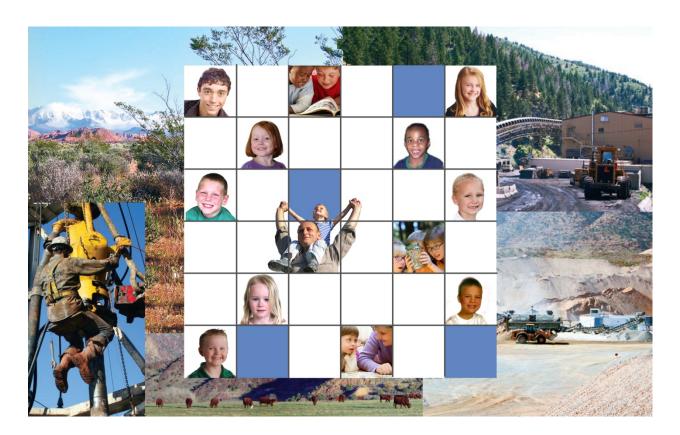
FY 2012 ANNUAL REPORT ON THE SCHOOL TRUST TO THE UTAH LEGISLATURE AND THE UTAH STATE BOARD OF EDUCATION

February 2013



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PROLOGUE February 2013

<u>Grant:</u> The concept of granting lands for the support of education was intricately connected with the founding of America. In 1785¹, prior to passage of the U.S. Constitution, the Continental Congress reserved one square mile out of every thirty-six square mile township "for the maintenance of public schools" for each new state that joined the union. In 1850, two square miles per township were granted to schools, and by 1894 Utah, Arizona and New Mexico received four square miles due to their arid nature. Every state once had school lands and/or school funds. Today, only 20 states still manage school trusts to support their public schools. Utah received 6,007,182 acres for schools.

<u>Trust created:</u> The lands were granted in trust. States accepted the responsibilities of trustee in their constitutions, requiring the state to act with undivided loyalty in the best interest of the schools and other institutions that also were granted lands. Proceeds from school trust lands were to be placed in permanent funds, the interest of which was to support the schools. These lands were not a gift since each state was required to give up the right to tax the federal lands. Legislative and education leaders across America are often left speechless when informed that schools are the beneficiaries of trusts containing 45 million acres (almost the size of Utah) with \$48 billion in permanent funds for the support of public schools. The state of Utah is trustee and has delegated the land management to the School and Institutional Trust Lands Administration and has delegated the investment to the State Treasurer. The Utah State Board of Education has been designated in statute as the primary representative for the schools.

<u>SITLA:</u> Of the 6 million acres originally granted to Utah schools, 3.3 million surface acres and 4.1 million mineral acres remain. One out of every 3 private acres was once trust land. The remaining lands are managed by SITLA in trust for the support of schools. In the prior decade SITLA gross revenue has varied from \$40 million to \$140 million. From these proceeds, expenses to manage the lands are paid and the balance is deposited in the permanent State School Fund. No tax revenues are used.

<u>Permanent State School Fund:</u> The permanent State School Fund is invested prudently by the State Treasurer with the advice of an Investment Advisory Committee. Capital gains are retained in the fund. Interest and dividends are distributed annually by the Utah State Office of Education to every public school with an approved academic plan. As of June 30, 2012, the fund is over \$1.3 billion. It is anticipated to exceed \$2 billion before 2020. This trust is now among the top 1% of all endowments in America. It is worth carefully watching and prudently growing.

<u>Distribution to Schools:</u> Each public school forms a school community council to develop an academic plan to improve student performance. The council has a two parent majority of parents elected by parents, teachers elected by teachers, and the principal. They study the school's test scores, decide the most critical academic need(s), and develop a plan with measurable goals to improve student performance. Plans must be approved by their local school board, and charter schools must have their plans approved by the State Charter School Board. The results must be publicized to the community. In FY 2001 less than \$5 million was distributed. In FY 2012, \$29 million was distributed—almost a six fold increase in 11 years. Though this is only 0.7% of the state appropriation for education, it is the only discretionary funding every public school receives.

¹ May 20, 1785

² Laws of United States of America, 1789-1815, Vol. I, Chapter 32, pages 563-569.

EXECUTIVE SUMMARY UTAH'S SCHOOL TRUST FY 2012

School Trust Land Assets:

3,290,009 acres of Surface Rights 4,086,503 acres of Oil and Gas Rights 4,075,070 acres of Coal Rights 4,116,077 acres of Other Mineral Rights

FY 2012 Revenue from School Trust Lands:

SITLA has far exceeded the wildest expectations held at the time the agency was created in 1994. This fiscal year was no exception, as the trust lands generated over \$91,435,486 in revenue, comprised of the following:

Minerals	(79 % of gross revenue)	\$ 72,316,294
Surface	(7 % of gross revenue)	\$ 6,744,709
Development	(1 % of gross revenue)	\$ 827,305
Land Sales	(5 % of gross revenue)	\$ 4,027,475
Interest & other	(8% of gross revenue)	\$ 7,519,703
TOTAL	-	\$ 91,435,486

Permanent State School Fund:

The State School Fund closed the fiscal year with a market value of \$1.29 billion, the highest balance since statehood.

FY2012 Return on the Permanent State School Fund:

Realized capital gains of \$1,688,893 were reinvested by the State Treasurer. Dividends of \$19,927,085 and Interest of \$9,336,034 were distributed for the School LAND Trust Program. The market return of the fund was a loss of \$5,490,742 in FY 2012, but SITLA contributions made the overall value continue to grow. Overall, market basis accounting of the fund is \$186.4 million greater than the cost basis, due to investment returns on the land revenue. The ten year total return on the fund, net of fees, is 5.5%.

<u>Distribution to Schools:</u> Total distributed trust revenue to the schools in FY12 was \$29 million. The most common academic areas of focus were reading, math, writing, technology and science.

Kim Powell, a parent member and chair of the school community council at Wasatch High commented, "I have been so impressed to learn about how Utah manages its trust lands for the benefit of our school children. I am grateful that we have processes and leaders in place to produce the greatest possible return on our investment in public education."

"We use Land Trust money to purchase software to tutor students in math and reading at their individual level. Thanks to the legislature for these funds," said Principal Higginson at Western Hills Elementary. Both comments are representative of the gratitude expressed by parents and educators alike.

<u>Summary of Issues to Address: Utah's School Trust:</u> See page 27 of this report.

I. TRUST PRINCIPLES APPLICABLE TO THE SCHOOL TRUST

Fiduciary Responsibilities of the State as Trustee

The fiduciary duties imposed on the state regarding the School Trust are applicable to the Governor, the legislature, and those entities to which the state by statute has delegated trustee duties, like the School and Institutional Trust Lands Administration on the management of the land, the State Treasurer on the investment of the permanent State School Fund, and the School LAND Trust program which distributes the interest and dividends to each public school. Some fiduciary duties include:

1. Duty of Undivided Loyalty to the Beneficiary.

This duty includes the duty "to administer the trust solely in the interest of the beneficiary." (Restatement on Trusts, 2d, § 170, p. 431)

2. <u>Duty to Preserve Trust Property</u>

"The Trustee is under a duty to the beneficiary to use reasonable care and skill to preserve the trust property." (ibid. § 176, p. 451)

3. Duty to Exercise Reasonable Care and Skill

"The trustee is under a duty to the beneficiary in administering the trust to exercise such care and skill as a man of ordinary prudence would exercise in dealing with his own property; and if the trustee has greater skill than that of a man of ordinary prudence, he is under a duty to exercise such skill as he has." (ibid. §174, p. 448)

4. Duty to Make Trust Property Productive

"A trustee of land is normally under a duty to lease it or to manage it so that it will produce income." (ibid. § 181, p. 466)

5. <u>Duty not to Delegate</u>

"The trustee is under a duty to the beneficiary not to delegate to others the doing of acts which the trustee can reasonable be required personally to perform." (ibid. § 171, p. 441-2)

6. Duty to Take and Keep Control

"The trustee is under a duty to the beneficiary to take reasonable steps to take and keep control of the trust property." (ibid. § 175, p. 450) This duty includes the duty to take and keep <u>exclusive</u> control.

7. Duty to Keep and Render Accounts

"The trustee is under a duty to the beneficiary to keep and render clear and accurate accounts with respect to the administration of the trust." (ibid. § 171, p. 445)

8. <u>Duty to Furnish Information</u>

"The trustee is under a duty to the beneficiary to give him upon his request at reasonable times complete and accurate information as to the nature and amount of the trust property, and to permit him or a person duly authorized by him to inspect the subject matter of the trust and the accounts and vouchers and other documents related to the trust." (ibid. § 173, p. 447)

9. <u>Duty to Pay Income to Beneficiary</u>

"Where a trust is created to pay the income to a beneficiary for a designated period, the trustee is under a duty to the beneficiary to pay to him at reasonable intervals the net income of the trust property." (ibid. § 182, p. 467)

10. Duty to Keep Trust Property Separate

"The trustee is under a duty to the beneficiary to keep the trust property separate . . . from other property not subject to the trust and to see that the property is designated as property of the trust." (ibid. § 179, p. 456)

11. <u>Duty to Earmark Trust Property</u>

"Ordinarily it is the duty of the trustee to earmark trust property as trust property. Thus, title to land acquired by the trustee as such should be taken and recorded in the name of the trustee as trustee." (ibid. § 179, p. 458)

12. Duty to Defend Action

"The trustee is under a duty to the beneficiary to defend actions which may result in a loss to the trust estate, unless under all the circumstances it is reasonable not to make such defense." (ibid. § 178, p. 456)

<u>Duties of the Utah State Board of Education as Primary Beneficiary Representative</u>

The Utah State Board of Education is the "primary beneficiary representative" on behalf of the trust established for common schools. Because the beneficiary is dependent for its rights upon the faithful exercise by the trustee of their powers in favor of the beneficiary, certain protections are in place in the law with the intent to ensure that the benefit of the trust is, in fact, flowing to the beneficiary. A trust beneficiary has both legal rights against the trustee and equitable rights in the property itself, including:

- 1. Right to inspect records, documents, and securities and the right to receive accountings,
- 2. Right to skill and prudence in trustee administration of the land and funds,
- 3. Right to receive undivided loyalty in the execution of the trust,
- 4. Right to have the trustee defend the trust against attack,
- 5. Right to not have various trusts commingled, and
- 6. Right to receive payments to the beneficiary from trust property.

Third parties also have responsibilities under the law not to obtain trust property through fraudulent means, when they knowingly acquire the property from a trust. The beneficiary has the right to hold the trustee accountable for any wrongful acts or omissions that affect the beneficiary's interests. In the case of the school trust lands, however, the beneficiary's ability to recover against SITLA, the Treasurer, or the State of Utah, ultimately, is severely limited. Statutes of limitation, governmental immunity, and funding shortages all might act to constrain such remedies. The Utah Supreme Court has recently ruled that "When the State breaches its obligation to receive full value in conveying trust lands, such conveyances are effective, but the State is required to reimburse the trust for the loss."

If the trustee is preparing to commit a breach of trust, the beneficiary need not sit idly by until damage has been done. The beneficiary may sue in a court of equity for an injunction against the wrongful act. Beneficiaries can seek such a remedy to prevent a trustee from acting in violation of their duties, such as selling trust property for an improper purpose or for a rate below fair market value. With the School Children's Trust, beneficiary representation and involvement has been wholly responsible for bringing the neglected trust to light, discovering cases of breach, and creating a system with a higher degree of oversight and enforcement. The Office of the Utah Attorney General has been a champion of the trust, but has needed the cooperation and information provided by the School Children's Trust to defend the trust.

The rights of the beneficiary need to be carefully guarded; the duties which are owed to the beneficiary from the trustees need to be received. This requires beneficiary input and oversight commensurate with a trust now among the top 1% in the nation involving millions of acres of land and billions of dollars of potential value. Beneficiary duties include:

- 1. Duty to represent and advocate for the trust
- 2. Duty to be timely and act within the statute of limitations
- 3. Duty to assert beneficiary rights and seek remedy to avoid laches and the barring of remedy Duty to exercise beneficiary rights and ensure trustees fulfill their fiduciary duties

³ 53C-1-103 (7)

⁴ SITLA vs. Mathis, 2009

II. HISTORY OF THE REFORM OF THE SCHOOL TRUST

Utah was granted four sections in every township in 1894 by Congress "for the support of common schools." The grant for schools was 6,007,182 acres—approximately one-ninth of the state. The "proceeds" from these lands were to constitute a permanent fund, the interest of which only was to support schools. From 1894 to 1994, Utah's history on the management of the lands is one checkered with scandals, fraud, and use of the lands for purposes that provided little benefit to Utah's schools. On average, the management was altered every six years. The lands were managed as a state agency without honor to trust principles of undivided loyalty to the schools, accountability to the beneficiaries, and optimization of revenue for the benefit of schools and school children.

The Utah State Office of Education (USOE), under the direction of acting Superintendent Bernarr Furse, hired Margaret Bird in 1985 to research coal leases on school trust lands. A year later it was determined that over \$14 million in coal royalty payments had not been made. The case was ultimately taken to the Utah Supreme Court where the Court ruled, "...in administering the school trust lands, the State acts as a trustee and its duties are the same as the duties of the trustee." The school trust was paid \$21 million in royalty and interest. Further USOE research began to uncover similar problems in other areas of the management of school lands. Doug Bates, the USOE attorney, researched the law of trusts and found volumes of case law on the side of the beneficiaries of the school trusts in most western states. In 1989, Utah PTA began looking into school trust lands as a source of school funding when Sandra Skousen from San Juan County brought this funding source to the State PTA's attention and a resolution was passed. In 1989 over 2,000 school acres adjoining the Green Springs Golf Course were sold for \$200 an acre under a special provision in the statute that had been found to be unconstitutional by the Attorney General's Office. The Utah Education Association filed suit over the transaction alleging breach of trust and attacking the sale as below market value, introducing evidence that private purchases of adjoining land were over \$20,000 per acre. The focus was now clearly on the school trust land issue and the abuses that had occurred under state management.

The education community with all major groups represented pushed for the creation of a legislative task force to study the issue in the 1991 and 1992. The education community had determined that there were three areas that needed to be addressed in the reform of the school trust:

- 1. The permanent State School Fund, which was managed for liquidity, would be managed as an endowment fund even though it was small. It had been climbing slowly from a low of \$19 million in 1983. The Enabling Act, which required all proceeds to be deposited in the permanent fund, would be obeyed.
- 2. The school trust lands would be managed to support schools only, not for other state needs.
- 3. The interest and dividends from investment of the trust funds would be used to make a difference in the academic opportunities of students in public schools, whose schools were the beneficiary of the trust.

⁵ Utah Enabling Act, Section 6, June 16, 1894.

⁶ Blacks Dictionary definition of Proceeds: "Issues; income; yield; receipts; produce; money or articles or other thing of value arising or obtained by the sale of property; the sum, amount, or value of property sold or converted into money or into other property. Proceeds does not necessarily mean only cash or money. Phelps v. Harris, 101 U.S. 370, 25 L.Ed. 855. That which results, proceeds, or accrues from some possession or transaction. State Highway Commission v. Spainhower, Mo., 504 S.W.2d 121, 125. The funds received from disposition of assets or from the issue of securities (after deduction of all costs and fees). As used in context of debtor's sale of collateral, "proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "non-cash proceeds." U.C.C. '9-306."

⁷ Plateau Mining Company v Division of State Lands Supreme Court of Utah, No. 880120, 880215, 880243 and 880300, 802 P.2d 720; p. 728, 1990.

The Public School Trust Lands Task Force was chaired by Representative Mel Brown and Senator Glade Nielsen and included Representatives Jerry Jensen, John Arrington, Kevin Garn, and Grant Protzman and Senators Omar Bunnell and David Steele. An additional year of study by a citizen task force chaired by Budge Christensen with Tom Bachtell, Curt Burnett, Bob Wood, Scott Robertson, John Neuhold, Daryl Barrett, Barbara Hjelle, and Louise Liston reached the same conclusions. Despite protests by agency and state representatives that "if it ain't broke, why fix it?" the conclusion was that the management of school trust lands under trust principles was clearly broken. It was unanimously concluded by both task forces that the state needed to:

- Create a quasi-independent agency managed as a trust with undivided loyalty to the beneficiaries
- Structure the organization to be more like a corporation with a Board of Trustees to set policy and a Director hired and fired by the Board to carry out the day to day operations of the agency
- Create a nominating committee to select individuals outstanding in their fields of non-renewable resources, renewable resources, real estate, business, investment banking, finance, trust administration, asset management, and the practice of law in those areas. The Nominating Committee would provide the Governor with two names from which to choose a new board member annually. Terms would be 6 years, with one expiring each year. Such a structure would provide the institutional knowledge necessary to provide the trust with vision and continuity.

Using the data collected over the prior decade by Mrs. Bird, the Utah State Office of Education began working with Larry Hiller, a writer, editor, and volunteer, to produce a video on the abuses of school lands. When the Governor threatened to cut \$5 million from the education budget if USOE produced the video, a videographer whose wife was a principal, stepped up and the video "A Matter of Trust" was created and produced for only the costs of the cameramen. The video exposed the abuses of the trust:

- 88,000 acres in the Book Cliffs sold for \$2.50 per acre
- 2,400 acres adjoining a golf course in St. George sold for a few hundred dollars an acre without interest payments or principal payments for over 6 years. The purchaser resold some of the land for over \$10,000/acre.
- Coal bonus bids of \$2,300 per acre were earned on Bureau of Land Management lands while the trust lands were getting \$12 per acre.
- Utah has the only mineable beryllium, but the trust was only getting 4% for royalty
- Utah was charging \$0.10 per ton on salt production, the same price as in 1957.
- Military leases were paying only \$0.49 per acre, meaning the land was only worth \$6 per acre, when the real market rate on the land was more than 100 times higher.
- Utah had the lowest grazing fee in the nation. New Mexico earned fifteen times more from grazing on twice the lands.
- The state charged less on surface leases than it spent on personnel to manage the leases. This meant that Utah children were paying for others to use their lands.
- One-fourth of a million acres were in national parks, national forests, national recreation and conservation areas without any compensation, while the state had made only feeble attempts to initiate exchanges out of the federal designations

Under the leadership of Joyce Muhlstein and Karen Rupp, the video was distributed to every PTA across the state. With the support of Lily Eskelsen and Lowell Baum of the Utah Education Association the video was shown at UEA meetings and faculty meetings. Legislators reported that they were unable to go to the pharmacy or grocery store without citizens asking them what they were going to do to fix the school trust. Both major parties adopted platform planks that are still in the platforms today on school trust lands being managed well for the benefit of Utah schools. Every major candidate in the 1992 gubernatorial campaign was in support of a reform of the school lands. Representative Mel Brown ran

legislation to create the School and Institutional Trust Lands Administration in the 1994 session. The bill passed with near unanimous support.

Bills to move the investment of the trust funds toward professional management, diversity and the Prudent Investor Rule were run by Representatives Mel Brown and David Clark from 1992 through 2006. Equity investments began in 1995 phasing into the market slowly under the direction of State Treasurer Edward Alter who had supported and pushed for the investment reforms.

From FY 1995 through FY 2000, all revenue from the trust continued to be deposited in the Uniform School Fund that provides the state funding of education to each district. Unused portions of the Uniform School Fund were swept at the end of each fiscal year into the General Fund—a serious violation of the Enabling Act, if any of those swept dollars were trust dollars. Of course, no one could tell what was trust and what was income tax revenue. During this period from FY1995 through FY 2000, the increased revenue from the school trust was not recognized as enhancing education for children. The State Treasurer had begun cautiously investing about \$3 million monthly in 1995 and the fund was expected to be 65% in equities in a few years. By 1999, Mrs. Bird estimated that the fund would likely be at the point with the lowest investment return by FY 2001—a fact that would also mean the fiscal note would be the smallest if the funds were to be redirected to schools. The education family became convinced that the 1999 session would be the year to run a bill providing for the trust money to go to each school. Some in education wanted the funds to go solely to school libraries, others wanted technology, and some wanted early reading intervention. Eventually those in education came to agreement that the best plan would be to let each school decide its most pressing academic need. Paula Plant and Margaret Bird on behalf of the Education Coalition approached Representative Brown to sponsor the third and final legislation needed to reform the school trust—and arguably the most important because it impacted the students—to send the interest and dividends to each school. Representative Brown wanted a majority of parents on the trust land committees; he insisted that they set measurable goals; and he required every committee to publicize the results. These components became cornerstones for the later success of the School LAND Trust program in each school.

III. MANAGEMENT OF THE SCHOOL TRUST LANDS

Purpose:

On July 1, 1994, the School and Institutional Trust Lands Administration (SITLA) began with a clear mandate to run like a trust. The Purpose Statement lays out the direction:

The trust principles . . . impose fiduciary duties upon the state, including a duty of undivided loyalty to, and a strict requirement to administer the trust corpus for the exclusive benefit of, the trust beneficiaries. As trustee, the state must manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose inconsistent with the best interests of the trust beneficiaries. The trustee must be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains. The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state. This title shall be liberally construed to enable the board of trustees, the director, and the administration to faithfully fulfill the state's obligation to the trust beneficiaries. (Utah Code 53C-1-102(2) and (3))

Organizational Structure of the School and Institutional Trust Lands Administration:

The members of the Board of Trustees are selected by the Governor from a list of two names submitted by the Nominating Committee. The FY 2012 Nominating Committee is chaired by Janet Cannon, formerly of the State Board of Education, and has four additional members appointed by the State Board (Dave Thomas, Dennis Morrill, Laurel Brown, and Kim Burningham), one member representing the University of Utah (Dale Huffaker), and five members representing major producers on school lands (Lowell Braxton from Western Energy Alliance, John Raymond chair of the Association of Counties' Public Lands Committee, Sterling Brown from the Utah Farm Bureau, John Baza from the Department of Natural Resources, and Mark Compton from the Utah Mining Association). The Nominating Committee must submit names so that there is at least one member of the Board of Trustees with outstanding professional qualifications in non-renewable resources, renewable resources, and real estate at all times. Other fields such as business, investment banking, finance, trust administration, asset management, and the practice of law in one of those fields may also serve. Unquestionably the selection of candidates with outstanding integrity and professional expertise has been a significant factor in SITLA's success. The Governor selects one member of the Board of Trustees without the nominating process.

Policy is set by the Board of Trustees which includes:

Chair Dan Lofgren President of Cowboy Partners

Vice-Chair Steve Ostler Vice Chair of The Boyer Company Board

Louie Cononelos Chief Advisor Government and Corporate Relations for Rio Tinto Dave Ure Vice president of URE Ranches & Summit Co Commission Chair

Jim Lekas President of Lexco Gilsonite Company

Tom Bachtell CEO of Wind River Resources Corporation, and Mike Mower Deputy Chief of Staff & State Planning Coordinator

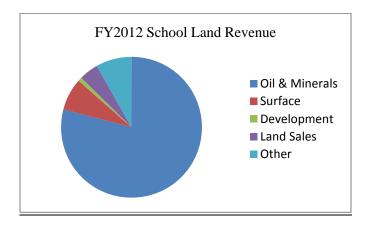
(Governor's office)

They are an outstanding and dedicated board and clearly include members who have made incredible contributions to the state in their respective fields. These board members generously offer their time to make substantial contributions to Utah's public schools as they guide the trust management with due diligence into

increasingly sophisticated transactions. The Board hires and fires the Director of the agency who is responsible for the day to day management of the land.

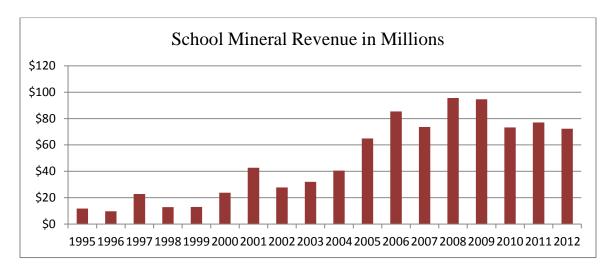
The Director of SITLA in FY 2012 is Kevin Carter, who has served as Director since 2003. He has a master's degree in range management and has worked for the school trust for 31 years--since before the creation of SITLA. He has been a valiant proponent of trust principles from before the time it was a popular thing to do. He has been a superb ambassador for the School Trust lands, advocating on both the state and national levels. SITLA has 64 full time employees, 9 part time staff, and 6 seasonal/temporary employees.⁸

Revenue Sources:



Oil, Gas, and Minerals:

The size of contributions in gross revenue changes annually; however there has been little variance from oil, gas, and minerals being the primary revenue source. The mineral sections of SITLA are directed by LaVonne Garrison who manages the oil and gas assets and Tom Faddies who manages the coal and other mineral assets. The \$1.4 billion trust fund has been primarily built on the revenue from production of oil, gas, and coal. Rental revenue is not insignificant, but it is always dwarfed by royalty income. Mineral income since the creation of SITLA can be seen below.



⁸ Per Nannette Johnson, SITLA.

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The School Trust has the following mineral acreage under lease in FY 2012 for the specified minerals:

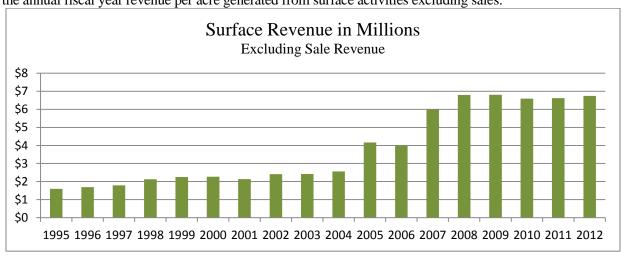
Oil and Gas	1,061,659 acres
Metalliferous Minerals	208,479 acres
Potash	82,656 acres
Oil Shale	77,725 acres
Geothermal	41,537 acres
Bituminous and asphaltic sands	41,084 acres
Limestone	9,870 acres
Coal	7,410 acres
Other ⁹	20,584 acres

Utah has four of the nation's 100 largest oil fields and two of its 100 largest gas fields. Coal Bed methane provides one-fifth of all natural gas produced in Utah. SITLA had revenue from 4 coal mines with 3 other properties available for future production. Utah is one of eight states producing electricity from geothermal resources. The Board of Trustees by rule has permitted the agency to offer to lease properties through on-line bidding to expand participation and revenues.

The Mineral sections of the agency produce the greatest return per dollar spent. Coal leads the pack with a return of \$37.36 for every dollar expended, oil and gas returns \$34.01, sand and gravel \$4.84 and other minerals collectively \$7.15. The Oil and Gas section and the Mineral section both run on the credo, "Run lean, run mean."

Surface Revenue:

The Surface Section is the largest section in terms of full time employees (20) and was the second largest in revenue production in FY 2012 with \$6,744,709 gross revenue. Surface revenue was generated from surface activities like grazing, forestry, special use leases of telecommunication sites, ski resorts, cabin sites, etc. Most surface revenue programs are personnel intensive. Knowledgeable personnel are needed to understand the dynamics of a specific economic sector when the lease is issued; site visits for hazardous materials must occur periodically; lease adjustments are necessary as lease terms may span up to 99 years; and updated estimates of value must be made when lease rates escalate every one to five years. The chart below indicates the annual fiscal year revenue per acre generated from surface activities excluding sales:



⁹ Other includes building stone, clay, gemstone and gemstone fossils, geological, gilsonite, gypsum, humic shale, industrial sands, sand and gravel, non-classified minerals, phosphate, and volcanic material.

The greatest surface revenue came from Special Use Lease Agreements (SULA) and SULA royalty that produced \$4.7 million. Rights of Way for a thirty-year term produced almost \$1 million. Grazing grossed \$813,000—almost double what was being generated when SITLA took over the management of the lands. Fees, rights of entry, trespass, and rock hounding made up the balance of the surface revenue. There were three surface activities in FY 2012 that grossed less than was expended: forestry, agricultural leases and residential leases. The agency has committed to significantly curtailing expenses or increasing revenue in those areas next fiscal year to keep them profitable.

The U.S. Fish and Wildlife Service has determined that listing the sage grouse as endangered is "warranted but precluded" because there are other species in greater danger. Sage grouse populations in Utah, Idaho, Wyoming, and Nevada are significantly decreased from 1940 numbers. The largest populations are in Wyoming and Nevada. The Bureau of Land Management has proposed interim guidelines effective on all federal sage grouse habitat including a four mile radius around each known lek. (breeding ground). Governor Herbert, the Division of Wildlife Resources, and SITLA are diligently working on a state plan for recovery to preserve the species and prevent listing. If listing occurs, the impact to oil and gas production, mining, and all surface activities on school lands will be devastating.

There were two bills filed in Congress in 2009-10 entitled, America's Red Rock Wilderness Act. The House bill had 168 cosponsors¹⁰ and the Senate bill had 23 cosponsors.¹¹ These bills propose to designate over 10 million Utah acres as wilderness in the Great Basin, Zion and Mojave Desert, Grand Staircase-Escalante, Moab-La Sal Canyons, Henry Mountains, Glen Canyon, San Juan-Anasazi, Canyonlands Basin, San Rafael Swell, and Book Cliffs and Uintah Basin. If these bills were to pass, over one million acres of school lands would be captured inside these designations surrounded by protections against development.

<u>Development Revenue</u>

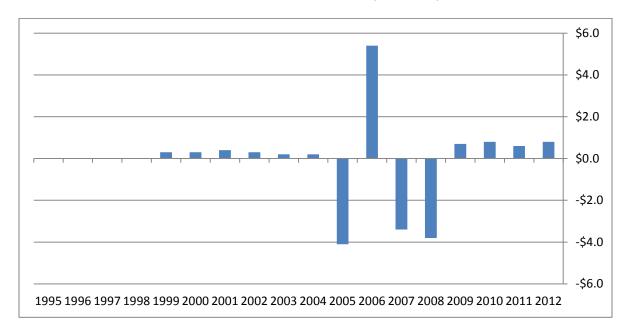
The Development section of SITLA manages school trust lands in St. George, Washington City, Moab, Eagle Mountain and Utah County along with other specified lands with development potential. The Development section has offices in Salt Lake and Washington City with a staff of 10 full time employees. They manage 61 projects in various stages of development. In FY 2012 they expended a capital budget of \$2,544,740. There

¹⁰Rep Ackerman, (NY), Adler (NJ), Andrews (NJ), Baird (WA), Baldwin (WI), Barrow (GA), Berkley (NV), Berman (CA), Biggert (IL), Bishop (NY), Blumenauer (OR), Boswell (IA), Brady (PA), Braley (IA), Brown (FL), Capps (CA), Capuano (MA), Carson (IN), Chandler (KY), Christensen (VI), Chu (CA), Clay (MO), Cleaver (MO), Cohen (TN), Connolly (VA), Conyers (MI), Costello (IL), Courtney (CT), Crowley (NY), Cummings (MD), Davis (IL), Davis (CA), DeFazio (OR), DeGette (CO), Delahunt (MA), DeLauro (CT), Deutch (FL), Dicks (WA), Doggett (TX), Doyle (PA), Edwards (MD), Ehlers (MI), Ellison (MN), Engel (NY), Eshoo (CA), Farr (CA), Fattah (PA), Filner (CA), Frank (MA), Garamendi (CA), Gonzales (TX), Grayson (FL), Green (TX), Grijalva (AZ), Gutierrez (IL), Hall (NY), Halvorson (IL), Hare (IL), Harman (CA), Hastings (FL), Heinrich (NM), Higgins (NY), Hill (IN), Himes (CT), Hirono (HI), Hodes (NH), Hold (NJ), Honda (CA), Inslee (WA), Israel (NY), Jackson (TX), Jackson (IL), Johnson (TX), Johnson (GA), Johnson (IL), Kaptur (OH), Kennedy (RI), Kildee (MI), Kilpatrick (MI), Kirk (IL), Kuchinich (OH), Lance (NJ), Langevin (RI), Larsen (WA), Larson (CT), Lee (CA), Levin (MI), Lewis (GA), Lipinski (IL), LoBiondo (NJ), Loebsack (IA), Lofgren (CA), Lowey (NY), Lynch (MA), Maffei (NY), Maloney (NY), Markey (MA), Massa (NY), Matsui (CA), McCollum (MN), McDermott (WA), McGovern (MA), McNemey (CA), Meek (FL), Michaud (ME), Miller (NC), Miller (CA), Moore (WI), Moran (VA), Murphy (CT), Murphy (PA), Nadler (NY), Napolitano (CA), Neal (MA), Norton (DC), Olver (MA), Pallone (NJ), Pallone (NJ), Pascrell (NJ), Payne (NJ), Peters (MI), Peterson (MN), Pierluissi (PR), Pingree (ME), Polis (CO), Price (NC), Quigley (IL), Rangel (NY), Richardson (CA), Rothman (NJ), Roybal-Allard (CA), Rush (IL), Ryan (OH), Sablan, (MP), Sanchez (CA), Sanchez (CA), Schakowsky (IL), Schiff (CA), Schwartz (PA), Scott (GA), Serrano (NY), Sestak (PA), Shea-Porter (NH), Sherman (CA), Sires (NJ), Slaughter (NY), Smith (WA), Smith (CA), Speier (CA), Spratt(SC), Stark (CA), Sutton (OH), Tauscher (CA), Thompson (CA), Tierney (MA), Tonko (NY), Towns (NY), Tsongas (MA), Velzquez (NY), Walz (MN), Wasserman (FL), Watt (NC), Waxxman (CA), Weiner (NY), Welch (VT), Wexler (FL), Woolsey (CA), Wu ()R), and Yarmuth (KY).

¹¹ Senators Bennet (CO), Udall (CO), Brown (OH), Burris (IL), Cantwell (WA), Cardin (MD), Feingold (WI), Billibrand (NY), Schumer (NY), Harkin (IA), Kaufman (DE), Kennedy (MA), Kerry (MA), Lautenberg (NJ), Menendez (NJ), Leahy (VT, Sanders (VT), Lieberman (CT), Merkley (OR), Reed (RI), Whitehouse (RI), and Stabenow (MI).

is little revenue producing activity by the Development section of the agency as evidenced by their FY 2012 revenue of only \$827,305.

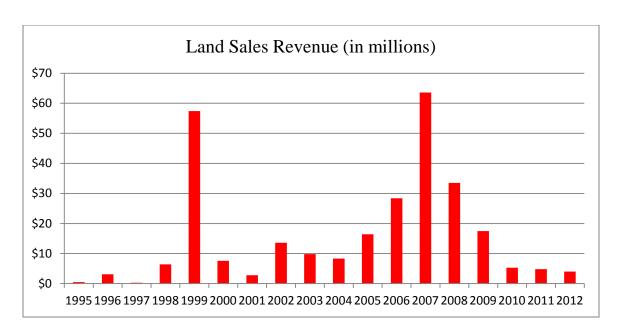
DEVELOPMENT REVENUE (in millions)



There was no development group at SITLA before FY 1999, (see graph above). A careful examination of development expense and the profitability of capital expenditures should be undertaken by the agency to determine if the level of current personnel and capital investments is supported by the revenue.

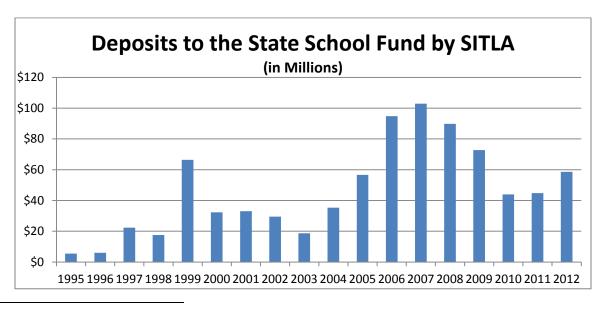
Land Sales

During FY 2012, land sales generated \$4,027,475 million--\$1.4 million from raw land sales and \$2.5 million from developed land sales. Only a small portion (\$178,000) of the developed land sale revenue was a principal payment on the St. George airport. Currently, SITLA is selling few parcels due to the real estate market collapse and financial constraints. The chart below shows the acres of land sold by fiscal year.



Deposits to the State School Fund

The School and Institutional Trust Lands Administration is financed solely from revenue generated from the school and other institutional trust lands. Prior to FY 2013, the agency deducted each trust's estimated share of the appropriation from the first dollars in the door at the beginning of the fiscal year. Each of the trusts did not receive monthly income until after the appropriation had been reached. Upon recommendation of Tim Donaldson at the Utah State office of Education, beginning in FY 2013 the appropriated amount was deducted throughout this current year. This has resulted in additional interest earnings in excess of \$553,000¹² for the school trust because of the time value of money. It has also kept SITLA more aware of expenses for each trust individually—meaning smaller loans by the School Fund to other institutional trusts at year end if budget estimates were wrong. All net revenue is deposited in the permanent State School Fund monthly for investment by the State Treasurer. The following net revenue deposits have been made:



 $^{^{12}}$ Calculation based on the average return of the permanent State School Fund of 7.5% annually.

Beneficiary Analysis of Issues on School Trust Land Management:

SITLA has far exceeded the initial estimates of what the School Trust could generate under a management structure intended to make the school lands productive. The current director provides a climate in which open debate and discussions occur freely. The agency struggled initially when formed but appears to have made most of the initial transitions well. There remain elements and areas of the agency that could take steps to operate at a higher level of communication and professionalism.

The major internal struggles at this point were identified by the board for the agency in the Section 29 transaction ¹³ that has resulted in losses. It must be pointed out that it is not realistic to expect that all agency transactions will be hugely successful, and perhaps if they were it might indicate that the agency is not taking appropriate risks to grow the corpus.

The issues identified by the board for SITLA to correct include:

- Proper processes need to be put in place to perform due diligence and assess risk, particularly on complex transactions.
- The agency needs to define a comfort level with risk, balancing the duty to be a cautious trustee with the duty to behave like a business and take certain risks.
- Revenue group leaders, and not the legal staff, need to have the ultimate power and the ultimate responsibility for deals.
- SITLA needs to increase negotiation skills and have deal making capacity on staff.
- The agency should determine whether diversifying the land portfolio is a duty or a goal.

The beneficiaries strongly supported the board's recommendations above.

Land Issues Needing Attention from the Beneficiary's perspective:

- Proposed wilderness designations capturing 1 million acres of school lands—one-third of all school land—need to be addressed and resolved by the state.
- The legislature should consider reinstating the SITLA bonuses if the legislature wants to continue having the results achieved during the bonus years. Human nature makes incentives work in an agency purposed with generating revenue. However, bonuses should only be awarded for outstanding achievements.
- It may be an appropriate time for SITLA leadership to consider positioning for the next few decades looking at jobs no longer needed and new skill sets needed. "It's too easy, as a team grows, to put up with a few B players, and they then attract a few more B players, and soon you will have even some C players. The Macintosh experience taught me that A players like to work only with other A players, which means you can't indulge B players" said Steve Jobs.
- The legislature should take steps necessary to recover the sage grouse and prevent listing.
- SITLA should evaluate the high expenditures for outside counsel while maintaining 4 in-house attorneys.
- Negotiation expertise is needed.

¹³ Section 29 was a tax credit transaction with the Stephens Group investment company of Little Rock, Arkansas. The agency, in the beneficiary representative's opinion, failed to do proper due diligence, price sensitivity analysis, and failed to obtain an independent appraisal. The trust lost millions as a result, though \$1.1 million in erroneous tax payments were recovered due to beneficiary involvement

The following Strength-Weakness-Opportunity-Threat (SWOT) analysis was developed by the beneficiaries and reviewed with SITLA Director Carter. It is included to give an understanding of the climate in which the management of the lands is occurring.

SITLA STRENGTHS

- Extraordinary and experienced board and director
- Strong Enabling Act, Constitution, statutes, case law
- Well respected by government and producers
- Financial success
- Beneficiaries, Director and Board work as team as well as independently
- SITLA employees
- Future potential of mineral, surface and development lands
- Beneficiary oversight to provide balance and discipline to parties that push SITLA for below market deals for the public good or private gain
- Renewable energy sources
- 19 years of SITLA operating as a trustee with a clean record

SITLA OPPORTUNITIES

- Need for increased awareness by public
- School Community Councils could be better utilized for support
- Market and technological changes can open new markets (i.e. hydraulic fracturing of Mancos shale)
- Efficiencies in management would result in higher deposits in State School Fund
- RS2477 court decisions may open up access
- West Desert opportunities for waste disposal, solar, EPA restricted industries
- Opportunity to exchange unproductive lands out of federal proposals
- Other minerals like oil sands, oil shale, potash, titanium, uranium, and beryllium
- Work with Division of Wildlife Resources to increase wildlife and hunter access revenue
- Other business opportunities like Magnum and renewable energy

SITLA WEAKNESSES

- No bonuses to incentivize employees
- Without the bonus, SITLA is forced to be tactical rather than strategic
- Succession of Director—Director has over 31 years
- Federal exchange process is broken
- SITLA has no leverage to force federal exchanges or federal actions (i.e., Salazar withdrew 77 leases leaving in-held school acreage unproductive too)
- Negotiations
- SITLA programs earning less than is expended
- No incentives for efficiency
- Litigation—with 4 in-house attorneys, \$100s of thousands spent for outside attorneys (Cook case before UT Supreme Court has cost \$414,850 in outside counsel in FY 2012 and FY 2013 YTD, and it hasn't gone to trial
- Negotiated sales with The Nature Conservancy
- Lack of political will to take on sensitive issues.

SITLA THREATS

- Monument declarations that capture revenue producing lands
- Listings of endangered species, especially sage grouse
- Federal and public hostility to energy development
- Environmental movement without pushback to be reasonable
- Environmental lawsuits and the associated costs
- RS 2477 decisions, might be
- Political pressure like that at St. George Airport
- 1 million acres captured in the Citizen's Proposal for Red Rock Wilderness with 168 sponsors in the U. S. House and 23 sponsors in the U. S. Senate in 2012
- No understanding at the federal level that there are in-held school lands within the sea of federal lands and no understanding that the federal government, as settlor of the trusts, has an obligation to not thwart revenue production from those lands.

IV. INVESTMENT OF THE PERMANENT STATE SCHOOL FUND

Investment Structure:

The permanent State School Fund is established in the Utah Enabling Act and provides "That the proceeds of lands granted for educational purposes...shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools." In Article X, the Utah Constitution articulates specifically what shall be deposited in the fund:

There is established a permanent State School Fund which shall consist of revenue from the following sources:

- (a) proceeds from the sales of all lands granted by the United States to this state for the support of the public elementary and secondary schools;
- (b) 5% of the net proceeds from the sales of United States public lands lying within this state;
- (c) all revenues derived from nonrenewable resources on state lands, other than sovereign lands and lands granted for other specific purposes;
- (d) all revenues derived from the use of school trust lands;
- (e) revenues appropriated by the Legislature; and
- (f) other revenues and assets received by the fund under any other provision of law or by bequest or donation.

There are strong impenetrable guarantees by the state for the permanent State School Fund. "The State School Fund shall be guaranteed by the state against loss or diversion." The statute in 53C-3-102 ensures that the net revenue is deposited in the permanent State School Fund. Despite the guarantees by the Enabling Act, the Constitution, and the statute, the funds are only as safe as the State Board of Education and educational organizations choose to enforce.

All net revenue from the management of the lands and minerals is deposited by SITLA in the permanent State School fund. The fund is invested by the State Treasurer, Richard Ellis. Utah is fortunate to have such a competent, knowledgeable State Treasurer. State statute establishes an Investment Advisory Committee. This committee is solely advisory with no statutory investment or enforcement capability. The committee in FY 2012 was as follows:

Jeff Cardin, Chair President, Portfolio Manager, Wasatch Advisors

Sterling Jensen, Vice Chair
Kimo Esplin

Regional Managing Director, Wells Capital Management
Executive Vice President & CFO, Huntsman Corporation

Jeff Roylance President, Summit Capital Advisors Steve Ostler Vice Chair of The Boyer Company Board

David Cowley Associate Vice President Business & Finance, Utah State University

Arnie Combe Vice President of Administrative Services, University of Utah

¹⁴ Utah Enabling Act, Section 10.

¹⁵ Utah Constitution, Article X, Section 5(2)(d).

Prudent Investor Rule:

When the reform of the trust was begun, Utah's State School Fund was the lowest in the nation—one-tenth of the next lowest, Nevada. Very little money had been deposited from selling half the lands. All of the accumulated mineral revenue was liquidated at a loss under Governor Matheson in 1983 during a budget shortfall. The state treasurer, Ed Alter, was prevented from managing the fund well by the provision requiring liquidity along with a host of other restrictions. This investment structure provided no equity position and no long term growth. Through a series of Constitutional changes and statute changes, the fund is now managed under the Prudent Investor Rule which requires:

"The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:

- (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust funds; and
- (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor." ¹⁶

Behind the Prudent Investor Rule is a plethora of case law prescribing prudent, diversified investment of funds.

Asset Allocation

The State Treasurer with the advice of Callan and Associates and the Investment Advisory Committee has adopted the asset allocation below. The asset allocation is a significant determinant of return.

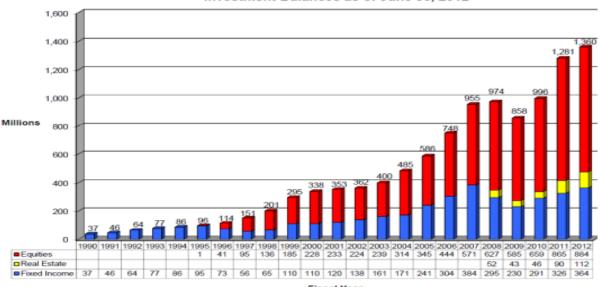
	<u>T</u>	arget Ran	<u>ge</u>	School Asset	<u>Market</u>
Asset Class	Minimum	Neutral	Maximum	Allocation	<u>Value</u>
Domestic Equity	42 %	47 %	52 %	46.57 %	\$596,816,357
International Equity	15 %	20 %	25 %	18.83 %	241,376,730
Fixed Income	18 %	23 %	28 %	25.62 %	328,345,630
Real Estate	5 %	10 %	15 %	8.23 %	105,480,174
Cash	0 %	0 %	0 %	0.75 %	9,640,611
				TOTAL	\$1,281,659,502

Market Value of the Permanent State School Fund:

The market value of the permanent State School Fund has risen exponentially from the low point of 1983 of \$19 million. From 1982 to 2007 the permanent State School Fund grew at a compound rate of 16.3%. The increase can be traced to four components: voters changing the Constitution to place all net revenue in the fund consistent with the Enabling Act, allowing the fund to be managed more like private endowment funds are, retaining capital gains, and the revenue boosts from SITLA.

¹⁶ 51-7a-202 UCA

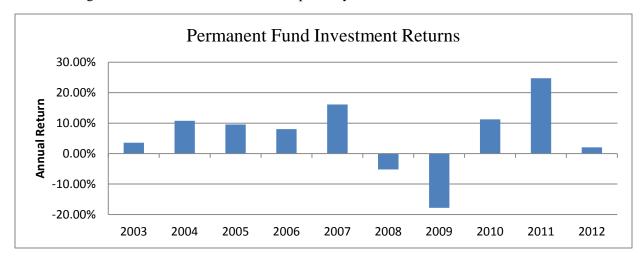
Permanent State School and Institutional Trust Funds Investment Balances as of June 30, 2012



Fiscal Year

Investment Returns

The legislature has wisely required all capital gains to remain in the fund to provide a component of long-term growth in addition to the growth attained through equity investments. The following chart shows the total market gains and losses on the fund over the past 10 years.



Interest and dividends produced from investment of the fund are deposited monthly in the restricted Interest and Dividend Account within the Uniform School Fund at the State Office of Education. In FY 2012 these funds were invested at 0.71 percent return in the state's Public Treasurers Investment Fund by the Internal Accounting Section at USOE. Perhaps more could have been earned by a different short term investment strategy. The account plus interest is distributed at the beginning of the next fiscal year by the School LAND Trust program through districts to schools. Distributions to charter public schools and to the School for the Deaf and Blind are made directly by the School Children's Trust at USOE. The legislature appropriates funding for the School Children's Trust section from the Interest and Dividend Account. Any unexpended funds are returned to the next year's distribution.

Beneficiary Analysis of Issues on the Investment of the Fund

Interestingly, there are currently no provisions for investment qualifications for the State Treasurer in either the state constitution or the statute beyond those that the treasurer must be 25 years or older, a qualified voter, and a resident of the state for the preceding five years. Potentially a person with no investment qualifications could be responsible for investing a \$1.3 billion fund and the state would be responsible to indemnify the losses. Other states have elected Treasurers without appropriate qualifications for investments.

The permanent State School Fund is primarily managed in a passive, index manner. Research has been unable to ascertain another endowment or foundation of this size managed as passively. The Treasurer's Office is small and primarily focused on, and qualified in, the management of state, county and city monies for relatively short terms. Short term investing is both strategically and tactically different than long term investing with a forever horizon. Though Utah has unquestionably one of the most competent state treasurers in the nation, the fund has reached a size that management by a sole authority, with no requirements for professional investment experience, may not be prudent.

The fund needs the full attention of a small investment staff with the oversight of an Investment Board. The specifics of a restructuring of the investment of the funds should be carefully studied and recommended to the Legislature by the State Board of Education, as the primary representative of the School beneficiary.

V. USE OF INTEREST AND DIVIDENDS IN SCHOOL LAND TRUST PROGRAM

Structure of School LAND Trust Program:

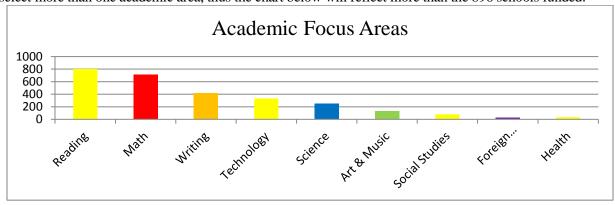
Monthly payments of interest and dividends generated from investment of the permanent State School Fund are retained in the restricted Interest and Dividend Account within the Uniform School Fund. At the end of the fiscal year, the account is distributed to each public school with an approved academic plan. The plan for each school is developed by the school community council or charter school trust land committee. Each traditional public school council is composed of at least a two parent majority. Parents elected by parents and staff members elected by staff plus the principal comprise the school community council. Special schools, like Youth In Custody schools, are exempt from the parent member requirements if they are unable to get parents to serve. All plans must be approved by the local school board to receive funding. Charter schools use their trust land committee with a majority of elected parents to develop the academic plan. Charter school plans must be approved by the State Charter School Board to receive funding. Every public school received funding in FY 2012, and there were 8,829 members of councils and committees developing academic plans. All plans must address the school's most pressing academic need(s) and must be focused on improving student academic performance. Councils must also determine how the school will measure progress and must publicize the results to their community.

The School Children's Trust section at the Utah State Office of Education is responsible for the administration of the School LAND Trust program, as well as oversight on major aspects of the trust corpus. The Utah code¹⁷ lays out the duties of the School Children's Trust which include:

- protecting current and future beneficiary rights and interests consistent with the state's perpetual obligations as trustee,
- promoting productive use of school lands,
- providing representation and advocacy,
- providing "independent oversight on the prudent and profitable management of the trust," and
- reporting annually to the State Board of Education and the Legislature.

Academic areas:

Because each school community council develops academic plans for their school, School LAND Trust funds support many different academic areas. The program stresses that councils should study school data, it is no surprise that reading, math and writing are the three dominant academic areas addresses. A school may select more than one academic area, thus the chart below will reflect more than the 896 schools funded.



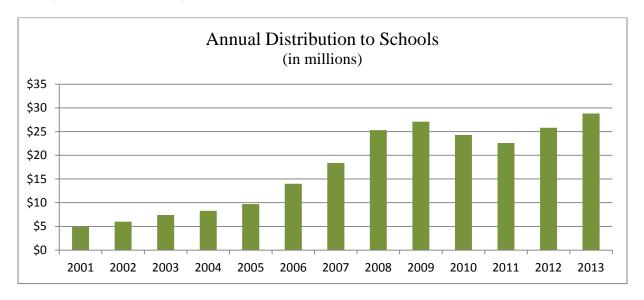
¹⁷ 53A-16-101.6 UCA.

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Annual Distribution for the School LAND Trust Program:

The School LAND (Learning And Nurturing Development) TRUST Program was created by the legislature in a bill sponsored by Representative Mel Brown in the 1999 session. Essential elements of his bill included site based decision making, a majority of parents on the councils, election of parents and teachers, requirement that each school determine how to measure progress toward their academic goal, and publicizing their results to their community. Representative Brown insisted on LAND being all in capitals so that all councils would remember the source of the support for the School LAND Trust program.

The first year of the program was school year 1999-2000, and it was a year of planning by councils for a plan to be implemented the following year. The first year of funding was school year 2000-2001. Because the expenditures were from on-going investment income, the first funding was available at the end of the first quarter. There was only enough funding for the 35 smallest districts. In order to fund the program, the five largest districts had to self-fund with hopes of repayment from the remaining three quarters. Over time, funding was withheld until the annual interest and dividends from one year would be distributed the next fiscal year, as is the law today.



Examples of Use:

The code requires each school community council to determine the greatest academic need(s) of the students in their school and prepare the School LAND Trust Plan to address the unique academic needs of those students. Councils have the ability to be creative, making the funds go further and having a greater impact on students, by using the trust funds as matching money for available grants and engaging volunteers to help implement plans.

Some schools have addressed reading and art or physical education by hiring an art or physical education specialist who takes half of a class for specialized instruction while the other half remains in the

¹⁸ Jordan, Granite, Davis, Salt Lake, and Alpine Districts.

classroom for small group instruction in reading. In some schools, a reading specialist comes to the classroom at this time to work with small groups of children. In addition, volunteers who are trained in a program like STAR reading also work with groups of children. When the lesson is complete, the students trade places so that all receive small group instruction in reading and the art or physical education enrichment. Schools near teaching universities often seek AmeriCorp Grants for reading with the trust funds as their match and some schools have been successful in securing specialized science or art grants.

Principal Tom McFarland of Mountain Green Elementary School in Morgan School District reports, "Utah Land Trust funds are extremely important to our school. This past year the monies enabled Mountain Green to keep a teacher on staff in order to reduce class size from 33 to 21 students. The money has also been used for library funding, reading intervention materials, summer reading programs and software programs for our primary grades. The continued support from the Land Trust is essential for continuing education programs at our school."

The largest expenditure category statewide is for salary and employee benefits. These funds may hire aides, pay part of a teacher's salary for class size reduction, or may provide a couple of additional classes in a rural high school. In some schools it purchases a teacher's preparation period for another period of instruction, provides remediation and credit recovery programs or may make additional AP and enrichment classes possible that could not be offered otherwise. Technology is an increasing expenditure statewide for more engaged delivery of education, skill practice, research projects and individualized discovery and instruction.

Analysis on the Program from the Administrators of the Program:

Strengths

- Important to principals and others who know at the grassroots level
- Education groups support it
- Provides increasing discretionary funds
- Includes parents in academic school decision making
- Trains council members to understand data, testing and instruction
- Local control
- Encourages meaningful parent involvement
- Directed to academics/direct instruction more difficult to criticize
- Provides important needs that couldn't be provided otherwise
- Transparent accurate database
- Requires publicizing so more people know
- Programmers invested in the program
- Staff who resolves user concerns quickly
- Review processes that encourage compliance

Opportunities

- Provide more exposure to citizens about the school trust statewide
- Engage and train participants towards greater school involvement
- Compliance process identifies issues/trends needing attention so they can be addressed, and provide one-on-one training
- Could create overall support because of this positive experience with public education
- Policy makers are becoming more involved with diverse parent involvement
- Provide improved training opportunities and materials towards more effective councils and improved compliance

Weaknesses

- Complicated overly specific requirements
- Can be intimidating rather than welcoming
- Creates frustration amongst parents when not included in decision making
- Increasing frustration by administrators who often have to assume chair responsibilities

Threats

- Increased changes every year
- Principals and districts who overstep their involvement in decision making
- Districts and local boards not being careful about enforcement
- Some schools with large carry-overs
- Ever increasing complication in programming that may create user frustration
- Programmers might not reapply for the contract
- Difficulty getting enough parents to participate
- Policy makers who don't understand
- Education leaders that want the funds for their use

VI. SUMMARY OF ISSUES TO ADDRESS UTAH'S SCHOOL TRUST FY 2012

School Trust Land Issues:

- 1. The Miners' Hospital loan from Schools needs to be re-paid, with appropriate interest. The beneficiaries encourage the Board of Trustees to complete a policy forbidding inter-beneficiary borrowing.
- 2. Wilderness proposals would capture 1 million acres of school trust lands- 1/3 of the entire portfolio. Sage grouse will negatively impact oil, gas and energy development if listed. The beneficiaries would request serious discussions of these issues in the legislature.
- 3. The Legislature should consider reinstating incentive bonuses for outstanding achievements at SITLA, if it wants to continue results like those when a bonus was given.
- 4. SITLA should re-position its staffing for current and future needs.
- 5. SITLA should evaluate the high expenditures for outside counsel despite four in-house attorneys
- 6. SITLA should improve negotiating expertise

Permanent State School Fund Issues:

- 1. The State Board should create a task force of investment professionals to study a prudent investment structure to serve its growth into multiple billions.
- 2. The flow of funds from SITLA to the Treasurer and to the beneficiaries should be clarified, simplified, and put in alignment with trust duties.

School Community Council and School LAND Trust Program Issues:

- 1. The requirements for school community council members should be simplified to ensure that the process encourages parental involvement.
- 2. Charter school funding within the School LAND Trust Program should be addressed by the Legislature.
- 3. Charter school parental involvement requirements within the School LAND Trust Program should be addressed by the Legislature.