

J. Trust Lands Management in Wyoming

Wyoming's trust lands comprise over 3 million surface acres and 4.2 million subsurface acres of land, scattered throughout the state in a checkerboard pattern. The lands include agricultural and grazing lands, forests, commercial and residential areas, and large deposits of oil, gas, coal and other minerals. Oil and gas, followed by coal and other mineral production are the primary revenue sources from Wyoming's trust lands.

1. Wyoming's Land Grant

Prior to Wyoming's admission to the Union in 1890, Congress granted 46,080 acres to the territory of Wyoming for a state university and 5,640 for a fish hatchery.¹ At statehood, Wyoming received sections sixteen and thirty-six in every township "for the support of common schools."² In addition to this common school grant, the state also received specific grants for a variety of other public institutions, including: 50 sections for the purpose of erecting public buildings at the capital; 90,000 acres for the agricultural college; 30,000 acres for the insane asylum; 30,000 acres for the penal, reform, or educational institutions; 5,000 acres for a fish hatchery; 30,000 acres for the deaf, dumb, and blind asylum; 10,000 for the poor farm; 30,000 for the miners' hospital; 75,000 acres for public buildings; and 260,000 acres for the charitable, educational, penal, and reformatory institutions.³ The University of Wyoming, as the state's land grant college, also received a land grant under the Morrill Act of 1862.⁴ Wyoming retains ownership of 83 percent of its original land grant of more than 4.3 million acres.

2. Enabling Act and Constitutional Requirements

The 1890 Wyoming Act of Admission, enacted after the Territory of Wyoming had adopted its Constitution in September 1889, contains only minimal restrictions on the sale of trust lands, providing that the lands may not be sold for less than \$10 per acre, and providing broad authority to the state in the management of these lands. The Enabling Act provides that the lands "shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, as the state legislature may provide."⁵

The Wyoming Constitution similarly does not refer to the trust lands being held in trust; however, the permanent fund is expressly labeled as a trust:

All funds belonging to the state for public school purposes, the interest and income of which only are to be used, shall be deemed trust funds in the care of the state, which shall keep them for the exclusive benefit of the public schools.⁶

3. Wyoming's Trust Responsibility

As discussed in section IV(A), the Wyoming Supreme Court has since interpreted Wyoming's Admission Act as not imposing a federal trust responsibility on the state. Similarly, the Wyoming Supreme Court has found that under the Constitution, the permanent fund is held in trust, but the lands themselves are not. Rather, these lands are held in trust pursuant to Wyoming statutes – which gives the legislature broad authority to establish the rules for the disposition of trust lands in Wyoming. Because the trust obligation is not constitutionally created or federally created, the Wyoming legislature does not require a constitutional change or congressional approval to alter the trust management scheme as long as it remains within the boundaries of the minimal requirements in the Constitution and Enabling Act. Under this statutory trust responsibility, the courts have held that:

¹ WYOMING OFFICE OF STATE LANDS AND INVESTMENTS ANNUAL REPORT, FISCAL YEAR 2004, 22 (2005)(hereafter, "2004 ANNUAL REPORT").

² Wyoming Admission Act, 26 Stat. 222 § 4 (1890).

³ *Id.* at §§ 6, 10-11.

⁴ 7 U.S.C. §§ 301 et seq.

⁵ Wyo. Admission Act, 26 Stat. 222 § 12.

⁶ WYO. CONST. Art VII § 6.

- The state can exchange trust lands⁷ and grant right-of-ways⁸ without a public auction.
- Trust management decisions (such as leasing decisions) are governed by common law trust principles in the absence of countervailing statutes.⁹
- The state may use trust lands to support established ranching businesses by granting preferences to existing grazing lessees.¹⁰

4. Governance of Trust Lands in Wyoming

Wyoming's state trust lands are managed by the Wyoming Office of State Lands and Investments (OSLI), under a Director that is appointed by the Governor with the consent of the Senate.¹¹ OSLI serves as the advisor and administrator to the Board of Land Commissioners (BLC) and the State Loan and Investment Board (formerly known as the Farm Loan Board), each is composed of the state's five top elected officials: the Governor, the Secretary of State, the State Treasurer, the State Auditor, and the Superintendent of Public Instruction.¹² The BLC is constitutionally authorized to dispose of or lease the school lands with the limitation that the lands be sold at public auction in such a manner as to "realize the largest possible benefit."¹³ The State Loan and Investment Board is charged with oversight of the investment of all state funds.¹⁴ Although many of the BLC's duties are actually performed by the Director, the BLC has the authority to override any decision made by the Director.¹⁵

OSLI is divided into four divisions: Real Estate Management and Farm Loans, Mineral Leasing and Royalty Compliance, the Forestry Division, and Administrative Services. Approximately 80 percent of the \$10 million budget of the Office of State Lands and Investments is legislatively appropriated from general funds, with the remaining \$2 million made up of federal and other state funds.¹⁶

5. Trust Land Management in Wyoming

The Wyoming legislature has directed the BLC to manage the trust lands, trust minerals, and permanent land funds under a "total asset management policy" with a focus on protecting the corpus of the trust for future generations. In a series of session laws that substantially modified Wyoming's trust management system in 1997, the legislature adopted the following "statements of principle" and directed the BLC and the Commissioner to follow these principles in managing the trust:

(i) The state land trust, consisting of trust lands, trust minerals, and permanent land funds shall be managed under a total asset management policy;

(ii) The state land trust is inter-generational. Therefore, the focus is on protecting the corpus for the long term;

(iii) Trust land should remain a substantial, integral component of the state land trust portfolio. There is no mandate to sell any trust asset to maximize revenue in the short term;

⁷ Director of the Office of State Lands & Investments, Board of Land Commissioners v. Merbanco, Inc., 70 P.3d 241 (Wyo. 2003).

⁸ Ross v. Trustees of Univ. of Wyo., 222 P. 3 (Wyo. 1924).

⁹ Riedel v. Anderson, 70 P.3d 223 (Wyo. 2003).

¹⁰ Stauffer v. Johnson, 259 P.2d 753 (Wyo. 1953).

¹¹ WYO. STAT. ANN. § 36-3-101(a).

¹² WYO. CONST. Art. XVIII § 3; WYO. STAT. ANN. § 36-2-101.

¹³ WYO. CONST. Art. XVIII § 3.

¹⁴ WYO. STAT. ANN. §§ 9-4-709 through 9-4-711.

¹⁵ *Id.* at § 36-3-102(C).

¹⁶ WYOMING OFFICE OF STATE LANDS AND INVESTMENTS ANNUAL REPORT, FISCAL YEAR 2003, 1 (2004) (hereafter, "2003 ANNUAL REPORT").

(iv) All leases of trust land shall assure a return of at least fair market value considering the management practices and risk assumed by the lessee when determining fair market value;

(v) Investment policies shall ensure that the earning power of the Permanent Land Fund is not reduced from the effect of inflation.¹⁷

The state's management activities on trust lands can be roughly divided into three categories: surface uses, subsurface uses, and trust land sales and other uses.

a. Surface Uses

Approximately 90 percent of Wyoming's trust lands are utilized for surface leases for agriculture, grazing, timber, and real estate, with lease terms ranging in length from ten years for agriculture and grazing, to seventy five years for commercial uses. However, the revenue from these uses is relatively insignificant by comparison to the revenues generated from subsurface uses. As a result, the state generally "stacks" leases, allowing both surface and subsurface leases on the same lands to the extent that these uses do not conflict.

Grazing and agricultural leases are administered on a ten-year lease program,¹⁸ and are theoretically required to result in the greatest benefit to the trust beneficiaries;¹⁹ however, preference is given to applicants who are bona fide residents of Wyoming having actual and necessary use of the land.²⁰ Preferences are also granted to applicants who are the owners or lessees of adjoining lands who offer to pay the fair market value,²¹ as well as to current lessees who are not in violation of their lease terms and can meet the highest bid.²² In addition, where there are two competing, equal offers to lease state trust land, the applicant who owns land nearest the area to be leased shall be preferred.²³

Of the 3.6 million acres of state trust land, 3.5 million are leased for agricultural or grazing purposes.²⁴ However, these uses combined generated less than 5 percent of the total trust revenue in 2003. Agricultural and grazing leases average \$9.21 per acre where there are conflicting lease applications, with the minimum lease price set at \$4.04 per acre.²⁵

Timber on state land may be sold at not less than the reasonable market value.²⁶ A non-timber lessee on state lands may cut only as much timber as necessary for the improvements of the land, or for fuel for the use of the family of the lessee.²⁷ Sales of timber for personal use (under \$250) are at fair market value.²⁸ Permit sales (over \$250, under \$5,000) are based on the most recent competitive bidding on comparable products.²⁹ Bid sales (over \$5,000) are based on the minimum bid as determined by appraisal with the sale awarded to the highest bidder.³⁰ The BLC reserves the right to reject any and all bids in the competitive bidding process.³¹

Industrial, commercial, or recreational leases are issued for up to seventy-five years, with the term established in a manner that will bring the greatest benefit to the beneficiaries.³² Industrial,

¹⁷ WYO. STAT. ANN. § 36-9-101; see also 1997 Wyo. Sess. Laws Ch. 200 § 3.

¹⁸ WYO. STAT. ANN. § 36-5-103.

¹⁹ *Id.* at § 36-5-105(a).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at § 36-5-108.

²⁴ 2003 ANNUAL REPORT, *supra* note 1037, at 5.

²⁵ *Id.*

²⁶ WYO. STAT. ANN. § 36-1-112(a).

²⁷ *Id.*

²⁸ WYO. R. & REGS. Ch. 8 § 6.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at Ch. 8 § 8.

³² WYO. STAT. ANN § 36-5-114(a)-(b).

commercial, and residential lessees are required to conform to all applicable land use planning and zoning laws and the BLC may terminate the lease for good cause.³³ Recreational leases are issued for cabin sites, public campsites, public parks and recreation areas, golf courses and any associated residential development, youth groups, and ski or winter sports areas.³⁴ Rental values are based on fair market value except for leases to Wyoming school districts, which are allowed to lease lands for \$100 per acre or less regardless of their market value.³⁵

b. Subsurface Uses

Subsurface royalties, especially oil and gas, produce the lion's share of income from trust activities, accounting for more than 91 percent of total revenues. Natural resource leases are granted separately from agricultural or grazing leases, and as long as they do not interfere with existing leases, they are often stacked with existing leases.³⁶ The BLC provides rules and regulations to prevent interference with joint uses of the land. The Director is authorized to enter into cooperative or unit plans to develop natural resources on state lands.

The primary term of an oil and gas lease is set by statute at ten years.³⁷ The BLC sets the term at five years in the Administrative Code.³⁸ The lease may be extended thereafter for as long as the wells are producing in paying quantities.³⁹ The state of Wyoming may require that all natural gas lessees dedicate all of the natural gas produced on lands owned by the state for the use or benefit of the people of the state.⁴⁰ The BLC is required to dispose of royalty in-kind oil and gas in such a manner that secures the greatest benefit to the trust beneficiaries.⁴¹ If there are two or more eligible refiners seeking to dispose of in-kind oil or gas, the BLC must also consider whether the refinery is able to produce the types of products needed in the state, and how much of that product is already sold in the state.⁴² Oil and gas resources currently earn more than 70 percent of the income generated by trust lands in Wyoming.

Other minerals (primarily coal) are also mined on trust lands. The primary term of a mineral lease is ten years.⁴³ A lessee has the exclusive right to renew for successive ten-year terms if the minerals are actually being produced and the lessee is in compliance with all lease terms.⁴⁴ Leases are offered to the first qualified applicant, although the BLC may determine if the lands should be leased through competitive bidding.⁴⁵ Acreage available for coal and mineral leasing on state trust land totaled 2.2 million acres in fiscal year 2004.⁴⁶

Wyoming also has large deposits of fossils and prehistoric ruins on state lands that are protected under Wyoming law. The BLC is authorized to issue permits for the excavation of the ruins, hieroglyphics, pictographs, archeological, or paleontological deposits.⁴⁷ Because all fossils and paleontological deposits on state lands belong to the state, the BLC must authorize their removal.⁴⁸

c. Land Sales and Other

Land sales and exchanges are permitted but have not been widely used as a method of generating trust revenue. In 2003, the state sold a total of 1321 acres for \$428,000.

³³ *Id.* at § 36-5-114(d).

³⁴ *Id.* at § 36-5-115.

³⁵ *Id.* at § 36-5-114(c).

³⁶ *Id.* at § 36-6-101(c).

³⁷ *Id.* at § 36-6-101(a).

³⁸ WYO. R. AND REGS. Ch. 18 § 8.

³⁹ WYO. STAT. ANN. § 36-6-101(a).

⁴⁰ *Id.* at § 36-6-101(g).

⁴¹ WYO. R. AND REGS. Ch 7 § 3.

⁴² *Id.* at Ch. 7 § 4.

⁴³ WYO. STAT. ANN. § 36-6-101(m).

⁴⁴ WYO. STAT. ANN. § 36-6-101(m)(i)-(iii).

⁴⁵ WYO. R. AND REGS. Ch. 19 § 5.

⁴⁶ 2004 ANNUAL REPORT, *supra* note 1022, at 11.

⁴⁷ WYO. STAT. ANN § 36-1-114.

⁴⁸ WYO. R. AND REGS. Ch. 11 § 2.

The only lands available for sale, acquisition, or exchange are those on the state’s “disposal” list, which is comprised of lands determined suitable for disposition based on market value, income generating potential, wildlife habitat, recreational opportunities, cultural resources, and management feasibility in relation to other lands.⁴⁹ The sale of state trust land requires the BLC to hold a public hearing in the county where the land for sale is located.⁵⁰ Trust lands may be subject to sale only if the BLC finds that the proceeds of the sale are protected from inflationary effects and will earn a significantly higher rate of return than can be realized through leasing.⁵¹ The BLC must also find that the sale will make the lands more manageable, meet a specific need of a school or community, better meet multiple use objectives for the beneficiaries, or realize a clear long term benefit to the trust which substantially exceeds the present and probable future benefit from continued ownership.⁵²

The sale of land must be at public auction to the highest, responsible bidder for not less than the appraised value and in no case less than \$10 per acre.⁵³ Mineral rights, either known or unknown, may be reserved together with the right of access to prospect for, mine, and remove any such minerals, or they may be sold where it is in the best interests of the trust.⁵⁴ The BLC may also exchange mineral rights on a value for value basis, with a cash equalization of up to 25 percent.⁵⁵

The state is permitted to exchange state owned lands for federal, state, and private lands without a public auction.⁵⁶ Exchanges must be in the best interest of the trust. Whenever the majority of the BLC determines that a land exchange with the federal government is in the best interest of the state, the BLC is authorized to exchange lands provided that the amount of land exchanged is equivalent and the state does not give away mineral rights unless mineral rights are obtained in the exchange.⁵⁷ Similarly, state-owned land may also be exchanged with privately owned lands.⁵⁸ The BLC may authorize the Director of the BLC to effect and complete exchanges of land.⁵⁹

The BLC may grant rights-of-way or easements across or upon state or school lands for any public conveyance.⁶⁰ Permanent or temporary rights-of-way for ditches owned by the county or for county roads may be granted at no charge.⁶¹ The easement grant may be in perpetuity or for a term of years and whenever possible and practical, for no more than thirty-five years with the option to renew.⁶² The BLC requires the minimum consideration for an easement on state land be \$250 or not less than market value if market value exceeds \$250.⁶³

Regardless, as mentioned above, land sales are not a primary source of revenue from trust activities; other surface activities and subsurface royalties average 99 percent of total revenues.

Table V(J): FY 2004 Revenues – Wyoming Office of State Lands and Investments

Source	% of Revenue	Receipts

⁴⁹ *Id.* at Ch. 26.

⁵⁰ WYO. STAT. ANN. § 36-1-117; WYO. R. AND REGS, Ch. 26 § 3.

⁵¹ WYO. STAT. ANN. § 36-9-101.

⁵² *Id.* at §§ 36-9-101(a)(i)-(iv).

⁵³ *Id.* at § 36-9-102.

⁵⁴ *Id.* at § 36-9-112; see also *Attorney General’s Opinion – Wyoming Board of Land Commissioners’ authority to sell and/or exchange a mineral estate under its jurisdiction*, Office of the Attorney General (April 14, 2004) (on file with Office of State Lands & Investments).

⁵⁵ WYO. STAT. ANN. § 36-9-112.

⁵⁶ *Director Of The Office Of State Lands & Investments, Board Of Land Commissioners V. Merbanco, Inc.*, 70 P.3d 241 (Wyo. 2003).

⁵⁷ WYO. STAT. ANN. § 36-1-105.

⁵⁸ *Id.* at § 36-1-107.

⁵⁹ *Id.* at § 36-1-110.

⁶⁰ *Id.* at § 36-9-118.

⁶¹ *Id.* at § 36-9-120.

⁶² WYO. R. AND REGS. Ch. 3 § 4(c).

⁶³ *Id.* at Ch. 3 § 6.

Surface Uses		
Timber	0.3%	\$240,942
Grazing	4.5%	\$4,180,972
Total Surface	4.8%	\$4,421,914
Subsurface Uses		
Coal	0.6%	\$564,085
Oil and gas	84.3%	\$78,343,804
Other	6.4%	\$5,944,256
Total Subsurface	91.3%	\$84,852,145
Sales and Other Uses		
Land Sales	0.6%	\$511,659
Surface Damages	1.2%	\$1,154,081
Easements, Temporary Use Permits and Special Uses	2.0%	\$1,849,134
Other	0.2%	\$198,543
Total Sales and Other	4.0%	\$3,713,417
Grand Total	100%	\$92,987,476
Agency Budget		10,006,009

Source: Wyoming Office of State Lands and Investments, FY 2004 Annual Report

6. Trust Revenue Distribution in Wyoming

There are six categories of beneficiaries that receive revenues from trust activities in Wyoming. These beneficiaries include: (1) common schools; (2) university; (3) penitentiary; (4) the state hospitals; (5) omnibus; and (6) "other". The common schools are by far the largest beneficiary of state trust lands, with over 3 million acres of the 3.6 million acres of trust land in the state.⁶⁴

Revenues from Wyoming's non-renewable natural resources such as oil, gas, and minerals are deposited into the Permanent Land Fund. This Fund is invested and only the interest of this fund is used for the support of the common schools, although the Fund may be used to guarantee bonds issued by the school district for buildings, land, and equipment necessary to operate public schools. Revenues from renewable natural resources, such as surface and mineral leases, mineral lease bonus bids, temporary use permits, and timber sales⁶⁵ are deposited into the Permanent Land Income Fund, where they are combined with interest from the Permanent Land Fund, bonuses, and interest on purchase money. The Permanent Land Income Fund is used to directly support the common schools. Revenues from state trust lands were approximately \$93 million during fiscal year 2004. Of the \$66.3 million generated by state trust lands, \$69.7 million went to the permanent fund, \$14 million went to the land income fund, \$8 million went to the School District Capital Construction Fund from state royalty collections, and \$1.3 million to the general fund.⁶⁶

Each individual county also has a school fund consisting of stocks, money, bonds, lands, and other property that may be used only for that county's free public schools.⁶⁷ Fines and penalties generated within a county likewise remain in that county's school fund.⁶⁸ Also within the county's school fund is a capital construction fund which includes 33.3 percent of oil, gas, or other mineral royalties arising from the lease of school lands.⁶⁹ However, the amount of oil, gas, coal, or other

⁶⁴ 2004 ANNUAL REPORT, *supra* note 1022.

⁶⁵ *Id.* at 23.

⁶⁶ *Id.* at 25.

⁶⁷ WYO. CONST. Art. VII § 4.

⁶⁸ *Id.* at Art. VII § 5.

⁶⁹ *Id.* at Art. VII § 2.

mineral royalties received from the lease of any school lands and deposited into the Public School Capital Construction account cannot exceed \$8 million in any one year.⁷⁰

The Wyoming Constitution places responsibility for the investment of any funds of the state in the hands of the legislature.⁷¹ The legislature has authorized the state treasurer to invest these funds in bonds issued by the United States, the state, counties, cities, or school districts of Wyoming.⁷² Fully insured certificates of deposit are also allowable investments.⁷³ The Treasurer may also invest in any security which has been approved by the state loan and investment board.⁷⁴ With written authority, the state treasurer is currently allowed to invest up to 55 percent of permanent funds in common stocks.⁷⁵ The value of the Permanent Land Income Fund was approximately \$1.129 billion in 2004,⁷⁶ which produced \$39.4 million earned in interest and trading profits.

As noted above, the BLC is also allowed to guarantee school district bonds.⁷⁷ If the district fails to repay the loan, the state makes the full payment due on the bond from the funds in the common school account and in the Permanent Land Fund.⁷⁸ The bond guarantee program was designed to allow credit worthy districts that might otherwise not be able to pursue a bond measure to do so with the increased financial security of the state fund guarantee. The result is an increase in bond ratings to AAA levels on debt issuance, reducing interest costs, and enhancing access to the credit markets.⁷⁹ At the close of fiscal year 2004, the outstanding bond principal debt was \$80,365,000.⁸⁰

Monies in the Permanent Land Income Fund that are credited to the common schools are distributed to the School Foundation Program,⁸¹ which guarantees a minimum education for every child by providing state financial assistance in inverse proportion to the tax-paying ability of the local school district.⁸² The state treasurer may utilize inter-fund loans from the common school account, to the foundation account to make statutory payments when dedicated revenues are not yet received.⁸³

The Wyoming School Foundation Program provides a guaranteed level of funding to every Wyoming public school district based on a number of factors, including in large part, the number of students enrolled in the district the previous year. Special education,⁸⁴ at-risk students,⁸⁵ transportation costs,⁸⁶ and “small school” designations⁸⁷ also factor into the funding equation. Once the district’s guaranteed funding level is established, the district’s local funding sources are evaluated. Local funding sources include: property taxes, Taylor Grazing Act Funds, railroad car company taxes, county and district levies, motor vehicle taxes, fines and forfeitures, tuition payments, forest reserve funds, and delinquent tax penalty and interest. If a district’s local revenues are lower than the guarantee, the state makes up the difference through a series of entitlement payments to the district from the School Foundation Program Fund.⁸⁸ If the district’s local revenues are in excess of the guaranteed funding level, the district must rebate to the state the excess, otherwise known as recapture.⁸⁹ These recaptured funds are then redistributed to those districts receiving entitlement

⁷⁰ WYO. STAT. ANN. § 9-4-305(b).

⁷¹ WYO. CONST. Art. VII § 6.

⁷² WYO. STAT. ANN. § 9-4-711(a)(ii).

⁷³ *Id.* at §§ 9-4-831(ix) and (x).

⁷⁴ *Id.* at § 9-4-711(a)(iv).

⁷⁵ *Id.* at § 9-4-834(a).

⁷⁶ 2004 ANNUAL REPORT, *supra* note 1022, at 4.

⁷⁷ WYO. STAT. ANN. § 9-4-711.

⁷⁸ *Id.* at § 9-4-1001(d)(iii)(A).

⁷⁹ 2004 ANNUAL REPORT, *supra* note 1022, at 17.

⁸⁰ *Id.* at 31.

⁸¹ WYO. STAT. ANN. § 21-13-301.

⁸² Washakie Co. Sch. Dist. No. One v. Herschler, 606 P.2d 310 (Wyo. 1980), *cert. denied*, 449 U.S. 824.

⁸³ WYO. STAT. ANN. § 21-13-316.

⁸⁴ *Id.* at § 21-13-321.

⁸⁵ *Id.* at § 21-13-332.

⁸⁶ *Id.* at § 21-13-320.

⁸⁷ *Id.* at § 21-13-218.

⁸⁸ *Id.* at § 21-13-311.

⁸⁹ *Id.*

payments. The funding for the School Foundation Program comes from a statewide levy, the common school land income fund, pooled interest, motor vehicle fees, and car company taxes.⁹⁰

The school district Capital Construction Assistance Account, which receives at most \$8 million per year, and is funded through the state's share of federal mineral royalties plus 1/3 of the state land mineral royalties. These funds are used for capital construction grants or loans, school building site acquisitions or development, or major renovations or repair of existing school buildings.⁹¹

7. Recent Developments and Emerging Issues in Wyoming

a. Total Asset Management Planning

Wyoming's 1997 amendments to the statutes governing the administration of trust lands created a statutory trust, and endorsed a total asset management policy that focused on the multi-generational protection of the corpus of the trust. In response to this mandate, the Wyoming Board of Land Commissioners, together with the Office of State Lands and Investments, has initiated the development of a "comprehensive trust asset management plan" that will identify the governing trust principles, trust management objectives, and core indicators for evaluating trust managers' performance.

In August of 2003, the Wyoming Office of State Lands and Investments initiated an request for proposals process for the design of a planning process that would employ a total asset management policy to determine "the best ownership pattern, use and long-term care of state trust surface lands and minerals," incorporating input from the public, interested parties, and local, county, and federal land management representatives. The contractor would also be required to develop a time-frame for agency actions and a plan for allocating responsibilities among agency staff; develop procedures for monitoring and evaluating the implementation of the planning process; make recommendations for further legislation, rulemaking, or actions at the local or federal levels that would be necessary to implement the planning process; and identify planning support technologies.

b. Voluntary Conservation Easements

Voluntary conservation easements have allowed farmers and ranchers in Wyoming to ensure continued, future use of the land for production of crops or livestock while at the same time protecting wildlife habitat and natural areas. Conservation easements may cover an entire parcel of land or just the appropriate portions of the property. The landholder receives the fair market value of the easement and if the landowner donates to a conservation easement, they may qualify for a charitable tax deduction. To qualify for the deduction, the easement must meet the following: easement must be perpetual in duration, it must be granted to a qualified organization, it must prohibit all surface mining, and it must serve at least one of the following purposes: preserve open space; preserve areas for public recreation or education; protect natural habitat; or preserve historically important lands or structures. Term easements are allowed, but do not qualify for any income or estate tax benefits.⁹²

In 2005, Wyoming became one of the last states to adopt the Uniform Conservation Easements Act.⁹³

⁹⁰ *District Funding*, Wyoming Department of Education, Finance Division, available at: <http://legisweb.state.wy.us/2004/interim/schoolfinance/Reports/WyFundingModel/Wyoming%20Funding%20Model%204.2a>.

⁹¹ 2004 ANNUAL REPORT, *supra* note 1022, at 23.

⁹² Allison Perrigo and Jon Iversen, *Conservation Easements: An Introductory Review for Wyoming*, WYOMING OPEN SPACE (December 2002).

⁹³ Enrolled Bill SF0149 (2005); to be codified at WYO. STAT. ANN. §§ 34-1-201 to 207.