BOARD OF UNIVERSITY AND SCHOOL LANDS
JULY 27, 2023 9:00 AM

MEETING WILL BE HELD VIA MICROSOFT TEAMS ONLY

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Phone Conference ID: 693 746 471#

Meeting Coordinators: Catelin Newell - Director Admin Services & IT, Kate Schirado – Executive Assistant

➢ **= Board Action Requested**

1. **Approval of Meeting Minutes – Joseph Heringer, Commissioner**
   Consideration of Approval of Land Board Meeting Minutes by voice vote.
   ➢ A. June 29, 2023 – minutes available via link

2. **Operations – Joseph Heringer, Commissioner**
   A. Commissioner's Report – pg. 2

3. **Division Reports – Joseph Heringer, Commissioner**
   A. Surface – pg. 3
   B. Minerals – pg. 5
   C. Unclaimed Property – pg. 7
   D. Financials – pg. 9
   E. Executive Summary of Assets – pg. 21

4. **Investments, Frank Mihail, Chief Investment Officer**
   A. Investment Update – pg. 23
   ➢ B. Investment Policy Statement (IPS) – Second Reading – pg. 26
   ➢ C. Overlay Manager Recommendation – pg. 58
   D. Extended Equity Educational Presentation – pg. 74

5. **Special Projects – James Wald, General Counsel, Joseph Stegmiller, Surface Director**
   A. Administrative Rules Revisions – First Reading – pg. 87

6. **Litigation – Joseph Heringer, Commissioner – *pg. 117***

Next Meeting Date – August 31, 2023 – VIA TEAMS ONLY

RE: Commissioner's Report
(No Action Requested)

- Commissioner Performance & Compensation Committee – action planned for August meeting (2 board members; 1 HRMS rep., 1 industry professional)
- July 6 – Chaired meeting of State Investment Board – Securities Litigation Committee
- July 12 – testified in favor of North Dakota Trust Lands Completion Act before the U.S. Senate Committee on Energy and Natural Resources - Subcommittee on Public Lands, Forests, and Mining; meetings with congressional delegation and committee staffers; very productive and interesting trip; likely back to D.C. in Fall for U.S. House hearing
- July 14 – attended State Investment Board - Investment Committee meeting as voting member
- July 19 - attended Lignite Research Council meeting as voting member
- July 21 - attended full State Investment Board meeting as voting member
- July 26 – attended Legislative Audit and Fiscal Review Committee meeting

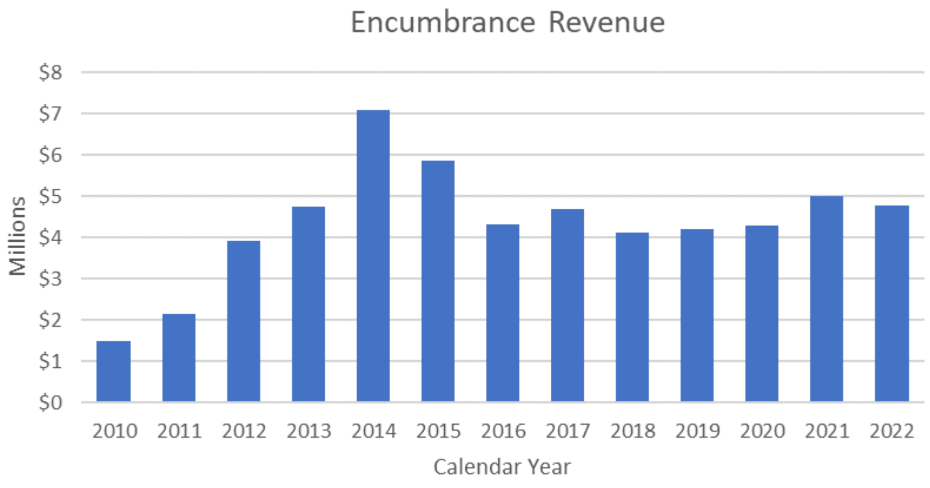
<u>HR Update</u>

- New Unclaimed Property Claims Processor position filled
- Interviews being conducted for new Investment and Minerals Officer positions

SURFACE DIVISION

Encumbrances issued by Commissioner during June 2023:

- 22 Right of Way Agreements generating $343,196 in income for the Trusts.



Williams County 153-99-22
Photo Credit: Kayla Spangelo (June 2019)
Short-horned Lizard (*Phrynosoma douglassi)*

SURFACE DIVISION

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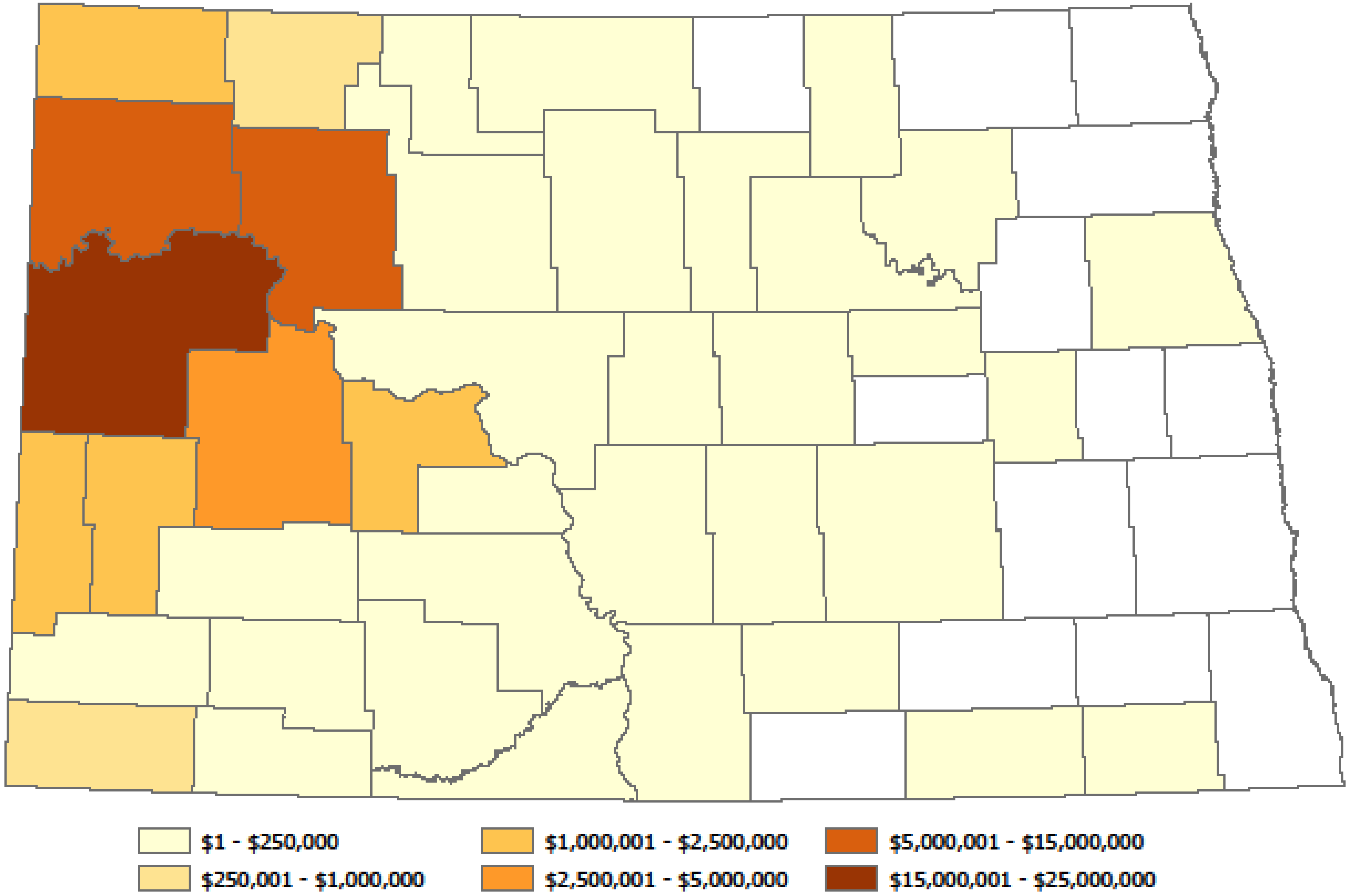
Total Encumbrance Revenue by County since 2010



The Minerals Division is preparing for the Department's next online Oil & Gas Lease Auction. The auction will open on August 1, 2023, and close on August 8, 2023. The auction will be hosted by EnergyNet.

78 Land Units, comprising a total of 8,741.96 net mineral acres, have been nominated for the auction.

Land Units nominated for the
August 1-8, 2023 Online Oil & Gas Lease Auction

County	Land Units	Net Acres
Billings	10	1,440.00
Burke	6	688.00
Divide	20	2,000.00
Dunn	2	160.00
McKenzie	20	3199.36
Mountrail	2	34.60
Stark	10	820.00
Williams	8	400.00
TOTAL	**78** Land Units	**8,741.96** Net Acres

RECORD FISCAL YTD O/G ROYALTIES

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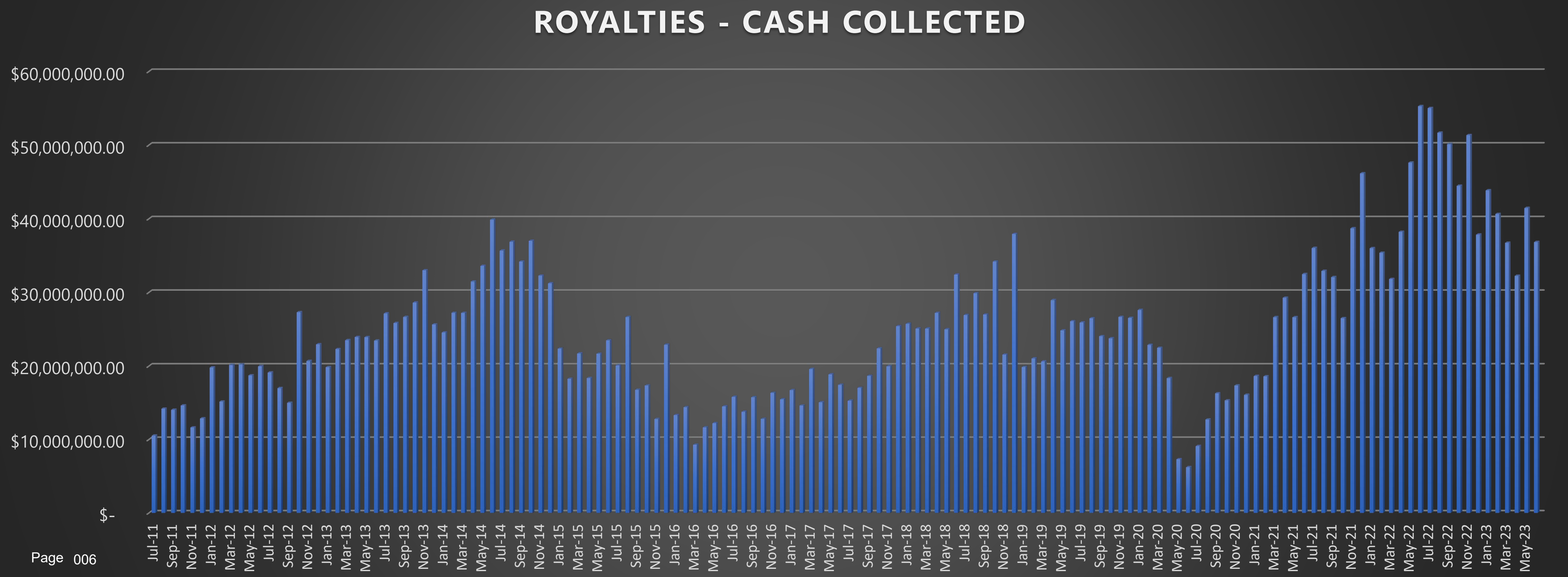
As of June 2023, for fiscal year 2022-23 the Department has received **$522,469,809** in royalties as compared to **$456,915,316** last fiscal year at this time. This closes out our record fiscal year at more than a 14% increase over last fiscal year.



UNCLAIMED PROPERTY DIVISION

https://unclaimedproperty.nd.gov/

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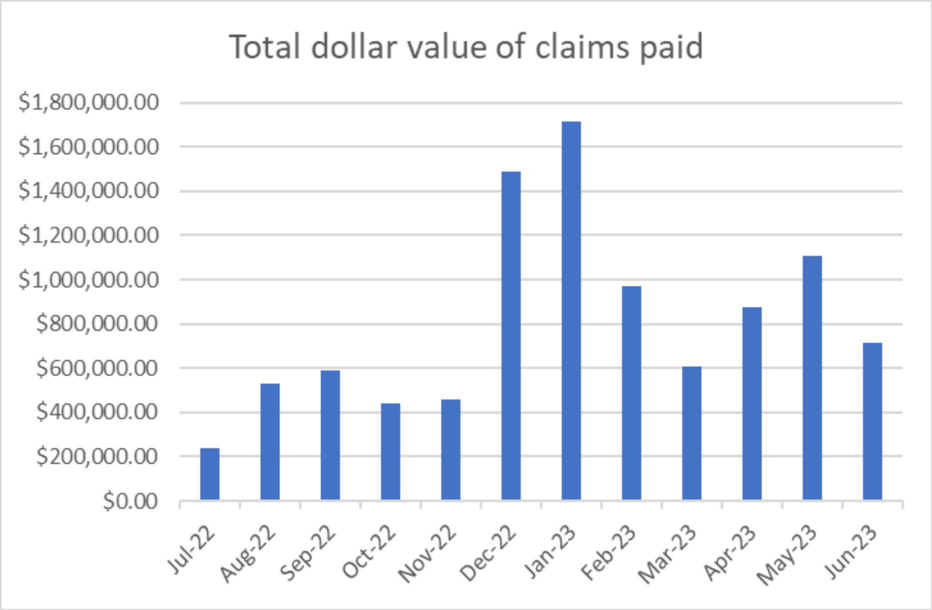
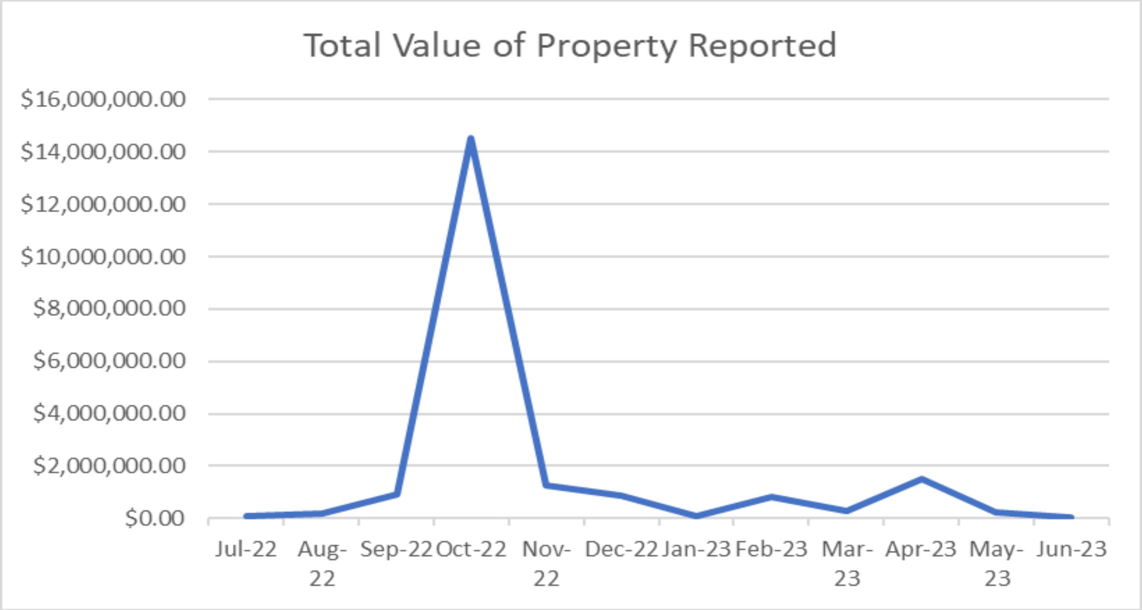
For the month of June 2023, the Division paid 437 claims with $713,769.42 returned to rightful owners/heirs. It received 61 holder reports with a dollar value of $54,584.03.



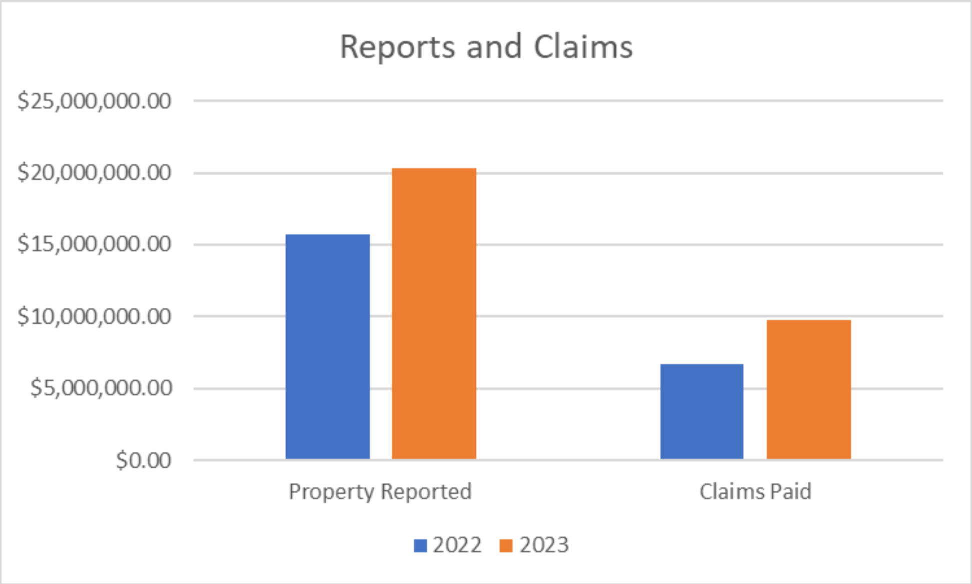


Good Morning America ran three segments on back-to-back days at the end of June highlighting unclaimed property and the opportunity states have to return money to rightful owners. This national spotlight produced a tremendous spike in page views, searches, and claims filed. For North Dakota, during the same time period last year, 101 claims were filed compared to 713 claims filed this year for an increase of 606%.

UNCLAIMED PROPERTY DIVISION

https://unclaimedproperty.nd.gov/

Fiscal Year 2022 vs. Fiscal Year 2023



In June, the Division presented and recorded two educational webinars that will be added to the website to bolster education for businesses required to report/remit unclaimed property. The first provides general information on the Fundamentals of Unclaimed Property and the second is specific to creating an unclaimed property report in the proper format.

RE: Financial Statements Position Report (Unaudited) for period ended April 30, 2023
(No Action Requested)

The following statements represent the unaudited financial position for the various trusts and funds managed by the Department of Trust Lands. The unaudited financial positions are two months delayed as a significant portion of the revenue for Commons Schools Trust, Strategic Investment and Improvements Fund, and Coal Development Trust includes gross production tax, oil extraction tax and coal severance tax distributions which are received two months after production date.

NORTH DAKOTA
BOARD OF UNIVERSITY AND SCHOOL LANDS

Financial Position Report
(Unaudited)

For period ended April 30, 2023

DEPARTMENT OF
ND TRUST LANDS
INVESTING FOR EDUCATION

Board of University and School Lands

Comparative Financial Position (Unaudited)

Schedule of Net Assets

Assets by Trust:	April 30, 2023	April 30, 2022
Common Schools	6,056,540,172.10	5,743,128,879
North Dakota State University	91,070,791	86,088,889
School for the Blind	15,659,466	15,087,085
School for the Deaf	23,774,074	23,527,093
State Hospital	15,525,327	15,669,542
Ellendale *	29,202,501	27,683,353
Valley City State University	15,944,503	15,078,127
Mayville State University	11,852,398	10,656,464
Youth Correctional Center	32,041,263	30,602,704
State College of Science	21,882,247	21,520,342
School of Mines **	27,644,659	26,498,228
Veterans Home	5,750,648	5,789,095
University of North Dakota	44,625,128	41,088,621
Capitol Building	7,714,049	6,224,450
Strategic Investment and Improvements	1,547,240,615	774,856,868
Coal Development	72,225,399	71,257,978
Indian Cultural Education Trust	1,350,256	1,374,685
Theodore Roosevelt Presidental Library	52,657,845	54,110,647
Total	$8,072,701,342	$6,970,243,049

Assets by Type:		
Cash	$545,749,317	$421,851,163
Receivables	9,804,280	5,066,585
Investments ***	7,312,133,925	6,375,859,607
Office Building (Net of Depreciation)	207,224	264,332
Farm Loans	2,477,871	4,639,062
Energy Development Impact Loans	8,325,989	9,130,798
School Construction Loans (Coal)	27,167,754	29,495,505
Due From Other Trusts and Agencies	166,834,982	123,935,997
Total	$8,072,701,342	$6,970,243,049

<u>* Ellendale Trust</u>

The following entities are equal beneficiaries of the Ellendale Trust:

Dickinson State University	School for the Blind
Minot State University	Veterans Home
Dakota College at Bottineau	State Hospital
State College of Science - Wahpeton	

<u> School of Mines</u>**

Benefits of the original grant to the School of Mines are distributed to the University of North Dakota.

<u>* Investments</u>**

Includes available cash available for loans, investments, abandoned stock and claimant liability.

Board of University and School Lands

Comparative Financial Position (Unaudited)

Common School Trust Fund

	April 30, 2023	April 30, 2022
Balance Sheet		
Assets:		
Cash	$46,975,500	$101,070,389
Interest Receivable	7,112,720	3,737,073
Investments	5,981,915,413	5,609,745,714
Farm Loans	2,282,009	4,272,913
Accounts Receivable	6,405	-
Due from Other Agencies	18,040,900	24,038,459
Office Building (Net of Depreciation)	207,224	264,332
Total Assets	$6,056,540,171	$5,743,128,880
Liabilities:		
Unclaimed Property Claimant Liability	$22,357,233	$16,461,434
Due to Other Funds	5,598	7,266
Accounts Payable	-	-
Total Liabilities	22,362,831	16,468,700
Equity:		
Fund Balance	5,655,342,237	5,736,576,918
Net Income/(Loss)	378,835,103	(9,916,738)
Total Liabilities and Equity	$6,056,540,171	$5,743,128,880
Income Statement		
Income:		
Investment Income	$110,810,506	$144,652,468
Realized Gain/(Loss)	(69,970,645)	128,085,960
Unrealized Gain/(Loss)	226,436,796	(359,128,523)
Royalties - Oil and Gas	193,699,126	177,513,548
Royalties - Coal	299,045	300,792
Royalties - Aggregate	335,175	123,345
Bonuses - Oil and Gas	2,825,120	1,302,993
Bonuses - Coal	-	-
Rents - Surface	11,681,658	12,893,726
Rents - Mineral	239,258	84,513
Rents - Coal	50,329	46,527
Rents - Office Building	83,327	71,982
Encumbrances - Surface	330,495	74,070
Sale of Capital Asset	-	644
Miscellaneous Income	-	9,700
Oil Extraction Tax Income	107,326,409	93,372,123
Unclaimed Property Income	15,647,236	11,727,176
Total Income	599,793,835	211,131,044
Expenses and Transfers:		
Investment Expense	6,503,262	6,584,640
In-Lieu and 5% County Payments	194,099	206,047
Administrative Expense	3,681,809	3,680,098
Operating Expense - Building	69,562	66,997
Transfers to Beneficiaries	210,510,000	210,510,000
Total Expense and Transfers	220,958,732	221,047,782
Net Income/(Loss)	$378,835,103	($9,916,738)

COMMON SCHOOL TRUST FUND

Monthly Income and Expenses

Unaudited Supplemental Information

	February 2023	March 2023	April 2023
Income			
Investment Income	3,183,208	15,322,669	6,543,443
Net increase(decrease) in fair value of investments	(80,894,453)	45,855,148	11,654,698
Loan Income - Farm Loan Pool	22,632	25,202	23,196
Bonus	-	1,639,271	-
Royalty	21,616,870	21,053,983	19,595,609
Rent	255,552	457,362	121,102
Miscellaneous	-	(20)	10
Tax Income - Oil Extraction	8,835,261	9,304,156	8,736,744
Capital Asset - Sale	-	-	-
Unclaimed Property Holder Receipts	360,204	223,534	1,350,968
	(46,620,726)	93,881,305	48,025,770
Expenses			
Investment Expense	207,195	1,351,413	708,281
Salaries and Operating	423,442	288,879	388,581
Transfer to State Tuition Fund	23,390,000	23,390,000	23,390,000
In Lieu Property Tax & County Payments	-	194,099	-
Unclaimed Property Paid Claims	1,381,737	829,805	399,667
	25,402,374	26,054,196	24,886,529
ENDING NET ASSETS (year to date)	$5,965,573,821	$6,033,400,930	$6,056,540,171

Board of University and School Lands

Comparative Financial Position (Unaudited)

Combined - Other Permanent Trusts

	April 30, 2023	April 30, 2022
Balance Sheet		
Assets:		
Cash	$15,504,159	$12,992,293
Interest Receivable	507,137	314,804
Investments	318,765,771	305,616,298
Farm Loans	195,862	366,149
Accounts Receivable	76	-
Total Assets	$334,973,005	$319,289,544
Liabilities:		
Due to Other Funds	479	622
Accounts Payable	-	-
Total Liabilities	479	622
Equity:		
Fund Balance	316,615,628	320,987,436
Net Income/(Loss)	18,356,898	(1,698,514)
Total Liabilities and Equity	$334,973,005	$319,289,544
Income Statement		
Income:		
Investment Income	$6,487,554	$7,967,725
Realized Gain/(Loss)	(4,115,842)	7,126,741
Unrealized Gain/(Loss)	12,626,777	(19,690,743)
Royalties - Oil and Gas	14,908,101	14,311,438
Royalties - Coal	9,303	15,536
Royalties - Aggregate	-	5,000
Bonuses - Oil and Gas	206,389	402,153
Bonuses - Coal	8,010	-
Rents - Surface	1,142,064	1,120,977
Rents - Mineral	15,502	3,761
Rents - Coal	801	400
Encumbrances - Surface	-	-
Sale of Capital Asset	-	-
Miscellaneous Income	-	4,950
Total Income	31,288,659	11,267,938
Expenses and Transfers:		
Investment Expense	356,312	359,327
In-Lieu and 5% County Payments	58,876	57,192
Administrative Expense	264,073	297,433
Transfers to Beneficiaries	12,252,500	12,252,500
Total Expense and Transfers	12,931,761	12,966,452
Net Income/(Loss)	$18,356,898	($1,698,514)

Board of University and School Lands

Comparative Financial Position (Unaudited)

Coal Development Trust

	April 30, 2023	April 30, 2022
Balance Sheet		
Assets:		
Cash	$1,247,366	$225,383
Interest Receivable	341,998	500,161
Investments	34,934,777	31,674,862
Coal Impact Loans	8,325,989	9,130,798
School Construction Loans	27,167,754	29,495,505
Due from other Trusts and Agencies	207,515	231,268
Total Assets	$72,225,399	$71,257,977
Liabilities:		
Due to Other Trusts and Agencies	$145,260	$161,887
Equity:		
Fund Balance	70,463,180	71,117,671
Net Income	1,616,959	(21,581)
Total Liabilities and Equity	$72,225,399	$71,257,977
Income Statement		
Income:		
Investment Income	$435,795	$267,284
Interest on School Construction Loans	274,638	$493,595
Realized Gain/(Loss)	146,455	33,458
Unrealized Gain/(Loss)	569,116	($1,066,883)
Coal Severance Tax Income	372,202	$376,679
Total Income	1,798,206	104,133
Expenses and Transfers:		
Investment	12,223	15,808
Administrative	2,000	2,392
Transfers to General Fund	167,024	107,514
Total Expense and Transfers	181,247	125,714
Net Income/(Loss)	$1,616,959	($21,581)

Board of University and School Lands

Comparative Financial Position (Unaudited)

Capitol Building Trust

	April 30, 2023	April 30, 2022
Balance Sheet		
Assets:		
Cash	$2,759,224	$2,528,393
Interest Receivable	28,097	18,049
Investments	4,926,728	3,678,007
Accounts Receivable	-	-
Total Assets	$7,714,049	$6,224,449
Liabilities:		
Due to Other Trusts and Agencies	$0	$0
Accounts Payable	-	-
Total Liabilities	$0	$0
Equity:		
Fund Balance	6,772,499	3,462,488
Net Income	941,550	2,761,961
Total Liabilities and Equity	$7,714,049	$6,224,449
Income Statement		
Income:		
Investment Income	$137,358	$27,752
Realized Gain(Loss)	42,990	3,189
Unrealized Gain/(Loss)	143,210	(112,635)
Royalties - Oil and Gas	1,950,161	2,689,429
Bonuses - Oil and Gas	38,563	-
Bonus - Coal	-	-
Rents - Surface	165,625	174,632
Rents - Mineral	1,593	802
Encumbrances - Surface	8,283	18,385
Royalties - Aggregate	-	-
Total Income	2,487,783	2,801,554
Expenses and Transfers:		
Investment Expense	2,819	(2,488)
In-Lieu and 5% County Payments	3,704	3,897
Administrative Expense	39,710	38,184
Transfers to Facility Management	1,500,000	-
Transfers to Legislative Council	-	-
Transfer to Supreme Court	-	-
Total Expense and Transfers	1,546,233	39,593
Net Income/(Loss)	$941,550	$2,761,961

Board of University and School Lands

Comparative Financial Position (Unaudited)

Strategic Investment and Improvements Fund

	April 30, 2023	April 30, 2022
Balance Sheet		
Assets:		
Cash	$479,249,563	$305,014,098
Accounts Receivable	2,915	-
Interest Receivable	1,868,805	580,219
Investments	917,532,765	369,596,279
Due from other Trusts or Agencies	148,586,567	99,666,270
Total Assets	$1,547,240,615	$774,856,866
Liabilities:		
Accounts Payable	$0	$0
Equity:		
Fund Balance	1,045,209,177	860,465,447
Net Income	502,031,438	(85,608,581)
Total Liabilities and Equity	$1,547,240,615	$774,856,866
Income Statement		
Income:		
Investment Income	$6,898,583	$2,857,790
Realized Gain/(Loss)	1,983,167	361,926
Unrealized Gain/(Loss)	10,008,379	(11,302,350)
Interest on Fuel Prod Facility	247,040	162,909
Interest - Miscellaneous	6,278,669	193,563
Interest and Penalty	1,004,517	1,279,437
Royalties - Oil and Gas	161,215,416	112,197,458
Bonuses - Oil and Gas	798,490	(17,787,897)
Royalties - Coal	61,739	124,370
Rents - Mineral	141,988	13,435
Tax Income - Oil Extraction & Production Distribution	536,605,836	99,666,270
Total Income	725,243,824	187,766,911
Expenses and Transfers:		
Administrative	1,698,603	1,493,193
Investment Expense	239,421	123,762
Transfer to Agriculture Department (HB 1009)	-	5,000,000
Transfer to ND Insurance Commissioner (SB 2287)	-	200,000
Transfer to Office of Management & Budget (HB 1015)	205,000,000	205,000,000
Transfer to Council on the Arts (HB 1015)	1,000,000	-
Transfer to Office of Management & Budget (HB 1015)	71,055	-
Transfer to North Dakota State University	225,000	
Transfer to Office of the Adjutant General (HB 1016)	-	1,000,000
Transfer to Innovation Loan Fund (HB 1141)	-	15,000,000
Transfer to ND University System (SB 2003)	-	19,000,000
Transfer to Office of Management & Budget (SB 2014)	-	9,500,000
Transfer to Department of Commerce (SB 2018)	14,000,000	15,000,000
Transfer From Department of Commerce - Return	(2,632)	
Transfer to Upper Great Plains Transportation (SB 2020)	-	2,073,000
Transfer from General Fund	-	(14,463)
Transfer to Dept of Human Services	980,939	-
Total Expense and Transfers	223,212,386	273,375,492
Net Income/(Loss)	$502,031,438	($85,608,581)

As of April 30, 2023 the SIIF had a fund balance of $1,547,240,615. The fund balance is made up of two parts. The committed fund balance is that portion of the fund that has either been set aside until potential title disputes related to certain riverbed leases have been resolved or appropriated by the legislature. The uncommitted fund balance is the portion of the fund that is unencumbered, and is thus available to be spent or dedicate to other programs as the legislature deems appropriate. The uncommitted fund balance was $1,433,610,034 as of April 30, 2023.

Board of University and School Lands

Comparative Fiduciary Statements (Unaudited)

Indian Cultural Trust

	April 30, 2023	April 30, 2022
Fiduciary Net Position		
Assets:		
Cash	$2,786	$421
Interest receivable	1,307	367
Investments	1,346,163	1,373,897
Total Assets	$1,350,256	$1,374,685
Liabilities:		
Accounts payable	-	-
Total Liabilities	-	-
Net Position:		
Net position restricted	1,350,256	1,374,685
Total Net Position	$1,350,256	$1,374,685
Changes in Fiduciary Net Position		
Additions:		
Contributions:		
Donations	-	-
Total Contributions	$0	$0
Investment Income:		
Net change in fair value of investments	38,891	(56,339)
Interest	27,903	36,278
Less investment expense	1,646	1,631
Net Investment Income	65,148	(21,692)
Miscellaneous Income	2,450	2,458
Total Additions	67,598	(19,234)
Deductions:		
Payments in accordance with Trust agreement	46,052	46,052
Administrative expenses	1,088	1,088
Total Deductions	47,140	47,140
Change in net position held in Trust for:		
Private-Purpose	20,458	(66,374)
Total Change in Net Position	20,458	(66,374)
Net Position - Beginning of Fiscal Year	1,329,798	1,441,059
Net Position - End of Month	$1,350,256	$1,374,685
Net Position - End of Fiscal Year		$1,329,798

Board of University and School Lands

Comparative Fiduciary Statements (Unaudited)

Theodore Roosevelt Presidential Library

	April 30, 2023	April 30, 2022
Fiduciary Net Position		
Assets:		
Cash	$10,720	$20,186
Interest receivable	(65,179)	(84,090)
Investments	52,712,304	54,174,551
Total Assets	$52,657,845	$54,110,647
Liabilities:		
Accounts payable	-	-
Total Liabilities	-	-
Net Position:		
Net position restricted	52,657,845	54,110,647
Total Net Position	$52,657,845	$54,110,647
Changes in Fiduciary Net Position		
Additions:		
Contributions:		
Donations	-	17,500,000
Total Contributions	$0	$17,500,000
Investment Income:		
Net change in fair value of investments	1,126,559	(2,210,146)
Interest	635,992	1,413,301
Less investment expense	39,165	63,617
Net Investment Income	1,723,386	(860,462)
Miscellaneous Income	471	57
Total Additions	1,723,857	16,639,595
Deductions:		
Payments in accordance with Trust agreement	1,409,458	912,215
Administrative expenses	500	63,428
Total Deductions	1,409,958	975,643
Change in net position held in Trust for:		
Private-Purpose	313,899	15,663,952
Total Change in Net Position	313,899	15,663,952
Net Position - Beginning of Fiscal Year	52,343,946	38,446,695
Net Position - End of Month	$52,657,845	$54,110,647
Net Position - End of Fiscal Year		$52,343,946

North Dakota | Trust Lands
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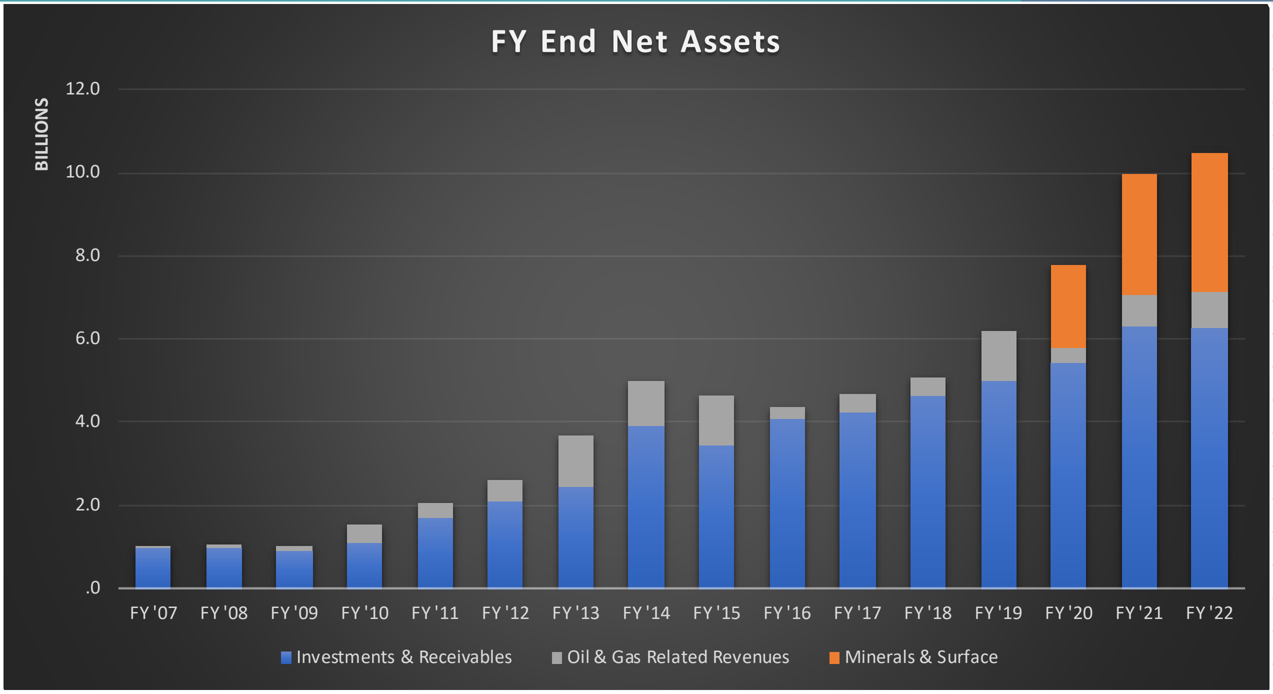
RE: Executive Estimate of Board Assets
(No Action Requested)

EXECUTIVE ESTIMATE OF ASSETS
NORTH DAKOTA DEPARTMENT OF TRUST LANDS
As of June 30, 2023

	6/30/2023 Value	MOM$ 5/31/2023 Value	MOM% Change	YOY$ 6/30/2022 Value	YOY% Change
Cash	769,244,735	647,131,545		574,285,156	
Investments[1]	7,387,811,095	7,243,220,738		6,197,797,109	
Tax Receivables[2]	-	-		246,166,707	
Loans[3]	38,015,765	38,084,527		40,799,923	
Receivables[4]	10,805,125	8,684,512		26,687,000	
Sub-Total Net Assets	***$8,205,876,719***	***7,937,121,322***	***3.39%***	***$7,085,735,896***	***15.81%***
Mineral Rights[5]	2,813,480,347	2,813,480,347		2,813,480,347	
Surface Rights[6]	518,077,274	518,077,274		511,088,869	
Building Value[7]	1,015,196	1,015,196		-	
Total Net Assets	***$11,538,449,536***	***$11,269,694,139***	***2.38%***	***$10,410,305,112***	***10.84%***

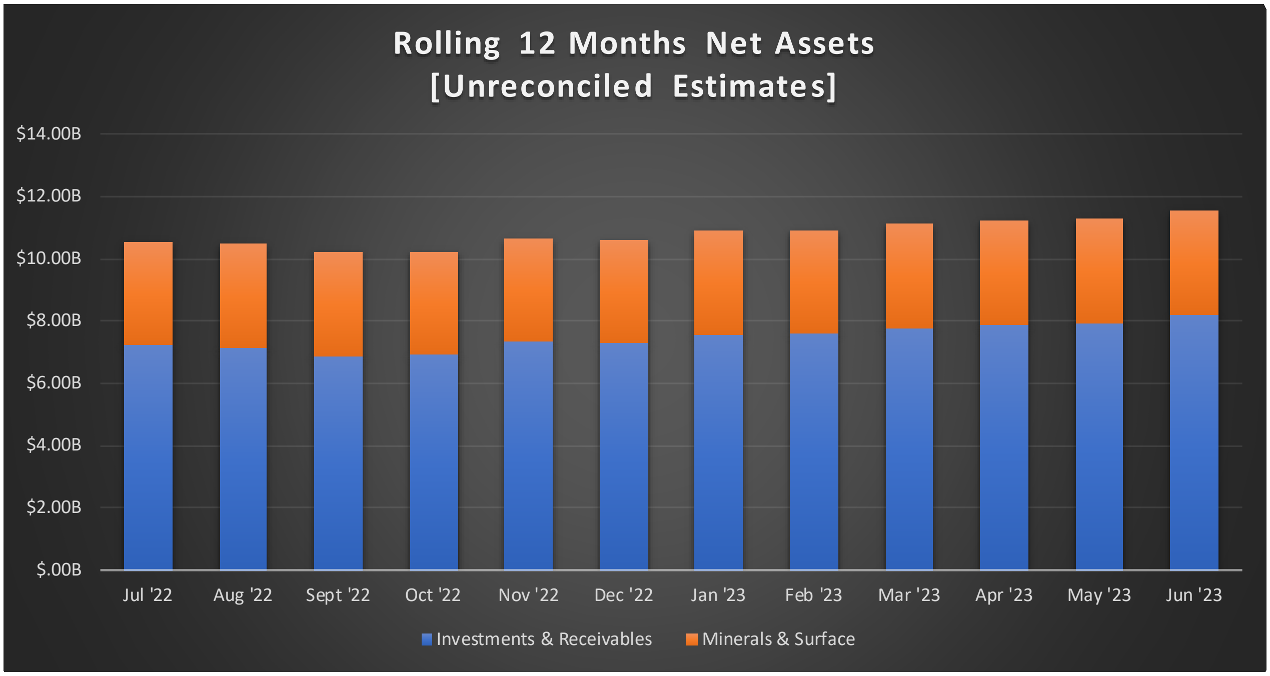
[1] Approximately 60% of the portfolio is publicly traded for which values are current to the as of date. The remaining 40% is private assets, the values of which are updated as the mangers provide them, typically 30-60 days after the end of each quarter.
[2] Estimated value of production, extraction, and severance tax payments not yet received by the Department because they are not distributed until two months after production date.
[3]Various loan programs funded with trust assets.
[4] Loans and investments interest accrued, but not yet paid.
[5] Valued annually via contract with Mineral Tracker. Valuation as of December 31, 2021.
[6] Valued annually via Department fair market value policy. Valuation as of March 2023, based off agricultural values.
[7] Updated annually via broker price opinion. Valuation as of Sept. 15,2022.



[1] FY End 2020 - included intial Mineral valuations as of 12/31/19 amounting to $1,449,002,408 and surface fair market value as of 12/31/19 amounting to $538,179,773.

[2] FY End 2021 - included new Mineral valuations as of 12/31/20 amounting to $2,391,439,503. and surface fair market value as of 12/31/20 amounting to $523,938,730.

[3] FY End 2022 - included most recent Mineral valuations as of 12/31/21 amounting to $2,813,480,347 and surface fair market value as of 12/31/21 amounting to $511,088,869.



[1] Dec 2021 includes mineral rights value of $2,813,480,347

[2] Sep 2022 includes appraised building value of $1,015,196

[3] Mar 2023 includes surface rights value of $518,077,274

RE: Investment Updates
(No Action Requested)

Q3-Q4 Pipeline

Public Credit: bond overlay manager recommendation
Real Estate: total portfolio restructuring recommendation
Public Equity: extended equity (130-30) manager recommendation
Private Credit: distressed credit manager recommendation
Absolute Return: multi-strategy hedge fund recommendation

Portfolio Rebalancing Updates

Capital Calls Funded and Pending:
06/21 Ares Pathfinder Fund $6.0M
06/22 GCM Grosvenor Private Equity $3.45M
07/06 Owl Rock Diversified Lending $7.5M
07/25 Hamilton Lane Infrastructure Opportunities Fund $1.5M

Total Unfunded Commitments Remaining $477M (as of June 30, 2023):

1. Private Credit, $105M
   i. *Ares Pathfinder Fund, $32M*
   ii. *Owl Rock Diversified Lending, $52.5M*
   iii. *Varde Dislocation Fund, $20.5M*

2. Private Equity, $212M
   i. *GCM Grosvenor Private Equity, $94M*
   ii. *GCM Grosvenor Secondary Opportunities Fund III, $106.5M*
   iii. *Morgan Stanley Ashbridge TS Fund II, $11.5M*

3. Private Infrastructure, $10M
   i. *Hamilton Lane Infrastructure Opportunities Fund, $10M*

4. Absolute Return, $150M
   i. *Millennium USA LP (Hedge Fund), $150M*

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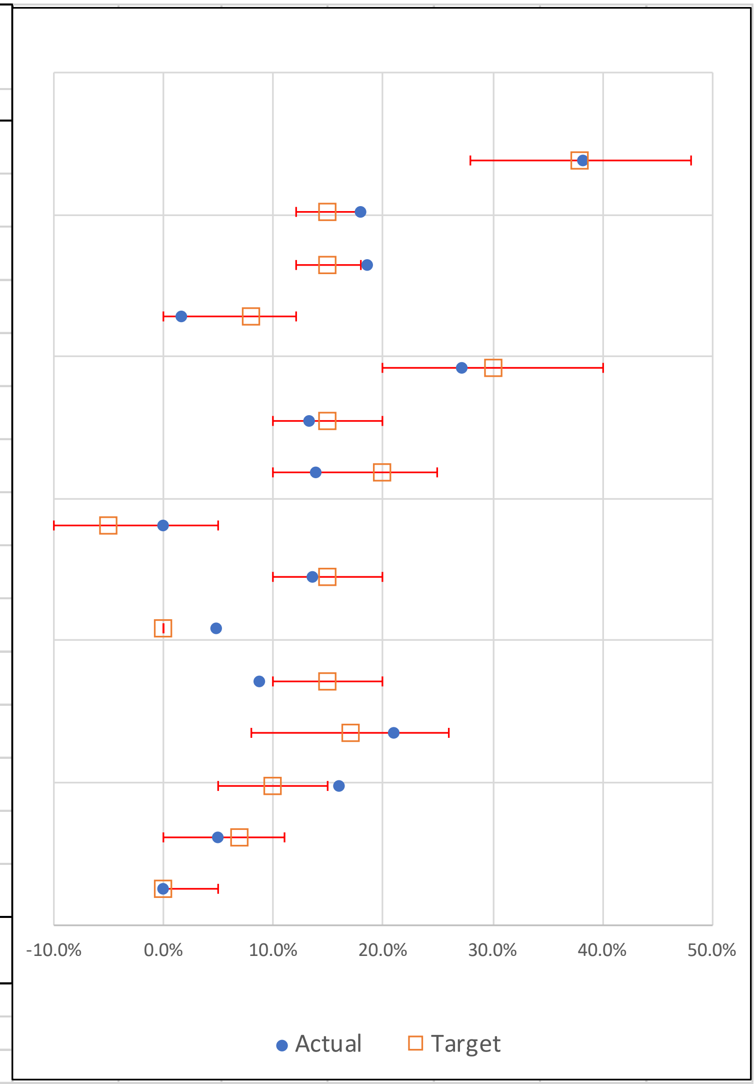
Current Asset Allocation (unaudited)

As of June 30, 2023	Market Value $	Actual	Target	Lower Range	Upper Range
Equity	2,465,264,838	38.2%	38.0%	28.0%	48.0%
Broad US Equity	*1,161,162,531*	*18.0%*	*15.0%*	*12.0%*	*18.0%*
Broad Int'l Equity	*1,195,911,327*	*18.5%*	*15.0%*	*12.0%*	*18.0%*
Private Equity	*108,190,980*	*1.7%*	*8.0%*	*0.0%*	*12.0%*
Fixed Income	1,750,181,909	27.1%	30.0%	20.0%	40.0%
Public Credit	*853,421,407*	*13.2%*	*15.0%*	*10.0%*	*20.0%*
Private Credit	*896,760,502*	*13.9%*	*20.0%*	*10.0%*	*25.0%*
Cash / (Implied Leverage)	*-*	*0.0%*	*-5.0%*	*-10.0%*	*5.0%*
Absolute Return	879,719,384	13.6%	15.0%	10.0%	20.0%
Global Tactical Asset Allocation	*312,977,149*	*4.9%*	*0.0%*	*0.0%*	*0.0%*
Multi-Strategy Hedge Fund	*566,742,235*	*8.8%*	*15.0%*	*10.0%*	*20.0%*
Real Assets	1,356,677,050	21.0%	17.0%	8.0%	26.0%
Real Estate	*1,035,212,070*	*16.0%*	*10.0%*	*5.0%*	*15.0%*
Private Infrastructure	*321,464,980*	*5.0%*	*7.0%*	*0.0%*	*11.0%*
Opportunistic Investments	-	0.0%	0.0%	0.0%	5.0%
Portfolio Total	6,451,843,182	100.0%			



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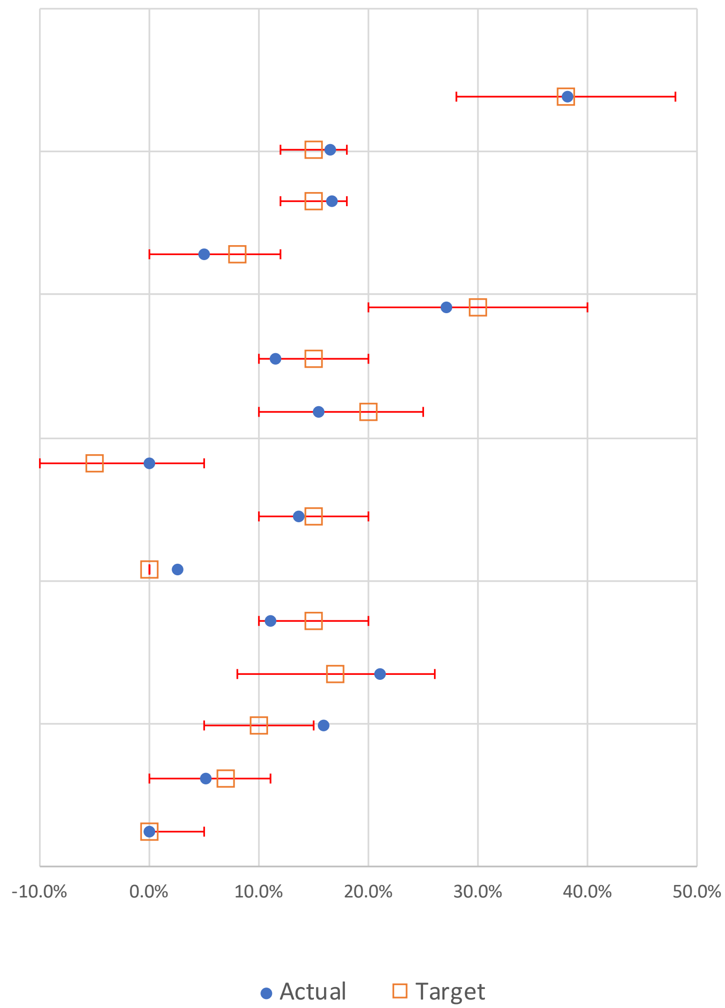
Hypothetical Asset Allocation (after funding all commitments)

As of **June 30, 2023**	Market Value $	Actual	Target	Lower Range	Upper Range
Equity	2,465,264,838	38.2%	38.0%	28.0%	48.0%
Broad US Equity	*1,067,162,531*	*16.5%*	*15.0%*	*12.0%*	*18.0%*
Broad Int'l Equity	*1,077,911,327*	*16.7%*	*15.0%*	*12.0%*	*18.0%*
Private Equity	*320,190,980*	*5.0%*	*8.0%*	*0.0%*	*12.0%*
Fixed Income	1,750,181,909	27.1%	30.0%	20.0%	40.0%
Public Credit	*748,421,407*	*11.6%*	*15.0%*	*10.0%*	*20.0%*
Private Credit	*1,001,760,502*	*15.5%*	*20.0%*	*10.0%*	*25.0%*
Cash / (Implied Leverage)	*-*	*0.0%*	*-5.0%*	*-10.0%*	*5.0%*
Absolute Return	879,719,384	13.6%	15.0%	10.0%	20.0%
Global Tactical Asset Allocation	*162,977,149*	*2.5%*	*0.0%*	*0.0%*	*0.0%*
Multi-Strategy Hedge Fund	*716,742,235*	*11.1%*	*15.0%*	*10.0%*	*20.0%*
Real Assets	1,356,677,050	21.0%	17.0%	8.0%	26.0%
Real Estate	*1,025,212,070*	*15.9%*	*10.0%*	*5.0%*	*15.0%*
Private Infrastructure	*331,464,980*	*5.1%*	*7.0%*	*0.0%*	*11.0%*
Opportunistic Investments	-	0.0%	0.0%	0.0%	5.0%
Portfolio Total	6,451,843,182	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.

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MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
July 27, 2023

RE: Investment Policy Statement – Second Reading

The Board of University and School Lands (Board) Investment Policy Statement (IPS) must be updated to reflect the Board's new Strategic Asset Allocation (SAA) for the Permanent Trust Funds approved at the June 29, 2023 Board meeting.

The substantive changes to the IPS are as follows (see attachment):

1. Update Strategic Asset Allocation targets and ranges (pages 17-18).
2. Update Benchmark indices and targets (page 19).
3. Update Permitted Investments language under Fixed Income, Absolute Return and Total Portfolio Leverage sections (page 21-22).

Recommendation: **The Board approve changes to the Investment Policy Statement as shown on the attached redline version.**

Attachment: Investment Policy Statement redline

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

ND Board of University and School Lands Investment Policy Statement

An Investment Management Framework for North Dakota's Permanent Trust Funds, the Capitol Building Fund, the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment Fund

Revised 06~~8~~/29~~5~~/2023~~2~~

TABLE OF CONTENTS

Mission Statement

The mission of the Board of University and School Lands is to manage the assets of the permanent trusts in a manner that preserves the purchasing power of the funds and maintains stable distributions to fund beneficiaries and to manage all other assets and programs entrusted to the Board in a prudent, professional manner, in accordance with the Constitution of North Dakota and applicable state law.

General Authority

On February 22, 1889 Congress passed the Enabling Act, dividing Dakota Territory into two states and authorizing the people to form the constitution and government of the state of North Dakota. This act granted a significant amount of land to support common schools, colleges, universities, the state capitol, and other public institutions. North Dakota Constitution article IX, which became effective at statehood on November 2, 1889, entrusted the management of these lands to the "board of university and school lands" (the Board). The Board is made up of the governor as chairman, the secretary of state as vice-chair, the attorney general, superintendent of public instruction, and the state treasurer.

Investment Authority

The North Dakota Constitution states that the Board "has control of the appraisement, sale, rental, and disposal of all school and university lands, and the proceeds from the sale of such lands shall be invested as provided by law."[1] State law further requires that the Board "shall apply the prudent investor rule in investing the permanent funds under its control."[2]

Purpose of This Policy

This Investment Policy Statement (Policy) governs the investment of assets for the thirteen Permanent Trust Funds, the Strategic Investment and Improvements Fund (SIIF), the Capitol Building Fund, the Coal Development Trust Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment Fund (collectively, Funds). It is established to provide a framework for the management of those assets and sets forth the Board's investment objectives, philosophy, guidelines, and practices. The Policy is not intended to be a static, one-time document but is designed to capture investment opportunities while providing parameters that ensure prudence and care in the execution of the investment program. No investment or action pursuant to an investment may be taken unless permitted by this Policy or by action of the Board; any exceptions must be approved by the Board.

The Policy provides guidance for fiduciaries which include the Board, the Commissioner of University and School Lands (Commissioner), investment managers, investment consultants, and custodians. It is the intent of the Policy to provide the foundation for management of the Funds' assets in a prudent manner including

[1] N.D. Const. art. IX, § 3

[2] N.D.C.C. § 15-03-04

the standards by which the Board can evaluate the Commissioner, investment managers, investment consultants, custodians and other service providers.

This Policy is supplemented by the Commissioner's operating procedures and policies, as well as detailed information within contractual agreements with investment managers.

Investment Philosophy

In order to meet the above investment objectives, the Board has adopted the following principles:

- Strategic asset allocation is a fiduciary duty and allocation across asset classes is the most important determinant of return variability and long-term total return.
- Risk is an unavoidable component of investing and is a major factor that must be taken into account in assessing investment policy and strategy.
- Diversification by asset class and within asset classes is a primary risk control element.
- Each trust or fund invested by the Board shall have a strategic asset allocation and investment strategy that is appropriate given its specific requirements for return, risk, time horizon, and liquidity.

Capital Markets Theory

Return

In order to meet the objective of the Funds, the Board strives to achieve the highest level of investment performance that is compatible with its risk tolerance and prudent investment practices. The Board's mechanism for setting return goals will be accomplished by selecting specific benchmarks that match the objective and time horizon of each fund. The Funds will have a goal for long-term returns to meet or exceed its formal benchmark over a full market cycle, while minimizing the costs associated with implementation of the asset allocation through efficient use of internal and/or external resources.

Risk

The investment risk philosophy for the Funds is based on the principles of capital market theory that are generally accepted and followed by institutional investors, who by definition are long-term oriented investors. This philosophy holds that:

- Increasing risk is rewarded with compensating returns over time; therefore prudent risk taking is a necessary element of long-term investing.
- Risk can be mitigated through diversification of asset classes and investment approaches, as well as diversification of individual securities.
- The primary determinant of long-term investment performance is the strategic or long-term allocation of assets among various asset classes.
- Relative performance of various asset classes is unpredictable in the short-term and attempts to shift tactically between asset classes or implementation strategies shall not be undertaken by the Board.

Given these principles, the Board has established a long-term asset allocation policy for each fund that balances the returns needed to meet the fund's objectives and the risk level that is appropriate for that fund under existing and anticipated circumstances. In determining its risk posture, the Board has considered each fund's purpose and characteristics, current and projected financial condition, liquidity needs, sources of contribution, income, and general economic conditions.

Diversification

The Board will choose an investment strategy for each Fund utilizing an appropriate long-term, diversified asset allocation approach. Diversification distributes a portfolio across many investments to avoid excessive exposure to any one source of risk. Other considerations in asset allocation modeling should take into account the purpose of the fund, the size and financial condition of the fund, and general economic conditions. These factors are not intended to be limiting; rather, they are outlined as a general indication of the importance of diversification to proper asset allocation. Under such an allocation, each Fund's assets may be invested by active and/or passive managers, and by diverse investment strategies and styles within each asset class. The Board will determine the proper allocation among asset classes and investment managers, based on advice and analysis provided by the Commissioner and/or Consultants.

Formal Review Schedule

The Board recognizes that though the investments are subject to short-term volatility, the Board shall maintain a long-term investment focus. This prevents ad-hoc revisions to the philosophy and policies in reaction to either speculation or short-term market fluctuations. In order to preserve this long-term view, the Board has adopted the following formal review schedule:

Formal Review Agenda Item	Formal Review Schedule
Asset Allocation Policy	At least every four years
Manager Structure Policy	At least every four years
Investment Policy	At least every four years
Total Fund Performance	At least quarterly
Asset Class Composite Performance	At least quarterly
Investment Manager Performance	At least quarterly

Roles and Responsibilities

The Board

The Board of University and School Lands is the primary body charged with overseeing investment activities relating to the Funds. Members of the Board are fiduciaries subject to the statutory and common law duties of a fiduciary.

The Board's mandate, in turn, is to manage each fund entrusted to it ethically and optimally, working to achieve the highest level of investment performance within acceptable levels of risk. The Board is responsible for prudent investment of the Funds. The Board will operate the investment program in compliance with all applicable federal and State laws and regulations. The Board is responsible for establishing and maintaining all policies and guidelines by which the Funds are managed, and by which the Commissioner operates.

The Board relies on the Commissioner and any external contractors to properly administer the Funds and implement the Funds' investment strategies. The roles of each party as fiduciaries must be clearly identified; such identification increases operational efficiency, ensures clear lines of responsibility, and reduces or eliminates duplication of effort.

The Commissioner

The Board of University and School Lands is required to appoint a commissioner to act on its behalf.[3] The office of the Commissioner of University and School Lands (the Commissioner)[4] has a primary responsibility to manage the permanent educational trust funds and assets under the Board's control as outlined in law. When used in this Policy, the term Commissioner is inclusive of the Department of Trust Lands' Chief Investment Officer and investment staff. State law also gives the office of the Commissioner the responsibility for managing the state Unclaimed Property Division, and the Energy Infrastructure and Impact Office.

The Commissioner is responsible for implementing Board policy, the day to day management of the investment program, and implementing a process for selection and termination of investment managers that is sufficiently transparent for the Board to understand the process and provide meaningful oversight.

Investment Consultant

The Investment Consultant (Consultant) is hired by and reports directly to the Board. The Consultant's duty is to assist the Board in oversight, and the Commissioner in managing the investment process. This includes regular meetings with the Board to provide an independent perspective on the Funds' goals, structure, performance, and managers. The Consultant will render investment advice to the Board regarding such matters as investment policy, strategy, overall portfolio monitoring and composition, and diversification of investments. The Consultant will conduct ongoing due diligence of external investment managers. The Consultant does not have any discretionary authority with respect to investments; the Board makes all final decisions regarding any investments.

Investment Managers

Investment managers (Managers) are hired by and serve at the pleasure of the Board. The Commissioner will provide the Managers with explicit written investment guidelines[5] which detail permissible securities, investment strategies, and performance evaluation criteria. Each Manager will select, buy, and sell specific securities or investments within the parameters specified in their investment guidelines and in adherence to this Policy or to other policies set forth by the Board. Managers will construct and manage investment

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[3] N.D.C.C. § 15-02-01; Specific responsibilities of the Board and the Commissioner are set out in N.D.C.C. ch. 15-01 through 15-08.1.

[4] Commissioner of University and School Lands is the statutory name; in 2011 the Board adopted *The Department of Trust Lands* as the common reference to the agency.

[5] In cases where the Board has selected investments in commingled or mutual funds, the offering document becomes the specific investment guidelines.

portfolios that are consistent with the investment philosophy and disciplines for which they were hired. Managers will provide performance reporting at intervals specified by the Commissioner.

Custodian

A custodian bank is a specialized financial institution hired by the Board to safeguard the Funds' financial assets; they are a third party that operates separately from Managers. The custodian(s) will collect income and safely keep all cash and securities, process all transactions, and provide monthly accounting/investment reports to the Commissioner and Consultant. The custodian may also provide securities lending, commission recapture, transition management, securities litigation monitoring, or other services for the Funds.

The Prudent Investor Rule

North Dakota statute dictates that the Board apply the prudent investor rule in investing the Permanent Trust Funds under its control. The law states:

> The "prudent investor rule" means that in making investments the board shall exercise the same judgment and care, under the circumstances then prevailing and limitations of North Dakota and federal law, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable investment returns.[6]

It is the Board's intent to invest all of the Funds in accordance with the Prudent Investor Rule.

Social and Economically Targeted Investing

Social investing is defined as the practice of aligning one's investment policies with social responsibility. Some of the issues and topics addressed by social investing promoters include environmental causes, avoidance of tobacco producers, avoidance of politically sensitive parts of the world, and workers' rights. With different sets of values, what one investor may deem irresponsible, another may consider good policy.

The Board shall not use the Funds to participate in activist efforts to implement a social agenda regarding ownership of specific securities or efforts of shareholders to bring about social change.

Economically targeted investing is defined as an investment designed to create economic benefits for a targeted geographic area, group of people, or sector of the economy. Economically targeted investing is barred when investing the Permanent Trust Funds, the Capitol Building Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment Fund, unless the investment meets the Exclusive Benefit Rule.

[6] N.D.C.C. § 15-03-04

Exclusive Benefit Rule

The Exclusive Benefit Rule is met if the following four conditions are satisfied:

- The cost does not exceed the fair market value at the time of investment.
- The investment provides an equivalent or superior rate of return for a similar investment with a similar time horizon and similar risk.
- Sufficient liquidity is maintained to permit timely distributions.
- The safeguards and diversity to which a prudent investor would adhere are present.

Economically targeted investing is allowed within the Coal Development Trust Fund and the Strategic Investment and Improvement Fund, if the investment meets the purpose of the fund and is directed by law.

Conflicts of Interest

Members of the Board, the Commissioner, employees of the Commissioner, Managers, Consultants, and custodians involved in the investment process will refrain from personal business activity that could conflict with the proper execution and management of the Board's investment program, or that could impair their ability to make impartial recommendations and decisions. These parties are required to reveal all relationships that could create or appear to create a conflict of interest in their unbiased involvement in the investment process.

Manager Selection and Evaluation

When analyzing and evaluating any Manager, the Board believes it is important to review the Manager within the context of the structure of the entire asset class and portfolio, and not in isolation. A key to portfolio construction is diversification, not just by asset class but within each asset class. The goal of diversification is to be exposed to different investment strategies, which will have different performance and risk patterns. Diversification is optimal when strategies are complementary.

Search and Selection

The Board has established the following guidelines for hiring Managers. In establishing these guidelines, it is the Board's intention to assure all interested parties that decisions made in carrying out these actions occur in a full disclosure environment characterized by competitive selection, objective evaluation, and proper documentation. Any action to hire a manager should be based on one or more of the following observations:

- Identification of a new asset class or approach which has been approved in advance by the Board
- A need for diversification of managers and styles within an existing asset class
- A need to replace an investment manager
- A need to retain additional managers in order to reach an asset class structure target

The selection of new Managers will adhere to a consistent process to ensure a competitive and transparent search involving proper evaluation and due diligence of candidates, and selection of Managers that best demonstrate the characteristics sought in a specific search. The Commissioner will ensure that the objectives for the mandate are clearly articulated and that pricing is reflective of the market. The evaluation process may be conducted by the Commissioner or the Consultant and will include but not be limited to the following steps:

1. Establish investment manager selection criteria
2. Identify qualified candidates through minimum qualification screening
3. Quantitative screening
4. Qualitative screening
5. Manager interviews
6. Analysis of quantitative and qualitative factors including portfolio fit and structure

The Commissioner will prepare documentation of the search process; this documentation will include disclosure of all relevant issues and related due diligence. When reviewing the documentation, the Board shall ensure that decisions were well reasoned, thoroughly considered, and prudent.

Monitoring, Evaluation, and Termination of Managers

The decision to retain a Manager can have the same potential impact on the returns of an asset class composite as manager selection decisions and should be given the same degree of attention. The Board recognizes investment and management decisions directed at individual managers must be evaluated not in isolation but in the context of the overall structure of the asset class and the Fund's portfolio as a whole. To maintain the discipline necessary for a long-term focus, the Board will monitor and evaluate the performance of Managers and identify the specific problems and concerns that may affect returns, with the following objectives:

- Foster a long-term approach to manager evaluation
- Provide a review of the manager's "fit" in the overall asset class composite
- Provide a logical and statistically valid framework for manager skill evaluation
- Promote timely and appropriate responses to actual and potential performance issues
- Provide flexibility to allow application across all asset classes, management styles and market environments

Monitoring and evaluation relies on a process that includes:

1. Monthly reports from the custodian and Managers to the Commissioner
2. Quarterly performance reports from the Commissioner and Consultant for the Board. These reports will detail performance of the Funds, asset class composites, and the performance of individual managers against established benchmarks, as well as peer ranks for each category
3. Qualitative analysis generated in the course of regular, on-going contact between a Manager, the Commissioner, and the Consultant

Manager Termination Guidelines

From time to time it will be necessary for the Board to terminate a contractual relationship with a Manager; these actions must be viewed in the context of the entire portfolio and as a business decision. The Board has established guidelines to assist in making these termination decisions. The overriding consideration with respect to all decisions is that they shall be made solely in the best interest of the beneficiaries of the Funds.

Any action to terminate a manager should be based on one or more of the following criteria:

1. Significant changes in firm ownership and/or structure
2. Loss of one or more key personnel
3. Significant loss of clients and/or assets under management
4. Shifts in the firm's philosophy or process
5. Significant and persistent lack of responsiveness to client requests
6. Changes in the Board's investment strategy eliminating the need for a particular style or strategy
7. Violations of the Investment Policy or guidelines
8. Unsatisfactory investment performance
9. Identification of a new asset class or approach which has been approved in advance by the Board
10. Need for diversification of styles within an existing asset class
11. Need to reduce exposure to a single manager
12. Any other issue or situation of which the Commissioner, Consultant, and/or Board become aware that is deemed material

Prior to the termination decision, all relevant considerations and issues should be identified and documented in Board meeting minutes and supporting documents. It is the Board's intent to have a plan in place before termination of a Manager. The Commissioner will redeploy the assets of a terminated manager's portfolio in an expedient and prudent manner, which may involve hiring a third party to facilitate the transition or liquidation of assets.

General Investment Restrictions and/or Guidelines

1. All investments made shall be subject to the quality and diversification restrictions established by the Prudent Investor Rule.
2. According to North Dakota law, the Board may not purchase as sole owner commercial or residential real property in the State.[7]
3. Assets may be held in commingled funds and/or privately managed separate accounts. Exposure through commingled funds and mutual funds shall be evaluated on a case-specific basis through analysis of that fund's offering document. Upon review by the Commissioner and approval by the Board, this offering document becomes the specific investment guidelines for that allocation.
4. No more than 5% of the stock of any corporation may be purchased.
5. The securities representing debt and equity of any one company shall not exceed 6% of the market value of any Manager's portfolio without prior approval from the Commissioner; such approval shall be reported to the Board.

[7] N.D.C.C. § 15-03-04

6. Cash equivalents held by Managers can be disruptive to the allocation process. Unless otherwise authorized, Managers are expected to be fully invested in the types of securities for which they have responsibility.
7. Any use of leverage will be consistent with the strategy for which the Board hired the Manager. Use of leverage will be controlled as appropriate in the Manager's specific guidelines.
8. The Board recognizes that the Funds are exposed to currency risk through international equity, fixed income, and absolute return mandates; the Board prefers to utilize unhedged benchmarks and does not require its Managers to hedge the currency exposure in their portfolios.

Securities Litigation and Shareholder Legal Activism

In carrying out its fiduciary duties to prudently invest and manage the assets entrusted to it, the Board invests in the securities of various public companies, or issuers. From time to time, class action lawsuits are brought against the issuers, directors, and/or officers for alleged violations of federal and state securities laws relating to various disclosure obligations and other breaches of fiduciary or other duties. As shareholders, the trust funds under the Board's control are putative members of the alleged classes.

At the present time, the Board relies on a designated agent to monitor settled class action securities litigation where the Funds have an interest. In resolved litigation, unless directed otherwise, the designated agent files proofs of claim on behalf of the Funds and posts disbursements or settlements to the appropriate portfolios as litigation settlement proceeds are received. The designated agent will provide the Department with its most current class action procedures and will follow such procedures on behalf of the Department. The designated agents class action procedures shall include reviewing various information sources for notification of class action suits, identifying transactions within the class period for the security involved and determining account eligibility and filing proof of claim and supporting documentation.

Department Investment staff will monitor the designated agent's compliance with the Securities Litigation Policy. Investment staff will review all notices and information concerning potential or pending class action litigation that are received by the Department. The Commissioner will report periodically to the Board on recoveries realized as a result of class action participation.

Although there may be value in influencing an eventual settlement or in pursuing a separate legal action in a lawsuit, the administration and opportunity costs can be substantial. The Board uses a monitoring approach to securities litigation to avoid the diversion of staff, financial, and legal resources in building and applying collective plaintiffs' arguments through depositions, discovery, and documentation. Serving as the lead plaintiff does not obtain any additional financial benefit, but rather a lead in a class action suit shares any final judgment or settlement with the class members on an equal, per share basis.[8] Opting out of a "class" or objecting to the terms of a proposed settlement and pursuing independent legal remedies may also be pursued although the administration and opportunity costs can be substantial and involve significant attorney's fees, costs, and expenses which may or may not be recovered.

[8] The lead plaintiff may recover attorney's fees, costs, and expenses if the lawsuit is successful or a settlement is obtained.

The Commissioner will initiate active participation in securities cases only upon prior approval by the Board. Prior to bringing any recommendation to the Board, the Commissioner will assess the merits and prospects for active participation by reference to the criteria and factors outlined below. The Board, in consultation with the Attorney General, may consider more active forms of legal engagement in cases where:

1. Where the action is in the US, and the estimated loss is a minimum of $5,000,000 of assets under management of the Board, or from the combined assets under management of the Board and the North Dakota State Investment Board; and
2. the trust funds are among the largest shareholders of the defendant issuer; and
3. service as a lead plaintiff or opting out of a proposed settlement to the “class” of claimants would be in the best interest of the Funds
4. the prima facia merits of the claim for loss, and the factual basis for the action, recognizing that the full discovery process will not commence until the class has been certified by the court in which such case is to be filed.
5. The potential that any defendants or insurers will be able to pay an adequate recovery to the class, without impairing the value of any current security holdings of the Board may yet hold in issuer in the portfolio.
6. Potential costs that may be incurred. Special consideration must be given to any case that must be filed in a non-U.S. venue under the “Morrison” criteria established by the U.S. Supreme Court in a 2010 decision, since costs of litigation and potential liabilities of unsuccessful claims may be significant.

The Board may engage one or more legal firms that specialize in prosecuting security class action cases; any such engagement is subject to special appointment requirements of N.D.C.C. § 54-12-08. For these purposes only, such firm(s) may be granted ongoing access to security holdings information through the custodian bank or designated agent.

The Board may contract with firms that provide securities litigation monitoring/tracking services if it determines it is prudent. In August of 2018 the Board approved the hiring of a securities litigation monitoring and claims filing firm; that firm is currently being brought onboard. In addition to providing litigation monitoring and claims filing services, the firm will work the Commissioner to develop a revised securities litigation policy for the Board.

- NON-U.S./CANADA PASSIVE CLASS AND GROUP RECOVERY EFFORTS: The Board has engaged a securities litigation monitoring and claims filing firm to identify and submit claims in non-U.S./Canada matters that involve passive claim filing regardless of loss size. To the greatest extent possible, the participation process will be automated. Our funds may serve as lead or representative plaintiffs in passive participation matters if the factors specified below for active participation have been met; or if there are other overriding considerations. The current “Passive” International Jurisdictions include Australia, Dutch Foundations and United Kingdom Regulatory Action Compensation Schemes.
- NON US/CANADA GROUP OPT-IN LITIGATION: The risks associated with direct litigation outside of the U.S. vary by country and our participation will need to be evaluated on a matter-by-matter basis. However, countries can be grouped into three risk profile categories - low, medium, and high - with

minimum damages thresholds set for each risk group to limit consideration to those matters where our funds' losses exceed these amounts.

The Board has engaged a securities litigation monitoring and claims firm to (a) identify "opt in" or group litigation, arbitration, settlement and/or other recovery efforts outside of the U.S. and Canada for which they may be eligible and provide damages estimates based on the methodologies accepted under local law, if they exist and recognizing that this will often be uncertain. The Board will compare those damages estimates against pre-defined loss thresholds below and, if damages exceed threshold amounts, evaluate whether participation in the matter will be in the Fund's best interest.

The following initial damages thresholds are based on perceived risks associated with recovery efforts in each country. The Board will periodically review these thresholds and make any necessary adjustments based on experience, updated information about specific risks, and other factors.

Jurisdictional Description	Damages Threshold
Low risk jurisdictions including Japan	To be inserted Ranges to be considered from $100k to $500k
Medium risk jurisdictions including Germany, Austria, Belgium, Switzerland, Denmark, Spain, Finland, France, Hong Kong, Indonesia, Ireland, Italy, Korea, Luxembourg, Malaysia, Norway, New Zealand, Portugal, Sweden, and Thailand	To be inserted $1 mil to $5 mil
High risk jurisdictions including Taiwan[9] and the United Kingdom	To be inserted Greater than $7.5

When losses exceed threshold amounts, our funds should consider the following:

- The merits of the case in light of the remedies available under local law.
- Their expected losses and percentage recoveries or results from past matters in that country, if available.
- The process and administrative burden to joining a particular litigation or settlement effort.
- The costs associated with involvement including attorney fees, litigation expenses, and any other potential expense covered by the litigation funder without recourse to the funds.
- How the organizers intend to protect our funds from the risk of adverse party cost shifting.

[9] While Taiwan is among the most active non-US/Canada jurisdictions, our funds are not likely to have eligibility and given the risks involved, they should limit their participation to situations where money has already been recovered.

- If the litigation or settlement is funded, the identity of the funder, the percentage and cost reimbursement the funder will take from the recovery if the efforts succeed.
- The lawyers handling the case including their reputation, past results, and terms of representation like fee structures, expenses, and contingencies.
- The registration requirements, the potential evidentiary and/or discovery burdens to the funds, and any other administrative burden that may be required from them including any obligation to travel.
- The extent to which the funds' involvement will be disclosed to opposing parties and/or the public.
- Any other reasonable considerations.

Securities Lending

The objective of the securities lending program is to generate incremental income from overnight and certain term loans of securities. The Funds may participate in a securities lending program.

The program will utilize a high-quality and conservative collateral re-investment approach that safeguards the return of principal and maintains adequate daily liquidity to support trade settlement activity and portfolio restructuring activities. Each securities lending agent will ensure that specific guidelines are in place as to the quality, duration, liquidity and diversification of securities lending collateral.

The Board requires collateral for loans. The use of assets in any securities lending engagements should:

1. Earn a competitive market return through conservative securities lending practices, consistently with the preservation of capital.
2. Minimize risk with respect to both the borrower and the collateral,
3. Operate the securities lending program so that it will not interfere with the management of overall investment portfolio and strategies.

Unless explicitly exempted by the Board, the lending agent shall provide indemnification against losses arising from borrower default, insolvency, and failure to comply with the terms and conditions of the lending agreements.

The Commissioner shall provide a report to the Board annually, outlining the performance and status of the securities lending program.

Proxy Voting

The Board believes that proxies should be voted in a manner consistent with the long-term interests and objectives of the investment program set forth herein, unless it is in the best interest of the Board not to vote. The Board delegates authority to vote shares to each Manager and expects Managers to vote shares. The principle behind this policy is that Managers have specific reasons for holding shares and will vote shares in a way the Manager believes will best add value to those shares. Managers shall submit written reports to the Commissioner by January 31 of each year advising of the manner in which each proxy was voted during the preceding calendar year and notify the Commissioner of controversial matters which may be subject to proxy voting.

Notwithstanding the forgoing, intangible factors such as social and environmental issues are increasingly being incorporated into proxy voting. The Board expects voting of social and environmental proposals will be based solely on enhancing or protecting long-term value to the assets under its control and not on establishing or endorsing social policy. As part of its fiduciary duty, the Board expects Managers to consider only those factors that relate to the economic value of the Board's investments and shall not subordinate the interests of the Funds to unrelated objectives.

It is the policy of this Board that the Commissioner shall regularly review related proxy votes by the Managers. Any proxy votes deemed by the Commissioner to be contrary to the interests of the Funds under the Board's responsibility, shall be fully explained by the Manager in writing and brought to the Board for its review. An exception to the above policy regarding voting of proxies is for shares held by the Board on behalf of holders of unclaimed property. As a passive holder of these particular shares the Board chooses not to exercise voting rights on the owners' behalf.

Funds Administered by the Board

The pages that follow describe the various funds administered by the Board.

Permanent Trust Funds

On February 22, 1889, Congress passed "An act to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments . . . ." This Act is commonly known as the Enabling Act. This act granted land to the new states "for the support of common schools," which in North Dakota's case totaled more than 2.5 million acres. Further land grants in this legislation provided for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres, bringing the grand total of Enabling Act land grants to nearly 3.2 million acres.

Purpose

The land grant from the federal government at statehood[10] and the state constitution[11] both provide that the Board of University and School Lands manage the trust land and minerals and associated proceeds, for the exclusive benefit of education and institutional support. In accordance with Article IX of the North Dakota Constitution as well as federal law[12], the perpetual trust funds must be managed to:

1. Preserve purchasing power
2. Maintain stable distributions to trust beneficiaries

Chapter 15-03 of the North Dakota Century Code governs the management of the Permanent Trust Funds, including the requirement that any investments conform to the prudent investor rule.

Listing of Permanent Trust Funds

The following are the beneficiaries of the Permanent Trust Funds described in Article IX of the North Dakota Constitution:

1. Common Schools (K-12)
2. North Dakota State University
3. University of North Dakota
4. Mayville State University
5. ND Youth Correctional Center
6. Ellendale State College[13]
7. Valley City State University
8. State College of Science
9. School for the Blind
10. School for the Deaf
11. State Hospital
12. School of Mines (UND)
13. Veterans Home

[10] The Enabling Act of February 22, 1889 (25 Stat. 676, ch. 180)
[11] N.D. Const. art. IX, §§ 2, 3
[12] 7 U.S.C. § 309 and 25 Stat. 676, ch. 180
[13] Beneficiaries of the Ellendale permanent trust are now Dickinson State University, Minot State University, Dakota College at Bottineau, Veterans Home, School for the Blind, State Hospital, and the State College of Science as directed in 1973 N.D. Sess. Laws ch. 176.

Funding Sources

Funding Sources Common to All Permanent Trust Funds

Each permanent trust individually owns surface land tracts and mineral rights that provide revenue from agricultural leases, oil and gas royalties and lease bonuses, as well as other productive uses of the surface and mineral lands owned by each trust.

Common Schools

The Common Schools Trust Fund is the largest of the Permanent Trust Funds administered by the Board. In addition to the revenues from the surface lands, minerals, and investments that the Permanent Trust Funds own, the Common Schools Trust Fund also receives funding from the following sources:

1. 10 percent of the oil extraction taxes collected by the state[14]
2. Net unclaimed property proceeds collected by the Department[15] until such time that property may be reunited with its owner.

Distribution Policy

Article IX, Section 2 of the North Dakota Constitution states:

> Distributions from an educational or charitable institution's trust fund must be faithfully used and applied each year for the benefit of the institution and no part of the fund may ever be diverted, even temporarily, from this purpose or used for any purpose other than the maintenance of the institution, as provided by law.

The distribution formula[16] is also described in Article IX , Section 2:

> [B]iennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets' ending value for the fiscal year that ends one year before the beginning of the biennium and the assets' ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium.

The year-end values used to calculate permanent trust distributions, as described in Article IX above, is the fund balance of each trust found in the Board's audited financial statements. When determining biennial distributions for the permanent trusts, annual distributions for each trust are rounded to the nearest one thousand dollars.

By statute, distributions from the Common Schools Trust Fund are paid to school districts monthly, from August to April of each fiscal year, through the state tuition fund.[17] . At the request of the Office of

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[14] N.D. Const. art. X, § 24

[15] N.D.C.C. § 47-30.1-23 and N.D. Const. art. IX, § 1

[16] This distribution formula is the result of a constitutional amendment that was approved by North Dakota voters on November 7, 2006. This constitutional change was validated at the federal level by the passing of the Omnibus Public Land Management Act of 2009 (Pub. L. No. 111-11, 123 Stat. 1446) which amended the First Morrill Act (The Act of July 2, 1862 [7 U.S.C. 301 et seq.]) and the Enabling Act of February 22, 1889 (25 Stat. 676, ch. 180). Prior to these changes, distributions for the Permanent Trust Funds were based on projections of interest and income for the funds; distributions could only be paid out of interest earned.

[17] N.D.C.C. § 15.1-28-01

Management and Budget, effective fiscal year 2018, distributions from the Common Schools Trust Fund will be made in relatively equal amounts from August to April of each fiscal year.

Distributions from the other 12 Permanent Trust Funds are made in equal amounts during January and June of each fiscal year and are distributed directly to the benefitting institutions.

Investment Objective

The assets of the Permanent Trust Funds are invested with a perpetual time horizon, in a manner that seeks to balance the longer-term goal of preserving the purchasing power of the trusts with the shorter-term goal of maintaining a stable stream of distributions to beneficiaries. The long-term nature of the funds, combined with a disciplined investment approach, provide the ability to the Permanent Trust Funds to withstand short-term volatility, to profit from periods of elevated risk aversion, and to be rewarded for providing liquidity.

The Permanent Trust Funds are invested by the Board in a single comingled pool, along with the Indian Cultural Education Trust and the Theodore Roosevelt Presidential Library and Museum Endowment Fund (described further on pages 29 and 29).

Strategic Asset Allocation

The Board recognizes that the most important determinant of long-term return and risk is the asset allocation decision. The asset allocation decision is intended to reflect the return objective and risk tolerance expressed in this Investment Policy Statement. It is designed to provide the highest probability of meeting the Funds' objectives at a level of risk and liquidity that is acceptable to the Board. In establishing its risk tolerance, the Board considers the Funds' ability to withstand short- and intermediate-term volatility in investment performance and fluctuations in financial condition of the Funds.

To determine the strategic asset allocation target, the Board, with assistance from the Commissioner and Consultant, examines the historical and projected risk and return of the approved asset classes, the correlation among these asset classes as well as the effect the expected investment performance will have on the obligations of the Funds. Based on its long-term return expectations and its determination of the appropriate risk tolerance for the Funds, the Board has chosen the following strategic asset allocation policy for the Permanent Trust Funds:

Asset Class	Strategic Asset Allocation Target	Minimum	Maximum
Equity	**38%**	**28%**	**48%**
Broad US Equity	15%	12%	18%
Broad International Equity	15%	12%	18%
Private Equity	8%	0%	12%
Real Assets	**17%**	**8%**	**26%**
Real Estate	10%	5%	15%
Private Infrastructure	7%	0%	11%
Absolute Return	**15%**	**10%**	**20%**

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Multi-Strategy Hedge Funds	15%	10%	20%
Opportunistic Investments	0%	0%	5%
Fixed Income[1]	**30%**	**20%**	**40%**
Private Credit	20%	10%	25%
Public Credit	15%	10%	20%
Cash / Implied Leverage	-5%	-10%	5%
~~**Fixed Income**~~	125%	120%	~~30%~~
~~***Public Credit***~~	~~5%~~		
~~**Private Credit**~~ ~~***Private Credit [1]***~~	~~20%~~	0%	22%
~~**Multi-Strategy Hedge Funds Absolute Return**~~	~~15%~~	~~10%~~	~~20%~~
~~***Global Tactical***~~	~~5%~~		
~~***Multi-Strategy Hedge Funds***~~	~~10%~~		
~~**Real Estate**~~	105%	510%	1520%
~~**Private Equity**~~	~~8%~~	~~0%~~	102%
~~**Private Infrastructure**~~	~~7%~~	~~0%~~	~~11%~~
~~**Opportunistic Investments**~~	~~0%~~	~~0%~~	~~5%~~
~~**Cash Equivalents**~~	~~-5%~~	~~-5%~~	~~5%~~

[1] Private Credit includes hybrid public/private strategies.

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The Board and the Commissioner will review the strategic asset allocation policy at least annually for reasonableness relative to significant economic and market changes or to changes in the Funds' long-term goals and objectives. A formal asset allocation study will be conducted at least every four years to verify or amend the targets.

Recognizing that a long-term target allocation utilizing alternative asset classes can take a matter of years to implement prudently, the Board delegates implementation of strategic asset allocation policy to the Commissioner including funding of alternative asset classes and setting interim asset allocation targets.

In addition, during the implementation of a change to or modification of the asset allocation, some strategies may fall outside the allowable allocation ranges until the revised asset allocation is fully implemented.

Opportunistic investments do not have a specified target allocation, as the availability of opportunities is episodic in nature, and the best opportunities tend to appear during periods of market stress. Opportunistic investments are allowable up to a maximum of 5% measured at the time of commitment.

Rebalancing

Rebalancing is the term that describes the periodic movement of funds from one asset or asset class to another in order to realign assets to the strategic asset allocation target. A rebalancing strategy is an important element of asset allocation policy. Systematic rebalancing can reduce portfolio volatility and increase portfolio return over the long-term. However, frequent rebalancing resulting from excessively tight ranges can lead to unnecessary transaction costs.

The Commissioner is responsible for developing and implementing a rebalancing plan that is appropriate for existing market conditions, with a primary objective of minimizing transaction costs, market impact, opportunity costs and portfolio disruptions. To the extent possible, cash flows and revenues will be used to maintain the strategic target allocation. The Commissioner may make minor changes among asset classes and within individual asset classes to more effectively maintain proper exposure to the strategic asset allocation and asset class portfolio structures.

Recognizing that at times it may be impractical or costly to reallocate assets when an upper or lower limit is breached, the asset class will be rebalanced to within its strategic asset allocation range as soon as is practically possible, subject to reasonable transaction costs.

Benchmarks

One return objective to be considered when evaluating the Funds' performance is measured by applying the investment performance of the asset class benchmarks to the Funds' strategic asset allocation target. The Policy Index permits the Board to compare the Funds' actual performance to its total fund benchmark, and to measure the contribution of active investment management and policy adherence.

The Board has selected the following Policy Index for the Permanent Trust Funds:

Asset Class	Policy Index	Strategic Asset Allocation Target
Broad US Equity	Russell 3000 Index	15%
Broad International Equity	MSCI ACWI Ex USA IMI	15%
~~Public Credit~~Fixed Income	Barclays US ~~Universal~~ Aggregate Index	15%
Private Credit	CS Leveraged Loans Index + 1.5%	20%
~~Global Tactical~~	~~Global 60/40 [1]~~	~~5%~~
Multi-Strategy Hedge Funds	HFRI RV Multi-Strategy Index	15~~0~~%
Real Estate	NCREIF ODCE Index	10~~5~~%
Private Equity	Cambridge US Private Equity Index	8%
Private Infrastructure	MSCI World Infrastructure Index	7%
Cash / Implied Leverage	90-Day T-bills	-5%

~~[1] Global 60/40 Index: 60% Equity (MSCI All Country World IMI), 40% Fixed Income (Barclays US Aggregate Bond Index)~~

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Recognizing that a long-term target allocation to alternative asset classes can often take a matter of years to implement prudently, the Board will also review an Interim Policy benchmark which will be adjusted as the Commissioner makes progress towards its long-term strategic asset allocation target.

Permitted Investments[18]

The Board may invest in the following securities and investment activities as long as such investments comply with the Prudent Investor Rule[19]. Fund of Fund strategies are allowable in any of the asset classes.

[18] Investments listed here are for general information purposes only. Each manager retained by the Board will be given specific guidelines with regard to permissible investments relevant to their mandate.
[19] N.D.C.C. § 15-03-04. See page 5 for more about the Prudent Investor Rule.

All investments are subject to approval of the Board and satisfactory legal review of applicable contractual terms and conditions.

Equity

1. Preferred stock, common stock, initial public offerings, Real Estate Investment Trusts (REIT's), securities of foreign issuers listed on U.S. Exchanges, and any security convertible to common stock or American Depository Receipts (ADR's) that are registered by the U.S. Securities and Exchange Commission (SEC) of any corporation whose securities are listed on at least one U.S. stock exchange that has been approved by or is controlled by the SEC or on the National Association of Securities Dealers (NASD). Global mandates may be considered.
2. Preferred stock, common stock, and convertible issues of any non-U.S. Corporation; which may be denominated in non U.S dollars, provided that the securities are traded on one or more national stock exchanges or included in a nationally recognized list of stocks; and the Board shall not be invested in more than ten percent of the voting stock of any company.

Fixed Income (Public and Private)

1. Bonds, notes, or other obligations of the United States government, its agencies, government-sponsored enterprises, corporations, or instrumentalities for which the credit of the United States government is pledged for the payment of the principal and interest. Global mandates may be considered.
2. Bonds, notes or other obligations issued by a state, its municipalities, or other political subdivisions, that have received an investment grade bond rating.
3. Bonds, notes, commercial paper or other obligations of any corporation organized and operating within the United States.
4. Debt obligations of non-U.S. governmental or quasi-governmental entities, these may be denominated in foreign currencies; obligations, including but not limited to bonds, notes or commercial paper with an investment grade rating (unless otherwise approved by the Board) of any corporation organized outside of the United States. Currency transactions, including spot or cash basis currency transactions, forward contracts and buying or selling options or futures on foreign currencies, shall be permitted.
5. Collateralized obligations, including but not limited to mortgages, held in trust that: (1) are publicly traded and are registered by the SEC or other Self-Regulatory Organization (SRO) and (2) have underlying collateral that is either an obligation of the United States government or else has a credit rating above or equal to BBB according to the Standard and Poor's rating system or Baa according to the Moody's investors rating system or their equivalent by a national statistical ratings organization (NSRO) registered with the SEC(unless otherwise approved by the Board).
6. Derivatives including forwards, futures, options, mortgage derivatives, structured notes, and swaps.
7. High yield fixed income securities rated below 'BBB' according to the Standard and Poor's rating system and below 'Baa' according to the Moody's investors rating system.
8. Private Debt strategies approved by the Board.
9. Loans, warrants and other forms of debt approved by the Board, and managed in conjunction with the Bank of North Dakota, such as farm loans and energy construction loan, as long as the investment meets the Exclusive Benefit Rule described on page 7 of this Policy.

10. A negative cash, or implied leverage position may be made with the assistance of a prime brokerage relationship or professional overlay manager via US Treasury Futures or total return swaps on the Barclays US Aggregate. The level of implied leverage shall never exceed half of the total allocation to core fixed income.

~~9.~~

Absolute Return

~~1. Liquid multi-asset/global tactical asset allocation (GTAA) funds that have the ability to shift capital tactically based on relative valuations, providing broad diversification across a range of global investments.~~

~~2.~~1. Multi-Strategy Hedge Funds approved by the Board.

Real Estate

Real Estate Partnerships, including investments in private vehicles through limited partnerships or limited liability companies that have an ownership interest in direct real estate properties, whether income-producing or non-income producing. The investment strategies may include "core" and "value added" strategies, which derive their return from both income and appreciation. As well as, Real Estate Investment Trusts (REIT's) and other real estate securities and related index strategies for rebalancing tools.

Private Equity

Private Equity Partnerships, including investments in private vehicles through limited partnerships or limited liability corporations, which have an ownership interest in any type of security across a company's capital structure. The investment strategies may include "buyout", "growth", "venture capital" and "special situations" that are in the business of providing capital for start-up, expansion, buyout/acquisition, recapitalization, debt financing (including distressed debt) and similar business purposes.

Private Infrastructure

Private Infrastructure Partnerships, including investments through limited partnerships or limited liability companies that have ownership interests in assets or properties where the majority of value of the investment is derived from revenue sources that have contractual linkages to inflation, implicit linkages to inflation and/or focus on the provision of services with low demand elasticity.

Opportunistic Investments

From time to time, Permanent Trust Funds investments may be made in opportunistic investments. The objective of such investments shall be to enhance returns through opportunities that present themselves due to stressed conditions in the markets or other unique opportunities. The guidelines for such investments shall be determined by the investment management agreement or appropriate offering documents in the case of commingled or partnership investments. An opportunistic investment would occur in a situation where it is deemed the potential return would exceed the Total Fund performance excluding opportunistic returns, or another benchmark as deemed appropriate by the Commissioner and approved by the Board.

~~Implied~~Total Portfolio Leverage

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A negative cash, or implied leverage position may be utilized in certain areas of the portfolio. ~~made with he assistance of a professional overlay manager via US Treasury Futures or total return swaps on the Barclays US Aggregate.~~ The objective of such investments is to improve overall portfolio efficiency and enhance returns through the modest application of leverage when it is appropriate to do so. The level of implied leverage shall never exceed ~~half of the total allocation to core fixed income.~~ 10% of the total portfolio.

Cash Investment Guidelines

The Commissioner will focus on quality when investing cash positions. Cash is an asset class that should emphasize minimal risk. Cash positions will be kept to the minimum necessary for liquidity, distributions and ongoing investment activities. Eligible securities include:

1. Repos secured by U. S. obligations or other securities backed by the U.S., A1 or P1 commercial paper, corporate obligations rated AA or better and maturing in five years or less, or asset-backed securities rated AAA. All repo collateral must have a market value of at least 102% of the market value of the contract;
2. Commercial paper issued by corporations organized and operating within the U.S. and rated “prime” quality by a national rating service;
3. Prime bankers’ acceptances issued by money center banks;
4. Funding agreements rated at least AA by a nationally recognized rating agency. As used in this paragraph, "funding agreement" means a floating or variable rate insurance company contract that is a general obligation of an insurance company organized and operating within the United States and that is senior to all other debt issued by the company;
5. Time deposits, with banks incorporated in the United States or time deposits that are fully guaranteed by banks incorporated in the United States.

Strategic Investment and Improvements Fund (SIIF)

Fund Purpose

The Strategic Investment and Improvements Fund (SIIF), was created July 1, 2011 with merger of the Lands and Minerals Trust Fund and the Permanent Oil Tax Trust Fund.[20] The SIIF holds the assets and collects the revenues earned from State owned mineral acres. The SIIF also receives a substantial portion of the oil and gas production and extraction taxes collected by the State. The Board is responsible for managing the physical and financial assets of the SIIF.

The purpose of the SIIF is to provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve efficiency and effectiveness of state government.

Funding Sources

The SIIF collects the revenues earned from the mineral acres owned by the State, including those formerly owned by the Bank of North Dakota and State Treasurer, as well as the sovereign minerals located under navigable rivers and lakes. The SIIF also receives a portion of the oil and gas production and extraction taxes collected by the State.[21] Legislative changes to the oil tax revenue allocations are common and can have a major impact on the timing and amount oil taxes collected by the SIIF each biennium.

Distribution Policy

There is no explicit distribution policy or objective; rather the Board is responsible for making sure funds are available to distribute or transfer when needed and as appropriated. The SIIF can be appropriated or obligated by the Legislature every two years, though State law dictates that the SIIF should be appropriated only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized.[22]

Investment Objective

State law provides no guidance as to how the assets of the SIIF should be invested; however, due to the short-term nature of spending decisions and the uncertainty of the fund's mineral based revenues, the Board invests the SIIF with a focus on principal preservation and liquidity. The Board has adopted an investment objective for the SIIF that provides for a diversified portfolio of fixed income securities that will exceed on a multi-quarter basis, net of fees, the return of the benchmark described below.

Strategic Asset Allocation

Due to the expendable nature of the SIIF, the strategic asset allocation for the fund is 100% low duration investment grade fixed income investments.

[20] N.D.C.C. § 15-08.1-08 and § 61-33-07

[21] N.D.C.C. § 57-51.1-07.5

[22] N.D.C.C. § 15-08.1-08

Investment Guidelines

The SIIF will be invested in a high quality portfolio that includes a combination of Treasuries, corporate bonds, asset and mortgaged backed securities, and commercial paper and will adhere to the following guidelines:

- Minimum average quality of AA
- Minimum quality for any security of BBB (limited to 10%)
- Neutral weighted average maturity of 1 year, range of 6 months to 1.5 years
- Maximum maturity: 3 years for fixed rate, 5 years for floating rate
- No more than 50% in investment grade corporate and agency backed securities
- Not more than 2% of the fund will be invested with any single issuer

Benchmark

The benchmark is composed of 50% of the three-month U.S. Treasury Bill and 50% Barclays 1 – 3 Year Gov't Corp Index.

Capitol Building Fund

Fund Purpose

The Capitol Building Fund was created at statehood with a grant of land from the federal government. The purpose of the fund, as described in the Enabling Act of 1889, is to provide for "public buildings at the capital".[23] The Capitol Building Fund was created under Article IX of the North Dakota Constitution; however, unlike the other trusts, this fund is not permanent in that the entire fund is subject to legislative appropriation each biennium.

The Capitol Grounds Planning Commission is responsible for managing all of the assets of the Capitol Building Fund.[24] The Board's role is to invest and manage the various assets of the fund, as directed by the Capitol Grounds Planning Commission. These roles are statutory, not constitutional in nature; the law specifically states:

> The capitol grounds planning commission shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund and shall account to the commission concerning these funds at the commission's request.[25]

Funding Sources

The Capitol Building Fund generates revenues from the almost 10,000 surface acres and more than 27,000 mineral acres, which provide revenue from agricultural leases, mineral royalties and lease bonuses.

Distribution Policy

Since the Capitol Building Fund is a fully expendable fund, there is no distribution policy or objective; rather the Board is responsible for making sure funds are available to distribute or transfer when needed and as appropriated.

State law provides a continuing appropriation of up to $175,000 per biennium that is available to the Capital Ground Planning Commission without requiring a legislative appropriation for a given biennium.[26] Historically, the legislature has also included a $25,000 biennial appropriation for the operations of the Capitol Grounds Planning Commission.

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[23] The Enabling Act of February 22, 1889 (25 Stat. 676, chapter 180)
[24] N.D.C.C. § 48-10-02
[25] N.D.C.C. § 48-10-02
[26] N.D.C.C. § 48-10-02

Investment Objective

Due to the fact that the entire balance of this fund can be appropriated by the legislature each biennium and the uncertainty of the fund's mineral based revenues, the Board has adopted an investment objective with a focus on principal preservation and liquidity.

Strategic Asset Allocation

Due to the expendable nature of the Capitol Building Fund, the Capital Grounds Planning Commission has adopted a strategic asset allocation for the fund that is 100% fixed income investments.

Investment Guidelines[27]

The Capital Grounds Planning Commission has adopted guidelines to invest the fund in a high quality portfolio that includes a combination of Treasuries, corporate bonds, asset and mortgaged backed securities, and commercial paper and will adhere to the following guidelines:

- Minimum average quality of AA
- Minimum quality for any security of BBB (limited to 10%)
- Neutral weighted average maturity of 1 year, range of 6 months to 1.5 years
- Maximum maturity: 3 years for fixed rate, 5 years for floating rate
- No more than 50% in investment grade corporate and agency backed securities
- Not more than 2% of the fund will be invested with any single issuer

Benchmark

The benchmark is composed of 50% of the three-month U.S. Treasury Bill and 50% Barclays 1 – 3 Year Gov't Corp Index.

[27] Due to the common investment objectives, strategic asset allocation, and investment guidelines, the assets of the Capitol Building Fund may be pooled with the SIIF for investment purposes.

Coal Development Trust Fund

Fund Purpose

The Coal Development Trust Fund is a permanent trust established under Article X, Section 21 of the North Dakota Constitution. The primary purpose of the fund is to provide loans to coal-impacted counties, cities, and school districts and to provide construction loans to school districts; any money that is not in use for loans may be invested by the Board. The trust fund must be perpetual and held in trust as a replacement for depleted natural resources.[28] Both the Constitution and state law mandate that the income earned by the fund be used first to replace any uncollectable loans and the balance must be deposited into the General Fund.[29]

Funding Sources

State law provides that 15% of coal severance tax revenues be deposited into the fund.[30] The Constitution provides that up to 70% of the taxes deposited into the fund each year may be appropriated by the legislature for lignite research, development, and clean coal demonstration projects approved by the industrial commission.[31] Thus, the Coal Development Trust Fund retains only 30% of the money deposited into the fund, which averages about $500,000 per year.

Distribution Policy

The income earned by this fund each year must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the State's general fund. The estimated fiscal year income for this fund is distributed in June of each year; any difference between estimated and actual income is distributed in November or December of each year, once final audited financial statements have been received.

Investment Objective

Preservation of capital and added value over the benchmark over a full market cycle through active management of the portfolio subject to the investment guidelines set forth below.

Strategic Asset Allocation

Due to the expendable nature of the income earned by the Coal Development Trust Fund, and the provision in state law about replacing any lost principal with income, the strategic asset allocation for the fund is 100% fixed income investments.

Investment Guidelines

The Coal Development Trust will be invested in a high quality portfolio that includes a combination of Treasuries, corporate bonds, asset and mortgaged backed securities, and commercial paper and will adhere to the following guidelines:

- Minimum average quality of AA

[28] N.D.C.C. § 57-62-02
[29] N.D. Const. art. X, § 21 and N.D.C.C. § 57-62-02
[30] N.D.C.C. § 57-62-02
[31] N.D. Const. art. X, § 21

- Minimum quality for any security of BBB (limited to 10%)
- Neutral weighted average maturity of 1 year range of 6 months to 1.5 years
- Maximum maturity: 3 years for fixed rate, 5 years for floating rate
- No more than 50% in investment grade corporate and agency backed securities
- Not more than 2% of the fund will be invested with any single issuer

Benchmark

The benchmark is composed of 50% of the three-month U.S. Treasury Bill and 50% Barclays 1 – 3 Year Gov't Corp Index.

Indian Cultural Education Trust

Fund Purpose

The Indian Cultural Education Trust was created in 2003 for the purpose of generating income to benefit Indian culture.[32] State law authorizes the Board to accept donations of money or land for this trust to be managed in the same manner that it manages its other trust land and financial assets, subject to state law and a required donor agreement with one or more federally recognized Indian tribes located in North Dakota, South Dakota, Montana, Minnesota, or Wyoming.

Three Affiliated Tribes Cultural Education Account

The Three Affiliated Tribes Cultural Education Account is the sole account in the trust, which serves to benefit the Mandan, Hidatsa & Arikara Nation Cultural Education Foundation. Under an agreement signed by the tribe, North American Coal, and the Commissioner, the Board must manage and invest this account exactly as the Permanent Trust Funds are managed and invested.

Funding Sources

Initial funding of the account was a result of donations of both money and land by North American Coal to the cultural education account. Revenue earned from the donated lands is deposited into the account. Further donations of land or money from Individuals or organizations may provide additional funding to the account.

Distribution Policy

The distribution calculation for the Indian Cultural Education Trust is identical to that of the Permanent Trust Funds as detailed on page 16, however, the specific donor agreement for an account may dedicate a portion of the amount available to distribute to principal.[33]

The Three Affiliated Tribes Cultural Education Account donor agreement has mandated that no less than 25% of the annual amount available to distribute go to principal. Each year, the Commissioner notifies the Mandan, Hidatsa & Arikara Nation Cultural Education Foundation as to the amount eligible for disbursement. If written request for the disbursement is received by the Commissioner by March 31st, all or a portion of that amount shall be distributed as specified in the donor agreement.

Investment Objective, Strategic Asset Allocation, and Investment Guidelines

Like the Permanent Trust Funds, the investment objective is to preserve purchasing power and maintain stable distributions with a long-term investment horizon. The assets of the Indian Cultural Education Trust are pooled with the Permanent Trust Funds. The strategic asset allocation, benchmarks, and investment guidelines are identical to those of the Permanent Trust Funds, which can be found in the corresponding sections beginning on page 17 of this Policy.

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[32] N.D.C.C. ch. 15-68

[33] N.D.C.C. § 15-68-04

Theodore Roosevelt Presidential Library and Museum Endowment Fund

Fund Purpose

The Theodore Roosevelt Presidential Library and Museum Endowment Fund was created in 2019 during the 66th North Dakota Legislative Session as a permanent endowment for grants to support the operation and maintenance of the Theodore Roosevelt Presidential Library and Museum.[34] State law authorizes the Board to accept donations of money for this trust to be managed in the same manner that it manages its other trust land and financial assets, subject to state law.

Funding Sources

Initial funding of the account was a result of appropriation of money by 66th North Dakota Legislative Assembly and money borrowed from the Bank of North Dakota. Further appropriations from the North Dakota Legislature or donations of money from Individuals or organizations may provide additional funding to the account.

Distribution Policy

The distribution calculation for the Theodore Roosevelt Presidential Library and Museum Endowment Fund is calculated and paid as follows[35]:

Annual distributions to the Theodore Roosevelt Presidential Library and Museum from the Theodore Roosevelt Presidential Library and Museum Endowment Fund in an amount equal to 4.0% of the Fund's trailing net average value calculated over the previous three (3) fiscal years shall be paid on or before December 31st of each year at the request of Theodore Roosevelt Presidential Library Foundation.

Investment Objective, Strategic Asset Allocation, and Investment Guidelines

Like the Permanent Trust Funds, the investment objective is to preserve purchasing power and maintain stable distributions with a long-term investment horizon. The assets of the Theodore Roosevelt Presidential Library and Museum Endowment Fund are pooled with the Permanent Trust Funds. The strategic asset allocation, benchmarks, and investment guidelines are identical to those of the Permanent Trust Funds, which can be found in the corresponding sections beginning on page 17 of this Policy.

[34] N.D.C.C. § 54-07-12

[35] Pursuant to the Agreement between the State of North Dakota and the Theodore Roosevelt Presidential Library Foundation executed June 30, 2020.

History

Adopted:	08/27/2015
Revised:	09/29/2016
Revised:	10/26/2017
Revised:	09/26/2019
Revised:	12/18/2019
Revised:	01/21/2020
Revised:	04/30/2020
Revised:	02/24/2022
Revised:	08/25/2022
Revised:	06/29/2023

NORTH Dakota | Trust Lands
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MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
July 27, 2023

RE: Public Credit – Bond Overlay

Last month, the Board of University and School Lands (Board) approved a new Strategic Asset Allocation (SAA), increasing the public credit target to 15% and authorizing a prudent use of leverage in the core bond portfolio. The goal is to improve cash efficiency and reduce hedge fund drag on the portfolio over the long run.

Staff recommends hiring an overlay manager to synthetically replicate the public credit benchmark / policy index. The overlay manager will use derivative instruments, such as total return swaps and futures to gain exposure to the Barclays US Aggregate Bond Index. As governed by policy targets and leverage limits set forth in the Investment Policy Statement (IPS), guidelines for the mandate will be put in place to target 5% synthetic exposure over the long run, with the ability to increase exposure up to 10% or decrease exposure down to 0%.

Synthetic Exposure	Min	Target	Max
US Aggregate Bond Index	0%	5%	10%

Staff and RVK began a manager search by reaching out to a list of five capable overlay managers. After interviewing and conducting due diligence on potential investment managers, Staff and RVK recommend contracting with NISA to provide core bond overlay services.

NISA was founded in 1994 and is headquartered in St. Louis. The firm manages over $495B in assets across 215 institutional relationships and trades over $1T in notional exposure annually. The firm has a research team of 55 analysts and a portfolio management team with 23 years of experience, on average.

Today's macroeconomic environment may not be the right backdrop to implement such a strategy because (1) financing costs above 5.00% are higher than recent past and (2) the market is telling us (inverted yield curve) that it does not pay to take duration risk. However, Staff recommends beginning the manager hiring process today. It is expected to take at least 8 weeks to finalize guidelines and set up appropriate counterparty agreements. The program can be authorized today, set up in a couple months and turned on at a later date.

Recommendation: **The Board approve contracting with NISA to provide core bond overlay services, subject to standard legal review/documentation.**

Attachment 1: RVK Executive Summary
Attachment 2: NISA Presentation

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

RVK

Memorandum

To	North Dakota Board of University and School Lands (NDBUSL)
From	RVK, Inc. (RVK)
Subject	NISA Bond Overlay Recommendation – Executive Summary
Date	July 27, 2023

Summary

Following the approval for the use of leverage to extend the existing fixed income exposure, Staff and RVK conducted due diligence of potential partners to implement the intended leverage. There were five different investment providers that proposed potential solutions which were reviewed by Staff and RVK. Each provider responded to a customized questionnaire to help identify which firm would be best suited to serve in the desired capacity. Follow-up requests and interviews were conducted with a subset of the original group of providers.

As a result of this process, NISA Investment Advisors, LLC ("NISA", the "firm" or "manager"), a St. Louis-based manager, is recommended for Board approval. NISA is a firm consistently covered by RVK including past onsite visits to NISA headquarters, operational reviews, discussions with managers who operate in similar capacities to NISA, and a review of fees for competitiveness relative to peers.

Firm Background

NISA Investment Advisors, LLC registered with the Securities and Exchange Commission in November of 1993 and began managing assets in April 1994. As of March 31, 2023, NISA managed $468 billion for 215 clients from its St. Louis headquarters. The firm manages $189 billion (notional) in overlay programs on behalf of its clients. Overlays offered by the firm are frequently integrated with cash management, for purposes that include facilitating rebalancing, cash securitization, and beta replication. Remaining assets are managed in physical asset strategies within the fixed income and equity asset classes. The firm has around 270 employees and has traded over $1 trillion (notional value) in derivatives contracts on behalf of its clients for each of the past 5 years.

Manager Capabilities

As a provider of customized client solutions, the firm seeks to design and implement programs that best fit client needs. The team of investment professionals, numbering more than 75 in total, collaborate to offer clients the ability to gain specific targeted exposures.

For example, NISA may be directed to gain a certain notional dollar amount of indexed exposure using discretion with respect to Total Return Swaps or Futures that track the index, based on the firm's evaluation which is more attractively priced on a given trading day. Alternatively, clients may instruct specific security types for exposure, and NISA is able to simply execute upon those instructions.

Clients can choose to direct NISA to use specific types of securities or contracts or allow them the discretion to optimize the necessary instrument mix based on liquidity and cost. For example, if additional transaction cost reduction and improved efficiency is desired, NISA offers the ability to target exposures via Total Return Swaps in addition to Futures. To support this, NISA routinely negotiates International Swaps and Derivatives Association (ISDA) agreements and Futures Commission Merchant (FCM) documents on behalf of clients at no additional charge. The firm maintains template agreements with pre-negotiated terms and believes that its size and level of activity in the markets is likely to result in providing its clients with more negotiating leverage than the client would otherwise be able to generate.

The firm consistently seeks best execution for its clients through a variety of measures. As a large participant in the over-the-counter derivatives marketplace, NISA maintains relationships with several counterparties and believes that its activity in the market results in competitive pricing on trades. NISA has built proprietary valuation models and uses several common tools and third-party data feeds to support derivatives trading.

Program Design

NISA will achieve exposure to the Bloomberg US Aggregate Bond Index through a mix of trade swap agreements and futures contracts. The ultimate allocation to swaps or futures will be determined based on an estimation of the cost and tracking error of the available instruments. The liquidity needed to adjust exposures will also be considered. The length of swap or futures contract can be customized or selected to allow for flexibility to increase or decrease exposure depending on the desired level for the portfolio.

These types of programs require accounts that contain collateral to use as needed for changes in contract value. Collateral is normally a portfolio consisting primarily of cash and US treasury securities. The necessary collateral increases in times of higher volatility and negative contract price movement. For example, in the case $315 million in notional exposure to the Bloomberg US Aggregate Bond Index was targeted, depending on the instrument mix, the initial collateral can range from $0 (assuming only swap agreements are used) to $6 million (when futures are incorporated into the instrument mix) and increase up to $44 million during periods of market stress (defined as a 2 standard deviation negative market event).

There are also financing costs associated with achieving exposure to the Bloomberg US Aggregate Bond Index. For instance, NISA has communicated that the financing cost is currently estimated at 15 basis points in excess of the Federal Funds rate, for the swap agreement for the Bloomberg US Aggregate Bond Index. However, this cost has ranged from -30 to 75 basis points during the past decade. The cost of a futures contract can also vary dependent on building block contracts (Treasuries, CDX, TBAs, etc.) used to replicate the exposure of the index. These costs will be taken into account by NISA as the program is implemented and maintained over time.

The proposed management costs of this type of program ranged from 3 to 6 basis points based on manager responses. The management costs charged by NISA fall in this range, with expected fees of 4 to 6 basis points, dependent on notional exposure.

Recommendation

RVK recommends that NDBUSL approve the hiring of NISA as a partner for applying the intended leverage and bond exposure. NISA offers the ability to provide the desired synthetic exposure to the Bloomberg US Aggregate Bond Index in a controlled manner. NISA also employs the largest and most experienced investment team dedicated to the overlay space in the industry. Additionally, the program cost is in-line with competitors.

The depth and experience of investment staff, history of serving other large institutions and specialized firm focus on futures-based overlays and swap arrangements, are key drivers of the recommendation. If approved, Staff and RVK will collaborate with NISA to finalize specific guidelines and trading rules with an aim to create a repeatable and comprehensive communication and implementation plan.

Introduction to NISA

North Dakota Board of University and School Lands

July 27, 2023

All data presented are as of June 30, 2023, unless otherwise noted.
The data supplied by NISA are based on trade date and calculated according to NISA's pricing policies. NISA maintains the data only for its portfolio management, guideline verification and performance calculation purposes. NISA does not provide pricing, recordkeeping, brokerage or any related services. A summary of NISA's Pricing and Valuation policy is available upon request. Some numbers have been rounded and may not sum to 100% or reported totals.
NISA Investment Advisors, LLC is not acting in a fiduciary or advisory capacity in connection with the material presented herein. NISA Investment Advisors, LLC shall not have any liability for any damages of any kind whatsoever relating to this material. See other important disclaimers on the last page.

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www.nisa.com

Speakers

Cheryl L. Hanson, CPA – *Managing Director, Client Services*

Cheryl is a managing director in the Client Services Group and chair of NISA's Management Committee. She is responsible for the day-to-day oversight of the Client Services Group including NISA's request for proposal process, client reporting and onboarding functions for new engagements. She is also responsible for client and consultant interactions and assisting in the development and implementation of customized investment strategies.

Cheryl joined NISA's Client Services Group in 2003. Prior to NISA, she was the Divisional Controller of a healthcare company, the Director of Special Accounting Projects for General American Life Insurance Company, and a Manager with KPMG LLP's assurance services practice focusing on financial services clients. She holds a BA in Accounting from Lindenwood University.

Daniel A. Scholz, CFA – *Director, Investment Strategies*

Dan is a director in the Investment Strategies Group and a member of NISA's Investment Committee. He is responsible for developing custom strategies designed to meet client objectives and developing and implementing proprietary financial modeling and engineering tools used throughout NISA. Dan is also responsible for the day-to-day oversight of NISA's Strategic Portfolio Management team which is charged with maintaining hedge strategies including completion portfolios and exposure management strategies. In addition, Dan has written papers on fixed income and synthetic derivative topics.

Dan was recruited through NISA's internship program and joined NISA in 1998. He holds a BA in Economics and Physics from Illinois Wesleyan University, a BS in System Science and Engineering and an MBA from Washington University in St. Louis.

215 Institutional Clients – $495 Billion Under Management[1]

Distinguishing Features

- Employee owned and long-tenured senior management
- Custom solutions
- Client-centric business model
- Innovative culture centered on fundamental financial principles
- Recipient of the *Greenwich Quality Leader in U.S. Institutional Investment Management Service in 2022* published on February 23, 2023, making it nine consecutive years[2]

$495 Billion Under Management

$270 Billion in Physical Assets

- $257 billion in Fixed Income
  - Investment grade fixed income, ranging from short to long duration
- $13 billion in Equity
  - Direct Indexing: tax considerations, investor preferences and factor exposures

$225 Billion in Derivatives Notional Value

- Beta overlay, interest rate exposure management, and other customized solutions

[1] $19.8 Billion in Repurchase Agreement notional and underlying assets are reported in both physical assets and derivatives notional value under management.
[2]Source: 2022 Rankings announced by Coalition Greenwich on February 23, 2023. Between February and November of 2022, Coalition Greenwich conducted interviews with 727 institutional investors from 590 of the largest tax-exempt funds in the United States. These U.S.-based institutional investors are corporate and union funds, public funds, and endowment and foundation funds, with either pension or investment pool assets greater than $150 million. No compensation was paid by NISA in connection with obtaining or using this ranking. NISA was one of four 2022 recipients. Rankings do not represent any one client's experience because they reflect an average of experiences of clients who chose to participate. Visit www.greenwich.com for more details, including past rankings and methodology.

NISA's Derivative Overlay Services

$225 Billion
in derivatives
notional value

112
derivatives
clients

257
derivatives
programs

Largest Overlay Manager
as ranked by *Pension & Investments*[1] 2022 rankings and announced June 12, 2023.

Over
$1.0 Trillion[2]
traded each year for the last five years

[1] Source: Pensions & Investments (P&I). Rankings were based on U.S. institutional, tax-exempt assets managed internally (covered for overlay) as of December 31, 2022; published on June 12, 2023. NISA paid a standard fee to access the full set of data published by P&I. Some 434 investment management firms responded to the online questionnaire. To qualify, a firm must manage assets for U.S. institutional tax-exempt clients, such as qualified retirement plans, endowments or foundations, and answer the minimum required questions. Other survey participants may have reported overlay strategies on a basis other than notional values and, as such, direct comparison and rankings may not be appropriate. Visit www.pionline.com for more details, including past rankings and methodology.

[2] Data from 7/1/2018 - 6/30/2023

215 Institutional Clients – $495 Billion Under Management

Public Pension, Endowment, Foundation, and Other Tax-exempt Clients

- $41 billion in physical assets for 48 clients
- Average physical relationship of $854 million
- Average notional relationship of $1.5 billion for clients that utilize derivatives

The American National Red Cross
BJC Health System
Bristol-Myers Squibb Company
City of Austin Employees' Retirement System
The Colorado Health Foundation
CommonSpirit Health
The Curators of the University of Missouri
Ford Motor Company of Canada, Limited*
Geisinger Health
Georgia Tech Foundation, Inc.
Inter-American Development Bank
Kentucky Public Pensions Authority
Medica Health Plans*
Minnesota State Board of Investment
Missouri Education Pension Trust
Missouri State Employees' Retirement System
Montgomery County Employees' Retirement System*
New York City Deferred Compensation Plan
Novant Health, Inc.
Partners Capital Investment Group, LLP
Pennsylvania State Employees' Retirement Fund
The Rotary Foundation
San Mateo County Employees' Retirement Association
Snap-on Tools of Canada, Co.
St. Louis Regional Convention & Sports Complex Authority
Texas Treasury Safekeeping Trust Company
Washington University in St. Louis

NDT/Taxable Clients

- $23 billion in physical assets for 23 clients
- Includes $17.5 billion in NDT assets for 14 clients

Allegheny Electric Cooperative, Inc.
Ameren Services Company
American Electric Power Co.
Amerisure Mutual Insurance Company
Aon Hewitt Investment Consulting, Inc.
Argos Capital Partners
Arizona Public Service Co.*
Blue Cross and Blue Shield of North Carolina
Constellation Energy Corporation
Coverys
Dominion Energy, Inc.
Duke Energy
Medica Insurance Company*
NorthStar Group Services, Inc.
Pacific Gas and Electric Co.
Schlumberger Master Health Care Trust
Southern California Edison Company
Wellmark, Inc.

* Denotes multiple engagements under different name.
These lists are not intended to imply client (or any other party's) recommendation of NISA or NISA's investment management services. The top list includes all public pension, endowment, foundation, and other tax-exempt clients that permit NISA to use their name on such lists and were not selected on the basis of performance. The bottom list includes all NDT/taxable clients that permit NISA to use their name on such lists and were not selected on the basis of performance. Many clients, as a matter of policy, do not permit their names to be listed. Many clients are included in both tax-exempt ERISA and other tax-exempt client counts. Many clients are included in both tax-exempt and taxable client counts.

215 Institutional Clients – $495 Billion Under Management

Tax-exempt ERISA Clients

- Clients include 31 of the 50 largest U.S. corporate retirement plans[1]
- $206 billion in physical assets for 169 clients
- Average physical relationship of $1.2 billion
- Average notional relationship of $1.9 billion for clients that utilize derivatives

3M Benefit Funds Investment Committee
ABC-NABET Retirement Trust Plan
Accenture LLP
The Aerospace Corporation
Air Products and Chemicals, Inc.
Alcoa USA Corp.
Alliant Energy Corporate Services, Inc.
Ameren Services Company
American Airlines, Inc.
American Electric Power Co.
The American National Red Cross
American Sugar Refining, Inc.
Archer-Daniels-Midland Company
Ascension Health
Automatic Data Processing, Inc.
AVANGRID
The Bank of New York Mellon*
Bayer Corporation
Berkshire Hathaway Energy Investment Committee*
BJC Health System
BMO Financial Corp.
Boehringer Ingelheim USA Corporation
Bon Secours Mercy Health
Booz Allen Hamilton Inc.
BP Corporation North America Inc.
Bristol-Myers Squibb Company
B&W Pension Trust
Caterpillar Inc. Benefit Funds Committee
Celanese Americas LLC
CenturyLink Investment Management Company*
Chanel Inc. Pension Plan
Coca-Cola Consolidated, Inc.
Colgate-Palmolive Company, Inc.
Committee of the UAW Retiree Medical Benefits Trust
Consolidated Edison Retirement Plan*
Constellation Energy Corporation
Corewell Health
Cox Enterprises, Inc.
Cummins Inc.
Daimler Truck North America LLC
Dairy Farmers of America, Inc.
Duquesne Light Company Pension Trust
Eaton Corporation Master Retirement Trust
Entergy Services, LLC
Equifax Inc.
Exelon Corporation*
Factory Mutual Insurance Company
FCA US LLC Master Retirement Trust
FedEx Corporation
FirstEnergy Corporation
FMC Corporation
Ford Motor Company*
General Motors Investment Management Corporation
Girl Scouts of the United States of America
Global Trust Company
The Goodyear Tire & Rubber Company
Harley-Davidson Retirement Plan
Highmark Inc.
Intermountain Health Care, Inc.
International Flavors & Fragrances Inc.
International Paper Company
Kellogg Company
Kennametal Inc. Master Trust
The Kroger Co.*
Merck & Co., Inc.
Mondelēz Global LLC
MultiCare Health System
NiSource Inc.
Northern Trust Investments, Inc.
Pacific Gas and Electric Co.
Pension Plan for Insurance Organizations
PepsiCo, Inc. Master Trust
Pinnacle West Capital Corporation*
PNM Resources, Inc.
Premera Blue Cross
Public Service Enterprise Group Incorporated
PVH Corp.
Raytheon Technologies Corporation
Reckitt Benckiser LLC
Retirement Plans Committee of Lehigh Hanson, Inc.*
Ricoh USA, Inc.
S&P Global
Saint-Gobain Corporation
sanofi-aventis
SEI Investments Management Corporation
Siemens Corporation
Snap-on Incorporated
Southern Company Services, Inc.
Swedish Match North America LLC
Syngenta Corporation Pension Plan
Target Corporation
Textron Inc.
The TJX Companies, Inc.
Truist Financial Corporation Pension Plan Trust
Unum Group
The UPS Group Trust
United Steelworkers (International Union) Staff Pension Plan*
US Foods Inc.
Wells Fargo & Company Master Pension Trust
Wilshire Associates Incorporated
Xylem Inc.
Yale New Haven Health Services Corporation

** Denotes multiple engagements under different name.*

[1] Source: Based on data from Pensions & Investments, pionline.com, as of September 30, 2022; published on February 13, 2023.
This list is not intended to imply client (or any other party's) recommendation of NISA or NISA's investment management services. The above list includes all tax-exempt ERISA clients that permit NISA to use their name on such lists and were not selected on the basis of performance. Many clients, as a matter of policy, do not permit their names to be listed. Many clients are included in both tax-exempt ERISA and other tax-exempt client counts. Many clients are included in both tax-exempt and taxable client counts.

Senior Team

SENIOR LEADERSHIP		YEARS OF EXPERIENCE
David G. Eichhorn, CFA (I,M)	*Chief Executive Officer and Head of Investment Strategies; Chair, Investment Committee*	25+
Matthew G. Byron, CFA (M)	*Chief Operating Officer*	15+
Cheryl L. Hanson, CPA (M)	*Managing Director, Client Services; Chair, Management Committee*	25+
Kenneth L. Lester (I,M)	*Managing Director, Portfolio Management; Vice Chair, Investment Committee*	35+
Anthony R. Pope, CFA (I,M)	*Managing Director, Portfolio Management; Vice Chair, Investment Committee*	25+
Bella L. F. Sanevich, Esq. (M)	*Managing Director, Corporate Governance and Legal*	25+
Gregory J. Yess, CPA (M)	*Managing Director, Client Services*	35+

CLIENT SERVICES / INVESTMENT STRATEGIES	
Ann-Marie L. Gehring, CFA *Director, Client Services*	10+
Christopher E. Goebel, CFA *Director, Client Services*	20+
Anthony S. Gould, CFA, CAIA *Director, Investment Strategies – Client Solutions*	35+
James L. Hobbs, CFA *Director, Investment Strategies*	15+
Gregory W. Johnson, CFA, CPA *Director, Client Services*	25+
Elaine M. Kemper *Director, Client Services*	15+
William P. Marshall *Director and Head of DC and Wealth Solutions*	25+
Paul M. Oehrlein, CFA *Director, Investment Strategies*	10+
Richard R. Ratkowski, CFA (M) *Director, Investment Strategies*	15+
Daniel A. Scholz, CFA (I) *Director, Investment Strategies*	25+
Kevin D. Schuman, CFA *Director, Client Services*	20+
Kevin M. Shultz, CFA *Director, Markets and Portfolios*	15+

PORTFOLIO MANAGEMENT	
Biswajit Bhattacharya, CFA (I) *Director, Fixed Income*	15+
John S. Choe *Director, Derivatives*	20+
Gabriel E. Crump, CFA *Director, Credit Research*	20+
Stephen J. Douglass (I) *Senior Economic Strategist*	15+
Patrick R. Foley *Director, Fixed Income & Derivatives*	15+
Aaron M. Johnson, CFA *Director, Fixed Income*	20+
Carl R. Kuebler, CFA *Director, Derivatives*	25+
Jonathan M. Peress, CFA *Director, Fixed Income*	15+
Jordan C. Rouff, CFA *Director, Derivatives*	15+
Vinod Sadasivam *Director, Derivatives*	15+
Michael P. Vanous, CFA *Director, Equity Portfolio Management*	35+

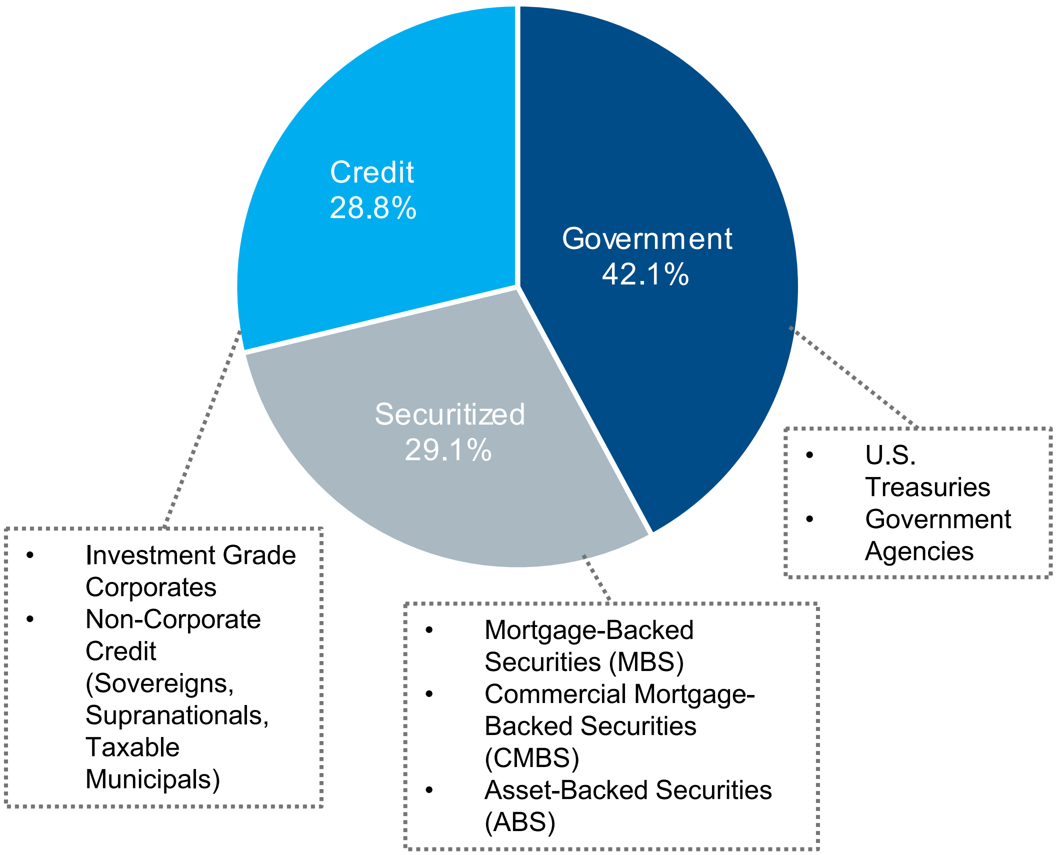
ADDITIONAL SENIOR TEAM	
Nicholas F. Cangiani, CAIA *Director, DC and Wealth Solutions*	20+
Michael R. DeNorscia *Director, Operations*	35+
Richard M. Dolson, CFA, CIPM *Chief Compliance Officer*	20+
Mark A. Folkins, CFA, CPA *Chief Administrative Officer*	35+
Laurie B. Fournie, CPA *Director, Accounting and Administration*	35+
Susan B. Gerard *Head of Marketing and Communications*	20+
Clayton T. Hoyt *Director, Data Management*	25+
Scott D. Kane *Director, Technology Solutions*	35+
Matthew D. Kaplan, CFA, CISM, FRM *Chief Risk Officer*	25+
Daniel M. Rothweiler, CFA *Associate Chief Technology Officer*	25+
Scott W. Smith, CFA *Director, Investment and Risk Analytics*	15+
Sarah A. Wendt *Chief People Officer*	25+

I - Investment Committee Member M - Management Committee Member
Employees' years of experience may include previous employment and/or roles other than those listed.

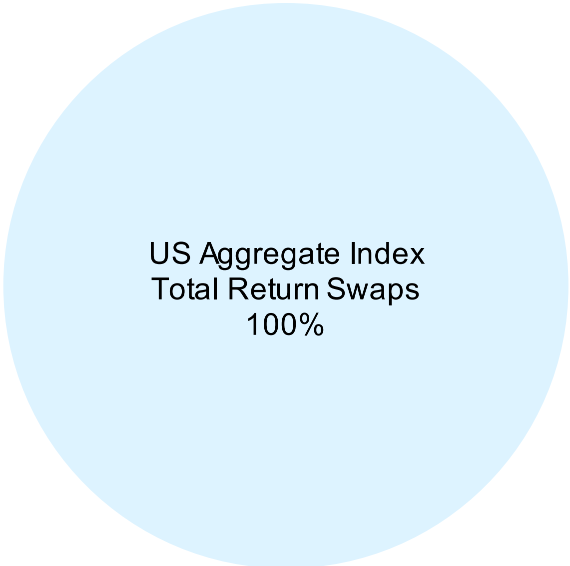
Bloomberg US Aggregate Synthetic Replication

NISA's expected approach at implementation is to utilize total return swaps on the Bloomberg US Aggregate Index to obtain the desired amount of exposure.

Bloomberg US Aggregate Index



Bloomberg US Aggregate Index Synthetic Replication



Financing Cost: Federal Funds + 20 bps

Asset Allocation	Corresponding Amount of Synthetic Exposure ($ million)
0%	0
5%	315
10%	630

Data as of 6/30/2023.
Sources: Bloomberg, dealer indications. Total return swap financing represents a 3-month tenor.
This is not a recommendation, offer, or solicitation to purchase or sell any securities. It is not, and should not be regarded as investment advice or as a recommendation regarding a course of action. There is no guarantee that similar financing will be available in the future.

Derivatives Operational Details

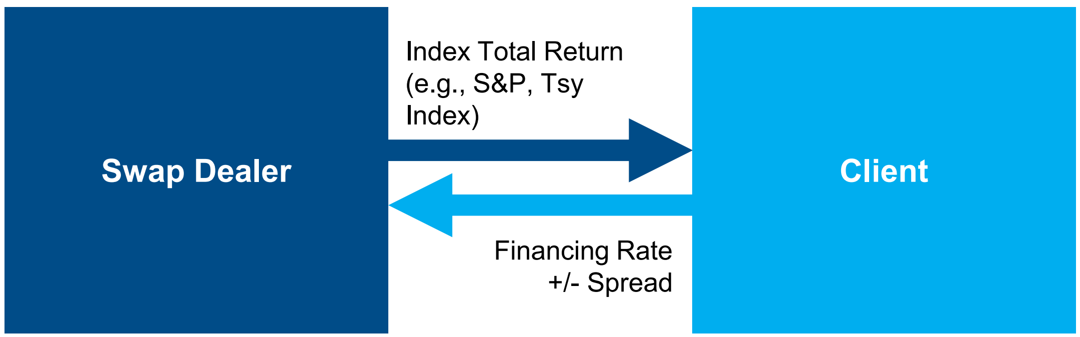
There are operational details unique to derivative engagements. Managing and monitoring these details are critical to the program's implementation.

Derivative Documents	• Relationships with counterparties, clearing members and clearinghouses • Experience with ISDAs, futures and clearing documents
Efficient Execution	• Competitive bidding process promotes efficient execution • Active involvement in the market
Daily Derivative Valuation	• All derivative positions are priced daily for internal use*
Clearing/Counterparty Risk Management	• Valuation and management of daily margin and/or collateral inflows and outflows
Overlay Portfolio and Strategy Monitoring	• Proprietary models to monitor the efficacy of the hedge strategy • Coordination of the hedge with underlying portfolios
Performance Measurement	• Customized performance calculations*

*NISA calculates and reports portfolio performance for the purposes of evaluating NISA's investment management services. Portfolio performance is calculated using market values determined by NISA using time-weighted methodology, and is reported gross of investment management fees unless otherwise noted. Net-of-fees returns are available upon request. Additionally, NISA has a Large and Significant Cash Flow policy that establishes flow thresholds used to seek to reduce the impact of client-directed portfolio activity from the reported return, including, for portfolios in certain composites, using a temporary portfolio for Significant Cash Flows, as recommended by the Global Investment Performance Standards (GIPS®). The actual realized portfolio return will differ. Historical periods that include the use of a temporary portfolio are available upon request. NISA's performance calculation policies are available upon request.

Total Return Swaps

- A total return swap is an agreement between two parties to exchange future cash flows.
- A typical agreement entails the payment of an index total return by one party and a floating rate of interest by the other party, based on a defined notional amount and a defined term, with no upfront exchange of cash.
- Economically, total return swaps are similar to futures contracts.



- Pay Index Total Return, Receive Floating
- “Short” the Swap

- Pay Floating, Receive Index Total Return
- “Long” the Swap

Selected List of Risks – Derivative Overlay Strategies

The below outlines risks associated with derivative overlay strategies. NISA's team uses several tools and takes multiple measures to manage strategy risk.

Risks	Description	NISA's Role in Risk Mitigation
Market-Based Risk	Risk associated with underlying market exposure. This would include general equity risk, interest rate risk, etc.	Establish risk levels, collateral coverage, and monitoring process.
Counterparty Risk	In the event of a counterparty default, a loss on uncollateralized mark-to-market could be incurred by the client and new positions would need to be put in place to maintain exposure.	NISA's derivative documentation contains terms which are beneficial for NISA's clients including daily mark-to-market, zero thresholds, minimum credit ratings, and low transfer amounts.
Basis Risk	Some amount of tracking error is likely to exist between the derivative portfolios used to replicate exposure and the underlying benchmarks.	NISA assists with the selection of overlay instruments and benchmarks which are readily available in synthetic markets, and seeks to employ instruments that minimize tracking error versus the respective benchmarks.
Liquidity Risk	Instrument liquidity impacts the ability to implement trades or increases the transaction costs associated with trades.	NISA helps advise clients on potential liquidity costs and seeks to structure instruments to match an investors' liquidity requirements, while also providing solutions to minimize the impact of liquidity constraints.
Operational Risk	Strategies that involve executing trades across multiple exchanges, countries, and currencies introduce operational risks between the custodian, dealers, and asset managers.	NISA works diligently with custodians, dealers, and clients to address added complexities.

Disclaimers

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NISA

EXTENDED EQUITY (130-30) STRATEGIES

DEFINITIONS

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What is beta?

Beta is the passive market index return.

Beta is a commoditized product and easily obtained at a low cost.

Example

Manager A is known for its low cost. They offer a Russell 1000 index product, charging a 1 bps management fee with the goal of closely tracking the Russell 1000 returns.

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What is alpha?

Alpha is return above and beyond the market index return. It costs more and is harder to find.

Example

Manager B is known for its fundamental bottom-ups analysis on stocks. They offer an Emerging Markets fund, charging a 70 bps management fee with the goal of beating the MSCI Emerging Markets Index.

DEFINITIONS

What is short selling?

Short selling is the ability to sell a stock that you do not own

Example

Manager C believes NVDA stock will decline by 25% in the next month

Borrow 1 share from securities lender today

Sell 1 share today +$400

Buy 1 share next month -$300

Return 1 share to securities lender next month plus 6% interest -$2

Net profit +$98

BACKGROUND

Extended Equity (130-30)

A strategy for investors seeking higher alpha potential by allowing managers to short stocks and use the proceeds to increase exposure to their long holdings.

By taking advantage of a larger breadth of investable information, there is potential to increase alpha without increasing volatility, style tilts, and tracking error associated with a more concentrated portfolio.

	Long-Only	Market Neutral	Active Extension
Long and Overweight	x	x	x
Long and Underweight	x		x
Short Position		x	x
Beta Target	1	0	1

BACKGROUND

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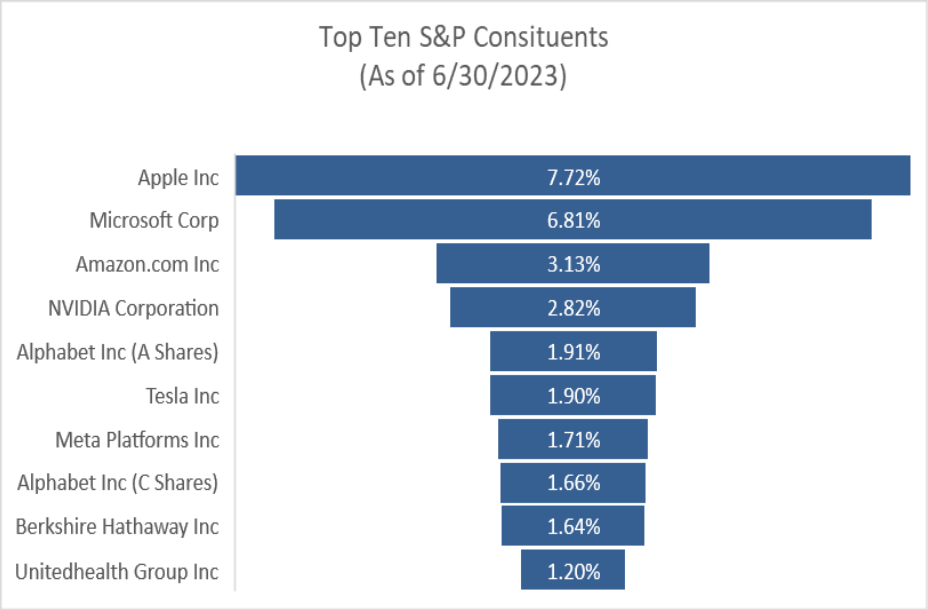
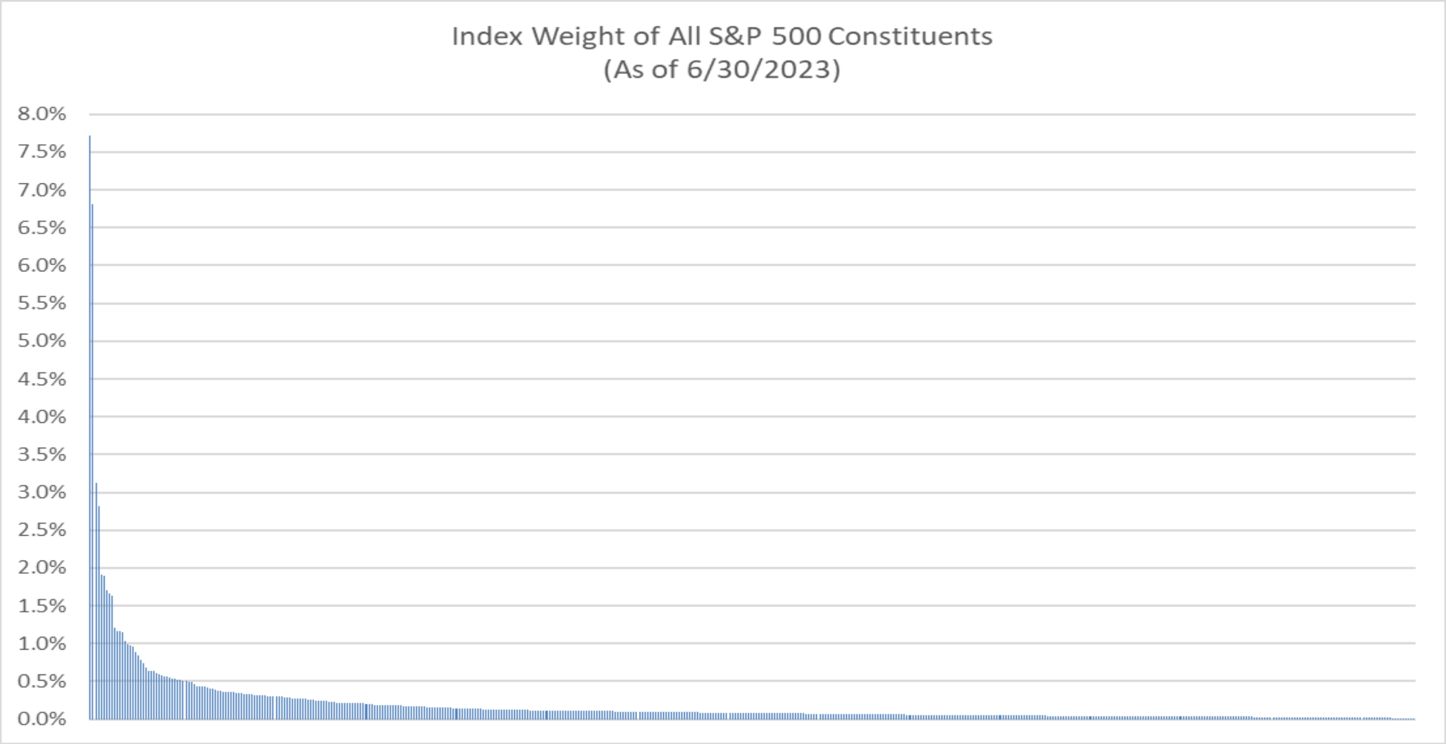
US Stock Market Concentration

Most constituents in the S&P 500 have a relatively small weighting, while the top 20 names account for a huge portion of the index. This, in effect, limits what a long-only manager can do to take express conviction and take active risk across their investable universe.





BACKGROUND

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Characteristics and Risk of Extended Equity Strategies

- An attractive characteristic of many extended equity strategies are **higher active share** portfolios, when compared to traditional and concentrated long-only portfolios, paired with the potential for better risk/return efficiency.
- On average, extended equity managers have been able to achieve improved risk/return ratios with similar levels of market sensitivity (as measured by beta), albeit achieved with leverage.

Peer Group Median (As of 12/31/2022)	Active Share	Current # of Holdings	10 Year Excess Returns (S&P 500)	10 Year Tracking Error (S&P 500)	10 Year Information Ratio (S&P 500)	10 Year Sharpe Ratio (FTSE 3-Month T-Bill)	10 Year Beta (S&P 500)
US 130/30	89%	195	0.70	5.44	0.16	0.84	0.98
US Large Cap Core	68%	64	-0.15	3.46	-0.06	0.79	0.98
US Concentrated LCC	82%	29	-0.20	4.49	-0.04	0.82	0.93

Peer Group Median (As of 12/31/2022)	Active Share	Current # of Holdings	10 Year Excess Returns (MSCI ACWI)	10 Year Tracking Error (MSCI ACWI)	10 Year Information Ratio (MSCI ACWI)	10 Year Sharpe Ratio (FTSE 3-Month T-Bill)	10 Year Beta (MSCI ACWI)
Global 130/30	93%	73	2.92	5.35	0.58	0.68	0.98
Global Large Cap Core	84%	71	1.16	4.08	0.34	0.59	0.98
Global Concentrated LCC	90%	32	2.09	5.54	0.37	0.64	0.98

BACKGROUND

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Key Considerations of Extended Equity Strategies

- Risk management due diligence must be emphasized to confirm portfolio is not subject to likely liquidity or factor driven issues.
- Manager skill should be exhibited through alpha generation within both the long and short positions.
- Extended equity strategies can exaggerate trends within active management – greater expression of highs and lows given the use of leverage.
- Inflection points within market trends can present as difficult conditions for extended equity products, while higher interest rate regimes have historically provided favorable conditions for shorting.
- Higher fees, when compared to traditional long-only portfolios, should be expected.

Fee Expectations

Fixed management fees can chip away at returns over time, especially during flat and underperforming years. Extended Equity (130-30) strategies align incentives by compensating the manager for outperformance above the benchmark. During outperforming years, the investor and manager share in the profits. During flat and underperforming years, lower management fees reduce decay.

	Management Fee	Performance Fee
Passive	1-6 bps	None
Long-Only Active	50-100 bps	None
Hedge Funds	100-200 bps	15-30%
Extended Equity (130-30)	25-75 bps	15-30%

EXAMPLES

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Absolute Return Hedge Fund Manager

Deliver alpha with little to no exposure to the stock market

<u>Trade Example</u>

Equity long-short hedge fund believes Apple will outperform the stock market

Expected return assumptions:

6% Apple

5% equity index benchmark

Buy $100 Apple = +$6

Sell $100 equity index = -$5

Net $0 exposure to the stock market

Net 1% expected return (alpha)

EXAMPLES

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Long-Only Public Equity Active Manager

Outperform the stock market by picking stocks to overweight/underweight relative to the index

<u>Trade Example</u>

Fundamental equity manager believes Apple will outperform the stock market

Expected return assumptions:

6% Apple

5% equity index benchmark

Buy $100 Apple = +$6

Net $100 exposure to the stock market

Net 6% expected return (beta + alpha)

EXAMPLES

Extended Equity (130-30) Active Manager

Outperform the stock market using long and short stock selection

Trade Example

Extended equity (130-30) manager believes Apple will outperform the stock market

Expected return assumptions:

6% Apple

5% equity index benchmark

Buy $130 Apple = +$7.80

Sell $30 equity index = -$1.50

Net $100 exposure to the stock market

Net 6.3% expected return (beta + alpha)

TAKEAWAYS

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<u>Long-Only Public Equity Active Manager</u>

Limited tools at their disposal

- underweight low conviction stocks
- overweight high conviction stocks
- reduce diversification by building more concentrated portfolios

<u>Extended Equity (130-30) Active Manager</u>

More tools at their disposal

- short selling low conviction stocks
- dollars raised from short selling can be applied to high conviction stocks

RE: Administrative Code Title 85 Definitions and General Provisions, Leasing Trust Lands for Agricultural Use, Construction Aggregate, Permanent Improvements, Encumbrances of Trust Lands, Land Sales under North Dakota Century Code Chapter 15-06, Land Sales under North Dakota Century Code Chapter 15-07, Oil and Gas, and Unclaimed Property Examinations.

The Department of Trust Lands proposes changes to Title 85, Board of University and School Lands, of the North Dakota Administrative Code in order to add clarity, achieve greater efficiency, and reduce red tape. Proposed changes are summarized as follows:

<u>North Dakota Administrative Code ch. 85-01-01 (Definitions and General Provisions)</u>
The definition of "oil well" is amended to apply to only those wells that are producing in paying quantities, and the definition of "agricultural use" is amended to remove honeybee pasture or meadow grazing as an agricultural use as the term is applied throughout N.D.A.C. title 85, including as it relates to the sale and leasing of trust lands. All revisions are spelled out in the attached proposed rules.

<u>North Dakota Administrative Code ch. 85-04-01 (Leasing Trust Lands for Agricultural Use)</u>
Proposed revisions include the repeal of language allowing for temporary assignment of surface leases, clarification as to how notice of intent to terminate a surface land lease must be provided, and how cost-share payments from the Department may be made. All revisions are spelled out in the attached proposed rules.

<u>North Dakota Administrative Code ch. 85-04-02 (Construction Aggregate)</u>
Proposed amendments clarify how advance royalty payments for mining of construction aggregate are paid. All revisions are spelled out in the attached proposed rules.

<u>North Dakota Administrative Code ch. 85-04-03 (Permanent Improvements)</u>
Repeal of language prohibiting rent credits, cost-share, and depreciation for livestock water developments on trust land tracts that receive up-front livestock water deduction when determining the minimum bid for public lease auction. This revision permits certain rent credits, cost-sharing, and depreciation for livestock water developments even where an up-front livestock water deduction is applied to the minimum bid price for surface leases. All revisions are spelled out in the attached proposed rules.

<u>North Dakota Administrative Code ch. 85-04-04 (Encumbrances of Trust Lands)</u>
Proposed amendments reduce red tape associated with obtaining an encumbrance on trust lands by refining and further clarifying the application process, including how an applicant may apply for an encumbrance and clarification as to purposes for which an encumbrance may be obtained. All revisions are spelled out in the attached proposed rules.

<u>North Dakota Administrative Code ch. 85-04-07 (Land Sales under North Dakota Century Code Chapter 15-06)</u>
The procedure pertaining to the sale of original grant lands was revisited to streamline the process and clarify ambiguities. While much of the previous process will remain intact, certain amendments to the application and review process are proposed. The most significant changes relate to the procedures of no-net-loss sales with exceptions made for certain hard-to-manage tracts. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-04-08 (Land Sales under North Dakota Century Code Chapter 15-07)
Many of the same amendments related to the land sale process in N.D.A.C. ch. 85-04-07 are also applied to the land sale process set forth in N.D.A.C. ch. 85-05-08. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-06-01 (Oil and Gas)
Various portions of chapter 85-06-01 are amended to increase efficiency, reduce red tape, and provide greater clarification, including updates pertaining to the nomination payment process for mineral auctions, payment of delay rentals, rules regarding oil and gas lease cancellation due to a breach of the lease terms, and updates to the shut-in procedures of an oil and gas well located on trust lands. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-03-04 (Unclaimed Property Examinations)
The sole revision to this chapter is the repeal of the words “to the examiner” in N.D.A.C. § 85-03-04-03. The result of this revision is that funds may be remitted directly to the state rather than first being sent through an examiner. This revision is spelled out in the attached proposed rules.

Recommendation: The Board authorizes the Commissioner to proceed with review of the proposed Administrative Rules, including formal review by the Office of Attorney General, preparation for public hearings, collection of comments, and submittal to Legislative Council.

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

Attachment 1 – Definitions and General Provisions, Leasing Trust Lands for Agricultural Use, Construction Aggregate, Permanent Improvements, Encumbrances of Trust Lands, Land Sales under North Dakota Century Code Chapter 15-06, Land Sales under North Dakota Century Code Chapter 15-07, Oil and Gas, and Unclaimed Property Examinations.

CHAPTER 85-01-01
DEFINITIONS AND GENERAL PROVISIONS

Section 85-01-01-01 is amended as follows:

85-01-01-01. Definitions.

The following definitions, in addition to the definitions in North Dakota Century Code chapters 15-05, 15-06, 15-07, 15-08, 15-08.1, 38-09, 47-06, 47-30.2, and 57-62, apply to this title:

. . . .

3. "Agricultural use" includes the use of trust lands for the purpose of grazing, cropping, and haying~~, and honey bee pasture or meadow~~.

. . . .

History: Effective January 1, 2019; amended effective January 1, 2020; January 1, 2021; April 1, 2022; __________, 2024

General Authority: NDCC 15-05-05, 15-07-20, 15-08.1-06, 28-32, 61-33-06

Law Implemented: NDCC 4.1-47-04, 15-01, 15-04, 15-05, 15-07, 15-08, 15-08.1

CHAPTER 85-03-04
EXAMINATIONS

Section 85-03-04-03 is amended as follows:

85-03-04-03. Entrance conference.

1. Once an examination is assigned and written notice of examination is provided to the person subject to examination, an entrance conference will be scheduled with the auditor and representatives of the person subject to examination. A representative of the administrator may participate in an entrance conference.

2. During the entrance conference, the auditor shall, to the extent practicable:

   a. Identify the types of property that will be subject to the examination and the time period covered by the examination;

. . . .

   h. Explain that, unless otherwise agreed to in writing by the administrator, the person subject to examination shall ~~remit to the examiner~~ any unclaimed property identified during the examination that is owed to the State of North Dakota.

History: Amended effective April 1, 2022; _________, 2024

General Authority: NDCC 47-30.2-03, 47-30.2-56

Law Implemented: NDCC 47-30.2-55, 47-30.2-57, 47-30.2-58, 47-30.2-61, 47-30.2-62

CHAPTER 85-04-01
LEASING TRUST LANDS FOR AGRICULTURAL USE

Section 85-04-01-03 is amended as follows:

85-04-01-03. Assignment and use by a third party.

1. A surface land lease or any part thereof may not be assigned, nor may the lessee allow the surface land leased premises or any part thereof to be used in any manner by anyone other than the lessee without the written consent of the commissioner. A grazing permit issued by a grazing association to a member-permittee is authorized.

2. A lessee may request an assignment of a surface land lease from the department. The commissioner shall approve or deny an assignment based on the best interests of the trusts. The following assignments may be approved:

   a. An assignment without restriction to a close relative including the spouse, father, mother, son, daughter, brother, or sister for the same terms and conditions as the original surface land lease.

   ~~b. An assignment of less than the full surface land lease term to a third party if the lessee is temporary out of livestock business or unable to properly stock the surface land leased premises. Being temporarily out of livestock business means no longer owing or leasing the livestock and personally providing for their day to day care, with intent to return to the livestock business within two years or less. The assignment must be for two years or less. The rent payable for the assignee must be at a rate consistent with the current year's fair market value minimum rent od the current surface land lease price, whichever is greater.~~

   ~~c~~b. An assignment to a third party with the surface land lease expiring at the end of the current surface land lease year. The rent payable by the assignee must be at a rate consistent with the current year's fair market value minimum rent or the current surface land lease price, whichever is greater.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-07-20, 28-32-02

Law Implemented: NDCC 15-04-01, 15-07-20, 54-30-17.1

Section 85-04-01-08 is amended as follow:

85-04-01-08. Surface land lease termination.

1. Failure to comply with the surface land lease terms, board rules and policies, and applicable laws may result in surface land lease termination by the commissioner. Before a surface land lease is terminated, the department ~~personally~~ shall ~~serve the lessee with the~~ provide notice of intent to terminate the surface land lease ~~specifying the reason for termination~~ by certified mail to the lessee's last known address on file with the department.

2. A lessee may file with the department a written request for waiver of the notice of intent to terminate the surface land lease, which must include a statement of the specific grounds for the request. A request must be filed with the department within ten business days after service on the lessee of the notice of intent to terminate the surface land lease. A request for a waiver is deemed filed when personally delivered to or when received by the department. The commissioner may waive any breach except those terms required under applicable laws, or the commissioner may allow the lessee time to cure the breach.

3. Not less than ten business days after the notice of intent to terminate the surface land lease is ~~served on~~ received by the lessee, the commissioner may terminate the surface land lease. Surface land lease termination is effective upon actual delivery of a notice of termination by the department. The notice of termination of the surface land lease must be ~~served~~ ~~personally,~~ provided by certified mail requiring a signed receipt, or by overnight courier or delivery service requiring a signed receipt. Failure to accept mail requiring a signed receipt constitutes service. Termination of the surface land lease does not release the lessee from liability for any sum due the board or from any damages due.

4. When a surface land lease is terminated, the former lessee is ineligible to bid at a surface land lease auction administered by the department for a minimum of the remainder of the current calendar year plus three additional calendar years.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-07-20, 28-32-02

Law Implemented: NDCC 15-04-01, 15-07-20, 15-07-21, 54-30-17.1

Section 85-04-01-13 is amended as follows:

85-04-01-13 Cost-share payments

Cost-share payments may be made ~~upon receipt of an invoice~~ for allowable expenses.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15-04-24

CHAPTER 85-4-02
CONSTRUCTIN AGGREGATE

Section 85-04-02-07 is amended as follows:

85-04-02-07. Advance royalties.

1. As consideration for a construction aggregate lease with a term greater than one year, the lessee shall pay on the date a construction aggregate lease is issued an advance on the yearly royalty, as determined by the commissioner, but not less than one thousand dollars.
    a. The advance payment is due each year in which the construction aggregate lease is in force ~~and is due prior to the construction aggregate lease anniversary date~~.
    b. The advance payment may be credited against construction aggregate mined during the term of the construction aggregate lease. Advance royalty payments for which a credit is not claimed must be forfeited.
    c. The commissioner may adjust the advance royalty payment amount. ~~Any adjustment takes effect on the anniversary date of the construction aggregate lease following notice to lessee~~.
2. The commissioner may require an advance royalty deposit for a construction aggregate lease with a term of one year or less. The deposit must be credited against construction aggregate mined during the term of the construction aggregate lease.
3. If payment is not timely received, a notice of intent to terminate the construction aggregate lease must be issued by the department.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-18

Law Implemented: NDCC 15-05-18

Section 85-04-02-08 is amended as follows:

85-04-02-08. Royalties.

Royalties must be received by the department by five p.m. central standard time on the last business day of the calendar ~~month~~ <u>year</u> following sale, utilization, stockpiling, or removal from the construction aggregate leased premises of the construction aggregate mined. If payment is not timely received, a notice of intent to terminate the construction aggregate lease must be issued. Royalties must be paid in full on any stockpiled construction aggregate remaining on the construction aggregate leased premises ninety days prior to the expiration of the construction aggregate lease.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-18

Law Implemented: NDCC 15-05-18

CHAPTER 85-04-03

PERMANENT IMPROVEMENTS

Section 85-04-03-03 is amended as follows:

85-04-03-03. Rent credit, cost-share, and depreciation.

1. Rent credits, cost-share, and depreciation of project costs may be authorized at the sole discretion of the commissioner.

2. Rent credits or cost-share may not exceed the approved maximum project cost as determined by the commissioner or the actual project cost, less reimbursements from nondepartment sources, whichever is lower.

3. The commissioner may depreciate project costs less reimbursements to the lessee from nondepartment sources and rent credits or cost-share from the department for a period not to exceed ten years.

4. Any unexpired depreciation amount must be available from the department before the surface land lease auction and must be announced at the surface land lease auction. If the former lessee is not the successful bidder at auction, the new lessee is required to compensate the former lessee for the undepreciated amount and the department shall continue to depreciate through the original depreciation term. The commissioner may cancel any undepreciated cost of constructing a permanent improvement if the lessee fails to offer the minimum bid for the land and the land is not leased at the next auction at which the land is offered, or if the lessee fails to comply with the conditions of the surface land lease.

~~5. No rent credits, cost-share, or depreciation for livestock water developments are allowed on surface land leased premises that receive an up-front livestock water deduction in determining the minimum bid for public auction.~~

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15-04-24, 15-08-26

CHAPTER 85-04-04

ENCUMBRANCES OF TRUST LANDS

Section 85-04-04-01 is amended as follows:

85-04-04-01. Application.

An applicant shall submit a request for an encumbrance, amendment, consent to assignment, extension, or renewal using the electronic application form available on the department's website or a paper application provided upon request. An application submitted on any other form will not be accepted. The application must clearly state whether the request is for an encumbrance, amendment, consent to assignment, extension, or renewal. ~~An application submitted on any other form will not be accepted~~. An application fee may be charged as determined by the board. An applicant shall provide all information required by the application form and any supplemental information requested by the department. An application is deemed filed and complete when the department receives an application form, the application fee, and any supplemental information requested by the department. An application must be made as follows:

1. Encumbrance. An applicant may request an encumbrance for a specific purpose. ~~An applicant shall provide all information required by the application form and any supplemental information requested by the department. An application is deemed filed and complete when the department receives an application form, the application fee, and any supplemental information requested by the department.~~

2. Amendment. An applicant may request an amendment to an encumbrance for a specific purpose, including a request to change the site location or route of a previously issued encumbrance. ~~If the request for an amendment is granted, the department will mail the amendment to the applicant for signature.~~

3. Consent to Assignment. An applicant may request consent to assign an encumbrance. An application for a consent to assignment must be received by the department prior to assignment between applicable parties. An encumbrance may not be assigned unless specifically authorized by the terms of the encumbrance or upon written consent of the commissioner. ~~An~~ A consent to assignment ~~must be~~ is not valid unless granted by the commissioner through written notification to both the assignor and assignee. The commissioner may refuse to assign an encumbrance for good cause. The assignor remains responsible for compliance with all terms of the encumbrance and this chapter until the assignment is approved by the commissioner. All encumbrance obligations must be current at the time the consent to assignment is approved. If the commissioner's approval is not required, the assignor is responsible for compliance with all terms of the encumbrance and this chapter until the department is notified of the assignment. Upon approval or notification, the assignee shall be responsible for compliance with all terms of the encumbrance and this chapter. If the request for an

assignment is granted, the department shall mail the assignment to the applicant for signature.

4. Extension or renewal. An applicant may request an extension or renewal of an encumbrance for an additional term. Additional compensation may be requested by the department. If the request for an extension or renewal is granted, the department shall notify the applicant.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15-01-02, 15-05-01

Section 85-04-04-02 is amended as follow:

85-04-04-02. Surveying and planning permit requirements.

1. Prior to assessing trust land to conduct any surveys, including general surveys, metes-and-bounds, centerline, cadastral, ocular reconnaissance, cultural resource surveys, and habitat or wetland delineations, an applicant shall obtain a ~~surveying and planning~~ permit from the department.

2. The applicant shall complete an electronic application available on the department's website or a paper application provided upon request. An application is deemed filed and complete when the department receives an application form, the application fee, and any supplemental information requested by the department.

~~2.~~3. Upon issuance of the surveying and planning permit to the applicant, access to trust lands under the permit is only permissible if a third-party applicant has filed an application for an encumbrance.

4. The surface tenant must be notified by the third-party applicant of the required access to trust lands at least one calendar week prior to the date of access.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 28-32-02

Law Implemented: NDCC 15-01-02, 15-02-05, 15-05-01

CHAPTER 85-04-07

LAND SALES UNDER NORTH DAKOTA CENTURY CODE CHAPTER 15-06

Section 85-04-07-01 is amended as follows:

85-04-07-01. Sale of original grant lands.

The board shall retain and manage original grant lands to produce revenue consistent with the long-term maintenance of the original grant lands' income producing potential and ecological health. The commissioner may propose~~, or accept letter of application for,~~ the sale of original grant lands after the original grant lands have been evaluated for "highest and best use" as defined in North Dakota Century Code section 15-02-05.1 and the department considers the following criteria:

1. If the tract has been zoned or has high potential to be zoned residential, commercial, or industrial;

~~2. The tract's potential for mineral development, including sand, gravel, clay, and scoria;~~

~~3.~~ <u>2.</u> If the tract has been a source of persistent management problems, resulting in the sale of the tract being prudent from a long-term financial point of view;

~~4.~~ <u>3.</u> If the tract and adjacent trust land tracts total less than eighty acres [32.37 hectares] in size, more or less, for grassland and less than forty acres [16.19 hectares], more or less, for cropland or hayland, except those tracts which are severed by a highway, road, railroad, canal, river, or lake, which may be sold if the severed portion is less than these amounts; or

~~5.~~ <u>4.</u> If the tract and adjacent trust land tracts exceed eighty acres [32.37 hectares] in size, more or less, for grassland or more than forty acres [16.19 hectares] in size, more or less, for cropland.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

Section 85-04-07-02 is amended as follows:

85-04-07-02. Requirements of ~~sale~~ <u>no net loss sales</u>.

Any sale of original grant lands, ~~with exception of~~ <u>excluding sale of</u> tracts <u>meeting the criteria</u> ~~provided~~ in ~~subsection~~ <u>subsections</u> 1<u>, 2, or 3</u> of section 85-04-07-01<u>,</u> is subject to the following:

1. The proposed sale would result in no net loss of leasable original grant lands;

2. The ~~applicant agrees to~~ land provided as consideration must provide accessible and leasable land equal or greater in acres and value to the trust from which the original grant lands were sold, for which the department then shall consider the criteria listed below in subsections a through f in any no net loss sale. Land provided for a no net loss sale is not required to satisfy all ~~six~~ criteria outlined below. Criteria will be considered in a cumulative manner and meeting certain criteria may not guarantee approval.

    a. Equal or greater value.

        (1) In connection with any no net loss sale the department may use information, provided by the applicant or the department's own knowledge, regarding lands and resources to estimate value for purposes of a preliminary evaluation, including completion of an environmental assessment. The commissioner shall procure appraisals in accordance with North Dakota Century Code sections 15-06-22 and 15-06-23, and shall request additional appraisals be completed by a certified appraiser, to determine the value of the trust lands and the proposed no net loss sale land. The same appraiser shall conduct appraisals of the trust lands and the proposed no net loss sale land. In the event the commissioner is not satisfied with the appraisals, the commissioner may require additional appraisals by alternative certified appraisers.

        (2) The department shall advise the appraiser ~~regarding the scope of work to ensure the value of the trust lands is determined by the highest and best use of the land, not simply the present use. For example, if a no net loss sale is proposed in which the trust lands are currently leased for grassland but the land is in the path of residential, commercial, or industrial development, the trust lands must be appraised for the highest and best use for residential, commercial, or industrial development rather than its current use as grassland~~ to include both the values for the trust lands highest and best use and the current use.

        (3) The department ~~shall~~ may consider features not reflected in the market price that are difficult to assign a monetary value, including location, proximity to public lands, recreational opportunities, scenery, other amenities, and results of cultural resources inventories in evaluating the relative value of trust lands.

    b. Equal or greater Income to the trust. A no net loss sale must result in the board receiving equal or greater income to the trusts. The projected agricultural income for the proposed no net loss sale land will be estimated using the board's minimum lease rate. The minimum lease rate for the proposed no net loss sale land will be compared to the present income received by the trusts from the trust lands, including all current and potential future revenue streams from surface leases, encumbrances, development of natural resources, and other sources, and any tax liability.

c. Acreage. A no net loss sale should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for one or more of the following:

(1) Improved dedicated access;

(2) Substantially higher value <u>in relation to the number of acres lost</u>; or

(3) Substantially higher income <u>in relation to the number of acres lost</u>.

d. Consolidation of trust lands. The proposed no net loss sale must not fragment trust land holdings by creating isolated parcels of trust land. ~~In all no net loss sales, the board shall reserve all minerals underlying the trust lands pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law~~.

e. Potential for long-term ~~appreciation~~ <u>increase in income and value</u>. The proposed no net loss sale land must have similar ~~revenue~~ <u>income and value</u> potential as the trust lands.

f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.

3. ~~Any land acquired pursuant to a sale of original grant lands, subject to no net loss, shall be treated by the board as "original grant lands"~~ <u>The board shall reserve all minerals underlying the trust lands in all no net loss sales pursuant to section 5 of article IX of the Constitution of North Dakota and subject to applicable law</u>.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

Section 84-04-07-03 is amended as follows:

85-04-07-03. <u>No net loss</u> sale procedure.

~~1. A letter of application for purchase of original grant lands meeting the criteria in section 85-04-07-01 may be accepted at any time. An application must include:~~

~~a. A nonrefundable application fee in an amount set by the board;~~

~~b. A legal description of the trust lands; and~~

~~c. A legal description of the lands to be provided to ensure no net loss.~~

~~Upon board approval, a sale of original grant lands must be conducted in accordance with~~

~~North Dakota Century Code chapter 15-06.~~

~~2. Upon receipt of a letter of application to purchase a tract, the potential sale must be presented to the commissioner for preliminary approval or rejection.~~

~~3. The commissioner may recommend to the board that a tract meeting the criteria of section 85-04-07-01 may be offered for sale even though no letter of application has been received.~~

~~Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:~~

~~a. Name and address of the interested person;~~

~~b. Applicant's name and address;~~

~~c. The legal description of the proposed tract for sale as shown on the published notice; and~~

~~d. A detailed statement as to whether the interested person supports or opposes the sale.~~

1. The department may recommend a tract of land that meets the criteria of section 85-04-07-02 to the commissioner for consideration for a no net loss sale.

2. Board Preliminary Review. If the commissioner determines to proceed with the sale, the commissioner shall present to the board the proposed no net loss land sale for preliminary review. Upon a determination that the board is willing to sell, the department shall conduct the following:

   a. Notify the lessee if the lands are leased.

   b. Publish a notice of sale, that includes a request for bidders, pursuant N.D.C.C. ch. 15-06. The notice of sale must contain:

      (1) The legal description of the proposed trust land tract to be sold;

      (2) Instructions on how to register to bid; and

      (3) The deadline for bidders to register.

   c. The department shall procure all appraisals from a certified appraiser for tract(s) to be sold and for lands provided for consideration.

d. Solicit public comment regarding the proposed sale. All comments must be in writing and include the following:

(1) Name and address of the interested person;

(2) The legal description of the proposed tract for sale as shown on the published notice; and

(3) A detailed statement as to whether the interested person supports or opposes the sale.

3. Bidder Registration Process.

a. Bidders shall provide the following:

(1) A nonrefundable application fee

(2) A legal description of the lands to be provided for consideration

b. Bidders shall agree to an offer to purchase that contains the following :

(1) Bidder is subject to all costs associated to the bidder review and sale process, including:

i. Appraisal costs;

ii. Title examination; and

iii. Legal surveys if warranted.

(2) Bidder agrees to allow the department and its agents access to the lands offered for consideration

c. The Department shall review the lands proposed by each potential bidder to determine if they meet the criteria under 85-04-07-02.

4. ~~The board shall review all appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price.~~ Board Final Review. The board shall review all approved registered bidders including appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price and the following shall be conducted:

a. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property;

b. The commissioner shall conduct an auction pursuant to North Dakota Century Code chapter 15-06;

c. A Purchase Agreement shall be executed at the closing of the sale with the winning bidder which includes:

(1) The purchaser shall pay twenty percent of the purchase price at the time the agreement is executed; and

(2) The balance shall be paid sixty calendar days after execution of the agreement. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days after execution of the agreement.

d. If no bids are received at auction, the tract may be sold for the board established minimum acceptable sale price to the first interested party at a private no net loss sale during the six months following the date of the auction.

~~5. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property during the months of October through January.~~

~~6. The department shall notify the applicant, if any, of the price set by the board, which must be the minimum acceptable sale price.~~

~~7. The department may contract a legal metes and bounds survey for the tract to be sold at public auction under North Dakota Century Code chapter 15-06.~~

~~8. If the applicant desires to proceed, the applicant shall submit to the department a formal offer to purchase. The formal offer to purchase must serve as the opening bid at the public sale. The applicant shall provide five percent of the minimum sale price as earnest money, as a condition of the formal offer to purchase.~~

~~9. Land must be advertised for sale at public auction under North Dakota Century Code chapter 15-06.~~

~~10. If no bids are received on a tract for which no formal application was received, the tract may be sold for the board-established minimum acceptable sale price to the first interested party at a private sale during the six months following the date of the auction.~~

~~11. The sale of any tract under this chapter may be by:~~

~~a. Contract under section 6 of article IX of the Constitution of North Dakota; or~~

~~b. A purchase agreement requiring twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.~~

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

Section 85-04-07-04 is amended as follows:

85-04-07-04. Payment of costs.

The purchaser is responsible for payment of ~~all~~ costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

CHAPTER 85-04-08

LAND SALES UNDER NORTH DAKOTA CENTURY CODE CHAPTER 15-07

Section 85-04-08-01 is amended as follows:

85-04-08-01. Sale of acquired lands.

The board shall retain and manage acquired lands to produce revenue consistent with the long-term maintenance of the acquired lands' income producing potential and ecological health until sold. The commissioner may propose ~~or accept a letter of application for,~~ the sale of acquired lands after ~~if~~ after ~~the department has reviewed~~ ~~its potential for mineral development~~ ~~and~~ the acquired lands have been evaluated ~~by the commissioner~~ for "highest and best use" as defined in North Dakota Century Code section 15-02-05.1 and the department considers the following criteria:

1. If a tract is acquired through foreclosure or deed in lieu of foreclosure from the board's loan pool account, established under North Dakota Century Code section 15-03-04.1, after January 1, 2020;
2. If the tract has been zoned or has high potential to be zoned residential, commercial, or industrial;
3. ~~The tract's potential for mineral development, including sand, gravel, clay, and scoria;~~

~~4.~~ 3. If the tract has been a source of persistent management problems, resulting in the sale of the tract being prudent from a long-term financial point of view;

~~5.~~ 4. If the tract and adjacent trust land tracts total less than eighty acres [32.37 hectares] in size, more or less, for grassland and less than forty acres [16.19 hectares], more or less, for cropland or hayland, except those tracts which are severed by a highway, road, railroad, canal, river, or lake, which may be sold if the severed portion is less than these amounts; or

~~6.~~ 5. If the tract and adjacent trust land tracts exceed eighty acres [32.37 hectares] in size, more or less, for grassland or more than forty acres [16.19 hectares] in size, more or less, for cropland.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

Section 85-04-08-02 has been amended as follows:

85-04-08-02. Requirements of no net loss sale.

Any sale of acquired lands, ~~with the exception of~~ <u>excluding sales of</u> tracts ~~provided~~ <u>meeting the criteria in</u> subsections 1<u>,</u> ~~and~~ 2<u>, 3, and 4</u> of section 85-04-08-01, is subject to the following:

1. The proposed sale would result in no net loss of leasable acquired lands; and

2. The ~~applicant agrees to~~ <u>land provided as consideration must</u> provide accessible and leasable land equal or greater in acres and value to the trust from which the acquired lands were sold, for which the department then shall consider the criteria listed below in subdivisions a through f in any no net loss sale. Land provided for a no net loss sale is not required to satisfy all ~~six~~ criteria outlined below. <u>Criteria will be considered in a cumulative manner and meeting certain criteria may not guarantee approval.</u>

   a. Equal or greater value.

      (1) In connection with any no net loss sale the department may use information, provided by the applicant or the department's own knowledge, regarding lands and resources to estimate value for purposes of a preliminary evaluation, including completion of an environmental assessment. The commissioner shall procure appraisals, completed by a certified appraiser, to determine the value of the trust lands and the proposed no net loss sale land. The same appraiser shall conduct appraisals of the trust lands and the proposed no net loss sale land. In the event the commissioner is not satisfied with the appraisals, the commissioner may require additional appraisals by alternative certified appraisers.

      (2) The department shall advise the appraiser ~~regarding the scope of work to ensure the value of the trust lands is determined by the highest and best use of the land, not simply the present use. For example, if a no net loss sale is proposed in which the trust lands are currently leased for grassland but the land is in the path of residential, commercial, or industrial development, the trust lands must be appraised for the highest and best use for residential, commercial, or industrial development rather than its current use as grassland~~ <u>to include both values for the trust lands highest and best use and the current use</u>.

      (3) The department ~~shall~~ <u>may</u> consider features not reflected in the market price that are difficult to assign a monetary value, including location, proximity to public lands, recreational opportunities, scenery, other amenities, and results of cultural resources inventories in evaluating the relative value of trust lands.

   b. Equal or greater income to the trusts. A no net loss sale must result in the board receiving equal or greater income to the trusts. The projected <u>agricultural</u> income for the proposed no net loss sale land will be estimated using the board's minimum lease rate. The minimum lease rate for the proposed no net loss sale land will be compared to the present income received by the trusts from the trust lands, including all current and potential future revenue streams from surface leases, encumbrances, development of natural resources, and other sources, and any tax liability.

   c. Acreage. A no net loss sale should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for one or more of the following:

      (1) Improved dedicated access;

(2) Substantially higher value in relation to the number of acres lost; or

(3) Substantially higher income in relation to the number of acres lost.

d. Consolidation of trust lands. The proposed no net loss sale must not fragment trust land holdings by creating isolated parcels of trust land. ~~In all no net loss sales, the board shall reserve all minerals underlying the trust lands pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law.~~

e. Potential for long-term ~~appreciation~~ increase in income and value. The proposed no net loss sale land must have similar ~~revenue~~ income and value potential as the trust lands.

f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.

3. The board shall reserve all minerals underlying the trust lands for all no net loss sales pursuant to section 5 of article IX of the Constitution of North Dakota and subject to applicable law.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

Section 85-04-08-03 is amended as follows:

85-04-08-03. No net loss sale procedure.

~~1. A letter of application for purchase of acquired lands meeting the criteria in section 85-04-08-01 may be accepted at any time. An application must include:~~

~~**a.** A nonrefundable application fee in an amount set by the board;~~

~~**b.** A legal description of the trust lands; and~~

~~**c.** A legal description of the lands to be provided to ensure no net loss.~~

~~Upon board approval, a sale of acquired lands must be conducted in conformance with North Dakota Century Code sections 15-06-25 and 15-07-04.~~

~~2. Upon receipt of a letter of application for sale of a tract, the potential sale must be presented to the commissioner for preliminary approval or rejection.~~

~~3.The commissioner may recommend to the board that a tract be sold even though no letter of application for sale has been received.~~

~~4.Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior~~

~~to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:~~

~~**a.** Name and address of the interested person;~~

~~**b.** Applicant's name and address;~~

~~**c.** The legal description of the proposed tract for sale as shown on the published notice; and~~

~~**d.** A detailed statement as to whether the interested person supports or opposes the sale.~~

1. The department may recommend a tract of land that meets the criteria of section 85-04-08-02 to the commissioner for consideration for a no net loss sale.
2. Board Preliminary Review. If the commissioner determines to proceed with the sale, the commissioner shall present to the board the proposed no net loss land sale for preliminary review. Upon a determination that the board is willing to sell, the department shall conduct the following:
   a. Notify the lessee if the lands are leased.
   b. Publish a notice of sale, including a request for bidders, pursuant to N.D.C.C ch.15-07. The notice of sale must contain:
      (1) The legal description of the proposed trust land tract to be sold;
      (2) Instructions on how to register to bid; and
      (3) The deadline for bidders to register.
   c. The department shall procure all appraisals from a certified appraiser for tract(s) to be sold and for lands provided for consideration.
   d. Solicit public comment regarding the proposed sale. All comments must be in writing and include the following:
      (1) Name and address of the interested person;
      (2) The legal description of the proposed tract for sale as shown on the published notice; and
      (3) A detailed statement as to whether the interested person supports or opposes the sale.
3. Bidder Registration Process.
   a. Bidders shall provide the following:
      (1) A nonrefundable application fee; and
      (2) A legal description of the lands to be provided for consideration.
   b. Bidders shall agree to an offer to purchase that contains the following:

(1) That the bidder is subject to all costs associated to the bidder review and sale process, including:

i. Appraisal costs;

ii. Title examination; and

iii. Legal surveys if warranted.

(2) That the bidder agrees to allow the department and its agents access to the lands offered for consideration

c. The Department shall review the lands proposed by each potential bidder to determine if they meet the criteria under 85-04-08-02.

~~5.The board shall review all appraisals, public comments received, and any other relevant information, and determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall use the appraisal to establish a sale price. The board reserves the right to increase the sale price if it deems the appraised value is inadequate.~~

4. Board Final Review. The board shall review all approved registered bidders including appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price and the following shall be conducted:

a. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property.

b. The commissioner shall conduct an auction pursuant to North Dakota Century Code chapter 15- 07.

c. A Purchase Agreement shall be executed at the closing of the sale with the winning bidder which includes:

(1) The purchaser shall pay twenty percent of the purchase price at the time the agreement is executed.

(2) The balance shall be paid sixty calendar days after execution of the agreement. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days after execution of the agreement.

d. If no bids are received at auction, the tract may be sold for the board-established minimum acceptable sale price to the first interested party at a private no net loss sale during the six-month following the date of the auction.

~~6.If the land is leased, the commissioner shall notify the lessee of the intent to sell the property during the months of October through January.~~

~~7.The department shall notify the applicant, if any, of the price set by the board, which must be the minimum acceptable sale price.~~

~~8The department may contract a legal metes and bounds survey for the tract to be sold at public auction under North Dakota Century Code chapter 15-07.~~

~~9. If the applicant desires to proceed, the applicant shall submit to the department a formal offer to purchase. The formal offer to purchase must serve as the opening bid at the public sale. The applicant shall provide five percent of the minimum sale price as earnest money, as a condition of the formal offer to purchase.~~

~~10.The department shall determine if acquired lands will be advertised for sale at public auction or by sealed bids, with the sale price set by the board as the minimum bid. If no bids are received on property for which an application has been received, the acquired lands may be sold to the applicant at the minimum bid.~~

~~11.If no bids are received on property for which no formal application was received, the property may be sold for the board-established minimum acceptable sale price to the first interested party at a private sale during the six months following the date of the auction.~~

~~12. The sale of land may be by:~~

~~a. Contract under section 6 of article IX of the Constitution of North Dakota; or~~
~~b. A purchase agreement requiring twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.~~

~~13.~~ 5. Acquired lands acquired after January 1, 2020, may be sold to any mortgagor or a member of the mortgagor's immediate family under North Dakota Century Code section 15-07-10. The sale must be for cash only with twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

Section 85-04-08-05 is amended as follows:

85-04-08-04. Payment of costs.

The purchaser is responsible for payment of ~~all~~ costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

History: Amended effective January 1, 2021; _____________, 2024

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

CHAPTER 85-06-01
OIL AND GAS

Section 85-06-01-01 is amended as follows:

85-06-01-01. Oil and gas lease nomination.

The department shall accept an oil and gas lease nomination for a tract not already under an oil and gas lease as reflected in department records and may accept a nomination for a tract under an oil and gas lease which will expire prior to the date of the oil and gas lease sale. The first nomination received on a tract is considered an offer and determines the opening bid.

1. The department shall accept a nomination for an oil or gas lease either electronically through the department's website or in writing. The nomination period for an oil and gas lease must be the period set by the commissioner during which the department shall accept oil and gas lease nominations. ~~A nomination must be accompanied by a nonrefundable fee, in an amount set by the department, and the fee must be submitted to the department prior to the published deadline for each nominated period~~.
2. An oil and gas lease nomination must be limited to a maximum of one quarter section, unless otherwise authorized under subsection 3, or by the board.
3. A nomination for a tract containing a body of water may include up to a section of land if the tract cannot reasonably be subdivided by quarter section or half section. The tract acreage, including islands, may be offered and described as "more or less" and may be adjusted by the board within each quarter section.

History: Amended effective January 1, 2020; ____________, 2024

General Authority: NDCC 15-05-09, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 61-33-06, 61-33.1

Section 85-06-01-03 is amended as follows:

85-06-01-03. Public auction.

The board may issue an oil and gas lease by public auction. Public auctions may be hosted either live or online at the discretion of the commissioner. Bidding is based on a bonus of not less than one dollar per acre, and an annual delay rental of not less than one dollar per acre per year based on the acreage shown in the records of the department at the time the oil and gas lease is issued.

1. The successful bidder at an ~~online~~ auction shall pay the bonus, the rental payments for the primary term as defined by the oil and gas lease, the advertising fee, the auction administration fee, and any processing fees via automated clearing house or wire transfer, by five p.m. prevailing central ~~standard~~ time, ten days after the date the auction closed.
2. If no bids are received, the nominator shall be deemed the successful bidder.

3. The board may not issue an oil and gas lease until receipt of the bonus, rental payments, and fees.

~~2. The successful bidder at a live auction shall pay the bonus, at least one year of rental payments, and the advertising fee via automated clearing house or wire transfer, by five p.m. central standard time ten days after the date the auction closed. The board my not issue the oil and gas lease until receipt of the bonus, rental payments, and fees.~~

~~3. If no bids are received, the nominator is deemed the successful bidder and shall pay the bonus, at least one year of rental payments, the advertising fees, and any processing fee via cash, check, automated clearing house, or wire transfer, by five p.m. central standard time, ten days after the date the auction closed. The board may not issue the oil and gas lease until receipt of the bonus, rental payments, and fees.~~

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-09, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 15-05-10

Section 85-06-01-08 is amended as follows:

85-06-01-08. Royalties.

If a sale of gas, carbon black, sulfur, or any other products produced or manufactured from gas produced and marketed from the oil and gas leased premises, including liquid hydrocarbons recovered from such gas processed in a plant, does not constitute an arm's length transaction, the royalties due the lessor are as follows:

1. On any gas produced and marketed, except as provided herein with respect to gas processed in a plant for the extraction of gasoline, liquid hydrocarbons, or other products; the royalty, as determined by the board, is based on the gross production or the market value thereof, at the option of the lessor, such value to be based on the highest market price paid for gas of comparable quality and quantity under comparable conditions of sale for the area where produced and when run, or the gross proceeds of sale, whichever is greater; provided the maximum pressure base in measuring the gas under an oil and gas lease at any time_may not exceed fourteen and seventy-three hundredths (14.73) pounds per square inch absolute, and the standard base temperature shall be sixty degrees Fahrenheit, correction to be made for pressure according to Boyle's Law, and for specific gravity according to a test made by the balance method or by the most approved method of testing being used by the industry at the time of testing.

. . . .

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-09, 15-05-10, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 15-05-10

Section 85-06-01-10 is amended as follows:

85-06-01-10. Breach of oil and gas lease.

1. Other than as provided in subsection 7, an oil and gas lease may be canceled for:

   a. Nonpayment of any sum due under the oil and gas lease;

   b. Breach of any of the oil and gas lease terms or conditions ~~provided such cancellation must not release the lessee from liability for any sum due the lessor or from any damages due to the breach~~; or

   c. A violation of ~~the board rules and policies, and applicable laws~~ applicable laws, rules, and board policies.

~~2.~~ Before an oil and gas lease is canceled, the department shall mail a notice of intention to cancel the ~~oil and gas~~ lease specifying the reason for cancellation to the lessee listed in records of the department by mail requiring a signed receipt ~~at~~ to the lessee's address ~~of the lessee~~ as shown in the records of the department. ~~If the notice of intention to cancel is returned undeliverable or refused, the notice must be published in the official newspaper of the county in which the oil and gas leased premised is located~~.

3. A lessee may file with the commissioner a request for a waiver or a request for the commissioner to review the notice of intention to cancel the oil and gas lease, which must include a statement of the specific grounds for the request. A request must be in writing and filed with the commissioner within thirty days after the date ~~of~~ the notice of intention to cancel the oil and gas lease is ~~received or the date of publication~~ postmarked. A request for a waiver or review is deemed filed when personally delivered or when received by the department. The commissioner or the board may waive any breach except a breach of oil and gas lease terms required under North Dakota Century Code, or the commissioner or the board may allow the lessee time to cure the breach. Any waiver must be limited to the particular breach waived and may not limit the commissioner's or the board's right to cancel the oil and gas lease for any other breach.

4. If the lessee has not filed a release of the oil and gas lease with the applicable county recorder's office or requested waiver or commissioner review ~~or remedied the default~~ within thirty days after ~~receipt~~ the date of the postmark of a notice of intention to cancel the lease ~~or the date of publication~~, the commissioner shall cancel the ~~oil and gas~~ lease.

5. Release of the oil and gas lease by the lessee or cancellation of the ~~oil and gas~~ lease does not release the lessee from liability for any sum due to the board, other than as provided in subsection 7, or from any damages from a breach of the ~~oil and gas~~ lease.

6. Upon cancellation of the oil and gas lease, the department shall file a ~~satisfaction~~ notice of cancellation of oil and gas lease with the ~~register of deeds~~ applicable county recorder's office ~~in the county where the oil and gas leased premised is located~~.

7. An oil and gas lease automatically terminates for failure to pay the annual delay rental by the date due without further notice by the department or opportunity for the lessee to remedy the default.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-09, 15-05-10, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 15-05-10

Section 85-06-01-14 is amended as follows:

85-06-01-14. Request for shut-in status for oil or gas.

1. A lessee requesting shut-in status of an oil or gas well, without canceling the ~~oil and gas~~ lease, shall submit a written request to the department utilizing the form available on the department's website. The request must contain the following information:

   a. The name and well file number assigned by the North Dakota department of mineral resources oil and gas division;

   b. The township, range, and section of the surface location of the well;

   c. The board's oil and gas lease number for the subject lease, the date of the oil and gas lease, the acreage covered by the oil and gas lease, and the current lessee;

   d. The name and address of the operator of the well;

   e. The cumulative ~~oil~~ production and the number of days of production for the three months immediately preceding the request;

   f. The written approval of the request from the operator;

   g. The grounds for the request and the anticipated length of time the well will be shut-in; and

   h. Any additional information requested by the department.

2. An application fee, in an amount set by the department, and the shut-in ~~royalty~~ well payment must be submitted with the application. The shut-in well payment shall be the same amount for oil or gas wells and shall be calculated on a per-lease, per-well basis. If the application is denied, the shut-in r~~oyalty~~ well payment ~~will~~ must be refunded by the department.
3. An application is deemed filed when the department receives the application form, application fee, shut-in well payment, and any additional information requested by the department.
4. Within fifteen days of receipt of an application, the commissioner shall notify the applicant in writing, as follows:
   a. The application is approved and the terms of the shut-in approval;
   b. The application is denied;
   c. An additional fifteen day period is necessary to consider the application; or
   d. The application requires board approval.
5. If an application is denied, a lessee may file with the department a written request for commissioner review, specifying the grounds for the request.

6. A shut-in approval is effective for one year from the date of approval unless the commissioner determines a shorter amount of time is appropriate.
7. The commissioner may revoke a shut-in approval if the commissioner determines the action is in the best interests of the trusts. If a shut-in approval is revoked prior to its expiration, the department shall provide notice to the lessee by certified mail. Within sixty days from the date of receipt of the notice, the lessee shall re-establish production. If the lessee fails to re-establish production, the oil and gas lease is subject to cancellation under section 85-06-01-10.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-09, 15-05-10, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 15-05-10

c. An additional fifteen day period is necessary to consider the application; or
d. The application requires board approval.

5. If an application is denied, a lessee may file with the department a written request for commissioner review, specifying the grounds for the request.
6. A shut-in approval is effective for one year from the date of approval unless the commissioner determines a shorter amount of time is appropriate.
7. The commissioner may revoke a shut-in approval if the commissioner determines the action is in the best interests of the trusts. If a shut-in approval is revoked prior to its expiration, the department shall provide notice to the lessee by certified mail. Within sixty days from the date of receipt of the notice, the lessee shall re-establish production. If the lessee fails to re-establish production, the oil and gas lease is subject to cancellation under section 85-06-01-10.

History: Amended effective January 1, 2020; _____________, 2024

General Authority: NDCC 15-05-09, 15-05-10, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 15-05-10

RE: Litigation Update
(No Action Requested)

- MHA (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 are preparing a response to the motion.

- EEE (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; briefing complete and oral arguments were held March 16, 2023; awaiting court decision

- Leland/Whiting (OHWM river island ownership) – Watford City trial September 12-16, 2022; currently in post-trial briefing stage

- Continental Interpleader (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; briefing scheduled to be completed in October

- Whitetail Wave (OHWM title dispute / takings claim) – Trial court issued attorney fees order on June 28, 2023, the appeal deadline for which is August 28, 2023; remaining title issues on hold until final resolution of attorney fees issue