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Phone conference ID: 751 396 730#

Meeting Coordinators: Catelin Newell – Dir. Admin Services & IT, Kate Schirado – Exec. Assistant

➤ = **Board Action Requested**

**1. Call to Order – Chairman**

A. Roll Call and Pledge of Allegiance

B. Consideration of Approval of [Land Board Meeting Minutes](#) by voice vote.  
– minutes available via link

**2. Operations – Joseph Heringer**

A. Commissioner's Report – pg. 2

B. Financial Dashboard – pg. 3

**3. Division Reports – Joseph Heringer**

A. Surface – pg. 10

B. Minerals – pg. 11

C. Unclaimed Property – pg. 13

D. [Financials for period ended November 30, 2025 \(unaudited\)](#)– financials available via link

**4. Investments – Frank Mihail, CIO**

A. Investment Update – pg. 14

➤ B. Private Equity Recommendation – Neuberger Berman – pg. 19

**5. Litigation Update – Joseph Heringer – pg. 43**

➤ **Executive session under the authority of NDCC §§ 44-04-19.1 and 44-04-19.2 for attorney consultation with the Board's attorneys to discuss: - pg. 45**

- **Royalty Settlements**

**Next Meeting Date - April 30, 2026 (No March meeting)**

**RE: Commissioner's Report**  
(No Action Requested)

- [Oil & Gas Online Lease Auction](#) – 178 tracts will be auctioned through our contracted leasing firm, Efficient Markets; March 17 -24, 2026
- [Leland Case](#) – attended North Dakota Supreme Court oral argument on February 12, 2026
- [Unclaimed Property Radio Interview](#) – While guest hosting on KFYZ Radio, Treasurer Beadle interviewed Unclaimed Property Director, Susan Sommerfeld, to educate listeners about Unclaimed Property and inform them of our new direct check mailing initiative (February 16, 2026)
- [Administrative Rules](#) – Proposed revisions have been approved by the Attorney General; Legislative committee hearing scheduled for March 12, 2026
- [National Association of State Trust Lands 2026 Annual Conference – Medora, North Dakota – July 12-15, 2026](#) – planning for this exciting event continues with the TR Library dinner venue now secured, a logo designed, and early registration opening in March 2026; Board members have been formally invited and asked to RSVP so hotel reservations can be made



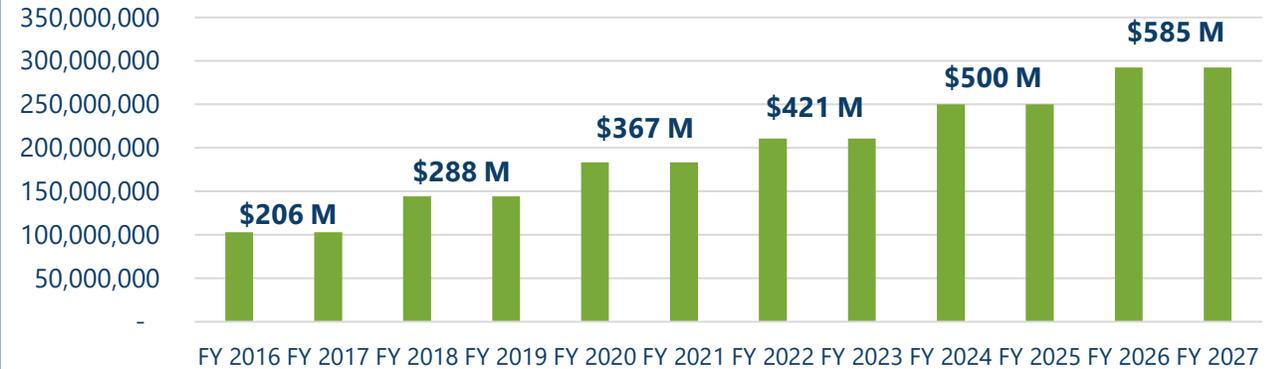
# COMMON SCHOOLS TRUST FUND (CSTF) OVERVIEW

## CSTF ASSET BALANCE as of 11/30/2025 (unaudited)

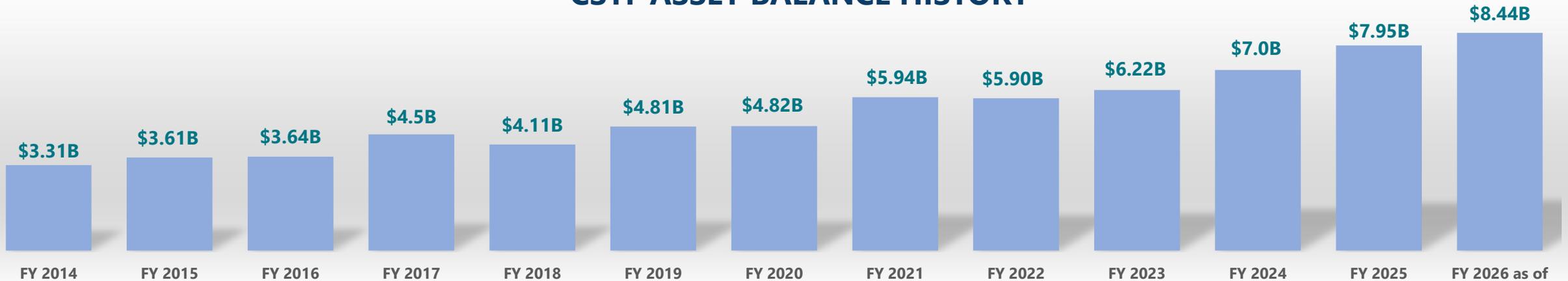
**\$8,436,270,651**

**+\$1.02 billion year-over-year from 11/30/2024  
balance of \$7.42 billion**

## CSTF DISTRIBUTION HISTORY PER BIENNIUM



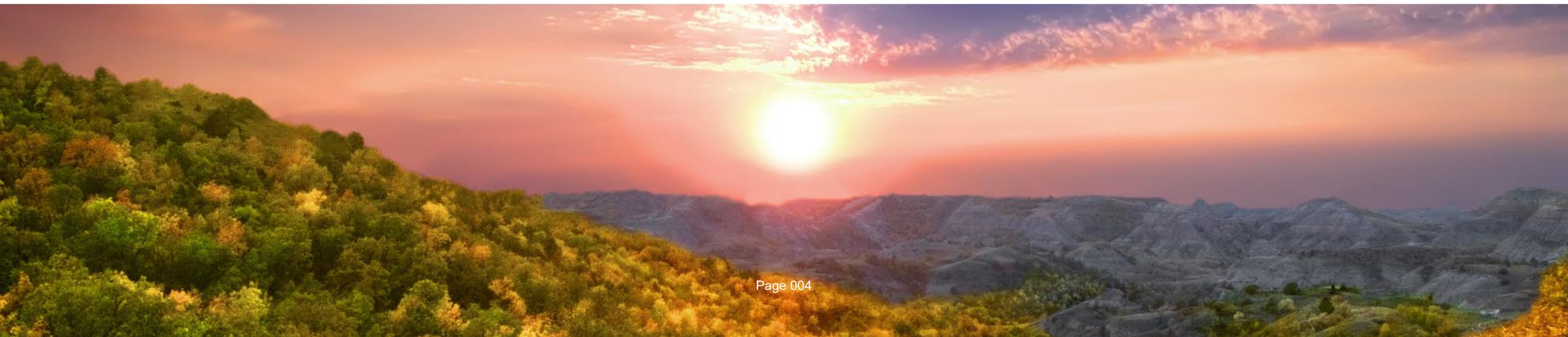
## CSTF ASSET BALANCE HISTORY



# COMMON SCHOOLS TRUST FUND 2025-27 (CSTF) DISTRIBUTIONS

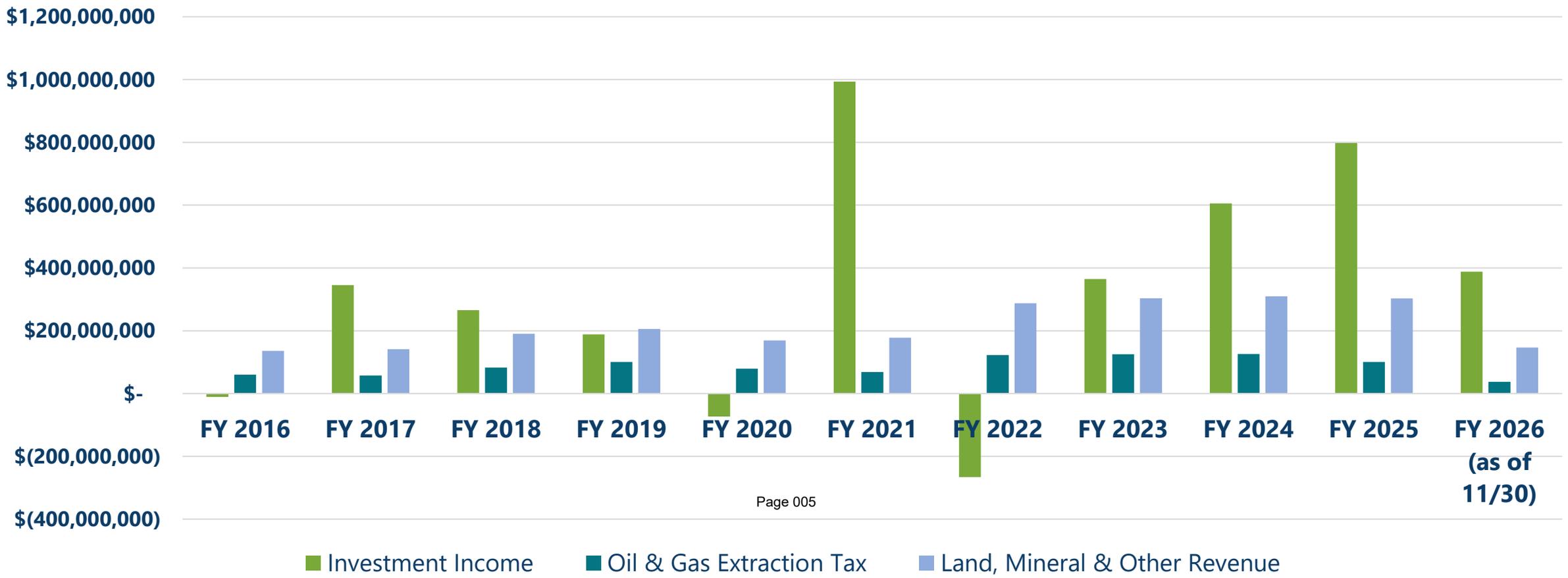
Monthly Distribution to the State Tuition Fund for the 2025-27 Biennium      \$32,500,000  
Multiplied by 9 months per year      = \$292,500,000  
Divided by 116,598 students      = \$2,508/student per year

North Dakota Cost to Educate Per Student      \$13,778/year  
75.7% State Funding Share      = \$10,430  
\$2,508 CSTF per Student Annual Distribution      **=24% of state funding share**



# COMMON SCHOOLS TRUST FUND (CSTF) OVERVIEW

## COMMON SCHOOLS REVENUES July 1 – June 30 Fiscal Year



# STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) OVERVIEW

## SIIF BALANCE as of 11/30/2025 (unaudited)

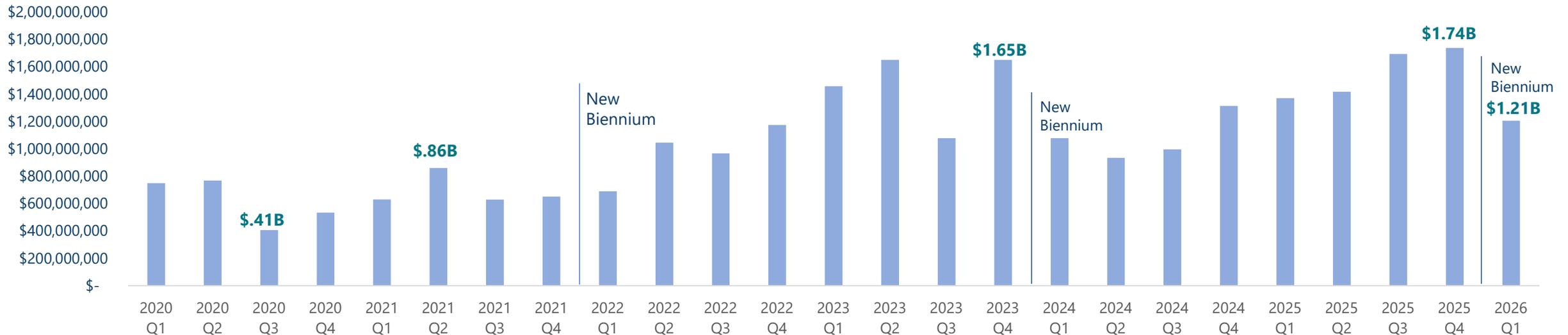
Total Balance - \$1,175,338,536

As of November 30, 2025, SIIF had an estimated fund balance of \$1,175,338,536. The fund balance consists of committed and uncommitted portions.

The committed fund balance includes amounts reserved for specific purposes. As of November 30, 2025, \$43,125,403 is committed for potential title disputes. In addition, the Legislature has appropriated a committed fund balance estimated at \$1,081,202,358.

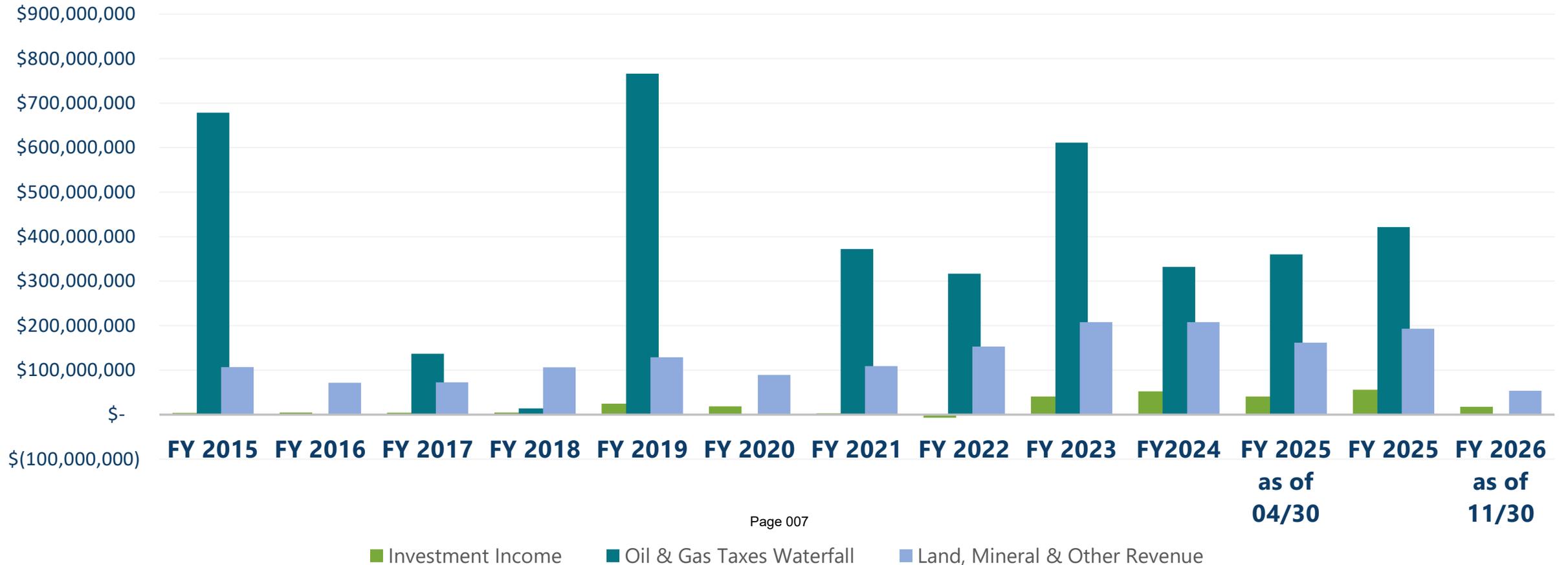
The uncommitted fund balance is estimated at \$51,010,775. This portion represents funding that remains unencumbered and available for future allocation.

## SIIF QUARTERLY BALANCE HISTORY (UNAUDITED)



# STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) HIGHLIGHTS

## SIIF REVENUES July 1 – June 30 Fiscal Year



■ AMOUNT ALLOCATED    ■ AMOUNT REMAINING

**State General Fund**



**Social Services Fund**



**Budget Stabilization Fund**



**State General Fund**



**Lignite Research Fund**



**State Disaster Relief Fund**



**Non-oil Producing Political Subdivision Infrastructure Funds**



**Public Employees Retirement Fund**



**Airport Infrastructure Fund**



**Strategic Investment & Improvements Fund (SIIF)**



# ESTIMATED TOTAL NET ASSETS as of 11/30/2025

**Mineral Tracker Valuation**  
as of June 2025, on  
**2.6 million Mineral Acres**  
**\$2,177,250,937**



**Surface Fair Market Value**  
as of April 2025, on  
**706,000 Surface Acres**  
**\$736,474,769**



**Estimated Total Net Assets\***  
as of November 30, 2025

**\$11,951,143,043**

\* Total excluding SIIF

# SURFACE DIVISION ENCUMBRANCES ISSUED

**Encumbrances issued by the Commissioner: 4 Right of Way Agreements in January generated a total of \$23,588 in income for the Trusts.**

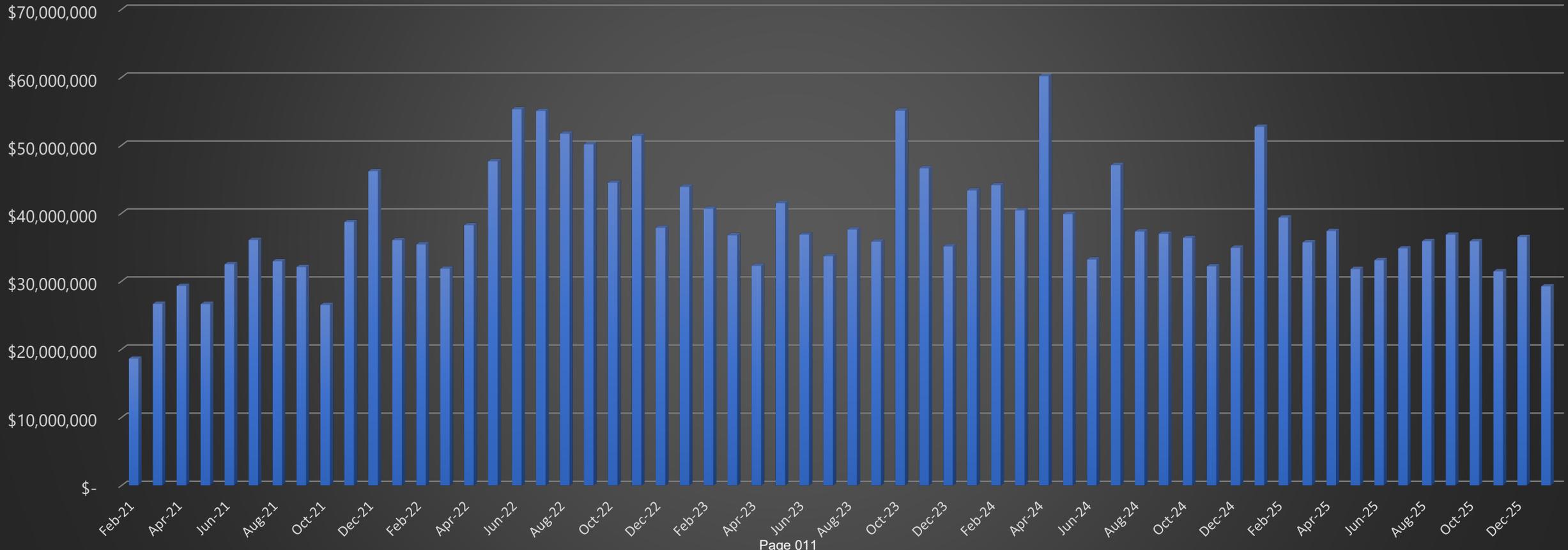


# MINERALS DIVISION

## FISCAL YTD O/G ROYALTIES

As of January 31, 2026\*, for fiscal year 2026 the Department has received **\$240,612,488** in royalties as compared to **\$277,554,051** last fiscal year at this time.

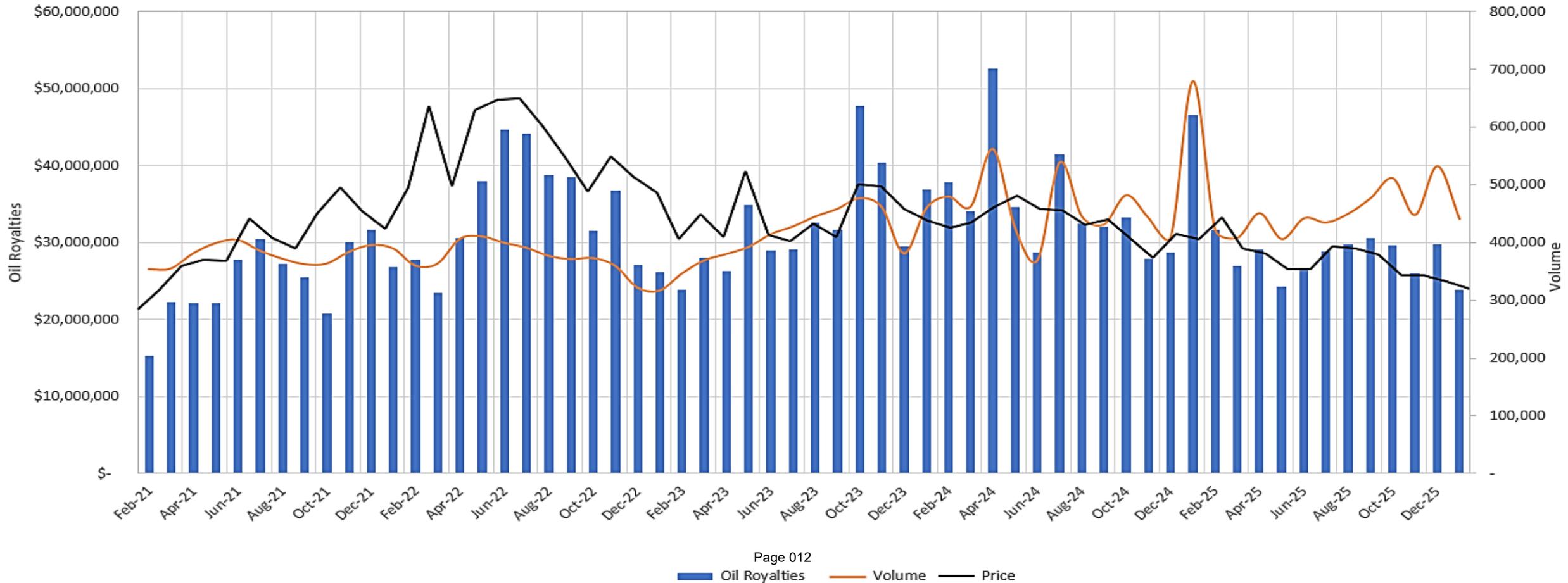
### ROYALTIES - CASH COLLECTED



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

# PRICE MAIN DRIVER OF O/G ROYALTIES

In the early years production growth was the driver of the Department's royalty increases. Now that our net monthly production has been more stable, averaging 452,287 barrels per month over the past twelve months, the price of oil & gas is the main driver of monthly royalty variations.

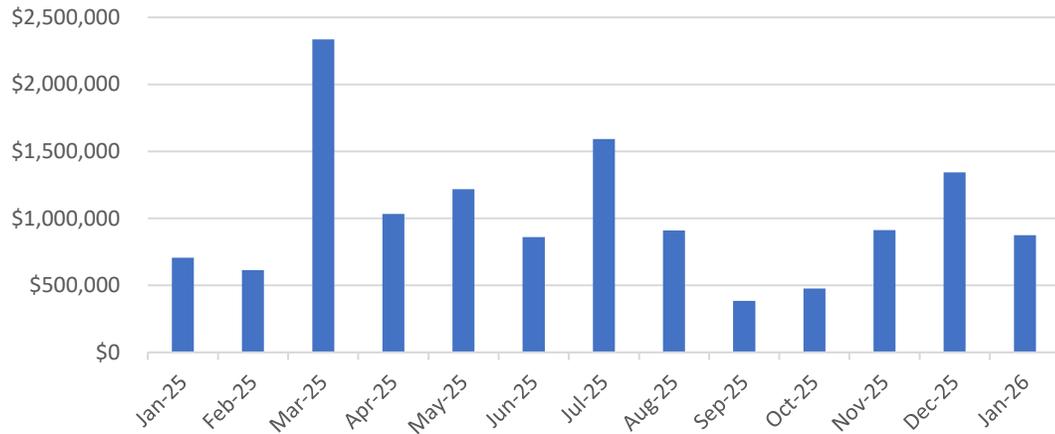


# UNCLAIMED PROPERTY DIVISION

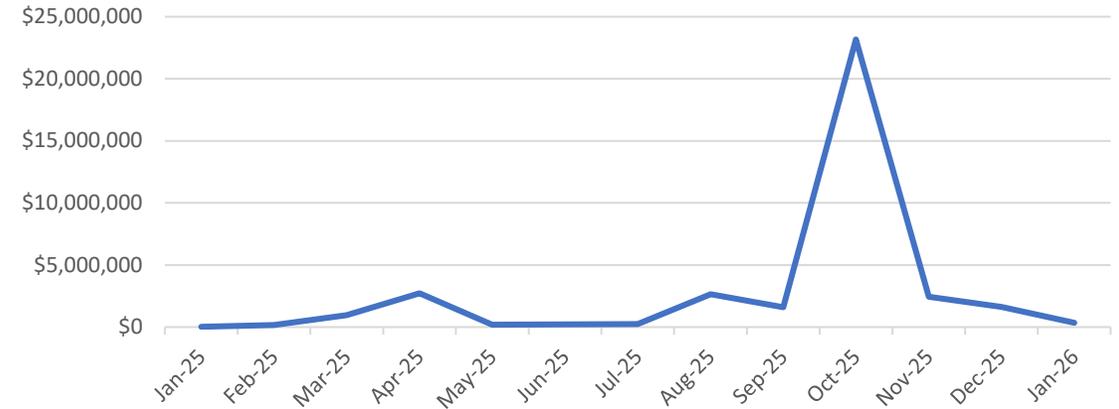
<https://unclaimedproperty.nd.gov>

For the month of January 2026, the Division paid 858 regular claims with \$875,758 returned to rightful owners. The Division also received 75 holder reports with a dollar value of \$354,947. The division is also preparing to send a large batch of direct mail checks. It anticipates approximately between \$800,000 - \$900,000 going directly to our constituents.

### TOTAL DOLLAR VALUE OF CLAIMS PAID

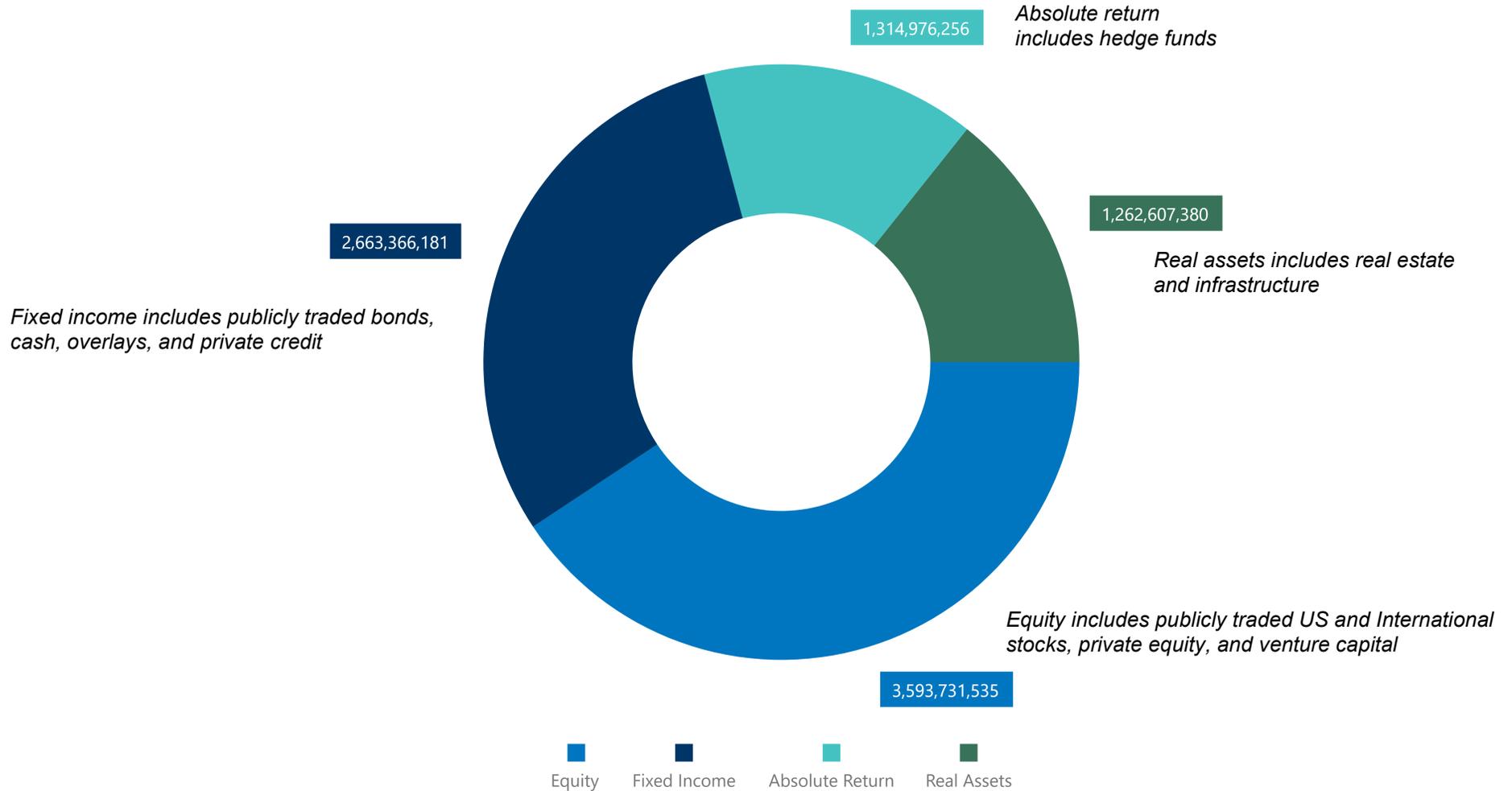


### TOTAL VALUE OF PROPERTY REPORTED



Report as of 1/31/2026

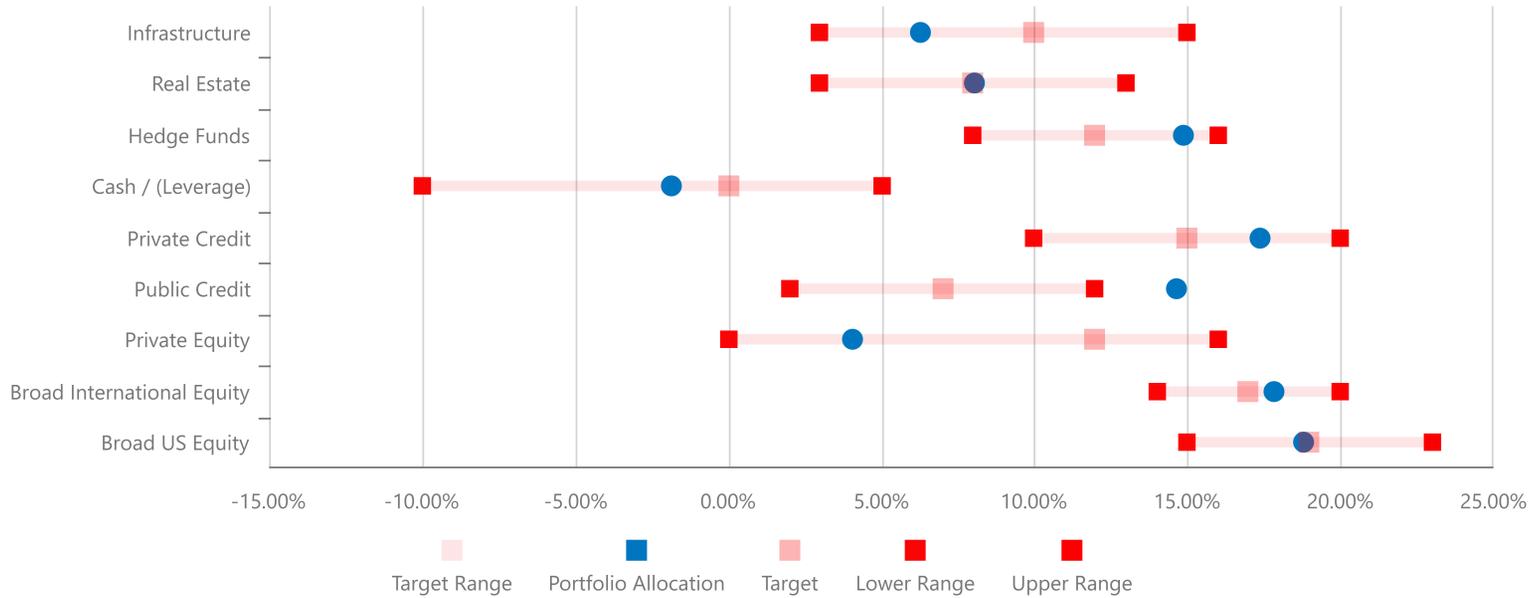
## Asset Allocation



Asset	Total Value	% Of All Value
<b>All</b>	8,834,681,352	100%
<b>Equity</b>	3,593,731,535	41%
<b>Fixed Income</b>	2,663,366,181	30%
<b>Absolute Return</b>	1,314,976,256	15%
<b>Real Assets</b>	1,262,607,380	14%

Report as of 1/31/2026

### Actual vs. Target Weight

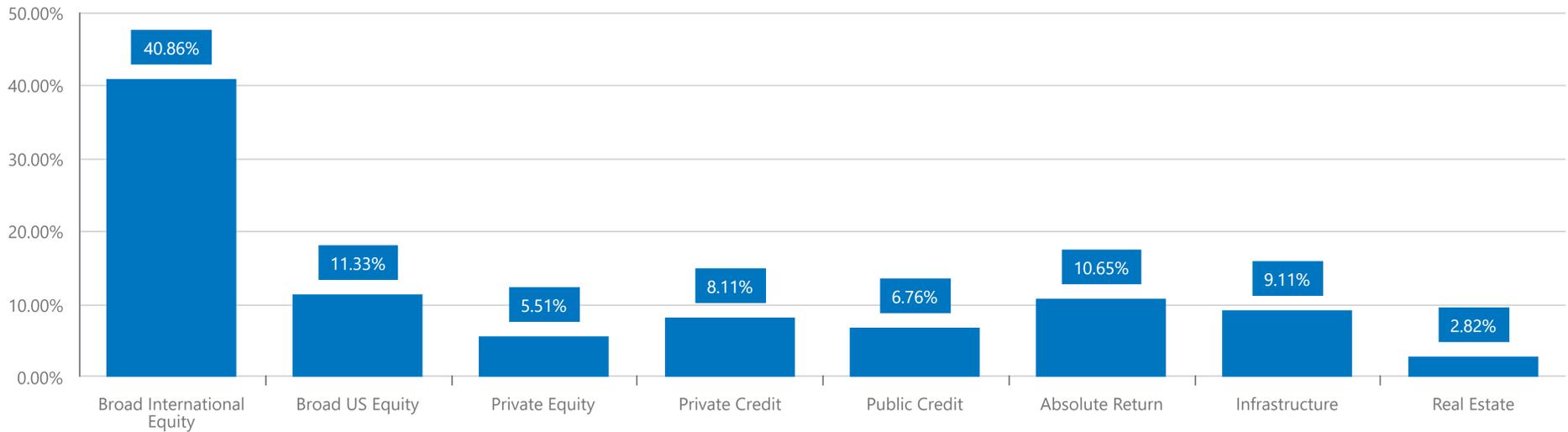


Asset	Total Value	% Of All Value	Target Weight	Over/Under %	Over/Under \$
<b>All (MTD)</b>	8,834,681,352	100%	100%	0%	--
<b>Equity</b>	3,593,731,535	40.68%	48%	-7.32%	-646,915,514
<b>Private Equity</b>	356,899,132	4.04%	12%	-7.96%	-703,262,630
<b>Broad International Equity</b>	1,576,666,497	17.85%	17%	0.85%	74,770,667
<b>Broad US Equity</b>	1,660,165,906	18.79%	19%	-0.21%	-18,423,551
<b>Fixed Income</b>	2,663,366,181	30.15%	22%	8.15%	719,736,284
<b>Cash / (Leverage)</b>	-166,239,428	-1.88%	0%	-1.88%	-166,239,428
<b>Private Credit</b>	1,535,235,382	17.38%	15%	2.38%	210,033,179
<b>Public Credit</b>	1,294,370,227	14.65%	7%	7.65%	675,942,533
<b>Absolute Return</b>	1,314,976,256	14.88%	12%	2.88%	254,814,494
<b>Real Assets</b>	1,262,607,380	14.29%	18%	-3.71%	-327,635,264
<b>Infrastructure</b>	553,183,812	6.26%	10%	-3.74%	-330,284,324
<b>Real Estate</b>	709,423,568	8.03%	8%	0.03%	2,649,060

Report as of 1/31/2026

## Flash Performance Report

Unaudited preliminary estimates

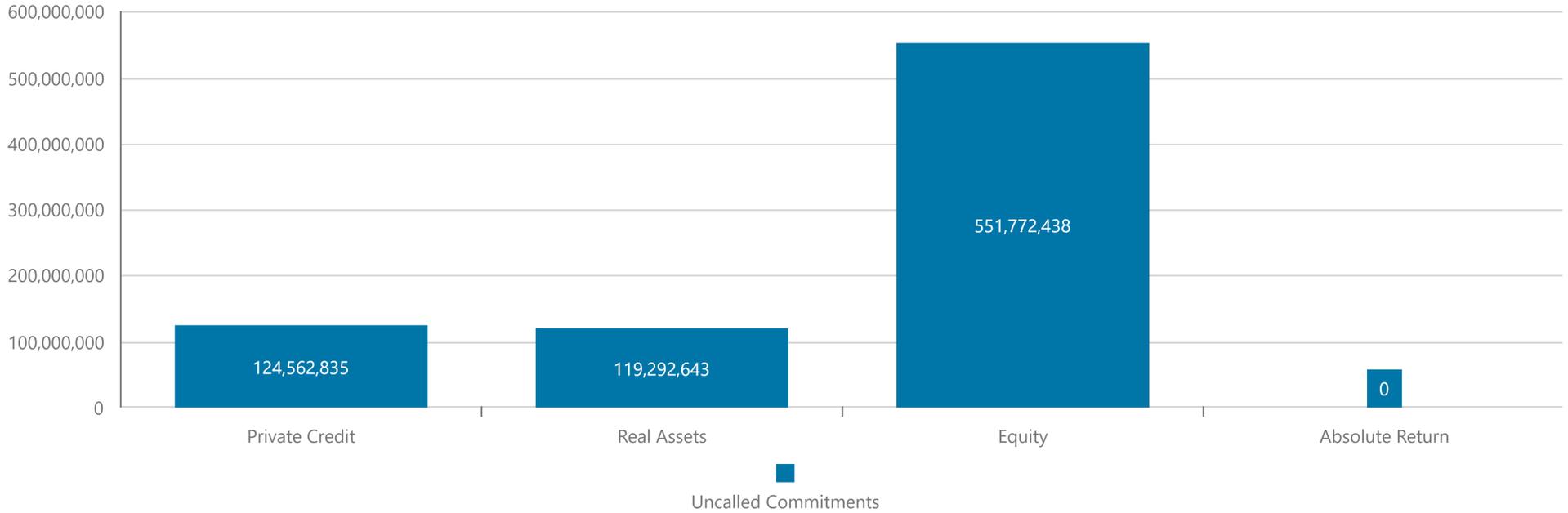


1Y : Net Of Fee Tx's : Cumulative Return

Asset	MTD	QTD	YTD	FYTD	1Y
	Net of Fees Tx's				
Asset	Cumulative Return				
<b>Total Portfolio</b>	1.87%	1.87%	1.87%	8.36%	13.44%
<b>Equity</b>	4.1%	4.1%	4.1%	15.19%	23.46%
<b>Broad International Equity</b>	8.15%	8.15%	8.15%	22.69%	40.86%
<b>Broad US Equity</b>	1.18%	1.18%	1.18%	11.02%	11.33%
<b>Private Equity</b>	0%	0%	0%	2.25%	5.51%
<b>Fixed Income</b>	0.23%	0.23%	0.23%	3.41%	7.38%
<b>Private Credit</b>	0.37%	0.37%	0.37%	3.89%	8.11%
<b>Public Credit</b>	0.04%	0.04%	0.04%	2.9%	6.76%
<b>Absolute Return</b>	1.16%	1.16%	1.16%	7.5%	10.65%
<b>Real Assets</b>	0.04%	0.04%	0.04%	2.66%	5.18%
<b>Infrastructure</b>	0.09%	0.09%	0.09%	4.9%	9.11%
<b>Real Estate</b>	0%	0%	0%	1.21%	2.82%

Report as of 1/31/2026

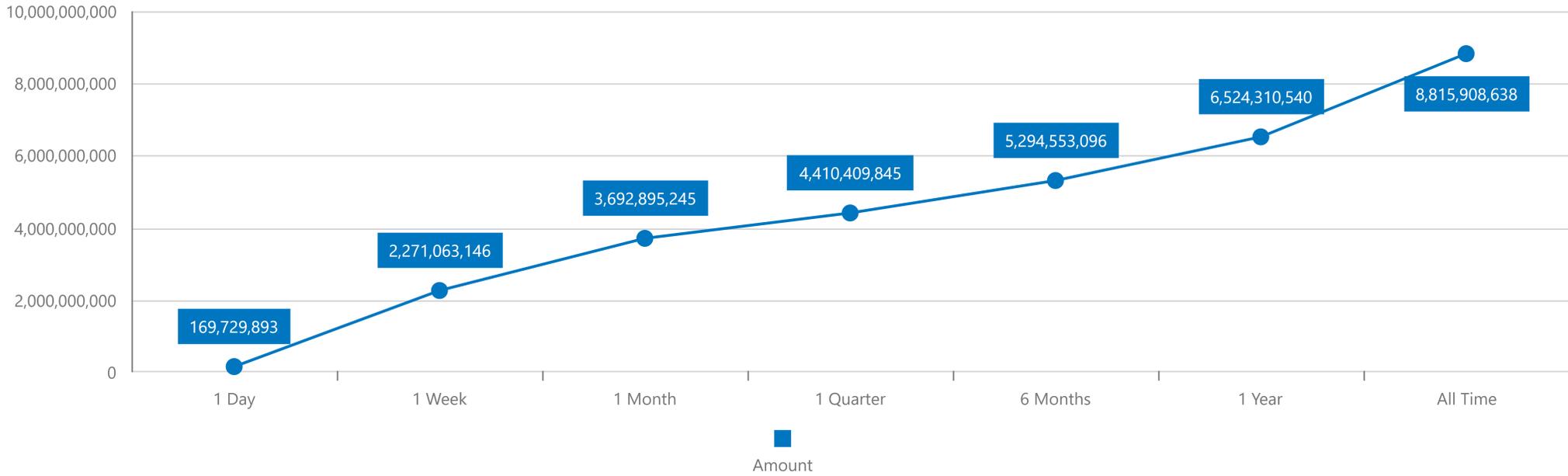
## Uncalled Commitments



Asset	Commitment (\$M)	Funded Commitment (\$M)	Uncalled Commitments (\$M)
<b>All (MTD)</b>	4,316	3,520	796
<b>TPG Angelo Gordon</b>	350	340	10
<b>GCM Grosvenor</b>	580	218	362
<b>Hamilton Lane</b>	50	29	21
<b>Khosla Ventures</b>	85	37	48
<b>Monarch</b>	120	101	19
<b>Blue Owl</b>	125	90	35
<b>a16z</b>	110	28	82
<b>Industry Ventures</b>	50	10	40
<b>Pantheon</b>	100	21	79
<b>Cloud Capital</b>	100	--	100

Report as of 1/31/2026

### Liquidity Waterfall



Entity	1 Day (\$M)	1 Week (\$M)	1 Month (\$M)	1 Quarter (\$M)	6 Months (\$M)	1 Year (\$1M)	All Time (\$M)
<b>All</b>	170	2,271	3,693	4,410	5,295	6,524	8,816
<b>Equity</b>	--	1,146	2,568	3,237	3,237	3,237	3,585
<b>Fixed Income</b>	170	1,125	1,125	1,125	1,388	1,509	2,663
<b>Absolute Return</b>	--	--	--	48	534	743	1,305
<b>Real Assets</b>	--	--	--	--	136	1,035	1,263

Measures how long it would take to liquidate the entire portfolio

**MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS**  
 February 26, 2026

**RE: Private Equity – Secondaries, Co-Investments**

The current 4% private equity allocation represents a \$705M underweight to the 12% long term strategic asset allocation target. The goal of this proposal is to increase the private equity commitment, consistent with strategic asset allocation targets.

Based on current market conditions, investment staff recommends leaning into private equity secondaries and co-investments. Secondaries refer to (1) LP-led deals – where the investor of a primary fund is willing to sell at a discount to source liquidity before the 10-year time horizon elapses and (2) GP-led deals - where funds have reached the wind down phase and sponsors seek to extend ownership of certain single assets. Co-investing is when an investor participates side-by-side with a GP on a single asset deal. The tradeoff with co-investing is lower fees for higher concentration risk on a single asset.

Staff and RVK recommend a perpetual private equity fund-of-one with Neuberger Berman. Neuberger Berman is an independent, privately owned, global investment manager with 2900 employees in 40 cities, managing \$560B in assets. The private equity division has a 35-year track record with 135 investment professionals managing \$140B in commitments.

The perpetual fund-of-one will seek to allocate \$300M over a 3-year investment period and grow in parallel with ND Land Board investable assets in perpetuity. The fund will target 60-70% co-investments, 20-30% GP-led secondaries and 5-10% LP-led secondaries. The perpetual fund-of-one structure offers diversification across industry/geography/vintage and will be structured with three underlying sleeves:

- (1) Evergreen fund – comprised of single asset co-investments and GP-led transactions, serving as the rebalancing center to request redemptions and reinvest distributions.
- (2) Direct investment sleeve – comprised of single asset co-investments and GP-led transactions, designed to take more concentrated risk on high conviction opportunities.
- (3) Closed-end fund series – comprised of GP- and LP-led secondary transactions, giving staff the ability to make commitments to future vintages via an amendment to the perpetual fund-of-one.

**Recommendation: The Board approve a \$300M commitment to a perpetual private equity fund-of-one with Neuberger Berman, subject to standard legal review/documentation, and authorize staff to make future commitments to the underlying closed-end fund series to maintain target allocations.**

- Attachment 1: RVK Memorandum
- Attachment 2: Neuberger Berman Presentation

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



## Memorandum

To	North Dakota Board of University and School Lands (“NDBUSL”)
From	RVK, Inc. (“RVK”)
Subject	Neuberger Berman Evergreen Fund of One
Date	February 13, 2026

### Background & Recommendation Summary

The purpose of this memo is to provide an overview of the recommendation made by NDBUSL Investment Staff (“Staff”) and RVK, Inc to invest in a private equity fund of one managed by Neuberger Berman. NDBUSL began investing in private equity in 2021 and has since deployed capital across a series of investments into both custom funds of one and commingled fund investments to support progress toward the target allocation, which increased to 12% in August 2025. To achieve the revised private equity target and to continue to diversify exposure within the private equity composite, RVK recommends investing in a custom account managed by Neuberger Berman, often referred to as a fund of one structure. The proposed account would commit \$300 million across Neuberger Berman’s Global Access Fund, which is an evergreen strategy, direct co-investments, and Neuberger’s Secondaries Opportunities Fund Series.

In order to determine that the selection of Neuberger Berman as an additional investment manager in private equity represented the best available option, NDBUSL Staff and RVK reviewed the portfolio as a whole, evaluated a series of private equity strategies and structures to determine the best complement to existing investments, and ultimately selected Neuberger Berman based on their offerings across private equity. Based on these factors, RVK recommends that NDBUSL retain Neuberger Berman to implement an evergreen fund of one, committing \$300 million of capital.

### Review of Private Equity Portfolio and Allocation

In 2020, Staff and RVK conducted a search for a private equity fund of one manager to implement a portfolio of primary fund commitments, secondary fund interests, and direct co-investments on behalf of NDBUSL. After a series of proposals, conference calls, and on-sites, Staff and RVK selected GCM Grosvenor as the preferred private equity fund of one manager. GCM Grosvenor presented to the NDBUSL and was retained after successful contract negotiations in August 2020. Notably, Neuberger Berman was the other semi-finalist alongside GCM Grosvenor. NDBUSL committed to Series 2 of the Grosvenor fund of one in 2024. Alongside the custom fund of one managed by GCM Grosvenor, Staff and RVK have recommended a series of commingled fund commitments, primarily to venture capital managers that are complementary to the exposure provided by GCM Grosvenor. In August 2025, the target allocation to private equity increased to 12% and, as a result, Staff and RVK engaged in a series of discussions on optimal structures for the private equity portfolio going forward, given the need for additional capital deployment.



## **2025 Investment Structure Review**

Staff and RVK discussed structure options within private equity, including an additional fund of one, fund of funds, a direct fund portfolio, and hybrid portfolios incorporating a mix of the available structures. After these discussions, Staff and RVK determined that adding an additional fund of one partner would enhance NDBUSL's exposure to private equity in an efficient manner, while providing diversification.

The fund of one structure allows NDBUSL to own a diversified private equity portfolio with a custom investment objective, providing NDBUSL the ability to customize strategy and stage allocations. In addition, the use of an evergreen strategy within a fund of one supports more rapid initial capital deployment and active management of cash flows, allowing NDBUSL to build and maintain exposure to private equity more efficiently over time than would be achievable through reliance on traditional closed-end, drawdown funds alone.

Staff and RVK expect the fund of one will be supplemented by select fund investments, as complementary opportunities become available outside of the primary mandate, either through Staff or RVK's networks and sourcing efforts. As noted previously, Staff and RVK determined that reserving capacity for periodic investments in one or two additional opportunities would enhance the total private equity portfolio and maintain an appropriate level of diversification.

## **Review of Neuberger Berman Proposed Account**

The proposed account consists of three main allocations to the following Neuberger Berman strategies:

- Neuberger Berman Global Access Fund (GPEAF) – The Neuberger Berman Global Private Equity Access Fund is an evergreen private equity access vehicle designed to support efficient deployment and diversification within the fund-of-one structure. Under the proposed mandate, approximately \$130 million is expected to be allocated to GPEAF and invested over the first 12–18 months. The fund utilizes a zero-liquidity share class that provides full exposure to direct private equity investments while maintaining a semi-liquid structure at the vehicle level. GPEAF is expected to serve as a core allocation within the evergreen fund-of-one, supporting early NAV build and facilitating consistent exposure to private equity while allowing capital to be recycled or reallocated over time.
- Neuberger Berman Secondaries Opportunities Fund VI – The Neuberger Berman Secondary Opportunities Fund VI is expected to provide exposure to both traditional LP secondary transactions and GP-led secondary opportunities. Approximately \$70 million is expected to be allocated to the secondary fund sleeve, with capital deployed over approximately two to three years. Staff and RVK expect the Fund of One will make additional commitments to subsequent NB Secondaries Opportunities Funds. Secondary investments are intended to accelerate deployment relative to primary fund commitments and reduce the impact of the J-curve by acquiring interests



in more seasoned portfolios. As part of the evergreen fund-of-one structure, distributions from secondary investments are expected to be managed within the vehicle and may be recycled or redeployed to maintain targeted NAV, subject to NDBUSL's preferences.

- Direct co-investment opportunities – Direct investments are expected to represent approximately \$100 million of the initial allocation and will primarily consist of co-investments and GP-led secondary transactions sourced through Neuberger Berman's private markets platform. Direct investments are expected to be deployed over approximately two to three years, with pacing adjusted as needed based on portfolio development and NAV progression. Within the evergreen structure, direct investments are intended to provide precision in capital deployment, incremental diversification, and flexibility in managing exposure over time. Realizations from direct investments are expected to be reinvested or distributed through the fund-of-one structure, supporting ongoing exposure management and operational efficiency.

A profile of the two commingled products is provided in the appendix of this report.

### **Recommendation**

Staff and RVK recommend that the Board retain Neuberger Berman to manage a private equity evergreen fund of one for NDBUSL, with approximately \$300 million of initial commitments. RVK believes Neuberger Berman has the experience and platform necessary to manage the mandate effectively, including the ability to deploy capital efficiently and manage pacing and recycling within an evergreen structure. Neuberger Berman is regarded as one of the stronger platforms in the customized private equity and fund of one space, supported by its integrated private markets capabilities and employee owned structure.



## Appendix 1: Neuberger Berman Profile

### Neuberger Berman (data as of 12/31/2025)

<b>Firm Established</b>	1939	<b>Total Alternatives AUM</b>	\$193 billion
<b>Year PE Established</b>	1981	<b>No. of PE Employees</b>	135
<b>Firm Headquarters</b>	New York	<b>Employee Ownership</b>	100%

#### Firm Overview

Neuberger Berman (“Neuberger,” “NB,” or “the Firm”) is an independent, employee owned global investment manager headquartered in New York, New York. The Firm was founded in 1939 by Roy Neuberger and Robert Berman and became 100% employee owned in 2009 following its separation from Lehman Brothers. As of December 31, 2025, Neuberger Berman manages approximately \$563 billion in assets under management across equities, fixed income, and alternative strategies. The Firm employs more than 2,900 professionals across 40 cities globally.

As of September 30, 2025, Neuberger Berman’s Private Markets platform manages over \$150 billion in aggregate committed capital across active vehicles, including commitments in the process of documentation or finalization. The platform provides diversified exposure across primaries (approximately \$41 billion), co-investments (approximately \$44 billion), secondaries (approximately \$24 billion), private debt (approximately \$24 billion), capital solutions (approximately \$10 billion), and other direct equity and credit strategies (approximately \$10 billion), with allocations varying over time based on mandate specific portfolio construction.

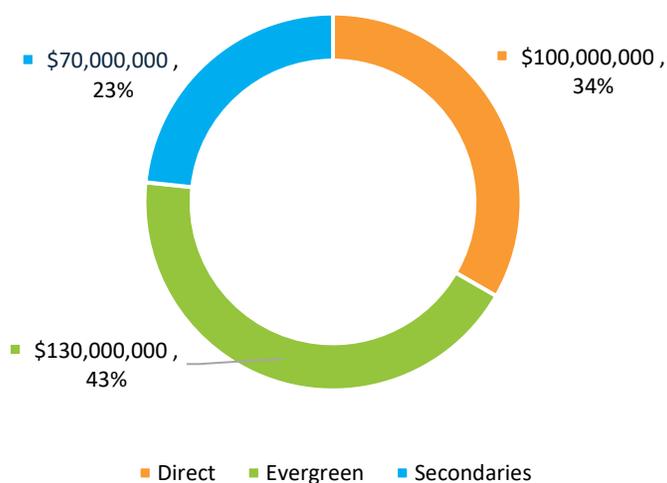
The proposed North Dakota mandate will be supported by Neuberger Berman’s Private Markets program management and client coverage team, led by Peter von Lehe, Head of Investment Solutions & Strategy, and supported by Kaci Boyer (Managing Director), Madeline Cary (Vice President), and Kylie Lee (Associate). Client coverage and consultant engagement are supported by Rushant Sanathara (Managing Director, Consultant Relations) and members of the Institutional Client Group. Investment sourcing and underwriting are supported by Neuberger Berman’s broader private markets platform, which includes more than 500 dedicated private markets professionals across primary, secondary, co-investment, and private credit strategies.

## Private Equity Overview

Neuberger Berman’s Private Markets platform is structured to manage customized private equity investment programs for institutional clients, including evergreen fund-of-one structures such as the proposed mandate for NDBUSL. Under the proposed structure, Neuberger Berman will collaborate with North Dakota and RVK to implement a single evergreen custom account that provides diversified exposure across co-investments, GP-led secondaries, and traditional LP secondaries, while maintaining flexibility in pacing and capital management.

Neuberger Berman will manage investment pacing within the vehicle to build toward a \$300 million target NAV over approximately two to three years, with subsequent growth aligned to North Dakota’s total AUM over time. Initial commitments are expected to be diversified across three investment sleeves: (i) an evergreen access fund, (ii) secondary investments, and (iii) direct investments. Approximately \$130 million (approximately 43%) is expected to be allocated to the NB Global Private Equity Access Fund (GPEAF) and invested over the first 12–18 months to support efficient deployment and early diversification. Approximately \$70 million (approximately 23%) is expected to be allocated to the NB Secondary Opportunities Fund series, with capital deployed over approximately two to three years. The remaining ~\$100 million (approximately 34%) is expected to be deployed through direct investments, primarily co-investments and GP-led secondary transactions, with pacing adjusted over time based on the development of the overall portfolio and NAV progression.

Figure 2: Initial Commitments



After the initial two to three year deployment period, all cash-flow activity will be managed within the evergreen fund of one structure. As realizations occur within the portfolio, Neuberger Berman will recycle and redeploy capital into new investment opportunities to maintain the targeted NAV, easing the administrative burden for North Dakota. North Dakota will retain the ability to pause recycling and elect distributions as needed. Capital calls are expected to be aggregated across all sleeves at the fund-of-one level, supporting operational efficiency and simplified cash-flow management.

Neuberger Berman employs a combined top down and bottom up investment approach, evaluating portfolio level exposures by strategy, geography, and vintage year, while conducting rigorous due diligence on individual general partners, secondary transactions, and direct investments. The platform emphasizes disciplined underwriting, diversified sourcing across market environments, and active portfolio monitoring within a flexible evergreen framework.

### **Proposed Product**

Neuberger Berman believes that effective private equity outcomes are driven by disciplined portfolio construction, selectivity in investment underwriting, and active pacing management. The proposed evergreen fund of one is designed to provide diversification across manager, investment type, time, strategy, and geography, while maintaining operational simplicity and flexibility.

- **Manager** – Neuberger Berman will leverage its global private markets platform and GP relationships to source and underwrite a diversified set of investment opportunities, emphasizing differentiated access, strong execution capabilities, and alignment with NDBUSL’s long-term objectives.
- **Type** – The long-term portfolio is expected to be allocated approximately 50–75% to evergreen access fund exposure, 10–20% to secondary investments, and 20–40% to direct co-investments, with flexibility to adjust allocations over time based on market conditions, portfolio development, and pacing considerations.
- **Time** – Commitments and investments are expected to be paced over multiple years to promote vintage year diversification and reduce exposure to any single valuation environment, with NAV progression actively managed within the evergreen structure.
- **Strategy** – The portfolio is expected to emphasize buyout and control oriented private equity strategies, supplemented by exposure to growth oriented investments and special situations, consistent with North Dakota’s return objectives and risk profile.



### **Key Manager Attributes**

Several attributes of Neuberger Berman support its selection as the proposed manager for the North Dakota private equity fund-of-one mandate, including the following:

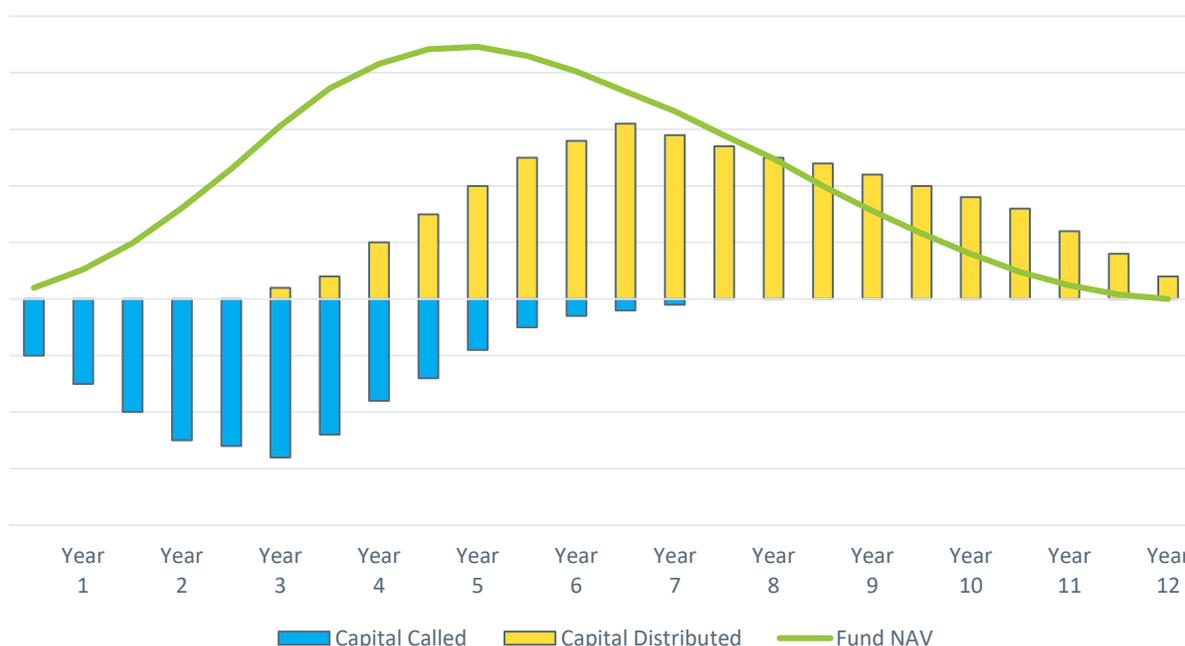
- Experience managing customized and evergreen private markets mandates – Neuberger Berman’s Private Markets platform is specifically structured to support customized institutional mandates, including evergreen fund-of-one accounts similar to the proposed program for NDBUSL. The Firm has extensive experience managing portfolio construction, pacing, and capital recycling within customized structures, enabling alignment with client specific objectives, governance requirements, and cash-flow needs. This experience supports a client focused approach that has been applied across multiple market environments and investment cycles and is reinforced by longstanding relationships with a broad network of private equity sponsors.
- Integrated investment and operational due diligence framework – Neuberger Berman employs a comprehensive diligence process that evaluates investment opportunities across primary funds, secondary transactions, and direct co-investments. Investment underwriting is supported by dedicated resources across legal, tax, structuring, and operational due diligence, allowing the Firm to assess both investment merits and execution risks. This integrated framework is designed to ensure consistency in underwriting standards and risk management across all sleeves of the evergreen fund of one structure.
- Disciplined portfolio construction informed by top down and bottom up analysis – Neuberger Berman utilizes a combined top down and bottom up approach to portfolio construction. At the portfolio level, the Firm evaluates strategy, geographic, and vintage-year exposures to support diversification and pacing objectives. At the investment level, Neuberger Berman conducts detailed due diligence on individual general partners, secondary transactions, and direct investments. This approach allows the Firm to adapt portfolio construction over time while maintaining alignment with North Dakota’s long-term objectives.

## Appendix 2: NDBUSL Private Equity Pacing Review & Update

There are investment and operational considerations associated with managing and maintaining a private equity allocation as a percentage of the total portfolio that are not present in more liquid asset classes. These challenges include the specific cash flow characteristics of the asset class and the necessary use of closed-end investment vehicles, where the investor does not control the timing of cash flows. While open-end, evergreen funds are now available in private equity, these opportunities have more limited track records and significant constraints and thus should represent a minority of most portfolio's private equity exposure, in RVK's opinion.

For the typical closed-end private equity fund, it will take four to six years for most of an investor's commitment to be invested and distributions may be received from the sale of the initial investments before the final committed dollars are called. The result of this investment structure is a series of cash flows into and out of the investments at irregular intervals. Figure 1 illustrates the cash flow profile and net asset value progression of a hypothetical private equity fund.

Figure 1: Example Private Equity Draw Down Fund Cash Flows



To account for this cash flow profile, clients must continually commit to a series of funds to achieve and



maintain the target allocation to private equity. RVK uses proprietary software to provide each client with a pacing study; this analysis uses a detailed cash flow modeling process to analyze the cash flow patterns of private equity investments and a series of client specific inputs to produce a recommended commitment schedule. The cash flow profiles are specific to each type of investment and are based on a database of more than 5,000 private markets funds from Pitchbook, RVK's alternatives data provider. The goal of this study is to determine the appropriate level of new commitments to meet and maintain the target allocation to private equity.

RVK completed a pacing study for the NDBUSL in December 2025, the outcome of which indicated that an additional fund of one partner would support progress towards the new 12% target, alongside existing investments including GCM Grosvenor's fund of one and Staff & RVK's recommended direct commitments in venture capital. Given the size of the NDBUSL private equity allocation in dollars, RVK and Staff believe an additional partner is merited to ensure reasonable diversification within the private equity composite. Under the proposed structure, NDBUSL is expected to make approximately \$300 million of initial commitments across an evergreen fund, both GP led and traditional LP led secondary investments, along with direct co-investments, with capital deployed over an initial two to three year period to build toward a modeled \$300 million target net asset value ("NAV"), that would move the total fund toward the private equity target allocation. This structure is expected to support more consistent deployment of capital and allow NDBUSL to reach its target exposure more efficiently than would be achievable through reliance on traditional closed-end, drawdown funds alone.

After the initial deployment period, all cash-flow activity is expected to be managed within the evergreen fund of one structure. As realizations occur, Neuberger Berman is expected to redeploy capital into new opportunities with oversight from Staff and RVK, helping to maintain exposure and manage NAV over time while easing the administrative burden for NDBUSL. NB Private Markets will continuously monitor NAV progression and recycle or re-invest proceeds as needed to maintain the targeted NAV. North Dakota will have the ability to stop or pause recycling and distribute from the program as needed. Additional pacing analyses will be conducted to assess future commitment needs and determine appropriate sizing for subsequent commitments.

RVK notes that, over time, investors must generally overcommit to private equity relative to their target market value in order to achieve and maintain their desired allocation, due to the asset class's cash-flow profile. RVK therefore recommends clients continue to approach private equity commitments deliberately and over time, balancing efficient deployment with diversification and avoiding excessive concentration in any single vintage year.

## Offering Overview & Terms Summary

<b>Fund Name</b>	NB Secondary Opportunities Fund VI
<b>Fund Target</b>	\$5.0 billion
<b>Term</b>	10 years
<b>Fund Focus</b>	LP and GP secondaries

## Fund Description Summary

<b>Overview</b>	NB Secondary Opportunities VI (“NB SOF VI”) is a private equity secondaries fund investing in a mix of limited partner interests and general partner led secondaries. The Fund is the sixth fund in the series. The fund is targeting \$5.0 billion in commitments and held an initial close September 2025.
<b>Investment Strategy</b>	<p>NB SOF VI targets a mix of limited partner interests, which provide diversification, and continuation vehicle financings, which provide targeted exposure to attractive private equity assets. The fund will opportunistically allocate between the two segments, depending on market pricing and conditions.</p> <p>Within LP interests, Neuberger expects that the majority of closed transactions are single fund acquisitions in funds that the firm knows well through their primary investments. Examples of previous LP interest general partners include H.I.G., Francisco Partners, and Thoma Bravo. Neuberger averaged 2 funds per transaction in SOF V.</p> <p>For GP-led transactions, the fund will invest in middle market assets where Neuberger will be a lead or co-lead investor. The fund will invest in a mix of single asset and multi asset continuation vehicles.</p>
<b>Platform</b>	Neuberger has invested for over 35 years in private equity and manages more than \$140 billion in private equity assets. The firm, which acquired the PE FOF group Crossroads in 2002 and was previously part of Lehman Brothers, was purchased by its employees in 2009. Neuberger Berman is 100% employee owned. The firm offers a series of private equity strategies across fund of funds, separate accounts, co-investments, and secondaries.

## Summary of Merits and Considerations

<p><b>Merits</b></p> <ul style="list-style-type: none"> <li>• Opportunistic approach to LP and GP segments</li> <li>• Moderate fund size relative to some peers</li> <li>• Targeted LP interest exposure focused on acquiring 1-3 funds per transaction</li> </ul>	<p><b>Considerations</b></p> <ul style="list-style-type: none"> <li>• More moderate multiples relative to other PE strategies</li> <li>• Potential for longer duration than LP only secondaries strategies</li> </ul>
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## Offering Overview & Terms Summary

<b>Fund Name</b>	NB Global Private Equity Access Fund
<b>Net Asset Value</b>	\$1.1 billion as of 9/30/25
<b>Liquidity</b>	Monthly redemptions
<b>Fund Focus</b>	Direct co-investments and GP-led secondary transactions

## Fund Description Summary

<b>Overview</b>	NB Global Private Equity Access Fund is Neuberger Berman’s institutionally focused evergreen private equity strategy. The fund provides direct exposure to private equity co-investments and secondaries alongside Neuberger Berman’s commingled closed-end vehicles that share similar exposures. The fund launched in 2023.
<b>Investment Strategy</b>	<p>The Fund’s investment strategy is to invest in a diversified portfolio of direct private equity investments. Within a semi-liquid evergreen structure, the Fund expects to invest approximately 85–90% of net asset value (“NAV”) in co-investments and GP-led secondary transactions, with the remaining 10–15% of NAV allocated to liquid fixed income instruments to support liquidity, redemptions, and fund-level expenses. The liquid portfolio is currently comprised primarily of U.S. Treasury bills.</p> <p>The Fund employs a flexible investment approach that allows portfolio construction to adjust over time based on opportunity set and market conditions. Diversification across investments is used to manage portfolio risk and reduce concentration, while maintaining exposure to targeted private equity opportunities.</p>
<b>Platform</b>	Neuberger has invested for over 35 years in private equity and manages more than \$140 billion in private equity assets. NB Private Markets has over 15 years of experience launching and managing semi-liquid funds as their first evergreen private equity vehicle was launched in 2007. The firm, which acquired the PE FOF group Crossroads in 2002 and was previously part of Lehman Brothers, was purchased by its employees in 2009. Neuberger Berman is 100% employee owned. The firm offers a series of private equity strategies across fund of funds, separate accounts, co-investments, and secondaries.

## Summary of Merits and Considerations

<b>Merits</b> <ul style="list-style-type: none"> <li>Instant diversification</li> <li>Periodic liquidity</li> <li>Fee efficiency relative to other diversified private equity strategies</li> </ul>	<b>Considerations</b> <ul style="list-style-type: none"> <li>Liquidity could be substantially impaired if market dislocation or product failure occurs</li> <li>New investors purchase the portfolio at NAV rather than cost as in closed-end funds</li> </ul>
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# NB Private Markets Proposal

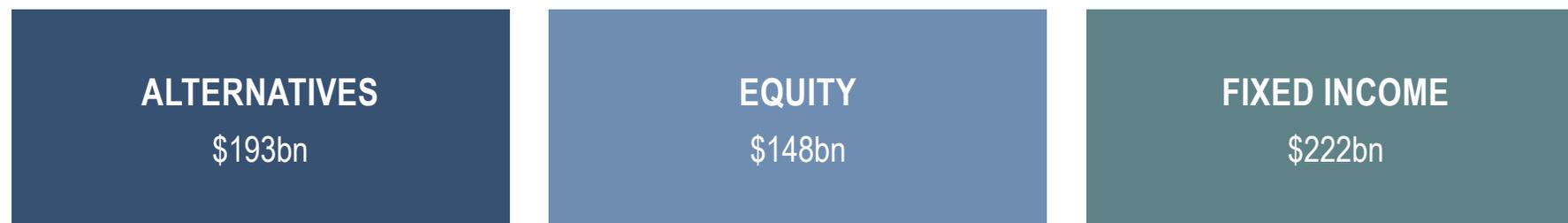
February 26, 2026



# Neuberger Berman Overview

Independent, privately owned, global investment manager

## NEUBERGER BERMAN: \$563 BN



## THE NB DIFFERENCE

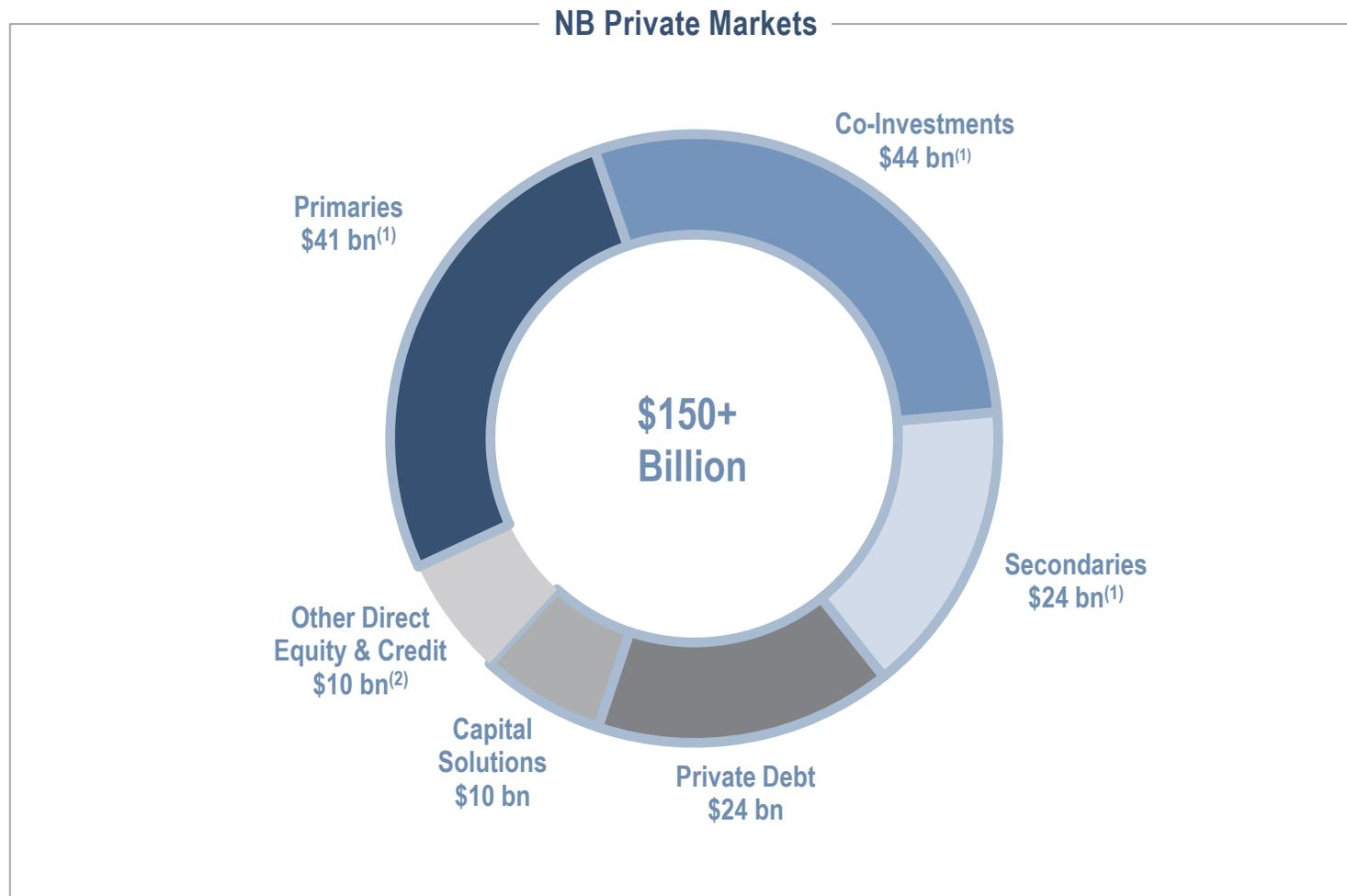


As of December 31, 2025. Totals may not sum due to rounding.

- Includes the firm's current and former employees, directors, and, in certain instances, their permitted transferees.
- Retention of MD and SVP level since becoming an independent company in 2009.
- The Pensions & Investments, Best Places to Work in Money Management annual survey is designed to recognize the best employers in the money management industry. Pensions & Investments partnered with a third-party research firm to conduct a two-part survey process of employers and their employees. The first part, worth approximately 20% of the total evaluation, consisted of evaluating each nominated company's workplace policies, practices, philosophy, systems and demographics. The second part, worth the remaining 80% of the total evaluation, consisted of an employee survey to measure the employee experience. The combined scores determined the top companies. Pensions & Investments, owned by Crain Communications Inc., is the 50-year-old global news source of money management and institutional investing. Among organizations with over 1,000 employees by Pensions & Investments Best Places to Work in Money Management survey. Neuberger Berman does pay a fee to participate in Pensions & Investments employee survey.

# NB Private Markets Overview & Platform Advantages

An industry leader with an integrated platform and attractive market position



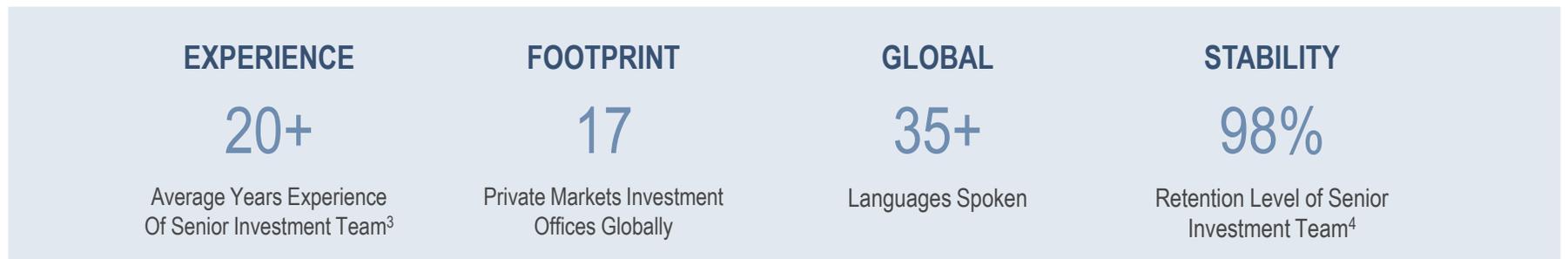
As of September 30, 2025. Aggregate Committed Capital represents total commitments to active vehicles (including commitments in the process of documentation or finalization) managed by NB Private Markets.

1. Includes estimated allocations of dry powder for diversified portfolios consisting of primaries, secondaries, and co-investments. Therefore, amounts may vary depending on how mandates are invested over time.

2. Includes Marquee Brands, Insurance-Linked Strategies, Specialty Finance, Outpost Ventures and Differentiated Alternative Credit businesses.

# NB Private Markets Team

Global presence with over 500 private markets professionals

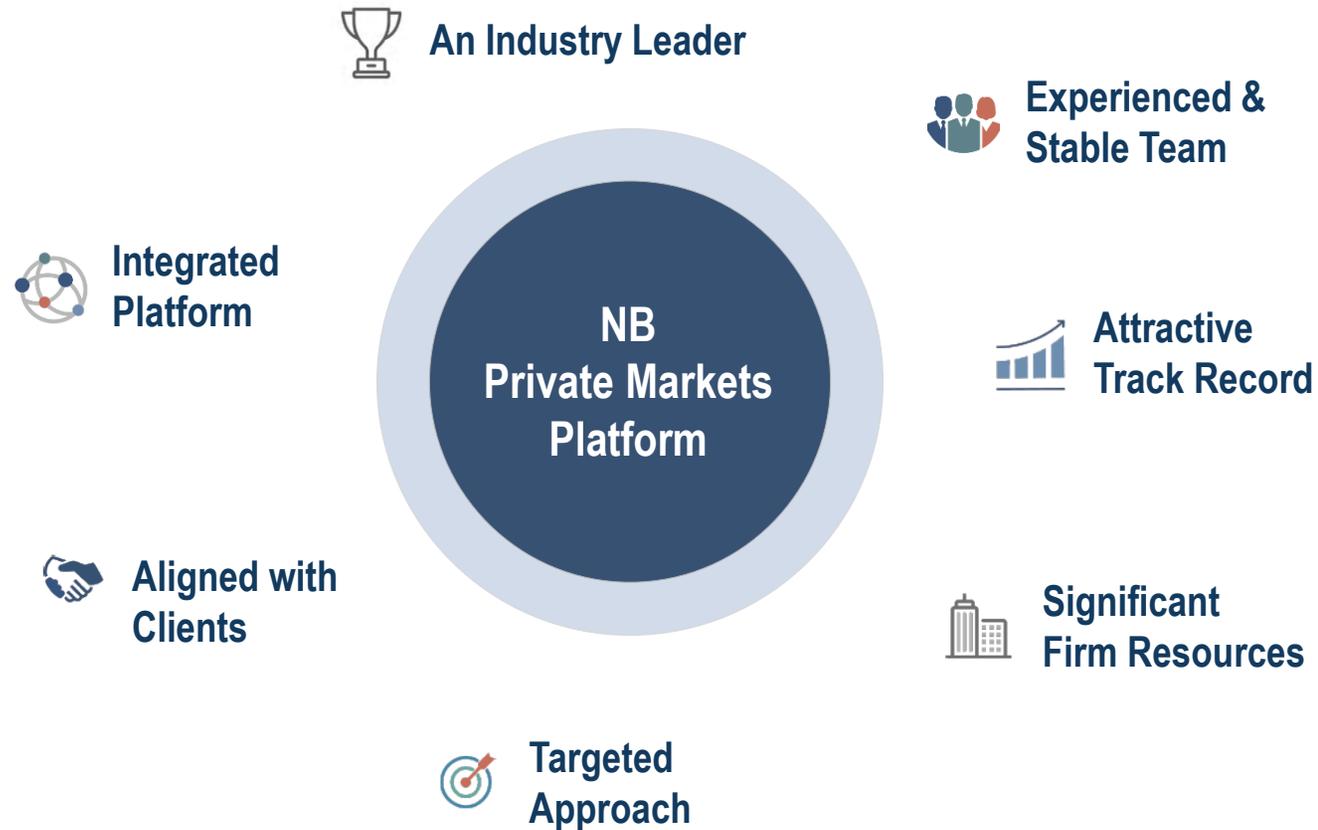


Note: As of December 31, 2025, unless mentioned otherwise.

1. Sustainable Investing.
2. Shared firm resources. Subject to Neuberger Berman's policies and procedures, including certain information barriers within Neuberger Berman that are designed to prevent the misuse by Neuberger and its personnel of material information regarding issuers of securities that has not been publicly disseminated.
3. Represents Senior Investment Professionals (Senior Advisors, Managing Directors and Principals/Senior Vice Presidents) within NB Private Markets, as of December 31, 2025.
4. Average annual retention from 2020 through December 2025 of Senior Investment Professionals (Managing Directors and Principals) within NB Private Markets. Computed as # of departures (excluding retirements and individuals who have transferred to other roles in the firm) over total # of NB Private Markets.

# NB Private Markets Edge

Unique, scaled platform drives robust relationships, deal flow, information advantages and access



Subject to Neuberger Berman's policies and procedures, including certain information barriers within Neuberger Berman that are designed to prevent the misuse by Neuberger Berman and its personnel of material information regarding issuers of securities that has not been publicly disseminated. Past performance is not indicative of future results.

# Deep Experience Managing Custom Private Markets Programs

NB Private Markets is an industry leader in strategic partnerships and custom accounts designed to meet client needs

Unique Strategy and Vehicle Design			
Tailored Portfolio Construction	Flexible Structures	Ability to Include Third-Party Funds	Partnership Branded (if desired)
			
Operational Support	Integrated Reporting	Client Servicing	Extensive Evergreen Experience
			

*NB can serve as a “one stop shop” with extensive experience building bespoke solutions to meet clients’ specific investment objectives*

For Illustrative and Discussion Purposes Only.

## Proposal for North Dakota

Neuberger Berman Private Markets will collaborate with North Dakota and RVK in the implementation of an evergreen custom account across co-investments and secondaries



### PROPOSAL

**Pacing of Investments:** NAV targeted approach with NAV target provided by North Dakota

**Implementation / Parameters:** Utilize tailored investment approach with a focus on efficient deployment

**Portfolio:** Focus on global diversification across direct private equity investments

**Structure:** Establish Evergreen Fund of One for operational ease and flexibility

**Proposed Terms:** Provide access to institutional fee structures across the program

FOR ILLUSTRATIVE AND DISCUSSION PURPOSES ONLY. The summary and terms described herein are subject to, and qualified in their entirety by, final legal documentation. Any terms described above are subject to change without notice. There can be no assurance that targeted or desired diversification or asset allocations will be met, nor that the assumptive investment strategy and approach described will be achieved. Any investment decision should be made based on the information to be contained in the legal definitive documents for the proposal.

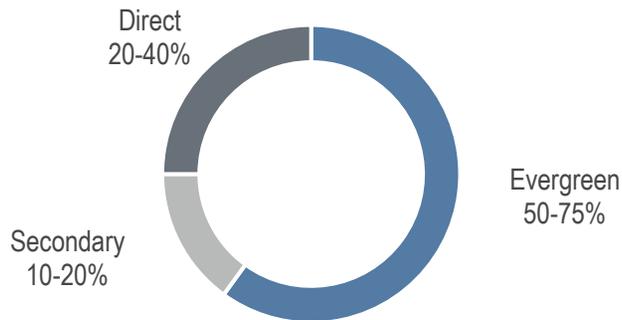
# Target Investment Allocation

NB Private Markets will manage investment pacing within the vehicle to reach the NAV target and align growth with North Dakota's assets over time

## PACING SUMMARY

- The goal of the program is to establish a Day 1 NAV target that will grow in-line with North Dakota's total assets
- Capital expected to be deployed over 2-3 years will provide a diversified portfolio of direct investments
- NB Private Markets will continuously monitor NAV progression and re-invest or distribute proceeds as needed to maintain the targeted NAV

## LONG-TERM TARGET ALLOCATION (% OF NAV)

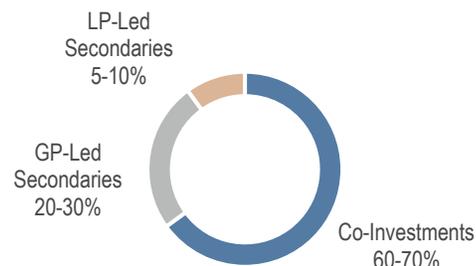


- Evergreen Funds**
  - Direct private equity investment exposure with additional opportunities for liquidity via redemption features
- Secondary Funds**
  - Diversified portfolio of secondary investments, which provides additional company and vintage year diversification as well as attractive pricing and valuations
- Direct Investments**
  - Direct private equity investments
  - Commitments will be adjusted as appropriate over time to maintain desired NAV target

Note: Assumptions are for illustrative purposes only. There can be no assurance that the portfolio will achieve comparable results, that targeted diversification or asset allocations will be met, that the portfolio will be able to or will ultimately elect to implement the assumptive investment strategy and approach described in the model.

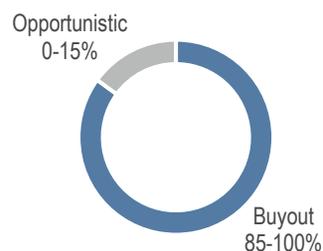
# Estimated Portfolio Exposures

## Investment Type



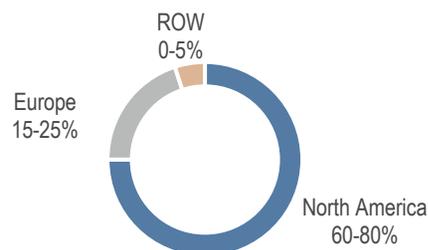
- **Co-Investments:** Extra layer of due diligence, asset by asset selection, capital efficiency of funding, and fee efficiency
- **GP-Led Secondaries:** Maturing market, potential for attractive pricing & terms for prospective buyers, liquidity solutions provide in muted environment
- **LP-Led Secondaries:** Incremental vintage-year, pricing and company diversification across assets not held within the evergreen component, enhancing breadth and balance

## Asset Class



- **Buyout:** Developed market, large opportunity set with sophisticated GPs, generally more opportunities for operational transformation of businesses and value creation, smaller return dispersion as compared to venture/growth and distressed
- **Opportunistic:** Flexibility to invest in additional opportunities that provide attractive risk/return

## Geography



- **North America:** Largest investable universe with robust company opportunity set, highly experienced management teams, deep financing markets, and with relatively accessible IPO and M&A exit market
- **Europe:** Well-developed and sophisticated private equity ecosystem. Smaller and more fragmented in Europe than in the U.S.
- **Rest of World:** Opportunistic approach with caution around geopolitical climate

Note: There can be no assurance that the portfolio will achieve the targeted or desired diversification or asset allocations, that the portfolio will be able to or will ultimately elect to implement the assumptive investment strategy and approach described in the model. The target allocation targets are subject to change and may be varied in the sole discretion of the investment manager.



## DISCLAIMERS

# Disclaimers

## RISK CONSIDERATIONS RELATING TO PRIVATE EQUITY STRATEGIES

Prospective investors should be aware that an investment in any private equity strategy is speculative and involves a high degree of risk that is suitable only for those investors who have the financial sophistication and expertise to evaluate the merits and risks of such investment and for which the investment does not represent a complete investment program. An investment should only be considered by persons who can afford a loss of their entire investment. This material is not intended to replace any the materials that would be provided in connection with an investor's consideration to invest in an actual private equity strategy, which would only be done pursuant to the terms of a confidential private placement memorandum and other related material. Prospective investors are urged to consult with their own tax and legal advisors about the implications of investing in a private equity strategy, including the risks and fees of such an investment.

You should consider the risks inherent with investing in private equity strategies:

**Market Conditions:** Private equity strategies are based, in part, upon the premise that investments will be available for purchase by at prices considered favorable. To the extent that current market conditions change or change more quickly anticipated investment opportunities may cease to be available. There can be no assurance or guarantee that investment objectives will be achieved, that the past, targeted or estimated results be achieved or that investors will receive any return on their investments. Performance may be volatile. An investment should only be considered by persons who can afford a loss of their entire investment.

**Legal, Tax and Regulatory Risks:** Legal, tax and regulatory changes (including changing enforcement priorities, changing interpretations of legal and regulatory precedents or varying applications of laws and regulations to particular facts and circumstances) could occur that may adversely affect a private equity strategy.

**Default or Excuse:** If an Investor defaults on or is excused from its obligation to contribute capital to a private equity strategy, other Investors may be required to make additional contributions to replace such shortfall. In addition, an Investor may experience significant economic consequences should it fail to make required capital contributions.

**Leverage:** Investments in underlying portfolio companies whose capital structures may have significant leverage. These companies may be subject to restrictive financial and operating covenants. The leverage may impair these companies' ability to finance their future operations and capital needs. The leveraged capital structure of such investments will increase the exposure of the portfolio companies to adverse economic factors such as rising interest rates, downturns in the economy or deteriorations in the condition of the portfolio company or its industry.

**Highly Competitive Market for Investment Opportunities:** The activity of identifying, completing and realizing attractive investments is highly competitive, and involves a high degree of uncertainty. There can be no assurance or guarantee that a private equity strategy will be able to locate, consummate and exit investments that satisfy rate of return objectives or realize upon their values or that it will be able to invest fully its committed capital.

**Reliance on Key Management Personnel.** The success of a private equity strategy may depend, in large part, upon the skill and expertise of investment professionals that manage the strategy.

**Limited Liquidity:** There is no organized secondary market for investors in most private equity strategies, and none is expected to develop. There are typically also restrictions on withdrawal and transfer of interests.

**Epidemics, Pandemics, Outbreaks of Disease and Public Health Issues.** Neuberger's business activities as well as the activities of the Fund and its operations and investments could be materially adversely affected by global outbreaks of disease, epidemics and public health issues. In particular, coronavirus, or COVID-19, spread rapidly around the world since its initial emergence in December 2019 and negatively affected the global economy, global equity markets and supply chains. Although the long-term effects of coronavirus, or COVID-19 cannot be completely predicted, previous occurrences of other epidemics, pandemics and outbreaks of disease, had material adverse effects on the economies, equity markets and operations of those countries and jurisdictions in which they were most prevalent. A recurrence of an outbreak of any kind of epidemic, communicable disease, virus or major public health issue could cause a slowdown in the levels of economic activity generally (or push the world or local economies into recession), which is likely to adversely affect the business, financial condition and operations of Neuberger and the Fund. Should these or other major public health issues, including pandemics, arise or spread farther (or continue to worsen), Neuberger and the Fund could be adversely affected by more stringent travel restrictions, mandatory quarantines and social distancing and additional limitations on Neuberger's (or the Fund's) operations and business activities.

**Geopolitical Risk.** Neuberger's business activities as well as the activities of the Fund and its operations and investments could be materially adversely affected by global geopolitical issues. In particular, conflicts between nations and the varying involvement of the United States and other NATO countries could preclude prediction as to their ultimate adverse impact on global economic and market conditions, and, as a result, presents material uncertainty and risk with respect to the Fund, the performance of its investments or operations, and the ability to achieve its investment objectives. Intra-country conflicts can cause a negative impact on and significant disruptions to the economy within that country as well as to business activities globally (including in the countries in which the Fund invests), and therefore could also adversely affect the performance of the Fund's investments. Further, governmental actions (sanctions-related, military or otherwise) may cause additional disruption and constrain or alter existing financial, legal and regulatory frameworks and systems in ways that are adverse to the investment strategy that the Fund intends to pursue, all of which could adversely affect the Fund's ability to fulfill its investment objectives. Additionally, to the extent that third parties, investors, or related customer bases have material operations or assets in any of the impacted countries, they may have adverse consequences related to the ongoing conflict.

**Valuation Risk.** Due to the illiquid nature of many Fund investments, any approximation of their value will be based on a good-faith determination as to the fair value of those investments. There can be no assurance that these values will equal or approximate the price at which such investments may be sold or otherwise liquidated or disposed of.

**This presentation is for illustrative and discussion purposes only and does not constitute an offer or solicitation with respect to the purchase or sale of any security.**

IN ADDITION TO THESE RISK CONSIDERATIONS, THERE ARE SPECIFIC RISKS THAT MAY APPLY TO A PARTICULAR PRIVATE EQUITY STRATEGY. ANY INVESTMENT DECISION WITH RESPECT TO AN INVESTMENT IN A PRIVATE EQUITY STRATEGY SHOULD BE MADE BASED UPON THE INFORMATION CONTAINED IN THE CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM OF THAT STRATEGY.

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Discussions of any specific sectors and companies are for informational purposes only. This material is not intended as a formal research report and should not be relied upon as a basis for making an investment decision. The firm, its employees and advisory accounts may hold positions of any companies discussed. Specific securities identified and described do not represent all of the securities purchased, sold or recommended for advisory clients. It should not be assumed that any investments in securities, companies, sectors or markets identified and described were or will be profitable. Any discussion of environmental, social and governance factors and ratings are for informational purposes only and should not be relied upon as a basis for making an investment decision. Environmental, social and governance factors are one of many factors that may be considered when making investment decisions.

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**RE: Litigation Update**  
(No Action Requested)

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

**Case Summary:** Missouri riverbed ownership – Quiet title action brought by the federal government is proceeding, with discovery now completed; the U.S. and MHA filed separate summary judgment motions; Court issued January 6, 2026, Opinion & Order denying both motions and ordering parties to prepare for trial; pre-trial discussions regarding dates & format are ongoing

Commencement: July 2020

ND Assigned Attorneys: Phil Axt, North Dakota Solicitor General  
Matthew Sagsveen, AG Dir. of Natural Resources and Native American Affairs  
James Auslander, Kathryn Tipple, Peter Schaumberg, and Nessa Coppinger (Beveridge & Diamond, Washington, D.C.)

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

Counsel for United States: Cody L.C. McBride, Emmi Blades, Peter W. Brocker, Rebecca M. Ross

Court: United States District Court for the District of Columbia

Judge: Honorable Amy Berman Jackson

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

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

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

**Case Summary:** OHWM river island ownership; trial was held September 12-16, 2022; Judge Schmidt issued a Phase I Memorandum Decision on April 30, 2024, finding 1) the at issue Yellowstone River segment was navigable at statehood; 2) the at issue west bank of the river is owned by the state; 3) the at issue north island is not owned by the state; 4) the at issue south island is owned by the state; and 5) the state's claim is not barred by laches. The remaining issues of conveyances, mineral acreage calculations, etc. are now being determined in Phase II proceedings. On December 19, 2024, the Court granted opposing parties' summary judgment motion on certain issues. A trial to determine the remaining issues was held January 29, 2025, in Watford City. On May 8, 2025, the Court issued its trial decision ruling that: 1) the State does not own the North Island; 2) the 1950 deed from the State conveyed the at issue lots to the

Montana state line; and 3) the State only reserved a 5% mineral interest in the 1950 deed. Notice of final judgment was entered July 17, 2025. On September 12, 2025, North Dakota Department of Water Resources filed a joint appeal with the Land Board to the North Dakota Supreme Court; oral argument was held February 12, 2026, and we await the Court's decision

Commencement: January 2016

ND Assigned Attorneys: Zachary Pelham (Pearce Durick, Bismarck)  
Matthew Sagsveen, AG Dir. of Natural Resources and Native American Affairs  
James Wald, DTL General Counsel

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

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

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

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

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

- **State of North Dakota v. United States of America (OHWM Quiet Title Action)**

**Case Summary:** Quiet title action brought by the North Dakota Attorney General's Office on behalf of the Land Board to implement the Continental Interpleader final rulings by the 8<sup>th</sup> Circuit Court of Appeals regarding what law applies for determining the ordinary high-water mark when federal lands about the active Missouri River channel and/or historic riverbed. Complaint filed December 15, 2025; Defendants requested a response extension to March 20, 2026, which we did not object to

Commencement: December 2025

ND Assigned Attorneys: Phil Axt, North Dakota Solicitor General  
Danielle DiMauro, Welborn Sullivan Meck & Tooley  
Brian Tooley, Welborn Sullivan Meck & Tooley

Counsel for Defendant(s): TBD

Court: North Dakota Federal District Court

Judge: Honorable Daniel Hovland

## **Procedures for Executive Session Regarding Attorney Consultation and Consideration of Closed Records**

### Overview

- 1) The governing body must first meet in open session.
- 2) During the meeting's open session the governing body must announce the topics to be discussed in executive session and the legal authority to hold it.
- 3) If the executive session's purpose is attorney consultation, the governing body must pass a motion to hold an executive session. If executive session's purpose is to review confidential records a motion is not needed, though one could be entertained and acted on. The difference is that attorney consultation is not necessarily confidential but rather has "exempt" status, giving the governing body the option to consult with its attorney either in open session or in executive session. Confidential records, on the other hand, cannot be opened to the public and so the governing body is obligated to review them in executive session.
- 4) The executive session must be recorded (electronically, audio, or video) and the recording maintained for 6 months.
- 5) Only topics announced in open session may be discussed in executive session.
- 6) When the governing body returns to open session, it is not obligated to discuss or even summarize what occurred in executive session. But if "final action" is to be taken, the motion on the decision must be made and voted on in open session. If, however, the motion would reveal "too much," then the motion can be abbreviated. A motion can be made and voted on in executive session so long as it is repeated and voted on in open session. "Final actions" DO NOT include guidance given by the governing body to its attorney or other negotiator regarding strategy, litigation, negotiation, etc. (See NDCC §44-04-19.2(2)(e) for further details.)

Recommended Motion to be made in open session:

**Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation regarding:**

- **Royalty Settlements**

<b>Action Record</b>	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>
Secretary Howe					
Superintendent Bachmeier					
Treasurer Beadle					
Attorney General Wrigley					
Governor Armstrong					

**Statement Before Leaving Public Meeting:**

“This executive session will be recorded and all Board members are reminded that discussion during executive session must be limited to the announced purpose for entering into executive session, which is anticipated to last approximately 20 minutes.

Board members, their staff, employees of the Department of Trust Lands and counsel with the Attorney General staff will remain, but the public is asked to leave the room.

The executive session will begin at: \_\_\_\_\_AM, and will commence with a new audio recording device. When the executive session ends the Board will reconvene in open session.”

Statements upon return to open session:

State the time at which the executive session adjourned and that the public has been invited to return to the meeting room.

State that the Board is back in open session.

State that during its executive session, the Board consulted with attorneys regarding the identified legal issue.

State that no final action will be taken at this time as a result of the executive session discussion

**-or- .**

Ask for a formal motion and a vote on it.

**Move to the next agenda item.**