

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

7

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



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, investments 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).