



# North Dakota House of Representatives

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## **Representative Corey Mock**

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**COMMITTEES:**  
Appropriations

March 8, 2023

Chairman Scott Louser and House Industry, Business and Labor Committee  
North Dakota State Capitol – Room JW327C  
HCR 3033 – Legacy Fund Constitutional Amendment (Work Session Notes)

Chairman Louser and Members of House IBL Committee,

Thank you for again for the opportunity to work with the committee as you consider HCR 3033. I greatly appreciate the committee's discussion during our initial hearing on Monday, March 6, 2023.

Attached to these notes are amendments developed following our extended discussion. Those amendments are designed to provide options related to the Legacy Fund and may be combined with one another, if so desired.

### **Summarizing HCR 3033 and why the resolution was introduced:**

North Dakota's Legacy Fund was proposed during the 2009 Legislative Session, approved by voters in 2010, and began receiving 30% of all extraction and production taxes for oil and gas in 2011. This is the only constitutionally directed source of revenue into the fund's principal (fund was designed to receive funds from other revenue sources in the future.)

Earnings were constitutionally required to be reinvested in the principal for the first 7 years; intentionally allowing the fund to mature with the help of compound interest.

At the end of the 2017-19 biennium (and at the end of each biennium moving forward), earnings of the legacy fund must be deposited into the general fund.

HCR 3033 was drafted to update the constitutional guidance for the legacy fund, including the inclusion of a proposed new source of revenue. As introduced, HCR 3033 would require a portion of royalties or other payments related to intellectual property developed using earnings of the legacy fund to be deposited into the principal.

Our state currently permits the North Dakota Development Fund (NDCC 10-30.5) "... to take equity positions in, provide loans to, or use other innovative financing mechanisms to provide capital for new or expanding businesses in this state, or relocating businesses to this state." Under current law, loan repayment, dividends, royalties, and other payments made to NDDF remain within their fund for ongoing economic development activities.

NDDF has a continuing appropriation; transfers to NDDF for new economic development initiatives have been limited. HB 1018 (Department of Commerce) has appropriated \$150 million from SIIF for program expansion and a fertilizer development program. \$5 million from COVID recovery funds is also reauthorized to NDDF for continued economic development use.

Amendments proposed to HCR 3033 broaden yet clarify the bill as introduced.

Following other discussions regarding the legacy fund (and revenue sources) there is an additional amendment to also transfer 30% of any taxes / fees collected for carbon storage and sequestration (pore space) into the principal. This would dedicate extraction / production of resources from subsurface pore space AND long-term storage of carbon within subsurface pore space as the constitutional foundation for our legacy fund.

Tax policy regarding long-term pore space utilization is in its infancy. Requiring 30% of any future taxes at the onset would allow future legislatures to consider those factors when creating or modifying pore space tax policies.

Finally, an amendment was proposed that would place in our Constitution an updated definition of "earnings" that align with "smoothing" practices used today. This amendment would require a legislative transfer of earnings – up to 8% of the 5-year fund average, or approximately 4% annual balance for each year of the biennium. Any earnings not transferred to the general fund would automatically be reinvested in the principal.

Not only would this require mindful action regarding the use of legacy fund earnings by each legislature in perpetuity, it ensures our statutory definition of "earnings" is consistent with our constitution.

Each amendment may be considered independently; they may also be merged if more than one concept were supported by this committee.