

HJ 6: STATES' INVESTMENT OF TRUST FUNDS

STATES ALLOW INVESTMENT IN STOCKS

The Revenue Interim Committee requested information on whether other states invest trust funds in stocks for the committee's House Joint Resolution 6 study of the coal severance tax trust fund.

Of the 12 states with severance or royalty trust funds, only Montana prohibits investment in stocks.

Except for the Montana coal severance tax trust fund, the other 17 trust funds in 11 states included in the analysis all allow their trust funds to be invested in stocks. The states reviewed are from a [presentation on Montana's natural resources fiscal policy](#) given by Mark Haggerty at the committee's January 2022 meeting.

FIVE STATES SPECIFY MAXIMUM STOCK INVESTMENTS

Among the states included in the analysis, five states specify a maximum percentage of the trust fund that may be invested in stocks. The percentages range from a low of 35% in Louisiana to 80% in Utah. The other three states have limits closer to Utah's than Louisiana's: Arizona, 60%; New Mexico, 65%; and Wyoming, 70%. In addition, North Dakota sets a target of 10% of investment in stocks for one of its trust funds.

MANY STATE DISTRIBUTIONS BASED ON MULTI-YEAR FUND VALUE AVERAGES

The distributions for seven of the 12 royalty trusts are based on a percentage of the average value of the trust over a number of years ranging from 2 years to 6 years. Three states – Arizona, Oregon, and Utah – set distribution percentages based on the current year value of the fund, and Colorado and Louisiana distribute a certain dollar amount.

Half of the states with severance tax trust funds distribute a percentage of the 5-year average value of the trust: New Mexico, North Dakota, and Wyoming. Colorado's trust is available for legislative appropriation, but half is reserved for loans. Montana and Utah distribute current year earnings rather than a percentage of the trust's total value.

STATE INVESTMENT OF TRUST FUNDS, 2022

State	Trust Fund	Source of Revenue	Invested in Stocks?	Distribution of Fund
Severance Trust Funds				
Colorado	Department of Natural Resources Severance Tax Trust Fund ¹	25% of revenue from severance tax on metallic minerals, molybdenum, oil and gas, oil shale, and coal	Yes – 2016 change allows investment in stocks	All funds are available for legislative appropriation. At least half is used for state water project loans that are repaid to trust fund.
Montana	Coal Severance Tax Trust Fund	50% of coal severance tax revenue	No – Article VIII, Section 13 prohibits investment in private corporate capital stock	Annual interest income is distributed to Coal Tax Bond Fund, School Facilities Fund, and Big Sky Economic Development Fund
New Mexico	Severance Tax Permanent Fund	Oil, gas, and other natural resources revenue	Yes – 65% of book value may be invested in stocks (set at 50% in 1965 and increased in 1990) ²	4.7% of 5-year average value of fund's assets ³
North Dakota	North Dakota Legacy Fund	30% of taxes on oil and gas production or extraction ⁴	Yes – Target allocation of 10% to equity investments in the state ⁵	7% of the 5-year average value of the legacy fund assets are available for appropriation ⁶
Utah	State Endowment Fund ⁷	Severance tax above 25% of first \$50 million, 50% of next \$50 million, and 75% of amount above \$100 million ⁸	Yes – Current allocation: 50% in stocks and 7.4% in Utah Public Treasurer's Investment Fund, which includes stocks	Annual interest and dividends are distributed to general fund

¹ "Severance Tax," Colorado General Assembly, available from <https://leg.colorado.gov/agencies/legislative-council-staff/severance-tax>, accessed March 28, 2022.

² Liddell and Haggerty, p. 18.

³ "Severance Tax Permanent Fund," New Mexico State Investment Council, available from: <https://www.sic.state.nm.us/investments/permanent-funds/severance-tax-permanent-fund/>, accessed March 29, 2022.

⁴ [Article X](#), Section 26, Constitution of North Dakota.

⁵ N.D. Century Code, [Section 21-10-11](#).

⁶ N.D. Century Code, [Section 21-10-13](#).

⁷ "State of Utah Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2021," p. 76.

⁸ [Article XIII, Section 5](#), Utah Constitution.

State	Trust Fund	Source of Revenue	Invested in Stocks?	Distribution of Fund
Wyoming	Permanent Wyoming Mineral Trust Fund ⁹	Mineral severance tax revenue	Yes – 70% of fund may be invested in stocks (62% in 2021)	5% of the 5-year average of the market value
Royalty Trust Funds				
Alabama	Alabama Trust Fund ¹⁰	Offshore drilling rights and royalties from resulting gas production	Yes – Same investments as trust fund for teachers' and state employees' retirement	Based on 2-year average of 1/3 of royalties plus 4.5% of 3-year average of invested assets
Alaska	Alaska Permanent Fund ¹¹	Mineral royalties, special appropriations, deposits for inflation proofing	Yes – Allowed investment list removed from state law in 2005	Set in statute and based on average market value of the fund for the first 5 of the prior 6 years: FY19-FY21, 5.25%; FY22 and later, 5%
Arizona	Permanent Land Endowment Trust Fund ¹²	Proceeds from sale or use of federal land grants	Yes – 60% of fund may be invested in stocks (1999)	Temporary increase to 6.9% of value per year from FY16 to FY25 (for school funding, operations, and maintenance), then 2.5% starting in FY26

⁹ Ibid.

¹⁰ "Investment Policy Statement for the Alabama Trust Fund, March 22," available from <https://treasury.alabama.gov/alabama-trust-fund/>, accessed March 28, 2022.

¹¹ "Mid FY21 At A Glance," available from: <https://apfc.org/at-a-glance/>, accessed March 28, 2022.

¹² "Endowment Investment Performance," available from: <https://www.aztreasury.gov/endowment-investment-performance>, accessed March 28, 2022.

State	Trust Fund	Source of Revenue	Invested in Stocks?	Distribution of Fund
Colorado	Public School Permanent Fund ¹³	Proceeds from sale or use of federal land grants	Yes – 2016 change allows investment in stocks	Set dollar amount rather than percentage, \$41 million in 2020
Louisiana	Education Quality Trust Fund ¹⁴	Proceeds of an oil and gas royalty settlement with the federal government and from the Outer Continental Shelf Lands Act	Yes – 35% of assets may be invested in stocks (1994)	When Permanent Fund reaches \$2 billion, investment income credited to the Support Fund (current market value is \$1.492 billion)
New Mexico	Land Grant Permanent Fund	Leases and royalties produced by non-renewable natural resources	Yes – 65% of book value may be invested in stocks ¹⁵	5% of the 5-year average value of the fund's assets ¹⁶
North Dakota	Common Schools Trust	Proceeds from federal land grants (agricultural leasing and oil, gas, and coal development) and 10% of oil taxes ¹⁷	Yes	10% of 5-year average value of trust assets
Oregon	Common School Fund ¹⁸	Revenue from state-owned trust lands and unclaimed property	Yes – invested in mix of assets including stocks, bonds, private equity, and real estate	3.5% annual distribution

¹³ Chelsea Liddell and Mark Haggerty, Headwaters Economics, "[State Trust Lands in Transition: State's Treatment of Permanent Funds](#)," Nov. 2019, p. 13-14.

¹⁴ John M. Schroder, Sr. State Treasurer, "[The Kevin P. Reilly, Sr. Louisiana Education Quality Trust Fund, 2020 Annual Report](#)."

¹⁵ Article XII, Section 7, [New Mexico Constitution](#).

¹⁶ "Investment Fund Structure (Distributions)" New Mexico State Investment Council, available from: <https://www.sic.state.nm.us/investments/investment-pools/investment-fund-structure-distributions/>, accessed March 29, 2022.

¹⁷ North Dakota Legislative Council, "[Common Schools Trust Fund – Related Constitutional and Statutory Provisions – Use of Funds for Early Intervention Services](#)."

¹⁸ "[Common School Fund Benefits Oregon Schools](#)," Oregon Department of State Lands.

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State	Trust Fund	Source of Revenue	Invested in Stocks?	Distribution of Fund
Texas	Permanent School Fund ¹⁹	Land sales and miscellaneous land lease income; royalty income from oil, gas, and mineral leases; and resale of natural and liquid gas	Yes – Article VII, Section 5 allows "any kind of investment"	Up to 6% of the average market value of the fund for prior 4 years but not more than the total return on investments for the prior 10 years
Texas	Permanent University Fund ²⁰	Mineral income from oil and gas royalties and income from grazing leases, easements, wind power generation, and a vineyard and winery	Yes – Article VII, Section 11b allows "any kind of investment"	Default of 4.75% of average value of funds for prior 3 years (up to 5% if returns exceed expectations), may not exceed 7%
Utah	State School Fund ²¹	Land revenues less management expenses	Yes – 80% of fund may be invested in stocks (1995)	4% of fund per year
Wyoming	Common School Permanent Land Fund ²²	Royalties, leases, fees and permits, and other revenue generated from state lands	Yes – 70% of fund may be invested in stocks (44.3% in 2021)	5% of the 5-year average of the market value

¹⁹ Texas Permanent School Fund, "[Annual Comprehensive Financial Report for the Fiscal Year Ending August 31, 2021.](#)"

²⁰ The University of Texas System, "[The Permanent University Fund and Available University Fund.](#)"

²¹ Liddell and Haggerty, p. 24.

²² Wyoming State Treasurer's Office, "[Wyoming State Treasurer Annual Report \(07/01/2020 – 06/30/2021\).](#)"

MT CONSTITUTION BANS STOCKS FOR MOST PUBLIC FUNDS

[Article VIII, Section 13](#) of the Montana Constitution prohibits investment of public funds in private corporate capital stock, with two exceptions: public retirement system assets and state compensation insurance fund assets.

Constitutional amendments in 1994 and 2000 allowed for investment of retirement funds and state compensation insurance funds, respectively, in private corporate capital stock. State compensation insurance fund stock investments are limited to 25% of the book value of the fund's total invested assets. There is no restriction on retirement system fund investment in stocks.

There are two ways to amend Montana's constitution. Both require the proposed amendment to be approved by a majority of voters. [Article XIV, Section 8](#) provides for amendment by legislative referendum, which requires 100 legislators to vote for a referendum for the amendment to be placed on the ballot. As provided in [Article XIV, Section 9](#), a constitutional amendment may also be proposed via initiative by collecting signatures from at least 10% of qualified electors in the state with at least 10% of the signatures from two-fifths (40) of the House districts.

The amendments that allow for the investment of retirement funds and state compensation insurance funds in private capital stock were both referred to electors by the Legislature.