



# Raiders of the Lost Trust

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and  
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# Raiders of the Lost Trust

- There is a growing demand for state trust lands to distribute more resources above and beyond the annual income earned to fund public education
- State trust land resources have become more visible
- Greater demands for short term and quick fix options



A dark, textured background featuring a close-up of a man's face wearing a wide-brimmed hat, with the text "Recent Raiders" overlaid in white.

# Recent Raiders





# Arizona

- Total rate of return to result in greater annual distributions
- Proposition 123 was a 10-year program to increase education funding by \$3.5 Billion.
- Proponents wanted a 5% total rate of return from the Trust, rather than interest only.





# New Mexico

- An Early Childhood Education program was proposed to be funded from the State Land Trust.
- The move would have facilitated a 1% increase in distributions from the permanent trust each year. That would result in \$175 to \$190 million more per year.





# Texas

- Houston Chronicle investigation of the Texas General Land Office in 2018 and 2019
- Political turmoil over the amount of funds distributed
- Fees paid for investments were questioned
- There is dual authority for distributing the revenues to schools in Texas. Both the Board of Education and the General Land Board have partial responsibility.





# Idaho

- The Idaho Board of Trustees objected to the Land Trust making investments in commercial real property.
- What constitutes an appropriate competition with the private sector?
- Involved was whether Idaho state trust lands should appropriately include nine commercial properties.
- 2016-2017 Divestiture of commercial properties.





# Oklahoma

- For the past two consecutive years...Teacher Pay increases have been proposed from the corpus of the permanent trust of the Commissioners of the Land Office in addition to all income currently distributed.
- “It is the people’s money”
- “Why raise taxes if there are available resources?”
- “The Trust is getting too large.”





# Raiders Hall of Shame





# New Members of the Raiders Hall of Shame

- A Governor: “The Federal Government passed a law in 1999 repealing the Government’s oversight of the trust fund.”
- A Legislator: “We can continue to invest in global stocks or we can invest in our children.”
- A Teacher: “You all just have all that money sitting idly and we can’t get an increase in teacher pay to save our souls.”
- An editorial writer in a daily newspaper: “Why do you want a trust fund that continues to grow bigger when we don’t fund current operations of our schools?”
- A Legislator: “We like what you do, but we insist that you do more. You have continued to take care of yourselves and the investment firms, but the school kids aren’t getting anything more.”





# New Members of the Raiders Hall of Shame

- A multi-millionaire businessman: “Well, the public expects trust assets to be operated like a business, until you get in competition with the private sector.”
- A Legislator who serves in his party leadership: “We should take the land office’s trust funds and pay for the deficit in the teacher retirement fund. To heck with what a 125-year old Constitution says. This is a real funding problem now.”
- A freshman Senator who developed instant expertise: “We should spend 70% of every revenue source every year.”



A man wearing a brown cowboy hat and a matching jacket is pointing his right index finger directly at the viewer. He has a serious expression and is looking slightly to the left of the camera. The background is a dark, textured wall.

# New Members of the Raiders Hall of Shame

- A former member of Congress: “Anyone who wants to serve an education function should be given land by the Trust fund.”
- The leader of a major farm organization : “It is an outrage for farmers and ranchers to be hijacked with the prices you charge for leases. You are dwindling the rural population of our state.”





# Tools for Protecting the “Lost Trust”



# Tools for Protecting the State Trust Corpus



- The genius of State Trust Lands is that founders made it difficult to alter what must be distributed and what must continue to be held in trust.
- The mandate for states to manage and use the land for public education is ever present.
- The gift of trust lands was designed based on the concept of “spendthrift trusts” from equity courts in England...when the trustor did not trust the spending habits of one or more beneficiaries.





# Tools for Protecting the State Trust Corpus

- Built in the language of the respective state Constitutions are “intergenerational equity” and perpetual responsibilities.
- To alter the distribution of funds requires both Constitutional and Enabling Act changes.



# Tools for Protecting the State Trust Corpus

- Court Cases- Many of the state Supreme Courts have interpreted the necessity to amend both the state constitution and state Enabling Act in order to change distributions to beneficiaries.
- Attorneys General Opinions- Many of the WSLCA state Attorneys General have opined on various proposals that would have violated the distribution formulas required in their respective Enabling Acts and State Constitutions. Current Oklahoma Attorney General, Mike Hunter, has issued two opinions defining a variety of restraints against draining the state trust funds.
- The Uniform State Trust Laws Act and the Trust Laws of the member states.