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**SCHOOL TRUST FUND AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: Ann Millner

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**LONG TITLE**

**General Description:**

This bill amends provisions related to school trust funds.

**Highlighted Provisions:**

This bill:

- ▶ amends the contents of the Trust Distribution Account within the Uniform School Fund;
- ▶ amends provisions related to the funding of the School LAND Trust Program;
- ▶ amends language related to distributions from the associated permanent funds created from lands granted in Sections 8 and 12 of the Utah Enabling Act; 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** (Effective 07/01/17), Utah Code Annotated 1953

**53A-16-101.5** (Effective 07/01/17), Utah Code Annotated 1953

**53C-3-102** (Effective 07/01/17), Utah Code Annotated 1953

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

29 Section 1. Section **53A-16-101 (Effective 07/01/17)** is amended to read:

30 **53A-16-101 (Effective 07/01/17). Uniform School Fund -- Contents -- Trust**  
31 **Distribution Account.**

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

34 (a) distributions derived from the investment of money in the permanent State School  
35 Fund established by Utah Constitution, Article X, Section 5;

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

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

40 (2) (a) There is created within the Uniform School Fund a restricted account known as  
41 the Trust Distribution Account.

42 (b) The Trust Distribution Account consists of:

43 (i) earnings deposited by the School and Institutional Trust Fund Office created in  
44 Section 53D-1-201 based on the average of:

45 [(†) (A) 4% of the average market value of the permanent State School Fund based on  
46 an annual review each [July of] fiscal year using the past 12 consecutive quarters[; and] ending  
47 the prior fiscal year; and

48 [(†) (B) the prior fiscal year's distribution [from the Trust Distribution Account] as  
49 described in Section 53A-16-101.5, increased by prior year changes in the percentage of  
50 student enrollment growth and in the consumer price index[;];

51 (ii) all interest earned on the account; and

52 (iii) the amount appropriated under Subsection (5)(a).

53 (3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the  
54 [average] prior fiscal year end market value of the permanent State School Fund [over the past  
55 12 consecutive quarters].

56 (4) The School and Institutional Trust Fund Board of Trustees created in Section  
57 **53D-1-301** shall:

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

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

61 (5) (a) Upon appropriation by the Legislature, the director of the School and  
62 Institutional Trust Fund Office created in Section 53D-1-201 shall place in the Trust  
63 Distribution Account funds for:

64 (i) the administration of the School LAND Trust Program as provided in Section  
65 53A-16-101.5; and

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

67 [~~(iii) the School and Institutional Trust Fund Office, and~~]

68 [~~(iv) the School and Institutional Trust Fund Board of Trustees created in Section~~  
69 ~~53D-1-301.~~]

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

72 Section 2. Section 53A-16-101.5 (Effective 07/01/17) is amended to read:

73 **53A-16-101.5 (Effective 07/01/17). School LAND Trust Program -- Purpose --**  
74 **Distribution of funds -- School plans for use of funds.**

75 (1) As used in this section:

76 (a) "Charter agreement" means an agreement made in accordance with Section  
77 53A-1a-508 that authorizes the operation of a charter school.

78 (b) "Charter school authorizer" means the same as that term is defined in Section  
79 53A-1a-501.3.

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

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

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

86 (f) "School community council" means a council established at a district school in  
87 accordance with Section 53A-1a-108.

88 (2) There is established the School LAND (Learning And Nurturing Development)  
89 Trust Program to:

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

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

95 ~~[(3)(a) The program shall be funded each fiscal year:]~~

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

97 ~~[(ii) in the amount of the sum of the following:]~~

98 ~~[(A)]~~ (3) (a) The program shall be funded each fiscal year from the distributions from  
99 the investment of money in the permanent State School Fund deposited ~~[to]~~ into the Trust  
100 Distribution Account created in Section 53A-16-101 on or about July 15 each year~~[-; and]~~.

101 ~~[(B) interest accrued on the Trust Distribution Account in the immediately preceding~~  
102 ~~fiscal year.]~~

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

106 (c) (i) The Legislature shall annually allocate, through an appropriation to the State  
107 Board of Education, a portion of the Trust Distribution Account created in Section 53A-16-101  
108 to be used for:

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

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

111 (ii) Any unused balance remaining from an amount appropriated under Subsection  
112 (3)(c)(i) shall be deposited in the Trust Distribution Account for distribution to schools in the  
113 School LAND Trust Program.

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

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

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

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

- 121 (ii) charter schools shall receive funding equal to the product of:
- 122 (A) charter school enrollment on October 1 in the prior year, divided by enrollment on  
123 October 1 in the prior year in public schools statewide; and
- 124 (B) the total amount available for distribution under Subsection (3); and
- 125 (iii) of the funds available for distribution under Subsection (3) after the allocation of  
126 funds for the Utah Schools for the Deaf and the Blind and charter schools:
- 127 (A) school districts shall receive 10% of the funds on an equal basis; and
- 128 (B) the remaining 90% of the funds shall be distributed to school districts on a per  
129 student basis.
- 130 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
131 the State Board of Education shall make rules specifying a formula to distribute the amount  
132 allocated under Subsection (4)(a)(ii) to charter schools.
- 133 (ii) In making rules under Subsection (4)(b)(i), the State Board of Education shall:
- 134 (A) consult with the State Charter School Board; and
- 135 (B) ensure that the rules include a provision that allows a charter school in the charter  
136 school's first year of operations to receive funding based on projected enrollment, to be  
137 adjusted in future years based on actual enrollment.
- 138 (c) A school district shall distribute its allocation under Subsection (4)(a)(iii) to each  
139 school within the school district on an equal per student basis.
- 140 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
141 State Board of Education may make rules regarding the time and manner in which the student  
142 count shall be made for allocation of the money under Subsection (4)(a)(iii).
- 143 (5) To receive its allocation under Subsection (4):
- 144 (a) a district school shall have established a school community council in accordance  
145 with Section [53A-1a-108](#);
- 146 (b) a charter school shall have established a charter trust land council in accordance  
147 with Subsection (9); and
- 148 (c) the school's principal shall provide a signed, written assurance that the school is in  
149 compliance with Subsection (5)(a) or (b).
- 150 (6) (a) A council shall create a program to use its allocation under Subsection (4) to  
151 implement a component of the school's improvement plan or charter agreement, including:

152 (i) the school's identified most critical academic needs;  
153 (ii) a recommended course of action to meet the identified academic needs;  
154 (iii) a specific listing of any programs, practices, materials, or equipment which the  
155 school will need to implement a component of its school improvement plan to have a direct  
156 impact on the instruction of students and result in measurable increased student performance;  
157 and

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

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

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

164 (c) A council shall:

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

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

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

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

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

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

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

182 (e) A charter trust land council's plan for the use of School LAND Trust Program

183 money is subject to approval by the:

- 184 (i) charter school governing board; and
- 185 (ii) charter school's charter school authorizer.

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

- 187 (i) implement the program as approved;
- 188 (ii) provide ongoing support for the council's program; and
- 189 (iii) meet State Board of Education reporting requirements regarding financial and
- 190 performance accountability of the program.

191 (b) (i) A district school or charter school shall prepare and post an annual report of the

192 program on the School LAND Trust Program website each fall.

193 (ii) The report shall detail the use of program funds received by the school under this

194 section and an assessment of the results obtained from the use of the funds.

195 (iii) A summary of the report shall be provided to parents or guardians of students

196 attending the school.

197 (8) On or before October 1 of each year, a school district shall record the amount of the

198 program funds distributed to each school under Subsection (4)(c) on the School LAND Trust

199 Program website to assist schools in developing the annual report described in Subsection

200 (7)(b).

201 (9) (a) The governing board of a charter school shall establish a council, which shall

202 prepare a plan for the use of School LAND Trust Program money that includes the elements

203 listed in Subsection (6).

204 (b) (i) The membership of the council shall include parents or guardians of students

205 enrolled at the school and may include other members.

206 (ii) The number of council members who are parents or guardians of students enrolled

207 at the school shall exceed all other members combined by at least two.

208 (c) A charter school governing board may serve as the council that prepares a plan for

209 the use of School LAND Trust Program money if the membership of the charter school

210 governing board meets the requirements of Subsection (9)(b)(ii).

211 (d) (i) Except as provided in Subsection (9)(d)(ii), council members who are parents or

212 guardians of students enrolled at the school shall be elected in accordance with procedures

213 established by the charter school governing board.

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

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

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

221 Section 3. Section **53C-3-102 (Effective 07/01/17)** is amended to read:

222 **53C-3-102 (Effective 07/01/17). Deposit and allocation of money received.**

223 (1) (a) The director shall pay to the School and Institutional Trust Fund Office, created  
224 in Section **53D-1-201**, all money received, accompanied by a statement showing the respective  
225 sources of this money.

226 (b) The administration and the School and Institutional Trust Fund Office shall enter  
227 into a memorandum of understanding detailing:

228 (i) the classification of sources of money; and

229 (ii) other relevant information, as determined by the administration and the School and  
230 Institutional Trust Fund Office.

231 (2) All money received from the sale of lands granted by Section 6 of the Utah  
232 Enabling Act for the support of the common schools, all money received from the sale of lands  
233 selected in lieu of those lands, all money received from the United States under Section 9 of the  
234 Utah Enabling Act, all money received from the sale of lands or other securities acquired by the  
235 state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties  
236 paid in connection with these sales shall be deposited in the Permanent State School Fund.

237 (3) All money received from the sale and all net proceeds from other contractual  
238 arrangements of institutional trust lands granted to the state by the United States under Section  
239 7, 8, or 12 of the Utah Enabling Act shall be deposited into the respective permanent funds  
240 established for the benefit of those institutions under the Utah Enabling Act and the Utah  
241 Constitution.

242 (4) (a) All lands acquired by the state through foreclosure of mortgages securing school  
243 or institutional trust funds or through deeds from mortgagors or owners of those lands shall  
244 become a part of the respective school or institutional trust lands.



245 (b) All money received from these lands shall be treated as money received from  
246 school or institutional trust lands.

247 (5) All money received from the sale of lands acquired by the state through foreclosure  
248 of mortgages securing trust funds or through deeds from mortgagors or owners of such lands,  
249 whether a profit is realized or a loss sustained on the principal invested, shall be regarded as  
250 principal and shall go into the principal or permanent fund from which it was originally taken  
251 in reimbursement of that fund, with profits being used to offset losses.

252 (6) (a) All money received by the director as a first or down payment on applications to  
253 purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in  
254 suspense pending final action on those applications.

255 (b) After final action the payments received under Subsection (6)(a) shall either be  
256 credited to the appropriate fund or account, or refunded to the applicant in accordance with the  
257 action taken.

258 (7) Distributions to the respective institutions from the associated permanent funds  
259 created from lands granted in Sections 8 and 12 of the Utah Enabling Act shall [~~consist of~~] be  
260 4% of the average market value of each institutional permanent fund [~~over the past 12~~  
261 ~~consecutive quarters.~~] based on an annual review each fiscal year using the past 12 consecutive  
262 quarters ending the prior fiscal year.

263 Section 4. **Effective date.**

264 This bill takes effect July 1, 2017.

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