

**Senator Margaret Dayton** proposes the following substitute bill:

**SCHOOL CHILDREN'S TRUST SECTION AND BENEFICIARY**

**ADVOCATE AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: Margaret Dayton

**LONG TITLE**

**General Description:**

This bill amends provisions regarding the School Children's Trust Section under the State Board of Education.

**Highlighted Provisions:**

This bill:

- ▶ creates the beneficiary advocate under the State Board of Education who:
  - shall take an oath of office as specified;
  - shall serve for a term of four years;
  - may serve multiple terms; and
  - is exempt from the Utah State Personnel Management Act;
- ▶ amends the reasons for which the State Board of Education may remove the beneficiary advocate; and
- ▶ requires the School Children's Trust Section to annually:
  - review distribution recipients' compliance with applicable laws and rules; and
  - report any findings to the appropriate governing bodies.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53A-16-101.6 (Superseded 07/01/17)**, as last amended by Laws of Utah 2016, Chapter  
31 144

32 **53A-16-101.6 (Effective 07/01/17)**, as last amended by Laws of Utah 2016, Chapters  
33 144 and 172

34 **53C-1-103**, as last amended by Laws of Utah 2012, Chapter 224

35 **53C-1-303**, as last amended by Laws of Utah 2012, Chapter 224

36 **53D-1-102**, as last amended by Laws of Utah 2016, Chapter 144

37 **53D-1-202**, as enacted by Laws of Utah 2014, Chapter 426

38 **53D-1-304**, as enacted by Laws of Utah 2014, Chapter 426

39 **53D-1-403**, as last amended by Laws of Utah 2015, Chapter 276

40 **53D-1-501**, as enacted by Laws of Utah 2014, Chapter 426



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

43 Section 1. Section **53A-16-101.6 (Superseded 07/01/17)** is amended to read:

44 **53A-16-101.6 (Superseded 07/01/17). Creation of School Children's Trust Section**

45 **-- Duties.**

46 (1) As used in this section:

47 (a) "Beneficiary advocate" means the individual, as an independent employee, who  
48 shall fulfill the duties prescribed in this section to the trust land beneficiaries as the primary  
49 beneficiary representative set forth in Subsection 53C-1-103(7).

50 (b) "Board" means the State Board of Education.

51 ~~(a)~~ (c) "School and institutional trust lands" [is-as] means the same as that term is  
52 defined in Section 53C-1-103.

53 ~~(b)~~ (d) "Section" means the School Children's Trust Section created in this section.

54 ~~(c)~~ (e) "Trust" means:

55 (i) the School LAND Trust Program created in Section **53A-16-101.5**; and

56 (ii) the lands and funds associated with the trusts described in Subsection

57 [53C-1-103](#)(7).

58 (2) There is established a School Children's Trust Section under the [~~State Board of~~  
59 ~~Education~~] board.

60 [~~(3) (a) The section shall have a director.~~]

61 (3) (a) There is created an independent beneficiary advocate who shall:

62 (i) act in a fiduciary capacity to the trust and to the trust beneficiaries in accordance  
63 with the principles set forth in Section [53C-1-102](#); and

64 (ii) take an oath of office before assuming the position of beneficiary advocate as  
65 follows: "I solemnly swear to carry out my duties as beneficiary advocate with undivided  
66 loyalty to the beneficiaries, to the best of my abilities and according to law."

67 (b) The [~~director~~] beneficiary advocate shall have professional qualifications and  
68 expertise in the areas generating revenue to the trust, including:

69 (i) economics;

70 (ii) energy and mineral development;

71 (iii) finance;

72 (iv) investments;

73 (v) public education;

74 (vi) real estate;

75 (vii) renewable resources;

76 (viii) risk management; and

77 (ix) trust law.

78 (c) (i) The [~~director~~] beneficiary advocate shall:

79 (A) be appointed as provided in this Subsection (3)[:]; and

80 (B) except as provided in Subsection (3)(c)(ii), serve for a term of four years.

81 (ii) The four-year term of an individual who is the beneficiary advocate on July 1,  
82 2017, shall expire on July 1, 2021, unless a vacancy occurs.

83 (iii) The beneficiary advocate may serve more than one term.

84 (iv) The beneficiary advocate shall notify the board whether the beneficiary advocate is  
85 willing to be considered for reappointment to another term no later than four months before the  
86 end of the current term.

87 (v) The board shall announce whether the beneficiary advocate is reappointed for

88 another term no later than three months before the end of the current term.

89 (d) ~~[The]~~ When a vacancy for the position of beneficiary advocate occurs, the School  
90 and Institutional Trust Lands Board of Trustees nominating committee shall submit to the  
91 ~~[State Board of Education]~~ board the name of one ~~[person]~~ individual to serve as ~~[director]~~  
92 beneficiary advocate.

93 (e) The ~~[State Board of Education]~~ board may:

94 (i) appoint the ~~[person]~~ individual described in Subsection (3)(d) to serve as ~~[director]~~  
95 beneficiary advocate; or

96 (ii) deny the appointment of the ~~[person]~~ individual described in Subsection (3)(d) to  
97 serve as ~~[director]~~ beneficiary advocate.

98 (f) If the ~~[State Board of Education]~~ board denies an appointment under this Subsection  
99 (3):

100 (i) the ~~[State Board of Education]~~ board shall provide in writing one or more reasons  
101 for the denial to the School and Institutional Trust Lands Board of Trustees nominating  
102 committee; and

103 (ii) the School and Institutional Trust Lands Board of Trustees nominating committee  
104 and the ~~[State Board of Education]~~ board shall follow the procedures and requirements of this  
105 Subsection (3) until the ~~[State Board of Education]~~ board appoints a ~~[director]~~ beneficiary  
106 advocate.

107 (g) (i) The ~~[State Board of Education]~~ board may remove the ~~[director]~~ beneficiary  
108 advocate only:

109 (A) by majority vote ~~[of a quorum]~~ of all board members in an open and public  
110 meeting after proper notice and the inclusion of the removal item on the agenda~~[-]; and~~

111 (B) for neglect of fiduciary duty, malfeasance, gross negligence, incapacitation, or  
112 insubordination for the failure to follow the rules, policies, and directives of the board for the  
113 proper administration of the School Land Trust Program.

114 (ii) The termination of an individual under this Subsection (3)(g) is effective  
115 immediately and creates a vacancy in the position of the beneficiary advocate.

116 (h) The position of beneficiary advocate is exempt from the career service provisions  
117 of Title 67, Chapter 19, Utah State Personnel Management Act.

118 (4) The ~~[State Board of Education]~~ board shall make rules regarding:

119 (a) regular reporting from the [~~School Children's Trust Section director~~] beneficiary  
120 advocate to the [~~State Board of Education;~~] board, to allow the [~~State Board of Education~~]  
121 board to fulfill its duties in also representing the trust beneficiaries; and

122 (b) the day-to-day reporting of the [~~School Children's Trust Section director~~]  
123 beneficiary advocate.

124 (5) (a) The [~~director~~] beneficiary advocate shall annually submit a proposed section  
125 budget to the [~~State Board of Education~~] board.

126 (b) After approving a section budget, the [~~State Board of Education~~] board shall  
127 annually:

128 (i) receive input on the beneficiary advocate's performance from the chair of the board  
129 and director of:

130 (A) the School and Institutional Trust Lands Administration; and

131 (B) the School and Institutional Trust Fund Office;

132 (ii) establish the range and compensation of the beneficiary advocate in line with  
133 comparable positions in state government, the responsibilities of the position, and the  
134 qualifications required in Subsection (3)(b);

135 (iii) report the beneficiary advocate's compensation to the Public Education  
136 Appropriations Subcommittee; and

137 (iv) propose the approved budget to the Legislature.

138 (6) The [~~director~~] beneficiary advocate is entitled to attend any presentation,  
139 discussion, meeting, or other gathering concerning the trust, subject to:

140 (a) provisions of law prohibiting the [~~director's~~] beneficiary advocate's attendance to  
141 preserve confidentiality; or

142 (b) other provisions of law that the [~~director's~~] beneficiary advocate's attendance would  
143 violate.

144 (7) The section shall have a staff.

145 (8) The [~~section~~] beneficiary advocate shall protect current and future beneficiary  
146 rights and interests in the trust consistent with the state's perpetual obligations under:

147 (a) the Utah Enabling Act;

148 (b) the Utah Constitution;

149 (c) state statute; and

- 150 (d) standard trust principles described in Section 53C-1-102.
- 151 (9) The ~~[section]~~ beneficiary advocate shall promote:
- 152 (a) productive use of school and institutional trust lands for the financial support of the  
153 trust beneficiaries; and
- 154 (b) the efficient and prudent investment of funds managed by the School and  
155 Institutional Trust Fund Office, created in Section 53D-1-201.
- 156 (10) The ~~[section]~~ beneficiary advocate shall provide representation, advocacy, and  
157 input:
- 158 (a) on behalf of current and future beneficiaries of the trust, school community  
159 councils, schools, and school districts;
- 160 (b) on federal, state, and local land decisions and policies that affect the trust; and
- 161 (c) to:
- 162 (i) the School and Institutional Trust Lands Administration;
- 163 (ii) the School and Institutional Trust Lands Board of Trustees;
- 164 (iii) the Legislature;
- 165 (iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;
- 166 (v) the School and Institutional Trust Fund Board of Trustees, created in Section  
167 53D-1-301;
- 168 (vi) the attorney general;
- 169 (vii) the public; and
- 170 (viii) other entities as determined by the section.
- 171 (11) The ~~[section]~~ beneficiary advocate shall provide independent oversight on the  
172 prudent and profitable management of the trust and report annually to the ~~[State Board of~~  
173 ~~Education]~~ board and the Legislature.
- 174 (12) The ~~[section]~~ beneficiary advocate shall provide information requested by a  
175 person or entity described in Subsections (10)(c)(i) through (vii).
- 176 (13) (a) The section shall provide training to the entities described in Subsection  
177 (13)(b) on:
- 178 (i) the School LAND Trust Program established in Section 53A-16-101.5; and
- 179 (ii) (A) a school community council established pursuant to Section 53A-1a-108; or
- 180 (B) a charter trust land council established under Section 53A-16-101.5.

- 181 (b) The section shall provide the training to:
- 182 (i) a local school board or a charter school governing board;
- 183 (ii) a school district or a charter school; and
- 184 (iii) a school community council.
- 185 (14) The section shall annually:
- 186 (a) review K-12 trust distribution recipients' compliance with applicable law, including
- 187 applicable rules, policies, and directives adopted by the board; and
- 188 (b) report findings to the board and other appropriate governing bodies, including:
- 189 (i) the School and Institutional Trust Lands Administration created in Section
- 190 53C-1-201 and the School and Institutional Trust Lands Board of Trustees established in
- 191 Section 53C-1-202;
- 192 (ii) the School and Institutional Trust Fund Office created in Section 53D-1-201 and
- 193 the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301; and
- 194 (iii) other designated representatives and organizations of trust beneficiaries of school
- 195 and institutional trust lands.

196 Section 2. Section 53A-16-101.6 (Effective 07/01/17) is amended to read:

197 **53A-16-101.6 (Effective 07/01/17). Creation of School Children's Trust Section --**

198 **Duties.**

199 (1) As used in this section:

200 (a) "Beneficiary advocate" means the individual, as an independent employee, who

201 shall fulfill the duties prescribed in this section to the trust land beneficiaries as the primary

202 beneficiary representative set forth in Subsection 53C-1-103(7).

203 (b) "Board" means the State Board of Education.

204 ~~(a)~~ (c) "School and institutional trust lands" [is as] means the same as that term is

205 defined in Section 53C-1-103.

206 ~~(b)~~ (d) "Section" means the School Children's Trust Section created in this section.

207 ~~(c)~~ (e) "Trust" means:

208 (i) the School LAND Trust Program created in Section 53A-16-101.5; and

209 (ii) the lands and funds associated with the trusts described in Subsection

210 53C-1-103(7).

211 (2) There is established a School Children's Trust Section under the State Board of

212 Education.

213 ~~[(3)(a) The section shall have a director.]~~

214 (3) (a) There is created an independent beneficiary advocate who shall:

215 (i) act in a fiduciary capacity to the trust and to the trust beneficiaries in accordance

216 with the principles set forth in Section 53C-1-102; and

217 (ii) take an oath of office before assuming the position of beneficiary advocate and as

218 the director as follows: "I solemnly swear to carry out my duties as beneficiary advocate with

219 undivided loyalty to the beneficiaries, to the best of my abilities and according to law."

220 (b) The ~~[director]~~ beneficiary advocate shall have professional qualifications and  
221 expertise in the areas generating revenue to the trust, including:

222 (i) economics;

223 (ii) energy and mineral development;

224 (iii) finance;

225 (iv) investments;

226 (v) public education;

227 (vi) real estate;

228 (vii) renewable resources;

229 (viii) risk management; and

230 (ix) trust law.

231 (c) (i) The ~~[director]~~ beneficiary advocate shall:

232 (A) be appointed as provided in this Subsection (3)~~[-]~~; and

233 (B) except as provided in Subsection (3)(c)(ii), serve for a term of four years.

234 (ii) The four-year term of an individual who is the beneficiary advocate on July 1,

235 2017, shall expire on July 1, 2021, unless a vacancy occurs.

236 (iii) The beneficiary advocate may serve more than one term.

237 (iv) The beneficiary advocate shall notify the board whether the beneficiary advocate is

238 willing to be considered for reappointment to another term no later than four months before the

239 end of the current term.

240 (v) The board shall announce whether the beneficiary advocate is reappointed for

241 another term no later than three months before the end of the current term.

242 (d) ~~[The]~~ When a vacancy for the position of beneficiary advocate occurs, the School



243 and Institutional Trust Lands Board of Trustees nominating committee shall submit to the  
244 [~~State Board of Education~~] board the name of one [~~person~~] individual to serve as [~~director~~]  
245 beneficiary advocate.

246 (e) The [~~State Board of Education~~] board may:

247 (i) appoint the [~~person~~] individual described in Subsection (3)(d) to serve as [~~director~~]  
248 beneficiary advocate; or

249 (ii) deny the appointment of the [~~person~~] individual described in Subsection (3)(d) to  
250 serve as [~~director~~] beneficiary advocate.

251 (f) If the [~~State Board of Education~~] board denies an appointment under this Subsection  
252 (3):

253 (i) the [~~State Board of Education~~] board shall provide in writing one or more reasons  
254 for the denial to the School and Institutional Trust Lands Board of Trustees nominating  
255 committee; and

256 (ii) the School and Institutional Trust Lands Board of Trustees nominating committee  
257 and the [~~State Board of Education~~] board shall follow the procedures and requirements of this  
258 Subsection (3) until the [~~State Board of Education~~] board appoints a [~~director~~] beneficiary  
259 advocate.

260 (g) (i) The [~~State Board of Education~~] board may remove the [~~director~~] beneficiary  
261 advocate only:

262 (A) by majority vote [~~of a quorum~~] of all board members in an open and public  
263 meeting after proper notice and the inclusion of the removal item on the agenda[-]; and

264 (B) for neglect of fiduciary duty, malfeasance, gross negligence, incapacitation or  
265 insubordination for the failure to follow the rules, policies and directives of the board for the  
266 proper administration of the School Land Trust Program.

267 (ii) The termination of an individual under this Subsection (3)(g) is effective  
268 immediately and creates a vacancy in the position of the beneficiary advocate.

269 (h) The position of beneficiary advocate is exempt from the career service provisions  
270 of Title 67, Chapter 19, Utah State Personnel Management Act.

271 (4) The [~~State Board of Education~~] board shall make rules regarding:

272 (a) regular reporting from the [~~School Children's Trust Section director~~] beneficiary  
273 advocate to the [~~State Board of Education~~] board, to allow the [~~State Board of Education~~]

274 board to fulfill its duties in representing the trust beneficiaries; and

275 (b) the day-to-day reporting of the [~~School Children's Trust Section~~ director]  
276 beneficiary advocate.

277 (5) (a) The [~~director~~] beneficiary advocate shall annually submit a proposed section  
278 budget to the [~~State Board of Education~~] board.

279 (b) After approving a section budget, the [~~State Board of Education~~] board shall  
280 annually:

281 (i) receive input on the beneficiary advocate's performance from the chair of the board  
282 and director of:

283 (A) the School and Institutional Trust Lands Administration; and

284 (B) the School and Institutional Trust Fund Office;

285 (ii) establish the range and compensation of the beneficiary advocate in line with  
286 comparable positions in state government, the responsibilities of the position, and the  
287 qualifications required in Subsection (3)(b);

288 (iii) report the beneficiary advocate's compensation to the Public Education  
289 Appropriations Subcommittee; and

290 (iv) propose the approved budget to the Legislature.

291 (6) The director is entitled to attend any presentation, discussion, meeting, or other  
292 gathering concerning the trust, subject to:

293 (a) provisions of law prohibiting the [~~director's~~] beneficiary advocate's attendance to  
294 preserve confidentiality; or

295 (b) other provisions of law that the [~~director's~~] beneficiary advocate's attendance would  
296 violate.

297 (7) The section shall have a staff.

298 (8) The [~~section~~] beneficiary advocate shall protect current and future beneficiary  
299 rights and interests in the trust consistent with the state's perpetual obligations under:

300 (a) the Utah Enabling Act;

301 (b) the Utah Constitution;

302 (c) state statute; and

303 (d) standard trust principles described in Section 53C-1-102.

304 (9) The [~~section~~] beneficiary advocate shall promote:

305 (a) productive use of school and institutional trust lands for the financial support of the  
306 trust beneficiaries; and

307 (b) the efficient and prudent investment of funds managed by the School and  
308 Institutional Trust Fund Office, created in Section 53D-1-201.

309 (10) The ~~[section]~~ beneficiary advocate shall provide representation, advocacy, and  
310 input:

311 (a) on behalf of current and future beneficiaries of the trust, school community  
312 councils, schools, and school districts;

313 (b) on federal, state, and local land decisions and policies that affect the trust; and

314 (c) to:

315 (i) the School and Institutional Trust Lands Administration;

316 (ii) the School and Institutional Trust Lands Board of Trustees;

317 (iii) the Legislature;

318 (iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;

319 (v) the School and Institutional Trust Fund Board of Trustees, created in Section  
320 53D-1-301;

321 (vi) the attorney general;

322 (vii) the public; and

323 (viii) other entities as determined by the section.

324 (11) The ~~[section]~~ beneficiary advocate shall provide independent oversight on the  
325 prudent and profitable management of the trust and report annually to the ~~[State Board of~~  
326 ~~Education]~~ board and the Legislature.

327 (12) The ~~[section]~~ beneficiary advocate shall provide information requested by a  
328 person or entity described in Subsections (10)(c)(i) through (vii).

329 (13) (a) The section shall provide training to the entities described in Subsection  
330 (13)(b) on:

331 (i) the School LAND Trust Program established in Section 53A-16-101.5; and

332 (ii) (A) a school community council established pursuant to Section 53A-1a-108; or

333 (B) a charter trust land council established under Section 53A-16-101.5.

334 (b) The section shall provide the training to:

335 (i) a local school board or a charter school governing board;

336 (ii) a school district or a charter school; and

337 (iii) a school community council.

338 (14) The section shall annually:

339 (a) review ~~[each school's]~~ K-12 trust distribution recipients' compliance with applicable  
340 law, including applicable rules, policies, and directives adopted by the ~~[State Board of~~  
341 Education] board; and

342 (b) report findings to the ~~[State Board of Education.]~~ board and other appropriate  
343 governing bodies, including:

344 (i) the School and Institutional Trust Lands Administration created in Section  
345 53C-1-201 and the School and Institutional Trust Lands Board of Trustees established in  
346 Section 53C-1-202;

347 (ii) the School and Institutional Trust Fund Office created in Section 53D-1-201 and  
348 the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301; and

349 (iii) other designated representatives and organizations of trust beneficiaries of school  
350 and institutional trust lands.

351 Section 3. Section **53C-1-103** is amended to read:

352 **53C-1-103. Definitions.**

353 As used in this title:

354 (1) "Administration" means the School and Institutional Trust Lands Administration.

355 (2) "Board" or "board of trustees" means the School and Institutional Trust Lands  
356 Board of Trustees.

357 (3) "Director" or "director of school and institutional trust lands" means the chief  
358 executive officer of the School and Institutional Trust Lands Administration.

359 (4) "Mineral" includes oil, gas, and hydrocarbons.

360 (5) "Nominating committee" means the committee that nominates candidates for  
361 positions and vacancies on the board.

362 (6) "Policies" means statements applying to the administration that broadly prescribe a  
363 future course of action and guiding principles.

364 (7) "Primary beneficiary representative" means the beneficiary advocate appointed by  
365 the State Board of Education acting with undivided loyalty consistent with the fiduciary duties  
366 and principles set forth in Section 53C-1-102 for the financial support of and as representative

367 on behalf of the following trusts:

368 (a) the trust established for common schools;

369 (b) the trust established for schools for the blind; and

370 (c) the trust established for schools for the deaf.

371 (8) "School and institutional trust lands" or "trust lands" means those properties

372 granted by the United States in the Utah Enabling Act to the state in trust, and other lands

373 transferred to the trust, which must be managed for the benefit of:

374 (a) the state's public education system; or

375 (b) the institutions of the state which are designated by the Utah Enabling Act as  
376 beneficiaries of trust lands.

377 Section 4. Section 53C-1-303 is amended to read:

378 **53C-1-303. Responsibilities of director -- Budget review -- Legal counsel --**

379 **Contract for services.**

380 (1) In carrying out the policies of the board of trustees and in establishing procedures  
381 and rules the director shall:

382 (a) take an oath of office before assuming any duties as the director;

383 (b) adopt procedures and rules necessary for the proper administration of matters  
384 entrusted to the director by state law and board policy;

385 (c) submit to the board for its review and concurrence on any rules necessary for the  
386 proper management of matters entrusted to the administration;

387 (d) faithfully manage the administration under the policies established by the board;

388 (e) submit to the board for public inspection an annual management budget and  
389 financial plan for operations of the administration and, after approval by the board, submit the  
390 budget to the governor;

391 (f) direct and control the budget expenditures as finally authorized and appropriated;

392 (g) establish job descriptions and employ, within the limitation of the budget, staff  
393 necessary to accomplish the purposes of the office subject to Section 53C-1-201;

394 (h) establish, in accordance with generally accepted principles of fund accounting, a  
395 system to identify and account for the assets and vested interests of each beneficiary;

396 (i) notify the primary beneficiary representative's designee regarding the trusts listed in  
397 Subsection 53C-1-103(7) on major items that the director knows may be useful to the primary

398 beneficiary representative's designee in protecting beneficiary rights;

399 (j) permit the primary beneficiary representative's designee regarding a trust listed in  
400 Subsection 53C-1-103(7) reasonable access to inspect records, documents, and other trust  
401 property pertaining to that trust, provided that the primary beneficiary representative's designee  
402 shall maintain confidentiality if confidentiality is required of the director;

403 (k) maintain appropriate records of trust activities to enable auditors appointed by  
404 appropriate state agencies or the board to conduct periodic audits of trust activities;

405 (l) provide that all leases, contracts, and agreements be submitted to legal counsel for  
406 review of compliance with applicable law and fiduciary duties prior to execution and utilize the  
407 services of the attorney general as provided in Section 53C-1-305;

408 (m) keep the board, beneficiaries, governor, Legislature, and the public informed about  
409 the work of the director and administration by reporting to the board in a public meeting at  
410 least once during each calendar quarter; and

411 (n) respond in writing within a reasonable time to a request by the board or the primary  
412 beneficiary representative's designee regarding a trust listed in Subsection 53C-1-103(7) for  
413 responses to questions on policies and practices affecting the management of the trust.

414 (2) The administration shall be the named party in substitution of the Division of State  
415 Lands and Forestry or its predecessor agencies, with respect to all documents affecting trust  
416 lands from the effective date of this act.

417 (3) The director may:

418 (a) with the consent of the state risk manager and the board, manage lands or interests  
419 in lands held by any other public or private party pursuant to policies established by the board  
420 and may make rules to implement these board policies;

421 (b) sue or be sued as the director of school and institutional trust lands;

422 (c) contract with other public agencies for personnel management services;

423 (d) contract with any public or private entity to make improvements to or upon trust  
424 lands and to carry out any of the responsibilities of the office, so long as the contract requires  
425 strict adherence to trust management principles, applicable law and regulation, and is subject to  
426 immediate suspension or termination for cause; and

427 (e) with the approval of the board enter into joint ventures and other business  
428 arrangements consistent with the purposes of the trust.

429 (4) Any application or bid required for the lease, permitting, or sale of lands in a  
430 competitive process or any request for review pursuant to Section 53C-1-304 shall be  
431 considered filed or made on the date received by the appropriate administrative office, whether  
432 transmitted by United States mail or in any other manner.

433 (5) The director shall use best efforts to provide independent and separate space for the  
434 beneficiary advocate created in Section 53A-16-101.6, with costs charged to the School  
435 Children's Trust Section for the use of the facilities equal to those charged to divisions in the  
436 administration.

437 Section 5. Section 53D-1-102 is amended to read:

438 **53D-1-102. Definitions.**

439 (1) "Account" means the School and Institutional Trust Fund Management Account,  
440 created in Section 53D-1-203.

441 (2) "Beneficiaries":

442 (a) means those for whose benefit the trust fund is managed and preserved, consistent  
443 with the enabling act, the Utah Constitution, and state law; and

444 (b) does not include other government institutions or agencies, the public at large, or  
445 the general welfare of the state.

446 (3) "Beneficiary advocate" means the same as that term is defined in Section  
447 53A-16-101.6.

448 [~~(3)~~] (4) "Board" means the board of trustees established in Section 53D-1-301.

449 [~~(4)~~] (5) "Director" means the director of the office.

450 [~~(5)~~] (6) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the  
451 people of Utah to form a constitution and state government and to be admitted into the Union.

452 [~~(6)~~] (7) "Nominating committee" means the committee established under Section  
453 53D-1-501.

454 [~~(7)~~] (8) "Office" means the School and Institutional Trust Fund Office, created in  
455 Section 53D-1-201.

456 [~~(8)~~] (9) "School children's trust section" means the School Children's Trust Section  
457 under the State Board of Education, established in Section 53A-16-101.6.

458 [~~(9)~~] (10) "Trust fund" means money derived from:

459 (a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the

460 enabling act;

461 (b) proceeds referred to in Section 9 of the enabling act from the sale of public land;

462 and

463 (c) revenue and assets referred to in Utah Constitution, Article X, Section 5,

464 Subsections (1)(c), (e), and (f).

465 Section 6. Section **53D-1-202** is amended to read:

466 **53D-1-202. Access to office records and personnel.**

467 (1) The office shall provide board members and the [~~director of the school children's~~  
468 ~~trust section~~] beneficiary advocate access to all office records and personnel as necessary for  
469 board members and the [~~director of the school children's trust section~~] beneficiary advocate to  
470 fulfill their responsibilities to ensure that the office is in full compliance with applicable law  
471 and policies.

472 (2) If the director requires, board members and the [~~director of the school children's~~  
473 ~~trust section~~] beneficiary advocate shall maintain confidentiality of information they obtain  
474 from office records and personnel.

475 Section 7. Section **53D-1-304** is amended to read:

476 **53D-1-304. Board meetings.**

477 (1) The board shall hold at least nine meetings per year to conduct business.

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

479 (a) may call a board meeting; and

480 (b) if calling a board meeting, shall provide as much advance notice as is reasonable  
481 under the circumstances to all board members, the director, and the [~~director of the school~~  
482 ~~children's trust section~~] beneficiary advocate.

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

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

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

488 Section 8. Section **53D-1-403** is amended to read:

489 **53D-1-403. Reports.**

490 (1) At least annually, the director shall report in person to the Legislative Management



491 Committee, the governor, and the State Board of Education, concerning the office's  
492 investments, performance, estimated distributions, and other activities.

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

- 495 (a) in a public meeting at least nine times per year; and
- 496 (b) as otherwise requested by the board.

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

498 (i) submit a written report to school community councils, created under Section  
499 [53A-1a-108](#), and charter trust land councils, established under Section [53A-16-101.5](#)  
500 concerning the office's investments, performance, estimated distributions, and other activities;  
501 and

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

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

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

- 506 (a) monthly written reports on the activities of the office;
- 507 (b) quarterly financial reports; and
- 508 (c) any other report requested by the board.

509 (5) The director shall:

510 (a) invite the [~~director of the school children's trust section~~] beneficiary advocate to  
511 attend any meeting at which the director gives a report under this section; and

512 (b) provide the [~~director of the school children's trust section~~] beneficiary advocate:

- 513 (i) a copy of any written report prepared under this section; and
- 514 (ii) any other report requested by the [~~director of the school children's trust section~~]

515 beneficiary advocate.

516 Section 9. Section **53D-1-501** is amended to read:

517 **53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies --**  
518 **Compensation.**

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

520 (2) The nominating committee consists of:

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

522 (b) two members, appointed by the [~~director of the school children's trust section~~]  
523 beneficiary advocate, each of whom is a member of a respected professional organization;

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

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

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

527 (3) An individual appointed as a member of the nominating committee under  
528 Subsection (2)(a) or (b) shall be appointed based on the individual's expertise in:

529 (a) investment finance;

530 (b) institutional asset management;

531 (c) trust administration; or

532 (d) the practice of law in the areas of capital markets, securities law, trusts,  
533 foundations, endowments, investment finance, institutional asset management, or trust  
534 administration.

535 (4) The term of a member appointed under Subsection (2)(a) or (b) is four years, except  
536 that the initial term of members appointed under Subsection (2)(b) is two years.

537 (5) A nominating committee member shall serve until a successor is appointed and  
538 qualified.

539 (6) (a) If a member appointed under Subsection (2)(a) or (b) leaves office, the vacancy  
540 shall be filled in the same manner as the initial appointment under Subsection (2)(a) or (b).

541 (b) An individual appointed to fill a vacancy under Subsection (6)(a) serves the  
542 remainder of the unexpired term.

543 (7) A member of the nominating committee may not receive compensation or benefits  
544 for the member's service, but may receive per diem and travel expenses in accordance with:

545 (a) Section [63A-3-106](#);

546 (b) Section [63A-3-107](#); and

547 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
548 [63A-3-107](#).