

**Minutes of the Meeting of the
Board of University and School Lands
April 27, 2017**

The April 27, 2017 meeting of the Board of University and School Lands was called to order at 9:02 AM in the Governor's Conference Room by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General – Via Telephone
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Lance D. Gaebe	Commissioner
Linda Fisher	Deputy Commissioner
Susan Dollinger	Unclaimed Property Administrator
Levi Erdmann	Investment Analyst
Michael Humann	Director, Surface Division
Taylor Lee	Director, Revenue Compliance
Catelin Newell	Office Manager
Gerard Schwan	Director, Grants and Claims Division

Guests in Attendance:

Amy Dalrymple	Forum News Service
David Garner	Office of the Attorney General
Jon Patch	Self
Roger Kelley	Continental Resources
Christian Holcomb	XTO
Kal Beckman	XTO
John Morrison	North Dakota Petroleum Council
Alexis Brinkman-Baxley	North Dakota Petroleum Council
Leslie Bakken Oliver	Governor's Legal Counsel
Cassandra Torstenson	Governor's Office
Jessica Unruh	North Dakota State Senator

APPROVAL OF MINUTES

A motion to approve the minutes of the March 30, 2017 meeting was made by Secretary of State Al Jaeger and seconded by Treasurer Kelly Schmidt and the motion carried unanimously on a voice vote.

ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Emergency Medical System Grant Recommendations

In January, the Board approved proceeding with a grant round for energy development impacted Emergency Medical System (EMS) organizations for up to \$2.3 million based on House Bill 1176 adopted by the 64th Legislative Assembly. The Board awarded \$3.7 million in 2015, thus this action will complete the legislative appropriation of \$6 million identified in HB 1776.

The advisory committee made up of emergency medical services leaders that the Board had previously appointed was again asked to assist in the review of applications. The committee is:

- o Kari Enget - Powers Lake Ambulance
- o Lynn Hartman - Dickinson Area Ambulance
- o Emily Haleen - Bowman Ambulance
- o Tom Nehring - ND Department of Health
- o Jerry Jurena - ND Hospital Association
- o Jason Cantrombone - City of Williston Fire Dept.
- o Duane Estvold - New Town Ambulance
- o Ann Hafner - Killdeer Ambulance
- o Diane Witteman - Mohall Ambulance

Thirty applications were received. All requests were reviewed in interviews during regional meetings conducted by Department of Health and EIO staff. The advisory committee evaluated and scored applications, and along with the Energy Infrastructure and Impact Office (EIO) made the following recommendations for grant awards:

Applicant	City	Application #	Project	Amount Requested	Recommended Award	Note
Golva Rural Fire District	Golva	A170029	Construction Of Training Room / Kitchen	80,000	\$0	1, 4
Grenora Ambulance District	Grenora	A170030	Personnel & Payroll	100,000	\$60,000	3
Portal Rural Ambulance District	Lignite	A170031	EMT Training	10,000	\$10,000	
Dickinson Area Ambulance	Dickinson	A170032	Vehicle & Staffing	129,500	\$127,500	4
Rural Ems Assistance, Inc.	Dickinson	A170033	Staffing	39,500	\$39,500	
City Of Williston	Williston	A170034	Staffing & Vehicle	294,550	\$164,250	2, 6
Riverdale Ambulance Service	Riverdale	A170035	Staffing, Equipment & Training	103,000	\$40,000	3,4,7
Killdeer Area Ambulance District	Manning	A170036	Staffing	200,000	\$120,000	3
Beach Community Ambulance Service	Beach	A170037	Staffing	100,000	\$60,000	3
Beach Community Ambulance Service	Beach	A170038	Building Restoration	42,600	\$42,600	
Beach Community Ambulance Service	Beach	A170039	Radio & Computers	20,000	\$15,000	8
Grassy Butte Fire District	Grassy Butte	A170040	Dispatch Equipment	12,975	\$12,975	
Divide County Ambulance Service	Crosby	A170041	Staffing	100,000	\$100,000	
Stanley Rural Ambulance Service District	Stanley	A170042	Bldg Expansion	100,000	\$60,000	
Mercer County Rural Ambulance District	Hazen	A170043	Equipment & Training	64,823	\$36,000	4
Garrison-Max Ambulance District	Garrison	A170044	New Facility	1,000,000	\$0	1
New Town Rural Fire District	New Town	A170045	Staffing & Equipment	225,000	\$196,095	3
Mandaree Ems Ambulance Service	Mandaree	A170046	Staffing, Vehicle, & Equip	350,000	\$150,000	6
Powers Lake Rural Ambulance District	Powers Lake	A170047	Staffing, Training, & Equip	43,400	\$43,400	
Bowman County Rural Ambulance District	Bowman	A170048	Lifepak	33,138	\$27,000	4
Bowman County Rural Ambulance District	Bowman	A170049	Staffing	30,000	\$30,000	
Bowman County Rural Ambulance District	Bowman	A170050	Software	8,828	\$8,828	
Renville County Rural Ambulance District	Mohall	A170051	Staffing	206,244	\$200,000	3
Renville County Rural Ambulance District	Mohall	A170052	Lifepak & Aed's	50,566	\$27,000	4
Renville County Rural Ambulance District	Mohall	A170053	Staffing	75,000	\$32,000	3
Billings County Ambulance Service	Medora	A170054	Staffing	110,000	\$92,000	3
City Of Watford City	Watford City	A170055	Personnel	496,400	\$473,954	3
City Of Belfield	Belfield	A170056	Personnel	65,000	\$60,000	
Richardton-Taylor Ambulance District	Richardton	A170057	Personnel	100,001	\$72,000	3
City Of Kenmare	Kenmare	A170058	Training	16,000	\$15,000	5
Total Amount Awarded:					\$2,315,102	

Note 1: Applications Were Incomplete, Did Not Consider Other Sources Of Funding, Or No Additional Funding Arranged.

Note 2: New County Sales Tax Revenue For First Responders Not Provided In The Application.

Note 3: Salary For EMT (\$40k/Yr)/Paramedics(\$60k/Yr) Were Established As Set Amounts.

Note 4: Equipment Quotes For Lifepaks Were Set At One Price Where The Company Listed Five Different Prices To Applicants.

Note 5: Identical Emt Training Requests Were Funded At A Set Inclusive Cost.

Note 6: Request For Ambulances Were Premium Versions Compared To Past Funding Models.

Note 7: Riverdale Can Receive This Aed & Training Funds From New Dept. Of Health Grant

Note 8: Computer Costs Were Over Estimated And Did Not Have A Published Quote From A Vendor.

All applicants were informed that funds are not expected to be dedicated to EMS and ambulance within the Oil and Gas Impact Grant fund in the future. The service providers were advised to find sources of funding through private donations, mill levy adjustments, or merger of operations.

Motion: The Board authorized grants to the 28 Emergency Medical Services for the purpose and the amounts indicated in the preceding table. These grants are directed to areas where oil and gas development activities have impacted ambulance services. These projects are identified to support public safety.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler		X	X		
Treasurer Schmidt			X		
Attorney General Stenehjem			X		
Governor Burgum			X		

Funding Status and Future Grant Authorization

During the current biennium, \$64,978,612 has been deposited into the Oil and Gas Impact Grant Fund. As of March 31, 2017, \$534,116 has been utilized for operations and salary. Cancellations of \$684,869.24 during the biennium result in a net preset balance of \$10,373,839 the Board may utilize for grants.

In February 2017 the Board authorized Law Enforcement grant plans and in March 2017 the Land Board authorized the acceptance of applications for Nursing Home / Basic Care grants. If funding is fully utilized the amounts these two grant areas would commit is \$3,221,131 of the net balance.

That leaves a remaining undesignated balance of: \$7,152,708.

The grant area 2015 Legislative grant area designation that remain following are:

Remaining Allocations	
Law Enforcement	\$1,221,131
Nursing Homes/Basic Care/Hospice	\$2,000,000
Bowman/Divide Counties	\$8,000,000
Williston Airport	\$39,000,000
Dickinson Airport	\$4,600,000
Other Airports	\$1,399,225
K-12 Schools	\$15,011,799
Nursing Homes/Basic Care/Hospice	\$2,000,000
Eligible General	\$5,000,000
Contingency	\$6,300,000
Total =	\$84,532,155

Information was presented to the Board which indicated the trend of monthly deposits made into the Oil and Gas Impact Grant Fund since the beginning of the current biennium. Average of deposits over the seven months have been between \$3 million and \$4 million each.

The EIO estimated that the Oil and Gas Impact Grant Fund will receive between \$12 million and \$16 million during the remainder of the biennium. In December 2016, the seven month average was \$3.3 million per month. Which would permit the Board to consider more grant funding than previously contemplated. With carryover granting authority likely included in the appropriation bill for the Department (SB 2013) the Board possibly could reserve some funds for unknown needs in the next biennium.

Based on deposit volatility and that the Legislature remains in session and is continuing to review proposals, the Board decided by consensus to not prioritize or decide on remaining grant areas until the additional biennium collections are known and the Legislature concludes.

MINERAL ROYALTIES

Gas Deduction Clarification

Under the authority of the North Dakota Constitution and Century Code, the Board of acts as a trustee in managing land, minerals and proceeds of the permanent trust funds for the exclusive benefit of specific beneficiaries and also manages state owned oil and gas minerals. The Board enters into oil and gas leases under the terms and conditions contained in its standard lease ("Board's Lease"), the current form of which has been in effect since the late 1970s. By its terms, the Board's Lease includes formally adopted Oil and Gas Rules.

During its March 30th meeting, the Board reviewed a proposed Gas Deduction Clarification Letter (Letter) that detailed a legal analysis of calculating gas royalties in an arm's length transaction under the Board's Lease. This letter has been referenced by some in industry as a change of policy -this is false. The Letter is neither a change in the Department's interpretation of the Board's Lease nor a proposal of a new policy. It was prepared as a clarification of the gas royalty provisions in the Board's Lease that was necessitated by recent Department oil and gas audits that found some operators improperly calculate gas royalties due under the Board's Lease.

The longstanding Board Lease requires gas royalties to be calculated based on gross production or the market value thereof, at the option of the lessor, such value to be based on the gross proceeds of sale where such sale constitutes an arm's length transaction. Correspondingly, oil royalties are based on the greater of: 1) the highest posted price, plus premium, if any, paid for oil, condensate, distillate, or other liquid hydrocarbons, respectively, of a like type and gravity for the field where produced and when run, or 2) the highest market price thereof paid for the area where produced and when run, or 3) the gross proceeds of sale.

The Department has not interpreted the Board's Lease to allow for deductions on gross proceeds. On behalf of the Board, the Department has consistently directed operators that deductions from royalty payments are not allowed. From 2012 to 2015, the Department sent over 40 notices to operators for taking deductions from the gross proceeds reported on their royalty reports.

The disputed provisions of the Board's Lease have been in effect since 1979, require gas royalties to be paid based on gross proceeds of sale. Under this royalty provision, the lessee may not reduce royalty payments for expenses it has incurred prior to the sale.

Earlier versions of the Board's Lease allowed for deductions for expenses. The Board revised its lease in the late 1970s, adding a provision that gas royalties be paid on the gross proceeds of sale and oil royalties be paid based on the greatest of three methods including gross proceeds of sale.

It has been suggested that the Department's website "seemingly recognize[s] 'deductions' may be appropriate in some situations". This website covers a history of leases, some of which are earlier versions of the Board's Lease that allow for deductions. Since 2015, the Department's website includes instructions on how to complete the royalty reporting form; in contains examples; and a Frequently Asked Questions page. Two of the FAQs address deductions and state that "*gross proceeds of sale means income before deduction of expenses.*" It goes on to state that "*if you transport the oil to an off-lease location for sale and delivery, the royalty is calculated based on the gross price you receive at the ultimate point of sale and delivery. In this example you may NOT deduct or 'net out' the expenses incurred in transporting the oil to the ultimate point of sale and delivery.*" The Department's website is consistent with the clarification in the Letter.

In March, the Board directed the Commissioner to seek legal comments on the Letter. Requests were sent to a number of entities representing oil and gas interests:

The Department received comments only from the North Dakota Petroleum Council. Given the extent of the comments, the Commissioner requested additional time to work with the Attorney General to review and analyze its contents and provide a recommendation at a subsequent meeting. In the meantime, the Letter will not be sent.

The following items were presented to the Board for review and are available at the Department: Sample of Department royalty notices and collection of deductions, frequently asked questions from the Department's website, two letters from the North Dakota Petroleum Council.

I N V E S T M E N T S

Asset Allocation Study Timeline and Consultant Schedule

The Department has begun discussions with representatives of RVK, the Board's investment consultant, regarding the asset allocation study and the possible extension the agreement between RVK and the Board.

In accordance with the Board's Investment Policy Statement (IPS), the Board is to do a formal review of its asset allocation policy at least every four years. Much of the work on the permanent trust's last asset allocation study was performed in 2013.

Since the current asset allocation was adopted, equity markets have climbed to record levels, interest rates have climbed from all-time lows, and the oil cash flows into the permanent trusts have declined dramatically. The spending obligation of distributions to beneficiaries continues to grow with the increase in the fund balances.

A projected timeline and a breakdown of the work related to an asset allocation study was presented to the Board for its review:

- April:** Staff and consultant discussions:
- review of possible additional asset classes to add to the trusts' allocation
 - review updated RVK return, risk and correlation projections of various asset classes
 - update outside cash flow assumptions (mostly oil related) using three different scenarios, including
 - current (\$200 million/year),
 - reduced (\$100 million/year)
 - improved (\$300 million/year).
- May:** Staff review of RVK's preliminary asset allocation work to understand how it might impact the trusts' allocation. Preparation for presentation of issues and factors for May Land Board meeting.
- June/July:** Department staff and RVK will utilize Board input to complete work on the study. Additional guidance and input may be formally sought from the Board, but is welcome anytime.
- August:** Present a completed recommended asset allocation study for Board consideration and possible adoption.
- FY 2018:** Work with RVK to implement any asset allocation changes and manager structure changes that result from the study.

RVK it will not charge for the asset allocation review work because the project falls within the Board's existing investment consulting retainer relationship.

RVK Consulting Agreement

In addition to the asset allocation project, the Board's consulting agreement with RVK includes the investment consulting services:

- a. Advice in setting investment objectives, assistance with the preparation or revision of investment policy guidelines, and support with the transition to new investment options.
- b. Quarterly investment performance monitoring and reporting, including analyzing portfolio-wide and manager performance compared to appropriate indices and peer groups.
- c. Assist in investment manager searches based on Board philosophy and performance objectives, and evaluate manager proposals and presentations. Manager searches for illiquid asset classes will be quoted on a case-by-case basis.
- d. Due diligence monitoring and review of investment managers, conducting on site manager visits, periodic review on manager fee structures and assistance in manager transitions.
- e. Providing client education as requested and needed.

The Board's current agreement with RVK expires in August 2017. The current contract includes a provision to extend the agreement one additional year, with an escalator of 3%. If the contract was extended for one year, it would be at a rate of approximately \$149,000 inclusive of travel and RVK personal participation in quarterly meetings with the Board.

RVK will be presenting two quarterly performance reports and a proposed asset allocation prior to expiration of the current contract. No action was taken by the Board regarding an extension.

Investment Updates

The Board reviewed the status of the asset allocation of the permanent trusts as of March 31, 2017. The real estate portfolio is estimated because valuations had not yet been received.

Account/Asset Class	Long-Term Asset Allocation	3/31 Actual Allocation \$	3/31 Actual Allocation %
Large Cap US Equity	13.5%	\$ 539,804,820	13.4%
Small Cap US Equity	3.5%	\$ 140,637,486	3.5%
International Equity	12.0%	\$ 492,964,909	12.2%
Emerging Market Equity	3.0%	\$ 122,558,369	3.0%
Total Equities	32.0%	\$ 1,295,965,584	32.1%
Domestic Investment Grade	14.2%	\$ 561,259,751	13.9%
High Yield FI	3.0%	\$ 116,638,488	2.9%
International/Global FI	5.8%	\$ 228,978,688	5.7%
Total Fixed Income	23.0%	\$ 906,876,927	22.5%
Total Absolute Return	20.0%	\$ 800,769,201	19.8%
Commodities	3.0%	\$ 121,531,197	3.0%
MLPs	3.0%	\$ 123,117,550	3.1%
TIPS	2.0%	\$ 79,849,279	2.0%
Natural Resource Equities	2.0%	\$ 82,079,411	2.0%
Total Inflation Strategies	10.0%	\$ 406,577,437	10.1%
Core Real Estate	8.0%	\$ 342,747,736	8.5%
Core Plus Real Estate	7.0%	\$ 281,928,631	7.0%
Total Real Estate	15.0%	\$ 624,676,368	15.5%
Total Asset	100.0%	\$ 4,034,865,516	100.0%

Harding Loevner (Emerging Market Equities: \$60.92 million, 1.5% of assets)

The Department recently learned that Harding Loevner has taken additional steps to limit access to its institutional emerging markets strategy in which the permanent trusts invest. The Board was informed that Harding Loevner began limiting access to this product in early 2015 and has now quit accepting new separately managed accounts and also declined new pooled fund opportunities. This action is taken to protect existing investors' interests and is deemed positive for the Board's investment in Harding Loevner's emerging markets product.

OPERATIONS**Legislative Bill Status (as of April 26, 2017)**

A complete summary of action on bills that have been considered by 2017 Legislature that have a direct impact on the Board, Department of Trust Lands or the funds managed will be provided after the Department is able to assemble final legislative action.

Department Bills:

SB 2013 Legislative appropriation and budget for the commissioner of university and school lands.

This Bill includes the Department's budget.

The final version of the bill:

1. Reduced the current authorized FTEs from 33 to a net 31. It eliminated authority for three presently vacant FTE, but added on GIS technician position.
2. Authorized \$3.6 million (\$5.5 requested) for a comprehensive Department IT project-\$1.8 million available at the start of the bienenium, the remaining \$1.8 million only upon approval of the Budget Section.
3. Provided a carryover exemption the remaining balance of \$1.325 million for a Flood Impact Grant awarded Minot in 2012.
4. Carryover of current biennium energy impact funds is authorized for administration and remaining 2015-2017 grants
5. One-time \$25 million funding for the Energy Impact Office for grants of \$20 million to the Williston airport and \$5 million to the Dickinson airport.
6. Creates a new \$15 million Energy Impact Fund that may be granted to the Williston airport contingent upon its receipt of federal funds.
7. Removed a provision that had provided the Board with authority to transfer between appropriation line items.
8. Removed a provision that the House had included which added two advisory Land Board members.
9. Added intent language encouraging the Board / Commissioner to interpret "gross production," "market value" and "gross proceeds of sale" portion of the oil and gas lease to the advantage of the producer- "to encourage the continued development of energy infrastructure that will help reduce instances of natural gas flaring and increase the market value received for oil and gas produced within the state . . ." The amendment was added at the request of Continental Resources.
10. Dictates a study by the Tax Department, the Land Board, the Industrial Commission and other appropriate agencies to review the methods of determining valuation of oil and gas to determine mineral royalty payments and tax liability. The study and recommendations are to be reported to the interim Energy Committee before October 2018.

11. Delays the effective date of HB 1300 (Board as an administrative agency) until January 1, 2018.
12. The Bill includes substantial revisions to the distribution formula of the Gross Production Tax to hub cities, western school districts and counties, and to townships both within and outside of oil counties.

On April 26, the Senate passed the bill 42 –5 and the House adopted the bill 58 – 32.

SB 2101 Relating to management of the Coal Development Trust Fund.

This Bill, submitted by the Department, updates two sections of law related to distributions from, and the calculation of, income earned by the Coal Development Trust Fund.

The Bill passed the Senate 45 -- 0 on February 3, 2017

It passed the House yeas 90 -- 0 on March 8, 2017

Signed by the Governor on March 14, 2017

SB 2102 Relating to duties of the Commissioner and assessing state owned lands for highest and best use.

This Bill, submitted by the Department, clarifies the term of office and duties of the commissioner and regarding evaluating state lands for its highest and best use.

The Bill passed the Senate 45--0 on January 17, 2017

The Bill passed the House 79--12 on March 7, 2017

The Governor signed the bill on March 14, 2017

Other Bills:

HB 1003 Relating to the appropriation for the Attorney General.

Section 8. Contingent upon a possible rent savings, the provision directs the Board to provide up to \$500,000 from Energy Impact Grant funds allocated in 2015 for law enforcement grants for costs and expenses the statewide automated victim information and notification program.

The bill passed both the House and the Senate on April 25, 2017

HB 1012 Relating to the appropriation for the Department of Human Services

Section 39 changes the deposit of 45% of the proceeds of the tobacco settlement trust fund to the Common Schools Trust Fund instead to the Community Health Trust Fund. This one-biennium adjustment will divert an estimated \$18 million from the CSTF instead to be used for defraying the expenses of the DHS Medical Services Division for the 2017-2019 biennium.

The House adopted the HB 1012 on April 26, 2017

HB 1199 Relating to the definition of sovereign lands.

This Bill sets determination of sovereign minerals to the historic ordinary high water mark of the Missouri River under the Lake Sakakawea prior to inundation, extending to the Corps "take line".

The Department provided a fiscal note for HB 1199 showing a negative revenue impact on the Strategic Investment and Improvements Fund of an estimated \$30.2 million through FY 2021.

The House passed the Bill 90--2 on February 21, 2017.

The Senate defeated the Bill on April 18, 2017 by a vote of 0 -- 42.

HB 1300 Relating to agencies exempt from the definition of an administrative agency.

This Bill would remove the Board's exemption from the Administrative Agencies Practice Act.

On February 6, 2017 the House passed HB 1300 by a vote of 88 – 2.

The Department provided a fiscal note for HB 1300 which indicated an estimate of legal, administration, and FTE costs in excess of \$600,000 per biennium.

The Department presented opposing testimony, including examples of the limitations that would be placed on the Board's fiduciary authority and ability to manage trust assets.

The Senate passed the Bill 43—3 on April 17, 2017 and the Governor has signed HB 1300.

HB 1384 Relating to the duties of the state treasurer and the administration of abandoned property.

This Bill would transfer the administration of the Uniform Unclaimed Property Act from the Department of Trust Lands to the office of the State Treasurer.

On February 7, 2017 the House passed HB 1384 by a vote of 84 – 5.

On March 14, 2017 the Senate defeated the Bill by a vote of 24 -- 5.

SB 2134 Relating to the ownership of sovereign minerals beneath the Missouri River in areas that are inundated by Lakes Sakakawea and Oahe.

This Bill changes the method that the Board has used to determine the ordinary high watermark and lease State minerals. It defines the historical riverbed channel under Lake Sakakawea and Lake Oahe as the channel depicted in the last known survey by the Army Corps of Engineers prior to closure of the Dams. The bill moves the utilization of historical channel method of determining sovereign minerals acres to an area between Williston and the confluence. It defers to federal interpretation of ownership of public domain tracts of the River. The Bill's definition of the historic channel excludes the area of the river within the Fort Berthold Reservation.

The Bill includes an \$800,000 appropriation for an Industrial Commission study of the Corps' survey.

The Department provided estimates of a possible reduction of 25,000 state sovereign mineral acres, and estimated \$87,663,214 of received bonus and rent, and \$69,316,160 of royalties collected and anticipated through FY 2017 may be returned to lessees and operators.

The Bill appropriates \$100,000,000 from the SIIF for the purpose of repayments of mineral revenues, and authorizes the Commissioner to borrow up to \$87,000,000 from the Bank of North Dakota and appropriates the amount needed for mineral revenue repayments.

The Bill passed the Senate on April 18, by a vote of 34 -- 8, the emergency clause carried.

The Bill passed the House on April 19, 75 --15 and the emergency clause carried.

Governor Burgum signed the bill on April 21, 2017.

SB 2203 Appropriation to the attorney general for human trafficking victim treatment and support

Section 2. Based upon the Attorney General's recommendations, directs the Board to award up to \$700,000 for grants to organizations which provide prevention and treatment services related to human trafficking. The funds were reserved in 2015 for law enforcement grants, but were not yet awarded.

The Bill was adopted by the Senate 45 – 0 and passed the House 85 –6, both on April 19, 2017.

Governor Burgum signed the bill on April 24. Section 2 is in effect as a result of the adoption of the emergency clause.

SB 2245 Relating to listing state parcels for use as wetlands mitigation.

As introduced, this Bill would have required the Commissioner, to provide a list of trust land parcels that may qualify for use as wetlands mitigation by July 2018.

The Department provided a Fiscal Note, which indicated that a cost cannot be determined.

The bill was converted into a study of the desirability and feasibility of creating a state wetlands bank.

The bill was adopted by the Legislature and has been signed by the Governor.

SB 2272 Relating to school construction loans from the coal development trust fund and the school construction assistance revolving loan fund (and other issues).

This Bill raises from \$50 million to \$60 million, the amount of Coal Development Trust Funds available for school loans. It also changes the loan program from a broad school construction program to one for unanticipated construction, replacement and emergency repair projects. Loans are limited to a maximum of \$2 million per district.

On April 4, 2017 the House passed the bill 88 -- 3
The Senate passed the bill 47 – 0 on April 5, 2017
The Governor signed the bill April 10.

HCR 3019 Requests the Army Corps of Engineers to sell land not needed for the Garrison project

The resolution requests that the Army Corps of Engineers sell land not needed for Missouri River reservoir project purposes, to prior owners, their heirs, and their successors.

The Board is referenced to develop an agreement with the Corps to implement a purchase right for prior owners, or their successors, who own the land the parcels were detached from.

Both the House and the Senate adopted the Resolution.

The Board manages the Strategic Investment and Improvements Fund (SIIF). A number of bills initiate transfers and expenditures from this fund during both the present and forthcoming biennium. While likely to change in the final days of the legislative session, current legislation authorized \$289.4 million of transfers from the SIIF in the present biennium and \$123 million of appropriations from the SIIF during the 2017-2019 biennium.

R E P O R T S

The Summary of Assets (Unaudited) for Period Ended January 31, 2017 was presented to the Board for review.

The Spring Surface Lease Auction Results Summary was presented to the Board for review.

The Oil and Gas Lease Auction Tract Offering was presented to the Board for review.

Report of Easements Issued by Land Commissioner (3/15/17 to 4/13/17)

Granted to:	ND PARKS & RECREATION DEPT, BISMARCK-ND
For the Purpose of:	Easement-Amend: Recreational Trail
Right-of-Way Number:	RW0007374
Trust:	A – Common Schools
Legal Description:	MCK-146-100-36-NE4, NW4, SE4, SW4
Granted to:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
For the Purpose of:	Easement: Gas Gathering Pipeline
Right-of-Way Number:	RW0007416
Trust:	A – Common Schools
Legal Description:	MCK-149-96-16-NW4, SW4
Granted to:	MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
For the Purpose of:	Easement-Amend: Electric Transmission Line
Right-of-Way Number:	RW0007771
Trust:	A – Common Schools
Legal Description:	WIL-155-95-16-NE4
Granted to:	ARROW WATER LLC, HOUSTON-TX
For the Purpose of:	Assignment: Salt Water Disposal Well-Assignment
Right-of-Way Number:	RW0007991
Trust:	A – Common Schools
Legal Description:	MCK-150-95-16-NW4, SW4
Granted to:	OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX
For the Purpose of:	Easement: Multiple Pipelines
Right-of-Way Number:	RW0008005
Trust:	A – Common Schools
Legal Description:	WIL-153-100-36-NE4, SE4, SW4
Granted to:	QEP ENERGY COMPANY, DENVER-CO
For the Purpose of:	Permit-Amend: Access Road
Right-of-Way Number:	RW0008007
Trust:	A – Common Schools
Legal Description:	MOU-150-92-15-W2SW4
Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement: Drop Line-Buried Electric Distribution Line
Right-of-Way Number:	RW0008014
Trust:	A – Common Schools
Legal Description:	MCK-149-96-16-NW4
Granted to:	WHITE ROCK OIL&GAS LLC, DALLAS-TX
For the Purpose of:	Assignment: Salt Water Disposal Well-Assignment
Right-of-Way Number:	RW0008025
Trust:	A – Common Schools
Legal Description:	BIL-143-101-16-NE4, NW4, SE4
Granted to:	BOE MIDSTREAM, DENVER-CO
For the Purpose of:	Easement: Oil Gathering Pipeline
Right-of-Way Number:	RW0008028
Trust:	A – Common Schools
Legal Description:	DUN-148-96-16-N2SE4, SW4SE4, LOT 2
Granted to:	WHITE ROCK OIL&GAS LLC, DALLAS-TX
For the Purpose of:	Permit Reissue: Access Road
Right-of-Way Number:	RW0008030
Trust:	A – Common Schools
Legal Description:	MCK-145-100-16-NW4

<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>WHITE ROCK OIL&GAS LLC, DALLAS-TX Permit Reissue: Access Road RW0008031 A – Common Schools BIL-142-102-36-W2SE4, LOTS 5,6,7</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX Permit Reissue: Section Line Access Road RW0008032 A – Common Schools MCK-151-99-36-SE4</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX Permit Reissue: Section Line Access Road RW0008033 A – Common Schools MCK-151-100-16-NW4</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX Permit Reissue: Access Road RW0008034 A – Common Schools MCK-153-102-36-SE4</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX Permit Reissue: Access Road RW0008035 A – Common Schools WIL-153-104-36-NE4 W OF HWY, SE4</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>NP RESOURCES LLC, DENVER-CO Permit Reissue: Access Road RW0008036 A – Common Schools BIL-142-102-36-W2SE4, LOTS 5,6,7</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>PEARSON, BETHEL-MN Letter of Permission: Access to School Land for vehicular non-commercial recreational access RW0008037 A – Common Schools SHE-145-74-36-NE4</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>TESORO HIGH PLAINS PIPELINE CO LLC, SAN ANTONIO-TX Permit: Temporary Construction RW0008038 C – Capitol Building MER-143-88-8-NW4, SE4 LESS HAUL ROAD, SW4 LESS HAUL ROAD</p>
<p>Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:</p>	<p>WEST DAKOTA WATER LLC, WILLISTON-ND Letter of Permission: Access to School Land for the purpose of Temporary Surface Frac Water Pipeline RW0008042 A – Common Schools WIL-153-100-36-NE4, SE4, SW4</p>

Granted to: MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
 For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
 Right-of-Way Number: RW0008043
 Trust: A – Common Schools
 Legal Description: WIL-158-95-16-SE4

Granted to: MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
 For the Purpose of: Easement Assignment: Maintenance Yards
 Trust: A – Common Schools
 Legal Description: WIL-158-95-16-SE4

The following letters of permission were issued to groups wishing to use school trust lands under the Board's policy for access to trust lands by organizations. Fees may be charged for this use.

Granted to: NDSU SCHOOL OF NAT RES SCIENCE, FARGO-ND
 For the Purpose of: Letter of Permission: Access to School Land to conduct a
 pollinator research study
 Right-of-Way Number: RW0008018
 Trust: A – Common Schools
 Legal Description: ADA-131-96-36-NE4, NW4, SW4

Granted to: UNIVERSITY OF NORTH DAKOTA, GRAND FORKS-ND
 For the Purpose of: Letter of Permission: Access to School Land to conduct wildlife
 studies
 Right-of-Way Number: RW0008050
 Trust: A – Common Schools
 Legal Description: GFO-151-52-36-NE4, NW4, SW4
 Legal Description: GFO-152-51-16-NE4, NW4

Granted to: NORTH DAKOTA GEOLOGICAL SURVEY, BISMARCK-ND
 For the Purpose of: Letter of Permission: Access to School Land to conduct Rare
 Earth Element sampling
 Right-of-Way Number: RW0008041
 Trust: E - Ellendale
 Legal Description: BIL-137-100-8-E2NW4

Granted to: NORTH DAKOTA GEOLOGICAL SURVEY, BISMARCK-ND
 For the Purpose of: Letter of Permission: Access to School Land to conduct Rare
 Earth Element sampling
 Right-of-Way Number: RW0008041
 Trust: A – Common Schools
 Legal Description: BIL-138-102-26-SE4, SW4
 Legal Description: BIL-138-102-34-NE4, NW4
 Legal Description: BIL-139-101-16-SE4
 Legal Description: BIL-141-100-16-NE4
 Legal Description: BIL-142-100-28-S2NW4
 Legal Description: BIL-142-101-36-NE4, NW4, SW4
 Legal Description: BIL-142-102-16-NE4, SE4
 Legal Description: BIL-142-102-34-NE4, NW4
 Legal Description: BIL-144-102-36-NE4, NW4

Granted to: NORTH DAKOTA GEOLOGICAL SURVEY, BISMARCK-ND
 For the Purpose of: Letter of Permission: Access to School Land to conduct Rare
 Earth Element sampling
 Right-of-Way Number: RW0008041
 Trust: N – ND State University, U – University of ND
 Legal Description: GOL-137-103-22-SE4, SW4

Granted to:	NORTH DAKOTA GEOLOGICAL SURVEY, BISMARCK-ND
For the Purpose of:	Letter of Permission: Access to School Land to conduct Rare Earth Element sampling
Right-of-Way Number:	RW0008041
Trust:	A – Common Schools
Legal Description:	GOL-137-103-24-NE4
Legal Description:	GOL-139-103-16-SE4, SW4
Legal Description:	GOL-144-103-16-SE4, SW4
Legal Description:	SLO-136-102-16-NE4
Granted to:	ND DEPT OF HEALTH, DIV OF WATER QUALITY, BISMARCK-ND
For the Purpose of:	Letter of Permission: Access to School Land to conduct a water quality sampling survey
Right-of-Way Number:	RW0008051
Trust:	A – Common Schools
Legal Description:	BIL-140-100-16-SE4
Legal Description:	DIV-164-103-36-SE4
Legal Description:	GFO-154-52-16-SE4
Legal Description:	KID-142-71-36-NW4, SW4
Legal Description:	MCI-130-69-36-SE4
Legal Description:	PIE-154-74-16-SE4
Legal Description:	RIC-130-50-36-N2SE4
Legal Description:	SLO-133-103-36-NW4

S U R F A C E

Surface Damage Within Section 36, T149N, R96W, in McKenzie County

The Department implements a professional approach to land management. The natural resource staff undertake a formal review process of applications for easements or permits to minimize destructive impact to trust lands. Prior to mineral production involving the surface estate, the Department works closely with the developers to site roads, position drilling pads and other infrastructure to minimize environmental impact, surface disturbance and allow for the continued use as an agriculture leasing property.

The Board has authorized the Commissioner to issue surface easements or permits on trust lands on its behalf, when:

1. The applicant has completed an application and agreed to payment of a use fee
2. Routing and an environmental review has been completed by the Department staff
3. The permission will not have a negative impact on the trust lands based upon:
 - a. minimal or mitigatable environmental impacts;
 - b. minimal or mitigatable impact on archeological or historical sites;
 - c. positive financial return to the trusts;
 - d. no known controversy regarding the project, and,
 - e. the surface lessee is notified

If the above conditions are not met, the application are brought to the Board for its review.

Commonly, the Commissioner approves most easements and permits on the Board's behalf, which are then summarized and presented at its meetings.

The Board was asked to review an application from XTO Energy, an oil and gas mineral lessee within a Common Schools Trust tract (Section 36 of Township 149 North, Range 96 West, in McKenzie County) to amend an existing surface damage agreement for the placement of a well pad.

The Board leased the minerals within this tract in 1993 and the lease is held by current production. XTO Energy plans to drill several additional wells on the tract. The section is within an area surrounded by federal land, in a particularly rough and broken Badlands type area of southern McKenzie County called the "Bear Den" area.

XTO has built a drilling and production pad on the eastern boundary of the tract, but due to unstable soils, the area has been beleaguered with hillside slumps and earth shifting. Representatives of XTO Energy and the Department have inspected the XTO Dakota Federal 42X-36 oil well site, following a slump that occurred during construction of the well pad which caused a portion of the pad to become unsafe for drilling the proposed eight additional well bores.

Prior to construction, XTO hired a geotechnical firm to conduct tests and recommend construction plans, which were incorporated, but it still lost part of the well pad to the slump.

XTO Energy and its geotechnical firm are now proposing to construct the well site approximately 100 feet west of the existing location in order to create a more stable drilling pad. In doing so more than 350,000 cubic yards of soil will need to be excavated from a clay butte directly adjacent to the well pad. The excavated soil will be backfilled into a drainage adjacent to the butte. The fill area and back slope of the excavated butte will be stabilized with topsoil, erosion blankets, and reseeded.

This proposed project does not guarantee that more slumps will not occur, but removing the weight of the adjacent butte and reducing the slope are considered the best options to reduce the occurrence of a slump under, or onto the well pad. The entire section has been inspected and there do not appear to be other suitable locations available for an oil well site, including off lease locations on adjacent U.S. Forest Service land.

XTO Energy has already remitted \$20,000 per well bore for the additional eight wells that it plans to drill. The request to amend the plan will shift the line of wells westward toward the area of the butte that will be reduced and re-sloped. Additional financial consideration is being negotiated.

As a lessee of the oil and gas minerals, the operator has the statutory and lease authority to proceed on its own accord with the utilization of the surface to access the minerals, but is has involved the Department in its evaluation of options.

The Department works diligently with users of trust lands to mitigate potential impacts to the surface-through prudent siting and reclamation plans and oversight; and by promoting unitization to reduce the need for multiple installations. This well location will be able to develop a two square mile unit. The Commissioner informed the Board of his intent to authorize the amended surface damage request from XTO Energy.

A graphic of a soil slump, two aerial photos of the area, and an engineer's preliminary design of the excavation were presented for the Board's review and are available at the Department.

A D J O U R N

There being no further business, the meeting was adjourned at 10:35 AM.

Doug Burgum, Chairman
Board of University and School Lands

Lance D. Gaebe, Secretary
Board of University and School Lands

(04/27/17)