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# SCHOOL AND INSTITUTIONAL TRUST LANDS

## AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ann Millner**

House Sponsor: \_\_\_\_\_

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to schools and institutional trust lands and related  
11 education funding.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ enacts language related to the distributions deposited in the Uniform School Fund;
- 15 ▶ creates the Trust Distribution Account within the Uniform School Fund;
- 16 ▶ amends language governing the disposition of revenues in the State School Fund;
- 17 ▶ repeals and reenacts language related to the Invest More for Education Account;
- 18 ▶ directs the School Children's Trust Section to review each school for compliance
- 19 with applicable law; and
- 20 ▶ makes technical corrections.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 [53A-16-101](#), as last amended by Laws of Utah 2013, Chapter 235

28 [53A-16-101.5](#), as last amended by Laws of Utah 2015, Chapter 276

29 [53A-16-101.6](#), as last amended by Laws of Utah 2015, Chapter 276

30 [53C-3-103](#), as last amended by Laws of Utah 2003, Chapter 226

31 [59-10-1318](#), as enacted by Laws of Utah 2013, Chapter 235

32 ENACTS:

33 [53A-16-115](#), Utah Code Annotated 1953

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

36 Section 1. Section **53A-16-101** is amended to read:

37 **53A-16-101. Uniform School Fund -- Contents -- Trust Distribution Account.**

38 (1) The Uniform School Fund, a special revenue fund within the Education Fund,  
39 established by Utah Constitution, Article X, Section 5, consists of:

- 40 (a) ~~[interest and dividends]~~ **distributions** derived from the investment of money in the
- 41 permanent State School Fund established by Utah Constitution, Article X, Section 5;

42 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed Property  
43 Act; and

44 (c) all other constitutional or legislative allocations to the fund, including revenues  
45 received by donation.

46 (2) (a) There is created within the Uniform School Fund a restricted account known as  
47 the ~~[Interest and Dividends]~~ Trust Distribution Account.

48 (b) The ~~[Interest and Dividends]~~ Trust Distribution Account consists of the average of:

49 ~~[(i) interest and dividends derived from the investment of money in the permanent  
50 State School Fund referred to in Subsection (1)(a); and]~~

51 ~~[(ii) interest on account money.]~~

52 (i) 4% of the average market value of the permanent State School Fund over the past  
53 12 consecutive quarters; and

54 (ii) the prior year's distribution from the Trust Distribution Account as described in  
55 Section [53A-16-101.5](#), increased by prior year changes in the percentage of student enrollment  
56 growth and in the consumer price index.

57 (3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the  
58 average market value of the permanent State School Fund over the past 12 consecutive

59 quarters.

60 (4) The School and Institutional Trust Fund Board of Trustees created in Section  
61 [53D-1-301](#) shall:

62 (a) annually review distribution of the Trust Distribution Account; and

63 (b) make recommendations, if necessary, to the Legislature for changes to the formula  
64 described in Subsection (2)(b).

65 ~~[(3)]~~ (5) (a) Upon appropriation by the Legislature, [money from the Interest and  
66 Dividends Account shall be used for] the director of the School and Institutional Trust Fund  
67 Office created in Section [53D-1-201](#) shall place in the Trust Distribution Account funds for:

68 (i) the administration of the School LAND Trust Program as provided in Section  
69 [53A-16-101.5](#); ~~and]~~

70 (ii) the performance of duties described in Section [53A-16-101.6](#)[-];

71 (iii) the School and Institutional Trust Fund Office; and

72 (iv) the School and Institutional Trust Fund Board of Trustees created in Section  
73 [53D-1-301](#).

74 (b) The Legislature may appropriate any remaining balance for the support of the  
75 public education system.

76 ~~[(4) (a) There is created within the Uniform School Fund a restricted account known as~~  
77 ~~the Invest More for Education Account.]~~

78 ~~[(b) The account shall be funded by contributions deposited into the restricted account~~  
79 ~~in accordance with Section [59-10-1318](#).]~~

80 ~~[(c) The account shall earn interest.]~~

81 ~~[(d) Interest earned on the account shall be deposited into the account.]~~

82 ~~[(e) The Legislature may appropriate money from the account for the support of the~~  
83 ~~public education system.]~~

84 Section 2. Section **53A-16-101.5** is amended to read:

85 **53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds --**  
86 **School plans for use of funds.**

87 (1) As used in this section:

88 (a) "Charter agreement" means an agreement made in accordance with Section  
89 [53A-1a-508](#) that authorizes the operation of a charter school.

90 (b) "Charter school authorizer" means the same as that term is defined in Section  
91 [53A-1a-501.3](#).

92 (c) "Charter trust land council" means a council established by a charter school  
93 governing board under this section.

94 (d) "Council" means a school community council or a charter trust land council.

95 (e) "District school" means a public school under the control of a local school board  
96 elected under Title 20A, Chapter 14, Nomination and Election of State and Local School  
97 Boards.

98 (f) "School community council" means a council established at a district school in  
99 accordance with Section [53A-1a-108](#).

100 (2) There is established the School LAND (Learning And Nurturing Development)

101 Trust Program to:

102 (a) provide financial resources to public schools to enhance or improve student  
103 academic achievement and implement a component of a district school's school improvement  
104 plan or a charter school's charter agreement; and

105 (b) involve parents and guardians of a school's students in decision making regarding  
106 the expenditure of School LAND Trust Program money allocated to the school.

107 (3) (a) The program shall be funded each fiscal year:

108 (i) from the ~~[Interest and Dividends]~~ Trust Distribution Account created in Section  
109 53A-16-101; and

110 (ii) in the amount of the sum of the following:

111 (A) the ~~[interest and dividends]~~ distributions from the investment of money in the  
112 permanent State School Fund deposited to the ~~[Interest and Dividends]~~ Trust Distribution  
113 Account ~~[in the immediately preceding]~~ on or about July 15 each year; and

114 (B) interest accrued on ~~[money in the Interest and Dividends]~~ the Trust Distribution  
115 Account in the immediately preceding fiscal year.

116 (b) The program shall be funded as provided in Subsection (3)(a) up to an amount equal  
117 to 3% of the funds provided for the Minimum School Program, pursuant to Title 53A, Chapter  
118 17a, Minimum School Program Act, each fiscal year.

119 (c) (i) The Legislature shall annually allocate, through an appropriation to the State  
120 Board of Education, a portion of the ~~[Interest and Dividends]~~ Trust Distribution Account

121 created in Section 53A-16-101 to be used for:

122 (A) the administration of the School LAND Trust Program; and

123 (B) the performance of duties described in Section 53A-16-101.6.

124 (ii) Any unused balance remaining from an amount appropriated under Subsection  
125 (3)(c)(i) shall be deposited in the ~~[Interest and Dividends]~~ Trust Distribution Account for  
126 distribution to schools in the School LAND Trust Program.

127 (4) (a) The State Board of Education shall allocate the money referred to in Subsection  
128 (3) annually as follows:

129 (i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the  
130 product of:

131 (A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the  
132 Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

133 (B) the total amount available for distribution under Subsection (3);

134 (ii) charter schools shall receive funding equal to the product of:

135 (A) charter school enrollment on October 1 in the prior year, divided by enrollment on  
136 October 1 in the prior year in public schools statewide; and

137 (B) the total amount available for distribution under Subsection (3); and

138 (iii) of the funds available for distribution under Subsection (3) after the allocation of  
139 funds for the Utah Schools for the Deaf and the Blind and charter schools:

140 (A) school districts shall receive 10% of the funds on an equal basis; and

141 (B) the remaining 90% of the funds shall be distributed to school districts on a per  
142 student basis.

143 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
144 the State Board of Education shall make rules specifying a formula to distribute the amount  
145 allocated under Subsection (4)(a)(ii) to charter schools.

146 (ii) In making rules under Subsection (4)(b)(i), the State Board of Education shall:

147 (A) consult with the State Charter School Board; and

148 (B) ensure that the rules include a provision that allows a charter school in the charter  
149 school's first year of operations to receive funding based on projected enrollment, to be  
150 adjusted in future years based on actual enrollment.

151 (c) A school district shall distribute its allocation under Subsection (4)(a)(iii) to each

152 school within the school district on an equal per student basis.

153 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
154 State Board of Education may make rules regarding the time and manner in which the student  
155 count shall be made for allocation of the money under Subsection (4)(a)(iii).

156 (5) To receive its allocation under Subsection (4):

157 (a) a district school shall have established a school community council in accordance  
158 with Section 53A-1a-108;

159 (b) a charter school shall have established a charter trust land council in accordance

160 with Subsection (9); and

161 (c) the school's principal shall provide a signed, written assurance that the school is in  
162 compliance with Subsection (5)(a) or (b).

163 (6) (a) A council shall create a program to use its allocation under Subsection (4) to  
164 implement a component of the school's improvement plan or charter agreement, including:

165 (i) the school's identified most critical academic needs;

166 (ii) a recommended course of action to meet the identified academic needs;

167 (iii) a specific listing of any programs, practices, materials, or equipment which the  
168 school will need to implement a component of its school improvement plan to have a direct  
169 impact on the instruction of students and result in measurable increased student performance;  
170 and

171 (iv) how the school intends to spend its allocation of funds under this section to  
172 enhance or improve academic excellence at the school.

173 (b) (i) A council shall create and vote to adopt a plan for the use of School LAND  
174 Trust Program money in a meeting of the council at which a quorum is present.

175 (ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust  
176 Program money, the plan is adopted.

177 (c) A council shall:

178 (i) post a plan for the use of School LAND Trust Program money that is adopted in  
179 accordance with Subsection (6)(b) on the School LAND Trust Program website; and

180 (ii) include with the plan a report noting the number of council members who voted for  
181 or against the approval of the plan and the number of council members who were absent for the  
182 vote.

183 (d) (i) The local school board of a district school shall approve or disapprove a plan for  
184 the use of School LAND Trust Program money.

185 (ii) If a local school board disapproves a plan for the use of School LAND Trust  
186 Program money:

187 (A) the local school board shall provide a written explanation of why the plan was  
188 disapproved and request the school community council who submitted the plan to revise the  
189 plan; and

190 (B) the school community council shall submit a revised plan in response to a local  
191 school board's request under Subsection (6)(d)(ii)(A).

192 (iii) Once a plan has been approved by a local school board, a school community  
193 council may amend the plan, subject to a majority vote of the school community council and  
194 local school board approval.

195 (e) A charter trust land council's plan for the use of School LAND Trust Program  
196 money is subject to approval by the:

197 (i) charter school governing board; and

198 (ii) charter school's charter school authorizer.

199 (7) (a) A district school or charter school shall:

200 (i) implement the program as approved;

201 (ii) provide ongoing support for the council's program; and

202 (iii) meet State Board of Education reporting requirements regarding financial and  
203 performance accountability of the program.

204 (b) (i) A district school or charter school shall prepare and post an annual report of the  
205 program on the School LAND Trust Program website each fall.

206 (ii) The report shall detail the use of program funds received by the school under this  
207 section and an assessment of the results obtained from the use of the funds.

208 (iii) A summary of the report shall be provided to parents or guardians of students  
209 attending the school.

210 (8) On or before October 1 of each year, a school district shall record the amount of the  
211 program funds distributed to each school under Subsection (4)(c) on the School LAND Trust  
212 Program website to assist schools in developing the annual report described in Subsection  
213 (7)(b).

214 (9) (a) The governing board of a charter school shall establish a council, which shall  
215 prepare a plan for the use of School LAND Trust Program money that includes the elements  
216 listed in Subsection (6).

217 (b) (i) The membership of the council shall include parents or guardians of students  
218 enrolled at the school and may include other members.

219 (ii) The number of council members who are parents or guardians of students enrolled  
220 at the school shall exceed all other members combined by at least two.

221 (c) A charter school governing board may serve as the council that prepares a plan for  
222 the use of School LAND Trust Program money if the membership of the charter school  
223 governing board meets the requirements of Subsection (9)(b)(ii).

224 (d) (i) Except as provided in Subsection (9)(d)(ii), council members who are parents or  
225 guardians of students enrolled at the school shall be elected in accordance with procedures  
226 established by the charter school governing board.

227 (ii) Subsection (9)(d)(i) does not apply to a charter school governing board that serves  
228 as the council that prepares a plan for the use of School LAND Trust Program money.

229 (e) A parent or guardian of a student enrolled at the school shall serve as chair or  
230 cochair of a council that prepares a plan for the use of School LAND Trust Program money.

231 (10) The president or chair of a local school board or charter school governing board  
232 shall ensure that the members of the local school board or charter school governing board are  
233 provided with annual training on the requirements of this section.

234 Section 3. Section **53A-16-101.6** is amended to read:

235 **53A-16-101.6. Creation of School Children's Trust Section -- Duties.**

236 (1) As used in this section:

237 (a) "School and institutional trust lands" is as defined in Section [53C-1-103](#).

238 (b) "Section" means the School Children's Trust Section created in this section.

239 (c) "Trust" means:

240 (i) the School LAND Trust Program created in Section [53A-16-101.5](#); and

241 (ii) the lands and funds associated with the trusts described in Subsection

242 [53C-1-103](#)(7).

243 (2) There is established a School Children's Trust Section within the State Office of  
244 Education.

245 (3) (a) The section shall have a director.

246 (b) The director shall have professional qualifications and expertise in the areas  
247 generating revenue to the trust, including:

248 (i) economics;

249 (ii) energy development;

250 (iii) finance;

251 (iv) investments;

252 (v) public education;

253 (vi) real estate;

254 (vii) renewable resources;

255 (viii) risk management; and

256 (ix) trust law.

257 (c) The director shall be appointed as provided in this Subsection (3).

258 (d) The School and Institutional Trust Lands Board of Trustees nominating committee  
259 shall submit to the State Board of Education the name of one person to serve as director.

260 (e) The State Board of Education may:

261 (i) appoint the person described in Subsection (3)(d) to serve as director; or

262 (ii) deny the appointment of the person described in Subsection (3)(d) to serve as  
263 director.

264 (f) If the State Board of Education denies an appointment under this Subsection (3):

265 (i) the State Board of Education shall provide in writing one or more reasons for the  
266 denial to the School and Institutional Trust Lands Board of Trustees nominating committee;  
267 and

268 (ii) the School and Institutional Trust Lands Board of Trustees nominating committee  
269 and the State Board of Education shall follow the procedures and requirements of this  
270 Subsection (3) until the State Board of Education appoints a director.

271 (g) The State Board of Education may remove the director only by majority vote of a  
272 quorum in an open and public meeting after proper notice and the inclusion of the removal item  
273 on the agenda.

274 (4) The State Board of Education shall make rules regarding:

275 (a) regular reporting from the School Children's Trust Section director to the State

276 Board of Education, to allow the State Board of Education to fulfill its duties in representing  
277 the trust beneficiaries; and

278 (b) the day-to-day reporting of the School Children's Trust Section director.  
 279 (5) (a) The director shall annually submit a proposed section budget to the State Board  
 280 of Education.  
 281 (b) After approving a section budget, the State Board of Education shall propose the  
 282 approved budget to the Legislature.  
 283 (6) The director is entitled to attend any presentation, discussion, meeting, or other  
 284 gathering concerning the trust, subject to:  
 285 (a) provisions of law prohibiting the director's attendance to preserve confidentiality; or  
 286 (b) other provisions of law that the director's attendance would violate.  
 287 (7) The section shall have a staff.  
 288 (8) The section shall protect current and future beneficiary rights and interests in the  
 289 trust consistent with the state's perpetual obligations under:  
 290 (a) the Utah Enabling Act;  
 291 (b) the Utah Constitution;  
 292 (c) state statute; and  
 293 (d) standard trust principles described in Section [53C-1-102](#).  
 294 (9) The section shall promote:  
 295 (a) productive use of school and institutional trust lands; and  
 296 (b) the efficient and prudent investment of funds managed by the School and  
 297 Institutional Trust Fund Office, created in Section [53D-1-201](#).  
 298 (10) The section shall provide representation, advocacy, and input:  
 299 (a) on behalf of current and future beneficiaries of the trust, school community  
 300 councils, schools, and school districts;  
 301 (b) on federal, state, and local land decisions and policies that affect the trust; and  
 302 (c) to:  
 303 (i) the School and Institutional Trust Lands Administration;  
 304 (ii) the School and Institutional Trust Lands Board of Trustees;  
 305 (iii) the Legislature;  
 306 (iv) the School and Institutional Trust Fund Office, created in Section [53D-1-201](#);

307 (v) the School and Institutional Trust Fund Board of Trustees, created in Section  
 308 [53D-1-301](#);  
 309 (vi) the attorney general;  
 310 (vii) the public; and  
 311 (viii) other entities as determined by the section.  
 312 (11) The section shall provide independent oversight on the prudent and profitable  
 313 management of the trust and report annually to the State Board of Education and the  
 314 Legislature.  
 315 (12) The section shall provide information requested by a person or entity described in  
 316 Subsections (10)(c)(i) through (vii).  
 317 (13) (a) The section shall provide training to the entities described in Subsection  
 318 (13)(b) on:  
 319 (i) the School LAND Trust Program established in Section [53A-16-101.5](#); and  
 320 (ii) (A) a school community council established pursuant to Section [53A-1a-108](#); or  
 321 (B) a charter trust land council established under Section [53A-16-101.5](#).  
 322 (b) The section shall provide the training to:  
 323 (i) a local school board or a charter school governing board;  
 324 (ii) a school district or a charter school; and  
 325 (iii) a school community council.  
 326 (14) The section shall annually:  
 327 (a) review each school's compliance with applicable law, including rules adopted by  
 328 the State Board of Education; and  
 329 (b) report findings to the State Board of Education.  
 330 Section 4. Section **53A-16-115** is enacted to read:  
 331 **53A-16-115. Invest More for Education Account.**  
 332 (1) There is created within the Uniform School Fund a restricted account known as the  
 333 Invest More for Education Account.  
 334 (2) The account shall be funded by contributions deposited into the restricted account  
 335 in accordance with Section [59-10-1318](#).  
 336 (3) The account shall earn interest.  
 337 (4) Interest earned on the account shall be deposited into the account.

338 (5) The Legislature may appropriate money from the account for the support of the  
 339 public education system.

340 Section 5. Section **53C-3-103** is amended to read:

341 **53C-3-103. Disposition of interest on permanent funds.**

342 ~~[(4)]~~ The ~~[interest and dividends]~~ trust distributions derived from the investment of  
 343 funds belonging to the permanent State School Fund and the interest, dividends, and other  
 344 income of the permanent funds of the respective state institutions shall be distributed for use  
 345 for the maintenance of public elementary and secondary schools or the state institutions in  
 346 accordance with ~~[Title 51, Chapter 7, State Money Management Act]~~ applicable law.

347 ~~[(2) Realized and unrealized gains shall be retained in the Permanent State School~~  
 348 ~~Fund.]~~

349 Section 6. Section **59-10-1318** is amended to read:

350 **59-10-1318. Contribution to Invest More for Education Account.**

351 (1) Except as provided in Section [59-10-1304](#), a resident or nonresident individual that  
 352 files an individual income tax return under this chapter may designate on the resident or  
 353 nonresident individual's individual income tax return a contribution as provided in this section  
 354 to be:

355 (a) deposited into the Invest More for Education Account; and

356 (b) expended as provided in ~~[Subsection 53A-16-101(4)]~~ Section [53A-16-115](#).

357 (2) The commission shall:

358 (a) determine the total amount of contributions designated in accordance with this  
 359 section for a taxable year; and

360 (b) credit the amount described in Subsection (2)(a) to the Invest More for Education  
 361 Account created in ~~[Subsection 53A-16-101(4)]~~ Section [53A-16-115](#).

362 Section 7. **Effective date.**

363 This bill takes effect January 1, 2017, if the amendment to the Utah Constitution  
 364 proposed by S.J.R. 11, Joint Resolution on Proposal to Amend Utah Constitution -- Changes to  
 365 School Funds, 2016 General Session, passes the Legislature and is approved by a majority of  
 366 those voting on it at the next regular general election.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**