The following has special meaning:
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H.B. 2 Enrolled

PUBLIC EDUCATION BUDGET AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2020, and ending June 30, 2021, and for the fiscal year beginning July 1, 2021, and ending June 30, 2022.

Highlighted Provisions:

This bill:

• provides appropriations for the use and support of school districts, charter schools, and state education agencies;

• directs the State Board of Education on how to execute certain funding programs;

• provides appropriations for other purposes as described;

• amends and enacts provisions related to certain appropriations for public education, including:

• allowing the State Board of Education (state board) to use data from fiscal year 2020 for certain funding formulas in certain circumstances;

• allowing the state board to distribute funds to mitigate funding losses associated with the elimination of the Administrative Cost Program;

• requiring the state board to allocate funds for English language learner software; and

• providing the State Charter School Board with increased budgetary autonomy;

• makes technical and conforming changes; and

• provides intent language.

Money Appropriated in this Bill:

This bill appropriates $50,561,400 in operating and capital budgets for fiscal year 2021, including:

• $3,851,200 from the Education Fund; and

• $46,710,200 from various sources as detailed in this bill.

This bill appropriates $2,270,000 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates $100,384,400 in operating and capital budgets for fiscal year 2022, including:

• $100 from the General Fund;

• $28,288,700 from the Uniform School Fund;

• $29,786,500 from the Education Fund; and

• $42,309,100 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-5-302, as last amended by Laws of Utah 2019, Chapter 186

53F-2-304, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 9

53F-2-706, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 14

53G-5-202, as last amended by Laws of Utah 2018, Chapter 383 and renumbered and amended by Laws of Utah 2018, Chapter 3

ENACTS:

53F-2-209, Utah Code Annotated 1953

53F-2-418, Utah Code Annotated 1953

REPEALS:

53F-5-212, as last amended by Laws of Utah 2020, Chapters 354 and 408

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

Section 1. Section **53E-5-302** is amended to read:

53E-5-302. State board to designate low performing schools -- Needs assessment.

(1) Except as provided in Subsection (4), the state board shall:

(a) annually designate a school as a low performing school; and

(b) conduct a needs assessment for a low performing school by thoroughly analyzing the root causes of the low performing school's low performance.

(2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).

(3) A school that was designated as a low performing school based on 2015-2016 school year performance that is not in the lowest performing 3% of schools statewide following the 2016-2017 school year is exempt from the provisions of this part.

(4) (a) The state board is not required to designate as a low performing school a school for which the state board is not required to assign an overall rating in accordance with Section 53E-5-204.

(b) The requirement to designate a school as a low-performing school described in Subsection (1) does not apply in the school year immediately following the 2020-2021 or 2021-2022 school year.

Section 2. Section **53F-2-209** is enacted to read:

53F-2-209. Use of data to determine funding in fiscal years 2021 and 2022.

(1) For fiscal years 2021 and 2022, if data necessary for programmatic funding distributions to LEAs is inconsistent due to adjustments related to effects of the COVID-19 emergency, the state board may use the analogous data from fiscal year 2020 or the 2019-2020 school year, at the state board's discretion to execute programmatic funding distributions to LEAs.

(2) The state board shall report to the Public Education Appropriations Subcommittee before September 30, 2021, on instances in which the board used fiscal year 2020 data under Subsection (1).

Section 3. Section **53F-2-304** is amended to read:

53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(5) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using distribution formulas adopted by the state board.

(b) The distribution formulas establish the following maximum sizes for funding under the necessarily existent small school program:

(i) an elementary school	160
(ii) a one or two-year secondary school	300
(iii) a three-year secondary school	450
(iv) a four-year secondary school	500
(v) a six-year secondary school	600

(c) An elementary school with fewer than 10 students shall receive the same add-on weighted pupil units as an elementary school with 10 students.

(d) A secondary school with fewer than 15 students shall receive the same add-on weighted pupil units as a secondary school with 15 students.

(e) If a necessarily existent small school generates ADM in both elementary and secondary grades, the state board may divide the school's ADM between an elementary and secondary distribution formula.

(f) The state board shall prepare and distribute an allocation table based on the distribution formula to each school district.

(6) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(7) (a) The state board may allocate up to 208 weighted pupil units to support schools that:

(i) have isolating conditions, as defined by the state board, including geographic isolation; and

(ii) do not qualify for necessarily existent small schools funding due to formula limitations.

(b) The state board shall review funding allocations under this Subsection (7) at least once every five calendar years.

(8) If the state board classifies a school as a necessarily existent small school in accordance with this section, the state board shall, subject to legislative appropriation, distribute small district base funding to the relevant school district in the following amounts:

(a) for a district with 500 students or less, 83 additional weighted pupil units;

(b) for a district with 501 to 1,000 students, 28 additional weighted pupil units; and

(c) for a district with 1,001 to 2,000 students, 14 additional weighted pupil units.

(9) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

(10) (a) Subject to Subsection (10)(b) and after a distribution made under Subsection (9), the state board may distribute a portion of necessarily existent small schools funding:

(i) in accordance with a formula adopted by the state board that considers the tax effort of a local school board; or

(ii) to isolated small schools, as identified by the state board.

(b) The amount distributed in accordance with Subsection (10)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(11) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

(12) (a) Notwithstanding this section and subject to legislative appropriations, the state board may, in accordance with Subsection (12)(b), distribute one-time funding that the Legislature appropriates to mitigate funding losses as described in legislative appropriations.

(b) The state board may make the distribution described in Subsection (12)(a) to school districts that:

(i) enroll fewer than 5,000 students; and

(ii) do not pay local property tax proceeds into the Uniform School Fund as described in Section 53F-2-301.5.

Section 4. Section **53F-2-418** is enacted to read:

53F-2-418. English language learner software.

(1) Subject to legislative appropriations, the state board shall:

(a) allocate funds to LEAs for English language learner software; and

(b) make the allocation described in Subsection (1)(a) using a formula that provides:

(i) a base amount for each LEA that has English language learner students; and

(ii) a distribution of remaining funding in proportion to the LEA's share of statewide English language learner students.

(2) An LEA shall use an allocation the LEA receives under Subsection (1) to select a vendor and pay for software licenses for English language learner instruction.

Section 5. Section **53F-2-706** is amended to read:

53F-2-706. Small charter school base funding.

(1) Subject to legislative appropriation, the state board shall distribute small charter school base funding in the following amounts to charter schools with 2,000 or less students:

(a) for a charter school with 300 students or less, $40,000;

(b) for a charter school with 301 to 400 students, $35,000;

(c) for a charter school with 401 to 500 students, $30,000;

(d) for a charter school with 501 to 600 students, $25,000;

(e) for a charter school with 601 to 1,000 students, $20,000; and

(f) for a charter school with 1,001 to 2,000 students, $15,000.

(2) A charter school's eligibility for small charter school base funding is determined by the charter school's student enrollment on October 1 of a given year.

(3) Notwithstanding this section and subject to legislative appropriations, the state board may distribute to charter schools, regardless of size, one-time funding that the Legislature appropriates to mitigate funding losses as described in legislative appropriations.

Section 6. Section **53G-5-202** is amended to read:

53G-5-202. Status and powers of State Charter School Board.

(1) The State Charter School Board may:

~~(1)~~ (a) enter into contracts;

~~(2)~~ (b) sue and be sued; and

~~(3) (a)~~ (c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and

~~(b)~~ (ii) charge fees for the provision of services or functions.

(2) The state board shall:

(a) approve the annual budget and expenditures of the State Charter School Board; and

(b) otherwise grant autonomy to the State Charter School Board to manage the State Charter School Board's budget.

Section 7. **Repealer.**

This bill repeals:

Section **53F-5-212, Grants for additional educators for high-need schools.**

Section 8. **Fiscal Year 2021 Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

Subsection 8(a). **Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION			
STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM			
ITEM 1 To State Board of Education - Minimum School Program - Basic School Program			
	From Education Fund, One-time		15,000,000
	Schedule of Programs:		
	Grades 1 - 12	15,000,000	
ITEM 2 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs			
	From Education Fund, One-time		(15,000,000)
	Schedule of Programs:		
	Voted Local Levy Program	(7,500,000)	
	Board Local Levy Program	(7,500,000)	
STATE BOARD OF EDUCATION			
ITEM 3 To State Board of Education - Child Nutrition			
	From Federal Funds, One-time		48,927,100
	Schedule of Programs:		
	Child Nutrition	48,927,100	
ITEM 4 To State Board of Education - Initiative Programs			
	From Beginning Nonlapsing Balances		(2,170,000)
	Schedule of Programs:		
	Contracts and Grants	(670,000)	
	ELL Software Licenses	(1,500,000)	
ITEM 5 To State Board of Education - MSP Categorical Program Administration			
	From Beginning Nonlapsing Balances		(100,000)
	Schedule of Programs:		
	Dual Immersion	(100,000)	

ITEM 6 To State Board of Education - State Administrative Office

From Education Fund, One-time		4,000,000
Schedule of Programs:		
Statewide Financial Management System Grants	4,000,000	

The Legislature intends that the State Board of Education use one-time funds appropriated to support Statewide Financial Management System Grants to provide grants to local education agencies in fiscal year 2021, fiscal year 2022, or fiscal year 2023 to make changes to local data systems to facilitate data transfers between the LEA and the state.

ITEM 7 To State Board of Education - General System Support

From Education Fund, One-time		(95,700)
Schedule of Programs:		
Student Achievement	(95,700)	

ITEM 8 To State Board of Education - State Charter School Board

From Education Fund, One-time		(53,100)
Schedule of Programs:		
From Closing Nonlapsing Balances	53,100	

Subsection 8(b). **Transfers to Unrestricted Funds.**

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

PUBLIC EDUCATION

ITEM 9 To Education Fund

From Nonlapsing Balances - Transfer from Dual Language Program		100,000
From Nonlapsing Balances - Transfer from ELL Software Licenses		1,500,000
From Nonlapsing Balances - Transfer from Initiative Programs		670,000
Schedule of Programs:		
Education Fund, One-time	2,270,000	

Section 9. **Fiscal Year 2022 Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 9(a). **Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 10 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund		500,000
From Uniform School Fund, One-time		3,600,000
Schedule of Programs:		
Necessarily Existent Small Schools (131 WPUs)	4,100,000	

The Legislature intends that the State Board of Education distribute funds in accordance with Subsection 53F-2-304(12) to mitigate funding losses associated with the elimination of the Administrative Cost Program.

ITEM 11 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund		16,688,700
From Uniform School Fund, One-time		7,500,000
From Beginning Nonlapsing Balances		(11,400)
From Closing Nonlapsing Balances		11,400
Schedule of Programs:		
Pupil Transportation To and From School	2,500,000	
Beverley Taylor Sorenson Elementary Arts Learning Program	2,000,000	
Early Intervention	7,000,000	
Grants for Educators in High-need Schools	(500,000)	
National Board Certified Teacher Program	(246,300)	
Grants for Professional Learning	3,935,000	
Charter School Funding Base Program	5,000,000	
English Language Learner Software	4,500,000	

(1) The Legislature intends that the expenditures upon which state funding is contingent under Items 2, 9, 22, and 33 in S.B. 1, Public Education Base Budget Amendments, be modified to include all of the federally allowed activities for the Federal Coronavirus Relief for Public Education funds except:

(a) school facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs; and

(b) inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

(2) The Legislature further intends that the State Board of Education distribute funds in accordance with Subsection 53F-2-706(3) to mitigate funding losses associated with the elimination of the Administrative Cost Program.

STATE BOARD OF EDUCATION

ITEM 12 To State Board of Education - Educator Licensing			
	From Education Fund		246,300
	From Beginning Nonlapsing Balances		11,400
	From Closing Nonlapsing Balances		(11,400)
	Schedule of Programs:		
	National Board-Certified Teachers	246,300	
ITEM 13 To State Board of Education - Fine Arts Outreach			
	From Education Fund		250,000
	Schedule of Programs:		
	Provisional Program	250,000	
ITEM 14 To State Board of Education - Initiative Programs			
	From Education Fund		6,800,000
	From Education Fund, One-time		5,408,100
	From Beginning Nonlapsing Balances		2,988,400
	Schedule of Programs:		
	Computer Science Initiatives	5,000,000	
	Contracts and Grants	3,300,000	

	Early Warning Pilot Program	125,000	
	Electronic Elementary Reading Tool	1,500,000	
	ProStart Culinary Arts Program	300,000	
	School Turnaround and Leadership Development Act	(4,028,500)	
	UPSTART	9,000,000	
ITEM 15 To State Board of Education - MSP Categorical Program Administration			
	From Education Fund		1,065,000
	Schedule of Programs:		
	Early Learning Training and Assessment	1,065,000	
ITEM 16 To State Board of Education - Science Outreach			
	From Education Fund		475,000
	Schedule of Programs:		
	Informal Science Education Enhancement	475,000	
ITEM 17 To State Board of Education - State Administrative Office			
	From General Fund		100
	From Education Fund		(3,448,300)
	From Education Fund, One-time		29,100
	From Federal Funds, One-time		37,178,400
	From General Fund Restricted - Mineral Lease		1,900
	From Revenue Transfers		28,900
	From Uniform School Fund Restricted - Trust Distribution Account		170,000
	From Uniform School Fund Restricted - Trust Distribution Account, One-time		105,000
	From Beginning Nonlapsing Balances		(1,625,500)
	From Closing Nonlapsing Balances		1,376,900
	Schedule of Programs:		
	Board and Administration	37,193,900	
	Financial Operations	112,300	
	Indirect Cost Pool	196,000	
	School Trust	275,000	
	Special Education	(50,000)	
	Statewide Online Education Program	(4,610,700)	
	Student Support Services	700,000	

The Legislature intends that the State Board of Education:

(1) report to the Public Education Appropriations Subcommittee, on or before September 30, 2021, regarding how school-level data included in the Annual Financial Reports (AFRs) and Annual Program Reports (APRs) will be reported in a public-facing format; and

(b) (i) develop a fee for service schedule for certifying the special education programs of residential treatment centers; and

(ii) report the schedule to the Public Education Appropriations Subcommittee on or before October 1, 2021.

ITEM 18 To State Board of Education - General System Support			
	From Education Fund		78,500
	From Education Fund, One-time		7,864,900
	Schedule of Programs:		
	Teaching and Learning	926,500	
	Assessment and Accountability	7,016,900	

(1) The Legislature intends that the Utah State Board of Education use any revenue or nonlapsing balances generated from the licensing of Readiness Improvement Success Empowerment (RISE) questions to develop additional assessment questions for all state assessments, provide professional learning for Utah educators, and for risk mitigation expenditures.

(2) The Legislature intends that, of the appropriations provided to State Board of Education - Teaching and Learning, $225,000 be used to implement the provisions of American Indian and Alaskan Native Education, S.B. 124, Chapter 269, Laws of Utah 2020, General Session.

(3) The Legislature intends that, of the appropriations provided by this item, $800,000 one-time be used to implement the provisions of Concurrent Enrollment Certificate Pilot Program, H.B. 336, Chapter 321, Laws of Utah 2020, General Session.

(4) The Legislature intends that, of the appropriations provided by this item, $7,016,900 be used:

(a) in fiscal years 2022, 2023, and 2024; and

(b) to contract for professional learning related to improving student achievement.

ITEM 19 To State Board of Education - State Charter School Board

From Education Fund		1,600
Schedule of Programs:		
State Charter School Board	1,600	

ITEM 20 To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund		300
From Education Fund, One-time		1,825,000
From Revenue Transfers		100
Schedule of Programs:		
Support Services	400	
Administration	1,325,000	
Utah State Instructional Materials Access Center	500,000	

The Legislature intends that the Utah Schools for the Deaf and the Blind charge a fee to out-of-state schools for instructional materials produced by the Utah State Instructional Materials Access Center (USIMAC) to cover actual costs of reprinting and shipping per volume. The estimated fee amount is $150 per braille volume and $15 shipping.

ITEM 21 To State Board of Education - Statewide Online Education

From Education Fund		4,390,100
From Education Fund, One-time		4,800,900
From Revenue Transfers		(28,900)
From Beginning Nonlapsing Balances		1,625,500
From Closing Nonlapsing Balances		(1,376,900)
Schedule of Programs:		
Statewide Online Education	9,410,700	

The Legislature intends that the State Board of Education use one-time funding appropriated to the Statewide Online Education Program to meet the following priorities:

(1) fully fund requests for enrollment from homeschool students; and

(2) use remaining funding to support enrollment requests from students accessing the program through a private school.

STATE BOARD OF EDUCATION

ITEM 22 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account		1,865,300
Schedule of Programs:		
School and Institutional Trust Fund Office	1,865,300	

Section 10. **Effective date.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections of this bill take effect on July 1, 2021:

(a) Section 53E-5-302;

(b) Section 53F-2-209;

(c) Section 53F-2-304;

(d) Section 53F-2-418;

(e) Section 53F-2-706;

(f) Section 53G-5-202;

(g) Section 7, Repealer;

(h) Section 9, Fiscal Year 2022 Appropriation; and

(i) Subsection 9(a), Operating and Capital Budgets.

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