

ARTICLES

PUBLIC PLAYGROUNDS OR PRIVATE TRUSTS? THE FUTURE OF RECREATION ON STATE TRUST LANDS

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SUMMARY

State trust lands, covering more than 40 million acres across the West, were granted to states with the primary purpose of generating revenue for public schools and other designated beneficiaries. These lands were historically managed for extractive uses such as grazing, timber harvesting, and mineral development. This Article examines how recreation—ranging from hiking and hunting to wildlife viewing and camping—fits within this fiduciary framework. It analyzes state-level policies, revenue models, and accessibility considerations, and explores the opportunities and challenges of integrating recreation into trust land management. As recreational demand grows and state economies evolve, there is a need for adaptive management strategies that balance economic returns with ecological and public benefits.

State trust lands form a significant portion of the western landscape of the United States, encompassing approximately 46 million acres primarily across nine states.¹ The U.S. Congress granted these lands to states in the late 1800s and early 1900s as part of statehood agreements, with the intention that states could use the land to generate revenue for designated beneficiaries, primarily public schools.² Over time, this responsibility evolved into a formal trust arrangement, with states serving as trustees for

those beneficiaries.³ As trustees, states manage trust lands with the dual mandate of generating long-term revenue while preserving the land's value for future generations.⁴

Historically, state trust lands have generated revenue primarily through extractive and consumptive activities such as livestock grazing, mining, oil and gas drilling, timber harvesting, and land sales.⁵ As markets for traditional uses change and public values evolve in many parts of the West, states are exploring a broader range of strategies for generating income.⁶ Recreation is one of several emerging uses being explored as a means of contributing to revenue generation, while also providing opportunities for broader public use of state trust land assets.⁷

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1. PETER W. CULP ET AL., LINCOLN INSTITUTE OF LAND POLICY, STATE TRUST LANDS IN THE WEST: FIDUCIARY DUTY IN A CHANGING LANDSCAPE 3 (2015), <https://www.lincolninstitute.org/publications/policy-focus-reports/state-trust-lands-in-west-updated-edition/>; see also Temple Stoellinger et al., *State Trust Land Revenue Diversification Through Conservation*, 2005 UTAH L. REV. 1, 8 n.50 (2025) (citing CULP ET AL., *supra*, at 15, and noting that although 23 states were granted state trust lands, many have retained only a small portion of their original allocations).

2. E.g., CENTER ON EDUCATION POLICY, PUBLIC SCHOOLS AND THE ORIGINAL FEDERAL LAND GRANT PROGRAM: A BACKGROUND PAPER FROM THE CENTER ON EDUCATION POLICY 1, <https://files.eric.ed.gov/fulltext/ED518388.pdf> (“proceeds from their sale or lease to be used to support various public institutions—most notably, public elementary and secondary schools and universities”).

3. See *id.* at 4 (noting that the Land Ordinance of 1785 and the Northwest Ordinance of 1787 “established a series of trust relationships between the federal government and the states, in which the government granted an asset (land) to be held in trust and used to support the system of schools in a state”).

4. See CULP ET AL., *supra* note 1, at 25-26.

5. JON A. SOUDER & SALLY K. FAIRFAX, STATE TRUST LANDS: HISTORY, MANAGEMENT, AND SUSTAINABLE USE 60-61 (1996).

6. CULP ET AL., *supra* note 1, at 4 (“This transformation has diminished the role of natural resource extraction in many regional economies, while elevating the importance of cultural, environmental, recreational, and location-based amenities.”).

7. *Id.*

Recreation on state trust lands—whether through hiking, biking, camping, bird-watching, hunting, or off-highway vehicle (OHV) use—illustrates the multifaceted value these landscapes offer across economic, ecological, and social dimensions.⁸ These lands provide expansive open spaces and diverse landscapes that enhance outdoor recreational opportunities.⁹ Recreational activities not only enrich public access to natural areas, but also contribute to local economies and generate revenue streams that can align with the trust’s fiduciary mandate.¹⁰

Many trust lands are also well-positioned near high-use public destinations and score highly on measures like the U.S. Department of Agriculture’s (USDA’s) amenity index, suggesting strong potential for attracting outdoor recreation and tourism.¹¹ Additionally, recreational uses often complement conservation efforts, such as habitat restoration and invasive species control, further increasing the ecological and recreational value of state trust lands.¹² Importantly, recreational use does not necessarily displace traditional revenue-generating activities, and in many cases can co-exist with or complement them.¹³

Charging for recreation leases or access on state trust lands presents a unique opportunity to amplify these benefits while addressing broader challenges facing western economies. Fees for recreational use can provide states with a sustainable source of revenue that supports trust beneficiaries and allows for diversification of land uses.¹⁴ By integrating recreation with commercial development, grazing, energy production, wildlife management, and emerging conservation opportunities, states can create a balanced framework that serves multiple values simultaneously.¹⁵ This kind of diversification helps build stable revenue portfolios for current and future trust beneficiaries, and ensures

that trust lands continue to serve the public interest in an evolving economic landscape.¹⁶

While many states allow recreation on state trust lands, most fail to fully capitalize on its economic potential.¹⁷ In some states, public access is permitted without charge, or fees—where they exist—are minimal, providing limited financial return to trust beneficiaries. Additionally, not all states pursue recreational leases, which can generate higher, more predictable revenue from activities like hunting or outfitting. By adopting well-designed fee structures and leasing programs, states can tap into the booming recreation economy and generate meaningful income with relatively low barriers for recreationists, who already invest in outdoor experiences through equipment, travel, and related expenses. Proximity to federal and other state lands with established recreation fee and leasing systems offers practical guidance for implementing balanced, effective policies that support both public access and fiduciary responsibilities.

In this Article, we examine recreational policies governing state trust lands in the western United States, with a particular focus on the nine states that retain the largest trust land holdings—Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming.¹⁸ Part I begins with a brief overview of state trust lands: their historical origins, legal mandates, and how those fiduciary responsibilities shape land management decisions today. Part II considers how outdoor recreation has emerged as a major economic force in the American West, and why this trend has significant implications for state trust land managers looking to diversify revenue while balancing access and conservation. Part III provides a typology for understanding the types of recreational uses that occur on trust lands and how they are typically managed, including casual public access, hunting and fishing, commercial recreation, and long-term recreational leasing.

Part IV takes a comparative, state-by-state look at how these policies are implemented across the West, offering examples of how different states regulate recreational use, generate revenue, and address access challenges. Part

8. See, e.g., TEMPLE STOELLINGER, PROPERTY AND ENVIRONMENT RESEARCH CENTER, *DIVERSIFYING STATE TRUST LAND REVENUE THROUGH CONSERVATION USES: INSIGHTS FROM LAW 6-8* (2024), <https://www.perc.org/wp-content/uploads/2024/10/PR-LeasingLaw-101824-Digital.pdf>.

9. *Id.*

10. See Press Release, Bureau of Economic Analysis, *Outdoor Recreation Satellite Account, U.S. and States, 2023* (Nov. 20, 2024), <https://www.bea.gov/news/2024/outdoor-recreation-satellite-account-us-and-states-2023>. The outdoor recreation industry contributed \$639.5 billion to the U.S. economy in 2023, or 2.3% of the national gross domestic product (GDP).

11. See *infra* Section V.B; see also USDA Economic Research Service, *Natural Amenities Scale*, <https://www.ers.usda.gov/data-products/natural-amenities-scale/> (last updated Jan. 6, 2025).

12. STOELLINGER, *supra* note 8, at 8.

13. See Jackson Hole Land Trust, *Munger Mountain State Land Conserved*, <https://jhlanttrust.org/news/munger-mountain-state-land-conserved> (last visited Apr. 16, 2025) (describing the approval of a 35-year recreational lease on a 640-acre state lands parcel, structured to co-exist with existing and future grazing leases, expected to generate at least \$2.6 million for Wyoming’s public schools).

14. See TRUST LANDS MANAGEMENT DIVISION, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *ANNUAL REPORT FISCAL YEAR 2022*, at 10 (2023), https://dnrc.mt.gov/_docs/Trust-Land/Planning-and-Reports/TLMD_HQT_REPORTS/20220630_TrustLands_AnnualReport_FY22_TLMD.pdf. Between 2018 and 2022, Montana generated between \$800,000 and \$1,200,000 dollars for state trust land beneficiaries from recreational fees.

15. See CULP ET AL., *supra* note 1, at 5.

16. STOELLINGER, *supra* note 8, at 8 (explaining that diversifying state trust land revenue through conservation and recreation uses can help create more resilient, long-term income strategies, and perhaps failure to adapt to changing markets and public values may risk breaching states’ fiduciary duties to trust beneficiaries).

17. See generally, e.g., DENNIS R. BECKER ET AL., UNIVERSITY OF IDAHO COLLEGE OF NATURAL RESOURCES POLICY ANALYSIS GROUP, *ISSUE BRIEF NO. 19, RECREATION ACCESS AND LEASING OF STATE ENDOWMENT LANDS 1* (2016), <https://www.uidaho.edu/-/media/uidaho-responsive/files/cnr/research/pag/issue/ib19-final-pag-20160913.pdf?la=en&rev=290ba7f56b6f48d4a1458d24d56c0d9> (reporting that among 18 states studied, most allow public recreation on trust lands, but few charge access fees or offer exclusive recreational leases, indicating limited use of recreation as a revenue-generating tool).

18. While 23 states hold state trust lands, this analysis focuses on the nine western states that have retained the largest share of their original land grants. States like California and Nevada, though geographically western, were excluded due to their relatively small trust land holdings. See CULP ET AL., *supra* note 1, at 11, 15. Alaska, though it holds more than 110 million acres of state trust land, was excluded because it is not part of the contiguous western United States and employs a distinct approach to state land management.

V focuses on perhaps the most pressing policy question: how should states think about charging for recreation on trust lands? Drawing on federal models like the Federal Lands Recreation Enhancement Act (FLREA), as well as examples from individual states, this part explores how fee structures can be designed to reflect both fiduciary obligations and the public's growing interest in outdoor access.¹⁹ Together, these parts aim to give policymakers, land managers, and stakeholders a grounded understanding of how recreation fits into the evolving landscape of state trust land management. Part VI concludes.

I. History of State Trust Lands: From Colonial Origins to Modern Management

State trust lands, granted by the federal government to newly admitted states primarily for the support of public education, represent a distinct category of public land shaped by fiduciary obligations rather than general notions of public or multiple use.²⁰ All told, the federal government granted 77.6 million acres of land to the states to support public education and other public institutions, but much of that land has since been sold or otherwise disposed of, leaving approximately 46 million acres remaining under state trust management today.²¹

Far from acts of mere generosity, these land grants were strategic investments intended to promote public education, stimulate economic development, and encourage settlement in the growing western territories.²² The historical evolution of state trust lands—including their expanding use for recreation—offers a valuable lens through which to examine the changing demands on public land systems and the legal mechanisms designed to meet them. In this context, state trust lands serve as a dynamic case study in how states navigate the tension between fiduciary duty and public demand, adapting traditional land uses to contemporary values and economic realities.

A. The Origins of State Trust Lands

State trust lands have their roots in colonial-era traditions of using land endowments as a means to finance public education.²³ After the Revolutionary War, Congress expanded this idea on a national scale to structure governance in the western territories, reflecting a growing consensus that the “public bounty” of federal lands should be used to support common schools—a view rooted in the belief that public education served both the Union and the common good.²⁴

This philosophy was formally embedded in federal land policy through the Land Ordinance of 1785, adopted under the Articles of Confederation.²⁵ The ordinance played a key role in shaping early federal policy for managing and distributing western public domain lands, establishing the Public Land Survey System—a “rectangular system” that divided land into six-mile-square townships, each further subdivided into 36 one-mile-square sections.²⁶

Significantly, the ordinance reserved section 16 of every township “for the maintenance of public schools within the said township,” institutionalizing the link between land and education.²⁷ This early policy reflected a broader vision of land as more than a tool for settlement—it was also a means of cultivating an educated citizenry.²⁸ The Northwest Ordinance of 1787 reinforced this vision by establishing a framework for territorial governance and future statehood, while affirming that “schools and the means of education shall forever be encouraged.”²⁹

The reservation of section 16 for public schools began with Ohio's admission to the Union in 1803, establishing a precedent that would evolve and expand throughout the 19th century.³⁰ As the Union admitted new states, this precedent expanded.³¹ By the mid-19th century, Congress began granting two sections per township to states like California and Oregon.³² By the late 19th century, states like Utah, Arizona, and New Mexico were granted four sections per township—typically sections 2, 16, 32, and 36—for the support of public schools, reflecting both the challenges of arid landscapes and the increasing political influence of the western territories.³³

Initially, the federal government placed minimal restrictions on how states could manage or dispose of their trust lands.³⁴ This lack of oversight led to significant variations in state approaches, with some states selling off vast tracts of land to fund immediate needs.³⁵ Early-admitted states, such as California, often sold off large portions of their grants to address immediate funding needs—California retains only about 10% of its original trust lands today.³⁶ In contrast, later-admitted states like Arizona, Montana, and Wyoming, operating under more structured legal frameworks, have retained more than 80% of their original trust land grants.³⁷

19. FLREA, 16 U.S.C. §§6801-6814 (2025).

20. Stoellinger et al., *supra* note 1, at 18.

21. *Id.* at 12.

22. See CENTER ON EDUCATION POLICY, *supra* note 2, at 3 (noting that the idea of using land to support public education dates back to colonial times, when several colonies reserved portions of land for the maintenance of public schools).

23. *Id.* at 5.

24. *Id.*

25. See, e.g., *Happy Anniversary! Land Ordinance of 1785 and the Homestead Act of 1862*, BUREAU LAND MGMT. (May 19, 2019), <https://blm-egis.maps.arcgis.com/apps/Cascade/index.html?appid=0db4f5b1d03d47d2bc68d4d81c7dc63c>.

26. *Id.*; U.S. Department of the Interior, Bureau of Land Management, *Rectangular Survey System*, <https://perma.cc/8V25-M2RX> (last visited Apr. 16, 2025).

27. *Id.*

28. CENTER ON EDUCATION POLICY, *supra* note 2, at 3.

29. An Act to Provide for the Government of the Territory Northwest of the River Ohio (The Northwest Ordinance), §14, art. 3 (1787).

30. SOUDER & FAIRFAX, *supra* note 5, at 24-25.

31. *Id.* at 17.

32. See Sally K. Fairfax et al., *The School Trust Lands: A Fresh Look at Conventional Wisdom*, 22 ENV'T L. 797, 813-14 (1992).

33. *Id.* at 814.

34. See CULP ET AL., *supra* note 1, at 9-11.

35. See Fairfax et al., *supra* note 32, at 821.

36. See CENTER ON EDUCATION POLICY, *supra* note 2, at 14.

37. CULP ET AL., *supra* note 1, at 15.

To help ensure that trust assets were not wasted or undervalued, Congress gradually incorporated more specific management prescriptions into state enabling acts—such as requirements for land appraisals, public auctions, and minimum pricing—particularly for states admitted in the late 19th and early 20th centuries.³⁸ One of the later congressional requirements was the establishment of permanent funds, into which proceeds from the sale of trust lands would be invested, to ensure that revenues from land sales and leases would generate long-term support for public schools and other beneficiaries.³⁹

When New Mexico and Arizona gained statehood in 1912, their enabling acts went further, explicitly imposing fiduciary obligations and requiring that trust lands be managed for the exclusive benefit of designated beneficiaries.⁴⁰ These developments marked a turning point in the formalization of trust principles—building on foundations already present in some state constitutions and statutes—and helped shape the legal framework reinforced through enabling acts, legislation, and judicial interpretation that defines the modern system of state trust land management.⁴¹

B. Fiduciary Duty and the Modern Trust Framework

The modern state trust land framework is shaped by a distinct legal relationship: the state serving as trustee for specific beneficiaries, primarily public schools.⁴² As the trust relationship between states and their beneficiaries matured—through enabling acts, constitutional provisions, state statutes, and judicial interpretations—so too did the obligations it imposed on state land managers.⁴³ Fiduciary responsibility lies at the heart of the trust relationship between states and their beneficiaries, shaping the distinct management approach required for state trust lands.⁴⁴

Unlike federal lands, which the U.S. government governs with multiple use mandates, states manage state trust lands with a near singular focus: to generate revenue for designated beneficiaries, primarily public schools.⁴⁵ This singular purpose requires a careful balancing act, as state

trust land managers must reconcile the need for short-term revenue generation with the preservation of trust assets for future generations.⁴⁶

The evolution of state trust land management reflects a fundamental tension between generating immediate revenue and ensuring long-term sustainability.⁴⁷ Courts and policymakers increasingly recognize that fulfilling the state's fiduciary duty requires more than maximizing short-term returns—it demands the prudent stewardship of trust assets to preserve their value for future generations.⁴⁸ Trust managers are thus obligated to seek fair market value for land uses while safeguarding the underlying resource base.⁴⁹ This dual mandate—maximize current benefits, protect the corpus—sets state trust lands apart from federal multiple use lands.⁵⁰

This perpetual trust model serves as both constraint and guide, ensuring that management decisions honor the intergenerational commitment at the core of the trust relationship.⁵¹ As economic and social conditions evolve, this framework requires trust managers to continuously reassess which land uses best fulfill their dual obligations—a process that has increasingly led them to consider nontraditional revenue sources, such as recreation, beyond the extractive industries that have historically dominated trust land management.

II. Outdoor Recreation as an Emerging Economic Driver

Historically, states have managed state trust lands for extractive and consumptive purposes, including logging, mining, oil and gas development, and livestock grazing.⁵² These activities were well-suited to the economic priorities of the 19th and early 20th centuries, when states sought immediate revenue to fund their nascent public school systems and other public services.⁵³ Grazing, in particular, became the most common use of trust lands, while mineral and energy development emerged as the most lucrative revenue sources.⁵⁴

38. See Stoellinger et al., *supra* note 1, at 12-13.

39. *Id.* at 13 (noting that after Michigan created a permanent fund to hold proceeds from trust land sales and leases, Congress began requiring other states—starting with Colorado—to do the same).

40. *E.g.*, CENTER ON EDUCATION POLICY, *supra* note 2, at 11-12 (citing PETER W. CULP ET AL., LINCOLN INSTITUTE OF LAND POLICY & SONORAN INSTITUTE, TRUST LANDS IN THE AMERICAN WEST: A LEGAL OVERVIEW AND POLICY ASSESSMENT (2005), <https://perma.cc/QVE8-UNRX>).

41. See Stoellinger et al., *supra* note 1, at 14-16 (explaining that early enabling acts did not clearly establish formal trusts, and that trust obligations in those states arose implicitly through state constitutions or statutes, while in later acts—particularly for Arizona and New Mexico—Congress expressly created trust relationships, eventually recognized and enforced by the U.S. Supreme Court).

42. *Id.* at 13.

43. *Id.*

44. See SOUDER & FAIRFAX, *supra* note 5, at 36-37.

45. See STOELLINGER, *supra* note 8, at 11 (contrasting state trust land management with federal multiple use mandates and noting that, consistent with their fiduciary duty to generate revenue, state trust lands have historically

been managed more intensively than federal lands, resulting in greater financial returns).

46. *Id.* at 10.

47. See CULP ET AL., *supra* note 1, at 30.

48. *Id.*

49. See Memorandum from Tobin Follenweider, Western States Land Commissioners Association (WSLCA) Asset Management Committee Chair, to WSLCA Members 3, 7 (Sept. 14, 2016), <https://www.statetrustland.org/uploads/1/2/0/9/120909261/wslca-principles-of-state-trust-portfolio-management.pdf> (“The trustees of endowed institutions are the guardians of the future against the claims of the present. Their task in managing the endowment is to preserve equity among generations.”).

50. See STOELLINGER, *supra* note 8, at 10.

51. *Id.*

52. Fairfax et al., *supra* note 32, at 836 (categorizing state trust land revenues into three primary sources: royalties from nonrenewable resource extraction (such as oil, gas, coal, and minerals); proceeds from the sale of granted trust lands; and income from renewable resource uses, including agriculture and grazing fees, timber harvesting, commercial and special use leases, and surface rentals or bonus payments associated with mineral leases).

53. See CULP ET AL., *supra* note 1, at 16-20.

54. *Id.* at 18-19. For example, in 2021, New Mexico had the highest returns from state trust lands, generating roughly \$1.25 billion. NEW MEXICO STATE LAND OFFICE, FY21 ANNUAL REPORT 34 (2021), <https://www.>

In recent decades, however, these traditional uses have faced challenges. Changing market conditions, environmental concerns, and evolving societal values have shifted the economic landscape.⁵⁵ Traditional resource industries—especially grazing and timber harvest—have declined in their relative importance for local economies across much of the American West since the late 20th century.⁵⁶ These trends have forced state trust land managers to seek alternative revenue sources.⁵⁷

A significant development in recent decades has been the growth of outdoor recreation as an economically important use of public lands.⁵⁸ The rise of the outdoor recreation economy, driven by activities like hiking, biking, bird-watching, OHV use, hunting, and fishing, has reshaped the economic geography of the American West.⁵⁹ In many communities, the economic impact of recreation now rivals or exceeds that of traditional extractive industries, fueling growth in service-based businesses, tourism infrastructure, and related sectors.⁶⁰ This shift is not only evident in broad national and regional trends, but also in state-level data on spending, employment, and contributions to the gross domestic product (GDP).

These developments present state trust land managers with a valuable opportunity: by expanding recreational access and opportunities on trust lands, they can not only diversify their own revenue streams through permits, leases, and access fees, but also contribute to growing their states' overall recreational economy and associated tax revenues. This part examines the economic significance of outdoor recreation in the western states, highlighting its growing importance to regional economies and changing land use patterns.

In recent decades, Americans have notably increased the amount of time and money devoted to outdoor recreation.⁶¹ The COVID-19 pandemic accelerated the growth in outdoor recreation as many indoor forms of entertainment became unavailable, but growth has been steady since at least the early 2000s when many agencies began tracking participation consistently.⁶² The share of Americans who

participate in outdoor activities increased from roughly 50% in 2007 to 57% in 2023.⁶³ Much of this growth was driven by “casual” participants with just 4 to 11 outings over the course of the year.⁶⁴ The top five outdoor activities in 2023 were cycling (17.2%), camping (17.7%), running or trail running (17.9%), fishing (18.2%), and hiking (20%).⁶⁵

Importantly, many of the most popular outdoor activities noted above most likely occur on public lands. Although comprehensive visitation data for state trust lands are typically unavailable, trends from federally managed lands offer a useful proxy for understanding broader patterns in public land use across the American West. In 2023, U.S. national parks recorded 325,498,646 recreation visits—a 15% increase since 2007 and a 21% increase since 1990.⁶⁶ Notably, 7 of the 10 most visited national parks in 2024 are located in states examined in this Article, underscoring the region's central role in the growing demand for outdoor recreation.⁶⁷

While national parks are primarily dedicated to recreation, other public lands under “multiple use” mandates—such as those managed by the U.S. Forest Service, Bureau of Land Management (BLM), and U.S. Fish and Wildlife Service (FWS)—also experienced significant increases in visitation, as managers balanced recreation with activities like timber harvesting, grazing, and mineral extraction. Visitation to these lands is also more difficult to track, as they typically lack centralized entry points like those found in national parks and instead rely on dispersed access and self-pay fee stations. Despite these limitations, the Forest Service estimates that its lands received approximately 159 million visits in 2022—an increase of 12% since 2009.⁶⁸ Approximately 45% of these visits occurred at developed day use sites, 70% took place in general forest areas, and only 8% were to designated wilderness areas.⁶⁹ Nearly 70% of all 2022 visits occurred on national forests in the western United States.⁷⁰

Given these trends, how might states expect to benefit economically from increased participation in outdoor recreation? The economic impact depends on several factors: whether increased visitation translates to proportional increases in spending, what percentage of that spending occurs in local communities, which expenditures are subject to taxation, and what direct revenue states can

nmstatelands.org/wp-content/uploads/2021/12/New-Mexico-State-Land-Office-FY21-Annual-Report.pdf. Approximately 95% of that revenue came from subsurface resources like oil and gas. *Id.* at 35.

55. See Dan S. Rickman & Hongbo Wang, *Whither the American West Economy? Natural Amenities, Mineral Resources, and Nonmetropolitan County Growth*, 65 ANNALS REG'L SCI. 673 (2020).

56. *Id.*

57. See SOUDER & FAIRFAX, *supra* note 5, at 8.

58. See MICHAEL TOLAN, HEADWATERS ECONOMICS, OUTDOOR RECREATION & ECONOMIC DIVERSIFICATION IN RESOURCE-DEPENDENT COMMUNITIES 7 (2022), https://headwaterseconomics.org/wp-content/uploads/HE_2023_Outdoor-Recreation-Economic-Diversification-Resource-Dependent-Communities.pdf.

59. *Id.*

60. See MARGARET WALLS ET AL., *National Monuments and Economic Growth in the American West*, 6 SCI. ADVANCES art. eaay8523, at 5-6 (2020).

61. MARK STROUD ET AL., THE GREAT OUTDOORS: HOUSEHOLD CONSUMPTION OF OUTDOOR RECREATION FROM 2000 TO 2022 FROM THE CEX (2023), https://www.bls.gov/cex/research_papers/pdf/2023-ws-stroud-household-consumption-of-outdoor-recreation.pdf.

62. *Id.* The article notes that the COVID-19 pandemic accelerated a shift toward outdoor recreation, as restrictions on traditional activities led households to seek alternatives in open-air settings.

63. OUTDOOR INDUSTRY ASSOCIATION, 2024 OUTDOOR PARTICIPATION TRENDS REPORT: EXECUTIVE SUMMARY 3, <https://oia.outdoorindustry.org/research/2024-outdoor-participation-trends-report-executive-summary>.

64. *Id.* at 10.

65. *Id.* at 11.

66. National Park Service, *Visitation Numbers*, <https://www.nps.gov/aboutus/visitation-numbers.htm> (last updated Mar. 5, 2025).

67. Jennifer Hardy, *New: 10 Most Visited US National Parks (Updated + Complete List) 2024*, MORE THAN JUST PARKS (Sept. 11, 2024), <https://morethanjustparks.com/most-visited-national-parks/> (noting that seven of the 10 most-visited national parks in 2024 include Grand Canyon, Zion, Yellowstone, Rocky Mountain, Yosemite, Grand Teton, and Olympic).

68. FOREST SERVICE, USDA, NATIONAL VISITOR USE MONITORING SURVEY RESULTS—NATIONAL SUMMARY REPORT 11 (2023), <https://www.fs.usda.gov/sites/default/files/2022-National-Visitor-Use-Monitoring-Summary-Report.pdf>.

69. *Id.*

70. *Id.* at 12.

collect through use fees and permits. In fact, available data suggest that consumer spending on outdoor recreation has grown more rapidly than the number of participants, indicating higher per-person expenditures.

According to the Federal Reserve Bank of St. Louis, personal consumption expenditures on recreation in the Bureau of Economic Analysis' (BEA's) Far West Region have risen approximately 75% since 1997.⁷¹ While the data capture all forms of recreation spending—including indoor activities like movies and video games—and not just outdoor recreation on public lands, the substantial increase nonetheless reflects growing consumer demand for recreational experiences overall.

To better track outdoor recreation specifically, BEA established a dedicated “satellite account” in 2012. This specialized economic measurement shows that gross economic output from “conventional” outdoor recreation activities (such as hiking, camping, and fishing) increased by 27% between 2012 and the most recent reporting period. During this same time frame, the broader recreation spending measured by the Federal Reserve increased by approximately 43%.⁷²

Recreation expenditures are clearly on the rise—but do they actually benefit local economies? On the one hand, high levels of spending could provide a much-needed boost to rural areas with limited alternative economic drivers. On the other hand, many of the big-ticket items associated with outdoor recreation—such as specialized gear—are often purchased outside the local area.⁷³ To better understand the local economic impact, BEA tracks the total value added by the outdoor recreation sector at the state level.⁷⁴

Table 1 presents this data for 2023, showing outdoor recreation's contribution to state GDP as well as changes in employment in the sector for the states in our sample.⁷⁵ While no western state relies exclusively on recreation as an economic engine, the data suggest that outdoor recreation makes a meaningful contribution to both GDP and employment across the region.

Table 1. Economic Impacts of Outdoor Recreation by State

State	Value Added as % of GDP	% Change in Employment
Arizona	2.7	3.4
Colorado	3.2	4.4
Idaho	3.3	4.5
Montana	4.6	3.8
New Mexico	2.4	2.4
Oregon	2.6	3.3
Utah	3.4	4.0
Washington	2.8	2.6
Wyoming	4.1	0.4

Source: Press Release, BEA, Outdoor Recreation Satellite Account, U.S. and States, 2023 (Nov. 20, 2024), <https://www.bea.gov/news/2024/outdoor-recreation-satellite-account-us-and-states-2023>.

Table 2. Average Spending Profiles for Forest Service Visits, 2017
(Dollars per party)

Category	Low-End	Average	High-End
Motel	29.73	53.96	81.98
Camping	6.44	7.43	8.99
Restaurant	26.02	37.63	57.05
Groceries	22.78	29.68	33.79
Gas and Oil	32.36	38.74	43.34
Other Transportation	0.68	1.45	2.15
Entry Fees	4.60	5.38	5.93
Entertainment	5.08	9.38	13.97
Sporting Goods	5.31	6.62	6.62
Souvenirs	4.30	8.62	14.68
Total	137.30	198.87	268.51

Source: ERIC M. WHITE, USDA, SPENDING PATTERNS OF OUTDOOR RECREATION VISITORS TO NATIONAL FORESTS (2017), https://www.fs.usda.gov/pnw/pubs/pnw_gtr961.pdf.

How might state and local governments benefit from this spending and economic activity? Recreation-related expenditures generate significant economic activity that can benefit state and local governments. These expenditures span a wide range—from permits and park passes to fuel, meals, and lodging for multiday trips. Avid recreationists also make substantial investments in gear (e.g., tents, hiking boots, backpacks) and supplies (e.g., sunscreen, ammunition, fishing tackle).

A 2017 Forest Service report quantified this spending using national forest survey data, with Table 2 highlighting key expenditure categories and showing average, low-end, and high-end spending per party per trip.⁷⁶ These findings illustrate both the scale and composition of recreation-

71. Federal Reserve Bank of St. Louis, *Personal Consumption Expenditures: Services: Recreation Services for Far West BEA Region*, <https://fred.stlouisfed.org/series/FWSTPCESRECSRV> (last updated Oct. 3, 2024).

72. *Id.*; see also BEA, *Outdoor Recreation*, <https://www.bea.gov/data/special-topics/outdoor-recreation> (last modified Jan. 29, 2025).

73. DANIEL J. STYNES & ERIC M. WHITE, SPENDING PROFILES OF NATIONAL FOREST VISITORS, NVUM FOUR YEAR REPORT (2005), <https://www.fs.usda.gov/recreation/programs/nvum/NVUM4YrSpending.pdf>.

74. See, e.g., Press Release, Bureau of Economic Analysis, *supra* note 10.

75. *Id.*

76. ERIC M. WHITE, USDA, SPENDING PATTERNS OF OUTDOOR RECREATION VISITORS TO NATIONAL FORESTS (2017), https://www.fs.usda.gov/pnw/pubs/pnw_gtr961.pdf.

related economic activity that flows into local economies and public budgets.

As Table 2 illustrates, spending varies widely across categories, with substantial differences between high-spending and low-spending parties. The critical question for state governments is how much of this recreational spending translates into revenue. The answer depends largely on each state's tax structure. General sales taxes capture revenue from most spending categories, while specialized taxes—such as lodging taxes and fuel surcharges—can generate significant additional income, particularly from out-of-state visitors. Notably, lodging represents a substantial portion of total trip expenditures across all spending profiles, making it an especially valuable source of potential tax revenue for states with strong tourism sectors.

This analysis demonstrates that outdoor recreation represents a growing economic force in western states, with visitors generating substantial spending across lodging, food, and transportation. The challenge for trust managers lies in developing fee structures and access systems that monetize recreational use on state trust lands for their beneficiaries. The following part examines how different states have approached this challenge through various recreational use models on trust lands.

III. Typology of Recreational Use on Western State Trust Lands

While state trust lands across the western United States generally permit outdoor recreation, the policies governing access, use, and revenue generation vary significantly. Our analysis examined recreational policies across nine western states where the majority of trust lands are located: Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. This review revealed substantial differences in authorized recreational activities, access requirements, fee structures, and revenue allocation methods. Although recreation is broadly permitted, few states have developed comprehensive systems that effectively capture its economic value for trust beneficiaries.

In this part, we offer a typology of recreational use on state trust lands, attempting to summarize the policies across all nine states under each major category of recreational use. Our classification focuses on the most common recreational activities, including hunting and fishing, motorized use, non-motorized use, and camping. This framework helps illustrate how different states approach similar activities, highlighting both common patterns and divergent strategies for managing recreation while fulfilling fiduciary responsibilities to trust beneficiaries.

A. Hunting and Fishing

All nine western states included in our analysis allow public hunting and fishing on state trust lands with a general

state-issued license.⁷⁷ While access is broadly permitted, specific requirements, restrictions, and revenue-sharing mechanisms vary across states. A standard hunting or fishing license typically grants access during designated seasons; however, some states impose additional conditions such as vehicle access permits, conservation stamps, or access fees, particularly in areas requiring infrastructure maintenance or heightened resource protection.⁷⁸

To generate more predictable income from hunting and fishing access, several states have entered into agreements with state wildlife agencies that allow these agencies to pay a negotiated fee in exchange for public hunting and fishing access to trust lands, effectively monetizing access while maintaining broad public use.⁷⁹ New Mexico exemplifies this approach, with its Department of Game and Fish paying \$1 million annually to the State Land Office for public hunting and fishing access rights.⁸⁰ Similarly, Utah's Division of Wildlife Resources contributes approximately \$776,000 per year through its agreement, supplemented by additional revenue from commercial guide and outfitter permits.⁸¹

Beyond access agreements, western states also implement various regulations governing how hunting and fishing activities occur on trust lands. These regulations typically include reasonable restrictions to protect resources and balance multiple uses, such as limitations on camping duration, restrictions on off-road vehicle use, and prohibi-

77. See, e.g., Arizona State Land Department, *Frequently Asked Questions*, <https://land.az.gov/faqs> (last visited Apr. 16, 2025); Colorado Parks and Wildlife (CPW), *State Trust Land Finder*, <https://cpw.state.co.us/placestogo/Pages/StateTrustLands.aspx> (last visited Apr. 16, 2025); IDAHO DEPARTMENT OF LANDS, POLICY 2205: MANAGING RECREATIONAL USE ON STATE ENDOWMENT LANDS VERSION 1.1, at 2 (2024), <https://www.idl.idaho.gov/wp-content/uploads/sites/2/2020/06/Managing-Recreational-Use-on-Endowment-Lands-Policy.pdf>; MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, MONTANA TRUST LANDS RECREATIONAL USE GUIDE, https://dnrc.mt.gov/_docs/Trust-Land/Recreation/RecreationalUseGuidelines.pdf; New Mexico State Land Office, *Hunting Access Information*, <https://www.nmstatelands.org/resources/hunting-access-information/> (last visited Apr. 16, 2025); Washington State Department of Natural Resources (DNR), *Where to Go, What to Do—Hunting & Fishing*, https://www.dnr.wa.gov/go/#hunting_fishing (last visited Apr. 16, 2025); Wyoming Office of State Lands and Investment, *Recreation*, <https://lands.wyo.gov/resources/recreation> (last visited Apr. 16, 2025).

78. Washington Discover Pass, *About the Pass*, <https://www.discoverpass.wa.gov/31/About-the-Pass> (last visited Apr. 16, 2025) (noting that Washington requires a Discover Pass for hunting and all forms of recreation that require a vehicle); MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77 (stating that in Montana, a conservation license is required to hunt on state trust lands, but because the conservation license is included with a standard hunting license, hunters need only purchase the latter to gain access).

79. See, e.g., CPW, *supra* note 77; New Mexico State Land Office, *supra* note 77; Utah Trust Lands Administration, *Trust Lands & You*, <https://trustlands.utah.gov/trust-lands-and-you/> (last visited Apr. 16, 2025); Press Release, Idaho Department of Fish and Game, Idaho Department of Lands Provides Guidelines for Hunters Using Endowment Lands (Oct. 2, 2020), <https://idfg.idaho.gov/press/idaho-department-lands-provides-guidelines-hunters-using-endowment-lands>.

80. State of New Mexico Commissioner of Public Lands, New Mexico State Game Commission Easement (Jan. 26, 2021), <https://www.nmstatelands.org/wp-content/uploads/2021/11/SLO-Game-Commission-Easement-2021-2025-FINAL-fully-executed.pdf>.

81. See Emily Benson, *In Utah, Public Access to State Trust Lands Comes at a Cost*, HIGH COUNTRY NEWS (Nov. 27, 2017), <https://www.hcn.org/issues/49/20/public-lands-in-utah-public-access-to-state-trust-lands-come-at-an-increasing-cost>.

tions on hunting near agricultural operations or occupied structures.⁸² While most trust lands remain accessible to licensed hunters and anglers, certain parcels may be temporarily or permanently closed due to lease conflicts, conservation concerns, or safety considerations.⁸³ Some states have taken proactive approaches to enhance recreational opportunities—for example, Colorado’s Public Access Program has expanded from 500,000 acres to approximately 975,000 acres of trust lands open for seasonal hunting and fishing.⁸⁴ Similarly, New Mexico and other states have pursued land exchanges and cooperative agreements that consolidate holdings and improve access to suitable recreational areas.⁸⁵

Some states generate additional revenue by leasing specific trust land parcels for exclusive or limited recreational use, including hunting and fishing. In Colorado, the State Land Board administers private recreational use leases, which grant individuals, families, or recreational clubs exclusive hunting and fishing privileges on designated state trust lands.⁸⁶ These leases are typically long-term (up to five years) and awarded through a competitive application process. Lessees pay an annual fee, with proceeds deposited into the permanent fund benefiting Colorado’s public schools—the state’s primary trust beneficiary.⁸⁷

In addition to leasing programs, several states generate revenue by permitting commercial hunting and fishing guides or outfitters to operate on trust lands.⁸⁸ These arrangements grant outfitters and guides legal access to high-quality hunting or angling areas, while enabling trust land managers to ensure that commercial uses align with broader land management goals and provide financial returns to beneficiaries.

In Utah, for example, outfitters and guides who receive compensation from clients are required to obtain a commercial rights-of-entry permit from the School and Institutional Trust Lands Administration (SITLA), generating additional revenue beyond what is provided through the state’s access agreement with the Division of Wildlife Resources.⁸⁹ This strategic approach to commercial permitting, among others discussed in this section, demonstrates

how states can leverage specialized recreational expertise to enhance both public enjoyment of trust lands and the financial benefits flowing to trust beneficiaries.

B. Motorized Recreation

Motorized recreational use and access on state trust lands varies considerably across western states, with diverse regulatory approaches governing access and revenue collection. Unlike hunting, which is widely permitted, motorized vehicle use faces more restrictions, with states employing distinct strategies. These approaches include limiting access to designated trails and roads, charging specific access fees, creating negotiated lease agreements, or restricting use to established public roads only. This range of management approaches reflects the varying ways states balance resource protection with opportunities to capture revenue from OHV recreation on trust lands.

Many states limit motorized vehicle use to mapped or signed routes in order to minimize environmental damage and preserve land value for trust beneficiaries.⁹⁰ These travel restrictions help prevent soil erosion, avoid wildlife habitat destruction, and reduce the spread of invasive species—factors that can diminish the long-term productivity and economic potential of trust lands.⁹¹ A limiting motorized vehicle use approach mirrors how federal land management agencies, such as BLM and the Forest Service, implement travel management plans to control off-road vehicle use on public lands.⁹²

Access to state trust lands for motorized recreation is typically governed by a combination of permits, fees, and vehicle restrictions.⁹³ Many states implement specific requirements such as OHV or snowmobile registrations, conservation permits, or seasonal passes—particularly for winter activities like snowmobiling.⁹⁴ For these winter uses, states have developed specialized regulations that include snow depth thresholds, designated trailhead access points, and specific area designations to protect environmentally sensitive terrain during vulnerable periods.⁹⁵ While some states utilize motorized use or access fees to fund trail

82. See, e.g., Arizona State Land Department, *supra* note 77; DNR, *supra* note 77.

83. See, e.g., CPW, *supra* note 77.

84. See Backcountry Hunters & Anglers, *Open Colorado’s Unleased State Trust Lands to Public Hunting & Fishing*, https://www.backcountryhunters.org/open_colorado_s_unleased_state_trust_land_to_public_hunting_fishing (last visited May 1, 2025).

85. See, e.g., New Mexico State Land Office, *supra* note 77.

86. Colorado State Land Board, *Recreation*, <https://slb.colorado.gov/lease/recreation> (last visited Apr. 16, 2025).

87. *Id.*

88. See, e.g., Montana Department of Natural Resources and Conservation, *Outfitting and Guiding*, <https://dnrc.mt.gov/TrustLand/public-use/OutfittingandGuiding> (last visited Apr. 16, 2025); N.M. ADMIN. CODE §19.2.9.8(b) (providing for permits for commercial uses on state trust lands, including guiding and outfitting); Utah Trust Lands Administration, *Right of Entry Permits*, <https://trustlands.utah.gov/work-with-us/surface/right-of-entry/> (last visited Apr. 16, 2025) (explaining that a right-of-entry permit is required for all commercial use, including commercial guiding).

89. UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, RIGHTS OF ENTRY HANDBOOK, <http://trustlands.utah.gov/wp-content/uploads/2023/04/ROE-Handbook-FORMATTED.pdf>.

90. E.g., Arizona State Land Department, *Recreational Permits Terms and Conditions*, <https://land.az.gov/recreational-permits-terms-and-conditions> (last visited Apr. 16, 2025); COLORADO STATE LAND BOARD, RECREATIONAL (REC) LEASE GUIDE 16 (2024), <https://drive.google.com/file/d/1GtGspYnPmUzBI1xZi2oGfuJskqtsOSac/view> [hereinafter REC LEASE GUIDE]; MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77; DNR, *Where to Go, What to Do—Riding Off Road Vehicles*, https://www.dnr.wa.gov/go/#off_road_vehicles (last visited Apr. 16, 2025).

91. See CONGRESSIONAL RESEARCH SERVICE, R48076, MOTORIZED RECREATION ON FEDERAL LANDS 2 (2024) (discussing Executive Order No. 11989 and agency authority to close areas to prevent damage to soil, vegetation, wildlife, and habitat).

92. *Id.* at 4–5, 6.

93. Arizona State Land Department, *supra* note 77.

94. See, e.g., MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77.

95. E.g., Montana Department of Natural Resources and Conservation, *Motorized Recreation*, <https://dnrc.mt.gov/TrustLand/public-use/MotorizedRecreation> (last visited Apr. 16, 2025); Utah Trust Lands Administration, *supra* note 79.

maintenance and enforcement, others direct a portion of revenue to trust beneficiaries.⁹⁶

The financial models for motorized recreation vary significantly among western states. Several states employ fee systems designed specifically for motorized recreation, often tied to vehicle registration or trail access.⁹⁷ While some states direct these fees primarily toward trail maintenance, enforcement, and resource protection, others structure their programs to generate revenue for trust beneficiaries. For example, Idaho requires off-road vehicle registration for operation on state trust lands, but allocates these funds specifically to repair OHV-related damage rather than benefiting trust beneficiaries directly.⁹⁸ These fee systems, even when not directly flowing into trust accounts, serve the broader goal of preserving the value of trust lands by reducing long-term maintenance costs and environmental degradation.

Beyond individual use fees, commercial operations and organized events—such as guided tours, OHV rallies, or races—typically require special use or right-of-entry permits.⁹⁹ These permits ensure that higher-impact activities contribute appropriately to trust revenues while enabling land managers to monitor and mitigate potential environmental effects, creating a more comprehensive approach to motorized recreation management.

In some states, motorized access is available only through formal lease agreements. These leases often cover broader recreational use beyond motorized travel and may include flat-rate or per-acre fees.¹⁰⁰ Lease terms typically include provisions to protect trust resources and impose liability on lessees for any damage caused by their activities.¹⁰¹ Though this model limits broad public access, it offers states a more controlled and potentially lucrative revenue stream.

Some states strike a middle ground by permitting motorized use only on established public roads that cross trust lands.¹⁰² This approach allows for basic vehicular access without opening the door to off-road or recreational vehicle use.¹⁰³ It balances the need for public access with the imperative to protect land value and prevent environmental degradation.

C. Non-Motorized Recreation

All states in our included analysis allow non-motorized recreation on state trust lands, though the scope of access and the mechanisms used to manage it vary widely. Broadly, state policies fall into three categories: access permitted with a recreational permit, access permitted without a permit, and access authorized through lease agreements. These models reflect different strategies for balancing public use, land stewardship, and the fiduciary duty to generate revenue for trust beneficiaries.

Many states manage non-motorized recreation through structured fee-based permit systems that vary significantly in their scope, pricing, and administrative requirements.¹⁰⁴ These systems typically begin with basic recreational permits that authorize low-impact activities such as hiking, horseback riding, wildlife viewing, and photography.¹⁰⁵ For more specialized or higher-impact activities—such as rock climbing, hang gliding, or winter sports—states often require additional permits or impose supplementary conditions to address potential resource impacts.¹⁰⁶

This creates a tiered framework where different recreational uses require different levels of authorization and fee payment. Beyond individual use, trust land agencies implement more comprehensive permitting processes for commercial guiding operations, large organized events, or other activities that pose greater risks to trust resources or create enhanced liability concerns.¹⁰⁷ This multilevel approach enables agencies to effectively monitor recreational use patterns, generate appropriate revenue streams, and ensure that all forms of recreation remain compatible with broader trust land management objectives and fiduciary responsibilities.

In contrast to fee-based systems, some states permit non-motorized recreation on trust lands without requiring specific permits or fees, though this more open access remains subject to important baseline rules and limitations.¹⁰⁸ These states typically restrict recreational use to legally accessible parcels, require compliance with posted regulations, and prohibit activities that would conflict with existing leases or damage protected resources.¹⁰⁹ Even in these more per-

96. Idaho requires off-road vehicle registration to operate on state trust lands, but the funds are used to repair any OHV damage, not to benefit trust beneficiaries directly. See IDAHO CODE §67-7126(4) (2021). Compare DNR, 2021 ANNUAL REPORT 27 (2021), https://www.dnr.wa.gov/publications/em_annual_report_2021.pdf; WASH. REV. CODE ANN. §43.30.385 (2023).

97. See, e.g., IDAHO DEPARTMENT OF LANDS, LAND BOARD RECREATION POLICY 1-2 (2018), <https://www.idl.idaho.gov/wp-content/uploads/sites/2/2020/06/land-board-recreation-policy-1.pdf>.

98. See IDAHO CODE §67-7126(4) (allocating \$1 from each OHV registration to the Idaho Department of Lands to repair damage related to OHV use on state lands); see also Press Release, Idaho Department of Lands, How Idaho Department of Lands Spent OHV Fund Money in 2021 (Dec. 23, 2021), <https://www.idl.idaho.gov/pressrelease/how-idaho-department-of-lands-spent-ohv-fund-money-in-2021>.

99. E.g., Montana Department of Natural Resources and Conservation, *Snowmobiles*, <https://dnrc.mt.gov/TrustLand/public-use/Snowmobiles> (last visited Apr. 16, 2025); Utah Trust Lands Administration, *supra* note 88.

100. See, e.g., REC LEASE GUIDE, *supra* note 90, at 13.

101. See *id.* at 16.

102. Wyoming Office of State Lands and Investment, *supra* note 77.

103. *Id.*

104. E.g., Arizona State Land Department, *supra* note 77; MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77; New Mexico State Land Office, *Outdoor Recreation*, <https://www.nmstatelands.org/outdoorrecreation/> (last visited Apr. 16, 2025).

105. See Arizona State Land Department, *supra* note 77; MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77; New Mexico State Land Office, *supra* note 104.

106. See, e.g., New Mexico State Land Office, *supra* note 104.

107. See Montana Department of Natural Resources and Conservation, *supra* note 88; Utah Trust Lands Administration, *supra* note 88.

108. See OR. ADMIN. R. 141-088-0004 (2025); IDAHO DEPARTMENT OF LANDS, *supra* note 97 (“The Land Board supports a policy of allowing the general public continued recreational access to legally accessible endowment lands, as long as the recreational activities do not degrade the lands, interfere with management activities, or otherwise negatively affect the long-term financial return to endowment beneficiaries.”); Wyoming Office of State Lands and Investment, *supra* note 77; Utah Trust Lands Administration, *supra* note 88, at 3.

109. See OR. ADMIN. R. 141-088-0004 (2025); IDAHO DEPARTMENT OF LANDS, *supra* note 97; Wyoming Office of State Lands and Investment, *supra* note 77; Utah Trust Lands Administration, *supra* note 88, at 3.

missive jurisdictions, states maintain regulatory oversight for certain activities that exceed casual recreational use.¹¹⁰ Commercial operations, organized group events, and special uses like film production generally require formal authorization and appropriate fees, regardless of the state's general access policy.¹¹¹

Additionally, these states often implement seasonal or area-specific closures to protect natural resources during vulnerable periods, preserve cultural sites, or respect tribal interests.¹¹² This approach seeks to maximize public recreational opportunities while retaining the flexibility to enforce restrictions when needed to safeguard trust resources and fulfill fiduciary obligations.

As with hunting and motorized use, some states manage non-motorized recreation through lease-based systems. These leases may be recreation-specific, focusing solely on a particular activity (such as a dedicated mountain bike trail system), or they may allow ancillary recreational use within agreements primarily established for other purposes, creating flexible frameworks that can accommodate various recreational demands while generating revenue for trust beneficiaries.¹¹³ The lease-based model offers a high degree of administrative control and can be tailored to a wide range of uses—from individual day use to commercial outfitting, sporting events, or film shoots.¹¹⁴ While this approach limits spontaneous public access, it ensures activities align with trust management priorities and provides a more predictable revenue stream.

D. Camping

Camping policies on state trust lands across the western states exhibit considerable variation, ranging from relatively permissive to highly restrictive approaches. States generally employ one of four distinct management frameworks: some permit camping only in specifically designated areas with proper authorization, others allow dispersed camping without special permits (though often with time limitations), several make camping access available exclusively through negotiated lease agreements, and a few prohibit overnight stays entirely. These divergent approaches reflect each state's unique balance between facilitating public recreational access and protecting trust resources from potential impacts associated with overnight use.

Many states regulate camping on trust lands through permit systems, conservation licenses, or specialized recreational leases, which establish conditions such as length

of stay, campsite location, and seasonal access.¹¹⁵ Time limits—typically ranging from a few days to several weeks—are often paired with required intervals between visits to prevent long-term occupation.¹¹⁶ Dispersed camping is commonly subject to location restrictions, including minimum distances from roads, water sources, and sensitive habitats, to reduce environmental impact.¹¹⁷ Commercial operations, such as outfitter camps or short-term rentals, generally require additional authorization through leases or special use permits designed to protect trust resources and generate revenue for beneficiaries.¹¹⁸

Some states allow camping on trust lands without a formal permit, but this access is typically governed by a regulatory framework that includes rules such as maximum stay durations, required intervals between visits, seasonal closures, and fire restrictions.¹¹⁹ Permit-free systems may also incorporate tiered or area-specific rules, such as requiring the use of established campsites or maintaining setbacks from riparian areas.¹²⁰ While basic camping remains broadly accessible under these systems, extended stays or commercial uses—such as group camps—often trigger additional permitting requirements to protect trust resources and ensure appropriate oversight.¹²¹ Permit-free camping is often allowed in these states as both an added public benefit and a practical policy choice—particularly where the administrative burden of permitting outweighs the potential revenue or management needs.

In lease-based systems, camping is only allowed when explicitly authorized in the terms of the lease.¹²² These provisions are often incorporated into broader recreational leases that may also cover hunting, hiking, or other non-motorized uses.¹²³ While some leases may permit overnight

110. See, e.g., Utah Trust Lands Administration, *supra* note 88, at 1; OREGON DEPARTMENT OF STATE LANDS, ANNUAL REPORT REAL PROPERTY PROGRAM: FISCAL YEAR 2024, at 7, https://www.oregon.gov/dsl/lands/Documents/RealProperty_AnnualReport.pdf; Wyoming Office of State Lands and Investment, *supra* note 77; OR. ADMIN. R. 141-088-0004 (2025).

111. See, e.g., Utah Trust Lands Administration, *supra* note 88.

112. *Id.*

113. REC LEASE GUIDE, *supra* note 90, at 13. Colorado allows recreation generally on state trust lands if you have a recreational lease or special use permit.

Id.

114. *Id.*

115. E.g., Arizona State Land Department, *supra* note 77; MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77; DNR, *Where to Go, What to Do—Camping: It's Always Free*, <https://www.dnr.wa.gov/go/#camping> (last visited Apr. 16, 2025); Colorado State Land Board, *supra* note 86.

116. E.g., Arizona State Land Department, *supra* note 90 (limit of 14 nights); MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77 (two nights on leased land, 16 on unleased land); DNR, *supra* note 115 (10 days in any 30-day window).

117. E.g., MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77 (camping is allowed within 200 feet of an access point for tent or non-motorized camping and within 50 feet of an access point if motorized vehicle is required); DNR, *supra* note 115 (dispersed camping is allowed 200 feet away from streams).

118. E.g., IDAHO DEPARTMENT OF LANDS, *supra* note 77, at 8; Utah Trust Lands Administration, *supra* note 88 (a right-of-entry permit is necessary to camp for more than 15 days); Arizona State Land Department, *supra* note 90 (Arizona requires camping at least a quarter mile from “any livestock or wildlife water catchments, tanks, drinkers, etc.”).

119. See IDAHO DEPARTMENT OF LANDS, *supra* note 77, at 8-9 (Idaho limits camping on state trust lands to 14 consecutive days, after which campers must vacate the site for at least 21 days before returning); Utah Trust Lands Administration, *supra* note 79 (Utah enforces season-specific camping rules that vary by location, with different restrictions depending on the time of year and the individual campsite); OR. ADMIN. R. 141-088-0004 (Oregon may allow camping if it meets certain conditions).

120. See, e.g., Utah Trust Lands Administration, *supra* note 79.

121. IDAHO DEPARTMENT OF LANDS, *supra* note 77, at 8.

122. See REC LEASE GUIDE, *supra* note 90, at 13 (Colorado allows recreation if you have a recreational lease or special use permit).

123. *Id.*

stays, camping is more commonly limited or excluded in favor of day use activities.¹²⁴

A few states prohibit camping on trust lands altogether.¹²⁵ These states may restrict all overnight stays as a precaution against liability, environmental degradation, or user conflict. In certain jurisdictions, limited exceptions may exist—for example, permitting overnight stays during hunting seasons or through special event authorizations.¹²⁶

Recreational use of state trust lands takes many forms—ranging from hunting and motorized travel to hiking and camping—and is managed through a wide variety of regulatory strategies. Some states offer relatively open access, particularly for low-impact activities, while others limit use through permits, leases, or formal prohibitions. These differing approaches reflect variation in legal frameworks, administrative capacity, and land management priorities. The next part provides a state-by-state overview of how these general models are applied in practice across the West.

IV. How States Manage Public Recreation on Trust Lands: State-by-State Summary

This part offers a state-by-state summary of how western states regulate recreational access to their trust lands. While general trends and management approaches were outlined above, this part focuses on the specific rules, restrictions, and permitting frameworks that apply in each state. It covers key activities such as hiking, hunting, fishing, OHV use, and camping, noting where access is broadly allowed, conditionally permitted, or prohibited. By presenting each state's policy landscape in detail, this summary illustrates the diversity of legal structures and administrative choices that shape public use of trust lands across the West.

A. Arizona

The Arizona State Land Department generally permits recreation on its 9.2 million acres of state trust land, provided users obtain a general recreational permit.¹²⁷ This permit is required for most activities, including hiking, biking, horseback riding, geocaching, bird-watching, and camping.¹²⁸ Individual permits cost \$15; family permits (covering two adults and up to four children) are \$20; small group permits (fewer than 20 people) are \$15; and large group permits cost \$300.¹²⁹ In fiscal year (FY) 2024, recreational

permitting generated \$552,480 in revenue for Arizona's trust land beneficiaries.¹³⁰

Hunting and fishing are allowed with a valid license and do not require a recreational permit unless the user engages in additional activities—such as camping during a hunting trip.¹³¹

OHV use is permitted with both a valid OHV decal and a recreational permit.¹³² The \$25 decal—required for residents and nonresidents alike—must be renewed annually and applies to vehicle registration.¹³³ OHV use is restricted to established roads and trails.¹³⁴ Although OHV decal revenue does not benefit trust beneficiaries directly, 70% supports the Off-Highway Vehicle Recreation Fund, with 5% dedicated to improving access across trust lands.¹³⁵ The decal fee is set by the Arizona Department of Transportation, State Land Department, and Game and Fish Department.¹³⁶

Arizona also offers a special use permit, a flexible authorization that grants “a non-exclusive right to use the land . . . for any purpose otherwise authorized by statute or law for leases and other grants, including . . . recreation.”¹³⁷ This permit can be tailored to accommodate a wide range of nonexclusive activities that do not rise to the level of a full lease or right-of-way grant. For example, an outfitter might obtain a special use permit to guide hunting or fishing trips across trust lands during a particular season, or a commercial recreation operator could use it to host an organized trail ride or outdoor event.

While much of Arizona's state trust land is open, the State Land Department, in coordination with existing lessees, may close areas to recreation.¹³⁸ Closures must be clearly posted, and are typically for wildfire risk, habitat protection, or to avoid interference with other authorized uses.¹³⁹ Additional restrictions apply to specific activities, with camping further restricted to 14 days per year, regardless of permit type.¹⁴⁰

B. Colorado

The Colorado State Land Board manages approximately 2.8 million surface acres of land held in trust, primarily to support public schools and other public institutions. Unlike some states, these lands are not open to public recreation by default, though specific access mechanisms exist.¹⁴¹ Currently, 1.5 million acres are available for recreational activi-

124. *Id.* (Colorado may permit multiple types of recreation on the same parcel, but allowances are determined by the specific terms of each recreational lease).

125. See WYO. CODE R. 060-0002-13 §8 (2024); NEW MEXICO STATE LAND OFFICE, HUNTER CAMPING POLICY—HUNTING SEASON 2023-2024 (2023), https://www.nmstatelands.org/wp-content/uploads/2023/08/Camping-policy-2023_2024-Hunting-Season_-FINAL_07262023SGRsig.pdf.

126. NEW MEXICO STATE LAND OFFICE, *supra* note 125. New Mexico allows camping in conjunction with certain hunting trips and has launched pilot programs to support backcountry camping through special use permits.

127. Arizona State Land Department, Recreational Permit Form, <https://azland.my.salesforce-sites.com/recreationalpermit/> (last visited Apr. 16, 2025).

128. *Id.*

129. *Id.*

130. Arizona State Land Department, Recreation Permits Received FY 2024 (Aug. 5, 2024) (provided to author by records request via Lynn Cordova).

131. Arizona State Land Department, *supra* note 77.

132. ARIZ. REV. STAT. ANN. §28-1177 (2024).

133. Arizona State Land Department, *supra* note 77.

134. Arizona State Land Department, *supra* note 90.

135. ARIZ. REV. STAT. ANN. §28-1177(D).

136. *Id.* §28-1177(B).

137. ARIZ. ADMIN. CODE §R12-5-1101 (2024).

138. *Id.* §R12-5-534.

139. *Id.*

140. Arizona State Land Department, *supra* note 77.

141. See Colorado State Land Board, *Public Access on Trust Land*, <https://slb.colorado.gov/public-access> (last visited Apr. 16, 2025).

ties, including hiking, biking, horseback riding, off-road vehicle use, hunting, fishing, and camping.¹⁴²

Access is granted through two primary channels: the State Trust Lands Public Access Program, a partnership with Colorado Parks and Wildlife (CPW), and private recreational leases issued by the State Land Board.¹⁴³ The Public Access Program covers approximately one million acres for hunting and fishing during established seasons only, requiring a valid license for entry.¹⁴⁴ This arrangement generates about \$1.6 million annually, with 95% directed to trust beneficiaries.¹⁴⁵

The Colorado State Land Board also leases trust lands to CPW for incorporation into the state park system. Through these specialized lease agreements, parcels of trust land are integrated into existing or new state parks, allowing CPW to manage them as part of the broader recreational landscape. This arrangement creates a dual-purpose solution: the lands are maintained and operated as public recreation areas under CPW's established park management framework, while simultaneously fulfilling their constitutional mandate to generate revenue for trust beneficiaries through the lease payments. As of 2020, approximately 8,800 acres of trust land within 13 state parks were managed under such agreements, enhancing Colorado's recreational offerings while preserving the land's financial benefit to public institutions.¹⁴⁶

In addition to public access programs, Colorado makes certain trust lands available through exclusive recreational leases, which grant individuals or organizations the right to use specific parcels for recreational purposes such as hunting, camping, hiking, or wildlife viewing.¹⁴⁷ About 400,000 acres are currently leased in this way.¹⁴⁸ These leases often overlap with other uses, including grazing, and are awarded through a formal application process.¹⁴⁹ Lease rates are set at \$500 or \$2.60 per acre, whichever is greater, with an annual \$100 application fee.¹⁵⁰ Temporary access for short-term uses may also be negotiated separately.¹⁵¹

Colorado's leasing model is grounded in its fiduciary duty to generate revenue for trust beneficiaries. As the State Land Board explains, "as [t]rustee for these properties, we cannot donate trust land (no matter how noble the cause), or make it available for recreational use without charging a use fee."¹⁵² This principle helps ensure that recreational access, like all other uses of trust land, aligns with the constitutional and statutory obligations to support public institutions, particularly K-12 education.

142. *Id.*

143. Colorado State Land Board, *supra* note 86.

144. CPW, *supra* note 77.

145. Colorado State Land Board, *supra* note 86.

146. CPW, 2020 ANNUAL REAL ESTATE REPORT 9 (2021), <https://spl.cde.state.co.us/artemis/nrserials/nr1440internet/nr14402020internet.pdf>.

147. Colorado State Land Board, *supra* note 86.

148. *Id.*

149. *Id.*

150. COLORADO STATE LAND BOARD, FEES & PAYMENT CONSIDERATIONS 2 (2022), https://docs.google.com/document/d/1GsdIGL_JDdi6nLL8cwSnZL-ut7GQEC51sqjTD9qC24A/edit.

151. *Id.*

152. Colorado State Land Board, *supra* note 86.

Because these leases convey exclusive access rights, the general public is not permitted to recreate on leased lands without permission from the lessee.¹⁵³ Unauthorized entry is considered trespassing.¹⁵⁴ While this model limits spontaneous public access, it provides an accountable revenue stream while allowing the state to control the type and intensity of recreational use.

Recreational use of state trust lands in Colorado continues to grow. In FY 2022-2023, recreation generated \$3.16 million in revenue, up from \$1.97 million in FY 2018-2019, reflecting increasing demand for outdoor access and the success of state leasing and partnership strategies.¹⁵⁵

C. Idaho

Idaho allows public recreation on a majority of its state trust lands, provided the activity is compatible with other authorized uses.¹⁵⁶ The Idaho Department of Lands manages approximately 2.4 million acres of state endowment land—about 70% of the total trust land portfolio—which are open to the public at no charge for hunting, fishing, hiking, and camping.¹⁵⁷

Idaho provides free public access to state trust lands through a policy that balances recreational opportunities with fiduciary responsibilities.¹⁵⁸ The Department of Lands permits recreation on legally accessible endowment lands provided activities do not damage the land, interfere with management operations, or reduce financial returns to trust beneficiaries.¹⁵⁹

In addition to dispersed public use, Idaho also authorizes commercial recreation on state trust lands. The Department of Lands issues short-term land use permits for activities such as competitive events, group gatherings, recreational programs, and vending services, as well as for longer-term uses like commercial campgrounds.¹⁶⁰ These arrangements typically involve a memorandum of understanding to ensure consistency with the state's fiduciary obligations.¹⁶¹ Idaho has shown growing interest in commercial recreation leasing; in 2023, approximately 15% of non-timber trust land revenue was generated from recreation-related leases.

153. REC LEASE GUIDE, *supra* note 90, at 13 ("The State Land Board raises revenue by leasing these properties to private parties. Because state trust land is held in trust and leased to generate revenue, it is not open for general public use.").

154. *Id.*

155. COLORADO STATE LAND BOARD, ANNUAL REPORT FISCAL YEAR JULY 1, 2022-JUNE 30, 2023 (2023), <https://spl.cde.state.co.us/artemis/nrserials/nr81internet/nr81202223internet.pdf>.

156. IDAHO DEPARTMENT OF LANDS, *supra* note 97, at 1.

157. BECKER ET AL., *supra* note 17, at 2, 14.

158. IDAHO DEPARTMENT OF LANDS, *supra* note 77, at 1 ("endowment lands may also benefit the citizens of Idaho by providing access for recreational pursuits, so long as recreation activities are consistent with the constitutional mandate").

159. *Id.* ("allowing the general public continued recreational access to legally accessible endowment lands, as long as the recreational activities do not degrade the lands, interfere with management activities, or otherwise negatively affect the long-term financial return to endowment beneficiaries").

160. *Id.* at 8.

161. *Id.*

While Idaho maintains free public access to trust lands, it recovers some revenue through targeted mechanisms. A portion of OHV registration fees is directed to the Land Board specifically to “provide off-highway vehicle opportunities and to repair damage directly related to off-highway vehicle use.”¹⁶² This approach represents a strategic middle ground—rather than charging individual recreation fees, Idaho applies targeted cost recovery only for high-impact activities while preserving the general principle of free public access.

In addition to indirect cost recovery mechanisms, Idaho law authorizes the Land Board to “pursue mechanisms to compensate the endowment beneficiaries for dispersed recreational uses of endowment lands as a means to help protect continued recreational access.”¹⁶³ One such mechanism is a statewide access easement between the Idaho Department of Lands and the Idaho Department of Fish and Game, which secures public hunting access on approximately 2.3 million acres of state endowment land.¹⁶⁴

Under the current agreement, the Department of Fish and Game compensates the trust at a rate of \$0.25 per acre annually—totaling approximately \$580,000 per year.¹⁶⁵ Of that, around \$367,000 is paid directly in cash to the Department of Lands, while the remaining \$213,000 is provided through in-kind enforcement services equivalent to the cost of two full-time conservation officers.¹⁶⁶ The agreement also includes a provision for annual adjustments based on the consumer price index, capped at 3% per year.¹⁶⁷ These types of arrangements help maintain broad public access while ensuring that recreation contributes, at least indirectly, to the financial obligations of the trust.

Despite Idaho’s broad allowance for public recreation on state trust lands, certain limitations remain in place to protect trust assets and to ensure responsible use. Motorized vehicles are restricted to designated roads and trails, and both the Idaho Department of Lands and the Land Board retain authority to close or limit access when necessary.¹⁶⁸ Permitted reasons for closures include, but are not limited to, public safety concerns, resource degradation, post-disturbance rehabilitation, and the protection of infrastructure or sensitive areas.¹⁶⁹ As with private land, entering state trust land without permission—particularly when access is otherwise restricted—is considered trespass under Idaho law.¹⁷⁰

D. Montana

The Montana Department of Natural Resources and Conservation, primarily through the Trust Lands Management Division, manages more than five million acres of state trust land and broadly authorizes public recreation subject to certain access rules and land use restrictions.¹⁷¹ The state allows a wide range of recreational activities on state trust land, including hunting, fishing, hiking, camping, snowmobiling, biking, trapping, horseback riding, outfitting and guiding, and motorized use.¹⁷² Access is limited to trust lands that are legally reachable via public roads, adjacent public roads, navigable waters, or by permission from a neighboring landowner or through agreements between private landowners and the Montana Department of Fish, Wildlife, and Parks.¹⁷³ Certain lands are closed to recreation, including those with active agricultural crops, residential leases (e.g., cabin or homesites), commercial leases, military training uses, wildfire threats, or other specific closures or restrictions.¹⁷⁴

To legally recreate on state trust land, individuals must obtain a conservation license issued by the Montana Department of Fish, Wildlife, and Parks.¹⁷⁵ This license authorizes general recreational use, defined as non-concentrated, noncommercial outdoor activities such as hiking, camping, and wildlife viewing.¹⁷⁶ As of 2023, Montana increased its conservation license fees, reflecting the growing role of recreation in generating trust revenue.¹⁷⁷ The annual fee is now \$8 for residents, \$10 for nonresidents, and \$4 for youth (ages 13-17) and seniors, while children under age 12 may access trust lands without charge.¹⁷⁸

Hunters and anglers who already hold hunting or fishing licenses automatically receive the conservation license as part of their purchase, requiring no additional fee for trust land access.¹⁷⁹ Conservation license revenue directly supports both land management and public access: \$3.50 from each license is transferred to the Department of Natural Resources and Conservation and deposited in trust for Montana’s public schools and other institutions.¹⁸⁰ The remaining funds help maintain recreational access infra-

162. IDAHO CODE §67-7126(4) (2025).

163. IDAHO DEPARTMENT OF LANDS, *supra* note 97, at 3.

164. Press Release, Idaho Department of Fish and Game, *supra* note 79.

165. Press Release, Idaho Department of Fish and Game, F&G Commission Approves Agreement to Continue Recreation Access on State Endowment Lands (Aug. 23, 2023), <https://idfg.idaho.gov/press/fg-commission-approves-agreement-continue-recreation-access-state-endowment-lands>.

166. *Id.*

167. *Id.*

168. IDAHO DEPARTMENT OF LANDS, *supra* note 77, at 7, 8.

169. *Id.*

170. See IDAHO ADMIN. CODE r.20.03.14.090 (2025).

171. Montana Department of Natural Resources and Conservation, *Public Use*, <https://dnrc.mt.gov/TrustLand/public-use/> (last visited Apr. 16, 2025).

172. *E.g.*, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77; see Montana Department of Natural Resources and Conservation, *supra* note 171.

173. *E.g.*, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77.

174. *Id.*

175. *E.g.*, MONT. CODE ANN. §77-1-801 (West 2023).

176. MONT. ADMIN. R. 36.25.145(11) (2025).

177. Montana Department of Fish, Wildlife, and Parks, *Conservation Licenses*, <https://fwp.mt.gov/buyandapply/conservation-license> (last visited Apr. 16, 2025).

178. MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77.

179. *Id.*

180. MONTANA DEPARTMENT OF FISH, WILDLIFE, AND PARKS, CONSERVATION LICENSE FREQUENTLY ASKED QUESTIONS (2024), https://fwp.mt.gov/binaries/content/assets/fwp/buyandapply/conservation-license/conservation-license_faq-2024.pdf.

structure and support stewardship of more than 400 public access sites.¹⁸¹

Certain activities on state trust lands—such as trapping, commercial or concentrated recreation, outfitting, and organized events—require a special recreational use license.¹⁸² These licenses outline additional requirements, restrictions, and liability provisions tailored to the proposed use; fees for these licenses are determined based on the specifics of the activity and are designed to reflect fair market value.¹⁸³ For OHV use, Montana residents must obtain a resident OHV trail pass, costing \$20 and valid for two calendar years, to operate on designated nonresident temporary use permit motorized routes and trails on public lands.¹⁸⁴ Nonresidents are required to purchase a nonresident temporary use permit, which costs \$35 and is valid for the calendar year.¹⁸⁵

Camping on state trust lands is permitted under specific conditions: individuals may camp up to two nights per month on leased lands and up to 16 nights per month on unleased lands.¹⁸⁶ Tent camping must occur within 200 feet of an access point, while recreational vehicle (RV) camping is restricted to within 50 feet of such points.¹⁸⁷ While there is no additional fee for camping itself, campers must possess a valid conservation license.

Montana's recreation program generated approximately \$2.3 million in revenue for trust beneficiaries in FY 2024.¹⁸⁸ This total included roughly \$2.1 million from general recreational use and conservation licenses, along with an additional \$212,000 from special recreational use licenses. The increase follows legislative changes to the conservation license program and reflects growing demand for outdoor access on state-managed lands. Overall, the program continues to play an increasingly important role in advancing the state's constitutional mandate to generate income from trust assets.

E. New Mexico

The New Mexico State Land Office manages approximately nine million surface acres of state trust land, which may be accessed for recreation under specific conditions.¹⁸⁹ Access is not open by default and generally requires a

valid recreational access permit or license, depending on the activity.¹⁹⁰ In recent years, the New Mexico State Land Office has sought to increase revenue for trust beneficiaries by promoting recreational use.¹⁹¹ Between 2019 and 2023, the number of recreational access permits issued rose by 425%, reflecting growing public interest in outdoor use of trust land.¹⁹²

To access New Mexico state trust land, recreationists must obtain a recreational access permit, which costs \$35 annually and is valid for groups of up to 10 individuals.¹⁹³ This permit allows a range of low-impact recreational activities such as hiking, biking, bird-watching, wildlife viewing, water-based activities, and bouldering.¹⁹⁴ OHV use is strictly prohibited off designated roads and trails, and operators must comply with all state laws regarding equipment, noise, and land protection.¹⁹⁵ Camping is also highly restricted and is generally permitted only for licensed hunters during designated hunting seasons.¹⁹⁶ These individuals may camp in areas specifically designated by the State Land Office and the Department of Game and Fish, which are subject to rules intended to minimize environmental impact.

In addition to general access allowed under the recreational permit system, the State Land Office promotes 12 specific trust land sites that are formally designated for recreational use.¹⁹⁷ These areas often feature improved access, signage, or partnerships with local organizations and are intended to highlight user-friendly opportunities for permitted recreation.¹⁹⁸ The New Mexico State Land Office is expanding the use of long-term recreational leases, which are formal agreements with cities, counties, or nonprofits to manage state trust lands for public use.¹⁹⁹ For example, in FY 2023, the office entered into a 40-year lease with the city of Socorro to preserve open space and support non-motorized recreation.²⁰⁰ These leases help diversify the portfolio of land uses while generating consistent revenue for trust beneficiaries through rental payments.

Recreation related to hunting, fishing, and trapping is governed through a cooperative easement agreement

181. *Id.*

182. Montana Department of Fish, Wildlife, and Parks, *State Land Recreation Use Permit*, <https://fwp.mt.gov/buyandapply/statelandsrecreation> (last visited Apr. 16, 2025); MONT. ADMIN. R. 36.25.143(2)(a) (2025).

183. See MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, EXAMPLE TRAPPING SRUL, https://dnrc.mt.gov/_docs/Trust-Land/Recreation/Sample-Trapping-SRUL-and-Terms.pdf.

184. Montana Department of Fish, Wildlife, and Parks, *Off-Highway Vehicles*, <https://fwp.mt.gov/activities/off-highway-vehicles> (last visited Apr. 16, 2025).

185. *Id.*

186. MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77.

187. *Id.*

188. MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, TRUST LANDS MANAGEMENT REVIEW: FISCAL YEAR 2024, https://dnrc.mt.gov/_docs/Trust-Land/Planning-and-Reports/TLMD_HQT_REPORTS/FY24_Land_Board_Presentation_FINAL.pdf.

189. New Mexico State Land Office, *Home Page*, <https://www.nmstatelands.org/> (last visited Apr. 16, 2025).

190. See Press Release, New Mexico State Land Office, State Land Office Launches "Open for Adventure" Outdoor Recreation Campaign (Nov. 21, 2019), <https://www.nmstatelands.org/wp-content/uploads/2019/11/11.21.19-Open-for-Adventure.pdf>.

191. *Id.*

192. NEW MEXICO STATE LAND OFFICE, FISCAL YEAR 2022 ANNUAL REPORT 5 (2022), https://www.nmstatelands.org/wp-content/uploads/2023/01/NMSLO-FY22-Annual-Report_FINAL_1.6.23.pdf. While this report mentions a 425% increase in outdoor recreation permitting, the report does not quantify the corresponding revenue from these permits.

193. See New Mexico State Land Office, *supra* note 104.

194. *Id.*

195. New Mexico State Land Office, Recreational Access Permit Application, <https://openforadventure.nmstatelands.org/recreational-access.html> (last visited Apr. 16, 2025) (free account needed to access permit terms).

196. NEW MEXICO STATE LAND OFFICE, *supra* note 125; see New Mexico State Land Office, *supra* note 77.

197. See, e.g., New Mexico State Land Office, *supra* note 104.

198. *Id.*

199. NEW MEXICO STATE LAND OFFICE, FISCAL YEAR 2023 ANNUAL REPORT 48, <https://www.nmstatelands.org/wp-content/uploads/2023/11/FY2023-Annual-Report-FINAL-1.pdf>.

200. *Id.*

between the State Land Office and the New Mexico Department of Game and Fish.²⁰¹ Under this agreement, licensed hunters, anglers, and trappers may access designated state trust lands during the applicable season and up to 14 days prior.²⁰² Access is permitted at designated entry points, via public roads, or with written permission from the surface lessee if no public road access exists.²⁰³ To improve access and expand hunting opportunities, the easement agreement also supports cooperation with adjacent private landowners, allowing their lands to be opened for hunting under the same rules and conditions that apply to state trust lands.²⁰⁴ This strategy helps to “create larger, definable hunting areas,” and improves the overall accessibility of dispersed public hunting grounds.²⁰⁵

While New Mexico has expanded recreational opportunities, important limitations remain. Not all state trust land is accessible, and certain uses—such as camping—are restricted to specific user groups or areas.²⁰⁶ Using these lands without permission from the government or the lessee is considered trespass.²⁰⁷

F. Oregon

The Oregon Department of State Lands manages approximately 680,000 acres of state trust lands, primarily for the benefit of its K-12 public schools.²⁰⁸ Public recreational use is generally permitted without a fee or special authorization, so long as the activity is compatible with existing land uses and consistent with state law and agency policy.²⁰⁹ Common recreational activities such as hiking, sightseeing, wildlife observation, swimming, and picnicking are typically allowed at no cost.²¹⁰

However, all recreational use must comply with the Department of State Lands’ Asset Management Plan, and may not interfere with other authorized operations.²¹¹ Specifically, recreational use must not (1) prevent others from lawfully accessing or using the same land; (2) substantially interfere with existing leases or permits issued by the Department; (3) pose a risk to cultural, archaeological, or natural resources; or (4) infringe on tribal treaty rights.²¹²

In addition to allowing dispersed, low-impact recreation, Oregon also leases certain trust lands for dedicated recreational purposes. These include parcels designated as special stewardship lands, which are managed to preserve scenic, educational, cultural, recreational, and natu-

ral resource values.²¹³ While these lands may not generate income in the traditional sense, they are managed within the state’s broader land asset strategy to balance fiduciary duties with public benefit.²¹⁴

Recreational activities on Oregon state trust lands generally do not require a permit or fee unless explicitly stated.²¹⁵ However, individuals engaging in hunting or fishing must obtain the appropriate licenses from the Oregon Department of Fish and Wildlife.²¹⁶ Oregon’s approach emphasizes open, no-cost public access where feasible, while still maintaining compliance with legal and fiduciary constraints tied to the school trust.

G. Utah

SITLA manages approximately 3.3 million surface acres of state trust lands, primarily benefiting its K-12 public schools.²¹⁷ A wide range of noncommercial recreational activities—such as camping, canyoneering, cross-country skiing, photography, hiking, horseback riding, hunting, fishing, biking, OHV use, rock climbing, snowmobiling, spelunking, and target shooting—are generally permitted without a license or special authorization, so long as the activity has only a “minor and transient” impact.²¹⁸

Recreational access, however, is subject to limitations. Certain activities may be restricted based on their duration, intensity, or potential impact on existing land uses.²¹⁹ For instance, camping is permitted on most trust lands, but is limited to 15 consecutive days in the same location.²²⁰ Public access may also be prohibited where land is under exclusive possession by a lessee or is temporarily closed for administrative purposes, or where proposed activities would interfere with previously authorized uses or pose a risk of resource damage.²²¹

Motorized recreation is permitted on most state trust lands without a pass or permit for general public use.²²² OHVs are allowed, but users must comply with specific regulations, including traveling only on designated open routes and avoiding cross-country travel.²²³ Additional site-specific rules may apply depending on the location.²²⁴ Snowmobiling is similarly allowed on most trust lands, with cross-country snow travel permitted when snow

201. New Mexico State Land Office, *supra* note 77.

202. *Id.*

203. *Id.*

204. State of New Mexico Commissioner of Public Lands, *supra* note 80.

205. New Mexico State Land Office, *supra* note 77.

206. *Id.* (“Camping is allowed on trust land either with the written permission of the surface lessee or under the terms of the State Land Office’s easement agreement with the New Mexico Department of Game & Fish[.]”).

207. N.M. STAT. ANN. §30-14-1(c) (West 2024); *see also* N.M. CODE R. §19.2.2.73 (2024).

208. Oregon Department of State Lands, *Lands*, <https://www.oregon.gov/dsl/lands/pages/state-lands.aspx> (last visited Apr. 16, 2025).

209. OR. ADMIN. R. 141-088-0002(9) (2025).

210. *Id.*

211. *Id.* at R. 141-088-0004.

212. *Id.*

213. OREGON DEPARTMENT OF STATE LANDS, 2024 ASSET MANAGEMENT PLAN 21 (2024), https://www.oregon.gov/dsl/lands/Documents/2024_Asset_Management_Plan.pdf.

214. *Id.*

215. *See* OR. ADMIN. R. 141-088-0002(9).

216. Oregon Department of State Lands, *Recreating on State Lands*, <https://www.oregon.gov/dsl/lands/pages/land-recreation.aspx> (last visited Apr. 16, 2025).

217. Utah Trust Lands Administration, *Trust Lands Explained*, <https://trustlands.utah.gov/about-us/trust-lands-explained/> (last visited Apr. 16, 2025).

218. Utah Trust Lands Administration, *supra* note 79; Utah Trust Lands Administration, *supra* note 88.

219. Utah Trust Lands Administration, *supra* note 79.

220. *Id.*

221. Utah Trust Lands Administration, *supra* note 88, at 5.

222. Utah Trust Lands Administration, *supra* note 79.

223. *Id.*

224. *Id.*

depth reaches at least 12 inches.²²⁵ These rules are intended to minimize environmental impacts while supporting responsible recreational access.

Commercial recreational uses require a right-of-entry permit, which applies to nonexclusive, short-term, and low-impact activities such as guided tours, races, or outdoor education programs.²²⁶ The permit system allows SITLA to regulate access, protect resources, and ensure the state receives fair market value for commercial use of trust lands.²²⁷ Permit costs vary based on the scale and nature of the activity, though the standard fee is \$400.²²⁸ Permits are valid for one year.²²⁹ In 2023, SITLA issued right-of-entry permits generating \$325,692 in revenue for trust beneficiaries.²³⁰

For larger scale or long-term commercial recreation, SITLA offers special use leases.²³¹ These leases authorize higher-impact developments—such as ski resorts, campgrounds, or other destination-based operations—that exceed the scope of a right-of-entry permit.²³² Lease pricing reflects both the appraised land value and a negotiated share of business revenue, ensuring a fair return to the trust.²³³

Hunting access also contributes to trust revenue through a long-term easement agreement. In 2017, SITLA and the Utah Division of Wildlife Resources entered into a 15-year lease allowing licensed hunters to access designated trust lands.²³⁴ The agreement generates approximately \$776,000 annually and supports both recreational opportunity and sustainable wildlife management, while advancing the trust's financial objectives.²³⁵

H. Washington

Washington's State Department of Natural Resources (DNR) manages approximately 2.1 million acres of state trust lands with a dual mandate.²³⁶ While these lands primarily generate revenue for public institutions, especially K-12 schools, through timber harvesting, agriculture, and commercial leasing, they also serve as valuable recreation areas.²³⁷ DNR policy carefully integrates public access where it does not conflict with the land's revenue-generating

functions.²³⁸ As DNR regulations explain, the agency must “balance the public interest in recreation with its trust and other land management obligations.”²³⁹ Washington's trust lands accommodate diverse recreational activities, including boating, camping, hunting, hiking, horseback riding, mountain biking, off-road vehicle use, rock climbing, skiing, snowshoeing, geocaching, and target shooting.²⁴⁰

A Discover Pass is required for motor vehicle access to most DNR-managed trust lands in Washington.²⁴¹ Available for \$35 annually or \$11.50 daily and covering up to two vehicles, this pass provides entry to more than 160 recreation sites and more than 1,200 miles of trails statewide.²⁴² Those entering trust lands on foot, bicycle, or horseback can access these areas without purchasing a pass.²⁴³ One notable exception applies to hunters: regardless of how they access the land, all hunting activities on trust lands require a Discover Pass in addition to applicable hunting licenses and permits.²⁴⁴

Revenue from Discover Pass sales helps fund recreation infrastructure and partially compensates trust beneficiaries for nonrevenue-generating recreational use.²⁴⁵ In 2021, Discover Pass sales generated approximately \$2.8 million, increasing to more than \$6.3 million in 2023.²⁴⁶ Eight percent of this revenue is deposited in the Park Land Trust Revolving Account to help offset the opportunity cost of recreation on lands that might otherwise support commercial leasing or resource development.²⁴⁷ Still, most Discover Pass funds must be used to operate and maintain public use and recreation facilities, including trails, on state-managed lands.²⁴⁸ In some cases, the state may also purchase trust lands outright for permanent designation as state parks, formally removing them from the trust portfolio.²⁴⁹

I. Wyoming

In Wyoming, the Office of State Lands and Investments administers approximately 3.6 million surface acres of state trust lands, primarily to generate revenue for public schools and other state institutions.²⁵⁰ The public is generally permitted to engage in casual recreational activities—such as hunting, fishing, and hiking—on legally accessible, uncul-

225. *Id.*

226. Utah Trust Lands Administration, *supra* note 88, at 1; UTAH ADMIN. CODE R850-110-1300 (2025).

227. Utah Trust Lands Administration, *supra* note 88, at 1.

228. *Id.* at 10, 12.

229. *Id.* at 4.

230. SITLA, PERMANENT FUNDS CONSOLIDATED BALANCE SHEET FY2023 UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS (June 30, 2023) (on file with authors).

231. See UTAH ADMIN. CODE R850-110-1300.

232. Utah Trust Lands Administration, *Special Use Leases*, <https://trustlands.utah.gov/work-with-us/surface/special-use-leases/> (last visited Apr. 16, 2025).

233. *Id.*

234. Utah Trust Lands Administration, *supra* note 79.

235. Benson, *supra* note 81.

236. DNR, *Funding Schools and Services*, <https://www.dnr.wa.gov/beneficiaries> (last visited Apr. 16, 2025).

237. *Id.*; DNR, *Recreation*, <https://www.dnr.wa.gov/recreation> (last visited Apr. 16, 2025).

238. See WASH. ADMIN. CODE §332-52-001 (2025).

239. *Id.*

240. See DNR, *supra* note 77.

241. DNR, *Discover Pass*, <https://www.dnr.wa.gov/DiscoverPass> (last visited Apr. 16, 2025).

242. *Id.*

243. *Id.*

244. *Id.*

245. DNR, *supra* note 96, at 27.

246. WASHINGTON STATE PARKS AND RECREATION COMMISSION, ITEM E-4: FINANCIAL UPDATE—REPORT 8 (2023), <https://parks.wa.gov/sites/default/files/2023-10/Item%20E-4%20Financial%20Update%20-%20Report.pdf>.

247. DNR, *supra* note 96, at 28.

248. WASH. REV. CODE §43.30.385(2)(d) (2024).

249. *Id.* §79A.50.040.

250. JENIFER E. SCOGGIN, WYOMING OFFICE OF STATE LANDS AND INVESTMENTS, WYOMING STATE TRUST LANDS (2021), <https://wyoleg.gov/InterimCommittee/2022/03-2022042703-01WyomingStateTrustLands.pdf>.

tivated state trust lands without a fee.²⁵¹ However, certain restrictions apply: off-road vehicle use, overnight camping, and open fires are prohibited.²⁵² Additionally, activities that could damage state lands, roads, improvements, or lessees' property are not allowed.²⁵³ Access is limited to lands that are legally accessible and not under cultivation.²⁵⁴

For individuals or entities planning organized or commercial recreational activities, such as competitive events or guided tours, Wyoming requires obtaining a temporary use permit.²⁵⁵ These permits are intended for short-term uses that do not fall under other lease categories, and help ensure that commercial or high-impact recreation aligns with the state's fiduciary duty to manage trust lands for the benefit of designated beneficiaries.²⁵⁶

In addition to temporary use permits, Wyoming law authorizes the long-term leasing of state lands for recreational purposes, including cabin sites, public campgrounds, parks, and ski areas.²⁵⁷ These leases are designed to support recreational developments that provide public benefits while generating revenue for trust beneficiaries.²⁵⁸ Such activities are typically authorized through special use leases, which are issued for nonagricultural and non-grazing purposes, including recreation.²⁵⁹ The leases are managed by the Office of State Lands and Investments under the direction of the Board of Land Commissioners, and are governed by statutes and regulations that require the state to receive at least fair market value while protecting the trust's long-term interests.²⁶⁰ Special use leases offer a mechanism for aligning public recreational use with the fiduciary mandate to benefit public institutions, particularly Wyoming's public schools.²⁶¹

V. Integrating Recreation Into State Trust Land Management: Balancing Access, Revenue, and Stewardship

As outdoor recreation continues to grow across the West, state trust lands are increasingly viewed as valuable spaces for public access. However, integrating recreation into trust land management presents unique opportunities and challenges, given the legal and fiduciary obligations to generate revenue for designated beneficiaries. Unlike

federal public lands, which are managed for multiple uses, state trust lands must prioritize financial returns, raising complex questions about how to monetize recreational use while maintaining equitable access, ecological integrity, and legal compliance.

Expanding recreation on trust lands presents both opportunities and constraints. On the one hand, recreation offers a growing revenue stream and supports broad public access goals. On the other hand, it raises critical questions about how to protect trust resources, enforce access rules, and structure fee systems that meet fiduciary standards without unduly burdening users.

This part examines the legal, geographic, financial, and administrative considerations states face when integrating recreation into trust land management. It begins by exploring how states can balance public access with their fiduciary duty to generate income, including the case for and against charging for recreational use. It then evaluates the recreational value of trust lands based on landscape characteristics and proximity to major attractions like national parks.

Next, it assesses access barriers resulting from land fragmentation and legal inaccessibility. Finally, it reviews federal models for recreation fee design and highlights lessons for states seeking to adopt sustainable, equitable pricing systems. Taken together, these perspectives offer a framework for how states might thoughtfully expand recreational opportunities while upholding the core mission of their trust land mandates.

A. Balancing Public Access and Fiduciary Responsibility

State trust lands present a unique challenge in land management, since states hold them in trust to generate revenue for designated beneficiaries, primarily public schools.²⁶² This fiduciary obligation requires that states manage these lands in ways that maximize long-term financial returns while maintaining their value for future generations.²⁶³ As demand for outdoor recreation grows, states face an evolving question: should they charge for recreational access to state trust lands, and if so, how should they structure such fees to align with their fiduciary duties?

1. In Support of Recreational Fees as Fiduciary Compliance

Proponents of charging for recreational access argue that state trust lands should be managed like other trust assets, ensuring that beneficiaries receive fair compensation for any use that draws on the land's value.²⁶⁴ Just as grazing

251. Wyoming Office of State Lands and Investment, *supra* note 77; WYO. CODE R. 060-0002-13 §3 (2025).

252. Wyoming Office of State Lands and Investment, *supra* note 77.

253. Wyoming Office of State Lands and Investments, *Frequently Asked Questions*, <https://lands.wyo.gov/resources/frequently-asked-questions> (last visited Apr. 16, 2025).

254. *Id.*

255. Wyoming Office of State Lands and Investments, *Temporary Use Permits*, <https://lands.wyo.gov/trust-land-management/surface-leasing/temporary-use-permits> (last visited Apr. 16, 2025).

256. *Id.*

257. Wyoming Office of State Lands and Investments, *Special Use Leases*, <https://lands.wyo.gov/trust-land-management/surface-leasing/special-use-leases> (last visited Apr. 16, 2025).

258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.*

262. *E.g.*, CENTER ON EDUCATION POLICY, *supra* note 2, at 1.

263. *See* CULP ET AL., *supra* note 1, at 25-26.

264. *See* BECKER ET AL., *supra* note 17, at 4 (suggesting that charging fees for recreation could be a viable strategy to fulfill fiduciary obligations by ensuring that beneficiaries receive fair compensation for the use of trust lands).

permittees or energy developers pay fees for the right to use trust lands, recreationists could be expected to contribute to the trust through access permits, user fees, or special use permits for commercial activities such as guided tours or outfitting.²⁶⁵

As discussed above, several states have already implemented structured approaches to ensure that recreation contributes to trust revenue. For example, Colorado generated more than \$3.1 million in recreation-related revenue in FY 2022-2023 from a combination of general recreational use, public access programs administered through state agencies, and private recreational leases.²⁶⁶ Similarly, Arizona charges for recreational access through permits administered by the State Land Department, with recreational permitting generating \$552,480 in revenue for the state's trust land beneficiaries in FY 2024.²⁶⁷ These examples demonstrate that charging for recreation can provide a revenue stream that supports the trust's mission while still allowing the public to enjoy these lands.

Additionally, charging for recreational access could help fund land management and conservation efforts that ensure trust lands remain ecologically viable for both current and future uses.²⁶⁸ Increased visitation can lead to habitat degradation, trail erosion, and enforcement challenges, all of which require investment in maintenance and oversight.²⁶⁹ A well-designed fee structure could ensure that recreation contributes to land stewardship rather than becoming an unfunded liability.

2. The Case Against Charging Recreational Fees

On the other hand, some argue that charging for recreational access is inconsistent with broader public land traditions, particularly in the West, where access to natural spaces is often expected to be free or minimally restricted.²⁷⁰ Unlike extractive industries that deplete land resources or require exclusive use, most recreational activities—such as hiking, bird-watching, or wildlife photography—have relatively low direct financial impact on trust assets. If states were to impose costs on recreationists, it may deter public engagement with these lands, limit equitable access, and introduce administrative burdens that outweigh potential revenue benefits.

Further, enforcement of recreational fees can be challenging. Many state trust lands are fragmented, interspersed with federal and private lands, making it difficult to monitor access and ensure compliance with permit

requirements.²⁷¹ States that charge for recreation must balance enforcement costs with expected revenues, ensuring that fee structures remain efficient and do not create unintended barriers to access.

3. Balancing Fiduciary Duties With Public Access

Ultimately, the question of whether to charge for recreation on state trust lands requires balancing financial responsibility with public access considerations. Some states have sought middle-ground solutions, such as waiving fees for low-impact recreation while requiring permits for higher-impact uses like camping, OHV access, or guided hunting trips.²⁷² Others have pursued partnerships with state wildlife agencies, conservation groups, or outdoor recreation organizations to subsidize access while still generating revenue for trust beneficiaries.²⁷³

As the outdoor recreation economy grows and state trust lands play an increasing role in providing open space for public use, states will need to evaluate whether their current models effectively align with their fiduciary duties. Do existing fee structures reflect the true economic value of recreation, or are trust beneficiaries missing out on a potential revenue source? Should states differentiate between different types of recreation based on their impact, charging fees for some activities while keeping others free? These are the types of questions that policymakers and land managers must consider as they navigate the evolving role of recreation on state trust lands.

B. Identifying High-Value Trust Lands for Recreation Access

As states evaluate how to manage recreational access on trust lands, one critical consideration is the *potential* recreational value of those lands—particularly in relation to their proximity to high-demand destinations and natural amenities. While data on visitation to individual state trust parcels is not systematically collected, states can rely on spatial and environmental proxies to better understand the opportunities recreation might offer for generating revenue and public benefit.

One such proxy is USDA's amenity index, which provides a useful metric for broadly characterizing how many acres of trust land are areas with rich natural amenities that might attract tourism.²⁷⁴ The index incorporates variables such as topography, seasonal climate, surface water presence, and sunlight to rank counties on a 1-7 scale, with 7

265. *Id.*

266. COLORADO STATE LAND BOARD, *supra* note 155.

267. Arizona State Land Department, *supra* note 130.

268. *See, e.g.,* STOELLINGER, *supra* note 8, at 6-8.

269. *See generally* DAVID N. COLE, PRESIDENT'S COMMISSION ON AMERICANS OUTDOORS, RESOURCE IMPACTS CAUSED BY RECREATION (1986); Robert B. Keiter, *The Emerging Law of Outdoor Recreation on the Public Lands*, 51 ENV'T L. 89, 103 (2021).

270. *See* BECKER ET AL., *supra* note 17, at 3 (noting that a majority of western states historically allow public recreational use of state trust lands without charge, reflecting cultural expectations of open access to public lands).

271. *See* Bryan Leonard & Andrew J. Plantinga, *Stranded: The Effects of Inaccessible Public Land on Local Economies in the American West*, 100 LAND ECON. 421 (2024).

272. *E.g.,* Utah Trust Lands Administration, *supra* note 79.

273. *E.g.,* CPW, *supra* note 77.

274. *See* David McGranahan, *Natural Amenities Scale*, USDA ECON. RSCH. SERV. (Jan. 6, 2025), <https://www.ers.usda.gov/data-products/natural-amenities-scale>. County-by-county breakdowns are available to download from the website included here.

representing the highest amenity values.²⁷⁵ Although coarse and indirect, the amenity index serves as a useful proxy for identifying state trust lands situated in landscapes that might attract visitors or support tourism economies.

State trust lands are unevenly distributed across the amenity spectrum. Approximately one-fifth of Arizona's trust lands, for instance, fall into counties with the highest amenity ranking.²⁷⁶ By contrast, states like Montana and Wyoming have broader distributions, reflecting their large agricultural and rangeland holdings.²⁷⁷ Nonetheless, a substantial portion of trust lands in nearly every western state falls into amenity categories 5 or 6, indicating widespread recreational potential (see Table 3).

While natural amenity rankings offer insight into scenic and environmental value, proximity to high-use recreational destinations—particularly national parks and national forests—is equally important. Visitors to national parks frequently seek nearby opportunities for hiking, camping, or hunting, and trust lands located within 50 to 100 miles of such destinations may benefit from spillover recreation. In this context, proximity is not merely a spatial measure; it may represent untapped economic potential for trust managers looking to diversify revenue streams.

To better understand this dynamic, we measured the distance from each state's trust lands to the nearest national park and national forest (see Table 4). In Arizona, for example, 70% of trust lands are within 50 miles of a national park, and nearly 95% are within 100 miles, aligning with the presence of 22 distinct national park units in the state. Utah and Washington show similarly high proximity values. Oregon, by contrast, has only 0.15% of its trust lands within 50 miles of a national park—despite many of its lands ranking high on the amenity index. However, nearly all trust lands in Oregon and other western states lie within 100 miles of a national forest, due to the size and dispersion of the national forest system.

Proximity matters because it shapes not only *where* people recreate, but also how they access and disperse across landscapes. Research shows that gateway communities near national parks and forests benefit economically from this spillover, and there is strong reason to believe that state trust lands could do the same—especially when those lands are located in or near popular outdoor destinations.²⁷⁸

As states seek to balance fiduciary responsibilities with growing public demand for outdoor access, understand-

Table 3. Percentage of State Trust Lands in Each USDA Amenity Rank

State	Amenity Rank					
	2	3	4	5	6	7
Arizona	0	0	2.48	22.78	54.93	19.81
California	0	0	0	46.88	28.88	24.24
Idaho	0	3.91	51.42	44.66	0	0
Montana	4.56	32.50	33.34	29.42	0.18	0
New Mexico	0	0	22.52	56.16	21.31	0
Oregon	0	0	23.20	67.33	9.47	0
Utah	0	0	29.64	66.95	3.41	0
Washington	0	5.45	35.79	31.82	26.95	0
Wyoming	0	7.59	15.85	55.31	21.25	0

Notes: These estimates were obtained by overlaying shapefiles of each state's trust land with a shapefile of U.S. counties obtained from the USDA Geospatial Data Gateway. Data on trust parcels were obtained from individual states and supplemented with data from the Protected Areas Database of the United States (PAD-US) as needed.

Table 4. Percentage of State Trust Lands Near National Parks and Forests

State	National Parks		National Forests	
	50 Miles	100 Miles	50 Miles	100 Miles
Arizona	70.05	94.95	98.09	99.84
Colorado	20.06	55.34	84.66	99.36
Idaho	10.46	25.28	95.75	100
Montana	12.39	44.67	66.04	87.73
New Mexico	8.07	32.96	76.40	97.14
Oregon	0.15	10.45	94.37	100
Utah	53.98	81.60	95.44	100
Washington	52.81	81.88	95.44	100
Wyoming	8.28	40.36	93.98	100

Notes: These estimates were obtained by creating 50-mile and 100-mile buffers around national park and national forest units using shapefiles obtained from PAD-US. After creating these buffers, we used shapefiles of each state's trust lands to identify which trust parcels were within a given distance of any national park or national forest unit.

ing where trust lands are positioned within broader recreation corridors is key. Lands near national parks, forests, and other public resources may warrant targeted management approaches, such as specialized lease offerings, access agreements, or infrastructure investment. By integrating proximity into recreation planning, states may better capture the economic value of public use while maintaining alignment with trust obligations.

C. Access Barriers on Fragmented State Trust Lands

While natural amenities and proximity to established recreation corridors can help identify high-potential trust

275. *Id.*

276. *Id.*

277. *Id.*

278. See, e.g., NATIONAL PARKS CONSERVATION ASSOCIATION, GATEWAYS TO YELLOWSTONE: PROTECTING THE WILD HEART OF OUR REGION'S THRIVING ECONOMY (2006), https://headwaterseconomics.org/wp-content/uploads/Gateways_To_Yellowstone_2006.pdf.

lands, recreational value ultimately depends on whether the public can access these lands at all. Legal and physical access constraints represent a significant—and often underappreciated—barrier to realizing the full benefits of outdoor recreation on state trust lands.

Unlike many large federal holdings, state trust lands are highly fragmented, a legacy of the original land grants that allocated specific sections within each township.²⁷⁹ As a result, many trust parcels consist of isolated square-mile tracts, sometimes embedded within national forests or other public holdings—but just as often, surrounded entirely by private land.²⁸⁰ In these cases, even lands with excellent amenity value or proximity to national parks may be effectively off-limits to the public.²⁸¹

To address these challenges, states have a few available strategies. They can consolidate fragmented parcels through land sales or exchanges, especially when such trades improve public access or administrative efficiency. States might also consider constructing access roads, though this approach involves substantial logistical, financial, and legal hurdles, particularly if private lands must be crossed. A more targeted strategy involves negotiating recreational easements with neighboring landowners, similar to the access programs employed by federal agencies like the Forest Service. Each of these tools offers pathways to expanding access and enhancing the utility of trust lands for recreation.

To evaluate how widespread inaccessibility is, we overlaid trust land parcel data with a national dataset on “stranded” public lands developed by Bryan Leonard and Andrew Plantinga in 2024.²⁸² This allowed us to estimate what share of trust land in each state is legally inaccessible to the public. As shown in Table 5, the extent of the

problem varies significantly across states. In Arizona and Montana, more than 20% of trust lands are inaccessible, and in Oregon, that figure exceeds 28%. In contrast, states such as Utah, Colorado, and New Mexico have relatively few access barriers, with less than 5% of trust land classified as inaccessible.

These findings suggest that while accessibility concerns are not universal, they present a meaningful obstacle in certain states—especially where large portions of high-amenity land may be locked behind private holdings. As states refine their recreation access policies, addressing legal inaccessibility will be essential to unlocking the full economic and public value of state trust lands.

D. Federal Frameworks as Models for State Trust Land Recreation Fees

One of the most direct ways states can generate revenue from recreation on trust lands is by charging access or use fees. However, setting fees requires careful calibration. Fees must be high enough to provide meaningful returns to trust beneficiaries—typically public schools—but not so burdensome that they deter public use or conflict with broader access goals.

The timing is favorable: the outdoor recreation economy is booming. In 2023, the industry contributed \$639.5 billion to the U.S. economy, accounting for 2.3% of national GDP.²⁸³ Recreation has grown faster than the overall economy in recent years, fueled in part by a surge in demand following the COVID-19 pandemic.²⁸⁴ For states with large trust land holdings, this moment presents a strategic opportunity to ensure that trust assets are contributing their fair share to this growth—particularly given emerging evidence that instituting access regulations or modest charges can actually increase public interest and participation.²⁸⁵

States can look to both federal public land agencies and peer states as models for establishing sustainable and transparent pricing structures. For instance, state agencies might benchmark their fees against access rates charged by the Forest Service or the National Park Service (NPS) or evaluate how other trust land states have integrated fee systems into broader recreation policies. These comparisons can help inform whether a state’s current approach reflects the economic value of recreational use—or leaves potential trust revenue on the table.

One particularly relevant federal model is the Federal Lands Recreation Enhancement Act, which governs how agencies charge for recreational use of federal lands.²⁸⁶

Table 5. Percentage of State Trust Lands That Are Inaccessible

State	Percent Inaccessible
Arizona	21.35
Colorado	2.45
Idaho	4.88
Montana	20.44
New Mexico	3.70
Oregon	28.24
Utah	1.58
Washington	5.95
Wyoming	7.18

Note: These estimates were calculated by overlaying shapefiles of each state’s trust lands with a shapefile of “stranded” inaccessible public land from Bryan Leonard and Andrew J. Plantinga, *Stranded: The Effects of Inaccessible Public Land on Local Economies in the American West*, 100 LAND ECON. 421 (2024).

279. See Leonard & Plantinga, *supra* note 271, at 428.

280. *Id.*

281. *Id.*

282. *Id.*

283. Press Release, Bureau of Economic Analysis, *supra* note 10.

284. See, e.g., OUTDOOR INDUSTRY ASSOCIATION, *supra* note 63, at 1.

285. A recent survey in Wyoming found that new shed antler hunting regulations, including access restrictions, actually increased public interest and participation, suggesting that well-designed rules can enhance, rather than suppress, recreational demand. See Mike Koshmrl, *Wyomingites Dig New Antler Regs—They’re Even Shed Hunting Because of Them*, SURVEY FINDS, WYOFILE (Apr. 15, 2025), <https://wyofile.com/wyomingites-dig-new-antler-regs-theyre-even-shed-hunting-because-of-them-survey-finds/>.

286. 16 U.S.C. §6802(a).

FLREA authorizes agencies to “establish, modify, charge, and collect recreation fees,” but also requires that these fees meet a set of statutory criteria designed to promote fairness and consistency.²⁸⁷ Fees must be proportionate to the type of recreation offered, consider the “aggregate effect” on visitors, and reflect comparable fees charged in similar settings.²⁸⁸ Agencies are also instructed to consider public policy goals, consult with Recreation Resource Advisory Committees, and evaluate “other appropriate factors,” such as operating costs, quality and variety of recreational opportunities, feasibility of fee collection, and potential impacts to tribal and cultural resources.²⁸⁹

Federal agencies apply and evaluate recreation fees differently depending on the location, type of activity, and services provided.²⁹⁰ However, FLREA sets consistent boundaries across agencies. Notably, agencies may not combine “recreation fees for similar uses, activities, or programs,” and they are categorically prohibited from charging for certain basic uses.²⁹¹ These include fees for parking alone, merely passing through an area, visiting scenic overlooks, or for individuals who are lawfully hunting or fishing.²⁹²

FLREA also distinguishes among different types of fees: entrance fees for accessing designated sites such as national parks; standard amenity fees for developed day use areas like picnic sites or trailheads; and expanded amenity fees for specialized services such as campgrounds or guided tours.²⁹³ These distinctions help ensure that charges are commensurate with the level of recreational benefit and infrastructure provided.

While FLREA establishes a uniform framework for recreation fees, different federal agencies apply it in distinct ways based on their missions, facilities, and user base. Only NPS and FWS are authorized to charge entrance fees—flat charges assessed on individuals or vehicles entering a designated site.²⁹⁴ These fees are designed to support overall visitor experiences and vary by location and season.

For example, most NPS sites charge entrance fees of \$25 to \$35 per vehicle, with lower rates—often \$10 to \$15—at national monuments, historical parks, and other smaller sites.²⁹⁵ Entrance passes typically cover a seven-day period and apply to all occupants of a single private vehicle, making them economical for families and groups.²⁹⁶ A family

of five visiting Yellowstone for a week, for instance, would pay the equivalent of just \$1 per person, per day.²⁹⁷ NPS also offers annual entrance passes, often priced at less than twice the cost of a single-week pass.²⁹⁸

In addition to entrance fees, NPS may charge expanded amenity fees for specific services such as camping. These vary considerably by site and level of development. For example, primitive campsites may cost \$15 to \$25 per night, while RV sites with hookups and additional amenities can range from \$40 to \$99 per night.²⁹⁹ These rates reflect both the infrastructure provided and the agency’s goal of maintaining visitor services without undermining public access.

By contrast, BLM and the Forest Service are prohibited from charging general entrance fees.³⁰⁰ Instead, they may collect standard amenity fees in areas that meet certain criteria.³⁰¹ To be eligible, a site must offer “significant opportunities for outdoor recreation,” have made “substantial federal investments,” and provide basic infrastructure such as picnic tables, interpretive signage, trash receptacles, restrooms, security, and designated parking.³⁰² The agency must also be able to “efficiently collect” the fee.³⁰³ This model ensures that fees are tied to tangible benefits, helping to maintain facilities and reinforce public expectations around how funds are used.

In practice, standard amenity fees are often collected at day use sites, such as trailheads or recreation areas, and typically take the form of daily vehicle passes priced at around \$5 per day.³⁰⁴ Annual passes are also available.³⁰⁵ For instance, some Forest Service districts offer annual recreation passes for \$30 per vehicle, which become cost-effective after as few as six day trips in a given year.³⁰⁶ These fee structures reflect a balance between revenue generation and accessibility, offering scalable pricing that corresponds to the scope of use and development.

The federal government also offers nationwide inter-agency passes that provide access to most federally managed recreation sites, including national parks, national forests, and BLM lands.³⁰⁷ These passes cover both entrance

287. *Id.*

288. *Id.* §6802(b)(1)-(6).

289. *Id.*

290. For example, the Forest Service considers the ability to cover operating costs, quality and variety of recreational opportunities, economic feasibility of fee collection, and “public policy” and impact to tribal and cultural resources as part of “other appropriate factors.” FOREST SERVICE, FOREST SERVICE HANDBOOK, FSH 2309.13—RECREATION SITE HANDBOOK ch. 30, at 9-10 (2013).

291. 16 U.S.C. §6802(c).

292. *Id.* §6802(d)(1).

293. *Id.* §6802(e)-(g).

294. *Id.* §6802(e)(1) (FWS can charge for recreation at wildlife refuges); NPS, *Your Fee Dollars at Work*, <https://www.nps.gov/aboutus/fees-at-work.htm> (last updated Mar. 20, 2025).

295. NPS, *Entrance Fees by Park*, <https://www.nps.gov/aboutus/entrance-fee-prices.htm> (last updated Dec. 5, 2024).

296. *Id.*

297. *See id.* (Yellowstone entrance fees are \$35).

298. *Id.*

299. Compare NPS—Glacier National Park, *Camping in Glacier National Park*, <https://www.nps.gov/glac/planyourvisit/camping.htm> (last updated Apr. 7, 2025), with NPS—Yosemite National Park, *Campgrounds*, <https://www.nps.gov/yose/planyourvisit/campgrounds.htm> (last updated Apr. 8, 2025), and NPS—Yellowstone National Park, *Camping*, <https://www.nps.gov/yell/planyourvisit/campgrounds.htm> (last updated Mar. 20, 2025).

300. 16 U.S.C. §6802(e)(2).

301. *Id.* §6802(f)(4).

302. *Id.* §6802(f)(4)(A).

303. *Id.*

304. BLM, *Recreation Fee Program*, <https://www.blm.gov/programs/recreation/recreation-fee-program> (last visited Apr. 16, 2025); Forest Service, *About Recreation Fees*, <https://www.fs.usda.gov/passespermits/about-rec-fees.shtml> (last updated Mar. 29, 2013).

305. Forest Service, *supra* note 304.

306. *See, e.g.*, USDA, Forest Service, *Deschutes National Forest—Recreation Passes & Permits*, <https://www.fs.usda.gov/main/deschutes/passes-permits/recreation> (last visited Apr. 16, 2025); Recreation.gov, *Site Pass Selection: Medicine Bow—Routt NF—FS*, <https://www.recreation.gov/sitepass/74376> (last visited Apr. 16, 2025).

307. U.S. Geological Survey, *2025 Annual Pass*, <https://store.usgs.gov/2024-annual-pass> (last visited Apr. 16, 2025).

fees and standard amenity fees, offering a streamlined and cost-effective option for frequent users. The America the Beautiful Pass, for example, costs \$80 annually and grants access to everyone in the passholder's vehicle, or up to four individuals if fees are charged per person.³⁰⁸

In addition to the general annual pass, the federal system includes a range of discounted or free options to support equitable access. These include annual and lifetime senior passes, free passes for active-duty military members, passes for individuals with permanent disabilities, and free fourth-grade passes that encourage early engagement with public lands.³⁰⁹ This interagency model could provide a useful blueprint for state trust land administrators seeking to create a more unified and accessible recreation policy. A standardized pass system—particularly one that integrates fee tiers or user group discounts—could help states expand public access, simplify enforcement, and generate consistent revenue for trust beneficiaries.

Federal land management agencies like BLM and the Forest Service also rely on concessionaire contracts to support recreation infrastructure and services.³¹⁰ These contracts allow private entities to provide amenities such as lodging, food, guiding services, and campground operations in designated areas.³¹¹ In some cases, concessionaires are even authorized to charge entrance or access fees—authority that the agency itself may lack under federal law.³¹²

These agreements can be financially significant. The Forest Service, for example, typically receives between 5% and 14% of gross revenue from each concession contract.³¹³ Some smaller permits generate between \$50,000 and \$105,000, while larger operations may bring in more than \$1 million in annual revenue.³¹⁴ Between 2021 and 2023, Ashley National Forest—which spans parts of Utah and Wyoming—earned an average of \$1,076,626 annually through concession contracts alone.³¹⁵ Across all agencies operating under FLREA, including BLM, NPS, the Forest

Service, the Bureau of Reclamation, and FWS, concession and fee revenues totaled nearly \$463 million in FY 2021.³¹⁶

Recreation fees on federal lands are generally comparable to, and in some cases higher than, the rates charged by state trust land agencies. For example, New Mexico and Washington each charge \$35 annually for access to state trust lands, while Montana charges just \$8 for residents and \$10 for nonresidents.³¹⁷ These rates are similar to federal entrance fees, which typically range from \$25 to \$35 per vehicle for a seven-day pass to a national park.³¹⁸ Meanwhile, the America the Beautiful Pass, which grants access to all federally managed recreation lands, costs \$80 annually.³¹⁹

Given that state trust lands often include fewer developed facilities and offer more dispersed recreation opportunities than their federal counterparts, states may be able to justify lower access fees while still generating meaningful revenue. In many cases, the cost of an annual pass to state trust lands is equivalent to or less than a single week's entry fee to a national park—suggesting that affordable pricing can co-exist with a strong revenue model.

These modest fees have not deterred recreational use—in fact, they may support it by formalizing access and increasing public awareness. In New Mexico, a five-year campaign launched between 2019 and 2023 to promote recreation on state trust lands led to a 425% increase in recreational access permit sales.³²⁰ Similarly, when Montana introduced a new permitting system in 2023, the state reported an 11% increase in license sales within the first year.³²¹ These examples suggest that reasonable fees, paired with effective outreach and streamlined systems, can enhance rather than hinder participation in trust land recreation.

Even in states that do not directly charge for recreation on trust lands, many recreationists are already paying to participate—through hunting and fishing licenses, vehicle registration fees, or access permits for adjacent lands. However, most states lack mechanisms to channel these existing payments toward trust land beneficiaries. For example, while many states allow hunting on trust lands with the purchase of a general hunting license, only Montana has a formal revenue-sharing arrangement that allocates a portion of license revenue to support trust land management.³²² In contrast, Washington requires a separate Discover Pass

308. *Id.*

309. U.S. Geological Survey, *Senior Annual Pass*, <https://store.usgs.gov/senior-annual> (last visited Apr. 16, 2025) (\$20 plus fees a year); U.S. Geological Survey, *Senior Lifetime Pass*, <https://store.usgs.gov/lifetime-senior-pass> (last visited Apr. 16, 2025) (\$80 plus fees for life); U.S. Geological Survey, *Military Pass*, <https://store.usgs.gov/MilitaryPass> (last visited Apr. 16, 2025); U.S. Geological Survey, *Access Pass*, <https://store.usgs.gov/access-pass> (last visited Apr. 16, 2025) [hereinafter *Access Pass*]; U.S. Geological Survey, *4th Grade Pass*, <https://store.usgs.gov/faq#4th-Grade-Pass> (last visited Apr. 16, 2025).

310. See Steven J. Kirschner, *Can't See the Forest for the Fees: An Examination of Recreation Fee and Concession Policies on the National Forests*, 14 WYO. L. REV. 513, 520-23 (2014).

311. *Id.*

312. *Id.* at 532.

313. Cally Carswell, *Concessionaire Campgrounds: An Explainer*, HIGH COUNTRY NEWS (July 18, 2014), <https://www.hcn.org/articles/concessionaire-campgrounds-an-explainer>.

314. *Id.*

315. ASHLEY NATIONAL FOREST, USDA, FS-2700-34 (REV-02/2017), PROSPECTUS FOR CAMPGROUND AND RELATED GRANGER-THYE CONCESSIONS 2 (2024), https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1161822.pdf.

316. Congressional Review Service, *Federal Lands Recreation Enhancement Act: Overview and Issues*, <https://crsreports.congress.gov/product/pdf/IF/IF10151/15> (last visited Apr. 16, 2025).

317. See New Mexico State Land Office, *supra* note 104; DNR, *supra* note 241; MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, *supra* note 77.

318. NPS, *supra* note 295.

319. *Access Pass*, *supra* note 309.

320. NEW MEXICO STATE LAND OFFICE, *supra* note 192, at 5.

321. FORESTRY AND TRUST LANDS DIVISION, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, ANNUAL REPORT FISCAL YEAR 2023, at 10, https://dnrc.mt.gov/_docs/Trust-Land/Planning-and-Reports/TLMD_HQT_REPORTS/20230630_TrustLands_AnnualReport_FY23_TLMD.pdf.

322. *Id.*

for access to state trust lands, but only a small share of that revenue—8%—is directed to the trust.³²³

These models highlight untapped opportunities. States could adopt policies that better align existing outdoor recreation spending with the financial obligations of the trust. With well-designed systems, states can ensure that beneficiaries receive a fair return from recreation without undermining public access or the continued growth of outdoor use.

VI. Conclusion

As demand for outdoor recreation continues to grow across the American West, state trust lands are increasingly seen not just as sources of extractive revenue, but as valuable recreational assets. This shift brings both opportunities and challenges. On the one hand, recreation offers a way to diversify income streams, support local economies, and connect more people with public lands. On the other, trust land managers must ensure that any use—recreational or otherwise—aligns with the core fiduciary obligation to generate lasting value for trust beneficiaries, especially public schools.

This Article has examined the role of recreation on state trust lands from multiple angles. It has explored the legal and economic foundations of trust land management, the emergence of outdoor recreation as a major economic

driver, the wide range of recreational uses currently permitted, and the diversity of state-level regulatory frameworks. It has also evaluated how states might approach charging for recreational access in ways that are equitable, transparent, and legally defensible.

The examples reviewed here—from Montana's conservation license model to Arizona's recreation permits and Colorado's access leases—illustrate that there is no one-size-fits-all approach. Still, certain principles stand out. Recreation fees, when designed thoughtfully, can generate meaningful revenue without deterring access. Proximity to national parks and other federal lands can enhance the value of trust lands for recreation. And clear, consistent permitting systems—especially for commercial uses—can help manage impacts while ensuring fair compensation for trust land use.

As more states confront the practical realities of balancing access and stewardship, policymakers and land managers will need to weigh their legal obligations against evolving public expectations. Done well, recreational use of state trust lands can honor the intent of the trust while contributing to a broader, more inclusive vision of public land use. The tools are already available—what remains is for states to refine, expand, and implement them in ways that reflect the full promise of their landscapes and the public institutions they support.

323. DNR, *supra* note 77. Discover Pass funds in Washington go toward trust beneficiaries. DNR, *supra* note 96, at 28. However, funds go into a fund that allows trust land managers to buy land to maintain a land base for beneficiaries when land is sold to other government agencies for other purposes. WASH. REV. CODE ANN. §43.30.385(1) (2024). This provides only an indirect benefit.