Oregon
Division of
State Lands

FACT SHEET

Common School Fund

Background
The Common School Fund dates back to statehood when the federal government granted Oregon roughly six percent of the new state's land for funding schools. The Oregon Constitution dedicated the school lands and their mineral, timber and other resources to the Common School Fund. This portion of the CSF is known as **constitutional revenue.** The major source of constitutional revenue is timber harvest on the Elliott State Forest near Coos Bay.

Over the years, other state revenues have been directed to the Common School Fund as well. **Statutory revenue** comes from programs created statutorily, such as waterway leases, removal-fill permit fees/civil penalties, proceeds of certain forfeitures and proceeds from mineral and geothermal resource rights on non-Admissions Act, state-owned property.

Another source of monies in the Common School Fund is **unclaimed property.** Unclaimed property includes items such as uncashed payroll checks, deposits, money orders, savings and checking accounts and safe deposit box contents. The fundamental purpose of the Unclaimed Property Act is to restore lost or abandoned property to its rightful owner. If the owner can't be found, the assets are held in trust in the CSF until claimed by owners or their heirs. The income earned on these assets is revenue to the Common School Fund.

The Division of State Lands distributes earnings from investments of the CSF to Oregon's K-12 public schools twice a year.

What portion of the CSF is available for use without borrowing?

Nearly $18 million in statutory revenue was appropriated by the third special session of the legislature in 2002. There was no legal obligation to repay the CSF for the funds and the legislation contained no repayment provision. The appropriation took all the statutory revenue that had accumulated in the CSF during the past 50 years. Counties received this one-time supplemental distribution for allocation to K-12 public schools at the end of December 2002 along with the regular twice-yearly CSF distribution of $7.3 million.

Impact

Reduced future funding: While the extra allocation provides a much-needed boost for schools during this budget period, removing this amount from the CSF diminishes future funding for schools. For example, assuming even a modest five percent annual return on CSF investments, schools will receive $885,000 less per year in the future due to the reduced body of the CSF.

What portion of the CSF is available to loan?

Approximately $145 million has accrued (as of Nov. 30, 2002) to the fund as unclaimed property. According to an Attorney General letter of Jan. 22, 2002, the state could borrow against this portion of the CSF. However, due to the Constitutional debt limitation ($50,000), the legislature would need to specify a repayment source other than the General Fund.

Impact

- **Payment of claims:** This portion of the CSF must retain enough assets to pay claims by businesses and individuals reclaiming their assets. Claim payments average $10 million-$15 million per biennium.
- **Program operating costs:** The expenses of administering the Unclaimed Property Program are paid from earnings generated by unclaimed property held in the CSF. Therefore, the fund needs to retain approximately $20 million throughout the biennium to generate $2 million per biennium for program costs based on a five percent rate of annual earnings. (Unless the legislature designated another source of revenue to operate the program.)
- **Selling in a down market:** Under current market conditions, taking funds out of the CSF would require selling equities at a loss. An analysis in early 2002 indicated that selling $100 million in equities would create a loss of $12 million.

What about borrowing from the Common School Fund corpus derived from constitutional sources?

An Attorney General letter dated Jan. 16, 2002, states that "neither the Legislative Assembly nor the Land Board has authority to distribute any portion of the corpus of the CSF that derives from constitutional sources for school support, including that portion comprised of investment income that was retained and reinvested by the Land Board." The letter further states that this advice would not change if the money were loaned to the state and later repaid. The letter does stipulate that a loan might be possible if a number of conditions were met, but concludes by stating:

> *While some of these conditions, such as setting a "market rate" interest rate for the loan, are straightforward, others, such as ensuring that the repayment obligation is legally binding on the state, are more complex. We cannot say at this point whether it*

ultimately would be possible lawfully to structure such a loan, but neither are we prepared to rule out such a possibility.

Could the state sell the Elliott State Forest to help offset the General Fund shortfall?

No. The Elliott State Forest was formed by blocking and exchanging constitutionally designated Common School lands. These lands were granted to the state from the federal government upon its admission to the union through the Admissions Act and made part of the state's constitution under Article VIII. All income from these lands must be deposited into the Common School Fund for investment. According to an Attorney General's January 16, 2002, letter, only the earnings from investments of the constitutionally derived revenues of the Common School Fund may be distributed to the schools. Thus, if the Elliott State Forest were sold, all the proceeds from the sale must be deposited in the Common School Fund or used to purchase other lands for the benefit of Oregon's school children. Only the earnings from investments of sale proceeds could be distributed to schools, not the proceeds from the sale itself.