

**SCHOOL AND INSTITUTIONAL TRUST LANDS BUDGET**

**AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

Senate Sponsor: Lyle W. Hillyard

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**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

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

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



28           **53C-1-201. Creation of administration -- Purpose -- Director -- Participation in**  
29 **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.

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**Legislative Review Note**  
as of 2-16-15 5:03 PM

**Office of Legislative Research and General Counsel**