

2019 HOUSE FINANCE AND TAXATION

HCR 3055

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HCR 3055
3/5/2019
33233

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the transfer of earnings of the legacy fund.

Minutes:

Attachments 1-3

Chairman Headland: Opened hearing on HCR 3055.

Representative Corey Mock: Introduced HCR 3055. Distributed written testimony, see attachments 1-3. Ended testimony at 9:55. This would bring it to the voters and if approved would allow the legislature every biennium to come in and transfer funds to the general fund. The earnings alone, if not spent, would be automatically invested instead of coming to the general fund to be spent or carried into the budget stabilization fund.

Representative Kading: You say principle and earnings so I could just transfer principle or earnings and get through a loophole. Do you mean you cannot spend without a 2/3 majority the principle or earnings by itself or principle and earnings?

Representative Mock: The reason it was phrased "and earnings" was because it would be that 2/3 requirement. Both principle and earnings are reinvested and held then would require a 2/3 vote of either or both to transfer to the general fund.

Representative B. Koppelman: This wouldn't affect anything that we're spending legacy fund money on this year or any bills that might have a longer term progression that the legislature approves now?

Representative Mock: This wouldn't have any effect on any of the appropriations for the current biennium or the next biennium. We would be in the driver's seat to transfer out of the earnings into that fund. If the legislature did nothing, then it would operate as though there were no earnings that biennium. Anything could continue to exist. We would end up being the gatekeeper of whether or not earnings are transferring from the legacy fund to the general fund. It would take approval from both chambers in order to do that.

Representative B. Koppelman: The portion of that legislation you're referencing not only does it have a trigger as to when income tax would be further subsidized by legacy fund

earnings but it also has a provision that the portion you bought down with that trigger in a previous biennium is continually funded. This would overturn that effort unless it was written in such a way where it respected legislation that set that aside prior to it being voted on by the people.

Representative Mock: The Constitution would overrule any statutory dedications of earnings, principle, or any of the other funds. This would dictate that any earnings do not transfer to the general fund or any disbursement whether it's automatic or specifically appropriated unless it's been approved by both the House and the Senate. If we did not transfer those funds over it would have the same affect. There are more opportunities for these earnings to be used. We are talking about other uses of the legacy fund to prevent initiated measure appropriations of it but it would also say there would be no automatic distribution of earnings. Everything would have to come before the legislature.

Representative Ertelt: You referenced the legislature needing to take action for those earnings to be spent. Today we just need a majority of legislature to spend those earnings wherever we want.

Representative Mock: Right now there is no legislative action to receive those funds. On June 30, 2019 when the legacy fund earnings are transferred they are comingled and they become part of the pool. We'll appropriate whatever we think will transfer over. Any appropriation takes a simple majority. If the committee would rather make it a simple majority, then that's a conversation that can be had. I think it should be reinvested into the principle. We made a mistake in 2009 and it wasn't intentional but we were living off of the oil revenues. The legacy fund was created to prevent us from spending all that oil wealth. In 2009 we weren't producing 1.4 billion barrels a day, it was drastically lower than this. The legacy fund is much more successful than we ever thought it would be because of our oil industry. We don't need the earnings as much as we thought we might. This is a good chance for us to reverse that.

Chairman Headland: Last biennium we sat on the interim that put on a bill that would have allowed for the earnings to be dumped back into the legacy fund but we needed a 2/3 vote to get that passed and we didn't quite make it.

Representative Mock: I believe I was in support of that. This has been growing. Knowing the power of compound interest, because we are coming up on the first transfer, the question is if this scenario continues over the next 10 years we're looking at over a billion dollars in general fund revenue. One of the things that might happen is to decrease the tax liability of our citizens. The concern is that if we do that too much too soon eventually you run out of tax liability to eliminate. You don't grow that principle in order to gain. You have an opportunity to needlessly grow government. This allows any of those earnings to go back into the principle and we can continue to use those earnings as needed. If we reinvest everything in the course of 20 years you're looking at a principle that could be as high as \$40 billion returning several billion every biennium in earnings.

Chairman Headland: Do you see any danger that the public can decide if they see the fund being hoarded so they may want a piece of it. The faster that grows it might incentivize people

to go after it. We've talked in this committee trying to incentivize people staying out of the fund.

Representative Mock: We're going to have that conversation no matter what happens. As we ran the numbers and looked at the potential opportunity our total budget as a state is approximately \$14-15 billion in general and special fund including federal dollars. If done wisely by using what we need today and keeping what we need for growth and principle in 40 years with \$142 billion returning, \$15 billion in biannual earnings, who cares what the federal government can or cannot afford to provide for North Dakota dollars. That gives North Dakota the ability to be flexible and do what's best for North Dakotans without being held to other funds or sources of revenue. The opportunities are endless.

Representative Kempenich: I am the chairman of the state legacy fund. This is another approach in how to look at managing the fund. One of the problems is that it needs to be managed, not only on how to keep the money but also on how to spend the money. This brings in a little different angle on how to approach this. Last summer we ran some scenarios of taking percentages out of the principle. Using 5% over a 20-year period was just over \$250 million, which was a \$3 billion hit to the fund. It shows you the compounding effect. In theory we could have \$28 billion. In a short period of time we will be running that billion dollar earning and so how do you manage that? It is a two-year perspective. This biennium is a little different because we pre-spent \$200 million. We need to take a serious look at how we want to handle this. I think there is a different conversation between principle and earnings. It should be something that is very well thought out and by doing the 2/3 vote there is an understanding of the whole body that this is something that should move forward.

Representative Steiner: The people voted the earnings would go to the general fund. Don't you see a value of returning the \$900 million to the private sector? The incentive if billions are removed from the principle is that 0% of income tax would rise under HB 1530. There is a management scheme to HB 1530. This is going to drive it faster and higher with no management plan in place at all.

Representative Kempenich: The income tax bill is a way of pushing some back. When you look at different funds there are five states that have any size, the biggest is Alaska. Their biggest issue is that the population has become very dependent on that fund because it's by person. This money doesn't transfer into public activity so they can't even build a road. It becomes a management issue. We should have waited two years to spend the money last time but we didn't so now we have to wait another two years to even feel the effects of trying to manage it. We have to get it to where the money is there then we spend it going forward.

Chairman Headland: Do you recall when we made the switch from being able to spend the earnings from 25-17?

Representative Kempenich: We haven't changed anything on how we spend. This is our first go at trying to manage this.

Chairman Headland: I don't think this committee is discounting this but are interested in what we already passed so we'll need to reconcile this.

Representative Ertelt: Could you give us an idea of where the legacy fund money is invested?

Representative Kempenich: It's in a lot of places. In large cap we're at 22.3%, small cap we're at 8.1%, international equities we're at 19.7%, fixed income is 34.8%, diversified real estate we're 9.3%, real estate we're 4.8%, and cash equivalent is .9 percent. We don't carry cash in the fund. We're fifty-some percent into equities, 35% into bonds, and 15% into timber which is a type of inflationary asset.

Representative Mock: Representative Steiner asked a question about taking the earnings to the general fund and the implications it could have on HB 1530. Because of the delayed effect if we do this if this passes and passed by voters in 2020, then we would have already had the HB 1530 income tax reduction fund in place. In the 2021 session as those earnings are offsetting and buying down income tax obligations the lack of action by the legislature not transferring would be a tax increase. There would be political pressure for us to maintain a portion of that tax relief. If both HB 1530 and HCR 3055 become law and people were beginning to use those earnings initially to reduce the income tax liabilities, if we don't transfer even a portion of those earnings to go towards that fund then income tax rates would go up. We want to make sure we are returning the private dollars that would have otherwise been collected by income tax. We want to make sure those dollars stay working in the economy and not come back to the state by us refusing to transfer even a portion of those earnings. The pressure for the legislature would be great enough that we would make sure that anything that doesn't get spent goes back into the principle and is earning interest instead of it coming back to the general fund with a temptation for us to continue to spend.

Chairman Headland: Do you think we're going to be able to ween ourselves on our attachment to the earnings already?

Representative Mock: It's going to get harder and harder. We're projecting earnings on two years out. In June we'll have earnings greater than we budgeted two years ago but we were running a risk of having those dollars not be there and that is going to be hard to break up with. This puts the legislature in the driver's seat. Anyone who wants to come in and start using those earnings needs to get legislative approval. We are the people's assembly and that gives us the say of how those earnings are going to be invested if we're going to take it out of the principle.

Chairman Headland: Is there further support? Is there opposition? Seeing none we will close the hearing on HCR 3055.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HCR 3055
3/6/2019
33317

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A concurrent resolution relating to the transfer of earnings of the legacy fund.

Minutes:

No attachments

Chairman Headland: I'm going to reject the resolution. I think it's fairly well documented what I think we should do with legacy earnings.

Representative Mitskog: Would you consider an amendment?

Chairman Headland: If you have something.

Representative Eidson: Representative Mock suggested changing it to having a majority in order to change any funds around. I would be willing to put this forward. He said these could work in tandem together. I'll be supporting this mainly because right now in order for us to put anything back into the principle there has to be a vote. I would rather it be switched and be directed towards the principle right away then vote whether we want to take it out.

Chairman Headland: We voted on that two years ago and the legislation was defeated to deposit it in. A simple majority is kind of the way it is now. It does get deposited into the general fund.

Representative Ertelt: My hesitation with the resolution is that having the funds available to the legislature allows an easier method of providing tax relief. I don't want to hamper that. The argument made was that it could be easier to spend the money and that is true but I don't want to hamper our ability to provide tax relief to the citizens. I'm going to oppose the resolution.

Chairman Headland: If we were to amend it down to 50% it would be deposited by a simple majority. Anybody who wanted to spend it just like now would be able to do it with a simple majority. I think that makes it really ineffective. There's a cost to doing these when you put these constitutional measures on the ballot.

Representative Hatlestad: With a $\frac{3}{4}$ vote can the legislature, through a process, play with the Constitution for a measure that's passed and change it?

Chairman Headland: By a $\frac{2}{3}$ vote we can spend the legacy fund principle if we wanted.

Representative Hatlestad: I understand that but could we do this by a vote of the legislature?

Chairman Headland: I don't think so because it is spelled out in the Constitution that it gets deposited into the general fund starting this biennium.

Representative Eidson: I'm going to withhold the amendment.

Chairman Headland: We need to take action on this resolution today.

Representative Blum: MADE A MOTION FOR A DO NOT PASS

Representative Ertelt: SECONDED

Chairman Headland: Discussion?

**ROLL CALL VOTE: 9 YES 5 NO 0 ABSENT
MOTION CARRIED**

Vice Chairman Grueneich will carry this bill.

Date: 3-6-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HCR 3055**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Blum Seconded By Rep. Ertelt

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson		X
Vice Chairman Grueneich	X		Representative Mitskog		X
Representative Blum	X				
Representative Dockter	X				
Representative Ertelt	X				
Representative Fisher	X				
Representative Hatlestad	X				
Representative Kading	X				
Representative Koppelman		X			
Representative Steiner	X				
Representative Toman		X			
Representative Trottier		X			

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Grueneich

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3055: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HCR 3055 was placed on the Eleventh order on the calendar.

2019 SENATE FINANCE AND TAXATION

HCR 3055

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HCR 3055
3/18/2019
Job #33836

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A concurrent resolution to amend and reenact section 26 of article X of the Constitution of North Dakota, relating to the transfer of earnings of the legacy fund.

Minutes:

Attachments: 4

Chairman Cook: Called the hearing to order on HB 3055.

Representative Corey Mock, District 18, Grand Forks: Introduced the bill. See attachment #1 and #2.

(7:50) I now take you to page 4 of my testimony. This is a current estimate from the Alaska permanent fund. The fund was created in 1978. In the early 1980's, the fund was redesigned to provide automatic dividends from the earnings to Alaska residents. Over the years, it has faced a variety of little changes both statutory and constitutional. In the current estimate, the fund is nearly \$65 B in worth. The total principle is roughly \$46 B with approximately \$18 B - \$19 B as what they call their total earnings reserve count. That count is how they appropriate funds for general use. Some of the goes to the General Fund. A lot of it is allocated out for their dividend.

As we look at the size of that fund, a substantial portion of their total principle is now made up of earnings that has to be spent. Right now, if you visit with Alaska legislative leaders, the governor had authorized the full allocation of the earnings as intended, despite any imposed reforms and has put the state of Alaska about \$1.6 B short of balancing their budget if they are to anticipate their transfer. That is because of the obligations that have been made on the earnings of their permanent fund. It is forcing them to make some difficult decisions.

Right now, the state of Alaska is considering implementing a new income tax and potentially an education tax. In order for them to balance the budget and to walk around any of the obligations of the earnings, they have to get creative. They have to consider essential services that are funded, cut back on spending, or find new ways of raising revenue because the earnings have been obligated for some time. That was just one thing in our conversations with Alaska leaders that they highly advise that there always be a positive action in order for

earnings to transfer over instead of having an automatic assumption that the revenue is there and treated as ongoing revenue.

I would be happy to answer any questions. I will not walk through all of the graphs but you can see the information from the state investment board which shows the current performance of the Legacy Fund. One thing I found interesting is attachment #2. This shows the power of compound interest. These are numbers that were produced by Legislative Council. It could be manipulated to adjust interest rates, new revenue going into the fund, and a variety of scenarios of how much is spent or retained for re-investment. That is a big reason, as we look at this, why we felt the earnings the default position, should be that they are retained and re-invested and that the legislative assembly should have to take a positive action to withdraw those earnings and make sure we are doing what is best for the financial future of ND.

Senator Patten: There is no sun set in here it is just that any use would require a 2/3rd vote?

Representative Mock: That is correct. This is a constitutional amendment. If we take and pass this as written, it would go to the voters in 2020 and if they approve, beginning in the 2021 biennium, the earnings would automatically go back to the principle unless the 2021 legislative assembly voted to make a transfer to the general fund.

Senator Patten: The use of the earnings for general operating expenses is probably a poor use of the earnings. There are other uses of earnings that are potentially out there. There are a variety of other projects that would also have a return on investment to the state that is not factored into this. It is similar to someone sitting here with cash on the farm versus buying a quarter of land. There are other aspects of return that you could measure whether it is quality of life return, or actual monitor return to either the state or the residents of the state. With that you are thinking that the appropriate level is that 2/3rd majority of the legislature to qualify for that?

Representative Mock: Yes. The reason was a twofold. One is its simplicity in the language. We already require a 2/3rd vote to transfer any portion of the principle to the General Fund. The second is that if we made it a simple majority to initiate that transfer, that is fine, but any appropriation requires a simple majority. It would still allow the earnings to be treated as a second or a third General Fund.

This at least requires us to take that initial action, weigh it while understanding there are short term, one time needs and that there is also ongoing spending. I could get into other things that you talked about as a reason why I believe this is an important piece of legislation. There are a lot of potential expenses that we have not planned for that could easily sneak up on us.

For example, a change in federal highway dollars. If that were to be reversed, instead of 80/20 federal to state it would be 20/80. Where would we have the extra \$1 B to pick up that share. This could be a potentially revenue source if it was unobligated and we needed to bank up those dollars. If the federal government changed the FMap share of Medicaid from the 93% down to 80-85%, that is a significant portion of money that we would have to pick up. If the earnings were obligated in part or in whole, we would then have to find additional

revenue or consider cutting essential services. I do not think that is a position the state of ND can or should be in.

Senator Patten: The risk of an additional initiated measure of some group that would redirect the funds once it gets up to a much higher balance, do you have any concerns related to that?

Representative Mock: Right now, any statutory measure could allocate Legacy Fund earnings. This committee heard HB 1530. There is nothing stopping an initiated measure of doing something similar to that where a fund that would take all or a portion of the earnings every biennium to be set aside to pay for a service. If it says in statute without anything directing earnings, those funds would have to go there for that purpose and the legislature would need 2/3rd of a vote to override that. If this were to pass, with 3055, every two years, there would be a shut off value. Those funds would not transfer from the earnings account to the General Fund unless we make that positive action. If 1530 had become law, and was taking the earnings, and 3055 was amended into the Constitution, that fund balance could be all, a portion, or it could be zero. We would have the final say as to what is in that account at the end of the biennium if the appropriations are based on how much money is in that account. This would create a fire wall to prevent earnings from being directly appropriated by future legislators or initiated measure.

Senator Patten: By the initiated measure, for example what Alaska's does which would pay out a certain dollar amount to every citizen of the state, that would happen regardless of what the previous measure did.

Representative Mock: The only way a dividend based payment could be done by statute or by initiated measure, if 3055 were adopted, is by amending the Constitution to require it to do so.

Senator Patten: Which would be done by initiated measure?

Representative Mock: Which could be done by initiated measure. Anything that is statutory would be subject to these limitations. It could still exist but would require the legislature to fund it first. Anything done constitutionally could co-exist or supersede this. I think that is an important distinction to make: a statutory change would be subject to whether or not we transfer those funds from the earnings to the General Fund.

Representative Keith Kepnick, District 39: This resolution does a fundamental change as well as a positive change. I think it is something we should look at. I think it should have where this Legacy money stays identified throughout the process instead of just a General Fund transfer. I think that it would take apposite action for this money to be spent. That is the main reason I am on this. It is one think to try to earn the money, I think it also takes a lot of responsibility in how we are going to spend the money. I think there it was brought up last session that pre-spending it was not the right way to do it. I think that with something like this, it would change that so the money is actually in the bank before it is spent. It still takes the vote of the people to make this change. I will stand for questions.

Dave Weiler: Testified in favor of the bill. See attachment #3 and #4.

(29:11) Senator Patten: Can you tell me what the tax on oil is in Norway?

Dave Weiler: I do not know what the tax is. It might be in the information that has been handed out. It is fairly substantial.

Senator Patten: I think I head in the range of 65% of the gross revenue.

Dave Weiler: That could be. I know that it is more than ours. We are at 30%.

Senator Patten: We are at 10%.

Chairman Cook: Any further testimony on this bill? Hearing none, we will close the hearing on HCR 3055.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HCR 3055
4/15/2019
Job #34729

- Subcommittee
 Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A concurrent resolution to amend and reenact section 26 of article X of the Constitution of North Dakota, relating to the transfer of earnings of the legacy fund.

Minutes:

Attachments: 2

Chairman Cook: Called the committee to order on HCR 3055.

Chairman Cook: Distributed proposed amendments. See – **Attachment #1**.

This was a bill that was introduced to see that the money was deposited back into the Legacy Fund and more difficult earnings were deposited back into the Legacy Fund and that it would be more difficult to get the money out than it is today. This has been one of the most discussed topics all session; the earnings of the Legacy Fund here and in the public. I like the bill as introduced. It tightens the money up into the principle. I do not think it was the intent to make it his difficult to get it out.

On the other hand, I think we need to have a discussion of what we are going to do in the future with earnings from the Legacy Fund as much as it has been discussed as an idea for it. Money in the pocket seems to build a hole. Especially, if there is \$6 B. This is a hog house amendment to 3055 that would create a study that will define what projects might be funded with Legacy Fund earnings that are more important than reinvesting the earnings. The title lists all the opportunities to do it. If you read the “whereas” the Legacy Fund was created with the understanding that the oil and gas resources are finite and the revenues related to oil and gas will eventually decline. That was the biggest reason the fund was created. These revenues will decline and it will be nice to have a fund that keeps the revenue coming to the state of ND as it does start reclining.

Investments to diversify and expand the state’s budget could provide long term revenue stability for future generations. Research technology for agriculture, energy, workforce development, career and technical, etc. are good business initiatives for expanding the state’s economic potential to reduce the tax burden without the expansion of government. It will have a positive effect on economic growth. The Norway Sovereign Wealth Fund is very successful.

The last “whereas” is where the people of ND created the Legacy Fund to a public vote and they should be able to engage in the discussion on how we spend it. I think of some examples of reducing the tax burden. One of the things was taking enough money to pay 10 cents of gas tax would raise and send that money through the State Highway Distribution Fund. We all know the federal government is reducing some of its spending, especially on highway funding. I think we are in a fortunate position in ND to have something like the Legacy Fund where the earnings could be used to reduce that offset so we can continue to reduce our roads.

Handed out – **Attachment #2.**

This shows you the potential result of the study. We did have a large bipartisan meeting. Senator Dotzenrod and Hackaman were at that meeting. There were also House members and people from the private sector. We discussed this option and this was one of the plans to create some silos that the revenue may flow to. You will see that State Highway Distribution is one of them. The discussion was so wide ranging and everyone had an idea that we have to get a study on it. That is the purpose of the hog house amendment you have before you. I would hope we could put this on to 3055. I will stop there and try to answer any questions.

Senator Meyer: I kind of liked the original 30-55. Were there more concerns that we just do not think it would pass the people?

Chairman Cook: No. I talked to Representative Mott this morning and told him what I was doing. He would have rather we passed 3055 as is. I think that was unlikely. He is happier with this than killing it.

Senator Patten: In a banking mentality, investment can be in many different areas. It can be a cash investment like the Legacy Fund is now and also can be invested in school buildings, highway infrastructure, water projects, and those get us a return on investment for the state. I struggled with the idea of sitting there and locking something up for another 30 years. We have needs that are investments. I think the role should fill both of those. It should not just be a need; it should also be an investment. It could be in the capitol infrastructure of the state that is both needed and provides us a benefit instead of sitting there forever. Very few of my customers ever sat there with cash and made good money. They made it by investing in their operations. I have a story of three old brothers that farmed. One was in McKenzie County and the other in Ohio. They never spent any money. They had no relatives. Finally, when one died in McKenzie County, it was pre-inheritance reform. He had quite a few million dollars. They hit him for a 50% estate tax. The rest of it went to his other brother that passed away about 4 months later. He also had several million dollars and a 50% estate tax. Then it went to the third brother down in Ohio who passed away within a year. He had the same story. Cash is sometimes not the best option. The three brothers were worth many millions and all three of them got hit. Making use of your money in a different way, is sometimes worthwhile.

Senator Dotzenrod: One good thing I have seen in this session is that the initiated measure we passed, did allow the legislature to go into the principle if they felt they needed it. That has been not talked about. I was concerned that people would take a look at that. I was in the initiated measure and a provision that said they could take up to 15% if they thought they

needed it. I think this is appropriate. I think this idea is of looking at what we do with the earnings. I have had some interest myself in trying to find a way of getting at a problem of workforce training. We had a bill that came out of the interim on tuition free for those jobs that we know are needed in the Bakken. Everyone has their own idea on how to do this. I think it makes sense to me to do it.

When I first came to the legislature, my idea was to pay for things with cash only and not do any bonding. Over time, I have learned that if you have a need and you keep deferring it, each time, two or four years later, it is that much more expensive. Now you need more money to do what you wanted to do. If you would have just gone ahead and done it, you would have it and it would be generating activity. Sometimes just sitting on the cash projects and things you need to get done, if they don't get done, it is sometimes difficult to keep up with the inflation of the cost of some of the projects.

Senator Unruh: I have always been troubled with the earnings going into the General Fund. I have always wondered why the Legacy Fund was set up that way but I respect that that is what the people wanted. I think it very prudent for us to take a look at what the people want. I think this study resolution allows for us to do that. They can come and tell us what they want to see out of the Legacy Fund. I really liked the resolution. I would be willing to do this step before we decide if we need that next step first.

Senator Unruh: Moved to Adopt Amendment 19.3000.02005.

Senator Patten: Seconded.

Chairman Cook: Any Discussion?

Chairman Cook: I have to add one thing. This amendment has my name and Representative Headland's name on it. There are many fingerprints on this. The only reason our names are on there is because if had to come through the tax bill. I want to thank all the people that do have their finger prints on this bill.

A Voice Vote Was Taken

Motion Carried.

Senator Patten: Moved a Do Pass as Amended.

Senator Dotzenrod: Seconded.

Chairman Cook: Any Discussion?

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent

Motion Carried

Senator Cook will carry the bill.

SK
1202
4/15

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3055

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Management to consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education.

WHEREAS, the legacy fund was created with the understanding that oil and gas resources are finite and tax revenues related to oil and gas production eventually will decline; and

WHEREAS, investments to diversify and expand the state's tax base as a means to offset the eventual decline of oil and gas tax revenues is a prudent use of legacy fund earnings to provide long-term revenue stability for future generations; and

WHEREAS, investments in research and technological advancements in energy and agriculture, workforce development and recruitment, career and technical education, and business growth initiatives are key to expanding the state's economic potential; and

WHEREAS, the use of legacy fund earnings to reduce the tax burden on taxpayers and reduce taxpayer liability to fund government services, without creating an expansion of government, could have a positive impact on economic growth; and

WHEREAS, taking a balanced approach to spending and reinvesting legacy fund earnings could lead to growth in the state's economy and growth in the principal of the legacy fund, as evidenced by the operation of Norway's sovereign wealth fund; and

WHEREAS, the people of North Dakota created the legacy fund through a public vote and the public should be allowed to engage in discussion and recommend ideas for policies and directives related to the use of legacy fund earnings, including recommendations to fund unique projects that leave a legacy for future generations; and

WHEREAS, varied and competing interests exist regarding the best use of legacy fund earnings;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education; and

BE IT FURTHER RESOLVED, that in conducting the study, the Legislative Management consider forming an interim committee consisting of the Majority and Minority Leaders of the House of Representatives and the Senate, or their designee; the Chairmen of the standing Finance and Taxation Committees of the House of

Representatives and the Senate, or their designee; the Chairmen of the Appropriations Committees of the House of Representatives and the Senate, or their designee; two members of the Legacy and Budget Stabilization Fund Advisory Board, appointed by their respective Majority Leaders; and the Chairman of the Legislative Management, or the Chairman's designee; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-seventh Legislative Assembly."

Renumber accordingly

Date: 4.15.19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3055

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Patten Seconded By Dotzenrod

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment COOK

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3055: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3055 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Management to consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education.

WHEREAS, the legacy fund was created with the understanding that oil and gas resources are finite and tax revenues related to oil and gas production eventually will decline; and

WHEREAS, investments to diversify and expand the state's tax base as a means to offset the eventual decline of oil and gas tax revenues is a prudent use of legacy fund earnings to provide long-term revenue stability for future generations; and

WHEREAS, investments in research and technological advancements in energy and agriculture, workforce development and recruitment, career and technical education, and business growth initiatives are key to expanding the state's economic potential; and

WHEREAS, the use of legacy fund earnings to reduce the tax burden on taxpayers and reduce taxpayer liability to fund government services, without creating an expansion of government, could have a positive impact on economic growth; and

WHEREAS, taking a balanced approach to spending and reinvesting legacy fund earnings could lead to growth in the state's economy and growth in the principal of the legacy fund, as evidenced by the operation of Norway's sovereign wealth fund; and

WHEREAS, the people of North Dakota created the legacy fund through a public vote and the public should be allowed to engage in discussion and recommend ideas for policies and directives related to the use of legacy fund earnings, including recommendations to fund unique projects that leave a legacy for future generations; and

WHEREAS, varied and competing interests exist regarding the best use of legacy fund earnings;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education; and

BE IT FURTHER RESOLVED, that in conducting the study, the Legislative Management consider forming an interim committee consisting of the Majority and Minority Leaders of the House of Representatives and the Senate, or their designee; the Chairmen of the standing Finance and Taxation Committees of the House of Representatives and the Senate, or their designee; the Chairmen of the Appropriations Committees of the House of Representatives and the Senate, or their

designee; two members of the Legacy and Budget Stabilization Fund Advisory Board, appointed by their respective Majority Leaders; and the Chairman of the Legislative Management, or the Chairman's designee; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-seventh Legislative Assembly."

Renumber accordingly

2019 CONFERENCE COMMITTEE

HCR 3055

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HCR 3055
4/23/2019
34922

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education

Minutes:

No attachments

Chairman Headland opened the conference committee on HCR 3055. The concurrence was rejected on the House floor. Let's discuss how we should move forward.

Senator Cook: The Senate had mixed emotions on the bill. There were a lot of us that liked it as introduced and I'm one of them. The concern was the third ballot measure on the ballot. We have been talking about the legacy fund this entire session. There have been numerous conversations with various people on what we're going to do with legacy fund earnings. We started going down a road to introduce a delayed bill that created silos where we direct money to various state needs. We need to find two or three ideas the voters can benefit from. When we created this legacy fund I think of a legacy as something someone leaves behind once they're gone. I truly looked at the legacy as something that we were going to be leaving for future generations to benefit from. Unfortunately, there is a burning desire of North Dakotans today to start realizing some of the benefit that is going to be available with this. We have to be able to identify what that benefit is which is why we turned this into the study it is. We need to accomplish what we were trying to accomplish this whole session. When I look at something that comes in the future every state is going to be faced with the same challenge but our legacy is that we get to meet that challenge with earnings we have available and we've become the envy of other states. Possibly that comes down the road with highway funding. It's easy to say that federal government is going to be cutting federal dollars for highway funding and if we can make up those dollars with state legacy funds to fix our highways that every other state has to pay taxes for I think that would be a great legacy. I've talked with a lot of Senators and leadership. Senator Klein is concerned of a ballot measure just as I am. We would hope the House would accede to the Senate amendments and take it back to the House for another vote.

Representative Eidson: I couldn't agree more. We've looked at a lot of ideas this session. For the time being I don't think we've landed on the idea that we definitely want to do for the future and what we want to use the legacy fund for. I see what the House had originally potentially with a change of an amendment to make it as opposed to 2/3 majority to redirect the funds to simple majority would be a fiscally responsible move we could make. We could continue to grow the legacy fund while we deliberate over the next few sessions to figure out where we want to put that money. I think the way it was originally is a good move and it sets us up for future success. Whenever we have a project we want to pursue we would have the legacy fund that could be bigger than it was before. This is a very small change we could make to the money. Adding an amendment that would change it from a 2/3 majority to a simple majority would be a great move. I would like to have some discussions on reverting it back to how the House had it originally.

Chairman Headland: When the House had the conversation in the full committee the opportunity to move it down to a simple majority was offered then but was rejected. I'm not sure it makes any sense to go that direction. If we truly want to be able to invest these earnings back into the fund, we can do that today with a simple a majority. I don't think that's a bad idea. I share Senator Cook's concern about putting another measure on the ballot. I was not in favor of the measure from the beginning. I respect the wishes of the House. We can certainly try taking it back as it is with the Senate without knowing what the outcome would be. If we do that we will have a clear message from the House one way or another.

Senator Cook: Made a motion for the House to accede to Senate Amendments.

Senator Unruh: Seconded.

Roll call vote: 5 Yes 1 No 0 Absent

Motion carried.

Meeting adjourned.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HCR 3055
4/24/2019
34971

- Subcommittee
 Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education.

Minutes:

Attachments 1-4

Chairman Headland: Opened the conference committee on HCR 3055. I will turn it over to Representative B. Koppelman.

Representative B. Koppelman: On the House floor we had discussed the Senate version and roughly 60% were opposed to that idea. The House passed its version 69-23 which had the 2/3 vote to take the legacy funding earnings out and transfer them to the general fund. The Senate gave us a study to consider. I don't see the study by itself is overly popular on its own. I received some information on the debate in the Senate which indicated their committee didn't like the 2/3 majority vote so they turned it into a study resolution to study what they might do with the earnings of the legacy fund. Distributed proposed amendment, 19.3000.02007, Christmas tree version, and legacy fund information. (See attachments 1-4). This would put the bill in that exact position. If we can't come to an agreement, then at least we'll put the bill into that form so it can be considered in a way that is more palatable to the Senate. **Made a motion for the Senate to recede from their amendments and further amend with version .02007.**

Representative Eidson: Seconded motion.

Chairman Headland: Is there further discussion?

Senator Dotzenrod: Version .02007 is a Christmas tree version that chose what these amendments would do in context. Would this imply that we're going to have a measure on the ballot for the voters to consider?

Chairman Headland: I believe that's correct. We'll have Representative B. Koppelman explain.

Representative B. Koppelman: The amendment strikes a balance between what the House and the Senate were suggesting. There were a number of constitutional amendments that passed one house or the other that were suggested to be on the ballot. In the end we narrowed that down to one about the governor's model. This would be the third constitutional amendment that the people would be voting on. It would keep the earnings in the legacy fund that could be taken out by the legislature with a simple majority vote. If the legislature agrees on a plan on how to use the money, then they could transfer the money out of the legacy fund earnings to fund a project or a plan. If the legislature can't come up with an agreement on how to use them then the money stays in the legacy fund and gets reinvested. This isn't meant to lock it up. It contains study language that is very similar to the study language the Senate suggested. This says we'll study the uses for it in the interim but the voters will decide whether or not they want to set it aside until the legislature comes up with a reason to use it. If we don't come up with a reason, then it allows the fund to continue to grow having more money available in the future.

Chairman Headland: Is there further discussion?

Roll call vote: 2 Yes 4 No 0 Absent
Motion failed.

Senator Cook: Made a motion for Senate to recede from Senate Amendments.

Senator Unruh: Seconded motion.

Chairman Headland: Is there discussion?

Roll call vote: 6 Yes 0 No 0 Absent
Motion carried.

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3055

That the Senate recede from its amendments as printed on pages 1941 and 1942 of the House Journal and pages 1681 and 1682 of the Senate Journal and that House Concurrent Resolution No. 3055 be amended as follows:

Page 1, line 2, after "transfer" insert "and expenditure"

Page 1, line 2, after "fund" insert "; to provide for a legislative management study; and to provide for application"

Page 1, line 5, after "principal" insert "of the legacy fund"

Page 1, line 5, after "and" insert "a vote of a majority of the members of each house to expend the"

Page 1, line 5, remove "of the legacy fund"

Page 1, line 21, overstrike ", and an" and insert immediately thereafter ". An"

Page 1, line 21, remove "and earnings"

Page 1, line 23, after "assembly" insert "and an expenditure of earnings after that date requires a vote of a majority of the members elected to each house of the legislative assembly"

Page 2, line 7, remove the overstrike over the second overstruck comma and insert immediately thereafter "not otherwise expended by the legislative assembly."

Page 2, after line 8, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - LEGACY FUND EARNINGS. During the 2019-20 interim, the legislative management shall consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

SECTION 3. APPLICATION. The secretary of state shall submit only section 1 of this Act to the qualified electors of North Dakota at the general election held in 2020. Sections 2 and 3 of this Act are not intended to be part of the proposed constitutional amendment and may not be included as part of the ballot measure."

Re-number accordingly

Date: 4-23-19
 Roll Call Vote #: 1

**2019 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HCR 3055 as (re) engrossed

House Finance and Tax Committee

- Action Taken** **HOUSE accede to Senate Amendments**
 HOUSE accede to Senate Amendments and further amend
 SENATE recede from Senate amendments
 SENATE recede from Senate amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Cook Seconded by: Sen. Unruh

Representatives	4/23		Yes	No	Senators	4/23		Yes	No
Chairman Headland	X		X		Senator Cook (Chairman)	X		X	
Rep. Grueneich	X		X		Senator Unruh	X		X	
Rep. Eidson	X			X	Senator Dotzenrod	X		X	
Total Rep. Vote			2	1	Total Senate Vote			3	0

Vote Count Yes: 5 No: 1 Absent: 0

House Carrier Rep. Headland Senate Carrier Sen. Cook

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4-24-19
 Roll Call Vote #: 1

**2019 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HCR 3055 as (re) engrossed

House Finance and Tax Committee

- Action Taken**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Koppelman Seconded by: Rep. Eidson

Representatives	<u>424</u>		Yes	No	Senators	<u>424</u>		Yes	No
Chairman Headland	X			X	Senator Cook (Chairman)	X			X
Rep. B. Koppelman	X		X		Senator Unruh	X			X
Rep. Eidson	X		X		Senator Dotzenrod	X			X
Total Rep. Vote			<u>2</u>	<u>1</u>	Total Senate Vote			<u>0</u>	<u>3</u>

Vote Count Yes: 2 No: 4 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Motion failed.

Date: 4-24-19
 Roll Call Vote #: 2

**2019 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HCR 3055 as (re) engrossed

House Finance and Tax Committee

- Action Taken**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Cook Seconded by: Sen. Unruh

Representatives				Yes	No	Senators				Yes	No
Chairman Headland				X		Senator Cook (Chairman)				X	
Rep. B. Koppelman				X		Senator Unruh				X	
Rep. Eidson				X		Senator Dotzenrod				X	
Total Rep. Vote				3	0	Total Senate Vote				3	0

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Headland Senate Carrier Senator Cook

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HCR 3055: Your conference committee (Sens. Cook, Unruh, Dotzenrod and Reps. Headland, Grueneich, Eidson) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ pages 1941-1942 and place HCR 3055 on the Seventh order.

HCR 3055 was placed on the Seventh order of business on the calendar.

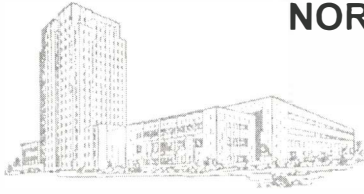
REPORT OF CONFERENCE COMMITTEE

HCR 3055: Your conference committee (Sens. Cook, Unruh, Dotzenrod and Reps. Headland, B. Koppelman, Eidson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1941-1942 and place HCR 3055 on the Seventh order.

HCR 3055 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

HCR 3055



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

#1
HCR 3055
3-5-19
P-1



Representative Corey Mock

District 18
P.O. Box 12542
Grand Forks, ND 58208-2542
C: 701-732-0085
crmoc@nd.gov

COMMITTEES:
Appropriations

To: Chairman Craig Headland and Members of the House Finance and Taxation Committee

Date: March 5, 2019

Support Testimony for HCR 3055 -- Legacy Fund Constitutional Amendment

Good morning, Mr. Chairman and members of the committee. My name is Corey Mock, representative for District 18 in Grand Forks, ND, and I am here today as one of the sponsors of HCR 3055.

This resolution is a fairly straightforward amendment to our constitutionally created Legacy Fund, authorized by the legislature in 2009 and passed by voters in 2010. The Legacy Fund was designed to replace our statutory Permanent Oil Trust Fund, which collected the bulk of oil revenue after allocations were made to constitutional and statutory funds (e.g. common schools trust fund, tribal share, etc.) Because the Permanent Oil Trust Fund was statutorily created it was treated as a second general fund.

The resolution that created the Legacy Fund (HCR 3054 in 2009) received overwhelming bipartisan support because it would ensure North Dakota's mineral resources would be available to support the needs of today while setting aside 30% of all severance taxes for long-term use. The idea was that North Dakota's mineral resources could provide benefit long after the last drop of oil is extracted.

The Legacy Fund as we know it was a compromise of various proposals. Specifically, setting aside 30% of all extraction and production taxes, reinvesting the principal for 7 years, and providing a mechanism for a portion of the principal to be used if needed gave comfort to advocates who wanted to spend it today and those who wanted to save in perpetuity alike.

Originally proposed to last until 2025, but amended to become available starting in 2017, earnings were automatically reinvested to allow the fund to grow to a usable amount. Understanding the power of compound interest, all parties agreed to reinvest earnings until 2017.

On June 30, 2019, earnings from the Legacy Fund will automatically transfer to the general fund for the first time in the Legacy Fund's history. According to current estimates, those realized earnings are approximately \$380 million. Because this number will fluctuate based on the performance of the stock market, the final number will not be known until closer to the end of the biennium.

Our Legacy Fund -- thanks to a surge of oil production that made North Dakota the second largest oil producer in the United States -- is nearing \$6 billion in size, far more than we anticipated back in 2009. Even at a conservative estimate of \$300 million in earned interest for 2019-21, these earnings would be the fourth -- possibly as high as third -- largest contributor to the general fund in the next biennium.

This is all great news for North Dakota and our general fund. The Legacy Fund is functioning as intended and building faster than anticipated thanks to growth in our energy industry. Which poses a question: what happens in 20 years when regular earnings are approximately \$2 billion per biennium?

HCR 3055 was designed to afford each legislature a chance to answer that question without the pressure to spend a growing windfall.

As written, HCR 3055 would add "and earnings" to require 2/3 vote by the legislature to transfer Legacy Fund dollars to the general fund. This means that any portion of the principal (up to 15%) and earnings would require 2/3 approval by both chambers in order to be transferred to the general fund and appropriated.

On Page 2, we remove previous dates and make the principal of the legacy fund the automatic recipient of earnings not otherwise transferred and appropriated.

Included in my testimony are other handouts that show estimates of what the Legacy Fund could earn over the next 40 years at 3% and 5.28% interest based on a variety of scenarios. I also have included an updated Legacy Fund financial statement from the State Investment Board, a summary of global sovereign wealth funds (SWFs) and their estimated sizes, and an editorial board interview with original sponsors and supporters of the Legacy Fund from 2009, each explaining why they believe earnings should be retained and reinvested instead of automatically transferring to the general fund.

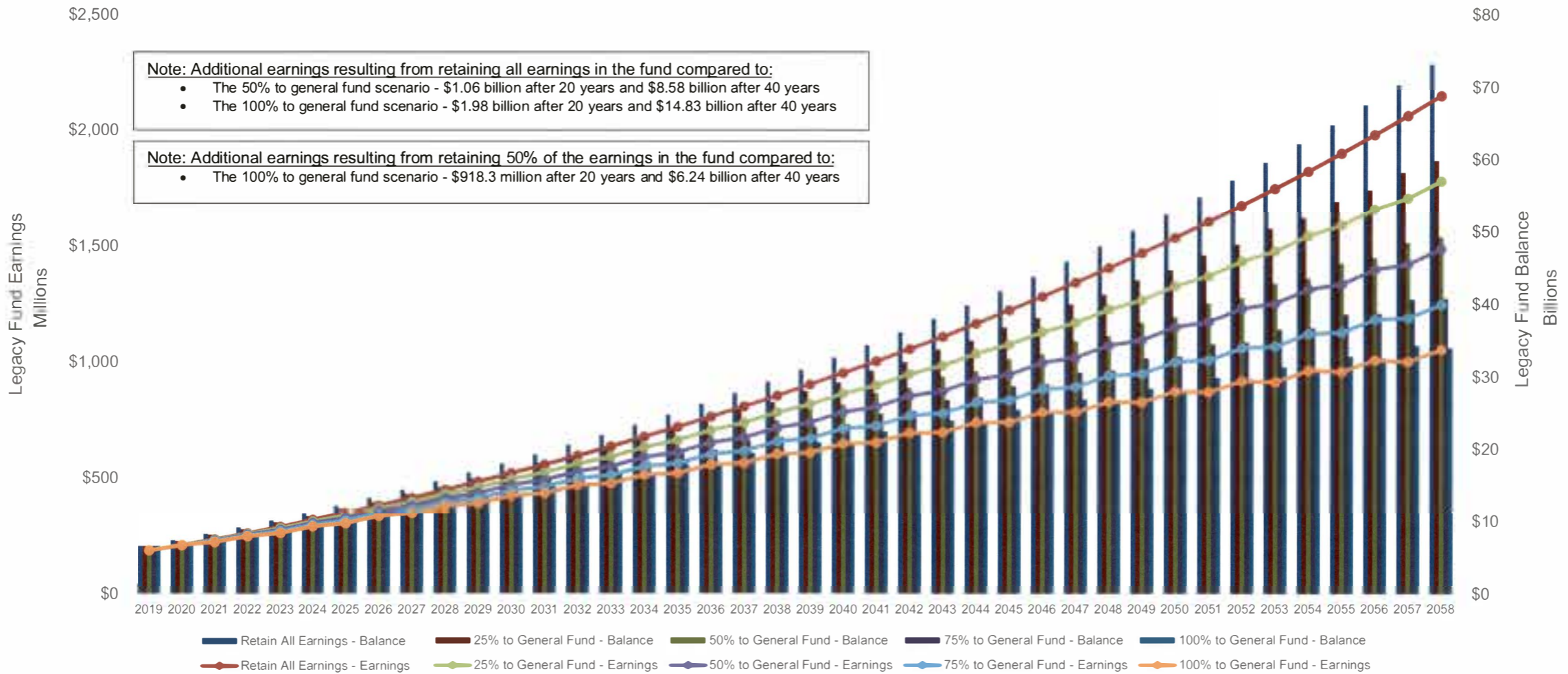
I'll walk through the handouts in a moment and following that discussion would be happy to answer any questions. Thank you again for your consideration.

LEGACY FUND BALANCE AND LEGACY FUND EARNINGS - PROJECTIONS

This memorandum provides projections of the legacy fund balance, earnings of the legacy fund available for transfer to the general fund, and use of legacy fund earnings based on selected scenarios.

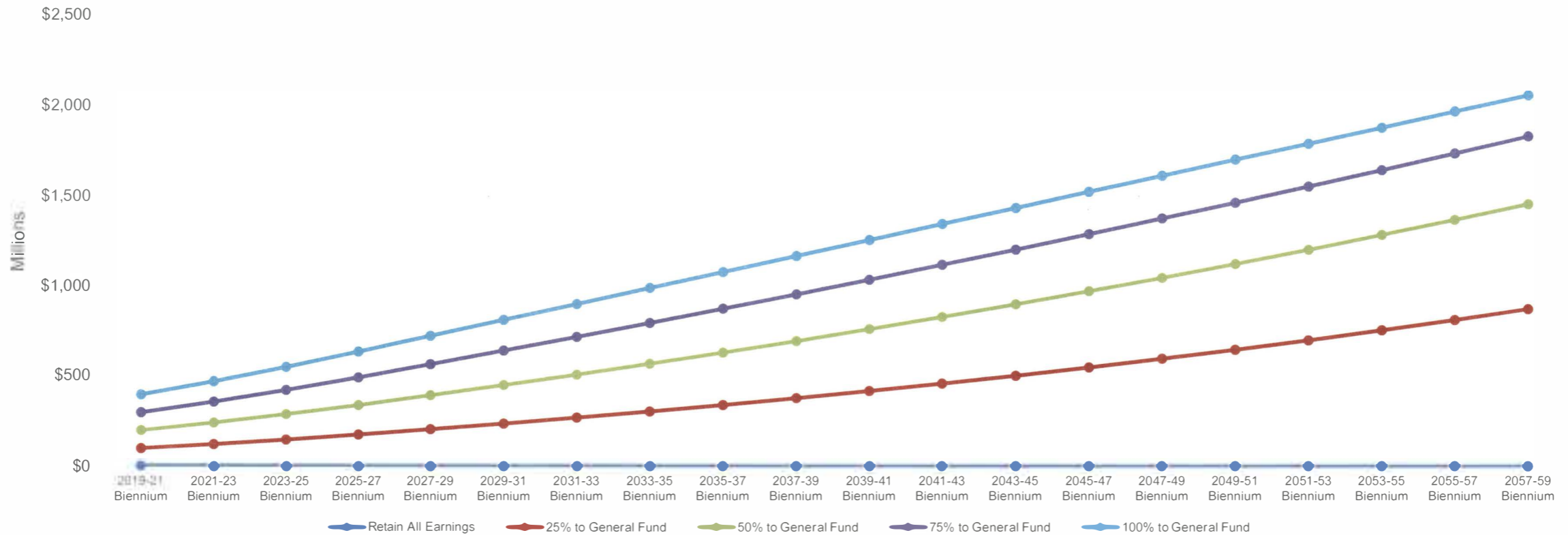
The graphs below provide projections for the legacy fund balance, legacy fund earnings available for transfer to the general fund, and use of legacy fund earnings using a 3 percent rate of return for five scenarios - (1) Retain all earnings in the legacy fund to become part of principal; (2) Transfer 25 percent of the earnings to the general fund to be spent; (3) Transfer 50 percent of the earnings to the general fund to be spent; (4) Transfer 75 percent of the earnings to the general fund to be spent; and (5) Transfer all of the earnings to the general fund to be spent.

Legacy Fund Earnings and Legacy Fund Balance (3.00% Rate of Return Projection)



#2
HR 3055
3-5-19
P.1

Legacy Fund Earnings to the General Fund for Spending (3.00% Rate of Return Projection)



The following assumptions are used for the legacy fund balance, earnings projections, and use of legacy fund earnings:

- Legacy fund balance and earnings are based on oil tax revenues deposited in the fund ranging from \$45 million to \$60 million per month through 2024, and then \$60 million per month thereafter.
- Legacy fund earnings are based on an annual rate of return of 3 percent.
- Use of legacy fund earnings as follows:

All legacy fund earnings are retained in the legacy fund to become part of principal;

25 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 75 percent are retained in the legacy fund to become part of principal;

50 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 50 percent are retained in the legacy fund to become part of principal;

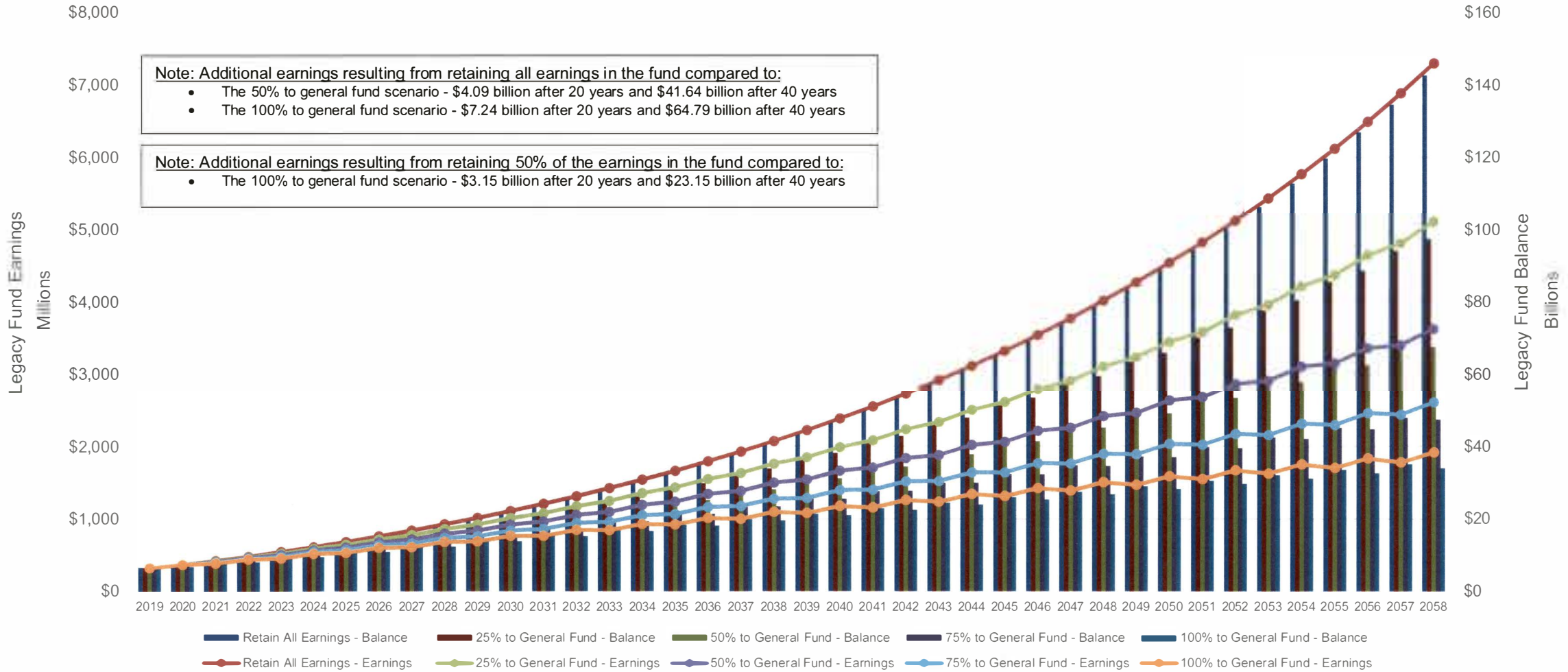
75 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 25 percent are retained in the legacy fund to become part of principal; and

100 percent of earnings are transferred out of the fund at the end of each biennium to be spent.

#2
HCR 3055
3-5-19
p.2

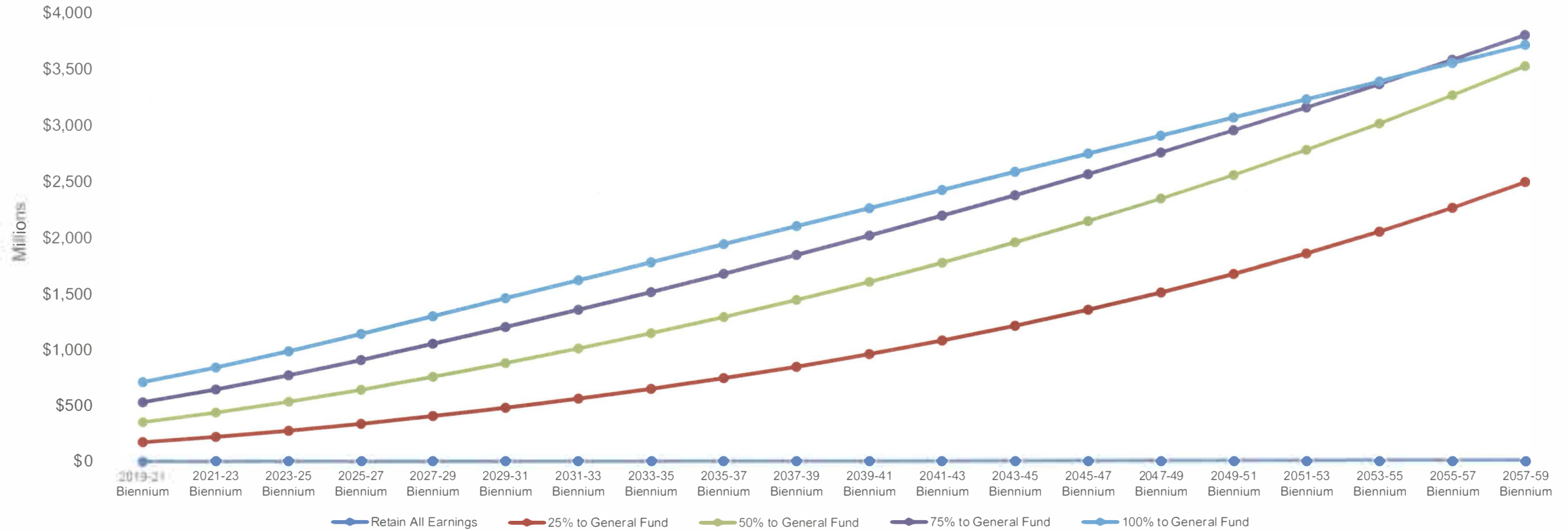
The graphs below compare projections for the legacy fund balance, legacy fund earnings available for transfer to the general fund, and use of legacy fund earnings using a 5.28 percent rate of return for five scenarios - (1) Retain all earnings in the legacy fund to become part of principal; (2) Transfer 25 percent of the earnings to the general fund to be spent; (3) Transfer 50 percent of the earnings to the general fund to be spent; (4) Transfer 75 percent of the earnings to the general fund to be spent; and (5) Transfer all of the earnings to the general fund to be spent.

Legacy Fund Earnings and Legacy Fund Balance
(5.28% Rate of Return Projection)



#2
HCR 3055
3-5-19
p.3

Legacy Fund Earnings to the General Fund for Spending (5.28% Rate of Return Projection)



The following assumptions are used for the legacy fund balance, earnings projections, and use of legacy fund earnings:

- Legacy fund balance and earnings are based on oil tax revenues deposited in the fund ranging from \$45 million to \$60 million per month through 2024, and then \$60 million per month thereafter.
- Legacy fund earnings are based on an annual rate of return of 5.28 percent.
- Use of legacy fund earnings as follows:

All legacy fund earnings are retained in the legacy fund to become part of principal;

25 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 75 percent are retained in the legacy fund to become part of principal;

50 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 50 percent are retained in the legacy fund to become part of principal;

75 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 25 percent are retained in the legacy fund to become part of principal; and

100 percent of earnings are transferred to the general fund at the end of each biennium to be spent.

*HCR 3055
3-5-19
P. 4
#2*

LEGACY FUND
State Investment Board
Statement of Net Position
As of 1/31/2019

#3
HCR 3055
3-5-19
P. 1

	<u>As of</u> <u>1-31-19</u>	<u>As of</u> <u>6-30-18</u>
ASSETS:		
INVESTMENTS (AT FAIR VALUE)		
GLOBAL EQUITIES	\$ 3,003,194,699	\$ 2,766,036,036
GLOBAL FIXED INCOME	2,022,549,916	1,929,981,907
GLOBAL REAL ASSETS	867,620,304	805,149,765
INVESTED CASH (NOTE 1)	<u>51,766,760</u>	<u>54,793,877</u>
 TOTAL INVESTMENTS	 5,945,131,679	 5,555,961,585
 RECEIVABLES		
DIVIDEND/INTEREST RECEIVABLE	18,782,391	21,357,528
MISCELLANEOUS RECEIVABLE	<u>11,124</u>	<u>14,495</u>
 TOTAL RECEIVABLES	 18,793,515	 21,372,023
 OTHER ASSETS		
INVESTED SECURITIES LENDING COLLATERAL (NOTE 2)	19,610,979	24,284,177
OPERATING CASH	<u>211,520</u>	<u>208,349</u>
 TOTAL ASSETS	 <u>5,983,747,693</u>	 <u>5,601,826,134</u>
 DEFERRED OUTFLOWS OF RESOURCES		
DEFERRED OUTFLOWS RELATED TO PENSIONS	<u>244,618</u>	<u>271,634</u>
 LIABILITIES:		
SECURITIES LENDING COLLATERAL (NOTE 2)	19,610,979	24,284,177
ACCOUNTS PAYABLE	-	71,703
ACCRUED EXPENSES	472,016	497,792
INVESTMENT EXPENSE PAYABLE	<u>1,150,895</u>	<u>1,150,895</u>
 TOTAL LIABILITIES	 <u>21,233,890</u>	 <u>26,004,567</u>
 DEFERRED INFLOWS OF RESOURCES		
DEFERRED INFLOWS RELATED TO PENSIONS	<u>9,183</u>	<u>9,183</u>
 NET POSITION:		
HELD IN TRUST	<u>5,962,749,238</u>	<u>5,576,084,018</u>
 TOTAL NET POSITION	 <u>\$ 5,962,749,238</u>	 <u>\$ 5,576,084,018</u>

These financial statements are preliminary, unaudited and subject to change.

2/28/2019

#3
HCR 3055
3-5-19
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LEGACY FUND

State Investment Board Statement of Changes in Net Position For the Month Ended 1/31/2019

	Month Ended 1-31-19	Year-to-Date
ADDITIONS:		
INVESTMENT INCOME		
GAIN ON SALE OF INVESTMENTS	\$ 91,066,719	\$ 578,919,569
LOSS ON SALE OF INVESTMENTS	56,430,134	508,269,121
NET GAINS (LOSSES) INVESTMENTS	34,636,585	70,650,448
NET APPREC (DEPREC) MARKET VALUE	233,610,562	(190,364,428)
NET CHANGE IN FAIR VALUE OF INVESTMENTS	268,247,147	(119,713,980)
INTEREST, DIVIDEND & OTHER INVESTMENT INCOME	11,283,656	74,222,774
	279,530,803	(45,491,206)
LESS INVESTMENT EXPENSES	1,387,450	6,427,349
NET INCOME FROM INVESTING ACTIVITIES	278,143,353	(51,918,555)
SECURITIES LENDING INCOME	67,244	421,581
SECURITIES LENDING EXPENSES	13,439	84,247
NET SECURITIES LENDING INCOME	53,805	337,334
NET INVESTMENT INCOME	278,197,158	(51,581,221)
PURCHASE OF UNITS (\$1/UNIT) (NOTE 3)	49,277,747	438,643,210
TOTAL ADDITIONS	327,474,905	387,061,989
DEDUCTIONS:		
ADMINISTRATIVE EXPENSES	114,608	396,769
REDEMPTION OF UNITS (\$1/UNIT) (NOTE 4)	-	-
TOTAL DEDUCTIONS	114,608	396,769
CHANGE IN NET POSITION	327,360,297	386,665,220
NET POSITION:		
BEGINNING OF PERIOD	5,635,388,941	5,576,084,018
END OF PERIOD	\$ 5,962,749,238	\$ 5,962,749,238

LEGACY FUND

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Notes To Financial Statements January 31, 2019

The following notes to financial statements are intended to provide general descriptions of line items in the financial statements.

NOTE 1 INVESTED CASH

Insurance Cash Pool invested in the short-term investment fund (STIF) at The Northern Trust Company and a demand account at Bank of North Dakota.

NOTE 2 SECURITIES LENDING COLLATERAL

Securities are loaned versus collateral that may include cash, U.S. government securities and irrevocable letters of credit. U.S. securities are loaned versus collateral valued at 102% of the market value of the securities plus any interest. Non-U.S. securities are loaned versus collateral valued at 105% of the market value of the securities plus any accrued interest. Non-cash collateral cannot be pledged or sold unless the borrower defaults. Cash open collateral is invested in a short term investment pool.

NOTE 3 PURCHASE OF UNITS

Cash transferred into investment accounts at The Northern Trust during the current fiscal year.

NOTE 4 REDEMPTION OF UNITS

Cash transferred out of investment accounts at The Northern Trust during the current fiscal year.

NOTE 5 EARNINGS AVAILABLE

Section 26 of Article X of the Constitution of North Dakota dictates that earnings of the Legacy Fund accruing after June 30, 2017, shall be transferred to the general fund at the end of each biennium. Earnings accrued prior to June 30, 2017, become part of the principal of the fund.

NDCC 21-10-12 defines "earnings" for the purposes of Section 26, Article X as "net income in accordance with generally accepted accounting principles, excluding any unrealized gains or losses."

As of the date of these financial statements, the principal balance of the Legacy Fund is \$ 5,345,978,869

As of the date of these financial statements, earnings of the Legacy Fund eligible for transfer to General Fund at the end of the biennium is \$ 381,246,278

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Country	Sovereign Wealth Fund Name	Assets USD-Bil	Inception
Norway	Government Pension Fund – Global	1074.60	1990
China	China Investment Corporation	941.4	2007
UAE – Abu Dhabi	Abu Dhabi Investment Authority	697	1976
Kuwait	Kuwait Investment Authority	592	1953
China – Hong Kong	Hong Kong Monetary Authority Investment Portfolio	522.6	1993
Saudi Arabia	SAMA Foreign Holdings	515.6	1952
China	SAFE Investment Company	441**	1997
Singapore	Government of Singapore Investment Corporation	390	1981
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

Singapore	Temasek Holdings	375**	1974
Saudi Arabia	Public Investment Fund	360	2008
Qatar	Qatar Investment Authority	320	200
China	National Social Security Fund	295	2000
UAE – Dubai	Investment Corporation of Dubai	233.8	2006
UAE – Abu Dhabi	Mubadala Investment Company	226	2002
South Korea	Korea Investment Corporation	134.1	2005
Australia	Australian Future Fund	103	2006
Iran	National Development Fund of Iran	91	2011
Russia	National Welfare Fund	68.5	2008
Libya	Libyan Investment Authority	66	2006
US – Alaska	Alaska Permanent Fund	65.7	1976
Kazakhstan	Samruk-Kazyna JSC	60.9	2008
Brunei	Brunei Investment Agency	60	1983
Kazakhstan	Kazakhstan National Fund	57.9	2000
Turkey	Turkey Wealth Fund	40	2016
Malaysia	Khazanah Nasional	38.7	1993
US – Texas	Texas Permanent School Fund	37.7	1854
UAE – Federal	Emirates Investment Authority	34	2007
Azerbaijan	State Oil Fund	33.1	1999
New Zealand	New Zealand Superannuation Fund	26.6	2003
Ireland	Ireland Strategic Investment Fund	24.5	2001*
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

US – New Mexico	New Mexico State Investment Council	20.2	1958	# 3 HCR 3055
Oman	State General Reserve Fund	18	1980	3-5-19
US – Texas	Permanent University Fund	17.3	1876	p. 6
East Timor	Timor-Leste Petroleum Fund	16.6	2005	
Chile	Social and Economic Stabilization Fund	14.7	2007	
Canada	Alberta's Heritage Fund	13.4	1976	
Russia	Russian Direct Investment Fund	13	2011	
Bahrain	Mumtalakat Holding Company	10.6	2006	
Chile	Pension Reserve Fund	9.4	2006	
US – Wyoming	Permanent Wyoming Mineral Trust Fund	8.0	1974	
Peru	Fiscal Stabilization Fund	7.9	1999	
Algeria	Revenue Regulation Fund	7.6	2000	
Mexico	Oil Revenues Stabilization Fund of Mexico	6.0	2000	
Oman	Oman Investment Fund	6.0	2006	
Botswana	Pula Fund	5.5	1994	
Trinidad & Tobago	Heritage and Stabilization Fund	5.5	2000	
China	China-Africa Development Fund	5.0	2007	
Angola	Fundo Soberano de Angola	4.6	2012	
US – North Dakota	North Dakota Legacy Fund	4.3	2011	
Colombia	Colombia Savings and Stabilization Fund	3.5	2011	
	Total Oil & Gas Related	\$4,432.43		
	Total Other	\$3,712.28		
	TOTAL	\$8,144.71		

US – Alabama	Alabama Trust Fund	2.7	1985
Kazakhstan	National Investment Corporation	2	2012
US – Utah	Utah – SITFO	2	1896
US – Idaho	Idaho Endowment Fund Investment Board	2	1969
Nigeria – Bayelsa	Bayelsa Development and Investment Corporation	1.5	2012
Nigeria	Nigerian Sovereign Investment Authority	1.4	2012
US – Louisiana	Louisiana Education Quality Trust Fund	1.3	1986
Panama	Fondo de Ahorro de Panamá	1.2	2012
Bolivia	FINPRO	1.2	2012
Senegal	Senegal FONSI	1	2012
Iraq	Development Fund for Iraq	0.9	2003
Palestine	Palestine Investment Fund	0.8	2003
Venezuela	FEM	0.8	1998
Kiribati	Revenue Equalization Reserve Fund	0.6	1956
Vietnam	State Capital Investment Corporation	0.5	2006
Gabon	Gabon Sovereign Wealth Fund	0.4	1998
Ghana	Ghana Petroleum Funds	0.45	2011
Mauritania	National Fund for Hydrocarbon Reserves	0.3	2006
Australia	Western Australian Future Fund	0.3	2012
Mongolia	Fiscal Stability Fund	0.3	2011
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

Equatorial Guinea	Fund for Future Generations	0.08	2002
Papua New Guinea	Papua New Guinea Sovereign Wealth Fund	n/a	2011
Turkmenistan	Turkmenistan Stabilization Fund	n/a	2008
US – West Virginia	West Virginia Future Fund	n/a	2014
Mexico	Fondo Mexicano del Petroleo	n/a	2014
UAE – Sharjah	Sharjah Asset Management	n/a	2008
Luxembourg	Luxembourg Intergenerational Sovereign Fund	0	2015
Russia	Reserve Fund	0	2008
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

**This number is a best guess estimation.

Source: Sovereign Wealth Fund Institute (SWFI)

Data standardization and other methodologies

***All figures quoted are from official sources, or, where the institutions concerned other publicly available sources. Some of these figures are best estimates as market are rounded to the nearest tenth. SWFI aims to use total assets versus other measur consistent.

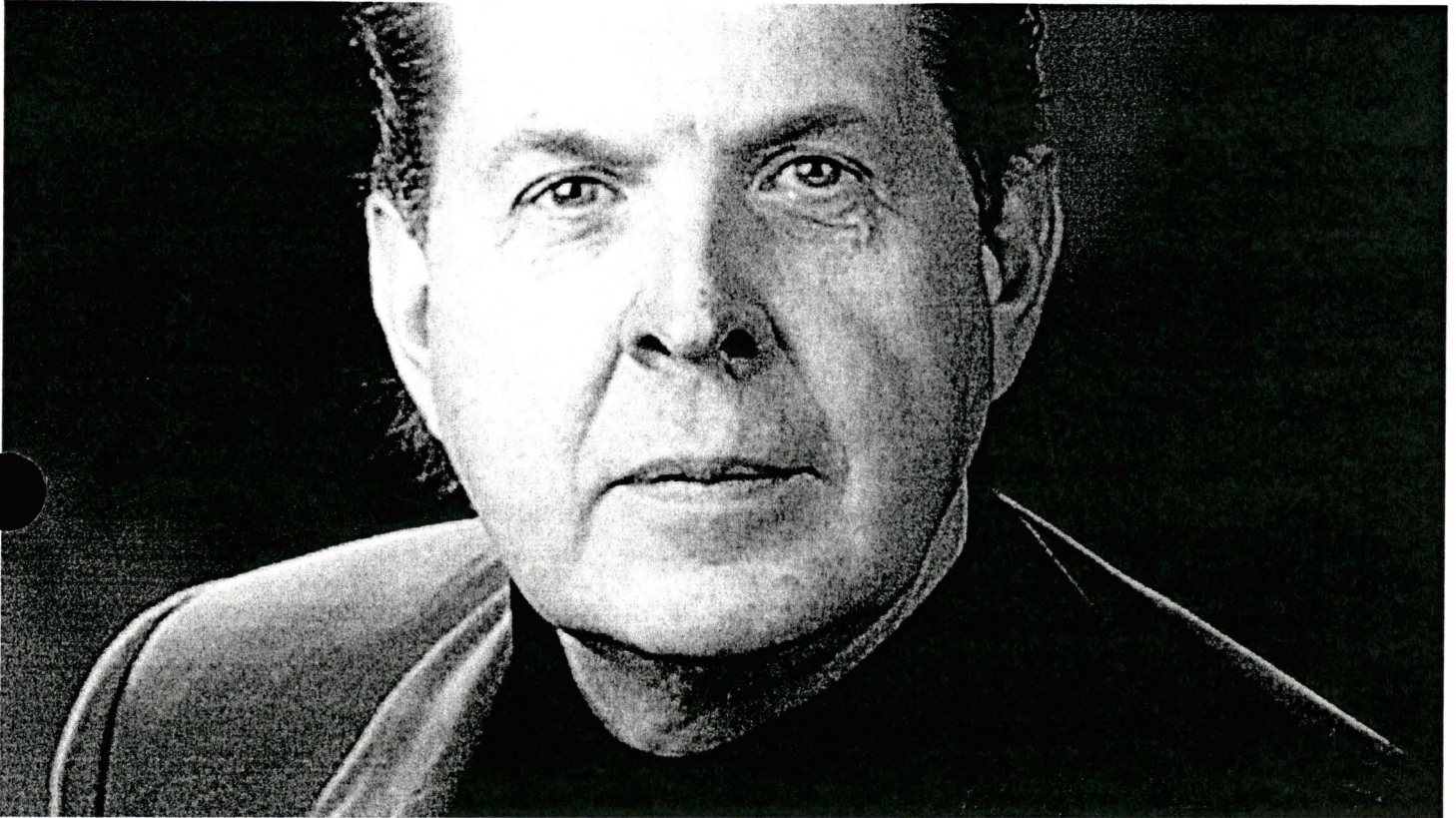
Temasek – **This is total assets. Historically (pre-2018), SWFI used net portfolio va using total assets for this chart.

Updated February 2019

Protecting ND's legacy

By Herald editorial board on Feb 17, 2019 at 6:10 a.m.

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In 2009, the Legacy Fund Founders Committee drafted a blueprint for what today is a public savings account that is nearing \$6 billion. The group generally has been quiet in the years since as the savings account grew.

However, as numerous proposals for spending dollars generated by the Legacy Fund file through the the North Dakota Legislature, the committee has come together again in hopes of educating the public on the founders' original intent.

What happens so often is legislators, during off years, think about what needs to be done and the first pot of money they want to go to is the Legacy Fund," said Tammy Ibach, an original member of

the committee. "The conversation we want to have with is, partially, to remind legislators that we are here to watch and we're paying attention. We have reconvened as a group to let them know that it's not their money to play with. ... There were conversations this year where people wanted to take money from the actual principal of the fund. That's very concerning."

Ibach was among a group of four committee members who spoke Thursday with the Herald's editorial board, outlining their belief that the fund—despite its name—has not yet reached "legacy" proportions and that it needs strict oversight if North Dakotans truly want to see it benefit generations to come.

The Herald, meanwhile, has editorialized several times in favor of dedicating earnings from the Legacy Fund to boost university research at UND and NDSU, as well as using Legacy earnings to build a Theodore Roosevelt library and visitor center in Medora.

In 2010, 64 percent of North Dakota voters chose to start the Legacy Fund, which funnels 30 percent of oil and gas revenue into a state savings account. Earnings are projected at slightly more than \$300 million in the coming biennium.

In 2009, the committee's goal was to create the fund to "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."

Ibach and Robert Harms, both of Bismarck, and Grand Forks residents Connie Triplett and Bruce Gjovig—all of whom were among the original members of the committee—spent an hour with the Herald's editorial board. Triplett is a former state lawmaker who was in office when the Legacy Fund was created.

Q: We see that your committee members have been making the rounds, visiting with newspapers. Why the new urgency?

GJOVIG: The fact that the Legacy Fund sat there for seven years gaining interest, we need to have more conversation again about its original purpose. We need to have community and statewide communication.

TRIPLETT: We aren't suggesting that none of the earnings should be spent. We would like some of the earnings to go back toward growing the principal. We are starting off from a position that we would like to save 75 percent and 25 percent to be spent. Our group has agreed to disagree what the money should be spent for, but we agree that it shouldn't be tied up for use for a long term. Going back to the beginning when the bill was first passed, and I was both a sponsor of the bill and a member of the conference committee that worked it up in the Legislature, we were very specific at that point not to

put a use on the funds based on the idea that if it is going to be there for perpetuity, it should be up to current legislators each time to decide what the real priorities are for spending.

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Q: How resolute are the founders in their belief that there shouldn't be a specific use for the funds?

TRIPLETT: Not that there shouldn't be a use, but that it shouldn't be tied up long-term in a particular use. There may be different priorities in different times. Of all the governor's (proposals), the one that seems the most transformative to me is the (\$30 million) UAS proposal, to make sure we have infrastructure for growing industry. ... To me personally, the UAS idea seems to be one of the most transformative and future-looking ideas out there.

GJOVIG: There was a consensus that we shouldn't make long-term obligations with the earnings, but it should be investments in things that can be transformative—a bridge to a future economy, or to be used in an emergency or crisis, but not for a long-term commitment. We are uncomfortable in having projected earnings be spent because earnings, by definition, are both profits and loss.

HARMS: We're trying to create a conversation statewide. This week, the Senate passed a bill (to allocate 15 percent of Legacy earnings, up to \$45 million) for university research. Because they don't have the money, they are willing to borrow from the Bank of North Dakota on projected earnings from the Legacy Fund. That's just bad policy. Those are the kinds of pressures we understand legislators but if we don't have some thoughts about how we do this long-term, and we just go through session after session, it won't be as much of a "legacy" as we intended.

Q: Bob, you just touched on a very local issue and it sounds like you don't like the university research proposal. How do you others feel about it?

IBACH: It's just bad fiscal policy.

GJOVIG: Who says we're not going to have a recession (in the future)?

TRIPLETT: I agree. Some people have made the point that everything the Legislature does is based on earnings estimates. We all understand it. But this seems like it's a bit different because it's based on this notion that we are saving for the future and for future generations.

Q: Early on, the research university presidents sought an actual dollar figure. Now, the backers have come back with a proposal for 15 percent of the earnings instead of a hard figure and it passed the Senate 43-4. Did that make it more palatable to you?

IBACH: No. Not to me, and I speak for a lot of people from our Founding Fathers group. When you talk about the Legacy Fund, \$6 billion is not a legacy. Not yet. It is still in the infancy stage. The

Bakken Backers people have released data that says 50 percent of all tax revenue that comes into the treasury of North Dakota comes from oil and gas money. What if, like in 2015, suddenly some of that dries up again? And it's going to.

HARMS: We're taking a finite resource, oil, and we're trying to convert it to cash so that the cash fund provides long-term financial stability and other needs for the future of North Dakota.

GJOVIG: The state is 50 percent dependent on oil and gas revenues. That's way too high. It's one of the reasons we also don't want to see our earnings (from the Legacy Fund) be dedicated.

Q: So would any of you, if you had your way, spend any Legacy Fund dollars or earnings this year or in the near future?

IBACH: No. If there was a catastrophic situation and we didn't have the emergency funds available in the regular state government, then I would consider it.

TRIPLETT: I would probably go in the range of 25 to 30 percent of banked earnings (but only on one-time spending).

GJOVIG: I would spend maybe up to 50 percent of banked earnings, but nothing committed forward. Who knows what the next 24 months will hold?

HARMS: No for now, and if we had to, I could live with 25 percent of banked earnings.

Q: Yet oil is still projected to last a long time in North Dakota. Doesn't that projection give you confidence?

HARMS: I don't think we're going to get away from fossil fuels in the next decade or so, but certainly we are going to have price interruptions that are going to influence the outcome of the Legacy Fund if we rely just on oil revenues to grow the fund.

TRIPLETT: As the only Democrat in the room of guests here, I think it's important to say that there is something else going on here over this last period of years since the Legacy Fund has been put in place. The North Dakota Legislature has reduced other forms of taxes. The message there is that the representatives of the people have made a decision that they want smaller government in North Dakota. It wasn't my decision, but the majority of the Legislature made that decision. Having made that decision, they can't turn around now and all of them have their hands out, saying they want the Legacy Fund dollars. The Legacy Fund is to prevent North Dakota from being excessively dependent on oil and also to preserve some of the value of the oil for future generations. But the fact that the Legislature has reduced other forms of taxes has increased our dependence on oil.

Q: How high does the Legacy Fund have to reach for it to truly be a "legacy"?

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IBACH: \$50 billion. \$100 billion. Something substantial. We've been at this for nine years and it's not a "legacy" yet.

HARMS: We haven't settled on a number. But I think we all agree that \$6 billion isn't the "legacy" yet. If I had an answer, I would say I like the number 20 as a target.

IBACH: What happens so often is legislators, during off years, think about what needs to be done and the first pot of money they want to go to is the Legacy Fund. The conversations we want to have with (the Herald's editorial board) is, partially, to remind legislators that we are here to watch and we're paying attention. We have reconvened as a group to let them know that it's not their money to play with. They don't get to make decisions where—there were conversations this year where people wanted to take money from the actual principal of the fund. That's very concerning. In 2010, 64 percent of the voters wanted to establish this legacy, so we're going to keep at this committee. We're not just going to go quiet when the Legislature goes home.

Q: Sorry, but we're confused. Isn't it the Legislature's money to, as you say, play with? Aren't lawmakers able to determine how to spend it?

TRIPLETT: The earnings, yes. And up to 15 percent of the principal if there is a broad consensus in both houses. When Tammy said it isn't "their" money, it is theirs to allocate, but the idea behind the Legacy Fund is that it's the people's money—not just the people who are around today, but really our children and grandchildren. It's designed for the future. It's our "legacy" for future generations.

Q: How many bills introduced this year regard the Legacy Fund?

TRIPLETT: 14.

HARMS: There are three or four or five left that are a serious threat. A lot of them have gone by the wayside.

GJOVIG: And then add the governor's proposals to that.

HARMS: There are probably a half-dozen appropriations bills that have those structures in as well.

Q: Speaking of the governor, he has proposed that any Legacy Fund-related project must meet four criteria: regional, state or national impact; be multiplied through partnerships, matching funds or loan funds; diversify our economy/workforce; and have lasting impacts. Do you, as a committee, agree with those qualifications?

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GJOVIG: I don't think we have a consensus among the group. But from my standpoint, I would agree with him.

HARMS: Bruce is right, there isn't a consensus in the group. The governor sets a good framework, but I would lay over his framework the policies we have talked about. We can argue whether (some of the governor's proposals for buildings) meet those three criteria. I would say some do not.

IBACH: I am disappointed in the fact that (Gov. Burgum) would use the earnings before they arrived in the bank. I'm not necessarily disappointed in his projects—I get that governors want to identify their own projects, but there isn't one of those projects that couldn't wait, except maybe the unmanned aircraft (proposal). Maybe.

Q: And you like the unmanned aerial systems proposal why? Because of competition from other states?

IBACH: Yes.

GJOVIG: If we're going to remain a leader, we need to keep up the pace.

IBACH: It brings tremendous benefit to the Bakken. That's the one I could say, "let's take a serious look at it this (legislative) session." Do we need to have matching funds for the Teddy Roosevelt library (proposal)? I have asked, "where is the data?" I want someone to show me the sustainability of that.

Q: OK, so we're talking about competition being a factor with UAS. What about competition from other universities in other states that are out-researching us because we don't have the funding in North Dakota? How do you justify competition with UAS, but not with research?

IBACH: Where is the data that shows we're losing? I have not seen data that our university system is losing students because we don't have the research components that we need. I have not been privy to it.

GJOVIG: I don't think we're losing students, nor do I think we are losing a lot of faculty. I think what it is is a great source of money for the university for overhead.

IBACH: I want the data. Somebody show me.



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

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COMMITTEES:
Appropriations

Representative Corey Mock

District 18
P.O. Box 12542
Grand Forks, ND 58208-2542
C: 701-732-0085
crmoc@nd.gov

To: Chairman Dwight Cook and Members of the Senate Finance and Taxation Committee

Date: March 18, 2019

Support Testimony for HCR 3055 -- Legacy Fund Constitutional Amendment

Good morning, Mr. Chairman and members of the committee. My name is Corey Mock, representative for District 18 in Grand Forks, ND, and I am here today as one of the sponsors of HCR 3055.

This resolution is a fairly straightforward amendment to our constitutionally created Legacy Fund, authorized by the legislature in 2009 and passed by voters in 2010. The Legacy Fund was designed to replace our statutory Permanent Oil Trust Fund, which collected the bulk of oil revenue after allocations were made to constitutional and statutory funds (e.g. common schools trust fund, tribal share, etc.) Because the Permanent Oil Trust Fund was statutorily created it was treated as a second general fund.

The resolution that created the Legacy Fund (HCR 3054 in 2009) received overwhelming bipartisan support because it would ensure North Dakota's mineral resources would be available to support the needs of today while setting aside 30% of all severance taxes for long-term use. The idea was that North Dakota's mineral resources could provide benefit long after the last drop of oil is extracted. Original sponsor and former representative, Dave Weiler, is here today to testify in support of HCR 3055.

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The Legacy Fund as we know it was a compromise of various proposals. Specifically, the fund receives 30% of all extraction and production taxes, earnings were reinvested automatically for the first 7 years, and it permitted the legislature to withdraw a portion of the principal if necessary.

On June 30, 2019, earnings from the Legacy Fund will automatically transfer to the general fund for the first time in the Legacy Fund's history. According to current estimates, those realized earnings are approximately \$380 million. Because this number will fluctuate based on the performance of the stock market, the final number will not be known until closer to the end of the biennium.

Our Legacy Fund -- thanks to a surge of oil production that made North Dakota the second largest oil producer in the United States -- is nearing \$6 billion in size, far more than we anticipated back in 2009. Even at a conservative estimate of \$300 million in earned interest for 2019-21, these earnings would be the fourth -- possibly as high as third -- largest contributor to the general fund in the next biennium.

This is all great news for North Dakota and our general fund. The Legacy Fund is functioning as intended and building faster than anticipated thanks to growth in our energy industry. Which poses a question: what happens in 20 years when regular earnings are approximately \$2 billion per biennium?

If you have personal investments, chances are the earnings are reinvested in the principal unless you take a positive action to withdraw them for regular use. This is by design to preserve the power of compound interest and weigh short-term wants against long-term needs.

HCR 3055 does the same thing: instead of earnings coming into the state's checking account to be spent automatically, the default position is for earnings to be reinvested UNLESS the legislature initiates a transfer. It requires a positive action and allows future legislative assemblies to directly manage and control the flow of earnings into the general fund. This is a critical "shut-off valve" that Alaska fund leaders wish they had in place.

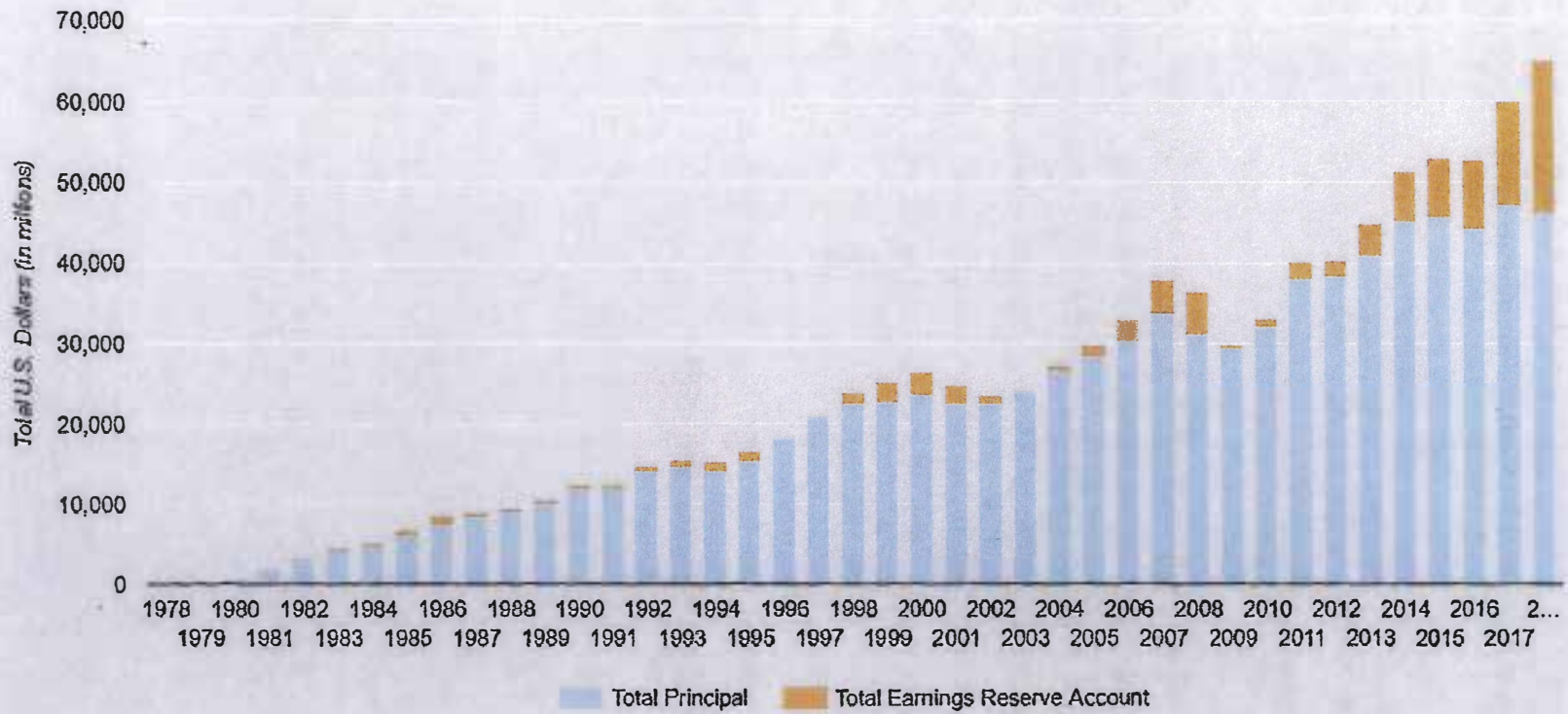
As written, HCR 3055 would add "and earnings" to require 2/3 vote by the legislature to transfer Legacy Fund dollars to the general fund. This means that any portion of the principal (up to 15%) and earnings would require 2/3 approval by both chambers to be transferred to the general fund and appropriated.

On Page 2, we remove previous dates and make the principal of the legacy fund the automatic recipient of earnings not otherwise transferred and appropriated.

Included in my testimony are other handouts that show estimates of what the Legacy Fund could earn over the next 40 years at 3% and 5.28% interest based on a variety of scenarios. I also have included an updated Legacy Fund financial statement from the State Investment Board, a summary of global sovereign wealth funds (SWFs) and their estimated sizes, and an editorial board interview with original sponsors and supporters of the Legacy Fund from 2009, each explaining why they believe earnings should be retained and reinvested instead of automatically transferring to the general fund.

I'll walk through the handouts in a moment and following that discussion would be happy to answer any questions. Thank you again for your consideration.

HISTORICAL VALUES OF PRINCIPAL & EARNINGS RESERVE

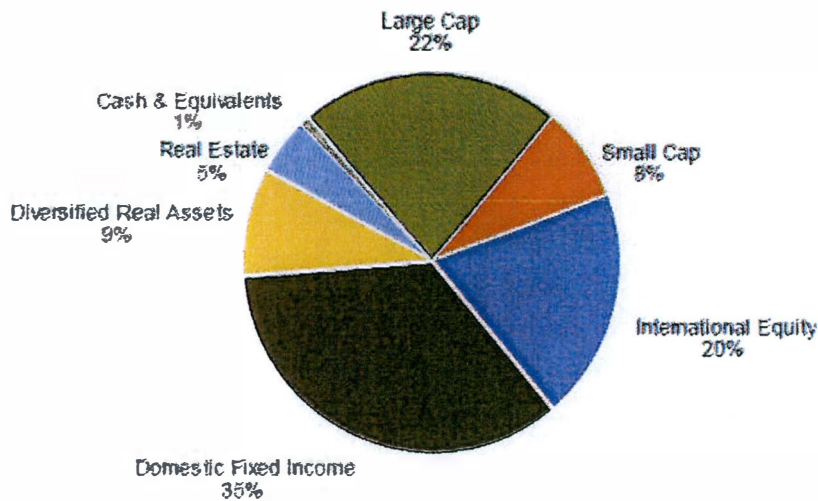


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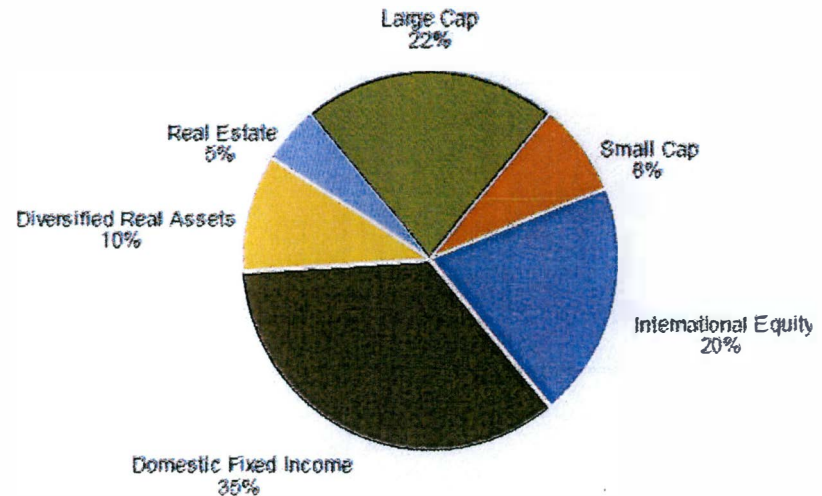
Legacy Fund

Actual Allocations are within 1% of Target as of Sep. 30, 2018

Actual Asset Allocation



Target Asset Allocation



Asset Class	\$000s Actual	Weight Actual	Target	Percent Difference	\$000s Difference
Large Cap	1,315,453	22.3%	22.0%	0.3%	20,507
Small Cap	474,473	8.1%	8.0%	0.1%	3,584
International Equity	1,160,993	19.7%	20.0%	(0.3%)	(16,230)
Domestic Fixed Income	2,050,114	34.8%	35.0%	(0.2%)	(10,026)
Diversified Real Assets	549,288	9.3%	10.0%	(0.7%)	(39,324)
Real Estate	283,299	4.8%	5.0%	(0.2%)	(11,007)
Cash & Equivalents	52,496	0.9%	0.0%	0.9%	52,496
Total	5,886,116	100.0%	100.0%		

Callan notes that "Allocations are well within target ranges. The Legacy Fund's rebalancing benefits from significant monthly cash inflows which allow RIO to tightly control exposures to liquid asset classes."

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**ND Legacy Fund
Summary of Deposits, Earnings and Net Position
As of September 30, 2018**

	Deposits	Total Net Earnings	Net Increase/ (Decrease)	Ending Net Position	Earnings as defined in NDCC 21-10-12
FY2012	396,585,658	2,300,225	398,885,883	398,885,883	2,571,475
FY2013	791,126,479	4,216,026	795,342,505	1,194,228,388	15,949,089
FY2014	907,214,971	113,153,662	1,020,368,633	2,214,597,021	50,033,655
FY2015	1,011,343,040	99,895,650	1,111,238,690	3,325,835,711	95,143,905
FY2016	434,853,950	45,851,680	480,705,630	3,806,541,341	65,326,673
FY2017	399,501,134	479,595,256	879,096,390	4,685,637,731	207,814,875
Totals	<u>3,940,625,232</u>	<u>745,012,499</u>	<u>4,685,637,731</u>	<u>4,685,637,731</u>	<u>436,839,672</u>
FY2018	529,870,755	360,575,532	890,446,287	5,576,084,018	242,859,840
<i>FY2019 *</i>	<i>187,615,702</i>	<i>121,183,332</i>	<i>308,799,034</i>	<i>5,884,883,052</i>	<i>63,653,746</i>
		481,758,864			306,513,586
Life-to-date Totals	4,658,111,689	1,226,771,363	5,884,883,052	5,884,883,052	743,353,258

* FY2019 amounts are preliminary and unaudited.

All earnings prior through 6/30/17 became part of principal.

The Legacy Fund approached \$5.9 billion at Sep. 30, 2018. Net Investment Income exceeded \$1.2 billion since inception including \$481 million in Fiscal 2018-19. Earnings as defined by NDCC 21-10-12 approximated \$306 million for the 15 months ended September 30, 2018.



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LEGACY FUND
State Investment Board
Statement of Net Position
As of 1/31/2019

3/18 #CR 3055

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	<u>As of</u> <u>1-31-19</u>	<u>As of</u> <u>6-30-18</u>
ASSETS:		
INVESTMENTS (AT FAIR VALUE)		
GLOBAL EQUITIES	\$ 3,003,194,699	\$ 2,766,036,036
GLOBAL FIXED INCOME	2,022,549,916	1,929,981,907
GLOBAL REAL ASSETS	867,620,304	805,149,765
INVESTED CASH (NOTE 1)	51,766,760	54,793,877
	<hr/>	<hr/>
TOTAL INVESTMENTS	5,945,131,679	5,555,961,585
RECEIVABLES		
DIVIDEND/INTEREST RECEIVABLE	18,782,391	21,357,528
MISCELLANEOUS RECEIVABLE	11,124	14,495
	<hr/>	<hr/>
TOTAL RECEIVABLES	18,793,515	21,372,023
OTHER ASSETS		
INVESTED SECURITIES LENDING COLLATERAL (NOTE 2)	19,610,979	24,284,177
OPERATING CASH	211,520	208,349
	<hr/>	<hr/>
TOTAL ASSETS	5,983,747,693	5,601,826,134
DEFERRED OUTFLOWS OF RESOURCES		
DEFERRED OUTFLOWS RELATED TO PENSIONS	244,618	271,634
	<hr/>	<hr/>
LIABILITIES:		
SECURITIES LENDING COLLATERAL (NOTE 2)	19,610,979	24,284,177
ACCOUNTS PAYABLE	-	71,703
ACCRUED EXPENSES	472,016	497,792
INVESTMENT EXPENSE PAYABLE	1,150,895	1,150,895
	<hr/>	<hr/>
TOTAL LIABILITIES	21,233,890	26,004,567
DEFERRED INFLOWS OF RESOURCES		
DEFERRED INFLOWS RELATED TO PENSIONS	9,183	9,183
	<hr/>	<hr/>
NET POSITION:		
HELD IN TRUST	5,962,749,238	5,576,084,018
	<hr/>	<hr/>
TOTAL NET POSITION	\$ 5,962,749,238	\$ 5,576,084,018
	<hr/>	<hr/>

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LEGACY FUND

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State Investment Board Statement of Changes in Net Position For the Month Ended 1/31/2019

	Month Ended <u>1-31-19</u>	<u>Year-to-Date</u>
ADDITIONS:		
INVESTMENT INCOME		
GAIN ON SALE OF INVESTMENTS	\$ 91,066,719	\$ 578,919,569
LOSS ON SALE OF INVESTMENTS	56,430,134	508,269,121
NET GAINS (LOSSES) INVESTMENTS	<u>34,636,585</u>	<u>70,650,448</u>
NET APPREC (DEPREC) MARKET VALUE	<u>233,610,562</u>	<u>(190,364,428)</u>
NET CHANGE IN FAIR VALUE OF INVESTMENTS	268,247,147	(119,713,980)
INTEREST, DIVIDEND & OTHER INVESTMENT INCOME	<u>11,283,656</u>	<u>74,222,774</u>
	279,530,803	(45,491,206)
LESS INVESTMENT EXPENSES	<u>1,387,450</u>	<u>6,427,349</u>
NET INCOME FROM INVESTING ACTIVITIES	278,143,353	(51,918,555)
SECURITIES LENDING INCOME	67,244	421,581
SECURITIES LENDING EXPENSES	<u>13,439</u>	<u>84,247</u>
NET SECURITIES LENDING INCOME	53,805	337,334
NET INVESTMENT INCOME	<u>278,197,158</u>	<u>(51,581,221)</u>
PURCHASE OF UNITS (\$1/UNIT) (NOTE 3)	<u>49,277,747</u>	<u>438,643,210</u>
TOTAL ADDITIONS	327,474,905	387,061,989
DEDUCTIONS:		
ADMINISTRATIVE EXPENSES	114,608	396,769
REDEMPTION OF UNITS (\$1/UNIT) (NOTE 4)	<u>-</u>	<u>-</u>
TOTAL DEDUCTIONS	<u>114,608</u>	<u>396,769</u>
CHANGE IN NET POSITION	327,360,297	386,665,220
NET POSITION:		
BEGINNING OF PERIOD	<u>5,635,388,941</u>	<u>5,576,084,018</u>
END OF PERIOD	<u>\$ 5,962,749,238</u>	<u>\$ 5,962,749,238</u>

These financial statements are preliminary, unaudited and subject to change.

2/28/2019

LEGACY FUND

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**Notes To Financial Statements
January 31, 2019**

The following notes to financial statements are intended to provide general descriptions of line items in the financial statements.

NOTE 1 INVESTED CASH

Insurance Cash Pool invested in the short-term investment fund (STIF) at The Northern Trust Company and a demand account at Bank of North Dakota.

NOTE 2 SECURITIES LENDING COLLATERAL

Securities are loaned versus collateral that may include cash, U.S. government securities and irrevocable letters of credit. U.S. securities are loaned versus collateral valued at 102% of the market value of the securities plus any interest. Non-U.S. securities are loaned versus collateral valued at 105% of the market value of the securities plus any accrued interest. Non-cash collateral cannot be pledged or sold unless the borrower defaults. Cash open collateral is invested in a short term investment pool.

NOTE 3 PURCHASE OF UNITS

Cash transferred into investment accounts at The Northern Trust during the current fiscal year.

NOTE 4 REDEMPTION OF UNITS

Cash transferred out of investment accounts at The Northern Trust during the current fiscal year.

NOTE 5 EARNINGS AVAILABLE

Section 26 of Article X of the Constitution of North Dakota dictates that earnings of the Legacy Fund accruing after June 30, 2017, shall be transferred to the general fund at the end of each biennium. Earnings accrued prior to June 30, 2017, become part of the principal of the fund.

NDCC 21-10-12 defines "earnings" for the purposes of Section 26, Article X as "net income in accordance with generally accepted accounting principles, excluding any unrealized gains or losses."

As of the date of these financial statements, the principal balance of the Legacy Fund is \$ 5,345,978,869

As of the date of these financial statements, earnings of the Legacy Fund eligible for transfer to General Fund at the end of the biennium is \$ 381,246,278

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Country	Sovereign Wealth Fund Name	Assets USD-Bil	Inception
Norway	Government Pension Fund – Global	1074.60	1990
China	China Investment Corporation	941.4	2007
UAE – Abu Dhabi	Abu Dhabi Investment Authority	697	1976
Kuwait	Kuwait Investment Authority	592	1953
China – Hong Kong	Hong Kong Monetary Authority Investment Portfolio	522.6	1993
Saudi Arabia	SAMA Foreign Holdings	515.6	1952
China	SAFE Investment Company	441**	1997
Singapore	Government of Singapore Investment Corporation	390	1981
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

Singapore	Temasek Holdings	375**	1974
Saudi Arabia	Public Investment Fund	360	2008
Qatar	Qatar Investment Authority	320	2005
China	National Social Security Fund	295	2000
UAE – Dubai	Investment Corporation of Dubai	233.8	2006
UAE – Abu Dhabi	Mubadala Investment Company	226	2002
South Korea	Korea Investment Corporation	134.1	2005
Australia	Australian Future Fund	103	2006
Iran	National Development Fund of Iran	91	2011
Russia	National Welfare Fund	68.5	2008
Libya	Libyan Investment Authority	66	2006
US – Alaska	Alaska Permanent Fund	65.7	1976
Kazakhstan	Samruk-Kazyna JSC	60.9	2008
Brunei	Brunei Investment Agency	60	1983
Kazakhstan	Kazakhstan National Fund	57.9	2000
Turkey	Turkey Wealth Fund	40	2016
Malaysia	Khazanah Nasional	38.7	1993
US – Texas	Texas Permanent School Fund	37.7	1854
UAE – Federal	Emirates Investment Authority	34	2007
Azerbaijan	State Oil Fund	33.1	1999
New Zealand	New Zealand Superannuation Fund	26.6	2003
Ireland	Ireland Strategic Investment Fund	24.5	2001*
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

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US – New Mexico	New Mexico State Investment Council	20.2	1958
Oman	State General Reserve Fund	18	1980
US – Texas	Permanent University Fund	17.3	1876
East Timor	Timor-Leste Petroleum Fund	16.6	2005
Chile	Social and Economic Stabilization Fund	14.7	2007
Canada	Alberta's Heritage Fund	13.4	1976
Russia	Russian Direct Investment Fund	13	2011
Bahrain	Mumtalakat Holding Company	10.6	2006
Chile	Pension Reserve Fund	9.4	2006
US – Wyoming	Permanent Wyoming Mineral Trust Fund	8.0	1974
Peru	Fiscal Stabilization Fund	7.9	1999
Algeria	Revenue Regulation Fund	7.6	2000
Mexico	Oil Revenues Stabilization Fund of Mexico	6.0	2000
Oman	Oman Investment Fund	6.0	2006
Botswana	Pula Fund	5.5	1994
Trinidad & Tobago	Heritage and Stabilization Fund	5.5	2000
China	China-Africa Development Fund	5.0	2007
Angola	Fundo Soberano de Angola	4.6	2012
US – North Dakota	North Dakota Legacy Fund	4.3	2011
Colombia	Colombia Savings and Stabilization Fund	3.5	2011
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

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US – Alabama	Alabama Trust Fund	2.7	1985
Kazakhstan	National Investment Corporation	2	2012
US – Utah	Utah – SITFO	2	1896
US – Idaho	Idaho Endowment Fund Investment Board	2	1969
Nigeria – Bayelsa	Bayelsa Development and Investment Corporation	1.5	2012
Nigeria	Nigerian Sovereign Investment Authority	1.4	2012
US – Louisiana	Louisiana Education Quality Trust Fund	1.3	1986
Panama	Fondo de Ahorro de Panamá	1.2	2012
Bolivia	FINPRO	1.2	2012
Senegal	Senegal FONSI	1	2012
Iraq	Development Fund for Iraq	0.9	2003
Palestine	Palestine Investment Fund	0.8	2003
Venezuela	FEM	0.8	1998
Kiribati	Revenue Equalization Reserve Fund	0.6	1956
Vietnam	State Capital Investment Corporation	0.5	2006
Gabon	Gabon Sovereign Wealth Fund	0.4	1998
Ghana	Ghana Petroleum Funds	0.45	2011
Mauritania	National Fund for Hydrocarbon Reserves	0.3	2006
Australia	Western Australian Future Fund	0.3	2012
Mongolia	Fiscal Stability Fund	0.3	2011
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

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Equatorial Guinea	Fund for Future Generations	0.08	2002
Papua New Guinea	Papua New Guinea Sovereign Wealth Fund	n/a	2011
Turkmenistan	Turkmenistan Stabilization Fund	n/a	2008
US – West Virginia	West Virginia Future Fund	n/a	2014
Mexico	Fondo Mexicano del Petroleo	n/a	2014
UAE – Sharjah	Sharjah Asset Management	n/a	2008
Luxembourg	Luxembourg Intergenerational Sovereign Fund	0	2015
Russia	Reserve Fund	0	2008
	Total Oil & Gas Related	\$4,432.43	
	Total Other	\$3,712.28	
	TOTAL	\$8,144.71	

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**This number is a best guess estimation.

Source: Sovereign Wealth Fund Institute (SWFI)

Data standardization and other methodologies

***All figures quoted are from official sources, or, where the institutions concerned other publicly available sources. Some of these figures are best estimates as market are rounded to the nearest tenth. SWFI aims to use total assets versus other measur consistent.

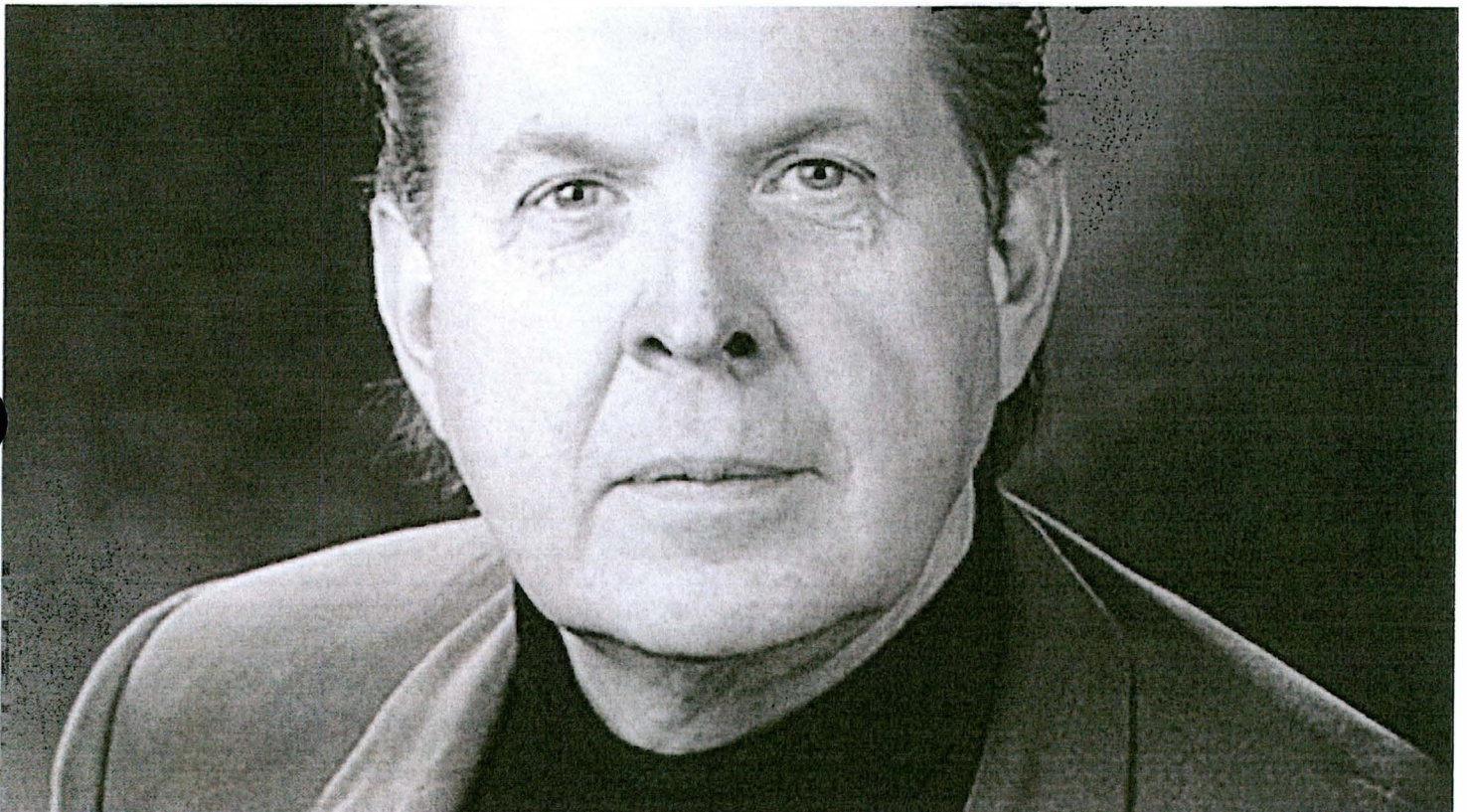
Temasek – **This is total assets. Historically (pre-2018), SWFI used net portfolio va using total assets for this chart.

Updated February 2019

Protecting ND's legacy

By Herald editorial board on Feb 17, 2019 at 6:10 a.m.

77



In 2009, the Legacy Fund Founders Committee drafted a blueprint for what today is a public savings account that is nearing \$6 billion. The group generally has been quiet in the years since as the savings account grew.

However, as numerous proposals for spending dollars generated by the Legacy Fund file through the the North Dakota Legislature, the committee has come together again in hopes of educating the public on the founders' original intent.

"What happens so often is legislators, during off years, think about what needs to be done and the first pot of money they want to go to is the Legacy Fund," said Tammy Ibach, an original member of

the committee. "The conversation we want to have with is, partially, to remind legislators that we are here to watch and we're paying attention. We have reconvened as a group to let them know that it's not their money to play with. ... There were conversations this year where people wanted to take money from the actual principal of the fund. That's very concerning."

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Ibach was among a group of four committee members who spoke Thursday with the Herald's editorial board, outlining their belief that the fund—despite its name—has not yet reached "legacy" proportions and that it needs strict oversight if North Dakotans truly want to see it benefit generations to come.

The Herald, meanwhile, has editorialized several times in favor of dedicating earnings from the Legacy Fund to boost university research at UND and NDSU, as well as using Legacy earnings to build a Theodore Roosevelt library and visitor center in Medora.

In 2010, 64 percent of North Dakota voters chose to start the Legacy Fund, which funnels 30 percent of oil and gas revenue into a state savings account. Earnings are projected at slightly more than \$300 million in the coming biennium.

In 2009, the committee's goal was to create the fund to "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."

Ibach and Robert Harms, both of Bismarck, and Grand Forks residents Connie Triplett and Bruce Gjovig—all of whom were among the original members of the committee—spent an hour with the Herald's editorial board. Triplett is a former state lawmaker who was in office when the Legacy Fund was created.

Q: We see that your committee members have been making the rounds, visiting with newspapers. Why the new urgency?

GJOVIG: The fact that the Legacy Fund sat there for seven years gaining interest, we need to have more conversation again about its original purpose. We need to have community and statewide communication.

TRIPLETT: We aren't suggesting that none of the earnings should be spent. We would like some of the earnings to go back toward growing the principal. We are starting off from a position that we would like to save 75 percent and 25 percent to be spent. Our group has agreed to disagree what the money should be spent for, but we agree that it shouldn't be tied up for use for a long term. Going back to the beginning when the bill was first passed, and I was both a sponsor of the bill and a member of the conference committee that worked it up in the Legislature, we were very specific at that point not to

put a use on the funds based on the idea that if it is going to be there for perpetuity, it should be up to current legislators each time to decide what the real priorities are for spending.

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Q: How resolute are the founders in their belief that there shouldn't be a specific use for the funds?

TRIPLETT: Not that there shouldn't be a use, but that it shouldn't be tied up long-term in a particular use. There may be different priorities in different times. Of all the governor's (proposals), the one that seems the most transformative to me is the (\$30 million) UAS proposal, to make sure we have infrastructure for growing industry. ... To me personally, the UAS idea seems to be one of the most transformative and future-looking ideas out there.

GJOVIG: There was a consensus that we shouldn't make long-term obligations with the earnings, but it should be investments in things that can be transformative—a bridge to a future economy, or to be used in an emergency or crisis, but not for a long-term commitment. We are uncomfortable in having projected earnings be spent because earnings, by definition, are both profits and loss.

HARMS: We're trying to create a conversation statewide. This week, the Senate passed a bill (to allocate 15 percent of Legacy earnings, up to \$45 million) for university research. Because they don't have the money, they are willing to borrow from the Bank of North Dakota on projected earnings from the Legacy Fund. That's just bad policy. Those are the kinds of pressures we understand legislators get but if we don't have some thoughts about how we do this long-term, and we just go through session after session, it won't be as much of a "legacy" as we intended.

Q: Bob, you just touched on a very local issue and it sounds like you don't like the university research proposal. How do you others feel about it?

IBACH: It's just bad fiscal policy.

GJOVIG: Who says we're not going to have a recession (in the future)?

TRIPLETT: I agree. Some people have made the point that everything the Legislature does is based on earnings estimates. We all understand it. But this seems like it's a bit different because it's based on this notion that we are saving for the future and for future generations.

Q: Early on, the research university presidents sought an actual dollar figure. Now, the backers have come back with a proposal for 15 percent of the earnings instead of a hard figure and it passed the Senate 43-4. Did that make it more palatable to you?

IBACH: No. Not to me, and I speak for a lot of people from our Founding Fathers group. When you talk about the Legacy Fund, \$6 billion is not a legacy. Not yet. It is still in the infancy stage. The

Bakken Backers people have released data that says 50 percent of all tax revenue that comes into the treasury of North Dakota comes from oil and gas money. What if, like in 2015, suddenly some of that dries up again? And it's going to.

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HARMS: We're taking a finite resource, oil, and we're trying to convert it to cash so that the cash fund provides long-term financial stability and other needs for the future of North Dakota.

GJOVIG: The state is 50 percent dependent on oil and gas revenues. That's way too high. It's one of the reasons we also don't want to see our earnings (from the Legacy Fund) be dedicated.

Q: So would any of you, if you had your way, spend any Legacy Fund dollars or earnings this year or in the near future?

IBACH: No. If there was a catastrophic situation and we didn't have the emergency funds available in the regular state government, then I would consider it.

TRIPLETT: I would probably go in the range of 25 to 30 percent of banked earnings (but only on one-time spending).

GJOVIG: I would spend maybe up to 50 percent of banked earnings, but nothing committed forward. Who knows what the next 24 months will hold?

HARMS: No for now, and if we had to, I could live with 25 percent of banked earnings.

Q: Yet oil is still projected to last a long time in North Dakota. Doesn't that projection give you confidence?

HARMS: I don't think we're going to get away from fossil fuels in the next decade or so, but certainly we are going to have price interruptions that are going to influence the outcome of the Legacy Fund if we rely just on oil revenues to grow the fund.

TRIPLETT: As the only Democrat in the room of guests here, I think it's important to say that there is something else going on here over this last period of years since the Legacy Fund has been put in place. The North Dakota Legislature has reduced other forms of taxes. The message there is that the representatives of the people have made a decision that they want smaller government in North Dakota. It wasn't my decision, but the majority of the Legislature made that decision. Having made that decision, they can't turn around now and all of them have their hands out, saying they want the Legacy Fund dollars. The Legacy Fund is to prevent North Dakota from being excessively dependent on oil and also to preserve some of the value of the oil for future generations. But the fact that the Legislature has reduced other forms of taxes has increased our dependence on oil.

Q: How high does the Legacy Fund have to reach for it to truly be a "legacy"?

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IBACH: \$50 billion. \$100 billion. Something substantial. We've been at this for nine years and it's not a "legacy" yet.

HARMS: We haven't settled on a number. But I think we all agree that \$6 billion isn't the "legacy" yet. If I had an answer, I would say I like the number 20 as a target.

IBACH: What happens so often is legislators, during off years, think about what needs to be done and the first pot of money they want to go to is the Legacy Fund. The conversations we want to have with (the Herald's editorial board) is, partially, to remind legislators that we are here to watch and we're paying attention. We have reconvened as a group to let them know that it's not their money to play with. They don't get to make decisions where—there were conversations this year where people wanted to take money from the actual principal of the fund. That's very concerning. In 2010, 64 percent of the voters wanted to establish this legacy, so we're going to keep at this committee. We're not just going to go quiet when the Legislature goes home.

Q: Sorry, but we're confused. Isn't it the Legislature's money to, as you say, play with? Aren't lawmakers able to determine how to spend it?

TRIPLETT: The earnings, yes. And up to 15 percent of the principal if there is a broad consensus in both houses. When Tammy said it isn't "their" money, it is theirs to allocate, but the idea behind the Legacy Fund is that it's the people's money—not just the people who are around today, but really our children and grandchildren. It's designed for the future. It's our "legacy" for future generations.

Q: How many bills introduced this year regard the Legacy Fund?

TRIPLETT: 14.

HARMS: There are three or four or five left that are a serious threat. A lot of them have gone by the wayside.

GJOVIG: And then add the governor's proposals to that.

HARMS: There are probably a half-dozen appropriations bills that have those structures in as well.

Q: Speaking of the governor, he has proposed that any Legacy Fund-related project must meet four criteria: regional, state or national impact; be multiplied through partnerships, matching funds or loan funds; diversify our economy/workforce; and have lasting impacts. Do you, as a committee, agree with those qualifications?

GJOVIG: I don't think we have a consensus among the group. But from my standpoint, I would agree with him.

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HARMS: Bruce is right, there isn't a consensus in the group. The governor sets a good framework, but I would lay over his framework the policies we have talked about. We can argue whether (some of the governor's proposals for buildings) meet those three criteria. I would say some do not.

IBACH: I am disappointed in the fact that (Gov. Burgum) would use the earnings before they arrived in the bank. I'm not necessarily disappointed in his projects—I get that governors want to identify their own projects, but there isn't one of those projects that couldn't wait, except maybe the unmanned aircraft (proposal). Maybe.

Q: And you like the unmanned aerial systems proposal why? Because of competition from other states?

IBACH: Yes.

GJOVIG: If we're going to remain a leader, we need to keep up the pace.

IBACH: It brings tremendous benefit to the Bakken. That's the one I could say, "let's take a serious look at it this (legislative) session." Do we need to have matching funds for the Teddy Roosevelt library (proposal)? I have asked, "where is the data?" I want someone to show me the sustainability of that.

Q: OK, so we're talking about competition being a factor with UAS. What about competition from other universities in other states that are out-researching us because we don't have the funding in North Dakota? How do you justify competition with UAS, but not with research?

IBACH: Where is the data that shows we're losing? I have not seen data that our university system is losing students because we don't have the research components that we need. I have not been privy to it.

GJOVIG: I don't think we're losing students, nor do I think we are losing a lot of faculty. I think what it is is a great source of money for the university for overhead.

IBACH: I want the data. Somebody show me.

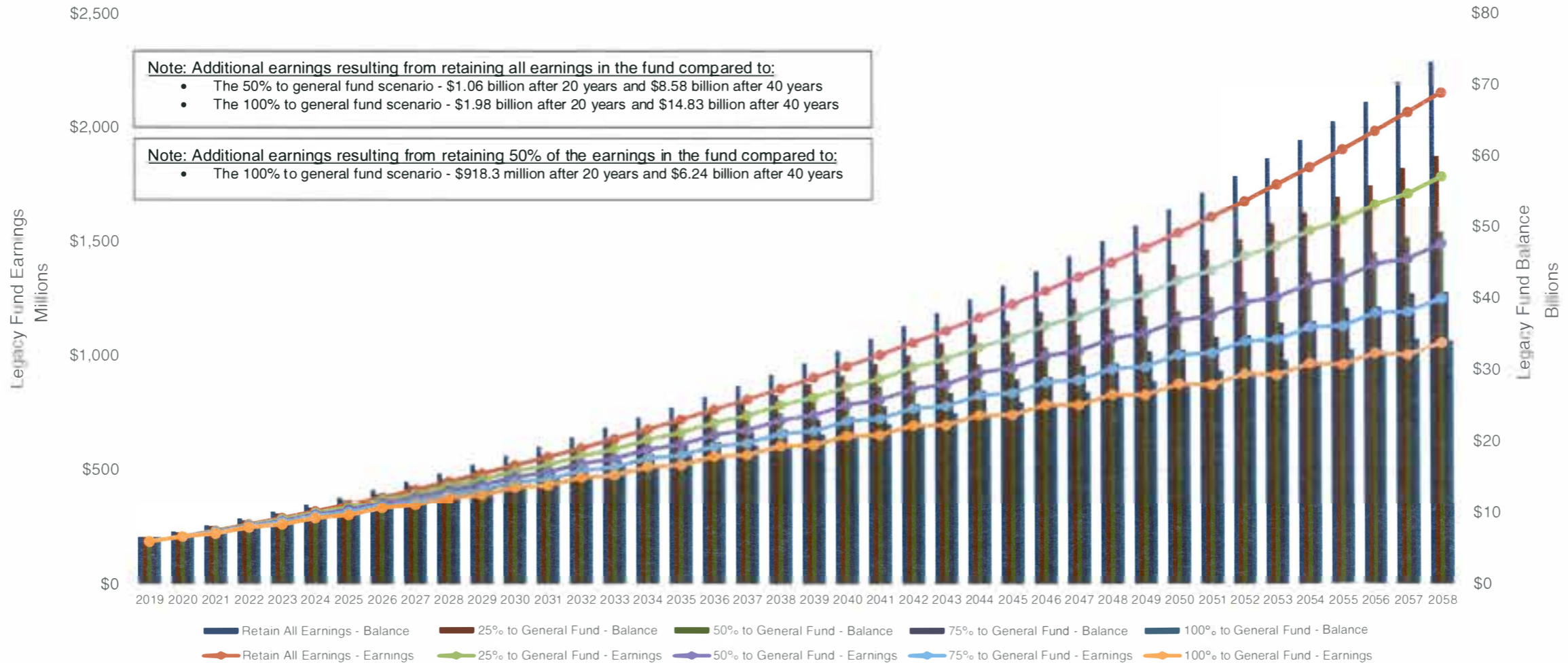
LEGACY FUND BALANCE AND LEGACY FUND EARNINGS - PROJECTIONS

3/18 HCR 3055 #2 pg. 1

This memorandum provides projections of the legacy fund balance, earnings of the legacy fund available for transfer to the general fund, and use of legacy fund earnings based on selected scenarios.

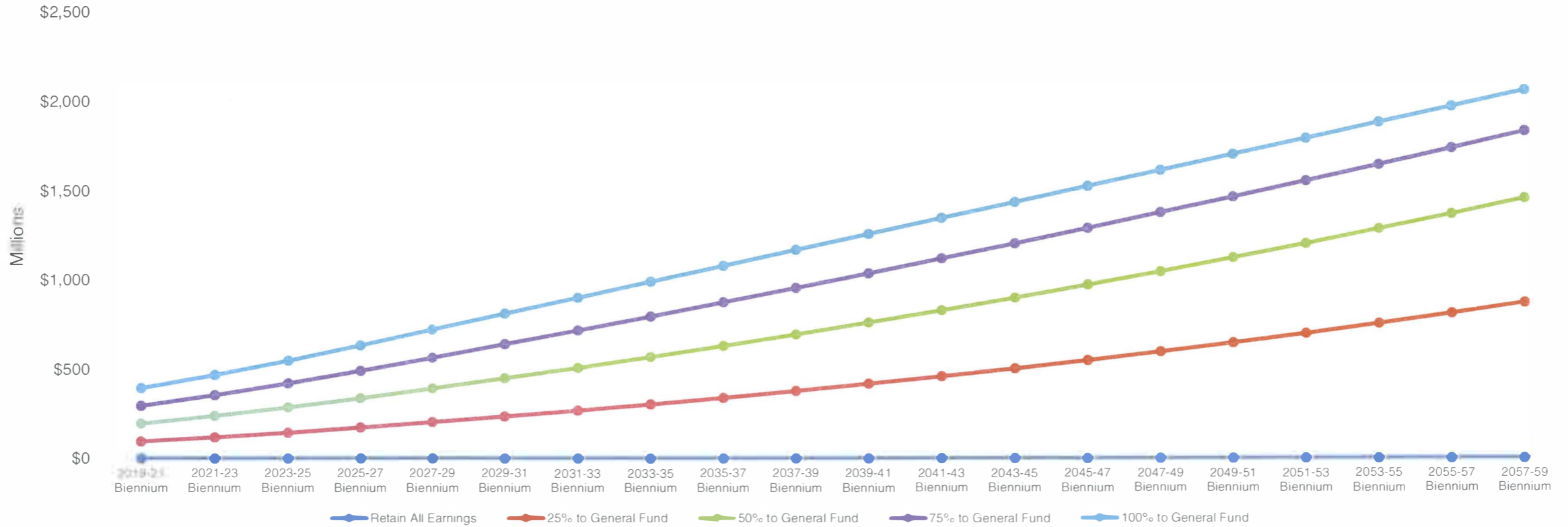
The graphs below provide projections for the legacy fund balance, legacy fund earnings available for transfer to the general fund, and use of legacy fund earnings using a 3 percent rate of return for five scenarios - (1) Retain all earnings in the legacy fund to become part of principal; (2) Transfer 25 percent of the earnings to the general fund to be spent; (3) Transfer 50 percent of the earnings to the general fund to be spent; (4) Transfer 75 percent of the earnings to the general fund to be spent; and (5) Transfer all of the earnings to the general fund to be spent.

Legacy Fund Earnings and Legacy Fund Balance
(3.00% Rate of Return Projection)



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Legacy Fund Earnings to the General Fund for Spending
(3.00% Rate of Return Projection)



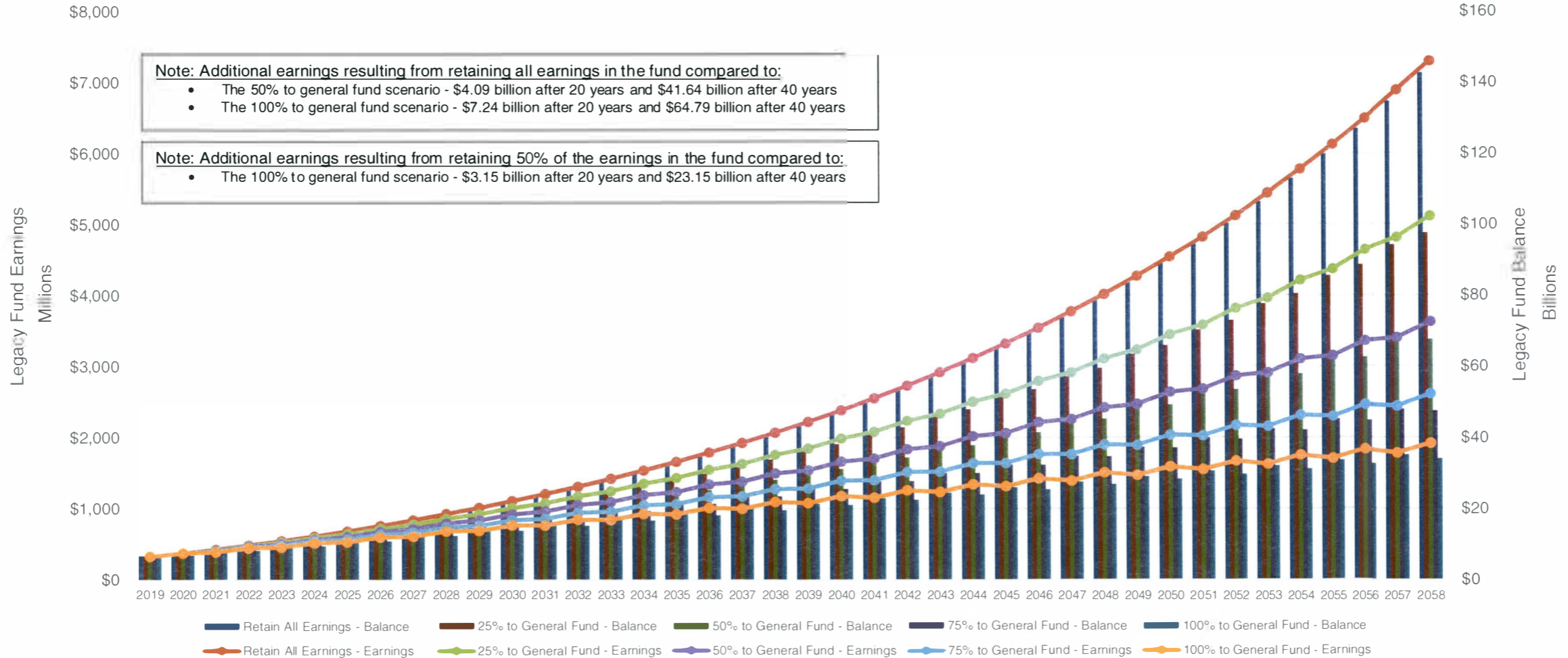
The following assumptions are used for the legacy fund balance, earnings projections, and use of legacy fund earnings:

- Legacy fund balance and earnings are based on oil tax revenues deposited in the fund ranging from \$45 million to \$60 million per month through 2024, and then \$60 million per month thereafter.
- Legacy fund earnings are based on an annual rate of return of 3 percent.
- Use of legacy fund earnings as follows:
 - All legacy fund earnings are retained in the legacy fund to become part of principal;
 - 25 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 75 percent are retained in the legacy fund to become part of principal;
 - 50 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 50 percent are retained in the legacy fund to become part of principal;
 - 75 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 25 percent are retained in the legacy fund to become part of principal; and
 - 100 percent of earnings are transferred out of the fund at the end of each biennium to be spent.

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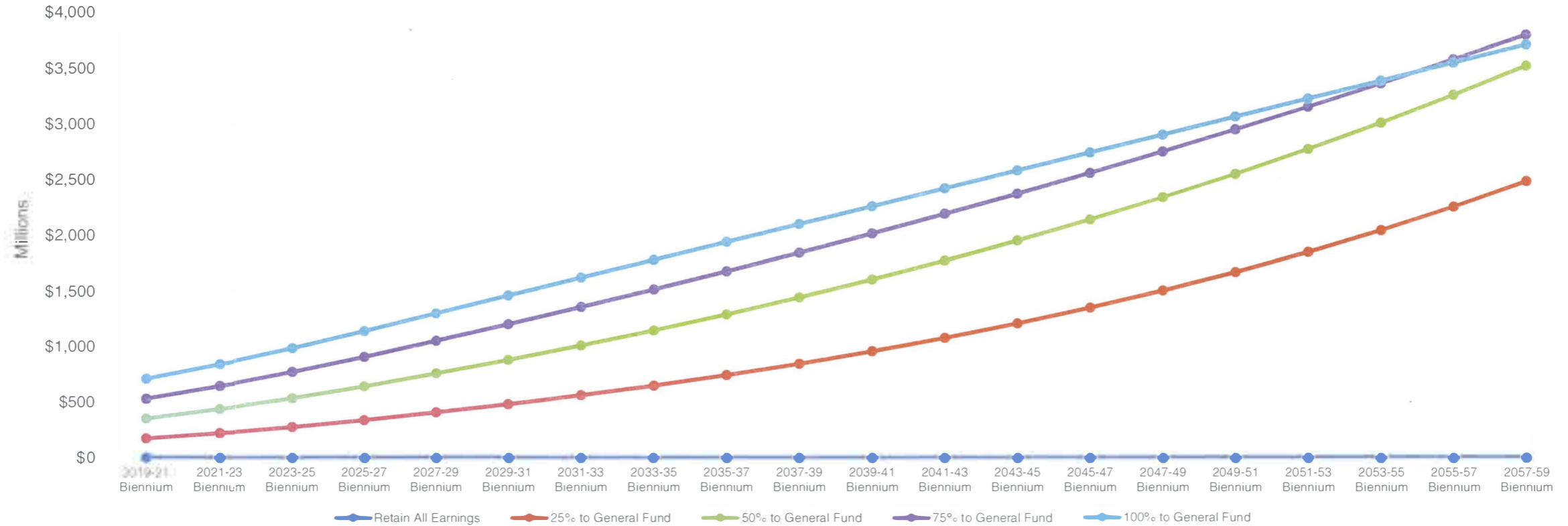
The graphs below compare projections for the legacy fund balance, legacy fund earnings available for transfer to the general fund, and use of legacy fund earnings using a 5.28 percent rate of return for five scenarios - (1) Retain all earnings in the legacy fund to become part of principal; (2) Transfer 25 percent of the earnings to the general fund to be spent; (3) Transfer 50 percent of the earnings to the general fund to be spent; (4) Transfer 75 percent of the earnings to the general fund to be spent; and (5) Transfer all of the earnings to the general fund to be spent.

Legacy Fund Earnings and Legacy Fund Balance
(5.28% Rate of Return Projection)



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Legacy Fund Earnings to the General Fund for Spending
(5.28% Rate of Return Projection)



The following assumptions are used for the legacy fund balance, earnings projections, and use of legacy fund earnings:

- Legacy fund balance and earnings are based on oil tax revenues deposited in the fund ranging from \$45 million to \$60 million per month through 2024, and then \$60 million per month thereafter.
- Legacy fund earnings are based on an annual rate of return of 5.28 percent.
- Use of legacy fund earnings as follows:
 - All legacy fund earnings are retained in the legacy fund to become part of principal;
 - 25 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 75 percent are retained in the legacy fund to become part of principal;
 - 50 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 50 percent are retained in the legacy fund to become part of principal;
 - 75 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 25 percent are retained in the legacy fund to become part of principal; and
 - 100 percent of earnings are transferred to the general fund at the end of each biennium to be spent.

Senate Finance and Tax Committee

3/18 HCR 3055 #3 pg. 1

HCR 3055

March 18th, 2019

Mr. Chairman and member of the committee, my name is Dave Weiler, a member of the group here today and always, hoping to "protect" the Legacy Fund.

Reasons why Legacy Fund was created in 2010.

All of you have heard testimony previously from former Senator Connie Triplett so I won't go into great detail of why the legislature worked so hard in getting this on the ballot in 2010. What you do need to know is that the citizens of ND passed this by a very large margin of 67%.

The 2009 legislature, not all but most felt it was very necessary to provide future generations of ND's with the security of oil revenues that we all are enjoying today, but also create a Legacy for the future of ND, and also to provide ND taxpayers and the legislature with future revenue to offset the eventual decline of oil revenues. Myself and others, both Democrat and Republican, lobbyists and citizens worked very hard in getting this passed in ND. Now it's time for us to continue the work we started and protect this fund the best we can.

You may or may not have heard of some talk about the Norway fund, I believe Bruce Gjovig has written testimony or at least an email regarding the protection and importance of this Trillion dollar fund in Norway. It is the largest such fund in the world. 1.04 Trillion dollars.

A man by the name of Dr. Jostein Mykletun has put together an interesting read on the importance of protecting and growing their fund. If you haven't seen it we can get it to you.

I would like to touch on a few ideas of the good Dr.

1. Provides benefits for many future generations.
2. At times it stabilizes the Norwegian economy, other times it stimulates it.
3. Norway has avoided the temptation of spending "too much money too fast."
4. A "Long term" management perspective.
5. It is a success based on "highly responsible management."

Mr. Chairman and members of the committee I am here to lend my support for HCR 3055 because there are many similarities to Norways fund and ND's Legacy Fund from a future growth perspective.

The principals of our group are simple:

- a. Don't spend any principal, except in the event of a catastrophic event.
- b. Don't spend all the earnings

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- c. Don't spend them until they are actually in the bank
- d. Avoid on-going spending and permanent financial commitments of Legacy Fund earnings.

And finally Mr. Chairman I would like to thank Rep. Mock for his lead on this most important piece of legislation. This is what happens when great ideas come forth and Republicans and Democrats not only agree but also work together to make it happen. This is a great example of why people show up at District meetings, conventions, parents take their children out during the campaign season and put flyers on doors in your Districts and donate money to all of your campaigns. This is a great example of why people go to the polls on election day and vote for you. So you can come together and pass exceptional legislation like this.

I ask for your support of HCR 3055

Thank you Mr. Chairman and members of the House Finance and Tax committee.

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Updated draft, March 106 Possible lessons to be learned from the Norwegian Government Pension Fund Global (GPF)

Informal commentary in the context of the current discussion in North Dakota about the future of the Legacy Fund.

March 10, 2019 Possible lessons to be learned from the Norwegian Government Pension Fund Global (GPF)

Executive Summary:

The Norwegian Government Pension Fund Global (GPF) has assets of over \$1.04 Trillion, or \$200,000 for each man, woman and child in Norway (\$8,200 per person for the North Dakota Legacy Fund). It is the largest such fund in the world, accounting for 1.4% of world publically publicly traded stocks. It is nearly 3 times Norway's annual GDP. The Established a few years earlier, with the first deposit was made in 1996, and the Fund by 2016 (20 years) now has more earnings from returns on investments (50%) than inflows from oil and gas revenues (45%). The remainder comes from currency movements. A flexible rule is that Norway's Parliament may annually use up to 3% of the beginning-of-the-year value of the fund each year, and that was revised down from 4% in the last few years. The average return on investment over the life of the fund is 6%. Some conservatives argue this is still too much spending, wishing to save funds for future generations when oil revenues decline, and to avoid overheating the economy and the government budget.

The government's estimated total net cash flow from petroleum activities in 2019 amounts to NOK 286 billion, equivalent to USD \$33 billion. This includes taxes, fees, dividend and SDFI (State Organization of Petroleum Activities).

<https://www.norskpetroleum.no/en/framework/state-organisation-of-petroleum-activities/>

<https://www.norskpetroleum.no/en/framework/state-organisation-of-petroleum-activities/>

Generally speaking, over the years, about 65% of the oil revenues go into the State Budget.

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The rest, 35%, gets channeled into the Oil Fund (this percentage share varies from year to year). *(this figure needs to be checked against most current figures)*

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Facts about the GPF

- **Current Market Value:** USD \$1,042 Billion (the world's largest sovereign wealth fund of its kind). The fund has doubled in value since 2012.
- The fund's capital is invested abroad, to avoid overheating the Norwegian economy, and to shield it from the effects of oil price fluctuations. The instability of oil prices has been of constant concern for oil dependent countries.

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- **Investments in 72 countries**
- **Investments in 9,146 companies, 40% in US Stock market**
- **1.4% total of listed companies worldwide**
- **2.4% total of listed companies in Europe**
- **66.3% in global equities, 30.7% in bonds, 3% in real estate**
- **6.0 % nominal annual return:** The Fund generated an annual return of 6 percent from the establishment of Norges Bank Investment Management in 1998 to the end of the third quarter of 2018, measured in the Fund's currency basket. After management costs and inflation, the return was 4.0 percent.
- **The Fund's size is two and half times that of the Norwegian GDP**
- **The Norwegian people own the fund.** As stated by the Norges Bank Investment Management *"We work to safeguard and build financial wealth for Norway's future generations."*

- Norges Bank Investment Management aims to make the most of the Fund's two distinguishing characteristics, its long-term approach and its considerable size, to generate strong returns and safeguard wealth for future generations.

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The Fiscal / Budgetary Rule, Introduced in 2001

A share of the fund value may be used in the national budget. \$27 USD billion was transferred to the national budget in 2017, slightly less than 3% of the fund's total value. The Government State Budget is USD \$150 billion, thus 18% of budget comes from oil fund. In its 2017 report on the long-term perspectives of the Norwegian economy,

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the government states that it intends the withdrawal from the fund over time should be equivalent to 3 percent of the fund's value, down from the previous 4 percent.

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The fiscal rule stipulates the how much money the share of petroleum revenues that Government can draw from the fund each year. Technically speaking the Government presents its budget to the Storting in October the year ahead. The expected deficit will be financed by drawing on the Oil Fund. Thus, the budget always balances, with the Oil Fund picking up the bill, may be used to fuel the Norwegian economy.

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The use of petroleum revenues is linked to the expected real return on the Government Pension Fund Global. In its 2017 report on the long term perspectives of the Norwegian economy, the government states that it intends the withdrawal from the fund over time should be equivalent to 3 percent of the fund's value, down from the previous 4 percent.

The fiscal rule helps to gradually phase oil revenue into the economy. Spending the expected just the return or earnings on the fund rather than eating into its capital means that the fund will also benefit future generations.

The budgetary rule is a rule concerning the usage of capital gains from The Government Pension Fund - Global of Norway. The rule states that a maximum of 3% of the fund's value should be allocated to the yearly government budget. Its main stated justification is to avoid the Dutch disease in the Norwegian economy due to the large influx of oil sourced revenue.

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Comment [K1]: Uklar dette her – sier det samme en gang til? Budgetary Rule og Fiscal Rule, er ikke det det samme? Capital gains – har det noe med saken å gjøre?

The rule was introduced in 2001 during the First cabinet Stoltenberg, and has a broad cross-party support.

When tThe rule was last changed from 4% to 3% in February 2017, e-Every party in the Parliament was in favourfavor of the change, except the right wing Progress Party (Norway).

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Comment [K2]: On behalf of The Ministry of Finance which is the owner of the Fund.

Responsibility

The Fund's Investment Management invests and exercises ownership rights responsibly, because the Fund's investments are about the future and belong to our future generations. The aim is to contribute to efficient and well-functioning markets and promote work on international standards for responsible investment.

Transparency

The Fund is managed on behalf of the Norwegian people – both current and future generations. As stated by the Fund's Management, we are dependent on confidence to achieve our mission, so we aim to be a professional, transparent and responsible investment manager. However, there are some topics the Fund Management cannot inform about – matters that others should discuss, and information that is market sensitive. Otherwise, the Management's

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goal is for the people of Norway and others to be able to find all the information they need about the fund and its investments.

Responsible investments. Ethical rules in place since 2004

<https://www.regjeringen.no/en/topics/the-economy/the-government-pension-fund/responsible-investments/id446948/>

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Some Central Features of the Fund, - as described by Norwegian Prime Minister Jens Stoltenberg (PM 2000-2001, and 2005-2013) (now Secretary-General of NATO 2014 – present)

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- The Fund to provide benefits for *many future generations*
- According to changing needs, at times the Fund serves to *stabilize* the Norwegian economy, at other times to *stimulate* the economy
- One main principle: a *long-term* management perspective, with *good returns* coupled with acceptable risks
- The Fund is a success, based on *highly responsible management*, both short- and long term
- The Fund must be *protected*
- For many years, we underestimated what the actual size of the Fund would be. Just as we underestimated the degree of successful management
- The success of the Fund shows how a democracy like ~~that of~~ Norway has successfully achieved a *consistent sustainable management*
- Of fundamental importance, the Fund management has been based on a *broad political consensus*. And we have been conscious of other oil-rich countries not having been equally successful in demonstrating long-term sustainable resource management. Norway has avoided the temptation of “*spending too much money too fast*”.

Brief history and current significance of the Fund

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When Norway’s oil riches in the North Sea were discovered in the late 1960s (incidentally not by Norwegians, but by smart American geologists and oil engineers driven by savvy US oil companies such as Exxon and Phillips Petroleum), this led very early on to a visionary and

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foresighted *political consensus-driven debate*, namely that this sudden wealth had to be handled responsibly. “Getting rich overnight” was a tall order. And Norway was still one of the poorer countries in Europe. Stavanger at the time, was the poorest of Norway’s larger cities, before the oil discovery propelled the city into becoming wealthy and the undisputed Oil Capital of Norway and of the entire North Sea Region.

Comment [K3]: Den er vel litt drøy?

The *consensus ridden Parliament* very early on outlined two basic premises: 1) The oil belongs to the people of Norway, 2) The wealth must be handled prudently, with a long-term view in the interest of future generations.

In all this, there was the impact of a strong cultural underpinning, that resources should be shared fairly, and not lead to undue excesses.

And, just like looking after one’s family savings, Norway’s political leaders understood the need to resist the temptation to use too much money too fast. The Norwegian governments’ traditional budget discipline (out of sheer necessity), kicked forcefully in when faced with big and unexpected oil revenues pouring in.

Various initiatives were taken by Parliament and various Governments during the first two decades after the oil discovery to allocate oil revenue money to meet special societal needs, short and long term, but with mixed success. But by 1990, a broad political consensus emerged, adopting the proposal to use part of the oil revenues to create a Pension Fund. Much credit should be given to many foresighted political leaders to push ahead on this, then also faced with a good portion of skepticism from the powerful bureaucracy in the Ministry of Finance.

To illustrate aspects of the cross-party consensus, the principal political push to establish the Fund, came from conservative finance minister Arne Skauge in 1992. Four years later, the first installment in the Fund was made by social democratic finance minister Sigbjørn Johnsen.

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There was also quite a bit of popular skepticism at the time. After all, using taxpayers’ money to invest in the stock market, was not something most Norwegians were used to. Bank savings was the normal, traditional way of responsible money handling!

The Norwegian democratic process has scored well over the years in both establishing the Fund, and creating the framework conditions. This particular point is well illustrated by the following quote from Dr. Fatih Birol, the current Executive Director of the International Energy Agency, IEA: “*Among the world’s petroleum nations, Norway ranks as a Triple A Democracy*”.

The political system as well as the general electorate have over the 22 years of the Fund’s existence, developed an increasing ability to “stay the course” and to live with risks and setbacks. One recent illustration: late ~~Just this last week~~ of February 2019, it was announced by the Fund Management that in 2018 the Fund experienced one of the largest financial setbacks ever, down \$23 Billion for the quarter. This caused hardly any political debate, one simply took notice. It helped of course, that a few days later Norwegian taxpayers were

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informed that the Fund already two months into 2019 had more than recovered the 2018 losses.

One observation which can be made here: The Fund makes Norway richer and better able to carry financial risks, while at the same time the Fund in itself constitutes a big risk for the country. Thus Norwegian voters and politicians have grown accustomed to live calmly with this. The same applies to the very recent decision to make the Fund start divestment in the oil and gas industry, causing very limited opposition politically and public opinion wise.
<https://www.newscientist.com/article/2196024-norway-is-starting-the-worlds-biggest-divestment-in-oil-and-gas/>

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Another example goes back to the global *financial crisis in 2008*. With the full support of Parliament, the Fund's Management resisted the temptation to sell stocks. Instead, there was a strong drive to invest in additional stocks world-wide. Said differently, one stuck to the Parliamentary consensus-based investment strategy.

And there has never been a serious discussion in Norway to opt for the Alaskan model:

<https://www.sayanythingblog.com/entry/we-definitely-should-not-use-the-legacy-fund-for-an-alaska-style-permanent-dividend/>

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It is worth noting that many other nations show great interest in the Norwegian Fund, not the least how it was possible to generate such a huge fund within a very short period of time. Also of interest internationally, the impressive degree to which the Fund has been successfully subject to highly skilled and responsible management. Also in a sense, the Management of the Fund serves as a "firewall" between politicians and the Fund.

The entire history of the Fund, its role in the economy, the need to be prudent, the concern for future generations, has been characterized by broad political consensus. And moving from 4% to 3%, again, result of broad consensus. If the idea had surfaced to instead move from 4% to 5%, this would most probably have caused overall, cross-political objections, for being straight out irresponsible.

Today, the **Norwegian Government Pension Fund Global** is as close as one can get to being a "**Global Brand**" for Norway. And, the Fund is without doubt the country's largest export item.

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PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3055

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Management to consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education.

WHEREAS, the legacy fund was created with the understanding that oil and gas resources are finite and tax revenues related to oil and gas production eventually will decline; and

WHEREAS, investments to diversify and expand the state's tax base as a means to offset the eventual decline of oil and gas tax revenues is a prudent use of legacy fund earnings to provide long-term revenue stability for future generations; and

WHEREAS, investments in research and technological advancements in energy and agriculture, workforce development and recruitment, career and technical education, and business growth initiatives are key to expanding the state's economic potential; and

WHEREAS, the use of legacy fund earnings to reduce the tax burden on taxpayers and reduce taxpayer liability to fund government services, without creating an expansion of government, could have a positive impact on economic growth; and

WHEREAS, taking a balanced approach to spending and reinvesting legacy fund earnings could lead to growth in the state's economy and growth in the principal of the legacy fund, as evidenced by the operation of Norway's sovereign wealth fund; and

WHEREAS, the people of North Dakota created the legacy fund through a public vote and the public should be allowed to engage in discussion and recommend ideas for policies and directives related to the use of legacy fund earnings, including recommendations to fund unique projects that leave a legacy for future generations; and

WHEREAS, varied and competing interests exist regarding the best use of legacy fund earnings;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING
THEREIN:**

That the Legislative Management consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education; and

BE IT FURTHER RESOLVED, that in conducting the study, the Legislative Management consider forming an interim committee consisting of the majority and minority leaders of the House of Representatives and the Senate, or their designee; the chairmen of the finance and taxation standing committees of the House of

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Representatives and the Senate, or their designee; the chairmen of the appropriations committees of the House of Representatives and the Senate, or their designee; two members of the legacy and budget stabilization fund advisory board, appointed by their respective majority leaders; and the chairman of the Legislative Management, or the chairman's designee; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-seventh Legislative Assembly."

Renumber accordingly

PROPOSED LEGACY FUND EARNINGS DISTRIBUTIONS AND STUDY

This memorandum provides information on proposed legacy fund earnings distribution and study language.

LEGACY FUND EARNINGS DISTRIBUTION FLOW CHART



LEGACY FUND EARNINGS DISTRIBUTION AND STUDY LANGUAGE

SECTION 1. Transfer of legacy fund earnings. Legacy fund earnings transferred to the general fund at the end of each biennium in accordance with Section 26 of Article X of the Constitution of North Dakota must be transferred immediately by the state treasurer as follows:

1. The first \$200 million to the infrastructure development fund;
2. The next \$50 million to the school construction fund;
3. The next \$50 million to the legacy projects fund; and
4. The remainder to the principal balance of the legacy fund.

SECTION 2. Infrastructure development fund. There is created in the state treasury the infrastructure development fund. The fund consists of all money deposited in the fund pursuant to SECTION 1. Money deposited in the fund each biennium may be spent pursuant to legislative appropriations as follows:

1. Up to \$50 million to repay eligible bonds issued by the public finance authority related to state infrastructure projects.
2. The remainder must be distributed in accordance with the formula in North Dakota Century Code Section 54-27-19.¹

SECTION 3. School construction fund. There is created in the state treasury the school construction fund. The fund consists of all money deposited in the fund pursuant to SECTION 1. Money in the fund may be spent pursuant to legislative appropriations to provide funding to primary and secondary schools for construction purposes.

SECTION 4. Legacy projects fund. There is created in the state treasury the legacy projects fund. The fund consists of all money deposited in the fund pursuant to SECTION 1. Money in the fund may be spent pursuant to legislative appropriations to provide one-time grants for the following purposes:

1. To support projects that enhance economic diversification in this state.
2. To provide grants to libraries.
3. To provide public access to land for recreation and tourism purposes.
4. To provide grants to postsecondary educational institutions for facility additions or enhancements.
5. To support students attending postsecondary educational institutions in this state.
6. To provide tax reductions.
7. To provide grants for pilot programs targeting advanced technology, energy, and agriculture pursuits in this state.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - POTENTIAL USES OF LEGACY FUND EARNINGS. During the 2019-20 interim, the legislative management shall consider studying potential uses of legacy fund earnings to reduce the tax burden on taxpayers in a manner which would not result in an expansion of government.

¹Distributions of \$150 million in accordance with the highway tax distribution fund in Section 57-27-19, which would be the equivalent of approximately a 10 cent gasoline and special fuel tax increase, would be distributed as follows:

1. The state highway fund would receive \$91.95 million per biennium.
2. Counties would receive \$33 million per biennium.
3. Cities would receive \$18.75 million per biennium.
4. Townships would receive \$4.05 million per biennium.
5. The public transportation fund would receive \$2.25 million per biennium.

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3055

That the Senate recede from its amendments as printed on pages 1941 and 1942 of the House Journal and pages 1681 and 1682 of the Senate Journal and that House Concurrent Resolution No. 3055 be amended as follows:

Page 1, line 2, after "transfer" insert "and expenditure"

Page 1, line 2, after "fund" insert "; to provide for a legislative management study; and to provide for application"

Page 1, line 5, after "principal" insert "of the legacy fund"

Page 1, line 5, after "and" insert "a vote of a majority of the members of each house to expend the"

Page 1, line 5, remove "of the legacy fund"

Page 1, line 21, overstrike ", and an" and insert immediately thereafter ". An"

Page 1, line 21, remove "and earnings"

Page 1, line 23, after "assembly" insert "and an expenditure of earnings after that date requires a vote of a majority of the members elected to each house of the legislative assembly"

Page 2, line 7, remove the overstrike over the second overstruck comma and insert immediately thereafter "not otherwise expended by the legislative assembly."

Page 2, after line 8, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - LEGACY FUND EARNINGS. During the 2019-20 interim, the legislative management shall consider studying the potential uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for reinvestment of legacy fund earnings, fund research and technological advancements, promote economic growth and diversification, and promote workforce development and career and technical education. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-seventh legislative assembly.

SECTION 3. APPLICATION. The secretary of state shall submit only section 1 of this Act to the qualified electors of North Dakota at the general election held in 2020. Sections 2 and 3 of this Act are not intended to be part of the proposed constitutional amendment and may not be included as part of the ballot measure."

Renumber accordingly

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4-24-19
p. 1

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Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE CONCURRENT RESOLUTION NO. 3055

Introduced by

Representatives Mock, Boe, Boschee, Delzer, Kempenich, Kreidt, Nathe, J. Nelson
Senators Heckaman, Klein, Unruh, Wardner

1 A concurrent resolution to amend and reenact section 26 of article X of the Constitution of North
2 Dakota, relating to the transfer and expenditure of earnings of the legacy fund; to provide for a
3 legislative management study; and to provide for application.

STATEMENT OF INTENT

5 This measure requires a vote of at least two-thirds of the members of each house of the
6 legislative assembly to expend the principal of the legacy fund and a vote of a majority of the
7 members of each house to expend the earnings of the legacy fund.

8 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**
9 **SENATE CONCURRING THEREIN:**

10 That the following proposed amendment to section 26 of article X of the Constitution of
11 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
12 general election held in 2020, in accordance with section 16 of article IV of the Constitution of
13 North Dakota.

14 **SECTION 1. AMENDMENT.** Section 26 of article X of the Constitution of North Dakota is
15 amended and reenacted as follows:

Section 26.

- 17 1. Thirty percent of total revenue derived from taxes on oil and gas production or
18 extraction must be transferred by the state treasurer to a special fund in the state
19 treasury known as the legacy fund. The legislative assembly may transfer funds from
20 any source into the legacy fund and such transfers become part of the principal of the
21 legacy fund.
- 22 2. The principal and earnings of the legacy fund may not be expended until after
23 June 30, 2017, ~~and an~~ An expenditure of principal ~~and earnings~~ after that date
24 requires a vote of at least two-thirds of the members elected to each house of the
25 legislative assembly and an expenditure of earnings after that date requires a vote of a

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p. 2

1 majority of the members elected to each house of the legislative assembly. Not more
2 than fifteen percent of the principal of the legacy fund may be expended during a
3 biennium.

4 3. Statutory programs, in existence as a result of legislation enacted through 2009,
5 providing for impact grants, direct revenue allocations to political subdivisions, and
6 deposits in the oil and gas research fund must remain in effect but the legislative
7 assembly may adjust statutory allocations for those purposes.

8 4. The state investment board shall invest the principal of the North Dakota legacy fund.
9 The state treasurer shall transfer earnings of the North Dakota legacy fund accruing
10 after June 30, 2017, not otherwise expended by the legislative assembly, to the state
11 general principal of the legacy fund at the end of each biennium.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - LEGACY FUND EARNINGS.

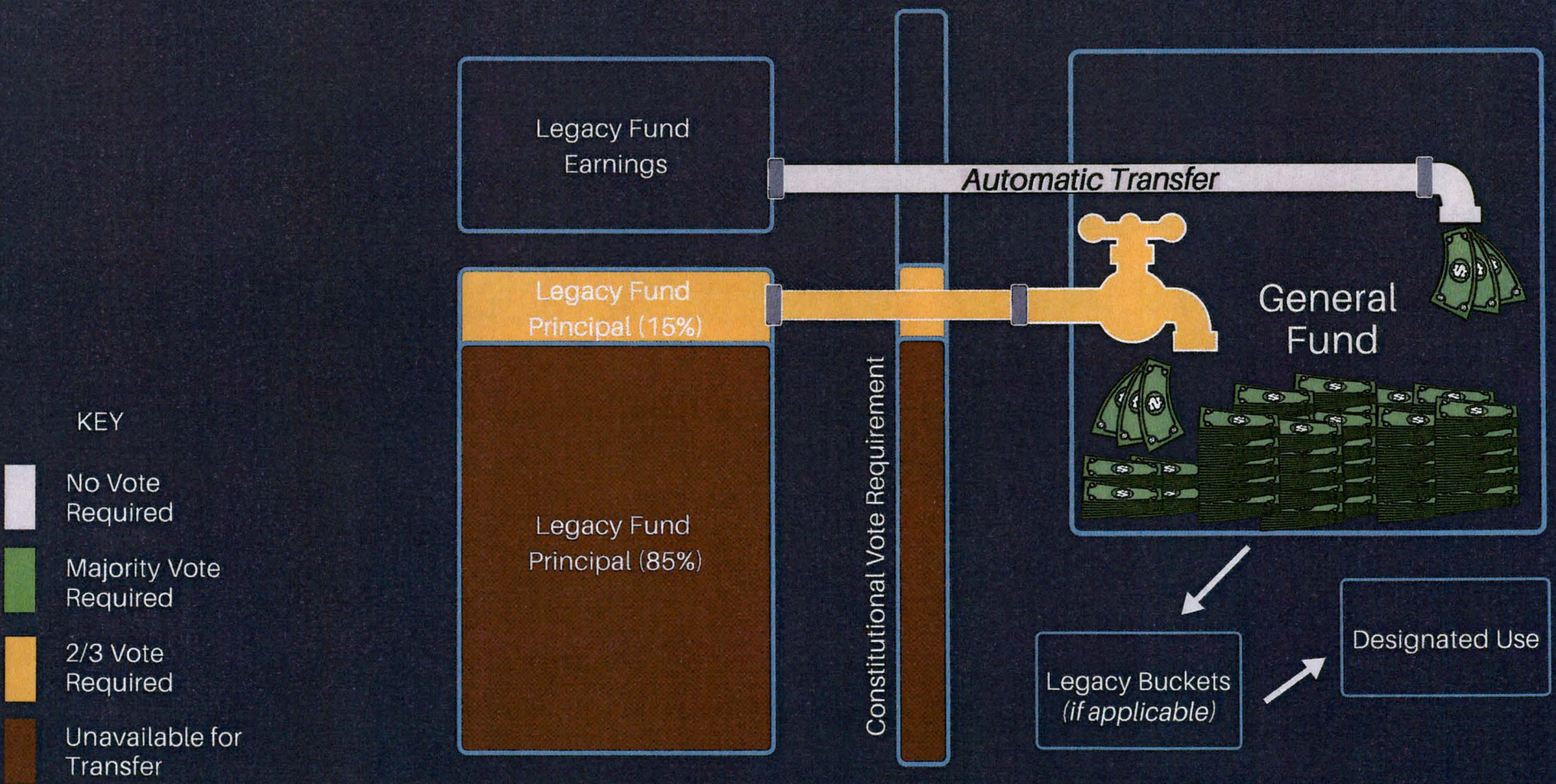
13 During the 2019-20 interim, the legislative management shall consider studying the potential
14 uses of legacy fund earnings, including the use of earnings to provide tax relief, provide for
15 reinvestment of legacy fund earnings, fund research and technological advancements, promote
16 economic growth and diversification, and promote workforce development and career and
17 technical education. The legislative management shall report its findings and recommendations,
18 together with any legislation required to implement the recommendations, to the sixty-seventh
19 legislative assembly.

SECTION 3. APPLICATION. The secretary of state shall submit only section 1 of this Act to

21 the qualified electors of North Dakota at the general election held in 2020. Sections 2 and 3 of
22 this Act are not intended to be part of the proposed constitutional amendment and may not be
23 included as part of the ballot measure.

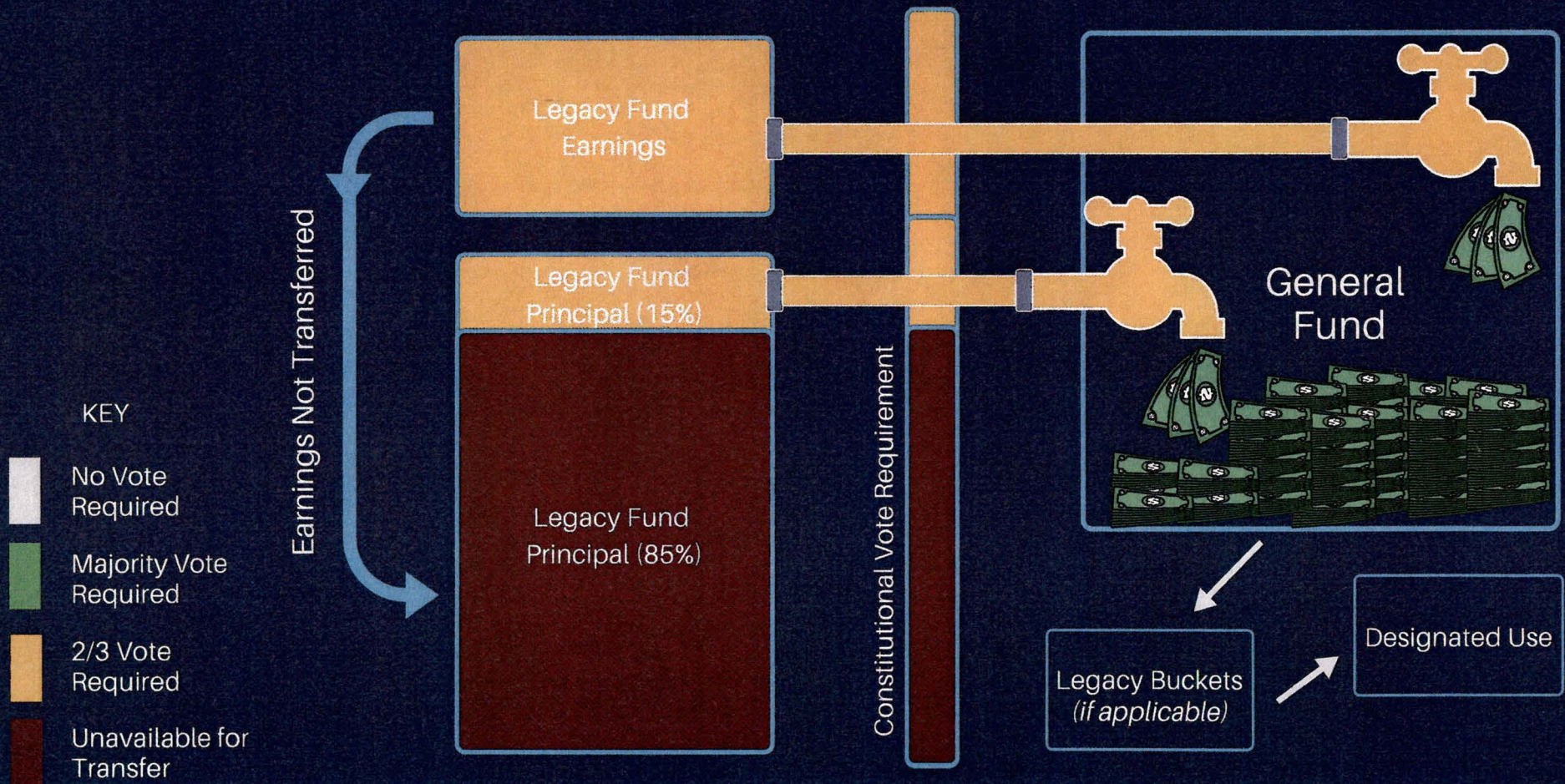
Legacy Fund: Currently

North Dakota's Legacy Fund was proposed by the 60th Legislative Assembly (2009) and adopted in our Constitution by voters in 2010. As established, 30% of oil tax revenue is deposited in the Legacy Fund in perpetuity. Realized earnings were reinvested in the principal through June 30, 2017, and realized earnings at the end of each biennium automatically transfer to the general fund. Up to 15% of the principal can be transferred to the general fund with 2/3 approval by each legislative chamber.



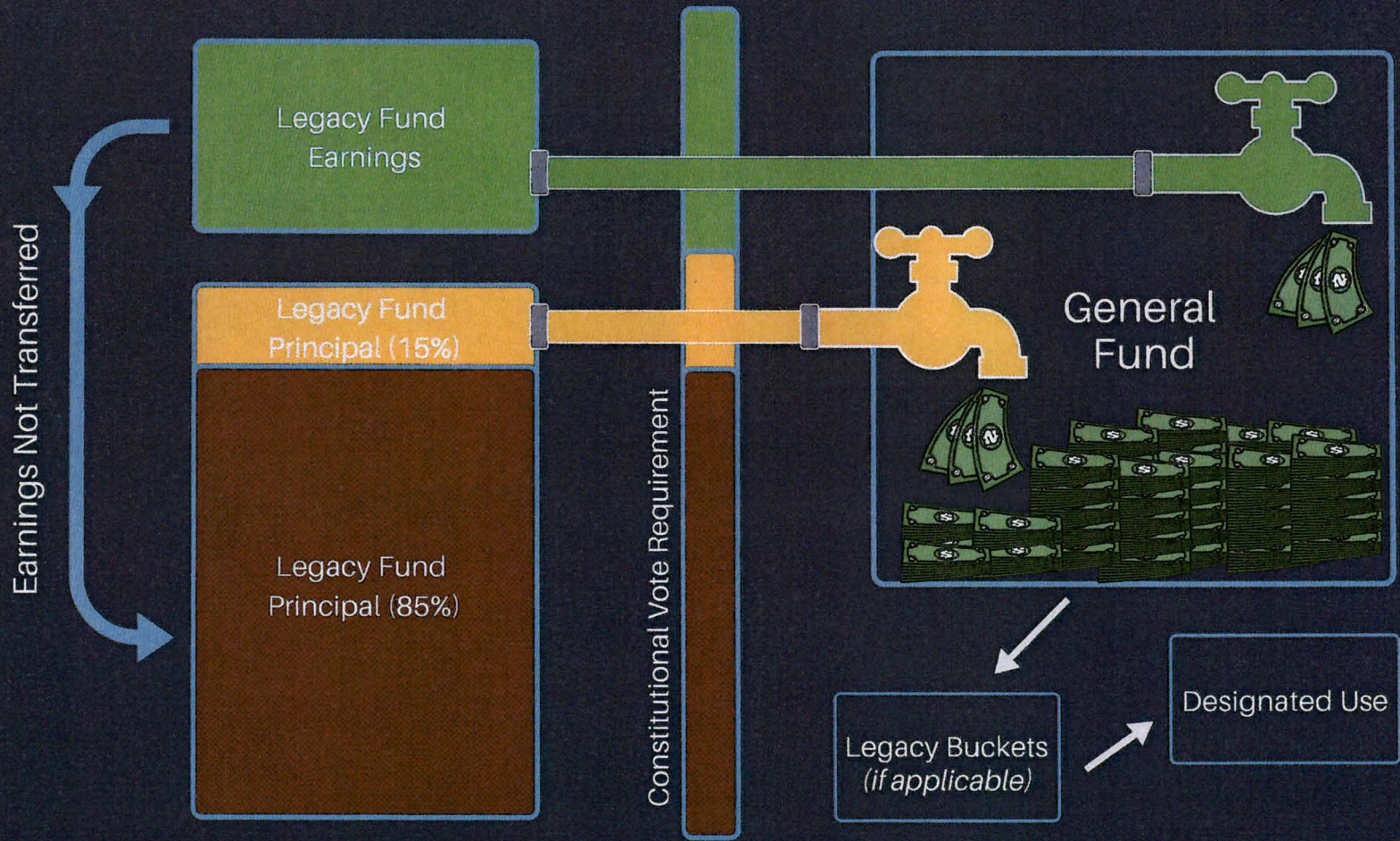
Legacy Fund: Earnings 67%

North Dakota's Legacy Fund was proposed by the 60th Legislative Assembly (2009) and adopted in our Constitution by voters in 2010. As established, 30% of oil tax revenue is deposited in the Legacy Fund in perpetuity. Realized earnings were reinvested in the principal through June 30, 2017, and realized earnings at the end of each biennium automatically transfer to the general fund. Up to 15% of the principal can be transferred to the general fund with 2/3 approval by each legislative chamber.



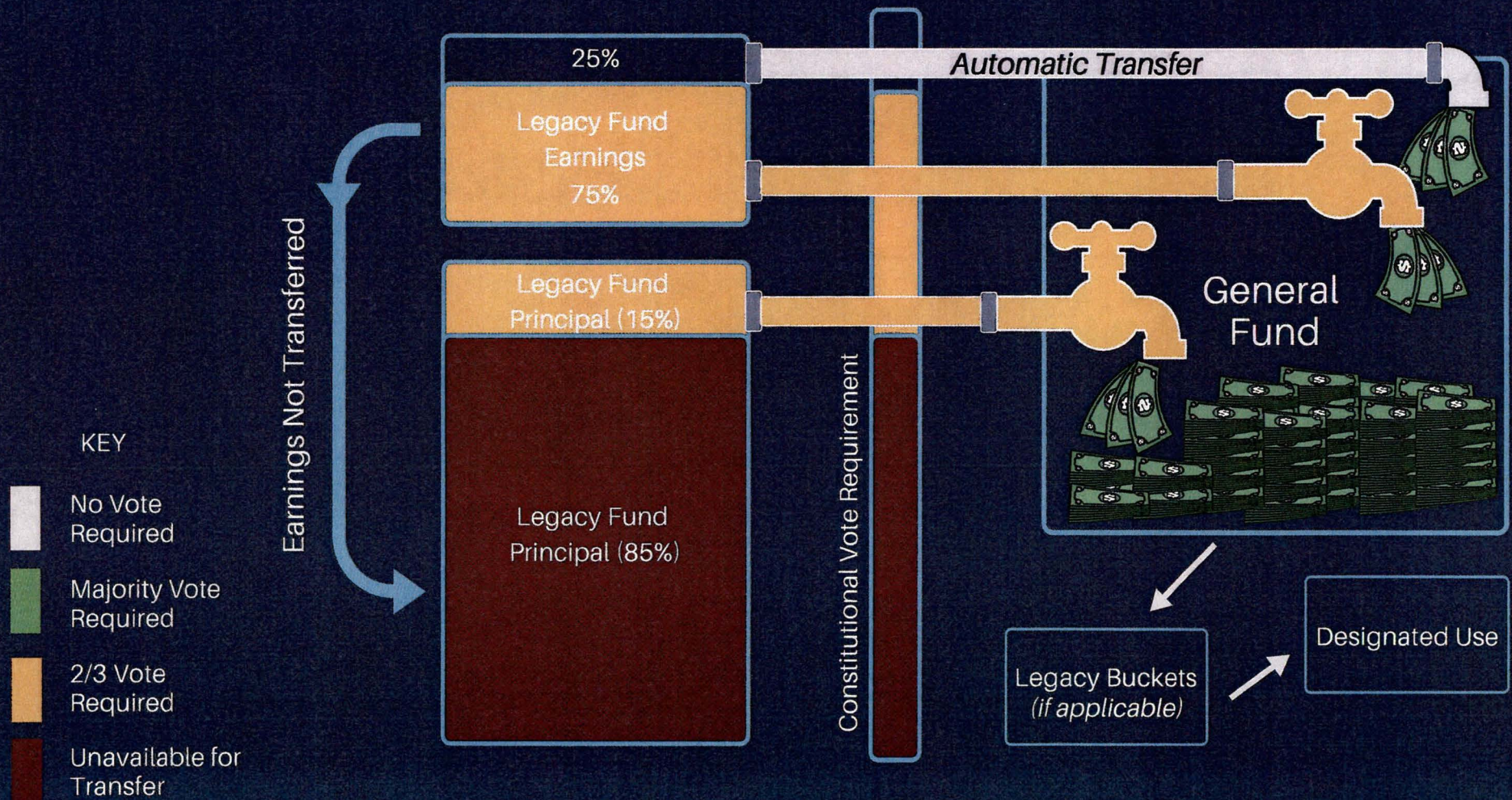
Legacy Fund: Earnings 50%

North Dakota's Legacy Fund was proposed by the 60th Legislative Assembly (2009) and adopted in our Constitution by voters in 2010. As established, 30% of oil tax revenue is deposited in the Legacy Fund in perpetuity. Realized earnings were reinvested in the principal through June 30, 2017, and realized earnings at the end of each biennium automatically transfer to the general fund. Up to 15% of the principal can be transferred to the general fund with 2/3 approval by each legislative chamber.



Legacy Fund: Earnings 25% / 75%

North Dakota's Legacy Fund was proposed by the 60th Legislative Assembly (2009) and adopted in our Constitution by voters in 2010. As established, 30% of oil tax revenue is deposited in the Legacy Fund in perpetuity. Realized earnings were reinvested in the principal through June 30, 2017, and realized earnings at the end of each biennium automatically transfer to the general fund. Up to 15% of the principal can be transferred to the general fund with 2/3 approval by each legislative chamber.

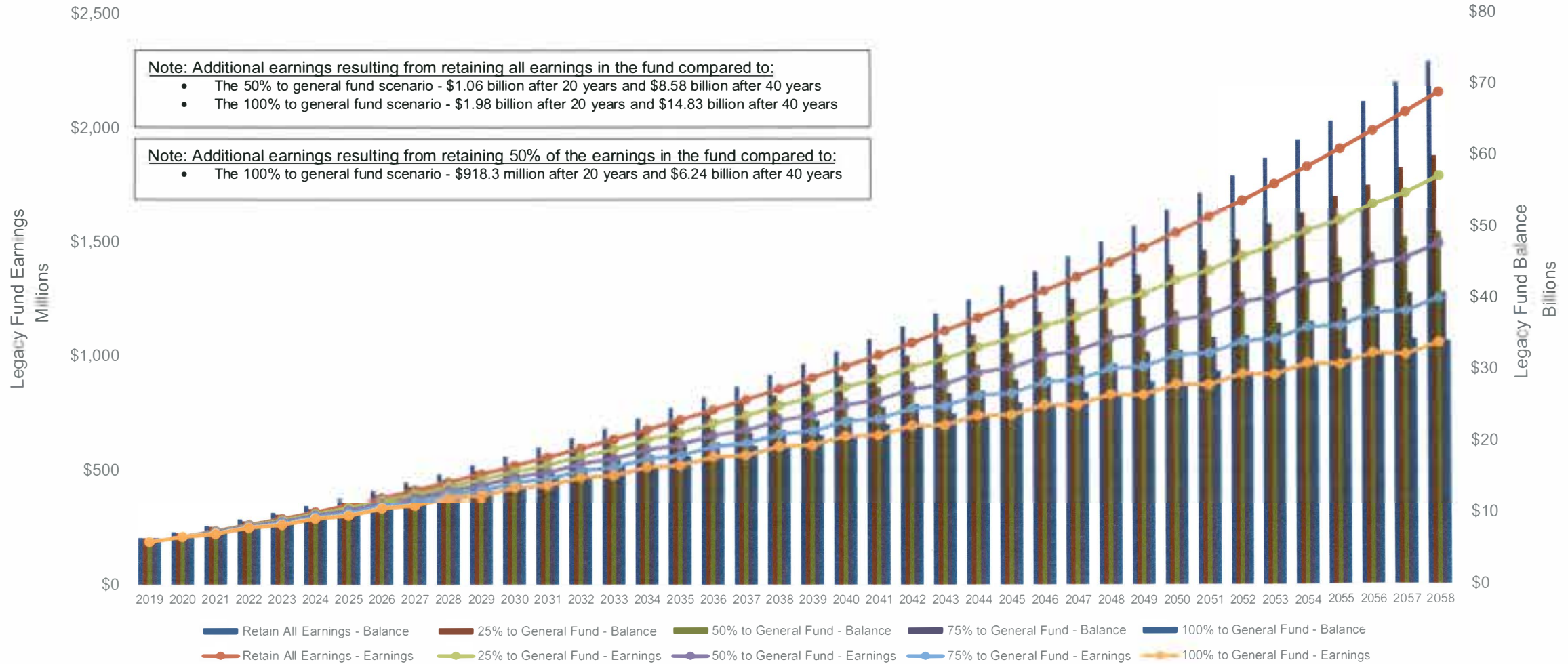


LEGACY FUND BALANCE AND LEGACY FUND EARNINGS - PROJECTIONS

This memorandum provides projections of the legacy fund balance, earnings of the legacy fund available for transfer to the general fund, and use of legacy fund earnings based on selected scenarios.

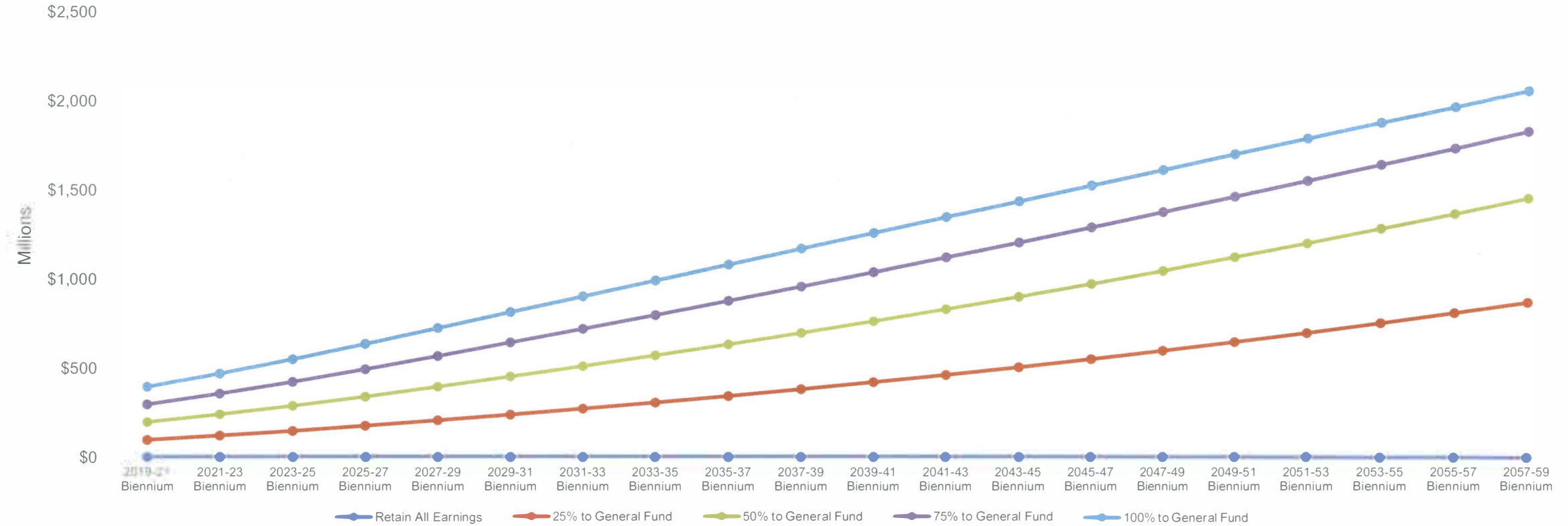
The graphs below provide projections for the legacy fund balance, legacy fund earnings available for transfer to the general fund, and use of legacy fund earnings using a 3 percent rate of return for five scenarios - (1) Retain all earnings in the legacy fund to become part of principal; (2) Transfer 25 percent of the earnings to the general fund to be spent; (3) Transfer 50 percent of the earnings to the general fund to be spent; (4) Transfer 75 percent of the earnings to the general fund to be spent; and (5) Transfer all of the earnings to the general fund to be spent.

Legacy Fund Earnings and Legacy Fund Balance
(3.00% Rate of Return Projection)



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Legacy Fund Earnings to the General Fund for Spending
(3.00% Rate of Return Projection)



The following assumptions are used for the legacy fund balance, earnings projections, and use of legacy fund earnings:

- Legacy fund balance and earnings are based on oil tax revenues deposited in the fund ranging from \$45 million to \$60 million per month through 2024, and then \$60 million per month thereafter.
- Legacy fund earnings are based on an annual rate of return of 3 percent.
- Use of legacy fund earnings as follows:

All legacy fund earnings are retained in the legacy fund to become part of principal;

25 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 75 percent are retained in the legacy fund to become part of principal;

50 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 50 percent are retained in the legacy fund to become part of principal;

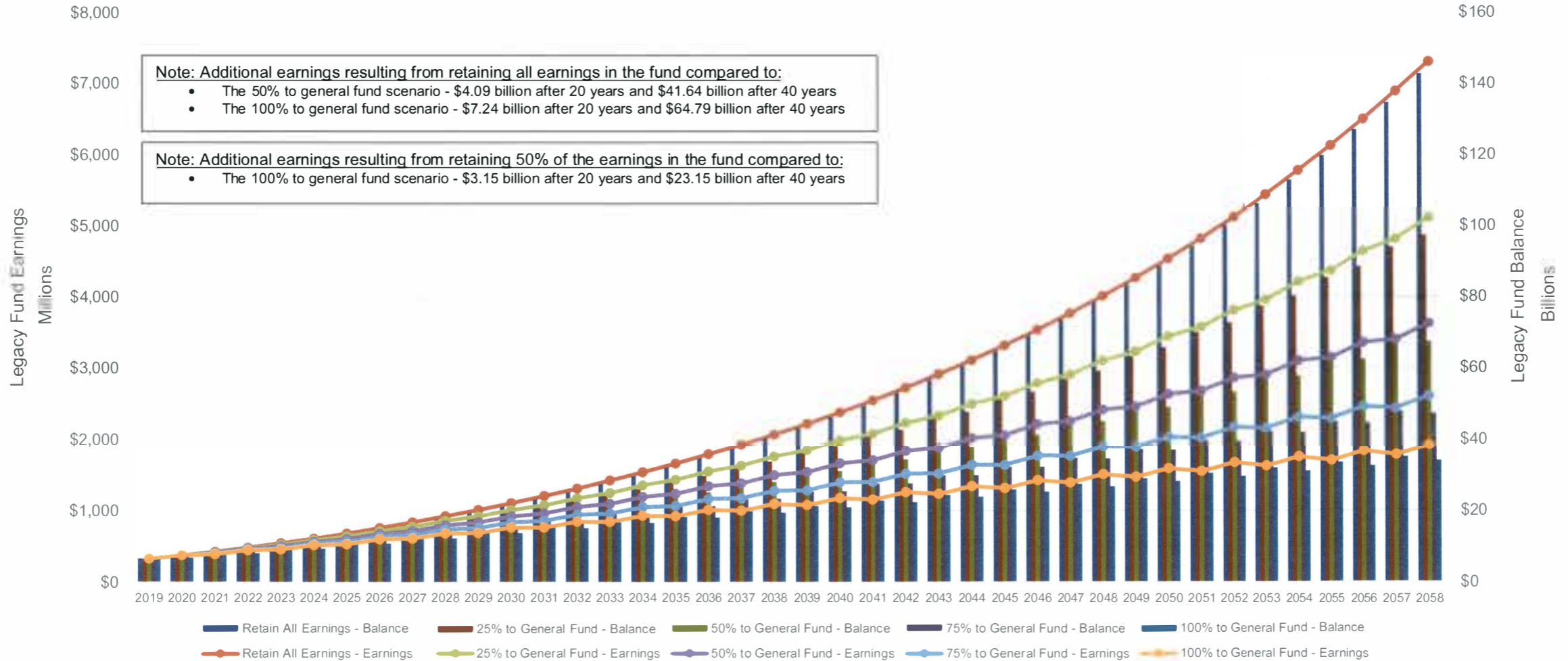
75 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 25 percent are retained in the legacy fund to become part of principal; and

100 percent of earnings are transferred out of the fund at the end of each biennium to be spent.

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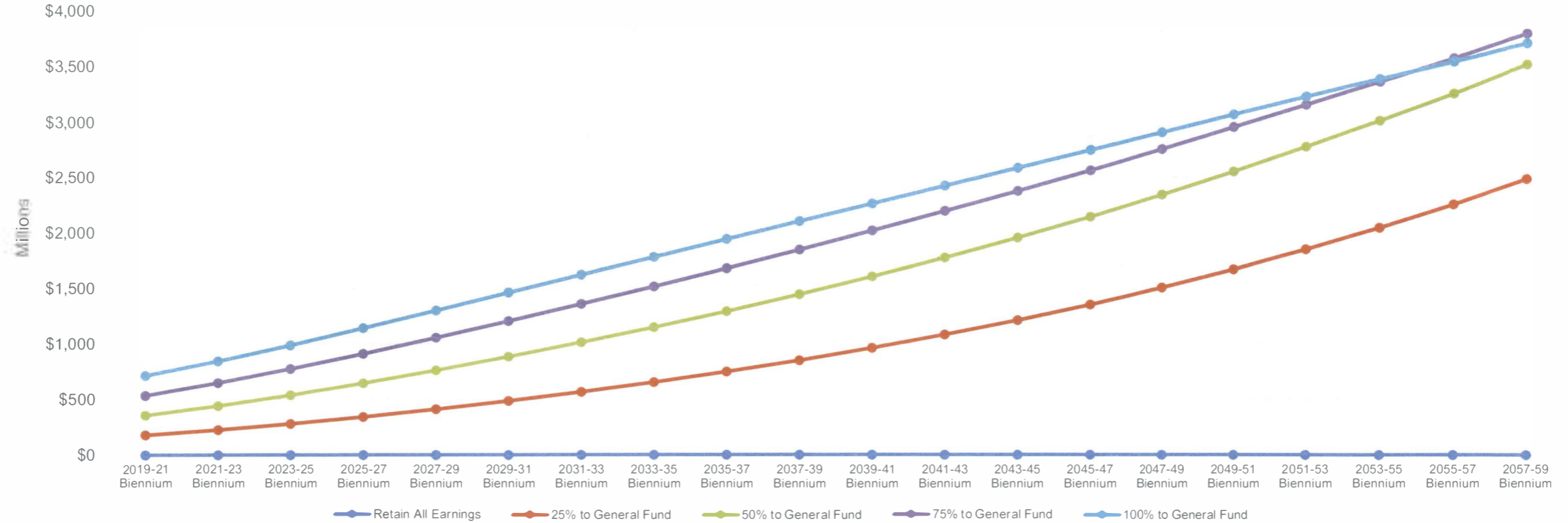
The graphs below compare projections for the legacy fund balance, legacy fund earnings available for transfer to the general fund, and use of legacy fund earnings using a 5.28 percent rate of return for five scenarios - (1) Retain all earnings in the legacy fund to become part of principal; (2) Transfer 25 percent of the earnings to the general fund to be spent; (3) Transfer 50 percent of the earnings to the general fund to be spent; (4) Transfer 75 percent of the earnings to the general fund to be spent; and (5) Transfer all of the earnings to the general fund to be spent.

Legacy Fund Earnings and Legacy Fund Balance
(5.28% Rate of Return Projection)



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Legacy Fund Earnings to the General Fund for Spending
(5.28% Rate of Return Projection)



The following assumptions are used for the legacy fund balance, earnings projections, and use of legacy fund earnings:

- Legacy fund balance and earnings are based on oil tax revenues deposited in the fund ranging from \$45 million to \$60 million per month through 2024, and then \$60 million per month thereafter.
- Legacy fund earnings are based on an annual rate of return of 5.28 percent.
- Use of legacy fund earnings as follows:

All legacy fund earnings are retained in the legacy fund to become part of principal;

25 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 75 percent are retained in the legacy fund to become part of principal;

50 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 50 percent are retained in the legacy fund to become part of principal;

75 percent of earnings are transferred to the general fund at the end of each biennium to be spent and 25 percent are retained in the legacy fund to become part of principal; and

100 percent of earnings are transferred to the general fund at the end of each biennium to be spent.