

What Are School Trust Lands?

1. School Trusts Lands were granted by the United States to each state joining the union beginning with Ohio 1803 through Alaska in 1959. These lands were granted in trust for the support of public education. Initially, each state received one square mile in each six square mile township. As western states were added, the grants expanded to two sections per township. When Utah, Arizona and New Mexico entered the union they were granted four sections per township.

The grants were part of enabling legislation for statehood and are contained in each state's Enabling Act. The Enabling Act was a bilateral compact that enabled each state to enter the union on equal footing with those states currently in the union. Presumably, the arid western desert states were less fertile and productive and so needed more land to achieve an equal footing. Because there were insufficient funds in the national treasury, Congress could not afford to pay taxes on the federal domain. Thus Congress granted lands for education and other purposes to each state in exchange for an agreement that each state would not tax the federal lands.

Because these lands were granted in trust, standard trust principles apply. This means the lands are to be managed for the support and benefit of the schools and each state owes undivided loyalty to the beneficiaries, which are the schools. Occasionally these lands are referred to as state lands or public lands. These lands are not state lands but rather are school lands managed by the state as trustee. The lands are also not public lands as the grant was not to the general public. Though noteworthy causes such as national parks, wilderness, open space, or other state interests may seek uncompensated uses for school trust lands, such uncompensated use is contrary to trust principles and fails to respect the beneficial owners of the lands, our schools. In *County of Skamania v. The State of Washington*, it states "Our holding is consistent with a host of cases from other jurisdictions involving school trust lands. To our knowledge, every case that has considered similar issues has held that the state as trustee may not use trust assets to pursue other state goals." If school lands are situated in areas that should be preserved, then by law the schools must be compensated as other private land owners would be or exchanged for other lands of comparable market value.