




Project • LEARN



*A MAGNIFICENT ENDOWMENT:*  
**America's School Trust Lands**  
**Your Guide to Making a Difference**



## Acknowledgments



The Land-grant Education And Research Network (Project LEARN) is funded through Grant Number P116Z100173 from the United States Department of Education Fund for the Improvement of Post-Secondary Education (FIPSE) awarded to the Center for the School of the Future at Utah State University. We thank Senator Robert F. Bennett for his unwavering support of this project and acknowledge the support of our federal program officers, Frank Frankfort & Bette Dow.



This publication was produced by Project LEARN at the Center for the School of the Future at Utah State University. Project LEARN is a collaborative effort with the Children's Land Alliance Supporting Schools (CLASS). It seeks to educate and support decision-makers regarding the effective management and use of School Trust Lands, funds, and distributions.



*In many states the permanent funds and the proceeds which should have been added to them have been so carelessly diverted, squandered, wasted, and embezzled so shamefully, that what ought to be a magnificent endowment...has dwindled to an almost negligible sum.*

- Dr. Fletcher Harper Swift, Columbia University 1911

## *Thank You:*

Senator Robert F. Bennett for his commitment to this project and to public education in America.

Margaret Bird, Paula Plant, and the Board of Governors of the Children's Land Alliance Supporting Schools (CLASS). These individuals have worked tirelessly to preserve the legacy and protect the future of School Trust Lands for America's schoolchildren.

The Western States' Land Commissioners Association (WSLCA) for their assistance in assembling the data used to create this handbook.

Richard West, Matthew Taylor, Kimilee Campbell, Cade Charlton, John Maynes and all the staff at the Center for the School of the Future for support of Project LEARN and production of this handbook.

Michael Pons, Pons Consulting, for helping spread the message of School Trust Lands.

## Contents

Foreword	6
Introduction	8
<i>Paula's Story</i>	8
History of School Trust Lands	11
<i>Permanent School Funds</i>	14
School Trust Land Law	20
<i>Constitutional Law</i>	20
<i>Trust Law</i>	22
School Trust Lands Administration	25
A Vision of Quality	30
School Trust Land Issues	32
What Can You Do?	35
How You Can Make a Difference	38
How to Talk About School Trust Lands Issues	39
Final Review	41
Open Book Quiz	42



# Foreword

-Margaret Bird

There are many important issues related to School Trust Lands. I could tell you about history, the law, distribution of funds and on and on. The problem is getting you to hold still long enough to tell you and then motivate you to take action. It is my hope this handbook will simplify the issues and motivate you to act on behalf of the beneficiaries – the children in America’s public schools.

School Trust Lands is a particularly obscure, complex, and difficult aspect of school finance. Evidence shows that even many of the people directly responsible for administering School Trust Lands don’t always fully understand many of the issues related to them.

It is difficult to make generalizations about School Trust Lands and Permanent School Funds. For example, only some states with School Trust Lands use the term Permanent School Funds. Others use terms such as Permanent Common School Fund, Common School Trust Fund, and Permanent Trust Fund (see page 17). States also have their various terms for School Trust Lands.

Of 20 states, seven have Commissioners appointed by the Governor, six have Commissioners who are elected. Virtually all of the key people responsible for School Trust Lands and Permanent School Funds have other competing

responsibilities. States have a variety of Boards, Committees, and Trustees who make judgments about investments, disbursements, and policies.

This means the best way to find out what is happening in your state is to talk to advocates for children and public education in your state. Not only will you get a better handle on the facts and figures, but it’s also the best way to find out how to make a difference.

It’s not easy to generalize about how states go about administering School Trust Land funds, but it is possible to describe some principles we should all be working toward:

- Because land has intrinsic, irreplaceable value School Trust Lands should be managed wisely to benefit current and future generations of schoolchildren.
- School Trust Lands and Permanent School Funds trustees should be held to the highest standards for competence in investments, fairness in distribution, undivided loyalty to the beneficiaries, and duty to grow the value of the trust.
- School Trust Lands and Permanent School Funds need to be open in all transactions to ensure that leases, sales, and investments are consistent with market values and best practices.
- Trustees must be competent to evaluate the quality of investments. That’s why everyone involved in the Trusts – bankers, lawyers,

and managers – share in the obligation to provide accurate and timely information.

These principles are simply a restatement of the legal obligation of every Trustee involved. The courts have affirmed these principles time and again, regardless of varying particulars from state to state. In addition your own state and partner organizations may have other statements of principles or goals to achieve.

The granting and management of School Trust Lands are part of a well-crafted plan that has served education in the United States for over 200 years. This plan to support and sustain public schools is embodied in many state constitutions and the provisions that enabled statehood.

This plan is a promise that School Trust Lands will always be used for the benefit of public school children, and a promise to generations to come that the legacy will continue.

Unfortunately this legacy has been threatened repeatedly. A century ago, Dr. Fletcher Harper Swift conducted an exhaustive study of the Permanent School Funds and found that two-thirds of the lands and funds granted for the support of schools were lost or squandered. He attributed those losses to:

- redefining school children's interests and diverting the funds for other purposes,
- carelessness and incompetence in management,
- lack of responsibility or lack of a clear line of authority, and
- inadequate oversight by public officials, overwhelmed with other responsibilities.

We can agree that the systems in place today are better equipped to prevent the kind of malfeasance and collusion that have occurred in the past. But history shows such things are possible. Current pressures to cut taxes and cut spending for public schools create as great a threat as past corruption. Similarly, diversion of resources from the Permanent School Funds is significantly cutting revenue for future schoolchildren. The 45 million acres of School Trust Lands and \$40 billion in Permanent School Funds will continue to be a target for politicians and profiteers.

**Only an army of informed citizens can protect this legacy. It's time to get informed.**

Margaret Bird, CLASS co-Director



## Introduction

Every generation has a solemn responsibility to make the world a better place for those who come after. In the United States, our nation’s founders set aside School Trust Lands to ensure quality public schools were a part of every American community in perpetuity.

### *Paula’s Story*

*As a young girl in Utah, summers at the farm were among my happiest memories. I would tread on the back of my grandfather's heels as he followed his daily routine.*

*On the farm, the work might be done for now, but it was never done. Tomorrow the cattle would need to be moved to another pasture. Next week the garden would need to be tilled and weeded. The farm, the land, was part of a continuous, never-ending cycle. You keep working the land so it will be better; you take care of it so it will produce and be fruitful for another generation.*

*I loved being part of this cycle, this sense of stewardship.*

*One of my favorite trips with Grandpa was to feed and water the cattle. One morning over our traditional bacon and eggs he talked of going out to the “school” section.*

*All the way out over the dusty, bumpy road, I sat with my nose pressed to the glass looking for the school. When we stopped to open the last wire gate, I looked around and asked, “Where is the school?”*

*He chuckled, “There isn’t a school out here, just school lands.”*

*“Grandpa,” I asked, “Then why do you call these lands the ‘School Lands’?”*

*“Darling, that isn't my land. It's land I'm taking care of for the school children. I get the benefit of the crop and they get the benefit of the income. It all works to support good*



*schools like the one you're going to now. I'm just taking care of it, adding my little bit to making sure those schools are good and the land is well kept until the next person takes it over."*

*"It's there for you, and your grand-children and your great-great-great grandchildren."*

*I remember puzzling over how far into the future you could imagine your descendants, how far into the past could you imagine your family tree? Since biblical times good people have been making something ready for the people yet to come, and there are always generations yet to come.*

*Call it a legacy. Call it a vow. Call it a solemn obligation to do for those what has been done for you.*

*School Trust Lands are no more or less than what my grandfather described. And they are no less important today than they have ever been. And it has never been more important for good people to step up and make sure this legacy continues.*

*- Paula Plant, CLASS co-Director*



Today, 20 states have retained large endowments of School Trust Lands. Other states have converted all or part of their original land grants into Permanent School Funds. Many of the states that have made this conversion have used the funds for short-term needs, thereby losing the trust's potential to benefit future generations.

You'll find the answers here.

### **The Law Is On Your Side**

This handbook is designed to guide you in preserving the legacy of School Trust Lands in your state. It is meant to assist you in defending the rights of your state's schoolchildren in whatever role you play. It is for teachers, school principals, parents of schoolchildren and anyone who cares about public education. It addresses:

In every state, the courts have reiterated that School Trust Lands and Permanent School Funds are intended to benefit public schools and students – and no one else. Even so, lax enforcement, competing priorities, and even malfeasance have reduced School Trust Lands by two-thirds nationwide. Although much of the original grants have been lost, some states have preserved and strengthened the legacy of School Trust Lands through careful management.

- What do you need to know to make a difference in your state and community?
- Who makes decisions concerning School Trust Lands and what is the best way to influence them?
- Who are your partners in this essential effort to preserve a legacy and promote education quality?

Protecting this legacy takes work. Every state needs dedicated people to keep an eye on policies, protocols, audits, and annual reports to make sure that *every person who has a role in managing School Trust Lands is held responsible according to the legal obligations of a Trustee.*

We, the people who care about our state's schoolchildren, have a right to

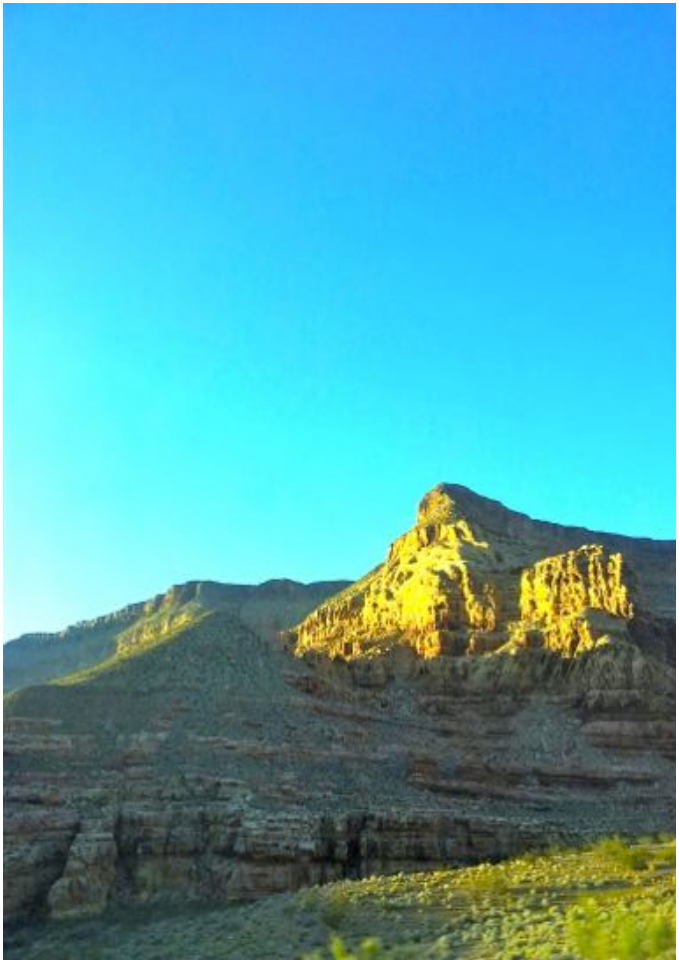
observe and analyze what is happening, inform others, and encourage advocates for children and public education to take action. We have a responsibility to prevent acts of commission or omission that threaten School Trust Lands and Permanent School Funds.

What's more, we have friends. Thousands of other people in our states care about public education. And we have tools, including media contacts, organizational outreach, awareness, and extensive capacity for activism.

*Every person who has a role in managing School Trust Lands should be held responsible according to the legal obligation of a Trustee.*

This handbook will help you to emphasize the bright line between the School Trust Lands and the beneficiaries – public schools and students.

You don't need to know everything about the law or current practices to get involved. All it takes is a strong desire to be a part of a vital effort to preserve and enhance quality public education in every state.





# History of School Trust Lands

*To penetrate and dissipate these clouds of darkness, the general mind must be strengthened by education.*

*-Thomas Jefferson*

School Trust Lands are based on the ideas that every community should have public schools, that education benefits the student and the community, and that prudence dictates there should be sustained support for quality public schools and students.

*School Trust Lands are any lands provided by the state or federal government intended to generate revenue to support public school children.*

The first large scale School Trust Lands granted in America were established by Congress in the Ordinance of 1785. The first grants set aside Section 16 in every township for the benefit of schoolchildren (for an explanation of townships and sections, see page 12). Two years later the Northwest Ordinance set forth the conditions for territories and statehood, but the Ordinance of 1785 first set the standard that each state designate lands that would be exempt from federal taxation and maintained and improved for the benefit of public schools

and students.

Later, the federal grant set aside two sections as School Trust Lands. When dealing with the arid states of Arizona, New Mexico, and Utah, four sections were set aside.

From the 1820's through 1959, the federal government outlined the conditions for a territory to become a state. The framework for these conditions is called an enabling act. Passage of enabling acts preceded statehood and drafting of the state constitution. One of these conditions was that new states were to set aside lands for the support of public schools. In the enabling acts, lands for the support of public schools were provided to every state except the original 13 colonies, Kentucky, Maine, Texas, and West Virginia. Kentucky and West Virginia were originally part of Virginia; Maine was part of Massachusetts. These states granted themselves School Trust Lands.

## State Supplemental Grants

Some states granted lands for the support of public schools above and beyond those required by the federal government. By 1788, Massachusetts had set aside School Trust Lands in the west to encourage settlement. Various other states

As states were settled, they were divided into townships. A township is 6 miles x 6 miles and divided into 36 square sections. Originally states set aside Section 16 for the benefit of schoolchildren. Later, additional sections in each township were granted for schoolchildren.

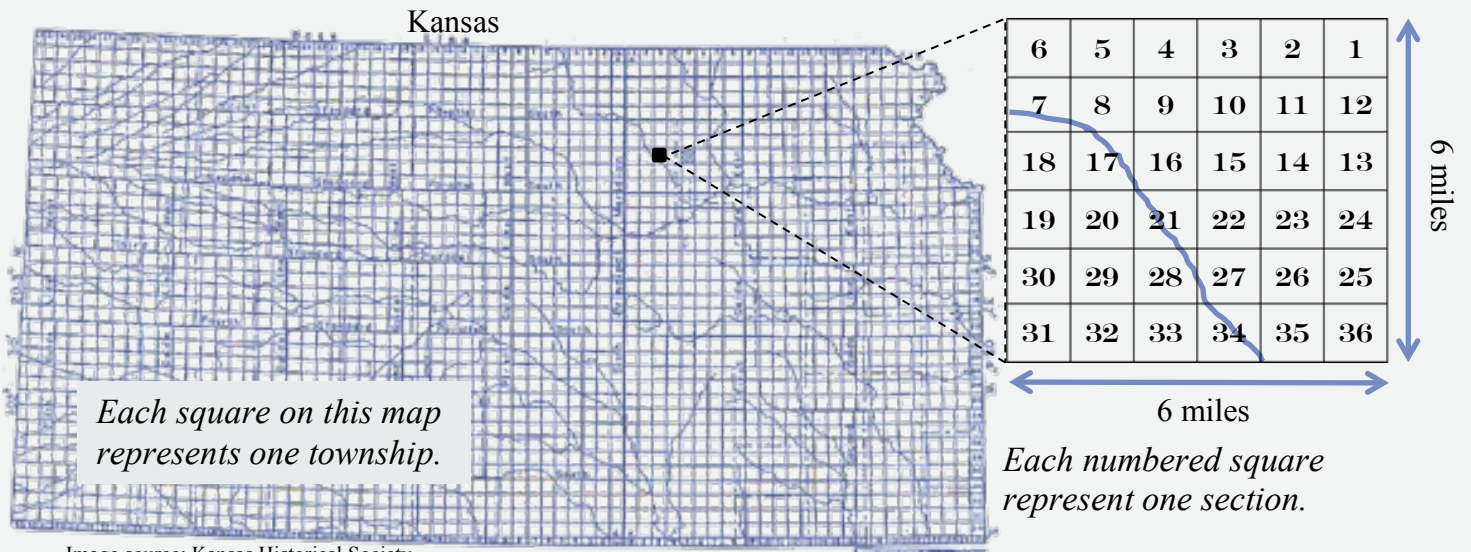


Image source: Kansas Historical Society

States that received one section in each township for the benefit of schoolchildren:

- |          |             |
|----------|-------------|
| Alabama  | Ohio        |
| Arkansas | Louisiana   |
| Florida  | Michigan    |
| Illinois | Mississippi |
| Missouri |             |

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

States that received two sections in each township for the benefit of schoolchildren:

- |            |           |              |
|------------|-----------|--------------|
| Alaska     | Kansas    | North Dakota |
| California | Minnesota | Oklahoma     |
| Colorado   | Montana   | Oregon       |
| Idaho      | Nebraska  | South Dakota |
| Iowa       | Nevada    | Washington   |
|            |           | Wisconsin    |
|            |           | Wyoming      |

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

States that received four sections in each township for the benefit of schoolchildren:

- Arizona  
New Mexico  
Utah

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

expanded School Trust Land holdings to varying degrees. North Carolina, for example, set aside swampland as part of the School Trust Lands. Other states set aside lands seized for non-payment or other causes.

Texas entered the union as an independent republic and therefore was not required to grant lands for the support of public schools. By that time, Texas had set aside almost 42 million acres for the support of public schools.

Ultimately 134 million acres of federal and state lands were granted to support public schools and students by the year 1959.

## A Legacy Nearly Lost

In the beginning, a state's School Trust Lands represented a significant share of its total surface acreage – at least 3 percent of states that were granted one section, 6 percent of states that were granted two sections, and 11 percent of states with four sections.

Today, 20 states still hold and administer 45 million acres of School Trust Lands. Over the years, about two-thirds of the School Trust Lands have been sold or traded with proceeds placed in Permanent School Funds. School Trust Lands generate revenues in many different ways, from timber and mining to recreation and agriculture (see pages 28-29).

States Listed By Total Trust Acreage 2011 (Surface Rights)	
State	Acres
1. Arizona	8,100,000
2. New Mexico	6,800,000
3. Montana	4,600,000
4. Utah	3,400,000
5. Wyoming	3,000,000
6. Colorado	2,880,000
7. Minnesota	2,500,000
8. Idaho	2,100,000
9. Washington	1,800,000
10. Nebraska	1,300,000
11. Mississippi	838,000
12. Oregon	768,000
13. South Dakota	761,000
14. Oklahoma	743,000
15. Texas	719,000
16. North Dakota	632,000
17. California	469,000
18. Alaska	103,000
19. Nevada	3,000
20. Wisconsin	5

*As a Republic, Texas set aside almost 42 million acres for support of schools. By 1906, Texas had the largest Permanent School Fund. It has maintained that place through strict adherence to the principles of the Trust, growing the fund and preserving the legacy.*

The lands granted at statehood by the federal government were granted in trust for the support of public schools. Funds used from the sale and investment of School Trust Lands are to be used for the benefit of schoolchildren without exception, without question, in perpetuity.

One could argue that the beneficiaries are still entitled to the *value* of the original grants. In no instance have Permanent School Funds outperformed the growth in the value of the original land grants. However, turning back the clock would be difficult. *But protecting the current*

*holdings and looking to build for the future – is something we can and must do.*

School Trust Lands were intended – and continue to have the potential – to enhance education quality: establishing quality facilities, providing for high quality teachers, and designing and modeling successful practices. Although education advocates and policymakers in each state have their own vision of what it means to improve education quality and meet the needs of students, every state is required to use these resources to support and enhance public schools.

### **What Do I Need to Know About the History of School Trust Lands?**

- From the nation's earliest beginnings, School Trust Lands and public schools were created to establish and maintain universal quality education.
- Where School Trust Lands have been poorly managed – whether through neglect or wrong-doing – public schools and students have lost an irreplaceable resource to support quality education.
- Where School Trust Lands have been managed well, they have provided resources to states to support on-going and future educational opportunity.
- Citizen advocates working to keep a focus on the legacy of School Trust Lands are the best defense against future neglect or abuse. The Children's Land Alliance Supporting Schools (CLASS) is an excellent resource for connecting with other advocates in your state. To learn more about CLASS, visit [www.childrenslandalliance.com](http://www.childrenslandalliance.com).

*This section is a brief introduction into the 225-year history of school lands. For more background and context, read A History of Federal Land Grants to Support Public Schools, by Margaret Bird, available at:*  
[http://www.childrenslandalliance.com/pdf/history\\_fed\\_land\\_2003.pdf](http://www.childrenslandalliance.com/pdf/history_fed_land_2003.pdf)

## **Permanent School Funds**

*"A well-instructed people alone can be permanently a free people."*

**-James Madison**

Connecticut, New York, and Massachusetts were among the first states to establish Permanent School Funds. These trusts were partly funded by the sale of state-owned lands. Over the next 100 years, various states converted some or all of their School Trust Lands to Permanent School Funds.

*Permanent School Funds are trusts established by states, often funded in part through the sale of school lands, intended to generate revenue to support public school children through investment.*

Today, 30 states have no School Trust Lands, but many of them still have a Permanent School Fund. Most states have mechanisms for ongoing contributions to the Permanent School Funds capital gains, land sales, and other revenues.

States use a wide range of investment strategies for Permanent School Funds.

Some states are bound by specific constitutional or legislative provisions that prescribe investment policies.

### **Investments**

Permanent School Fund trustees are risk averse, and rightly so. They are bound by law to protect and grow the Permanent School Fund, and they are held to a higher standard of prudence and care than normal business practice. In some states Trustees are also elected or appointed officials. These Trustees face unique political consequences for any dramatic decrease in the Fund or its annual revenues.

Still, all trustees are expected to stimulate and manage the Permanent School Fund. States have different strategies for increasing their Permanent School Funds. Many states dedicate fees (such as hunting access fees) to grow the Permanent School Fund or designate other sources (e.g. foreclosures and abandoned property) to add to the fund.

In recent years, New Mexico and Utah have given the Trustees more flexibility in determining investments by expanding the list of acceptable investments. However, in both states the Prudent Investor Rule was determined to be the standard of care.

Several states, including California, Colorado, Idaho, Montana, and Oklahoma, have unsuccessfully sought similar flexibility.

### **Returns**

Investment returns are an important part of growing the Permanent School Funds and supporting local schools.

States use a variety of benchmarks available in the private sector to measure performance. Trustees in the various states generally use different indexes for different types of investments – such as fixed income (money markets), domestic equity (stocks), and international equity.

Capital gains and losses are treated quite differently from state to state. The Permanent School Funds in Alaska, Oklahoma, Utah, and Washington retain all realized capital gains as principal to be reinvested. In Idaho and Wyoming, capital gains and losses affect the allocation for schools in the current years, which can lead to wide shifts in school resources from year to year. North Dakota amortizes capital gains income over a period of several years, eliminating large spikes and valleys in the funding stream.

*The prudent investor rule carries specific legal meaning, Trustees must “observe how men of prudence, discretion and intelligence manage their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of the capital to be invested.”*

Today no investor can claim to fully understand all of the investment accounts available. *However, trustees must be able to demonstrate they did due diligence before making their investment decisions.*

### **What We Can Watch For**

No one investment plan can be said to be the ideal for every state. But

advocates for children and public education can monitor activities with an eye toward certain principles:

- School Trust Lands have always outperformed Permanent School Funds because land has intrinsic, irreplaceable value. Therefore Trustees should be cautious in selling School Trust Lands.
- School Trust Lands and Permanent School Fund trustees should be held to the highest standards for competence, fairness, undivided loyalty, and their ability to grow the value of the trust.
- School Trust Lands and Permanent School Funds must be open in all transactions to ensure that leases, sales, and investments are all consistent with market values and best market practices.
- Professional management is best served when the boards and trustees are competent to judge, and that requires accurate and timely reporting from all bankers, lawyers, and investment managers involved in the trusts.

### **What Do I Need to Find Out About Permanent School Funds?**

- Many states have Permanent School Funds in addition to School Trust Lands. What is the history of the Permanent School Fund in my state and its relationship to School Trust Lands?
- Many states set specific investment requirements for Permanent School Funds. What are the limits and opportunities in my state?
- Does the state's mix of investments, money markets, equities, etc., advance the dual goals of ongoing support and growth?
- How are states that are heavily invested in equities doing over the past five, 10, and 20 years?

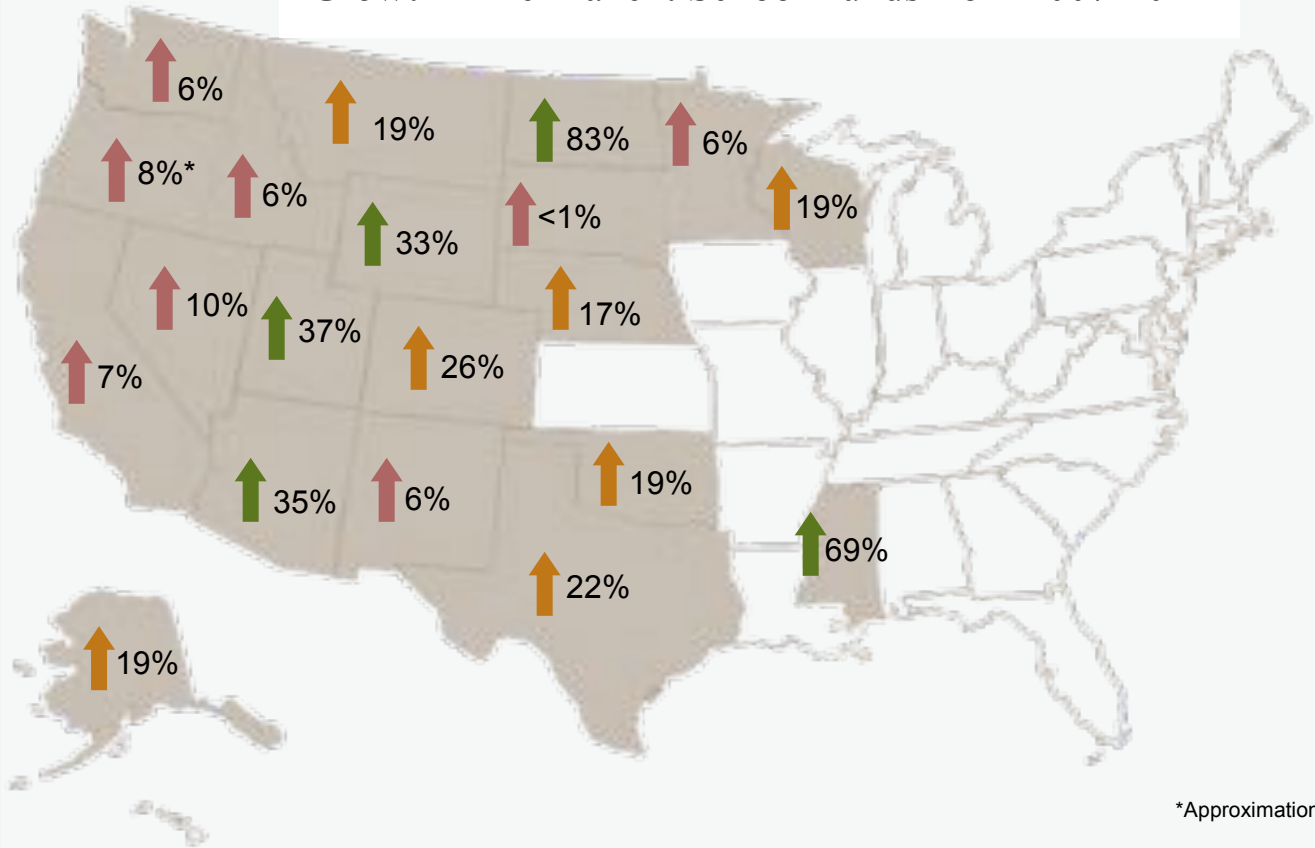




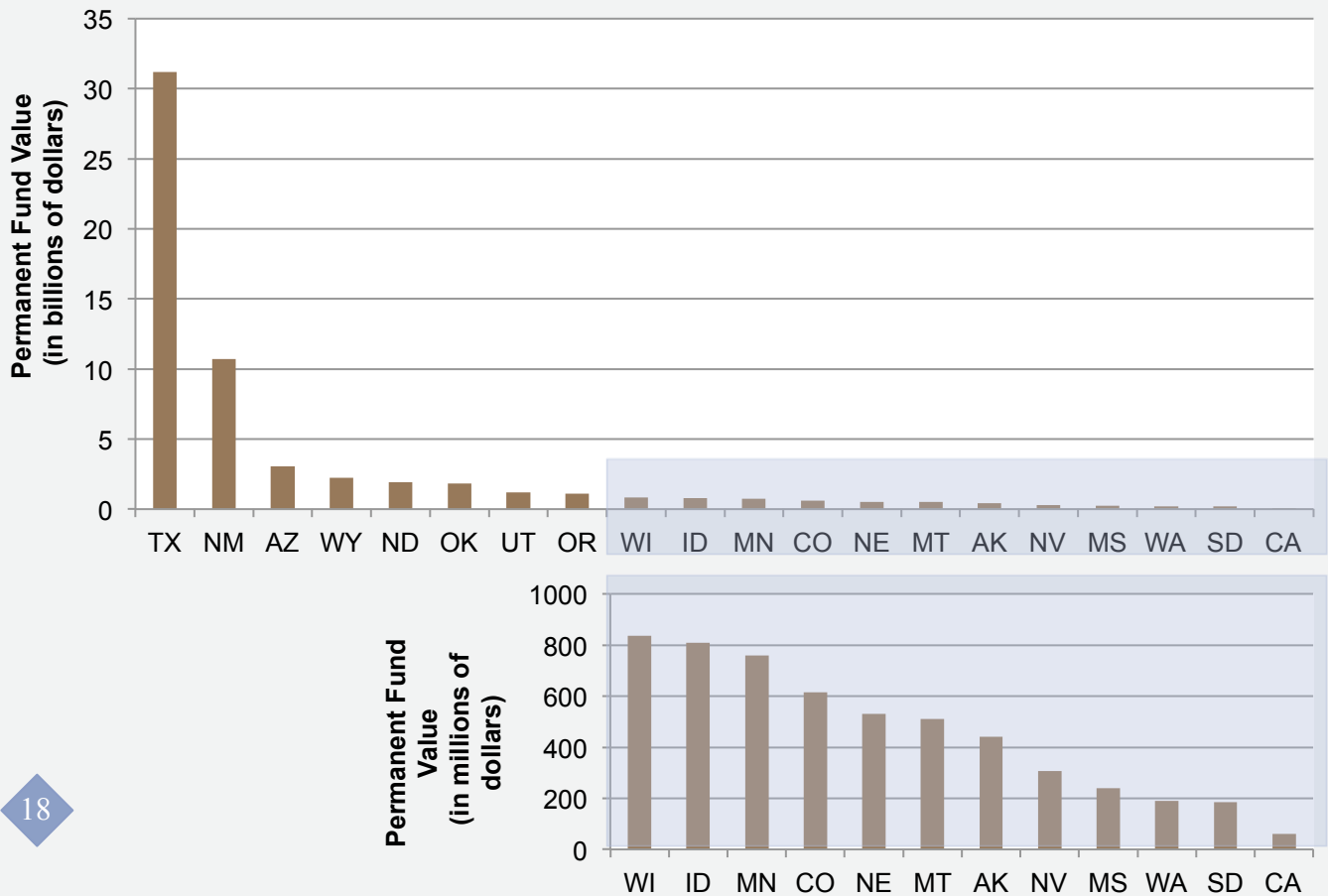
## Permanent School Fund Names

<b>Alaska</b>	Public School Trust Fund
<b>Arizona</b>	Permanent Common School Fund
<b>California</b>	School Land Bank Fund
<b>Colorado</b>	Public School Permanent Fund
<b>Idaho</b>	Public School Endowment Fund
<b>Minnesota</b>	Permanent School Fund
<b>Mississippi</b>	Education Improvement Trust Fund
<b>Montana</b>	Trust and Legacy Fund
<b>North Dakota</b>	Common School Trust Fund
<b>Nebraska</b>	Permanent School Trust Fund
<b>New Mexico</b>	Land Grant Permanent Fund
<b>Nevada</b>	Permanent School Fund
<b>Oklahoma</b>	Common School Permanent Fund
<b>Oregon</b>	Common School Fund
<b>South Dakota</b>	Permanent Trust Fund
<b>Texas</b>	Permanent School Fund
<b>Utah</b>	State School Fund
<b>Washington</b>	Permanent Common School Fund
<b>Wisconsin</b>	Permanent School Fund
<b>Wyoming</b>	Common School Permanent Land fund

## Growth in Permanent School Funds from 2007-2011



## Permanent Fund Market Values (2011)



# School Trust Lands Timeline





# School Trust Land Law

## Constitutional Law

The foundations for all School Trust Lands are the enabling acts under which territories were admitted as part of the United States and each state's constitution. A state's constitution sets out its principles of government, and state after state enshrined public education as a right of the people and a duty of the state. Each state expresses its individuality in how it conveys that core value:

*It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state [Montana].*

In addition to language concerning free public schools, all state constitutions also include language specifically pertaining to School Trust Lands and Permanent School Funds:

*The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.*

*No lands now owned or hereafter acquired by the state [Nebraska] for educational purposes shall be sold except at public auction... The general management of all lands set apart for educational purposes shall be vested...in a board of five members to be known as the Board of Educational Lands and Funds.*

*The [Mississippi] Legislature shall, by general law, provide for the establishment, maintenance and support of free public schools upon such conditions and limitations as the Legislature may prescribe.*

*The permanent school fund of the state [New Mexico] shall consist of the proceeds of sales of Sections two, sixteen, Thirty-Two and Thirty-Six in each township of the state, or the lands selected in lieu thereof...such portion of the proceeds of sales of land...granted by congress; all earnings, including interest, dividends and capital gains from investment...*

*All the public lands granted to the state [Washington] are held in trust for all the people and none of such lands, nor any estate or interest therein, shall ever be disposed of unless the full market value of the estate or interest is disposed of...*

All state constitutions reflect an enduring commitment to quality public education. Additionally some state constitutions are very specific about what kinds of trust investments can be made, and how and when they can be made.

### **Laws Made to Last**

States have various mechanisms for changing their constitutions, but constitutional changes were intended to be difficult. The state constitutions all include language that acknowledges the paramount interest of public schools and students. In a number of legal cases, advocates for children and public education have forced policymakers to honor their duties as trustees.

The enabling act cannot be changed without an act of Congress and a vote of the people of the state – final firewalls to protect the beneficiaries. Part of the agreement that enabled statehood was a trade off: the state agreed that federal lands would not be taxed, and, in return, the state received lands to be set aside in perpetuity for the benefit of public schools and students.

These lands were not simply a gift. They were part of a compact between each new state and the United States. By enacting the state constitution, the state accepted the responsibilities of a trustee, requiring the state to act in the best interests of the beneficiaries – public schools and students, as well as any other named beneficiaries, such as specialized state schools.

In 1978, the 10<sup>th</sup> Circuit U.S. Court of Appeals reaffirmed this, ruling “The specific purpose [of the school trust land grants] was to create a binding permanent trust which would generate financial aid to support the public school systems...The nature of the Congressional land grant program was 'bilateral' in effect. It constituted a solemn immunity from taxation of federal lands...in return for the acceptance by states of the lands to be granted...for the perpetual benefit of the public school systems.”

### **What Do I Need to Know About Constitutional Law?**

- Each state's constitution includes language regarding the establishment and administration of School Land Trusts and Permanent School Funds.
- State constitutional language ensures the protection of School Land Trusts and their uses. Enabling acts – federal agreements with each new state – affirm that the land is meant for the benefit of public schools and the schoolchildren who attend them.
- Together constitutional and enabling act law provide the framework to support and enhance free, universal, quality public schools in perpetuity.

## Trust Law

Being a trustee carries specific obligations. The U.S. Supreme Court has held that “A trustee is held to something stricter than the morals of the marketplace...Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty...”

The words pertaining to School Land Trusts have their dictionary definitions, but they also have legal definitions that are even more nuanced.

The governors, legislators, land board members, trust administrators, and all the people involved in decisions about School Trust Lands and Permanent Funds are trustees, and trustees have a number of specific legal duties.

The trustees' duties include:

- Duty of undivided loyalty to the beneficiary.
- Duty to preserve trust property.
- Duty to exercise reasonable care and skill.
- Duty to make a trust property productive.
- Duty to furnish information that is timely and accurate.
- Duty to pay income to the beneficiaries.
- Duty to keep trust property separate from other accounts.

Trustees have other obligations, including the responsibility not to relinquish control and to keep and render accounts.

In every instance where landowners, speculators, or politicians have tried to argue that the purpose of School Trust Lands is more general, state and federal courts

have ruled time and again that *public schools and students are the sole beneficiaries* – not the general population, taxpayers, business interests, champions of economic development, or anyone else (for example, see *State of Utah v. Kleppe [1978]* or *Lassen v. Arizona [1967]*).

**Trustee** (*n.*) *a natural or legal person to whom property is legally committed to be administered for the benefit of a beneficiary (as a person or a charitable organization).*

**Fiduciary** (*adj.*) *founded on faith or trust.*

**Beneficiary** (*n.*) *the person designated to receive the income of a trust estate.*

School Trust Lands were not designated as green spaces, nor were they intended as a refuge for energy exploration when private options have been exhausted. School Trust Lands can be used as green spaces; they can be used for energy extraction or other purposes – but such activities must be consistent with the duties to optimize revenue from the lands. All transactions involving School Trust Lands must be conducted with an eye toward real market value.

### Fiduciary Trusts

Fiduciary isn't a word we normally use in casual conversation because there's nothing casual about fiduciary responsibility.

The law is clear. The purpose is clear. *A trustee's paramount responsibility is to manage School Trust Lands and Permanent Funds to provide financial support for public schools.*

Undivided loyalty means every action on those lands should be for the benefit of schools. Any argument, regardless of its merit, that sounds like – “It’s good for everybody,” “It would promote economic development that we need,” or “Things have changed” – is irrelevant. The only question that matters is *“Does this action or policy benefit the public school students of our community now and in the future?”*

Some states specify other institutions, facilities, and programs that may be supported with additional lands granted for those specific purposes. These trusts must be accounted for and managed independently from the School Trust Lands.

By participating and observing the practices in your state, you can help enforce standards that benefit schools. If anyone involved is not acting as if his or her *paramount responsibility is to manage School Trust Lands and Permanent School Funds to provide maximum financial support for public schools* then we have a right and obligation to speak up.

### **What We're Guarding Against**

History has proven that some of these “permanent funds” do not stay permanent. Some states have squandered their lands and their trust funds to meet short-term political goals, some have lost their permanent funds due to incompetence and malfeasance. Many states have borrowed the funds and never repaid them. At various times, advocates for children and education have had to fight to make sure that public schools and students were being treated as the true beneficiaries. For more information, please read the case law summary.

Writing in 1911, Dr. Fletcher Harper Swift, who has written the most exhaustive study of School Trust Lands yet, stated,

*“In many states the permanent funds and the proceeds which should have been added to them have been cared for so carelessly, diverted, squandered, wasted, and embezzled so shamefully, that what ought to be a magnificent endowment, whose income would today be yielding an appreciable relief from taxation, has dwindled to an almost negligible sum, or exists as a permanent state debt on which interest is paid out of the taxes levied upon the present generation.”*

In the current political and economic environment, where tax cuts and economic development are considered the top priorities, School Trust Lands and Permanent School Funds are at serious risk. Only an informed and vigilant citizenry is equipped to protect against diversion, squander, waste, and embezzlement. When School Trust Lands are traded for property that is not as valuable, the trust is violated and the beneficiaries suffer. When School Trust Lands are not getting fair market value for surface uses or mineral rights, the trust is violated and the beneficiaries suffer. When trust lands are rendered useless because they are inaccessible, the trust is violated and the beneficiaries suffer.

The trustees are the watchdogs, most of the time they do a great job. But sometimes even the watchdogs need watchdogs. That is where you come in.

### **Who Has Legal Standing?**

School Trust Lands are charitable trusts, therefore the Attorney General’s office has responsibility to enforce any breach in the trusts and to represent the

beneficiaries. The Attorney General is specifically empowered to institute action against any party to protect the interests of the trust beneficiaries.

In some states, the Attorney General is a part of the board that oversees public lands. Where the Attorney General cannot carry out this duty with undivided loyalty, he or she can appoint an independent counsel to protect the beneficiaries' interests.

Education organizations and coalitions of parents and education organizations have sued and been determined to have standing representing the interests of public school students. This means they too can take legal action on behalf of the beneficiaries.

### **What Do I Need to Know About Trust Law?**

- State and federal courts have consistently held that the trustees of School Trust Lands and Permanent School Funds have the obligations of trustees as defined by law.
- Trustees have a *paramount* responsibility to protect the interests of the beneficiaries – public schools and students.
- Because these are public trusts, the public has the right to review, analyze, and comment on policies and practices of the Trusts.
- Trust law places exacting responsibilities on trustees, and it is important that they pay close attention to those responsibilities.

### **Why These Laws Matter**

*Despite all the differences in governance structures and state and Trust Board policies, one principle remains. The funds are to be used to support public schools. Every court ruling has come to the same conclusion:*

- *The Trustees must meet high standards with undivided loyalty.*
- *The Trustee is held to something stricter than the morals of the market place.*
- *Trustees have specific legal obligations to:*
  - *Have undivided loyalty to the schools.*
  - *Make the trust property productive.*
  - *Be prudent.*
  - *Provide regular, honest information.*





## School Trust Lands Administration

*Knowledge will forever govern ignorance;  
and a people who mean to be their own  
governors must arm themselves with the  
power which knowledge gives.*

*-James Madison*

States have a variety of systems for administering School Trust Lands and Permanent School Funds. It is virtually impossible to make generalizations about what structures states have in place to fulfill the obligations of trustees. It is possible, however, to make some generalizations about what the goals in governance and administration should be.

### **Governance**

Various types of governance structures are represented in the different ways states establish their trustees and commissioners.

In some cases, trustees are identified in the state constitution. In some cases, the designated person has that responsibility by virtue of holding another office, such as Secretary of State. In addition, states have a host of arrangements with individuals and corporations to tend, manage, maintain, improve, extract minerals from, harvest timber, or fish on School Trust Lands.

Of the 20 states that hold School Trust Lands, seven have an elected Commissioner, six have a Commissioner appointed by the Governor, and one has a Commissioner selected by a Board of Trustees. Additionally, in some states people are Commissioners by virtue of holding another state office, such as Secretary of State. In some states, the person responsible for School Trust Lands is also responsible for natural resources in the state.

The best thing you can do as an advocate is to look at your own state structure. Understanding the system and how it works is best learned from long-time observers of School Trust Lands.

Your state's information concerning administrative structures can be found at [www.childrenslandalliance.com/states.php](http://www.childrenslandalliance.com/states.php).

Because of the trustees' "responsibility to keep control," everyone who acts on behalf of the state or interacts with School Trust Lands is acting as an agent of the Trustee and holds the same obligation to keep the beneficiaries' interests as their paramount concern. Trustees must fulfill their fiduciary obligation by monitoring all activity that takes place on School Trust Lands – from the farmer who leases fields to grow corn to the mining company that extracts coal.

Each state's governance structure reflects its vision of accountability for School Trust Lands. And yet, given the wide range of economic activities on School Trust Lands and the competing demands for attention of the elected and appointed officials responsible, there is always a need for a high level of scrutiny. No one person can know everything that is going on, and oversight of existing standards may be tighter or more lax depending on the state or locale.

As an advocate, you can play a key role in making sure everyone plays by the rules.

It helps to evaluate your state's governance system by how well it helps fulfill the trustees' legal obligations:

- Does the structure promote the Duty to Inform by encouraging transparency, accuracy, and timeliness in reporting policies, practices, and performance?
- Does the structure lend itself to the Duty of Undivided Loyalty?
- Are trustees informed enough to carry out their Duty to Exercise Reasonable Care?
- Is the structure nimble enough to carry out its Duty to Preserve and Grow the Trust?

### **What Do I Need to Find Out About Governance Structures?**

- Find out more about the mechanics of School Trust Lands governance by talking with CLASS (Children's Land Alliance Supporting Schools) members or other advocates in your state.
- Find out what major contractors are active on School Trust Lands. Do agreements between the state and contractors represent the trustees' Duty of Undivided Loyalty?

### **Management Expenses**

States have many different arrangements with individuals, companies, contractors, management companies, resource developers, and a host of others. Some states have the capacity to administer some revenue-generating activities, such as recreation or even agriculture and ranching. Other states contract with others to manage funds and investments, monitor and enforce standards, measure production, collect and count revenue, and the full range of activities that generate revenues for School Land Trusts and Permanent School Funds.

In most states, revenue from School Trust Lands and Permanent School Funds is used to pay management fees. A few states, such as Arizona, pay management fees from the state's general fund.

A key part of our watchdog responsibility is making sure expenditures to contractors and consultants, including fees for managing investment, property, land, water, or mineral rights, are in keeping with market values and best management practices.

As everyone knows, fees – hidden or otherwise – can consume large portions of investments and other economic activities. Constant vigilance is essential to preventing acts of omission or commission that could hurt the Trusts and their beneficiaries.

### **What Do I Need to Find Out About Management Expenses?**

What arrangements does the state have with companies to handle its investments or other economic development activities? Are these fees in line with the “going rate” in that field?

## Dedicated Revenues

In some states, a portion of land and fund resources are dedicated to specific purposes:

- Arizona - alternative teacher compensation, classroom resources
- Colorado - school construction and repair
- Montana - timber resources dedicated to classroom technology
- Utah - funds provided to a parent-teacher council to improve student academic performance
- Washington – funds are used for school buildings, mostly in rural areas
- Wisconsin - funds are dedicated to school libraries

## Other Educational Institutions

Most states have additional grants of land for specific needs within states; for universities, schools for deaf and blind, miners' hospitals, veterans, and others.

## What Do I Need to Find Out About the Financial Impact of School Land Trusts On the Beneficiaries?

- How much money is distributed from School Land Trusts and Permanent School Funds for ongoing support and for future support?
- How are these revenues distributed – as part of the general fund, as dedicated revenues, or as funds allocated for specific institutions or purposes?
- Is the state getting the biggest “bang for the buck” in the allocation of Permanent School Fund distributions? Should these funds be focused on specific purposes or targeted outcomes or should they simply maintain operations?

## Preparing For the Future

Part of our role is to consider if there are better ways to serve the beneficiaries. When the revenue stream from School Trust Lands is small, many believe it makes more sense to focus those resources on things that can make a difference.

There should be a bright line connecting the School Trust Lands with the beneficiaries. Focusing School Trust Land resources on programs such as foreign languages, math and science, or effective use of educational technology would be another way to leverage these funds and help meet future needs.

The framers were visionaries who saw a sustainable future for quality public schools. We, too, can help realize that vision by making sure the next generation has all the advantages quality public education can provide.

## How To Measure Impact

### *You should be able to:*

- *Identify educational programs funded from School Trust Funds*
- *Determine whether School Trust Land revenues merely offset other budget demands or affect education quality*
- *Connect School Trust Land revenues with state and local priorities*

# Revenue Sources

How do we make money from School Trust Lands? Revenues from School Trust Lands come from a variety of sources, including selling mining rights, oil and gas royalties, grazing rights, and harvesting forest products. Below are listed the total major surface and mineral revenues from the twenty states which still have School Trust Lands. The revenue sources are listed in order by amount of revenues generated nation-wide in FY 2010.

## 1. Oil and Gas

Oil and gas make up the largest sources of revenue from School Trust Lands. New deep-well technologies are increasing revenues for a number of western states.



**\$1.4 billion**

## 2. Forest Products

Timber generates millions of dollars each year for schools and is a renewable resource. In addition to harvesting timber, other forest products which generate significant revenues include mushrooms and salal, which is an evergreen used in sweeteners and by florists.



**\$242 million**

## 3. Other Minerals

Royalties are received for the extraction of minerals such as coal, potash, phosphate, and taconite. Taconite is an iron-bearing rock used to make iron and steel. Since most high-grade iron ore has been mined out, taconite, with lower iron content, is in increasing demand.



**\$220 million**

## 4. Agriculture and Grazing

Once the primary sources of income on school lands, grazing and agriculture still generates income in every state. It is the primary revenue source in some states.



\$100 million

## 5. Commercial and Residential Leasing

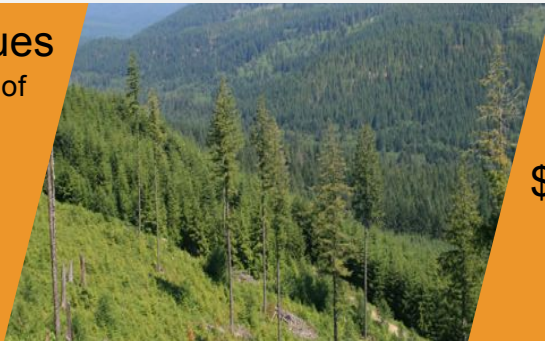
For years, School Trust Lands were sold off. Today, when possible, the lands are leased for development and use. This ensures that School Trust Lands provide sustainable funding, not just deposits in the permanent funds from sales when lands are sold.



\$94 million

## All Other Surface Revenues

There are many other minor sources of income that combine to form a large portion of revenue to contribute to Permanent School Funds. These sources include: aquatic revenues from dredging water ways, unclaimed properties, and hunting and recreation.



\$184 million



## A Vision of Quality

*“Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”*

-Northwest Ordinance, 1787

The founders of our nation had a vision of continued growth and prosperity. They established the towns and governments and businesses and schools in the image of a United States that was capable of anything. Over the years, public schools have played a central role in defining and uniting communities and providing opportunity for every school child. America's public school graduates have imagined the impossible and made it part of our everyday reality.

When America faces daunting challenges, it turns to the public schools because they have been so successful economically and socially. There is growing evidence to support the link between American-style public education and worker productivity, creativity, and innovation.

Many advocates for children and public education believe that School Trust Lands should be used to supplement, rather than supplant, educational opportunities. In states where the revenues from School Trust Lands are small, supplemental spending

could restore some of the local control that has been lost by state and federal requirements on when and how to spend money.

In Arizona and Utah, School Trust Land revenues aren't just thrown into the general fund. In these states School Trust Land revenues supplement local and state funding to implement local priorities. In Arizona, the emphasis is to determine if alternative teacher compensation models can affect student outcomes. In Utah, assessments are used to gauge student and school progress. Participating schools get feedback on what is working, and parent-teacher committees are better able to make data-driven decisions about reform.

Each state has defined quality in its own way and determined how School Trust Lands and Permanent School Funds fit in. In Colorado, all of the net revenue is dedicated to capital improvements. In Wisconsin the Permanent School Fund provides books, computers, and software for libraries.

School Trust Lands should promote education quality, not just maintain the status quo. The framers had a vision of quality. We must realize that vision today and ensure it is a reality forever.

## **What Do I Need to Know About School Quality?**

- States have various ways of using School Trust Lands, but in every case the founding generation intended those resources to be used for quality educational opportunities.
- Education and parent advocates in your state have positions on key education issues in your state that are frequently used by CLASS members and advocates to provide direction to school reform and improvement.
- Providing School Trust Land resources directly to school districts or schools can enhance local control and parental involvement – two key ingredients in the success of America's public schools.



# School Trust Land Issues

*Laws for the liberal education of the youth, especially of the lower class of the people, are so extremely wise and useful, that, to a humane and generous mind, no expense for this purpose would be thought extravagant.*

-John Adams

Each state is a product of its particular legalities, traditions, and interpretations. It is clear that the intent of School Trust Lands and Permanent School Funds was to provide an on-going, substantial share of school costs. Today, that is true in only a few states. In most states, School Trust Lands and Permanent School Funds represent less than five percent of the total education budget.

In each state, advocates for children and public education are struggling with a range of issues that affect School Trust Lands. The following sections will briefly review these issues and provide some context as you learn about the issues specific to your state.

## Growth

Some states have taken steps to grow the Funds in new ways. Montana dedicated new fees from recreation to the Fund. Arizona and Oregon have branched into real estate acquisition. North Dakota has benefited from an expansion in oil shale

development, and other states in the region are also likely to realize increased revenues as a result of energy development.

Many states have increased returns on their Permanent Funds by investing a larger share of the Fund in equities

CLASS members support a balanced approach to managing lands and investments; a balance between risk and stability, and a balance between current and future needs.

## Stability

There are pressures in every state to err on the side of stability in the administration of these Trusts. A number of states, including Idaho, North Dakota, and Oregon have made changes in their distribution formulas to average annual distributions to schools. Obviously the need to stabilize distribution of School Trust Land revenues is more significant as they become a larger share of total education expenditures.

Advocates for schoolchildren recognize the importance of maintaining stable revenue sources to support consistent, quality public education. However, assets shouldn't be sold at a loss to meet distribution quotas.



## **Investment Policies**

All states have standards and requirements for investments embodied in their state constitutions, statutes, and Trustee Board policies. Financially astute states have implemented the Prudent Investor Rule in statute to govern investments.

Advocates for schoolchildren support a balance that recognizes the need for stability and growth, and transparency in investment, returns, and fees so the public can judge performance.

All Trustee actions should be aimed to protect the principle and growth of the Permanent School Fund.

## **Governance Structures**

The way School Trust Lands and Permanent School Funds are overseen has an impact on their productivity. Almost every kind of governance structure is represented in the different ways states have established its trustees and guardians. No one can say which structure is best – whether Commissioners should be elected or appointed, for example.

However, CLASS members believe governance structures should enhance the Trustees' ability to carry out their obligations, including undivided loyalty, accountability to the beneficiaries, and transparency.

## **Supplement vs. Supplant**

The vast majority of states put some of the School Trust Land revenue and returns on investment of the Permanent School Fund into the fund for education.

In most states, the share of overall education

funding contributed by School Trust Funds is ten percent or less. There are some notable exceptions to this rule, namely Texas and New Mexico.

Some states dedicate School Trust Land revenues to specific educational tools or activities. For example, Texas and Wisconsin set aside School Trust Land revenues for textbooks and school library books. All of Wisconsin's School Trust Land and investment revenue is set aside for school libraries. Montana has dedicated specific revenues from School Trust Lands to instructional technology.

Colorado devotes most of its School Trust Lands revenues to construction. Washington state dedicates interest on the Permanent Common School Fund to the Common School Construction Fund. Wisconsin Trusts have loaned more than \$100 million to municipalities and school districts for building, equipment, or to shore up retirement systems.

By contrast, in many cases the total resources from School Trust Lands and Permanent School Funds are combined with state General Funds for education. State funding formulas vary widely so that some uses are prescribed by the legislature and in other instances local districts have greater autonomy. Most states use some form of weighted per pupil expenditure that takes into account local costs and student needs. In most states, the education budget is the largest single line item, and it is frequently the last issue settled in a legislative session.

Commingling School Trust Land and Permanent School Fund revenues with the total education budget means that the only practical effect of those resources is to offset the overall state tax rates. Only

in Arizona and Utah are funds set aside and provided to the school districts for local priority. In Arizona, the emphasis for such funds is alternative teacher compensation. In Utah, local parents and teachers have the right to decide for themselves how to best use the money to improve student academic performance.

Unfortunately, in some states School Trust Lands do not directly benefit public schoolchildren. The enabling act granted schools in Alaska over 20 million acres which should have significantly funded schools, but they received only a few hundred thousand acres. No disbursements are being made from the Alaska School Trust Lands, but advocates are pursuing legal action to make these resources available once again.

California sold most of its land and currently holds less than half a million acres. Proceeds from the Lands and Trusts are dedicated to the Teacher Retirement Fund or are reinvested in the trust – neither directly benefits schoolchildren.

These issues are only examples. Advocates for children and public education in your state are working on specific actions to strengthen the legacy of School Trust Lands. Find out more about how you can make a difference by visiting the website of the Children’s Land Alliance Supporting Schools at [childrenslandalliance.com](http://childrenslandalliance.com).





## What Can You Do?

### **How Can I Get Started?**

Admittedly, some of the issues related to School Trust Lands are complicated. Don't worry. Before long, you will be comparing returns on investment with the best of them.

Read up, ask questions, go to meetings, hearings, and news conferences, and it will all become much clearer.

### **Where Can I Get Information?**

Little information is available in books and libraries. Some of it is in government and committee reports. Most of it is not available in any easily accessible form.

The most essential information you will need will come from mentors and allies who are also involved in these issues. With the perspective of people who have been watching out for this legacy for many years, you can get a more complete picture of what's going on.

Government reports are loaded with facts, but they don't always tell the whole story. Currently, no government reports on education funding include a description of the contribution from School Trust Lands to public education.

Your research will include conversations

with knowledgeable people, as well as reading reports to find out historical trends, current practices, issues, and opportunities. Depending on your state, some information may be housed at state agencies, other information at the legislature. Once again, knowledgeable friends and allies can steer you in the right direction.

### **Who Else Is Involved?**

CLASS (the Children's Land Alliance Supporting Schools) was organized to bring together advocates for public schools and school children from the 20 states that have School Trust Lands. Members include teachers, legislators, commissioners, representatives of education organizations, and citizen activists who care about the legacy and who care about the future.

### **How Can I Help?**

In the immortal words of Yogi Berra, "You can see a lot just by observing." Your first step to being an effective advocate is being an attentive observer and listener.

Information is power, and the most significant role you can play is helping in the enormous task of speaking up for children. As you observe and collect information, you will be a more effective advocate for schoolchildren.

Advocates are interested in finding out:

- Is the state doing everything in its power to protect School Trust Lands and maximize their return?
- Are current practices and fees in line with standard compensation practices and rates?
- Are there issues in administration that need attention?
- Are there opportunities for investment the state has overlooked?

Gathering and analyzing the information to answer these questions is beyond the capacity of any individual. The trustees, as defined in the state, are ultimately responsible, but hundreds of people are involved in decisions that affect School Trust Lands, including state agency employees, legislative staff, and private contractors.

CLASS and its allies rely on volunteers and others who make time to advocate on behalf of children. Attending hearings, reading reports, and interviewing people at agencies and elsewhere are time-consuming, yet invaluable activities. To preserve this legacy requires constant vigilance.

As part of the Duty to inform, trustees must provide timely and accurate information about their activities and policies. These reports – issued by land management staff, state and private auditors, state regulatory agencies – can be pretty dry reading, *but a good advocate will look beyond the reports and ask questions:*

- What were the Permanent School Funds' earnings compared to a good money market last year, over the past five, and over the past 10 years?

- Are the grazing fees and leasing rights for agriculture, timber, oil and gas, minerals, etc. consistent with current market fees in those areas?

It's important to pull back from the minutiae and look at real world comparisons. If a state isn't being a savvy manager of School Trust Lands or a savvy investor of Permanent School Funds, it has failed in carrying out its Duty to Make Trust Property Productive and its Duty to Pay Income to the Beneficiaries.

Understandably, various states will have their practices and traditions for keeping track of trustees' responsibilities. But the legal underpinnings represent principles – and enforceable standards – that should be followed now and forever.

### **Will What I Do Make Any Difference?**

Every advocate amplifies the voice of the schoolchildren. Every individual makes a difference. While it's not your job to become an instant expert on every topic in the use of School Trust Lands and Permanent School Funds, your efforts will have an impact.

What is important is to be part of the group of people who are asking the right questions, questions about prudence and growth, about current expenditures and future support, and about fair and timely distribution of resources.

The support and oversight surrounding School Trust Lands should ensure good practices and transparency. The courts have reaffirmed the fiduciary responsibilities of the trustees and the state and provide the impetus for refining these systems. The founders of our nation also envisioned that the citizens themselves would play a role in preserving this legacy. They expected that

citizens would tend, preserve, and improve the School Trust Lands and Permanent School Funds, and they expected citizens would stay informed and engaged so that the legacy is available for future generations.

As 18<sup>th</sup> century Irish political philosopher Edmund Burke said, “All that is required for evil to triumph is for good men to do nothing.”

The sad history of neglect and abuse that has squandered some two-thirds of the original legacy is a warning to us. Preserving and enhancing the legacy for the future requires good people to do something, and that something is keep their eyes and ears open.

*It all boils down to these key responsibilities:*

- *Protect the lands and trusts.*
- *Make sure the lands and funds are used for the benefit of schoolchildren.*
- *Help others to understand the legacy and the importance of School Trust Lands.*



## How You Can Make a Difference

*Upon the subject of education ... I can only say that I view it as the most important subject which we as a people may be engaged in.*

*-Abraham Lincoln*

You are now part of the Pro-School Trust Lands Army. You have the right – and now many of the tools – to learn more, ask questions, and speak out. Above all, attend hearings, read reports and audits, and talk to elected and appointed officials.

### **Attend Hearings**

As part of the Duty to Inform, Trustees are required to provide accurate and timely data. As part of this requirement, Trustees generally hold meetings that are open to the public to discuss their assets and audits, vote on future investment policies, and listen to reports and presentations. Most of these meetings provide information and opportunities to talk to others about what's happening in your state.

### **Read Reports and Audits**

Reports and audits are essential reading for any citizen advocate, and if something doesn't make sense, ask about it. Your critical reading skills will serve you well as you investigate the data.

### **Talk to Elected and Appointed Officials**

As a parent or education advocate, share your insight with policymakers. They generally do not know about or understand the complex issues surrounding School Trust Lands. As you research, you will quickly become an expert with valuable insight.



## How to Talk About School Trust Land Issues

As advocates for children and public education, it falls to us to help others understand School Trust Land issues. Our primary focus should be on communicating with those who are with us, as well as those who are undecided. Trying to persuade those against us is not the best use of our time. Sharing information with our friends and allies makes it more likely they will focus on the same issues, and help expand the pool of people who can be encouraged to understand and care.

For the most part, the people who will listen are elected and appointed policymakers, boards, agencies, legislative and administrative committees, legislative and administrative staff, and the media. Our primary audience is small, and it is also interconnected. How we communicate in each state affects how we are perceived in every state. It helps to have a common vocabulary – even when some of the details are drastically different.

### **Making the Connections**

The term “School Trust Lands” evokes the history, the legacy, and the long-term commitment to children and public education. Whatever the official name, the more we can emphasize the concepts of “school” and “trusts” and “lands” the better.

Another way to evoke that connection is to continually emphasize the core principles:

1. The law is clear that public school students are the *sole beneficiaries* of School Land Trusts. National and state history, Enabling Acts, Constitutional language, statute, and the courts are all on our side. There is neither partisan angle nor marginal differences. School Trust Lands were set aside to benefit public school students. Period.
2. The School Land Trustees have a dual obligation to *sustain quality educational opportunities in the present and enhance the legacy for the future.*

Historically, problems have arisen when the goals of growing the School Lands Trust and improving public schools are out of balance. The Trustees must be aggressive and market-savvy in growing the value of the School Trust Lands and Permanent School Funds. At the same time, the distribution of School Land Trust funds must be focused on public schools and public school children.

There is no magic formula for this balance, except that the Trustees' obligation is to consider the needs of the present and future. Trustees are duty-bound not to rob future students by spending too much on current students and vice versa. At all times,

any benefits of the Trusts should accrue to public school children.

3. The School Land Trusts were established to support *quality* public schools.

Different states use School Trust Land funds differently. In some states, a portion is dedicated to specific uses, such as technology or libraries. In other states, School Trust Land funds represent a significant share of expenses.

Even if one doesn't accept the idea these funds were intended for school improvement, there is no question about whether the funds were intended to support *quality public schools*.

We have a responsibility to make sure School Trust Lands have the greatest impact on school quality.

Many advocates believe that when such funds are limited, it makes sense to concentrate on specific goals and uses. Utah and Arizona are two states that have dedicated School Trust Lands revenues to education innovation and reform. Montana has dedicated a portion of School Trust Lands resources to education technology.

Whatever the law and traditions in your state, we can agree that *support for school quality* should be the focus, and all discussions about these issues must include the impact on schoolchildren. Talking about the students is not only the most engaging part of the message; it is also the most solid legal argument we have to stand on.

As we help others understand the issues, it is helpful to draw contrasts.

## Drawing Contrasts

CLASS and its member advocates are for a proposal, if it:

- Benefits students,
- Balances the need of current and future students, and
- Improves student achievement.

We are against a proposal, if it:

- Jeopardizes the long-term future,
- Fails to make an adequate investment in the present, or
- Isn't used to sustain and enhance school quality.





## Final Review

### What You Need to Know

School Trust Lands and Permanent School Funds were established by our founders with wisdom and foresight. They valued public education and believed it should be maintained and improved in perpetuity. They established land grants because land has enduring value.

Our founders depended for protection – as with every aspect of our democracy – on informed and active citizens to watch closely what elected and appointed officials do. And they were aware of the dangers that unscrupulous individuals would try to use the land and the law to their advantage. Our efforts to protect School Trust Lands link us to the tradition of our founders and the promise of future generations.

### Get Involved

The present time presents its own unique dangers to the legacy of the School Trust Lands.

Pressures on tax rates, volatile markets, and changes in resource development opportunities all create their own threats. This is no time to make radical decisions that jeopardize those beneficiaries' interests now and in the future, nor is it time to squander that legacy through neglect or shortsighted decisions.

In every generation, there must be those who speak up for the legacy. We are those people.

### What You Can Do

The states were provided millions of acres for sustained support of public schools. For many people the biggest mistake made in this area over the years is confusing the cost of school lands when they were sold with the value of those lands in the present time. The theory has been, and continues, that investments in a Permanent School Fund will fare as well, but as Mark Twain said, “Buy land. They're not making it anymore.”

*We have an obligation to*

- *Protect the lands and trusts.*
- *Make sure the lands and funds are used for the benefit of schoolchildren.*
- *Help others to understand the legacy and the importance of School Trust Lands.*

## Open Book Quiz

1. What is the name of the Permanent School Fund in my state?
2. Who is the Commissioner/Commissioners of the School Trust Lands and Permanent School Funds and how are they selected?
3. What is the total value of School Trust Lands in my state?
4. What is the total value of Permanent School Funds in my state?
5. What are the annual revenues School Trust Lands and Permanent School Funds in my state?
6. What percentage of total elementary and secondary education spending do School Trust Lands and Permanent School Funds represent in my state?
7. Does my state dedicate any of its School Trust Lands and Permanent School Funds to specific purposes?  
No \_\_\_\_ If yes, list \_\_\_\_\_
8. What kind of requirements does my state have for Trustee investments?
9. What is the percentage of investments in my state among:  
Fixed Income \_\_\_\_ (bonds and interest-bearing instruments)  
Domestic Equities \_\_\_\_ (United States stocks)  
International Stocks \_\_\_\_  
Other \_\_\_\_
10. What is the five-year average annual revenue from:  
The School Trust Lands?  
The Permanent School Fund?
11. What are the top three revenue producers in my state?  
Oil and Gas  
Mining  
Ranching and Agriculture  
Timber  
Commercial/Residential Leasing
12. Who can I contact in my state who would know more about:  
The economics?  
The education impact?  
The responsibility of citizen advocates?

*The school is the last expenditure upon which America should be willing to economize.*

Franklin D. Roosevelt

