

1 **MINIMUM SCHOOL PROGRAM BUDGET**

2 **AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Merlynn T. Newbold**

6 Senate Sponsor: Howard A. Stephenson

7

8 **LONG TITLE**

9 **General Description:**

10 This bill provides funding for the Minimum School Program.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ establishes a ceiling for the state contribution to the Minimum School Program for
- 14 fiscal year 2009-10 of \$2,137,352,586;
- 15 ▶ appropriates \$22,499,700 to the State Board of Education for fiscal year 2009-10
- 16 for school building aid programs for school districts;
- 17 ▶ modifies the funding of charter schools;
- 18 ▶ modifies the district administrative cost formula;
- 19 ▶ makes one-time appropriations for fiscal year 2009-10; and
- 20 ▶ makes one-time appropriations for fiscal year 2008-09.

21 **Monies Appropriated in this Bill:**

22 This bill appropriates:

- 23 ▶ the following Minimum School Program monies:
- 24 • \$2,031,004,786 from the Uniform School Fund for fiscal year 2009-10;
- 25 • \$20,000,000 from the Uniform School Fund Restricted - Interest and Dividends
- 26 Account for fiscal year 2009-10;
- 27 • \$86,347,800 from the Uniform School Fund for fiscal year 2009-10 only;
- 28 • (\$84,167,200) from the Uniform School Fund for fiscal year 2008-09 only;
- 29 • \$207,176,000 from Federal Funds - American Recovery and Reinvestment Act

30 (H.R. 1, 111th Congress) for fiscal year 2009-10 only; and

- 31 • \$91,200,000 from Federal Funds - American Recovery and Reinvestment Act

32 (H.R. 1, 111th Congress) for fiscal year 2008-09 only;

33 ▶ the following School Building Program monies:

- 34 • \$22,499,700 from the Uniform School Fund for fiscal year 2009-10; and
- 35 • \$3,171,700 from the Uniform School Fund for fiscal year 2008-09 only; and
- 36 ▶ \$580,000 as an ongoing appropriation to the State Board of Education to fund

37 salary adjustments for educators at the Utah Schools for the Deaf and the Blind.

38 **Other Special Clauses:**

39 This bill provides an effective date.

40 This bill coordinates with S.B. 4, Current School Year Supplemental Minimum School
41 Program Budget Adjustments, by providing superseding and substantive amendments.

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **53A-1a-502.5**, as last amended by Laws of Utah 2008, Chapter 397

45 **53A-1a-513**, as last amended by Laws of Utah 2008, Chapters 382 and 397

46 **53A-17a-104**, as last amended by Laws of Utah 2008, Chapters 1 and 397

47 **53A-17a-108**, as last amended by Laws of Utah 2008, Chapters 1 and 397

48 **53A-17a-120.5**, as enacted by Laws of Utah 2007, Chapter 368

49 **53A-17a-125**, as last amended by Laws of Utah 2004, Chapter 330

50 **53A-17a-127**, as last amended by Laws of Utah 2008, Chapter 397

51 **53A-17a-133**, as last amended by Laws of Utah 2008, Chapters 61, 231, and 236

52 **53A-17a-134**, as last amended by Laws of Utah 2008, Chapter 231

53 **53A-17a-135**, as last amended by Laws of Utah 2008, Chapter 1

54 **53A-17a-148**, as last amended by Laws of Utah 2008, Chapter 289

55 **53A-21-501**, as last amended by Laws of Utah 2008, Chapter 1 and renumbered and
56 amended by Laws of Utah 2008, Chapter 236

57

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

59 Section 1. Section **53A-1a-502.5** is amended to read:

60 **53A-1a-502.5. Charter schools -- Maximum authorized students.**

61 (1) The State Charter School Board and local school boards may only authorize a
62 combined maximum student capacity of:

63 (a) 32,921 students for the charter schools in the 2008-09 school year; and

64 (b) beginning in the 2009-10 school year, an annual increase in charter school
65 enrollment capacity equal to 1.4% of total school district enrollment as of October 1 of the
66 previous school year.

67 (2) (a) The State Board of Education, in consultation with the State Charter School
68 Board, shall allocate the students under Subsection (1) between the State Charter School
69 Board and local school boards.

70 (b) One-third of the student capacity described under Subsection (1)(b) shall be
71 allocated to increase the maximum student capacity of operating charter schools.

72 (c) If the operating charter schools do not use the allocation described under
73 Subsection (2)(b), the remaining student capacity may be used by new charter schools.

74 (3) An increase in charter school enrollment capacity in the 2011-12 school year or
75 thereafter shall receive:

76 (a) tentative approval by the State Board of Education by November 30 of the year
77 that is two years before the year that the increase in charter school enrollment capacity takes
78 effect; and

79 (b) final approval by the State Board of Education by the following April 1, subject to
80 legislative authorization of the increase in charter school enrollment capacity.

81 Section 2. Section **53A-1a-513** is amended to read:

82 **53A-1a-513. Funding for charter schools.**

83 (1) As used in this section:

84 (a) "Charter school students' average local revenues" means the amount determined as
85 follows:

86 (i) for each student enrolled in a charter school on the previous October 1, calculate
87 the district per pupil local revenues of the school district in which the student resides;

88 (ii) sum the district per pupil local revenues for each student enrolled in a charter
89 school on the previous October 1; and

90 (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students
91 enrolled in charter schools on the previous October 1.

92 (b) "District per pupil local revenues" means the amount determined as follows, using
93 data from the most recently published school district annual financial reports and state
94 superintendent's annual report:

95 (i) calculate the sum of a school district's revenue received from:

96 (A) a voted levy imposed under Section 53A-17a-133;

97 (B) a board levy imposed under Section 53A-17a-134;

98 (C) 10% of the cost of the basic program levy imposed under Section 53A-17a-145;

99 (D) a tort liability levy imposed under Section 63G-7-704;

100 (E) a capital outlay levy imposed under Section 53A-16-107; and

101 (F) a voted capital outlay levy imposed under Section 53A-16-110; and

102 (ii) divide the sum calculated under Subsection (1)(b)(i) by the sum of:

103 (A) a school district's average daily membership; and

104 (B) the average daily membership of a school district's resident students who attend
105 charter schools.

106 (c) "Resident student" means a student who is considered a resident of the school
107 district under Title 53A, Chapter 2, Part 2, District of Residency.

108 (d) "Statewide average debt service revenues" means the amount determined as
109 follows, using data from the most recently published state superintendent's annual report:

110 (i) sum the revenues of each school district from the debt service levy imposed under
111 Section 11-14-310; and

112 (ii) divide the sum calculated under Subsection (1)(d)(i) by statewide school district
113 average daily membership.

114 (2) (a) Charter schools shall receive funding as described in this section, except
115 Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

116 (b) Charter schools authorized by local school boards that are converted from district
117 schools or operate in district facilities without paying reasonable rent shall receive funding as
118 prescribed in Section 53A-1a-515.

119 (3) (a) Except as provided in Subsection (3)(b), a charter school shall receive state
120 funds, as applicable, on the same basis as a school district receives funds.

121 (b) In distributing funds under Title 53A, Chapter 17a, Minimum School Program
122 Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

- 123 (i) .55 for kindergarten pupils;
- 124 (ii) .9 for pupils in grades 1-6;
- 125 (iii) .99 for pupils in grades 7-8; and
- 126 (iv) 1.2 for pupils in grades 9-12.

127 (4) (a) (i) [~~Except as provided in Subsection (4)(a)(ii), a~~] A school district shall
128 allocate a portion of school district revenues for each resident student of the school district
129 who is enrolled in a charter school on October 1 equal to 25% of the lesser of:

- 130 (A) district per pupil local revenues; or
- 131 (B) charter school students' average local revenues.

132 (ii) For the purpose of allocating school district revenues under Subsection (4)(a)(i) in
133 fiscal year 2008-09 only, a kindergarten student who is enrolled in less than a full-day
134 kindergarten program is weighted as .55 of a student.

135 (iii) Nothing in this Subsection (4)(a) affects the school bond guarantee program
136 established under Chapter 28, Utah School Bond Guaranty Act.

137 (b) The State Board of Education shall:

138 (i) deduct an amount equal to the allocation provided under Subsection (4)(a) from
139 state funds the school district is authorized to receive under Title 53A, Chapter 17a, Minimum
140 School Program Act; and

141 (ii) remit the money to the student's charter school.

142 (c) Notwithstanding the method used to transfer school district revenues to charter
143 schools as provided in Subsection (4)(b), a school district may deduct the allocations to
144 charter schools under this section from:

- 145 (i) unrestricted revenues available to the school district; or
- 146 (ii) the revenue sources listed in Subsections (1)(b)(i)(A) through (F) based on the
147 portion of the allocations to charter schools attributed to each of the revenue sources listed in
148 Subsections (1)(b)(i)(A) through (F).

149 (d) (i) Subject to future budget constraints, the Legislature shall provide an
150 appropriation for charter schools for each student enrolled on October 1 to supplement the
151 allocation of school district revenues under Subsection (4)(a).

152 (ii) Except as provided in [~~Subsections~~] Subsection (4)(d)(iii) [~~and (iv)~~], the amount
153 of money provided by the state for a charter school student shall be the sum of:

154 (A) charter school students' average local revenues minus the allocation of school
155 district revenues under Subsection (4)(a); and

156 (B) statewide average debt service revenues.

157 (iii) If the total of a school district's allocation for a charter school student under
158 Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than
159 \$1427, the state shall provide an additional supplement so that a charter school receives at
160 least \$1427 per student under this Subsection (4).

161 [~~(iv) For the purpose of providing state monies for charter school students under this
162 Subsection (4)(d), a kindergarten student who is enrolled in less than a full-day kindergarten
163 program is weighted as .55 of a student.]~~

164 (e) Of the monies provided to a charter school under this Subsection (4), 10% shall be
165 expended for funding school facilities only.

166 (5) Charter schools are eligible to receive federal funds if they meet all applicable
167 federal requirements and comply with relevant federal regulations.

168 (6) The State Board of Education shall distribute funds for charter school students
169 directly to the charter school.

170 (7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state
171 transportation funding.

172 (b) The board shall also adopt rules relating to the transportation of students to and
173 from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

174 (c) The governing body of the charter school may provide transportation through an
175 agreement or contract with the local school board, a private provider, or with parents.

176 (8) (a) (i) The state superintendent of public instruction may allocate grants for both
177 start-up and ongoing costs to eligible charter school applicants from monies appropriated for
178 the implementation of this part.

179 (ii) Applications for the grants shall be filed on a form determined by the state
180 superintendent and in conjunction with the application for a charter.

181 (iii) The amount of a grant may vary based upon the size, scope, and special
182 circumstances of the charter school.

183 (iv) The governing board of the charter school shall use the grant to meet the expenses
184 of the school as established in the school's charter.

185 (b) The State Board of Education shall coordinate the distribution of federal monies
186 appropriated to help fund costs for establishing and maintaining charter schools within the
187 state.

188 (9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
189 endowment, gift, or donation of any property made to the school for any of the purposes of this
190 part.

191 (b) It is unlawful for any person affiliated with a charter school to demand or request
192 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
193 with the charter school as a condition for employment or enrollment at the school or continued
194 attendance at the school.

195 Section 3. Section **53A-17a-104** is amended to read:

196 **53A-17a-104. Amount of state's contribution toward minimum school program.**

197 (1) The total contribution of the state toward the cost of the minimum school program

198 may not exceed the sum of [~~\$2,497,012,086~~] \$2,137,352,586 for the fiscal year beginning July
199 1, [~~2008~~] 2009, except as otherwise provided by the Legislature through supplemental
200 appropriations.

201 (2) There is appropriated from state and local funds for fiscal year [~~2008-09~~] 2009-10
202 for distribution to school districts and charter schools, in accordance with this chapter, monies
203 for the following purposes and in the following amounts:

204 (a) basic program - kindergarten, [~~\$65,182,638 (25,294 WPU)s~~] \$68,424,504 (26,552
205 WPU)s);

206 (b) basic program - grades 1-12, [~~\$1,258,253,751 (488,263 WPU)s~~] \$1,291,316,661
207 (501,093 WPU)s);

208 (c) basic program - professional staff, [~~\$116,307,741 (45,133 WPU)s~~] \$118,627,041
209 (46,033 WPU)s);

210 (d) basic program - administrative costs, \$4,174,740 (1,620 WPU)s);

211 (e) basic program - necessarily existent small schools and units for consolidated
212 schools, \$19,711,473 (7,649 WPU)s);

213 (f) special education - regular program - add-on WPU)s for students with disabilities,
214 [~~\$155,789,958 (60,454 WPU)s~~] \$160,029,123 (62,099 WPU)s);

215 (g) preschool special education program, [~~\$22,082,313 (8,569 WPU)s~~] \$22,623,483
216 (8,779 WPU)s);

217 (h) self-contained regular WPU)s, [~~\$34,573,032 (13,416 WPU)s~~] \$35,632,179 (13,827
218 WPU)s);

219 (i) extended year program for severely disabled, [~~\$968,952 (376 WPU)s~~] \$992,145
220 (385 WPU)s);

221 (j) special education programs in state institutions and district impact aid, [~~\$4,293,282~~
222 ~~(1,666 WPU)s~~] \$4,398,939 (1,707 WPU)s);

223 (k) career and technical education district programs, [~~\$67,530,285 (26,205 WPU)s~~]
224 \$68,656,434 (26,642 WPU)s, including [~~\$1,154,458~~] \$1,174,084 for summer career and
225 technical education agriculture programs;

226 [~~(t)~~] ~~career and technical education district set-aside, \$2,878,509 (1,117 WPU's);~~
227 [~~(m)~~] (l) class size reduction, [~~\$88,373,061 (34,293 WPU's)~~] \$90,537,741 (35,133
228 WPU's);
229 [~~(n)~~] (m) Social Security and retirement programs, [~~\$349,906,049~~] \$13,407,831;
230 [~~(o)~~] (n) pupil transportation to and from school, [~~\$74,446,865~~] \$65,646,865, of
231 which not less than \$2,584,435 shall be allocated to the Utah Schools for the Deaf and Blind
232 to pay for transportation costs of the schools' students;
233 [~~(p)~~] (o) guarantee transportation levy, \$500,000;
234 [~~(q)~~] ~~Local Discretionary Block Grant Program, \$21,820,748;~~
235 [~~(r)~~] (p) Interventions for Student Success Block Grant Program, [~~\$18,844,111~~]
236 \$15,000,000;
237 [~~(s)~~] ~~Quality Teaching Block Grant Program, \$77,615,641;~~
238 [~~(t)~~] (q) highly impacted schools, [~~\$5,123,207~~] \$4,610,907;
239 [~~(u)~~] (r) at-risk programs, [~~\$31,411,241~~] \$28,270,141;
240 [~~(v)~~] (s) adult education, [~~\$10,266,146~~] \$9,266,146;
241 [~~(w)~~] (t) accelerated learning programs, [~~\$4,295,581~~] \$3,566,081;
242 [~~(x)~~] (u) concurrent enrollment, [~~\$9,672,586~~] \$8,705,286;
243 [~~(y)~~] (v) High-ability Student Initiative Program, [~~\$500,000~~] \$495,000;
244 [~~(z)~~] (w) English Language Learner Family Literacy Centers, [~~\$2,000,000~~]
245 \$1,800,000;
246 [~~(aa)~~] (x) electronic high school, \$2,000,000;
247 [~~(bb)~~] (y) School LAND Trust Program, [~~\$26,499,500~~] \$20,000,000;
248 [~~(cc)~~] (z) state supplement to local property taxes for charter schools, pursuant to
249 Section 53A-1a-513, [~~\$36,957,646~~] \$45,288,446;
250 [~~(dd)~~] (aa) charter school administrative costs, [~~\$2,898,600~~] \$3,677,000;
251 [~~(ee)~~] (bb) K-3 Reading Improvement Program, \$15,000,000;
252 [~~(ff)~~] (cc) Public Education Job Enhancement Program, [~~\$2,430,000~~] \$2,187,000;
253 [~~(gg)~~] (dd) educator salary adjustments, \$148,260,200;

254 [~~(hh)~~] (ee) Teacher Salary Supplement Restricted Account, [~~\$4,300,000~~] \$3,700,000;
 255 [~~(ii)~~] (ff) library books and electronic resources, [~~\$1,500,000~~] \$500,000;
 256 [~~(jj)~~] (gg) school nurses, [~~\$1,000,000~~] \$900,000;
 257 [~~(kk)~~] (hh) critical languages, \$230,000;
 258 [~~(H)~~] (ii) extended year for special educators, [~~\$2,900,000~~] \$2,610,000;
 259 [~~(mm)~~] (jj) USTAR Centers, [~~\$6,900,000~~] \$6,210,000;
 260 [~~(nn)~~] (kk) state-supported voted leeway, [~~\$273,337,346~~] \$278,396,150;
 261 [~~(oo)~~] (ll) state-supported board leeway, [~~\$71,575,858~~] \$73,324,640; and
 262 [~~(pp)~~] (mm) state-supported board leeway for K-3 Reading Improvement Program,
 263 \$15,000,000.

264 Section 4. Section **53A-17a-108** is amended to read:

265 **53A-17a-108. Weighted pupil units for small school district administrative costs**

266 **-- Appropriation for charter school administrative costs.**

267 (1) Administrative costs weighted pupil units are computed and distributed to small
 268 school districts in accordance with the following schedule:

269 Administrative Costs Schedule

270 School District Enrollment as of October 1	Weighted Pupil Units
271 1 - [2,000] <u>500</u> students	[53] <u>95</u>
272 [2,001 - 10,000] <u>501 - 1,000</u> students	[48] <u>80</u>
273 [10,001 - 20,000] <u>1,001 - 2,000</u> students	[25] <u>70</u>
274 [20,001 and above] <u>2,001 - 5,000</u> students	[16] <u>60</u>

275 (2) (a) Money appropriated to the State Board of Education for charter school
 276 administrative costs, including an appropriation in Section 53A-17a-104, shall be distributed
 277 to charter schools in the amount of \$100 for each charter school student in enrollment.

278 (b) Charter schools are encouraged to identify and use cost-effective methods of
 279 performing administrative functions, including contracting for administrative services with the
 280 State Charter School Board as provided in Section 53A-1a-501.6.

281 (3) Charter schools are not eligible for funds for administrative costs under Subsection

282 (1).

283 Section 5. Section **53A-17a-120.5** is amended to read:

284 **53A-17a-120.5. Appropriation for concurrent enrollment.**

285 (1) Money appropriated to the State Board of Education in Section 53A-17a-104 for
286 concurrent enrollment shall be allocated as follows:

287 (a) 60% of the monies shall be allocated to local school boards and charter schools;

288 and

289 (b) 40% of the monies shall be allocated to the State Board of Regents.

290 (2) The State Board of Education shall make rules providing that a school
291 participating in the concurrent enrollment programs offered under Section 53A-15-101 shall
292 receive an allocation from the monies described in Subsection (1)(a) as provided in Section
293 53A-15-101.

294 (3) The State Board of Regents shall make rules providing that an institution of higher
295 education participating in the concurrent enrollment programs offered under Section
296 53A-15-101 shall receive an allocation from the monies described in Subsection (1)(b) as
297 provided in the rules.

298 (4) [~~Each year~~] Subject to budget constraints, the Legislature shall annually increase
299 the money appropriated to the State Board of Education in Section 53A-17a-104 for
300 concurrent enrollment based on:

301 (a) enrollment growth in concurrent enrollment from additional students enrolled,
302 courses offered, and credit hours taken; and

303 (b) the percentage increase in the value of the weighted pupil unit.

304 (5) The State Board of Education and the State Board of Regents shall annually report
305 to the Public Education Appropriations Subcommittee:

306 (a) an accounting of the money appropriated for concurrent enrollment; and

307 (b) a justification of the split described in Subsections (1)(a) and (b).

308 Section 6. Section **53A-17a-125** is amended to read:

309 **53A-17a-125. Appropriation for retirement and Social Security.**

310 (1) The employee's retirement contribution shall be 1% for employees who are under
311 the state's contributory retirement program.

312 (2) The employer's contribution under the state's contributory retirement program is
313 determined under Section 49-12-301, subject to the 1% contribution under Subsection (1).

314 (3) (a) The employer-employee contribution rate for employees who are under the
315 state's noncontributory retirement program is determined under Section 49-13-301.

316 (b) The same contribution rate used under Subsection (3)(a) shall be used to calculate
317 the appropriation for charter schools described under Subsection (5).

318 (4) (a) Money appropriated to the State Board of Education in Section 53A-17a-104
319 for retirement and Social Security monies shall be allocated to school districts and charter
320 schools based on a district's or charter school's total weighted pupil units compared to the total
321 weighted pupil units for all districts in the state.

322 (b) ~~[The]~~ Subject to budget constraints, monies needed to support retirement and
323 Social Security shall be determined by taking the district's prior year allocation and adjusting
324 it for:

- 325 (i) student growth;
- 326 (ii) the percentage increase in the value of the weighted pupil unit; and
- 327 (iii) the effect of any change in the rates for retirement, Social Security, or both.

328 (5) A charter school that has made an election of nonparticipation in the Utah State
329 Retirement Systems in accordance with Section 53A-1a-512 and Title 49, Utah State
330 Retirement and Insurance Benefit Act, shall use the funds described under this section for
331 retirement to provide its own compensation, benefit, and retirement programs.

332 Section 7. Section **53A-17a-127** is amended to read:

333 **53A-17a-127. Eligibility for state-supported transportation -- Approved bus**
334 **routes -- Additional local tax.**

335 (1) A student eligible for state-supported transportation means:

336 (a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles
337 from school;

338 (b) a student enrolled in grades seven through 12 who lives at least two miles from
339 school; and

340 (c) a student enrolled in a special program offered by a school district and approved by
341 the State Board of Education for trainable, motor, multiple-disabled, or other students with
342 severe disabilities who are incapable of walking to school or where it is unsafe for students to
343 walk because of their disabling condition, without reference to distance from school.

344 (2) If a school district implements double sessions as an alternative to new building
345 construction, with the approval of the State Board of Education, those affected elementary
346 school students residing less than 1-1/2 miles from school may be transported one way to or
347 from school because of safety factors relating to darkness or other hazardous conditions as
348 determined by the local school board.

349 (3) (a) The State Board of Education shall distribute transportation monies to school
350 districts based on:

351 (i) an allowance per mile for approved bus routes;

352 (ii) an allowance per hour for approved bus routes; and

353 ~~[(iii) an annual allowance for equipment and overhead costs based on approved bus
354 routes and the age of the equipment; and]~~

355 ~~[(iv)]~~ (iii) a minimum allocation for each school district eligible for transportation
356 funding.

357 (b) The State Board of Education shall distribute appropriated transportation funds
358 based on the prior year's eligible transportation costs as legally reported under Subsection
359 53A-17a-126(3).

360 ~~[(c) In order for a bus to be considered for the equipment allowance under Subsection
361 (3)(a)(iii), it must meet federal and state regulations and standards for school buses.]~~

362 ~~[(d)]~~ (c) The State Board of Education shall annually review the allowance per mile[;]
363 and the allowance per hour[~~-, and the annual equipment and overhead allowance~~] and adjust
364 the ~~[allowance]~~ allowances to reflect current economic conditions.

365 (4) (a) Approved bus routes for funding purposes shall be determined on fall data

366 collected by October 1.

367 (b) Approved route funding shall be determined on the basis of the most efficient and
368 economic routes.

369 (5) A Transportation Advisory Committee with representation from local school
370 superintendents, business officials, school district transportation supervisors, and the state
371 superintendent's staff shall serve as a review committee for addressing school transportation
372 needs, including recommended approved bus routes.

373 (6) (a) A local school board may provide for the transportation of students who are not
374 eligible under Subsection (1), regardless of the distance from school, from:

375 (i) general funds of the district; and

376 (ii) a tax rate not to exceed .0003 per dollar of taxable value imposed on the district.

377 (b) A local school board may use revenue from the tax to pay for transporting
378 participating students to interscholastic activities, night activities, and educational field trips
379 approved by the board and for the replacement of school buses.

380 (c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002,
381 the state may contribute an amount not to exceed 85% of the state average cost per mile,
382 contingent upon the Legislature appropriating funds for a state contribution.

383 (ii) The state superintendent's staff shall distribute the state contribution according to
384 rules enacted by the State Board of Education.

385 (d) (i) The amount of state guarantee money which a school district would otherwise
386 be entitled to receive under Subsection (6)(c) may not be reduced for the sole reason that the
387 district's levy is reduced as a consequence of changes in the certified tax rate under Section
388 59-2-924 due to changes in property valuation.

389 (ii) Subsection (6)(d)(i) applies for a period of two years following the change in the
390 certified tax rate.

391 Section 8. Section **53A-17a-133** is amended to read:

392 **53A-17a-133. State-supported voted leeway program authorized -- Election**
393 **requirements -- State guarantee -- Reconsideration of the program.**

394 (1) An election to consider adoption or modification of a voted leeway program is
395 required if initiative petitions signed by 10% of the number of electors who voted at the last
396 preceding general election are presented to the local school board or by action of the board.

397 (2) (a) (i) To establish a voted leeway program, a majority of the electors of a district
398 voting at an election in the manner set forth in Section 53A-16-110 must vote in favor of a
399 special tax.

400 (ii) The tax rate may not exceed .002 per dollar of taxable value.

401 (b) The district may maintain a school program which exceeds the cost of the program
402 referred to in Section 53A-17a-145 with this voted leeway.

403 (c) In order to receive state support the first year, a district must receive voter approval
404 no later than December 1 of the year prior to implementation.

405 (3) (a) Under the voted leeway program, the state shall contribute an amount sufficient
406 to guarantee [~~\$17.54~~] \$25.25 per weighted pupil unit for each .0001 of the first .0016 per
407 dollar of taxable value.

408 (b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar
409 of taxable value under Subsection (3)(a) shall apply to the board-approved leeway authorized
410 in Section 53A-17a-134, so that the guarantee shall apply up to a total of .002 per dollar of
411 taxable value if a school district levies a tax rate under both programs.

412 (c) (i) Beginning July 1, [~~2005~~] 2009, the [~~\$17.54~~] \$25.25 guarantee under
413 Subsections (3)(a) and (b) shall be indexed each year to the value of the weighted pupil unit by
414 making the value of the guarantee equal to [~~.008544~~] .009798 times the value of the prior
415 year's weighted pupil unit.

416 (ii) The guarantee shall increase by .0005 times the value of the prior year's weighted
417 pupil unit for each succeeding year until the guarantee is equal to .010544 times the value of
418 the prior year's weighted pupil unit.

419 (d) (i) The amount of state guarantee money to which a school district would
420 otherwise be entitled to under this Subsection (3) may not be reduced for the sole reason that
421 the district's levy is reduced as a consequence of changes in the certified tax rate under Section

422 59-2-924 pursuant to changes in property valuation.

423 (ii) Subsection (3)(d)(i) applies for a period of five years following any such change in
424 the certified tax rate.

425 (4) (a) An election to modify an existing voted leeway program is not a
426 reconsideration of the existing program unless the proposition submitted to the electors
427 expressly so states.

428 (b) A majority vote opposing a modification does not deprive the district of authority
429 to continue an existing program.

430 (c) If adoption of a leeway program is contingent upon an offset reducing other local
431 school board levies, the board must allow the electors, in an election, to consider modifying or
432 discontinuing the program prior to a subsequent increase in other levies that would increase
433 the total local school board levy.

434 (d) Nothing contained in this section terminates, without an election, the authority of a
435 school district to continue an existing voted leeway program previously authorized by the
436 voters.

437 (5) Notwithstanding Section 59-2-918, a school district may budget an increased
438 amount of ad valorem property tax revenue derived from a voted leeway imposed under this
439 section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without
440 having to comply with the advertisement requirements of Section 59-2-918, if:

441 (a) the voted leeway is approved:

442 (i) in accordance with Section 53A-16-110 on or after January 1, 2003; and

443 (ii) within the four-year period immediately preceding the year in which the school
444 district seeks to budget an increased amount of ad valorem property tax revenue derived from
445 the voted leeway; and

446 (b) for a voted leeway approved or modified in accordance with this section on or after
447 January 1, 2009, the school district complies with the requirements of Subsection (7).

448 (6) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this
449 section that exceeds the certified tax rate without having to comply with the advertisement

450 requirements of Section 59-2-919 if:

451 (a) the levy exceeds the certified tax rate as the result of a school district budgeting an
452 increased amount of ad valorem property tax revenue derived from a voted leeway imposed
453 under this section;

454 (b) if the voted leeway was approved:

455 (i) in accordance with Section 53A-16-110 on or after January 1, 2003; and

456 (ii) within the four-year period immediately preceding the year in which the school
457 district seeks to budget an increased amount of ad valorem property tax revenue derived from
458 the voted leeway; and

459 (c) for a voted leeway approved or modified in accordance with this section on or after
460 January 1, 2009, the school district complies with requirements of Subsection (7).

461 (7) For purposes of Subsection (5)(b) or (6)(c), the proposition submitted to the
462 electors regarding the adoption or modification of a voted leeway program shall contain the
463 following statement:

464 "A vote in favor of this tax means that (name of the school district) may increase
465 revenue from this property tax without advertising the increase for the next five years."

466 Section 9. Section **53A-17a-134** is amended to read:

467 **53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.**

468 (1) Each local school board may levy a tax rate of up to .0004 per dollar of taxable
469 value to maintain a school program above the cost of the basic school program as follows:

470 (a) a local school board shall use the monies generated by the tax for class size
471 reduction within the school district;

472 (b) if a local school board determines that the average class size in the school district
473 is not excessive, it may use the monies for other school purposes but only if the board has
474 declared the use for other school purposes in a public meeting prior to levying the tax rate; and

475 (c) a district may not use the monies for other school purposes under Subsection (1)(b)
476 until it has certified in writing that its class size needs are already being met and has identified
477 the other school purposes for which the monies will be used to the State Board of Education

478 and the state board has approved their use for other school purposes.

479 (2) (a) The state shall contribute an amount sufficient to guarantee [~~\$17.54~~] \$25.25
480 per weighted pupil unit for each .0001 per dollar of taxable value.

481 (b) The guarantee shall increase in the same manner as provided for the voted leeway
482 guarantee in Subsections 53A-17a-133(3)(c)(i) and (ii).

483 (c) (i) The amount of state guarantee money to which a school district would otherwise
484 be entitled to under this Subsection (2) may not be reduced for the sole reason that the
485 district's levy is reduced as a consequence of changes in the certified tax rate under Section
486 59-2-924 pursuant to changes in property valuation.

487 (ii) Subsection (2)(c)(i) applies for a period of five years following any such change in
488 the certified tax rate.

489 (3) The levy authorized under this section is not in addition to the maximum rate of
490 .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax
491 rate under that section.

492 (4) As an exception to Section 53A-17a-133, the board-authorized levy does not
493 require voter approval, but the board may require voter approval if requested by a majority of
494 the board.

495 (5) An election to consider disapproval of the board-authorized levy is required, if
496 within 60 days after the levy is established by the board, referendum petitions signed by the
497 number of legal voters required in Section 20A-7-301, who reside within the school district,
498 are filed with the school district.

499 (6) (a) A local school board shall establish its board-approved levy by April 1 to have
500 the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an
501 election is required under this section, the levy applies to the fiscal year beginning July 1 of
502 the next calendar year.

503 (b) The approval and disapproval votes authorized in Subsections (4) and (5) shall
504 occur at a general election in even-numbered years, except that a vote required under this
505 section in odd-numbered years shall occur at a special election held on a day in odd-numbered

506 years that corresponds to the general election date. The school district shall pay for the cost of
507 a special election.

508 (7) (a) Modification or termination of a voter-approved leeway rate authorized under
509 this section is governed by Section 53A-17a-133.

510 (b) A board-authorized leeway rate may be modified or terminated by a majority vote
511 of the board subject to disapproval procedures specified in this section.

512 (8) A board levy election does not require publication of a voter information pamphlet.
513 Section 10. Section **53A-17a-135** is amended to read:

514 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

515 (1) (a) In order to qualify for receipt of the state contribution toward the basic program
516 and as its contribution toward its costs of the basic program, each school district shall impose
517 a minimum basic tax rate per dollar of taxable value that generates [~~\$260,731,750~~]
518 \$273,950,764 in revenues statewide.

519 (b) The preliminary estimate for the [~~2008-09~~] 2009-10 minimum basic tax rate is
520 [~~:00125~~] .001303.

521 (c) The State Tax Commission shall certify on or before June 22 the rate that generates
522 [~~\$260,731,750~~] \$273,950,764 in revenues statewide.

523 (d) If the minimum basic tax rate exceeds the certified revenue levy as defined in
524 Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

525 (2) (a) The state shall contribute to each district toward the cost of the basic program
526 in the district that portion which exceeds the proceeds of the levy authorized under Subsection
527 (1).

528 (b) In accord with the state strategic plan for public education and to fulfill its
529 responsibility for the development and implementation of that plan, the Legislature instructs
530 the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in
531 each of the coming five years to develop budgets that will fully fund student enrollment
532 growth.

533 (3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the

534 cost of the basic program in a school district, no state contribution shall be made to the basic
535 program.

536 (b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of
537 the basic program shall be paid into the Uniform School Fund as provided by law.

538 Section 11. Section **53A-17a-148** is amended to read:

539 **53A-17a-148. Use of nonlapsing balances.**

540 (1) As used in this section:

541 (a) "Education entity" means a school district, charter school, or the Utah Schools for
542 the Deaf and the Blind.

543 (b) (i) "New educator" means a person who:

544 (A) is an educator as defined in Section 53A-17a-153;

545 (B) is hired by an education entity to begin teaching during the 2008-09 school year;

546 (C) did not work in this state as an educator for an education entity during the
547 2007-08 school year; and

548 (D) has never received a signing bonus in this state.

549 (ii) A new educator may include a person who is returning to education after one or
550 more years of interrupted service.

551 (2) The State Board of Education may use Minimum School Program nonlapsing
552 balances to restore special education funding as follows:

553 (a) up to \$902,538 is authorized in fiscal year 2005-06; and

554 (b) up to \$902,538 is authorized in fiscal year 2006-07.

555 (3) The State Board of Education shall ~~[use]~~ allocate \$5,000,000 of Minimum School
556 Program nonlapsing balances in fiscal year 2008-09 ~~[as follows: (a) \$5,000,000 shall be~~
557 ~~allocated]~~ to education entities to provide one-time signing bonuses for new educators as
558 provided under Subsection (4), including money for the following employer-paid benefits:

559 ~~[(i)]~~ (a) retirement;

560 ~~[(ii)]~~ (b) workers' compensation;

561 ~~[(iii)]~~ (c) Social Security; and

562 ~~[(iv)] (d) Medicare[; and].~~

563 ~~[(b) \$20,000,000 shall be allocated to education entities to provide one-time~~
564 ~~performance-based compensation as provided under Subsection (5).]~~

565 (4) (a) Subject to the availability of funding, education entities shall provide a
566 one-time signing bonus of \$1,000 to a new educator.

567 (b) If the total cost of bonuses and employer-paid benefits under Subsection (4)(a) for
568 all education entities exceeds \$5,000,000, all bonuses shall be reduced pro rata so that the total
569 cost does not exceed \$5,000,000.

570 (c) To qualify for a bonus, a new educator shall:

571 (i) be hired prior to October 1, 2008; and

572 (ii) work for at least 90 days for the education entity.

573 ~~[(5) (a) The \$20,000,000 for performance-based compensation shall be allocated to~~
574 ~~qualifying education entities on a per pupil basis.]~~

575 ~~[(b) (i) To receive an allocation under Subsection (5)(a), an education entity shall:]~~

576 ~~[(A) submit, prior to July 1, 2008, a written performance-based compensation plan to~~
577 ~~the State Board of Education that conforms to guidelines established by the State Board of~~
578 ~~Education in rule; and]~~

579 ~~[(B) receive approval of the plan by the State Board of Education.]~~

580 ~~[(ii) The performance-based compensation plan shall provide specific information~~
581 ~~about how the education entity intends to spend its allocation, including:]~~

582 ~~[(A) who is eligible for the performance-based compensation;]~~

583 ~~[(B) criteria for awarding performance-based compensation;]~~

584 ~~[(C) the instruments or assessments that may be used to measure or evaluate~~
585 ~~performance;]~~

586 ~~[(D) the amount of performance-based compensation that may be awarded; and]~~

587 ~~[(E) whether the performance-based compensation will be based on individual, team,~~
588 ~~or school-based performance, or a combination of those.]~~

589 ~~[(iii) The State Board of Education shall send the approved plans to the Executive~~

590 Appropriations Committee and the Education Interim Committee by August 1, 2008 for
591 review and comment.]

592 [~~(c) (i) An education entity shall award performance-based compensation from monies~~
593 ~~distributed under this section for employee performance during the 2008-09 school year.~~]

594 [~~(ii) Performance-based compensation monies may only be used in accordance with an~~
595 ~~education entity's performance-based compensation plan.~~]

596 [~~(iii) If an education entity uses performance-based compensation monies for purposes~~
597 ~~other than those stated in this Subsection (5) and its performance-based compensation plan,~~
598 ~~the education entity shall reimburse the monies that were improperly used.~~]

599 [~~(d) An education entity that awards performance-based compensation from monies~~
600 ~~distributed under this section shall report the following information to the Executive~~
601 ~~Appropriations Committee by June 30, 2009:~~]

602 [~~(i) the number of employees who received performance-based compensation;~~]

603 [~~(ii) the total number of employees;~~]

604 [~~(iii) the average performance-based compensation awarded to employees; and]~~

605 [~~(iv) the maximum performance-based compensation awarded to an employee.~~]

606 [~~(6)~~ (5) The State Board of Education may make rules as necessary to administer this
607 section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

608 Section 12. Section **53A-21-501** is amended to read:

609 **53A-21-501. State contribution to capital outlay programs.**

610 (1) As an ongoing appropriation subject to future budget constraints, there is
611 appropriated from the Uniform School Fund for fiscal year [~~2008-09, \$27,288,900~~] 2009-10,
612 \$22,499,700 to the State Board of Education for the capital outlay programs created in this
613 chapter.

614 (2) Of the monies appropriated in Subsection (1), the State Board of Education shall
615 distribute:

616 (a) [~~\$24,358,000~~] \$19,568,800 in accordance with the Capital Outlay Foundation
617 Program pursuant to Section 53A-21-202; and

618 (b) \$2,930,900 in accordance with the Capital Outlay Enrollment Growth Program
619 pursuant to Section 53A-21-302.

620 Section 13. **One-time appropriations for fiscal year 2009-10.**

621 (1) There is appropriated from the Uniform School Fund to the State Board of
622 Education for fiscal year 2009-10 only:

623 (a) \$75,597,800 for Social Security and retirement as provided in Section
624 53A-17a-125; and

625 (b) \$750,000 for critical language and dual immersion pilot programs as provided in
626 Sections 53A-15-104 and 53A-15-105.

627 (2) There is appropriated from Federal Funds - American Recovery and Reinvestment
628 Act (H.R. 1, 111th Congress) to the State Board of Education for fiscal year 2009-10 only,
629 \$207,176,000 for Social Security and retirement as provided in Section 53A-17a-125.

630 Section 14. **One-time appropriation for classroom supplies.**

631 (1) There is appropriated from the Uniform School Fund to the State Board of
632 Education for fiscal year 2009-10 only, \$10,000,000 for classroom supplies and materials.

633 (2) (a) Of the amount appropriated in Subsection (1), the board shall distribute
634 \$7,500,000 to classroom teachers in school districts, the Utah Schools for the Deaf and the
635 Blind, and charter schools on the basis of the number of classroom teachers in each school as
636 compared to the total number of classroom teachers.

637 (b) Teachers shall receive up to the following amounts:

638 (i) a teacher on salary schedule steps one through three teaching in grades
639 kindergarten through six or preschool handicapped - \$360;

640 (ii) a teacher on salary schedule steps one through three teaching in grades seven
641 through twelve - \$310;

642 (iii) a teacher on salary schedule step four or higher teaching in grades kindergarten
643 through six or preschool handicapped - \$285; and

644 (iv) a teacher on salary schedule step four or higher teaching in grades seven through
645 twelve - \$235.

646 (c) If the appropriation in Subsection (1) is not sufficient to provide to each teacher
647 the full amount allowing under Subsection (2)(b), teachers on salary schedule steps one
648 through three shall receive the full amount allowed with the remaining monies apportioned to
649 all other teachers.

650 (3) (a) Of the amount appropriated in Subsection (1), the State Board of Education
651 shall distribute \$2,500,000 for classroom supplies and materials in accordance with a
652 distribution formula established by rule.

653 (b) The State Board of Education shall make rules in accordance with Subsections
654 (3)(c) and (d) and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the
655 distribution of the \$2,500,000.

656 (c) The rules shall give priority to teachers in any grade in the first year of teaching in
657 the awarding of the monies.

658 (d) The rules may allow the monies to be distributed to teachers in any grade in the
659 second through fifth year of teaching.

660 (4) Teachers shall spend the money appropriated in Subsection (1) for school supplies,
661 materials, or field trips under rules adopted by the State Board of Education.

662 (5) As used in this section, "classroom teacher" or "teacher" means permanent teacher
663 positions filled by one teacher or two or more job-sharing teachers:

664 (a) who are licensed personnel;

665 (b) who are paid on the teacher's salary schedule;

666 (c) who are hired for an entire contract period; and

667 (d) whose primary function is to provide instructional or a combination of
668 instructional and counseling services to students in public schools.

669 **Section 15. One-time appropriations for fiscal year 2008-09.**

670 (1) There is appropriated from the Uniform School Fund to the State Board of
671 Education for fiscal year 2008-09 only:

672 (a) \$11,016,400 for the contribution of the state toward the cost of the minimum
673 school program as provided in Subsection 53A-17a-104(1);

674 (b) (\$91,200,000) for the offset of the ongoing locally determined reduction as
675 provided in Subsection (1) of Uncodified Section 5, Appropriation, in 2009 General Session,
676 S.B. 4, Current School Year Supplemental Minimum School Program Budget Adjustments;

677 (c) \$1,585,900 for the Capital Outlay Foundation Program for allocation pursuant to
678 Section 53A-21-202;

679 (d) \$1,585,800 for the Capital Outlay Enrollment Growth Program for allocation
680 pursuant to Section 53A-21-302; and

681 (e) (\$3,983,600) for educator salary adjustments as provided in Section 53A-17a-153.

682 (2) There is appropriated from Federal Funds - American Recovery and Reinvestment
683 Act (H.R. 1, 111th Congress) to the State Board of Education for fiscal year 2008-09 only,
684 \$91,200,000.

685 **Section 16. Ongoing appropriation.**

686 As an ongoing appropriation subject to future budget constraints, there is appropriated
687 from the Uniform School Fund for fiscal year 2009-10, \$580,000 to the State Board of
688 Education to fund salary adjustments for educators at the Utah Schools for the Deaf and the
689 Blind as provided in Section 53A-25-111 or Section 53A-25b-402.

690 **Section 17. Effective date.**

691 This bill takes effect on July 1, 2009, except that Section 53A-1a-513 takes effect on
692 May 12, 2009.

693 **Section 18. Coordinating H.B. 2 with S.B. 4 -- Superseding and substantive**
694 **amendments.**

695 If this H.B. 2 and S.B. 4, Current School Year Supplemental Minimum School
696 Program Budget Adjustments, both pass, it is the intent of the Legislature that when the Office
697 of Legislative Research and General Counsel prepares the Utah Code database for publication,
698 effective July 1, 2009:

699 (1) the amendments to Subsection 53A-17a-104(1) in this H.B. 2 shall replace the
700 amendments to Subsection 53A-17a-104(1) in S.B. 4;

701 (2) Subsection 53A-17a-104(2)(q) in S.B. 4 shall be deleted;

- 702 (3) Subsection 53A-17a-104(2)(gg) in S.B. 4 shall be renumbered and read as follows:
703 "(dd) educator salary adjustments, \$148,260,200;"
704 (4) the word "and" in Subsection 53A-17a-104(2)(oo) in S.B. 4 shall be reinserted;
705 (5) the amendment to Subsection 53A-17a-104(2)(pp) in S.B. 4 shall be deleted; and
706 (6) Subsection 53A-17a-104(qq) in S.B. 4 shall be deleted.