

**Representative Jefferson Moss** proposes the following substitute bill:

**SCHOOL AND INSTITUTIONAL TRUST FUND AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor: \_\_\_\_\_

**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



26 **53D-1-401**, as enacted by Laws of Utah 2014, Chapter 426  
27 **53D-1-403**, as last amended by Laws of Utah 2015, Chapter 276  
28 **53D-1-501**, as enacted by Laws of Utah 2014, Chapter 426

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

31 Section 1. Section **53D-1-104** is amended to read:

32 **53D-1-104. Attorney general representation.**

33 (1) The attorney general shall:

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

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

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

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

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

42 **53D-1-304. Board meetings.**

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

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

45 (a) may call a board meeting; and

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

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

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

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

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

55 **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](#).