

SCHOOL AND INSTITUTIONAL TRUST FUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies the number of annual meetings of the School and Institutional Trust Fund Board of Trustees;
- ▶ 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-1-104, as enacted by Laws of Utah 2014, Chapter 426

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

53D-1-401, as enacted by Laws of Utah 2014, Chapter 426

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

53D-1-501, as enacted 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 **53D-1-104** is amended to read:

53D-1-104. Attorney general representation.

(1) The attorney general shall:

(a) represent the board, director, and office in any legal action relating to the trust fund;

(b) undertake suits for damages and any other necessary or appropriate relief in the name of the trust fund and the state; and

(c) ensure that legal counsel assigned to provide legal counsel to the board, director, and office is present at ~~[all]~~ board meetings as needed.

(2) The attorney general may institute an action to enforce this chapter or to protect the interests of beneficiaries.

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

53D-1-304. Board meetings.

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

(2) The board chair or two board members:

(a) may call a board meeting; and

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

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

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

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

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

53D-1-401. Appointment of director -- Qualifications -- Nature of employment --

56 **Removal by State Board of Education petition.**

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

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

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

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

63 (b) expertise in institutional investment management.

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

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

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

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

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

73 **53D-1-403. Reports.**

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

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

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

80 (b) as otherwise requested by the board.

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

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

83 53A-1a-108, and charter trust land councils, established under Section 53A-16-101.5
84 concerning the office's investments, performance, estimated distributions, and other activities;
85 and

86 (ii) post the written report described in Subsection (3)(a)(i) on the office's website.
87 (b) A report under Subsection (3)(a) shall be prepared in simple language designed to
88 be understood by the general public.

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

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

93 (5) The director shall:

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

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

- 97 (i) a copy of any written report prepared under this section; and
- 98 (ii) any other report requested by the director of the school children's trust section.

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

100 **53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies --**
101 **Compensation.**

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

103 (2) The nominating committee consists of:

104 [~~(a) two members appointed by the State Board of Education;~~]

105 [~~(b) two~~] (a) four members, appointed by the State Board of Education upon
106 recommendation by the director of the school children's trust section, each of whom is a
107 member of a respected professional organization;

108 [~~(c)~~] (b) the chief investment officer of the University of Utah endowment;

109 [~~(d)~~] (c) the chief investment officer of the Utah State University endowment; and

110 ~~[(e)]~~ (d) the director of the school children's trust section.

111 (3) An individual appointed as a member of the nominating committee under
112 Subsection (2)(a) ~~[or (b)]~~ shall be appointed based on the individual's expertise in:

113 (a) investment finance;

114 (b) institutional asset management;

115 (c) trust administration; or

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

119 (4) The term of a member appointed under Subsection (2)(a) ~~[or (b)]~~ is four years[;
120 ~~except that the initial term of members appointed under Subsection (2)(b) is two years]~~.

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

123 (6) (a) If a member appointed under Subsection (2)(a) ~~[or (b)]~~ leaves office, the
124 vacancy shall be filled in the same manner as the initial appointment under Subsection (2)(a)
125 ~~[or (b)]~~.

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

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

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

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

132 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
133 [63A-3-107](#).