

# History of Lands Granted to Utah at Statehood



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# The Utah Enabling Act of 1894

From the late 18<sup>th</sup> century through the middle of the 20<sup>th</sup> century, the federal government granted control of millions of acres of federal land to each state as it entered the Union. Many states exhausted this resource. Utah, along with many other western states, retains much of this heritage either in land, in a permanent fund, or both.

## Utah Enabling Act Sections 6, 8, and 12

Utah's Enabling Act grants, in sections 6, 8, and 12, land to the state for the support of certain named entities: Section 6 names the "common schools;" section 8 names colleges and universities; and section 12 names numerous beneficiaries, including a "miner's hospital," and "a deaf and dumb asylum."

## Utah Enabling Act Section 10

Utah's Enabling Act also provides, in Section 10, that:

“The proceeds of lands herein granted for educational purposes...

shall constitute a permanent school fund, the interest of which only shall be expended for the support of the said schools....”

## Article XX, Section 1

“All lands of the State that have been, or may hereafter be granted to the State by Congress...are hereby accepted, and, except as provided in Section 2 of this Article, are declared to be the public lands of the State; and shall be held in trust for the people, to be disposed of as may be provided by law, for the respective purposes for which they have been or may be granted.”

## Article XX, Section 2

This section provides that the lands specifically granted to the State under Sections 6, 8, and 12 of the Enabling Act “are declared to be school and institutional trust lands, held in trust by the State for the respective beneficiaries and purposes stated in the Enabling Act Grants.”

# The Utah Constitution

## Article X, Section 5

Article X, section 5 creates a permanent State School Fund, that requires: (2)(a) the “principal shall be safely invested and held by the state in perpetuity,” and (b) “Only the interest and dividends received from investment of the State School Fund may be expended for the support of the public education system....”

# UTAH CODE

53D-1-101 et seq.

The School and Institutional Trust Fund Management Act creates the School and Institutional Trust Fund Board of Trustees and sets forth its authorities and duties (53D-1-303).

## 53C-1-1 et seq.

The Legislature created the School and Institutional Trust Lands Administration as the managerial body over the trust lands for the state.

## Other Laws and Resources

Supreme Court decisions have been consistent in finding in nearly all cases the Enabling Acts of each state established, if not a legal trust, “a sacred obligation on the public faith.”

According to the Center of Education Policy's (CEP) paper "Public Schools and the Original Federal Land Grant Program, "A legal trust is formed when an asset (the *trust corpus*) is given, under specific terms, by one participant to be held by a second participant for the benefit of a third participant. Therefore, three parties are needed to form a trust: a *settlor or trustor*, which provides the property or asset to establish the trust; the *trustee*, which manages the trust according to the trustor's instructions; and the *beneficiary*, which reaps the benefits of the asset held in trust."

The CEP continues: “In general, the system of common schools was the beneficiary. In addition to complying with the trustor’s instructions, the trustee was charged with a series of responsibilities governing how the trust should be managed. Essentially, these responsibilities included managing the trust honestly, skillfully, in good faith, and in the best interest of the trust and beneficiary. The trustee...had to manage the asset (the granted land) in the best interest and for the benefit of the beneficiary (the schools). Thus, the federal land grants, through this trust system, established a triangle of influence and control among the federal government, the states...and the schools.

It is important for the Board to recognize that there may be, at times, a conflict between the Board's trust duties and the desires of the beneficiaries and/or their representatives. The letter provided reflecting the response from trustee State Treasurer Richard Ellis to the request of SITLA and the Superintendent of Schools for the funds to purchase a building to provide the State Office of Education and the SITLA with new office space is an example of such a conflict.