

SCHOOL AND INSTITUTIONAL TRUST LANDS

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ enacts language related to the distributions deposited in the Uniform School Fund;
- ▶ creates the Trust Distribution Account within the Uniform School Fund;
- ▶ amends language governing the disposition of revenues in the State School Fund;
- ▶ repeals and reenacts language related to the Invest More for Education Account;
- ▶ directs the School Children's Trust Section to review each school for compliance

with applicable law; and

- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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 [(+) 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.

Legislative Review Note
Office of Legislative Research and General Counsel