



## **Idaho State Board of Land Commissioners**

Brad Little, Governor and President of the Board

Phil McGrane, Secretary of State

Raúl R. Labrador, Attorney General

Brandon D Woolf, State Controller

Debbie Critchfield, Superintendent of Public Instruction

Dustin T. Miller, Secretary to the Board

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*Be it remembered, that the following proceedings were had and done by the State Board of Land Commissioners of the State of Idaho, created by Section Seven (7) of Article Nine (IX) of the Constitution.*

Final Minutes  
State Board of Land Commissioners Regular Meeting  
May 21, 2024

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, May 21, 2024 at the State Capitol, Lincoln Auditorium (WW02), Lower Level, West Wing, 700 W. Jefferson Street, Boise, Idaho, and via webinar. The meeting began at 9:35 a.m. The Honorable Governor Brad Little presided. The following members were in attendance:

Honorable Governor Brad Little  
Honorable Secretary of State Phil McGrane  
Honorable Attorney General Raúl Labrador  
Honorable State Controller Brandon Woolf  
Honorable Superintendent of Public Instruction Debbie Critchfield

All members were present at the physical location.

Note that the Land Board meeting start time was delayed from the published agenda time due to an unusually lengthy Board of Examiners meeting that immediately preceded the Land Board meeting. Three members of the Land Board are also seated on the Board of Examiners.

Prior to discussion of agenda items, Director Miller announced the Department's 2023 Employees of the Year. Recipients were Laurie Stone, Robert Funk, Marte Meredith, Alice St. Pierre, Tyre Holfeltz, and Ed Wingert. Each praiseworthy employee received an award and certificate, then gathered with Land Board members for picture taking.

Governor Little stated that agenda items 1 and 2 would be heard in reverse order, to accommodate the Endowment Fund Investment Board (EFIB) members and staff that were present who needed to depart for their own board meeting after the EFIB presentation.

**2. Endowment Fund Investment Board Report** – Presented by Tom Wilford, EFIB Chairman, and Chris Anton, Manager of Investments

- A. Manager's Report
- B. Investment Report

**Discussion:** Chairman Wilford introduced members of the Investment Board in attendance at the meeting, including Joe Forney, Representative Kenny Wroten, Mary Pat Thompson, Senator Chuck Winder, Jerry Aldape, Bob Donaldson, Brian Yeargain and Irv Littman. Chairman Wilford also recognized EFIB staff who were present: Chris Anton, Kathy Van Vactor and Chris Halvorson. Chairman Wilford then turned the presentation over to Mr. Anton.

Mr. Anton provided a summary of the past several months, recalling that financial markets began to rally in December as inflation continued to moderate, the Federal Reserve indicated that inflation was nearing their target, and they would likely begin to cut interest rates during 2024. The challenge experienced recently in January, February, and March is that inflation is actually flat to modestly higher the first three months of the calendar year. In April, markets began to sell off because of concern that declines in inflation may have stalled out, and that the Federal Reserve would keep interest rates higher for a longer period of time which could jeopardize the economy. At one point the markets anticipated six interest rate cuts during calendar year 2024, and now anticipate one cut in December. During the month the portfolio was down 3.3%, but up 7.5% in fiscal year-to-date. During May, when April inflation data came out, there were signs of inflation continuing to moderate. The market breathed a sigh of relief and rebounded; through yesterday the fund is up 11.7% fiscal year-to-date. The fund more than recovered the declines experienced during the month of April and is in a solid place going into fiscal year end.

Governor Little remarked he received real estate data from Mr. Anton, but it does not show up on the report. Mr. Anton noted the Governor's interest in the performance of the two private real estate funds, CBRE and DWS, and gave an overview of that marketplace. The private real estate market has declined for seven consecutive quarters, nearly the same amount of time as during the great financial crisis [2007-2008] when it was down nine quarters. Mr. Anton had reported in April that the private real estate market was close to the bottom. During the first quarter, the DWS RREEF fund was down .03% and the Core Partners fund was down .65%. Regarding Governor Little's specific question about the reporting, Mr. Anton said these are flash reports, providing data fairly close to the end of the quarter. The custodian rolls the numbers in once they are audited; it may take another week or two. It will not have a big impact on performance given the numbers are fairly flat, but the data will show up on the report.

C. Semi-Annual Report

**Discussion:** Mr. Anton mentioned a few of the highlights from the semi-annual report. Page 3 provides an overview of the total assets overseen by the Investment Board. There are a number of strategies that are invested similarly to the Land Grant endowment strategy, in the same bucket of money. As of April 30th, there was \$3.1 billion in the Land Grant endowment fund; DEQ, Fish and Game, Parks and Recreation, and Department of Lands also had money invested in that same strategy. Those are endowed funds that support reclamation and other projects. The second portfolio is the reserves for the State Insurance Fund; that is a very different strategy, much more conservative, primarily invested in fixed income. Overall, the Investment Board has oversight of about \$4.3 billion as of the end of April.

Page 7, as mentioned earlier, through the end of April investment return was 7.5% for the first 10 months. To date it is up over 11%. That number equates to about \$185 million in additional fund balance during the fiscal year. Page 8 shows the trends: a blip down in 2020, when Covid first hit, and then a huge spike up with a return of about 30% in fiscal year 2021. As a result of both fiscal and monetary stimulus to get the economy going, the market spiked, then the Federal Reserve began to increase interest rates to fight inflation, and the market sold off. Page 9 lists earnings reserves, very close to the target of seven years of reserves for each of the beneficiaries' funds. The next graph shows the trend in beneficiary distributions. The Investment Board's goal is to maintain steady and growing distributions and has been very successful with the policies that the Land Board implemented in doing that. The Land Board approved fiscal year 2025 distributions in August 2023; the total was a little over \$103 million. Finally, on page 11, just to refresh everyone's memory, another duty that EFIB has is to oversee the School Bond Credit Enhancement program. When school districts issue bonds to support the construction of new schools, the first credit rating or credit analysis is based on property taxes, districts ability to bring in property taxes to fund their debt service. On top of that, the State provides a guarantee. Thanks to the Governor and many other people's efforts to bring the credit rating up, the State's credit rating is now triple A, but in terms of the guarantee only a double A passes through to the school districts. The third layer is that EFIB enhances the State's guarantee by indicating that if there is a problem and the State cannot back up the school district, EFIB will loan the State money out of the Public School endowment fund to make the debt service payment. As of the end of April, there was \$520 million in outstanding commitments. Under the program, the limit is \$40 million per school district, and it is backed by \$300 million of the Public School endowment fund assets. It has the effect of making a triple A, it reduces the interest expense on the debt issued by the school districts by about .05%. It is not a huge amount but over 30 years it makes a significant difference.

Governor Little had a question of the Investment Board, asking if members would tie up \$1 billion for a quarter million benefit. Governor Little stated that is in code, and he is an advocate for it. The Governor commented that there is basically a cloud over \$1 billion dollars for the benefit of only \$250,000, and recommended an update to the Legislature from the Investment Board: is this the best thing to do with tying up that money. Mr. Anton said it will be taken under consideration. Controller Woolf asked how many school districts are using this currently. Kathy Van Vactor answered there are currently 50 school districts participating.

Superintendent Critchfield mentioned, while the subject is schools and the endowment, one of the things she hears regularly from community members, in her visits to north Idaho, is a comparison of seemingly equal distribution of the endowment to places that do not contribute as heavily to the endowment. Superintendent Critchfield asked if the Investment Board has had discussion on considerations of areas in Idaho that are producing timber and selling timber, that they might have more to gain from the endowment than folks in places that are not? Mr. Anton responded the Investment Board's perspective is that EFIB provides the distribution to the Department of Education and is not involved in how that is divvied up. EFIB transfers money into the fund at the Treasurer's office and does not have a say so on how that money is spent. Superintendent Critchfield asked the Governor and Land Board members if that distribution is in statute and has it been on the books for a long time. Governor Little replied yes to both questions, and suggested that EFIB could ask the Superintendent's question of its counsel and run the numbers.

Secretary of State McGrane commented that the challenge for the schools is that it is a collective action problem, similar to sales tax distribution. Most of the sales tax in the state is generated here in the valley, but it has to be distributed in some way to even it out. Superintendent Critchfield added that the overall public schools' distribution is not equal; it is not a one-to-one. It is a very complicated and complex formula that takes in all sorts of elements including the average of how many students are attending and what a book costs in a classroom and more. Superintendent Critchfield noted that it is something to discuss. The Land Board may or may not have the ability or the desire to do anything, but there are some valid questions there. Governor Little extended appreciation to Investment Board members and EFIB staff for their service.

**1. Department Report – Presented by Dustin Miller, Director**

**Trust Land Revenue**

- A. Timber Sales – April 2024
- B. Leases and Permits – April 2024

**Discussion:** Governor Little referred to page 2 of item B and wondered if the military needs to pay their bills. Director Miller explained the commercial military facilities payment was received; however, it is currently being categorized with communication sites in the new financial system. For that reason, this report is showing the payment as not received.

**Status Updates**

- C. Pre-Season Fire Brief

**Discussion:** Governor Little asked if the 40-60% staffing level is standard, or is it above or below average. Josh Harvey indicated that is about average for the last few years; some districts are having greater challenges than others in filling positions. Controller Woolf asked if there were any concerns about not having a Helitack crew or leadership. Mr. Harvey answered there are no current concerns. The ship that the Department is looking to bring on only requires a manager; the helicopter is not capable of carrying additional personnel but has a much higher capacity for hauling water and dropping water on fires which makes up for the loss of personnel. Secretary of State McGrane shared that during his pack test the week prior, there was mention of the federal agencies increasing their pay significantly, in some instances offering \$20,000 hiring bonuses, which is making it harder for the Department to compete. At the same time, by increasing firefighter pay, the federal partners are struggling in other ways and may be cutting fire staff. Mr. Harvey said the Department has had recent conversations with Forest Service regional leadership and they are closing facilities that have expensive property leases and using those funds to help support personnel. Mr. Harvey added that some neighboring states are doing similar things with their pay to recruit. Director Miller remarked that it is likely not sustainable at the federal level; there was some legislation proposed to make pay incentives permanent, but he has not heard more on that.

Director Miller expressed appreciation for Land Board support for firefighter bonuses in the Department's fiscal year 2025 budget; the plan for how to allocate bonuses once the money is received is almost finalized. The Department implemented a policy to pay for boots for firefighters and field-going staff which is on par with federal agencies and a good incentive for rookie firefighters who do not have a lot of money for purchasing boots. Governor Little anticipates a more in-depth fire report in June, and asked for a percent of force with that report, including Forest Service, BLM, and State personnel. If the Department is 100% but the BLM and

Forest Service are only 50% that means trouble on some of these big fires that are cross-jurisdiction. Overall, in the fire world, where are all agencies as percent of preparedness for the fire season.

*For the record, Secretary of State McGrane stepped out of the meeting at approximately 10:13 a.m. to administer election-related business.*

### **Consent—Action Item(s)**

- 3. Disclaimer of Interest Request DI600317–Hall and Sons LLC, Boise River** – *Presented by Eric Wilson, Bureau Chief-Resource Protection and Assistance*

**Recommendation:** Direct the Department to issue a Disclaimer of Interest for two parcels totaling 28.42 acres of the former bed of the Boise River, to Hall & Sons, LLC following their payment to the Department of the remaining processing fee of \$300.

**Discussion:** Governor Little noticed in the documentation that when Hall & Sons procured some of the land from Staker & Parsons there was a prohibition on gravel extraction and asked if this ground is given fee simple, with the exception of the easement. Mr. Wilson replied the Department is not giving away land, just clearing up title. The Department gets clear title to where the river is today and relinquishes any interest in title the State may have had to where the river used to be in the past. Governor Little clarified that, in essence, when the Department cleans up the deed by issuing a disclaimer, a restriction on the adjacent ground does not follow the ground cleaned up because it is kind of a no man's land until the Department takes this action. Mr. Wilson said that is correct; the Department is not privy to any agreements that Hall & Sons may have had with the prior property owners.

- 4. Results of April 24, 2024 Mineral Lease Live Auction** – *Presented by Jason Laney, Section Manager-Leasing*

**Recommendation:** Direct the Department to award mineral lease E700062 to Premier, LLC, the high bidder at the auction.

**Discussion:** None.

- 5. Approval of Draft Minutes** – April 16, 2024 Regular Meeting (Boise)

**Consent Agenda Board Action:** A motion was made by Controller Woolf that the Land Board adopt and approve the Consent Agenda. Superintendent Critchfield and Attorney General Labrador simultaneously seconded the motion. The motion carried on a vote of 4-0.

### **Regular—Action Item(s)**

- 6. Commercial Real Estate Advisor** – *Presented by Bill Haagenson, Deputy Director*

**Recommendation:** Authorize the Department to contract with Heartland LLC to serve as the Land Board's Commercial Real Estate Advisor.

**Discussion:** Controller Woolf asked if Heartland has any ties, in any shape or form, to CenturyPacific? Mr. Haagenson answered the Department is not aware of any connection between those two firms. Controller Woolf inquired what helped set Heartland above Canyon Data, what were the key points in the decision or recommendation to go with Heartland? Mr. Haagenson responded that this was an Investment Subcommittee recommendation; the Department did concur with the recommendation from the Investment Subcommittee. Mr. Haagenson offered, if he were to attempt to speak for that committee, that it started with a more robust response to the RFP, and a better plan for how Heartland will work with the Land Board and address the Land Board's needs. The presentation and the interview process that the Investment Subcommittee conducted reinforced that impression. Of the two, Heartland came across as better prepared to serve the Land Board, though either could function in that role.

**Board Action:** A motion was made by Controller Woolf that the Land Board authorize the Department to contract with Heartland LLC to serve as the Land Board's Commercial Real Estate Advisor as recommended by the Subcommittee. Superintendent Critchfield seconded the motion. The motion carried on a vote of 4-0.

Governor Little proposed deferring the Endowment Land Energy Leasing Policy item to the June 18th Land Board meeting. Governor Little explained that the latest revised draft of the Energy Leasing Policy was received just the day prior (May 20th) and additional review time was needed. All Land Board members agreed with the proposed deferral.

*For the record, Secretary of State McGrane returned to the meeting at approximately 10:24 a.m., and offered his concurrence with the above-mentioned deferral.*

## **Information**

### **7. Proposed Rule IDAPA 20.04.01, Rules Pertaining to Forest Fire Protection – Presented by Josh Harvey, Bureau Chief-Fire Management**

**Discussion:** Governor Little asked about the fire watch, that there has to be somebody from the logging operation on duty three hours after the last chain saw is shut off. Is that new or is that moved from somewhere else? Mr. Harvey said that has been the rule for a while. Superintendent Critchfield noticed in the materials the two comments the Department received. One comment was incorporated, information from the DEQ, but not comments submitted about the posting of the no smoking sign. Superintendent Critchfield inquired who submitted that? Mr. Harvey replied he was not 100% sure, not having the comment in front of him, but believed it was the Associated Logging Contractors. Superintendent Critchfield asked what is the Department's process for determining if a comment will be incorporated or not? Mr. Harvey responded that when the Department receives comments, depending on what the comment is, staff will engage in direct dialogue with the commenter. If the comment concerned, for instance, not only Department of Lands, but DEQ, staff would engage with those partners as well and discuss the merits of the comment and how to best address it, if it needs to be addressed. Superintendent Critchfield noted in her reading of the comment it did seem like a reasonable comment to be incorporated, and the response to the comment seems to reinforce the comment.

**8. Proposed Rule IDAPA 20.04.02, Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws** – Presented by Josh Harvey, Bureau Chief-Fire Management

**Discussion:** None.

**9. Department of Lands' Legal Staffing Process** – Presented by Dustin Miller, Director

**Discussion:** Secretary of State McGrane asked about engagement or participation of the Land Board in this process. Will the final applicant come before the Land Board at a meeting? Director Miller responded the Department will bring a recommendation on a final candidate to the June Land Board meeting. The position is currently advertised, there will be conversations with Land Board members and staff on the pool of applicants, and recommendation of the final candidate at the June Land Board meeting for approval. Secretary of State McGrane asked what the relationship of the lead attorney [general counsel] will be with the Land Board; will that person be advising the Land Board? Director Miller said his understanding is that individual will be advising the Department and not the Land Board. Attorney General Labrador helped answer that question, noting the way the Legislature passed the bill is the Department of Lands has their own attorneys now, but the Attorney General continues to be the attorney for the Land Board. It is clearly spelled out in the statute. There are some legal issues that potentially will be looked at with whether the Department can have their own attorneys. Secretary of State McGrane observed something interesting in Idaho Code § 58-101; it basically suggests that the Department is the arm of the Land Board. Attorney General Labrador concurred it is an arm. That is the legal question presented to the Legislature then; the Attorney General's office said that the Department of Lands is actually an arm of the Land Board, so they should not have different legal counsel. The Constitution makes it clear that the Attorney General has to be the attorney for the Land Board; that was the purpose of including the Attorney General as one of the five members of the Land Board. Attorney General Labrador stated his office is doing its best to assist with the statute as was passed, working very closely with Dustin, and offering help. There are a lot of cases happening right now, and it would not be fair for all those cases to be dumped on one attorney in one month to have to get on top of those. The statute allows the Department to contract with the Attorney General's office, for ongoing litigation and other matters. Attorney General Labrador elaborated that the way he envisions it, and the Land Board will have many discussions about this, the Land Board approves that a contract should be granted, it is no longer now the Attorney General's responsibility to draft that contract, it will be now the Department of Lands' job to draft the contract. The Land Board makes the ultimate decision and when the Land Board needs legal advice on whether that ultimate decision is legal, valid, constitutional, the Land Board goes to the Attorney General's office for that legal analysis. The implementation of what the Land Board has decided will be the Department of Lands through their attorney who does that. Secretary of State McGrane thanked Attorney General Labrador for taking time to walk through that. Governor Little said he may have a different opinion, but that discussion is for another time. Director Miller stated the June Land Board meeting is a month out; the Department is hoping to have a candidate by then, but if not, they will be coordinating closely with the Attorney General's office to contract for any services in the interim.

