

HB0404S01 compared with HB0404

~~{deleted text}~~ shows text that was in HB0404 but was deleted in HB0404S01.

Inserted text shows text that was not in HB0404 but was inserted into HB0404S01.

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Representative Bradley G. Last proposes the following substitute bill:

LAND TRUSTS PROTECTION AND ADVOCACY ACT

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Land Trusts Protection and Advocacy Office and amends provisions related to school and institutional trust lands.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Land Trusts Protection and Advocacy Office (advocacy office), with oversight by the state treasurer, to protect the interests of the current and future school and institutional trust lands beneficiaries;
- ▶ creates the Land Trusts Protection and Advocacy Committee to appoint an advocacy office director and oversee the activities of the advocacy office;
- ▶ provides for the appointment of an advocacy office director to carry out the duties of

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the advocacy office;

- ▶ creates the Land Trusts Protection and Advocacy Account:
- ▶ amends provisions related to school and institutional trust lands, including replacing certain State Board of Education duties with advocacy office duties;
- ▶ amends provisions related to the School LAND Trust Program, including providing for the appointment of a School LAND Trust Program director; and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

- 53C-1-103, as last amended by Laws of Utah 2012, Chapter 224
- 53C-1-203, as last amended by Laws of Utah 2014, Chapter 426
- 53D-1-101, as enacted by Laws of Utah 2014, Chapter 426
- 53D-1-102, as last amended by Laws of Utah 2016, Chapter 144
- 53D-1-202, as enacted by Laws of Utah 2014, Chapter 426
- 53D-1-304, as last amended by Laws of Utah 2017, Chapter 179
- 53D-1-401, as last amended by Laws of Utah 2017, Chapter 179
- 53D-1-402, as last amended by Laws of Utah 2015, Chapter 258
- 53D-1-403, as last amended by Laws of Utah 2017, Chapter 179
- 53D-1-501, as last amended by Laws of Utah 2017, Chapter 179
- 53D-1-502, as enacted by Laws of Utah 2014, Chapter 426
- 53F-2-203, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-404, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-9-201, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53G-5-410, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-7-1202, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-7-1203, as renumbered and amended by Laws of Utah 2018, Chapter 3

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67-4-1, as last amended by Laws of Utah 2017, Chapter 11

ENACTS:

53D-2-101, Utah Code Annotated 1953

53D-2-102, Utah Code Annotated 1953

53D-2-201, Utah Code Annotated 1953

53D-2-202, Utah Code Annotated 1953

53D-2-203, Utah Code Annotated 1953

53D-2-204, Utah Code Annotated 1953

53G-7-1205, Utah Code Annotated 1953

53G-7-1206, Utah Code Annotated 1953

REPEALS:

53E-3-514, as renumbered and amended by Laws of Utah 2018, Chapter 1

Utah Code Sections Affected by Coordination Clause:

53D-1-403, as last amended by Laws of Utah 2017, Chapter 179

53F-2-414, Utah Code Annotated 1953

53G-7-1202, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section **53C-1-103** is amended to read:

53C-1-103. Definitions.

As used in this title:

(1) "Administration" means the School and Institutional Trust Lands Administration.

(2) "Board" or "board of trustees" means the School and Institutional Trust Lands

Board of Trustees.

(3) "Director" or "director of school and institutional trust lands" means the chief executive officer of the School and Institutional Trust Lands Administration.

(4) "Mineral" includes oil, gas, and hydrocarbons.

(5) "Nominating committee" means the committee that nominates candidates for positions and vacancies on the board.

(6) "Policies" means statements applying to the administration that broadly prescribe a future course of action and guiding principles.

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(7) "Primary beneficiary representative" means the ~~[State Board of Education]~~ the Land Trusts Protection and Advocacy Office, created in Section 53D-2-201, acting as representative on behalf of the following trusts:

- (a) the trust established for common schools;
- (b) the trust established for schools for the blind; and
- (c) the trust established for schools for the deaf.

(8) "School and institutional trust lands" or "trust lands" means those properties granted by the United States in the Utah Enabling Act to the state in trust, and other lands transferred to the trust, which must be managed for the benefit of:

- (a) the state's public education system; or
- (b) the institutions of the state which are designated by the Utah Enabling Act as beneficiaries of trust lands.

Section 2. Section **53C-1-203** is amended to read:

53C-1-203. Board of trustees nominating committee -- Composition --

Responsibilities -- Per diem and expenses.

(1) There is established an 11 member board of trustees nominating committee.

(2) (a) ~~[The]~~ (i) Through ~~June~~ July 30, 2018, the State Board of Education shall appoint five members to the nominating committee from different geographical areas of the state.

(ii) Beginning on ~~July~~ August 1, 2018, the five members of the Land Trusts Protection and Advocacy Committee, created in Section 53D-2-202, shall serve on the nominating committee.

(b) The governor shall appoint five members to the nominating committee on or before the December 1 of the year preceding the vacancy on the nominating committee as follows:

(i) (A) through ~~June~~ July 30, 2018, one individual from a nomination list of at least two names of individuals knowledgeable about institutional trust lands submitted on or before the October 1 of the year preceding the vacancy on the nominating committee by the University of Utah and Utah State University on an alternating basis every four years; and

(B) beginning on ~~July~~ August 1, 2018, one individual who is knowledgeable about real estate development;

(ii) one individual from a nomination list of at least two names submitted by the Utah

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Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool Growers' Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iii) one individual from a nomination list of at least two names submitted by the Utah Petroleum Association on or before the October 1 of the year preceding the vacancy on the nominating committee;

(iv) one individual from a nomination list of at least two names submitted by the Utah Mining Association on or before the October 1 of the year preceding the vacancy on the nominating committee; and

(v) one individual from a nomination list of at least two names submitted by the executive director of the Department of Natural Resources after consultation with statewide wildlife and conservation organizations on or before the October 1 of the year preceding the vacancy on the nominating committee.

(c) The president of the Utah Association of Counties shall designate the chair of the Public Lands Steering Committee, who must be an elected county commissioner or councilor, to serve as the eleventh member of the nominating committee.

(3) (a) Except as required by [~~Subsection~~] Subsections (3)(b) and (d), each member shall serve a four-year term.

(b) [~~Notwithstanding the requirements of Subsection (3)(a), the state board and the~~] The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) The term of a member of the nominating committee who is appointed under Subsection (2)(a)(i) or (2)(b)(i)(A) shall end on ~~June~~ July 30, 2018.

(4) The nominating committee shall select a chair and vice chair from its membership by majority vote.

(5) (a) The nominating committee shall nominate at least two candidates for each position or vacancy which occurs on the board of trustees except for the governor's appointee under Subsection 53C-1-202(5).

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(b) The nominations shall be by majority vote of the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

(7) The [~~School Children's Trust Section, established in Section 53A-16-101.6~~] Land Trusts Protection and Advocacy Office, created in Section 53D-2-201, shall provide staff support to the nominating committee.

Section 3. Section **53D-1-101** is amended to read:

TITLE 53D. SCHOOL AND INSTITUTIONAL TRUST FUND MANAGEMENT AND LAND TRUSTS PROTECTION AND ADVOCACY OFFICE

53D-1-101. Title.

(1) This title is known as [~~"School and Institutional Trust Fund."~~] "School and Institutional Trust Fund Management and Land Trusts Protection and Advocacy Office."

(2) This chapter is known as the "School and Institutional Trust Fund Management Act."

Section 4. Section **53D-1-102** is amended to read:

53D-1-102. Definitions.

As used in this chapter:

(1) "Account" means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.

(2) "Advocacy office director" means the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203.

~~(2)~~ (3) "Beneficiaries":

(a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and

(b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.

~~(3)~~ (4) "Board" means the board of trustees established in Section 53D-1-301.

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~~[(4)]~~ (5) "Director" means the director of the office.

~~[(5)]~~ (6) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.

~~[(6)]~~ (7) "Nominating committee" means the committee established under Section 53D-1-501.

~~[(7)]~~ (8) "Office" means the School and Institutional Trust Fund Office, created in Section 53D-1-201.

~~[(8)] "School children's trust section" means the School Children's Trust Section under the State Board of Education, established in Section 53A-16-101.6.]~~

(9) "Land Trusts Protection and Advocacy Office" or "advocacy office" means the Land Trusts Protection and Advocacy Office created in Section 53D-2-201.

~~[(9)]~~ (10) "Trust fund" means money derived from:

(a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;

(b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and

(c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Section 5. Section **53D-1-202** is amended to read:

53D-1-202. Access to office records and personnel.

(1) The office shall provide board members and the ~~[director of the school children's trust section]~~ advocacy office director access to all office records and personnel as necessary for board members and the ~~[director of the school children's trust section]~~ advocacy office director to fulfill their responsibilities to ensure that the office is in full compliance with applicable law and policies.

(2) If the director requires, board members and the ~~[director of the school children's trust section]~~ advocacy office director shall maintain confidentiality of information they obtain from office records and personnel.

Section 6. 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.

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(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~~] 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.

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

Section 7. Section **53D-1-401** is amended to read:

53D-1-401. Appointment of director -- Qualifications -- Nature of employment -- Removal by State Board of Education petition.

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

(2) If there is a vacancy in the director position, the board shall appoint an individual as director.

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

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

(b) expertise in institutional investment management.

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

(5) (a) The [~~State Board of Education~~] advocacy office director may submit a written petition to the board requesting the board to remove the director for cause, explained in the petition.

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

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

Section 8. Section **53D-1-402** is amended to read:

53D-1-402. Director duties and responsibilities.

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- (1) The director has broad authority to manage the office to fulfill its purposes, consistent with the enabling act, the Utah Constitution, state law, and board policies.
- (2) The director shall:
 - (a) before assuming the duties of director, take an oath that includes the following:

"I solemnly swear to carry out my duties as director of the School and Institutional Trust Fund Office with undivided loyalty to the beneficiaries of the trust fund managed by the office, to the best of my abilities and consistent with the law.";
 - (b) carry out the policies of the board;
 - (c) act with undivided loyalty to those entitled to the benefit of income from the trust fund, consistent with the director's fiduciary duties and responsibilities;
 - (d) follow the prudent investor rule, prudently seeking to obtain the optimum return from the investment of trust fund money and assets, balancing short-term and long-term interests under the principle of intergenerational equity;
 - (e) exercise full discretionary authority to manage, maintain, transfer, or sell assets of the trust fund in the manner that the director determines to be most favorable to beneficiaries;
 - (f) maintain the integrity of the trust fund and prevent, through prudent management, the misapplication of trust fund money;
 - (g) adopt rules, as provided in Subsection 53D-1-103(4), that are necessary for the proper exercise of the director's duties under this chapter and policies established by the board;
 - (h) faithfully manage the office under policies established by the board;
 - (i) annually submit to the board:
 - (i) an office budget; and
 - (ii) a financial plan for operations of the office;
 - (j) after board approval of the office budget, submit the budget to the governor and the Legislature;
 - (k) direct and control budget expenditures;
 - (l) establish job descriptions and, within budgetary constraints, employ staff necessary to accomplish the purposes of the office;
 - (m) in accordance with generally accepted principles of fund accounting, establish a system to identify and account for the trust fund assets;
 - (n) notify the [~~director of the school children's trust section~~] advocacy office director of

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major items that the director knows may be useful to the [~~director of the school children's trust section~~] advocacy office director in protecting the rights of beneficiaries;

(o) maintain appropriate records of trust fund activities to enable auditors to conduct periodic audits;

(p) respond in writing within a reasonable time to a request by the [~~director of the school children's trust section~~] advocacy office director for information on policies and practices affecting the management of the trust fund; and

(q) respond to a question that the board submits under Subsection 53D-1-303(4)(b) within a reasonable time after receiving the question.

(3) The office may:

(a) sue or be sued; and

(b) contract with other public agencies for personnel management services.

Section 9. Section **53D-1-403** is amended to read:

53D-1-403. Reports.

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

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

(a) in a public meeting at least six times per year; and

(b) as otherwise requested by the board.

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

(i) submit a written report to school community councils, created under Section ~~[53A-1a-108]~~ 53G-7-1202, and charter trust land councils, established under Section ~~[53A-16-101.5]~~ 53G-7-1205, concerning the office's investments, performance, estimated distributions, and other activities; and

(ii) post the written report described in Subsection (3)(a)(i) on the office's website.

(b) A report under Subsection (3)(a) shall be prepared in simple language designed to be understood by the general public.

(4) The director shall provide to the board:

(a) monthly written reports on the activities of the office;

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- (b) quarterly financial reports; and
- (c) any other report requested by the board.

(5) The director shall:

(a) invite the [~~director of the school children's trust section~~] advocacy office director to attend any meeting at which the director gives a report under this section; and

(b) provide the [~~director of the school children's trust section~~] advocacy office director:

(i) a copy of any written report prepared under this section; and

(ii) any other report requested by the [~~director of the school children's trust section~~] advocacy office director.

Section 10. Section **53D-1-501** is amended to read:

53D-1-501. Nominating committee -- Membership -- Terms -- Vacancies --

Compensation.

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

(2) The nominating committee consists of:

(a) four members, appointed by the [~~State Board of Education~~] state treasurer upon recommendation by the [~~director of the school children's trust section~~] advocacy office director, each of whom is a member of a respected professional investment organization;

(b) the chief investment officer of the University of Utah endowment;

(c) the chief investment officer of the Utah State University endowment; and

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

(3) An individual appointed as a member of the nominating committee under Subsection (2)(a) shall be appointed based on the individual's expertise in:

(a) investment finance;

(b) institutional asset management;

(c) trust administration; or

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

(4) The term of a member appointed under Subsection (2)(a) is four years.

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

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(6) (a) If a member appointed under Subsection (2)(a) leaves office, the vacancy shall be filled in the same manner as the initial appointment under Subsection (2)(a).

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

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

Section 11. Section **53D-1-502** is amended to read:

53D-1-502. Chair and vice chair -- Quorum and voting requirements -- Bylaws -- Staff.

(1) The nominating committee shall select a chair and vice chair from its members.

(2) (a) Four members of the nominating committee constitute a quorum.

(b) An action of the nominating committee requires the affirmative vote of at least four members.

(3) The nominating committee shall establish bylaws to govern the nominating committee.

(4) The [~~school children's trust section~~] advocacy office shall provide staff support to the nominating committee.

Section 12. Section **53D-2-101** is enacted to read:

CHAPTER 2. LAND TRUSTS PROTECTION AND ADVOCACY OFFICE

Part 1. General Provisions

53D-2-101. Title.

This chapter is known as "Land Trusts Protection and Advocacy Office."

Section 13. Section **53D-2-102** is enacted to read:

53D-2-102. Definitions.

As used in this chapter:

(1) "Advocacy committee" means the Land Trusts Protection and Advocacy Committee, created in Section 53D-2-202.

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(2) "Advocacy director" means the director of the advocacy office, appointed as described in Section 53D-2-203.

(3) "Advocacy office" means the Land Trusts Protection and Advocacy Office, created in Section 53D-2-201.

(4) "School and institutional trust" or "trust" includes:

(a) school and institutional trust lands, as defined in Section 53C-1-103, and related assets; and

(b) funds and investments of school and institutional trust land revenue, as described in Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(5) "School and Institutional Trust System" means:

(a) the School and Institutional Trust Lands Administration, described in Title 53C, School and Institutional Trust Lands Management Act;

(b) the School and Institutional Trust Fund Office, described in Title 53D, Chapter 1, School and Institutional Trust Fund Management Act;

(c) the Land Trusts Protection and Advocacy Office, described in this chapter; and

(d) the School LAND Trust Program, described in Sections 53F-2-404 and 53G-7-1206.

(6) "Trust beneficiaries" means those for whose benefit the school and institutional trust is managed and preserved, as required by:

(a) the Utah Enabling Act;

(b) the Utah Constitution; and

(c) state law.

Section 14. Section **53D-2-201** is enacted to read:

Part 2. Land Trusts Protection and Advocacy Office

53D-2-201. Land Trusts Protection and Advocacy Office -- State treasurer oversight and rulemaking -- Advocacy office duties.

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

(a) distribution of trust revenue to current beneficiaries; and

(b) generation of trust revenue for future beneficiaries.

(2) The state treasurer shall:

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

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

and

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

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, make rules to administer the advocacy office, including the duties described in Subsection (2)(a).

(3) The advocacy office shall have:

(a) an advocacy director, as described in Section 53D-2-203; and

(b) staff.

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

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

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

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

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

(d) optimization of revenue to all trust beneficiaries.

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

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

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

(ii) the School and Institutional Trust Fund Office investments and investment policy

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statements:

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

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

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

Section 15. Section **53D-2-202** is enacted to read:

53D-2-202. Land Trusts Protection and Advocacy Committee -- Duties --

Governance.

(1) There is created the Land Trusts Protection and Advocacy Committee to:

(a) oversee the activities of the advocacy director and the advocacy office;

(b) submit advocacy director candidate names to the state treasurer, as described in Section 53D-2-203;

(c) receive quarterly reports from the advocacy director;

(d) review, amend as necessary, and transmit to the state treasurer proposed rules submitted by the advocacy director;

(e) receive the annual report described in Section 53D-2-203 from the advocacy director; and

(f) give policy direction to the advocacy office.

(2) In accordance with Subsection (3), the advocacy committee consists of the following five members:

(a) two individuals appointed by the School and Institutional Trust Lands Board of Trustees;

(b) one individual appointed by the School and Institutional Trust Fund Board of Trustees;

(c) one individual appointed by the state treasurer; and

(d) ~~one individual appointed by~~ the ~~State Board of Education~~ School LAND Trust Program director described in Section 53G-7-1206.

(3) A member of the advocacy committee:

(a) may not be:

(i) ~~the state treasurer or~~ a current ~~member~~ employee of ~~the~~ the state treasurer;

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~~(ii)~~ a member of the School and Institutional Trust Lands Board of Trustees;

(iii) an employee of the School and Institutional Trust Lands Administration;

~~(iii)~~ iv) a member of the School and Institutional Trust Fund Board of Trustees; or

~~(iii)~~ v) an employee of the ~~State Board of Education;~~ School and Institutional Trust Fund Office.

(b) shall have significant qualifications related to the purposes and activities of the school and institutional trust, such as:

(i) nonrenewable resource development;

(ii) renewable resource management;

(iii) real estate development; or

(iv) investment management; and

(c) shall have demonstrated a commitment of time and loyalty to the purposes of the trust.

(4) (a) Except as provided in Subsections (4)(b) and (c), ~~an~~ appointed member of the advocacy committee shall:

(i) serve a four-year term; and

(ii) receive notification of an appointment on or before December 1 of the year before the vacancy occurs for which the member is appointed.

(b) At the time of appointment or reappointment, the state treasurer shall adjust the length of the initial terms of the advocacy committee's appointed members to ensure that the terms are staggered so that approximately half of the advocacy committee is appointed every two years.

(c) If a vacancy occurs during the course of ~~an~~ appointed member's term, the appointing entity shall immediately appoint a replacement for the unexpired term.

(5) Advocacy committee members shall annually elect a chair.

(6) (a) The advocacy committee shall meet at least quarterly, at a time set by the chair.

(b) The chair or any two members of the advocacy committee may call an additional meeting.

(7) (a) A quorum for the transaction of business is four members of the advocacy committee.

(b) Action by a majority of a quorum present constitutes the action of the advocacy

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committee.

(8) An advocacy committee member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

(9) The state treasurer's office shall provide staff support to the advocacy committee.

Section 16. Section **53D-2-203** is enacted to read:

53D-2-203. Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1) (a) The advocacy committee shall:

(i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);

(ii) determine the two most qualified candidates; and

(iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

(i) business;

(ii) finance;

(iii) economics;

(iv) natural resources; or

(v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2) (a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

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(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

(a) removal of the advocacy director is scheduled on the agenda for the meeting; and

(b) a majority of a committee quorum votes to remove the advocacy director.

(4) In accordance with state and federal law, the advocacy director may attend a presentation, discussion, meeting, or other gathering related to the school and institutional trust.

(5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the advocacy director shall:

(a) maintain a direct relationship with each individual who is key to fulfilling the state's trustee obligations and duties related to the trust;

(b) facilitate open communication among key individuals described in Subsection

(5)(a);

(c) actively seek necessary and accurate information;

(d) ~~review and, if necessary, recommend the state auditor~~ audit activities involved in:

(i) ~~generating trust revenue~~;

(ii) ~~protecting trust assets~~; ~~and~~; ~~or~~

(iii) distributing funds for the exclusive use of trust beneficiaries;

(e) promote accurate record keeping of all records relevant to the trust and distribution to trust beneficiaries;

(f) report at least quarterly to the advocacy committee and the state treasurer on the current activities of the advocacy office;

(g) annually submit a proposed advocacy office budget to the state treasurer;

(h) regarding the trust's compliance with law, and among the School and Institutional

Trust Lands System as a whole, report annually to:

(i) the advocacy committee;

(ii) the state treasurer;

(iii) the State Board of Education; and

(iv) the Executive Appropriations Committee;

(i) annually send a financial report regarding the relevant individual trust, and, upon request, report in person to:

(i) Utah State University, on behalf of the agricultural college trust;

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- (ii) the University of Utah;
- (iii) the Utah State Hospital, on behalf of the mental hospital trust;
- (iv) the Utah Schools for the Deaf and the Blind, on behalf of the institution for the blind trust and the deaf and dumb asylum trust;
- (v) the youth in custody program at the State Board of Education, on behalf of the reform school trust;
- (vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the reservoir trust;
- (vii) the College of Mines and Earth Sciences created in Section 53B-17-401;
- (viii) each state teachers' college, based on the college's annual number of teacher graduates, on behalf of the normal school trust;
- (ix) the Miners' Hospital described in Section 53B-17-201; and
- (x) the State Capitol Preservation Board, created in Section 63C-9-201, on behalf of the public buildings trust;
- (j) as requested by the state treasurer, draft proposed rules and submit the proposed rules to the advocacy committee for review;
- (k) in accordance with state and federal law, respond to external requests for information about the School and Institutional Trust Lands System;
- (l) in accordance with state and federal law, speak on behalf of trust beneficiaries:
 - (i) at School and Institutional Trust Lands Administration meetings;
 - (ii) at School and Institutional Trust Fund Office meetings; and
 - (iii) with the media;
- (m) review proposed legislation that affects the school and institutional trust and trust beneficiaries and advocate for legislative change that best serves the interests of the trust beneficiaries; and
- (n) educate the public regarding the School and Institutional Trust Lands System.
- (6) With regard to ~~auditing~~ reviewing the activities described in Subsection (5)(d), the advocacy director may have access to the financial reports and other data required for ~~the audits~~ a review.

Section 17. Section ~~{53F-2-203}~~ 53D-2-204 is ~~{amended}~~ enacted to read:

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

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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.

(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, the SITFO director shall deposit into the account a total amount of money, taken proportionately from trust fund assets 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 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.

Section 18. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of local education board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the minimum school program, excluding:

(a) the state-supported voted local levy program pursuant to Section 53F-2-601;

(b) the state-supported board local levy program pursuant to Section 53F-2-602; and

(c) the appropriation to charter schools to replace local property tax revenues pursuant

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to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each local education board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a local education board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A local education board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

- (a) educator salary adjustments provided in Section 53F-2-405;
- (b) the Teacher Salary Supplement Program provided in Section 53F-2-504;
- (c) the extended year for special educators provided in Section 53F-2-310;
- (d) USTAR centers provided in Section 53F-2-505;
- (e) the School LAND Trust Program [~~created in Section~~] described in Sections

53F-2-404 and 53F-7-1206; or

- (f) a special education program within the Basic School Program.

(6) A local education board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A local education board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Section ~~{18}~~19. Section **53F-2-404** is amended to read:

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

~~[(1) As used in this section:]~~

~~[(a) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.]~~

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~~[(b) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.]~~

~~[(c) "Charter trust land council" means a council established by a charter school governing board under this section.]~~

~~[(d) "Council" means a school community council or a charter trust land council.]~~

~~[(e) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(f) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.]~~

~~[(2) There is established the School LAND (Learning And Nurturing Development) Trust Program to:]~~

~~[(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school's school improvement plan or a charter school's charter agreement; and]~~

~~[(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.]~~

~~[(3)] (1) (a) The [program] 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 [~~on or about July 15 each year~~]; and~~

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

~~(b) The program shall be funded as provided in Subsection [(3)] (1)(a) up to an amount equal to 3% of the funds provided for the Minimum School Program, pursuant to this chapter, each fiscal year.~~

~~(c) [(f)] 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~~

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to be used for ~~[:]~~ the administration of the School LAND Trust Program.

~~[(A) the administration of the School LAND Trust Program; and]~~

~~[(B) the performance of duties described in Section 53E-3-514.]~~

~~[(ii)]~~ (d) Any unused balance remaining from an amount appropriated under Subsection ~~[(3)(c)(i)]~~ (1)(c) shall be deposited in the Trust Distribution Account for distribution to schools in the School LAND Trust Program.

~~[(4)]~~ (2) (a) The State Board of Education shall allocate the money referred to in Subsection ~~[(3)]~~ (1) 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 ~~[(3)]~~ (1);

(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 ~~[(3)]~~ (1); and

(iii) of the funds available for distribution under Subsection ~~[(3)]~~ (1) 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 ~~[(4)]~~ (2)(a)(ii) to charter schools.

(ii) In making rules under Subsection ~~[(4)]~~ (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 ~~[(4)]~~ (2)(a)(iii) to

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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 ~~[(4)]~~ (2)(a)(iii).

~~[(5) To receive its allocation under Subsection (4):]~~

~~[(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;]~~

~~[(b) a charter school shall have established a charter trust land council in accordance with Subsection (9); and]~~

~~[(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (5)(a) or (b).]~~

~~[(6) (a) A council shall create a program to use its allocation under Subsection (4) to implement a component of the school's improvement plan or charter agreement, including:]~~

~~[(i) the school's identified most critical academic needs;]~~

~~[(ii) a recommended course of action to meet the identified academic needs;]~~

~~[(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and]~~

~~[(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.]]~~

~~[(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.]]~~

~~[(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.]]~~

~~[(c) A council shall:]~~

~~[(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (6)(b) on the School LAND Trust Program website; and]~~

~~[(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.]]~~

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~~[(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.]~~

~~[(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:]~~

~~[(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan; and]~~

~~[(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (6)(d)(ii)(A):]~~

~~[(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval:]~~

~~[(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:]~~

~~[(i) charter school governing board; and]~~

~~[(ii) charter school's charter school authorizer:]~~

~~[(7) (a) A district school or charter school shall:]~~

~~[(i) implement the program as approved;]~~

~~[(ii) provide ongoing support for the council's program; and]~~

~~[(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program:]~~

~~[(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall:]~~

~~[(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds:]~~

~~[(iii) A summary of the report shall be provided to parents or guardians of students attending the school:]~~

~~[(8) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection (4)(c) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (7)(b):]~~

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~~[(9)(a) The governing board of a charter school shall establish a council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements listed in Subsection (6).]~~

~~[(b)(i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.]~~

~~[(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.]~~

~~[(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (9)(b)(ii).]~~

~~[(d)(i) Except as provided in Subsection (9)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.]~~

~~[(ii) Subsection (9)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.]~~

~~[(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.]~~

~~[(10) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.]~~

~~[(11)] (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 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.~~

~~[(12)] (4) The State Board of Education shall distribute the money appropriated in Subsection [(11)] (3) in accordance with this section and rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

Section ~~{19}~~20. Section **53F-9-201** is amended to read:

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

(1) The Uniform School Fund, a special revenue fund within the Education Fund,

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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) (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.

(4) 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; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula described in Subsection (2)(b).

(5) (a) Upon appropriation by the Legislature, the 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 ~~[provided in Section]~~ described in Sections 53F-2-404 and 53G-7-1206;

~~[(ii) the performance of duties described in Section 53E-3-514;]~~

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

~~[(iv)]~~ (iii) the School and Institutional Trust Fund Board of Trustees created in Section

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53D-1-301.

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

Section ~~{20}~~21. Section **53G-5-410** is amended to read:

53G-5-410. Safe technology utilization and digital citizenship.

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section [~~53F-2-404~~] 53G-7-1206:

(1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(a) a student to make smart media and online choices; and

(b) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child;

(2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection 53G-7-216(3); and

(3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

Section ~~{21}~~22. Section **53G-7-1202** is amended to read:

53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

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(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53G-7-1204;

(ii) create the School LAND Trust Program in accordance with Section ~~[53F-2-404]~~ 53G-7-1206;

(iii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

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(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and

(v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3).

(b) To fulfill the school community council's duties described in Subsections (3)(a)(iv) and (v), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

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(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before

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the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a

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parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

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(c) on [~~the following statutes governing school community councils:~~] this part.

~~[(i) Section 53G-7-1202;]~~

~~[(ii) Section 53G-7-1203;]~~

~~[(iii) Section 53G-7-1204; and]~~

~~[(iv) Section 53F-2-404.]~~

Section ~~{22}~~23. Section **53G-7-1203** is amended to read:

53G-7-1203. School community councils -- Open and public meeting

requirements.

(1) As used in this section:

(a) (i) "Charter trust land council" means a council established by a charter school governing board under Section [~~53F-2-404~~] 53G-7-1205.

(ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.

(b) "School community council" means a council established at a school within a school district under Section 53G-7-1202.

(c) "Council" means a school community council or a charter trust land council.

(2) A school community council or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) As required by Section 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

(4) (a) A meeting of a council is open to the public.

(b) A council may not close any portion of a meeting.

(5) A council shall, at least one week prior to a meeting, post the following information on the school's website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

(6) (a) On or before October 20, a principal shall post the following information on the

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school website and in the school office:

(i) the proposed council meeting schedule for the year;

(ii) a telephone number or email address, or both, where each council member can be reached directly; and

(iii) a summary of the annual report required under Section [~~53F-2-404~~] 53G-7-1206 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.

(b) (i) A council shall identify and use methods of providing the information listed in Subsection (6)(a) to a parent or guardian who does not have Internet access.

(ii) Money allocated to a school under the School LAND Trust Program [~~created in~~] under Section 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).

(7) (a) The notice requirement of Subsection (5) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a council may not be held unless:

(i) an attempt has been made to notify all the members of the council; and

(ii) a majority of the members of the council approve the meeting.

(8) (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (8)(a) shall be listed under an agenda item on the meeting agenda.

(c) A council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (8)(b); and

(ii) included with the advance public notice required by Subsection (5).

(9) (a) Written minutes shall be kept of a council meeting.

(b) Written minutes of a council meeting shall include:

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- (i) the date, time, and place of the meeting;
 - (ii) the names of members present and absent;
 - (iii) a brief statement of the matters proposed, discussed, or decided;
 - (iv) a record, by individual member, of each vote taken;
 - (v) the name of each person who:
 - (A) is not a member of the council; and
 - (B) after being recognized by the chair, provided testimony or comments to the council;
 - (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (9)(b)(v); and
 - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.
- (c) The written minutes of a council meeting:
- (i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (ii) shall be retained for three years.
- (10) (a) As used in this Subsection (10), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
- (i) parliamentary order and procedure;
 - (ii) ethical behavior; and
 - (iii) civil discourse.
- (b) A council shall:
- (i) adopt rules of order and procedure to govern a public meeting of the council;
 - (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (10)(b)(i); and
 - (iii) make the rules of order and procedure described in Subsection (10)(b)(i) available to the public:
 - (A) at each public meeting of the council; and
 - (B) on the school's website.
- Section ~~23~~24. Section **53G-7-1205** is enacted to read:
- 53G-7-1205. Charter trust land councils.**

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(1) To receive School LAND Trust Program funding as described in ~~{Section}~~Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements described in Subsection 53G-7-1206(4).

(2) (a) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(b) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(3) A charter school governing board may serve as the charter trust land council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (2)(b).

(4) (a) Except as provided in Subsection (4)(b), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(b) Subsection (4)(a) does not apply to a charter school governing board that serves as the charter trust land council that prepares a plan for the use of School LAND Trust Program money.

(5) A parent or guardian of a student enrolled at the school shall serve as chair or co-chair of a charter trust land council that prepares a plan for the use of School LAND Trust Program money.

Section ~~{24}~~25. Section **53G-7-1206** is enacted to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

(a) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(b) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(c) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(d) "Council" means a school community council or a charter trust land council.

(e) "District school" means a public school under the control of a local school board

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elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(f) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school's school improvement plan or a charter school's charter agreement; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's improvement plan or charter agreement, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.

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(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:

(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan; and

(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

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(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(6) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The School LAND Trust Program shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii) (A) a school community council; or

(B) a charter trust land council.

(b) The School LAND Trust Program shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(9) The School LAND Trust Program shall annually review each school's compliance with applicable law, including rules adopted by the State Board of Education, by:

(a) reading each School LAND Trust Program plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(5) (a) The board shall appoint a School LAND Trust Program director, who serves at the pleasure of the board, to:

(i) administer the School LAND Trust Program; and

(ii) serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202.

(b) The School LAND Trust Program director may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend

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meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

Section ~~{25}~~26. Section **67-4-1** is amended to read:

67-4-1. Duties.

(1) The state treasurer shall:

(a) receive and maintain custody of all state funds;

(b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(c) pay warrants drawn by the Division of Finance as they are presented;

(d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;

(e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;

(f) account for all money received and disbursed;

(g) keep separate account of the different funds;

(h) keep safe all bonds, warrants, and securities delivered into his custody;

(i) at the request of either house of the Legislature, or of any legislative committee, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;

(j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;

(k) authenticate and validate documents when necessary;

(l) adopt a seal and file a description and an impression of it with the Division of Archives; ~~and~~

(m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah[-]; and

(n) oversee and support the advocacy of the Land Trusts Protection and Advocacy Office, created in Title 53D, Chapter 2, Land Trusts Protection and Advocacy Office.

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(2) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.

(3) The state treasurer may take temporary custody of public funds if ordered by a court to do so under Subsection 67-3-1(11).

Section ~~{26}~~27. **Repealer.**

This bill repeals:

Section **53E-3-514, Creation of School Children's Trust Section -- Duties.**

Section ~~{27}~~28. **Effective date.**

This bill takes effect on July 1, 2018.

†

Legislative Review Note

† **Section 29. Coordinating H.B. 404 with H.B. 230 -- Technical amendment.**

If this H.B. 404 and H.B. 230, Related to Basic School Programs Review, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify the reference in Subsection 53F-2-414(3)(1) from "Section 53F-2-404" to "Sections 53F-2-404 and 53G-7-1206".

Section 30. Coordinating H.B. 404 with S.B. 12 -- Technical amendment.

If this H.B. 404 and S.B. 12, Public Education Recodification -- Cross References and Repeals, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the amendments to Section 53D-1-403 in this bill supersede the amendments to Section 53D-1-403 in S.B. 12 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

Section 31. Coordinating H.B. 404 with S.B. 179 -- Technical amendment.

If this H.B. 404 and S.B. 179, Education Code Modifications, both pass and become law, it is the intent of the Legislature that on July 1, 2018, the amendments to Section 53G-7-1202 in this bill supersede the amendments to Section 53G-7-1202 in S.B. 179 when the Office of Legislative Research and General Counsel prepares the Utah Code database for

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publication.