

SCHOOL DISTRICT DIVISION AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Laura Black

Senate Sponsor: Howard A. Stephenson

LONG TITLE

Committee Note:

The Education Interim Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53A-2-118**, as last amended by Laws of Utah 2009, Chapter 350

31 **53A-2-118.1**, as last amended by Laws of Utah 2009, Chapter 350

32 **53A-2-119**, as last amended by Laws of Utah 2007, Chapter 215



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

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

36 **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**
37 **to be followed.**

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

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

41 (i) through a citizens' initiative petition;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

100 (b) The advisory committee shall:

101 (i) seek input from:

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

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

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

106 (D) the State Board of Education; and

107 (E) other interested parties;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

135 (f) Each county legislative body shall comply with the requirements of Section
136 53A-2-101.5.

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

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

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

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

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

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

152 (A) each county legislative body shall comply with the requirements of Section
153 53A-2-101.5; and

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

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

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

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

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

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

167 **53A-2-118.1. Option for school district creation.**

168 (1) (a) After conducting a feasibility study, a city with a population of at least 50,000,
169 as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3),
170 may by majority vote of the legislative body, submit for voter approval a measure to create a
171 new school district with boundaries contiguous with that city's boundaries, in accordance with
172 Section 53A-2-118.

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

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

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

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

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

183 of submitting for voter approval a measure to create a new school district.

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

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

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

190 (C) the new school district boundaries:

191 (I) are contiguous;

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

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

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

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

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

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

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

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

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

213 (A) a municipality located in more than one county and entirely within the boundaries

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

245 the other interlocal agreement participants.

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

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

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

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

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

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

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

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

266 (II) The isolated area shall, on July 1 of the second calendar year following the
267 [creation] school board general election date described in Subsection (3)(a)(i), become part of
268 the municipality's school district.

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

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

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

275 (Cc) require each of the three transition teams to appoint one member to the

276 three-member arbitration panel, if an arbitration panel is established; and

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

278 (IV) The existing district shall continue to provide educational services to the isolated
279 area until July 1 of the second calendar year following the ~~[creation]~~ school board general
280 election date described in Subsection (3)(a)(i).

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

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

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

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

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

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

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

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

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

296 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
297 53A-2-122;

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

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

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

306 (B) the school district in which the secondary school is located shall provide

307 educational services, including, if provided before the creation of the new school district,
308 busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school
309 year for which the individual makes the election; and

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

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

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

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

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

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

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

338 [(iii)] (iv) A person may simultaneously serve as or be elected to be a member of the
339 board of an existing district and a member of the board of:

340 (A) a new district; or

341 (B) a remaining district.

342 [~~(e) If two or more members of an existing school district board reside within the same
343 local school board district, as established by the county legislative body under Section
344 20A-14-201, of the new district or remaining district:]~~

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

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

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

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

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

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

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

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

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

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

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

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

367 (B) liabilities; and

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

369 (c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to
 370 Subsection (4)(c)(iii):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

400 (ii) Subject to Subsection (4)(c)(iii), all property, assets, and liabilities that the existing
401 district owns on the allocation date, both tangible and intangible, real and personal, shall be
402 allocated between the remaining district and the new district in a way that is fair and equitable
403 to both the remaining district and the new district, taking into account:

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

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

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

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

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

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

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

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

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

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

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

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

430 (ii) Each transition team shall, no later than September 1 of the year after the creation

431 election date, appoint one qualified, independent arbitrator to an arbitration panel under this
432 Subsection (4)(d), and those two arbitrators shall, within 15 days after their appointment,
433 appoint a third qualified, independent arbitrator.

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

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

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

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

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

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

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

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

453 (A) transition team costs and expenses; and

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

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

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

458 (A) costs and expenses incurred by a new district in order to prepare to begin providing
459 educational services on July 1 of the second calendar year following the [creation] school board
460 general election date described in Subsection (3)(a)(i); and

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

462 (ii) "Remaining district startup costs" means:
463 (A) costs and expenses incurred by a remaining district in order to:
464 (I) make necessary adjustments to deal with the impacts resulting from the creation of
465 the new district; and
466 (II) prepare to provide educational services within the remaining district once the new
467 district begins providing educational services within the new district; and
468 (B) the costs and expenses of the transition team that represents the remaining district.
469 (b) (i) By ~~July 25~~ January 1 of the year following the ~~creation~~ school board general
470 election date described in Subsection (3)(a)(i), the existing district shall make half of the
471 undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use
472 of the remaining district and the new district, as provided in this Subsection (5).
473 (ii) The existing district may make additional funds available for the use of the
474 remaining district and the new district beyond the amount specified in Subsection (5)(b)(i)
475 through an interlocal agreement.
476 (c) The existing district shall make the money under Subsection (5)(b) available to the
477 remaining district and the new district proportionately based on student population.
478 (d) The money made available under Subsection (5)(b) may be accessed and spent by:
479 (i) for the remaining district, the school district board of the remaining district; and
480 (ii) for the new district, the school district board of the new district.
481 (e) (i) The remaining district may use its portion of the money made available under
482 Subsection (5)(b) to pay for remaining district startup costs.
483 (ii) The new district may use its portion of the money made available under Subsection
484 (5)(b) to pay for new district startup costs.
485 (6) (a) The existing district shall transfer title or, if applicable, partial title of property
486 to the new school district in accordance with the allocation of property by:
487 (i) the transition teams, as stated in the report under Subsection (4)(c)(i)(A)(II); and
488 (ii) the arbitration panel, if applicable.
489 (b) The existing district shall complete each transfer of title or, if applicable, partial
490 title to real property and vehicles by July 1 of the second calendar year following the ~~creation~~
491 school board general election date described in Subsection (3)(a)(i), except as that date is
492 changed by the mutual agreement of:

- 493 (i) the school district board of the existing district;
 494 (ii) the school district board of the remaining district; and
 495 (iii) the school district board of the new district.

496 (c) The existing district shall complete the transfer of all property not included in
 497 Subsection (6)(b) by November 1 of the second calendar year after the ~~[creation]~~ school board
 498 general election date described in Subsection (3)(a)(i).

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

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

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

506 ~~[(ii)]~~ (b) the legislative bodies of all interlocal agreement participants, for each other
 507 new district~~;~~~~or~~.

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

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

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

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

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

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

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

520 **53A-2-119. Reapportionment -- Local school board membership.**

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

523 (2) Except as provided in ~~[Subsections (3) and]~~ Section 53A-2-118.1~~[(3)(e)]~~, school

524 board membership in the affected school districts shall be determined under Title 20A, Chapter
525 14, Part 2, Nomination and Election of Members of Local Boards of Education.

526 ~~[(3) (a) Subsection (3)(b) does not apply to a new school district created under Section~~
527 ~~53A-2-118.1.]~~

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

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

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

Legislative Review Note
as of 10-26-09 10:19 AM

Office of Legislative Research and General Counsel

H.B. 29 - School District Division Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
