

SCHOOL DISTRICT DIVISION AMENDMENT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Laura Black

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies procedures for establishing a new school district following voter approval of the proposal.

Highlighted Provisions:

This bill:

- ▶ requires the election, at the next general election following voter approval of the proposal to create a new school district, of:
 - the school board members for the existing school district whose terms are expiring;
 - all members to the school board of the new school district; and
 - all members to the school board of the remaining school district;
- ▶ modifies the effective date for the new school district;
- ▶ modifies certain provisions relating to the allocation of school district property; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **53A-2-118**, as last amended by Laws of Utah 2008, Chapter 92
 29 **53A-2-118.1**, as last amended by Laws of Utah 2008, Chapter 92
 30 **53A-2-119**, as last amended by Laws of Utah 2007, Chapter 215



31
 32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **53A-2-118** is amended to read:

34 **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**
 35 **to be followed.**

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

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

39 (i) through a citizens' initiative petition;

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

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

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

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

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

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

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

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

57 (c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn,
 58 reinstate the signer's signature at any time before the filing of the petition by filing a written

59 withdrawal or reinstatement with the county clerk.

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

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

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

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

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

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

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

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

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

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

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

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

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

89 (ii) the ad hoc advisory committee shall submit its report and recommendations to the

90 county legislative body, as provided by Subsection (3), on or before July 1; and

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

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

98 (b) The advisory committee shall:

99 (i) seek input from:

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

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

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

104 (D) the State Board of Education; and

105 (E) other interested parties;

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

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

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

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

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

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

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

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

118 (b) Within 14 days after the end of the comment period, the legislative body of each
119 county with which a request or petition is filed shall vote on the creation of the proposed new
120 school district.

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

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

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

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

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

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

133 (f) Each county legislative body shall provide notice of the action as required in Section
134 53A-2-101.5.

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

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

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

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

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

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

150 (A) each county legislative body shall, within 60 days after the canvass date, file with
151 the lieutenant governor the written notice, with the accompanying map or plat, required under

152 Section 53A-2-101.5; and

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

155 (ii) Notwithstanding the creation of a new district as provided in Subsection

156 (5)(b)(i)(B):

157 (A) a new school district may not begin to provide educational services to the area
158 within the new district until July 1 of the second calendar year following the [~~creation~~] school
159 board general election date described in Subsection 53A-2-118.1(3)(a)(i);

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

162 (C) each existing district shall continue, until the time specified in Subsection
163 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing
164 district.

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

166 **53A-2-118.1. Option for school district creation.**

167 (1) (a) After conducting a feasibility study, a city with a population of at least 50,000,
168 as determined by the lieutenant governor using the process described in Subsection
169 10-2-302(2), may by majority vote of the legislative body, submit for voter approval a measure
170 to create a new school district with boundaries contiguous with that city's boundaries, in
171 accordance with Section 53A-2-118.

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

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

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

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

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

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

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

187 (B) the combined population within the proposed new school district boundaries is at
188 least 50,000;

189 (C) the new school district boundaries:

190 (I) are contiguous;

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

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

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

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

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

206 (iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the
207 basis of 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 (iv) For purposes of determining whether the boundaries of a proposed new school
211 district cross county lines under Subsection (2)(b)(i)(C)(IV):

212 (A) a municipality located in more than one county and entirely within the boundaries
213 of a single school district is considered to be entirely within the same county as other

214 participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's
215 land area and population is located in that same county than outside the county; and

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

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

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

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

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

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

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

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

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

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

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

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

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

242 (II) the portion of the municipality proposed to be excluded from the new school
243 district is within the boundaries of a school district other than the school district that includes
244 the other interlocal agreement participants.

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

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

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

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

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

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

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

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

265 (II) The isolated area shall, on ~~July 1 of the second calendar year following the~~
266 ~~creation election date~~ the date specified in Subsection 53A-2-118(5)(b)(ii)(A), become part of
267 the municipality's school district.

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

270 (Aa) include a third transition team, appointed by the school district board of the
271 municipality's school district, to represent that school district;

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

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

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

277 (IV) The existing district shall continue to provide educational services to the isolated
278 area until [~~July 1 of the second calendar year following the creation election date~~] the date
279 specified in Subsection 53A-2-118(5)(b)(ii)(A).

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

281 [~~(i)(A) subject to Subsection (3)(e):~~]

282 [~~(f) each member of the board of the existing district who resides within the boundary~~
283 ~~of the new school district shall serve as an initial member of the new district board; and]~~

284 [~~(H) each member of the board of the existing district who resides within the boundary~~
285 ~~of the remaining school district shall serve as an initial member of the remaining district board;~~
286 ~~and]~~

287 [~~(B)~~] (i) an election shall be held [~~on the June special election date, as provided in~~
288 ~~Section 20A-1-204, in the year following the creation election date;~~] at the next regular general
289 election to elect:

290 (A) members to the board of the existing school district whose terms are expiring;

291 [~~(f) all other~~] (B) all members to the board of the new school district; and

292 [~~(H) all other~~] (C) all members to the board of the remaining district;

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

295 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
296 53A-2-122;

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

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

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

305 (B) the school district in which the secondary school is located shall provide
306 educational services, including, if provided before the creation of the new school district,

307 busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school
308 year for which the individual makes the election; and

309 (v) within one year after the new district begins providing educational services, the
310 superintendent of each remaining district affected and the superintendent of the new district
311 shall meet, together with the Superintendent of Public Instruction, to determine if further
312 boundary changes should be proposed in accordance with Section 53A-2-104.

313 ~~[(b) Each member of a school district board of a new district and remaining district~~
314 ~~under Subsection (3)(a)(i) shall take office on July 15 immediately following the election under~~
315 ~~Subsection (3)(a)(i)(B).]~~

316 ~~[(c)]~~ (b) (i) ~~[Subject to Subsection (3)(c)(ii), the]~~ The terms of the initial members of
317 the school district board of the new district and remaining district shall be staggered and
318 adjusted by the county legislative body so that~~[-]~~ approximately half of the board is elected
319 every two years.

320 ~~[(A) the school district board members' successors are elected at a future regular~~
321 ~~general election; and]~~

322 ~~[(B) the terms of their successors coincide with the schedule of terms for school district~~
323 ~~board members established in Section 20A-14-202.]~~

324 (ii) ~~[(A)]~~ The term of a member of the existing school board, including members
325 elected under Subsection (3)(a)(i)(A), [may not be less than 17 months. (B) In order to comply
326 with the requirements of Subsection (3)(c)(i), the term of a member elected to a school district
327 board at an election under Subsection (3)(a)(i)(B) held in an even-numbered year may exceed
328 four years but may not exceed five years. (d) (i) The term of each member of the school district
329 board of the existing district terminates on July 1 of the second year after the creation election
330 date] terminates on the date specified in Subsection 53A-2-118(5)(b)(ii)(A), regardless of when
331 the term would otherwise have terminated.

332 ~~[(ii)]~~ (iii) Notwithstanding the existence of a board for the new district and a board for
333 the remaining district under Subsection (3)(a)(i), the board of the existing district shall
334 continue, until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and
335 exercise authority as a board to the extent necessary to continue to provide educational services
336 to the entire existing district.

337 ~~[(iii)]~~ (iv) A person may simultaneously serve as or be elected to be a member of the

338 board of an existing district and a member of the board of:

339 (A) a new district; or

340 (B) a remaining district.

341 ~~[(e) If two or more members of an existing school district board reside within the same~~
342 ~~local school board district, as established by the county legislative body under Section~~
343 ~~20A-14-201, of the new district or remaining district:]~~

344 ~~[(i) those board members shall stand for election at the same election at which the other~~
345 ~~board members are elected under Subsection (3)(a)(i)(B); and]~~

346 ~~[(ii) the board member receiving the highest number of votes is elected to the board of~~
347 ~~the new district or remaining district, as the case may be, for the local school board district in~~
348 ~~which the board member resides:]~~

349 (4) (a) Within 45 days after the canvass date for the election at which voters approve
350 the creation of a new district:

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

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

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

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

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

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

362 (b) The school district board of the existing school district shall, within 60 days after
363 the canvass date for the election at which voters approve the creation of a new district:

364 (i) prepare an inventory of the existing district's:

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

366 (B) liabilities; and

367 (ii) deliver a copy of the inventory to each of the transition teams.

368 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to

369 Subsection (4)(c)(iii):

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

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

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

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

378 (Cc) a designation of any property that will need to be allocated by arbitration under
379 Subsection (4)(d); and

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

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

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

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

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

388 [~~(f) if the agreement is made before July 15 of the year following the creation election~~
389 ~~date:]~~

390 [~~(Aa)~~] (I) the school district board of the [~~existing~~] remaining district; and

391 [~~(Bb) (aa)~~] (II) (Aa) the legislative body of the city in which the new district is located,
392 for a new district located entirely within a single city; or

393 [~~(bb)~~] (Bb) the legislative bodies of all interlocal agreement participants, for each other
394 new district[~~;~~or].

395 [~~(H) if the agreement is made on or after July 15 of the year following the creation~~
396 ~~election date:]~~

397 [~~(Aa) the school district board of the remaining district; and]~~

398 [~~(Bb) the school district board of the new district.]~~

399 (ii) Subject to Subsection (4)(c)(iii), all property, assets, and liabilities that the existing

400 district owns on the allocation date, both tangible and intangible, real and personal, shall be
401 allocated between the remaining district and the new district in a way that is fair and equitable
402 to both the remaining district and the new district, taking into account:

403 (A) the relative student populations between the remaining district and new district;

404 (B) the relative assessed value of taxable property between the remaining district and
405 the new district;

406 (C) the historical amount of property used to deliver educational services to students in
407 the remaining district and the new district;

408 (D) any money made available for the use of the new district under Subsection (5); and

409 ~~[(E) the agreed value of school buildings and associated property allocated to the
410 remaining district and the new district under Subsection (4)(c)(iii)(A); and]~~

411 ~~[(F)]~~ (E) any other factors that the transition teams consider relevant in dividing the
412 property in a fair and equitable manner.

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

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

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

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

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

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

429 (ii) Each transition team shall, no later than September 1 of the year after the creation
430 election date, appoint one qualified, independent arbitrator to an arbitration panel under this

431 Subsection (4)(d), and those two arbitrators shall, within 15 days after their appointment,
432 appoint a third qualified, independent arbitrator.

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

436 (iv) The costs of arbitration shall initially be borne entirely by the existing district, but
437 the new district shall reimburse the existing district half of those costs within one year after the
438 new district begins providing educational services.

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

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

444 (ii) All costs and expenses of the transition team that represents a new district shall
445 initially be borne by:

446 (A) the city whose legislative body appoints the transition team, if the transition team
447 is appointed by the legislative body of a single city; or

448 (B) the interlocal agreement participants, if the transition team is appointed by the
449 legislative bodies of interlocal agreement participants.

450 (iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal
451 agreement participants for:

452 (A) transition team costs and expenses; and

453 (B) startup costs and expenses incurred by the city or interlocal agreement participants
454 on behalf of the new district.

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

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

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

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

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

- 462 (A) costs and expenses incurred by a remaining district in order to:
- 463 (I) make necessary adjustments to deal with the impacts resulting from the creation of
- 464 the new district; and
- 465 (II) prepare to provide educational services within the remaining district once the new
- 466 district begins providing educational services within the new district; and
- 467 (B) the costs and expenses of the transition team that represents the remaining district.
- 468 (b) (i) By ~~[July 25]~~ January 1 of the year following the [~~creation~~] election [~~date~~]
- 469 specified in Subsection 53A-2-118(5)(b)(ii)(A), the existing district shall make half of the
- 470 undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use
- 471 of the remaining district and the new district, as provided in this Subsection (5).
- 472 (ii) The existing district may make additional funds available for the use of the
- 473 remaining district and the new district beyond the amount specified in Subsection (5)(b)(i)
- 474 through an interlocal agreement.
- 475 (c) The existing district shall make the money under Subsection (5)(b) available to the
- 476 remaining district and the new district proportionately based on student population.
- 477 (d) The money made available under Subsection (5)(b) may be accessed and spent by:
- 478 (i) for the remaining district, the school district board of the remaining district; and
- 479 (ii) for the new district, the school district board of the new district.
- 480 (e) (i) The remaining district may use its portion of the money made available under
- 481 Subsection (5)(b) to pay for remaining district startup costs.
- 482 (ii) The new district may use its portion of the money made available under Subsection
- 483 (5)(b) to pay for new district startup costs.
- 484 (6) (a) The existing district shall transfer title or, if applicable, partial title of property
- 485 to the new school district in accordance with the allocation of property by:
- 486 (i) the transition teams, as stated in the report under Subsection (4)(c)(i)(A)(II); and
- 487 (ii) the arbitration panel, if applicable.
- 488 (b) The existing district shall complete each transfer of title or, if applicable, partial
- 489 title to real property and vehicles by July 1 of the second calendar year following the creation
- 490 election date, except as that date is changed by the mutual agreement of:
- 491 (i) the school district board of the existing district;
- 492 (ii) the school district board of the remaining district; and

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

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

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

499 [~~(a) if the transfer or agreement to transfer is before July 15 of the year following the~~
500 ~~creation election date:~~]

501 [~~(i)~~] (a) the legislative body of the city in which the new district is located, for a new
502 district located entirely within a single city; or

503 [~~(ii)~~] (b) the legislative bodies of all interlocal agreement participants, for each other
504 new district~~[-or]~~.

505 [~~(b) if the transfer or agreement to transfer is on or after July 15 of the year following~~
506 ~~the creation election date but before July 15 of the second calendar year following the creation~~
507 ~~election date:~~]

508 [~~(i) the school district board of the remaining district; and]~~

509 [~~(ii) the school district board of the new district.]~~

510 (8) This section applies to and governs all actions and proceedings relating to and
511 following the creation of a new district, whether the election under Subsection 53A-2-118(5)
512 on the proposal to create a new school district occurs before or after May 5, 2008, including:

513 (a) the election of school district board members; and

514 (b) transition team duties and responsibilities, whether the transition team is appointed
515 before or after May 5, 2008.

516 Section 3. Section **53A-2-119** is amended to read:

517 **53A-2-119. Reapportionment -- Local school board membership.**

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

520 (2) Except as provided in [~~Subsections (3) and~~] Section 53A-2-118.1~~[(3)(c)]~~, school
521 board membership in the affected school districts shall be determined under Title 20A, Chapter
522 14, Part 2, Nomination and Election of Members of Local Boards of Education.

523 [~~(3)(a) Subsection (3)(b) does not apply to a new school district created under Section~~

524 53A-2-118.1.]

525 ~~[(b) (i) If, as a result of a reapportionment conducted following the creation of a new~~
526 ~~school district, a local school board district is created in which no board member whose term~~
527 ~~extends beyond reapportionment resides, the first board member for the local school board~~
528 ~~district shall be elected at the next regular general election or municipal general election,~~
529 ~~whichever occurs first, after the election at which the creation of the new school district is~~
530 ~~approved.]~~

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

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

Legislative Review Note
as of 2-10-09 4:55 PM

Office of Legislative Research and General Counsel

H.B. 186 - School District Division Amendment

Fiscal Note

2009 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, businesses, or local governments.
