



# Arizona State Senate Issue Brief

December 6, 2022

## Note to Reader:

The Senate Research Staff provides nonpartisan, objective legislative research, policy analysis and related assistance to the members of the Arizona State Senate. The *Issue Briefs* series is intended to introduce a reader to various legislatively related issues and provide useful resources to assist the reader in learning more on a given topic. Because of frequent legislative and executive activity, topics may undergo frequent changes. Nothing in the Brief should be used to draw conclusions on the legality of an issue.

## ARIZONA STATE TRUST LAND

### INTRODUCTION

Before Arizona became a state in 1912, the Arizona-New Mexico Enabling Act (Act) was passed on June 20, 1910. The Act contained many directives designed to prepare the Territory of Arizona for statehood. Included among these provisions was the requirement that sections 2 and 32 of each township be held in trust for the common schools, unless those sections were not available, at which point the state selected or traded for other land. Sections 16 and 36 of each township were already granted to the territory for the benefit of public schools by the act of Congress creating the Territory of Arizona in 1863.

In time, Congress recognized the needs of other public institutions and the Act granted more than two million additional acres of federal land to Arizona for use by the additional beneficiaries. There are 13 beneficiaries to the trust, with public schools being the largest beneficiary. *(See table on the next page.)*

In 1915, the Legislature created the Arizona State Land Department (ASLD) which was given authority over all state trust lands and the natural products derived from the land. ASLD is charged with managing the trust lands and maximizing revenues for the beneficiaries. These revenues are either: 1) maintained in the respective beneficiary's permanent fund, if the revenue is derived from the sale of land or resources; or 2) distributed directly to the beneficiaries monthly, if the revenue is derived from leases, rentals or interest from financed sales.

State trust land may only be disposed of as allowed by the Arizona Constitution and the Act. It must be sold or leased for its true value, as determined by an appraisal. Furthermore, land sales and leases for more than a 10-year period may occur only after advertisement and auction to the highest bidder, unless specifically exempt.<sup>1</sup>

The Arizona State Treasurer is responsible for managing and investing the trust revenue in stocks, bonds and interest-bearing securities and distributing money from the funds to the beneficiaries according to a constitutional formula.

<sup>1</sup> [Ariz. Const., art. 10 § 9](#)

FY 2021 State Trust Land by Beneficiary <sup>2</sup>		
Beneficiary	Acreage of Trust Land	% of Trust Land
Common Schools (K-12)	8,030,752	87.42%
Normal Schools (Colleges of Education)	174,786	1.90%
University Land Code	137,771	1.50%
Agricultural and Mechanical Colleges (Colleges of Engineering)	124,944	1.36%
University of Arizona School of Mines	123,256	1.34%
Miners' Hospital (2 Grants)	94,351	1.03%
Schools for the Deaf and the Blind	82,558	0.90%
Military Institutes (ROTC Programs)	80,168	0.87%
State Charitable, Penal and Reformatory Institutions	76,869	0.84%
Penitentiaries	76,971	0.84%
Arizona State Hospital	71,248	0.78%
Legislative, Executive and Judicial Buildings	64,229	0.70%
University of Arizona (Act of 2/18/1881)	48,890	0.53%
<i>Total Acreage</i>	<i>9,186,793</i>	

### LAND USES

Public land, such as parks or national forests, is generally designated for the public benefit. Although trust land belongs to the state, it is not considered public land. Public use of trust land is not prohibited, but it is regulated through leases and permits to ensure protection of the land, resources and compensation for its use. There are many uses of state trust land, including outright sale of the land, lease or rental of the land, sale of natural resources from the land and grants of rights-of-way. All uses of land must benefit the trust.

During the first 50 years of statehood, Arizona's economy was tied to the extraction and cultivation of natural resources. The management of trust lands was primarily based on rural land uses such as livestock grazing, agriculture and mineral production. However, as urban areas grew, new industries arose in Arizona and the Department now also addresses urban land and commercial development. With the passage of the Urban Lands Management Act in 1981, ASLD

<sup>2</sup> ASLD FY 2021 Annual Report

was given new authority to plan, zone and merchandize the urban trust lands surrounding the state's major urban population centers.<sup>3</sup> As a result, sale and lease of urban lands have generated the largest revenues for the trust beneficiaries.

Currently, state trust land comprises about 13 percent of all land in Arizona, equaling more than 9,000,000 acres.<sup>4</sup> Nearly all state trust lands are under one or more leases for natural resource uses or commercial development purposes. Additionally, federal land comprises about 38.6 percent of the land in Arizona,<sup>5</sup> Indian Trust about 28 percent<sup>6</sup> and private land about 18 percent.<sup>7</sup>

### LAND EXCHANGES

Trust land may be disposed of only as allowed by the Arizona Constitution and the Act. In 1936, the U.S. Congress amended the Act to

<sup>3</sup> Laws 1981, 1SS, Ch. 1

<sup>4</sup> ASLD Agency Mission

<sup>5</sup> CRS, Federal Land Ownership: Overview and Data

<sup>6</sup> ADEQ: Tribal Relations

<sup>7</sup> USDA Rocky Mountain Research Station, Public Land Management and Land Ownership in Arizona

give Arizona more flexibility in managing and disposing of trust land by allowing the state to exchange trust land for other public or private land.

Arizona statutes authorize ASLD to conduct land exchanges and, prior to 1990, ASLD had periodically exchanged state land with the federal government and private landowners.<sup>8</sup>

In 1990, the Arizona Supreme Court determined that until the Arizona Constitution was amended to authorize trust land exchanges, the state could not conduct them. As a result, ASLD halted land exchange activities.<sup>9</sup>

In 2012, the Legislature referred a constitutional amendment to the voters, which was approved, to allow for land exchanges for two designated purposes: 1) to preserve and protect military facilities in Arizona; or 2) to improve the management of trust land for sale, lease or conversion to public use of trust land.<sup>10</sup> The exchange must go through an appraisal process determining that the value is equal or exceeding the true value of the land, a public hearing process and, ultimately, approval on the ballot by the majority of the voters of Arizona.

## *Proposition 123*

In 2015, the Legislature referred to the voters amendments to the Arizona Constitution to increase the annual distributions from the beneficiaries' permanent funds from 2.5 percent to 6.9 percent of the value of the funds through FY 2025.<sup>11</sup> The amendments additionally included provisions to temporarily restore the distribution to 2.5 percent or to suspend inflation adjustments under certain economic circumstances.<sup>12</sup> In a

special election in 2016, voters approved the measure, increasing annual distributions to schools, universities and public institutions for 10 years.<sup>13</sup>

## *ADDITIONAL RESOURCES*

- Arizona State Land Department  
1616 W. Adams St.  
Phoenix, AZ 85007  
<http://www.land.state.az.us/>
- Arizona State Parks  
23751 N. 23rd Ave., #190  
Phoenix, AZ 85085  
<https://azstateparks.com/>
- Arizona State Trust Land Law  
Public Lands: [A.R.S. Title 37](#)  
Exchange of Public Lands:  
[A.R.S. Title 37, Ch. 2, Article 14](#)  
[Arizona Constitution, Article 10 §§ 3 & 12](#)

<sup>8</sup> [A.R.S. Title 37, Chapter 2, Article 14](#)

<sup>9</sup> [Proposition 100 \(2004\)](#)

<sup>10</sup> [Ariz. Const. art. 10 § 12](#)

<sup>11</sup> [Laws 2015, 1SS, Ch. 1](#)

<sup>12</sup> [Proposition 123 \(2016\)](#)

<sup>13</sup> [Official Canvass, May 2016 Special Election](#)