

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: David P. Hinkins

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 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 ~~for the appointment of a School LAND Trust Program director~~ **H→** [~~including providing~~ **H→**]; and

1st Sub. H.B. 404



398 (3) The advocacy office shall have ~~H→~~ [:

399 ~~(a)] ←H~~ an advocacy director, as described in Section 53D-2-203 ~~H→~~ [;

400 ~~(b) staff] ←H~~ .

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

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

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

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

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

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

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

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

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

420 (ii) the School and Institutional Trust Fund Office investments and investment policy
 421 statements;

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

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

425 (d) properly account to trust beneficiaries and the Legislature, as described in Section
 426 53D-2-203.

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

428 **53D-2-202. Land Trusts Protection and Advocacy Committee -- Duties --**

429 **Governance.**430 (1) There is created the Land Trusts Protection and Advocacy Committee to:431 (a) oversee the activities of the advocacy director and the advocacy office;432 (b) submit advocacy director candidate names to the state treasurer, as described in
433 Section 53D-2-203;433a **H→ (c) determine the advocacy director's compensation and annually review the**
433b **compensation and performance of the advocacy director;**434 [~~(c)~~] (d) ←H receive quarterly reports from the advocacy director;435 H→ [~~(d)~~] (e) ←H review, amend as necessary, and transmit to the state treasurer
435a proposed rules
436 submitted by the advocacy director;437 H→ [~~(e)~~] (f) ←H receive the annual report described in Section 53D-2-203 from
437a the advocacy
438 director; and439 H→ [~~(f)~~] (g) ←H give policy direction to the advocacy office.440 (2) In accordance with Subsection (3), the advocacy committee consists of the
441 following five members:442 (a) two individuals appointed by the School and Institutional Trust Lands Board of
443 Trustees;444 (b) one individual appointed by the School and Institutional Trust Fund Board of
445 Trustees;446 (c) one individual appointed by the state treasurer; and447 (d) H→ a State Board of Education staff member who administers ←H the School
447a LAND Trust Program H→ [director] , designated as ←H described in Section 53G-7-1206.448 (3) A member of the advocacy committee:449 (a) may not be:450 (i) the state treasurer or a current employee of the state treasurer;451 (ii) a member of the School and Institutional Trust Lands Board of Trustees;452 (iii) an employee of the School and Institutional Trust Lands Administration;453 (iv) a member of the School and Institutional Trust Fund Board of Trustees; or454 (v) an employee of the School and Institutional Trust Fund Office.455 (b) shall have significant qualifications related to the purposes and activities of the
456 school and institutional trust, such as:457 (i) nonrenewable resource development;458 (ii) renewable resource management;459 (iii) real estate development; or

- 522 (b) facilitate open communication among key individuals described in Subsection
523 (5)(a);
- 524 (c) actively seek necessary and accurate information;
- 525 (d) review and, if necessary, recommend the state auditor audit ~~H~~→, ←~~H~~ activities
525a involved in:
- 526 (i) generating trust revenue;
- 527 (ii) protecting trust assets; or
- 528 (iii) distributing funds for the exclusive use of trust beneficiaries;
- 529 (e) promote accurate record keeping of all records relevant to the trust and distribution
530 to trust beneficiaries;
- 531 (f) report at least quarterly to the advocacy committee and the state treasurer on the
532 current activities of the advocacy office;
- 533 (g) annually submit a proposed advocacy office budget to the state treasurer;
- 534 (h) regarding the trust's compliance with law, and among the School and Institutional
535 Trust Lands System as a whole, report annually to:
- 536 (i) the advocacy committee;
- 537 (ii) the state treasurer;
- 538 (iii) the State Board of Education; and
- 539 (iv) the Executive Appropriations Committee;
- 540 (i) annually send a financial report regarding the relevant individual trust, and, upon
541 request, report in person to:
- 542 (i) Utah State University, on behalf of the agricultural college trust;
- 543 (ii) the University of Utah;
- 544 (iii) the Utah State Hospital, on behalf of the mental hospital trust;
- 545 (iv) the Utah Schools for the Deaf and the Blind, on behalf of the institution for the
546 blind trust and the deaf and dumb asylum trust;
- 547 (v) the youth in custody program at the State Board of Education, on behalf of the
548 reform school trust;
- 549 (vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the
550 reservoir trust;
- 551 (vii) the College of Mines and Earth Sciences created in Section 53B-17-401;
- 552 (viii) each state teachers' college, based on the college's annual number of teacher

1111 (4) (a) Except as provided in Subsection (4)(b), council members who are parents or
 1112 guardians of students enrolled at the school shall be elected in accordance with procedures
 1113 established by the charter school governing board.

1114 (b) Subsection (4)(a) does not apply to a charter school governing board that serves as
 1115 the charter trust land council that prepares a plan for the use of School LAND Trust Program
 1116 money.

1117 (5) A parent or guardian of a student enrolled at the school shall serve as chair or
 1118 co-chair of a charter trust land council that prepares a plan for the use of School LAND Trust
 1119 Program money.

1120 Section 25. Section **53G-7-1206** is enacted to read:

1121 **53G-7-1206. School LAND Trust Program.**

1122 (1) As used in this section:

1123 (a) "Charter agreement" means an agreement made in accordance with Section
 1124 53G-5-303 that authorizes the operation of a charter school.

1125 (b) "Charter school authorizer" means the same as that term is defined in Section
 1126 53G-5-102.

1127 (c) "Charter trust land council" means a council established by a charter school
 1128 governing board under Section 53G-7-1205.

1129 (d) "Council" means a school community council or a charter trust land council.

1130 (e) "District school" means a public school under the control of a local school board
 1131 elected under Title 20A, Chapter 14, Nomination and Election of State and Local School
 1132 Boards.

1133 (f) "School community council" means a council established at a district school in
 1134 accordance with Section 53G-7-1202.

1135 (2) There is established the School LAND (Learning And Nurturing Development)
 1136 Trust Program ~~It~~ **under the State Board of Education** ~~to~~ to:

1137 (a) provide financial resources to public schools to enhance or improve student
 1138 academic achievement and implement a component of a district school's school improvement
 1139 plan or a charter school's charter agreement; and

1140 (b) involve parents and guardians of a school's students in decision making regarding
 1141 the expenditure of School LAND Trust Program money allocated to the school.

1204 (8) (a) The School LAND Trust Program shall provide training to the entities described
 1205 in Subsection (8)(b) on:

1206 (i) the School LAND Trust Program; and

1207 (ii) (A) a school community council; or

1208 (B) a charter trust land council.

1209 (b) The School LAND Trust Program shall provide the training to:

1210 (i) a local school board or a charter school governing board;

1211 (ii) a school district or a charter school; and

1212 (iii) a school community council.

1213 (9) The School LAND Trust Program shall annually review each school's compliance
 1214 with applicable law, including rules adopted by the State Board of Education, by:

1215 (a) reading each School LAND Trust Program plan submitted; and

1216 (b) reviewing expenditures made from School LAND Trust Program money.

1217 (5) ~~H→ [(a) The board shall appoint a School LAND Trust Program director, who serves at~~
 1218 ~~the pleasure of the board, to:~~

1219 ———(i) administer the School LAND Trust Program; and

1220 ———(ii)] The board shall designate a staff member who administers the School LAND
 1220a Trust Program:

1220b (i) to ~~←H~~ serve as a member of the Land Trusts Protection and Advocacy Committee created
 1221 under Section 53D-2-202 ~~H→~~ [;] ; and

1222 [~~(b) The School LAND Trust Program director~~] (ii) who ~~←H~~ may coordinate with the
 1222a Land Trusts

1223 Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend

1224 meetings or events within the School and Institutional Trust System, as defined in Section

1225 53D-2-102, that relate to the School LAND Trust Program.

1226 Section 26. Section **67-4-1** is amended to read:

1227 **67-4-1. Duties.**

1228 (1) The state treasurer shall:

1229 (a) receive and maintain custody of all state funds;

1230 (b) unless otherwise provided by law, invest all funds delivered into the state treasurer's
 1231 custody according to the procedures and requirements of Title 51, Chapter 7, State Money
 1232 Management Act;

1233 (c) pay warrants drawn by the Division of Finance as they are presented;

1234 (d) return each redeemed warrant to the Division of Finance for purposes of