

SCHOOL AND INSTITUTIONAL TRUST LANDS BUDGET

AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill addresses appropriation issues with the School and Institutional Trust Lands Administration.

Highlighted Provisions:

This bill:

- ▶ authorizes the School and Institutional Trust Lands Administration to transfer money from one line item of appropriation to another line item, under certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-1-201, as last amended by Laws of Utah 2014, Chapter 426

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

Section 1. Section **53C-1-201** is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

30 (1) (a) There is established within state government the School and Institutional Trust
31 Lands Administration.

32 (b) The administration shall manage all school and institutional trust lands and assets
33 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
34 of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund
35 Management Act.

36 (2) The administration is an independent state agency and not a division of any other
37 department.

38 (3) (a) It is subject to the usual legislative and executive department controls except as
39 provided in this Subsection (3).

40 (b) (i) The director may make rules as approved by the board that allow the
41 administration to classify a business proposal submitted to the administration as protected
42 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

43 (ii) The administration shall return the proposal to the party who submitted the
44 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
45 and Management Act, if the administration determines not to proceed with the proposal.

46 (iii) The administration shall classify the proposal pursuant to law if it decides to
47 proceed with the proposal.

48 (iv) Section 63G-2-403 does not apply during the review period.

49 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah
50 Administrative Rulemaking Act, except that the administration is not subject to Subsections
51 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may
52 establish a procedure for the expedited approval of rules, based on written findings by the
53 director showing:

54 (i) the changes in business opportunities affecting the assets of the trust;

55 (ii) the specific business opportunity arising out of those changes which may be lost
56 without the rule or changes to the rule;

57 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without

58 causing the loss of the specific opportunity;

59 (iv) approval by at least five board members; and

60 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
61 reasons and justifications for its findings, with the Division of Administrative Rules and
62 notified interested parties as provided in Subsection 63G-3-301(10).

63 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel
64 Management Act, except as provided in this Subsection (3)(d).

65 (ii) The board may approve, upon recommendation of the director, that exemption for
66 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
67 the administration to efficiently fulfill its responsibilities under the law. The director shall
68 consult with the executive director of the Department of Human Resource Management prior
69 to making such a recommendation.

70 (iii) The positions of director, deputy director, associate director, assistant director,
71 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
72 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

73 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
74 after consultation with the executive director of the Department of Human Resource
75 Management, within ranges approved by the board. The board and director shall consider
76 salaries for similar positions in private enterprise and other public employment when setting
77 salary ranges.

78 (v) The board may create an annual incentive and bonus plan for the director and other
79 administration employees designated by the board, based upon the attainment of financial
80 performance goals and other measurable criteria defined and budgeted in advance by the board.

81 (e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement
82 Code, except where the board approves, upon recommendation of the director, exemption from
83 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,
84 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
85 efficiently fulfill its responsibilities under the law.

86 (f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to
87 the fee agency requirements of Section 63J-1-504.

88 (ii) The following fees of the administration are subject to the requirements of Section
89 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change,
90 reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral
91 assignment, electronic payment, and processing.

92 (g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

93 (ii) Before transferring appropriated funds between line items, the administration shall
94 submit a proposal to the board for its approval.

95 (iii) If the board gives approval to a proposal to transfer appropriated funds between
96 line items, the administration shall submit the proposal to the Legislative Executive
97 Appropriations Committee for its review and recommendations.

98 (iv) The Legislative Executive Appropriations Committee may recommend:

99 (A) that the administration transfer the appropriated funds between line items;

100 (B) that the administration not transfer the appropriated funds between line items; or

101 (C) to the governor that the governor call a special session of the Legislature to
102 supplement the appropriated budget for the administration.

103 (4) The administration is managed by a director of school and institutional trust lands
104 appointed by a majority vote of the board of trustees with the consent of the governor.

105 (5) (a) The board of trustees shall provide policies for the management of the
106 administration and for the management of trust lands and assets.

107 (b) The board shall provide policies for the ownership and control of Native American
108 remains that are discovered or excavated on school and institutional trust lands in consultation
109 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
110 Native American Grave Protection and Repatriation Act. The director may make rules in
111 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
112 policies provided by the board regarding Native American remains.

113 (6) In connection with joint ventures and other transactions involving trust lands and

114 minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board
115 approval, may become a member of a limited liability company under Title 48, Chapter 2c,
116 Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform
117 Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is
118 considered a person under Section 48-2c-102 or Section 48-3a-102.

119 (7) Subject to the requirements of Subsection 63E-1-304(2), the administration may
120 participate in coverage under the Risk Management Fund created by Section 63A-4-201.