

**Senator Carlene M. Walker** proposes the following substitute bill:

**SCHOOL DISTRICT AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carlene M. Walker**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ enacts definitions;
- ▶ lengthens the time in which transition teams must be appointed;
- ▶ extends the deadline for the existing school district to prepare an inventory of existing school district property;
- ▶ defines a date at which existing school district property and liabilities are to be determined;
- ▶ extends the deadline by which the transition teams are to determine the allocation of existing school district property;
- ▶ requires transition teams to prepare a written report setting forth the property allocation;

**H→ ▶ modifies a provision relating to the reimbursement of transition team and other costs and expenses; ←H**

- ▶ modifies the required content of an inventory that an existing district is required to provide;
- ▶ requires transition teams to consider the value of school buildings and associated property in making the allocation of other existing district property;



- 26           ▶ requires an existing school district to make money available to the remaining  
 27 district and the new district, provides for who can access and spend that money, and  
 28 requires transition teams to consider that money in allocating existing district  
 29 property;
- 30           ▶ requires an existing school district to transfer title of property to the new district  
 31 within a certain time, except upon the mutual agreement of the school district  
 32 boards;
- 33           ▶ prohibits an existing school district from transferring title to school district property  
 34 without the consent of specified boards or bodies; ~~H~~→ [and]
- 34a           ▶ modifies provisions relating to the composition of the school district boards of the  
 34b new district and remaining district;
- 34a           ▶ clarifies application of the changes in this bill to the procedure to create a new  
 34b district; and ←~~H~~
- 35           ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

39a           ~~H~~→ This bill provides revisor instructions. ←~~H~~**Utah Code Sections Affected:**

AMENDS:

42           **53A-2-117**, as last amended by Laws of Utah 2007, Chapters 215 and 29743           **53A-2-118**, as last amended by Laws of Utah 2007, First Special Session, Chapter 144           **53A-2-118.1**, as last amended by Laws of Utah 2007, First Special Session, Chapters 1,  
 45 2, and 445a           ~~H~~→ **53A-2-121**, as last amended by Laws of Utah 2007, Chapter 215**Uncodified Material Affected:**45c           **ENACTS UNCODIFIED MATERIAL** ←~~H~~47 *Be it enacted by the Legislature of the state of Utah:*48           Section 1. Section **53A-2-117** is amended to read:49           **53A-2-117. Definitions.**

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

51           (1) "Allocation date" means51a           ~~H~~→ [October 31 immediately before] :51b           (a) June 30 of the second calendar year after ←~~H~~ the creation election date ~~H~~→ [ ]; or51b           (b) another date that the transition teams under Section 53A-1-118.1 mutually  
 51c agree to. ←~~H~~

52           (2) "Canvass date" means the date of the canvass of an election under Subsection  
53 53A-2-118(5) at which voters approve the creation of a new school district under Section  
54 53A-2-118.1.

55           (3) "Creation election date" means the date of the election under Subsection  
56 53A-2-118(5) at which voters approve the creation of a new school district under Section

57 53A-2-118.1.

58 [~~(1)~~] (4) "Existing district" or "existing school district" means a school district from  
59 which a new district is created.

60 [~~(2)~~] (5) "New district" or "new school district" means a school district created under  
61 Section 53A-2-118 or 53A-2-118.1.

62 [~~(3)~~] (6) "Remaining district" or "remaining school district" means an existing district  
63 after the creation of a new district.

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

65 **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**  
66 **to be followed.**

67 (1) A new school district may be created from one or more existing school districts, as  
68 provided in this section.

69 (2) (a) The process to create a new school district may be initiated:

70 (i) through a citizens' initiative petition;

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

73 (iii) at the request of a city within the boundaries of the school district or at the request  
74 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

75 (b) (i) Each petition submitted under Subsection (2)(a)(i) shall be signed by qualified  
76 electors residing within the geographical boundaries of the proposed new school district equal  
77 in number to at least 15% of the number of electors in the area who voted for the office of  
78 governor at the last regular general election.

79 (ii) Each request or petition submitted under Subsection (2)(a) shall:

80 (A) be filed with the clerk of each county in which any part of the proposed new school  
81 district is located;

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

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

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

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

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

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

96 (f) Within 45 days after the filing of a petition under Subsection (2)(a)(i) or five  
97 business days after the filing of a request under Subsection (2)(a)(ii) or (iii), the clerk of each  
98 county with which a request or petition is filed shall:

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

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

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

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

106 (B) if the county clerk determines that the request or petition fails to comply with any  
107 of the applicable requirements, reject the request or petition and notify the contact sponsor in  
108 writing of the rejection and reasons for the rejection.

109 (g) If the county clerk fails to certify or reject a request or petition within the time  
110 specified in Subsection (2)(f), the request or petition shall be considered to be certified.

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

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

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

118 (i) the county legislative body shall appoint an ad hoc advisory committee, as provided

119 by Subsection (3), on or before January 1;

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

122 (iii) if the legislative body of each county with which a request or petition is filed  
123 approves a proposal to create a new district, the proposal shall be submitted to the respective  
124 county clerk to be voted on by the electors of each existing district at the regular general or  
125 municipal general election held in November.

126 (3) (a) The legislative body of each county with which a request or petition is filed  
127 shall appoint an ad hoc advisory committee to review and make recommendations on a request  
128 for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

129 (b) The advisory committee shall:

130 (i) seek input from:

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

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

133 (C) those citizens residing within the geographical boundaries of each existing school  
134 district;

135 (D) the State Board of Education; and

136 (E) other interested parties;

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

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

139 (B) the proposal's financial impact on each existing school district;

140 (C) the exact placement of school district boundaries; and

141 (D) the positive and negative effects of creating a new school district and whether the  
142 positive effects outweigh the negative if a new school district were to be created; and

143 (iii) make a report to the county legislative body in a public meeting on the committee's  
144 activities, together with a recommendation on whether to create a new school district.

145 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):

146 (a) The county legislative body shall provide for a 45-day public comment period on  
147 the report and recommendation to begin on the day the report is given under Subsection  
148 (3)(b)(iii).

149 (b) Within 14 days after the end of the comment period, the legislative body of each

150 county with which a request or petition is filed shall vote on the creation of the proposed new  
151 school district.

152 (c) The proposal is approved if a majority of the members of the legislative body of  
153 each county with which a request or petition is filed votes in favor of the proposal.

154 (d) If the proposal is approved, the legislative body of each county with which a  
155 request or petition is filed shall submit the proposal to the county clerk to be voted on:

156 (i) by the legal voters of each existing school district;

157 (ii) in accordance with the procedures and requirements applicable to a regular general  
158 election under Title 20A, Election Code; and

159 (iii) at the next regular general election or municipal general election, whichever is  
160 first.

161 (e) Creation of the new school district shall occur if a majority of the electors within  
162 both the proposed school district and each remaining school district voting on the proposal vote  
163 in favor of the creation of the new district.

164 (f) Each county legislative body shall provide notice of the action as required in Section  
165 53A-2-101.5.

166 (g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is  
167 approved by the electors, the existing district's documented costs to study and implement the  
168 proposal shall be reimbursed by the new district.

169 (5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection  
170 (2)(f) or (g), the legislative body of each county in which part of the proposed new school  
171 district is located shall submit the proposal to the respective clerk of each county to be voted  
172 on:

173 (i) by the legal voters residing within the proposed new school district boundaries;

174 (ii) in accordance with the procedures and requirements applicable to a regular general  
175 election under Title 20A, Election Code; and

176 (iii) at the next regular general election or municipal general election, whichever is  
177 first.

178 (b) (i) If a majority of the legal voters within the proposed new school district  
179 boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the  
180 creation of the new district:

181 (A) each county legislative body shall, within ~~[30]~~ 60 days after the canvass ~~[of the~~  
182 ~~election]~~ date, file with the lieutenant governor the written notice, with the accompanying map  
183 or plat, required under Section 53A-2-101.5; and

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

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

188 (A) a new school district may not begin to provide educational services to the area  
189 within the new district until July 1 of the second calendar year following the creation election  
190 ~~[at which voters approve creation of the new school district]~~ date;

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

193 (C) each existing district shall continue, until the time specified in Subsection  
194 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing  
195 district ~~[as though the new district had not been created]~~.

196 Section 3. Section **53A-2-118.1** is amended to read:

197 **53A-2-118.1. Option for school district creation.**

198 (1) (a) After conducting a feasibility study, a city with a population of at least 50,000,  
199 as determined by the lieutenant governor using the process described in Subsection  
200 10-2-302(2), may by majority vote of the legislative body, submit for voter approval a measure  
201 to create a new school district with boundaries contiguous with that city's boundaries, in  
202 accordance with Section 53A-2-118.

203 (b) (i) The determination of all matters relating to the scope, adequacy, and other  
204 aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the  
205 city's legislative body.

206 (ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of  
207 a legal action or other challenge to:

208 (A) an election for voter approval of the creation of a new school district; or

209 (B) the creation of the new school district.

210 (2) (a) By majority vote of the legislative body, a city of any class, a town, or a county,  
211 may, together with one or more other cities, towns, or the county enter into an interlocal

212 agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose  
213 of submitting for voter approval a measure to create a new school district.

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

216 (A) the interlocal agreement participants conduct a feasibility study prior to submitting  
217 the proposal to the county;

218 (B) the combined population within the proposed new school district boundaries  
219 [~~meets the minimum population threshold for a city of the second class~~] is at least 50,000;

220 (C) the new school district boundaries:

221 (I) are contiguous;

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

225 (III) include the entire boundaries of each participant city or town, except as provided  
226 in Subsection (2)(d)(ii); and

227 (IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

228 (D) the combined population within the proposed new school district of interlocal  
229 agreement participants that have entered into an interlocal agreement proposing to create a new  
230 school district is at least 80% of the total population of the proposed new school district.

231 (ii) The determination of all matters relating to the scope, adequacy, and other aspects  
232 of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new  
233 feasibility study or revise a previous feasibility study due to a change in the proposed new  
234 school district boundaries, is within the exclusive discretion of the legislative bodies of the  
235 interlocal agreement participants that enter into an interlocal agreement to submit for voter  
236 approval a measure to create a new school district.

237 (iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the  
238 basis of a legal action or other challenge to:

239 (A) an election for voter approval of the creation of a new school district; or

240 (B) the creation of the new school district.

241 (iv) For purposes of determining whether the boundaries of a proposed new school  
242 district cross county lines under Subsection (2)(b)(i)(C)(IV):

243 (A) a municipality located in more than one county and entirely within the boundaries  
244 of a single school district is considered to be entirely within the same county as other  
245 participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's  
246 land area and population is located in that same county than outside the county; and

247 (B) a municipality located in more than one county that participates in an interlocal  
248 agreement under Subsection (2)(a) with respect to some but not all of the area within the  
249 municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may  
250 not be considered to cross county lines.

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

253 (ii) Boundaries of a new school district created under this section may include:

254 (A) a portion of one or more existing school districts; and

255 (B) a portion of the unincorporated area of a county, including a portion of a township.

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

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

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

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

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

265 (ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in  
266 an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area  
267 within the municipality's boundaries if:

268 (A) the portion of the municipality proposed to be included in the new school district  
269 would, if not included, become an isolated area upon the creation of the new school district; or

270 (B) (I) the portion of the municipality proposed to be included in the new school  
271 district is within the boundaries of the same school district that includes the other interlocal  
272 agreement participants; and

273 (II) the portion of the municipality proposed to be excluded from the new school

274 district is within the boundaries of a school district other than the school district that includes  
275 the other interlocal agreement participants.

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

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

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

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

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

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

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

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

296 (II) The isolated area shall, on July 1 of the second calendar year following the creation  
297 election [~~at which voters approve the creation of a new school district~~] date, become part of the  
298 municipality's school district.

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

301 (Aa) include a third transition team, appointed by the [~~local~~] school district board of  
302 the municipality's school district, to represent that school district;

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

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

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

308 (IV) The existing district shall continue to provide educational services to the isolated  
309 area until July 1 of the second calendar year following the creation election [~~at which voters~~  
310 ~~approve the creation of a new school district]~~ date.

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

311a ~~H→~~ **(i)(A) subject to Subsection (3)(e):**

311b **(I) each member of the board of the existing district who resides within the boundary of**  
311c **the new school district shall serve as an initial member of the new district board; and**

311d **(II) each member of the board of the existing district who resides within the boundary**  
311e **of the remaining school district shall serve as an initial member of the remaining district**  
311f **board; and**

312 ~~[†]~~ **(B)** ~~←H~~ an election shall be held on the June special election date, as provided in  
312a Section

313 20A-1-204, in the year following the creation election [~~at which voters approved the creation of~~  
314 ~~a new school district]~~ date, to elect:

315 ~~H→~~ ~~[(A)]~~ **(I)** ~~←H~~ all ~~H→~~ **other** ~~←H~~ members to the board of the new school district; and

316 ~~H→~~ ~~[(B)]~~ **(II)** ~~←H~~ all ~~H→~~ **other** ~~←H~~ members to the board of the remaining district;

317 (ii) school district property shall be divided between the existing school district and the  
318 new school district as provided in Subsection (4);

319 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and  
320 53A-2-122;

321 (iv) (A) an individual residing within the boundaries of a new school district at the  
322 time the new school district is created may, for six school years after the creation of the new  
323 school district, elect to enroll in a secondary school located outside the boundaries of the new  
324 school district if:

325 (I) the individual resides within the boundaries of that secondary school as of the day  
326 before the new school district is created; and

327 (II) the individual would have been eligible to enroll in that secondary school had the  
328 new school district not been created; and

329 (B) the school district in which the secondary school is located shall provide  
330 educational services, including, if provided before the creation of the new school district,  
331 busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school  
332 year for which the individual makes the election; and

333 (v) within one year after the new district begins providing educational services, the  
334 superintendent of each remaining district affected and the superintendent of the new district  
335 shall meet, together with the Superintendent of Public Instruction, to determine if further

336 boundary changes should be proposed in accordance with Section 53A-2-104 [~~or Subsection~~  
337 ~~53A-2-118(2)~~].

338 (b) Each member ~~H→~~ **[elected to]** of ~~←H~~ a school district board of a new district and  
338a remaining  
339 district ~~H→~~ **[at an election]** ~~←H~~ under Subsection (3)(a)(i) shall take office on July 15 immediately  
340 following the election ~~H→~~ **under Subsection (3)(a)(i)(B)** ~~←H~~ .

341 (c) (i) Subject to Subsection (3)(c)(ii), the terms of the initial members of the school  
342 district board of the new district and remaining district ~~H→~~ **[who are elected at an election under**  
343 **Subsection (3)(a)(i)]** ~~←H~~ shall be staggered and adjusted by the county legislative body so that:

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

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

348 (ii) (A) The term of a member ~~H→~~ **[elected to a school district board at an election]** ~~←H~~  
348a under  
349 Subsection (3)(a)(i) may not be less than 17 months.

350 (B) In order to comply with the requirements of Subsection (3)(c)(i), the term of a  
351 member elected to a school district board at an election under Subsection (3)(a)(i) ~~H→~~ **(B)** ~~←H~~ held  
351a in an  
352 even-numbered year may exceed four years but may not exceed five years.

353 (d) (i) The term of each member of the school district board of the existing district  
354 terminates on July [~~15~~] 1 of the second year after the creation election [~~at which voters approve~~  
355 ~~the creation of a new district]~~ date, regardless of when the term would otherwise have  
356 terminated.

357 (ii) Notwithstanding the ~~H→~~ **[election]** existence ~~←H~~ of a board for the new district and a  
357a board for the  
358 remaining district under Subsection (3)(a)(i), the board of the existing district shall continue,  
359 until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise  
360 authority as a board to the extent necessary to continue to provide educational services to the  
361 entire existing district [~~as though the new district had not been created~~].

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

364 (A) a new district; or

365 (B) a remaining district.

365a ~~H→~~ **(e) If two or more members of an existing school district board reside within the**  
365b **same local school board district, as established by the county legislative body under Section**  
365c **20A-14-201, of the new district or remaining district:**

365d (i) those board members shall stand for election at the same election at which the other  
365e board members are elected under Subsection (3)(a)(i)(B); and

365f (ii) the board member receiving the highest number of votes is elected to the board  
365g of the new district or remaining district, as the case may be, for the local school board district  
365h in which the board member resides. ←H

366 (4) (a) Within [30] 45 days after the canvass [~~of an election at which voters approve the~~

367 ~~creation of a new school district under this section]~~ date:

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

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

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

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

375 (A) for a new district located entirely within the boundaries of a single city, the  
376 legislative body of that city; or

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

379 (b) The ~~[local]~~ school district board of the existing school district shall ~~[-(i)],~~ within  
380 ~~[30]~~ 60 days after the canvass ~~[of an election at which voters approve the creation of a new~~  
381 ~~school district under this section,]~~ date:

382 (i) prepare an inventory of the existing district's ~~[assets and];~~

383 (A) property, both tangible and intangible, real and personal; and

384 (B) liabilities; and

385 (ii) ~~[within 45 days after the canvass,]~~ deliver a copy of the inventory to each of the  
386 transition teams.

387 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to  
388 Subsection (4)(c)(iii) ~~[-];~~

389 (I) determine the allocation of the existing district's property and, except for  
390 indebtedness under Section 53A-2-121, liabilities between the remaining district and the new  
391 district in accordance with Subsection (4)(c)(ii) ~~[-];~~

392 (II) prepare a written report detailing how the existing district's property and, except for  
393 indebtedness under Section 53A-2-121, liabilities are to be allocated, including:

394 (Aa) a designation of the property that should be transferred to the new district;

395 (Bb) a designation of any property that should be shared between the remaining district  
396 and the new district; and

397 (Cc) a designation of any property that will need to be allocated by arbitration under

398 Subsection (4)(d); and

399 (III) deliver a copy of the written report to:

400 (Aa) the school district board of the existing district;

401 (Bb) the school district board of the remaining district; and

402 (Cc) the school district board of the new district.

403 (B) The transition teams shall determine the allocation under Subsection (4)(c)(i)(A)(I)  
404 and deliver the report required under Subsection (4)(c)(i)(A)(II) before [July] August 1 of the  
405 year following the election at which voters approve the creation of a new district, unless that  
406 deadline is extended by the mutual agreement of:

407 (I) if the agreement is made before July 15 of the year following the creation election  
408 date:

409 ~~[(F)]~~ (Aa) the school district board of the [remaining] existing district; and

410 ~~[(H)-(Aa)]~~ (Bb) (aa) the legislative body of the city in which the new district is located,  
411 for a new district located entirely within a single city; or

412 ~~[(Bb)]~~ (bb) the legislative bodies of all interlocal agreement participants, for each other  
413 new district[-]; or

414 (II) if the agreement is made on or after July 15 of the year following the creation  
415 election date:

416 (Aa) the school district board of the remaining district; and

417 (Bb) the school district board of the new district.

418 (ii) Subject to Subsection (4)(c)(iii), all property ~~[of]~~, assets, and liabilities that the  
419 existing district owns on the allocation date, both tangible and intangible, real and personal,  
420 shall be allocated between the ~~[existing]~~ remaining district and the new district in a way that is  
421 fair and equitable to both the ~~[existing]~~ remaining district and the new district, taking into  
422 account:

423 (A) the relative student populations between the ~~[existing]~~ remaining district and new  
424 district;

425 (B) the relative assessed value of taxable property between the ~~[existing]~~ remaining  
426 district and the new district;

427 (C) the historical amount of property used to deliver educational services to students in  
428 the ~~[existing]~~ remaining district and the new district; ~~[and]~~

429 (D) any money made available for the use of the new district under Subsection (5); and  
430 (E) the agreed value of school buildings and associated property allocated to the  
431 remaining district and the new district under Subsection (4)(c)(iii)(A); and

432 ~~(D)~~ (F) any other factors that the transition teams consider relevant in dividing the  
433 property in a fair and equitable manner.

434 (iii) (A) The transition teams shall allocate each school building and associated  
435 property used primarily to provide educational services to local residents and not serving  
436 district-wide purposes to the school district that would best serve the existing student  
437 population of that school building and associated property.

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

440 (I) provide that an existing district's property be shared by a remaining district and new  
441 district;

442 (II) determine, by mutual agreement, that the value of the school buildings and  
443 associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration  
444 in the ~~asset~~ property allocation process under this Subsection (4)(c); or

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

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

450 (ii) Each transition team shall, no later than September 1 of the year after the creation  
451 election date, appoint one ~~member~~ qualified, independent arbitrator to an arbitration panel  
452 under this Subsection (4)(d), and those two ~~members~~ arbitrators shall, within 15 days after  
453 their appointment, appoint a third ~~member~~ qualified, independent arbitrator.

454 (iii) In the process of resolving a dispute between the transition teams, the arbitration  
455 panel may engage the services of one or more professionals to provide technical advice to the  
456 panel.

457 ~~(iii)~~ (iv) The costs of arbitration shall initially be borne entirely by the existing  
458 district, but the new district shall reimburse the existing district half of those costs within one  
459 year after the new district begins providing educational services.

460 (e) Each decision of the transition teams and of the arbitration panel resolving a  
 461 disagreement between the transition teams is final and binding on the boards of the existing  
 462 district, remaining district, and new district.

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

465 (ii) All costs and expenses of the transition team that represents a new district ~~H→~~ [;  
 466 ~~(A)~~ ~~←H~~ shall [:(A)] initially be borne by:

467 ~~H→~~ [(H)] (A) ~~←H~~ the city whose legislative body appoints the transition team, if the  
 467a transition team is

468 appointed by the legislative body of a single city; or

469 ~~H→~~ [(H)] (B) ~~←H~~ the interlocal agreement participants, if the transition team is appointed  
 469a by the

470 legislative bodies of interlocal agreement participants ~~H→~~ [;and] .

471 [(B)] (iii) **The new district** ~~←H~~ may, to a maximum of \$500,000, ~~H→~~ [be reimbursed  
 471a to] **reimburse** ~~←H~~ the city or interlocal agreement

472 participants ~~H→~~ [by the new district] ~~←H~~ [within one year after the new district begins providing  
 473 educational services] ~~H→~~ for:

473a (A) **transition team costs and expenses; and**

473b (B) **startup costs and expenses incurred by the city or interlocal agreement participants**  
 473c **on behalf of the new district** ~~←H~~ .

474 (5) (a) As used in this Subsection (5):

475 (i) "New district startup costs" means:

476 (A) costs and expenses incurred by a new district in order to prepare to begin providing  
 477 educational services on July 1 of the second calendar year following the creation election date;  
 478 and

479 (B) the costs and expenses of the transition team that represents the new district.

480 (ii) "Remaining district startup costs" means:

481 (A) costs and expenses incurred by a remaining district in order to:

482 (I) make necessary adjustments to deal with the impacts resulting from the creation of  
 483 the new district; and

484 (II) prepare to provide educational services within the remaining district once the new  
 485 district begins providing educational services within the new district; and

486 (B) the costs and expenses of the transition team that represents the remaining district.

487 (b) (i) By July 25 of the year following the creation election date, the existing district  
 488 shall make half of the undistributed reserve from its General Fund, to a maximum of  
 489 \$9,000,000, available for the use of the remaining district and the new district, as provided in  
 490 this Subsection (5).

491 (ii) The existing district may make additional funds available for the use of the  
492 remaining district and the new district beyond the amount specified in Subsection (5)(b)(i)  
493 through an interlocal agreement.

494 (c) The existing district shall make the money under Subsection (5)(b) available to the  
495 remaining district and the new district proportionately based on student population.

496 (d) The money made available under Subsection (5)(b) may be accessed and spent by:

497 (i) for the remaining district, the school district board of the remaining district; and

498 (ii) for the new district, the school district board of the new district.

499 (e) (i) The remaining district may use its portion of the money made available under  
500 Subsection (5)(b) to pay for remaining district startup costs.

501 (ii) The new district may use its portion of the money made available under Subsection  
502 (5)(b) to pay for new district startup costs.

503 (6) (a) The existing district shall transfer title or, if applicable, partial title of property  
504 to the new school district in accordance with the allocation of property by:

505 (i) the transition teams, as stated in the report under Subsection (4)(c)(i)(A)(II); and

506 (ii) the arbitration panel, if applicable.

507 (b) The existing district shall complete each transfer of title or, if applicable, partial  
508 title to real property and vehicles by July 1 of the second calendar year following the creation  
509 election date, except as that date is changed by the mutual agreement of:

510 (i) the school district board of the existing district;

511 (ii) the school district board of the remaining district; and

512 (iii) the school district board of the new district.

513 (c) The existing district shall complete the transfer of all property not included in  
514 Subsection (6)(b) by November 1 of the second calendar year after the creation election date.

515 (7) Except as provided in Subsections (5) and (6), after the creation election date an  
516 existing school district may not transfer or agree to transfer title to district property without the  
517 prior consent of:

518 (a) if the transfer or agreement to transfer is before July 15 of the year following the  
519 creation election date:

520 (i) the legislative body of the city in which the new district is located, for a new district  
521 located entirely within a single city; or

522 (ii) the legislative bodies of all interlocal agreement participants, for each other new  
 523 district; or

524 (b) if the transfer or agreement to transfer is on or after July 15 of the year following  
 525 the creation election date but before July 15 of the second calendar year following the creation  
 526 election date:

527 (i) the school district board of the remaining district; and

528 (ii) the school district board of the new district.

528a **Ĥ→(8) This section applies to and governs all actions and proceedings relating to and**  
 528b1 **following the**

528b **creation of a new district, whether the election under Subsection 53A-2-118(5) on the proposal to**  
 528c **create a new school district occurs before or after the effective date of this section, including:**

528d **(a) the election of school district board members; and**

528e **(b) transition team duties and responsibilities, whether the transition team is appointed before**  
 528f **or after the effective date of this section.**

528g **Section 4. Section 53A-2-121 is amended to read:**

528h **53A-2-121. Indebtedness on property within new school district.**

528i **(1) (a) The boards of the remaining and new districts shall determine the portion of the**  
 528j **existing district's bonded indebtedness and other indebtedness for which the property within the new**  
 528k **district remains subject to the levy of taxes to pay a proportionate share of the existing district's**  
 528l **outstanding indebtedness.**

528m **(b) The proportionate share of the existing district's outstanding indebtedness for which**  
 528n **property within the new district remains subject to the levy of taxes shall be calculated by determining**  
 528o **the proportion that the total assessed valuation of the property within the new district bears to the**  
 528p **total assessed valuation of the existing district ;**

528q **(i) in the year immediately preceding the date the new district was created [-] ; or**

528r **(ii) at a time mutually agreed upon by the school district board of the new district and the**  
 528s **school district board of the remaining district.**

528t **(c) The agreement reflecting the determinations made under this Subsection (1) shall take**  
 528u **effect upon being filed with the county legislative body and the State Board of Education.**

528v **(2) The board of the remaining district shall continue to levy a tax on property within the new**  
 528w **district sufficient to pay the new district's proportionate share of the indebtedness determined under**  
 528x **this section, and shall annually report the amount of the proceeds of the tax to the business**  
 528y **administrator of the new district.**

528z **(3) (a) The boards of the remaining and new districts shall determine by mutual agreement the**  
 528aa **disposition of bonds approved but not issued by the existing district before the creation of the new**  
 528ab **district based primarily on the representation made to the voters at the time of the bond election.**

528ac **(b) Before a determination is made under Subsection (3)(a), a remaining district may not issue**  
 528ad **bonds approved but not issued before the creation of the new district if property in the new district**  
 528ae **would be subject to the levy of a tax to pay the bonds. ←Ĥ**

529 **Section Ĥ→ [4] 5 ←Ĥ . Effective date.**

530 **If approved by two-thirds of all the members elected to each house, this bill takes effect**  
 531 **upon approval by the governor, or the day following the constitutional time limit of Utah**  
 532 **Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,**

533 the date of veto override.

533a **Ĥ→ Section 6. Revisor instructions.**

533b **It is the intent of the Legislature that the Office of Legislative Research and General**

533c **Counsel, in preparing the Utah Code database for publication, replace the phrase "the**

533d **effective date of this section" in Subsection 53A-2-118.1(8) of this bill with the actual effective**

533e **date of this bill. ←Ĥ**

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**S.B. 71 2nd Sub. (Salmon) - School District Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill allows the use of up to \$9 million of an existing school district's operations fund balance by the newly created school district and remaining school district for start-up and transition expenses. Enactment of this bill requires the city (or cities) whose legislative body appoints a transition team for a new school district to pay for the costs and expenses of the new school district's transition team. Bill provisions allow for the city (or cities) to be reimbursed by the new school district, up to a maximum of \$500,000.

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