

**SCHOOL AND INSTITUTIONAL TRUST FUND**

**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies provisions of the School and Institutional Trust Fund Management Act.

**Highlighted Provisions:**

This bill:

- ▶ exempts the School and Institutional Trust Fund Office from the Utah Procurement Code, and requires the office to create rules to ensure the competitive and prudent procurement of services and goods;
- ▶ modifies the number of annual meetings;
- ▶ modifies the membership of the School and Institutional Trust Fund Nominating Committee; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53D-1-103**, as enacted by Laws of Utah 2014, Chapter 426



- 28           **53D-1-304**, as enacted by Laws of Utah 2014, Chapter 426
- 29           **53D-1-401**, as enacted by Laws of Utah 2014, Chapter 426
- 30           **53D-1-403**, as last amended by Laws of Utah 2015, Chapter 276
- 31           **53D-1-501**, as enacted by Laws of Utah 2014, Chapter 426

32 

---

---

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

34           Section 1. Section **53D-1-103** is amended to read:

35           **53D-1-103. Application of other law.**

36           (1) The office, board, and nominating committee are subject to Title 52, Chapter 4,  
37 Open and Public Meetings Act.

38           (2) Subject to Subsection **63E-1-304**(2), the office may participate in coverage under  
39 the Risk Management Fund, created in Section **63A-4-201**.

40           (3) The office and board are subject to Title 63G, Chapter 2, Government Records  
41 Access and Management Act.

42           (4) (a) In making rules under this chapter, the director is subject to and shall comply  
43 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in  
44 Subsection (4)(b).

45           (b) Subsections **63G-3-301**(6) and (7) and Section **63G-3-601** do not apply to the  
46 director's making of rules under this chapter.

47           (5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board  
48 member to the same extent as it applies to an employee, as defined in Section **63G-7-102**.

49           (6) (a) A board member, the director, and an office employee or agent are subject to:

- 50           (i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and
- 51           (ii) other requirements that the board establishes.

52           (b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a  
53 board member, the director, and an office employee or agent may not directly or indirectly  
54 acquire an interest in the trust fund or receive any direct benefit from any transaction dealing  
55 with trust fund money.

56           (7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67,  
57 Chapter 19, Utah State Personnel Management Act.

58           (b) (i) Upon a recommendation from the director after the director's consultation with

59 the executive director of the Department of Human Resource Management, the board may  
60 provide that specified positions in the office are exempt from Section 67-19-12 and the career  
61 service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided  
62 in Subsection 67-19-15(1), if the board determines that exemption is required for the office to  
63 fulfill efficiently its responsibilities under this chapter.

64 (ii) The director position is exempt from Section 67-19-12 and the career service  
65 provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in  
66 Subsection 67-19-15(1).

67 (iii) (A) After consultation with the executive director of the Department of Human  
68 Resource Management, the director shall set salaries for positions that are exempted under  
69 Subsection (7)(b)(i), within ranges that the board approves.

70 (B) In approving salary ranges for positions that are exempted under Subsection  
71 (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other  
72 public employment.

73 (8) (a) The office is exempt from Title 63G, Chapter 6a, Utah Procurement Code.

74 (b) The office shall establish rules, in accordance with Title 63G, Chapter 3, Utah  
75 Administrative Rulemaking Act, to ensure competitive and prudent procurement of services  
76 and goods.

77 [~~8~~] (9) The office is subject to legislative appropriation, to executive branch  
78 budgetary review and recommendation, and to legislative and executive branch review.

79 Section 2. Section 53D-1-304 is amended to read:

80 **53D-1-304. Board meetings.**

81 (1) The board shall hold at least [~~nine~~] six meetings per year to conduct business.

82 (2) The board chair or two board members:

83 (a) may call a board meeting; and

84 (b) if calling a board meeting, shall provide as much advance notice as is reasonable  
85 under the circumstances to all board members, the director, and the director of the school  
86 children's trust section.

87 (3) Any board member may place an item on a board meeting agenda.

88 (4) The board shall annually adopt a set of parliamentary procedures to govern board  
89 meetings.

90 (5) The board may establish an attendance policy to govern the attendance of board  
91 members at board meetings.

92 Section 3. Section **53D-1-401** is amended to read:

93 **53D-1-401. Appointment of director -- Qualifications -- Nature of employment --**  
94 **Removal by State Board of Education petition.**

95 (1) The office shall be managed by a director.

96 (2) [~~On or before January 25, 2015~~] If there is a vacancy in the director position, the  
97 board shall appoint an individual as director.

98 (3) The board shall ensure that an individual appointed as director possesses:

99 (a) outstanding professional qualifications pertinent to the prudent investment of trust  
100 fund money; and

101 (b) expertise in institutional investment management.

102 (4) The director is an at-will employee who may be removed by the board at any time  
103 with or without cause.

104 (5) (a) The State Board of Education may submit a written petition to the board  
105 requesting the board to remove the director for cause, explained in the petition.

106 (b) The board shall hold a hearing on a petition under Subsection (5)(a) within 45 days  
107 after receiving the petition.

108 (c) If, after holding a hearing, the board finds by a preponderance of the evidence that  
109 there is cause for removing the director, the board shall remove the director.

110 Section 4. Section **53D-1-403** is amended to read:

111 **53D-1-403. Reports.**

112 (1) At least annually, the director shall report in person to the Legislative Management  
113 Committee, the governor, and the State Board of Education, concerning the office's  
114 investments, performance, estimated distributions, and other activities.

115 (2) The director shall report to the board concerning the work of the director and the  
116 investment activities and other activities of the office:

117 (a) in a public meeting at least [~~nine~~] six times per year; and

118 (b) as otherwise requested by the board.

119 (3) (a) Before November 1 of each year, the director shall:

120 (i) submit a written report to school community councils, created under Section

121 53A-1a-108, and charter trust land councils, established under Section 53A-16-101.5  
122 concerning the office's investments, performance, estimated distributions, and other activities;  
123 and

124 (ii) post the written report described in Subsection (3)(a)(i) on the office's website.

125 (b) A report under Subsection (3)(a) shall be prepared in simple language designed to  
126 be understood by the general public.

127 (4) The director shall provide to the board:

128 (a) monthly written reports on the activities of the office;

129 (b) quarterly financial reports; and

130 (c) any other report requested by the board.

131 (5) The director shall:

132 (a) invite the director of the school children's trust section to attend any meeting at  
133 which the director gives a report under this section; and

134 (b) provide the director of the school children's trust section:

135 (i) a copy of any written report prepared under this section; and

136 (ii) any other report requested by the director of the school children's trust section.

137 Section 5. Section 53D-1-501 is amended to read:

138 **53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies --**

139 **Compensation.**

140 (1) There is established a School and Institutional Trust Fund Nominating Committee.

141 (2) The nominating committee consists of:

142 (a) two members appointed by the State Board of Education;

143 (b) two members, appointed by the State Board of Education upon recommendation by

144 the director of the school children's trust section, each of whom is a member of a respected

145 professional organization;

146 (c) the chief investment officer of the University of Utah endowment;

147 (d) the chief investment officer of the Utah State University endowment; and

148 (e) the director of the school children's trust section.

149 (3) An individual appointed as a member of the nominating committee under

150 Subsection (2)(a) or (b) shall be appointed based on the individual's expertise in:

151 (a) investment finance;

- 152 (b) institutional asset management;
- 153 (c) trust administration; or
- 154 (d) the practice of law in the areas of capital markets, securities law, trusts,  
155 foundations, endowments, investment finance, institutional asset management, or trust  
156 administration.
- 157 (4) The term of a member appointed under Subsection (2)(a) or (b) is four years[;  
158 ~~except that the initial term of members appointed under Subsection (2)(b) is two years].~~
- 159 (5) A nominating committee member shall serve until a successor is appointed and  
160 qualified.
- 161 (6) (a) If a member appointed under Subsection (2)(a) or (b) leaves office, the vacancy  
162 shall be filled in the same manner as the initial appointment under Subsection (2)(a) or (b).
- 163 (b) An individual appointed to fill a vacancy under Subsection (6)(a) serves the  
164 remainder of the unexpired term.
- 165 (7) A member of the nominating committee may not receive compensation or benefits  
166 for the member's service, but may receive per diem and travel expenses in accordance with:  
167 (a) Section [63A-3-106](#);  
168 (b) Section [63A-3-107](#); and  
169 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
170 [63A-3-107](#).