<u>School Trust Lands in Utah</u>

Grand Canyon Trust

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The most important emerging conservation issue on the Colorado Plateau is likely the problem posed by School Trust Lands. These are lands that Congress granted at statehood for the support of common schools and other beneficiary institutions in nearly every western state. Explicit acceptance of the land grants in the various state constitutions created a series of compacts between the federal and state governments. These compacts impose on the states a perpetual trust obligation, which the Utah Attorney General has spelled out succinctly: "The interest of the school and institutional trust beneficiary is paramount and must always prevail over any conflicting public use or purpose." Watching out for those interests in Utah is the job of the School and Institutional Trust Lands Administration (SITLA), abiding by the rule that the "interest of the beneficiaries" is defined strictly as monetary benefit.

Since the trust beneficiaries in Utah include the public schools, state colleges and universities, state hospitals, and schools for the deaf and blind, who could possibly be opposed to the administrators of the trust playing financial hardball in support? Well, this is where we have to understand how much trust land there is, where it is located, what is being done with the land to make it pay, and what the benefits really amount to. It's a sobering story.

Utah is divided into square townships that are six miles on a side. Under the terms of the Utah Enabling Act, Congress granted to the state sections 2, 16, 32 and 36 in every township throughout the state, imprinting across the landscape a regular grid of thousands of square-mile parcels. In addition, the state got 1.6 million acres to provide revenue for higher and special education needs, bringing the original statewide total of trust lands to about 7.5 million acres (Table 1).

TABLE 1: TRUST LANDS SOLD FROM STATEHOOD TO JUNE 30, 2000

TWELVE BENEFICIARIES	ORIGINAL ACREAGE	ACRES SOLD	FY2000 ACRES
Public Schools	5,855,217.00	2,510,340.06	3,344,876.94
Reservoir Fund	500,000.00	452,823.66	47,176.34
Utah State University	200,000.00	171,840.73	28,159.27
University of Utah	156,080.00	139,444.31	16,635.69
School of Mines	100,000.00	92,450.82	7,549.18
Miners Hospital	100,000.00	92,787.70	7,212.30
Normal school	100,000.00	93,353.49	6,646.51
School for the Deaf	100,000.00	94,066.46	5,933.54
Public Buildings	64,000.00	60,443.46	3,556.54
State Hospital	100,000.00	96,803.28	3,196.72
School for the Blind	100,000.00	99,344.45	655.55
Youth Develop. Center	100,000.00	99,980.82	19.18
TOTAL	7,475,297.00	4,003,679.24	3,471,617.76

Source: SITLA Annual Report FY2000

Right away, people began purchasing choice parcels of trust land to add to their ranches, mining claims and developments. In the first century of statehood, especially the first 35 years, more than half of the trust estate was sold off, accounting for about 30 percent of all private land in Utah. Prices paid for the land seem extraordinarily low, even allowing for inflation. Nearly 4 million acres were sold, some for as little as $1.50 an acre. The proceeds, such as they were, were mostly handed over to the schools for current expenses. This liquidation of assets was in direct violation of the State's obligations as laid out in the Utah Constitution: "The State 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."

Legal mandates not withstanding, by 1983 savings in the permanent State School Fund from land sales and mineral royalties amounted to just $66 million, or about $16.50 per acre of trust land sold. In that year, the Utah Supreme Court ruled that all net revenues, including previous minerals earnings, should be distributed to the beneficiaries. The Fund was depleted by $37 million. Thereafter, the mineral royalties continued to be diverted for five years, depleting the Fund further. Not until the State Constitution was amended in 1988 did the full revenue stream flow into the savings account again. Still, by 1991 the School Fund stood at just $42 million. This is especially significant because the most valuable trust holdings had already been liquidated. Early settlement on the Wasatch Front pre-empted designation of the full complement of trust lands there, but everything that was included in this urban portion of the trust estate was sold, as were the rich farming valleys running south down the center of the state. Salt Lake County now has just 26 acres of trust land, while remote Millard County has 394,000 (see Map). Future gains in the School Fund will have to come from mineral royalties or development in the less expensive parts of Utah (see Table 2 and Figures 1 and 1a).[1]

Fig. 1: ACRES OF TRUSTLAND, FY2000

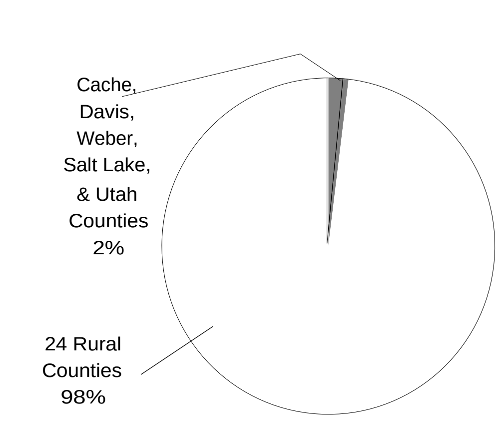
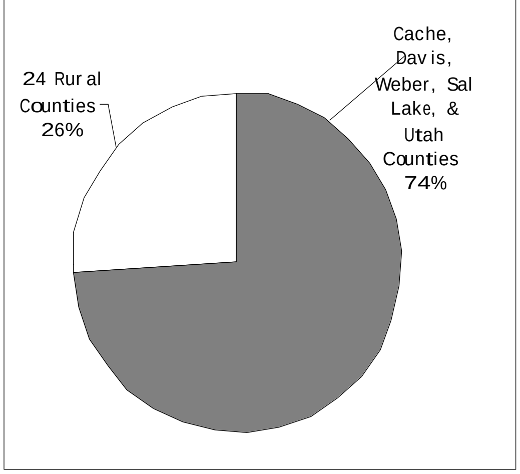


Fig. 1a: SITLA DISTRIBUTION TO SCHOOLS



Source: Table 2

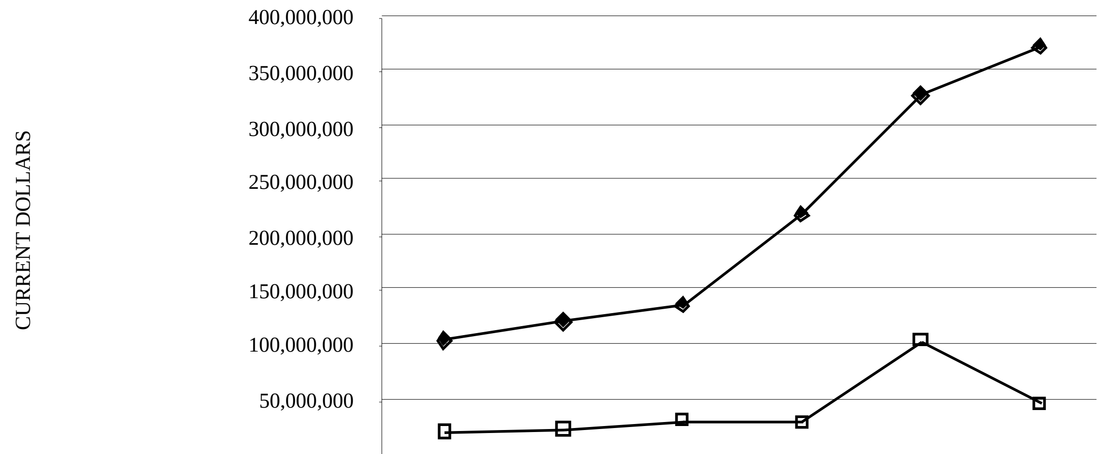
[1] In the case of Public Schools, earnings from both operations and land sales are deposited in the Public Schools Permanent Fund; only interest from that fund can be distributed to schools. Earnings from lands owned by the 11 other beneficiaries are distributed to them; only money from the sale of their land is added to their permanent funds.

TABLE 2. ACRES OF TRUST LAND AND SITLA DISTRIBUTION TO SCHOOLS (K12); BY COUNTY, FY 2001				
	ACRESOF TRUST LAND		SITLA DISTRIBUTION TO SCHOOLS	
COUNTY	June 30, 2000	Share of Total	Dollars	Share of Total
Beaver	144,110.24	4.15%	24,558	0.51%
Box Elder	189,943.35	5.47%	111,295	2.33%
Cache	18,409.26	0.53%	194,450	4.07%
Carbon	110,416.20	3.18%	53,626	1.12%
Daggett	30,754.52	0.89%	13,206	0.28%
Davis	2.93	0.00%	543,131	11.37%
Duchesne	53,450.55	1.54%	49,212	1.03%
Emery	336,130.44	9.68%	38,452	0.81%
Garfield	158,879.87	4.58%	21,691	0.45%
Grand	354,267.62	10.20%	26,253	0.55%
Iron	133,367.80	3.84%	74,562	1.56%
Juab	169,061.99	4.87%	42,497	0.89%
Kane	104,810.33	3.02%	24,215	0.51%
Millard	394,378.74	11.36%	42,987	0.90%
Morgan	3,315.76	0.10%	30,103	0.63%
Piute	57,956.54	1.67%	14,793	0.31%
Rich	48,506.89	1.40%	16,182	0.34%
Salt Lake	25.93	0.00%	1,635,261	34.25%
San Juan	263,377.88	7.59%	41,472	0.87%
Sanpete	32,262.47	0.93%	71,340	1.49%
Sevier	42,706.80	1.23%	53,311	1.12%
Summit	10,708.57	0.31%	89,831	1.88%
Tooele	242,845.48	7.00%	90,783	1.90%
Uintah	240,692.51	6.93%	67,845	1.42%
Utah	47,686.81	1.37%	754,432	15.80%
Wasatch	18,897.34	0.54%	44,195	0.93%
Washington	95,502.99	2.75%	178,457	3.74%
Wayne	167,840.69	4.83%	16,795	0.35%
Weber	1,307.26	0.04%	392,447	8.22%
Deaf and Blind			17,615	0.37%
TOTALS	3,471,617.76	100.00%	$ 4,775,000	100.00%

Source: Acres of Trustland, 5/2/01 e-mail from Dave Hebertson of SITLA; SITLA Distribution to Schools, Table 3.

By the mid-1990's the Utah legislature noticed that the trust assets were not being converted to savings very successfully. The agency was overhauled, and its procedures modernized. In 1994 SITLA was created to replace the Division of State Lands. A goal was set of having a billion dollars in the permanent State School Fund by the end of 2007. Utah, after all, ranks near the top among states in the amount each taxpayer pays for education, yet last in per student spending for schools (63% of the national average), because of the prevalence of large families. Clearly, the schools and the taxpayers need all the help they can get. So, SITLA became much more aggressive about leasing lands for minerals and hydrocarbons exploitation, about leasing surface rights for uses such as communications towers, and about trading unproductive assets within federally protected areas for potentially developable lands elsewhere. Surface rights for undeveloped properties are now sold at heavily advertised competitive auctions.[2] Recently, SITLA has started aggressively developing land on its own or in partnership with private developers for sale or lease for uses such as housing and industrial properties. On the investment side, the State Treasurer moved most of the permanent Fund out of fixed income securities and into the stock market. As a result of all these changes the permanent Fund has been growing rapidly, blooming to a total of $377 million by June 30, 2000 (Fig. 2).

Figure 2. SITLA'S GROWTH OF TRUST LAND EARNINGS AND TRUST FUND BALANCE



	FY 1995	FY1996	FY1997	FY1998	FY1999	FY2000
Fund Balance, All Trust Lands	107,789,303	123,580,524	139,102,063	222,008,915	331,302,741	377,459,645
Total Income, All Trust Lands	20,366,070	22,889,288	32,989,688	30,856,554	105,380,502	47,697,650

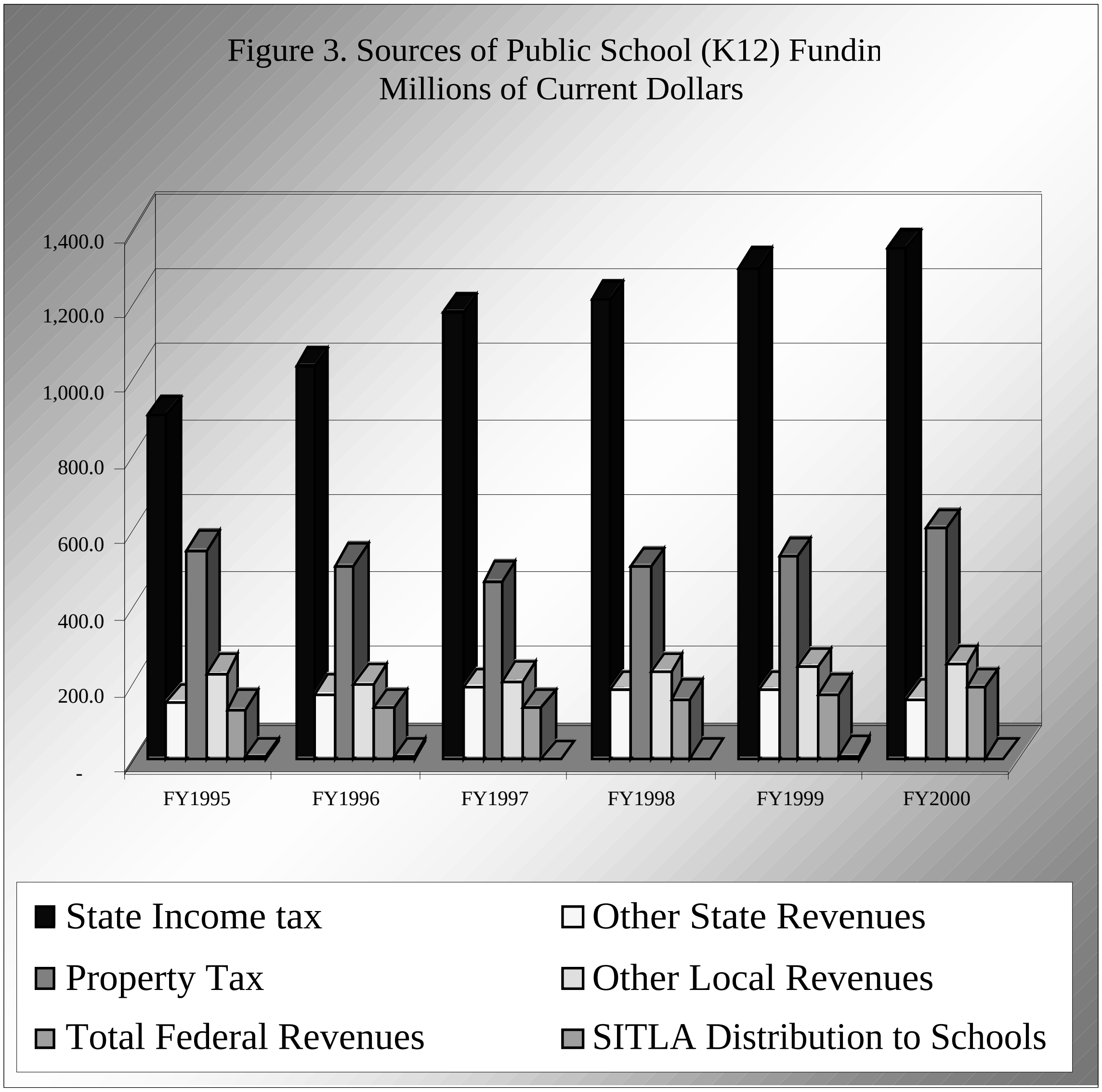
Source: SITLA Annual Reports 2 through 6. See Appendix A for related information.

It would be a mistake, though, to assume that payments from the trust fund will have a big effect on the quality of education in Utah. The first problem is that the apparently big numbers are misleading. With the Treasurer's new policy of reinvesting dividends, statewide permanent Fund distributions for education have ranged from $2.5 million in FY 1996-97, to $7.9 million in FY 1998-99[3]. The $3.8 million distributed by SITLA in FY2000 amounts to just 0.115% of that year's $3.3 billion education revenues in Utah. With 475,269 public school students plus 122,012 public college students that is an average of just $6.36 per student[4]. Excluding higher education, SITLA's contribution to Public School (K-12) revenues has varied from barely more than 1/4 of one percent (0.0028) in FY 1995 to less than 1/10 of one percent in FY 2000 (0.0009). As Figure 3 makes clear, the schools are paid for by income taxes (53%), property taxes (23%), other local revenues (10%); other state sources, mostly corporate franchise taxes (7%), and federal revenues (7%). SITLA's contribution is scarcely measurable.

[2] The Jones act of 1927 prohibits states from selling subsurface rights. They can only be leased, meaning SITLA must retain subsurface rights when land is sold.

[3] The 1998-99 payment was a one-time jump occasioned by sale of a term investment; coincidentally, that year SITLA earnings also increased because of a $46 million sale of land to the federal government and compensation for traded land of less value.

[4] Statewide distributions to students in grades K-12 averaged $10.02 as detailed in Table 3.



Source: 2001 Economic report to the Governor; School Finance and Statistics Section, Utah Office of Education; SITLA Annual Reports. See Appendix B for data detail.

When federal lands were allocated as school trust lands, the urban areas of Utah were largely settled. The relatively few acres of urban trust lands quickly found their way into private hands. At that time, it may have seemed feasible for rural lands to offer significant support for urban schools. Today, however, the value and revenue potential of these lands is minuscule compared to the cost of educating Utah's burgeoning population. Table 3 shows what SITLA distributions mean to individual school districts. The per pupil amount to each district varies because 10% of the money is distributed equally among Utah's 40 school districts regardless of size, while the remaining 90% goes out on a per pupil basis. While well intended, this formula hardly makes a dent in community impacts. For example, Grand County is facing potentially large infrastructure costs to service development on some of its 354,000 acres of trust land. The county receives two thirds more per student from SITLA than the state average (Table 3), but this is barely more than one quarter of one per cent (0.0027) of its school revenues for FY2001. Local taxpayers would benefit substantially if their taxes for the schools were increased by the amount of the SITLA distribution and the trust lands were left undeveloped.

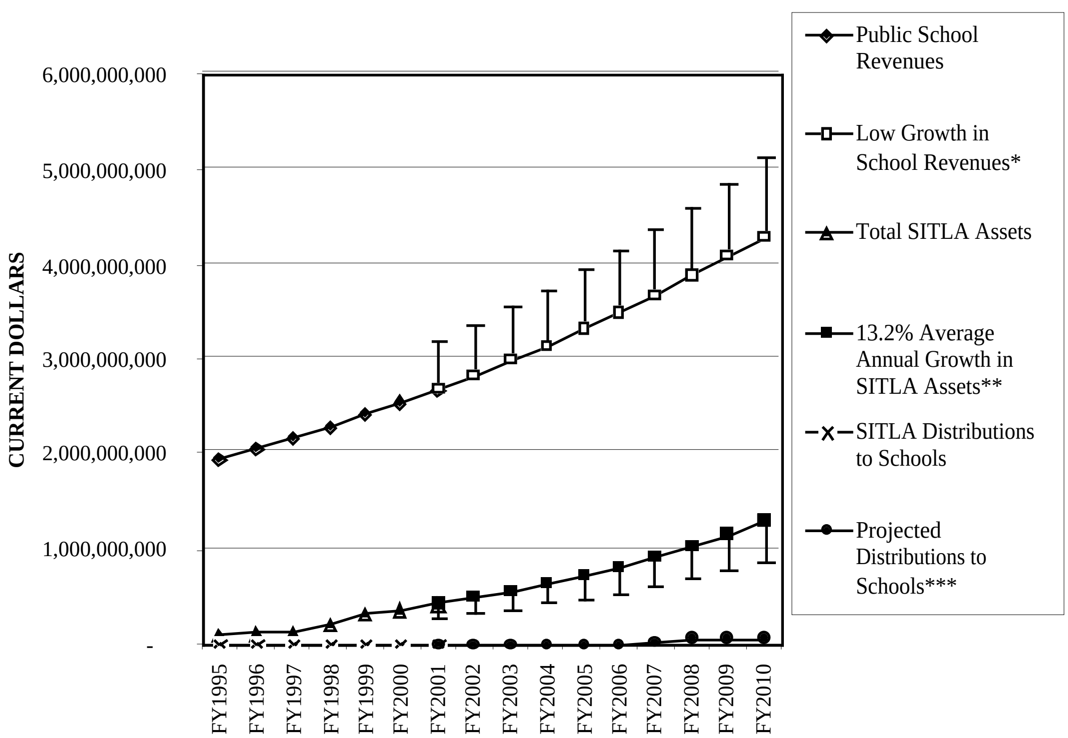
TABLE 3. SCHOOL LAND TRUST ACCOUNT; SITLA DISTRIBUTION TO SCHOOLS (K12)
BY COUNTY FY 2001

		1999 FALL	DISTRICT TOTALS	
	DISTRICT	ENROLLMENT	TOTAL $	PER PUPIL
1	ALPINE	45,842	$ 424,972	$ 9.27
2	BEAVER	1,432	24,558	17.15
3	BOX ELDER	11,052	111,295	10.07
4	CACHE	13,143	130,148	9.90
5	CARBON	4,656	53,626	11.52
6	DAGGETT	173	13,206	76.34
7	DAVIS	58,947	543,131	9.21
8	DUCHESNE	4,167	49,217	11.81
9	EMERY	2,973	38,452	12.93
10	GARFIELD	1,114	21,691	19.47
11	GRAND	1,620	26,253	16.21
12	GRANITE	71,546	656,728	9.18
13	IRON	6,978	74,562	10.69
14	JORDAN	73,110	670,829	9.18
15	JUAB	1,822	28,074	15.41
16	KANE	1,394	24,215	17.37
17	MILLARD	3,476	42,987	12.37
18	MORGAN	2,047	30,103	14.71
19	NEBO	20,519	196,652	9.58
20	NO. SANPETE	2,513	34,304	13.65
21	NO. SUMMIT	1,012	20,771	20.52
22	PARK CITY	3,818	46,071	12.07
23	PIUTE	349	14,793	42.39
24	RICH	503	16,182	32.17
25	SAN JUAN	3,308	41,472	12.54
26	SEVIER	4,621	53,311	11.54
27	SO. SANPETE	2,816	37,036	13.15
28	SO. SUMMIT	1,258	22,989	18.27
29	TINTIC	308	14,423	46.83
30	TOOELE	8,777	90,783	10.34
31	UINTAH	6,233	67,845	10.88
32	WASATCH	3,610	44,195	12.24
33	WASHINGTON	18,501	178,457	9.65
34	WAYNE	571	16,795	29.41
35	WEBER	28,134	265,311	9.43
36	SALT LAKE	24,960	236,694	9.48
37	OGDEN	12,809	127,136	9.93
38	PROVO	13,438	132,808	9.88
39	LOGAN	5,840	64,302	11.01
40	MURRAY	6,584	71,010	10.79
	DEAF AND BLIND	662	17,615	26.61
	TOTAL STATE	476,636	$ 4,775,000	$ 10.02

Source: USOE, Finance and Statistics, e-mail 4/26/01
Note: Charter Schools have been included within district totals.

For the sake of analysis, let us grant that the permanent Fund will reach the fabled billion mark as early as 2008, as SITLA optimistically projects. Let us also assume that the Treasurer, who manages the Fund, then switches from a high growth to a high income portfolio so distributions can be increased. In that scenario it is reasonable to expect annual distributions to public schools (K-12) to rise from FY2001's meager 1.16% of the Trust Fund to a more robust 5% beginning in 2008, or from today's $5 million to about $50 million beginning in 2008. This projection presumes that, from now until 2008, the fund will grow at an average annual rate of 13.2%, fueled by reinvestment and aggressive liquidation of surface and mineral assets. Though our chart does not show it, this scenario also implies that growth of the permanent Fund will level off after 2008 because investment revenue will be distributed to the beneficiaries rather than reinvested. The Fund will also stop growing so rapidly because a significant fraction of the land and mineral asset will be sold off on the way to the billion-dollar goal.

Figure 4: PUBLIC SCHOOL REVENUES, TOTAL SITLA ASSETS AND DISTRIBUTION TO SCHOOLS



Source: School data & enrollment projections: USOE Finance and Statistics; SITLA data from Annual Reports 2-6. See Appendix C for detail

Notes: *From 1995 to 2000 public school revenues grew by an average of 5.35% per year. Because the number of pupils stayed almost constant, revenues per pupil grew at an average annual rate of 5.28%. If total revenues continue to grow at 5.35% per year, they will reach $4.3 billion by 2010. With the school age population currently rising, if revenues continue to grow at 5.28% per pupil per year they will reach $5.15 billion by 2010. For this study we used the lower projection with error bars, indicating plus 19%, reaching $5.15 billion.
**Although current stock market conditions indicate the improbability of such investment growth, the increase in SITLA Assets plotted above is taken directly from SITLA's Sixth Annual Report. With an average gain of 13.2% per year, SITLA projects total assets of $1.3 billion by 2010; the error bars indicate minus 33%, consistent with average annual growth of 8%.

***Projected SITLA Distributions to Schools projects the distribution of 1.16% of total assets experienced in FY2001 through 2007. After that, the jump to 5% per year assumes that all investment revenue will be distributed to the beneficiaries.

So, how do these projected distributions compare to the projected costs of education in Utah? By the time SITLA distributions to schools reach $50 million, the total K-12 education revenues will be at least $4 billion (see Figure 4). That means SITLA distributions to the schools will reach a peak of 1.3% of the education revenues in FY 2007-08, and then fall, in an ever-declining series, as school expenditures continue to grow far faster than trust assets (by 2008, school revenues will be increasing by more than $350 million a year, requiring the permanent Fund to increase by $90 million that year just to keep pace). It is important to keep in mind that even this gloomy projection is about the best that can be expected, because it assumes the lowest projections of school revenues and also assumes that the permanent Fund will triple in size over the next seven years: a highly optimistic investment target. If SITLA fails to achieve its projected average 13.2% annual rate of increase (and they have not done so during the year just past), distributions to schools may never reach even as much as 1.3% of the K-12 revenues.

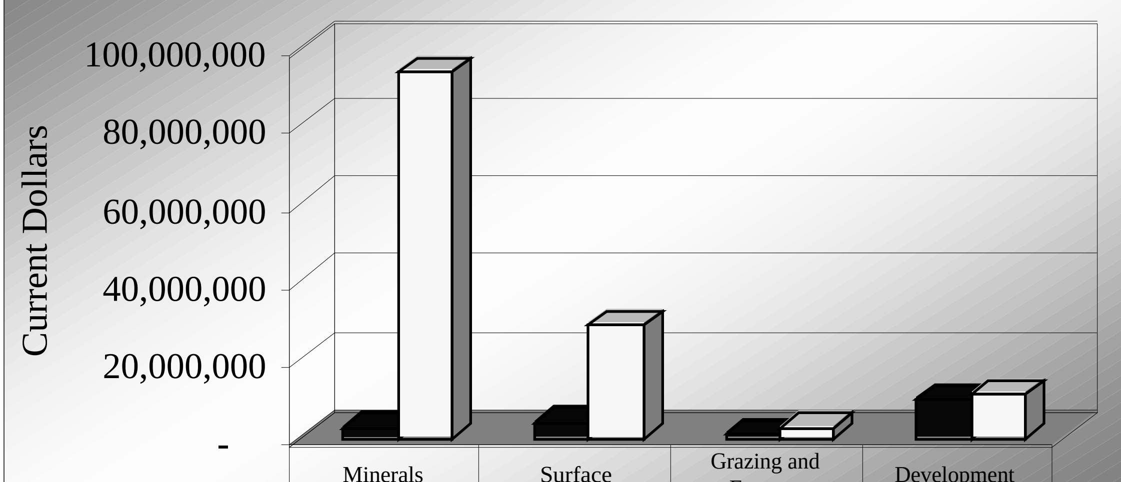
Obviously, it is important to see what sorts of costs are imposed to create these very modest benefits, and it is here that trust lands come into focus as an important conservation issue. While all the valuable assets were being sold along the Wasatch Front, things were not completely quiet in the redrock canyons of southern Utah, either. Though the grid still spreads across much of the map, significant land exchanges have largely removed trust lands from the national parks and monuments. These traded lands now form sprawling halos around many rural communities and solid blocks where there is revenue potential from coal, oil, gas or timber. Every highway interchange has a huddle of trust lands hoping to incubate a truck stop. Virtually every Wilderness Study Area is studded with trust lands, as are the state parks, ranches, river valleys and mountaintops. Look up your favorite getaway spot on the map and, chances are, if it isn't trust land itself, there is a parcel nearby. Though sales of some of these lands could accommodate growth and help schools, aggressive marketing and development on the scale needed to triple the School Fund could do incalculable harm to our communities, wildlife habitat, open spaces, watersheds and wild places. It is ironic that, having sold the valuable lands, the administrators are now supposed to create a bonanza from what remains. The impact will mostly be felt in the rural part of the state, while the majority of benefits are paid out on the Wasatch Front (see Figure 1 and 1a and Map).

Traditionally, anybody who lobbies for protection of trust land has been cast as a villain opposed to schoolchildren. It is more likely that they are simply people who value their communities and can add. Real estate development of outlying parcels of trust land practically defines the undesirable aspects of sprawl. Growing communities would do far better to concentrate on filling in existing towns, but vacant parcels of trust land beckon at the fringes, with the allure of adjacent wild country as a selling point. Growth like that is destructive of community. Watersheds and views are compromised, wildlife habitat fragmented, local infrastructures overextended, and traditional ways of life eclipsed. Farms and ranches are forever changed as their irrigation water is bought for development purposes. Yet, despite these important consequences, trust lands are not legally subject to local zoning decisions, making it very hard to plan for their development in a way that enhances our communities.

Countless studies have shown that this kind of development costs more in new services than it generates in tax revenues. If communities have to build new water systems, expand sewer facilities or add sheriff's deputies, then the benefits to local schools will be outweighed by added burdens on the taxpayers. At the schools themselves, new school children from developments on trust land can instantly swamp trust payments, since each pupil costs about $5,400 yearly to educate in Utah. At current levels of support, one new student will nullify total trust payments (averaging $10.02 per student statewide) to a school district with 521 students. It would be far wiser, when considering development of raw trust lands, to begin by looking at total net impact on the taxpayers, and not just at the amount of money going into the permanent Fund. After all, the taxpayers, not trust lands, are paying for the schools.

It is also incorrect to assume that development of trust lands will generate such handsome returns to the permanent Fund that the benefits to schools will outweigh impacts to the communities. Over the last five years, SITLA has barely broken even on its development projects, as shown in Figure 5. Irreplaceable trust assets are being sold, outside local planning and control, and thus far these developments are generating no benefits for the school children. Someday, these investments may pay off, but those benefits will be far better assured if the focus shifts from mere cash returns to the rewards of quality development carefully integrated into planning for community needs

Figure 5. Public Schools (K-12)—COSTS VERSUS REVENUES FOR SITLA REVENUE CENTERS (1995-2000)



	Minerals	Surface	Grazing and Forestry	Development
■ Costs	2,356,393	4,104,767	765,620	9,560,449
□ Revenues	93,650,977	28,816,985	2,414,118	10,801,395

Source: Revenues from SITLA annual reports, with revenues from land sales* assigned to surface or development, and all capital costs assigned to development in accord with an. e-mail from the SITLA Finance Director received 3/26/01.

*Earnings from the Grand Staircase/Escalante National Monument/National Parks federal land swap cannot be credited to a revenue center.

No attempt is made to include management costs as part of revenue center costs. Any valid attempt to do so will almost certainly change the revenues/costs ratio for Development from slightly positive to slightly negative. See Appendix D for derivation of Fig. 4, and Appendix F for management costs detail.

A Proposal

The concept of construing the benefits of trust lands more widely is an idea whose time has come in Utah. The land assets will never provide more than a minuscule level of support for the schools, but they can be of inestimable value as outdoor classrooms, recreation areas, open spaces and wildlife habitat. Trust lands can provide low cost sites for schools, parks, hospitals, extended care living facilities, and affordable housing complexes, all of which can be difficult for small communities to afford. If the agency were freed from a single-minded concern with cash returns, trust lands could focus on quality planning, model developments, and creating necessary developments that the market alone will not provide. In a happy consequence, these kinds of projects often provide long term monetary benefits that will do more to improve education in Utah than projects developed on the hit-and-run model that has too often characterized trust lands' developments in the past.

We propose that SITLA create a new directorship with powers and budget fully equal to the directors of minerals, surface and development. This new position might be called "Director of Environment and Community Planning." The director would assemble a team of top planners to work closely with local people to develop and implement plans for SITLA lands within communities, watersheds and gateway corridors. These plans might begin by conceiving and executing a land exchange with BLM, USFS, or state agencies like Parks and Recreation or the Division of Wildlife Resources. SITLA lands that should not be developed would be traded to another agency for permanent protection of water supplies, critical wildlife habitat, agricultural land, open space, or for development as recreation sites. In return, SITLA would receive the lands most suitable for development. (The state legislature envisioned the beginning of such a process this year when it appropriated $1 million for the Division of Wildlife Resources to buy protective easements on parcels of trust land that provide critical wildlife habitat.) After this initial sorting out, Trust Lands would plan for extremely high quality development on its holdings—development that provides for community needs like schools and playgrounds, affordable housing, extended-care living facilities, parks, trails and mixed-use neighborhoods. In short, development on SITLA lands would always strive to provide models of thoughtfulness and restraint, carefully integrated into the larger community. The State has been helping counties write general land use plans; these SITLA plans could proceed on the same model, beginning in places like Washington and Grand County where these issues are already becoming problematic. Our communities and our school children have a great deal to gain from this approach.

After this program has been implemented, we may discover administrative, legal or constitutional roadblocks that prevent full success. If that happens, we should keep in mind that some neighboring states have amended their constitutions to solve just such issues. Several years ago, Colorado voters passed a "State Trust Lands Initiative" (Amendment 16) to correct the same kinds of problems we face in Utah. Colorado Department of Natural Resources Executive Director Jim Lochhead has written, "Colorado voters reaffirmed what we value in this state—our open spaces and natural beauty, community stability and education." The Amendment changed the State

Constitution by creating a Stewardship Trust that will shield up to 10% of Colorado's trust lands from development. It also authorizes use of the Permanent Fund to back school bond issues, makes available lands for schools, and prohibits development when the costs of increased enrollment exceed projected revenue gains. If it proves necessary to make the administrative changes work, Utah voters deserve a chance to consider a proposal at least as good as the one approved in Colorado. The Governor and legislature should then appoint a committee to study options for realistically reforming our system to make it perform better for all citizens of Utah. It is time for us to reconsider how to get maximum benefit from our spectacular trust lands.