

HB0093S01 compared with HB0093

~~text~~ shows text that was in HB0093 but was deleted in HB0093S01.

inserted text shows text that was not in HB0093 but was inserted into HB0093S01.

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Representative Craig Hall proposes the following substitute bill:

SCHOOL DISTRICT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends certain provisions related to the creation of a new school district.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that under certain circumstances, a qualifying city or interlocal agreement participant may not submit for voter approval a measure to create a new school district if the results of a feasibility study show that the five-year projected average annual revenue of the proposed new school district exceeds the five-year projected average annual cost of the proposed new school district by more than 5%; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

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None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-2-117, as last amended by Laws of Utah 2011, Chapters 300 and 369

53A-2-118, as last amended by Laws of Utah 2010, Chapter 230

53A-2-118.1, as last amended by Laws of Utah 2011, Chapter 300

53A-2-120, as last amended by Laws of Utah 2011, Chapter 295

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

Section 1. Section **53A-2-117** is amended to read:

53A-2-117. Definitions.

As used in Sections 53A-2-117 through 53A-2-122, except Section 53A-2-118.4:

(1) "Allocation date" means:

(a) June 30 of the second calendar year after the local school board general election date described in Subsection 53A-2-118.1~~[(3)]~~(5)(a)(i); or

(b) another date that the transition teams under Section 53A-2-118.1 mutually agree to.

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

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

(4) "Divided school district, "existing district," or "existing school district" means a school district from which a new district is created.

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

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

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

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

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

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

(i) through a citizens' initiative petition;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The advisory committee shall:

(i) seek input from:

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

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

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

(D) the State Board of Education; and

(E) other interested parties;

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

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

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

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

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

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

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

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

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

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

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

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

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

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election under Title 20A, Election Code; and

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

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

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

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

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

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

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

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

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

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

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

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

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the school board

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general election date described in Subsection 53A-2-118.1~~[(3)]~~(5)(a)(i);

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

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

Section 3. Section **53A-2-118.1** is amended to read:

53A-2-118.1. Proposal initiated by a city or interlocal agreement participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1) As used in this section a "qualifying city" means a city with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3).

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

(b) Prior to submitting for voter approval a ~~{measure}~~ proposal to create a new school district, a qualifying city shall conduct a feasibility study in accordance with Subsection (4).

(c) ~~{A}~~ Except as provided in Subsection (2)(d), a qualifying city may not submit for voter approval a ~~{measure}~~ proposal to create a new school district if the results of a feasibility study described in Subsection (2)(b) show that the five-year projected average annual revenue calculated under Subsection (4)(a) exceeds the five-year projected average annual cost under Subsection (4)(b) by more than 5%.

(d) Subsection (2)(c) does not apply to a proposal submitted by a qualifying city if the qualifying city has entered into an interlocal cooperation agreement:

(i) (A) with the existing school district and all municipalities within the existing school district regarding mutual goals for the governance of the school district; and

(B) in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) on or before January 1, 2016.

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~~[(b)]~~ ~~(f)(e)~~ (i) ~~[The]~~ Subject to Subsections (2)(c) and (4), the determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study ~~[under Subsection (1)(a)]~~ is within the exclusive discretion of the city's legislative body.

(ii) An inadequacy of a feasibility study under Subsection ~~[(1)(a)]~~ (4) may not be the basis of a legal action or other challenge to:

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

(B) the creation of the new school district.

~~[(2)]~~ (3) (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a [measure] proposal to create a new school district.

(b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under Subsection ~~[(2)]~~ (3)(a) may submit a proposal for voter approval if:

(A) the interlocal agreement participants conduct a feasibility study, in accordance with Subsection (4), prior to submitting the proposal ~~[to the county]~~ for voter approval;

(B) except as provided in Subsection (3)(b)(ii), the results of the feasibility study described in Subsection (3)(b)(i)(A) show that the five-year projected average annual revenue calculated under Subsection (4)(a) does not exceed the five-year projected average annual cost calculated under Subsection (4)(b) by more than 5%;

~~[(B)]~~ (C) the combined population within the proposed new school district boundaries is at least 50,000;

~~[(C)]~~ (D) the new school district boundaries:

(I) are contiguous;

(II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection ~~[(2)]~~ (3)(d)(iii);

(III) include the entire boundaries of each participant city or town, except as provided in Subsection ~~[(2)]~~ (3)(d)(ii); and

(IV) subject to Subsection ~~[(2)]~~ (3)(b) ~~[(ii)]~~ (v), do not cross county lines; and

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

(ii) Subsection (3)(b)(i)(B) does not apply to a proposal submitted by interlocal agreement participants if the interlocal agreement participants have entered into an interlocal cooperation agreement:

(A) (I) with the existing school district and all municipalities within the existing school district regarding mutual goals for the governance of the school district; and

(II) in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(B) on or before January 1, 2016.

~~[(ii) (i)]~~ ~~[(i)]~~ ~~The~~ (iii) Subject to Subsections (3)(b)(i)(A) and (4), the determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study ~~[under Subsection (2)(b)(i)(A)]~~, including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.

~~[(iii)]~~ (iv) An inadequacy of a feasibility study under Subsection ~~[(2)(b)(i)(A)]~~ (4) may not be the basis of a legal action or other challenge to:

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

(B) the creation of the new school district.

~~[(iv)]~~ (v) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection ~~[(2)(b)(i)(C)(IV)]~~ (3)(b)(i)(D)(IV):

(A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection ~~[(2)]~~ (3)(a) if more of the municipality's land area and population is located in that same county than outside the county; and

(B) a municipality located in more than one county that participates in an interlocal agreement under Subsection ~~[(2)]~~ (3)(a) with respect to some but not all of the area within the municipality's boundaries on the basis of the exception stated in Subsection ~~[(2)]~~ (3)(d)(ii)(B)

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may not be considered to cross county lines.

(c) (i) A county may only participate in an interlocal agreement under this Subsection [~~(2)~~] (3) for the unincorporated areas of the county.

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

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

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

(d) (i) As used in this Subsection [~~(2)~~] (3)(d):

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

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

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

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

(ii) Notwithstanding Subsection [~~(2)(b)(i)(C)(H)~~] (3)(b)(i)(D)(III), a municipality may be a participant in an interlocal agreement under Subsection [~~(2)~~] (3)(a) with respect to some but not all of the area within the municipality's boundaries if:

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

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

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

(iii) (A) Notwithstanding Subsection [~~(2)(b)(i)(C)(H)~~] (3)(b)(i)(D)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection [~~(2)~~] (3)(a), even though the new school district boundaries would create an isolated area, if:

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

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participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection [~~(2)~~] (3)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection [~~(2)~~] (3)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection [~~(2)~~] (3)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(C) (I) This Subsection [~~(2)~~] (3)(d)(iii)(C) applies if:

(Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection [~~(2)~~] (3)(d)(iii)(A); and

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

(II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection [~~(3)~~] (5)(a)(i), become part of the municipality's school district.

(III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection [~~(4)~~] (6) shall be modified to:

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

(Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.

(IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Subsection [~~(3)~~] (5)(a)(i).

(4) A qualifying city or interlocal agreement participant shall ensure that a feasibility study under this section:

(a) considers the present revenues of the area within the proposed new school district and calculates the five-year projected average annual revenue for the proposed new school

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district:

(b) considers the present costs of the area within the proposed new school district and calculates the five-year projected average annual cost, including overhead, of governmental services in the proposed new school district, including:

(i) operation and maintenance;

(ii) capital outlay;

(iii) debt service; and

(iv) school lunch;

(c) assumes a level and quality of school district services to be provided to the proposed new school district in the future that fairly and reasonably approximates the level and quality of school district services being provided to the existing school district at the time of the feasibility study; and

(d) assumes the same tax categories and tax rates as currently imposed by the existing school district.

~~[(3)]~~ (5) (a) If a proposal under this section is approved by voters:

(i) an election shall be held at the next regular general election to elect:

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

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the remaining district;

(ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection ~~[(5)]~~ (7) and Section 53A-2-121;

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

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

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

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

(B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to each individual making an election under Subsection [~~(3)~~] (5)(a)(iv)(A) for each school year for which the individual makes the election; and

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

(b) (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.

(ii) The term of a member of the existing local school board, including a member elected under Subsection [~~(3)~~] (5)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection [~~(3)~~] (5)(a)(i), regardless of when the term would otherwise have terminated.

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

(iv) A person may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:

(A) a new district; or

(B) a remaining district.

[~~(4)~~] (6) (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:

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

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(A) the legislative bodies of all municipalities in the area of the remaining district; and
(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

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

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

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

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

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

(A) assets, both tangible and intangible, real and personal; and

(B) liabilities; and

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

(c) The transition teams appointed under Subsection [~~(4)~~] (6)(a)(i) shall:

(i) determine the allocation of the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities between the remaining district and the new district in accordance with Subsection [~~(5)~~] (7);

(ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section 53A-2-121, liabilities are to be allocated; and

(iii) deliver a copy of the written report to:

(A) the local school board of the existing district;

(B) the local school board of the remaining district; and

(C) the local school board of the new district.

(d) The transition teams shall determine the allocation under Subsection [~~(4)~~] (6)(c)(i) and deliver the report required under Subsection [~~(4)~~] (6)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:

(i) the local school board of the existing district; and

(ii) (A) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

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

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

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

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

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

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

(A) transition team costs and expenses; and

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

~~[(5)]~~ (7) (a) As used in this Subsection ~~[(5)]~~ (7):

(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii) (A) "Discretionary asset or liability" means, except as provided in Subsection ~~[(5)]~~ (7)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection ~~[(5)]~~ (7)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided in Subsection ~~[(5)]~~ (7)(c), the transition teams appointed under

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Subsection [~~(4)~~] (6)(a)(i) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

(i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;

(iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be located;

(iv) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(v) other vehicles shall be allocated:

(A) in proportion to the student populations of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection [~~(5)~~] (7)(b).

~~[(6)]~~ (8) (a) As used in this Subsection [~~(6)~~] (8):

(i) "New district startup costs" means:

(A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection [~~(3)~~] (5)(a)(i); and

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

(ii) "Remaining district startup costs" means:

(A) costs and expenses incurred by a remaining district in order to:

(I) make necessary adjustments to deal with the impacts resulting from the creation of

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the new district; and

(II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and

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

(b) (i) By January 1 of the year following the local school board general election date described in Subsection [~~(3)~~] (5)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection [~~(6)~~] (8).

(ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection [~~(6)~~] (8)(b)(i) through an interlocal agreement.

(c) The existing district shall make the money under Subsection [~~(6)~~] (8)(b) available to the remaining district and the new district proportionately based on student population.

(d) The money made available under Subsection [~~(6)~~] (8)(b) may be accessed and spent by:

(i) for the remaining district, the local school board of the remaining district; and

(ii) for the new district, the local school board of the new district.

(e) (i) The remaining district may use its portion of the money made available under Subsection [~~(6)~~] (8)(b) to pay for remaining district startup costs.

(ii) The new district may use its portion of the money made available under Subsection [~~(6)~~] (8)(b) to pay for new district startup costs.

[~~(7)~~] (9) (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection [~~(4)~~] (6)(c)(ii).

(b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection [~~(3)~~] (5)(a)(i), except as that date is changed by the mutual agreement of:

(i) the local school board of the existing district;

(ii) the local school board of the remaining district; and

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

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(c) The existing district shall complete the transfer of all property not included in Subsection ~~[(7)]~~ (9)(b) by November 1 of the second calendar year after the local school board general election date described in Subsection ~~[(3)]~~ (5)(a)(i).

~~[(8)]~~ (10) Except as provided in Subsections ~~[(6)]~~ (8) and ~~[(7)]~~ (9), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:

(a) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

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

~~[(9)]~~ (11) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section 53A-2-118.

Section 4. Section **53A-2-120** is amended to read:

53A-2-120. Transfer of school property to new school district.

(1) (a) (i) On July 1 of the year following the school board elections for a new district created pursuant to a citizens' initiative petition or school board request under Section 53A-2-118 and an existing district as provided in Section 53A-2-119, the board of the existing district shall convey and deliver to the board of the new district all school property which the new district is entitled to receive.

(ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53A-2-118.1~~[(4)]~~(6).

(b) An existing district shall transfer property to a new district created under Section 53A-2-118.1 in accordance with Section 53A-2-118.1.

(2) Title vests in the new school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

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Legislative Review Note

~~as of 11-12-14 6:29 AM~~

~~Office of Legislative Research and General Counsel~~