

**Minutes of the Meeting of the
Board of University and School Lands
March 28, 2024**

The March 28, 2024, meeting of the Board of University and School Lands was called to order at 9:12 AM by Chairman Doug Burgum and roll call was taken.

Members Present:

Doug Burgum	Governor
Michael Howe	Secretary of State via Teams
Drew Wrigley	Attorney General via telephone
Thomas Beadle	Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel Present:

Joseph Heringer	Commissioner
Catelin Newell	Administrative Staff Officer
Rick Owings	Administrative Staff Officer
Frank Mihail	Chief Investment Officer
James Wald	Legal Council
Kate Schirado	Executive Assistant
Susan Dollinger	Unclaimed Property Director
Peggy Gudvangen	Finance Director
Adam Otteson	Revenue Compliance Division Director
Emily Bosch	Unclaimed Property
Teresa Hettinger	Investments Officer
Amanda Parent	Minerals Management Officer
Joseph Stegmiller	Surface Division Director
Elvedina Papalichev	Paralegal
Pam Reile	Revenue Compliance
Jessica Fretty	Unclaimed Property
Matthew Reile	IT
Lynn Spencer	Minerals Title Specialist
Scott Giere	Revenue Compliance
Kathy Brandvold	Revenue Compliance

Guests in Attendance:

Ryan Norrell	Office of the Governor
John Reiten	Office of the Governor
Josh Kevan	RVK
Jennifer Sandberg	RVK
Cyril Espanol	Journalist
C. Rajala	

A P P R O V A L O F M I N U T E S

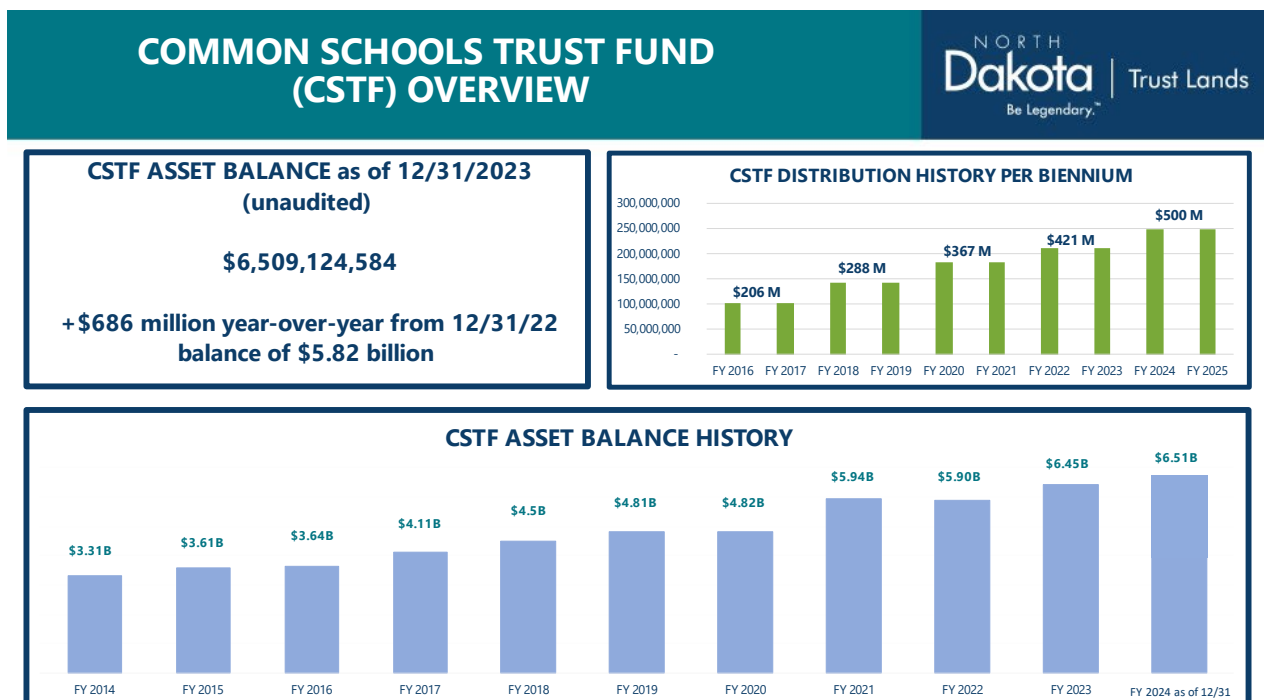
A motion to approve the minutes of the February 29, 2024 meeting was made by Superintendent Baesler and the motion was seconded by Treasurer Beadle and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Commissioner’s Report

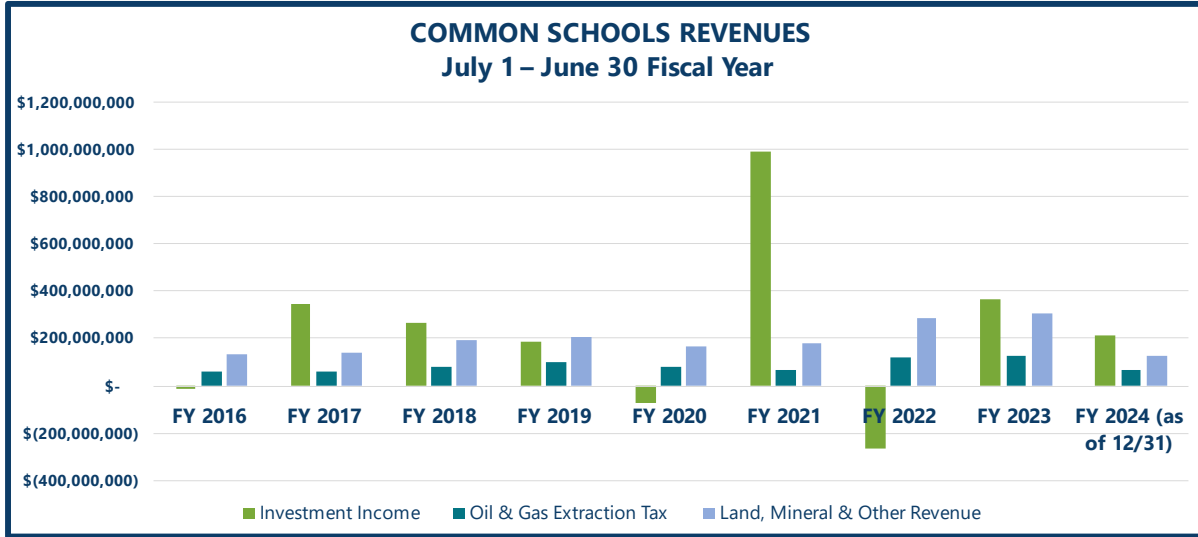
- Oil Royalty Deductions – achieved settlements with two more major Bakken operators
- Biennial Strategic Planning – presentation for executive budget planning process scheduled for April 8, 2024; will send to Board members for review/comment
- Administrative Rules Revisions – presented approved package to the Legislative Administrative Rules Committee on March 5, 2024 with no objections; April 1, 2024 effective date
- Servant Leadership Workshop – full day, in-person event in Bismarck that all nine members of the DTL Leadership Team will be attending on April 19, 2024
- March 8, 2024 - legislative ESG study meeting to finalize investments section draft to promote consistency across all state investments and alignment with recently enacted statutes
- March 15, 2024 - attended State Investment Board – Investment Committee meeting as a voting member
- March 20-21,2024 – attended 11th Annual Mountain States Institutional Investment Forum in Denver
- March 22, 2024 - attended full State Investment Board meeting as a voting member
- March 26, 2024 – presented to North Dakota TeenPact Annual State Class; youth advocacy group

Financial Dashboard



(03/28/24)

COMMON SCHOOLS TRUST FUND (CSTF) OVERVIEW



COMMON SCHOOLS TRUST FUND 2023 -25 (CSTF) DISTRIBUTIONS



Monthly distribution to the State Tuition Fund for the 2023-25 biennium

\$27,770,000
 =\$2,160/student per year

Percentage of North Dakota's \$10,389* total investment per student covered by CSTF

21%

*North Dakota pays 76.5% of the \$13,589 total cost of education per student

FYTD distribution to the State Tuition Fund through 12/31/2023

\$222 million of \$500 million total

CSTF Distributions Since FY 2014

\$1.89 BILLION

Supporting property tax relief for North Dakota citizens



STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) OVERVIEW



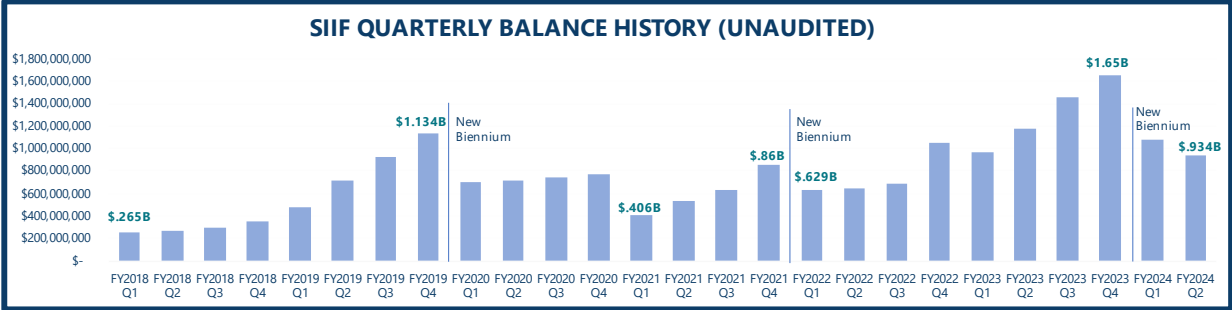
NORTH
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SIIF BALANCE as of 11/30/2023
(unaudited)

- Total Balance- \$919,736,002
- Uncommitted Balance – \$441,969,969

SIIF BALANCE as of 12/31/2023
(unaudited)

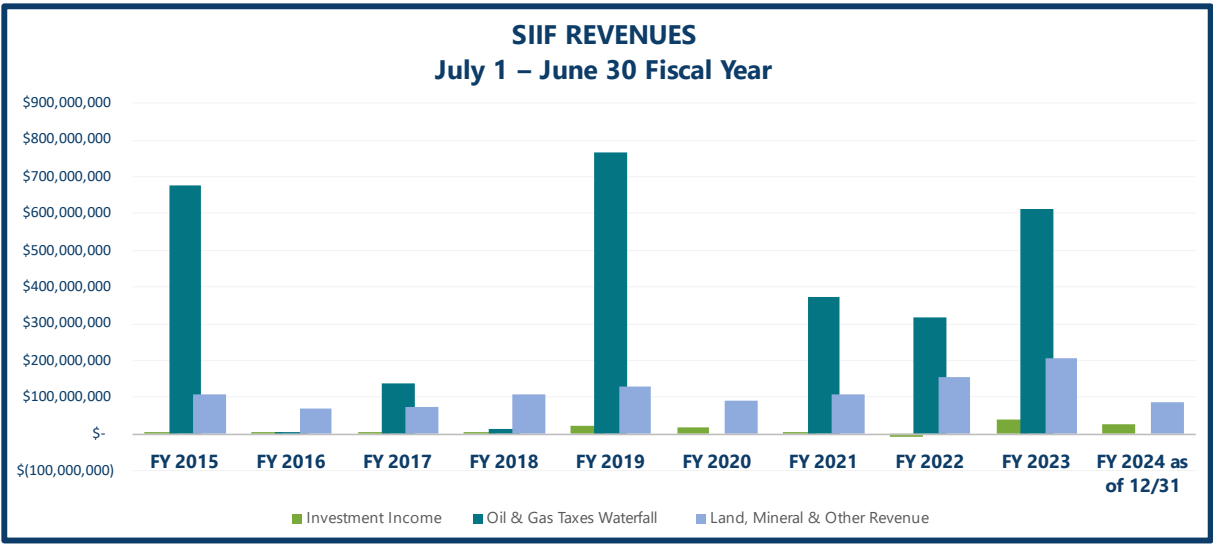
- Total Balance- \$933,937,064
- Uncommitted Balance – \$461,671,031



STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) HIGHLIGHTS



NORTH
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ESTIMATED TOTAL NET ASSETS as of 11/30/2023

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**Mineral Tracker Valuation
as of June 30, 2023 on
2.6 million Mineral Acres
\$2,568,614,367**



**Surface Fair Market Value
as of March 30, 2023 on
706,000 Surface Acres
\$518,077,274**



**Estimated Total Net Assets*
as of December 31, 2023**

\$10,095,866,281

* Total excluding SIIF

Commissioner Annual Performance Review

During the February 29, 2024, meeting the Board approved a first reading of the proposed Commissioner Performance Review & Compensation Policy and directed the Committee to continue its work and report at the March 2024 meeting.

Based on additional feedback received, the Committee brings the following revised policy for a first reading, with a planned final approval vote during the May 30, 2024, meeting. The revisions include categories of review and key performance indicators that may be considered by the Board. This policy would be added to Section 2 (General) of the Board Policies.

Motion: The Board: 1) approve a first reading of the attached Commissioner Performance Review & Compensation Policy with the addition of language requiring any changes to the utilized performance metrics to be communicated with the Commissioner in a timely manner; and 2) authorize the Committee to proceed with the Fiscal Year 2023-24 Commissioner Performance and Compensation Review.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Howe			X		
Superintendent Baesler	X		X		
Treasurer Beadle		X	X		
Attorney General Wrigley					X
Governor Burgum			X		

Commissioner Performance Review

The Board shall conduct a formal evaluation of the Trust Lands Commissioner and assess the Commissioner's performance during the first half of each calendar year through surveys and

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metrics. This evaluation will be used to determine whether any adjustments to the salary of the Commissioner should be made for the following fiscal year. The Board shall review and approve any recommended adjustments by June 30th each year. The Board shall consider the following categories of performance and may consider additional categories at its discretion:

HRMS 360 Surveys – Board Members

- Board Meetings and Board Relations
- Land Department Operations and Inter-Agency Relations
- Stakeholder/Legislative Relations
- Professional Skills and Development
- General Feedback

HRMS 360 Surveys – Team Members

- Leadership
- Communication
- Valuing Team Members
- General Feedback

The Board may also consider the following Key Performance Indicators, including any additional metrics as the Board sees fit. Any additions or changes to the utilized metrics must be communicated to the Commissioner in a timely manner.

Key Performance Indicators

- Prior Fiscal Year Unclaimed Property Return Rate
- Prior Fiscal Year Number of Holder Reports Filed
- Prior Fiscal Year Investment Performance v. Index
- CSTF Growth Since Start of Commissioner Tenure
- Gallup Engagement Survey Score Trends Since Start of Commissioner Tenure

General Authority: N.D.C.C. § 15-02-03

Effective Date: May 30, 2024

DIVISION REPORTS

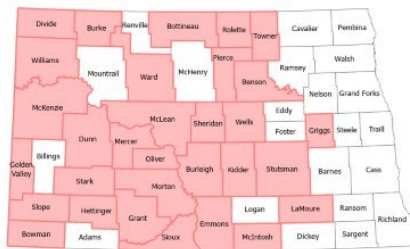
SURFACE

SURFACE DIVISION



Encumbrances issued by Commissioner during February 2024: 18 Right of Way Agreements generating \$964,806 in income for the Trusts.

Surface staff is currently conducting spring auctions in the following counties (results reported at the April board meeting)



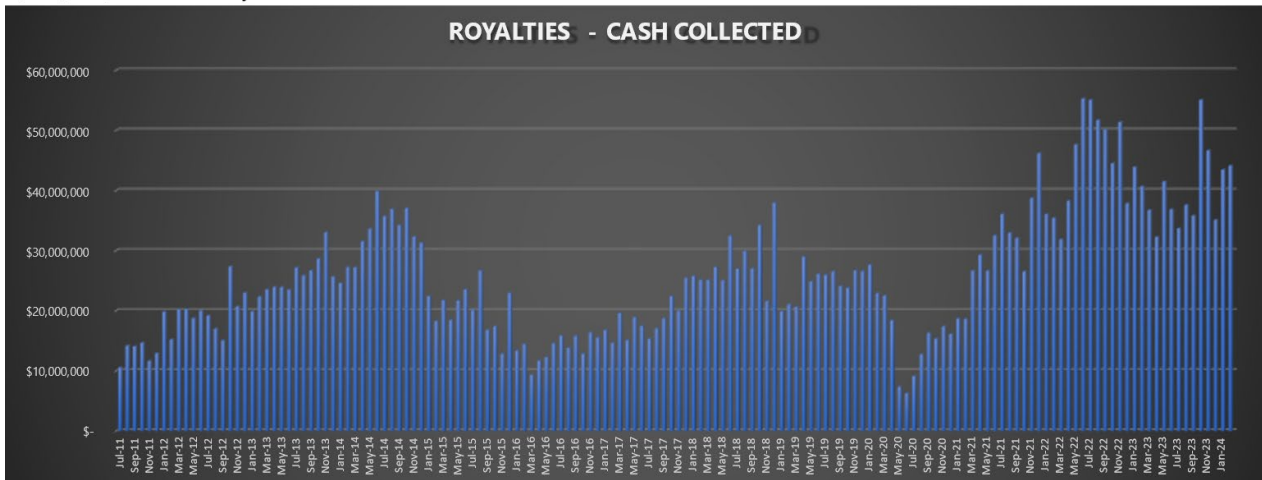
Dotted Gayfeather on Trust Lands Ransom County 134-58-26 taken in August of 2022. Photo Credit: Jacob Lardy

MINERALS

MINERALS DIVISION FISCAL YTD O/G ROYALTIES



As of February 29, 2024*, for fiscal year 2023-24 the Department has received **\$331,461,285** in royalties as compared to **\$375,132,321** last fiscal year at this time.

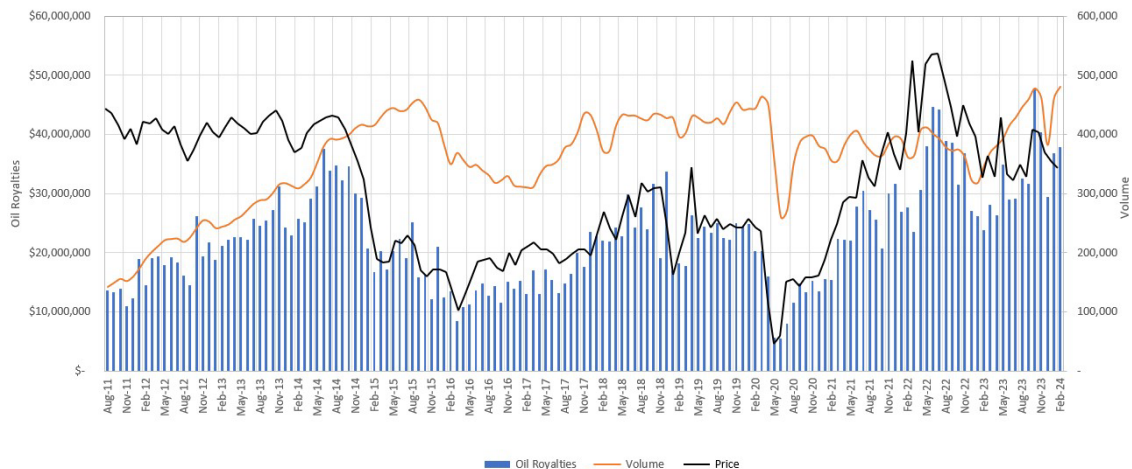


*February royalty revenue is from December gas production and January oil production.

PRICE MAIN DRIVER OF O/G ROYALTIES



In the early years production growth was the driver of the Department's royalty increases. Now that our net monthly production has been more stable, averaging around 450,000 barrels per month this biennium, the price of oil & gas is the main driver of monthly royalty variations.



UNCLAIMED PROPERTY

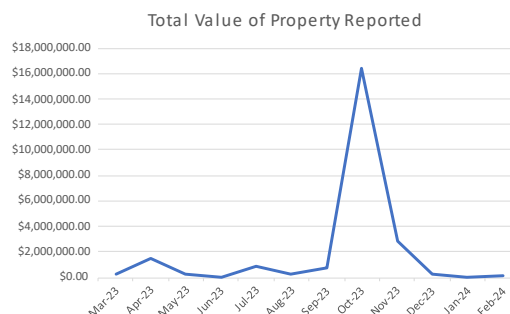
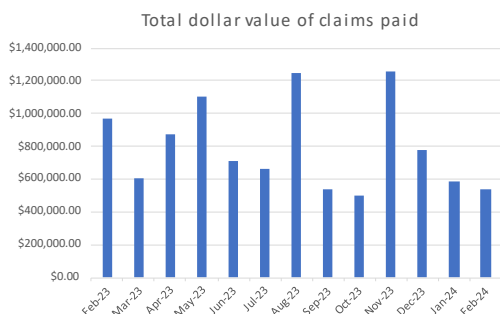
UNCLAIMED PROPERTY DIVISION

<https://unclaimedproperty.nd.gov>



For the month of February 2024, the Division paid 723 claims with \$533,550 returned to rightful owners/heirs.

The Division also received 61 holder reports with a dollar value of \$126,130.



I N V E S T M E N T S

Investment Updates

Q2 Pipeline

Absolute Return: multi-strat hedge fund recommendation

Infrastructure: infrastructure recommendation

Capital Calls Funded (as of February 29, 2024):

2023 \$80M

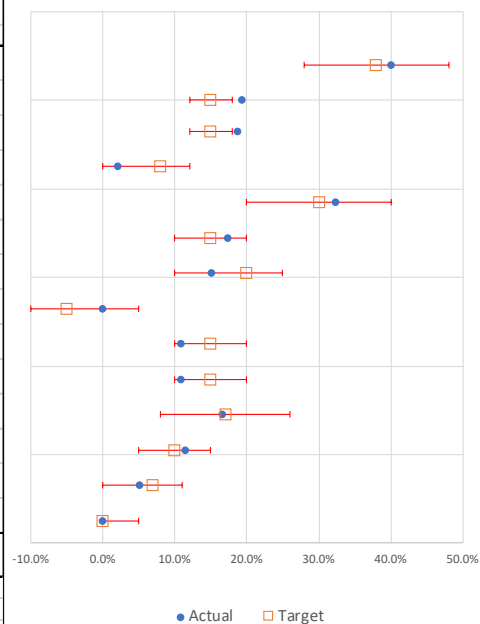
2024 YTD \$62M

Total Unfunded Commitments Remaining \$544M (as of February 29, 2024):

1. Private Credit, \$142M
 - i. Ares Pathfinder Fund, \$21M
 - ii. Owl Rock Diversified Lending, \$55M
 - iii. Monarch Capital VI, \$66M
2. Private Equity, \$246M
 - i. GCM Grosvenor Private Equity, \$82M
 - ii. GCM Grosvenor Secondary Opportunities Fund III, \$98M
 - iii. Morgan Stanley Ashbridge TS Fund II, \$10M
 - iv. Khosla Ventures, \$31M
 - v. Blue Owl Strategic Equity, \$25M
3. Real Assets, \$5M
 - i. Hamilton Lane Infrastructure Opportunities Fund, \$5M
4. Absolute Return, \$150M
 - i. Millennium USA, \$150M

Current Asset Allocation (unaudited)

As of February 29, 2024	Market Value \$	Actual	Target	Lower Range	Upper Range
Equity	2,761,272,654	40.0%	38.0%	28.0%	48.0%
Broad US Equity	1,332,008,945	19.3%	15.0%	12.0%	18.0%
Broad Int'l Equity	1,290,114,421	18.7%	15.0%	12.0%	18.0%
Private Equity	139,149,288	2.0%	8.0%	0.0%	12.0%
Fixed Income	2,234,935,669	32.4%	30.0%	20.0%	40.0%
Public Credit	1,198,384,116	17.4%	15.0%	10.0%	20.0%
Private Credit	1,036,551,554	15.0%	20.0%	10.0%	25.0%
Cash / (Implied Leverage)	-	0.0%	-5.0%	-10.0%	5.0%
Absolute Return	754,246,833	10.9%	15.0%	10.0%	20.0%
Multi-Strategy Hedge Fund	754,246,833	10.9%	15.0%	10.0%	20.0%
Real Assets	1,146,746,016	16.6%	17.0%	8.0%	26.0%
Real Estate	796,093,665	11.5%	10.0%	5.0%	15.0%
Private Infrastructure	350,652,352	5.1%	7.0%	0.0%	11.0%
Opportunistic Investments	-	0.0%	0.0%	0.0%	5.0%
Portfolio Total	6,897,201,173	100.0%			



Hypothetical Asset Allocation (after funding all commitments)

As of February 29, 2024	Market Value \$	Actual	Target	Lower Range	Upper Range
Equity	2,761,272,654	40.0%	38.0%	28.0%	48.0%
Broad US Equity	1,184,008,945	17.2%	15.0%	12.0%	18.0%
Broad Int'l Equity	1,192,114,421	17.3%	15.0%	12.0%	18.0%
Private Equity	385,149,288	5.6%	8.0%	0.0%	12.0%
Fixed Income	2,084,935,669	30.2%	30.0%	20.0%	40.0%
Public Credit	906,384,116	13.1%	15.0%	10.0%	20.0%
Private Credit	1,178,551,554	17.1%	20.0%	10.0%	25.0%
Cash / (Implied Leverage)	-	0.0%	-5.0%	-10.0%	5.0%
Absolute Return	904,246,833	13.1%	15.0%	10.0%	20.0%
Multi-Strategy Hedge Fund	904,246,833	13.1%	15.0%	10.0%	20.0%
Real Assets	1,146,746,016	16.6%	17.0%	8.0%	26.0%
Real Estate	791,093,665	11.5%	10.0%	5.0%	15.0%
Private Infrastructure	355,652,352	5.2%	7.0%	0.0%	11.0%
Opportunistic Investments	-	0.0%	0.0%	0.0%	5.0%
Portfolio Total	6,897,201,173	100.0%			

Assumptions: No other new cash is expected to fund calls. No redemption proceeds or distributions were received. All capital calls came in at the same time.

Fixed Income – Public Credit

Actively managed public credit mandates currently make up \$775M or 11% of the total portfolio. The goal of this proposal is to improve operational efficiency, reduce fees and reduce active risk (divergence from benchmark) in the portfolio.

Staff recommends consolidating the public credit portfolio into a passive US Aggregate Bond index. Consolidating the portfolio from three actively managed accounts to one passively managed account will simplify liquidity management when rebalancing is needed.

Compared to other asset classes, public credit active management fees are modest, however a change to passive management will push fees even lower.

Reining in active risk in the public credit portfolio will be offset by risk increases from implied leverage in the bond overlay program. Analysis shows active management, in general, tends to underperform the benchmark during crisis periods, which would add an unintended second layer of risk to the public credit portfolio.

After meeting with existing and potential managers to explore passive bond management capabilities, Staff and RVK make the following recommendations:

- **Hire State Street Global Advisors (SSGA) US Aggregate Bond Index (~\$775M).**

SSGA has managed the Land Board's passive public equity strategies for over 20 years and currently manages over \$1.4B in US and International public equities on behalf of the Land Board. SSGA manages \$76B in US Aggregate Bond Index portfolios, \$555B in fixed income and \$4.13T firmwide. They remain one of the top passive investment managers as measured by tracking error efficiency and fee competitiveness.

- Full Redemption Payden & Rygel Long Term (~\$340M).
- Full Redemption JP Morgan Core Bond (~\$333M).
- Full Redemption Loomis Sayles Credit Asset (~\$102M).

Transition management services will be used to wind down three separately managed accounts and roll proceeds into the passive index.

Motion: The Board approve (1) full redemption of Payden & Rygel Long Term (2) full redemption of JP Morgan Core Bond (3) full redemption of Loomis Sayles Credit Asset and (4) hire SSGA US Aggregate Bond Index, subject to standard legal review/documentation.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Howe			X		
Superintendent Baesler		X	X		
Treasurer Beadle	X		X		
Attorney General Wrigley			X		
Governor Burgum			X		

RVK Public Credit Structure & Manager Recommendations were presented to the Board and are available at the Department upon request.

LITIGATION

Litigation Update

- **EEE Minerals, LLC v. State of North Dakota, the Board of University and School Lands**
 - **Case Summary:** (OHWM title dispute / takings claim) – ND Federal District Court issued order May 31, 2022, granting Board’s motion to dismiss on all counts: federal preemption, sovereign immunity, takings; Plaintiffs appealed to 8th Circuit; on August 30, 2023, the 8th Circuit three judge panel issued its opinion in our favor affirming the trial court’s dismissal on all counts; on September 12, 2023, Plaintiffs requested a rehearing in front of the full 8th Circuit Court which was denied on October 27, 2023; on January 19, 2024, **Plaintiffs petitioned the U.S. Supreme Court to hear the case; that petition was denied on March 25, 2024**

Commencement: December 2020

ND Assigned Attorney(s): Philip Axt, ND Solicitor General

Counsel For EEE: Joshua Swanson (Vogel Law Firm, Fargo ND)

Court: United States District Court, District of North Dakota

Judge: Magistrate Judge Clare R. Hochhalter

Win = Takings claim dismissed resulting in no liability to state

Lose = Plaintiff’s case can proceed resulting in trial to determine validity of claims

- **Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands**

- **Case Summary:** OHWM title dispute / takings claim – On August 22, 2023, Whitetail Wave appealed the trial court’s rulings for the state (takings, Wenck Line, quiet title) and the award of attorney fees to co-defendant XTO Energy. North Dakota Supreme Court arguments held January 17, 2024; awaiting decision

Commencement: June 2015

ND Assigned Attorney(s): David Garner, Assistant Attorney General

Counsel for Whitetail Wave: Christopher Sweeney (Moulton Bellingham PC, Billings, MT)
Joshua Swanson (Vogel Law Firm, Fargo, ND)

Counsel for XTO: Lawrence Bender (Fredrikson & Byron P.A., Bismarck, ND)

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

Win = Takings claim dismissed resulting in no liability to state
Lose = Plaintiff’s case can proceed resulting in trial to determine validity of claims

- **Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands**

- **Case Summary:** Continental Oil Royalty Deductions – Now that the Newfield gas royalty deductions case has been resolved, this has come off stay and the parties have filed a joint scheduling order laying out the discovery and preparation timeline for trial that is currently scheduled for August 4-8, 2025, in McKenzie County.

Commencement: December 2017

ND Assigned Attorney(s): David Garner, Assistant Attorney General

Counsel for
Continental Resources, Inc.: Jamie Bryan, (K&L Gates, Fort Worth, TX)
Mark Barron (Baker & Hostetler, LLP, Denver, CO)

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

Win = Clarity that Land Board oil & gas lease does not allow for deductions from oil royalties resulting in tens of millions of dollars in deductions being repaid to the state.

Lose = Deductions from oil royalties are allowed under the lease, requiring additional administrative rules/case law to clarify extent

- **Mandan, Hidatsa, and Arikara Nation v. United States Department of the Interior**

- **Case Summary:** Missouri riverbed ownership – On July 7, 2023, the United States filed a motion to amend its pleading to add a quiet title crossclaim against North Dakota as a new Intervenor in the case. We filed a motion requesting a change of venue to North Dakota that the Court is now considering.

Commencement: July 2020

ND Assigned Attorneys: James Auslander, Kathryn Tipple, Peter Schaumberg, and Nessa Coppinger (Beveridge & Diamond, Washington, D.C.)
Charles Carvell, Special Assistant Attorney General (Pearce Durick PLLC, Bismarck ND)
Matthew Sagsveen, AG Dir. of Natural Resources and Native American Affairs

Counsel for MHA: Steven D. Gordon (Holland & Knight's Washington, D.C.)
Philip Merle Baker-Shenk (Holland & Knight's Washington, D.C.)
Timothy Purdon (Robins Kaplan, Bismarck, ND)
Timothy Billion (Robins Kaplan, Minneapolis, MN)

Counsel for United States
Department of Interior: Reuben S. Schiffman (Washington, D.C.)

Court: United States District Court for the District of Columbia

Judge: Honorable Amy Berman Jackson
Win = North Dakota owns historical Missouri Riverbed (mineral rights) through Fort Berthold Indian Reservation resulting in release to state of tens of millions of dollars in withheld oil & gas royalties.

Lose = U.S. owns the riverbed in trust for MHA Nation so royalties are released to the tribe

- **Continental Resources, Inc. v. North Dakota Board of University and School Lands and the United States of America (Interpleader)**

- **Case Summary:** OHWM fed/state dispute – ND Federal District Court issued opinion March 21, 2023, granting Board's motion for partial summary judgment on "Acquired Federal Lands" issue; this means the Wenck survey controls for establishing the historical ordinary high-water mark of the Missouri River in areas where the uplands were acquired by the federal government, and not original "public domain lands"; federal government appealed and we filed cross appeal; final brief was filed January 10, 2024, with oral arguments to be scheduled thereafter.

Commencement: December 2016

ND Assigned Attorneys: Charles Carvell, Special Assistant Attorney General
(Pearce Durick PLLC, Bismarck ND)
Philip Axt, ND Solicitor General

Counsel for XTO: Lawrence Bender (Fredrikson & Byron P.A., Bismarck, ND)
Spencer Ptacek (Fredrikson & Byron P.A., Bismarck, ND)

Counsel for USA: Shaun Pettigrew (Environment and Natural Resources
Division (ENRD) of the U.S. Department of Justice

Court: United States District Court, District of North Dakota

Judge: Magistrate Judge Clare R. Hochhalter

Win = State survey controls where U.S. lands abut the Wenck line resulting in retention of 2,500 mineral acres

Lose = Federal surveys control resulting in net loss of approximately 2,500 mineral acres

- **State of North Dakota, ex. rel. v Virginia Leland, et.al.**

- **Case Summary:** OHWM river island ownership, trial was held on September 12-16, 2022; post-trial briefing completed December 2023; awaiting Judge Schmidt's ruling.

Commencement: January 2016

ND Assigned Attorneys: Matthew Sagsveen, AG Dir. of Natural Resources and Native American Affairs
James Wald, DTL General Counsel

Counsel for Whiting Oil and Gas Corp: Paul Forster (Crowley Fleck, PLLP, Bismarck, ND)
Shane Hanson (Crowley Fleck, PLLP, Bismarck, ND)

Counsel for Defendant(s): Kevin Chapman (Chapman Law Firm, P.C., Williston, ND)
Ariston Johnson (Johnson & Sundeen, Watford City, ND)
and Others

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

Win = State owns at issue Yellowstone River islands and related mineral interests

Lose = Plaintiffs owns at issue Yellowstone River islands and related mineral interests

A D J O U R N

There being no further business, the meeting was adjourned at 10:46 AM.

Doug Burgum, Chairman
Board of University and School Lands

Joseph Heringer, Secretary
Board of University and School Lands

(03/28/24)