Department of Trust Lands
Budget No. 226
Senate Bill Nos. 2013 and 2134

	FTE Positions	General Fund	Other Funds	Total
2017-19 legislative appropriation	31.00	$0	$238,481,273	$238,481,273
2015-17 legislative appropriation	33.00	0	148,243,153	148,243,153
2017-19 appropriation increase (decrease) to 2015-17 appropriation	(2.00)	$0	$90,238,120	$90,238,120

Item Description	Status/Result
FTE position changes - The Legislative Assembly approved 31 FTE positions, a decrease of 2 FTE positions from the 2015-17 biennium. The Legislative Assembly added 1 FTE geographic information systems specialist position and removed 1 FTE natural resources director position, 1 FTE Energy Infrastructure and Impact Office position, and 1 FTE project manager position.	The Department of Trust Lands added 1 FTE business analyst position based on the current needs of the department. The duties of the 1 FTE geographic information systems specialist position were assigned to other staff. The department removed the 3 FTE positions. The 1 FTE natural resources director position and the 1 FTE project manager position were vacant at the time of removal. The 1 FTE Energy Infrastructure and Impact Office position was not vacant, but the employee was transferred to an administrative officer position.
Energy impact grants - The 2017 Legislative Assembly created an energy impact fund for grants as appropriated by the Legislative Assembly. Senate Bill No. 2013 (2017) provided an appropriation of $15 million to the Department of Trust Lands for a grant to the Williston airport.	Through March 31, 2018, $12,856,826 has been awarded to the Williston airport. The remaining $2,143,174 is anticipated to be awarded in the fall of 2018.
Oil and gas impact grants - The 2017 Legislative Assembly changed the oil and gas tax allocation formulas to provide an allocation of $25 million to the oil and gas impact grant fund during the 2017-19 biennium. Section 13 of Senate Bill No. 2013 identifies $25 million from the oil and gas impact grant fund for a grant of $20 million to the Williston airport and $5 million to the Dickinson airport. In total, the 2017 Legislative Assembly appropriated $40 million for grants to airports including $25 million from the oil and gas impact grant fund and $15 million from the energy impact fund.	The Department of Trust Lands has awarded $7,045,239 from the oil and gas impact grant fund through March 31, 2018. Of the $7,045,239 awarded, $5,643,174 is for the Williston airport and $1,402,065 is for the Dickinson airport. The department anticipates awarding the remaining funding to the airports in the second year of the biennium. Through March 31, 2018, the Williston airport was awarded total funding of $18,500,000, including $12,856,826 from the energy impact fund and $5,643,174 from the oil and gas impact grant fund. North Dakota Century Code Section 15-01-02 provides that annual distributions may not exceed 60 percent of the biennial appropriation for oil and gas impact grants ($15,000,000 for either year of the 2017-19 biennium).
Oil and gas impact grants exemption - Section 10 of Senate Bill No. 2013 provides an exemption allowing unspent oil and gas tax allocations deposited in the fund during the 2015-17 biennium to be available for administrative costs and grants in the 2017-19 biennium. The 2015 Legislative Assembly changed the oil and gas tax revenue allocation formula to provide an allocation of up to $140 million to the oil and gas impact grant fund. The 2015 Legislative Assembly appropriated $140 million from the fund for grants ($139.3 million) and administrative costs ($700,000). However, actual deposits in the fund through August 2017 totaled $81,427,199, of which $79,311,751 was committed to grants and administrative costs during the 2015-17 biennium and $2,115,448 was available for future grant awards.	The department continued $2,763,207 of funding into the 2017-19 biennium, of which $2,115,448 is from funding that was not awarded for grants and $647,759 is from adjustments related to previously awarded grants (grant cancellations and savings from unused grant awards when actual costs were lower than the grant award). Of the $2,763,207 available, the department designated $400,000 for administrative expenses and $2,363,207 for additional oil and gas impact grants. The department is planning for multiple rounds of grants during the 2017-19 biennium.

Flood-impacted political subdivision infrastructure development grant - The 2017 Legislative Assembly provided an exemption to allow $1,325,500 from an unspent grant to a flood-impacted political subdivision to be available in the 2017-19 biennium. The 2011 Legislative Assembly approved $30 million from the general fund for flood-impacted political subdivision infrastructure grants. The department awarded a grant of $2.15 million to the City of Minot for a landfill expansion project; however, the funding is paid as a reimbursement when major parts of the project are completed. Due to delays, the landfill expansion was not completed until March 2018.

In March 2018 the department provided a reimbursement payment of $1,325,425 to the City of Minot for a landfill expansion project. The remaining $75 of unspent appropriation authority will be cancelled and remain in the general fund.

Information technology project - The Legislative Assembly provided one-time funding of $3.6 million from the state lands maintenance fund for an information technology project. Section 12 of Senate Bill No. 2013 requires Budget Section approval to access $1.8 million of the $3.6 million. The section also provides legislative intent for the Governor and the agency to find efficiencies and budgetary savings related to information technology solutions.

The department is in the process of contracting for the development of the unclaimed property portion of the project. The department requested bids for the combined development of the accounting, minerals, and surface management portion of the system, but did not receive a sufficient number of qualifying bids. As a result, the department hired a consultant to review the requirements of the new information technology system. The estimated cost of the consulting services totals $88,000. Information on revised costs and completion dates for the information technology project were not available at the time of the report.

Mineral revenue repayments - Senate Bill No. 2134 (2017) defines the ordinary high water mark used to determine sovereign minerals within Missouri River reservoirs and provides for mineral revenue repayments. The sovereign minerals are the minerals located under the navigable waters in the state. All of the revenues associated with the sovereign minerals are deposited in the strategic investment and improvements fund. Discrepancies related to the boundaries of the ordinary high water mark resulted in concerns regarding the ownership interests of the minerals within the Missouri River reservoirs. The Legislative Assembly approved Senate Bill No. 2134 to address the ownership concerns and to provide mineral revenue repayments as needed to private mineral owners. The bill provides the following process for the mineral revenue repayments:

- A study by a consultant of the Army Corps of Engineers' original survey of the Missouri River prior to the inundation from the construction of the Garrison Dam;
- A public comment period administered by the Industrial Commission;
- Industrial Commission approval or modification of the consultant's findings; and
- Repayment of the mineral revenues by the Department of Trust Lands.

The 2017 Legislative Assembly provided an appropriation of $187 million for the repayment of the mineral revenues, including $100 million from the strategic investment and improvements fund and $87 million from a Bank of North Dakota loan.

The Department of Trust Lands is in the process of reviewing the consultant's findings from a study of the Army Corps of Engineers' original survey. The Industrial Commission must adopt or modify the consultant's findings before any mineral revenue repayments can be made to private mineral owners. The Industrial Commission will receive public comments during the summer of 2018 before adopting or modifying the consultant's findings. Various lawsuits are also pending related to the mineral revenue repayments, which could impact the mineral revenue repayments. In May 2018 a district judge issued an injunction prohibiting the state from making the mineral revenue repayments. The estimated timing of any potential mineral revenue repayments is unknown.

Administrative rules - House Bill No. 1300 (2017) requires the department to follow the administrative rules process by removing the department from the list of exempt agencies. Section 23 of Senate Bill No. 2013 provided an effective date of January 1, 2018.

The department developed rules relating to surface management, loan programs, general administration, unclaimed property, and the Energy Infrastructure and Impact Office, which are anticipated to be implemented in the fall of 2018. The department submitted a request to the Administrative Rules Committee asking for an extension until May 2019 to develop the administrative rules related to mineral and revenue compliance.

State land lease income - The Department of Trust Lands manages permanent trust assets consisting of 706,607 surface acres and 1.8 million mineral acres. Surface acres are leased to ranchers and farmers across the state, and mineral acres are offered for oil, gas, coal, gravel, and scoria leasing.

The tables below show revenues generated from the lease of state land for fiscal years 2013 through 2017 based on information in the department's financial reports.

Surface Lease Rental Revenue					
Trust Fund	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
Capitol building	$86,951	$148,954	$169,859	$189,602	$168,642
Permanent trusts					
Common schools	10,292,829	11,115,068	14,281,695	11,541,808	11,846,054
Other permanent	851,660	824,337	910,915	958,115	1,013,331
Total	$11,231,440	$12,088,359	$15,362,469	$12,689,525	$13,028,027
Percentage increase (decrease)	17.6%	7.6%	27.1%	(17.4%)	2.7%

Royalty Revenue					
Trust Fund	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
Strategic investment and improvements[1]	$81,784,775	$118,351,345	$102,646,334	$64,846,599	$67,052,863
Capitol building	610,008	2,011,114	1,838,724	1,085,710	903,177
Permanent trusts					
Common schools	178,311,885	231,936,883	196,808,384	105,104,830	114,182,591
Other permanent	15,115,467	19,330,418	15,901,400	8,049,394	9,900,817
Total	$275,822,135	$371,629,760	$317,194,842	$179,086,533	$192,039,448
Percentage increase (decrease)	35.3%	34.7%	(14.6%)	(43.5%)	7.2%

[1]The strategic investment and improvements fund was formerly known as the lands and minerals trust fund.

Lease Bonus Revenue					
Trust Fund	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
Strategic investment and improvements[1]	$49,426,254	$18,720,558	$3,985,532	$6,483,202	$5,226,025
Capitol building	0	23,202	1,520	396	3,040
Permanent trusts					
Common schools	18,171,033	16,663,932	12,809,340	3,222,983	3,373,437
Other permanent	1,515,217	235,427	875,848	2,710,809	120,167
Total	$69,112,504	$35,643,119	$17,672,240	$12,417,390	$8,722,669
Percentage increase (decrease)	(44.9%)	(48.4%)	(50.4%)	(29.7%)	(29.8%)

[1]The strategic investment and improvements fund was formerly known as the lands and minerals trust fund.

Performance audit review - The State Auditor's office conducted a performance audit of the operations of the Department of Trust Lands during the 2015-17 biennium relating to the Energy Infrastructure and Impact Office, unclaimed property, and trust assets and department resources.

The performance audit identified 53 findings, including 29 formal recommendations. The Department of Trust Lands has addressed 24 of the findings. The new information technology project is intended to address the majority of the remaining findings. The State Auditor's office is in the process of conducting a followup audit report.