

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 \$2,138,232,586;
- 15 ▶ appropriates \$22,499,700 to the State Board of Education for fiscal year 2009-10 for
- 16 school building aid programs for school districts;
- 17 ▶ prohibits the expansion of charter school capacity in the 2010-11 school year;
- 18 ▶ modifies the weighting of kindergarten students for the purpose of distributing
- 19 school district funds and state funds to charter schools;
- 20 ▶ modifies the district administrative cost formula;
- 21 ▶ makes one-time appropriations for fiscal year 2009-10; and
- 22 ▶ makes one-time appropriations for fiscal year 2008-09.

23 **Monies Appropriated in this Bill:**

24 This bill appropriates:

- 25 ▶ the following Minimum School Program monies:
- 26 • \$2,031,884,786 from the Uniform School Fund for fiscal year 2009-10;
- 27 • \$20,000,000 from the Uniform School Fund Restricted - Interest and Dividends



- 28 Account for fiscal year 2009-10;
- 29 • \$86,347,800 from the Uniform School Fund for fiscal year 2009-10 only;
- 30 • (\$84,167,200) from the Uniform School Fund for fiscal year 2008-09 only;
- 31 • \$207,176,000 from Federal Funds - American Recovery and Reinvestment Act
- 32 (H.R. 1, 111th Congress) for fiscal year 2009-10 only; and
- 33 • \$91,200,000 from Federal Funds - American Recovery and Reinvestment Act
- 34 (H.R. 1, 111th Congress) for fiscal year 2008-09 only; and
- 35 ▶ the following School Building Program monies:
- 36 • \$22,499,700 from the Uniform School Fund for fiscal year 2009-10; and
- 37 • \$3,171,700 from the Uniform School Fund for fiscal year 2008-09 only.

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



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]~~ Except as provided in Subsection (2), the State Charter School Board and
62 local school boards may only authorize a 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) For the 2010-11 school year, the State Charter School Board and local school
68 boards may not:

69 (a) authorize an increase in student capacity for charter schools pursuant to Subsection
70 (1)(b); or

71 (b) transfer unused student capacity from one charter school to another.

72 ~~[(2)]~~ (3) (a) The State Board of Education, in consultation with the State Charter
73 School Board, shall allocate the students under Subsection (1) between the State Charter
74 School Board and local school boards.

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

77 (c) If the operating charter schools do not use the allocation described under
78 Subsection ~~[(2)]~~ (3)(b), the remaining student capacity may be used by new charter schools.

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

80 **53A-1a-513. Funding for charter schools.**

81 (1) As used in this section:

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

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

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

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

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

- 93 (i) calculate the sum of a school district's revenue received from:
94 (A) a voted levy imposed under Section 53A-17a-133;
95 (B) a board levy imposed under Section 53A-17a-134;
96 (C) 10% of the cost of the basic program levy imposed under Section 53A-17a-145;
97 (D) a tort liability levy imposed under Section 63G-7-704;
98 (E) a capital outlay levy imposed under Section 53A-16-107; and
99 (F) a voted capital outlay levy imposed under Section 53A-16-110; and
100 (ii) divide the sum calculated under Subsection (1)(b)(i) by the sum of:
101 (A) a school district's average daily membership; and
102 (B) the average daily membership of a school district's resident students who attend
103 charter schools.

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

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

- 108 (i) sum the revenues of each school district from the debt service levy imposed under
109 Section 11-14-310; and
110 (ii) divide the sum calculated under Subsection (1)(d)(i) by statewide school district
111 average daily membership.

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

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

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

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

- 121 (i) .55 for kindergarten pupils;
- 122 (ii) .9 for pupils in grades 1-6;
- 123 (iii) .99 for pupils in grades 7-8; and
- 124 (iv) 1.2 for pupils in grades 9-12.
- 125 (4) (a) (i) [~~Except as provided in Subsection (4)(a)(ii), a~~] A school district shall
- 126 allocate a portion of school district revenues for each resident student of the school district who
- 127 is enrolled in a charter school on October 1 equal to 25% of the lesser of:
- 128 (A) district per pupil local revenues; or
- 129 (B) charter school students' average local revenues.
- 130 [~~(ii) For the purpose of allocating school district revenues under Subsection (4)(a)(i), a~~
- 131 ~~kindergarten student who is enrolled in less than a full-day kindergarten program is weighted as~~
- 132 ~~.55 of a student.]~~
- 133 [~~(iii)~~] (ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program
- 134 established under Chapter 28, Utah School Bond Guaranty Act.
- 135 (b) The State Board of Education shall:
- 136 (i) deduct an amount equal to the allocation provided under Subsection (4)(a) from
- 137 state funds the school district is authorized to receive under Title 53A, Chapter 17a, Minimum
- 138 School Program Act; and
- 139 (ii) remit the money to the student's charter school.
- 140 (c) Notwithstanding the method used to transfer school district revenues to charter
- 141 schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter
- 142 schools under this section from:
- 143 (i) unrestricted revenues available to the school district; or
- 144 (ii) the revenue sources listed in Subsections (1)(b)(i)(A) through (F) based on the
- 145 portion of the allocations to charter schools attributed to each of the revenue sources listed in
- 146 Subsections (1)(b)(i)(A) through (F).
- 147 (d) (i) Subject to future budget constraints, the Legislature shall provide an
- 148 appropriation for charter schools for each student enrolled on October 1 to supplement the
- 149 allocation of school district revenues under Subsection (4)(a).
- 150 (ii) Except as provided in Subsections (4)(d)(iii) and (iv), the amount of money
- 151 provided by the state for a charter school student shall be the sum of:

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

154 (B) statewide average debt service revenues.

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

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

162 (iv) Potential budget constraints in fiscal year 2010-11 may prevent full funding of the
163 appropriation for charter schools to supplement school district tax revenues as provided in this
164 Subsection (4)(d). In that case, a charter school's allocation of state funds under this
165 Subsection (4)(d) may be based on the charter school's enrollment as of October 1, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

198 **53A-17a-104. Amount of state's contribution toward minimum school program.**

199 (1) The total contribution of the state toward the cost of the minimum school program
200 may not exceed the sum of [~~\$2,497,012,086~~] \$2,138,232,586 for the fiscal year beginning July
201 1, [~~2008~~] 2009, except as otherwise provided by the Legislature through supplemental
202 appropriations.

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

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

208 (b) basic program - grades 1-12, [~~\$1,258,253,751 (488,263 WPU's)~~] \$1,291,316,661
209 (501,093 WPU's);

210 (c) basic program - professional staff, [~~\$116,307,741 (45,133 WPU's)~~] \$118,627,041
211 (46,033 WPU's);

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

213 (e) basic program - necessarily existent small schools and units for consolidated

214 schools, \$19,711,473 (7,649 WPU)s);

215 (f) special education - regular program - add-on WPU)s for students with disabilities,

216 [~~\$155,789,958 (60,454 WPU)s~~] \$160,029,123 (62,099 WPU)s;

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

218 (8,779 WPU)s;

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

220 WPU)s;

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

222 (385 WPU)s;

223 (j) special education programs in state institutions and district impact aid, [~~\$4,293,282~~

224 ~~(1,666 WPU)s~~] \$4,398,939 (1,707 WPU)s;

225 (k) career and technical education district programs, [~~\$67,530,285 (26,205 WPU)s~~]

226 \$68,656,434 (26,642 WPU)s, including [~~\$1,154,458~~] \$1,174,084 for summer career and

227 technical education agriculture programs;

228 [~~(l) career and technical education district set-aside, \$2,878,509 (1,117 WPU)s~~];

229 [~~(m)~~] (l) class size reduction, [~~\$88,373,061 (34,293 WPU)s~~] \$90,537,741 (35,133

230 WPU)s;

231 [~~(n)~~] (m) Social Security and retirement programs, [~~\$349,906,049~~] \$13,987,831;

232 [~~(o)~~] (n) pupil transportation to and from school, [~~\$74,446,865~~] \$65,646,865, of which

233 not less than \$2,584,435 shall be allocated to the Utah Schools for the Deaf and Blind to pay

234 for transportation costs of the schools' students;

235 [~~(p)~~] (o) guarantee transportation levy, \$500,000;

236 [~~(q) Local Discretionary Block Grant Program, \$21,820,748~~];

237 [~~(r)~~] (p) Interventions for Student Success Block Grant Program, [~~\$18,844,111~~]

238 \$15,000,000;

239 [~~(s) Quality Teaching Block Grant Program, \$77,615,641~~];

240 [~~(t)~~] (q) highly impacted schools, [~~\$5,123,207~~] \$4,610,907;

241 [~~(u)~~] (r) at-risk programs, [~~\$31,411,241~~] \$28,270,141;

242 [~~(v)~~] (s) adult education, [~~\$10,266,146~~] \$9,266,146;

243 [~~(w)~~] (t) accelerated learning programs, [~~\$4,295,581~~] \$3,566,081;

244 [~~(x)~~] (u) concurrent enrollment, [~~\$9,672,586~~] \$8,705,286;

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

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

282 (3) Charter schools are not eligible for funds for administrative costs under Subsection
283 (1).

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

285 **53A-17a-120.5. Appropriation for concurrent enrollment.**

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

288 (a) 60% of the monies shall be allocated to local school boards and charter schools; 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 participating
291 in the concurrent enrollment programs offered under Section 53A-15-101 shall receive an
292 allocation from the monies described in Subsection (1)(a) as provided in Section 53A-15-101.

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

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

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

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

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

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

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

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

308 **53A-17a-125. Appropriation for retirement and Social Security.**

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

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

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

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

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

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

324 (i) student growth;

325 (ii) the percentage increase in the value of the weighted pupil unit; and

326 (iii) the effect of any change in the rates for retirement, Social Security, or both.

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

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

332 **53A-17a-127. Eligibility for state-supported transportation -- Approved bus**
333 **routes -- Additional local tax.**

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

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

337 (b) a student enrolled in grades seven through 12 who lives at least two miles from

338 school; and

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

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

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

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

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

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

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

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

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

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

364 (4) (a) Approved bus routes for funding purposes shall be determined on fall data
365 collected by October 1.

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

368 (5) A Transportation Advisory Committee with representation from local school

369 superintendents, business officials, school district transportation supervisors, and the state
370 superintendent's staff shall serve as a review committee for addressing school transportation
371 needs, including recommended approved bus routes.

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

374 (i) general funds of the district; and

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

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

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

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

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

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

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

391 **53A-17a-133. State-supported voted leeway program authorized -- Election**
392 **requirements -- State guarantee -- Reconsideration of the program.**

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

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

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

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

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

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

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

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

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

418 (d) (i) The amount of state guarantee money to which a school district would otherwise
419 be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's
420 levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924
421 pursuant to changes in property valuation.

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

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

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

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

431 total local school board levy.

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

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

439 (a) the voted leeway is approved:

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

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

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

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

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

452 (b) if the voted leeway was approved:

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

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

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

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

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

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

465 **53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.**

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

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

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

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

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

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

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

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

487 (3) The levy authorized under this section is not in addition to the maximum rate of
488 .002 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax
489 rate under that section.

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

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

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

501 (b) The approval and disapproval votes authorized in Subsections (4) and (5) shall
502 occur at a general election in even-numbered years, except that a vote required under this
503 section in odd-numbered years shall occur at a special election held on a day in odd-numbered
504 years that corresponds to the general election date. The school district shall pay for the cost of
505 a special election.

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

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

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

512 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

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

517 (b) The preliminary estimate for the [~~2008-09~~] 2009-10 minimum basic tax rate is
518 [~~.00125~~] .001303.

519 (c) The State Tax Commission shall certify on or before June 22 the rate that generates
520 [~~\$260,731,750~~] \$273,950,764 in revenues statewide.

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

523 (2) (a) The state shall contribute to each district toward the cost of the basic program in

524 the district that portion which exceeds the proceeds of the levy authorized under Subsection
525 (1).

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

530 (3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the
531 cost of the basic program in a school district, no state contribution shall be made to the basic
532 program.

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

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

536 **53A-17a-148. Use of nonlapsing balances.**

537 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

552 (3) The State Board of Education shall ~~[use]~~ allocate \$5,000,000 of Minimum School
553 Program nonlapsing balances in fiscal year 2008-09 ~~[as follows: (a) \$5,000,000 shall be~~
554 ~~allocated]~~ to education entities to provide one-time signing bonuses for new educators as

555 provided under Subsection (4), including money for the following employer-paid benefits:

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

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

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

559 [~~(iv)~~] (d) Medicare~~[-and]~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

586 ~~[(iii) The State Board of Education shall send the approved plans to the Executive~~
587 ~~Appropriations Committee and the Education Interim Committee by August 1, 2008 for review~~
588 ~~and comment.]~~

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

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

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

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

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

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

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

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

603 ~~[(6)]~~ (5) The State Board of Education may make rules as necessary to administer this
604 section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

606 **53A-21-501. State contribution to capital outlay programs.**

607 (1) As an ongoing appropriation subject to future budget constraints, there is
608 appropriated from the Uniform School Fund for fiscal year ~~[2008-09, \$27,288,900]~~ 2009-10,
609 \$22,499,700 to the State Board of Education for the capital outlay programs created in this
610 chapter.

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

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

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

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

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

620 (a) \$75,597,800 for Social Security and retirement as provided in Section
621 53A-17a-125; and

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

624 (2) There is appropriated from Federal Funds - American Recovery and Reinvestment
625 Act (H.R. 1, 111th Congress) to the State Board of Education for fiscal year 2009-10 only,
626 \$207,176,000 for Social Security and retirement as provided in Section 53A-17a-125.

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

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

630 (2) (a) Of the amount appropriated in Subsection (1), the board shall distribute
631 \$7,500,000 to classroom teachers in school districts, the Utah Schools for the Deaf and the
632 Blind, and charter schools on the basis of the number of classroom teachers in each school as
633 compared to the total number of classroom teachers.

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

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

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

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

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

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

647 (3) (a) Of the amount appropriated in Subsection (1), the State Board of Education

648 shall distribute \$2,500,000 for classroom supplies and materials in accordance with a
649 distribution formula established by rule.

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

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

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

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

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

661 (a) who are licensed personnel;

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

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

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

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

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

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

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

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

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

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

679 (2) There is appropriated from Federal Funds - American Recovery and Reinvestment
680 Act (H.R. 1, 111th Congress) to the State Board of Education for fiscal year 2008-09 only,
681 \$91,200,000.

682 Section 16. **Effective date.**

683 This bill takes effect on July 1, 2009, except, if approved by two-thirds of all the
684 members elected to each house, Uncodified Section 15, One-time appropriations for fiscal year
685 2008-09, takes effect upon approval by the governor, or the day following the constitutional
686 time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in
687 the case of a veto, the date of veto override.

688 Section 17. **Coordinating H.B. 2 with S.B. 4 -- Superseding and substantive**
689 **amendments.**

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

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

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

697 (3) Subsection 53A-17a-104(2)(gg) in S.B. 4 shall be renumbered and read as follows:
698 "(dd) educator salary adjustments, \$148,260,200;"

699 (4) the word "and" in Subsection 53A-17a-104(2)(oo) in S.B. 4 shall be reinserted;

700 (5) the amendment to Subsection 53A-17a-104(2)(pp) in S.B. 4 shall be deleted; and

701 (6) Subsection 53A-17a-104(qq) in S.B. 4 shall be deleted.

Legislative Review Note
as of 3-9-09 3:46 PM

Office of Legislative Research and General Counsel

H.B. 2 - Minimum School Program Budget Amendments

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill appropriates \$2,054,384,486 in ongoing Uniform School Funds, \$86,347,800 in one-time Uniform School Funds, \$20,000,000 in ongoing Uniform School Fund Restricted - Interest and Dividends, and \$207,176,000 in one-time American Recovery and Reinvestment Act monies to the Minimum School Program for FY 2010. As a supplemental appropriation in FY 2009, enactment of this bill appropriates (\$84,167,200) in one-time Uniform School Funds, \$91,200,000 in one-time American Recovery and Reinvestment Act monies to the Minimum School Program. As a supplemental appropriation in FY 2009, enactment of this bill appropriates \$3,171,700 in one-time Uniform School Funds to the Capital Outlay Foundation and Capital Outlay Enrollment Growth Programs. Enactment of this bill provides for a total Minimum School Budget of approximately \$2.9 billion in FY 2010 and the Weighted Pupil Unit value remains at \$2,577 per WPU.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Uniform School Fund	\$0	\$2,054,384,486	\$2,054,384,486	\$0	\$0	\$0
Uniform School Fund, One-time	(\$80,995,500)	\$86,347,800	\$0	\$0	\$0	\$0
Uniform School Fund Restricted	\$0	\$20,000,000	\$20,000,000	\$0	\$0	\$0
Federal Funds	\$91,200,000	\$207,176,000	\$0	\$0	\$0	\$0
Total	\$10,204,500	\$2,367,908,286	\$2,074,384,486	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill increases or decreases funding for programs within the Minimum School Program and School Building Programs that is distributed to support the operation of public schools. School districts and charter schools may see a change in their state fund allocations based on their individual level of participation in programs being increased or decreased. Individuals and businesses may also be impacted through their associated dealings with school districts and charter schools, the extent of which is dependent on the overall impact to each school district or charter school.