

PUBLIC EDUCATION TRUST FUND AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor: _____

LONG TITLE

General Description:

This bill creates the Public Education Trust Fund.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Public Education Trust Fund (trust fund);
- ▶ creates an advisory council to advise on the management and use of the trust fund;
- ▶ provides that the trust fund shall be used to fund a grant program for hiring personnel at the local school district level; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates:

- ▶ to Public Education Trust Fund, as a one-time appropriation:
 - from Public Education Economic Stabilization Restricted Account, One-time, \$200,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2022, Chapters 186, 298



28 **53F-9-204**, as last amended by Laws of Utah 2022, Chapters 386, 456

29 ENACTS:

30 **53F-9-207**, Utah Code Annotated 1953



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

32 Section 1. Section **51-7-2** is amended to read:

33 **51-7-2. Exemptions from chapter.**

34 The following funds are exempt from this chapter:

35 (1) funds invested in accordance with the participating employees' designation or
36 direction pursuant to a public employees' deferred compensation plan established and operated
37 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

38 (2) funds of the Utah State Retirement Board;

39 (3) funds of the Utah Housing Corporation;

40 (4) endowment funds of higher education institutions, including funds of the Higher
41 Education Student Success Endowment, created in Section **53B-7-801**;

42 (5) permanent and other land grant trust funds established pursuant to the Utah
43 Enabling Act and the Utah Constitution;

44 (6) the State Post-Retirement Benefits Trust Fund;

45 (7) the funds of the Utah Educational Savings Plan;

46 (8) funds of the permanent state trust fund created by and operated under Utah
47 Constitution, Article XXII, Section 4;

48 (9) the funds in the Navajo Trust Fund;

49 (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

50 (11) the funds in the Employers' Reinsurance Fund;

51 (12) the funds in the Uninsured Employers' Fund;

52 (13) the Utah State Developmental Center Long-Term Sustainability Fund, created in
53 Section **62A-5-206.7**;

54 (14) the funds in the Risk Management Fund created in Section **63A-4-201**; [~~and~~]

55 (15) the Utah fund of funds created in Section **63N-6-401**[~~;~~]; and

56 (16) the Public Education Trust Fund created in Section **53F-9-207**.

57 Section 2. Section **53F-9-204** is amended to read:
58

59 **53F-9-204. Public Education Economic Stabilization Restricted Account.**

60 (1) There is created within the Uniform School Fund a restricted account known as the
61 "Public Education Economic Stabilization Restricted Account."

62 (2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the
63 following revenue sources:

64 (i) 15% of the difference between, as determined by the Office of the Legislative Fiscal
65 Analyst:

66 (A) the estimated amount of ongoing Income Tax Fund and Uniform School Fund
67 revenue available for the Legislature to appropriate for the next fiscal year; and

68 (B) the amount of ongoing appropriations from the Income Tax Fund and Uniform
69 School Fund in the current fiscal year; and

70 (ii) other appropriations as the Legislature may designate.

71 (b) If the appropriation described in Subsection (2)(a) would cause the ongoing
72 appropriations to the account to exceed 11% of Uniform School Fund appropriations described
73 in Section [53F-9-201.1](#) for the same fiscal year, the Legislature shall appropriate only those
74 funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform
75 School Fund appropriations for that fiscal year.

76 (3) Subject to the availability of ongoing appropriations to the account, in accordance
77 with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the
78 account shall be used to fund:

79 (a) except for a year described in Subsection (3)(b), one-time appropriations to:

80 (i) the public education system; or

81 (ii) the trust fund created in Section [53F-9-207](#); and

82 (b) the Minimum School Program for a year in which Income Tax Fund revenue and
83 Uniform School Fund revenue are insufficient to fund:

84 (i) ongoing appropriations to the public education system; and

85 (ii) enrollment growth and inflation estimates, as defined in Section [53F-9-201.1](#).

86 (4) (a) The account shall earn interest.

87 (b) All interest earned on account money shall be deposited in the account.

88 (5) On or before December 31, 2023, and every three years thereafter, the Office of the
89 Legislative Fiscal Analyst shall:

90 (a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and
 91 (b) recommend to the Executive Appropriations Subcommittee any changes based on
 92 the review described in Subsection (5)(a).

93 (6) In preparing budget bills for a given fiscal year, the Executive Appropriations
 94 Committee shall make the one-time appropriations described in Subsection (3)(a) by
 95 appropriating at least the lesser of 10% of the total amount of the one-time appropriations or
 96 the cost of providing 32 paid professional hours for teachers in accordance with Section
 97 [53F-7-203](#).

98 Section 3. Section **53F-9-207** is enacted to read:

99 **53F-9-207. Public Education Trust Fund -- Creation -- Advisory council -- Grant**
 100 **program -- Investment -- Reporting.**

101 (1) As used in this section:

102 (a) "Account" means the Public Education Economic Stabilization Restricted Account
 103 created in Section [53F-9-204](#).

104 (b) "Advisory council" means the Public Education Trust Fund Advisory Council
 105 created in Subsection (4).

106 (c) "Rural school district" means a school district that is located in a county of the
 107 fourth, fifth, or sixth class, as defined in Section [17-50-501](#).

108 (d) "School personnel" means a school district employee, including a teacher, aide, or
 109 specialist, whose primary responsibility is to work in a classroom or with a student or students.

110 (e) "Trust fund" means the Public Education Trust Fund created in Subsection (2).

111 (f) "Urban school district" means a school district that is located in a county of the first,
 112 second, or third class, as defined in Section [17-50-501](#).

113 (2) There is created the Public Education Trust Fund.

114 (3) The trust fund consists of:

115 (a) appropriations from the account by the Legislature;

116 (b) other appropriations made to the trust fund, if any;

117 (c) interest and earnings from the investment of trust funds; and

118 (d) other revenues received from other sources.

119 (4) (a) There is created the Public Education Trust Fund Advisory Council consisting
 120 of the following seven members:

121 (i) the executive director of the Utah Educational Savings Plan, or the executive
122 director's designee;

123 (ii) one member of the state board appointed by the chair of the state board;

124 (iii) two public education school district superintendents appointed by the Utah School
125 Boards Association, one of whom shall be from a rural school district and one of whom shall
126 be from an urban school district;

127 (iv) one member appointed by the Utah School Boards Association; and

128 (v) two members appointed by the state treasurer on a nonpartisan basis who possess
129 professional qualifications pertinent to institutional investment management.

130 (b) (i) Except as provided in Subsection (4)(b)(ii), an appointed member of the
131 advisory council shall serve a term of four years.

132 (ii) Notwithstanding Subsection (4)(b)(i), a member of the advisory council's term ends
133 on the day on which the member's position allowing the member to serve on the advisory
134 council under Subsection (4)(a) ends.

135 (c) A vacancy on the advisory council shall be filled in the same manner in which the
136 original appointment is made.

137 (d) (i) A majority of the members of the advisory council constitutes a quorum of the
138 advisory council.

139 (ii) An action by a majority of the members of a quorum constitutes the action of the
140 advisory council.

141 (e) A member of the advisory council may not receive compensation or benefits for the
142 member's service on the advisory council, but may receive per diem and reimbursement for
143 travel expenses incurred as an advisory council member at the rates established by the Division
144 of Finance under:

145 (i) Sections [63A-3-106](#) and [63A-3-107](#); and

146 (ii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
147 [63A-3-107](#).

148 (f) The state board shall provide staff support for the advisory council.

149 (5) The advisory council shall:

150 (a) advise the state board regarding the trust fund, including recommendations for the
151 implementation and maintenance of the grant program described in Subsection (6); and

152 (b) recommend to the state board a spending policy that includes a cap of 5% of the
153 average market value of the trust fund over the past 20 consecutive quarters.

154 (6) The state board shall establish a grant program for a local school district to receive
155 funding for the purpose of hiring and retaining school personnel.

156 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
157 in consultation with the advisory council, the state board shall make rules to administer the
158 trust fund, and to establish and administer the grant program described in Subsection (6),
159 including rules to:

160 (a) create a grant application process;

161 (b) establish criteria for awarding a grant; and

162 (c) require a grant recipient to use a grant exclusively for the purposes described in
163 Subsection (6).

164 (8) The state board shall:

165 (a) serve as the trustee of the trust fund and exercise the state's fiduciary
166 responsibilities;

167 (b) meet at least twice a year to conduct business on behalf of the trust fund;

168 (c) review and approve all trust fund policies, projections, rules, criteria, procedures,
169 forms, standards, and performance goals;

170 (d) review and approve the budget for and expenditures from the trust fund in
171 accordance with this section;

172 (e) review financial records for the trust fund, including trust fund receipts,
173 expenditures, and investments; and

174 (f) take any other action necessary to fulfill the state board's fiduciary obligations.

175 (9) The state board shall ensure that:

176 (a) money deposited into the trust fund is irrevocable and is expended only as provided
177 in this section;

178 (b) creditors of the state board may not seize, attach, or otherwise obtain assets of the
179 trust fund; and

180 (c) except for expenditures authorized in this section, the principal of the trust fund is
181 held in perpetuity.

182 (10) With the primary goal of providing for stability, income, and growth of the

183 principal, the state treasurer shall invest:

184 (a) for fiscal years 2024 and 2025, up to 80% of the trust funds;

185 (b) for fiscal years 2026 through 2030, up to 92% of the trust funds; and

186 (c) for fiscal years after 2030, the principal of the trust fund.

187 (11) (a) The state treasurer shall invest the trust fund money with the primary goal of
188 providing for stability, income, and growth of the principal.

189 (b) The state treasurer may deduct any administrative costs incurred in managing trust
190 fund assets from earnings before distributing the earnings.

191 (c) Nothing in this section requires a specific outcome in investing.

192 (d) The state treasurer may employ professional asset managers to assist in the
193 investment of assets of the trust fund.

194 (e) The state treasurer shall invest and manage the trust fund assets as a prudent
195 investor would, by:

196 (i) considering the purposes, terms, distribution requirements, and other circumstances
197 of the trust fund; and

198 (ii) exercising reasonable care, skill, and caution in order to meet the standard of care
199 of a prudent investor.

200 (f) In determining whether or not the state treasurer has met the standard of care of a
201 prudent investor, the judge or finder of fact shall:

202 (i) consider the state treasurer's actions in light of the facts and circumstances existing
203 at the time of the investment decision or action, and not by hindsight; and

204 (ii) evaluate the state treasurer's investment and management decisions respecting
205 individual assets not in isolation, but in context of a trust fund portfolio as a whole as a part of
206 an overall investment strategy that has risk and return objectives reasonably suited to the trust
207 fund.

208 (12) (a) The trust fund shall earn interest.

209 (b) The treasurer shall deposit the interest or other income earned from investment of
210 the trust funds into the trust fund.

211 (13) The state board shall annually report trust fund earnings and expenditures to the
212 Higher Education Appropriations Subcommittee no later than November 1.

213 **Section 4. Appropriation.**

214 The following sums of money are appropriated for the fiscal year beginning July 1,
215 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
216 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
217 Act, the Legislature appropriates the following sums of money from the funds or accounts
218 indicated for the use and support of the government of the state of Utah.

219 ITEM 1

220 To Public Education Trust Fund

221 From Public Education Economic Stabilization Restricted Account,

222 One-time 200,000,000

223 Schedule of Programs:

224 Public Education Trust Fund 200,000,000

225 The Legislature intends that the appropriation provided under this item be used for the
226 purposes described in Section [53F-9-207](#).