
School Trust Lands Funds and Accounts

Office of School Trust Lands
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Executive summary

The Minnesota Office of School Trust Lands (OSTL) and Minnesota Department of Natural Resources (DNR) oversee holdings of 2.5 million acres of land in addition to 1 million acres of severed mineral rights to generate revenue for the Permanent School Fund (PSF). Revenue comes primarily from mineral rights leases and royalties, timber sales, and real estate transactions. Under current Minnesota state law, some of these revenues can be used to cover the costs for the administration and management of the school trust lands (STL). To enable this, the Legislature has created a number of accounts where STL revenues are deposited before they are transferred to the PSF's principal for investment. OSTL asked Management Analysis and Development (MAD) to answer the following research question: How does the state of Minnesota manage the flow of STL revenues in state accounts before the revenues are transferred to the PSF for investment, and what possible changes, if any, might be considered to increase transparency?

Key findings

MAD found that the structure of STL-related funds and accounts in the state treasury generally follows statutory language and DNR's agency structure. Yet, the system of STL-related accounts and funds is complex with revenue and expenditures tracked in multiple ways. Some of the complexity is a result of the following factors:

- There are three state funds in which STL revenues, earnings, and expenditures are tracked: the Permanent School Fund (PSF), the Natural Resources Fund (NRF), and the School Endowment Fund (SEF).
- In the state's SWIFT accounting system, there are currently five accounts within the PSF and NRF to track STL revenues as well as DNR and OSTL expenditures. These include:
 - Three suspense accounts in the PSF to track revenue from timber and real estate activities, as well as expenditures by the DNR and OSTL on mostly forest management activities.
 - The Minerals Management Account (MMA) in the NRF to track revenues and expenditures from mineral leases by the DNR on mostly mineral-related activities.
 - An SBI sweep account in the PSF where excess funds from both the suspense accounts and the MMA are deposited and which is swept monthly by the State Board of Investments (SBI).
- Money in the accounts is spent under different legislative and statutory authorizations, including direct appropriations by the Legislature, statutorily authorized transfers to the General Fund for reimbursements of direct appropriations from that fund, and a statutorily guided cost certification process.
- Timing and schedules for appropriations, transfers, certification of costs, and distribution of revenues is different for many of the accounts. For instance, the SBI sweep occurs monthly, distribution of excess revenues from the MMA to the PSF occurs quarterly but is based on a lookback to the previous biennium, and the cost certification process for forest management expenses occurs annually.
- Expenditures from STL revenue—or transfers to other accounts to allow for expenditures—occur in the Forest Suspense Account (FSA) and the MMA.
- On the forest management side, expenditures are based on the DNR's allowable costs for management of trust forest land, based on the cost certification process; on the minerals side, expenditures are based on a direct appropriation by the Legislature.

- Additional one-time and ongoing direct appropriations by the Legislature from the General Fund, the FSA, and the MMA to the DNR and OSTL allow for further expenditures of STL revenues on STL-related activities.

In addition, the complex nature of the STL-related accounts and funds means that different staff within the DNR have expertise and knowledge about the different subsets of funds and accounts. There is currently no state staff position uniquely dedicated to understanding and overseeing STL-related funds and accounts. DNR's Office of Management and Budget Services (OMBS) staff oversee activities in all STL-related funds and accounts but their responsibility is for all DNR fiscal activity, not just for school trust lands. Following MAD interviews with DNR, however, OMBS staff developed a comprehensive view of the STL funds and accounts structure.

One potential concern is that under the current funds and accounts structure, mineral lease revenues from three beneficiaries (school trust lands, university trust lands, and tax-forfeited lands) are commingled in one account (the MMA) from which the legislature directly appropriates money to the DNR for minerals management expenditures on all land types. This commingling of revenues has the potential for under and overpayments of management costs by one land type over time, as shown on page 22, and consequently raises the question of fiduciary responsibility to the trust.

Finally, MAD looked into the funds and accounts structures of a few selected states with trust lands to show a range of possibilities to track trust land revenues and expenditures. MAD found important differences between states such as number of beneficiaries, agencies in charge of land management, state court rulings, asset bases, and revenue levels. As a result, examples from other states might not all be applicable to Minnesota and lessons should be evaluated within the context of Minnesota's existing state law, agency structure, and the state's accounting system.

MAD recommendations

Based on its research, MAD developed the following recommendations for the structure of funds and accounts used to track revenues from and expenditures for Minnesota's school trust lands.

Funds and accounts structure

MAD identified no major concerns with the current funds and accounts structure in terms of DNR's implementation of the statutory requirements. In other words, DNR is following state statutes.¹ Depending on the OSTL and DNR's priorities, the following recommendations should be considered in the context of larger opportunities for costs and revenues to the trust. MAD also believes large changes to the fund and account structure cannot (and should not) be considered separate from decisions on how to calculate land management costs.² Important considerations include the unpredictable nature of mineral revenues, relatively low timber

¹ Within the context of trusts, the commingling of funds within the Minerals Management Account (MMA) raises fiduciary concerns, a topic beyond the scope of this study (see recommendation #4 for more discussion on the MMA). In the case of DNR and school trust land revenues, the agency is following state statute.

² See MAD's separate September 2018 report on "Costs for School Trust Land Management: Current Approaches, Issues, and Potential Alternatives," available from OSTL.

sales revenue compared to forest management costs, and constraints imposed by SWIFT in terms of how accounts and funds can be set up in the system.

MAD recommends OSTL and the DNR consider the following ideas for increasing transparency and efficiency, all of which would require statutory changes:

1. **The DNR and the OSTL should explore the feasibility of creating a separate account for minerals revenue from school trust lands.** Under the current funds and accounts structure, minerals revenues from all types of land are deposited into one account (the MMA). In other words, revenues are commingled. Exploring the possibility of a separate account would require consideration of how to maintain a \$3 million in reserve balance, how minerals management costs are currently estimated and charged to the MMA, and the current direct appropriation language from the legislature. This recommendation would also impact the university trust lands and tax-forfeited lands; as such, MAD recommends the DNR and OSTL include trustees of those lands into their discussion of this recommendation, when appropriate. (See more on page 21).
2. **Consider the current 20/80 percent formula applied to mineral revenue in order to determine the portions of revenue deposited into the MMA and PSF.** MAD found that in years with high mineral revenue, large amounts of revenue are first deposited into the MMA at levels that far exceed what is needed to cover mineral management costs. The excess amounts are later transferred to the PSF for investment. The current formula for deposits to MMA could be changed from 20 percent to instead allow “up to twenty percent.” This would move revenues more quickly into investments and reduce the complexity of the transfers, when appropriate. The MMB commissioner could set the percentage at the beginning of the fiscal year based on projected revenue as provided by the DNR.³
3. **The DNR should do regular calculations (for instance, every four years) to assess the assumption underlying the distribution calculation for the MMA.**⁴ Right now, MMA funds are distributed to the school trust and other beneficiaries based on shares of revenue from the previous biennium, which can skew the distribution away from or toward one beneficiary or another over time. If a beneficiary gained (or lost) a substantial amount due to large changes in proportions and total mineral revenue from one year to the next, potential adjustments could be made in the following year to address this problem. Adjustments could be made, for instance, if gains or losses are over a certain amount. (See more on page 21).
4. **On the forestry side, consider updating Minnesota Statutes so that they better reflect the funds and accounts structure in SWIFT.** The DNR’s accounting practices have evolved in response to constraints of SWIFT and agency structure but as a result, the accounts and fund structure in SWIFT is not a one-to-one reflection of current state law (see the flow charts on pages 16 and 19.). This is an important source of confusion. Some of this confusion could be addressed by updating statutory language to more closely reflect reality, for instance by clarifying in state statute which accounts are currently located in the PSF and how revenues are transferred into and out of these accounts.

³ DNR staff noted that minerals revenue can be difficult to forecast although the agency does develop annual forecasts. An analysis of historic minerals revenue and MMA data might be a good place to start in order to understand how best to implement this recommendation.

⁴ This recommendation is only relevant if recommendation #1 is not implemented and the MMA stays in place as is.

5. **Consider a change in statutory language in Minnesota Statutes, 16A.125, subdivision 5 (c) as follows: “After ~~presentation~~ submittal to the Legislative Permanent School Fund Commission, the commissioner of natural resources shall supply the commissioner of management and budget with the information needed for the certificate.”** Currently, the MMB commissioner cannot certify forestry costs against the forest suspense account and transfer remaining revenue to the PSF until the DNR commissioner has presented these costs to the Legislative Permanent School Fund Commission (LPSFC). Any delay in a LPSFC meeting leads to a delay in transfer of funds from the FSA to the PSF, which can lead to lost interest earnings that would otherwise be accrued in the PSF for distribution to school districts.^{5,6} This recommended statutory change would allow the transfer after *submittal* of the costs to the LPSFC.

Communication

MAD found that understanding the structure of funds and accounts in state law *and* in SWIFT requires significant time and consultation with numerous state officials across state agencies. Similarly, financial reports on STL revenues and expenditures are in different locations at different agencies. Based on these findings, MAD recommends OSTL and the DNR do the following:

6. **Increase transparency by clearly communicating the current funds and accounts structure.** This could be accomplished, for instance, by including a (simplified) flow chart of revenues and expenditures in certification reports or publishing a flow chart on the OSTL and DNR’s websites along with a timeline to show timing of transfers, costs certification, distribution calculations, and direct appropriations from STL-related funds and accounts. (See more on page 19.)
7. **Increase transparency by developing guidelines around the storage of STL-related reports on state government website and, ideally, have one place for all reports related to school trust lands.** Currently, there are at least six places where STL-related reports are stored.⁷ For instance, the DNR and OSTL store their own reports on their websites (with links to each other) while the Minnesota Legislative Reference Library has MMB’s annual Permanent School Fund report to the legislature and the Legislative Permanent School Fund Committee (as required by Minnesota Statute, section 16A.06). Moreover, posting and formatting practices among state entities are not uniform. To increase transparency, the DNR and OSTL should develop guidelines around how and where to store STL-related reports as well as the usage of consistent formatting and terminology across (links to) reports. Ideally, all fiscal and other STL-related reports are accessible in one place on OSTL’s website, including reports from the Minnesota Department of Education (MDE) that show the distribution of funds from the School Endowment Fund among school districts.⁸ This builds on OSTL’s existing efforts. (See more on page 25.)

⁵ DNR staff estimates that a delay in an LPSFC meeting in 2018 led to a loss in interest earnings of about \$17,000.

⁶ Funds in the forest suspense account also accrue interest but these interest earnings do not become part of the distribution to school districts.

⁷ MAD counts the websites of the DNR, OSTL, MMB, SBI, MDE, and legislative reference library.

⁸ Currently, MDE makes available Excel spreadsheets with this information, but this format is not very user-friendly or accessible to people with vision disabilities.

Staff

- 8. Consider the need for a finance staff position, perhaps part time or on contract, that is dedicated solely to school trust lands.** MAD recognizes the recommendations listed in this report require additional work on the part of the DNR and OSTL. Moreover, working within the complexity of the STL funds and accounts structure requires fiscal and budgetary expertise and currently, no finance staff position—or part of such a position—is dedicated solely to school trust lands. Depending on the preferences of involved parties, such a position could be located at the OSTL, DNR, or MMB.⁹ Tasks of this position could include tracking and analysis of STL revenues and expenditures, providing fiscal and budgetary information to key STL stakeholders, and supporting the implementation of selected MAD recommendations. This recommendation is in harmony with findings from earlier reports, such as the 1998 Office of the Legislative Auditor’s report on school trust lands, which recommended additional staff with financial expertise be dedicated to school trust lands.¹⁰ MAD believes this is still a valid recommendation.

⁹ The Legislative Permanent School Fund Commission might also benefit from additional support from fiscal staff.

¹⁰ Specifically, the OLA report recommended this position be located at MMB and funded by the PSF. The position’s primary duty would be to staff the Permanent School Fund Advisory Committee (now named the Legislative Permanent School Fund Commission).

Introduction and background

The Minnesota Office of School Trust Lands (OSTL) oversees holdings of 2.5 million acres of land in addition to 1 million acres of severed mineral rights to generate revenue for the Permanent School Fund (PSF). Revenue comes primarily from timber sales, mineral rights leases, and real estate transactions, but also includes revenue from other land management activities, such as campground fees and land crossing licensing fees.

Under current Minnesota state law, some of these revenues can be used to cover the costs for the administration and management of the School Trust Lands (STL). To enable this, the Legislature has created a number of accounts where STL revenues are deposited before they are transferred to the PSF's principal for investment. Both the legal and accounting frameworks to track STL revenues and expenditures are complex and difficult to understand, due to the various revenue streams, legal restrictions on which revenues can be used to cover management costs, and different approaches to reimbursing land management costs.

Research question

The Minnesota Office of School Trust Lands (OSTL) asked Management Analysis and Development (MAD) to answer the following research question: How does the state of Minnesota manage the flow of STL revenues in state accounts before the revenues are transferred to the Permanent School Fund for investment, and what possible changes, if any, might be considered to increase transparency?¹¹ MAD took a three-pronged approach in answering this overarching question:

1. Research on the legal and accounting framework for how the state of Minnesota manages the flow of STL revenues and expenditures.
2. Identification of notable approaches and practices that other select states use in order to account for trust land revenues and flows, and share these as potentially useful background information for the Minnesota Department of Natural Resources (DNR) and OSTL, in keeping with fiduciary duties annual accounting and transparency.
3. Based on research findings from items one and two, identification of notable areas of complexity or concern and, where appropriate, recommended strategies to address these.

Methods and data sources

MAD used the following methods and consulted the following data sources to answer the research question:

- Review of relevant sections of the Minnesota Constitution and 2017 Minnesota Statutes.
- Interviews with DNR officials.

¹¹ At the same time, OSTL asked MAD to research how the DNR assigns and recovers costs for managing school trust land assets and examine what might be missed in that process. Information on that topic is included in a separate June 2018 report on "Costs for School Trust Land Management: Current Approaches, Issues, and Potential Alternatives," available from OSTL.

- Consultation with state officials at Minnesota Management and Budget (MMB) and the State Board of Investments (SBI).
- Review of DNR materials, such as forest cost certification reports, biennial and historical reports of STL revenues, and fund statements.
- Reference research, including reports from policy institutes and news articles on court cases in other states.
- Review of other states' websites and financial statements, and interviews with officials in other states, including Arizona, Colorado, Idaho, New Mexico, and Utah.

MAD recommendations

Based on its research, MAD developed the following recommendations for the structure of funds and accounts used to track revenues from and expenditures for Minnesota's school trust lands.

Funds and accounts structure

MAD identified no major concerns with the current funds and accounts structure in terms of DNR's implementation of the statutory requirements. In other words, DNR is following state statutes.¹² Depending on the OSTL and DNR's priorities, the following recommendations should be considered in the context of larger opportunities for costs and revenues to the trust. MAD also believes large changes to the fund and account structure cannot (and should not) be considered separate from decisions on how to calculate land management costs.¹³ Important considerations include the unpredictable nature of mineral revenues, relatively low timber sales revenue compared to forest management costs, and constraints imposed by SWIFT in terms of how accounts and funds can be set up in the system.

MAD recommends OSTL and the DNR consider the following ideas for increasing transparency and efficiency, all of which would require statutory changes:

1. **The DNR and the OSTL should explore the feasibility of creating a separate account for minerals revenue from school trust lands.** Under the current funds and accounts structure, minerals revenues from all types of land are deposited into one account (the MMA). In other words, revenues are commingled. Exploring the possibility of a separate account would require consideration of how to maintain a \$3 million in reserve balance, how minerals management costs are currently estimated and charged to the MMA, and the current direct appropriation language from the legislature. This recommendation would also impact the university trust lands and tax-forfeited lands; as such, MAD

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recommends the DNR and OSTL include trustees of those lands into their discussion of this recommendation, when appropriate. (See more on page 21).

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3. **The DNR should do regular calculations (for instance, every four years) to assess the assumption underlying the distribution calculation for the MMA.**¹⁵ Right now, MMA funds are distributed to the school trust and other beneficiaries based on shares of revenue from the previous biennium, which can skew the distribution away from or toward one beneficiary or another over time. If a beneficiary gained (or lost) a substantial amount due to large changes in proportions and total mineral revenue from one year to the next, potential adjustments could be made in the following year to address this problem. Adjustments could be made, for instance, if gains or losses are over a certain amount. (See more on page 21).
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8. **Consider the need for a finance staff position, perhaps part time or on contract, that is dedicated solely to school trust lands.** MAD recognizes the recommendations listed in this report require additional work on the part of the DNR and OSTL. Moreover, working within the complexity of the STL funds and accounts structure requires fiscal and budgetary expertise and currently, no finance staff position—or part of such a position—is dedicated solely to school trust lands. Depending on the

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¹⁷ Funds in the forest suspense account also accrue interest but these interest earnings do not become part of the distribution to school districts.

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preferences of involved parties, such a position could be located at the OSTL, DNR, or MMB.²⁰ Tasks of this position could include tracking and analysis of STL revenues and expenditures, providing fiscal and budgetary information to key STL stakeholders, and supporting the implementation of selected MAD recommendations. This recommendation is in harmony with findings from earlier reports, such as the 1998 Office of the Legislative Auditor’s report on school trust lands, which recommended additional staff with financial expertise be dedicated to school trust lands.²¹ MAD believes this is still a valid recommendation.

School trust lands funds and accounts

This section reviews how school trust lands (STL) funds and accounts are set up in Minnesota state law and the state’s accounting system and identifies differences between these legal and accounting frameworks. MAD found that both frameworks are complex and not easy to navigate. This section will address some of the reasons for this complexity and identify potential areas for further clarification.

Minnesota state law

The Minnesota Constitution and Minnesota Statutes together create a framework of funds and accounts to track STL revenues and expenditures.

Minnesota Constitution

Article 11, section 8 of the Minnesota Constitution establishes the Permanent School Fund (PSF) and designates that it consists of: “(a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein.”

Furthermore, it states that “[a]ll funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund” and that “[t]he principal of the permanent school fund shall be perpetual and inviolate forever.”

Article 11, section 11, which was added in 1914 as an amendment to the Minnesota Constitution, allows for use of revenues from forest lands to cover forest management costs through the following language: “[t]he legislature may also provide for their management on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.”²²

²⁰ The Legislative Permanent School Fund Commission might also benefit from additional support from fiscal staff.

²¹ Specifically, the OLA report recommended this position be located at MMB and funded by the PSF. The position’s primary duty would be to staff the Permanent School Fund Advisory Committee (now named the Legislative Permanent School Fund Commission).

²² See also the Office of the Legislative Auditor’s 1998 report on School Trust Lands for a further discussion of this point (<https://www.auditor.leg.state.mn.us/ped/pedrep/9805-all.pdf>).

While the Minnesota Constitution directly references the management of forest lands, it makes no mention of managing mineral rights on trust lands. As such, a 1998 Office of the Legislative Auditor’s report concluded that “[b]ased on constitutional language, revenues from the sale of school trust land and royalties and rents from mining should be deposited in the Permanent School Fund.”²³ Yet, current Minnesota Statutes allow the Department of Natural Resources (DNR) to use up to 20 percent of mineral lease revenues for minerals management expenses, subject to legislative appropriation. In contrast to some other states, Minnesota has not seen any court cases that challenge the interpretation of the constitutional language. (See page 30 for a further discussion of some of these court cases).

Appendix A provides the full constitutional language for sections relevant to STL.

Minnesota Statutes

Minnesota Statutes 2017 further define the structure of STL-related funds and accounts. In particular:

- **Section 11A.16** establishes the PSF pursuant to the Minnesota Constitution, article 11, section 8. It states the fund is to be managed by the commissioner of Management and Budget (MMB) and invested by the State Board of Investments. Investment income is to be transferred to the Department of Education.
- **Section 16A.125, subdivision 5** creates the Forest Suspense Account (FSA). Revenue from forest trust lands is to be credited to this account. It also specifies the process for certifying forest management costs against the account and defines allowable cost categories: “improvement, administration, and management of state forest trust fund lands and construction and improvement of forest roads to enhance the forest value of the lands.” It does not specify a fund in which the FSA should be created. In practice, separate FSAs have been created in the permanent school and university land trust funds.²⁴
- **Section 93.2233** determines that 20 percent of mineral revenues from state-owned lands are to be credited to the Minerals Management Account (MMA). In practice, this includes revenue from school trust lands, university trust lands, tax-forfeited lands, Consolidated Conservation lands, and any other remaining public lands.
- **Section 93.2236** creates the Minerals Management Account (MMA) in the Natural Resources Fund. It sets allowable expenditures from the account and determines that the balance over \$3 million in the account is to be distributed on a quarterly basis to the PSF, the Permanent University Fund (PUF), and taxing districts. Money in the account can only be spent by the DNR subject to legislative appropriation.
- **Section 127A.32** creates the School Endowment Fund. It consists of income from the PSF.
- **Section 127A.33** states the education commissioner shall distribute the School Endowment Fund to school districts on a semiannual basis.

Appendix B provides the full statutory language for relevant sections to school trust lands.

²³ Minnesota Office of the Legislative Auditor. 1998. “School Trust Lands: A Program Evaluation Report,” p. 13 (<https://www.auditor.leg.state.mn.us/ped/pedrep/9805-all.pdf>).

²⁴ Subdivision 5a of this section references the state forest development account. MAD learned from conversations with DNR’s OMBS staff that this account is not currently in use.

Figure 1: Flow chart of STL revenue through funds and accounts as based on state law

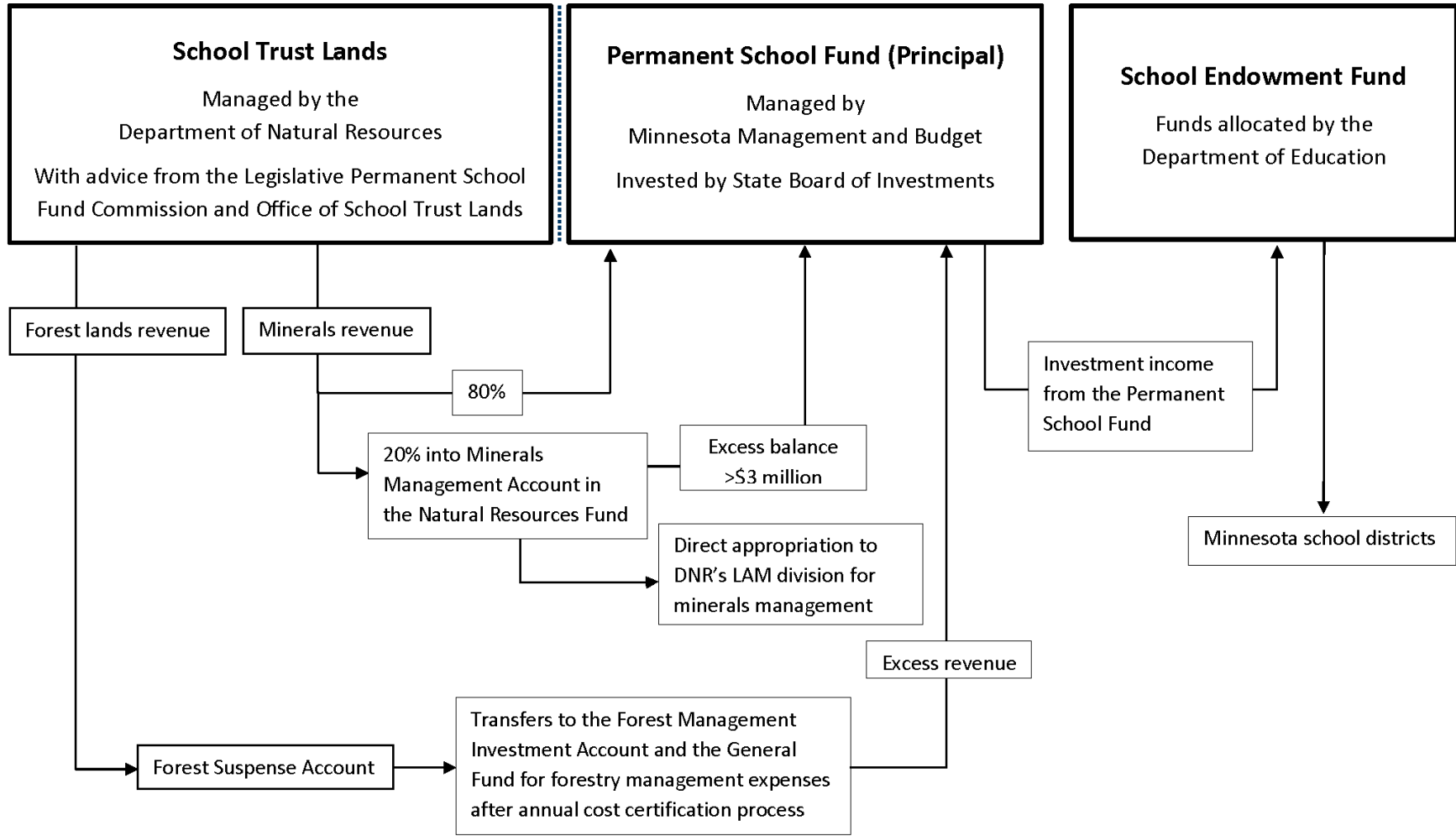


Figure 1 shows the funds and accounts framework as created in the Minnesota Constitution and Minnesota Statutes. This figure illustrates several points:

- STL revenues and earnings are tracked in three state funds: the Permanent School Fund, Natural Resources Fund, and School Endowment Fund.
- Minnesota law distinguishes between two types of STL revenues: those from forest lands and those derived from mineral leases. These two streams of revenues are treated differently in terms of how and where they are deposited and how they can be used for management expenses.
- To allow for the reimbursement of administration and management costs, the Legislature has created two accounts: the Forest Suspense Account (FSA) and Minerals Management Account (MMA).
- Six state government entities are involved in the administration and management of STL funds and accounts: the Department of Natural Resources, Legislative Permanent School Fund Commission, Office of School Trust Lands, Minnesota Management and Budget, State Board of Investments, and Department of Education.

Minnesota session law

In addition to the Minnesota Constitution and Minnesota Statutes, session law contains direct appropriations from the General Fund, the MMA, and the FSA for STL-related management activities. The most recent session laws (Laws of Minnesota 2017) contained the following appropriations.

Direction appropriations to the Department of Administration as of fiscal year 2018:

- \$300,000 per year ongoing from the FSA for the director of the Office of School Trust Lands “for securing long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.”²⁵
- \$500,000 for fiscal year 2018 from the FSA for the director of the Office of School Trust Lands “to initiate the private sale of surplus school trust lands.” (This appropriation cancels on June 30, 2019.)²⁶
- \$250,000 for fiscal year 2016 from the FSA for the director of the Office of School Trust Lands “to initiate real estate development projects on school trust lands.” (This appropriation cancels on June 30, 2019.)²⁷
- \$185,000 each year from the General Fund for the School Trust Lands director’s salary and benefits.²⁸

Direct appropriations to the DNR as of fiscal year 2018:

- \$206,000 for fiscal year 2018 and \$212,000 per year ongoing from the FSA to the Division of Lands and Minerals “to secure maximum long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.”²⁹

²⁵ Laws of Minnesota 2017, Chapter 93, Article 1, Section 9(a).

²⁶ Laws of Minnesota 2017, Chapter 93, Article 1, Section 9(b).

²⁷ The Legislature made this appropriation initially in 2016; Laws of Minnesota 2017, Chapter 93, Article 1, Section 12 extends the availability of the appropriation to the end of fiscal year 2019.

²⁸ The FSA reimburses the General Fund for this appropriation. This reimbursement happens at the same time as the transfer of certified costs for DNR’s forest management expenses to the Forest Management Investment Account. The same is true for general fund expenses made by the Legislative Permanent School Fund Commission, which currently amounts to \$5,000-10,000 per year.

²⁹ Laws of Minnesota 2017, Chapter 93, Article 1, Section 3, Subd. 2(c).

- \$200,000 per year ongoing from the MMA for environmental research relating to mining permitting.³⁰

Funds and accounts in the state accounting system

State law creates funds and accounts. These funds and accounts are then set up in SWIFT, the state's financial, procurement, and reporting system, to manage the actual revenues and expenditures.³¹ This section shows how this set-up in SWIFT has been done. In general, the SWIFT structure follows state laws, but some constraints on the system have resulted in the SWIFT account structure looking different from the structure in state law, in particular on the forestry side.

³⁰ Laws of Minnesota 2017, Chapter 93, Article 1, Section 3, Subd. 2(a).

³¹ SWIFT stands for StateWide Integrated Financial Tools.

Figure 2: Flow chart of STL revenue through funds and accounts as set up in SWIFT

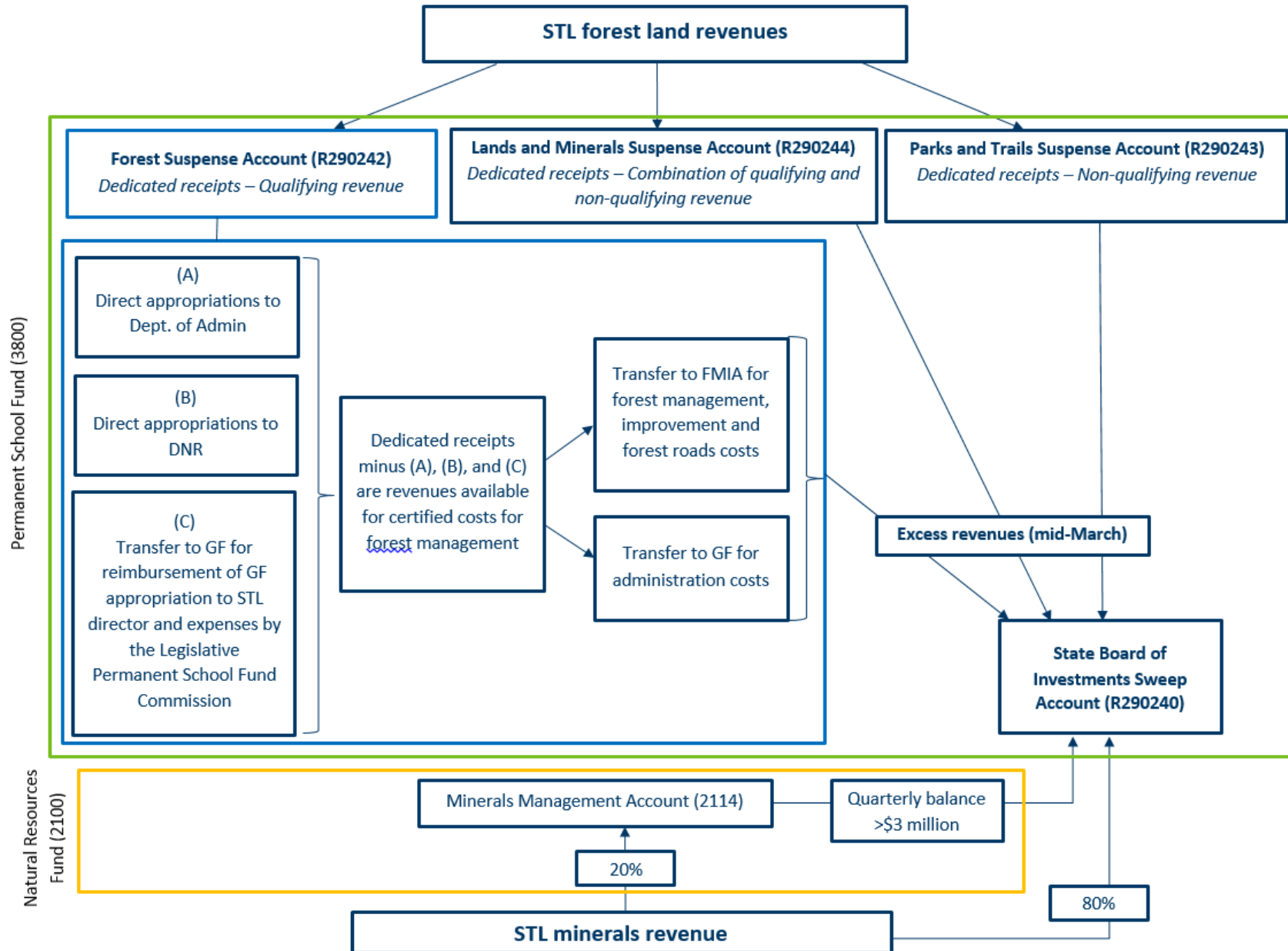


Figure 2 shows the various accounts within the PSF and Natural Resources Fund (NRF) that track revenues and expenditures related to school trust lands.³² Numbers indicate the appropriation identification or fund codes that have been assigned to these accounts or funds in SWIFT. Colors indicate funds and accounts: Green for Permanent School Fund; yellow for Natural Resources Fund, and blue for Forest Suspense Account.

Forest Suspense Account

In 1982, the Minnesota Legislature created the Forest Suspense Account (FSA) for deposit of revenue from forest trust fund lands and for management costs to be certified against.³³ Prior to that, land management costs were generally paid for by the General Fund. Minnesota Statutes, section 16A.125 states that the “account must specify the trust funds interested in the lands and the respective receipts of the lands.” This suggests that revenue from university and school trust lands are commingled, although tracked, within one the account. In practice, this is not the case; in SWIFT, separate suspense accounts are set up in the PUF and PSF. In other words, forest school trust land revenues are tracked separately from revenues from other types of lands, such as university trust lands, and are not co-mingled in the same accounts.

Within the PSF, the DNR tracks dedicated receipts from school trust lands in three suspense accounts: (1) timber sales receipts, as collected by the Forestry division, (2) receipts from miscellaneous real estate activities, such as wild rice farming leases, late fees, easements, and permits, as collected by the Lands and Minerals (LAM) division, and (3) campground fees receipts, as collected by the Parks and Trails (PAT) division. These accounts are referred to as the Forest Suspense Account (R290242), LAM Suspense Account (R290244), and PAT Suspense Account (R290243), respectively.

DNR staff shared with MAD the reason for the existence of three suspense accounts, rather than one FSA as set up in state statute. In the previous financial and reporting system, called MAPS, receipts collected by different agency divisions could be deposited into and tracked within the same account. Under the current SWIFT system, accounts are assigned an appropriation identification code that is tied to a budget activity, which sits at the division level. So it is not feasible to deposit all receipts collected by the Forestry, LAM, and PAT divisions into one account. Rather, three accounts (with separate appropriation identification codes tied to budget activities) are set up to track receipts collected by each division. In addition, this framework allows the DNR to separate revenues that can be used to cover DNR costs for STL forest land management, as allowable under the cost certification process, versus revenues that cannot be used for that purpose.

Only revenue deposited into the FSA and part of the revenue deposited in the LAM suspense account qualifies for forest management cost certification. DNR staff informed MAD that, in practice, when revenue in the first account is insufficient to cover the certified amount, the DNR uses qualifying revenue in the second suspense account to make up the difference. When qualifying revenues in both accounts are insufficient to cover the

³² DNR staff in the Office of Management and Budget Services developed a similar, more detailed flow chart, which may also be an appropriate tool for showing how STL revenues flow through the state funds and accounts.

³³ Minnesota Statutes 2017, section 16A.125, subdivision 5(b).

certified costs, the Forestry division has to cover the costs with funds from other sources. Dedicated receipts from campgrounds cannot be used for certified forest management costs.

Revenue in all three suspense accounts accrues until the DNR completes its annual cost certification process for forestry management operating expenses, typically around the end of the calendar year. Final allowable STL-related expenses are certified by MMB and charged against the revenues. After the cost certification process, excess funds in the three suspense accounts are transferred to another account in the PSF, the State Board of Investments' sweep account. Currently, this occurs in mid-March.

In SWIFT, the suspense accounts are set up as appropriations rather than fund codes within a fund class (the PSF, in this case). As such, when the Legislature appropriates money from the FSA, the DNR transfers the appropriated amount out of the FSA and sets up a separate appropriation, still within the PSF.

Minerals Management Account

The Minnesota Legislature created the Minerals Management Account (MMA) in 2005. Prior to that, minerals management expenses were generally covered by the General Fund. In SWIFT, the MMA is set up as a fund code (2114) within a fund class (2100), the Natural Resources Fund.

Twenty percent of STL revenue from mineral leases is deposited into the MMA; this is also true for revenue from the university trust lands (UTL), tax-forfeited (TF) lands, and Consolidated Conservation (Con-Con) lands. In other words, revenues from these different land types are commingled in this account. The remaining 80 percent of STL revenue from mineral leases is deposited into the SBI sweep account in the PSF, and then transferred for investment.

Distribution of excess amounts in MMA

To allow for years in which mineral lease revenue is low, the Legislature allows the first \$3 million to accrue in the account as a reserve. According to current state law:

If the balance in the minerals management account exceeds \$3,000,000 on March 31, June 30, September 30, or December 31, the amount exceeding \$3,000,000 must be distributed to the permanent school fund, the permanent university fund, and taxing districts as provided in section 93.22, subdivision 1, paragraph (c). The amount distributed to each fund must be in the same proportion as the total mineral lease revenue received in the previous biennium from school trust lands, university lands, and lands held by the state in trust for taxing districts.³⁴

In practice, this means that, on a quarterly basis, DNR staff in OMBS calculate the MMA's unencumbered, unobligated balance and any funds over \$3 million are distributed to the three beneficiaries. MAD learned that this is a fairly time-consuming process, mostly because the calculation of distribution amounts for taxing districts is complex.

³⁴ Minnesota Statutes 2017, section 93.2236. Before 2016, this calculation and distribution happened on an annual basis, rather than quarterly.

DNR staff told MAD that the reason the Legislature chose revenue data from the previous biennium for the distribution from the MMA was a practical one: with the lag, the numbers are finalized before they are used to calculate distribution shares. Since proportions of revenue by land type can vary significantly from one year to the next, this approach could advantage one beneficiary over the other, however. DNR shared that the assumption was (and still is) that over time, any over or underpayments to one of the three beneficiaries balances out, even if one beneficiary or the other benefits in the short term at any given time.

MAD tested this assumption by using historical data on revenue received from state mineral leases, fiscal years 2006-2016.³⁵ The DNR’s data includes payments into the MMA by beneficiaries as well as yearly distribution amounts over \$3 million to the three beneficiaries.

Over the existence of the account since fiscal year 2006, STL contributed a net of \$21.6 million (see Table 1). This constitutes 72.4 percent of the total contributions from all three beneficiaries. This is 3.7 percent higher than the percentage contribution from STL revenue to the MMA based on an annual 20 percent of all minerals revenue (68.7 percent). In other words, based on the lookback to the previous biennium, the net total contribution of school trust lands to the MMA has been higher than if the calculation were based on total contributions to the MMA. This amounts to about \$1.1 million over the 11-year period. The discrepancy seems to stem mostly from years when revenues have fluctuated considerably by land type. For instance, the university trust lands contributed 25 percent of MMA total contributions in fiscal years 2012-13, but only 14 percent in fiscal year 2015 and 21 percent in fiscal year 2014. School trust lands, on the other hand, contributed 66 percent of MMA total contributions in fiscal years 2012-13, 73 percent in fiscal year 2014, and 74 percent in fiscal year 2015. Because of the lookback to the previous biennium, university trust lands benefited in fiscal years 2014-15 because distributions for fiscal years 2014-15 gave university trust lands 25 percent of the total distributions even though it contributed significantly less to the MMA in those years. School trust lands, on the other hand, was disadvantaged. It is possible that future revenue patterns advantage the school trust lands over university trust lands or that school trust lands continue to be disadvantaged. Mineral revenues from the last ten years show large fluctuations and suggest a volatile market that is difficult to predict.

Table 1: MMA distribution, fiscal years 2006-2016 (in thousands)

Beneficiary	Amount into MMA (fee)	% of total fee	Distribution amount	% of total distribution	Net contribution to MMA	% of total net contribution	Difference % fee/% net contribution	Net contribution based on % fee	\$ over/underpaid
STL	\$52,201	68.7%	\$30,645	66.3%	\$21,556	72.4%	3.7%	\$20,461	\$1,095
UTL	\$19,187	25.3%	\$13,044	28.2%	\$6,144	20.6%	-4.6%	\$7,521	(\$1,376)
TFL	\$4,597	6.0%	\$2,514	5.4%	\$2,083	7.0%	0.9%	\$1,802	\$281
Total	\$75,985	100%	\$46,203	100%	\$29,783	100%	0%	\$29,783	\$0

³⁵ Minnesota Department of Natural Resources, Division of Lands and Minerals. “Revenue Received from State Mineral Leases, FY 1890-2016.” Annual report. February 2017.

<https://www.leg.state.mn.us/docs/2017/other/170570.pdf>, Accessed April 23, 2018.

MAD estimated how much STL would have over/underpaid had proportions from the previous fiscal year been used instead of the previous biennium. MAD estimates that school trust lands would have received about an additional \$500,000 in distributions from the MMA over fiscal years 2006-16 if this alternative calculation had been used. Using a five-year running average leads to about the same results as the results based on the previous fiscal year.

State Board of Investments Sweep Account

To capture STL excess revenue from the suspense accounts and the MMA, another account, the SBI sweep account (R290240), was created in SWIFT, located in the PSF. This account is not referenced in state statute but allows uncommitted STL revenues to be deposited in one place before the State Board of Investments sweeps them for investment.

Uncommitted funds (revenue) from STL-related accounts are transferred into the SBI sweep account as follows:

- Eighty percent of revenue from STL mineral leases is deposited directly into this account.
- On a quarterly basis, unencumbered, unobligated funds in excess of \$3 million in the Minerals Management Account are transferred to the permanent funds for the different trusts in proportion to the minerals revenue in the last biennium. For school trust lands, these excess funds are transferred to the SBI sweep account.
- Revenue left in the FSA after direct appropriations, transfers to the General Fund, and a transfer of certified costs to the Forest Management Investment Account is transferred to the SBI sweep account. This happens once a year and currently in mid-March.
- Revenue in the two other suspense accounts is transferred to the SBI sweep account at the same time that revenue from the FSA is transferred to the SBI sweep account (again, currently mid-March).³⁶

According to SBI documents, on the first of each month, the SBI accesses SWIFT's ledger inquiry to confirm the accumulated cash deposited in the SBI sweep account. If this amount is over \$200,000, the SIB calculates the amount over \$100,000 and e-mails the amounts with supporting documents to MMB Accounting for confirmation. If the account balance is less than \$200,000 no sweep is done. At no time will the SBI sweep the balance below \$100,000.

After MMB confirmation, funds are moved to the corpus of the PSF and invested by the state's investment board. On a semi-annual basis, the SBI certifies the investment earnings and MMB uses this certification to move these earnings to the School Endowment Fund to be distributed to school districts by the Minnesota Department of Education.

MAD learned from interviewing SBI staff that, in the past, there were two SBI sweep accounts, one for forestry and one for minerals. However, due to SWIFT's structure, only one SBI sweep account can exist now for all excess STL funds.

³⁶ This is true unless the funds in the FSA are insufficient to cover the certified costs for forest management, in which case funds in the Lands and Minerals Suspense Account are used.

Differences of fund and account structure in state law versus SWIFT

MAD identified the following differences between state law and the accounting system. These differences might raise questions if the reasons for these differences are not well understood.

- While state statute creates one Forest Suspense Account, in practice suspense accounts are created in the PSF and the Permanent University Fund to track revenues from these different land types separately. Within the PSF, three suspense accounts are created. As mentioned above, this was done to accommodate the constraints of the current financial system (SWIFT).
- The suspense accounts in the PSF are set up as appropriations, not accounts. Again, this is a result of SWIFT requirements. However, this means that when the Legislature appropriates money from the FSA, the DNR and MMB set up these direct appropriations as transfers rather than appropriations.
- MMB has created an SBI Sweep Account, which serves as a holding account before the investment board transfers the money to be invested.

Complexity

MAD found that the structure of STL-related funds and accounts in the state treasury generally follows statutory language and the DNR's agency structure. Yet, the system of STL-related accounts and funds in the state treasury is complex with revenue and expenditures tracked in multiple ways. Some of the complexity is a result of the following:

- There are three state funds in which STL revenues, earnings, and expenditures are tracked: the Permanent School Fund, the Natural Resources Fund, and the School Endowment Fund.
- In SWIFT, there are currently five accounts within the PSF and NRF to track STL revenues as well as DNR and OSTL expenditures. These include:
 - Three suspense accounts in the PSF to track revenue from timber and real estate activities and expenditures by the DNR and OSTL on mostly forest management activities.
 - The Minerals Management Account in the NRF to track revenues and expenditures from mineral leases by the DNR on mostly mineral-related activities.
 - An SBI sweep account in the PSF where excess funds from both the suspense accounts and the MMA are deposited and which is swept monthly by the State Board of Investments.
- Money in the accounts is spent under different legislative and statutory authorizations, including direct appropriations by the Legislature, statutorily authorized transfers to the General Fund for reimbursements of direct appropriations from the General Fund, and a statutorily guided cost certification process.
- Timing and schedules for appropriations, transfers, certification of costs, and distribution of revenues is different for many of the accounts. For instance, the SBI sweep occurs monthly, distribution of excess revenues from the MMA to the PSF occurs quarterly but is based on a lookback to the previous biennium, and the cost certification process for forest management expenses occurs annually.

- Expenditures from STL revenue—or transfers to other accounts to allow for expenditures—occur in the Forest Suspense Account and the MMA.
- On the forest management side, expenditures are based on the DNR’s allowable costs for management of trust land, based on the cost certification process; on the minerals side, expenditures are based on a direct appropriation by the Legislature.
- Additional one-time and ongoing direct appropriations by the Legislature from the FSA and MMA to the DNR and OSTL allow for further expenditures of STL revenues on STL-related activities.

In addition, the complex nature of the STL-related accounts and funds means that different staff within the DNR have expertise and knowledge about the different subsets of funds and accounts. There is currently no state staff position uniquely dedicated to understanding and overseeing STL-related funds and accounts. DNR’s Office of Management and Budget Services (OMBS) staff oversee activities in all STL-related funds and accounts but their responsibility is for all DNR fiscal activity, not just for school trust lands. Following MAD interviews with DNR, however, OMBS staff developed a comprehensive view of the STL funds and accounts structure.

Areas of concern

While the system of funds and accounts is complex, MAD found that this complexity can be traced to both legislative actions, agency structure, and SWIFT constraints. Still, there are some concerns and opportunities for improvement to the system.

On the forestry side, MAD identified the following concerns:

- Statutory language seems to be silent on which expenditures take precedent when timber revenues are insufficient to cover both the Legislature’s direct appropriations from the FSA and the funds needed to cover the certified costs for forest management. For instance, it is unclear whether obligated but not yet spent funds to cover direct appropriations by the Legislature could be transferred back to the FSA for a transfer to the Forest Management Investment Account (FMIA) as a way to pay for certified forestry costs. This has taken on increasing importance in the last couple of years as the legislature has appropriated larger amounts from the FSA. Current trends in timber revenues and management costs raise concerns that revenues could fall short of covering both these direct appropriations and the certified forest management costs in the future.
- Statutory language and session law also do not specify to which account any unspent funds at the end of fiscal year should cancel. It is unclear whether this should be the FSA from which the appropriations are made, or the SBI sweep account to which excess funds are generally transferred.

On the minerals side, MAD identified the following concerns:

- The look-back to the previous biennium, done to determine the distribution of excess funds in the MMA to the three beneficiaries (school trust lands, university trust lands, and tax-forfeited land), could be problematic if the current fiscal year’s proportionate contributions are vastly different from the previous biennium’s proportions. MAD’s initial finding is that fluctuations in the short-term can benefit (and have benefited) one trust over the other. Over the period the MMA will be in existence, these benefits might balance out but one beneficiary might also continue to benefit at the expense of the other beneficiaries.

- In at least six fiscal years since fiscal year 2006, the total deposited amounts in the MMA were over \$6 million—twice as much as the \$3 million cap. Currently, excess balances in the MMA are transferred to the SBI sweep account on a quarterly basis and then to the corpus of Permanent School Fund for investment. MAD learned this quarterly calculation is a time-consuming process for the DNR. Therefore, the DNR and OSTL could look for other ways to avoid large excess balances, for example by allowing the DNR and/or MMB to set the initial percentage lower than 20 percent if mineral lease revenue is projected to be high for the coming fiscal year.
- Under the current funds and accounts structure, mineral lease revenues from three beneficiaries (school trust lands, university trust lands, and tax-forfeited lands) are commingled in one account from which the legislature directly appropriates money to the DNR for minerals management expenditures on all land types. This commingling of revenues has the potential for under and overpayments by one land type over time, as shown on page 22, and consequently raises the question of fiduciary responsibility to the trust. In contrast, timber revenues are deposited into separate holding accounts first (the forest suspense accounts) before forest management costs to each beneficiary are calculated and certified against each beneficiary’s specific account; as such, forest management costs for each land type are paid using the respective beneficiary’s revenues. A change to the MMA, such as a separate account for each beneficiary, might address the current fiduciary concern. This change, however, should be considered in the context of how the DNR’s Lands and Minerals division currently estimates and charges expenditures against the MMA.³⁷ In addition, any change in the accounts structure would require consideration of how to maintain a \$3.0 million balance in reserve and how to draft the direct appropriation language from the legislature.

On the communications and staffing side, MAD identified the following concerns:

- Six state entities are involved in managing and overseeing STL funds and accounts. Within these entities, multiple staff interact with these funds and accounts, some on an almost daily basis and others quarterly and semi-annually. This results in knowledge and expertise on STL funds and accounts being dispersed among many state officials and across state agencies.³⁸
- The SBI, MMB, and DNR all produce reports and financial statements related to the revenues, expenditures, and earnings related to school trust lands. These are all located in different places and it takes effort to acquire them and reconcile them with one another.

Addressing some of these concerns would require statutory changes; other concerns could be addressed through administrative or organizational changes. MAD further discusses such possible changes in the recommendations section starting on page 11.

³⁷ For more detail on this, see MAD’s separate September 2018 report on “Costs for School Trust Land Management: Current Approaches, Issues, and Potential Alternatives,” available from OSTL.

³⁸ MAD counts two executive budget officers and team leads in MMB, about 15 DNR staff, at least one staff member at the SBI, and staff at OSTL.

Tradeoffs

Finally, MAD found that changes to the STL funds and accounts structure will likely include trade-offs between some of the following principles and questions^{39 40}:

- **Transparency:** To what extent is financial information available and how easily can it be accessed? This would also include questions around the clarity and comprehensiveness of STL-related financial information?
- **Control:** Which state agency or entity should have budgetary control over STL-related revenues and expenditures?
- **Consistency:** To what extent are consistent standards applied throughout STL financial accounting and reporting processes?
- **Efficiency:** What amount of administrative cost and time is reasonable and acceptable for implementing statutory requirements around the STL-related funds and accounts used to track revenues and expenditures?
- **Cash-flow concerns:** What are the cash-flow implications to the DNR and for school trust lands management if STL revenue fall short of what's needed to cover expenditures at any given time?

Significant changes to the structure of STL funds and accounts have the potential to affect the principles listed above. To illustrate this point, MAD offers two examples, not as recommendations to the OSTL and DNR but to illustrate the interplay of the principles themselves.

Example 1: Instead of the current funds and accounts structure, all STL revenue could be deposited into one account in the Permanent School Fund or Special Revenue Fund from which the Legislature would then directly appropriate money to the OSTL and DNR. This would arguably be a simpler approach than the current structure and increase clarity of the overall funds and account structure. It would also increase the control that the Legislature has over STL revenues and require every DNR division to go to the Legislature with its budget requests for STL-related expenditures. At the same time, the change would lead to a loss of detail—and thus transparency—in tracking revenues and expenditures because revenues from forestry and minerals might no longer be directly tied to expenditures in each of those areas. The way expenditures are tracked now, especially on the forestry side, fosters transparency.

Example 2: The Legislature could make a direct appropriation from the FSA to the Forestry division rather than using a cost certification process to set the funding level. In years with low timber sales, it is possible there will not be enough cash in the FSA to cover expenses, or at least not enough at the time expenses are incurred, thus leading to a cash-flow challenge. One way to address this concern could be to require a minimum balance in the

³⁹ This is not an exhaustive list of possible principles to apply but ones that MAD believes are relevant to OSTL's question of what possible changes, if any, might be made to the STL funds and accounts structure to increase transparency.

⁴⁰ A good resource on public sector accounting principles is the International Federation of Accountants' "2016 Handbook of International Public Sector Accounting Pronouncements" available here: <https://www.ifac.org/publications-resources/2016-handbook-international-public-sector-accounting-pronouncements>, Accessed April 30, 2018.

FSA, similar to the MMA, thereby increasing consistency in practices across funds and accounts. At the same time, a move away from cost certification would reduce transparency and potentially reduce accountability when it comes to forest management costs.

State comparison research

MAD reviewed the legal and accounting structures of other states with trust lands to learn how they have set up accounts and funds to track trust lands revenues and expenditures. MAD reviewed material provided by other states on relevant agency websites and spoke to a number of state officials.

While in principle all state trust lands serve similar purposes (generating revenues for public institutions, mostly public schools), there are important differences between states that impact the legal and accounting structure. As such, comparisons with other states should be made with caution. Some of these differences include:

- **Constitutional language differences:** State constitutions (and enabling acts) differ in the amount of detail they provide for permanent school funds, in determining which revenues are to be deposited into these funds, and in specifying whether revenue from state trust lands can be used for management expenses.
- **Number of beneficiaries:** Minnesota's state trust lands have two constitutional beneficiaries (public schools and the University of Minnesota) and one non-constitutional beneficiary (taxing districts whose tax-forfeited lands are held in trust by the state). This is relatively few compared to many other states. For instance, Colorado has eight, Utah has 12, and New Mexico has 22. This results in many more permanent funds and more revenue streams to track.
- **Agencies in charge of land management:** Most states with trust lands have a separate agency, office, or board that is in charge of managing trust lands. This allows them to set up a separate accounting system. It also means fewer state agencies are involved in the management of lands and funds, potentially leading to a less complex fund structures.
- **Court challenges:** Unlike in Minnesota, courts in some other states have weighed in on what revenues can be used for land management costs. This has affected how some states have set up their accounts and funds, or at least which revenues can be deposited into these funds.
- **Amount of revenue:** Some states' revenues from trust lands are much higher than Minnesota's, particularly when these states have oil or gas (Colorado and Utah are examples). These large and steady revenue streams allow such states to divert portions of the revenue to other funds for different purposes, such as reinvestment or capital construction.

Findings from selected states

MAD reviewed the funds and accounts structures of the following states to show a range of fund and account structure possibilities. Based on the important differences between states listed above, MAD is uncertain to what extent each of these examples would be applicable to Minnesota. Therefore, MAD advises that lessons

from other states are evaluated within the context of Minnesota's existing state law, agency structure, and the state's accounting system.

Arizona

Arizona's State Land Department manages 9.2 million acres for 13 distinct beneficiaries. The department is funded partly by general fund dollars (about two-thirds of its overall budget) and partly by revenues from trust lands (about one-third of its overall budget). Arizona has established a separate Trust Land Management Fund in which it deposits administrative fees. Originally, this fund also collected up to 10 percent of the sale of timber and lands, but this collection was challenged in court and found to be unconstitutional. The money in the fund is appropriated by the Arizona Legislature to the State Land Department for land management activities.

Colorado

Colorado's State Land Board manages 2.8 million surface acres and 4.0 million mineral estate acres. It is housed within Colorado's Department of Natural Resources. The State Land Board uses an asset management system (ATLAS) to track revenues by beneficiary (eight in total, with school trust lands producing over 95 percent of total revenue). Fifty percent of school trust land revenue is distributed to the Building Excellent Schools Today (BEST) Fund for capital grants. The remaining fifty percent is deposited into the State Land Board Trust Administration Fund. The Colorado legislature appropriates the State Land Board's annual budget from this fund. On a quarterly basis, excess revenue in the Administration Fund is distributed to the beneficiaries' trust funds based on the information collected in ATLAS. The State Land Board distributes land management expenditures among beneficiaries based on the percentage of acreage per beneficiary.

The Colorado Legislature also created an Investment and Development Fund which receives up to \$5 million in trust land revenues each year. Money in this fund is statutorily appropriated to the State Land Board to increase the value and income of trust assets.

New Mexico

New Mexico's State Land Office manages trust lands consisting of nine million acres of surface estate and 13 million acres of mineral rights. The trust lands have 22 beneficiaries, of which public schools are the largest. Oil and gas are the most important sources of revenue, accounting for 93 percent of revenue in fiscal year 2017. New Mexico has a Land Maintenance Fund in which revenues from renewable sources are deposited from all types of trust land. Examples include rentals for grazing, oil and gas bonuses, and rights-of-way easement interests. Revenues from royalties are directly deposited into the Land Grant Permanent Fund (LGPF), which is invested by the State Investment Council. Income generated by the LGPF is distributed to beneficiaries.

The New Mexico Legislature appropriates a budget for each fiscal year. Based on this amount, the State Land Office can hold back revenues to cover its expenditures. Any amount in any given month can be held back, but the office looks at projected expenditures for the month and projected revenues for the month to determine how much to hold back. Excess revenues are distributed to beneficiaries based on the land on which the revenue was generated. New Mexico state officials shared that the assumption is that, at the end of the year, "it all balances out" in terms of each beneficiary covering a part of the operating expenses in proportion to their

acres of land. The State Land Office reviews the proportion of operating expenses paid by each beneficiary to ensure this is the case. There is no legal cap on how much of the revenue can be used for operating expenses, but legislative appropriations depend on availability of funds and can go up and down depending on statewide cutbacks and decreased trust land revenues. New Mexico state officials indicated they have not received complaints from beneficiaries about the structure of funds and accounts as it is governed by state statute and New Mexico's enabling act. New Mexico's State Land Office does not receive any general fund appropriations.

Utah

The State of Utah School and Institutional Trust Lands Administration (SITLA) manages Utah's 3.4 million acres of trust land. Revenues off the land benefits 12 state institutions. From interviews with state officials, MAD learned that SITLA tracks revenue from trust lands by parcel in an accounting system that is separate from the state accounting system. Total revenues are then calculated and entered into the state system. Expenditures, on the other hand, are tracked in the state system.

SITLA officials said it is difficult to attach expenditures to specific parcels of land and land type. General operation costs of the agency are distributed among the beneficiaries based on each share of revenue; in other words, proportionally and in a similar fashion as Minnesota's MMA. Only when SITLA performs very specific investments on parcels, and the revenue is directly tied to those investments, do they use project codes to have beneficiaries directly pay for these costs. SITLA receives no general fund dollars.

Litigation and court cases

MAD found a few examples of state court cases that directly deal with the setup of accounts and funds to capture part of the revenue to cover land management costs. These court cases ruled on if, or what portion of, trust land revenues can be used for such costs under state constitutional language. Two instances, in Idaho and Arizona, show that state courts have not decided uniformly, although it is important to note that state constitutions vary in terms of the exact language that governs permanent trust land funds.

Idaho

In the 1970s and 1980s the state courts decided a number of cases between Idaho State Treasurer Marjorie Moon and various entities to determine the allowable uses of trust land revenue. Most notable for this report on Minnesota school trust lands, Moon challenged the State Board of Land Commissioners in 1986, arguing that revenues from timber and grazing permits could not be used for maintenance and management of public lands under the Idaho Constitution.⁴¹ The court rejected this challenge on the grounds that leases or rents can be distinguished from land sale proceeds and, under the constitution, could be used to cover land management costs.

⁴¹ *Moon v. State Board of Land Commissioners* (1986).

Arizona

In 2009, the Arizona Legislature established the Trust Land Management Fund to provide the State Land Department with revenue for managing trust lands. State law designates that up to 10 percent of the annual revenues from each beneficiaries' trust lands go into the fund. This provision was challenged in court by several individuals and a school district on the grounds that it was an unconstitutional diversion of trust land revenue away from the permanent fund. In response,

[t]he trial court granted the plaintiffs' motion for summary judgment, thereby enjoining the State Land Commissioner from designating any amount of state trust land proceeds for deposit into the State Trust Land Management Fund and ordering all amounts previously transferred from state trust land proceeds to the Trust Land Management Fund to be repaid to the State Treasurer for deposit into the separate permanent funds.⁴²

This ruling was upheld by the Court of Appeals. Arizona currently only deposits fees into the Trust Land Management Fund.

Other relevant findings

Dedicated funds

Some states have set up dedicated funds to capture part of the revenues from school trust lands for specific purposes. For instance, in 2008, Colorado created the Building Excellent Schools Today Fund in which school trust revenues are deposited—the greater of 50 percent of the revenues or \$40 million.⁴³ This fund provides competitive grants to school districts for capital improvements. In addition, it has an investment and development fund which was “created in 2005 to invest up to \$5 million in School Trust revenues per year back into School Trust asset in order to increase the value and/or income of these assets for the fund.”⁴⁴ Revenues into the fund come from gas and oil royalties.

New Mexico has the State Trust Lands Restoration and Remediation Fund, which provides a funding mechanism to implement land management strategies. One percent of revenue from renewable sources is deposited into

⁴² Osborn Maledon. “Arizona Court of Appeals Division One Holds That A.R.S. § 37-527 Violates Article 10, Section 7 of the Arizona Constitution By Depriving the Trust Beneficiaries of the Most Substantial Support Possible and Full Benefit of the Grant.” Blog post. February 12, 2011. <http://www.omlaw.com/azapp-blog/postings/2011/arizona-court-of-appeals-division-one-holds-that-ars-37-527-violates-article-10-section-7-of-the-arizona-constitution-by-depriving-the-trust/>. Accessed April 20, 2018.

⁴³ Colorado State Board of Land Commissioners. “Income and Inventory Report, Fiscal Year 2013-14.” <https://www.colorado.gov/pacific/sites/default/files/Colorado%20State%20Board%20of%20Land%20Commissioners%20Income%20and%20Inventory%20FY%202013-14%20FINAL.pdf> Accessed April 20, 2018.

⁴⁴ Colorado State Board of Land Commissioners. “Income and Inventory Report, Fiscal Year 2011-12.” <https://www.colorado.gov/pacific/sites/default/files/13%20AG%20Investment%20and%20Development%20Fund%20FY%202011-12%20FINAL.pdf> Accessed April 20, 2018.

this fund, and, subject to legislative appropriation, the State Land Office can spend funds “to administer contractual surface damage and watershed restoration and remediation projects on state trust lands.”⁴⁵

Use of separate financial and reporting systems

Several state land management agencies use their own financial and reporting systems. For example, Colorado’s State Land Board uses “an Automated Trust Land Accounting System (ATLAS) for the majority of financial operations, processes, and documentation. Examples of this include payment of open invoices, lease applications, inspections, and lessee records.”⁴⁶ Utah’s School and Institutional Trust Lands Administration (SITLA) uses a budgeting and accounting system, separate from the state system, for tracking of revenues. SITLA aggregates the numbers and enters them into the state system. For expenditures, SITLA uses the state system.

Other observations

Because most other states have separate land management agencies or boards for trust lands, they also have fiscal staff dedicated solely to the budgeting and tracking of trust land revenues and expenditures. This is not the case in Minnesota where DNR or MMB staff are responsible for STL fiscal policy and implementation in addition to other agency responsibilities. Similarly, some other states have extensive financial information on their websites, including revenue and expenditure flow charts.

⁴⁵ New Mexico Statutes, Chapter 19. Public Lands 19-1-11. <http://codes.findlaw.com/nm/chapter-19-public-lands/nm-st-sect-19-1-11.html> Accessed April 20, 2018.

⁴⁶ Colorado Office of the State Auditor. “Department of Natural Resources: State Land Board.” Performance Audit Report. October 2017. https://leg.colorado.gov/sites/default/files/images/1681p_state_land_board.pdf Accessed April 20, 2018.

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Appendix A: Constitutional language

Both sections are from the Minnesota Constitution.

Sec. 8. Permanent school fund; source; investment; board of investment.

The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund. Within limitations prescribed by law, the fund shall be invested to secure the maximum return consistent with the maintenance of the perpetuity of the fund. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of investments at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in a manner prescribed by law.

A board of investment consisting of the governor, the state auditor, the secretary of state, and the attorney general is constituted for the purpose of administering and directing the investment of all state funds. The board shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

[Amended, November 6, 1984; November 3, 1998]

Sec. 11. Timber lands set apart as state forests; disposition of revenue.

School and other public lands of the state better adapted for the production of timber than for agriculture may be set apart as state school forests, or other state forests as the legislature may provide. The legislature may also provide for their management on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

Appendix B: Statutory language

All sections are from Minnesota Statutes 2017.

Section 11A.16 PERMANENT SCHOOL FUND.

Subdivision 1. Establishment. Pursuant to article XI, section 8, of the Constitution of the state of Minnesota, there is hereby established a permanent school fund which shall be a continuation of the permanent school fund in existence on January 1, 1980.

Subd. 2. Assets. The permanent school fund shall consist of the proceeds derived from the school lands, the swamp lands and the internal improvement lands granted to the state and all cash and investments credited to the permanent school fund, to the swamp land fund and to the internal improvement land fund.

Subd. 3. Management. The permanent school fund shall be managed by the commissioner of management and budget.

Subd. 4. Investment. The permanent school fund shall be invested by the state board subject to the provisions of section 11A.24.

Subd. 5. Calculation of income. As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities, dividends on equity securities, and interest earned on certified monthly earnings prior to the transfer to the Department of Education. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

(b) If the sale of securities results in a net loss during a fiscal year, the net loss shall be recovered first from the gains in paragraph (a) apportioned to that fiscal year. If these gains are insufficient, any remaining net loss shall be recovered from interest and dividend income in equal installments over the following ten fiscal years.

Subd. 6. Disposition of income. Notwithstanding provisions of section 11A.12, the income of the permanent school fund as calculated pursuant to subdivision 5, shall be credited to the permanent school fund, and transferred to the school endowment fund as needed for payments made pursuant to section 127A.32.

Section 16A.125 STATE TRUST LANDS.

Subd. 5. Forest trust lands. (a) The term "state forest trust fund lands" as used in this subdivision, means public land in trust under the Constitution set apart as "forest lands under the authority of the commissioner" of natural resources as defined by section 89.001, subdivision 13.

(b) The commissioner of management and budget shall credit the revenue from the forest trust fund lands to the forest suspense account. The account must specify the trust funds interested in the lands and the respective receipts of the lands.

(c) After a fiscal year, the commissioner of management and budget shall certify the costs incurred for forestry during that year under appropriations for the improvement, administration, and management of state forest trust fund lands and construction and improvement of forest roads to enhance the forest value of the lands. The certificate must specify the trust funds interested in the lands. After presentation to the Legislative Permanent School Fund Commission, the commissioner of natural resources shall supply the commissioner of management and budget with the information needed for the certificate. The certificate shall include an analysis that compares costs certified under this section with costs incurred on other public and private lands with similar land assets.

(d) After a fiscal year, the commissioner shall distribute the receipts credited to the suspense account during that fiscal year as follows:

(1) the amount of the certified costs incurred by the state for forest management, forest improvement, and road improvement during the fiscal year shall be transferred to the forest management investment account established under section 89.039;

(2) the amount of costs incurred by the Legislative Permanent School Fund Commission under section 127A.30, and by the school trust lands director under section 127A.353, shall be transferred to the general fund;

(3) the balance of the certified costs incurred by the state during the fiscal year shall be transferred to the general fund; and

(4) the balance of the receipts shall then be returned prorated to the trust funds in proportion to their respective interests in the lands which produced the receipts.

Section 89.039 FOREST MANAGEMENT INVESTMENT ACCOUNT.

Subdivision 1. Account established; sources. The forest management investment account is created in the natural resources fund in the state treasury and money in the account may be spent only for the purposes provided in subdivision 2. The following revenue shall be deposited in the forest management investment account:

(1) timber sales receipts transferred from the consolidated conservation areas account as provided in section 84A.51, subdivision 2;

(2) timber sales receipts from forest lands as provided in section 89.035;

(3) money transferred from the forest suspense account according to section 16A.125, subdivision 5;

(4) interest accruing from investment of the account; and

(5) money transferred from other accounts according to section 89.0385.

Subd. 2. Purposes of account. Subject to appropriation by the legislature, money in the forest management investment account may be spent by the Department of Natural Resources in accordance with the forest resource management policy and plan for any of the following purposes:

- (1) reforestation and timber stand improvement, including forest pest management;
- (2) timber sales administration, contract marking of commercial thinning sales, cultural resource reviews, and other timber sales costs; and
- (3) state forest road maintenance costs that exceed appropriations under section 89.70.

Section 93.22 DISPOSITION OF PAYMENTS.

Subdivision 1. Generally. (a) All payments under sections 93.14 to 93.285 shall be made to the Department of Natural Resources and shall be credited according to this section.

(b) Twenty percent of all payments under sections 93.14 to 93.285 shall be credited to the minerals management account in the natural resources fund as costs for the administration and management of state mineral resources by the commissioner of natural resources.

(c) The remainder of the payments shall be credited as follows:

(1) if the lands or minerals and mineral rights covered by a lease are held by the state by virtue of an act of Congress, payments made under the lease shall be credited to the permanent fund of the class of land to which the leased premises belong;

(2) if a lease covers the bed of navigable waters, payments made under the lease shall be credited to the permanent school fund of the state;

(3) if the lands or minerals and mineral rights covered by a lease are held by the state in trust for the taxing districts, payments made under the lease shall be distributed annually on the first day of September to the respective counties in which the lands lie, to be apportioned among the taxing districts interested therein as follows: county, three-ninths; town or city, two-ninths; and school district, four-ninths;

(4) if the lands or mineral rights covered by a lease became the absolute property of the state under the provisions of chapter 84A, payments made under the lease shall be distributed as follows: county containing the land from which the income was derived, five-eighths; and general fund of the state, three-eighths; and

(5) except as provided under this section and except where the disposition of payments may be otherwise directed by law, payments made under a lease shall be paid into the general fund of the state.

Section 93.2236 MINERALS MANAGEMENT ACCOUNT.

(a) The minerals management account is created as an account in the natural resources fund. Interest earned on money in the account accrues to the account. Money in the account may be spent or distributed only as provided in paragraphs (b) and (c).

(b) If the balance in the minerals management account exceeds \$3,000,000 on March 31, June 30, September 30, or December 31, the amount exceeding \$3,000,000 must be distributed to the permanent school fund, the permanent university fund, and taxing districts as provided in section 93.22, subdivision 1, paragraph (c). The amount distributed to each fund must be in the same proportion as the total mineral lease revenue received in the previous biennium from school trust lands, university lands, and lands held by the state in trust for taxing districts.

(c) Subject to appropriation by the legislature, money in the minerals management account may be spent by the commissioner of natural resources for mineral resource management and projects to enhance future mineral income and promote new mineral resource opportunities.

Section 127A.32 SCHOOL ENDOWMENT FUND; DESIGNATION.

For the purpose of aid to public schools, a school endowment fund is established.

The school endowment fund shall consist of the income from the permanent school fund. The commissioner may accept for and on behalf of the permanent school fund a donation of cash, marketable securities, or other personal property. A noncash donation, other than a donation of marketable securities, must be disposed of for cash as soon as the commissioner can obtain fair market value for the donation. Marketable securities may be disposed of at the discretion of the State Board of Investment consistent with sections 11A.16 and 11A.24. A cash donation and the cash receipts from a donation disposed of for cash must be credited immediately to the permanent school fund. Earnings from marketable securities are earnings of the permanent school fund.

Section 127A.33 SCHOOL ENDOWMENT FUND; APPORTIONMENT.

The commissioner shall apportion the school endowment fund semiannually on the first Monday in March and September in each year, to districts whose schools have been in session at least nine months. The apportionment shall be in proportion to each district's adjusted average daily membership during the preceding year. The apportionment shall not be paid to a district for pupils for whom tuition is received by the district.

Appendix C: Abbreviations

Funds and accounts

FSA – Forest Suspense Account

MMA – Minerals Management Account

NRF – Natural Resources Fund

PSF – Permanent School Fund

PUF – Permanent University Fund

Agencies and divisions

DNR – Department of Natural Resources

LAM – Land and Minerals (DNR)

MAD – Management Analysis and Development

MDE – Minnesota Department of Education

MMB – Minnesota Management and Budget

OMBS – Office of Management and Budget Services (DNR)

OSTL – Office of School Trust Lands

PAT – Parks and Trails (DNR)

SBI – State Board of Investments

Land types

Con-Con lands – Consolidated Conservation lands

STL – School trust lands

TFL – Tax-forfeited lands

UTL – University trust lands