

Governor's Conference Room and Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Or call in (audio only)

[+1 701-328-0950,,998799700#](tel:+17013280950998799700)

Phone Conference ID: # 998 799 700

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

➤ = **Board Action Requested**

1. Call to Order – Chairman Armstrong

A. Roll Call and Pledge of Allegiance

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

2. Operations – Joseph Heringer

A. Commissioner's Report – pg. 2

B. Financial Dashboard – pg. 3

3. Division Reports – Joseph Heringer

A. Surface – pg. 11

B. Minerals – pg. 12

C. Unclaimed Property – pg. 14

D. [Financials](#) – available via link

4. Investments – Frank Mihail, CIO

A. Investment Update – pg. 15

B. Investment Program Overview RVK – Jen Sandberg presenting in person – pg. 22

5. Special Projects – Joseph Heringer

A. Summit Carbon Easement Agreement – pg. 40

6. Litigation Update – Joseph Heringer – pg. 68

➤ **Executive session under the authority of NDCC §§ 44-04-19.1 and 44-04-19.2 for attorney consultation with the Board's attorneys to discuss: - pg. 70**

- **Royalty Settlements**

Next Meeting Date – February 27, 2025

RE: Commissioner's Report
(No Action Requested)

- Department Compensation and Incentive Study – consultant, CBIZ, was retained through a competitive procurement process as directed by the Board; report is near completion; Compensation Committee will meet to review and discuss potential recommendations to the Board
- State Investment Board - attended January 3, 2025, special full State Investment Board meeting as a voting member to elect Governor Armstrong as Board Chair appoint an Interim Executive Director of the Retirement and Investment Office
- State Investment Board Investment Committee - attended January 10, 2025, meeting as a voting member
- Governor's State of the State Address – attended January 7, 2024, event where Governor Armstrong laid out his vision for the state

Human Resources

- Unclaimed Property Claims Processor - position filled with December 16, 2024, start date
- Investment Operations Officer – initial round of interviews completed; hoping to have new officer on board by March 1, 2025
- Mid-Year Check-Ins – supervisors conducted mid-year reviews with all team members by year-end deadline

Legislative Session

DTL Sponsored Bills

- Board Rule Making (HB 1057) – initial testimony before House Gov & Vet Affairs - Jan. 9
- Unclaimed Property (HB 1149) – initial testimony before House Ind., Bus, & Labor – Jan. 15

Other Board Related Bills

- DTL Budget (SB 2013) – have testified two times before Senate Gov Ops; potential to add compensation study provisions depending on Board decisions
- Digital Asset & Gold (HB 1184) – testified pointing out Board already has authority to invest in these assets – Jan. 14
- Public Comments at Public Meetings (SB 2180) – would require opportunity for public comment at all Board meetings; tracking

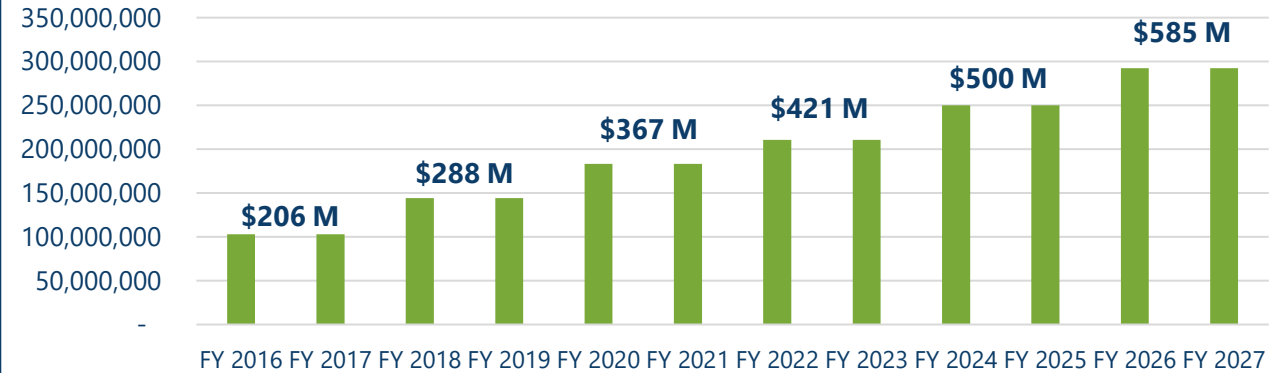
COMMON SCHOOLS TRUST FUND (CSTF) OVERVIEW

CSTF ASSET BALANCE as of 9/30/2024 (unaudited)

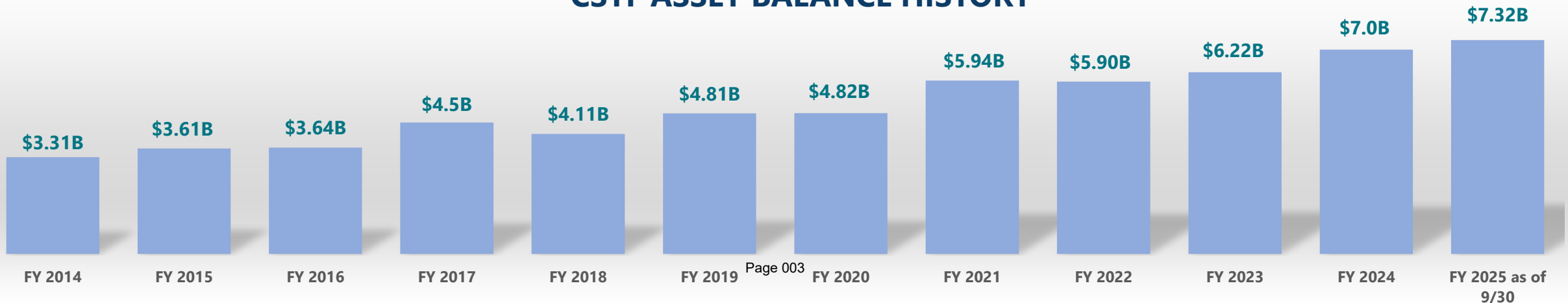
\$7,324,136,077

**+\$1.14 billion year-over-year from 9/30/23
balance of \$6.18 billion**

CSTF DISTRIBUTION HISTORY PER BIENNIUM



CSTF ASSET BALANCE HISTORY



COMMON SCHOOLS TRUST FUND 2023-25 (CSTF) DISTRIBUTIONS

Monthly Distribution to the State Tuition Fund for the 2023-25 Biennium \$27,770,000
Multiplied by 9 months per year = \$250,000,000
Divided by 115,740 students = \$2,160/student per year

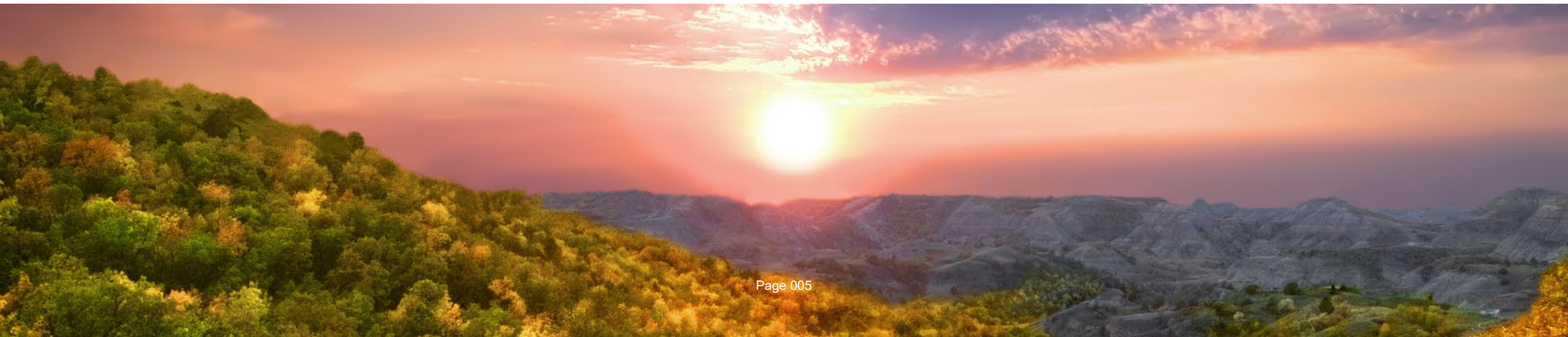
North Dakota Cost to Educate Per Student \$13,778/year
75.7% State Funding Share = \$10,430
\$2,160 CSTF per Student Annual Distribution **=21% of state funding share**



COMMON SCHOOLS TRUST FUND 2025-27 (CSTF) DISTRIBUTIONS

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

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



**Current Biennium Distributions to the
State Tuition Fund through 12/31/2024**

**\$361.15 million of
\$500 million total**

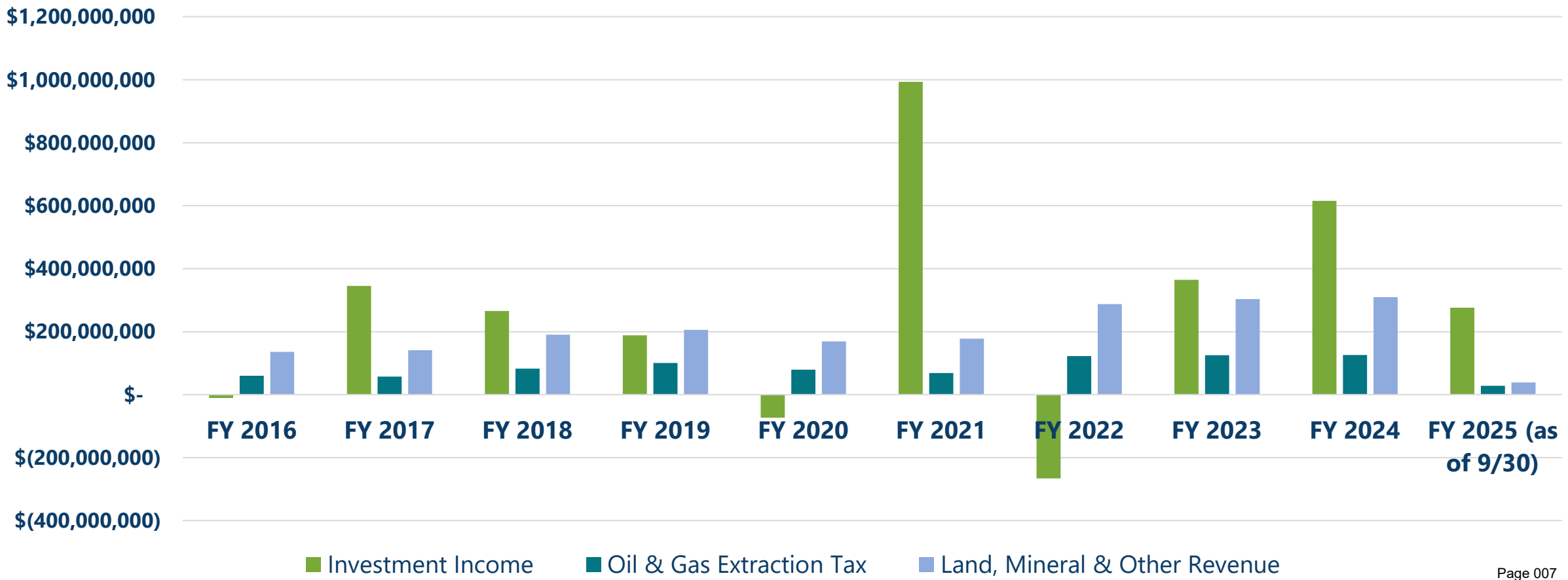
CSTF Distributions Since FY 2014

\$2 BILLION OF PROPERTY TAX RELIEF!



COMMON SCHOOLS TRUST FUND (CSTF) OVERVIEW

COMMON SCHOOLS REVENUES July 1 – June 30 Fiscal Year



STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) OVERVIEW

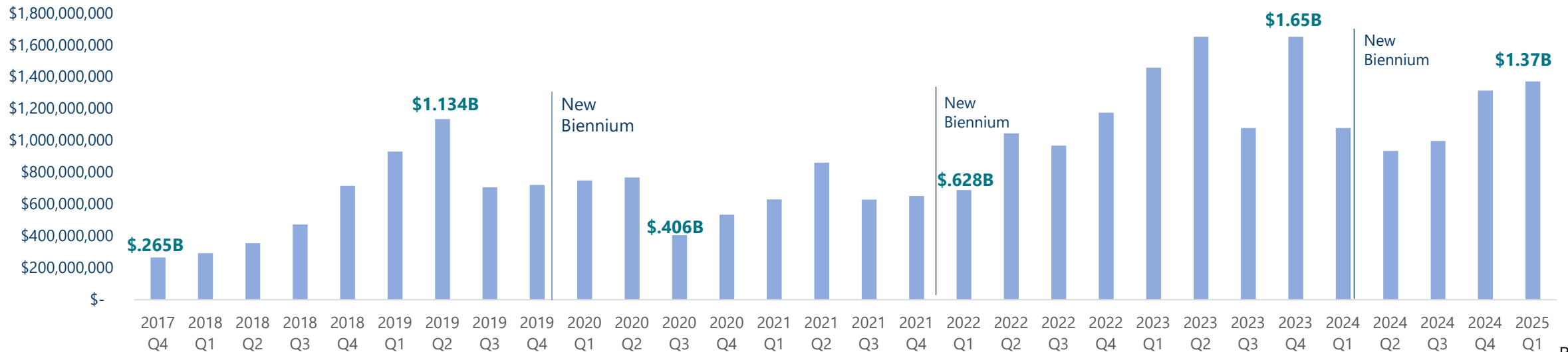
SIIF BALANCE as of 6/30/2024 (audited)

- Total Balance - \$1,313,278,883
- Uncommitted Balance – \$944,505,315

SIIF BALANCE as of 9/30/2024 (unaudited)

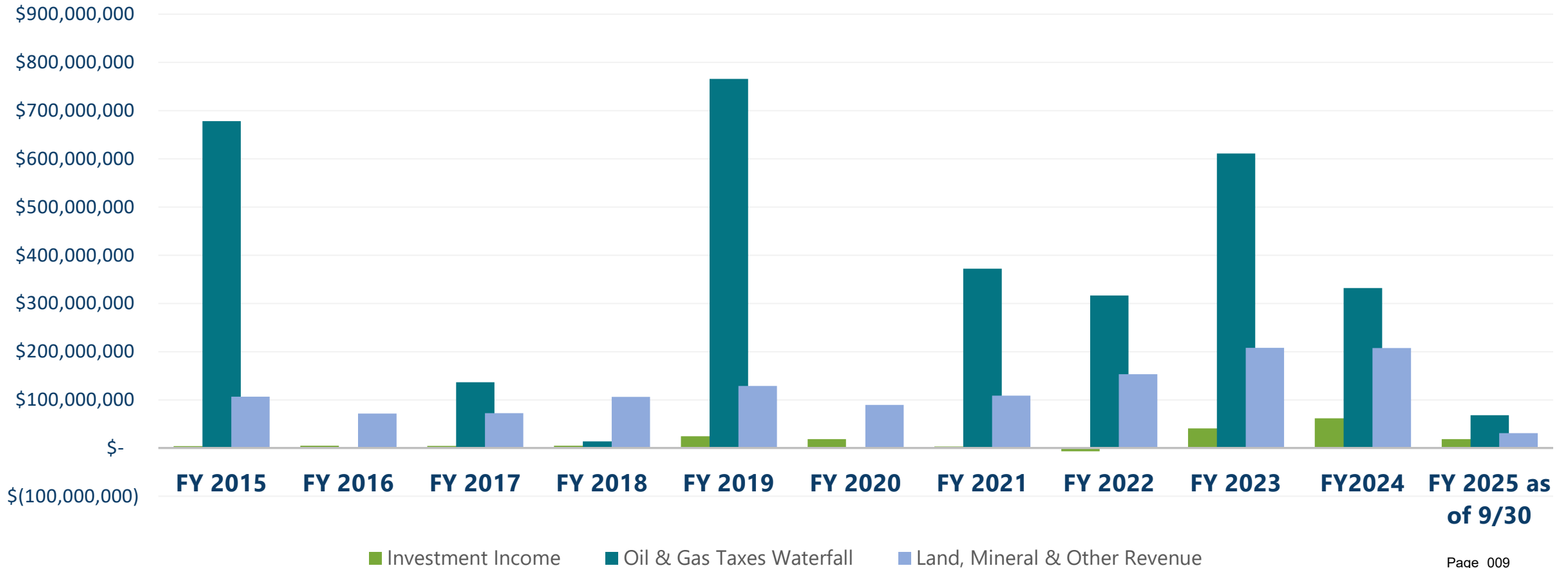
- Total Balance - \$1,370,582,987
- Uncommitted Balance – **\$1,056,604,798**

SIIF QUARTERLY BALANCE HISTORY (UNAUDITED)



STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) HIGHLIGHTS

SIIF REVENUES July 1 – June 30 Fiscal Year



ESTIMATED TOTAL NET ASSETS as of 03/31/2024

**Mineral Tracker Valuation
as of October 31, 2024, on
2.6 million Mineral Acres
\$2,461,271,622**



**Surface Fair Market Value
as of April 18, 2024, on
706,000 Surface Acres
\$671,978,325**



**Estimated Total Net Assets*
as of September 30, 2024**



\$10,999,006,341



* Total excluding SIIF

SURFACE DIVISION ENCUMBRANCES ISSUED

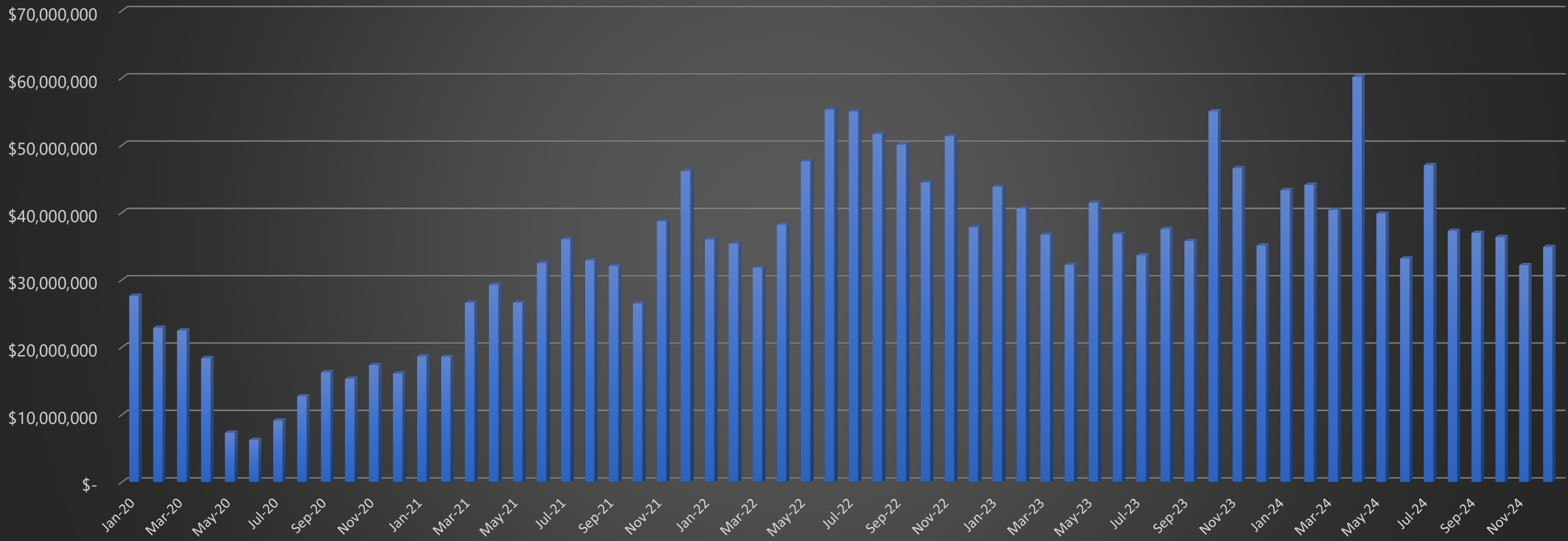
Encumbrances issued by the Commissioner: 15 Right of Way Agreements in December generated a total of \$25,006 in income for the Trusts.



MINERALS DIVISION FISCAL YTD O/G ROYALTIES

As of December 31, 2024*, for fiscal year 2024-25 the Department has received **\$224,835,551** in royalties as compared to **\$243,872,590** last fiscal year at this time.

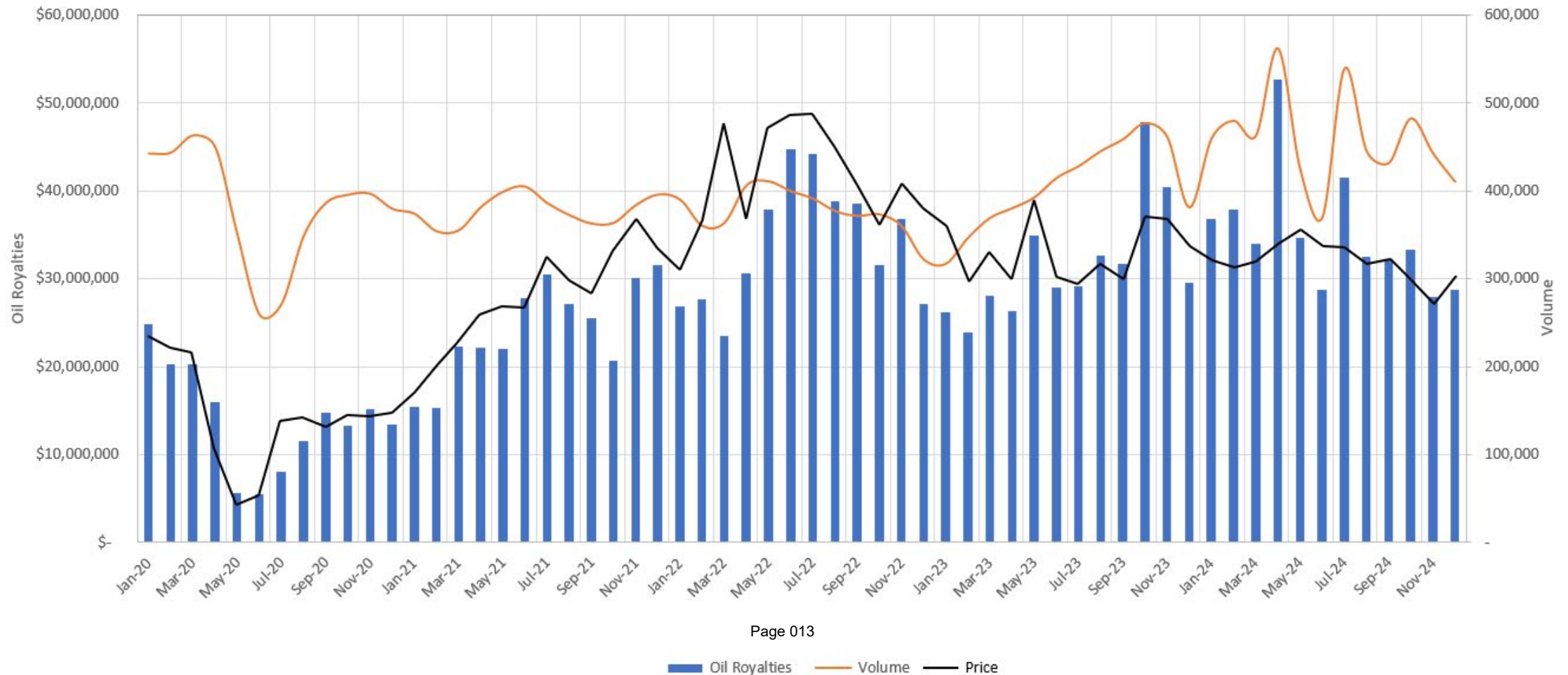
ROYALTIES - CASH COLLECTED



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

PRICE MAIN DRIVER OF O/G ROYALTIES

In the early years production growth was the driver of the Department's royalty increases. Now that our net monthly production has been more stable, averaging 459,375 barrels per month over the past twelve months, the price of oil & gas is the main driver of monthly royalty variations.

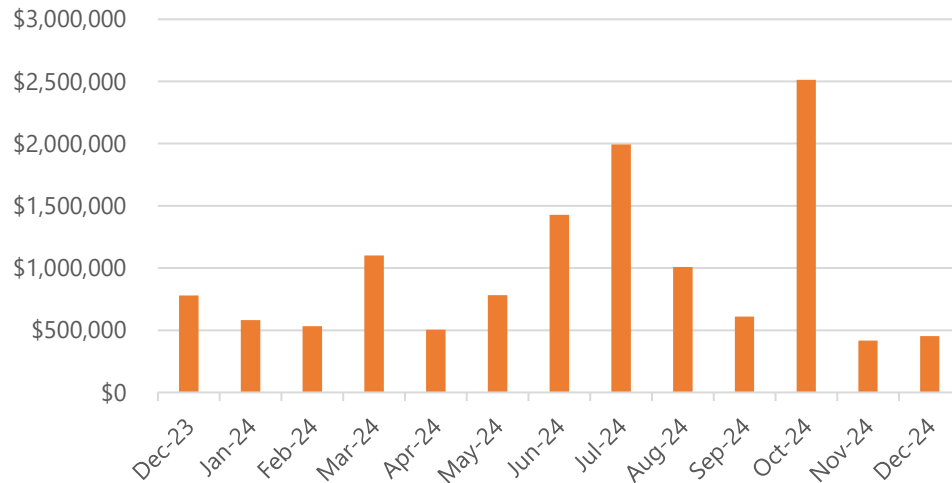


UNCLAIMED PROPERTY DIVISION

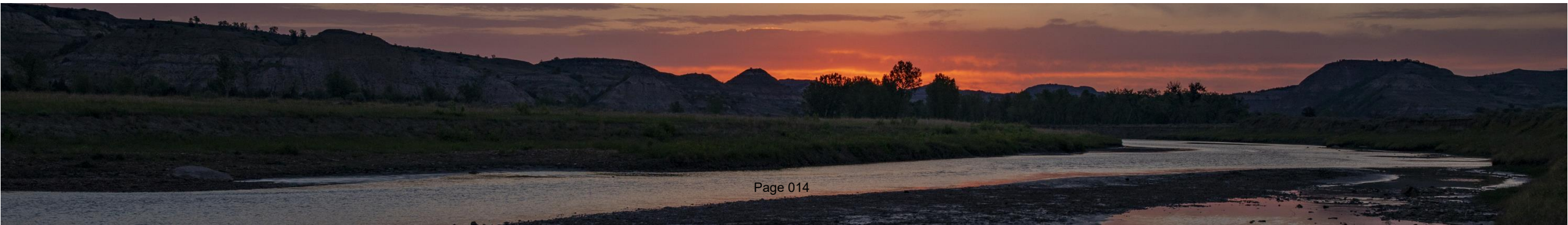
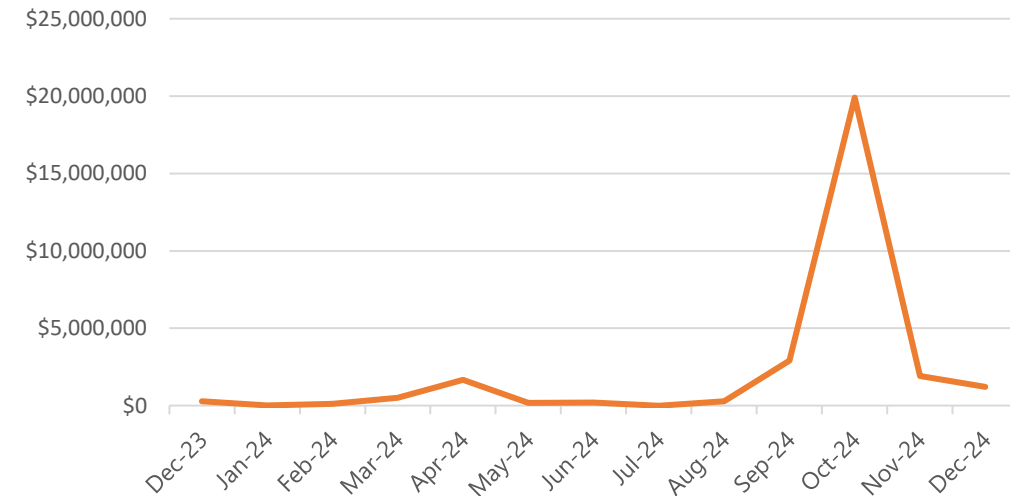
<https://unclaimedproperty.nd.gov>

For the month of December 2024, the Division paid 580 claims with \$453,106 returned to rightful owners. The Division also received 19 holder reports with a dollar value of \$1,208,309.

TOTAL DOLLAR VALUE OF CLAIMS PAID

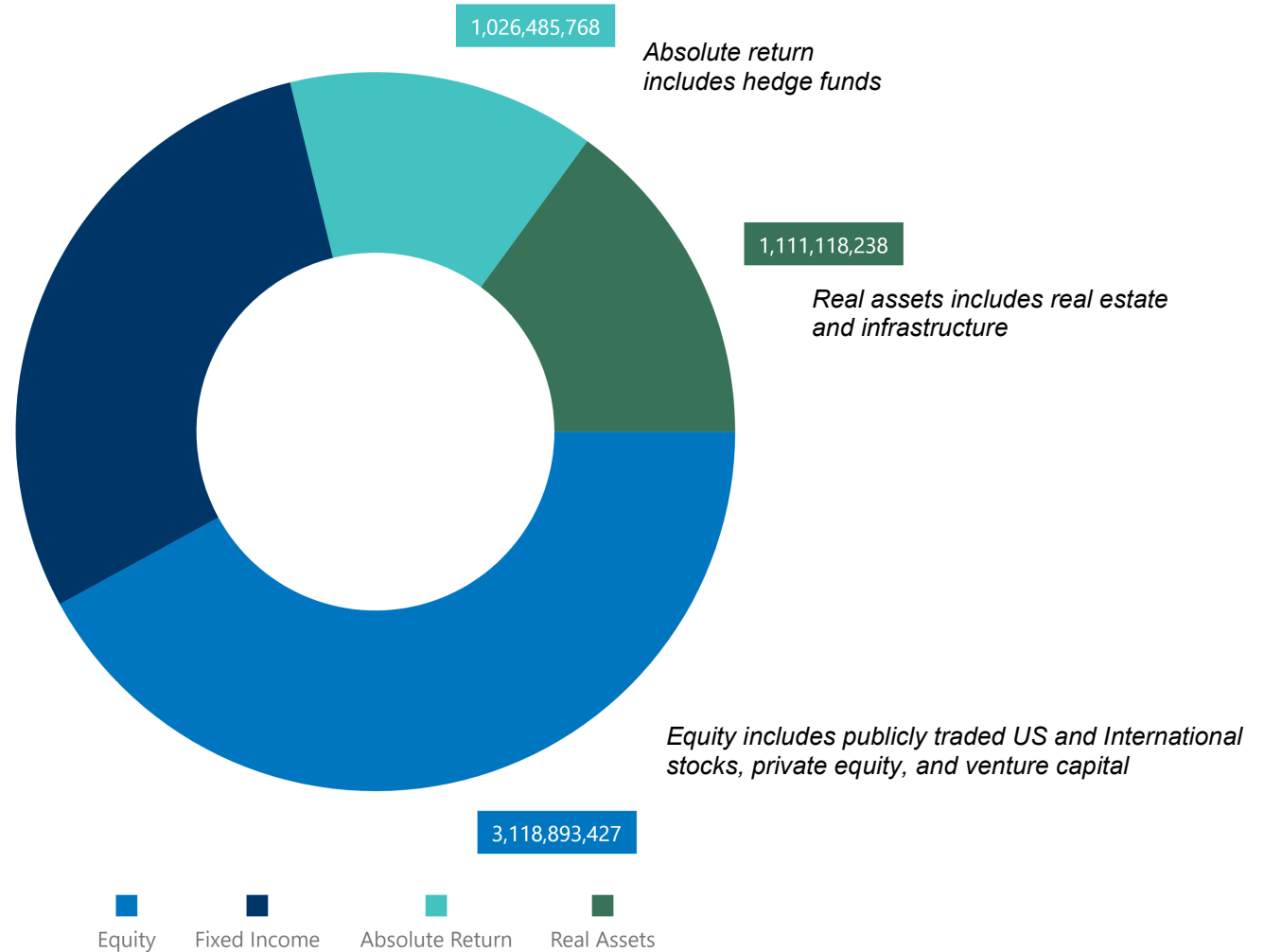


TOTAL DOLLAR VALUE OF PROPERTY REPORTED



Report as of 12/31/2024

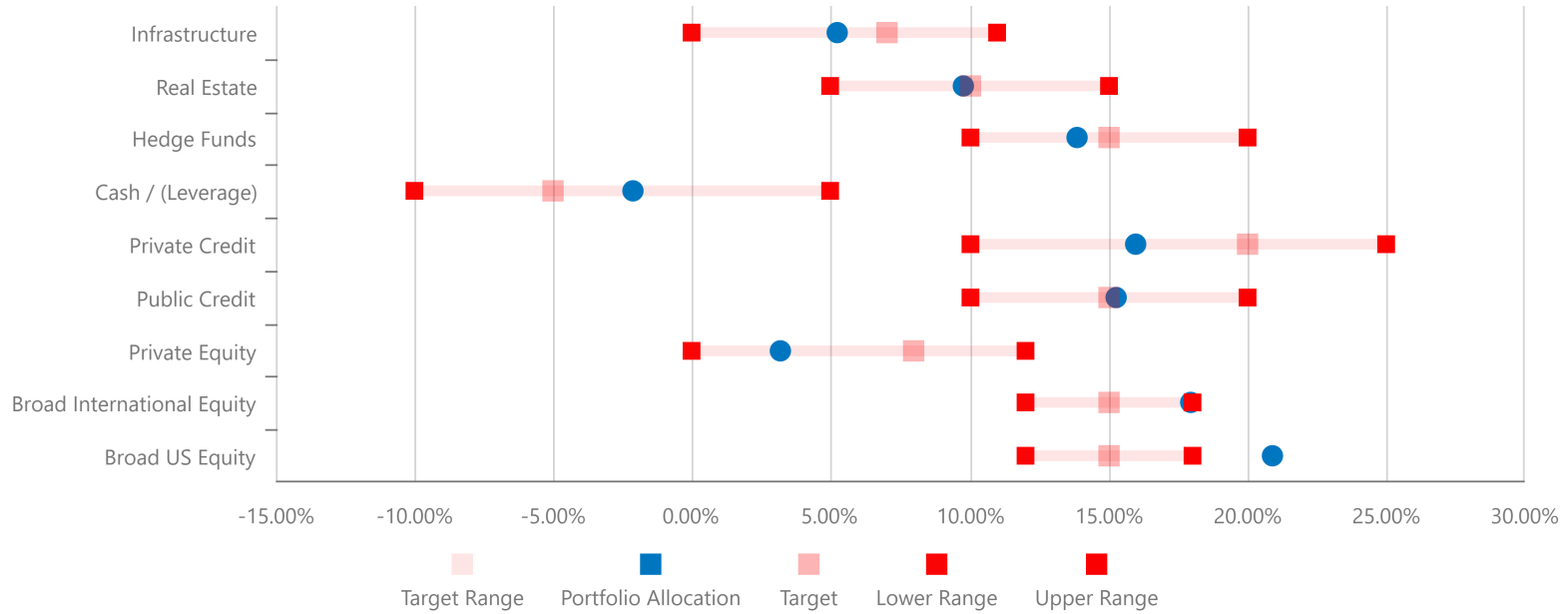
Asset Allocation



Asset	Total Value	% Of All Value
All	7,419,906,324	100 %
Equity	3,118,893,427	42 %
Fixed Income	2,163,408,891	29 %
Absolute Return	1,026,485,768	14 %
Real Assets	1,111,118,238	15 %

Report as of 12/31/2024

Actual vs. Target Weight

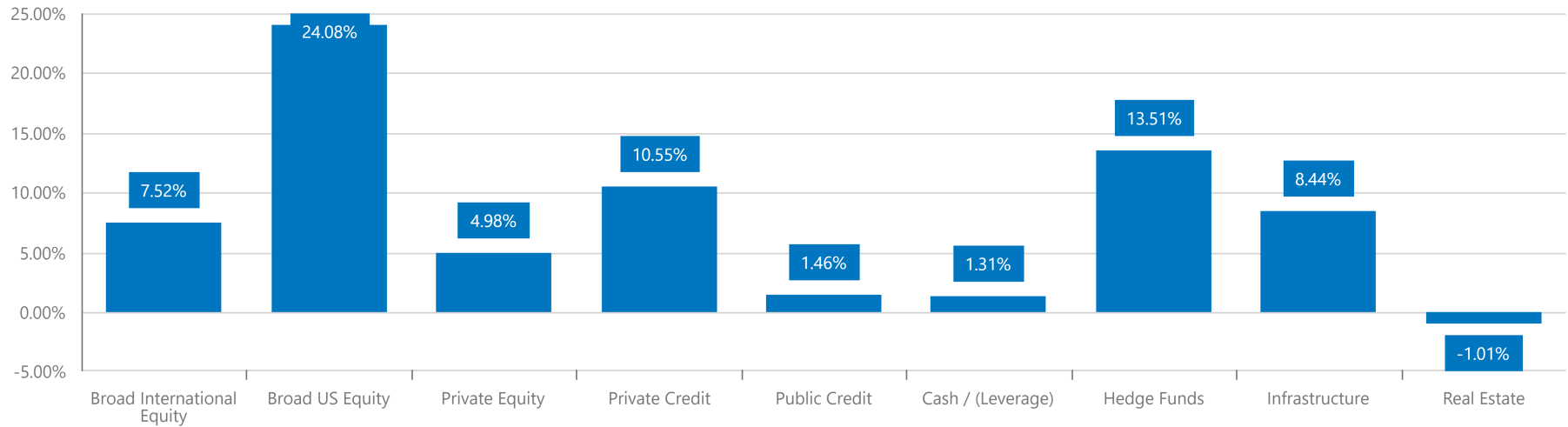


Asset	Total Value	% Of All Value	Target Weight	Over/Under %	Over/Under \$
All (MTD)	7,419,906,324	100%	100%	0%	--
Equity	3,118,893,427	42.03%	38%	4.03%	299,329,024
Private Equity	236,364,419	3.19%	8%	-4.81%	-357,228,087
Broad International Equity	1,333,488,743	17.97%	15%	2.97%	220,502,794
Broad US Equity	1,549,040,266	20.88%	15%	5.88%	436,054,317
Fixed Income	2,163,408,891	29.16%	30%	-0.84%	-62,563,006
Cash / (Leverage)	-157,948,453	-2.13%	-5%	2.87%	213,046,863
Private Credit	1,186,265,333	15.99%	20%	-4.01%	-297,715,931
Public Credit	1,135,092,011	15.3%	15%	0.3%	22,106,062
Absolute Return	1,026,485,768	13.83%	15%	-1.17%	-86,500,181
Hedge Funds	1,026,485,768	13.83%	15%	-1.17%	-86,500,181
Real Assets	1,111,118,238	14.97%	17%	-2.03%	-150,265,837
Infrastructure	388,227,120	5.23%	7%	-1.77%	-131,166,323
Real Estate	722,891,119	9.74%	10%	-0.26%	-19,099,514

Report as of 12/31/2024

Flash Performance Report

Unaudited preliminary estimates

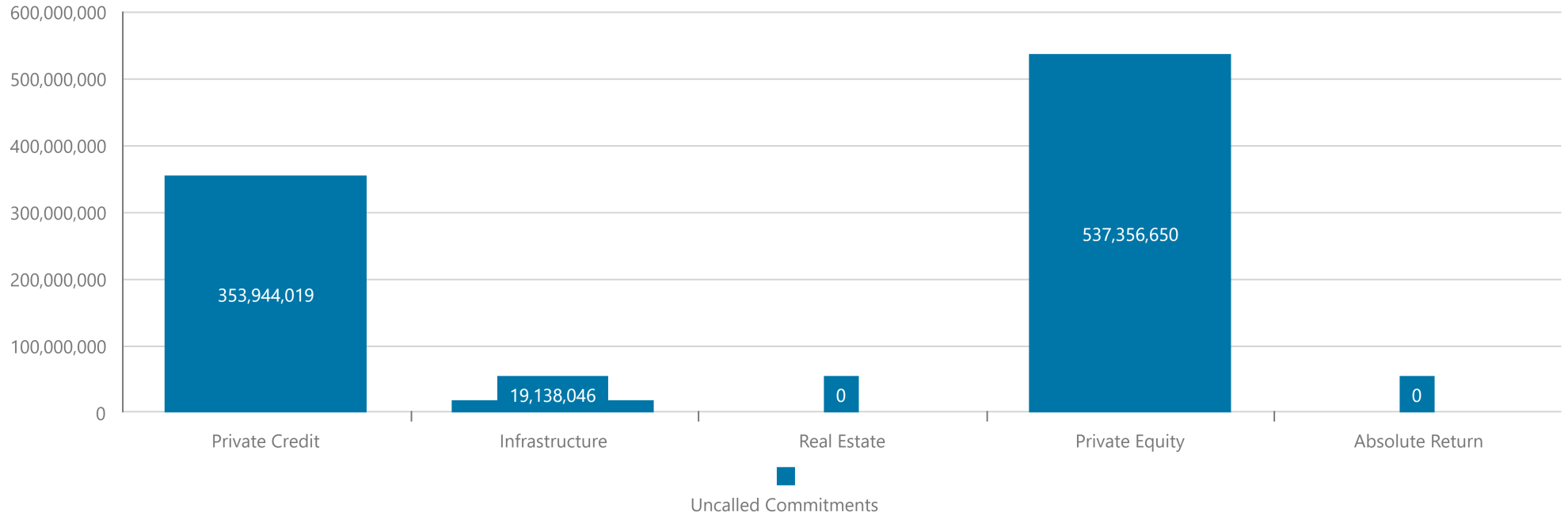


1Y : Net Of Fee Tx's : Cumulative Return

Asset	MTD	QTD	YTD	FYTD	1Y
	Net of Fees Tx's				
Asset	Cumulative Return	Cumulative Return	Cumulative Return	Cumulative Return	Cumulative Return
Total Portfolio	-1.29%	-0.29%	9.79%	3.52%	9.79%
Equity	-3.01%	-1.49%	15.3%	4.53%	15.3%
Broad International Equity	-2.42%	-6.79%	7.52%	-0.63%	7.52%
Broad US Equity	-3.94%	3.16%	24.08%	9.42%	24.08%
Private Equity	0%	0%	4.98%	3.05%	4.98%
Fixed Income	-0.85%	-1.09%	5.69%	2.16%	5.69%
Private Credit	0.01%	0.89%	10.55%	4.28%	10.55%
Public Credit	-1.54%	-2.77%	1.46%	0.25%	1.46%
Cash / (Leverage)	0.42%	0.92%	1.31%	1.31%	1.31%
Absolute Return	1.79%	5.35%	13.51%	6.54%	13.51%
Hedge Funds	1.79%	5.35%	13.51%	6.54%	13.51%
Real Assets	0%	-0.1%	1.95%	1.05%	1.95%
Infrastructure	0%	-0.28%	8.44%	3.03%	8.44%
Real Estate	0%	0%	-1.01%	0.05%	-1.01%

Report as of 12/31/2024

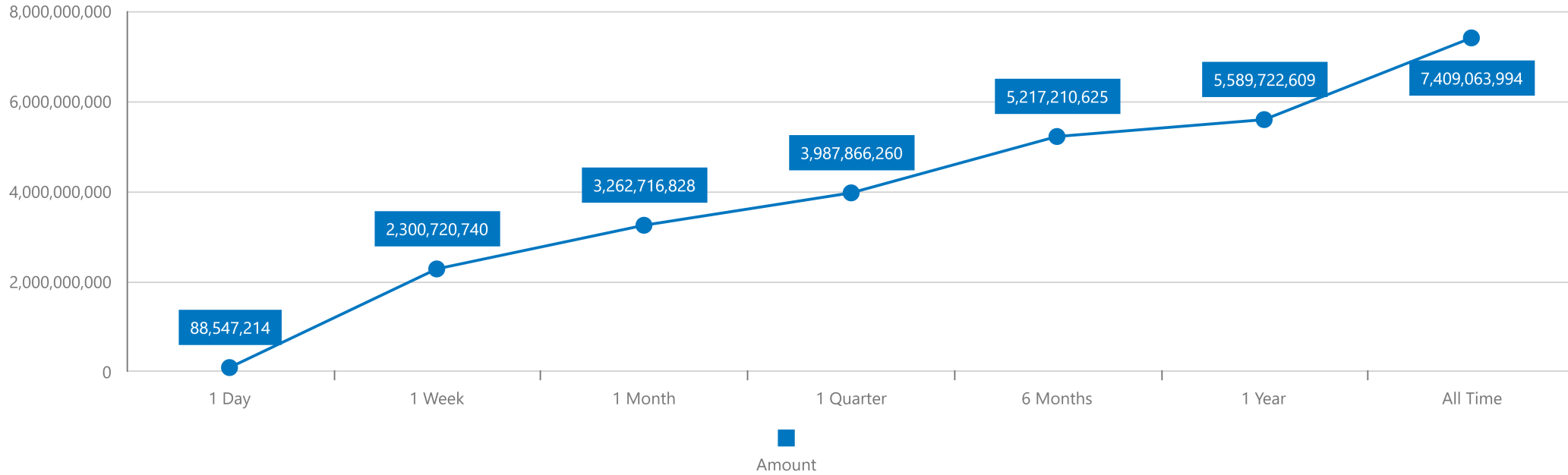
Uncalled Commitments



Asset	Commitment (\$M)	Funded Commitment (\$M)	Uncalled Commitments (\$M)
All (MTD)	3,859	2,948	910
Ares	300	100	200
GCM Grosvenor	580	159	421
Hamilton Lane	50	31	19
Khosla Ventures	35	14	21
Monarch	120	85	35
Blue Owl	125	82	43
a16z	35	5	30
Industry Ventures	50	4	46
Pantheon	100	5	95

Report as of 12/31/2024

Liquidity Waterfall



Entity	1 Day (\$M)	1 Week (\$M)	1 Month (\$M)	1 Quarter (\$M)	6 Months (\$M)	1 Year (\$1M)	All Time (\$M)
All	89	2,301	3,263	3,988	5,217	5,590	7,409
Equity	--	1,323	2,285	2,883	2,883	2,883	3,119
Fixed Income	89	978	978	978	1,218	1,260	2,164
Absolute Return	--	--	--	127	312	483	1,021
Real Assets	--	--	--	--	804	963	1,104

Measures how long it would take to liquidate the entire portfolio



ND LAND BOARD INVESTMENT PROGRAM

MARKET VALUE



ALL-TIME HIGH
\$7.15 BILLION



PERFORMANCE HIGHLIGHTS

9.42%

FY 2024
Return

\$606m

FY 2024
Gains

0.58%

3-Year
Excess Return

BOARD ACCOMPLISHMENTS



NEW ASSET ALLOCATION
REDUCING REAL ESTATE,
INCREASING HEDGE FUNDS



\$2.25B PROFIT DURING
5-YR PERIOD ENDING
JUNE 2024



\$264M DEPLOYED TO
ALTERNATIVE STRATEGIES
IN FY 2024



APPROVED 20 NEW
INVESTMENTS FOR \$4B
IN CY 2023 & 2024



ASSET ALLOCATION (JUNE 30, 2024)

LONG/SHORT ACTIVE MGMT
Protects during crisis periods by expanding the toolkit to profit during market declines

30%

PRIVATE MARKETS
Reduces volatility and aligns with the long-term time horizon of an endowment

34%

NEW

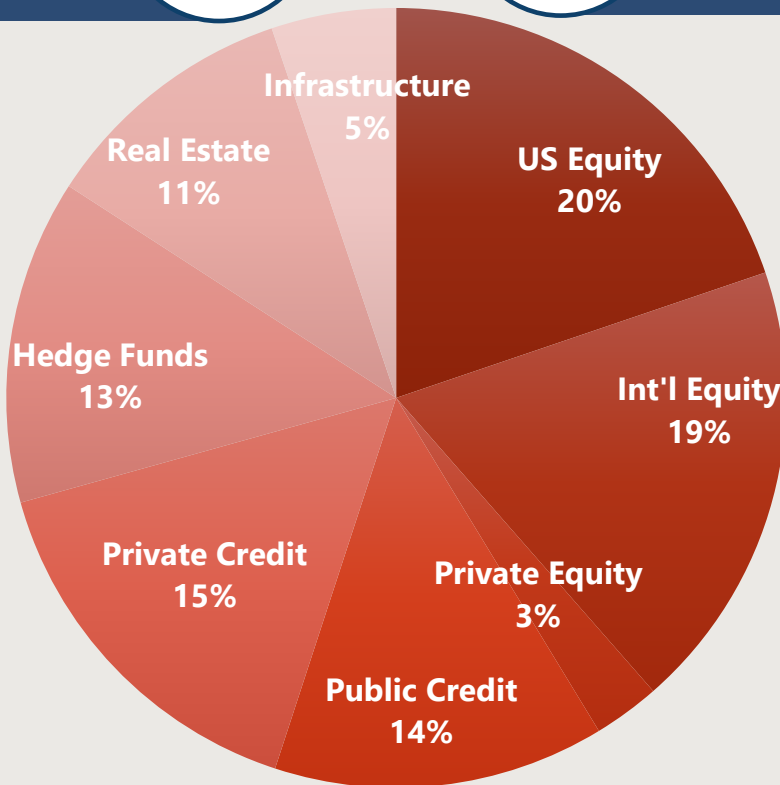
ASSET CLASSES

- Venture Capital
- Active Extension
- Bond Overlay
- Credit Secondaries
- Digital Infrastructure

6-8%

LONG-TERM EXPECTED RETURN

Based on current asset allocation and capital market assumptions



INVESTMENT TEAM

LAND BOARD

Governor, Treasurer, Secretary of State, Supt. of Public Instruction, Attorney General

+1

FTE ADDED
in 2023

LAND COMMISSIONER
Joseph Heringer

PERFORMANCE REPORTING SOFTWARE
Solovis

NEW

CUSTODY BANK
Northern Trust

CHIEF INVESTMENT OFFICER
Frank Mihail

INVESTMENT CONSULTANT
RVK

INVESTMENT OFFICER

INVESTMENT OPERATIONS OFFICER

RVK

Portfolio Overview

North Dakota Board of University and School Lands

January 23, 2025

RVK Overview



Year
founded
1985



Total
Employees
144



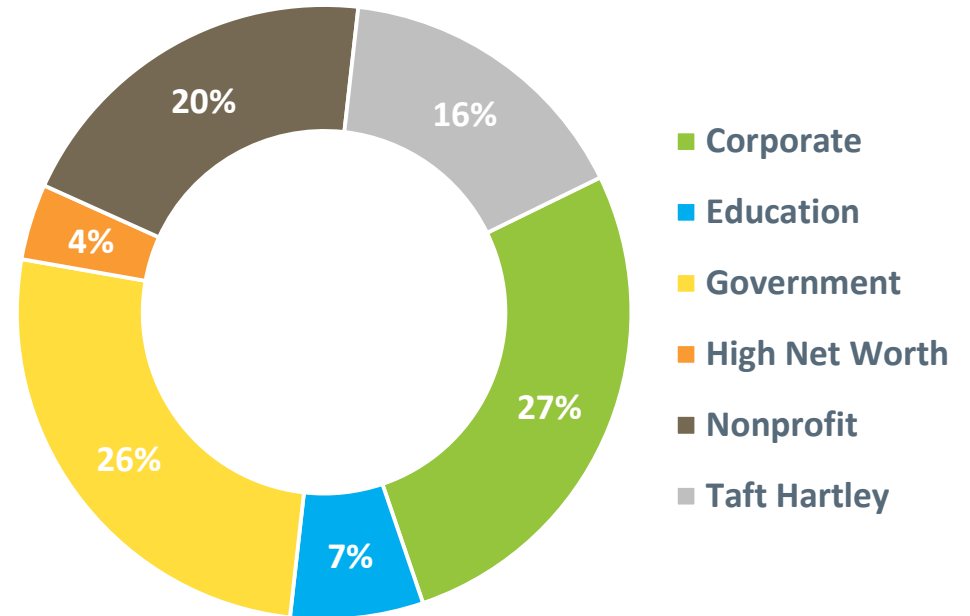
Advanced degrees &
certifications
56



Assets under
advisement
\$3.7T

Accounts by Client Type

(by count)



100%

Revenue Derived From Client Fees
Employee Ownership
Non-discretionary Consulting

RVK Offices

- Portland, OR
- Boise, ID
- Chicago, IL
- New York, NY

*Client data as of 6/30/24; employee data as of 12/11/24.

RVK Overview

The Land Board Consulting Team

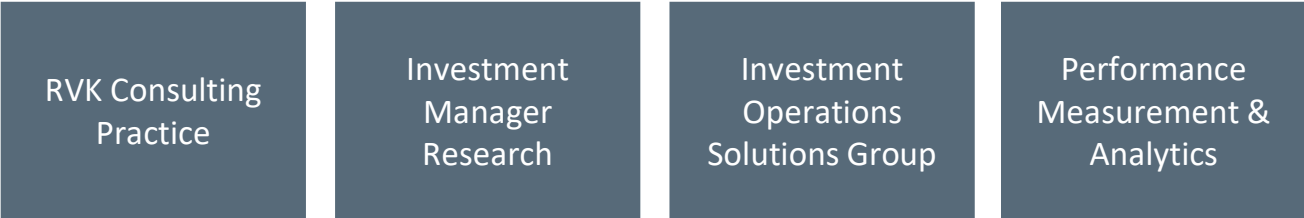


CORE SERVICE TEAM

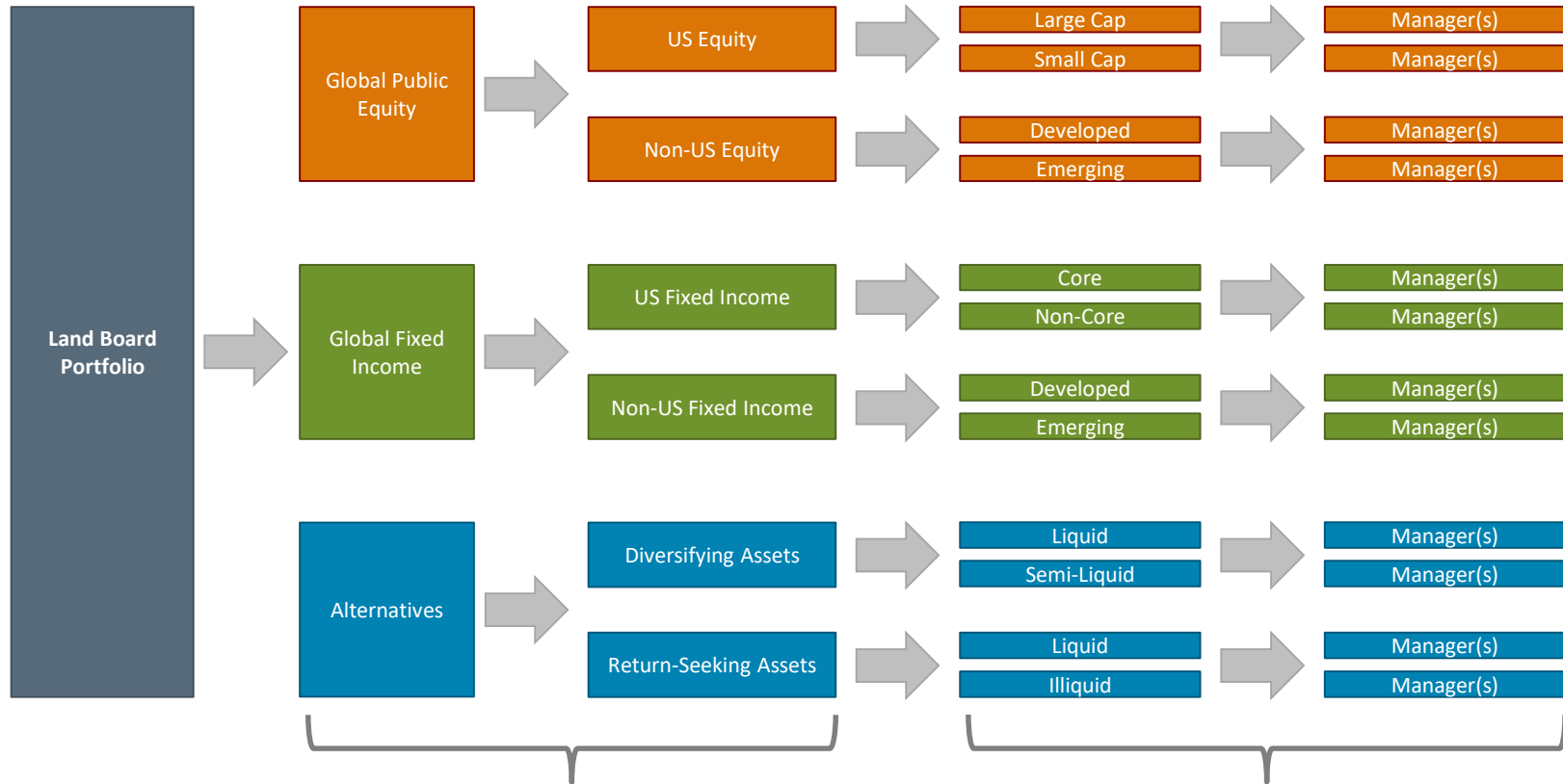
Josh Kevan, Principal, CFA – CEO, Senior Consultant
Jennifer Sandberg, Principal – Senior Consultant
Laura Epperson – Investment Associate
Eric Liu – Investment Analyst



DEEP RESOURCES



Investment Decision-Making Hierarchy



Asset Allocation Study
(Top-Down Investment Risk)

Asset Class Structure / Manager Selection
(Bottom-Up Investment Risk)

- Model specific asset class allocations / targets
- Used to select overall target allocation
- Passive assumptions

- Implementation with targets to sub-asset classes
- Mix of active and passive management determined
- Optimal mix of managers



Key Decisions:
Thematic/Asset Class Exposures
Level/Type of Diversification



Key Decisions:
Intended Style/Size Biases
Active/Passive Implementation

Asset Allocation Inputs

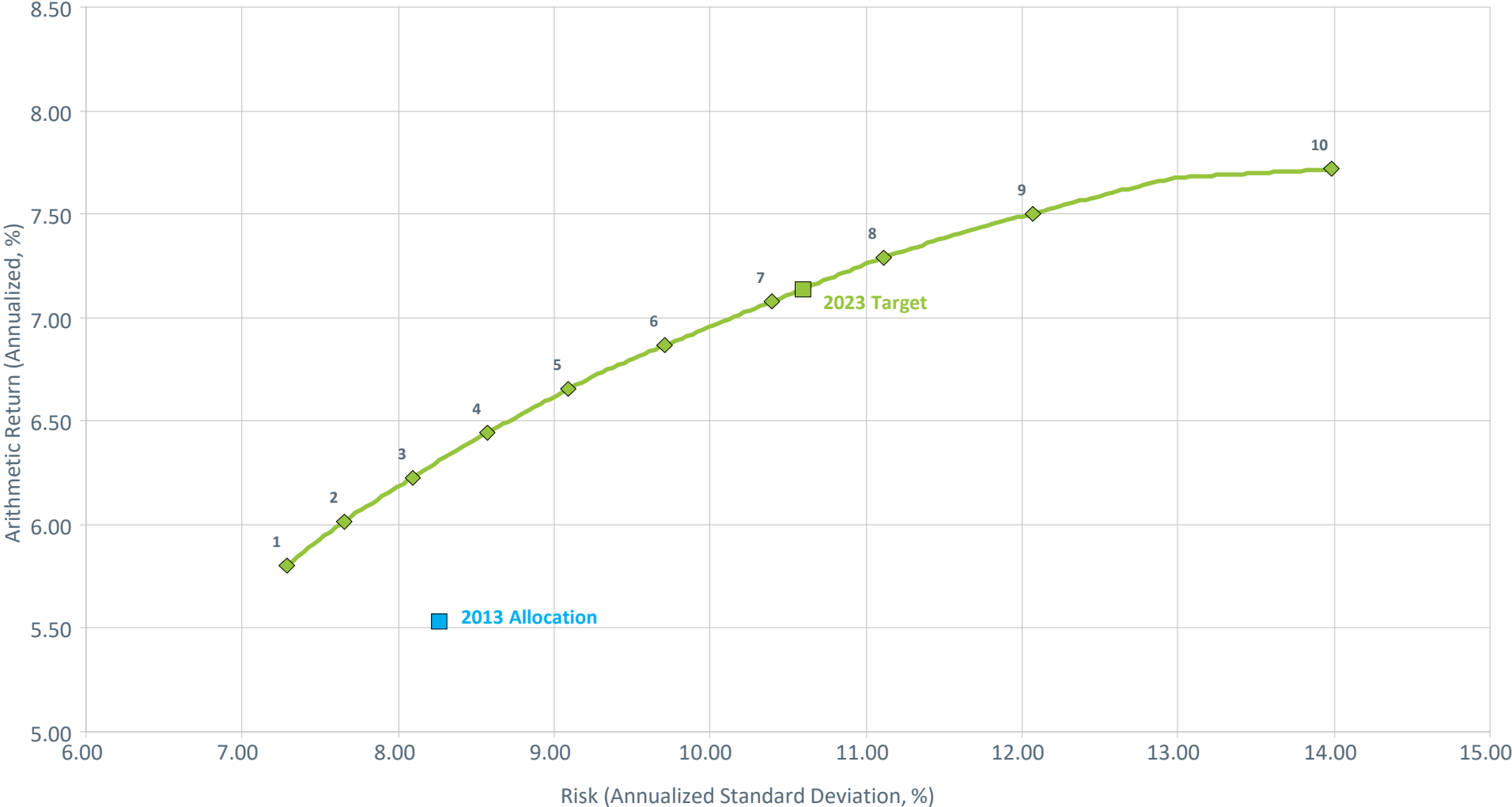
Key Inputs in the asset allocation setting process include:

- **Return objectives**
 - Long-term preservation of purchasing power (spending rate + inflation)
- **Cash flow expectations and liquidity needs**
 - Analysis of projected income, projected payout levels (spending policy), and net cash flow
- **Capital Markets Assumptions**
 - Projected long-term return, risk, and correlation behavior of the various capital markets and investment categories
- **Qualitative Preferences of the Board**
 - Preference for relative liquidity or simplicity
- **Other Considerations**
 - Relationship between income sources and investment portfolio exposures



Asset Allocation Study

Efficient Frontier



Asset Allocation study results shown above are based on RVK 2024 Capital Market Assumptions.



Asset Allocation Study

Efficient Portfolios

	Min	Max	2023 Target	2013 Allocation
Broad US Equity	15	50	15	31
Broad International Equity	15	50	15	12
Private Equity	0	10	8	0
US Agg Fixed Income	10	30	15	49
Private Credit	0	20	20	0
Multi-Strategy Hedge Funds	0	15	15	0
Core Real Estate	0	15	10	8
Private Core Infrastructure	0	7	7	0
Cash Equivalents	-5	5	-5	0
Total			100	100
Capital Appreciation			58	43
Capital Preservation			10	49
Alpha			15	0
Inflation			17	8
Expected Arithmetic Return			7.14	5.53
Expected Risk (Standard Deviation)			10.59	8.26
Expected Compound Return			6.62	5.21
Expected Return (Arithmetic)/Risk Ratio			0.67	0.67
RVK Expected Eq Beta (LCUS Eq = 1)			0.58	0.48
RVK Liquidity Metric (T-Bills = 100)			47	84

- Asset allocation is reviewed every 2-3 years, consistent with best practices
- Portfolio has gradually migrated from primarily a preservation / liquidity focus represented by the 2013 allocation, to a broadly diversified, endowment model; however, allocating to private markets takes time
- Current portfolio is broadly diversified across investment themes, including:
 - Growth - public and private equity
 - Income - public and private credit
 - Real Assets - real estate and private infrastructure
 - Alpha – skill-based hedge funds

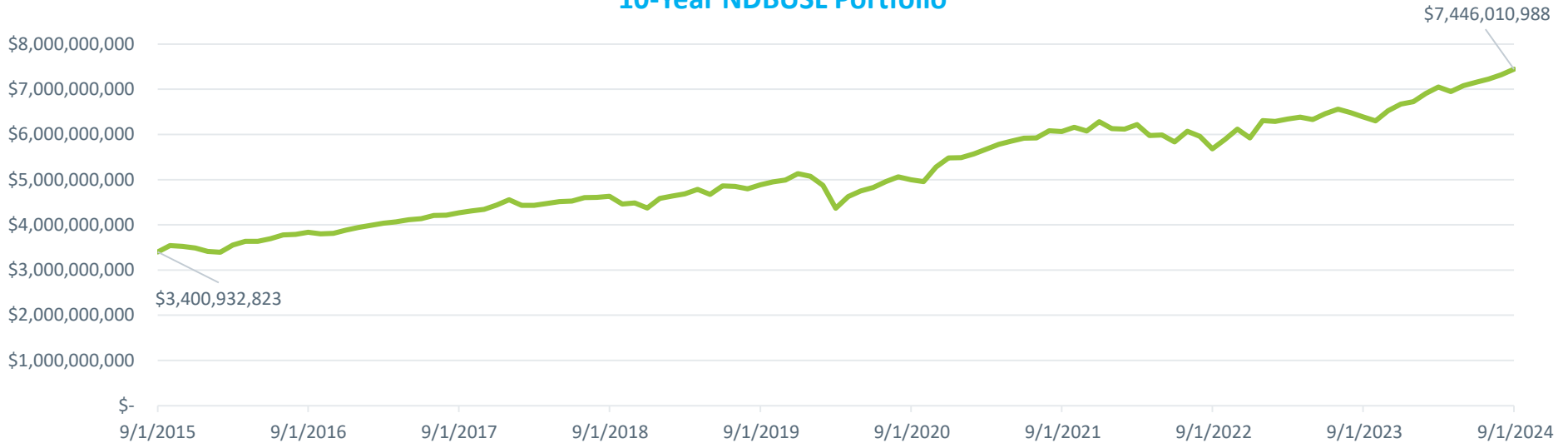
Private Markets Asset Classes

- **Private Equity (2021)**
 - Private equity is a return-focused asset class which has historically exhibited a meaningful net of fees return premium over public equity.
- **Private Credit (2018)**
 - Private Credit offers a meaningful return premium, net of fees, over public credit and provides diversification benefits with limited dependence on asset price appreciation.
- **Hedge Funds (2022)**
 - Hedge funds are a skill-based investment, offering equity risk mitigation and diversification to traditional asset classes.
- **Real Assets: Real Estate (2015) and Private Infrastructure (2018)**
 - Real assets, including real estate and private infrastructure, seek both inflation-protection and return-generation through predictable cash flows with a lower volatility compared to other asset classes.

The year shown in parentheses represents the NDBUSL portfolio's initial investment.

Portfolio Performance

10-Year NDBUSL Portfolio



FY24 Net Gains (as of 6/30/2024)	Net Gains (\$)	Net Gains (%)
		\$611,751,317

FY24 Total Fund Returns (as of 6/30/2024)

	QTD	CYTD	FYTD	3-Years	5-Years	7-Years	10-Years	Since Inception
Total Fund	1.45	5.86	9.42	3.36	5.68	5.54	4.77	6.45
Target Allocation Index	1.43	4.49	9.18	2.78	6.47	6.34	5.65	N/A
Difference	0.03	1.37	0.24	0.58	-0.79	-0.80	-0.88	N/A

Performance shown is net of fees. Fiscal year ends 6/30. The target allocation index is a static custom index that is calculated monthly and currently consists of 15% Russell 3000 Index, 15% MSCI ACWI ex USA IMI, 15% Bloomberg US Aggregate Index, 20% CS LL Index +1.5%, 15% HFRI RV Multi-Strategy Index, 10% NCREIF ODCE Index (AWA) (Net), 8% Cambridge US PE Index, 7% MSCI World Infrastructure Index, and -5% ICE BofAML 3 Month US T-Bill Index.



Pacing: Private Credit

1 Current Plan Statistics (as of September 30th, 2024)

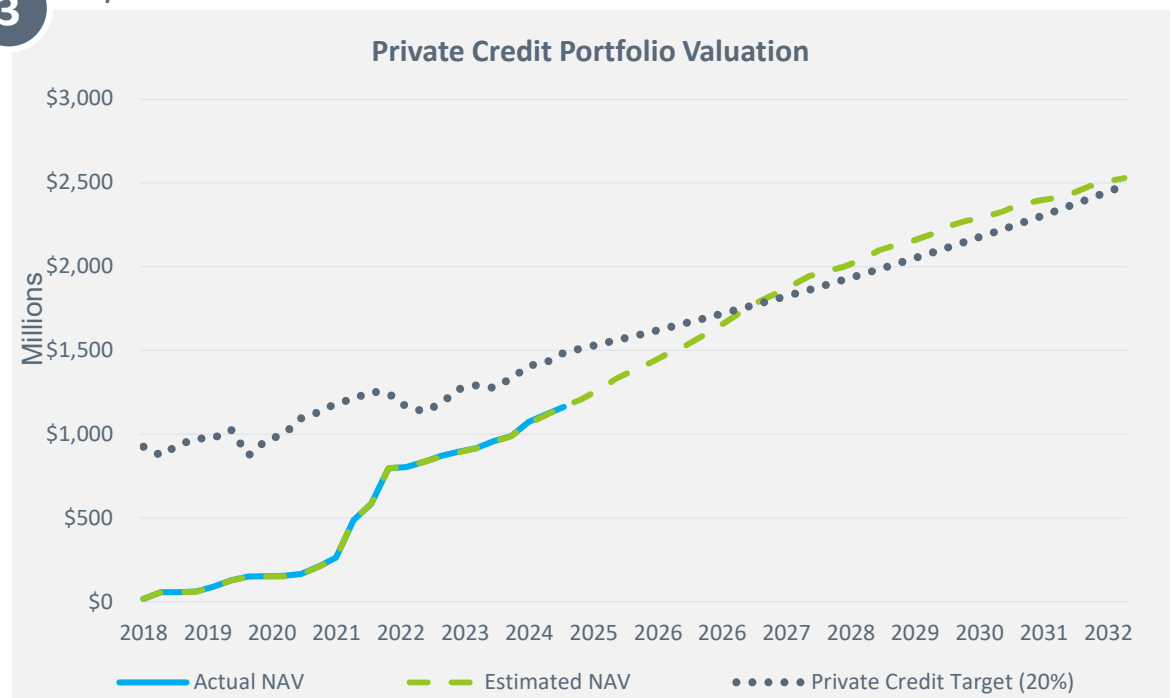
Total plan size	\$7.4 billion
Current private credit target	20.0%
Current private credit allocation	15.7%
Expected growth rate	Approximately 6.62%

2 Recommendation

Year	Commitments
2025	\$100 million evergreen \$100 million closed-end
2026	\$100 million evergreen \$100 million closed-end
2027	\$150 million - \$200 million closed-end
2028	\$150 million - \$200 million closed-end
2029	\$150 million - \$200 million closed-end

RVK recommends annual commitments of \$200M in 2025 and 2026 followed by annual commitments between \$150 million and \$200 million to achieve and maintain the target allocation.

3 Expected Results



Pacing: Private Equity

1 Current Plan Statistics (as of September 30, 2024)

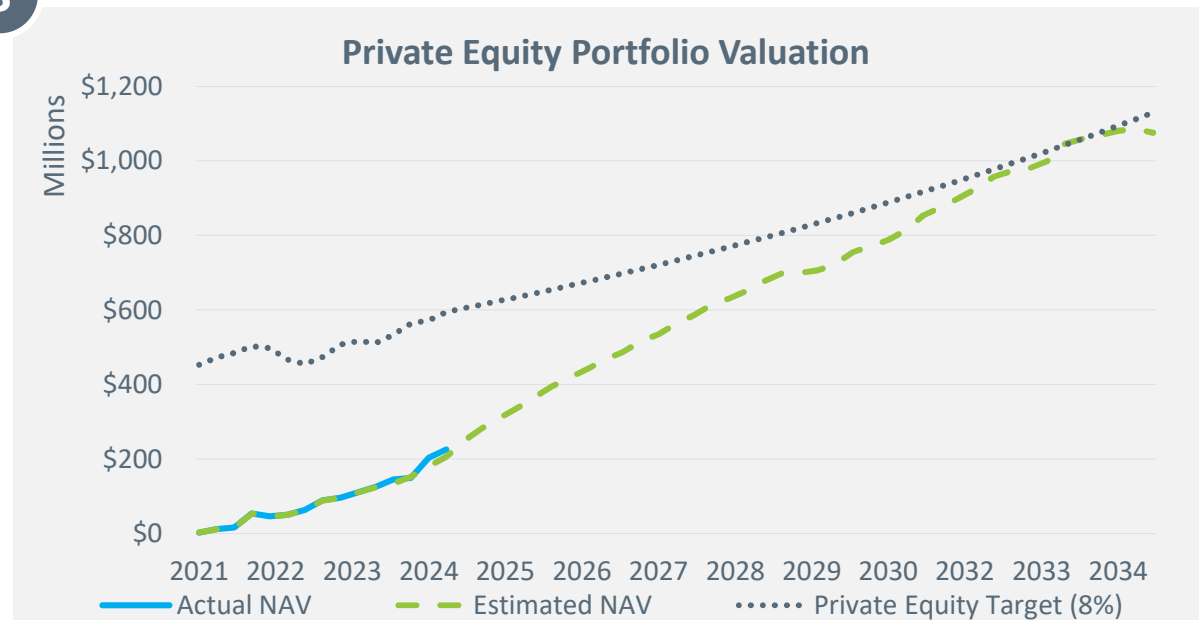
Total plan size	\$7.4 billion
Current private equity target	8.0%
Current private equity allocation	3.0%
Expected growth rate	Approximately 6.62%

2 Recommendation

Year	Commitments
2025	\$140 million
2026	\$140 million
2027	\$140 million
2028	\$150 million
2029	\$150 million

RVK recommends an annual commitment of \$140 million in 2025 to achieve the target allocation.

3 Expected Results



RVK

Disclaimer of Warranties and Limitation of Liability - This document was prepared by RVK, Inc. (RVK) and may include information and data from some or all of the following sources: client staff; custodian banks; investment managers; specialty investment consultants; actuaries; plan administrators/record-keepers; index providers; as well as other third-party sources as directed by the client or as we believe necessary or appropriate. RVK has taken reasonable care to ensure the accuracy of the information or data, but makes no warranties and disclaims responsibility for the accuracy or completeness of information or data provided or methodologies employed by any external source. This document is provided for the client's internal use only. It should not be construed as legal or tax advice. It does not constitute a recommendation by RVK or an offer of, or a solicitation for, any particular security and it is not intended to convey any guarantees as to the future performance of the investment products, asset classes, or capital markets. This document should not be construed as investment advice: it does not reflect all potential risks with regard to the client's investments and should not be used to make investment decisions without additional considerations or discussions about the risks and limitations involved. Any decision, investment or otherwise, made on the basis of this document is the sole responsibility of the client or intended recipient.

RVK

Custodial Securities Lending Summary Review

North Dakota Board of University and School Lands

January 23, 2025

North Dakota Board of University and School Lands

Securities Lending Program Summary Observations

- Securities Lending is not without risk, but such risks are being managed and monitored. Periodic monitoring and review of the risks by fiduciaries is prudent.
- The portfolio has experienced shifts in allocation (particularly in equities available to lend) and variable earnings opportunity for the fiscal year ends 2014 through 2024.
- Cash collateral re-investment program risk (liquidity and fundamental security risk in particular) as well as non-cash collateral acceptance merits continued discussion with Northern Trust and review by fiduciaries to ensure full understanding of risks and mitigating factors.
- The securities lending program is broadly delivering value to the investment program (an incremental 5.64 basis points / \$676,806 for the fiscal year ended 6/30/2024) through the prudent use of otherwise idle portfolio assets; thereby offsetting administration costs and augmenting yield.
- **As part of this annual review summary, RVK recommends no changes to the program structure, investment policy, or collateralization. We affirm the benefit of fiduciary awareness of program existence and operation and look forward to supporting continued review and discussion.**

North Dakota Board of University and School Lands

Securities Lending Program Performance Statistics

Northern Trust – Custodial Lending

Utilization & Earnings – 2014-2024 Fiscal Years & YTD Fiscal 2025 through 9/30/2024

Fiscal Year	Average Lendable Assets	Average Assets On Loan	Average Utilization	Client Earnings	Average Net Spread to Lendable Assets (bps)
2014	\$868,158,858	\$226,446,050	26.08%	\$376,949	4.34
2015	\$973,783,673	\$230,767,554	23.70%	\$319,340	3.28
2016	\$964,099,325	\$166,087,086	17.23%	\$369,849	3.84
2017	\$1,237,784,043	\$262,666,368	21.22%	\$778,745	6.29
2018	\$1,319,716,951	\$311,326,368	23.59%	\$659,668	5.00
2019	\$1,468,997,575	\$387,214,155	26.36%	\$568,371	3.87
2020	\$1,238,773,393	\$319,954,146	25.83%	\$692,185	5.59
2021	\$845,791,013	\$234,062,309	27.67%	\$349,020	4.13
2022	\$841,960,173	\$298,228,159	35.42%	\$281,038	3.34
2023	\$1,192,895,212	\$389,353,016	32.64%	\$826,165	6.93
2024	\$1,199,553,372	\$448,512,990	37.39%	\$676,806	5.64
YTD Fiscal 9/30/2024	\$817,273,368	\$367,988,676	45.03%	\$116,319	1.42

- Northern Trust has been a relatively consistent lender of your securities over time.
- Meaningful income has been generated, although it has been cyclical.
- Portfolio implementation changes (specifically the elimination of equities as lendable assets through the use of commingled vehicles) have impacted lending activities and earnings derived from the practice.

North Dakota Board of University and School Lands

Securities Lending Program Performance Statistics

Northern Trust – Custodial Lending
Spread Analysis from July 2023-June 2024

Security Type	Market Value (USD)		% on Loan	Gross Earnings (USD)			Spread (bps)			Gross BP Return (bp) *	Net Earnings (USD)		
	Avg. on Loan	Avg. Available		Lending	Investment	Total	Lending	Investment	Overall		Lending	Investment	Total
US Treasuries	368,355,003	623,103,500	59.1%	121,138	514,670	635,808	3.2	13.7	17.0	10.0	84,793	360,288	445,081
US Agencies	214,832	30,676,492	0.7%	440	298	738	20.2	13.6	33.8	0.2	308	209	517
US Corp Bonds	54,406,791	357,293,871	15.2%	103,573	115,915	219,489	18.7	21.0	39.7	6.0	72,525	81,182	153,707
US Equities	4,460,068	32,187,138	13.9%	15,530	7,658	23,188	34.2	16.9	51.1	7.1	10,877	5,368	16,244
Global Sovereign	1,995,252	8,580,219	23.3%	2,930	4,945	7,875	14.4	24.4	38.8	9.0	2,051	3,462	5,513
Global Agencies	841,856	23,892,876	3.5%	4,825	2,086	6,911	56.4	24.4	80.7	2.8	3,378	1,460	4,838
Global Corp Bonds	17,882,721	121,720,381	14.7%	32,027	39,249	71,276	17.6	21.6	39.2	5.8	22,424	27,483	49,906
Global Equities	356,467	2,098,896	17.0%	848	579	1,428	23.4	16.0	39.4	6.7	595	406	1,000
Total	448,512,990	1,199,553,372	37.4%	281,312	685,401	966,713	6.2	15.0	21.2	7.9	196,950	479,856	676,806

For Fiscal Year 2024, a total on-loan spread of 21.2 basis points was earned:

- **Lending Spread of 6.2 basis points (or ~29%)** was due to Profitably Lending Securities (versus non-cash collateral with attractive fee rates or versus cash collateral at rebate rates lower than Overnight Benchmark Rate).
- **Investment Spread of 15.0 basis points (or ~71%)** was due to Investing Cash Collateral at a cash yield higher than Overnight Benchmark Rate. The more “in-demand” a security type is, the greater the lending spread.

Securities Lending Investment Policy Considerations

Policy Language	Policy Observations
The objective of the securities lending program is to generate incremental income from overnight and certain term loans of securities.	✓ Program is reasonable and consistent with current objectives
The Funds may participate in a securities lending program.	✓ NDBUSL currently participates in securities lending activities
The program will utilize a high-quality and conservative collateral re-investment approach that safeguards the return of principal and maintains adequate daily liquidity to support trade settlement activity and portfolio restructuring activities.	✓ Customized cash collateral reinvestment program in place. Invested cash demonstrates reasonable liquidity and credit quality
Each securities lending agent will ensure that specific guidelines are in place as to the quality, duration, liquidity and diversification of securities lending collateral.	✓ Reasonable contractual guidelines in place.
The Board requires collateral for loans.	✓ Loan are collateralized consistent with contract and industry practices.
<p>The use of assets in any securities lending engagements should:</p> <ul style="list-style-type: none"> • Earn a competitive market return through conservative securities lending practices, consistent with the preservation of capital. • Minimize risk with respect to both the borrower and the collateral. • Operate the securities lending program so that it will not interfere with the management of overall investment portfolio and strategies. • Unless explicitly exempted by the Board, the lending agent shall provide indemnification against losses arising from borrower default, insolvency, and failure to comply with the terms and conditions of the lending agreements. • The Commissioner shall provide a report to the Board annually, outlining the performance and status of the securities lending program. 	<ul style="list-style-type: none"> ✓ Securities lending is producing incremental income in a non-disruptive manner to the portfolio while a maintaining reasonable and controlled risk posture. ✓ Indemnification for borrower default is provided contractually. ✓ Ongoing reporting (such as this report) is provided.

RVK

Disclaimer of Warranties and Limitation of Liability - This document was prepared by RVK, Inc. (RVK) and may include information and data from some or all of the following sources: client staff; custodian banks; investment managers; specialty investment consultants; actuaries; plan administrators/record-keepers; index providers; as well as other third-party sources as directed by the client or as we believe necessary or appropriate. RVK has taken reasonable care to ensure the accuracy of the information or data, but makes no warranties and disclaims responsibility for the accuracy or completeness of information or data provided or methodologies employed by any external source. This document is provided for the client's internal use only. It should not be construed as legal or tax advice. It does not constitute a recommendation by RVK or an offer of, or a solicitation for, any particular security and it is not intended to convey any guarantees as to the future performance of the investment products, asset classes, or capital markets. This document should not be construed as investment advice: it does not reflect all potential risks with regard to the client's investments and should not be used to make investment decisions without additional considerations or discussions about the risks and limitations involved. Any decision, investment or otherwise, made on the basis of this document is the sole responsibility of the client or intended recipient.

RE: Request for Carbon Dioxide Storage Easement Agreement Approval – Summit Carbon Storage

Summit Carbon Storage #1, LLC, Summit Carbon Storage #2, LLC, and Summit Carbon Storage #3, LLC are requesting three separate easements allowing for the injection and permanent storage of CO₂ into Trust pore space totaling 480 acres. Separate agreements will be issued for each storage reservoir. The Department, with legal counsel, has negotiated language that is consistent with what other landowners were offered.

- Term
 - Initial Term - 20 years or until injection
 - Operational Term – Until criteria are met
- Initial Payment
 - First Year - \$25/acre (\$12,000)
 - Subsequent years of Initial Term - \$4/acre (\$1,920)
- Rate – Proportionate share of \$0.50/metric ton, with escalation every five years
- No surface disturbance on Trust Lands

The project intends to receive carbon dioxide from the Midwest Carbon Express Pipeline and sequester carbon into three separate storage reservoirs. The North Dakota Industrial Commission approved the three Class VI sequestration permits on December 12, 2024. The NDIC approval granted amalgamation authority, with an effective date set for after the Commissioner of University and School Lands executes the agreements.

Recommendation: The Board authorize the Commissioner to execute Carbon Dioxide Storage Easement Agreements with Summit Carbon Storage #1, LLC, Summit Carbon Storage #2, LLC, and Summit Carbon Storage #3, LLC using the attached agreement form.

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

The space above this line is reserved for recording purposes.

EASEMENT: CARBON DIOXIDE STORAGE EASEMENT AGREEMENT

R-00000 (Pg 1)

**STATE OF NORTH DAKOTA
BOARD OF UNIVERSITY & SCHOOL LANDS**

This Carbon Dioxide Storage Easement Agreement ("Easement Agreement"), is entered into this 1st day of January, 2025 (the "Effective Date"), by and between the STATE OF NORTH DAKOTA, acting by and through the Board of University and School Lands and its agent, the Commissioner of University and School Lands ("GRANTOR"), and GRANTEE NAME, GRANTEE ADDRESS ("GRANTEE").

WHEREAS, GRANTOR is the owner of 100% of the surface interests, including the Pore Space, within and underlying the following property:

COUNTY COUNTY

Township 000 North, Range 00 West

Section 00: xx

Containing 000.00 acres, more or less.

NOW THEREFORE, in consideration of the foregoing recitals, the mutual promises contained herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, GRANTOR and GRANTEE agree as follows:

1. DEFINITIONS.

"Amalgamated Area" means the amalgamated surface acreage overlying a Reservoir to be used for storage as approved by the Commission. Each "Amalgamated Area" shall be described on Exhibit A and Exhibit A shall be amended, from time to time for each Reservoir to be used for storage as approved by the Commission.

"Affiliate" means, in relation to GRANTEE, any company or other entity, whether or not with legal personality, which directly or indirectly substantially controls, is substantially controlled by, or is under joint control with GRANTEE. For the purposes of this definition, GRANTEE is deemed to substantially control another legal entity if: (i) GRANTEE owns, directly or indirectly, at least fifty

percent (50%) of the capital of another legal entity; or (ii) GRANTEE has the power to direct or cause the direction of management and set the policies of the other legal entity. GRANTEE shall be deemed to be substantially controlled by another legal entity if: (x) that legal entity owns, directly or indirectly, at least fifty percent (50%) of the capital interest of GRANTEE; or (y) such other legal entity has the power to direct the management and set the policies of GRANTEE.

"Carbon Dioxide" means carbon dioxide in gaseous, liquid, or supercritical fluid state produced by anthropogenic sources which is of such purity and quality that together with incidental associated substances derived from the source materials, capture process, and any substances added or used to enable or improve the injection process within such tolerances as allowed by any permit issued by the Commission.

"Commencement of Operations" means the date on which Carbon Dioxide is first injected into the Pore Space underlying the Amalgamated Area; *provided* that the performance of test injections and related activities shall not be deemed Commencement of Operations.

"Commission" means the North Dakota Industrial Commission.

"Commissioner" means the Commissioner of University and School Lands.

"Completion Notice" means a certificate of project completion issued to GRANTEE by the Commission pursuant to Chapter 38-22 of the North Dakota Century Code.

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the Operations, including any avoided emissions and the reporting rights related to these avoided emissions, such as 26 U.S.C. §45Q Tax Credits.

"Environmental Incentives" means any and all credits, rebates, subsidies, payments or other incentives that directly relate to the use of technology incorporated into and utilized in the Operations, environmental benefits of the Operations, or other similar programs available from any regulated entity or any Governmental Authority as they are directly related to the Operations.

"Facilities" means all facilities, structures, improvements, infrastructure, fixtures, equipment, and any other personal property constructed, operated, or otherwise used by GRANTEE in connection with GRANTEE's activities under this Easement Agreement, including, without limitation, wells, Injection Wells, pipelines, roads, utilities, metering or monitoring equipment, and buildings.

"Financing Parties" means a person or persons providing construction or permanent financing to GRANTEE in connection with construction, ownership, operation and maintenance of Facilities or Operations, including financial institutions, leasing companies, institutions, tax equity partners, joint venture partners and/or private lenders.

"Non-Native Carbon Dioxide" means Carbon Dioxide that is not naturally occurring in the Reservoir together with incidental associated substances, fluids, minerals, oil, and gas, excluding that which, independent of Operations, originates from an accumulation meeting the definition of a Pool. All Non-Native Carbon Dioxide will be considered personal property of the GRANTEE and its successor and assigns under this Agreement.

"Injection Well" means any nonexperimental well used to inject Carbon Dioxide into or withdraw Carbon Dioxide from the Reservoir, including the [Insert well name] well on the to be constructed well pad which is located 0000 feet from the North/South line and 000 feet from the East/West line of Section 00, Township 000 North, Range 00 West, Mercer County, North Dakota as depicted in Exhibit "B"; and including the [Insert well name] well on the to be constructed well pad which is located 0000 feet from the North/South line and 000 feet from the East/West line of Section 00, Township 000 North, Range 00 West, [Insert County name] County North Dakota as depicted in Exhibit "B".

"Operating Year" means the calendar year or portion of the calendar year following Commencement of Operations during which Operations occur.

"Operations" means (i) the transportation of Non-Native Carbon Dioxide from a compressor(s) to a meter(s) or Injection Well(s) and the subsequent injection of such Non-Native Carbon Dioxide into the Reservoir after Commencement of Operations; or (ii) any withdrawal of Carbon Dioxide or Non-Native Carbon Dioxide for sale or disposal in accordance with applicable law.

"Pore Space" means a cavity or void, whether natural or artificially created, in a subsurface sedimentary stratum.

"Property" means the Surface Area and the Pore Space.

"Related Person" means any member, partner, owner, principal, officer, director, shareholder, predecessor-in-interest, successor-in-interest, employee, agent, heir, representative, contractor, subcontractor, lessee, sublessee, licensee, invitee, permittee of a Party, Financing Parties or any other person or entity that has obtained or in future obtains rights or interests from, under or through a Party (excluding the other Party itself).

"Reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or void, whether natural or artificially created, including oil and gas reservoirs, saline formations, and coal seams suitable for or capable of being made suitable for injecting and storing carbon dioxide that are located within the Amalgamated Area.

"Storage Payment" shall have the meaning as defined in Section 6.2 entitled "Annual Storage Payment" described-below.

"Storage Reservoir" means, collectively: (1) the Reservoir located within the subsurface zone underlying the Surface Area at a log depth between 0,000 feet below the Kelly Bushing and 0,000 feet below the Kelly Bushing as measured in the [Insert well name] well (NDIC File No. #00000), commonly known as the Inyan Kara formation; and (2) the Reservoir located within the subsurface zone underlying the Surface Area at a log depth between 0,000 feet below the Kelly Bushing and 0,000 feet below the Kelly Bushing as measured in the [Insert well name] well (NDIC File No. #00000), commonly known as the Broom Creek formation; and (3) the Reservoir located within the subsurface zone underlying the Surface Area at a log depth between 00,000 feet below the Kelly Bushing and 00,000 feet below the Kelly Bushing as measured in the [Insert well name] well (NDIC File No. #00000), commonly known as the Deadwood formation.

"Surface Area" means the surface acres in the XX quarter of Section 00, Township 000 North, Range 00 West, [Insert County Name] County, North Dakota.

"Tax Credits" means any and all (i) investment tax credits; (ii) production tax credits (iii) credits under 26 U.S.C. §45Q credits; and (iv) similar tax credits or grants under federal, state or local law directly relating to the construction, ownership of the Facilities, or the Operations.

2. TERM. This Easement Agreement will be for a period not to exceed a total of twenty (20) years or until terminated under the terms of this Easement Agreement, whichever is earlier (the "Term") and will not automatically renew.

2.1 This Easement Agreement shall commence on the Effective Date and shall continue for an initial term of [Insert written years] (00) years (the "Initial Term") unless sooner terminated in accordance with the terms of this Easement Agreement.

2.2 If Commencement of Operations does not occur prior to the expiration of the Initial Term, and an extension of the Initial Term has not been granted by GRANTOR in accordance with this Section 2, this Easement Agreement shall terminate, and GRANTEE shall record a release of easement in the official records of the county in which the Property is located within thirty (30) days of such termination.

2.3 Subject to the terms of this Easement Agreement and upon Commencement of Operations, the Initial Term shall cease and this Easement Agreement shall continue for so long as: (1) any portion of the Property is subject to a permit issued by the Commission; or (2) upon the issuance of a Completion Notice pursuant to North Dakota Century Code chapter 38-22, whichever is earlier (the "Operational Term"); *provided*, however, that all of GRANTEE's benefits and obligations under this Easement Agreement shall terminate upon issuance of a Completion Notice, except for any outstanding payments owed to GRANTOR, including the Final Payment (as applicable) or as otherwise provided in this Easement Agreement.

3. PURPOSE & RIGHTS.

3.1 Subject to the terms and conditions of this Easement Agreement, GRANTOR grants to GRANTEE the exclusive right, privilege, and authority to utilize the Pore Space for the purposes of storing and sequestering Carbon Dioxide into the Pore Space at the sole expense of GRANTEE. Subject to the terms and conditions of this Easement Agreement, GRANTOR hereby grants and conveys all other and further easements or permits, across, over, under and above the Property as reasonably necessary to provide access to and services reasonably required for GRANTEE's performance under the Easement Agreement and in connection with GRANTEE Operations; *provided* that GRANTOR determines that such easements or permits will not unreasonably interfere with any existing leases, easements, or permits as of the respective effective date of such easement or permit; *provided* further that such easements or permits granted to GRANTEE will be subject to all other existing leases, easements, and permits as of the respective effective date of such easement or permit. The easement rights granted hereunder shall run with and burden the Property for the term of this Easement Agreement. Notwithstanding the easement rights granted herein, GRANTEE shall comply with all GRANTOR's written policies, and any law or rule applicable to accessing GRANTOR's Property prior to accessing the surface of the Property, and if such activity requires a permit, then prior notice shall be in form and not be less than that required by law or rule. The rights of GRANTEE under this Easement Agreement are limited to only the permitted uses in connection with the GRANTEE Operations and use of the Pore Space thereof as set forth in this Easement Agreement.

3.2 Subject to approval by the Commission and to the terms contained in Subsection 3.1 of this Easement Agreement, GRANTEE, in its sole discretion, shall have the right and power, at any time (including both before and after Commencement of Operations) to pool, unitize, or to amalgamate any Reservoir or portion of Reservoir with any other, to amalgamate land or interests to be included in a Reservoir for geological storage; *provided*, however, that prior to applying for amalgamation of any state-owned property that is not expressly made a part of this Easement Agreement (as amended) as of the effective date hereof, that is connected to or otherwise related to the Reservoir, and that is under the management of GRANTOR, GRANTEE shall make a good faith effort to obtain consent of GRANTOR through amendment of this Easement Agreement. For the purposes of this Easement Agreement, "good faith" shall mean setting forth honest and sincere efforts to come to an agreement. Amalgamated units shall be of such shape and dimensions as GRANTEE may elect and as are approved by the Commission. Amalgamated areas may include, but are not required to include, land upon which injection or extraction wells have been completed or upon which the injection and/or withdrawal of Carbon Dioxide and Non-Native Carbon Dioxide has commenced prior to the effective date of amalgamation. GRANTEE shall record or cause to be recorded a copy of the Commission's amalgamation order or other notice thereof in the county in which the amalgamated unit is located. Amalgamating in one or more instances shall, if approved by the Commission, not exhaust the rights of GRANTEE to amalgamate Reservoirs or portions of Reservoirs into other amalgamation areas, and

GRANTEE shall have the recurring right to revise any amalgamated area formed under this Easement Agreement by expansion or contraction or both. GRANTEE may dissolve any amalgamated area at any time and document such dissolution by executing and recording a release of such Property from this Easement Agreement in the county where the applicable property is located. GRANTEE shall have the right to negotiate, on behalf of and as agent for GRANTOR, any unit agreements and operating agreements with respect to the operation of any amalgamated areas formed under this Easement Agreement.

3.3 The injection and/or withdrawal of Carbon Dioxide or Non-Native Carbon Dioxide into a Reservoir from any property within an amalgamated area that includes the Property shall be treated as if Operations were occurring on the Property, except that the payments payable to GRANTOR under Section 6 of this Easement Agreement shall be GRANTOR's proportionate share of the total Storage Payment for the preceding Operating year's injection of Carbon Dioxide into the Amalgamated Area.

3.4 GRANTEE acknowledges that GRANTOR is a government entity restricted by North Dakota State law and to written internal policies governing the granting of access and uses to the Property. Accordingly, GRANTEE agrees to comply with all written requirements related to the Property pursuant to the authority granted in Article IX of the North Dakota State Constitution, title 15 of the North Dakota Century Code, and title 85 of the North Dakota Administrative Code. Except for the rights granted herein, any access to the Property without GRANTOR's prior written consent is prohibited.

4. GRANTEE DUTIES

4.1 GRANTEE may exercise its rights under this Easement Agreement in conjunction with related operations on other properties near the Property. Subject to the terms and conditions of this Easement Agreement, including Section 2.1 "Term": (i) GRANTEE shall have no obligations, express or implied, to begin, prosecute or continue storage operations in, upon or under the Property, or to store and/or sell or use all or any portion of the Carbon Dioxide stored thereon; and (ii) the timing, nature, manner, and extent of the GRANTEE's operations, if any, under this Easement Agreement shall be at the sole discretion of the GRANTEE. All obligations of GRANTEE are expressed in this Easement Agreement, and there shall be no covenants implied under this Easement Agreement, it being agreed that all amounts paid hereunder constitute full and adequate consideration for this Easement Agreement.

4.2 GRANTEE shall measure and keep record of all Carbon Dioxide injected into and withdrawn from the Pore Space between January 1 and December 31 of each calendar year and shall provide such records to GRANTOR annually by April 15th of the following year.

4.3 GRANTEE shall comply with the financial responsibility requirements as set forth in North Dakota Administrative Code chapter 43-05-01.

4.4 GRANTEE shall conduct all activities under this Easement Agreement in a manner that avoids the degradation of air, land, and water quality and that protects the Property's visual resources.

4.5 GRANTEE shall not conduct or permit to be conducted any public or private nuisance on or from the Property. GRANTEE shall not commit or permit to be committed any waste, litter, or pollutants on or from the Property.

4.6 GRANTEE shall notify GRANTOR in writing at least two (2) weeks prior to, and promptly upon completion of, any construction, reclamation, injection, withdrawal occurring on the Property, or upon issuance of a Completion Notice.

4.7 GRANTOR hereby reserves and retains title to any and all historical, archaeological, and paleontological materials, whether such materials are found upon the surface or below the surface of the Property. If, at any time during the Term, historical, archeological, or paleontological items are discovered on or below the Property or such items are disturbed, GRANTEE shall immediately cease activities and notify GRANTOR. GRANTEE shall not resume activities until written approval is provided by GRANTOR.

5. FACILITIES.

5.1 No Facilities. No Facilities at any time shall be located on, in, or under the Property.

5.2 GRANTOR and GRANTEE agree that all Facilities and property of whatever kind and nature constructed, placed or affixed on the rights-of-way, easements, patented, or leased lands as part of GRANTEE's Operations, as against all parties and persons whomsoever (including without limitation any party acquiring interest in the rights-of-way, easements, patented, or leased lands or any interest in or lien, claim or encumbrance against any of such Facilities), shall be deemed to be and remain the property of the GRANTEE, and shall not be considered to be fixtures or a part of the Property. GRANTOR waives, to the fullest extent permitted by applicable law, any and all rights it may have under the laws of the State of North Dakota, arising under this Easement Agreement, by statute or otherwise to any lien upon, or any right to distress or attachment upon, or any other interest in, any item constituting the Facilities or any other equipment or improvements constructed or acquired by or for GRANTEE and located on the Property or within any easement area. Each GRANTOR and GRANTEE agree that the GRANTEE (or the designated assignee of GRANTEE or Financing Parties) is the tax owner of any such Facilities, structures, improvements, equipment and personal property of whatever kind and nature and all tax filings and reports will be filed in a manner consistent with this Easement Agreement. Facilities shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. If there is any mortgage or fixture filing against the Property which could reasonably be construed as prospectively attaching to the Facilities as a fixture of the Property, GRANTOR

shall provide a disclaimer or release from such lienholder. GRANTOR, as fee owner, consents to the filing of a disclaimer of the Facilities as a fixture of the Property in the Oliver County Recorder's Office, or where real estate records of Oliver County are customarily filed.

6. COMPENSATION. In consideration for the rights granted to GRANTEE under this Easement Agreement, GRANTEE shall make the following payments to GRANTOR (collectively, the "Payments") for all uses and rights granted herein:

6.1 Initial Payment. GRANTEE shall pay a one-time initial payment of [Insert per acre payment] dollars (\$00.00) per acre for the Surface Area and shall pay [Insert per acre payment] dollars (\$0.00) per acre for the Surface Area for each subsequent year, during the Initial Term, until the start of the Operational Term defined in Section 6.2 below. For the avoidance of doubt, the [Insert per acre payment] dollar (\$0.00) per acre payment shall cease at the start of the Operational Term and all future payments will be based on the Operational Term.

6.2 Annual Storage Payment. During the Operational Term, GRANTEE shall pay to GRANTOR a payment equal to the Storage Payment for the immediately preceding calendar year. All payments required under this subsection must be paid on an annual basis by May 31st of the following year to which such payment relates and each such payment remitted by GRANTEE must include a statement reflecting the actual volume of Carbon Dioxide injected and withdrawn and the rate used in calculating the amount of payment. For the Operating Year in which GRANTEE provides GRANTOR with a Completion Notice, GRANTEE shall pay a pro rata share of the Storage Payment(s) (the "Final Payment"), as applicable, and said Final Payment shall be made within sixty (60) days after the date the Completion Notice is issued. GRANTOR's proportionate share of FIFTY cents (\$0.50) per metric ton of Carbon Dioxide ("Storage Rate") shall increase ten percent (10%) on January 1, 2026, and an additional ten percent (10%) every five years thereafter as follows:

<u>Date:</u>	<u>Storage Rate:</u>
Beginning January 1, 2026	\$0.550
Beginning January 1, 2031	\$0.605
Beginning January 1, 2036	\$0.666
Beginning January 1, 2041	\$0.733
Beginning January 1, 2046	\$0.806
Beginning January 1, 2051	\$0.887
Beginning January 1, 2056	\$0.976
Beginning January 1, 2061	\$1.074
Beginning January 1, 2066	\$1.181

The Storage Payment shall be: (i) calculated separately for each Amalgamated Area as created and established by the Commission that includes any portion of the Property; (ii) limited to the Carbon Dioxide injected in said Amalgamated Area in the immediately preceding Operating Year; and (iii) based on the GRANTOR's proportionate per net acre share of said unit. For avoidance of doubt, the GRANTOR shall receive a separate Storage Payment for each Amalgamated Area created and established by the Commission that includes any portion of the Property on a net acre basis within the GRANTOR's interest being the numerator and the acres in the Amalgamated Area being the denominator.

6.3 No Right to Withhold. GRANTEE shall not be permitted to withhold payments owed to GRANTOR as set forth in this Easement Agreement.

7. GRANTOR RESERVED RIGHTS & RESERVATIONS

7.1 Except for the right, privilege, and authority to utilize the Pore Space for the purposes of storing and sequestering Carbon Dioxide and Non-Native Carbon Dioxide within the Pore Space as expressly provided in this Easement Agreement, GRANTEE is not acquiring any other subsurface interest through this Easement Agreement. Subsurface interests include, but are not limited to, all minerals including coal, cement materials, sodium sulfate, sand and gravel, scoria, road material, building stone, chemical substances, metallic ores, uranium ores, or colloidal or other clays, oil, gas, and related hydrocarbons, or other naturally occurring elements and their compounds (collectively, and excluding the rights granted to GRANTEE herein, "Subsurface Interests").

7.2 GRANTOR reserves the right to use the Property and to allow others to use the Property which does not unreasonably interfere with GRANTEE's use under this Easement Agreement. Lessor shall not engage in any activity or permit its Related Persons to engage in any activity that might damage or undermine the physical integrity of any Reservoir or interfere with GRANTEE's use of the Property under this Easement Agreement. If a third-party other than GRANTOR or its Related Persons, without GRANTOR consent or authorization uses the Property in a manner inconsistent with GRANTEE's use, GRANTOR is not liable or responsible.

7.3 This Easement Agreement is subject to all recorded surface leases, coal, oil, natural gas, uranium, gravel, scoria, clay, and other mineral leases, easements, and exploration permits. Notwithstanding the foregoing, GRANTOR shall not engage in any activity or knowingly permit its Related Persons to engage in any activity that might damage or undermine the physical integrity of the Storage Reservoir or interfere with GRANTEE's use of the Storage Reservoir under this Easement Agreement; *provided* however that it is understood by GRANTEE that GRANTOR has no right to permit or to prohibit the exercise of any mineral rights not owned by GRANTOR at the time of entering into the Easement Agreement between GRANTOR and GRANTEE with respect to the Property.

7.4 If any Subsurface Interest in, on, or underlying the Property is prevented from mining or development because of GRANTEE's use of the Property, or Operations under this Easement Agreement, GRANTOR may require GRANTEE to compensate GRANTOR, at the fair market value of the impacted Subsurface Interest mutually agreed to by GRANTOR and GRANTEE. In the event GRANTOR and GRANTEE cannot agree as to the fair market value, then GRANTEE and GRANTOR shall each select a qualified appraiser having ten (10) years of experience appraising mineral interests, to provide an appraisal of the fair market value that would be derived by GRANTOR from the mining or development of such Subsurface Interests as if this Easement Agreement had never been executed. The two appraisers shall give their written opinion of the fair market value of the impacted interests within thirty (30) days after their retention. In the event the opinions of the two appraisers differ and after good faith efforts they cannot mutually agree, the appraisers shall immediately and jointly appoint a third qualified appraiser, having ten (10) years of experience appraising mineral interests. The third appraiser shall, within five days of retention, evaluate and select the determination of either appraiser and such selection of the third appraiser shall be final and binding on the GRANTOR and GRANTEE. Each GRANTOR and GRANTEE shall pay its own costs for its appraiser. Following the determination of the fair market value of the impacted interests by the appraisers, the GRANTOR and GRANTEE shall equally share the costs of any third appraiser.

7.5 This Easement Agreement is subject to all existing leases, easements, rights-of-way, and other servitudes covering the Property as of the Effective Date and GRANTEE agrees to honor same. GRANTEE is not entitled to any compensation by reason of such leases, permits, easements, rights-of-way, or servitudes unless otherwise provided for by GRANTOR.

8. TERMINATION

8.1 GRANTEE's Right to Terminate. GRANTEE shall have the right to terminate this Easement Agreement, upon written notice to GRANTOR.; *provided* that all of GRANTEE's obligations which have accrued as of the date of termination have been fully satisfied. Upon termination of this Easement Agreement, GRANTEE shall have one hundred eighty (180) days (i) to remove, plug, and/or abandon in place all Facilities of GRANTEE located on the Property in accordance with applicable permit requirements or other applicable statutes, rules or regulations, (ii) take such other actions as are required by applicable law to prevent the release of Carbon Dioxide and Non-Native Carbon Dioxide injected in the Pore Space or that have migrated into the Pore Space; and (iii) restore the surfaces of the Property which are disturbed by GRANTEE Operations to a condition equal to or better than its condition existed as of the Effective Date of this Easement Agreement.

8.2 GRANTOR's Right to Terminate. GRANTOR may not terminate this Easement Agreement for any reason whatsoever unless a Default Event has occurred and remains

uncured under the terms of this Easement Agreement. GRANTOR shall have the right to terminate this Easement Agreement and all rights granted herein where:

- (a) GRANTEE fails to perform material responsibilities or obligations under the Easement Agreement, each such event shall be deemed a Default Event. For the purposes of this Easement Agreement, a "Default Event" is: (i) the failure of GRANTEE to pay any amount due and payable under this Easement Agreement, other than an amount that is subject to a good faith dispute; or (b) a material violation of or failure to perform any terms of this Easement Agreement by GRANTEE; and
- (b) GRANTOR provides GRANTEE written notice of the default setting forth, in reasonable detail, the facts pertaining to the default and specifying the recommended method of cure, if GRANTOR knows the method of cure; and
- (c) The default is not remedied within sixty (60) days after GRANTEE receives written notice of default; *provided*, however, that if the nature or extent of the default is such that more than sixty (60) days are required to cure, GRANTOR may, in its sole discretion, grant an extension to cure such default, provided that GRANTEE agrees to commence to cure within the time period granted, and to thereafter pursue the same to completion with commercially reasonable diligence. In no event shall GRANTEE have more than one hundred eighty (180) days from the date of receipt of such notice to cure without prior written consent from GRANTOR.
- (d) The Parties acknowledge that in connection with any construction or long-term financing or other credit support provided to GRANTEE or its Affiliates by Financing Parties, that such Financing Parties may act to cure a Default Event and GRANTOR agrees to accept full performance from any such Financing Parties so long as such Financing Parties perform in accordance with the terms of this Easement Agreement. If GRANTEE, its Affiliates, or the Financing Parties fail to substantially cure such Default Event within the applicable cure period, GRANTOR may terminate this Easement Agreement. Notwithstanding the foregoing, GRANTEE maintains ultimate responsibility to ensure that any Default Events are cured in accordance with the terms of this Easement Agreement.

9. ASSIGNMENT.

9.1 GRANTOR shall not sell, transfer, assign, or encumber the Facilities or any part of Operations, GRANTEE's title to the Carbon Dioxide and Non-Native Carbon Dioxide, or GRANTEE's rights under this Easement Agreement.

9.2 GRANTEE has the right to sell, assign, transfer, or delegate any of its rights, interests, mortgage, pledge, use as collateral, or otherwise collaterally assign or convey all or any of its rights and obligations under this under this Easement Agreement.

9.3 In the event GRANTEE assigns its rights under this Easement Agreement, GRANTEE shall be relieved of its rights, benefits, and obligations under this Easement Agreement only to the extent that such rights, benefits, or obligations are assigned and only to the extent that such rights, benefits, or obligations arise after the date of assignment; *provided* that GRANTEE promptly provides written notice of such assignment to GRANTOR; and *provided* further that GRANTEE shall not be relieved from any obligation in respect of any accrued compensation or other obligations under this Easement Agreement that have not been satisfied or performed prior to the date of such assignment.

9.4 This Easement Agreement shall be binding on and inure to the benefit of all successors and assignees. The assigning Party shall provide written notice of any assignment within sixty (60) days after such assignment has become effective; provided, however, that an assigning Party's failure to deliver written notice of assignment within such 60-day period shall not be deemed a breach of this Easement Agreement unless such failure is willful and intentional. Further, no change or division in GRANTOR's ownership of or interest in the Property or payments shall enlarge the obligations or diminish the rights of GRANTEE or be binding on GRANTEE until after GRANTEE has been furnished with a written assignment or a true copy of the assignment with evidence that same has been recorded with the County Recorder's Office.

10. FINANCIAL RESPONSIBILITY REQUIREMENTS. GRANTEE shall comply with all requirements under North Dakota Administrative Code title 43, including all applicable financial and environmental requirements.

11. INSURANCE. GRANTEE shall secure and keep in force during the term of this Easement Agreement from insurance companies, government self-insurance pools, or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

11.1 During Initial Term and any other period in which work upon the surface of the Property is being undertaken, commercial general liability, including operations, contractual, and products and completed operations coverages, with minimum liability limits of \$2,000,000 per occurrence and in the aggregate, which may be provided by a combination of primary and excess policies. If the policy provides for separate limits on a per person basis, the policy must provide limits of not less than \$500,000 per person. The State of North Dakota and the Board of University and School Lands, and their Related Persons, shall be included on the policy as additional insureds on a primary and noncontributory basis only to the extent of the liabilities specifically assumed by the GRANTEE under this Easement Agreement, but shall not be limited to the minimum limits of insurance required by this Easement Agreement.

11.2 Prior to Commencement of Operations and during the Term, GRANTEE's Pollution Liability coverage for contractual, completed operations, personal injury, property damage, and cleanup cost arising from pollution conditions caused by the operations of the GRANTEE for limits of \$5,000,000. Coverage may be on an occurrence basis, however if it is on a claims-made basis then GRANTEE must renew for three (3) years following termination of this agreement or procure a three (3)-year extended reporting period. The insurance required under this section may be in policy or policies of insurance, primary and excess, including umbrella or catastrophe coverage. Coverage must include contractual liability coverage for claims arising out of liability of subcontractors, loading and unloading, completed operations, and offsite coverage. The State of North Dakota and the Board of University and School Lands, and their officers and employees, shall be included on the policy as additional insureds on a primary and noncontributory basis, but shall not be limited to the minimum limits of insurance required by this Section 11.

11.3 The required minimum levels of insurance contained in this section shall increase (but not decrease) to reflect the percentage increase in the Consumer Price Index for All Urban Consumers (using the standard reference base) on the anniversary for each twelve (12) month period following the execution of this Easement Agreement, including any renewal periods regardless of the date of the renewal, not to exceed \$10,000,000 aggregate limit for each insurance required in above sections 11.1 and 11.2. The required minimum levels of insurance contained in this Section 11 may be renegotiated to reflect industry practice and commercially available insurance, and upon any such agreement, the minimum required insurance shall thereafter increase to reflect the annual percentage increase in the Consumer Price Index other agreed upon escalation provision.

11.4 GRANTEE shall provide a certificate of insurance evidencing the insurance requirements contained in this Easement Agreement are met prior to any activities being undertaken and at least annually at the time of policy renewal. The failure to secure insurance as required in this Easement Agreement constitutes a material breach of this Easement Agreement. GRANTEE shall have a reasonable opportunity (not to exceed 30 days) to cure a breach under this Section 11 through timely acquisition of insurance that meets the requirements of this Easement Agreement including coverage during all required time periods, except as GRANTOR may, in its sole discretion, waive in writing. GRANTEE shall continue to bear all risk related to the Project during any period of lapse of coverage.

12. FOREIGN SUBSTANCES; REMEDIAL WORK.

12.1 GRANTEE shall not, without GRANTOR's prior written authorization, discharge or inject any Foreign Substances on, in, or under the Property. For the purposes of this section, the term "Foreign Substances" shall mean water, oil, gas liquids, salt water, or any other hazardous liquids or toxic substances expressly excluding Carbon Dioxide and Non-Native Carbon Dioxide. All unauthorized discharges of Foreign Substances shall be stopped as soon as possible after discovery and acted upon promptly to cease such discharges. GRANTEE

shall provide a copy of all required notices under article 43-05 of the North Dakota Administrative Code. GRANTEE shall promptly restore the surface of the Property disturbed by GRANTEE or the Operations to a condition equal to or better than its condition as it existed as of the Effective Date of this Easement Agreement. GRANTEE or its Related Persons shall use, dispose, and discharge Foreign Substances in compliance with all local, state, and federal laws, rules, regulations, and policies. GRANTEE shall have no liability for any Foreign Substances located on, in or under the Property prior to the Effective Date or placed on, in, or under the Property by GRANTOR or any of its Related Persons on or after the Effective Date, and nothing in this Easement Agreement shall be construed to impose upon GRANTEE any obligation for the removal of such Foreign Substances.

12.2 Except in connection with Environmental Laws, if any Foreign Substance is discovered on, in, or under the Property and its presence is determined to be caused by GRANTEE or its Related Persons, GRANTEE shall promptly take all actions, at its sole expense, to remediate the affected Property in accordance with all applicable local, state, and federal laws, rules, regulations, and policies reasonably necessary to restore the Property to a condition equal to or better than its condition as it existed on the Effective Date of this Easement Agreement, including, without limitation, any investigation or monitoring of site conditions or any clean up, remediation, response, removal, encapsulation, containment, or restoration work (collectively, the "Remedial Work"). All disturbed surface areas of the Property must be revegetated with a mixture of native perennial grasses, as shown in Exhibit "C", sufficient to prevent accelerated erosion and restore, as closely as possible, the original long-term productivity. GRANTEE shall obtain all necessary licenses, permits, and approvals to perform the Remedial Work. GRANTEE shall promptly perform all Remedial Work and the disposal of all waste generated by the Remedial Work in accordance with all local, state, and federal laws, rules, regulations, and policies.

12.3 For avoidance of doubt, GRANTEE shall have no liability for any Foreign Substances located on or in the Property or under the Property where it is shown that such Foreign Substances were in place prior to the Effective Date or placed in, on or within the Property by GRANTOR or any of its Related Persons on or after the Effective Date, and nothing in this Easement Agreement shall be construed to impose upon GRANTEE any obligation for the removal of such Foreign Substances placed in, on or within the Property by GRANTOR or any of its Related Persons.

12.4 The obligations of GRANTEE under this Section 12 shall continue after this Easement Agreement terminates; *provided*, however, that if a Completion Notice and a release of all Property recorded as required in this Easement Agreement, then, absent fraud or willful misconduct by GRANTEE, any obligations of GRANTEE that transfer as an operation of law shall cease.

12.5 GRANTEE shall promptly provide to GRANTOR copies of all communications, filings, or other writings, photographs, or materials given to or received from any governmental entity or authority in connection with any Remedial Work on, in, or under the Property conducted by GRANTEE or GRANTEE's Related Persons and shall notify GRANTOR of any formal governmental or administrative proceedings relating thereto.

13. CONSTRUCTION BOND; LIENS. (i) GRANTEE shall protect Property from any liens arising out of GRANTEE's use of the Property under this Easement Agreement to be filed against the Property, provided that GRANTEE may, at any time and without the consent of GRANTOR, hypothecate, mortgage, pledge, or collaterally assign (including by mortgage, deed of trust or personal property security instrument) all or any portion of GRANTEE's right, title or interest under this Easement Agreement (but not GRANTOR's right, title or interest in the Property) as security for the repayment of any indebtedness and/or the performance of any obligation; (ii) Lessor shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the GRANTEE's facilities, operations or any interest therein. GRANTOR shall immediately notify GRANTEE in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to GRANTEE, and shall indemnify the GRANTEE against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim; (iii) If a lien arises other than that permitted under (i), as a result of GRANTEE's use of the Property, GRANTEE shall obtain lien protection in the form of a letter of credit, escrow account, payment of a bond, or another form of insurance pre-approved by GRANTOR to ensure the prompt removal of any lien on the Property. In the event that a lien against the Property arises from GRANTEE's use of the Property under this Easement Agreement or otherwise, GRANTEE shall be responsible for prompt payment or removal of such lien. If GRANTEE wishes to contest any such lien, GRANTEE shall, within sixty (60) days after it receives notice of the lien, provide a bond or other security requested by GRANTOR, or remove such lien from the Property in the manner provided by applicable law.

14. INDEMNIFICATION. To the fullest extent permitted by law,

14.1 GRANTEE shall indemnify, defend, and hold harmless GRANTOR and its Related Persons from and against any and all third-party suits, claims, or damages including all costs, expenses, and attorneys' fees suffered or incurred by GRANTOR or its Related Persons arising out of or in any way relating to GRANTEE's Operations, or GRANTEE's use of the Property except to the extent such claims arise out of the willful or intentional misconduct of GRANTOR or its Related Persons. For the avoidance of doubt, and in no way limiting the foregoing obligation to defend, indemnify, and hold GRANTOR harmless, GRANTEE's obligation to defend, indemnify, and hold harmless includes any and all third-party claims for damages suffered and incurred by GRANTOR and its Related Persons arising out of physical damage to the Property caused by GRANTEE's activities or GRANTEE's use of the Property, including those related to the injection, storage, transportation, migration, or

displacement of Carbon Dioxide, gas, saltwater, or other liquids or materials within or out of the 4ervoir. The legal defense provided by GRANTEE to GRANTOR under this section must be free of any conflicts of interest, even if retention of separate legal counsel for GRANTOR is necessary. The obligations of this section shall continue in full force and effect after this Easement Agreement or any portion hereof terminates or is released.

14.2 GRANTOR shall be responsible for the defense of claims, losses, damages, and expenses which are caused by the willful or intentional acts of GRANTOR or its Related Persons acting within the scope of their employment. The liability of the GRANTOR is subject to the conditions and limitations contained in law, including, without limitation, chapter 32-12.2 of the North Dakota Century Code.

15. ENVIRONMENTAL INCENTIVES. Unless otherwise specified, GRANTEE is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits or any other attributes of ownership of the Facilities and Operations. GRANTOR shall cooperate with GRANTEE in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits. GRANTOR shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by GRANTEE. If any Environmental Incentives are paid directly to GRANTOR, GRANTOR shall promptly pay such amounts over to GRANTEE.

16. NOTICES AND FILINGS. GRANTEE shall promptly provide GRANTOR with copies of any and all filings with and notices to any and all governmental authorities with respect to the Property and copies of any and all notices, complaints, or other actions by any governmental authority received by GRANTEE or its agents with respect to the Property.

All notices or other communications required under this Easement Agreement must be given by registered or certified mail and are complete on the date postmarked when addressed to the parties at the following addresses:

IF TO GRANTOR:

Commissioner of University and School Lands
1707 North 9th Street
Bismarck, ND 58501
Telephone: (701) 328-2800
Fax: (701) 328-3650

IF TO GRANTEE:

GRANTEE NAME
ADDRESS
CITY, ST ZIP
Telephone: (000) 000-0000

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

For purposes of this section, any party may change its contact information by giving written notice of such change to the other parties in the manner provided in this section.

17. NO WARRANTY OF TITLE. GRANTOR neither warrants nor agrees to defend title to the Property.

18. FORCE MAJEURE. Should GRANTEE be prevented from complying with any express or implied covenant of this Easement Agreement, from utilizing the Property for underground storage purposes by reason of scarcity of or an inability to obtain or to use equipment or material failure or breakdown of equipment or the operation of force majeure (including, but not limited to, riot, insurrection, war (declared or not), mobilization, explosion, labor dispute, fire, flood, earthquake, storm, lightning, tsunami, backwater caused by flood, vandalism, act of the public enemy, terrorism, epidemic, pandemic (including COVID 19), civil disturbances, strike, blockades, sabotage, regional labor or material shortage, national emergency, and the amendment, adoption or repeal of or other change in, or the interpretation or application of, any applicable laws, orders, rules or regulations of governmental authority) and the GRANTEE gives notice to the GRANTOR immediately upon discovery of occurrence of the event, then while so prevented, GRANTEE's obligation to comply with such covenant shall be suspended and this Easement Agreement shall be extended while and so long as GRANTEE is prevented by any such cause from utilizing the property for underground storage purposes and the time while GRANTEE is so prevented shall not be counted against GRANTEE, anything in this Easement Agreement to the contrary notwithstanding. A Force Majeure event shall not relieve GRANTEE from payments accrued or any sums due under this Easement Agreement.

19. FINANCING.

19.1 GRANTOR acknowledges that GRANTEE may obtain tax equity, construction, long-term financing and other credit support from one or more Financing Parties and that GRANTEE intends to enter into various agreements and execute various documents relating to such financing, which documents may, among other things, assign this Easement Agreement and any related easements to a Financing Party in accordance with the terms of this Easement Agreement, grant a lease of the Facilities from such Financing Party to GRANTEE, grant the Financing Parties a sublease or other real property interest in GRANTEE's interests in and to the Property, grant a first priority security interest in GRANTEE's interest in the Facilities and/or this Easement Agreement and GRANTEE's other interests in and to the Property, including, but not limited to, any easements, rights of way or similar interests (such documents, "Financing Documents"). GRANTOR acknowledges notice of the foregoing and consents to the foregoing actions and Financing Documents described above.

19.2 GRANTOR agrees, to execute, and agrees to cause any and all of GRANTOR's lenders to execute, such commercially reasonable subordination agreements, non-disturbance agreements, forbearance agreements, consents, estoppels, modifications of this Easement Agreement, and other acknowledgements of the foregoing as GRANTEE or the Financing Parties may reasonably request (collectively, "GRANTOR Financing Consent Instruments"). GRANTOR acknowledges and agrees that (i) GRANTEE's ability to obtain financing for the construction and operation of the Facilities is dependent upon the prompt cooperation of GRANTOR and its lenders as contemplated by this Section 19; (ii) if GRANTEE is unable to close on the financing for the Facilities, the construction of the Facilities and the Commencement of Operations will not likely occur; and (iii) it is in the best interest of both GRANTEE and GRANTOR for GRANTEE to obtain financing from the Financing Parties as contemplated by this Section 19. Therefore, GRANTOR agrees to act promptly, reasonably, and in good faith in connection with any request for approval and execution of all GRANTOR Financing Consent Instruments. The GRANTOR shall also reasonably cooperate with the GRANTEE or the Financing Party in the making of any filings required by such requesting party for regulatory compliance or in accordance with applicable laws and in the operation and maintenance of the Facilities, all solely at the expense of the GRANTEE.

19.3 As a precondition to exercising any rights or remedies as a result of any default or alleged default by GRANTEE under this Easement Agreement, GRANTOR shall deliver a duplicate copy of the applicable notice of default to each Financing Parties concurrently with delivery of such notice to GRANTEE, specifying in detail the alleged default and the required remedy, provided GRANTOR was given notice of such Financing Parties and if no such notice of default is required to be delivered to GRANTEE under this Easement Agreement, GRANTOR may not terminate this Easement Agreement unless GRANTOR has delivered a notice of default to each Financing Party specifying in detail the alleged default or breach and permitting each Financing Party the opportunity to cure as provided in this Section 19(c). Each Financing Party shall have the same period after receipt of a notice of default to remedy default, or cause the same to be remedied, as is given to GRANTEE after GRANTEE's receipt of a notice of default under this Easement Agreement, plus, in each instance, the following additional time periods: (i) ten (10) Business Days in the event of any monetary default; and (ii) sixty (60) days in the event of any non-monetary default; provided, however, that (A) such sixty (60)-day period shall be extended for an additional sixty 60 days to enable such Financing Party to complete such cure, including the time required for such Financing Party to obtain possession of the Facilities (including possession by a receiver), institute foreclosure proceedings or otherwise perfect its right to effect such cure and (B) such Financing Party shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed. GRANTOR shall accept such performance by or at the instance of a Financing Party as if the performance had been made by GRANTEE.

19.4 If any GRANTEE Default Event cannot be cured without obtaining possession of all or part of the Facilities and/or the interest created by the Easement Agreement (the "Estate"),

then any such GRANTEE Default Event shall nonetheless be deemed remedied if: (i) within sixty (60) days after receiving the notice of default, a Financing Party acquires possession thereof, or commences appropriate judicial or non-judicial proceedings to obtain the same; (ii) such Financing Party is prosecuting any such proceedings to completion with commercially reasonable diligence; and (iii) after gaining possession thereof, such Financing Party performs all other obligations as and when the same are due in accordance with the terms of the Easement Agreement. If a Financing Party is prohibited by any process or injunction issued by any court or by reason of any action of any court having jurisdiction over any bankruptcy or insolvency proceeding involving GRANTEE from commencing or prosecuting the proceedings described above, then the sixty (60)-day period specified above for commencing such proceedings shall be extended for the period of such prohibition. In no event shall GRANTEE or its Related Persons fail to commence cure of a Default Event for more than one-hundred eighty (180) days after the date of notice of default without the express consent of GRANTOR.

19.5 Financing Parties shall have no obligation or liability to the GRANTOR for performance of the GRANTEE's obligations under the Easement Agreement prior to the time the Financing Party acquires title to the Estate; *provided*, however, that GRANTEE acknowledges and agrees that any obligations arising prior to the time the Financing Party acquires title to the Easement Rights shall be the sole and absolute responsibility of GRANTEE. A Financing Party shall be required to perform the obligations of the GRANTEE under this Easement Agreement only for and during the period the Financing Party directly holds such Easement Rights or any part thereof. Any assignment pursuant to this Section 19 shall release the assignor from obligations accruing under this Easement Agreement after the date the liability is assumed by the assignee; *provided*, however, that any such release of obligations shall only apply to those portions of the Property being released.

19.6 Each Financing Party shall have the absolute right to do one, some or all of the following things: (i) assign the rights, mortgage or pledge held by Financing Party (the "Financing Party's Lien"); (ii) enforce the Financing Party's Lien; (iii) acquire title (whether by foreclosure, assignment in lieu of foreclosure or other means) to the Estate; (iv) take possession of and operate the Facilities or any portion thereof and perform any obligations to be performed by GRANTEE under the Easement Agreement, or cause a receiver to be appointed to do so; (v) assign or transfer the Estate to a third party; or (vi) exercise any rights of GRANTEE under this Easement Agreement. GRANTOR's consent shall not be required for any of the foregoing; and, upon acquisition of the Estate by a Financing Party or any other third party who acquires the same from or on behalf of the Financing Party or any purchaser who purchases at a foreclosure sale, GRANTOR shall recognize the Financing Party or such other party (as the case may be) as GRANTEE's proper successor, and this Easement Agreement shall remain in full force and effect.

19.7 If this Easement Agreement is terminated for any reason whatsoever, including a termination by GRANTOR on account of a GRANTEE Default Event, or if this Easement Agreement is rejected by a trustee of GRANTEE in a bankruptcy or reorganization proceeding or by GRANTEE as a debtor-in-possession (whether or not such rejection shall be deemed to terminate this Easement Agreement), if requested by Financing Party, GRANTOR shall execute a new Easement Agreement (the "New Easement") for the Property with the Financing Parties (or their designee(s), if applicable) as GRANTEE, within thirty (30) days following the date of such request. The New Easement shall be on substantially the same terms and conditions as are in this Easement Agreement (except for any requirements or conditions satisfied by GRANTEE prior to the termination or rejection). Upon execution of the New Easement by GRANTOR, Financing Parties (or their designee, if applicable) shall pay to GRANTOR any and all sums owing by GRANTEE under this Easement Agreement that are unpaid and that would, at the time of the execution of the New Easement, be due and payable under this Easement Agreement if this Easement Agreement had not been terminated or rejected. The provisions of this Section 19.7 shall survive any termination of this Easement Agreement prior to the expiration of the Term, and any rejection of this Easement Agreement in any bankruptcy or reorganization proceeding.

19.8 GRANTOR consents to each Financing Party's security interest, if any, in the Facilities and waives all right of levy for rent and all claims and demands of every kind against the Facilities, such waiver to continue so long as any sum remains owing from GRANTEE to any Financing Parties. GRANTOR agrees that the Facilities shall not be subject to distraint or execution by, or to any claim of, GRANTOR; *provided*, however, that the terms of this Subsection 19.8 shall only apply to the extent that all such Facilities are not, whether wholly or partially, located on the Property.

19.9 GRANTEE shall have the unilateral right at any time and from time to time to execute and deliver to GRANTOR a written notice of surrender and/or release covering all or any part of the Property for which the subsurface Pore Space is not being utilized for storage as set forth herein, and upon delivery of such surrender and/or release to GRANTOR this Easement Agreement shall terminate as to such lands, and GRANTEE shall be released from all further obligations and duties as to the lands so surrendered and/or released, including, without limitation, any obligation to make payments provided for herein, except obligations accrued as of the date of the surrender and/or release.

20. MERGER AND MODIFICATION. This Easement Agreement, and any attachments hereto constitute the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Easement Agreement. This Easement Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by both parties.

21. APPLICABLE LAW AND VENUE. This Easement Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Easement Agreement must be adjudicated exclusively in state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

22. SOVEREIGN IMMUNITY. GRANTEE hereby acknowledges that GRANTOR reserves all immunities, defenses, rights, or actions arising out of its sovereign status, including North Dakota Century Code chapter 32-12.2 or under the Eleventh Amendment to the United States Constitution. No waiver of any such reserved immunities, defenses, rights, or actions shall be implied or otherwise deemed to exist by the GRANTOR's entry into this Easement Agreement, by any express or implied provision thereof or by any actions or omissions to act by GRANTOR or any GRANTOR's Related Persons, whether taken pursuant to or prior to GRANTOR's entry into this Easement Agreement.

23. SPOILIATION – NOTICE OF POTENTIAL CLAIMS. GRANTEE shall promptly notify GRANTOR of all claims arising or resulting from GRANTEE's use of the Property. GRANTEE shall also take all reasonable steps to preserve all physical evidence and information and will provide the GRANTOR the reasonable opportunity to review and inspect the evidence, at GRANTOR's sole expense, including the scene of an accident.

24. ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL. By entering into this Easement Agreement, GRANTOR does not agree to any form of binding arbitration, mediation, or any other form of mandatory alternative dispute resolution. The parties may enforce the rights and remedies in judicial proceedings. GRANTOR does not waive any right to a jury trial.

25. SEVERABILITY. If any term or part thereof of this Easement Agreement is declared to be illegal or unenforceable by a court having competent jurisdiction, the validity of the remaining terms or remaining portion of the term is unaffected and, if possible, the rights and obligations of the parties are to be construed and enforced as if this Easement Agreement did not contain that term.

26. CONFIDENTIALITY. GRANTEE shall not use or disclose any information it receives from GRANTOR under this Easement Agreement that GRANTOR has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Easement Agreement or as authorized in advance by GRANTOR. GRANTOR shall not disclose any information it receives from GRANTEE that GRANTEE has previously identified as confidential and that GRANTOR determines, in its sole discretion, is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, North Dakota Century Code chapter 44-04. The duty of GRANTOR and GRANTEE to maintain confidentiality of information under this section shall continue beyond the term of this Easement Agreement.

27. COMPLIANCE WITH PUBLIC RECORDS LAW. GRANTEE understands that, in accordance with this Easement Agreement's Confidentiality clause, GRANTOR must disclose to the public upon request any records it receives from GRANTEE and which GRANTOR, after consult with GRANTEE, determines in its sole discretion to not be protected from mandatory public disclosure under a specific exception to the North Dakota public records law, North Dakota Century Code chapter 44-04. Parties agree to contact the other promptly upon receiving a request for information under the public records law and after consultation, if an agreement cannot be reached, then GRANTEE shall comply with GRANTOR'S instructions on how to respond to the request; *provided*, however, that GRANTEE acknowledges and agrees that copies of this Easement Agreement (including documents related hereto), records pertaining to the calculation of compensation paid to GRANTOR, and any additional permissions or permits provided by GRANTOR and that are related to GRANTEE's rights under this Easement Agreement may be disclosed by GRANTOR without prior consent or consultation with GRANTEE.

28. RECORDING OF AGREEMENT. The parties acknowledge and agree that this Easement Agreement will be made a public record. GRANTEE shall record a Notice of Easement Agreement, all assignments, and all releases with the applicable county recorder within thirty (30) days of the effective date of this Easement Agreement and GRANTEE shall provide to GRANTOR a copy of the recorded document(s) within thirty (30) days of recording. GRANTEE shall bear all recording costs.

29. INDEPENDENT ENTITY. GRANTEE is an independent entity under this Easement Agreement and is not an employee of GRANTOR for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workforce Safety and Insurance Act. GRANTEE retains sole and absolute discretion in the manner and means of carrying out GRANTEE's activities and responsibilities under this Easement Agreement, except to the extent specified in this Easement Agreement.

30. NECESSARY PERMITS AND APPROVALS. GRANTEE is responsible for obtaining and keeping current at all times during the Term all licenses, permits, and other approvals as required by federal, state, or local entities. During the Term and subject to the terms and conditions of this Easement Agreement, GRANTEE, its agents, affiliates, servants, employees, nominees, and licensees shall, upon notice to GRANTOR, be entitled to apply for and obtain any necessary permits, approvals, and other governmental authorizations (collectively called "Governmental Authorizations") required for the development, construction, operation, and maintenance related to the use of the Property and GRANTOR agrees to cooperate in providing information necessary in completing, executing, or obtaining any such applications or proceedings relating to the Governmental Authorizations upon GRANTEE's written request and at GRANTEE's direction, cost and expense.

31. NONDISCRIMINATION AND COMPLIANCE WITH LAWS. GRANTEE agrees to comply with all local, state, and federal laws, rules, regulations, and policies, including those relating to the rights and obligations of the parties under this Easement Agreement, nondiscrimination, accessibility, and civil rights. (See North Dakota Century Code title 34 – Labor and Employment, specifically North Dakota Century Code chapter 34-06.1 Equal Pay for Men and Women).

GRANTEE agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums.

GRANTEE'S failure to comply with this section may be deemed a material breach by GRANTEE entitling GRANTOR to terminate in accordance with Termination section of this Easement Agreement.

32. STATE AUDIT. All compensation or payment records of payments made to GRANTOR under this Easement Agreement are subject to examination by the GRANTOR, GRANTOR's representative, the North Dakota State Auditor, the State Auditor's designee, or Federal auditors (collectively, the "Auditors"), if required. GRANTEE shall maintain these records for at least forty (40) years following termination of the GRANTEE's compensation obligations under this Easement Agreement and be able to provide access to them upon reasonable notice. The Auditors shall provide reasonable notice to GRANTEE prior to conducting examination.

33. FAVORED NATIONS. If, at any time within the twelve (12) month period following the Effective Date, GRANTEE enters into a pore space lease with, easement agreement with, or is ordered by the North Dakota Industrial Commission to pay equitable compensation pursuant to N.D.C.C. § 38-22-08 to a third party landowner covering any part of GRANTEE's storage facility ("Third-Party Lease"), and if any of the payments specified in the Third-Party Lease would have been more favorable to GRANTOR had GRANTOR executed an Easement Agreement similar to the Third-Party Lease, then GRANTOR and GRANTEE will amend this Easement Agreement so that it reflects compensation terms similar to the Third-Party Lease, and GRANTEE will pay to GRANTOR the additional compensation, if any, that GRANTOR would have been paid had GRANTOR signed an Easement Agreement similar to the Third-Party Lease. For the purposes of this Section 33, "GRANTEE's storage facility" shall mean any storage facility (as such term in defined in ch. 38-22 of the North Dakota Century Code) operated by Grantee within a ten (10) mile radius of the Property which is subject to a permit issued by the Commission pursuant to ch. 38-22 of the North Dakota Century Code.

Description of Amalgamated Area

EASEMENT: CARBON DIOXIDE STORAGE EASEMENT AGREEMENT

R-00000

Exhibit "B"

(Survey Plat of the Injection Well)

**NORTH DAKOTA
BOARD OF UNIVERSITY & SCHOOL LANDS
ND Department of Trust Lands**

Native Grass Seeding Specifications

<u>Species</u>	<u>lbs.</u> <u>PLS*/acre</u>
Western wheatgrass	8
Slender wheatgrass	5
Green needlegrass	4
Side-oats grama	<u>2</u>
	19

*PLS - Pure Live Seed (based on 50 PLS/sq. feet)

1. The seed bed should be firmly packed (footprints left in the soil should be less than 1/2 inch deep).
2. An early spring seeding (before May 24th) is preferred. A dormant fall seeding (after October 20th) is acceptable.
3. A cover crop of oats at 10 lbs. PLS/acre must be seeded on the disturbed area.
4. A drill designed specifically for native grass seeding will give the best seeding results. The seed should be planted at a depth of 1/2 to 1 inch. Precaution must be taken not to plant the seed too deeply in the soil or poor germination will result.
5. On areas where equipment cannot be used, broadcast seed and rake or drag to cover seed. Where seed is broadcast, double the seeding rate.
6. Use only North Dakota certified seed.

CAUTION: Be sure to clean out the drill before seeding to avoid any contamination with smooth brome grass or crested wheatgrass that may remain in the drill from previous use on private land. These are invasive grasses in native prairie and are not allowed on any property owned by the state of North Dakota and managed by the Board of University and School Lands ("Trust Lands"). Contamination with or use of crested wheatgrass or smooth brome will result in the applicant being required to spray out the grass and reseed with the above native grass seed mixture. Sweet clover and alfalfa are also not allowed – only the above native grass seed mixture may be used for revegetation on Trust Lands.

RE: Litigation Update
(No Action Requested)

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

Case Summary: Missouri riverbed ownership – Quiet title action brought by the federal government is proceeding, with discovery now completed; the U.S. and MHA are expected to file a joint motion for summary judgment by the January 17, 2025 deadline; if so, our response and potential cross motion for summary judgment will be due March 18th; the Court has not yet ruled on MHA's motion for judgment on the pleadings (similar to a summary judgment motion) that is now fully briefed.

Commencement: July 2020

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

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

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

Court: United States District Court for the District of Columbia

Judge: Honorable Amy Berman Jackson

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

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

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

Case Summary: OHWM river island ownership; trial was held September 12-16, 2022; Judge Schmidt issued a Phase I Memorandum Decision on April 30, 2024, finding 1) the at issue Yellowstone River segment was navigable at statehood; 2) the at issue west bank of the river is owned by the state; 3) the at issue north island is not owned by the state; 4) the at issue south island is owned by the state; and 5) the state's claim is not barred by laches. The remaining issues of conveyances, mineral acreage calculations, etc. are now being determined in Phase II proceedings. On December 19, 2024, the Court granted opposing parties' summary judgment motion on certain issues. Trial is scheduled for January 29-31, 2024 to determine the remaining.

Commencement: January 2016

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

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

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

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

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

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

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

Case Summary: OHWM fed/state dispute – ND Federal District Court issued opinion March 21, 2023, granting Board’s motion for partial summary judgment on “Acquired Federal Lands” issue; this means the Wenck survey controls for establishing the historical ordinary high-water mark of the Missouri River in areas where the uplands were acquired by the federal government, and not original “public domain lands”; federal government appealed and we filed a cross appeal; 8th Circuit oral arguments on the appeals were held October 22, 2024, and we now await the Court’s decision.

Commencement: December 2016

ND Assigned Attorneys: Philip Axt, ND Solicitor General

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

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

Court: United States District Court, District of North Dakota

Judge: Magistrate Judge Clare R. Hochhalter

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

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

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

Overview

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

Recommended Motion to be made in open session:

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

- **Royalty Settlements**

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

Statement:

“This executive session will be recorded and all Board members are reminded that the discussion during executive session must be limited to the announced purpose for entering into executive session, which is anticipated to last approximately 30 minutes.

The Board is meeting in executive session to provide guidance or instructions to its attorneys regarding the identified litigation. Any formal action by the Board will occur after it reconvenes in open session.

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

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

Statements upon return to open session:

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

State that the Board is back in open session.

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

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

-or- .

Ask for a formal motion and a vote on it.

Move to the next agenda item.