

School Trust Lands

A Significant Alternative Funding Source for Public Schools

What are school trust lands? School trust lands are lands dedicated solely to generating money for public schools, primarily in western and midwestern states. Congress granted the lands to schools at the time each new state joined the Union, beginning with Ohio in 1803. The states gave up the right to tax federal lands in return for the granted lands, cementing each statehood bargain. Nationally, there are 45 million acres of school trust lands granted in state Enabling Acts for a single, explicitly stated purpose - *to support public schools*. The map below shows the percentage of federal lands that do not pay property taxes to support education in that state.¹ For the U.S. as a whole, 28.7 percent of all land is federal. But 88 percent of the federal lands in the contiguous 48 states is in eleven western states, compounding the difficulties of funding education in these states and heightening the importance of revenue-generating trust lands.

Why are the lands called "trust" lands? The lands were granted in "trust." The state is the trustee, and the schools are the beneficiary. The school trusts are "real, enforceable trusts that impose upon the state the same fiduciary duties applicable to private trusts."² The state has an absolute duty to manage the trust estate for the *exclusive* benefit of the beneficiaries (the state's public school systems), and return full value from the use and disposition of the trust property.³ The trustee owes the schools "undivided loyalty and good faith, and its acts must be in the sole interest of such beneficiaries."⁴ The state may not use trust assets to pursue other state goals, no matter how worthwhile or desirable.⁵ Some states refer to the lands as "state lands," but such terminology may cause confusion about their ownership and lead to the lands being used for state purposes rather than for the lawful purpose of schools.

Percent of Federal Lands in Each State		
AL 3.3	LA 2.0	OH 1.3
AK 68.5	ME 0.8	OK 7.6
AZ 44.6	MD 2.2	OR 52.5
AR 8.2	MA 1.3	PA 8.0
CA 43.6	MI 12.0	RI 0.3
CO 36.5	MN 10.5	SC 3.7
CT 0.2	MS 4.3	SD 6.7
DE 2.2	MO 4.7	TN 3.7
FL 9.0	MT 27.6	TX 7.3
GA 4.0	NE 1.4	UT 64.5
HI 15.1	NV 82.9	VT 6.0
ID 62.5	NH 12.7	VA 6.3
IL 2.7	NJ 3.1	WA 28.5
IN 1.7	NM 34.2	WV 6.7
IA 0.9	NY 0.7	WI 10.1
KS 0.8	NC 8.0	WY 49.8

How does the land generate money? Leasing or selling the surface or minerals is how the land generates revenue. Payments are received through sales, leases, royalties and bonus payments. Land use varies state by state from grazing, agriculture, and timber to mining, commercial, and rights-of-way. In 2001, school trust lands generated **\$1.4 billion** in revenue for schools.

Where does all this money go? Each state with school trust lands also manages a permanent fund as part of the trust portfolio. Revenue sources that flow into the permanent fund vary somewhat from state to state. Every state places revenue from land sales in the permanent school fund. Once the revenue is in the fund it becomes the financial portion of the trust, to be held in perpetuity for the schools. Some states also save lease revenues in the permanent school fund, building an endowment fund for education now and into the future. If more revenue is saved and wisely invested, schools will ultimately have greater revenue from interest and dividends. States currently have **\$32 billion** in their permanent school funds.

Even in states without huge amounts of trust lands, the dollars they bring in can make significant contributions to local school districts. For example, according to the *Mississippi Business Journal*, "Savvy management of these lands has made a significant difference to Harrison County Schools. Prior to 1978, revenues resulting from 16th section lands averaged about \$31,000 per year. Since that time, the revenues have averaged over \$440,000 per year. For the calendar year of 1996, Harrison County School District records show that section 12 generated over half a million dollars alone."⁶

What are some hot button issues? Because of changes sought by the Utah State Board of Education and the education community seven years ago, that state's trust lands now generate seven times the revenue, the permanent school fund is more than four times larger, and each school receives their share of the proceeds to improve academic performance by implementing a plan developed by each local school.

2001 Permanent School Funds (Fund Balance in Millions of Dollars)

AZ \$947	NV \$89
CA \$0	OK \$985
CO \$301	OR \$763
ID \$516	SD \$138
MN \$549	TX \$18,500
MT \$334	UT \$356
ND \$626	WA \$161
NE \$280	WI \$451
NM \$6,145	WY \$925.5

There are three changes to Colorado's Enabling Act currently proposed to Congress. Each change would take between 300,000 acres to 3 million acres of school trust lands for state purposes. These changes are proposed by

delegation on exchanging school lands to preserve open space while locating school lands in other productive areas.

The Oregon legislature proposes to take \$150 million from the permanent school fund for budget shortfalls. The governor, the land commissioner, and some education groups oppose this taking.

What can state policymakers do?

- Request that your land commissioner report on FY 2002 revenues to schools.
- Request that your state treasurer report to your board how your permanent funds are invested and what your rate of return has been for each of the last five years.
- Send a representative to be trained on school trust lands to meetings of the Children's Land Alliance. The 2002 conference is being held June 6-8th. To register, see contacts below.

For More Information Contact:

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References

1. University of Colorado at Boulder, *Atlas of the American West*, p. 58 (New York, W.W. Norton & Co., Inc., 1997).
2. *County of Skamania v. State*, 685 P 2d 576, 580 (Washington 1984).
3. *Oklahoma Education Association v. Nigh*, 642 P 2d 230, 235 (Oklahoma 1982).
4. *State ex rel. Ebke v. Board of Educational Lands and Funds*, 47 N.W. 2d 520, 521 (1951).
5. *Skamania*, 685 P 2d at 562.
6. *Mississippi Business Journal*, Volume 20, Number 31, August 3, 1998-August 9, 1998.