

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 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:

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



28 53A-2-120, as last amended by Laws of Utah 2011, Chapter 295



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

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

32 **53A-2-117. Definitions.**

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

34 (1) "Allocation date" means:

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

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

38 (2) "Canvass date" means the date of the canvass of an election under Subsection
39 53A-2-118(5) at which voters approve the creation of a new school district under Section
40 53A-2-118.1.

41 (3) "Creation election date" means the date of the election under Subsection
42 53A-2-118(5) at which voters approve the creation of a new school district under Section
43 53A-2-118.1.

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

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

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

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

51 **53A-2-118. Creation of new school district -- Initiation of process -- Procedures**
52 **to be followed.**

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

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

56 (i) through a citizens' initiative petition;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

89 (I) certify the request or petition and deliver the certified request or petition to the

90 county legislative body; and

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

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

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

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

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

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

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

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

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

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

115 (b) The advisory committee shall:

116 (i) seek input from:

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

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

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

- 121 (D) the State Board of Education; and
- 122 (E) other interested parties;
- 123 (ii) review data and gather information on at least:
 - 124 (A) the financial viability of the proposed new school district;
 - 125 (B) the proposal's financial impact on each existing school district;
 - 126 (C) the exact placement of school district boundaries; and
 - 127 (D) the positive and negative effects of creating a new school district and whether the
 - 128 positive effects outweigh the negative if a new school district were to be created; and
- 129 (iii) make a report to the county legislative body in a public meeting on the committee's
- 130 activities, together with a recommendation on whether to create a new school district.
- 131 (4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):
 - 132 (a) The county legislative body shall provide for a 45-day public comment period on
 - 133 the report and recommendation to begin on the day the report is given under Subsection
 - 134 (3)(b)(iii).
 - 135 (b) Within 14 days after the end of the comment period, the legislative body of each
 - 136 county with which a request or petition is filed shall vote on the creation of the proposed new
 - 137 school district.
 - 138 (c) The proposal is approved if a majority of the members of the legislative body of
 - 139 each county with which a request or petition is filed votes in favor of the proposal.
 - 140 (d) If the proposal is approved, the legislative body of each county with which a
 - 141 request or petition is filed shall submit the proposal to the county clerk to be voted on:
 - 142 (i) by the legal voters of each existing school district;
 - 143 (ii) in accordance with the procedures and requirements applicable to a regular general
 - 144 election under Title 20A, Election Code; and
 - 145 (iii) at the next regular general election or municipal general election, whichever is
 - 146 first.
 - 147 (e) Creation of the new school district shall occur if a majority of the electors within
 - 148 both the proposed school district and each remaining school district voting on the proposal vote
 - 149 in favor of the creation of the new district.
 - 150 (f) Each county legislative body shall comply with the requirements of Section
 - 151 [53A-2-101.5](#).

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

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

- 159 (i) by the legal voters residing within the proposed new school district boundaries;
- 160 (ii) in accordance with the procedures and requirements applicable to a regular general
161 election under Title 20A, Election Code; and
- 162 (iii) at the next regular general election or municipal general election, whichever is
163 first.

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

167 (A) each county legislative body shall comply with the requirements of Section
168 53A-2-101.5; and

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

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

173 (A) a new school district may not begin to provide educational services to the area
174 within the new district until July 1 of the second calendar year following the school board
175 general election date described in Subsection 53A-2-118.1~~(3)~~(5)(a)(i);

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

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

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

182 **53A-2-118.1. Proposal initiated by a city or interlocal agreement participants to**

183 **create a school district -- Boundaries -- Election of local school board members --**
 184 **Allocation of assets and liabilities -- Startup costs -- Transfer of title.**

185 (1) As used in this section a "qualifying city" means a city with a population of at least
 186 50,000, as determined by the lieutenant governor using the process described in Subsection
 187 67-1a-2(3).

188 [~~(1)~~] (2) (a) [~~After conducting a feasibility study, a city with a population of at least~~
 189 ~~50,000, as determined by the lieutenant governor using the process described in Subsection~~
 190 ~~67-1a-2(3);~~] A qualifying city may, by majority vote of the legislative body, submit for voter
 191 approval a measure to create a new school district with boundaries contiguous with that city's
 192 boundaries, in accordance with Section 53A-2-118.

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

195 (c) A qualifying city may not submit for voter approval a measure to create a new
 196 school district if the results of a feasibility study described in Subsection (2)(b) show that the
 197 five-year projected average annual revenue calculated under Subsection (4)(a) exceeds the
 198 five-year projected average annual cost under Subsection (4)(b) by more than 5%.

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

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

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

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

206 [~~(2)~~] (3) (a) By majority vote of the legislative body, a city of any class, a town, or a
 207 county, may, together with one or more other cities, towns, or the county enter into an
 208 interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for
 209 the purpose of submitting for voter approval a measure to create a new school district.

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

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

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

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

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

221 (I) are contiguous;

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

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

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

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

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

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

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

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

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

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

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

254 (c) (i) A county may only participate in an interlocal agreement under this Subsection
255 [~~(2)~~] (3) for the unincorporated areas of the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

306 (Bb) require allocation of the existing district's assets and liabilities among the new

307 district, the remaining district, and the municipality's school district.

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

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

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

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

319 (i) operation and maintenance;

320 (ii) capital outlay;

321 (iii) debt service; and

322 (iv) school lunch;

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

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

329 [~~(3)~~] (5) (a) If a proposal under this section is approved by voters:

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

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

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

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

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

338 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
339 53A-2-122;

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

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

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

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

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

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

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

363 (iii) Notwithstanding the existence of a local school board for the new district and a
364 local school board for the remaining district under Subsection ~~[(3)]~~ (5)(a)(i), the local school
365 board of the existing district shall continue, until the time specified in Subsection
366 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a local school board to the extent
367 necessary to continue to provide educational services to the entire existing district.

368 (iv) A person may simultaneously serve as or be elected to be a member of the local

369 school board of an existing district and a member of the local school board of:

370 (A) a new district; or

371 (B) a remaining district.

372 [~~4~~] (6) (a) Within 45 days after the canvass date for the election at which voters

373 approve the creation of a new district:

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

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

378 (B) the legislative body of the county in which the remaining district is located, if the

379 remaining district includes one or more unincorporated areas of the county; and

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

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

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

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

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

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

389 (B) liabilities; and

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

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

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

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

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

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

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

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

401 (d) The transition teams shall determine the allocation under Subsection [~~(4)~~] (6)(c)(i)

402 and deliver the report required under Subsection [~~(4)~~] (6)(c)(ii) before August 1 of the year

403 following the election at which voters approve the creation of a new district, unless that

404 deadline is extended by the mutual agreement of:

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

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

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

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

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

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

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

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

420 (A) transition team costs and expenses; and

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

423 [~~(5)~~] (7) (a) As used in this Subsection [~~(5)~~] (7):

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

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

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

431 (iii) (A) "Nondiscretionary asset or liability" means, except as provided in Subsection
432 [~~(5)~~] (7)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or
433 employee by law or school district accounting practice.

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

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

438 (b) Except as provided in Subsection [~~(5)~~] (7)(c), the transition teams appointed under
439 Subsection [~~(4)~~] (6)(a)(i) shall allocate all assets and liabilities the existing district owns on the
440 allocation date, both tangible and intangible, real and personal, to the new district and
441 remaining district as follows:

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

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

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

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

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

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

455 (v) other vehicles shall be allocated:

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

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

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

461 [~~(6)~~] (8) (a) As used in this Subsection [~~(6)~~] (8):

462 (i) "New district startup costs" means:
463 (A) costs and expenses incurred by a new district in order to prepare to begin providing
464 educational services on July 1 of the second calendar year following the local school board
465 general election date described in Subsection [~~(3)~~] (5)(a)(i); and
466 (B) the costs and expenses of the transition team that represents the new district.
467 (ii) "Remaining district startup costs" means:
468 (A) costs and expenses incurred by a remaining district in order to:
469 (I) make necessary adjustments to deal with the impacts resulting from the creation of
470 the new district; and
471 (II) prepare to provide educational services within the remaining district once the new
472 district begins providing educational services within the new district; and
473 (B) the costs and expenses of the transition team that represents the remaining district.
474 (b) (i) By January 1 of the year following the local school board general election date
475 described in Subsection [~~(3)~~] (5)(a)(i), the existing district shall make half of the undistributed
476 reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the
477 remaining district and the new district, as provided in this Subsection [~~(6)~~] (8).
478 (ii) The existing district may make additional funds available for the use of the
479 remaining district and the new district beyond the amount specified in Subsection [~~(6)~~] (8)(b)(i)
480 through an interlocal agreement.
481 (c) The existing district shall make the money under Subsection [~~(6)~~] (8)(b) available
482 to the remaining district and the new district proportionately based on student population.
483 (d) The money made available under Subsection [~~(6)~~] (8)(b) may be accessed and spent
484 by:
485 (i) for the remaining district, the local school board of the remaining district; and
486 (ii) for the new district, the local school board of the new district.
487 (e) (i) The remaining district may use its portion of the money made available under
488 Subsection [~~(6)~~] (8)(b) to pay for remaining district startup costs.
489 (ii) The new district may use its portion of the money made available under Subsection
490 [~~(6)~~] (8)(b) to pay for new district startup costs.
491 [~~(7)~~] (9) (a) The existing district shall transfer title or, if applicable, partial title of
492 property to the new school district in accordance with the allocation of property by the

493 transition teams, as stated in the report under Subsection [~~(4)~~] (6)(c)(ii).

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

- 498 (i) the local school board of the existing district;
499 (ii) the local school board of the remaining district; and
500 (iii) the local school board of the new district.

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

504 [~~(8)~~] (10) Except as provided in Subsections [~~(6)~~] (8) and [~~(7)~~] (9), after the creation
505 election date an existing school district may not transfer or agree to transfer title to district
506 property without the prior consent of:

- 507 (a) the legislative body of the city in which the new district is located, for a new district
508 located entirely within a single city; or
509 (b) the legislative bodies of all interlocal agreement participants, for each other new
510 district.

511 [~~(9)~~] (11) This section does not apply to the creation of a new district initiated through
512 a citizens' initiative petition or at the request of a local school board under Section [53A-2-118](#).

513 Section 4. Section [53A-2-120](#) is amended to read:

514 **[53A-2-120](#). Transfer of school property to new school district.**

515 (1) (a) (i) On July 1 of the year following the school board elections for a new district
516 created pursuant to a citizens' initiative petition or school board request under Section
517 [53A-2-118](#) and an existing district as provided in Section [53A-2-119](#), the board of the existing
518 district shall convey and deliver to the board of the new district all school property which the
519 new district is entitled to receive.

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

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

524 (b) An existing district shall transfer property to a new district created under Section
525 [53A-2-118.1](#) in accordance with Section [53A-2-118.1](#).

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

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

Legislative Review Note
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Office of Legislative Research and General Counsel