March 24, 2021

Senate Appropriations Committee

<u>HB1425 OPPPOSE</u>

Chairman Holmberg and Members of the Senate Appropriations Committee:

For the record my name is Robert Harms, I'm a lifelong resident of North Dakota and am speaking as a taxpayer. I was one of a handful of people who helped guide the Legacy Fund through passage in 2010. That coalition included a host of organizations including: Farm Bureau, ND Retailers, ND Petroleum Council, NDEA, and the ND Chamber of Commerce and a host of individuals.

I'll share my specific concerns about HB 1425 at the end of my testimony. Some history of oil tax revenue is instructive and forms the foundation upon which the Legacy Fund was created.

<u>HISTORY:</u>

1997--"Permanent oil trust fund" created; Governor Schafer wanted it in the Constitution; Legislators resisted and made it statutory (subject to future invasion).

2003—Governor Hoeven first taps the permanent oil trust fund; thereafter each biennium the "permanent oil trust fund" is raided and not allowed to grow. (2007-2009 fund grew to $400MM—but nearly half spent for "Centers of Excellence", Tribal college grants, Vets Home etc.).

2007—our 1st attempt at creating a constitutionally protected fund. Governor Hoeven, and NDEA campaigned against it. It was defeated.

2009---our second attempt. Reconfigured with input from AARP and NDEA. Legacy Fund resolution was approved; we campaigned statewide and secured passage. At the time we told the voters: "***The Legacy Fund would secure North Dakota's financial future by providing a consistent state revenue stream for our children and grandchildren, long after the oil industry takes a downturn."*** **(See the attached campaign literature from 2010).**

The point: The Legacy Fund was designed to replace oil revenues when they decline—something that will happen. We see today, how dependent we've become on ONE revenue stream---oil taxes. They ARE going to go away. (Over 50% of our revenue comes from oil; 27% of the general fund comes from oil production and extraction taxes—as per Legislative Council).

<u>PREVIOUS RECOMMENDATIONS</u>:

Great Plains Institute: In 2014 the Institute recommended----spend 25% earnings, reinvest the balance (20 years) until oil revenues/production begins to decline----then stabilize budgets and spend balance of earnings.

MEMBERS included: (Some are proponents of this bill)

Steve Burian, former CEO of AE2S; member of Valley Prosperity Partnership
Nick Archuleta, president, North Dakota United
State Sen. Kelly Armstrong, R-Dickinson, an attorney
Rod Backman, former director, ND OMB
Dina Butcher, former Deputy Ag. Commissioner, Schafer sub-cabinet member
Mike Eggl, SVP Communications, Basin Electric Power Cooperative, Bismarck
Jon Godfread, VP, Greater North Dakota Chamber
Eric Hardmeyer, CEO of the Bank of North Dakota
Bob Mau, president of MW Industries Inc., Kenmare
State Sen. Mac Schneider, D-Grand Forks, Senate minority leader and an attorney
Larry Skogen, interim chancellor of the North Dakota University System
Gene Veeder, Exec. Director, McKenzie County Job Development Authority

Alaska: During the interim, the Legacy Committee heard from Mr. David Teal the manager of the Alaska Permanent Fund; his recommendation was to save and reinvest the earnings into the fund for future generations, and help the fund grow. The Alaska Fund has $72 billion.

Teal asked, "is the fund for current residents or future residents"? He defined the Alaska fund as "intergenerational". He suggested that North Dakota determine WHEN, we will need Legacy Fund earnings to replace declining oil revenue. (Do we know that date)? Permanent commitments of earnings limit your ability to solve the problem that is coming.

Norway: In 2019---we shared with the entire Legislature, the Norway Fund management summary and how they manage one of the largest sovereign funds in the world; its recommendations too were----save, don't spend. (The Norway Fund is worth $1 TRILLION).

In 2019, **Legacy Fund Founders Committee** also recommended saving and investing MOST of the earnings as per the attached-policy recommendations. (I do not purport to speak for anyone this morning, but myself). KEY points we made included:

No free money
Save most of the earnings
No permanent commitment of earnings

Investing the LEGACY FUND IN North Dakota is a good idea. If the bill said that I'd support it.

Specific objections to HB 1425 has to do with the rhetoric and news reporting regarding the bill: Bismarck Tribune: 3/22/2021 reports, the bill "directs the board to invest up to 20% of the Legacy Fund in the state", Nathe said. The article continues, quoting Insurance Commissioner Godfread, "..1425 is really the Legislature's voice and opinion on what those targets should be".

1. The Constitution clearly places the responsibility for investing the Legacy Fund with the State Investment Board. Article X, Section 26 (3) says: *The state investment board shall invest the principal of the North Dakota legacy fund.*

BUT—Section 4 (3) of the bill says "The board shall determine the asset allocation for the investment of the principal of the legacy fund"…referring to the Advisory Board----NOT the State Investment Board---and contrary to the ND Constitution. The Advisory Board has NO authority to set asset allocation as suggested in that section of HB 1425.

2. Section 4, subsection 3 (a) and (b) go on to speak of targets of 20% of various funds to be invested in North Dakota. IF the words "targets" remain as targets, or goals, then this language would be acceptable. But, if investments do not meet those targets, if finding 3% for equity investments in North Dakota, then some will begin to suggest we "missed" our goal, or failed to meet the "targets", forgetting that these are just that—targets. The State Investment Board remains in control.
   More importantly, the State Investment Board, ultimately makes those decisions for investment---not the Advisory Board, nor the Legislature as per our Constitution.

3. Lastly, the notion of hiring a North Dakota firm to help manage Legacy Fund earnings is a good one. But, the way the bill is written appears to mandate that a North Dakota firm must be hired. That part of the bill should be fixed.

The concept of investing North Dakota dollars in North Dakota is one in which nearly everyone in the state would agree. HB 1425 is a step in that direction. But, for the reasons stated has some troubling language, and implications. Consequently, I urge a DO NOT PASS to the Senate.

Thank you.

Robert W. Harms
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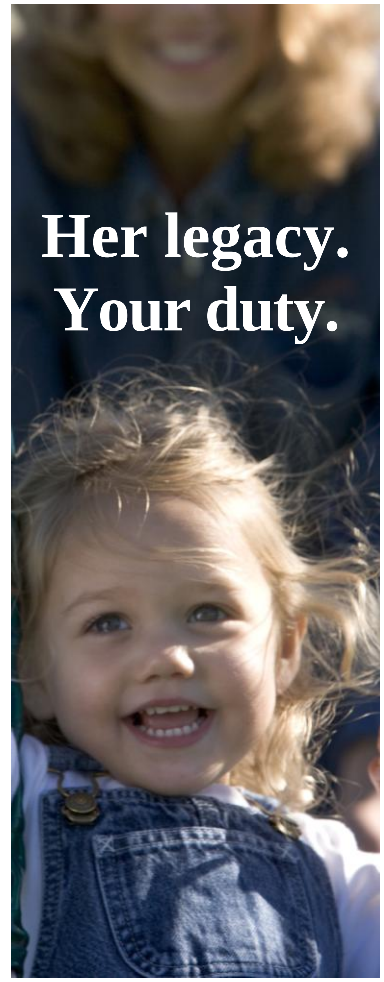
Bismarck, North Dakota

North Dakota Legacy Fund

August 9, 2010

What does Measure 1 do?

- Measure 1 would establish a North Dakota Legacy Fund from the oil and gas tax money that is accumulating at record-breaking levels. Saving some of this money makes sense. It's the fiscally responsible thing to do.
- The oil tax is not a new tax. Oil companies have been paying this tax to the state since oil was discovered in North Dakota.
- The Legacy Fund would be a *permanent savings account* for the state of North Dakota with the earnings generated from the fund available for government spending after 2017.
- The North Dakota Legislature placed Measure 1 on the ballot as a proposed Constitutional Amendment because it believes the state should be saving, rather than spending all the oil wealth. HCR 3054 passed the Senate 40-7 and the House 82-8.
- Under the ballot measure, 30 percent of the oil taxes would be placed in the Legacy Fund. The principal and earnings could not be spent until 2017. In addition to the earnings, the Legislature could also spend up to 15 percent of the principal in any biennium with a 2/3 vote of both chambers.
- The voters defeated a similar measure in 2008, but that measure set aside specific dollar amounts and required a 75% vote by the Legislature to spend the principal. This is a more balanced approach to spending and saving.
- Revenues to existing trust funds (oil producing counties, common schools trust fund, water resources trust fund, oil impact fund, oil and gas research council) will be unaffected by this change.



Why should you vote YES?

- The Legacy Fund would secure North Dakota's financial future by providing a consistent state revenue stream for our children and grandchildren, long after the oil industry takes a downturn.
- Let's not repeat the mistakes of the 1970s and 1980s boom and bust of the oil industry. During the windfall years, the state increased its percentage share of K-12 education funding. As a result of the oil bust, that level could not be sustained and the education funding burden has shifted to local property. Let's not allow that to happen again.
- North Dakota is now the fourth largest oil producing state in the U.S. This Legacy Fund would capture a nonrenewable oil resource and transform it into a permanent funding stream for future generations.
- Most other oil-producing states have a permanent oil trust fund. Wyoming's oil trust fund covers 25% percent of the state's general budget. New Mexico uses its oil trust fund earnings for roads and bridges. Other states return the surplus to its citizens or provide college scholarships.
- Measure 1 is a legacy for future generations and it's our duty to provide that legacy.

Vote YES to save some oil money

Paid for by North Dakota Legacy Committee

North Dakota Legacy Fund

The Legacy Fund Founders Committee intends to protect the vote of the people, maintain the integrity of the fund and allow the principal to grow—to preserve the one-time harvest of oil revenues.

In 2010, prior to the general election, members of the Legacy Fund Committee told the voters, ***"The Legacy Fund would secure North Dakota's financial future by providing a consistent state revenue stream for our children and grandchildren, long after the oil industry takes a downturn."***

POLICY GUIDANCE:

- Don't spend any principal … except in case of a catastrophic event
- Don't spend earnings until they are banked
  - $200MM has been borrowed in current biennium
  - Postpone additional spending until next biennium
    - Reduce risk and mitigate volatility
- SAVE MOST of EARNINGS……75%
  - Assemble DATA for projected Legacy Fund balance (high/low scenarios)
  - Require validated, independent DATA for spending
- Avoid permanent commitments of Legacy Fund earnings
  - Impedes fund growth
  - Reduces flexibility of fund
- Beneficiaries must have financial commitment (no "free money")
- Spending should be based upon long-term strategic planning, not short-term spending demands

In recent history, North Dakota has seen wild swings of state revenues based upon oil production and prices (1980s and 2015, and 2020), which required extreme adjustments in state spending. Oil revenues currently represent 27%* of proposed general fund spending. The Legacy Fund was created in part to mitigate against these wild swings in state revenues.

*Not including sales, personal and corporate income tax resulting from oil activity.

<u>Members of the Legacy Fund Founders Committee (2009-2010)</u>

Robert Harms
ND Farm Bureau (Daryl Lies-current)
Terry Fleck
Dave McIver
Bill Shalhoob
Kent Blickensderfer
Bruce Govig
Rep.Chris Griffen (ret.)
Brad Bekkedahl
Jim Maxon
Pete Zimmerman
NDEA, Greg Burns (ret.)
State Treasurer, Kelly Schmidt
Rep. Dave Weiler (ret.)
Tammy Ibach
Greater ND Chamber, (Arik Spencer-current)
Sen. Connie Triplett (ret.)
Ken Tupa
Governor Ed Schafer (ret.)
Sen. Rich Wardner
Mayor Ward Koeser (ret.)
Bob Graveline
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