

HB0048S01 compared with HB0048

~~{deleted text}~~ shows text that was in HB0048 but was deleted in HB0048S01.

Inserted text shows text that was not in HB0048 but was inserted into HB0048S01.

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Representative Jefferson Moss proposes the following substitute bill:

SCHOOL TRUST FUND MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: ~~{~~ Ann Millner

LONG TITLE

~~{Committee Note:~~

~~— The Retirement and Independent Entities Interim Committee recommended this bill.~~

~~{~~**General Description:**

This bill amends provisions related to school and institutional trust fund management, advocacy, and distribution of funds.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to board meetings and funding the office operations of the School and Institutional Trust Fund Office;
- ▶ amends provisions related to funding the office operations of the Land Trusts Protection and Advocacy Office;

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- ▶ amends provisions related to the Trust Distribution Account;
- ▶ amends provisions related to the School LAND Trust Program;
- ▶ repeals outdated provisions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53D-1-203, as enacted by Laws of Utah 2014, Chapter 426

53D-1-304, as last amended by Laws of Utah 2018, Chapter 448

53D-2-204, as enacted by Laws of Utah 2018, Chapter 448

53F-2-404, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-201, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section **53D-1-203** is amended to read:

53D-1-203. Funding of office operations.

(1) As used in this section, "trust fund earnings" includes any of the following that is in excess of the trust fund corpus:

(a) realized or unrealized gains;

(b) interest;

(c) dividends;

(d) other income; or

(e) other sources of revenue.

~~(1)~~ (2) There is created an enterprise fund known as the School and Institutional Trust Fund Management Account.

~~(2)~~ (3) The account is funded by money deposited into the account as provided in

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Subsection ~~[(3)]~~ (4).

~~[(3)]~~ (4) ~~[The]~~ Except as provided in Subsection (5)(b), the director shall deposit into the account an amount of money from the ~~[earnings from]~~ trust fund ~~[assets]~~ earnings equal to the annual appropriation that the Legislature makes to the office, to pay for the office's operating costs.

~~[(4)]~~ (5) (a) The office may use money in the account to pay for the office's operating costs.

(b) If the amount of money deposited into the account under Subsection ~~[(3)]~~ (4) in any fiscal year exceeds the amount required by the office during that fiscal year to fund ~~[its]~~ the office's operations, the office ~~[shall distribute that excess money proportionately to the various funds established for the beneficiaries of land grants under the enabling act, based on the balances of those funds as of June 30]~~ shall ~~{ apply the excess amount against the subsequent fiscal year }~~, in the following fiscal year, reduce the amount deposited into the account under Subsection (4) by the amount of the unspent appropriation.

~~[(5)]~~ (6) (a) ~~[Before distributing earnings from trust fund assets, the]~~ The office may deduct from trust fund earnings:

(i) the cost for any audit, risk management, consulting, equipment, legal~~[, and custodial costs and management]~~ services, software, research, or custodial services; or

(ii) manager fees incurred in managing the trust fund assets.

(b) The costs and fees described in Subsection ~~[(5)]~~ (6)(a) are separate from and in addition to the office's operating costs that are paid from the account.

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

53D-1-304. Board meetings.

(1) The board shall hold at least 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 advocacy office director.

(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.

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

Section 3. Section **53D-2-204** is amended to read:

53D-2-204. Land Trusts Protection and Advocacy Account -- Funding of advocacy office operations.

(1) As used in this section:

(a) "Account" means the Land Trusts Protection and Advocacy Account created in this section.

(b) "School and Institutional Trust Fund Office director" or "SITFO director" means the director of the School and Institutional Trust Fund Office, appointed under Section 53D-1-401.

(c) "Trust fund" means the same as that term is defined in Section 53D-1-102.

(d) "Trust fund earnings" means the same as that term is defined in Section 53D-1-203.

(2) There is created an enterprise fund known as the Land Trusts Protection and Advocacy Account.

(3) The account is funded by money deposited into the account as provided in Subsection (4).

(4) (a) [~~During a fiscal year~~] Except as provided in Subsection (4)(c), the ~~{ } The~~ SITFO director shall deposit into the account a total amount of money, taken proportionately from trust fund ~~[assets]~~ earnings according to the value of the various funds established for the trust beneficiaries, that is equal to the annual appropriation that the Legislature makes to the advocacy office.

(b) The advocacy office may use money in the account to pay for the advocacy office's operating costs.

(c) If the amount of money deposited into the account under Subsection (4)(a) in any fiscal year exceeds the amount required by the advocacy office during that fiscal year to fund advocacy office operations, the SITFO director [~~shall distribute the excess money proportionately to the various funds established for the trust beneficiaries, based on the balances of those funds as of June 30~~] shall, in the following fiscal year, reduce the amount deposited into the account under Subsection (4)(a) by the amount of the unspent appropriation.

Section 4. Section **53F-2-404** is amended to read:

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53F-2-404. School LAND Trust Program distribution of funds.

~~[(1)(a) The School LAND Trust Program, established in Section 53G-7-1206, shall be funded each fiscal year:]~~

~~[(i) from the Trust Distribution Account created in Section 53F-9-201; and]~~

~~[(ii) in the amount of the sum of the following:]~~

~~[(A) on or about July 15 each year, out of the distributions from the investment of money in the permanent State School Fund deposited to the Trust Distribution Account; and]~~

~~[(B) interest accrued on the Trust Distribution Account in the immediately preceding fiscal year:]~~

(1) (a) ~~{The}~~ By appropriation the Legislature shall fund the School LAND Trust Program, established in Section 53G-7-1206, ~~{shall be funded}~~ on or before July 31 of each fiscal year:

(i) from the Trust Distribution Account, created in Section 53F-9-201; and

(ii) except as provided in Subsection (1)(b), in the total amount of the quarterly deposits made to the Trust Distribution Account for the School LAND Trust Program during the prior fiscal year.

(b) ~~[The program shall be funded as provided in Subsection (1)(a) up to an]~~ The amount described in Subsection (1)(a)(ii) may not exceed an amount equal to 3% of the funds provided for the Minimum School Program, ~~[pursuant to]~~ in accordance with this chapter, each fiscal year.

~~[(c) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Trust Distribution Account created in Section 53F-9-201 to be used for the administration of the School LAND Trust Program.]~~

(c) Independently from the ~~{funding}~~ appropriation for the School LAND Trust Program described in Subsection (1)(a), the Legislature shall make an annual appropriation to the State Board of Education from the Trust Distribution Account, created in Section 53F-9-201, for the administration of the School LAND Trust Program.

(d) Any unused balance remaining from an amount appropriated under Subsection (1)(c) shall be deposited in the Trust Distribution Account [for distribution to schools in the School LAND Trust Program].

(2) (a) The State Board of Education shall allocate the money referred to in Subsection

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(1)(a) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a); and

(iii) of the funds available for distribution under Subsection (1)(a) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules specifying a formula to distribute the amount allocated under Subsection (2)(a)(ii) to charter schools.

(ii) In making rules under Subsection (2)(b)(i), the State Board of Education shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (2)(a)(iii) to each school within the school district on an equal per student basis.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (2)(a)(iii).

~~[(3) If the amount of money prescribed for funding the School LAND Trust Program under this section is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding~~

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the School LAND Trust Program in this section, up to a maximum of an amount equal to 3% of the funds provided for the Minimum School Program.]

~~[(4) The State Board of Education shall distribute the money appropriated in Subsection (3) in accordance with this section and rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

Section 5. Section **53F-9-201** is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

~~(a) "Average market value of the State School Fund" means the results of a calculation completed each fiscal year that averages the value of the State School Fund for the past 12 consecutive quarters ending in the prior fiscal year.~~

~~—— (b) "State School Fund investment earnings distribution amount" or "distribution amount," Annual distribution calculation" means, for a given fiscal year, the average of:~~

~~(i) 4% of the average market value of the State School Fund for that fiscal year; and~~

~~(ii) the distribution amount for the prior fiscal year, multiplied by the sum of one plus the prior year changes in:~~

~~(A) one;~~

~~(B) the percentage of percent change in student enrollment growth, and~~

~~—— (B) from the school year two years prior to the prior school year; and~~

~~(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.~~

~~(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 12 consecutive quarters ending in the prior fiscal year.~~

~~(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.~~

~~(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.~~

~~(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:~~

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(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

~~[(1)]~~ (2) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

~~[(2)]~~ (3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

~~[(b) The Trust Distribution Account consists of the average of:]~~

~~[(i) 4% of the average market value of the permanent State School Fund based on an annual review each July of the past 12 consecutive quarters; and]~~

~~[(ii) the prior year's distribution from the Trust Distribution Account as described in Section 53F-2-404, increased by prior year changes in the percentage of student enrollment growth and in the consumer price index.]~~

~~[(3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the average market value of the permanent State School Fund over the past 12 consecutive quarters.]~~

(b) The Trust Distribution Account consists of:

(i) ~~{except as provided in}~~ in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account~~;~~

~~— (iii) ~~{ in the {current fiscal year appropriation for the administration of the School LAND Trust Program, as described in Section 53F-2-404, less any interest described in Subsection (3)(b)(ii); and~~~~

~~— (iv) ~~{prior fiscal year; and~~~~

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in ~~{Section}~~ Subsection 53F-2-404(1)(c).

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~~(c)4~~ If ~~the interest earnings~~, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection ~~(3)(b)(ii) exceed the amount of appropriation described in Subsection (3)(b)(iii), a deposit made under Subsection (3)(b)(i) will be reduced by the excess amount.~~

~~(3) (4) [Notwithstanding Subsection (2)(b), the distribution]~~ The 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year towards the current fiscal year's distribution amount deposited under Subsection (3)(b)(i) during a single fiscal year may not exceed 4% of the average market value of the [permanent] State School Fund [over the past 12 consecutive quarters]. by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director ~~of the School and Institutional Trust Fund Office, appointed under Section 53D-1-401,~~ shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in ~~Section~~ Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201; ~~and~~

(vi) the State Board of Education; ~~and~~

(vii) the Governor's Office of Management and Budget.

~~(4) (6)~~ (6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review ~~[distribution of the Trust Distribution Account]~~ the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula

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[described in Subsection (2)(b)] for calculating the distribution amount.

~~{(5) (a)}~~ Upon appropriation by the Legislature, the SITFO director ~~[of the School and Institutional Trust Fund Office created in Section 53D-1-201]~~ shall place in the Trust Distribution Account funds for ~~{~~

~~— (i) }~~ the administration of the School LAND Trust Program as described in ~~[Sections]~~ Subsections 53F-2-404(1)(a) and ~~[53G-7-1206;]~~ (c).

~~[(ii) the School and Institutional Trust Fund Office; and]~~

~~[(iii) the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301.]~~

~~[(b) The Legislature may appropriate any remaining balance for the support of the public education system.]~~