

**PUBLIC EDUCATION FOUNDATION**

**AMENDMENTS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Sheryl L. Allen**

Lloyd W. Frandsen

David L. Hogue

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AN ACT RELATING TO EDUCATION FOUNDATIONS; EXPANDING THE POWERS OF PUBLIC EDUCATION FOUNDATIONS; AND ALLOWING PUBLIC EDUCATION FOUNDATIONS TO PARTICIPATE IN THE RISK MANAGEMENT FUND UPON APPROVAL BY THE STATE RISK MANAGER AND THE RESPECTIVE BOARD OF EDUCATION.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**53A-4-205**, as enacted by Chapter 2, Laws of Utah 1988

**63A-4-204**, as last amended by Chapter 55, Laws of Utah 1997

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

Section 1. Section **53A-4-205** is amended to read:

**53A-4-205. Establishment of public education foundations -- Powers and duties --**

**Tax exempt status.**

(1) [~~School districts~~] State and local school boards may establish foundations to:

(a) assist in the development and implementation of the programs authorized under this part to promote educational excellence; and

(b) assist in the accomplishment of other education-related objectives.

(2) A foundation established under Subsection (1):

(a) may solicit and receive contributions from private enterprises for the purpose of this part;

28 (b) may deposit funds in financial institutions in accounts which are guaranteed against  
29 loss by an agency of the federal government;

30 (c) may invest funds in other ways in accordance with rules made by the State Board of  
31 Education in consultation with the state treasurer and school foundation boards;

32 [~~(b)~~] (d) has no power or authority to incur contractual obligations or liabilities that  
33 constitute a claim against public funds except as provided in this section;

34 [~~(c)~~] (e) may not exercise executive, administrative, or rulemaking authority over the  
35 programs referred to in this part, except to the extent specifically authorized by the [~~local~~]  
36 responsible school board; [~~and~~]

37 [~~(d)~~] (f) is exempt from all taxes levied by the state or any of its political subdivisions with  
38 respect to activities conducted under this part; and

39 (g) upon approval by the state risk manager and the respective board of education, may  
40 participate in the Risk Management Fund under Section 63A-4-204 as if it were a part of the  
41 school district or under Section 63A-4-101 as if it were a part of the State Office of Education.

42 Section 2. Section **63A-4-204** is amended to read:

43 **63A-4-204. School district participation in Risk Management Fund.**

44 (1) (a) For the purpose of this section, action by a public school district shall be taken upon  
45 resolution by a majority of the members of its board of education.

46 (b) Upon [~~the~~] approval [~~of~~] by the state risk manager and the board of education of the  
47 school district, a public school district may participate in the Risk Management Fund and may  
48 permit a school district foundation established under Section 53A-4-205 to participate in the Risk  
49 Management Fund through the school district.

50 (c) Subject to any cancellation or other applicable coverage provisions, either the state risk  
51 manager or the public school district may terminate participation in the fund.

52 (2) The state risk manager shall contract for all insurance, legal, loss adjustment,  
53 consulting, loss control, safety, and other related services necessary to support the insurance  
54 program provided to a participating public school district, except that all supporting legal services  
55 are subject to the prior approval of the state attorney general.

56 (3) (a) The state risk manager shall treat each participating public school district as a state  
57 agency when participating in the Risk Management Fund.

58 (b) Each public school district participating in the fund shall comply with the provisions

59 of this part that affect state agencies.

60 (4) (a) The risk manager shall at least annually:

61 (i) prepare information summarizing the coverage provided to school teachers by the Risk  
62 Management Fund; and

63 (ii) provide that information to participating school districts.

64 (b) Each participating school district shall provide the coverage information to each school  
65 teacher.

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**Legislative Review Note  
as of 1-14-99 8:15 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**