

62<sup>nd</sup> Biennial Report of the  
Commissioner of University and School Lands  
on behalf of the  
North Dakota Board of University and School Lands



June 1, 2015 - June 30, 2017



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North Dakota Department of Trust Lands

November 24, 2017

The Honorable Doug Burgum  
Governor of North Dakota  
State Capitol  
Bismarck ND 58505

The Honorable Alvin A. Jaeger  
Secretary of State  
State Capitol  
Bismarck ND 58505

Dear Governor Burgum and Secretary Jaeger:

Presented herein is the 2015-2017 Biennial Report of the Commissioner of University and School Lands on behalf of the Board of University and School Lands.

This report presents an overview of the responsibilities of the Board, Commissioner, and Department of Trust Lands under the authority of the Enabling Act, State Constitution, and statutes, to manage permanent trusts for the benefit of education and certain state institutions. This report summarizes the status of those assets and several statutory funds.

The report also reviews two other programs and a major fund not directly related to the Board and Department permanent trust responsibilities:

- Through the Energy Infrastructure and Impact Office, the Board provides financial assistance to energy impacted local governments and legislatively identified entities.
- The State Unclaimed Property Division manages funds from uncashed checks, dormant bank accounts, lost securities, safe deposit boxes, unclaimed insurance proceeds and reunites owners with their abandoned property.



- The Strategic Investment and Improvements Fund earns revenue from production of sovereign minerals, investments, and from a portion of oil and gas production and extraction taxes.

Board managed trust assets continue to maintain their integrity, and funds overseen have grown markedly supporting beneficiaries and designated purposes. Fund balances have grown based on a combination of market based rents paid by farmers and ranchers, consistent investment returns, and robust production of trust and sovereign minerals. Mineral royalty income, agriculture rents, and easement revenues are invested to provide income and trust growth that will benefit education now and for future generations.

Permanent trust distributions are constitutionally based upon the average value of the trusts' financial assets. The growth in the value of the Common Schools Trust Fund and twelve other permanent trusts has resulted in steadily increased distributions to schools and other beneficiaries. Collectively, the trusts disbursed \$138.7 million during 2013-2015, which increased 58 percent to \$219.1 million distributed during the 2015-2017 biennium. The 2017 Legislature authorized a collective \$305.9 million be shared with beneficiaries during the 2017-2019 biennium, a 40 percent increase from the prior period.

With stable investment returns, expanding income sources, and sensible maintenance of real property, the trust beneficiaries and all North Dakotans benefit from the work of the Board and the Department.

Special acknowledgment is extended to the employees of the Department of Trust Lands, whose dedication in serving the State of North Dakota is exemplary. The State's educational system and selected institutions, impacted communities and abandoned property owners are served well by these committed and talented professionals.

This report will be my last as Commissioner of University of School Lands. Governor and Secretary, thank you and the other members of the Board for the opportunity over the past eight years to participate in the amazing quadrupling of permanent trust financial assets and the remarkable growth in distributions to schools and institutions. I have appreciated the chance to support energy impacted communities with nearly one-half billion dollars of grant funds; to work to reunite unclaimed property with owners; and to manage a several hundred million dollar fund dedicated to support state infrastructure.

I admire the focus of the Board members and Department staff on the best interests of the State, the constitutional trusts, and beneficiaries. It has been an honor to serve the citizens of North Dakota.

Respectfully submitted,

Lance D. Gaebe  
Commissioner



## 2015-2017 Biennial Activity Snapshot (As of June 30, 2017)

### 2015-2017 Appropriation

Department of Trust Lands	\$ 8.24 million
Distributions to Institutions	\$ 219 million
Energy Infrastructure and Impact	\$ 140 million
SIIF Distributions	\$ 708.5 million

### Investments

Financial Assets Under Management	\$ 4.56 billion
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### Loans

Farm Real Estate	\$ 7.63 million
Energy Construction	\$ 1.22 million
School Construction	\$ 48.25 million
Coal Warrants	\$ 12.66 million

### Surface Management

Surface Acres Under Lease	706,607
Agricultural Leases Issued	2,674
Aggregate Leases Issued	11
Rights-of-Ways Issued	466
Reclamation Inspections	913

### Minerals Management

Trust Minerals Under Lease	546,145
Sovereign Minerals Under Lease	250,593
New Producing Wells	804
Oil and Gas Leases Issued	1447
Assignments Approved	1281

### Staff

Authorized Full Time Equivalent	33
Temporary	10

### Energy Infrastructure And Impact Office

Grant Rounds Conducted	19
Grant Applications Received	370
Grant Applications Awarded	317
Grant Dollars Awarded	\$ 56 million

### Unclaimed Property

Reports Processed	5,880
Claimants Paid	9,450
Gross Receipts	\$ 22.2 million
Claims Paid	\$ 9.3 million

### Revenue Compliance

#### Minerals Revenue

Royalty	\$ 385.6 million
Bonus	\$ 21.4 million

#### Surface Revenue

Agricultural Leasing	\$ 15.9 million
Rights-of-Way	\$ 9.2 million
Aggregate Leasing	\$ 757,566

#### Open Royalty Compliance Audits

Oil and Gas	19
Salt Water Disposal	6
Coal	2

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## HISTORY

In 1889, Congress passed the Enabling Act<sup>1</sup> adopted in part to "provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States."

Section 10 of this Act granted sections 16 and 36 in every township to the new states "for the support of common schools." In cases where portions of sections 16 and 36 had been sold prior to statehood, indemnity or "in lieu" selections were allowed. In North Dakota, this grant of land totaled more than 2.5 million acres.

Under sections 12, 14, 16 and 17 of the Enabling Act (and other acts referred to therein), Congress provided further land grants to the state of North Dakota for the support of colleges, universities, the state capitol and other public institutions. These additional grants totaled approximately 668,000 acres, thus the total of Enabling Act land grants was nearly 3.2 million acres.

## BOARD OF UNIVERSITY AND SCHOOL LANDS

Since statehood, the North Dakota's Constitution (Article IX), entrusts the management of acquired land and grant land to the "board of university and school lands" (Board). The Board was initially made up of the governor, the secretary of state, the attorney general, superintendent of public instruction, and the state auditor. On June 10, 1986, a constitutional amendment replaced the state auditor with the state treasurer as member of the Board.



Governor  
Doug Burgum  
Chairman



Secretary of State  
Alvin Jaeger  
Vice Chairman



Attorney General  
Wayne Stenehjem



Supt. of Public  
Instruction  
Kirsten Baesler



State Treasurer  
Kelly Schmidt

The governor is the chairman, the secretary of state serves as the vice chairman, and the commissioner of university and school lands must be the secretary of the Board. Governor Jack Dalrymple served as chairman of the Board until December 15, 2017.

As detailed in statute (N.D.C.C. chs. 15-01; 15-05; 15-08.1; 61-33) the Board has:

- Full control of the selection, appraisal, rental, sale, disposal, and management of:
  - Lands donated or granted for the support and maintenance of the common schools.
  - Lands which fall to the state by escheat.
  - Lands donated or granted for the maintenance of other state institutions.
  - Lands acquired as a result of mortgage foreclosure when loans granted by the trust funds default.
- Responsibility for the investment of the permanent funds derived from the sale of any of trust lands.
- Full control of property that falls to the state by escheat and of the proceeds of all gifts and donations to the state for the support or maintenance of the common schools.
- Ability to provide refunds in the event of an error.
- Authority to award and distribute energy infrastructure and impact grants.
- Authority to lease lands for the production of oil, gas, coal, aggregate, chemical substances, metallic ores, or clays.
- Authority to manage minerals acquired or conveyed to the State via the Bank of North Dakota (BND) or State Treasurer.
- Responsibility to manage the State possessory interests in oil, gas, and related hydrocarbons in the sovereign lands lying within the ordinary high water mark of navigable lakes and streams.

<sup>1</sup> The Enabling Act of 1889: Approved February 22, 1889 [ch. 180, 25 Stat.676].



**COMMISSIONER OF UNIVERSITY AND SCHOOL LANDS**

Under N.D.C.C. § 15-02-01, the Board appoints a commissioner to act on its behalf. Specific responsibilities of the Board and the Commissioner of University and School Lands (Commissioner) are set out in N.D.C.C. chs. 15-01 through 15-08.1.

The Commissioner:

- Acts as the general agent for the Board;
- Supervises all aspects and activities of the Department of Trust Lands;
- Has general charge and supervision of all lands and associated records, maps, books and papers; and
- Appoints an administrator and oversees the State’s abandoned property office.

In 2011, the Board appointed the Commissioner to also serve as the director of the Energy Infrastructure and Impact Office.

**LAND SALES AND MINERAL RESERVATION**

Since statehood in 1889, the majority of the original grant land has been sold. Beginning in 1939, whenever the State sold grant land, it reserved five percent of the minerals; in 1941, the reservation increased to 50 percent, and since June 28, 1960, the North Dakota Constitution has mandated a 100 percent mineral reservation.

The Department manages 655,953 of the original, grant land surface acres, and more than 1.8 million of the original mineral acres. Approximately 50,654 acres have been acquired through foreclosure or other means, bringing the total surface acreage to approximately 706,607 acres.

In 1977, the legislature transferred management authority for minerals acquired by the BND and State Treasurer and responsibility for the minerals under sovereign land with navigable rivers and lakes, to the Board’s oversight. On behalf of the Board, the Department also manages State acquired minerals.

**PERMANENT TRUST FUNDS**

The land grant at statehood and the State Constitution both provide that the Board manage the trust land and minerals and their proceeds, for the exclusive benefit of supporting the common schools (primary education) and the institutions for which the lands were granted. In accordance with Article IX of the North Dakota Constitution, the trust funds must be managed to preserve purchasing power and to maintain stable distributions to trust beneficiaries.

Revenues are generated through the prudent management of permanent trust assets, including land, minerals and investments. The surface acres are leased to ranchers and farmers, who assist in their care; mineral acres are leased for oil, gas, coal, and aggregate development. All revenues generated are deposited into the trust funds and are invested in a diversified portfolio of financial assets.

The following institutions are the beneficiaries of the various permanent trust funds pursuant to Article IX of the North Dakota Constitution:

- |                                 |                              |
|---------------------------------|------------------------------|
| ○ Common Schools                | ○ Mayville State University  |
| ○ North Dakota State University | ○ Youth Correctional Center  |
| ○ School for the Blind          | ○ State College of Science   |
| ○ School for the Deaf           | ○ School of Mines (UND)      |
| ○ State Hospital                | ○ Veterans Home              |
| ○ Ellendale State College*      | ○ University of North Dakota |
| ○ Valley City State University  |                              |

\*The beneficiaries of this Trust are now Dickinson State University, Minot State University, Dakota College at Bottineau, Veterans’ Home, School for the Blind, State Hospital, and the State College of Science.

According to Section 2 of Article IX of the North Dakota State Constitution, biennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets’ ending value for the fiscal year that ends one year before the beginning of the biennium and the assets’ ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium.

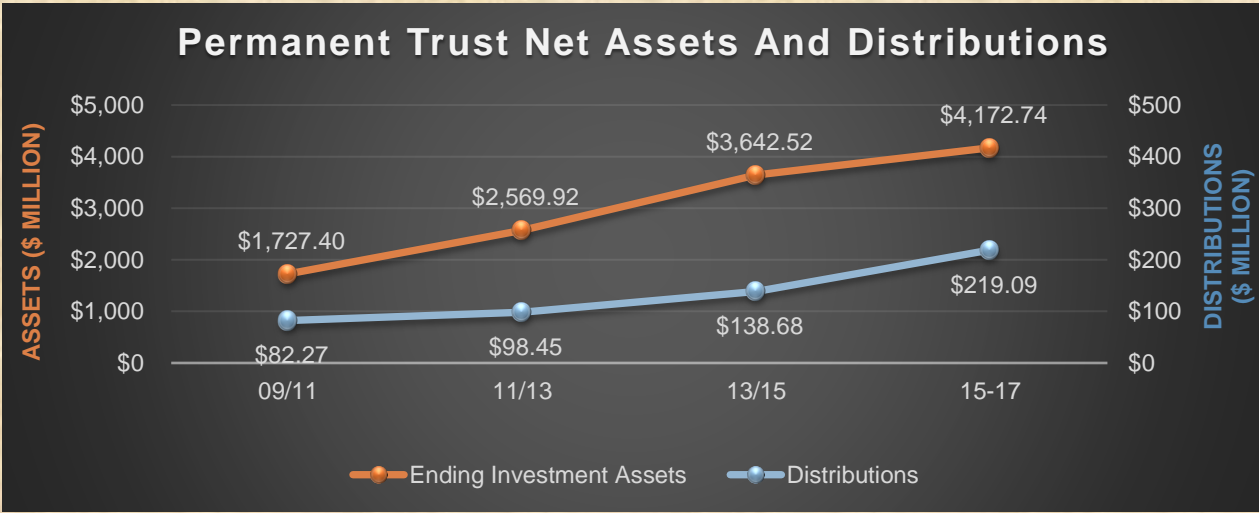
Total Common Schools Trust Fund distributions to K-12 education for the 2015-2017 biennium were \$206,134,000, which equaled approximately \$972 per year for each K-12 grade student in the state. Distributions from the Common Schools

Trust Fund are paid monthly to school districts by the North Dakota Department of Public Instruction from August to April of each year.

While the Common Schools Trust Fund is the largest of the permanent trusts managed by the Board, during the biennium a total of \$12,960,000 was distributed from the other twelve permanent trust funds to their respective institutions.

<b>Distributions by Trust</b>				
	<b>09/11</b>	<b>11/13</b>	<b>13/15</b>	<b>15/17</b>
Common Schools	\$77,178,000	\$92,514,000	\$130,326,000	\$206,134,000
North Dakota State University	1,238,000	1,424,000	2,066,000	3,368,000
School for the Blind	206,000	216,000	282,000	456,000
School for the Deaf	360,000	454,000	720,000	1,180,000
State Hospital	456,000	572,000	754,000	1,000,000
Ellendale State College*	196,000	220,003	345,996	546,000
Valley City State University	260,000	286,000	372,000	570,000
Mayville State University	178,000	184,000	236,000	382,000
Industrial School	438,000	528,000	810,000	1,372,000
State College of Science	388,000	492,000	682,000	988,000
School of Mines (UND)	428,000	560,000	794,000	1,134,000
Veterans Home	248,000	248,000	276,000	356,000
University of North Dakota	692,000	750,000	1,020,000	1,608,000
<b>Total</b>	<b>\$82,266,000</b>	<b>\$98,448,003</b>	<b>\$138,683,996</b>	<b>\$219,094,000</b>
<b>Increase From Previous Biennium</b>	<b>15.5%</b>	<b>19.7%</b>	<b>40.0%</b>	<b>58.0%</b>

The following chart shows total permanent trust distributions and asset balances for the past four biennia.



In addition to the revenues from the surface lands, minerals, and investments that the permanent trusts own, the Common Schools Trust Fund receives ten percent of the oil and gas extraction tax collected by the State (N.D. Constitution Article X, Section 24) and 45 percent of the proceeds from the tobacco class-action lawsuit settlement (N.D.C.C. § 54-27-25). It also holds the net unclaimed property proceeds (N.D.C.C. § 47-30.1-23) until that property is reunited with its owner.



The Board manages other funds for the State and other beneficiaries, including:

**INDIAN CULTURAL EDUCATION TRUST**

The Indian Cultural Education Trust was created in 2003 to generate income to benefit Indian culture (N.D.C.C. ch. 15-68). Present assets are managed for the benefit of the Mandan, Hidatsa, and Arikara Nation Cultural Education Foundation. This trust’s assets are managed and distributions are determined in the same manner as the permanent trust funds.

**CAPITOL BUILDING FUND**

The Capitol Building Fund was established in N.D.C.C. § 48-10-02 pursuant to Article IX of the North Dakota Constitution. Section 12 of the Enabling Act of 1889, authorized the land grant “for the purpose of erecting public buildings at the capital”. The Statute defines the fund, outlines its purposes and assigns management of the land and the fund’s investment to the Board. Unlike the permanent trust funds created under Article IX, this fund is fully expendable and is subject to legislative appropriation each biennium.

**STRATEGIC INVESTMENT AND IMPROVEMENTS FUND**

The Strategic Investment and Improvements Fund (SIIF) is a fund financed by the revenues earned from sovereign mineral acres including those formerly owned by the BND and State Treasurer and minerals located under navigable rivers and lakes (N.D.C.C. ch. 15-08.1 and § 61-33-07). The SIIF also receives a portion of the oil and gas production and extraction taxes (N.D.C.C. § 57-51.1-07.5). This fund may be appropriated by the legislature for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government (N.D.C.C. §15-08.1-08).

**COAL DEVELOPMENT TRUST FUND**

The Coal Development Trust Fund is established by N.D.C.C. ch. 57-62 pursuant to Section 21 of Article X of the North Dakota Constitution. The Fund receives 30 percent of the coal severance tax. This fund is held in trust and is administered by the Board for loans to coal impacted counties, cities, and school districts as provided by N.D.C.C. § 57-62-03 and for loans to school districts pursuant to N.D.C.C. ch. 15.1-36. Any balance not loaned is invested according to the policies of the Board. The income earned by this fund is transferred to the State General Fund each year.

The Department also manages two other programs not directly related to permanent trust management:

**UNCLAIMED PROPERTY**

The Department administers the Uniform Unclaimed Property Act (N.D.C.C. ch. 47-30.1) Under this authority, the Department collects “abandoned property” (uncashed checks, dormant bank accounts, lost securities, safe deposit boxes, unclaimed insurance proceeds, etc.), and attempts to reunite owners with that property. Property acquired under this Act is held in perpetuity on behalf of the owner. The investment income from unclaimed property is maintained to the credit of the Common Schools Trust Fund; however, owners or their beneficiaries will always have the opportunity to claim their property.

**ENERGY INFRASTRUCTURE AND IMPACT OFFICE**

The Energy Infrastructure and Impact Office (EIIO) provides financial assistance to local units of government which experience impacts of energy activity (N.D.C.C. ch. 57-62). The office receives grant applications from cities, schools, counties, and other political subdivisions and makes recommendations to the Board, which awards the grants (N.D.C.C. § 15-01-02). As part of the review process, grant requests are reviewed by staff and advisory boards comprised of local officials. The EIIO administers the payout of funds to grant recipients as projects are completed.

**DEPARTMENT OF TRUST LANDS EMPLOYEES**

			<b>Serving Since</b>
<b>ACCOUNTING</b>			
Gudvangen, Peggy	Accounting Director		2005
Mosser, Kristi	Account Budget Specialist		2015
<b>ADMINISTRATION</b>			
Fisher, Linda	Deputy Commissioner		1991
Gaebe, Lance	Commissioner		2010
<b>GRANTS AND CLAIMS</b>			
Dollinger, Susan	Unclaimed Property Administrator		2015
Entzel, Susie	Claims Processor		2015
Schwan, Gerard	Director		2016
<b>INVESTMENTS</b>			
Engleson, Jeff	Chief Investment Officer		1986
Erdmann, Levi	Investment Analyst		2003
<b>MINERALS MANAGEMENT</b>			
Bement, Allisen	Mineral Title Specialist		2014
Combs, Drew	Director		2011
Owings, Rick	Administrative Officer		2013
<b>REVENUE COMPLIANCE</b>			
Giere, Scott	Auditor		2015
Glanville, Monica	Audit Technician		2003
Jacobson, Bev	Account Technician		2006
Otteson, Adam	Auditor		2011
<b>ADMINISTRATIVE SUPPORT</b>			
Jacobs, Debra	Administrative Assistant		1998
McCusker, Kristie	Legal Assistant		2016
Newell, Catelin	Office Manager		2014
Strege, Rebecca	Office Assistant		2016
Weixel, Diane	Administrative Assistant		2015
<b>INFORMATION TECHNOLOGY</b>			
Hendrickson, Trent	Programmer Analyst		2015
Lengenfelder, Matthew	Programmer Analyst		2013
Pascua, Jayden	Computer Network Specialist		1999
<b>SURFACE MANAGEMENT</b>			
Barth, Cory	Natural Resources Professional		2012
Humann, Michael	Manager		1987
Saude, Jerry	Trust Lands Specialist		1991
Stegmiller, Joseph	Natural Resources Professional		2016



The Department of Trust Lands (Department) serves as the administrative agency of the Board and Commissioner. It operated until June 30, 2017 with an authorized 33 full-time equivalent employees and several temporary staff in the management of the surface and mineral lands, the collection of revenue from their use, and the oversight of financial records and investment assets of the permanent trusts and other funds.



**Pictured: (Front) Matt Lengenfelder, Drew Combs, Jerry Saude, Catelin Newell, Linda Fisher, Susan Dollinger, Rick Owings, Jayden Pascua, (Middle) Adam Otteson, Michael Humann, Beckie Strege, Kristie McCusker, Bev Jacobson, Susie Entzel, Kristi Mosser, (Back) Scott Giere, Cory Barth, Gerard Schwan, Lance Gaebe, Levi Erdmann, Jeff Engleson, Diane Weixel, Joseph Stegmiller**

*Not Pictured: Allie Bement, Monica Glanville, Peggy Gudvangen, Trent Hendrickson, Deb Jacobs, Geraldine McGregor*

**Field Personnel:** Part-time field personnel make a valuable contribution to the successful management of trust lands. They provide a local and rapid response to issues. Their inspection work has helped maintain land integrity and allowed the Surface Division to absorb increased workloads generated by energy activity.

**Also employed during the part of the biennium:**

Melissa Seifert, Keith Bayley, Diane Nelson, Mark Weninger, Judith Schell, Michael Haupt, Taylor Lee.

<u>Field Personnel</u>	<u>Serving Since</u>
Chris Hansen, Napoleon	1998
Dale Ferebee, Beach	2005
Mike Sondeland, Bowman	2008
Dennis Froemke, Dickinson	2011
Karrie Froemke, Dickinson	2012
Jim Alfonso, Devils Lake	2012
Tim Kuntz, Mandan	2014
Bill Klein, Ashley	2014
Randy Kreil, Bismarck	2014
Dave Gillund, Wildrose	2017





## LEGISLATIVE BILL REPORT

A summary of bills adopted by the 2017 Legislature that have a direct impact on the Board, the Department or the managed funds:

### Department Bills

**SB 2013** Legislative appropriation and budget for the Board and Department of Trust Lands.

1. Reduced the authorized FTEs (full time equivalent) from 33 to a net 31.
2. Reduced the Department biennial operating appropriation authority by \$243,914 to \$1,775,723.
3. Authorized \$3.6 million for a comprehensive Information Technology project.
4. Provided a carryover exemption for the remaining balance of \$1.325 million for a Flood Impact Grant awarded to the City of Minot in 2012.
5. Authorized carryover to subsequent biennium of energy impact grant funds for administration and grants.
6. Provided Oil and Gas Impact Grant Funds for \$20 million assigned to the Williston airport and \$5 million to the Dickinson airport in 2017-2019.
7. Created a new \$15 million Energy Impact Fund that may be granted to the Williston airport in 2017-2019.

**SB 2101** Updated two sections of law related to distributions from, and the calculation of income earned by, the Coal Development Trust Fund.

**SB 2102** Clarified the term of office and duties of the Commissioner and makes optional a provision regarding a highest and best use evaluation of any state lands considered for sale.

### Other Bills

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

Section 39: Redirects the deposit of 45 percent of the proceeds of the tobacco settlement trust fund from the Common Schools Trust Fund to the Community Health Trust Fund. This adjustment will divert an estimated \$18 million per biennium from the Trust.

**HB 1300** Removed the Board's exemption from the Administrative Agencies Practice Act.

**SB 2134** Changed the method that the Board has used to identify the historical ordinary high water mark and lease State sovereign minerals within the Missouri River in areas that are inundated by Lake Sakakawea. It defines the historical riverbed channel as depicted in the last known survey by the Army Corp of Engineers (Corps) prior to closure of the dams which created Lakes Sakakawea and Oahe. The Bill defers the determination of ownership of public domain tracts within the Lakes to federal law. The Bill's definition of the historic channel excludes the area of the river within the Fort Berthold Reservation.

The Bill included an \$800,000 appropriation for a North Dakota Department of Mineral Resource's study of the Corps' survey and factors related to historical records, applicable state law, accretions, and agriculture use. The Bill appropriated \$100,000,000 from the SIF for the purpose of repayments of mineral revenues, and authorizes the borrowing and appropriation for mineral revenue repayments of up to \$87,000,000.

**SB 2272** Raised the amount of the Coal Development Trust Fund available for school loans from \$50 million to \$60 million and changed the loan program to focus on unanticipated construction, replacement and emergency repair projects limited to \$2 million per district.

**HCR 3019** Requested the Corps to sell Garrison and Oahe project land. The resolution requests the Corps sell land not needed for Missouri River reservoir project purposes, to prior owners, their heirs, and their successors. Includes a reference to the Board to develop an agreement with the Corps to implement a purchase right for prior owners, or their successors, who own the land from which the parcels were detached.



## **LITIGATION SUMMARY**

During the 2015-2017 biennium, the Board was involved in litigation relating to mineral title ownership along and within the Missouri River and under the railroad rights-of-way in a section of land in Mountrail County. The Board is also party to a lawsuit before the United States Supreme Court to determine where proceeds of certain unclaimed property must be paid.

### ***Wilkinson v. State of North Dakota***

On January 10, 2012, the Wilkinson family filed suit asserting that it owns shore zone minerals in about 200 acres west of Williston that the Board has leased as sovereign minerals. In July 2014, the plaintiffs filed an amended complaint and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. The plaintiffs allege that the Board should issue leases on the west side of the Highway 85 Bridge pursuant to the Phase II delineation study which determined the location of the historic Missouri River channel, prior to the Garrison Dam project. The district court granted a summary judgment motion brought by the State and found in the State's favor determining that the minerals under the property in question are owned by the State of North Dakota and dismissing the remaining counts in the complaint. The plaintiffs and two of the defendants appealed to the North Dakota Supreme Court.

During the 2017 Legislative Assembly and following the district court's decision, the Legislature adopted Senate Bill 2134 which adopts a definition the historic ordinary high watermark for certain areas of the Missouri River which are inundated by Lake Sakakawea.

On September 28, 2017, the North Dakota Supreme Court reversed and remanded the case back to the district court for further proceedings and consideration of SB 2134.

### ***Whitetail Wave LLC v. XTO Energy, Inc., Board of University and School Lands, and the State of North Dakota***

This case challenges the State's determination of the ordinary high watermark. The tract is located on the east side of the Highway 85 Bridge where the Board has leased only the historic channel of the Missouri River. The Plaintiffs are requesting that title to the minerals be quieted and have alleged claims of unconstitutional takings, trespass, slander of title and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims against XTO individually. The district court issued an order dated August 21, 2017 staying these proceedings until final review findings under N.D.C.C. § 61-33.1-03 are adopted by the NDIC.

### ***Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, State Treasurer,***

This is a quiet title action. A deed previously issued by the Department of Trust Lands was lost without being recorded, the Plaintiff is seeking a judgment to cure the defect in the chain of title. The tract, however, is located under Lake Sakakawea. The Board has filed an answer claiming any interest in any minerals located below the ordinary high watermark. The district court issued an order dated July 10, 2017 staying these proceedings until such time as final review findings under N.D.C.C. § 61-33.1-03 are adopted by the NDIC with the exception that the plaintiff may submit a motion for summary judgment on issues other than the location of the ordinary high watermark.

### ***Whiting Oil and Gas Corporation v. Arlen A. Dean***

Whiting filed an interpleader for the lands underlying a spacing unit located near the Montana border in which the Yellowstone River runs through. Whiting is requesting the Court determine the property interests for the spacing unit so that Whiting can correctly distribute the proceeds from the well located in the unit. A scheduling order was issued on September 8, 2017 setting the matter for a five day court trial beginning on August 6, 2018.

### ***Continental Resources, Inc. v. North Dakota Board of University and School Lands, United States***

This is an interpleader action filed by Continental Resources, Inc. (Continental) for certain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties which are being claimed by both the State of North Dakota and the United States. Continental requested the Court determine property interests for the lands so Continental can correctly distribute proceeds from the wells. Continental filed an amended complaint on September 14, 2017. The Board filed an answer to the amended complaint on October 18, 2017. The United States filed a motion to dismiss on October 18, 2017.

### ***North Dakota Office of the State Engineer and North Dakota Board of University & School Lands v. Bureau of Land Management (Office of Hearings and Appeals, Interior Board of Land Appeals - IBLA)***

In 2014, the Bureau of Land Management (BLM) resurveyed land along the Missouri River to locate the boundary between public domain land owned by the United States and the riverbed owned by the State of North Dakota. In identifying the boundary, the BLM applied federal law rather than state law. The BLM uses these surveys as the basis for leasing minerals. In certain areas, the new surveys overlap with minerals currently leased by the Board. The Board of University and School Lands and State Engineer challenged the BLM's resurvey but the BLM's Montana Office rejected the challenge. The Board and State Engineer then appealed that decision to the IBLA. The Board and State Engineer and BLM have filed briefs with the IBLA regarding their respective positions and are awaiting a decision from the IBLA.

### ***EOG Resources, Inc. v. Soo Line Railroad Co.***



This case concerns ownership of the minerals underlying the railroad rights-of-way in a section of land in Mountrail County. The railroad acquired an interest in a strip of land through the property in question through a "Right of Way Deed." At issue is whether the deed granted an easement or fee title to the strip of land. The North Dakota Supreme Court heard this case in November of 2014 and found that the deed in question is ambiguous and remanded the case to the district court for further proceedings. The parties have nearly completed a settlement agreement on the issue.

***Arkansas v. Delaware (United States Supreme Court)***

This case is an attempt to have the United States Supreme Court assume jurisdiction over a lawsuit involving unclaimed property brought by 30 states, including the North Dakota, against the State of Delaware. The substantive issue is whether sums payable on unclaimed and abandoned checks sold by Moneygram Payments Systems, Inc. should be remitted to the Plaintiff States, as the states of purchase, or to Defendant Delaware, as Moneygram's state of incorporation. The Special Master has accepted the Case Management Order agreed to by the parties.

**BUSINESS PROCESS MODELING**

In 2016, the Department hired Major Oak, a business process modeling (BPM) consulting firm, to undertake a process and systems analysis and to prepare specific process improvement recommendations. Through the four-month business process modeling project, Major Oak helped document current state processes for all functional areas of the Department. This was followed by a preparation of a model of future state suggestions to further enhance controls, increase efficiencies, and boost productivity. Major Oak documented over 100 business processes in an effort to identify core business requirements for a future information management system and to provide recommendations regarding build-versus-buy software options.

Major Oak contacted peer organizations, software vendors, and various industry professionals and provided recommendations on system replacement options and estimated costs.

Major Oak's cost estimate of \$5.2 million for a three-year project was included in the Department's executive budget recommendation. It included 1) Land Management, 2) Accounting, 3) Unclaimed Property and 4) EIO grant administration.

Subsequent to the estimate from Major Oak, the North Dakota Information Technology Department (ITD) provided preliminary project estimates for building a Land Management and Accounting system and an Unclaimed Property system. The Land Management and Accounting component was estimated at \$1.8 million, which did not include Geographic Information System tools. The ITD estimate for an Unclaimed Property system was \$400,000. Both estimates provided baseline cost and time estimates requiring revisions upon completion of a more formal project analysis.

Based on the BPM contractor estimate and the ITD preliminary estimates, the 2017 legislature approved a \$3.6 million appropriation to accomplish many of the project objectives.

The State Office of Management and Budget reviewed accounting software options and provided a waiver of the requirement to use PeopleSoft for the Department's revenue and trust accounting. With the legislative reductions to the scope of the EIO, plans to replace the software application for that program were not pursued.

**INFORMATION TECHNOLOGY**

Many of the Department's core data management systems were developed in the 1990s using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts potential improvements. With the BPM project, the Department began to plan a total information management system replacement. A collaborative planning effort is underway with the ITD for project management, the Office of Management and Budget for procurement, and the Executive Steering Committee (ESC) required by N.D.C.C. § 54-59-32 for major information technology (IT) projects. The ESC includes a project sponsor, the director of the North Dakota Office of Management and Budget (or designee), the state Chief Information Office (or designee), the agency head, and a large project oversight analyst designated by the State Chief Information Officer. State procurement professionals and staff from the Office of the Attorney General assist with contract negotiation and administration.

Requests for Proposals for a Land Management and Accounting system and, separately, an Unclaimed Property IT system were prepared with anticipated award dates in the spring of 2018.

## **INTERNET PRESENCE**

The increasing use of handheld devices, tablets and notebooks along with heightened public expectation of high level self-serve technology led to the transition of the Department's website to a more mobile friendly platform in 2017. In addition, efforts have been made to improve internet security by switching to Hyper Text Transfer Protocol Secure (HTTPS) and implementing Google's *ReCaptcha* for online forms. The website has also been tested with *Burp Suite*, a toolkit for web application security testing.

## **DEPARTMENT PERFORMANCE AUDIT**

During 2015 and 2016, the State Auditor conducted a performance audit of all Department operations. The review was documented in report number 3036 related to the EIO, Unclaimed Property, and Trust Assets and Department Resources and was published in April 2016. Issue assessments, policy improvements and process modifications are completed or underway in all areas of the Department. Many of the information management concerns identified in the audit will be addressed by the comprehensive IT system replacement.



# SURFACE MANAGEMENT

Michael Humann, Director



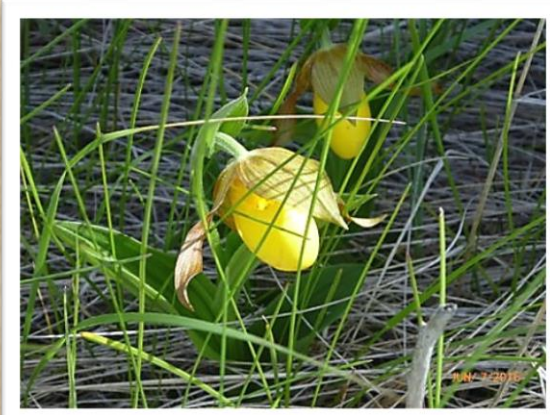
The Surface Management Division (Division) manages surface acres owned by the various trust funds under the control of the Board of University and School Lands. The major source of income from these lands comes from grazing and agricultural leases, with significant revenue generated from rights-of-way, surface damage agreements and construction aggregate mining. The objective of surface management is to obtain a “fair market” return from the trust lands while maintaining or improving their condition and value.

## LAND MANAGEMENT

Professional staff work day-to-day on land management projects that result in the generation of surface revenue and land improvement on school trust lands. These projects include:

- Linear easements.
- Oil well pad, saltwater disposal sites, pipeline and road siting and reclamation.
- Developing water wells, pipelines, dams and dugouts for livestock water and wildlife enhancement.
- Grazing management plans for improving range condition and productivity.
- Cooperative trash site clean-up and abandoned water well sealing.
- Gravel and scoria mine site reclamation.
- Noxious weed chemical and biological control.
- Coal mine reclamation.
- Monitoring flood affected tracts.
- Seismic permitting.
- Lessee and right-of-way contacts, and public inquiries.

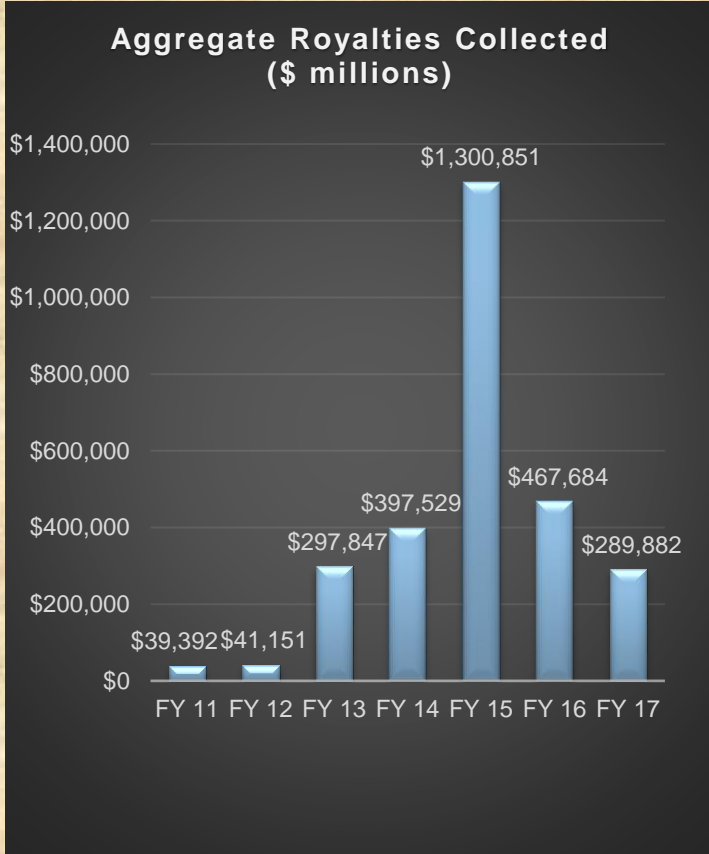
Many of these projects are initiated and completed each biennium, while some such as grazing management plans and noxious weed biological control, require 10-15 years or more to achieve lasting results.





## CONSTRUCTION AGGREGATE MINING

The royalties generated from construction aggregate, primarily gravel and scoria, decreased from FY 2015 to FY 2017. The decrease is due to the downturn in the oil and gas industry and reduced demand for road and pad building material. During the biennium there were 11 aggregate leases and one coal lease from which gravel and scoria were mined which generated \$757,566 in royalties.



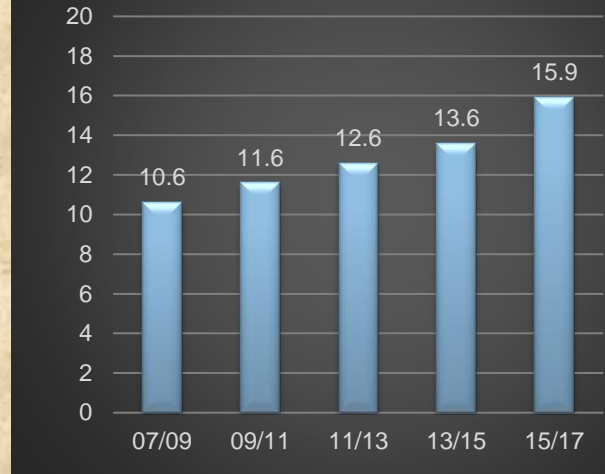
## LEASING

A total of 2,674 agricultural leases (grassland, cropland and hayland) were issued during the 2015–2017 biennium bringing the total active leases managed to nearly 4,800. Leasing interest continued to be high with over 99 percent of the tracts offered successfully leased. Flooded acres have remained relatively constant with the previous biennium. Total rental income for the biennium was \$15.9 million, an increase of 16.9 percent over the previous biennium.

Private land rental rates are the basis for calculating the minimum opening bid on school trust lands. The rental market for grazing lands and cropland has remained strong, keeping pace with private land rental rates even though there has been a decrease in agricultural commodity prices. Private grassland rental market prices have been steadily increasing for over 25 years.

Surface leasing information and other detailed tract information is provided on the Department's website.

## Surface Rental (\$ millions)



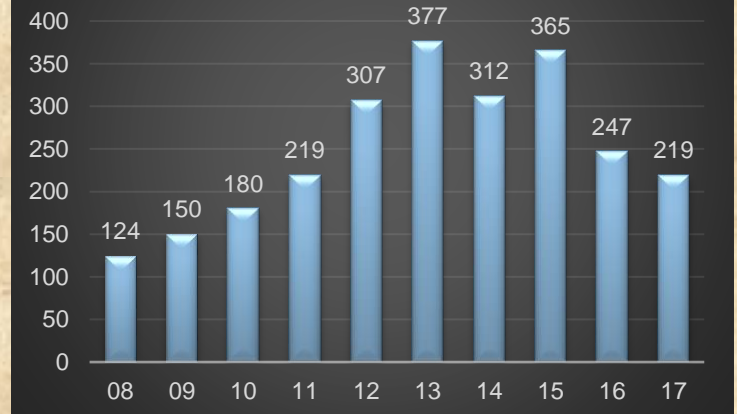
## RIGHTS-OF-WAY

Most of the requests for rights-of-way are directly related to oil and gas development activities. There was a steady increase in this area from FY 2009 through FY 2015, the height of the oil boom. As oil activities have leveled, there has been a slight decrease since 2015, but activity remains much greater than the pre-oil development activity period. Continued high activity is expected until sufficient pipelines and electrical lines have been installed to support the new wells.

The applications dominating the biennium were for multiple bore well pads, linear pipeline and electric drop lines, as well as access permission for temporary water lay-flat pipelines. New interest in renewable wind energy development has resulted in the first major construction of multiple wind towers on trust land in Williams County.

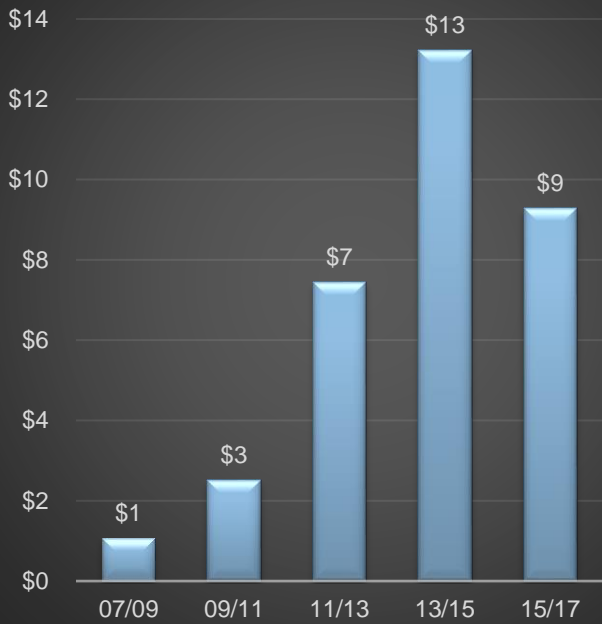
Rights-of-way consideration payments have generated considerable revenue for the trusts.

## Rights-of-Way and Surface Damage Agreements Issued by Fiscal Year





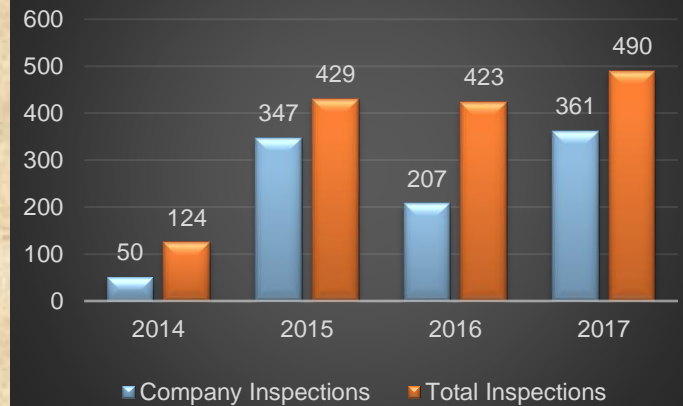
## Rights-of-Way and Surface Damage Revenue (\$ Million)



To help with the inspection and monitoring of reclamation on rights-of-way, the Department developed a new online reclamation reporting system to allow right-of-way holders to self-complete a reclamation inspection which documents the reclamation progress on the rights-of-way and creates a data-based report.

These reports help manage the reclamation inspection workload and develops a working relationship with right-of-way holders. This has resulted in an increase in the number of reclamation inspections on the rights-of-way issued.

## Reclamation Inspections



### Land Sales and Acquisitions

FY16-FY17

Acquisitions:	Acres
(+)Acreage Corrections	39.54
Railroad Abandonment	0.00
Right-of-Way Reversions	0.00
Farm Loan Pool Foreclosure	0.00
<b>Total Acquisitions</b>	<b>39.54</b>
<b>Sales:</b>	
Sales to Public Entities*	255.00
Sales at Public Auction	0.00
(-)Acreage Corrections	0.00
<b>Total Reductions</b>	<b>255.00</b>

\*15 acres sold to Central Power Co-op generated \$1,635,000 and 240 acres sold to Minot Park District generated \$3,000,000

## INVASIVE PLANTS

Noxious and invasive weeds are a statewide and continuous concern for private, state and federal land managers. Leafy spurge has been present in North Dakota for over 100 years.

The Agriculture Commissioner and the NDSU Extension service have been charged with developing a list of official noxious weeds that have impacted or could economically impact agricultural and recreational lands. City and county weed boards can also develop local lists of weeds that they find troublesome and damaging.

Pastures and rangelands have been infested with primarily leafy spurge, Canada thistle and absinthe wormwood from the official noxious weed list. Knapweeds have not gotten a foothold in North Dakota, but are extremely bothersome to neighboring states. Diligence by land managers and weed officials has kept knapweed from establishing on any appreciable acreage. An invasive weed is not on the official state noxious weed list but is being controlled as found in many counties

Hounds tongue and Black Henbane are the most common invasive weeds receiving control.



## RECLAMATION

With over 2,000 rights-of-way issued since 2011, reclamation oversight remains a major activity. Pipelines, roads, and well pads require detailed input during the construction phase to ensure that the land is reclaimable. Topsoil reservation, erosion control, noxious weed control, and native grass seeding are essential to return the land to a productive and ecologically stable condition.

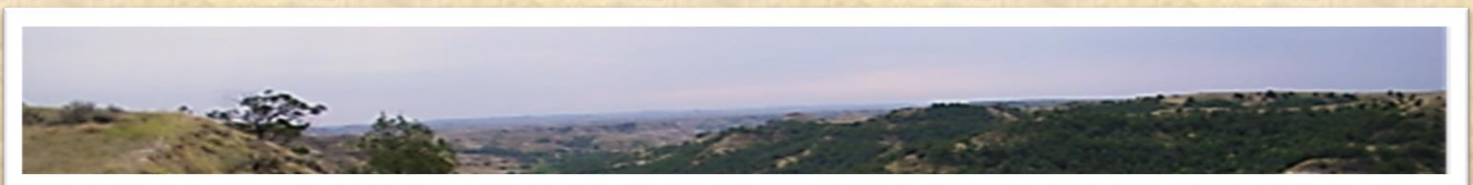
Certain woody species can become detrimental to trust lands and are being reviewed for their economic impact on grazing leases. Silverberry, western snowberry and Russian olive are invasive in some instances and are being reviewed for targeted control methods on an experimental basis. Invasive non-native grasses such as smooth brome, crested wheatgrass and Kentucky bluegrass are also being monitored in the Department's grassland integrity inspections.

The Department continues to reimburse lessees for control of noxious and invasive weeds through an annual cost-share program. County weed boards and weed officers are involved in the reporting and verification of lessees' work on trust lands. Lessees are using multiple tools in the weed control toolbox: chemical application, biological control agents, grazing programs that may include sheep and/or goats, and mechanical control methods.



Tracts are inspected at least once during the five year lease period by trained field inspectors to help with early detection of noxious and invasive weed species. Reclamation inspections on rights-of-way are also part of the early warning detection and response to keep the trust lands in compliance with state weed laws.

<b>Surface Acres by County</b>					
<b>As of June 30, 2017</b>					
<b>County</b>	<b>Acres</b>	<b>County</b>	<b>Acres</b>	<b>County</b>	<b>Acres</b>
Adams	17,097.52	Golden Valley	28,983.55	Ramsey	2,056.50
Barnes	2,803.32	Grant	33,517.76	Ransom	1,120.00
Benson	11,999.60	Griggs	1,741.24	Renville	1,910.12
Billings	30,927.06	Hettinger	9,892.50	Richland	513.68
Bottineau	3,271.94	Kidder	28,643.79	Rolette	6,226.08
Bowman	29,310.48	LaMoure	1,435.72	Sargent	1,128.17
Burke	16,137.16	Logan	9,421.53	Sheridan	25,826.44
Burleigh	27,891.66	McHenry	22,720.56	Sioux	23,411.56
Cass	40.00	McIntosh	6,209.87	Slope	23,605.98
Cavalier	556.47	McKenzie	64,586.70	Stark	6,150.13
Dickey	3,981.51	McLean	20,890.99	Stutsman	15,627.81
Divide	20,791.24	Mercer	15,129.38	Towner	8,076.00
Dunn	25,673.31	Morton	18,101.82	Walsh	160.00
Eddy	10,292.81	Mountrail	32,445.59	Ward	10,798.98
Emmons	13,533.97	Nelson	2,694.45	Wells	5,251.89
Foster	3,111.51	Oliver	7,588.41	Williams	38,380.84
Grand Forks	1,274.77	Pierce	13,664.93	<b>Total</b>	<b>706,607.30</b>







**Surface Acres by Trust Fund**  
**As of June 30, 2017**

<b>Trust Fund</b>	<b>Acres</b>
Common Schools	631,804.07
School for the Blind	3,481.69
Capitol Building	9,994.45
School for the Deaf	4,830.44
Ellendale State College	4,912.82
State Hospital	2,206.11
ND Youth Correctional Center	3,584.42
School of Mines <sup>1</sup>	3,330.38
North Dakota State University	15,120.23
Veterans Home	2,753.69
University of North Dakota	8,897.98
Valley City State University	640.00
ND State College of Science	3,712.94
Mayville State University	640.00
Valley City/Mayville <sup>2</sup>	6,824.08
Farm Loan Pool <sup>3</sup>	3,714.00
Indian Cultural Education	160.00
<b>Total</b>	<b>706,607.30</b>

<sup>1</sup> The benefits of the original grant to the School of Mines are distributed to the University of North Dakota.

<sup>2</sup> Receipts from acreage held jointly by Valley City and Mayville State Universities are allocated 62.5% to Valley City and 37.5% to Mayville.

<sup>3</sup> Receipts from this acreage are allocated to the permanent trusts that have an interest in the Board's Farm Loan Pool.

# MINERALS MANAGEMENT

Drew Combs, Director

## OIL AND GAS ACTIVITY



Over one-third of the oil and gas wells operating in North Dakota contain a mineral asset managed in part by the Board. In recent years, there has been a marked expansion of leasing activity, due to the innovations in recovering hydrocarbons from tight oil formations. The geographic location of the Bakken corresponds with a concentration of State and trust

mineral assets. Most oil and gas leases have moved to the production phase of their terms, so the large bonus averages previously seen at the quarterly auctions has subsided from the past three biennia. As leasable acreage in these core areas has declined, interests in conventional plays have increased, as these types of wells are typically less expensive to bring into production.

The effects of the downturn in the price of crude oil continued to affect activity. With lower drilling rig counts, wells are drilled and completed at slower rates, though most units have at least one well holding leases by production, commonly referred to as “held by production” (HBP). Many spacing units also contain Board managed minerals with “drilled but uncompleted” (DUC) wells.

Though the pace of leasing and drilling to hold a lease has eased from earlier in the decade, the Minerals Division’s work in lease maintenance, sorting title conflicts, and the issuance of assignments has increased. Sovereign minerals issues often require maintenance and curative work. Due to ongoing litigation and new legislation regarding sovereign lands within the Missouri River system, uncertainty about of mineral ownership continues, and royalties continue to be suspended or escrowed pending ownership clarification.

Due to clerical errors that occurred in the 1940s, certain mineral tracts were allocated to incorrect trusts. As a result, a title analysis of all trust mineral assets was initiated to verify and adjust acreage to the proper trust. As of the close of the biennium, over 900 hours had been dedicated to the validation project and ten counties had been completed. It is expected that ownership records of oil and coal producing counties will be verified in 2018 and all remaining counties will be reviewed by 2020.

Trust Name	Acres
Common Schools	505,061.89
SIIF	250,593.46
NDSU	9,938.71
UND	4,526.50
State Industrial School	3,957.44
Capitol Building	3,595.95
Ellendale State College	3,227.90
School for the Deaf	3,097.69
Valley City State University	2,192.88
Mayville State University	2,076.11
School of Mines	2,021.51
State College of Science	1,910.12
State Hospital	1,735.18
School for the Blind	1,615.46
Veterans Home	1,027.48
Farm Loan Pool	160.35
	<b>796,738.63</b>





## SOVEREIGN MINERALS

Sovereign minerals are often thought of only as assets located under the beds of navigable waters that were acquired by North Dakota at statehood; however, sovereign minerals also include the mineral estate that was acquired by the State from foreclosed farm loans or other land transactions. Substantial time and resources are dedicated to managing sovereign mineral acres.

Under N.D.C.C. § 61-33-01, the State's interest in sovereign lands extends to the ordinary high watermark (OHWM). By statute, the State Engineer's Office is responsible for defining and managing these sovereign lands, and the Board is designated to manage the oil and gas and other hydrocarbons under the surface. There has been considerable oil and gas development of the minerals which lie beneath the Missouri and Yellowstone Rivers, and other navigable waters.



On December 26, 2013, the North Dakota Supreme Court issued a decision in Reep v. State of North Dakota, which affirmed that the State holds title to mineral interests to the OHWM of navigable rivers and water bodies, unless the State has contractually granted or conveyed part of its equal footing interest to upland owners by deed for valuable consideration.

On April 21, 2017, the Governor signed SB 2134 (codified at N.D.C.C. ch. 61-33.1), which contained emergency and retroactivity clauses related to sovereign minerals under navigable waters. Under the legislation, “[t]he state sovereign land mineral ownership of the riverbed segments inundated by Pick-Sloan Missouri basin project dams extends only to the historical Missouri riverbed channel up to the ordinary high water mark.” The Department of Mineral Resources (DMR) was directed to procure a “qualified engineering and surveying firm” (Contractor) to “review the delineation of the ordinary high water mark of the corps survey segments” for the portion of the Missouri River designated as the “historical Missouri riverbed channel,” defined as “the Missouri riverbed channel as it existed upon the closure of the Pick-Sloan Missouri basin project dams, and extends from the Garrison Dam to the southern border of sections 33 and 34, township 153 North, range 102 West which is the approximate location of river mile marker 1,565, and from the South Dakota border to river mile marker 1,303.”

Following the initial review by the Contractor, the DMR will publish the findings. The DMR must hold a public hearing and allow for a 60-day public comment period. The DMR must then “consider all public comments, develop a final recommendation on each of the review findings,” and present final recommendations to the NDIC, which may adopt or modify the recommendations. The NDIC’s “action on each finding will determine the delineation of the ordinary high water mark for the segment of the river addressed by the finding.” Based on the time periods set forth in N.D.C.C. ch. 61-33.1 for the survey review and comment process, it is anticipated that the final review findings will not be approved by the NDIC until late 2018.

The revenues generated from these assets are deposited into the SIIF, which is maintained for expenditures related to improving state infrastructure including highways, cities, schools and hospitals. While challenging to manage due to inherent issues with meandering waters, the minerals underlying those river systems have provided a steady revenue stream for the benefit of all of North Dakota.

## LIGNITE

Lignite coal continues to be a profitable asset for the trusts. Coteau Properties Company, Falkirk Mining Company, BNI Coal, American Colloid Company, and Dakota Westmoreland Corporation all actively mine trust minerals. The Department manages 63 leases containing 6,059 mineral acres.

Coal lease terms are negotiated to achieve a fair rate that is comparable to those of a private fee owner. Under the authority of N.D.C.C. § 15-05-01, several coal leases were renegotiated during the biennium to ensure continued integration into mine plans and to encourage eventual production.

Senate Bill 2377, as adopted by the 2015 Legislative Assembly, separated the legal definition of leonardite from lignite. Leonardite is oxidized lignite that is used for soil conditioning and industrial applications, such as drilling fluids. The Board manages assets located under one of two leonardite mining operations in the State.

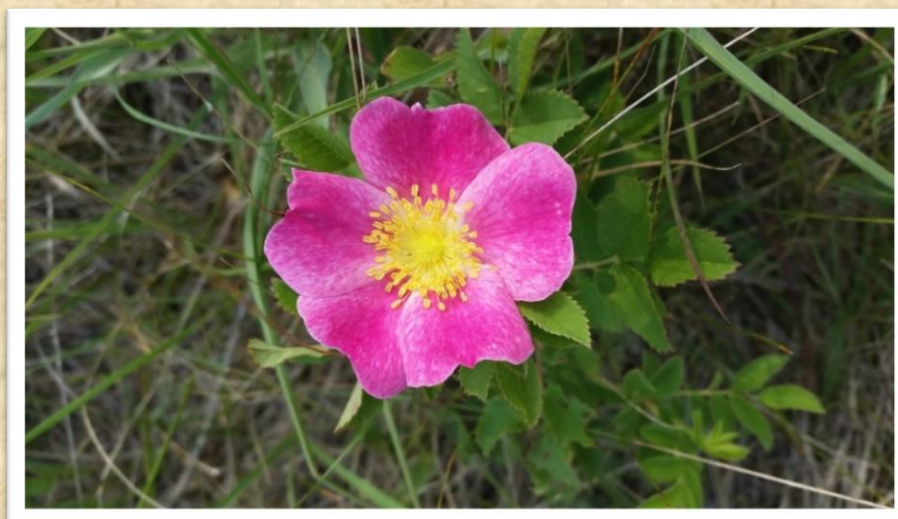




## OTHER MINERALS

Previously, there was a growing interest in North Dakota's lesser known mineral assets, including potash, uranium, and commercial grade diamonds. However, with lower commodity prices and difficulty in producing these assets, fewer prospecting firms have contacted the Department.

Oil and Gas Mineral Acres Leased by County 2015-2017			
	Acres	Bonus	Avg Bonus per Acre
Billings	11,551.71	\$ 144,885.84	\$ 12.54
Bottineau	2,337.53	\$ 5,175.06	\$ 2.21
Bowman	3,868.37	\$ 16,582.22	\$ 4.29
Burke	16,903.22	\$ 1,385,513.23	\$ 81.97
Divide	16,637.51	\$ 1,421,973.44	\$ 85.47
Dunn	10,757.51	\$ 2,519,644.59	\$ 234.22
Emmons	1,979.13	\$ 4,182.26	\$ 2.11
Golden Valley	18,469.19	\$ 175,697.27	\$ 9.51
McHenry	861.51	\$ 1,502.04	\$ 1.74
McKenzie	10,086.42	\$ 4,900,793.21	\$ 485.88
McLean	720.00	\$ 1,440.00	\$ 2.00
Mercer	450.48	\$ 900.96	\$ 2.00
Mount Pleasant, Canada	320.00	\$ 1,600.00	\$ 5.00
Mountrail	5,287.23	\$ 9,067,399.13	\$ 1,714.96
Renville	1,687.83	\$ 13,777.01	\$ 8.16
Rolette	80.00	\$ 2,560.00	\$ 32.00
Sioux	2,717.04	\$ 3,114.84	\$ 1.15
Slope	3,177.78	\$ 7,735.56	\$ 2.43
Stark	10,714.83	\$ 95,288.71	\$ 8.89
Ward	2,469.88	\$ 2,469.88	\$ 1.00
Williams	8,612.89	\$ 1,690,929.54	\$ 196.33





County	Primary Term Leases	Leases HBP	Total Leases	Primary Term Lease Acres	Held by Production Acres	Total Acres
Billings	237	303	540	24,071.81	26,945.06	51,016.87
Bottineau	88	55	143	5,689.81	3,479.85	9,169.66
Bowman	193	180	373	15,437.92	17,780.78	33,218.70
Burke	381	213	594	29,245.07	18,701.77	47,946.84
Divide	339	550	889	28,770.51	42,270.10	71,040.61
Dunn	416	581	997	32,548.13	51,757.32	84,305.45
Emmons	27	-	27	1,979.13	-	1,979.13
Golden Valley	250	25	275	26,497.87	3,296.00	29,793.87
Hettinger	4	-	4	248.00	-	248.00
McHenry	17	5	22	861.51	214.07	1,075.58
McKenzie	239	1,693	1,932	28,740.82	131,883.07	160,623.89
McLean	204	11	215	14,897.13	840.00	15,737.13
Mercer	38	-	38	2,322.67	-	2,322.67
Mountrail	267	942	1,209	18,815.84	70,408.58	89,224.42
Renville	73	34	107	5,278.04	2,705.63	7,983.67
Rolette	2	-	2	80.00	-	80.00
Sioux	20	-	20	2,717.04	-	2,717.04
Slope	303	4	307	32,679.19	240.00	32,919.19
Stark	320	165	485	24,442.85	11,934.41	36,377.26
Towner	123	-	123	8,987.55	-	8,987.55
Ward	258	5	263	17,661.64	245.57	17,907.21
Williams	124	987	1,111	10,989.82	81,074.07	92,063.89
<b>TOTAL</b>	<b>3,923</b>	<b>5,753.0</b>	<b>9,676.0</b>	<b>332,962.35</b>	<b>463,776.28</b>	<b>796,738.63</b>

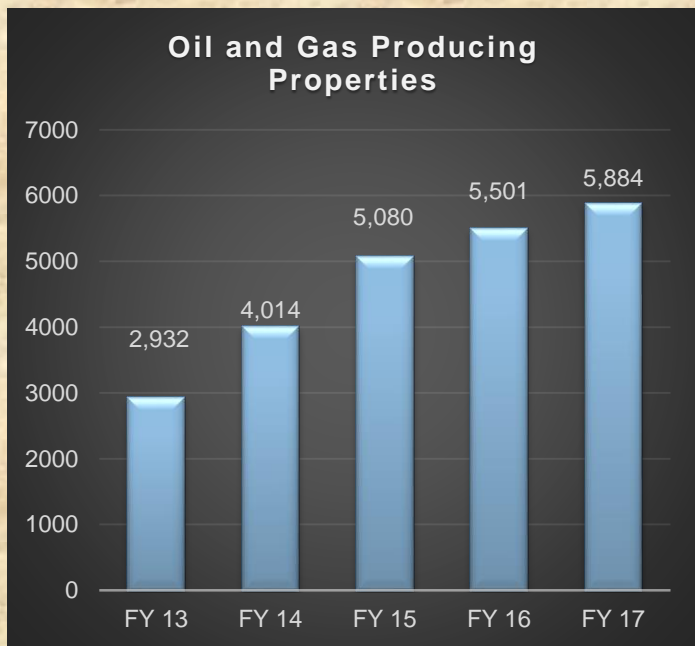
# REVENUE COMPLIANCE

Taylor Lee, Director

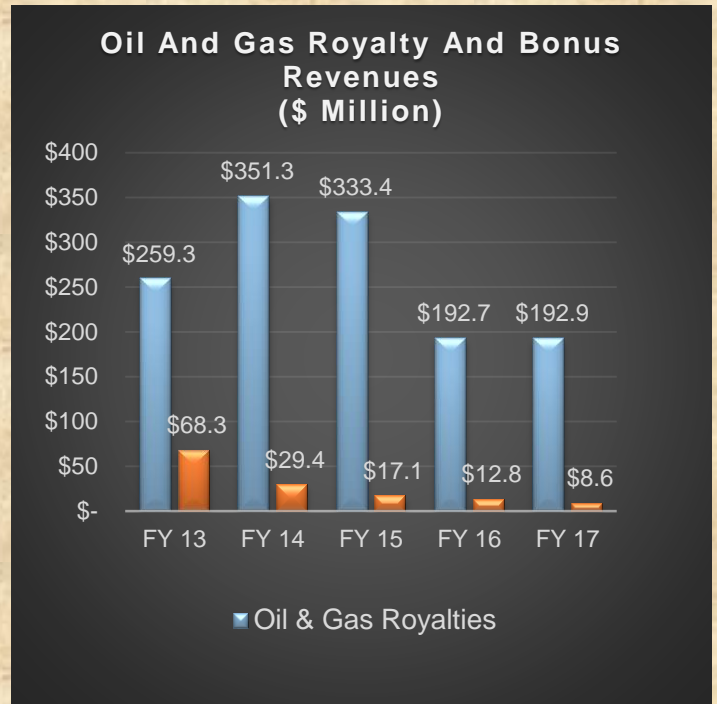
The Revenue Compliance Division is responsible for developing and implementing procedures to assure the timely and accurate accounting of all royalties, bonuses, rentals, and other revenues received. A large amount of time is dedicated to evaluating the accounting and collection of oil and gas royalties.

## OIL AND GAS ROYALTIES

Production of 5,884 producing properties, including both unitized fields and wells, was monitored during FY 2017, up from 5,501 producing properties in FY 2016. As of June 30, 2017, the Department managed an interest in over 39 percent of the 12,868 producing wells in North Dakota.

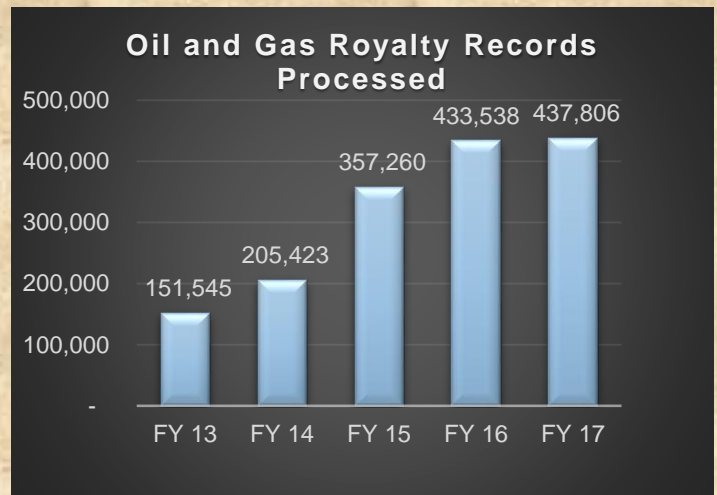


Oil and gas royalties of \$192.9 million were collected in FY 2017 and \$192.7 million in FY 2016. Bonus revenue received in FY 2017 totaled \$8.6 million, a decline from \$12.8 million in FY 2016. The bonus revenue has declined as the majority of favorable oil and gas production areas have been leased. Subsequently, as the bonus revenues declined, the oil and gas royalties generally increased with the growth in production. The FY 2016 and FY 2017 royalty revenue declined from previous years as a result of lower oil and gas prices. Despite the price decline, total oil and gas revenues remained over \$200 million during the previous five fiscal years.



## PAYMENTS

The volume of royalty records processed continues to increase.



Royalty records include current period payments and prior period adjustments. Often, multiple transactions will occur for the same property due to multiple tracts in the same spacing unit, reporting of various products, and prior period adjustments. Declining oil prices do not have an immediate effect on the volume of royalty records processed.

In October 2015, an electronic reporting form was created and provided to operators for the submission of all oil and gas royalties along with the expectation that all reports would be filed online by the end of the third quarter of FY 2016. The majority of oil and gas royalties are reported electronically, with only five of 66 operators reporting manually as of June 30, 2017. These operators represent only \$250,000 or 0.13 percent of the total royalties received in FY 2017.



## COLLECTIONS

Royalty data is reviewed for discrepancies in volume, ownership, valuation, and lease terms. These efforts have brought additional revenue to the trusts that may not have otherwise been collected.

Reported volume data is compared with the NDIC's data to identify variances. Additionally, division orders and submitted royalty reports are reviewed to identify issues. Technology systems were improved during the biennium to highlight errors and discrepancies on monthly royalty reports and to automatically calculate potential penalties owed.

The enhanced efforts have resulted in additional royalty collections over the prior four fiscal years. Additional royalties collected and additional taxes and deductions collected have declined from the previous biennium largely due to the enhanced procedures and the education of payors.

Collections				
	FY 14	FY 15	FY 16	FY 17
Additional Royalties Collected	\$ 8,052,757	\$ 2,467,181	\$ 915,778	\$ 295,678
Repaid Taxes and Deductions Taken in Error	248,958	471,200	353,256	42,580
Penalties Collected	224,201	339,525	486,998	306,473
<b>Total Collections</b>	<b>\$8,525,916</b>	<b>\$3,277,906</b>	<b>\$1,756,032</b>	<b>\$644,731</b>

## FORMAL AUDITS

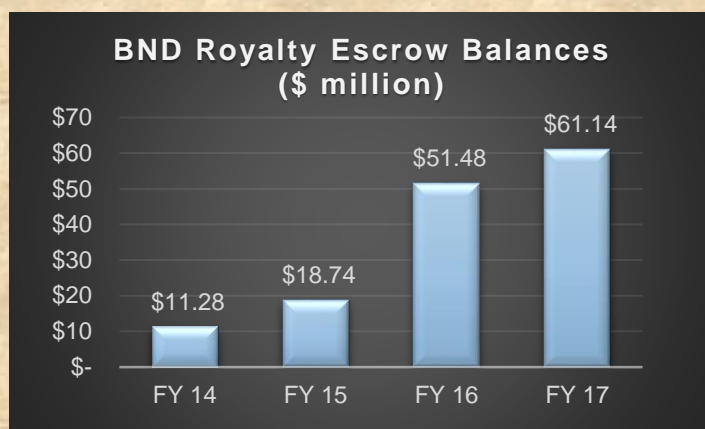
During the 2015-2017 biennium, 19 oil and gas audits were initiated. As of the close of the biennium, the audits were in various stages, but none were complete. During the initial audits, concerns were raised on the appropriate treatment of deductions as payors were inconsistent in calculating

royalties. The Department has consistently disallowed transportation and processing deductions where a gross proceeds lease was in place. The Department continues efforts to inform royalty payors of the correct method required to calculate royalties under the Board's current lease terms, in effect since 1979.

Six salt water disposal operators and two coal mine operators were audited for correct calculation of payments and royalties.

## RIVER ROYALTY ISSUES

As a result of title disputes regarding sovereign ownership of minerals beneath the bed of the Missouri and Yellowstone Rivers, the Department has encouraged operators to place all disputed royalties in escrow. Escrow accounts at the BND have seen a substantial increase in deposits from the 2013-2015 biennium to the 2015-2017 biennium.



## BANKRUPTCY MONITORING

With the declining oil prices during the biennium, several operators and lessees of trust minerals entered into bankruptcy proceedings. Bankruptcies were monitored and proofs of claim were filed, as advised. There were relatively few mineral acres at bankruptcy risk and no known royalties were lost. Bankruptcy activity subsided toward the end of the 2015-2017 biennium.

# INVESTMENT MANAGEMENT

Jeff Engleson, Chief Investments Officer

The Investment Division is responsible for directing, implementing, and monitoring the Board's investment program. As of June 30, 2017, the total value of investment assets was approximately \$4.56 billion. The majority of these assets, \$4.14 billion, are owned by 13 permanent educational trusts under the Board's control, while the remainder are owned by the SIIF, Coal Development Trust Fund, Capitol Building Fund and Indian Cultural Education Trust.

The type of investment assets owned by each trust fund is determined by the Board based on the fund's nature and purpose, its investment goals and objectives, and the timing and amount of distributions from that fund.

The 13 educational and institutional trust funds managed by the Board are permanent. The Indian Cultural Education Trust, which has a similar purpose to the educational trust funds, is pooled and invested with these trust funds.

The investment goal for the permanent trust funds is to grow trust assets and distributions at a rate that meets or exceeds the rate of inflation. To that end, the Board has developed an investment allocation plan that includes a diversified portfolio of stocks, bonds, real estate and other financial assets.

The Board is responsible for administering the Coal Development Trust Fund to provide loans to political subdivisions. Any monies that have not been lent are invested. With loans to political subdivisions of \$60.91 million, the remaining \$7.95 million was invested in a short-term, high-quality bond portfolio, to ensure that funds are available to make loans when needed. The expendable nature of both the SIIF and Capitol Building Fund results in these trusts being pooled and invested along with the Coal Development Trust Fund in a short-term, high-quality bond portfolio.

**TOTAL ASSETS UNDER  
MANAGEMENT GREAT BY  
\$227.22 MILLION DURING  
THE 2015-2017 BIENNIUM**

The types of assets held by the trusts and funds include:

- ◆ **Marketable Securities and Cash Equivalents:** At the end of the biennium, \$4.46 billion of investment securities and cash equivalents were held at the custodian bank and managed by investment professionals to achieve specific investment goals and objectives. An additional \$8.5 million of cash was held at the BND.
- ◆ **Farm and Energy Construction Loan Pools:**
  - As of June 30, 2017, the permanent trust funds owned \$7.63 million of farm real estate loans in the Farm Loan Pool.
  - In addition, the Common Schools Trust Fund owned \$1.22 million of loans in the Energy Construction Loan Pool for hotels, apartments and multi-family housing in western North Dakota. The Department works closely with the BND in monitoring these loans.
- ◆ **Other Loans:** As of the close of the biennium \$48.25 million of school construction loans and \$12.66 million of coal warrants from coal impacted political subdivisions were held by the Coal Development Trust Fund.
- ◆ **Loan Guarantee:** At the end of the biennium, \$17.22 million of SIIF funds were held in an interest bearing account at the BND, where the funds are used to guarantee a loan for the Dakota Spirit AgEnergy biofuels plant near Spiritwood, North Dakota.

## INVESTMENT STUDY

During the 2015-2017 biennium, the Board completed the implementation phase of the RVK investment study, the results of which included a revised investment asset allocation initially adopted by the Board in 2013.

During the biennium, the Board adopted a formal Investment Policy Statement (IPS). The IPS defines a framework for the management of an investment program. It describes the authority, establishes goals and objectives, defines roles and responsibilities, and expresses limits and boundaries for each entity involved in management of an investment program.

The Board reaffirmed its decision to manage the investments under its authority with the assistance of Department staff and a retained investment consultant. Other options considered included hiring an outside private investment officer or transferring responsibility and paying the State Investment Board to manage the investments. The Board's direct role and responsibility is implicit in its direct hiring of investment managers and the adoption of an IPS.



The Board completed the funding of the final 11 percent of the permanent trusts' 15 percent allocation to real estate assets.

The Board adopted revised investment guidelines for the Coal Development Trust Fund and implemented a new short-term fixed income pool for the non-permanent trusts to be managed in an ultra-short fixed income strategy.

**THE PERMANENT TRUSTS ARE INVESTED TO "PRESERVE THEIR PURCHASING POWER AND TO MAINTAIN DISTRIBUTIONS" TO FUND BENEFICIARIES**

**PERMANENT TRUST INVESTMENTS**

As the biennium started, the Board was in the process of implementing a new asset allocation for the permanent trusts. Although real estate managers had been hired, only about 4.1 percent of the permanent trusts' 15 percent allocation to real estate had been funded. The permanent trusts' real estate portfolio was fully funded in early October 2016 with the transfer of \$28.25 million to the J.P. Morgan Income and Growth fund.

At the beginning of the biennium, the underweight to real estate was spread between the other five broad asset classes. Due to uncertainty as to when all funds would be deployed, the Board slowly transitioned the target allocation for the permanent trusts' from the June 30, 2015 target to the long-term target as each real estate mandate was funded.

The long-term target allocation for the permanent trusts became effective as of October 1, 2016.

In July 2015, the Board approved a contract with RVK to provide comprehensive consulting service including performance monitoring, asset allocation work, assistance with manager searches, ongoing due diligence, investment advice and client education. RVK is a fiduciary partner in the Board's investment program.

During the biennium, the Board received RVK provided quarterly performance reports and undertook detailed reviews of the each broad asset class in the permanent trusts' portfolio. Investment fee and securities lending reports were reviewed which included comparisons to similar entities. Efforts continued to develop and enhance manager due diligence through quarterly manager reviews, telephone calls, visits by managers to Bismarck, and staff visits to money managers' offices.

The Board's IPS requires that the permanent trusts' asset allocation and manager structure be reviewed at least every four years. As the biennium drew to a close, a new asset allocation study was initiated to assess if the allocation adopted by the Board in 2013 remained reflective of the Board's expressed risk and return expectations.

Actual Versus Target Asset Allocation as of June 30, 2017						
Asset Class	Actual \$ million	Actual %	Target \$ million	Target %	Difference \$ million	% Difference
			\$			
Equities	\$ 1,322.46	32.0%	1,324.81	32.0%	(\$ 2.35)	0.0%
Fixed Income	\$ 936.72	22.6%	\$ 952.21	23.0%	(\$ 15.49)	(0.4%)
Absolute Return	\$ 825.59	19.9%	\$ 828.01	20.0%	(\$ 2.42)	(0.1%)
Diversified Inflation Strategies	\$ 418.78	10.1%	\$ 414.00	10.0%	\$ 4.78	0.1%
Real Estate	\$ 636.48	15.4%	\$ 621.00	15.0%	\$ 15.48	0.4%
	\$		\$			
Total Portfolio	4,140.03	100.0%	4,140.03	100.0%		

**PORTFOLIO RETURNS AND PERFORMANCE**

The permanent trusts posted a net return of 9.50 percent during FY 2017 after posting a net return -0.63 percent during FY 2016. During the biennium, real estate was the best performing asset class, posting a biennial average annual return of 10.91 percent. Unfortunately, because investment queues delayed the full funding of the real estate portfolio until October 2016, the trusts did not get the full benefit of this asset class' returns. With an annualized return of 10.52 percent, domestic equities were the next strongest performing asset class during the biennium.

The trusts' diversified inflation strategies portfolio was the poorest performer during the biennium, posting an average annual return of -5.43 percent. With oil prices down from previous record highs and few signs of inflation in the economy, this was not unexpected. Most of the trusts' fixed income portfolios posted low single-digit annual returns for the biennium, as near historic low interest rates persisted during the biennium.

<b>Portfolio Returns For Periods Ending June 30, 2017</b>						
<b>Asset Class</b>	<b>6/30/17 Allocation (\$ mil.)</b>	<b>% of Total Portfolio</b>	<b>Last 1 Year</b>	<b>Last 3 Years</b>	<b>Last 5 Years</b>	<b>Last 7 Years</b>
Broad US Equities	\$701.63	17.0%	19.22	9.00	13.72	14.04
Broad International Equities	\$620.83	15.0%	20.25	1.23	9.72	7.97
Fixed Income	\$936.72	22.6%	2.29	2.99	3.13	4.22
Absolute Return	\$825.59	19.9%	9.79	2.12	N/A	N/A
Diversified Inflation Strategies	\$418.78	10.1%	-0.42	-2.69	N/A	N/A
Real Estate	\$636.48	15.4%	9.85	(initial funding June 2015)		
<b>TOTAL PORTFOLIO</b>	<b>\$4,140.03</b>	<b>100.0%</b>	<b>10.07</b>	<b>3.44</b>	<b>6.97</b>	<b>7.87</b>
<b>TOTAL PORTFOLIO (Net of fees)</b>			<b>9.50</b>	<b>3.00</b>	<b>6.58</b>	<b>7.53</b>
<b>All figures for periods of 1 year or greater have been annualized. All returns are gross of fees unless noted.</b>						

The permanent trusts' current asset allocation provides considerably more risk and return diversification than the 51 percent stock and 49 percent fixed income portfolio held by the trusts prior to 2013. The asset allocation was implemented when stocks were near all-time highs and interest rates were near all-time lows and it was designed to increase returns and reduce risk by diversifying into other non-correlated assets.

With collective equities' continued strong returns and interest rates and inflation remaining low, the permanent trusts have not needed either the downside protection or inflation protection the current asset allocation provides; however, the permanent trusts are invested for a perpetual time horizon and the current portfolio is optimized to provide steady returns in most markets, while protecting the trusts' downside risk.

### **OTHER TRUST INVESTMENT ASSETS**

Historically, the Coal Development Trust fund had been invested in a short-term diversified bond portfolio, while the SIIF and Capital Building Fund were invested in short-term Treasury securities. Work done as a part of the investment study also resulted in changes in the way the non-permanent trusts are invested.

Early in the biennium the Board adopted revised investment guidelines for the SIIF and Coal Development Trust Fund that were exactly the same. At the Commissioner's request, the Capitol Grounds Planning Commission also adopted the same guidelines for the Capitol Building Fund. These funds are pooled in an ultra-short fixed income portfolio, managed for a duration of between .5 and 1.5 years, to take advantage of the short end of the yield curve while maintaining liquidity needed for distributions and use for loans.

During the 23 months this portfolio was funded, it produced an annualized return of 1.37 percent; the portfolio returned 1.07 percent during FY 2017. The portfolio has outperformed the benchmark for the portfolio by over 0.6 percent since inception.

### **Summary**

During the biennium, the total investment assets managed by the Board and the Department continued to grow to new all-time highs. The adoption of a new, more diversified asset allocation for the permanent trusts is now fully funded and should result in increased returns with less risk than the previous strategy.

The investment policy statement and investment guidelines are a comprehensive assemblage of policies and objectives of the Board's investment program. The Board's investment consultant partner RVK, provides valuable information and analysis that adds value to the Board's investment program.

The efforts to increase returns for the non-permanent other funds managed by the Board, while maintaining the liquidity for distributions, have had a positive influence on returns.



# FINANCIAL REPORTS

BOARD OF UNIVERSITY AND SCHOOL LANDS					
Statement of Appropriations					
2015-17 Biennium					
	Original	Final Adjusted	First Year	Second Year	Unexpended
	Appropriation	Appropriation	2016 Expenditures	2017 Expenditures	Appropriation
					on 6/30/17
<b>Trust Lands Maintenance Fund:</b>					
Salaries and Wages	\$ 6,123,516	\$ 6,131,344	\$ 2,544,743	\$ 2,746,809	\$ 839,792
Operating Expenses	\$ 2,019,637	\$ 2,019,637	\$ 573,851	\$ 952,982	\$ 492,804
Contingencies	\$ 100,000	\$ 100,000	\$ -	\$ -	\$ 100,000
	\$ 8,243,153	\$ 8,250,981	\$ 3,118,594	\$ 3,699,791	\$ 1,432,596
<b>Energy Development Impact Office:</b>					
EIO Grants	\$ 139,300,000	\$ 139,300,000	\$ 27,403,058	\$ 16,294,975	\$ 95,601,967
EIO Operating	\$ 700,000	\$ 700,000	\$ 319,313	\$ 253,929	\$ 126,758
Flood Infrastructure Development Grants	\$ -	\$ 5,981,231	\$ 3,301,991	\$ -	\$ 2,679,240
	\$ 140,000,000	\$ 145,981,231	\$ 31,024,362	\$ 16,548,904	\$ 98,407,965
<b>Strategic Investment and Improvements Fund:</b>					
	Approved 2015-17	2016 Expenditures	2017	Approved 2017-19	Unexpended
	Biennial	(including 2016	Expenditures	Biennial with	Appropriation
	Appropriation	Emergency		Emergency	
		Clause)		Clauses	
ND Department of Transportation (HB 1012)	\$ 7,000,000	\$ 3,500,000	\$ 3,500,000		\$ -
ND Industrial Commission(HB 1014)	13,625,322	13,625,322			\$ -
ND Commerce Department (HB 1018)	7,500,000	7,500,000			\$ -
ND State University - Main Research Center (HB 1020)	18,000,000	3,000,000	15,000,000		\$ -
Commission on Legal Counsel for Indigents (HB 1022)	200,000		200,000		\$ -
ND Commerce Department (HB 1285)	650,000	650,000			\$ -
Bank of North Dakota (HB 1443)	50,000,000	50,000,000			\$ -
Bank of North Dakota (SB 2012)	49,891,582	49,891,582			\$ -
Bank of North Dakota (SB 2039)	150,000,000	150,000,000			\$ -
ND State Treasurer and ND Dept of Transportation (SB 2103)	1,100,000,000	1,100,000,000			\$ -
Legal Counsel of Indigents (HB 1024)			189,000	\$ 189,000	\$ -
ND Department of Health (HB 1024)			250,000	250,000	\$ -
ND Department of Human Services (HB 1024)			9,000,000	9,000,000	\$ -
Adjutant General (HB 1024)			79,500	79,500	\$ -
ND State Historical Society (HB 1024)			50,000	50,000	\$ -
ND State Treasurer (HB 1024)			8,100,000	8,100,000	\$ -
ND Attorney General (HB 1024)			-	15,872,000	\$ 15,872,000
ND Department of Mineral Resources (SB 2134)			800,000	800,000	\$ -
North Dakota State University (HB 1015)			1,634,854	1,634,854	\$ -
Office of Management & Budget (HB 1024)			155,000,000	155,000,000	\$ -
	\$ 1,396,866,904	\$ 1,378,166,904	\$ 193,803,354	\$ 190,975,354	\$ 15,872,000

# Permanent Funds

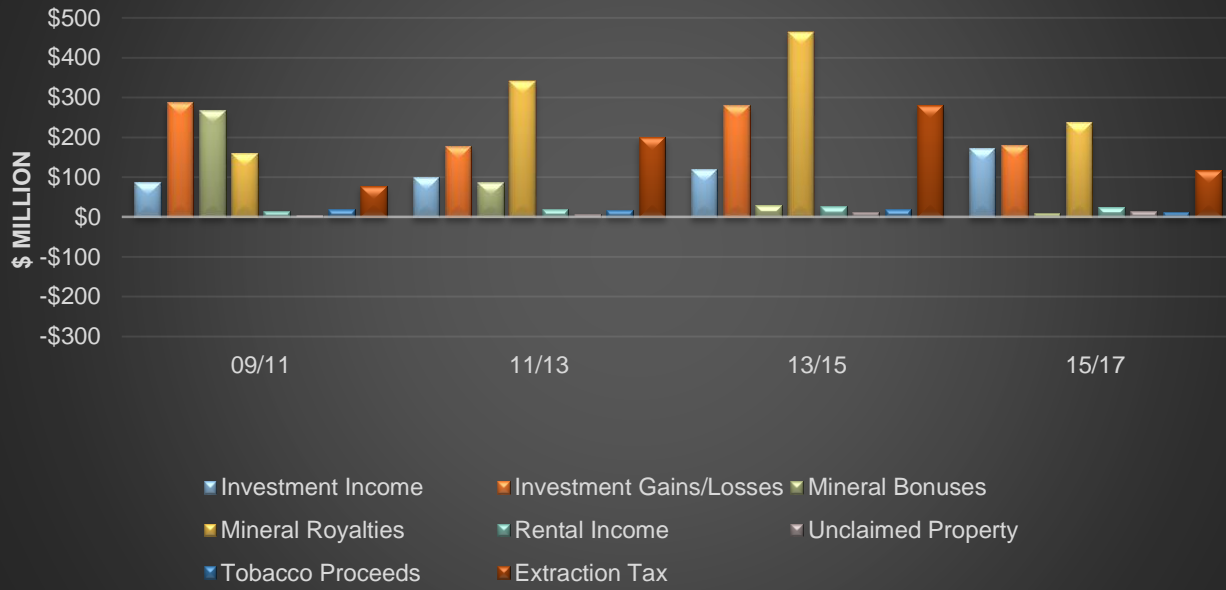
<b>Net Asset Balances by Trust</b>				
	<b>06/30/11</b>	<b>06/30/13</b>	<b>06/30/15</b>	<b>06/30/17</b>
Common Schools	\$1,622,412,984	\$2,417,363,782	\$3,437,998,002	\$3,940,114,988
North Dakota State University	26,211,666	40,849,758	55,758,440	63,241,607
School for the Blind	3,130,370	5,642,741	7,617,521	10,159,769
School for the Deaf	9,352,875	14,035,624	18,477,691	19,845,572
State Hospital	9,300,413	11,124,623	12,809,810	13,746,807
Ellendale State College	4,592,559	6,528,016	15,774,054	18,510,939
Valley City State University	4,453,923	6,677,677	9,801,420	11,165,356
Mayville State University	2,854,879	4,755,521	6,412,308	7,061,910
Industrial School	10,387,494	16,341,908	15,898,150	20,707,893
State College of Science	8,593,518	11,165,942	14,463,078	15,711,207
School of Mines (UND)	10,132,213	12,794,656	16,554,375	18,457,171
Veterans Home	3,035,395	4,036,445	4,748,255	5,066,871
University of North Dakota	12,942,682	18,602,001	26,204,749	28,949,870
<b>Total</b>	<b>\$1,727,400,971</b>	<b>\$2,569,918,694</b>	<b>\$3,642,517,853</b>	<b>\$4,172,739,960</b>

<b>Permanent Trust Revenues by Trust</b>				
	<b>09/11</b>	<b>11/13</b>	<b>13/15</b>	<b>15/17</b>
Common Schools	\$863,203,537	\$899,547,681	\$1,170,639,211	\$728,040,349
North Dakota State University	14,714,384	16,320,293	17,358,335	11,306,672
School for the Blind	1,476,307	2,770,039	2,316,931	3,075,343
School for the Deaf	5,544,552	5,224,176	5,287,019	2,690,300
State Hospital	4,181,005	2,461,790	2,522,717	2,028,250
Ellendale State College	2,820,533	2,205,740	2,510,740	3,400,687
Valley City State University	2,279,205	2,564,651	3,570,453	2,027,247
Mayville State University	1,443,349	2,123,213	1,946,463	1,094,940
Industrial School	6,731,725	6,590,087	7,670,780	6,353,406
State College of Science	4,410,980	3,134,279	4,078,830	2,351,591
School of Mines (UND)	4,898,211	3,298,466	4,662,940	3,167,036
Veterans Home	1,136,568	1,281,524	1,029,791	720,738
University of North Dakota	7,362,237	6,444,075	8,814,282	4,579,920
<b>Total</b>	<b>\$920,202,593</b>	<b>\$953,966,014</b>	<b>\$1,232,408,492</b>	<b>\$770,836,479</b>

<b>Permanent Trust Revenues by Source</b>				
	<b>09/11</b>	<b>11/13</b>	<b>13/15</b>	<b>15/17</b>
Investment Income	\$88,258,418	\$100,417,162	\$120,097,821	\$173,556,715
Investment Gains/Losses	286,647,894	178,153,865	280,564,891	180,953,947
Mineral Bonuses	268,760,195	87,628,350	30,584,547	9,427,396
Mineral Royalties	159,652,727	340,364,328	463,977,085	237,237,632
Mineral Rentals	1,404,486	754,167	2,325,677	541,533
Surface Rentals	13,899,500	19,698,331	24,802,338	24,815,776
Unclaimed Property	5,724,147	8,168,244	11,667,540	14,359,009
Tobacco Settlement Proceeds	18,102,049	18,024,419	18,966,007	13,174,004
Extraction Tax	77,753,177	200,757,148	279,422,586	116,770,467
<b>Total</b>	<b>\$920,202,593</b>	<b>\$953,966,014</b>	<b>\$1,232,408,492</b>	<b>\$770,836,479</b>



## Sources of Permanent Trust Revenues



## Other Funds

### Strategic Investment and Improvements Fund

Net Asset Balances & Biennial Transfers				
	6/30/11	6/30/13	6/30/15	6/30/17
Net assets	\$ 249,074,431	\$ 969,920,162	\$ 793,726,995	\$ 372,661,563
<b>Total Transfers</b>	<b>\$ 35,814,077</b>	<b>\$ 312,356,917</b>	<b>\$ 1,428,930,10</b>	<b>\$ 708,470,258</b>

Revenues by Source				
	09/11	11/13	13/15	15/17
Investment Income	\$ 2,188,864	\$ 2,065,673	\$ 6,309,054	\$ 9,402,191
Mineral Royalties	53,194,129	138,293,182	220,997,679	131,899,462
Mineral Bonuses	197,435,151	106,922,161	22,706,090	11,709,227
Rental Income	691,442	359,505	290,430	223,930
Oil and Gas Tax Transfer	-	786,998,032	1,004,342,045	136,541,741
<b>Total</b>	<b>\$ 253,509,586</b>	<b>\$ 1,034,638,553</b>	<b>\$ 1,254,645,298</b>	<b>\$ 289,776,551</b>

### Non-Investment SIIF Assets Held as of June 30, 2017

Loan Guarantee – Fuel Production Facility	\$17,222,399
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The Board established \$239,325,049 of the June 30, 2017 SIIF balance as an "Assigned Fund Balance" stipulating that these funds should not be transferred from the SIIF until potential title disputes related to certain riverbed leases have been resolved. The Assigned Fund Balance includes \$187 million for potential refunds appropriated in SB 2134 as adopted by the 2017 Legislature.

The 2015 Legislative Assembly passed legislation that transferred \$249,891,582 of SIIF cash and ongoing loan programs to the BND:

- HB 1443 created the infrastructure revolving loan fund with \$50 million from the SIIF. In February 2016, the funds were transferred to the BND to provide loans to political subdivisions for essential infrastructure.
- SB 2012 transferred the \$50 million Medical Facility Infrastructure Fund from the SIIF to the BND by turning the fund into a revolving loan fund. The assets were transferred to the BND in July 2015.
- With \$150 million of school construction loans previously held by the SIIF, SB 2039 created a revolving School Construction Loan Assistance Fund (SCALF). As of June 30, 2015, the entire \$150 million had been lent to 18 school districts. The transfer was contingent on voter approval of a Constitutional Measure #2 in November 2016; with the adoption, the assets of the SCALF were transferred to the BND in January 2017.

During the 2015-2017 biennium, approximately \$500.3 million was appropriated from the SIIF, of which \$458,578,676 was transferred as follows:

**Appropriated by the 2015 Legislative Assembly:**

- HB 1012: \$7 million to the Department of Transportation – short line railroad program
- HB 1014: \$13,125,322 to the Industrial Commission – for drilling core library
- HB 1018: \$7.5 million to the Department of Commerce – lease grant program for unmanned aerial vehicles
- HB 1020: \$18 million to the NDSU Research Center – veterinarian diagnostics laboratory
- HB 1022: \$200,000 Commission on Legal Counsel for Indigents – contract service fees
- HB 1285: \$650,000 Department of Commerce – for domestic violence shelter grants
- SB 2103: \$237 million Department of Transportation – “surge spending” for energy development infrastructure

SB 2015 from the 2015 Legislative Session contained a contingent appropriation of \$25.85 million to the Department of Transportation that did not occur due to the contingency clause not being met.

**Appropriated by 2017 Legislative Assembly (emergency clause):**

- HB 1015: \$1,634,854 to NDSU – costs related to collapse of Minard Hall
- HB 1024:
  - \$8.1 million to State Treasurer – property tax relief
  - \$189,000 to Commission on Legal Counsel for Indigents
  - \$250,000 to Department of Health – for operating expenses
  - \$9.0 million to Department of Human Services – for medical assistance grants
  - \$79,500 to the Adjutant General – disaster costs
  - \$50,000 to State Historical Society – litigation expenses
  - \$155 million transfer to the General Fund
  - \$15.872 million to the Attorney General – lawsuit settlement (contingent)
- SB 2134: \$800,000 to the Department of Mineral Resources – riverbed survey

The \$15.872 million contingent appropriation in HB 1024 had not been transferred to the Attorney General by the end of the 2015-2017 biennium; it is expected to be transferred during fiscal year 2018.



## Coal Development Trust Fund

<b>Net Asset Balances and Biennial Transfers</b>				
	<b>6/30/11</b>	<b>6/30/13</b>	<b>6/30/15</b>	<b>6/30/17</b>
Net assets	\$ 63,449,567	\$ 65,300,138	\$ 67,371,340	\$ 69,080,947
Transfers to State General Fund	\$ 2,505,172	\$ 1,898,390	\$ 1,654,318	\$ 1,826,861

<b>Revenues by Source</b>				
	<b>09/11</b>	<b>11/13</b>	<b>13/15</b>	<b>15/17</b>
Investment Income	\$ 2,397,776	\$ 1,854,648	\$ 1,865,761	\$ 1,735,689
Investment Gain/Losses	\$ 571,593	\$ 157,441	\$ 74,234	\$ (45,041)
Severance Tax Income	\$ 1,939,375	\$ 1,869,177	\$ 1,940,158	\$ 1,882,024
<b>Total</b>	<b>\$ 4,908,744</b>	<b>\$ 3,881,266</b>	<b>\$ 3,880,153</b>	<b>\$ 3,572,672</b>

<b>Coal Development Trust Fund Assets Held as of June 30, 2017</b>	
School Construction Loans	\$ 48,247,859
Coal Impact Loans	\$ 12,659,515
Investments	\$ 7,948,055

Within SB 2272, the 2017 Legislative Assembly changed the school construction loan program within the Coal Development Trust Fund from a program for loans for major school construction projects, to a program for loans to schools with unanticipated construction projects and emergency repairs of less than \$2 million. The maximum of school construction loans from this fund was also increased from \$50 million to \$60 million.

## Capitol Building Fund

<b>Net Asset Balances and Biennial Transfers</b>				
	<b>6/30/11</b>	<b>6/30/13</b>	<b>6/30/15</b>	<b>6/30/17</b>
Net assets	\$ 3,367,502	\$ 2,841,003	\$ 5,903,878	\$ 5,089,876
Transfers to Facility Management	\$ 106,700	\$ 1,809,000	\$ 1,092,000	\$ 3,747,500

<b>Revenues by Source</b>				
	<b>09/11</b>	<b>11/13</b>	<b>13/15</b>	<b>15/17</b>
Investment Income	\$53,337	\$21,249	\$18,412	\$634,344
Investment Gains/Losses				19,485
Mineral Royalties	487,419	956,004	3,849,838	1,988,887
Mineral Bonuses	1,435,621	28,539	24,722	3,436
Rental Income	209,729	326,546	318,813	358,244
<b>Total</b>	<b>\$ 2,186,106</b>	<b>\$ 1,332,338</b>	<b>\$ 4,211,785</b>	<b>\$ 3,044,396</b>

Distributions from this fund were used primarily to build the new governor's residence on the capitol grounds as provided in SB 2304, which was passed by the 2015 Legislative Assembly.

## Indian Cultural Education Trust

<b>Net Asset Balances and Biennial Transfers</b>				
	<b>6/30/11</b>	<b>6/30/13</b>	<b>6/30/15</b>	<b>6/30/17</b>
Net assets	\$ 667,591	\$ 759,091	\$ 1,173,978	\$ 1,223,831
Transfers to Beneficiary	-	-	-	\$ 53,094

<b>Revenues by Source</b>				
	<b>09/11</b>	<b>11/13</b>	<b>13/15</b>	<b>15/17</b>
Investment Income	\$ 38,587	\$ 33,978	\$ 35,709	\$ 53,514
Investment Gain/Losses	140,980	58,339	80,608	51,427
Rental Income	6,601	4,000	4,000	4,900
Donation	-	-	300,000	
<b>Total</b>	<b>\$ 186,168</b>	<b>\$ 96,317</b>	<b>\$ 420,317</b>	<b>\$ 109,841</b>

During the 2015-2017 biennium the Indian cultural Education Trust grew to \$1.22 million.

This trust made distributions of \$26,547 to the Mandan Hidatsa & Arikara Nation Cultural Education Foundation during both years of the biennium. These are the first distributions made from this trust.



# ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Gerard Schwan, Administrator

The purpose of the EIO is to provide financial assistance to political subdivisions of government experiencing adverse impacts as a direct result of oil and gas activity. The program receives a portion of the Oil and Gas Gross Production Tax. The amount of funding available to this program was \$8 million in the 2009-2011 biennium, increased to \$135 million in the 2011-2013 biennium and increased again for the 2013-2015 biennium when \$240 million was appropriated to the Oil and Gas Impact Grant Fund.

The appropriation for the 2015-2017 biennium was \$140 million; however, a sharp drop in gross production tax collections resulted in severely reduced revenues from the Gross Production Tax. The reduced revenues limited the Board's ability to proceed with awarding grant priorities referenced in the 2015 legislative intent, which specified grants for the following areas:

2015 Legislative Appropriation Targets	
Airports	\$48,000,000
K-12 School Districts	\$30,000,000
Law Enforcement	\$10,000,000
Critical Access Hospitals	\$10,000,000
Bowman/Divide County	\$8,000,000
Emergency Medical Services	\$6,000,000
Political Subdivisions	\$5,000,000
Nursing Homes / Basic Care Facilities	\$4,000,000
Fire Departments	\$3,000,000
Providers to Developmentally Disabled	\$2,000,000
Domestic Violence Shelters	\$2,000,000
District Health Units	\$2,000,000
Cities of Stanley, Kenmare, Berthold, and Burlington	\$2,500,000
Human Trafficking	\$750,000
Sexual Assault Nurse Examiner Services	\$250,000

Deposits into the Oil and Gas Impact Grant Fund fell sharply, from nearly \$7 million per month in the summer of 2015 to \$135,000 in April 2016. The Board suspended further grant awards in February 2016. It was not until December 2016 that the gross production tax collections were sufficient to provide for grants. By the end of the biennium only \$56 million, or approximately 42 percent of the 2015 legislative allocation, was able to be granted.

There were 19 grant rounds conducted during the biennium; however, during the 2017 Legislative Session, SB 2013 authorized the Board to award grants beyond the end of the biennium and award funds in the 2017-2019 biennium.

Criteria used for the Board's consideration for grant decisions:

- Project need as a direct result of impacts caused by oil and gas development and production.
- The safety of the public, emergency services responders and providers and others protected or improved by completion of the project.
- The proposed project's compliance with the focused objective of the grant round.
- Demonstration of financial need based on local finances, tax levy, cash, debt, unused award funds, and other revenue sources.
- Project readiness and achievability based on design, planning, vendor bids, and completed project organization.
- The project contributing to long-term economic benefit.

The EIO addressed several unmet needs during the biennium. The Board was able to fund an emergency request from Missouri Ridge Township (Williams County) for repairs to township roadways. The Board also responded to changes by the 2017 Legislative Assembly which reallocated some funds previously set aside for law enforcement activities. These funds were ultimately used to support the administrative and operational costs of the Statewide Automated Victims Information and Notification (SAVIN) program (HB 1003) and a separate re-appropriation toward combatting human trafficking efforts (SB 2203). Additionally, within HB 1015, adopted by the 2017 Legislative Assembly, a grant was authorized to a provider of services to developmentally disabled citizens in north central and northwest North Dakota.

With multiple sectors of grant legislation appropriated, the Board established several advisory committees to assist with award prioritization and recommendations.

Committees included:

- 1) Critical Access Hospitals Advisory Committee consisting of hospital administrators, representatives from the North Dakota Hospital Association, and a representative of the North Dakota Department of Health;
- 2) Law Enforcement Advisory Committee consisting of the Attorney General's Drug and Violent Crime Policy Board;
- 3) K-12 Schools Advisory Committee which included superintendents from several school districts;
- 4) Airports Advisory Committee comprised of members of North Dakota Aeronautics Commission;
- 5) Fire Districts Advisory Committee comprised of area fire chiefs and a representative of the State Fire Marshal;
- 6) Emergency Medical Services (EMS) Advisory Committee included EMS leaders and a representative of the Department of Health;
- 7) Nursing Home/Home Health Advisory Committee included administrators of various long term care facilities and a representative from the North Dakota Long Term Care Association;
- 8) Domestic Violence Shelter Advisory Committee which included experts within the field, and representatives from the North Dakota Department of Health and Department of Commerce; and
- 9) District Health Unit Advisory Committee which included representatives from the Association of Counties, the North Dakota Health Department, and the three district health units.

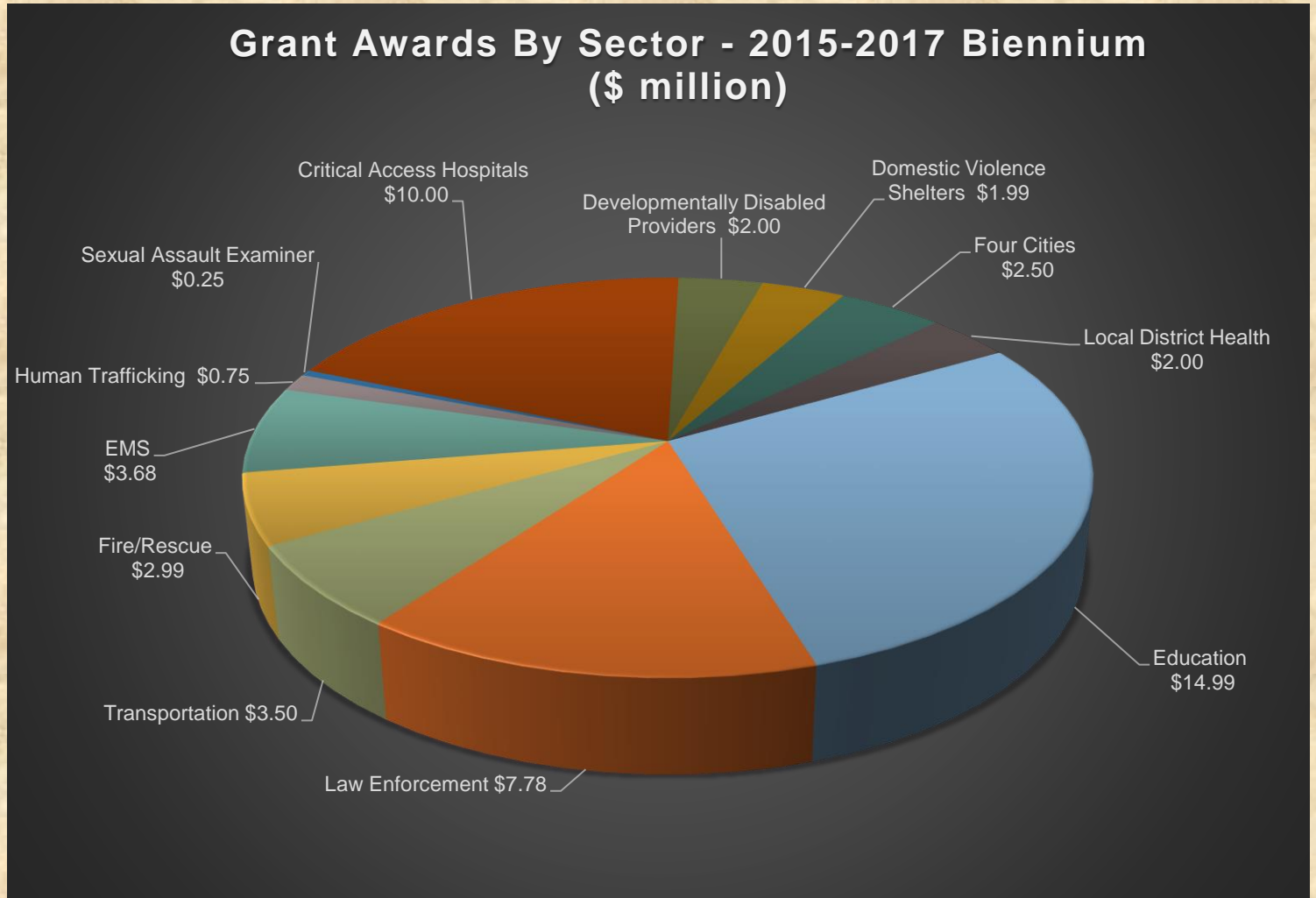
Many political subdivisions were impacted by the oil and gas development within the Bakken region. During the biennium, 370 grant requests were received requesting more than \$92 million in financial support. Applications were received from entities within 37 of the North Dakota's 53 counties. The Board approved \$56 million in awards through 317 grants to various communities, counties, fire departments, EMS agencies, school districts, law enforcement agencies, and other entities supporting public safety, security, or health.

Grant payments are provided on a reimbursement basis after documentation of phases and project completion is received. The following chart depicts the location of organizations or political subdivisions which received grant payments during for grants awarded during the 2015-2017 or earlier biennia:

<b>Total Grant Payments Made, by County</b>			
<b>2015-2017 Biennium</b>			
ADAMS	\$188,068	MCLEAN	\$916,789
BILLINGS	\$1,235,633	MERCER	\$423,849
BOTTINEAU	\$2,673,306	MORTON	\$257,144
BOWMAN	\$1,575,754	MOUNTRAIL	\$25,122,144
BURKE	\$1,994,382	PEMBINA	\$6,442
BURLEIGH	\$518,050	PIERCE	\$144,576
DIVIDE	\$4,128,729	RENVILLE	\$1,772,865
DUNN	\$5,187,869	SHERIDAN	\$1,054
GOLDEN VALLEY	\$2,644,443	SLOPE	\$150,610
GRAND FORKS	\$4,976	STARK	\$18,215,946
HETTINGER	\$119,082	STUTSMAN	\$5,858
MCHENRY	\$69,546	WARD	\$14,939,419
MCKENZIE	\$27,184,719	WILLIAMS	\$27,284,386
		<b>TOTAL</b>	<b>\$136,607,709</b>



The Board awarded the following grants, by sector, during the 2015-2017 biennium:



# UNCLAIMED PROPERTY

Susan Dollinger, Administrator

The Unclaimed Property Division administers and enforces the Uniform Unclaimed Property Act (N.D.C.C. ch. 47-30.1) which has been in effect since 1975. The program's objectives are to reunite lost and abandoned property with its rightful owner and to safeguard this property from being used for personal gain by non-owners. The property is maintained to the credit of the Common Schools Trust Fund with revenue earned on the investment of properties benefiting school funding.

## CLAIMS

During the biennium, there was a marked increase in both the total dollar amount returned to owners and the number of claims paid compared to previous biennia. In the 2015-2017 biennium, \$9.3 million was returned to owners compared to \$4.9 million during the 2013-2015 biennium.

**90% INCREASE IN THE AMOUNT RETURNED TO OWNERS COMPARED TO THE PRIOR BIENNIUM.**

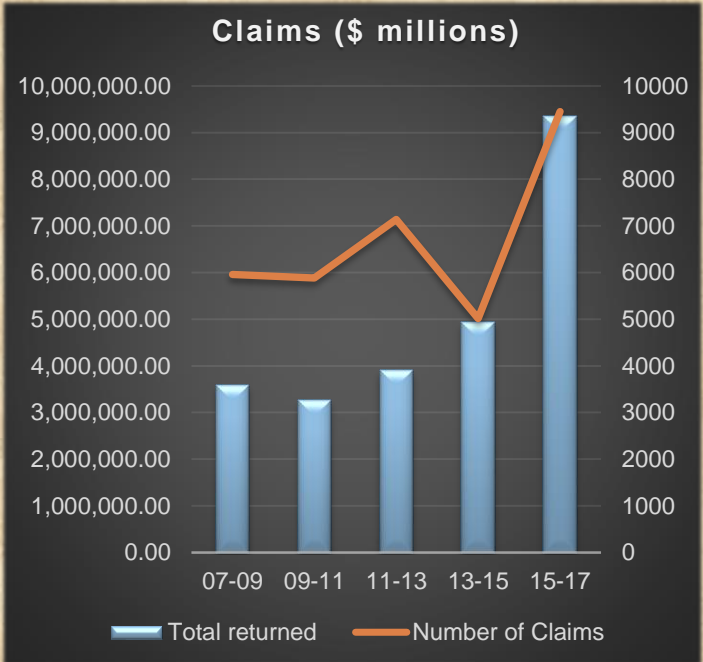
During the 2015-2017 biennium, 9,450 claims were paid compared to 5,014 claims in the 2013-2015 biennium.

### OUTREACH

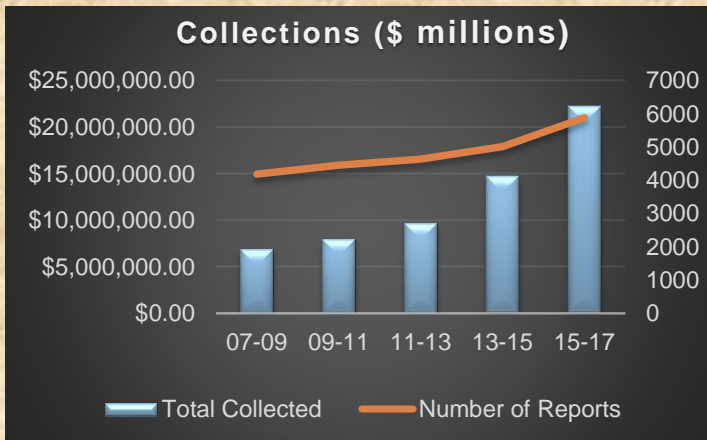
Newspaper advertisements required by law generate many claims; however, the most successful awareness tool continues to be Internet based online property search tools. The purchase of third party address updates used to send direct

mailings to owners has produced significant increases in claim numbers. Other outreach activities including poster placement in public locations, articles in employer

newsletters, and electronic-mail reminders sent for incomplete claims were also undertaken.



## COLLECTIONS



There has been a steady increase in the amount of funds and reports received from holders. In the 2015-2017 biennium, \$22.2 million in property was collected compared to \$14.7 million during the 2013-2015 biennium; a 51 percent increase. The Division processed 5,880 holder reports compared to 5,014 in 2013-2015.

These increases coincide with increased efforts in holder education and awareness of the Uniform Unclaimed Property Act.

### HOLDER EDUCATION/COMPLIANCE

During the biennium, several education strategies to assist all holders in understanding reporting responsibilities were implemented. In June 2016 a general reporting webinar was added to the Unclaimed Property website for holders. Prior to the 2016 reporting deadline, a reminder postcard was mailed to all North Dakota registered businesses. In 2017, a process was implemented to send holder educational letters to all businesses newly registered in the North Dakota Secretary of State's Office.

**51% INCREASE IN AMOUNT COLLECTED COMPARED TO THE PRIOR BIENNIUM.**



## **PROCESS IMPROVEMENTS**

- Owner's search capabilities on the unclaimed property website were enhanced by adding a process to identify and correct certain data elements thereby making more properties searchable.
- Claims processing was streamlined to use an imaging system to provide greater consistency and efficiency.
- Fireproof safes and security cameras were installed to help protect tangible property (safe deposit box contents) that is held for owners.

## **TECHNOLOGY UPDATE**

The Unclaimed Property information management system was developed in the early 1990s. During the biennium, several programming enhancements were made to streamline the claims process. Based on 2015 legislation found in SB 2013 and SB 2073 the Department began a RFP process to replace the existing system.