

Abstract

A Promise to Keep: The Alaska Public School Trust Fund *A History of the Fund – 1985–2004*

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The 50–page paper documents the history of the Alaska Public School Trust Fund from 1915 through 2004. The 1915–1984 period is described first. Circumstances and events affecting the Trust Fund and the School Grant Lands in the 1985–2004 period are examined in detail. Major sections are (1) The Land, (2) The Fund, (3) The Litigation, and (4) The Future. Eight recommendations for the Fund to become a major source of endowment support for elementary and secondary education are presented. Includes 12 tables and figures.

The 1915–1984 Period

A 1915 Act of Congress reserved sections 16 and 36 in each surveyed township for the benefit of the public schools in the Territory of Alaska. Receipts from leases and mineral sales on this land went into a permanent fund, which was then invested. The income from these investments was then expended for the exclusive benefit of the schools.

When Alaska became a state in 1959 the federally designated school lands, more than 105,000 acres, became state school lands. Alaska pledged to continue the original stipulations regarding the fund and the land. Land receipts would be added to the principal, which would never be spent. Income earned from investing the principal would be used for support of the public schools.

In 1978 the legislature redesignated the school lands, some 103,000 acres, as general grant lands and made them a part of the state's general grant lands (with its corpus of some 105 million acres). This action eliminated the school lands as a source of receipts for the fund. Legal recourse to this breach of the land trust was not sought at this time. A substitute source of fund receipts stipulated by the legislature was to be one–half of one percent of the total receipts derived from the management of all state lands.

Shortly after the redesignation of the school lands, the state traded almost fifteen percent of it for land owned by Cook Inlet Region, Inc. and several of its associated village corporations. The 14,744 acres were a

small part of a much larger land exchange to help resolve land issues arising out of implementing the Alaska Native Claims Settlement Act. In 1980 Congress granted Alaska an additional 75,000 acres of school land. This was to make up for lands that Alaska could not obtain in 1959 due to various federal withdrawals and reservations. This new land was to be selected by 1994.

With its new source of receipts the Fund was growing rapidly and the June 30, 1984 ending balance exceeded \$65 million. Investment earnings were also increasing each year.

The 1985–2004 Period

The Land. Although the original school lands were lost to the trust due to the 1978 redesignation, Alaska would soon have school trust lands again. Following a careful land audit, the state recovered 2,850 acres it was unable to claim in 1959. An additional 75,000 acres of school land was obtained, as called for in Section 906b of the Alaska National Interest Lands Conservation Act of 1980. Except for one small acreage near Gustavus, this land was in three large tracts, one near Tonsina, one North of the Denali Highway, and one South of Black Rapids Glacier. These tracts were selected due to their potential mineral deposits.

The state's general grant lands are managed by the Alaska Department of Natural Resources (DNR). DNR also manages the school lands.

The Fund. The Public School Trust Fund grew from \$65.9 million in 1984 to \$299.2 million in 2004. More than \$105 million of the increase is due to the inclusion of capital gains/(losses) which have been included since 1997.

Sources of revenue for the Fund are: (1) its share of receipts from the general grant lands, and (2) interest and dividends earned from investments of the principal.

Land receipts credited to the Fund's principal each year have varied greatly the past 20 years. The annual average during this period: \$5,702,000. There are more than 15 land management receipt sources, including oil production royalties. Fines and forfeitures associated with these sources are also credited to the Fund.

Investment income earned by the principal has also varied during the past 20 years. The annual average during this period: \$9,518,000. The investment income is then moved to the investment income account for distribution to schools via the Public School Foundation Program.

The Alaska Department of Revenue manages the Fund. The commissioner of revenue is the fiduciary of the Trust Fund and is charged with investing the principal in a manner to promote the long-term generation of income.

Policies and Procedures Applicable to the Treasury Division, issued by this department annually (and sometimes updated more often), details its responsibilities arising out of the enabling statutes. This publication, defines the Fund as follows: "The Public School Trust Fund is an endowment trust fund, separately accounted and invested."

Currently the investment policies for the principal of the Fund are: (1) 57 percent Long-term Fixed Income Investment Pool, and (2) 43 percent Domestic Equity Collective Funds. Benchmark for the Long-term Funds is the Lehman Brothers Aggregate Index; for the Domestic Funds it is the Russell 300 Index.

Interest and dividends earned in Fiscal Year '04 totaled \$10.3 million, a 3.4 percent rate of return on principal.

Money in the investment income account is also invested until being appropriated for school purposes. These income assets are in a Short-term Fixed Income Investment Pool, whose performance benchmark is the Three-month U.S. Treasury Bill.

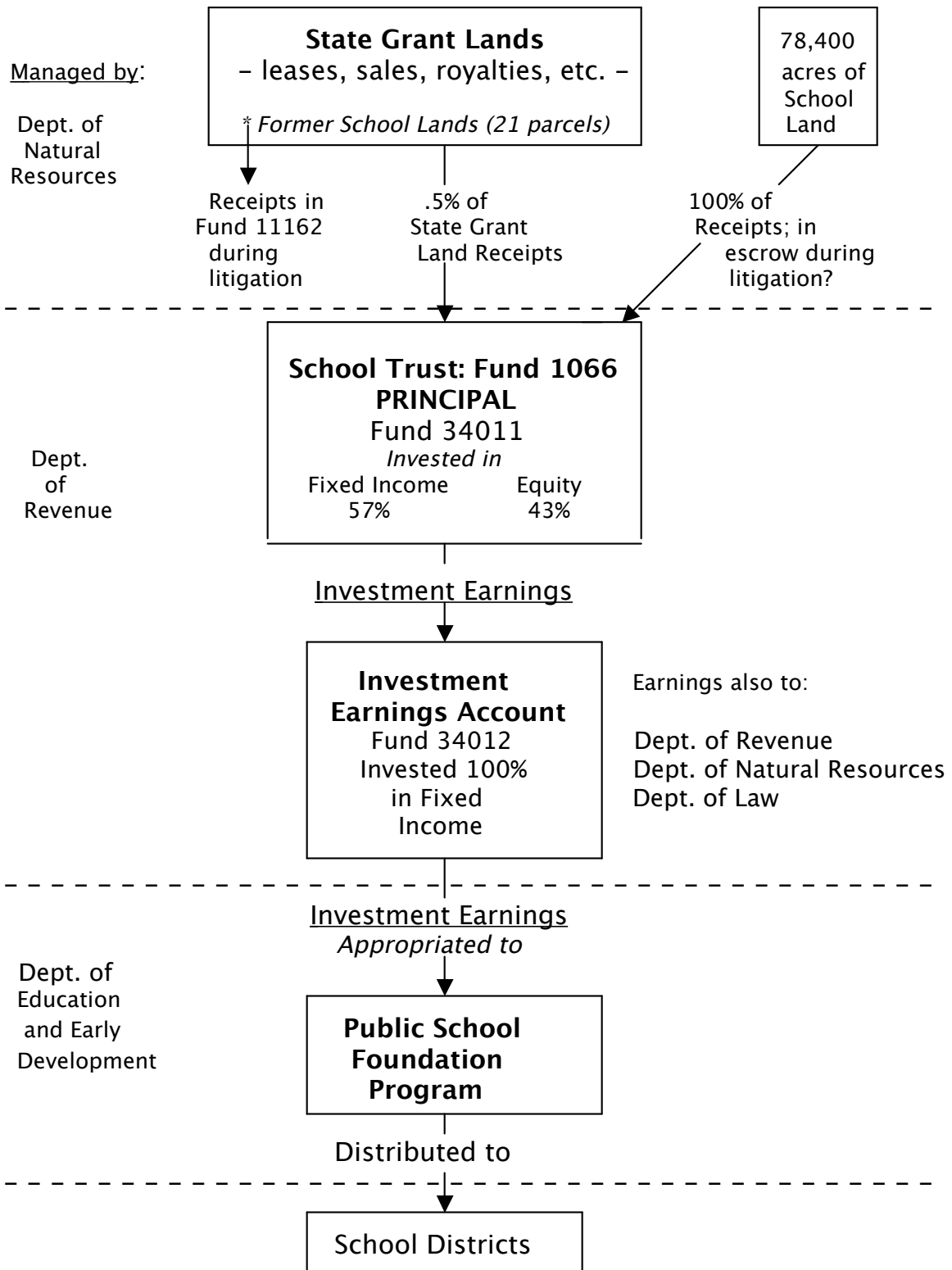
Since FY '87 Public School Trust Fund earnings have been appropriated directly to the Department of Education and Early Childhood where they are then disbursed as a part of the Public School Foundation Program.

School Trust Fund earnings have been appropriated to three departments, as follows:

1. Since 1987 the Department of Revenue has received \$1,707,700 for Fund management expenses.
2. Appropriations of \$ 737,525 have been made to the Department of Natural Resources for expenses necessitated by *Kasayulie v. State of Alaska*. The total expended through Fiscal Year '04: \$ 167,300.
3. The Department of Law has received \$ 110,900 which it has disbursed to the plaintiffs in *Kasayulie v. State of Alaska* for their legal expenses in planning and monitoring the appraisal.

Figure 5, Alaska School Trust Fund: Revenue Flow Model, 2004, which follows, displays graphically the flow of Trust Fund monies from the state grant lands and school lands to the school districts.

Figure 5
Alaska School Trust Fund: Revenue Flow Model
2004



Revenue Flow Model by E. Dean Coon, Anchorage, AK, 5/5/05

The Litigation. Litigation initiated in 1998 charged that the State of Alaska breached the school land trust by redesignating the school lands as general grant lands and had failed to properly use and account for school trust funds. These allegations were added to *Kasayulie vs. State of Alaska*, filed a year earlier, which charged that the state was failing to provide adequate educational facilities, especially in the rural areas.

Plaintiffs in this action included three sets of parents, six school districts, and an advocacy group named Citizens for the Educational Advancement of Alaska's Children. They were represented before Superior Court in Anchorage by two law firms, Jermain Dunnagan & Owen, and Middleton & Timme, P.C.

On September 1, 1999, Superior Court Judge John Reese found in favor of the plaintiffs on both issues: (1) failure by the state to provide adequate educational facilities, and (2) that the state had breached its duties as a trustee of the public school lands.

Judge Reese noted that redesignation of public school lands into general grant lands is not permitted, and that a further breach of the state's trust obligation was that there was no valuation of the land prior to that action.

He called for the lands to be appraised, noting that without such a valuation it is premature to consider remedies. Significant issues remaining until the appraisal is completed include:

1. Did the State's .5% of state land receipts paid into the trust fund constitute fair market value for the land?
2. What amount of income would have been generated by the trust assets if there had been no breach of the trust?
3. Has the ANILCA school land grant been managed properly?
4. Has there been an adequate accounting of trust activities and assets?
5. Will receipts from the general grant lands continue to be credited to the school trust fund at the current rate?

Draft versions of the Request for Proposals to conduct the appraisal have been circulated back and forth between the State and the plaintiffs. The Department of Natural Resources will ultimately issue the RFP and be in charge of the appraisal.

The Future. When Alaska became a state it pledged to maintain a school trust fund supported by receipts from the federal land it was given. Although the land is gone, redesignated as general grant lands, the obligation to support the school trust fund remains. The manner in which this will be done when the litigation issues are resolved is an open question.

In view of the circumstances and the unsettled issues of the current litigation, the following recommendations are proposed:

1. **Cancel the appraisal and negotiate a settlement.** A key condition of this settlement would be for the state to continue its financial contributions to the principal of the trust fund.
2. *(If the settlement is not sought)* **Appraise school lands as of 2005, not 1978.** Using the current value of the land would be more appropriate and more likely to meet the plaintiffs objectives.
3. **Designate the trust fund as a permanent fund for education.** This would provide statutory protection of the fund and guarantee a stable flow of receipts to the principal each year.
4. **Put 100 percent of receipts from all school land (new and recovered) into the trust fund.**
5. **Manage school land in a manner to increase receipts.**
6. **Increase trust fund receipts with contributions from additional sources.**
7. **Increase the rate of investment earnings.**
8. **Target fund earnings for a specific use, such as school construction.** The fund, with a principal of almost \$300M, has annual earnings sufficient to pay off a \$200M school construction bond issue in 25 years.

Figure 6, The School Permanent Fund / Bond Issue Plan follows. Based on the proposed recommendations, it displays graphically the flow of trust fund moneys from the school land and other sources to the school districts

The paper concludes with a final recommendation to citizens, the education community, and to the legislature:

**Keep the Promise:
Save and Strengthen the Public School Trust Fund
Make It Alaska's Permanent Fund for Education**

Figure 6
The School Permanent Fund / Bond Issue Plan

