TESTIMONY OF JODI SMITH
COMMISSIONER
North Dakota Department of Trust Lands

House Bill 1202

House Government and Veterans Affairs Committee
January 22, 2021

Chairman and members of the House Government and Veterans Affairs Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to testify in opposition to House Bill 1202.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund (CSTF) and 12 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages five additional funds: the Strategic Investment and Improvements Fund (SIIF), the Coal Development Trust Fund, the Capitol Building Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the CSTF.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program. The EIIO also distributes energy and flood grants carried over from prior biennia.

HISTORY

In 1889, Congress passed the Enabling Act "to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Act of February 22, 1889, Ch. 180, 25 Statutes at Large 676.

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

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

PERMANENT TRUST FUNDS

The land grant at statehood and the State Constitution both provide that the Board manage the trust land and minerals and their proceeds, for the exclusive benefit of supporting the common schools (primary education) and the institutions for which the lands were granted. In accordance with Article IX of the North Dakota Constitution, the trust funds must be managed to preserve purchasing power and to maintain stable distributions to trust beneficiaries. The Board is a constitutional board charged, among other things, with the duty of directing the investment of funds derived from the other sources, including the sale of lands grated by the United States to the state of North Dakota for the support of the common schools and from other sources. It is vested with discretion in the performance of its duties commensurate with the importance of the confidence reposed in the Board. The great and primary duty of the Board is to safeguard the Permanent Trust Funds (PTFs) under its control and direct the investment thereof to the best advantage. HB 1202 removes all discretion from the Board in making investment decisions on behalf of the PTFs. Approval of HB1202 would mean investment decisions by the Board would be eliminated and essentially transferred to the State Investment Board (SIB) in direct contravention to the language and intent of the Constitution.

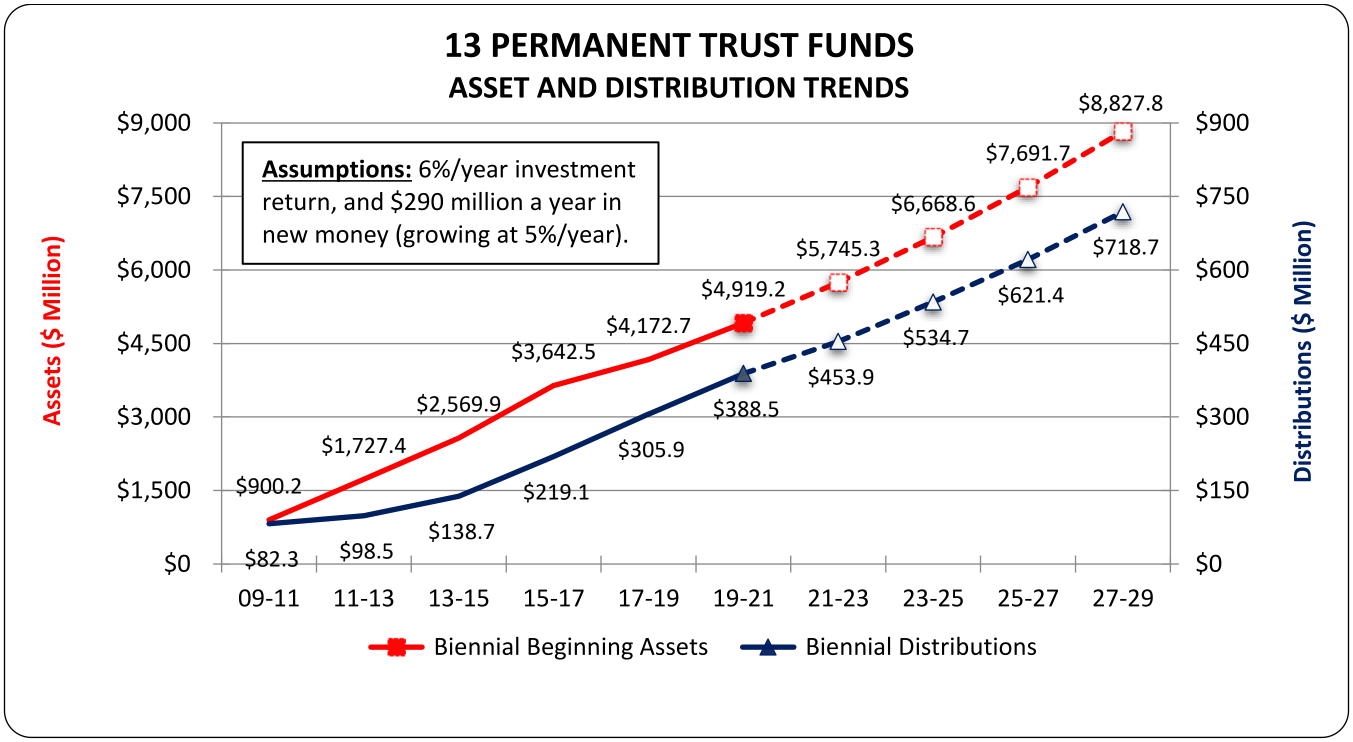
REVENUE AND DISTRIBUTION HISTORY

Article IX, Section 2 of North Dakota Constitution provides:

> Distributions from the common schools trust fund, together with the net proceeds of all fines for violation of state laws and all other sums which may be added by law, must be faithfully used and applied each year for the benefit of the common schools of the state and no part of the fund must ever be diverted, even temporarily, from this purpose or used for any purpose other than the maintenance of common schools as provided by law. Distributions from an educational or charitable institution's trust fund must be faithfully used and applied each year for the benefit of the institution and no part of the fund may ever be diverted, even temporarily, from this purpose or used for any purpose other than the maintenance of the institution, as provided by law.
>
> For the biennium during which this amendment takes effect, distributions from the perpetual trust funds must be the greater of the amount distributed in the preceding biennium or ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. Thereafter, biennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets' ending value for the fiscal year that ends one year before the beginning of the biennium and the

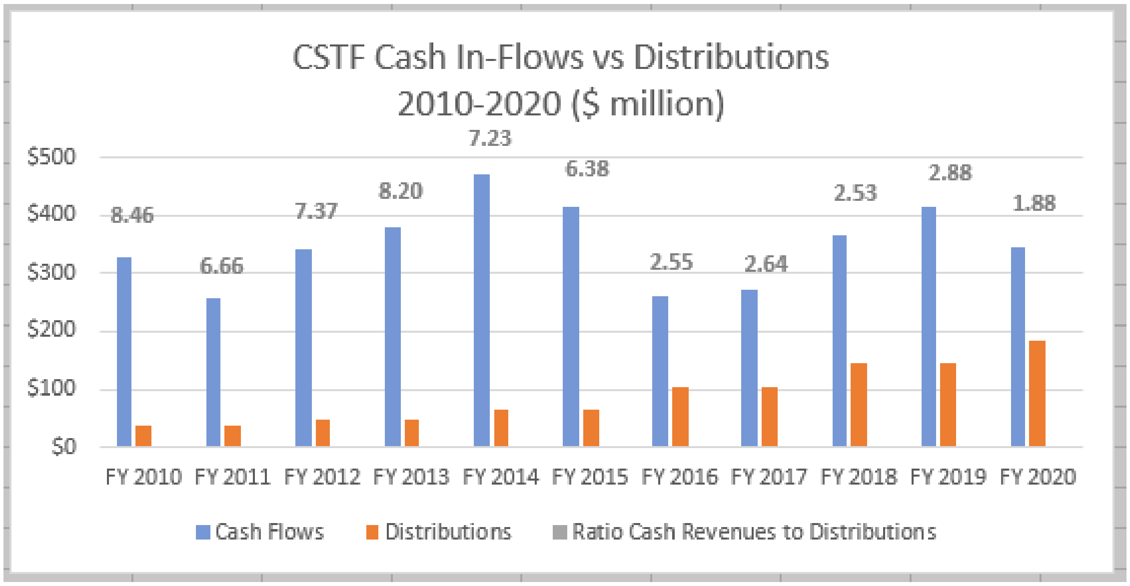
assets' ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium.

Educational and institutional trust distributions are based upon the growth in value of the trusts' financial assets over time, rather than on the amount of interest and income earned by each trust during the year. Biennial distributions from the PTFs must be 10 percent of the five-year average value of trust assets, excluding the value of lands and minerals. Equal amounts are distributed during each year of the biennium. With the substantial growth in trust assets over the past 10 years, distributions to beneficiaries have significantly increased.



Oil and gas lease bonus and royalty revenues resulted in substantial growth in the CSTF, increasing by 300% over eight years. Strong investment markets have also driven growth since the 2008-2009 recession.

TRUST REVENUES FROM FY 2010 THOUGH FY 2020



In the 2021-2023 biennium, distributions by the CSTF will increase by $54,264,000 which is a 14.8% increase.

School Year	Amount Distributed	CS % of Cost of Education	CS $/Pupil Distribution	Biennial Figures		
FY 2010	$ 38,589,000	4.1%	$ 404.04	$ 400.96		
FY 2011	$ 38,589,000	3.9%	$ 397.88	4.0%		
FY 2012	$ 46,257,000	4.6%	$ 468.50	$ 461.33		
FY 2013	$ 46,257,000	4.3%	$ 454.16	4.46%		
FY 2014	$ 65,163,000	6.2%	$ 651.13	$ 643.27		
FY 2015	$ 65,163,000	5.9%	$ 635.40	6.0%		
FY 2016	$ 103,067,000	8.8%	$ 979.74	$ 971.69		
FY 2017	$ 103,067,000	8.4%	$ 963.64	8.6%		
FY 2018	$ 144,132,000	11.6%	$ 1,334.22	$1,320.90		
FY 2019	$ 144,132,000	11.4%	$ 1,307.59	11.5%		
FY 2020	$ 183,378,000	14.0%	$ 1,634.88	$1,620.19		
FY 2021	$ 183,378,000	13.4%	$ 1,605.49	13.7%	Actual	
FY 2022	$ 210,510,000	15.4%	$ 1,847.97	$1,829.31	Estimate/Projection	
FY 2023	$ 210,510,000	15.2%	$ 1,810.66	15.3%	Estimate/Projection	

The table below is another look at the CSTF's impact education. With the inclusion of the 2021-23 contribution, the CSTF will have supplied over $1.4 billion to the schools.

Biennium	Formula Payment	Common Schools	Percentage of Formula	Common Schools Increase
2013-15	$ 2,165,690,363	$ 130,326,000	6.0%	$ 37,812,000
2015-17	$ 2,398,962,382	$ 206,134,000	8.6%	$ 75,808,000
2017-19	$ 2,512,392,039	$ 288,264,000	11.5%	$ 82,130,000
2019-21	$ 2,679,595,449	$ 366,756,000	13.7%	$ 78,492,000
2021-23	$ 2,751,285,781	$ 421,020,000	15.3%	$ 54,264,000

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

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

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

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

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

Theodore Roosevelt Presidential Library and Museum Endowment Fund
The Theodore Roosevelt Presidential Library and Museum Endowment Fund (TR Fund) was created to generate income to be used for the operation and maintenance of the library and museum, after the Theodore Roosevelt Presidential Library Foundation raised or secured binding pledges of $100 million. The TR Fund is managed through an agreement between the Office of the North Dakota Governor and the Board. In May of 2019 the first deposit, totaling $15 million, was made to the Board for the Theodore Roosevelt Presidential Library and Museum Endowment.

INVESTMENTS

In early 2013, the investment consultant firm, R.V. Kuhns (now known as RVK), was hired through a competitive hiring process by the Board to submit a written report addressing the following issues:

1. Recommendations for a comprehensive evaluation and rewrite of the Board's investment policies and procedures for the PTFs that would help state and ensure long-term goals and objectives for the PTFs.

2. A recommendation of an asset allocation policy for the PTFs that, while recognizing the Board's risk tolerance and return expectations, balanced the Board's responsibilities under North Dakota law to:
   a. Support the trust beneficiaries;
   b. Maintain the permanent strength of the fund; and
   c. Follow the prudent investor rule.

3. A recommendation as to the most appropriate way to transition the PTFs from the then current asset allocation plan to the recommended asset allocation plan.

4. An analysis of the costs associated with the recommended asset allocation plan, including performance monitoring and measurement services. This analysis would include an evaluation of various implementation scenarios, including:
   a. An ultra-low-cost investment approach;
   b. A more traditional plan sponsor/investment /consultant approach; and
   c. An outsourced Chief Investment Officer (including SIB) approach.

5. An analysis of the management of cash and cash-like funds that are not part of the PTFs responsibilities of the Board, in particular the SIIF.

In January 2014, after reviewing the various options provided by RVK, the Board entered into another agreement with RVK to implement the recommendations that came out of RVK's 2013 investment study and to provide performance monitoring services to the Board.

In July 2015, after reviewing the pros and cons of a potential partnership with the SIB, the Board voted four-to-one to continue to actively manage the permanent trusts' investment program through Department staff with the assistance of a retained investment consultant, while also working with the SIB to minimize costs and fees, and to improve efficiencies.

The Commissioner continues to work closely with SIB when negotiating money manager and service provider fees to ensure that both entities are getting the best possible fees, based on the cumulative assets involved. This has resulted in significant fee savings for both entities in the past 20 years.

As of fiscal year-end 2020, the Board had authority over $5.75 Billion in investment assets. Transferring investment assets from the Board to SIB will NOT realize cost savings.

INVESTMENT FEES

Investment management fees paid by the Board would not change significantly, if at all, by moving the management of investments to SIB. In fiscal year (FY) 2020 the Board and SIB paid nearly the same rate on total investment management fees and in FY 2019 the Board paid a slightly lower rate on investment management fees than SIB, according to the audited financial statements for the Board and SIB. These low fees are the result of both the Board and SIB pressing investment managers for the lowest fees possible, and from both boards coordinating to lower fees for managers they share in common. In June 2019, the Board engaged Novarca to review the investment fees of the assets under the Board's authority. The net fee savings Novarca was able to negotiate was $83,400. This represented a 0.024% savings on the mandate and 0.002% for the PTFs. Novarca was not successful on any other mandates, which indicates the Board's trust fund fees remain industry competitive. This review included reviewing fund manager's who are shared between the Board and SIB to determine lower fees based upon combined deposits.

	Land Board		State Investment Board	
	2020	2019	2020	2019
Net Investment Assets	$ 5,745,236,476	$ 6,159,608,191	$ 16,313,599,487	$ 14,672,899,104
Investment Manager Fees	$ 22,481,418	$ 22,663,157	$ 63,328,358	$ 60,391,710
	0.39%	0.37%	0.39%	0.41%
Investment Consultant Fees	$ 172,988	$ 163,058	$ 596,272	$ 612,086
	0.003%	0.003%	0.004%	0.004%
Custodian Fees	$ 118,792	$ 159,687	$ 1,433,874	$ 1,312,184
	0.002%	0.003%	0.009%	0.009%

During FY 2020 the PTFs paid $22,335,336 in investment fees (including investment manager fees, custodial expenses, general consultant fees, and specialty consultant fees); this is a decrease of -1.7% from the $22,711,405 in fees paid in FY 2019. The PTFs' average asset balance increased by 4.76% during the same period (including contributions and withdrawals), from $4.63 billion in FY 2019 to $4.85 billion in FY 2020. The primary driver of the decrease in fees is a result of lower incentive fees paid during the year.

Permanent Trust Fund

TABLE 1	2016	2017	2018	2019	2020
Investment Manager Fees	$ 16,026,712	$ 20,679,283	$ 24,750,026	$ 22,388,660	$ 22,043,555
Custodial Fees	190,257	169,356	183,019	159,687	118,792
General Consultant Fees	147,917	145,000	148,625	163,058	157,633
Specialty Consultant Fees					15,355
Total Fees	**$ 16,364,886**	**$ 20,993,639**	**$ 25,081,670**	**$ 22,711,405**	**$ 22,335,336**
Total Fee (bps)	46.3	53.7	57.4	49.0	46.1
Incentive Fees	**$ 1,375,889**	**$ 3,513,737**	**$ 5,819,245**	**$ 1,810,455**	**$ 898,695**
Incentive Fees (bps)	3.9	9.0	13.3	3.9	1.4
Total Fees Ex Incentives	**$ 14,988,997**	**$ 17,479,902**	**$ 19,262,425**	**$ 20,900,950**	**$ 21,436,641**
Total Fee Ex Incentives (bps)	42.4	44.7	44.1	45.1	44.6
Avg. Assets ($ billion)	**$3.53**	**$3.91**	**$4.37**	**$4.63**	**$4.85**

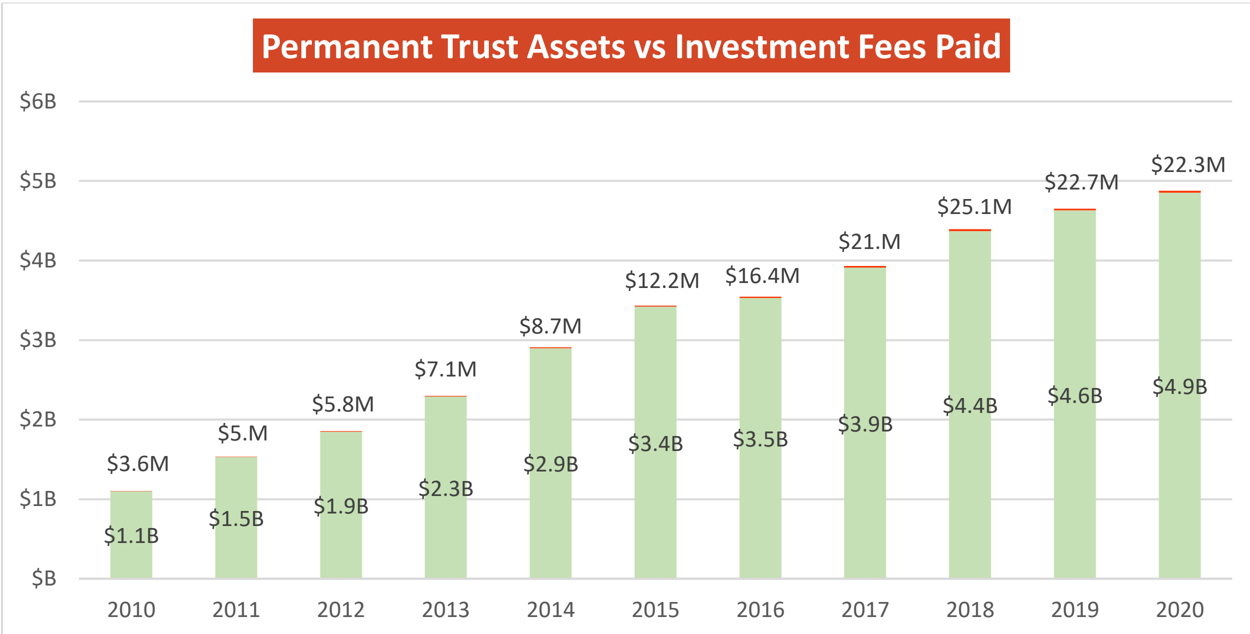
Table 1 summarizes the amount and effective rate of investment related expenses paid to manage the PTF's for each of the past five fiscal years. The increase in fees over the past five years is a result of several factors. During FY 2015 and FY 2016, the Board implemented a new strategic asset allocation for the PTFs. Three of these strategic asset allocation strategies (real estate, absolute return, and diversified inflation) required active investment which resulted in higher overall fees than the historically more passive, low cost strategy. Approximately 4 basis points from FY 2015 to FY 2016 were related to incentive fees on real estate.

From FY 2016 to FY 2018, expenses increased by $8.7 million, of which $4.4 million was a result of an increase in incentive fees paid to real estate portfolio managers. The remaining balance of $4.3 million is due to trust growth, with a small portion of the increase due to minor changes made to the PTFs' asset allocation and investment structure over the past two years.

Table 1 also breaks out incentive fees paid for the past three years from the base cost (excluding incentive fees) of managing the investment program; it demonstrates that the base cost of managing the program has remained stable since the PTFs' current asset allocation was fully implemented in 2016. The minor increase in base costs during FY 2017 was a due to the real estate portfolio not being fully funded until June 30, 2016. The slight decrease in base costs during FY 2018 was driven by the addition of a low-cost mid-cap index fund to the PTFs' equity mix and other minor structural changes to the portfolio. Fees charged for some of the commingled funds in which the PTFs invest have also declined slightly.

Base management fees (excluding incentive fees) over the past five fiscal years have been consistently between 42 and 45 basis points. Total management fees, including incentive fees, have oscillated between 46 and 58 basis points owing to significant swings in incentive fees paid primarily to real estate managers. In FY 2017 and FY 2018, incentive fees accounted for 17% and 23% of total fees, respectively. Meanwhile, in FY 2016, FY 2019 and FY 2020 incentive fees accounted for 8%, 8% and 4% of total fees, respectively. Both FY 2019 and FY 2020 proved challenging for commercial real estate, which explained the lower incentive fees paid. From FY 2019 to FY 2020 total fees decreased by just -$376,069 or -1.7%, due mostly to lower incentive fees paid.

All management fees that are negotiated as a "state" fee associated with investment funds will not decrease.



CUSTODIAN FEES

The custodian fees charged by Northern Trust would not change. Northern Trust currently charges the Board and SIB at the same fee rate per account and per transaction with consideration given to all of North Dakota's investment assets. Thus, moving investment accounts from the Board to SIB would result in zero savings on custodian fees.

CONSULTANT FEES

Similarly, investment consultant fees would not decrease. The Board's investment consultant fees have been slightly lower, but not significantly different, as a percent of assets compared to SIB's investment consultant fees in both fiscal years 2019 and 2020, per the audited financial statements for the Board and SIB. The Board would need to retain the consultant to aid in fund management decisions that constitutionally cannot be conveyed to SIB.

SIB ADMINISTRATIVE EXPENSES

In accordance with N.D.C.C. § 21-10-06.2, SIB charges its client accounts most of its administrative costs for managing the accounts. Based on SIB's FY 2020 financial statements that would come to around 0.01% of the Board's assets or an amount in excess of $570,000. These monies would be paid by all of the funds the Board controls. The majority would come from the CSTF at over $460,000 per year and reduce distributions by about 0.25%. The remainder would have a larger impact on the distributions of the smaller permanent trust funds, reducing distributions between 3% and 5% (please see chart below). And, as I will outline later this administrative expense will not have offsetting savings elsewhere.

School/University	2020 Assets	2020 Distribution	SIB Fee (est.)	Reduced Distribution	Negative Fee Impact
Common Schools	4,628,066,674	183,378,000	462,807	182,915,193	-0.3%
NDSU	73,118,794	252,791	7,312	245,479	-2.9%
School for Blind	13,058,151	47,725	1,306	46,419	-2.7%
School for Deaf	21,354,976	70,441	2,135	68,306	-3.0%
State Hospital	14,429,595	42,384	1,443	40,941	-3.4%
Ellendale	23,358,818	87,104	2,336	84,768	-2.7%
Valley City State	13,011,016	47,704	1,301	46,403	-2.7%
Mayville State	8,395,295	35,673	1,000	34,673	-2.8%
Industrial School	25,087,679	82,355	2,509	79,846	-3.0%
School of Science	18,832,991	74,276	1,883	72,393	-2.5%
School of Mines	22,470,496	78,895	2,247	76,648	-2.8%
Veterans Home	5,324,594	20,780	1,000	19,780	-4.8%
UND	35,394,338	132,701	3,539	129,162	-2.7%

INVESTMENT PERFORMANCE COMPARISON

The performance difference between the Board and SIB has not been significantly different over the years. As of FY 2020, the Board investments had a twenty year average annual performance of 5.02% and SIB's twenty year average annual performance was 5.70% for the Public Employees Retirement System and 5.28% for the Teachers' Fund for Retirement. More recently the PTF's performance has slightly lagged behind PERS, TFFR and Legacy Fund, mainly due to differences in asset allocation. Through its history the Board has had a greater reliance on fixed income than SIB. As recently as 2010 some fifty percent of the permanent trust assets were in fixed income. Since hiring the investment consultant RVK, the Board's investments have evolved into a more modern strategic asset allocation. In additional, the Department has recently hired two experienced investment professionals who have helped the Board make further changes to the PTF's asset allocation, and this transition continues today. Over time these changes are expected to improve investment performance.

It must also be noted that the PTFs asset allocation will and should differ from that of PERS, TFFR and Legacy Fund. Each of these funds have different strategic goals and cash flows, as such their asset allocations are designed to meet their unique structures, which means their performances will always vary from one another.

Permanent Trusts	Market Value as of 11/30/20	Asset Allocation	Return FYTD	Legacy Fund	Market Value as of 11/30/20	Asset Allocation	Return FYTD
Total Fund	**5,280,369,340**	**100.00%**	**9.46%**	**Total Fund**	**7,894,446,185**	**100.00%**	**11.06%**
US Equity	1,060,957,643	20.09%	20.42%	US Equity	2,437,604,947	30.88%	18.79%
International Equity	1,042,199,555	19.74%	17.58%	International Equity	1,670,883,793	21.17%	20.05%
Fixed Income	1,125,819,500	21.32%	3.32%	Fixed Income	2,590,019,588	32.81%	3.17%
Opportunistic	21,833,305	0.41%	11.82%	Opportunistic	725,515	0.01%	N/A
Absolute Return	784,016,888	14.85%	7.83%				
MLPs	106,589,735	2.02%	17.18%	TIPS & Infrastructure	746,765,497	9.46%	4.58%
Real Estate	731,764,330	13.86%	0.52%	Real Estate	344,181,873	4.36%	-0.16%
Cash - Transition	407,188,384	7.71%	0.16%	Cash	104,264,972	1.32%	0.03%

PEER COMPARISON

Alaska, Arizona, Idaho, New Mexico, Oklahoma, Texas, Utah and Wyoming all have similar PTFs, and all separate the investment management of their permanent funds from the management of other funds, such as their state's employee and teacher retirement funds. This is prudent given the liability each state has towards all funds under their authority and responsibility. One board managing all funds under similar asset allocations could expose the state to significant liability if the funds experience an extreme investment loss in a short period of time. Having funds managed by different boards varies the asset allocations of the funds and reduces the likelihood of all the funds experiencing significant loss at the same time.

ADDITIONAL CONSIDERATION

The Department's Investment Division is already run in a very conservative manner with only two full time employees (FTEs) dedicated to the daily management of the Board's investment assets. This is an exceptionally small investment staff by industry standards. Even if investment assets were moved to SIB, the Department would still need at least one of the two dedicated FTEs. The retained FTE would be needed to coordinate between the Department's accounting division and the Retirement and Investment Office (RIO) for cash management and reporting purposes, in addition to coordinating and administering the Board's various loan programs with the Bank of North Dakota. In the related fiscal note, under section 2.B, RIO would require at least two additional FTEs, either the transfer of the Department's FTEs or hiring two new FTEs to manage the additional investment assets.

Further, transferring investment assets from the Board to SIB would cause needless disruption in cash management. For example, the close coordination between the Department's Investment Division and the Department's Minerals Division made continuing allocations to the public school districts smoother after revenues fell precipitously during the 2020 oil market crash and the related mass shut-in of Board leased oil wells. That level of timely and smooth coordination would be more difficult if investment assets were moved to another agency.

Finally, transferring investment assets from the Board to SIB would cause needless duplication of effort by the two boards to ensure they are both in compliance with their fiduciary duties. The Board has a constitutionally mandated fiduciary duty to the perpetual trust funds and a statutorily mandated fiduciary duty, under N.D.C.C. § 15-03-04, to all funds under its control. Likewise, SIB has a statutorily mandated fiduciary duty, under N.D.C.C. § 21-10-07, to all funds under its control. Therefore, each board would have to approve the investment programs of any Board investment assets transferred to SIB. That would include both boards approving any changes to the investment policy statements, changes in asset allocation policies, hiring or firing investment managers, custodians and consultants, and receiving and approving all related investment reports. In addition, manager presentations to the boards would be duplicated, as would RIO staff presentations and reports regarding all Board investment assets. Also, the Board's annual audit of the Department's books and records would also require an audit of SIB and RIO investments of the Board's assets.

This duplication of effort at RIO, to comply with each boards' fiduciary duty, may well lead to additional staff requirements at RIO completely negating any staffing reductions at the Department. Indeed, in the related fiscal note, under section 2.B, RIO assumes the possibility of requiring a third additional FTE, in addition to the two mentioned above, to help manage the additional investment assets and reporting requirements.

In summary, the Board will not realize any savings by moving the investment assets to SIB. In fact, there is the strong potential for increased costs as a result of lost efficiencies for the Department. For these reasons the Board opposes House Bill 1202.

I look forward to working with the committee on this issue and would be happy to answer any questions.

NORTH DAKOTA DEPARTMENT OF TRUST LANDS

JODI SMITH

COMMISSIONER

BOARD OF UNIVERSITY & SCHOOL LANDS

The management of School Trust Lands in North Dakota is entrusted to the ND Department of Trust Lands, under the direction of the Board of University of School Lands.

Constitution of North Dakota
Article IX

MISSION & VISION

Mission

The mission of the Board of University and School Lands is to prudently and professionally manage assets of the permanent trusts in order to preserve the purchasing power of the funds, maintain stable distributions to fund beneficiaries, and manage all other assets and programs entrusted to the Board in accordance with the North Dakota Constitution and applicable state law.

Vision

The Department of Trust Lands is known nationally for superior management of its assets and programs.

DEPARTMENT SNAPSHOT

- 706,000 surface acres
- 5,000 active surface leases
- 2.6M mineral acres
- 8,200 oil and gas leases and interest in over 45% of the 15,979 producing wells in North Dakota
- $248.4M oil & gas royalties & lease bonus in FY 2020
- 500,000 transactions processed annually
- $574M in grant funding since FY 2010
- 5365 ($27,239,906) Unclaimed Property
- 8,807 ($7,355,431) claims paid thru Unclaimed Property
- 5 loan programs – 73 loans - $60M

INVESTMENTS

MIKE SHACKELFORD
INVESTMENTS DIVISION DIRECTOR

INVESTMENT RESPONSIBILITIES

The Investment Division prudently invests the financial assets entrusted to the Board of University and School Lands :

Permanent Trust Funds

- Common Schools Trust Fund
- 12 Other Permanent Trust Funds

Indian Cultural Education Trust

Strategic Investment and Improvements Fund

Coal Development Trust Fund

Capitol Building Fund

Theodore Roosevelt Library Endowment

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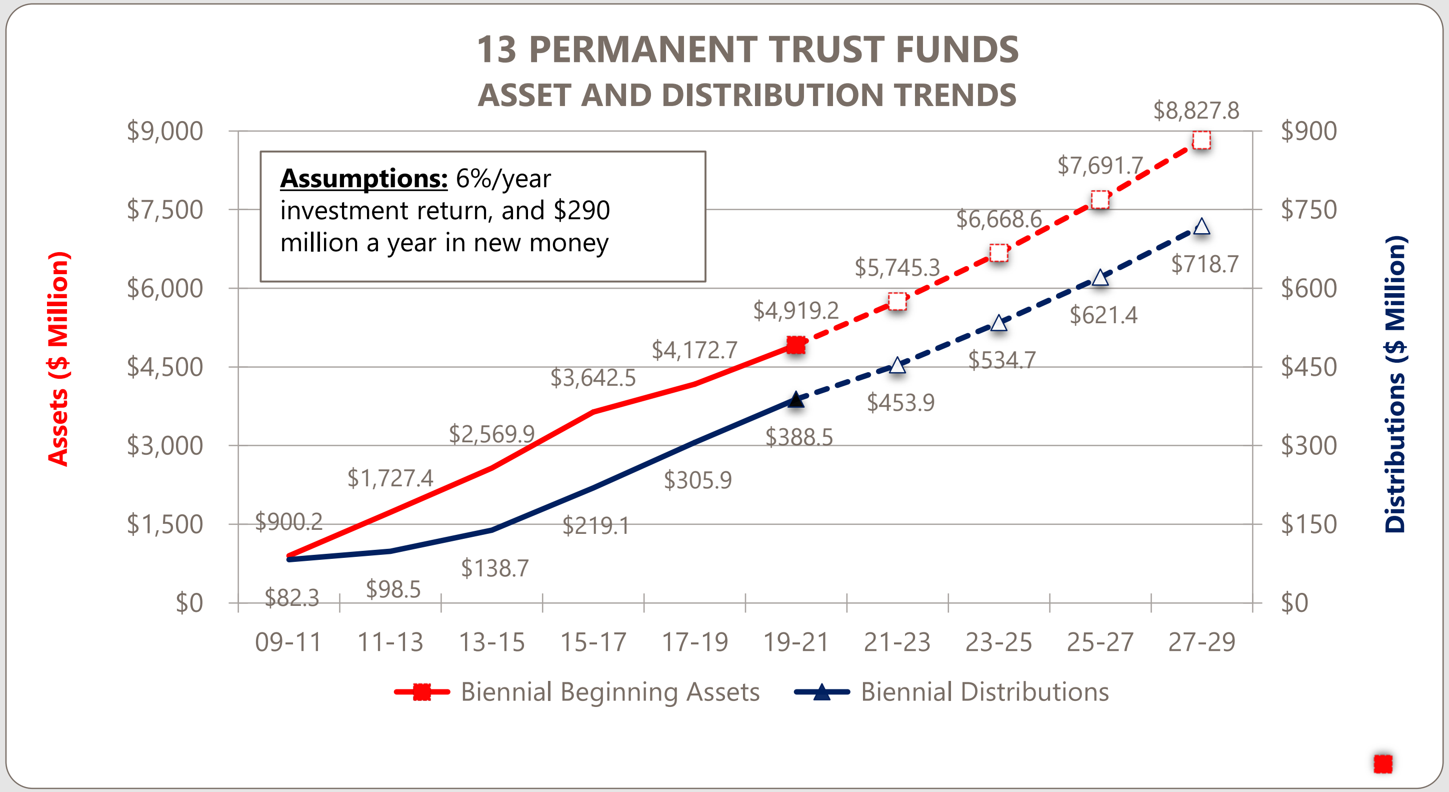


TRUST FUND DISTRIBUTIONS

The chart shows growth in the assets held by the Permanent Trust Funds and distributions from the funds since the 2009-11 biennium as well as projected future balances and distributions.

Biennial distributions have increased from approximately $82.3 million during the 2009-11 biennium to $388.5 million during the 2019-21 biennium.

Distributions are projected to increase an additional $300 million per biennium by the 2027-29 biennium.

COMMON SCHOOLS TRUST FUND DISTRIBUTIONS

School Year	Amount Distributed	CS % of Cost of Education	CS $/Pupil Distribution	Biennial Figures		
FY 2010	$ 38,589,000	4.1%	$ 404.04	$ 400.96		
FY 2011	$ 38,589,000	3.9%	$ 397.88	4.0%		
FY 2012	$ 46,257,000	4.6%	$ 468.50	$ 461.33		
FY 2013	$ 46,257,000	4.3%	$ 454.16	4.46%		
FY 2014	$ 65,163,000	6.2%	$ 651.13	$ 643.27		
FY 2015	$ 65,163,000	5.9%	$ 635.40	6.0%		
FY 2016	$ 103,067,000	8.8%	$ 979.74	$ 971.69		
FY 2017	$ 103,067,000	8.4%	$ 963.64	8.6%		
FY 2018	$ 144,132,000	11.6%	$ 1,334.22	$1,320.90		
FY 2019	$ 144,132,000	11.4%	$ 1,307.59	11.5%		
FY 2020	$ 183,378,000	14.0%	$ 1,634.88	$1,620.19		
FY 2021	$ 183,378,000	13.4%	$ 1,605.49	13.7%	Actual	
FY 2022	$ 210,510,000	15.4%	$ 1,847.97	$1,829.31	Estimate/Projection	
FY 2023	$ 210,510,000	15.2%	$ 1,810.66	15.3%	Estimate/Projection	

Distributions by CSTF will increase by $54.2M which is a 14.8% increase over last year.

With the inclusion of the 2021-23 biennium the CSTF will have supplied over **$1.4B to K-12 education since 2013**.

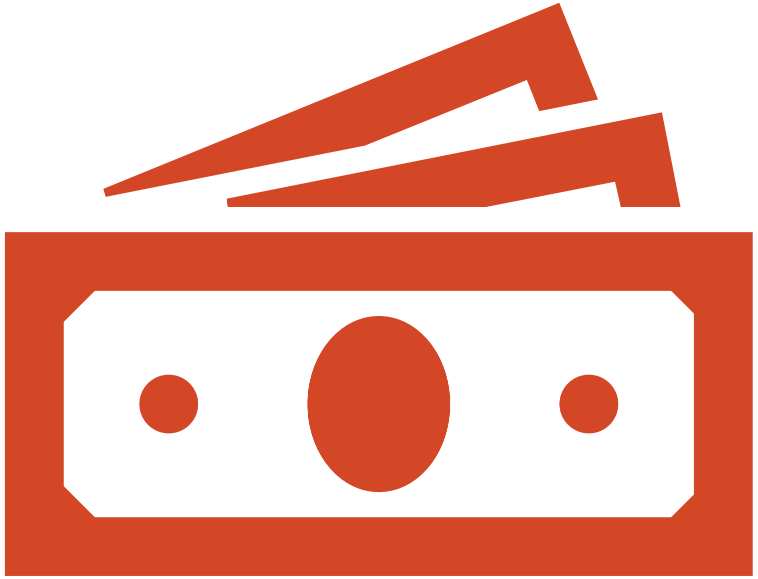
INVESTMENT FEES

Insignificant difference between fees paid by Department and SIB

	Land Board		State Investment Board	
	2020	2019	2020	2019
Net Investment Assets	$ 5,745,236,476	$ 6,159,608,191	$ 16,313,599,487	$ 14,672,899,104
Investment Manager Fees	$ 22,481,418	$ 22,663,157	$ 63,328,358	$ 60,391,710
	0.39%	0.37%	0.39%	0.41%
Investment Consultant Fees	$ 172,988	$ 163,058	$ 596,272	$ 612,086
	0.003%	0.003%	0.004%	0.004%
Custodian Fees	$ 118,792	$ 159,687	$ 1,433,874	$ 1,312,184
	0.002%	0.003%	0.009%	0.009%

Permanent Trust Assets vs Investment Fees Paid

Permanent Trusts	Market Value as of 11/30/20	Asset Allocation	Return FYTD	Legacy Fund	Market Value as of 11/30/20	Asset Allocation	Return FYTD
Total Fund	**5,280,369,340**	**100.00%**	**9.46%**	**Total Fund**	**7,894,446,185**	**100.00%**	**11.06%**
US Equity	1,060,957,643	20.09%	20.42%	US Equity	2,437,604,947	30.88%	18.79%
International Equity	1,042,199,555	19.74%	17.58%	International Equity	1,670,883,793	21.17%	20.05%
Fixed Income	1,125,819,500	21.32%	3.32%	Fixed Income	2,590,019,588	32.81%	3.17%
Opportunistic	21,833,305	0.41%	11.82%	Opportunistic	725,515	0.01%	N/A
Absolute Return	784,016,888	14.85%	7.83%				
MLPs	106,589,735	2.02%	17.18%	TIPS & Infrastructure	746,765,497	9.46%	4.58%
Real Estate	731,764,330	13.86%	0.52%	Real Estate	344,181,873	4.36%	-0.16%
Cash - Transition	407,188,384	7.71%	0.16%	Cash	104,264,972	1.32%	0.03%



FISCAL IMPACT

- Increased Expenses related to increased FTE's
- Increased Expenses related to SIB Administrative Fees
- No Savings Consultant Fees
- No savings from Custodian Fees
- Loss in cash management efficiencies for trusts
- Delayed reporting and approvals due to oversight by two Boards which could result in loss of revenue

IMPACT TO TRUSTS

School/University	2020 Assets	2020 Distribution	SIB Fee (est.)	Reduced Distribution	Negative Fee Impact
Common Schools	4,628,066,674	183,378,000	462,807	182,915,193	-0.3%
NDSU	73,118,794	252,791	7,312	245,479	-2.9%
School for Blind	13,058,151	47,725	1,306	46,419	-2.7%
School for Deaf	21,354,976	70,441	2,135	68,306	-3.0%
State Hospital	14,429,595	42,384	1,443	40,941	-3.4%
Ellendale	23,358,818	87,104	2,336	84,768	-2.7%
Valley City State	13,011,016	47,704	1,301	46,403	-2.7%
Mayville State	8,395,295	35,673	1,000	34,673	-2.8%
Industrial School	25,087,679	82,355	2,509	79,846	-3.0%
School of Science	18,832,991	74,276	1,883	72,393	-2.5%
School of Mines	22,470,496	78,895	2,247	76,648	-2.8%
Veterans Home	5,324,594	20,780	1,000	19,780	-4.8%
UND	35,394,338	132,701	3,539	129,162	-2.7%

SUMMARY

- Increased expenses ($500,000 per year)
- Lost revenue
- Lost efficiencies
- In direct contravention to the language and intent of the Constitution (Article IX)