

1                   **SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE**

2                                   **AMENDMENTS**

3   2021 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Chris H. Wilson**

6                                   House Sponsor: Jefferson Moss

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends provisions related to the School and Institutional Trust Fund Board of  
11 Trustees and trust funds managed by the School and Institutional Trust Fund Office.

12 **Highlighted Provisions:**

13           This bill:

14           ▶ allows the School and Institutional Trust Fund Board of Trustees to close a meeting  
15 under certain circumstances;

16           ▶ increases the length of time used to determine the average value of the trust funds  
17 for purposes of determining the annual trust distribution amount;

18           ▶ reduces the number of annually required meetings of the School and Institutional  
19 Trust Fund Board of Trustees;

20           ▶ exempts certain information that the School and Institutional Trust Fund Office  
21 provides to the Land Trusts Protection and Advocacy Office from the Government

22 Records Access and Management Act; and

23           ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53C-3-102**, as last amended by Laws of Utah 2016, Chapters 172 and 389

31 **53D-1-304**, as last amended by Laws of Utah 2019, Chapter 191

32 **53D-2-201**, as enacted by Laws of Utah 2018, Chapter 448

33 **53F-9-201**, as last amended by Laws of Utah 2020, Chapters 207 and 354

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

36 Section 1. Section **53C-3-102** is amended to read:

37 **53C-3-102. Deposit and allocation of money received.**

38 (1) (a) The director shall pay to the School and Institutional Trust Fund Office, created  
39 in Section **53D-1-201**, all money received, accompanied by a statement showing the respective  
40 sources of this money.

41 (b) The administration and the School and Institutional Trust Fund Office shall enter  
42 into a memorandum of understanding detailing:

43 (i) the classification of sources of money; and

44 (ii) other relevant information, as determined by the administration and the School and  
45 Institutional Trust Fund Office.

46 (2) All money received from the sale of lands granted by Section 6 of the Utah  
47 Enabling Act for the support of the common schools, all money received from the sale of lands  
48 selected in lieu of those lands, all money received from the United States under Section 9 of the  
49 Utah Enabling Act, all money received from the sale of lands or other securities acquired by the  
50 state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties  
51 paid in connection with these sales shall be deposited in the Permanent State School Fund.

52 (3) All money received from the sale and all net proceeds from other contractual  
53 arrangements of institutional trust lands granted to the state by the United States under Section  
54 7, 8, or 12 of the Utah Enabling Act shall be deposited into the respective permanent funds  
55 established for the benefit of those institutions under the Utah Enabling Act and the Utah  
56 Constitution.

57 (4) (a) All lands acquired by the state through foreclosure of mortgages securing school

58 or institutional trust funds or through deeds from mortgagors or owners of those lands shall  
59 become a part of the respective school or institutional trust lands.

60 (b) All money received from these lands shall be treated as money received from  
61 school or institutional trust lands.

62 (5) All money received from the sale of lands acquired by the state through foreclosure  
63 of mortgages securing trust funds or through deeds from mortgagors or owners of such lands,  
64 whether a profit is realized or a loss sustained on the principal invested, shall be regarded as  
65 principal and shall go into the principal or permanent fund from which it was originally taken  
66 in reimbursement of that fund, with profits being used to offset losses.

67 (6) (a) All money received by the director as a first or down payment on applications to  
68 purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in  
69 suspense pending final action on those applications.

70 (b) After final action the payments received under Subsection (6)(a) shall either be  
71 credited to the appropriate fund or account, or refunded to the applicant in accordance with the  
72 action taken.

73 (7) Distributions to the respective institutions from the associated permanent funds  
74 created from lands granted in Sections 8 and 12 of the Utah Enabling Act shall consist of 4% of  
75 the average market value of each institutional permanent fund over the past [~~12~~] 20 consecutive  
76 quarters.

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

78 **53D-1-304. Board meetings -- Closed meetings.**

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

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

81 (a) may call a board meeting; and

82 (b) if calling a board meeting, shall provide as much advance notice as is reasonable  
83 under the circumstances to all board members, the director, and the advocacy office director.

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

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

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

88 (6) (a) Notwithstanding Subsection 52-4-204(2) or 52-4-205(1), and in addition to the  
89 reasons to close a meeting described in Section 52-4-205, the board may hold a closed meeting  
90 to discuss the sale or purchase of identifiable securities, investment funds, or investment  
91 contracts if:

92 (i) the board, the director, or the office has entered into a confidentiality agreement  
93 related to the identifiable securities, investment funds, or investment contracts; and

94 (ii) two-thirds of the members present when a quorum is present vote to close the  
95 meeting for the purpose described in this Subsection (6)(a).

96 (b) If the board closes a meeting in accordance with Subsection (6)(a), the board shall  
97 comply with the requirements for closed meetings described in Title 52, Chapter 4, Open and  
98 Public Meetings Act.

99 Section 3. Section 53D-2-201 is amended to read:

100 **53D-2-201. Land Trusts Protection and Advocacy Office -- State treasurer**  
101 **oversight and rulemaking -- Advocacy office duties -- Applicability of Government Access**  
102 **and Records Management Act.**

103 (1) There is created the Land Trusts Protection and Advocacy Office to represent the  
104 beneficiary interests of the school and institutional trust in advocating for:

- 105 (a) distribution of trust revenue to current beneficiaries; and
- 106 (b) generation of trust revenue for future beneficiaries.

107 (2) The state treasurer shall:

108 (a) acting in a fiduciary capacity to trust beneficiaries, oversee and support the  
109 advocacy of the advocacy office, including:

110 (i) determining reporting requirements for the advocacy director and advocacy office;

111 and

112 (ii) submitting an advocacy office budget to the Legislature; and

113 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

114 this chapter, make rules to administer the advocacy office, including the duties described in  
115 Subsection (2)(a).

116 (3) The advocacy office shall have an advocacy director, as described in Section  
117 [53D-2-203](#).

118 (4) In accordance with the Utah Enabling Act, the Utah Constitution, and state law, the  
119 advocacy office shall act with undivided loyalty to the trust beneficiaries, advocating against  
120 the state using a trust asset to pursue a state goal that is inconsistent with a purpose of the trust  
121 associated with that asset.

122 (5) To protect current and future beneficiary rights and interests as described in  
123 Subsection (1), the advocacy office shall advocate for:

124 (a) productive use of and optimal revenue from school and institutional trust lands by  
125 the School and Institutional Trust Lands Administration, as described in Title 53C, School and  
126 Institutional Trust Lands Management Act;

127 (b) prudent and profitable investment of trust funds by the School and Institutional  
128 Trust Fund Office, as described in Title 53D, Chapter 1, School and Institutional Trust Fund  
129 Management Act;

130 (c) effective distribution of funds to public schools through the School LAND Trust  
131 Program described in Sections [53F-2-404](#) and [53G-7-1206](#); and

132 (d) optimization of revenue to all trust beneficiaries.

133 (6) To fulfill the advocacy office's duties to trust beneficiaries, the advocacy office  
134 shall:

135 (a) stay informed on the administration of the trust and trust assets, including:

136 (i) major School and Institutional Trust Land Administration transactions; and

137 (ii) the School and Institutional Trust Fund Office investments and investment policy  
138 statements;

139 (b) fulfill advocacy office responsibilities and manage advocacy office activities in a  
140 prudent and professional manner;

141 (c) promote efficient use of trust budgets for trust beneficiaries; and

142 (d) properly account to trust beneficiaries and the Legislature, as described in Section  
143 [53D-2-203](#).

144 (7) (a) Except as provided in Subsection (7)(b), the advocacy office and the advocacy  
145 committee are subject to Title 63G, Chapter 2, Government Records and Management Act.

146 (b) The advocacy office and the advocacy committee are not subject to Title 63G,  
147 Chapter 2, Government Records and Management Act, regarding a record described in  
148 Subsection [53D-1-103](#)(3)(a) that the School and Institutional Trust Fund Office provides to the  
149 advocacy office or advocacy committee.

150 Section 4. Section **53F-9-201** is amended to read:

151 **53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

152 (1) As used in this section:

153 (a) "Annual distribution calculation" means, for a given fiscal year, the average of:

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

155 (ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

156 (A) one;

157 (B) the percent change in student enrollment from the school year two years prior to  
158 the prior school year; and

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

161 (b) "Average market value of the State School Fund" means the results of a calculation  
162 completed by the SITFO director each fiscal year that averages the value of the State School  
163 Fund for the past [~~12~~] 20 consecutive quarters ending in the prior fiscal year.

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

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

169 (e) "State School Fund investment earnings distribution amount" or "distribution

170 amount" means, for a fiscal year, the lesser of:

- 171 (i) the annual distribution calculation; or
- 172 (ii) 4% of the average market value of the State School Fund.

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

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

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

179 (c) all other constitutional or legislative allocations to the fund, including:

180 (i) appropriations for the Minimum School Program, enrollment growth, and inflation  
181 under Section 53F-9-201.1; and

182 (ii) revenues received by donation.

183 (3) (a) There is created within the Uniform School Fund a restricted account known as  
184 the Trust Distribution Account.

185 (b) The Trust Distribution Account consists of:

186 (i) in accordance with Subsection (4), quarterly deposits of the State School Fund  
187 investment earnings distribution amount from the prior fiscal year;

188 (ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

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

191 (4) If, at the end of a fiscal year, the Trust Distribution Account has a balance  
192 remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a)  
193 for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount  
194 of the remaining balance from the prior fiscal year toward the current fiscal year's distribution  
195 amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the  
196 remaining balance from the prior fiscal year.

197 (5) On or before October 1 of each year, the SITFO director shall:

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

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

202 (i) the State Treasurer;

203 (ii) the Legislative Fiscal Analyst;

204 (iii) the Division of Finance;

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

207 (v) the School and Institutional Trust Lands Administration created in Section  
208 53C-1-201;

209 (vi) the state board; and

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

211 (6) The School and Institutional Trust Fund Board of Trustees created in Section  
212 53D-1-301 shall:

213 (a) annually review the distribution amount; and

214 (b) make recommendations, if necessary, to the Legislature for changes to the formula  
215 for calculating the distribution amount.

216 (7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust  
217 Distribution Account funds for the School LAND Trust Program as described in Subsections  
218 53F-2-404(1)(a) and (c).