

**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;
- ▶ authorizes a transition team to close its meeting for the purpose of discussing the allocation of school district property;

**⚡▶ 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; ⚡⚡**

▶ requires an existing school district to make money available to **⚡▶ [a] the remaining district and the ⚡⚡** new district,



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- 25 provides for who can access and spend that money, and requires transition teams to  
26 consider that money in allocating existing district property;  
27       ▶ requires an existing school district to transfer title of property to the new district

28 within a certain time, and allows that date to be moved to an earlier date upon the mutual  
29 agreement of the school district boards;

30 ▶ prohibits an existing school district from transferring title to school district property  
31 exceeding a certain value without the consent of specified boards or bodies; and

32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 **§→ [None] This bill provides an immediate effective date. ←§**

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **52-4-205**, as renumbered and amended by Laws of Utah 2006, Chapter 14

40 **53A-2-117**, as last amended by Laws of Utah 2007, Chapters 215 and 297

41 **53A-2-118**, as last amended by Laws of Utah 2007, First Special Session, Chapter 1

42 **53A-2-118.1**, as last amended by Laws of Utah 2007, First Special Session, Chapters 1,

43 2, and 4



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

46 Section 1. Section **52-4-205** is amended to read:

47 **52-4-205. Purposes of closed meetings.**

48 (1) A closed meeting described under Section 52-4-204 may only be held for:

49 (a) discussion of the character, professional competence, or physical or mental health  
50 of an individual;

51 (b) strategy sessions to discuss collective bargaining;

52 (c) strategy sessions to discuss pending or reasonably imminent litigation;

53 (d) strategy sessions to discuss the purchase, exchange, or lease of real property if  
54 public discussion of the transaction would:

55 (i) disclose the appraisal or estimated value of the property under consideration; or

56 (ii) prevent the public body from completing the transaction on the best possible terms;

57 (e) strategy sessions to discuss the sale of real property if:

58 (i) public discussion of the transaction would:

- 59 (A) disclose the appraisal or estimated value of the property under consideration; or
- 60 (B) prevent the public body from completing the transaction on the best possible terms;
- 61 (ii) the public body previously gave public notice that the property would be offered for
- 62 sale; and
- 63 (iii) the terms of the sale are publicly disclosed before the public body approves the
- 64 sale;
- 65 (f) discussion regarding deployment of security personnel, devices, or systems;
- 66 (g) investigative proceedings regarding allegations of criminal misconduct; ~~and~~
- 67 (h) discussion by a county legislative body of commercial information as defined in
- 68 Section 59-1-404[-]; and

69 (i) discussion by a transition team appointed under Subsection 53A-2-118.1(4)(a) of  
 70 the allocation of school district property under Subsection 53A-2-118.1(4)(c).

71 (2) A public body may not interview a person applying to fill an elected position in a  
 72 closed meeting.

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

74 **53A-2-117. Definitions.**

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

76 (1) "Allocation date" means October 31 immediately before the creation election date.

77 (2) "Canvass date" means the date of the canvass of an election under Subsection  
 78 53A-2-118(5) at which voters approve the creation of a new school district under Section  
 79 53A-2-118.1.

80 (3) "Creation election date" means the date of the election under Subsection  
 81 53A-2-118(5) at which voters approve the creation of a new school district under Section  
 82 53A-2-118.1.

83 ~~(4)~~ (4) "Existing district" or "existing school district" means a school district from  
 84 which a new district is created.

85 ~~(5)~~ (5) "New district" or "new school district" means a school district created under  
 86 Section 53A-2-118 or 53A-2-118.1.

87 ~~(6)~~ (6) "Remaining district" or "remaining school district" means an existing district  
 88 after the creation of a new district.

89 Section 3. Section **53A-2-118** is amended to read:

90           **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**  
91 **to be followed.**

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

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

95           (i) through a citizens' initiative petition;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (3) (a) The legislative body of each county with which a request or petition is filed

152 shall appoint an ad hoc advisory committee to review and make recommendations on a request  
153 for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

154 (b) The advisory committee shall:

155 (i) seek input from:

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

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

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

160 (D) the State Board of Education; and

161 (E) other interested parties;

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

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

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

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

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

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

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

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

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

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

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

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

182 (ii) in accordance with the procedures and requirements applicable to a regular general

183 election under Title 20A, Election Code; and

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

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

189 (f) Each county legislative body shall provide notice of the action as required in Section  
190 53A-2-101.5.

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

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

198 (i) by the legal voters residing within the proposed new school district boundaries;  
199 (ii) in accordance with the procedures and requirements applicable to a regular general  
200 election under Title 20A, Election Code; and

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

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

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

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

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

213 (A) a new school district may not begin to provide educational services to the area



214 within the new district until July 1 of the second calendar year following the creation election  
 215 [~~at which voters approve creation of the new school district~~] date;

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

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

221 Section 4. Section **53A-2-118.1** is amended to read:

222 **53A-2-118.1. Option for school district creation.**

223 (1) (a) After conducting a feasibility study, a city with a population of at least 50,000,  
 224 as determined by the lieutenant governor using the process described in Subsection  
 225 10-2-302(2), may by majority vote of the legislative body, submit for voter approval a measure  
 226 to create a new school district with boundaries contiguous with that city's boundaries, in  
 227 accordance with Section 53A-2-118.

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

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

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

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

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

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

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

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

245 (C) the new school district boundaries:  
246 (I) are contiguous;  
247 (II) do not completely surround or otherwise completely geographically isolate a  
248 portion of an existing school district that is not part of the proposed new school district from  
249 the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);  
250 (III) include the entire boundaries of each participant city or town, except as provided  
251 in Subsection (2)(d)(ii); and  
252 (IV) subject to Subsection (2)(b)(ii), do not cross county lines; and  
253 (D) the combined population within the proposed new school district of interlocal  
254 agreement participants that have entered into an interlocal agreement proposing to create a new  
255 school district is at least 80% of the total population of the proposed new school district.  
256 (ii) The determination of all matters relating to the scope, adequacy, and other aspects  
257 of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new  
258 feasibility study or revise a previous feasibility study due to a change in the proposed new  
259 school district boundaries, is within the exclusive discretion of the legislative bodies of the  
260 interlocal agreement participants that enter into an interlocal agreement to submit for voter  
261 approval a measure to create a new school district.  
262 (iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the  
263 basis of a legal action or other challenge to:  
264 (A) an election for voter approval of the creation of a new school district; or  
265 (B) the creation of the new school district.  
266 (iv) For purposes of determining whether the boundaries of a proposed new school  
267 district cross county lines under Subsection (2)(b)(i)(C)(IV):  
268 (A) a municipality located in more than one county and entirely within the boundaries  
269 of a single school district is considered to be entirely within the same county as other  
270 participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's  
271 land area and population is located in that same county than outside the county; and  
272 (B) a municipality located in more than one county that participates in an interlocal  
273 agreement under Subsection (2)(a) with respect to some but not all of the area within the  
274 municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may  
275 not be considered to cross county lines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

337 (i) an election shall be held on the June special election date, as provided in Section

338 20A-1-204, in the year following the creation election [~~at which voters approved the creation of~~  
 339 ~~a new school district, to elect~~] date ~~§~~→ , to elect ←~~§~~ :

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

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

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

344 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and  
 345 53A-2-122;

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

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

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

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

358 (v) within one year after the new district begins providing educational services, the  
 359 superintendent of each remaining district affected and the superintendent of the new district  
 360 shall meet, together with the Superintendent of Public Instruction, to determine if further  
 361 boundary changes should be proposed in accordance with Section 53A-2-104 [~~or Subsection~~  
 362 ~~53A-2-118(2)~~].

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

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

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

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

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

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

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

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

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

388 (A) a new district; or

389 (B) a remaining district.

390 (4) (a) Within [~~30~~] 45 days after the canvass [~~of an election at which voters approve the~~  
391 ~~creation of a new school district under this section~~] date:

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

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

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

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

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

400 legislative body of that city; or

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

403 (b) The ~~[local]~~ school district board of the existing school district shall~~[-(f)],~~ within  
404 ~~[30]~~ 60 days after the canvass ~~[of an election at which voters approve the creation of a new~~  
405 ~~school district under this section;]~~ date:

406 (i) prepare an inventory of the existing district's ~~§~~ **→ [assets]** :

406a **(A) property, both tangible and intangible, real and personal; ←§** and

406b **§→ (B) ←§** liabilities; and

407 (ii) ~~[within 45 days after the canvass;]~~ deliver a copy of the inventory to each of the  
408 transition teams.

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

411 (I) determine the allocation of the existing district's property between the remaining  
412 district and the new district in accordance with Subsection (4)(c)(ii)~~[-];~~

413 (II) prepare a written report detailing how the existing district's property ~~§~~ **→ [is]** , assets,  
413a **and liabilities are ←§** to be

414 allocated, including:

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

416 (Bb) a designation of any property that should be shared between the remaining district

417 and the new district; and

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

419 Subsection (4)(d); and

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

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

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

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

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

428 (I) if the agreement is made before July 15 of the year following the creation election

429 date:

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

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

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

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

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

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

439 (ii) Subject to Subsection (4)(c)(iii), all property ~~[of]~~ ~~Ŝ→~~ **, assets, and liabilities** ~~←Ŝ~~ that  
 439a the existing district owns on

440 the allocation date, both tangible and intangible, real and personal, shall be allocated between  
 441 the ~~[existing]~~ remaining district and the new district in a way that is fair and equitable to both  
 442 the ~~[existing]~~ remaining district and the new district, taking into account:

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

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

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

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

449a ~~Ŝ→~~ **(E) the appraised or agreed value of school buildings and associated property allocated to**  
 449b **the remaining district and the new district under Subsection (4)(c)(iii)(A);** ~~←Ŝ~~ and

450 ~~[(D)]~~ ~~Ŝ→~~ ~~[(E)]~~ (F) ~~←Ŝ~~ any other factors that the transition teams consider relevant in  
 450a dividing the

451 property in a fair and equitable manner.

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

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

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

460 (II) determine, by mutual agreement, that the value of the school buildings and  
 461 associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration



462 in the [asset] property allocation process under this Subsection (4)(c); or

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

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

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

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

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

476 [~~(f) (i) All costs and expenses of the transition team that represents a remaining district  
477 shall be borne by the remaining district.~~]

478 [~~(ii) All costs and expenses of the transition team that represents a new district shall:~~]

479 [~~(A) initially be borne by:~~]

480 [~~(I) the city whose legislative body appoints the transition team, if the transition team is  
481 appointed by the legislative body of a single city; or]~~

482 [~~(H) the interlocal agreement participants, if the transition team is appointed by the  
483 legislative bodies of interlocal agreement participants; and]~~

484 [~~(B) be reimbursed to the city or interlocal agreement participants by the new district  
485 within one year after the new district begins providing educational services.~~]

486 (5) (a) Within 30 days after the canvass date, the existing district shall make ~~\$\$~~ **half of its**  
486a **General Fund, to a maximum of \$20,000,000, ←\$** available  
487 **for the \$→ [new district's] ←\$ use \$→ [z] of the remaining district and the new district, as**  
487a **provided in this Subsection (5).**

488 [~~(i) \$2,500,000, if the balance of the existing district's fund used for school district  
489 operations is \$5,000,000 or more on the allocation date; or~~

490 ~~—— (ii) 50% of the balance of the existing district's fund used for school district operations;  
491 if the balance of that fund on the allocation date is less than \$5,000,000.] ←\$~~

492 (b) The ~~\$\$~~ **existing district shall make the ←\$** money ~~→\$~~ **[made] under Subsection**  
492a **(5)(a) ←\$** available to the ~~→\$~~ **remaining district and the ←\$** new district ~~→\$~~ **[under Subsection**  
492b **(5)(a):] proportionately based on student population.**

492c **(c) The money made available under Subsection (5)(a): ←\$**

- 493 (i) shall be used to further the purposes of this part; and  
 494 (ii) may be accessed and spent by:  
 495 (A) before July 15 of the year following the creation election date:  
 496 (I) ~~§~~→ **for the remaining district, the members of the existing district board who reside**  
 496a **within the area of the remaining district, in consultation with:**  
 496b **(Aa) the legislative bodies of all municipalities in the area of the remaining district; and**  
 496c **(Bb) the legislative body of the county in which the remaining district is located, if the**  
 496d **remaining district includes one or more unincorporated areas of the county; and**  
 496 **(II) for the existing district:**  
 496a **(Aa) ~~§~~← the legislative body of the city in which the new district was created or the**  
 497 **legislative body's designee, if the new district is located entirely within the boundary of a single**  
 498 **city; or**  
 499 **~~§~~→ [(H)] (Bb) ~~§~~← the legislative bodies of all interlocal agreement participants or the**  
 499a **legislative**  
 500 **bodies' designee, if the new district was created as a result of an interlocal agreement under**  
 501 **Subsection (2); ~~§~~→ [or] (and) ~~§~~←**  
 502 **(B) ~~§~~→ [~~the school district board of the new school district;~~] ~~§~~← on or after July 15 of the**  
 502a **year**  
 503 **following the creation election date ~~§~~→ [;] :**  
 503a **(I) for the remaining district, the school district board of the remaining district; and**  
 503b **(II) for the new district, the school district board of the new district. ~~§~~←**  
 504 **(6) (a) The existing district shall transfer title or, if applicable, partial title of property**  
 505 **to the new school district in accordance with the allocation of property by:**  
 506 **(i) the transition teams, as stated in the report under Subsection (4)(c)(i)(A)(II); and**  
 507 **(ii) the arbitration panel, if applicable.**  
 508 **(b) The existing district shall complete each transfer of title or, if applicable, partial**  
 509 **title by July 1 of the second calendar year following the creation election date, unless that date**  
 510 **is moved to an earlier date by the mutual agreement of:**  
 511 **(i) the school district board of the existing district;**  
 512 **(ii) the school district board of the remaining district; and**  
 513 **(iii) the school district board of the new district.**  
 514 **(7) Except as provided in Subsections (5) and (6), after the creation election date an**  
 515 **existing school district may not transfer or agree to transfer title to district property exceeding**  
 516 **\$25,000 in value without the prior consent of:**  
 517 **(a) if the transfer or agreement to transfer is before July 15 of the year following the**  
 518 **creation election date:**  
 519 **(i) the legislative body of the city in which the new district is located, for a new district**

520 located entirely within a single city; or  
521 (ii) the legislative bodies of all interlocal agreement participants, for each other new  
522 district; or  
523 (b) if the transfer or agreement to transfer is on or after July 15 of the year following

524 the creation election date but before July 15 of the second calendar year following the creation  
525 election date:

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

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

527a **Ŝ→ Section 5. Effective date.**

527b **If approved by two-thirds of all the members elected to each house, this bill takes effect**

527c **upon approval by the governor, or the day following the constitutional time limit of Utah**

527d **Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,**

527e **the date of veto override. ←Ŝ**

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Legislative Review Note

as of 1-18-08 1:44 PM

Office of Legislative Research and General Counsel

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**S.B. 71 - 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 \$2.5 million of an existing school districts operation's fund balance by a newly created school district for transition expenses.

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