154 (a) presentation to the county legislative body of each of the affected counties of a
155 resolution requesting the transfer, approved by at least four-fifths of the members of the local
156 board of education of each affected school district;

157 (b) presentation to the county legislative body of each affected county of a petition
158 requesting that the electors vote on the transfer, signed by a majority of the members of the
159 local school board of each affected school district; or

160 (c) presentation to the county legislative body of each affected county of a petition
161 requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each
162 of the affected school districts within that county[; ~~or~~].

163 ~~[(d) voter approval of a proposal pursuant to Section 53A-2-118.1.]~~

164 (2) (a) If an annexation of property by a city would result in its residents being served
165 by more than one school district, then the presidents of the affected local school boards shall
166 meet within 60 days prior to the effective date of the annexation to determine whether it would
167 be advisable to adjust school district boundaries to permit all residents of the expanded city to
168 be served by a single school district.

169 (b) Upon conclusion of the meeting, the local school board presidents shall prepare a
170 recommendation for presentation to their respective boards as soon as reasonably possible.

171 (c) The boards may then initiate realignment proceedings under Subsection (1)(a) or
172 (b).

173 (d) If a local board rejects realignment under Subsection (1)(a) or (b), the other board
174 may initiate the following procedures by majority vote within 60 days of the vote rejecting
175 realignment:

176 (i) (A) within 30 days after a vote to initiate these procedures, each local board shall
177 appoint one member to a boundary review committee; or

178 (B) if the local board becomes deadlocked in selecting the appointee under Subsection
179 (2)(d)(i)(A), the board's chair shall make the appointment or serve as the appointee to the
180 review committee.

181 (ii) The two local board-appointed members of the committee shall meet and appoint a
182 third member of the committee.

183 (iii) If the two local board-appointed members are unable to agree on the appointment
184 of a third member within 30 days after both are appointed, the State Superintendent of Public
185 Instruction shall appoint the third member.

186 (iv) The committee shall meet as necessary to prepare recommendations concerning
187 resolution of the realignment issue, and shall submit the recommendations to the affected local
188 boards within six months after the appointment of the third member of the committee.

189 (v) If a majority of the members of each local board accepts the recommendation of the
190 committee, or accepts the recommendation after amendment by the boards, then the accepted
191 recommendation shall be implemented.

192 (vi) If the committee fails to submit its recommendation within the time allotted, or if
193 one local board rejects the recommendation, the affected boards may agree to extend the time
194 for the committee to prepare an acceptable recommendation or either board may request the
195 State Board of Education to resolve the question.

196 (vii) If the committee has submitted a recommendation which the state board finds to
197 be reasonably supported by the evidence, the state board shall adopt the committee's
198 recommendation.

199 (viii) The decision of the state board is final.

200 (3) (a) The electors of each affected district shall vote on the transfer requested under
201 Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general
202 election.

203 (b) The election shall be conducted and the returns canvassed as provided by election
204 law.

205 (c) A transfer is effected only if a majority of votes cast by the electors in both the
206 proposed transferor district and in the proposed transferee district are in favor of the transfer.

207 Section 4. Section **53A-2-105** is amended to read:

208 **53A-2-105. Transfer of school property -- Indebtedness on transferred property.**

209 (1) If a transfer of a portion of one school district to another school district is approved
210 under Section 53A-2-104 [~~or 53A-2-118.1~~], the state superintendent and the superintendents
211 and presidents of the boards of education of each of the affected school districts shall determine

212 the basis for a transfer of all school property reasonably and fairly allocable to that portion
213 being transferred.

214 (2) (a) Title to property transferred vests in the transferee board of education.

215 (b) The transfer of a school building that is in operation at the time of determination
216 shall be made at the close of a fiscal year.

217 (c) The transfer of all other school property shall be made five days after approval of
218 the transfer of territory under Section 53A-2-104.

219 (3) (a) The individuals referred to in Subsection (1) shall determine the portion of
220 bonded indebtedness and other indebtedness of the transferor board for which the transferred
221 property remains subject to the levy of taxes to pay a proportionate share of the outstanding
222 indebtedness of the transferor board.

223 (b) This is done by:

224 (i) determining the amount of the outstanding bonded indebtedness and other
225 indebtedness of the transferor board of education;

226 (ii) determining the total taxable value of the property of the transferor district and the
227 taxable value of the property to be transferred; and

228 (iii) calculating the portion of the indebtedness of the transferor board for which the
229 transferred portion retains liability.

230 (4) (a) The agreement reflecting these determinations takes effect upon being filed with
231 the State Board of Education.

232 (b) The transferred property remains subject to the levy of taxes to pay a proportionate
233 share of the outstanding indebtedness of the transferor school board.

234 (c) The transferee school board may assume the obligation to pay the proportionate
235 share of the transferor school board's indebtedness that has been determined under Subsection
236 (3) to be the obligation of the transferred portion by the approval of a resolution by a majority
237 of the qualified electors of the transferee school district at an election called and held for that
238 purpose under Title 11, Chapter 14, Local Government Bonding Act.

239 (5) If the transferee school district assumes the obligation to pay this proportionate
240 share of the transferor school board's indebtedness, the transferee school board shall levy a tax
241 in the whole of the transferee district, including the transferred portion, sufficient to pay the
242 assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator

243 of the transferor board.

244 (6) If the transferee school board does not assume this obligation, the transferee school
245 board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the
246 indebtedness determined under this section, and shall turn over the proceeds of the tax to the
247 business administrator of the transferor board.

248 (7) For the purposes of school districts affected by repealed laws governing the
249 annexation of an unincorporated area of a school district by a city which included what was
250 formerly known as a city school district, transitions of unincorporated areas and property from
251 the transferor district to the transferee district in progress on the effective date of this act shall
252 revert to the boundaries and ownership prior to the initiation of annexation and may then
253 proceed under this section and Section 53A-2-104.

254 Section 5. Section **53A-2-117** is amended to read:

255 **53A-2-117. Definitions.**

256 As used in Sections 53A-2-117 through 53A-2-121:

257 (1) "Existing district" or "existing school district" means a school district from which a
258 new district is created.

259 (2) "New district" or "new school district" means a school district created under
260 Section 53A-2-118[:] or 53A-2-118.1.

261 (3) "Remaining district" means an existing district after the creation of a new district.

262 Section 6. Section **53A-2-118** is amended to read:

263 **53A-2-118. Creation of new school district by county legislative body -- Initiation**
264 **of process -- Procedures to be followed.**

265 (1) A county legislative body may create a new school district from an existing school
266 district, as provided in this section, if the area of the new school district is within or, under
267 Subsection 53A-2-118.1(2)(b)(ii), considered to be within the geographical boundaries of the
268 county.

269 (2) (a) The process may be initiated:

270 (i) through a citizens' initiative petition;

271 (ii) at the request of the board of the existing district or districts to be affected by the
272 creation of the new district; or

273 (iii) at the request of a city within the boundaries of the school district or at the request

274 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

275 (b) (i) A petition submitted under Subsection (2)(a)(i) must be signed by qualified
276 electors residing within the geographical boundaries of the proposed new school district equal
277 in number to at least 15% of the number of electors in the area who voted for the office of
278 governor at the last regular general election.

279 (ii) A request or petition submitted under Subsection (2)(a) shall:

280 (A) be filed with the county clerk;

281 (B) indicate the typed or printed name and current residence address of each governing
282 board member making a request, or registered voter signing a petition, as the case may be;

283 (C) describe the proposed new school district boundaries; and

284 (D) designate up to five signers of the petition or request as sponsors, one of whom
285 shall be designated as the contact sponsor, with the mailing address and telephone number of
286 each.

287 (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn,
288 reinstate the signer's signature at any time before the filing of the petition by filing a written
289 withdrawal or reinstatement with the county clerk.

290 (d) The process under Subsection (2)(a)(i) may only be initiated once during any
291 four-year period.

292 (e) A new district may not be formed pursuant to Subsection (2)(a) if the student
293 population of the proposed new district is less than 3,000 or the existing district's student
294 population would be less than 3,000 because of the creation of the new school district.

295 (f) Within 45 days after the filing of a request or petition under Subsection (2)(a), the
296 county clerk shall:

297 (i) determine whether the request or petition complies with Subsections (2)(a), (b), (d),
298 and (e), as applicable; and

299 (ii) (A) if the county clerk determines that the request or petition complies with the
300 applicable requirements:

301 (I) certify the request or petition and deliver the certified request or petition to the
302 county legislative body; and

303 (II) mail or deliver written notification of the certification to the contact sponsor; or

304 (B) if the county clerk determines that the request or petition fails to comply with any

305 of the applicable requirements, reject the request or petition and notify the contact sponsor in
306 writing of the rejection and reasons for the rejection.

307 (g) If the county clerk fails to certify or reject a request or petition within 45 days after
308 its filing, the request or petition shall be considered to be certified.

309 (h) (i) If the county clerk rejects a request or petition, the request or petition may be
310 amended to correct the deficiencies for which it was rejected and then refiled.

311 (ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled
312 after having been rejected by a county clerk.

313 (i) If a county legislative body receives a request from a school board under Subsection
314 (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or
315 before December 1:

316 (i) the county legislative body shall appoint an ad hoc advisory committee, as provided
317 by Subsection (3), on or before January 1;

318 (ii) the ad hoc advisory committee shall submit its report and recommendations to the
319 county legislative body, as provided by Subsection (3), on or before July 1; and

320 (iii) if the county legislative body approves a proposal to create a new district, the
321 proposal shall be submitted to the county clerk to be voted on by the electors of the existing
322 district at the regular general or municipal general election held in November.

323 (3) (a) The county legislative body shall appoint an ad hoc advisory committee to
324 review and make recommendations on a request for the creation of a new school district
325 submitted under Subsection (2)(a)(i) or (ii).

326 (b) The advisory committee shall:

327 (i) seek input from:

328 (A) those requesting the creation of the new school district;

329 (B) the school board and school personnel of the existing school district;

330 (C) those citizens residing within the geographical boundaries of the existing school
331 district;

332 (D) the State Board of Education; and

333 (E) other interested parties;

334 (ii) review data and gather information on at least:

335 (A) the financial viability of the proposed new school district;

336 (B) the proposal's financial impact on the existing school district;
337 (C) the exact placement of school district boundaries; and
338 (D) the positive and negative effects of creating a new school district and whether the
339 positive effects outweigh the negative if a new school district were to be created; and
340 (iii) make a report to the county legislative body in a public meeting on the committee's
341 activities, together with a recommendation on whether to create a new school district.
342 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):
343 (a) The county legislative body shall provide for a 45-day public comment period on
344 the report and recommendation to begin on the day the report is given under Subsection
345 (3)(b)(iii).
346 (b) Within 14 days after the end of the comment period, the county legislative body
347 shall vote on the creation of the proposed new school district.
348 (c) The proposal is approved if a majority of the members of the county legislative
349 body votes in favor of the proposal.
350 (d) If the proposal is approved, the county legislative body shall submit the proposal to
351 the county clerk to be voted on:
352 (i) by the legal voters of the existing school district;
353 (ii) in accordance with Title 20A, Election Code; and
354 (iii) at the next regular general election or municipal general election, whichever is
355 first.
356 (e) Creation of the new school district shall occur if a majority of the electors within
357 both the proposed school district and the remaining school district voting on the proposal vote
358 in favor of the creation of the new district.
359 (f) The county legislative body shall provide notice of the action as required in Section
360 53A-2-101.5.
361 (g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is
362 approved by the electors, the existing district's documented costs to study and implement the
363 proposal shall be reimbursed by the new district.
364 (5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection
365 (2)(f) or (g), the county legislative body shall submit the proposal to the county clerk to be
366 voted on:

367 (i) by the legal voters residing within the proposed new school district boundaries;
 368 (ii) in accordance with Title 20A, Election Code; and
 369 (iii) at the next regular general election or municipal general election, whichever is
 370 first.

371 (b) ~~(i) [Creation of the new school district shall occur if]~~ If a majority of the legal
 372 voters within the proposed new school district boundaries voting on the proposal at an election
 373 under Subsection (5)(a) vote in favor of the creation of the new district[-];

374 (A) the county legislative body shall, within 30 days after the canvass of the election,
 375 file with the lieutenant governor the written notice required under Section 53A-2-101.5; and

376 (B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5,
 377 the new district is created.

378 (ii) Notwithstanding the creation of a new district as provided in Subsection
 379 (5)(b)(i)(B):

380 (A) a new school district may not begin to provide educational services to the area
 381 within the new district until July 1 of the second calendar year following the election at which
 382 voters approve creation of the new school district;

383 (B) a remaining district may not begin to provide educational services to the area
 384 within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

385 (C) the existing district shall continue, until the time specified in Subsection
 386 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing
 387 district as though the new district had not been created.

388 Section 7. Section **53A-2-118.1** is amended to read:

389 **53A-2-118.1. Option for school district creation.**

390 (1) After conducting a feasibility study, a city of the first or second class, as defined
 391 under Section 10-2-301, may by majority vote of the legislative body, submit for voter approval
 392 a measure to create a new school district with boundaries contiguous with that city's
 393 boundaries, in accordance with Section 53A-2-118.

394 (2) (a) By majority vote of the legislative body, a city of any class, a town, or a county,
 395 may, together with one or more other cities, towns, or the county enter into an interlocal
 396 agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose
 397 of submitting for voter approval a measure to create a new school district.

398 (b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under
399 Subsection (2)(a) may submit a proposal for voter approval if:

400 [(i)] (A) the interlocal agreement participants conduct a feasibility study prior to
401 submitting the proposal to the county;

402 [(ii)] (B) the combined population within the proposed new school district boundaries
403 meets the minimum population threshold for a city of the second class; and

404 [(iii)] (C) the new school district boundaries:

405 [(A)] (I) are contiguous;

406 [(B)] (II) do not completely surround or otherwise completely geographically isolate a
407 portion of an existing school district that is not part of the proposed new school district from
408 the remaining part of the existing school district, except as provided in Subsection (2)(d)(iii);

409 [(C)] (III) include the entire boundaries of [any] each participant city or town, except as
410 provided in Subsection (2)(d)(ii); and

411 [(D)] (IV) subject to Subsection (2)(b)(ii), do not cross county lines.

412 (ii) For purposes of Subsection (2)(b)(i)(C)(IV) and Subsection 53A-2-118(1), a
413 municipality located in more than one county is considered to be entirely within the same
414 county as other participants in an interlocal agreement under Subsection (2)(a) if more of the
415 municipality's land area and population is located in that same county than outside the county.

416 (c) (i) A county may only participate in an interlocal agreement under this Subsection
417 (2) for the unincorporated areas of the county.

418 (ii) Boundaries of a new school district created under this section may include a portion
419 of the unincorporated area of the county, including a portion of a township.

420 (d) (i) As used in this Subsection (2)(d):

421 (A) "Isolated area" means an area that:

422 (I) is entirely within the boundaries of a municipality that, except for that area, is
423 entirely within a school district different than the school district in which the area is located;

424 and

425 (II) would, because of the creation of a new school district from the existing district in
426 which the area is located, become completely geographically isolated.

427 (B) "Municipality's school district" means the school district that includes all of the
428 municipality in which the isolated area is located except the isolated area.

429 (ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in
430 an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area
431 within the municipality's boundaries if the portion of the municipality proposed to be included
432 in the new school district would, if not included, become an isolated area upon the creation of
433 the new school district.

434 (iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school
435 district may be submitted for voter approval pursuant to an interlocal agreement under
436 Subsection (2)(a), even though the new school district boundaries would create an isolated
437 area, if:

438 (I) the potential isolated area is contiguous to one or more of the interlocal agreement
439 participants;

440 (II) the interlocal participants submit a written request to the municipality in which the
441 potential isolated area is located, requesting the municipality to enter into an interlocal
442 agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to
443 create a new school district that includes the potential isolated area; and

444 (III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the
445 municipality has not entered into an interlocal agreement as requested in the request.

446 (B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold
447 one or more public hearings to allow input from the public and affected school districts
448 regarding whether or not the municipality should enter into an interlocal agreement with
449 respect to the potential isolated area.

450 (C) (I) This Subsection (2)(d)(iii)(C) applies if:

451 (Aa) a new school district is created under this section after a measure is submitted to
452 voters based on the authority of Subsection (2)(d)(iii)(A); and

453 (Bb) the creation of the new school district results in an isolated area.

454 (II) The isolated area shall, on July 1 of the second calendar year following the election
455 at which voters approve the creation of a new school district, become part of the municipality's
456 school district.

457 (III) Unless the isolated area is the only remaining part of the existing district, the
458 process described in Subsection (4) shall be modified to:

459 (Aa) include a third transition team, appointed by the local school board of the

460 municipality's school district, to represent that school district;

461 (Bb) require allocation of the existing district's property among the new district, the
462 remaining district, and the municipality's school district;

463 (Cc) require each of the three transition teams to appoint one member to the
464 three-member arbitration panel, if an arbitration panel is established; and

465 (Dd) require the municipality's school district to bear 1/3 of the costs of arbitration.

466 (IV) The existing district shall continue to provide educational services to the isolated
467 area until July 1 of the second calendar year following the election at which voters approve the
468 creation of a new school district.

469 (3) (a) If a proposal under this section is approved by voters:

470 (i) an election shall be held on the June special election date, as provided in Section
471 20A-1-204, in the year following the election at which voters approved the creation of a new
472 school district, to elect:

473 (A) all members to the board of the new school district; and

474 (B) all members to the board of the remaining district;

475 ~~[(a) transfer of]~~ (ii) school district property [and indebtedness to a newly created] shall
476 be divided between the existing school district and the new school district [shall be handled in
477 accordance with Sections 53A-2-120 and 53A-2-121] as provided in Subsection (4);

478 ~~[(b)]~~ (iii) transferred employees shall be treated in accordance with Sections
479 53A-2-116 and 53A-2-122; and

480 ~~[(c)]~~ (iv) within one year after [creation of] the new district begins providing
481 educational services, the superintendent of [the previously existing] each remaining district [or
482 districts] affected and the superintendent of the new district shall meet, together with the
483 Superintendent of Public Instruction, to determine if further boundary changes should be
484 proposed in accordance with Section 53A-2-104 or Subsection 53A-2-118(2).

485 (b) Each member elected to a school district board of a new district and remaining
486 district at an election under Subsection (3)(a)(i) shall take office on July 15 immediately
487 following the election.

488 (c) (i) Subject to Subsection (3)(c)(ii), the terms of the initial members of the school
489 district board of the new district and remaining district who are elected at an election under
490 Subsection (3)(a)(i) shall be staggered and adjusted by the county legislative body so that:

491 (A) the school district board members' successors are elected at a future regular general
492 election; and

493 (B) the terms of their successors coincide with the schedule of terms for school district
494 board members established in Section 20A-14-202.

495 (ii) (A) The term of a member elected to a school district board at an election under
496 Subsection (3)(a)(i) may not be less than 17 months.

497 (B) In order to comply with the requirements of Subsection (3)(c)(i), the term of a
498 member elected to a school district board at an election under Subsection (3)(a)(i) held in an
499 even-numbered year may exceed four years but may not exceed five years.

500 (d) (i) The term of each member of the school district board of the existing district
501 terminates on July 15 of the second year after the election at which voters approve the creation
502 of a new district, regardless of when the term would otherwise have terminated.

503 (ii) Notwithstanding the election of a board for the new district and a board for the
504 remaining district under Subsection (3)(a)(i), the board of the existing district shall continue,
505 until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise
506 authority as a board to the extent necessary to continue to provide educational services to the
507 entire existing district as though the new district had not been created.

508 (iii) A person may simultaneously serve as a member of the board of an existing
509 district and a member of the board of:

510 (A) a new district; or

511 (B) a remaining district.

512 (4) (a) Within 30 days after the canvass of an election at which voters approve the
513 creation of a new school district under this section:

514 (i) a transition team to represent the remaining district shall be appointed by the
515 members of the existing district board who reside within the area of the remaining district, in
516 consultation with:

517 (A) the legislative bodies of all municipalities in the area of the remaining district; and

518 (B) the legislative body of the county in which the remaining district is located, if the
519 remaining district includes one or more unincorporated areas of the county; and

520 (ii) another transition team to represent the new district shall be appointed by:

521 (A) for a new district located entirely within the boundaries of a single city, the

522 legislative body of that city; or

523 (B) for each other new district, the legislative bodies of all interlocal agreement
524 participants.

525 (b) The local board of the existing school district shall:

526 (i) within 30 days after the canvass of an election at which voters approve the creation
527 of a new school district under this section, prepare an inventory of the existing district's assets
528 and liabilities; and

529 (ii) within 45 days after the canvass, deliver a copy of the inventory to each of the
530 transition teams.

531 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to
532 Subsection (4)(c)(iii), determine the allocation of the existing district's property between the
533 remaining district and the new district in accordance with Subsection (4)(c)(ii).

534 (B) The transition teams shall determine the allocation under Subsection (4)(c)(i)(A)
535 before July 1 of the year following the election at which voters approve the creation of a new
536 district, unless that deadline is extended by the mutual agreement of:

537 (I) the school district board of the remaining district; and

538 (II) (Aa) the legislative body of the city in which the new district is located, for a new
539 district located entirely within a single city; or

540 (Bb) the legislative bodies of all interlocal agreement participants, for each other new
541 district.

542 (ii) Subject to Subsection (4)(c)(iii), all property of the existing district, both tangible
543 and intangible, real and personal, shall be allocated between the existing district and the new
544 district in a way that is fair and equitable to both the existing district and the new district,
545 taking into account:

546 (A) the relative student populations between the existing district and new district;

547 (B) the relative assessed value of taxable property between the existing district and the
548 new district;

549 (C) the historical amount of property used to deliver educational services to students in
550 the existing district and the new district; and

551 (D) any other factors that the transition teams consider relevant in dividing the property
552 in a fair and equitable manner.

553 (iii) (A) The transition teams shall allocate school buildings and associated property
554 used primarily to provide educational services to local residents and not serving district-wide
555 purposes to the school district in which the buildings are geographically located after the
556 creation of the new district.

557 (B) Except as provided in Subsection (4)(c)(iii)(A), nothing in this Subsection (4)(c)
558 may be construed to limit the ability of the transition teams to:

559 (A) provide that an existing district's property be shared by a remaining district and
560 new district;

561 (B) determine, by mutual agreement, that the value of the school buildings and
562 associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration
563 in the asset allocation process under this Subsection (4)(c); or

564 (C) provide for any other arrangement with respect to existing district property that is
565 beneficial to and in the best interests of the remaining district and new district.

566 (d) (i) Each disagreement between the transition teams about the proper allocation of
567 property between the districts shall be resolved by binding arbitration to a three-member
568 arbitration panel.

569 (ii) Each transition team shall appoint one member to an arbitration panel under this
570 Subsection (4)(d), and those two members shall appoint a third member.

571 (iii) The costs of arbitration shall initially be borne entirely by the existing district, but
572 the new district shall reimburse the existing district half of those costs within one year after the
573 new district begins providing educational services.

574 (e) Each decision of the transition teams and of the arbitration panel resolving a
575 disagreement between the transition teams is final and binding on the boards of the existing
576 district and new district.

577 (f) (i) All costs and expenses of the transition team that represents a remaining district
578 shall be borne by the remaining district.

579 (ii) All costs and expenses of the transition team that represents a new district shall:

580 (A) initially be borne by:

581 (I) the city whose legislative body appoints the transition team, if the transition team is
582 appointed by the legislative body of a single city; or

583 (II) the interlocal agreement participants, if the transition team is appointed by the

584 legislative bodies of interlocal agreement participants; and

585 (B) be reimbursed to the city or interlocal agreement participants by the new district
586 within one year after the new district begins providing educational services.

587 Section 8. Section **53A-2-119** is amended to read:

588 **53A-2-119. Reapportionment -- Local school board membership.**

589 (1) Upon the creation of a new school district, the county legislative body shall
590 reapportion the affected school districts pursuant to Section 20A-14-201.

591 (2) [~~(a)~~] Except as provided in [~~Subsection (2)(b)~~] Subsections (3) and
592 53A-2-118.1(3)(c), school board membership in the affected school districts shall be
593 determined under Title 20A, Chapter 14, Part 2, Nomination and Election of Members of Local
594 Boards of Education.

595 (3) (a) Subsection (3)(b) does not apply to a new school district created under Section
596 53A-2-118.1.

597 (b) (i) If, as a result of a reapportionment conducted following the creation of a new
598 school district, a local school board district is created in which no board member whose term
599 extends beyond reapportionment resides, the first board member for the local school board
600 district shall be elected at the next regular general election or municipal general election,
601 whichever occurs first, after the election at which the creation of the new school district is
602 approved.

603 (ii) (A) The initial term of office of a board member elected under Subsection [~~(2)~~]
604 (3)(b)(i) shall be three years, except as provided in Subsection [~~(2)~~] (3)(b)(ii)(B).

605 (B) If more than one position on a local school board needs to be filled pursuant to
606 Subsection [~~(2)~~] (3)(b)(i), the initial term of the board members elected shall be staggered. The
607 county legislative body shall determine by lot which of the reapportioned local school board
608 districts will elect members to three-year terms and which will elect members to one-year
609 terms.

610 Section 9. Section **53A-2-120** is amended to read:

611 **53A-2-120. Transfer of school property to new school district.**

612 (1) (a) On [~~the~~] July 1 of the year following the school board elections for the new and
613 existing districts as provided in Section 53A-1-119, the board of the existing district shall
614 convey and deliver to the board of the new district all school property which the new district is

615 entitled to receive.

616 (b) (i) Any disagreements as to the disposition of school property shall be resolved by
617 the county legislative body.

618 (ii) Subsection (1)(b)(i) does not apply to disagreements between transition teams
619 about the proper allocation of property under Subsection 53A-2-118.1(4).

620 (2) Title vests in the new school board, including all rights, claims, and causes of
621 action to or for the property, for the use or the income from the property, for conversion,
622 disposition, or withholding of the property, or for any damage or injury to the property.

623 (3) The new school board may bring and maintain actions to recover, protect, and
624 preserve the property and rights of the district's schools and to enforce contracts.

625 (4) (a) The intangible property of the existing school district shall be prorated between
626 it and the new district on the same basis used to determine the new district's proportionate
627 share of the existing district's indebtedness under Section 53A-2-121.

628 (b) Subsection (4)(a) does not apply to the allocation of intangible property between a
629 remaining district and a new district created under Section 53A-2-118.1.

630 Section 10. Section **53A-2-121** is amended to read:

631 **53A-2-121. Indebtedness on property within new school district.**

632 (1) (a) The boards of the [~~existing~~] remaining and new districts shall determine the
633 portion of the existing district's bonded indebtedness and other indebtedness for which the
634 property within the new district remains subject to the levy of taxes to pay a proportionate
635 share of the existing district's outstanding indebtedness.

636 (b) The proportionate share of the existing district's outstanding indebtedness for which
637 property within the new district remains subject to the levy of taxes shall be calculated by
638 determining the proportion that the total assessed valuation of the property within the new
639 district bears to the total assessed valuation of the existing district in the year immediately
640 preceding the date the new district was created.

641 (c) The agreement reflecting the determinations made under this Subsection (1) shall
642 take effect upon being filed with the county legislative body and the State Board of Education.

643 (2) The board of the [~~new~~] remaining district shall continue to levy a tax on property
644 within the new district sufficient to pay the new district's proportionate share of the
645 indebtedness determined under this section, and shall [~~turn-over~~] annually report the amount of

646 the proceeds of the tax to the business administrator of the [~~existing~~] new district.

647 (3) (a) The boards of the [~~existing~~] remaining and new districts shall determine by
648 mutual agreement the disposition of bonds approved but not issued by the existing district
649 before the creation of the new district based primarily on the representation made to the voters
650 at the time of the bond election.

651 (b) Before a determination is made under Subsection (3)(a), a remaining district may
652 not issue bonds approved but not issued before the creation of the new district if property in the
653 new district would be subject to the levy of a tax to pay the bonds.

653a **Ŝ→ Section 11. Ĥ→ [~~Government Operations~~] Political Subdivisions ←Ĥ Interim Committee**
653b **study items for 2007 interim.**

653c (1) The Ĥ→ [~~Government Operations~~] Political Subdivisions ←Ĥ Interim Committee is
653d1 **directed to**

653d **study the following issues during the 2007 interim:**

653e (a) **whether all voters in the existing district should be involved in the decision to create**
653f **a new district, since all portions of an existing school district will be affected by the creation of**
653g **a new school district,;**

653h (b) **whether a feasibility study should be required for each district that results from the**
653i **creation of a new district rather than just for the new district;**

653j (c) **whether the issue of school building equalization for the districts that result from the**
653k **creation of a new district should be addressed to ensure that growing areas do not carry a tax**
653l **burden not shared by those in other areas of the original district and to avoid the possibility of**
653m **lawsuits that might arise because of the disparate tax burdens; and**

653n (4) **whether any existing district should be required to divide into two or more districts**
653o **when it reaches a certain size.**

653p (2) The Ĥ→ [~~Government Operations~~] Political Subdivisions ←Ĥ Interim Committee is
653q1 **authorized to**

653q **establish a subcommittee for the purpose of conducting the study under Subsection (1).** ←Ŝ

653r **Ĥ→ Section 11. Section 53A-3-409 is amended to read:**

653s **53A-3-409. Local governmental entities and school districts -- Contracts and cooperation --**
653t **Disbursement of funds.**

653u (1) **Local governmental entities and school districts may contract and cooperate with one**
653v **another in matters affecting the health, welfare, and convenience of the inhabitants within their**
653w **respective territorial limits.**

653x (2) A local governmental entity may disburse public funds in aid of a school district located
653y wholly or partially within the limits of its jurisdiction.

653z (3) (a) A mayor or the mayor's designee of a municipality that is partly or entirely
653aa within the boundaries of a school district may attend and participate in the board discussions
653ab at the school district's board meetings.

653ac (b) Each local school board shall give notice of board meetings to the mayor or the
653ad mayor's designee of each municipality that is partly or entirely within the school district's
653ae boundaries. ←H

S.B. 30 1st Sub. (Green) - Creation of New School District Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. There may be some impact to existing and new school districts due to costs associated with local elections, transition teams, and/or arbitration panels as outlined in the bill.

1/30/2007, 11:17:13 AM, Lead Analyst: Leishman, B.

Office of the Legislative Fiscal Analyst