

FISCAL NOTE
Requested by Legislative Council
01/08/2019

Bill/Resolution No.: SCR 4005

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues					\$(300,000,000)	
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SCR 4005 seeks to amend Section 26 of Article X of the Constitution. It would require a transfer to the North Dakota First Fund of 15% of the principal balance of the Legacy Fund as of 7/1/21, and annual transfers of 15% of any principal increase and 25% of the earnings in each subsequent year.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If approved, SCR 4005 would require a transfer from the Legacy Fund to the North Dakota First Fund of an amount equal to 15% of the principal balance of the fund as of July 1, 2021. Using conservative (\$40 oil) estimates from the North Dakota Retirement and Investment Office (RIO), this would lead to a roughly \$1 billion transfer to the North Dakota First Fund (\$6.7B estimated value x 15%).

Furthermore, it would require an annual transfer of 15% of any increase in the principal of the Legacy Fund. In other words, 15% of the oil and gas deposits currently being deposited into the Legacy Fund would be transferred annually to the North Dakota First Fund. Again, using conservative RIO estimates of \$400M per year being deposited from oil and gas taxes, this would lead to about \$60 million per year being transferred to the North Dakota First Fund.

Finally, SCR 4005 would also require that 25% of the Legacy Fund's annual earnings be transferred to the North Dakota First Fund annually.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Currently, Section 26 of Article X of the ND Constitution requires the State Treasurer to transfer earnings of the Legacy Fund to the State general fund at the end of each biennium. If SCR 4005 is approved by the voters, this biennial transfer of earnings would continue however, it would be based on a lower balance in the Legacy Fund and would be further reduced by the required transfers to the North Dakota First Fund.

Assuming the initial transfer of roughly \$1B out of the Legacy Fund after July 1, 2021 and the subsequent annual transfers as spelled out in the fiscal impact section (2B) above, it is estimated that the Legacy Fund earnings required to be transferred to the general fund at the end of the 2021-2023 biennium will be \$300M less than would be if no transfers were made.

With the required subsequent annual transfers to the North Dakota First Fund of portions of additional principal increases and earnings, the difference in estimated Legacy Fund earnings transferred to the general fund versus the estimates if no transfers were made would continue to increase. Based on estimates prepared by ND RIO, the \$300M biennial reduction in general fund revenue could potentially increase to become an over \$1B biennial reduction by 2038.

PLEASE NOTE: These estimates are based on numerous assumptions regarding market factors, tax rates, oil and gas prices, and production levels. Changes in any of these assumptions could cause dramatically different results than what has been indicated above.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No expenditure amounts are included above however, there will most likely be expenditures incurred to facilitate the board activities of the North Dakota Infrastructure Board which would be created to administer the grants and loans of the North Dakota First Fund if this resolution is approved by the voters.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Ryan Skor

Agency: Office of State Treasurer

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Date Prepared: 01/14/2019

2019 SENATE FINANCE AND TAXATION COMMITTEE

SCR 4005

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

SCR 4005
1/15/2019
Job # 30785

- ☐ 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 use of the principal and earnings of the legacy fund to create the North Dakota first fund for the purpose of funding permanent infrastructure projects.

Minutes:

Attachments: 1-13

Chairman Cook: Called the hearing to order on SCR 4005.

Senator David Hogue, President Pro Tempore, District 38, Minot: Testified in favor of the bill. See attachment #1 for testimony. I want to take you back to when I was sitting where Senator Unruh is right now. At that time, we had a constitutional measure to establish the North Dakota Legacy Fund. For whatever reason, Mr. Chairman, you appointed me to that committee as the Senate Chairman and we went up with the house and crafted what is now the State Legacy Fund that the people ultimately adopted. The people voted on it in 2010. That fund is now approximately 8 years old. It is now a mature fund and it is ready to go to work for the people of ND. I have introduced this resolution to do three things. The first thing it does is leverage a portion of the principle and a portion of the interest to build our ND infrastructure projects. What the Legacy Fund does is collect 30% of all oil and gas revenues and they deposit those into the fund. As we know, the fund balance is approaching \$6 billion and will probably spill over that sometimes in 2019. I know there are a lot of people here to support the measure and I don't want to repeat some of the things they will say. I want to take you to page 5 in my testimony. What we heard last Thursday morning was the budget of the State Water Commission. We have some projects that are unprecedented in the state of ND. We have a flood control project in the Fargo-Moorhead area that is estimated to cost \$2.75 billion. We have the Minot flood control project that is north of \$1 billion. We have the Red River Water Supply Project that is suspected to cost over \$1 billion. We heard about all those projects Thursday morning. With those water projects, there is a state and local share. Hopefully there is participation from the federal government. If we think about the size of those projects and the fact that we decided to do them, that means we have well over \$1 billion of the state shares of those projects. I wanted to talk to the committee and for you to think strategically about how could we best control those costs. Is there any way to reduce those costs? The testimony we heard in the water commission is that you can bank on 2.8% inflation for every year it takes you to complete those projects. We were told that the Bureau

of Reclamation has done studies that show the inflation rate for pipes which is a major component of the Red River water supply project. You start to look around and you think, "How long are these projects going to take?" They are all designed with specifications that will take 20 years. My thought is; what if we could accelerate the construction on those projects by even 10 years. If our state share is \$1 billion and we are going to suffer 2.8-3.0 inflation every year, why wouldn't we want to build those projects on a shorter period of time? That is why we look at page 5 where you look at the portfolio of the Legacy Fund and you see we have about \$1.8 billion sitting in fixed income municipal bonds and their 3-year rate of return is about 3.9%. We could borrow a part of these funds out to these large projects and we would still be ahead. If we borrowed that money out at 1.5% that would be significant tax payer savings. It would also give us a rate of return that is equivalent to what we are doing now. I know people say "Why wouldn't we want to borrow to ourselves, rather than borrowing \$1.8 billion from some municipalities in Los Angeles or other big cities?" I think that makes sense for us as a state to take our resources and eliminate the process and the transactional costs that go with bonding and to borrow our own money to build our own projects. Everybody seems to agree that that makes sense. What I want to alert you to is the fact that there is a component and some serious thinking on the other side which is we do not want to touch the Legacy Fund principal. This is the people's fund. We want to leave it alone and let it build. I want to confront the them and the committee with a couple realities. First, every dollar of the principal of the fund is already invested somewhere. It is at risk. It just so happens that \$1.8 billion of it is invested in municipal bonds and other municipalities outside the state of ND. My first response is why not change that maximum and invest in bonds within the state of ND. This resolution does that. The second response is that the nest egg is a fallacy. Go to pie charts on back of my testimony. I have given the last four constitutional amendments on the ballot. We start with Marsy's Law. What you have there is a pie chart that shows where the funding for that constitutional measure came from. One hundred percent of that came from an individual from a different state who engaged professionals within this state to propose and gather signatures and to pass a constitutional amendment that reformed out criminal justice system. The legislature and the process did not happen. The second one is called the "North Dakota for Citizen Voting Funding Sources. That is 100\$ funded by out of state interests, put on the ballot and passed. The next one you see is the measure 1 that was also on the ballot in 2018. The funding for that one was 91% from folks from outside of state. The final one that I have prepared for you is the North Dakotans for Clean Water, Wildlife, a Parks Funding Sources. This was on the ballot in 2014 and that was 87% funded by out of state interests. My point in providing these to you is because the nest egg argument has to confront this and say "If we don't put up a wall around our own Legacy Fund this session, we are assuming that nobody else will have any interest in this Legacy Fund after we go home. I do not think that is a very good assumption. The fund is at \$6. We are seeing a lot of proposals within the legislature on what to do with the interest. However, the opportunity to use that fund for property tax relief for you and I, I don't think that is a legacy objective but it is a real possibility. This resolution states that legislature thinks it is a good idea that out of all the universe of Legacy projects we could do infrastructure which spans multiple generations which benefits multiple people within the state of ND. It is a worthy project for Legacy Fund expenditures. When you start to compile the raw data on how much we are going to spend on the water projects over the next decade, it only makes immense sense. We declare to the people of North Dakota and to the individuals who would amend their Constitution, that this 15% is now walled off because we are putting it in our Constitution. I also have an amendment to SCR 4005. (See attachment #2). The amendment

actually puts a sunset into this constitutional measure which means if for some reason, it's not working out the way we want. For example, we are spending too much on infrastructure, we are not spending enough on infrastructure, or the legislature in 15 years comes to the conclusion that we do not need to do this anymore. All the projects could be done and they could have enough money to do the highway projects and we have a separate fund for other infrastructure, the legislature will then have the capacity to limit this fund. I put that in there because I think of a shortcoming that was in our Legacy Fund that became law and that is when we created it, we said the legislature would have to approve any spending of Principle by a 2/3rd vote. We didn't put any such restriction on a vote. In reality, you can have a constitutional measure that passes by 50% of the people, take as much principle they want for whatever purpose they choose. I am proposing that this measure be put into the Constitution but I also think there should be the ability of the legislature to sunset that. That is the purpose of the amendment. I know people after me will want to testify in favor and opposition after me. However, I really would like the nest eggs mentality to say "You don't want to touch this principle. Why don't you want to invest it in ND projects as opposed to municipal projects across the country?" If we don't do something with the infrastructure now, what is a better use of these funds down the road and are you prepared to have that use dictated by an out of state interest that will put something on the ballot as soon as November of 2020. With that, I will be happy to take any questions.

Chairman Cook: For the record, the actual mechanics of the bill you are taking, I believe it is 15% of the principle every biennium and 25% of the earnings every biennium and that is going into another fund that is used for infrastructure. The interest on loans for that fund would be what?

Senator Hogue: That would be set by the body that establishes it. I wanted to clarify, it is 15% of the balance on a date set in 2021 and then new accumulations of principles. So, it is not taking 15% every year, it is taking the new accumulation. The reason for this 25% interest is the small committees that still do not have the ability to repay. The governing body would have the ability to make a small grant from the fund. I forgot to mention the other key feature of this proposal. That is, we decentralize the decision making process on what the important infrastructure projects in this state are. This proposal would say that the legislators, county commissioners, and mayors are going to be involved and all of them together, are going to make that decision.

Chairman Cook: The decision that these folks would be making is what percentage of dollars given to a community will be a grant, what percentage will be a loan and what that interest will be on the loan?

Senator Hogue: Yes, that is true.

Senator Kannianen: Is there a specific definition for permanent infrastructure?

Senator Hogue: No there is not. The constitutional provision gives authority to the infrastructure board to establish guidelines.

Senator Kannianen: So there are nine members of the board and then with say a low interest grant, will there be enough representation from the smaller population areas to not get covered over by the bigger projects?

Senator Hogue: That is within the discretion of the committee. I put four legislators on it. I feel like we are still spending the people's money in the Legacy Fund and so we want legislative oversight. But yes, the small towns are a minority of all our representative government whether it includes this body or others. I think it is fair but I think reasonable people could disagree about what the representation should be. I firmly believe there should be legislative representation

Senator Dotzenrod: In your testimony, you referred to the amount of money that is in the Legacy Fund that is fixed income shares which looks to be about 1/3. If the 15% principle comes out of the legacy fund, would that 15% be spread out evenly throughout the investments in the fund or take the place of part of the legacy fund that is currently invested in fixed income.

Senator Hogue: That would be in the discretion of the State Investment Board. There is a date certain that gives them time to start moving around the substantial assets of the fund. When certain things mature, they could set those aside to be in this fund. I do not have any idea as to what should be the portfolio mix for the board.

Senator Patten: Would this become a revolving loan fund so that it could be borrowed?

Senator Hogue: Yes. It is to leverage the legacy fund to provide below market interest loans and be repaid into the fund. That would also be part of the fund that the legislature looks at in 15 years to say "The money's loaned out are now coming back into the fund, and we no longer need to take 15%, we can take a smaller one." The program could also be so successful that they would want to leave it at 15% or even go more. But it would definitely be a revolving loan fund.

Senator Patten: Would these investments be carried in the book as an investment or would it be carried off the books?

Senator Hogue: It would be off the book. It would be equivalent to what we have with the State Water Commission. They have a budget and it is contingent on how much goes into the water resources trust fund. It is still a fund but it is basically with the discretion of the state water commission and the legislature to manage the those.

Senator Curt Kreun, District 42, Grand Forks: Testified in favor of the bill. The definition of legacy is the amount of property or money left to someone in a will. SCR is a creative way to utilize the funds our natural resources have afforded us in perpetuity. The goal is to devise a way to expend these without depletion and benefit the citizens in ND. This can be accomplished by reducing expensive infrastructure costs. With the mechanism in place, it can help stabilize the municipality budgets that many of our communities across the state have such infrastructure needs. The needs can be such as sewer and water main repairs, landfill repairs and updates, as well as roads. Many years ago, the majority of our basic needs were funded with federal funds. The maintenance and replacement is coming home to roost.

As we have seen, federal funds are minimal and sometimes not existent. It has become the responsibility of each entity to generate its own income sources. This fund could reduce the bonding fees, federal fees, and extra lending fees that are all associated with borrowing money. The interest rate would be lower and stabilize their budgets. From my past experience as a city council member and school board member, I can attest, if this method of funding was available, entities would have benefited from the revolving loan fund. I believe the SCR meets the intended of the Legacy Fund and is a benefit to the ND citizens. Vote for a Do Pass, thank you.

(25:57) Senator Brad Bekkedahl, District 1, Williston: Testified in support of the bill. I would echo the comments from the sponsors before me that this really is a legacy issue for the state of ND. In my 24 years of city commission and well as 8 years or park board experience, I do have that local experience and I can see the value of this type of long term funding mechanism for those entities. I take another step in that it is not just a legacy project, but a project in terms of reducing the cost to the tax payers who, ultimately, would bare a lot of this burden. Ultimately, these are legacy projects because they do not only build the infrastructure of the locality, but they build the infrastructure of the state and provide economic development opportunities for all of us. It is really about growing ND. I ask for Do Pass. I will stand for any questions.

Tim Mahoney, Mayor of Fargo, ND: Testified in support. See attachment #3. I also am testifying a report from Lake Agassiz in which I will just pass out the written testimony to save time. See attachment #4.

Chairman Cook: It is obvious that the legislature has infrastructure needs of cities and counties at the tops of their priority lists. There is another bill out there that is labeled "The Prairie Dog Bill". That is sending a lot of money to Fargo. Safe to say, you are not going to get both. Which one do you like better?

Tim Mahoney: Right now, the diversion is top on our priority. The Legacy Fund would be very helpful to that.

Shaun Sipma, Mayor of Minot, ND: Testified in support of the bill. See attachment # 5. Let me first reiterate the point that Senator Hogue had emphasized. That is that the principle of the Legacy Fund is already being used to fund the infrastructure for political subdivisions around the county. To an extent, the Legacy Fund is invested in municipal bonds in other cities around the country and it is outside of North Dakota that is being deployed for those funds for the benefit or their community and their citizens. Looking at reserving a portion of the fund for an investment in ND communities for our own needs, results in no more risk to that principle than what already exists for the investments in those community's infrastructure if we take a look at it right here in ND. Taking a look at the bill before us, it really makes an impact for each and every community. I want to talk about the impact to Minot specifically. Minot is still recovering from the flood of 2011. It decimated the entire heart of our city. We are dedicated to building a flood control project that would protect us against that flood of record. The impact to that community, is a matching fund of more than \$350 million for a community of our size in which we are funding the entire basin wide project through our local match. We are taking a look at financing vehicle that could save us more than \$100 million in the difference in the interest rate. That is significant to a community of our size. We are

talking about taking on a project of that magnitude. What Senator Hogue did talk about is the time it takes to build some of these legacy projects like flood control. It takes generations. It takes 20 years in respect. Those 20 years are also time where we watch the flood risk change within Minot and other cities. That is also time that those flood insurance rates are going to increase significantly. How do we quantify those benefit rates to that loan and to all those dollars that will be funneling out of ND each year from every community that is working on flood control? We urge you to give a do pass. Stand for questions. To quantify that benefit to the communities, not only in the savings, but to the dollars that will be going out of state like flood control. It is impact directly to each and every citizen within those communities. It also impacts the year to year budget as we watch more and more dead when we talk about \$350 million to those communities. As they bond to those, they decrease while costing them more and more every time they go out for a general project. We are in vast support of passing the SCR 4005. We urge you to please give this a Do Pass.

Jason Benson, Cass County Engineer: Testified in favor. See attachment #6.

Ryan Ackerman, Administrator of the Souris River Joint Water Resource Board: Testified in support of the bill. See attachment #7.

(41:40) Ryan Jockers, Vice Chair of the Lower Heart River WRD: Testified in favor of the bill. See attachment # 8. I wanted to give an overview of what we are trying to accomplish in the city of Mandan. We have been working for several years on rectifying this. We have given the State Water Commissioner roughly \$35 million. We are not a large tax base. We are quite limited in our options in funding. Once the cost share is gone, we have to turn to specially assessing our district which we do not like to do. The city of Mandan is already doing many projects. Many property owners cannot afford another assessment. They will not be able to make their house payments. We are doing everything possible to lower that cost and challenge FEMA to lower this cost so we are not putting the burden on our tax payers. With that being said, we have met with the city of Mandan's city administrator. We have discussed many methods in developing this project. We have worked hard to ensure the citizen is minimally impacted. We will hopefully determine the cost this spring or summer. We are working with our local legislators to ensure everyone is on board and understands our situation. Lastly, Lower Heart does not qualify for loans that could provide funding for flood control projects. As we said before, this is not a thing that will be needed down the road, this is an immediate need and will continue to be. We work with these people all the time and it is a consistent issue that will always come up. We will always need funding to provide the safety for our citizens and property owners. It will never end. It will continue even 50 years from now. So SCR 4005 will provide a solution to provide access to low cost dollars. I see the entire complex system that is dependent on each other, so we have a huge burden but yet a huge opportunity to ensure that system is in place and everything is safe and to keep the dollars in our economy instead of having it flow outside of the state. We do everything possible to keep the money in our cities and lower the tax burden for the property owners. Any questions?

Chairman Cook: How much are you in line to get from the state?

Ryan Jockers: Roughly \$35 Million. Our current expectation is that we can cut that in half. We are working on getting that lowered.

Chairman Cook: You are getting what, \$22 million from the state?

Ryan Jockers: We haven't got our application approved. I believe current cost is 60%. The remaining dollars would have a very significant impact on the city of Mandan.

Larry Bares, Chairperson of Southwest Water Authority Board of Directors: Testified in favor of the bill. See attachment # 9. Read word for word.

Bill Wolken, North Dakota League of Cities: Many of our cities face the need for major investments in their infrastructure. Infrastructure extends for years and it is very durable. It fuels economic activity and it is an investment in our own needs. Since it has been about 10 years since the fund has been created, it would seem prudent that this is a good time to ask the voters for what they would like to see form the remainder of the fund. I will not stand for questions.

Chairman Cook: What do you think the chances of this bill and the prairie dog bill are going to pass?

Bill Wolken: I couldn't answer.

Chairman Cook: If you had to choose, which one will you prefer?

Bill Wolken: I am not able to answer I will get you one though.

Lance Gaebe, Executive Director, North Dakota Water Coalition: Testified in support of the bill. See attachment #10. This coalition is made up of all the projects you just heard and also the representatives of those organizations plus a number of other law related organizations and water resource districts and cities and so forth. They have all joined together for the past 20 plus year sot try to coordinate on the water funding needs. We are really excited about this measure. The document I shared is the 11th version. We have been doing this since 1994. I wanted to offer you a summary of a lot of other projects. This is that summary and their respective needs. The back page is cost allocations. The one part that is not in this is the current biennium needs. The presentation to the appropriations committee showed the total needs just for the next biennium was over \$750 million. With resources and trust funds that had been forecasted at \$400 million but that, with the revenue forecast, dropped by \$50 million. So, we are at half the money available for the projects that are currently able to proceed. What I would emphasize is that the water coalition stands to help this through the next step. This is a long process. Your hopeful adoption of this resolution, would put it on a ballot so we would do a public relations effort to make sure the voters understand the value of this and the value of putting it on the measure. It is not just something we would work on today, but something we would work on for the long haul. With that, I will stand for questions.

Julie Ellings, North Dakota Stockman's Association: Testified in favor. I wanted to bring it to your attention that this was a concept that was discussed by our members at our annual convention and one that was ultimately indoors. We too would urge your do pass on this bill and bring this to a vote of the people.

Chairman Cook: Are there any more testimonies in favor? Opposition?

Kelly Schmidt, State Treasurer: Testified in opposition of the bill. See attachment #11. I would first like to respond to a few comments that have already been made. First, I have concerns related to the board makeup of this resolution. There is nothing in the makeup that addresses investing and managing the fund other than the side of expenditures. The dollars as we see, is that they would go into a comingled general fund and that has the opportunity to grow in the way in which billions of dollars should be managed. There is also a lack of understanding related to the investments the State Investment Board has made relating to the Legacy fund. \$200 million to date, is placed and invested with the Bank of ND for a bow down program and it is my recollection and I could stand to be corrected by the Chief Investment Officer, but less than \$50 million of that \$200 million is being utilized currently by the Bank of ND. (55:28) Started reading word for word from testimony. (56:55) I believe we have an opportunity to use Legacy Fund earnings for the sake of infrastructure should that be at the decision of the legislature. The legislature has the opportunity to use the heirlooms from the fund to their discretion. Should the deposit be required to date, we would be looking at \$342 million to be transferred to the general fund. That being said, that is as of the end of November. We all know what happened to the stock market in December. Those are estimates to this date. I want to remind you that the 2017 legislative body, appropriated \$200 million which we are giving a tax free loan to the general fund to balance the budget in the last biennium. If the deposit were required today, it would only be \$142 million because \$200 million has already been spent. Mr. Chairman, I believe in standing opposition because I believe the citizens of ND, when they created the fund in 2010, with a 69% approval, had the intent to think of this as inner generational and I do not believe this resolution accomplishes that intent. With that, I will stand for questions.

Chairman Cook: I did believe that sooner or later during the testimony, that someone would put some numbers to 25% and 15% and I thank you for doing so.

Senator Dotzenrod: One sentence says, "If we continue to do these transfers as spelled out in 4005, it would increase to be about \$1-billion-dollar biennial reduction. That is those earnings which you compound and you start taking money away that would normally get invested and I am wondering if advocates of this would say, "Well, that is true but, if you don't do this, then those interest out there that are trying to fund these water projects, are they going to have to be borrowing money and finding ways to pay for that?" It is essentially a transfer that is they are going to have \$1 billion worth of extra cost for themselves that will go on property and other fees. If we can find ways to fund this, we avoid a tremendous amount of costs. It looks like your statement is correct but that there is also extra cost now that will go with those projects into the future if we do not do this. Is that a fair way to look at that?

Kelly Schmidt: A lot of it is a philosophical change. What you may agree to and what they may agree to, is very different. The constitution names the State Investment Board as a fiduciary responsibility of the Legacy Fund. I stand here as a fiduciary member of that board and as a fiduciary member of the Legacy Fund. If we are patient, then this fund can create a large amount of wealth to the people of ND. I find it very interesting that this is the very first time that the principle can be even considered to be spent. We are going to deposit the earnings in July 2019 and all one has to do is take a look at the number of bills that have been dropped that are relating to how we are going to spend. Those of us who live frugally,

and run our agencies with great fiscal responsibility, believe that this is a head shaker. With that, I stand for more questions.

Senator Patten: Could you address your thoughts regarding the risk of the initiated measure that would choose a different path way for the fund whether it is just the interest earnings or even the principle.

Kelly Schmidt: I have concerns when we look at the difference between the prairie dog bill, which my agency would facilitate and I am very close to and this resolution. I do not believe the Constitution was ever meant to be a working document. When I hear the sponsor of the bill talk about how we should put something in that piece, which says that in 15 years if something were to change, we could do something different. That to me is a working document. I think it is challenging when you ask the people of ND to pass something like this because typically, it has been my experience that if they don't understand it, they don't know. I think this would be very difficult for them to get their head around. If you would ask me, after hearing all of the testimonies that I have, I would bet that the likely hood of getting the prairie dog bill passed and moved forward with the opportunity to change as necessary, has a much higher rate of happening than putting in a constitutional resolution.

Senator Patten: I guess I was more outside groups such as Senator Hogue mentioned, that could come in and start a new initiated measure that would have an impact on this. We do not have an idea of what direction this would go or what the use of this would be.

Kelly Schmidt: We have visited with the Attorney General's office about that. Depending on what was brought forward and what was passed by the people and what type of resolution, it would still require a 2/3 majority vote by the legislature. I guess, I heard that argument and I think there are people here that would address that argument better than I would, but I have to wonder if their mind set is that we have to be careful. I do not think we can govern with the intent of what could be or what we should have done. We have to govern with what is in front of us.

Connie Triplett, Grand Forks Resident: Testified in opposition to the bill. See attachment # 12. **(1:11:35)** For those of you who are new, I want you to know that the property tax was such a huge issue back then because the state was pushed to reduce its commitment to public schools to the point that property taxes has risen across the state but in very uneven ways depending on the wealth of different communities. We had high property taxes caused by high school property taxes. We had school districts joining together which was threatening suit against the state of ND for the lack of equity that was causing across the state. I give a huge amount of credit to Attorney General Dalrymple who headed up the educational equity process which really saved those lawsuits and brought some common ground on how to solve that issue. Educational funding was top of mind for people in those days and that was the thing we were working to prevent a repeat and that's the prime reason that the decision was made to move forward from to 2040 access point back to 2017. **(1:13:17)** Continued reading from her testimony. **(1:16:30)** I believe we have a huge obligation to remember that this is a onetime harvest and it is not going to happen again. It could end at various time depending on how the world progresses. We have a hard time predicting what the price of oil will be in 6 months and how long oil is going to be productive in ND. It may become less desirable. The rising climate change concern may hasten the research and development into

renewable energy and other sources of energy which may have some affect. At some point it also could just simply be used up whether we are talking 60 or 100 years from now or is we are talking some dramatic change in federal policy 10 or 20 years from now. It is thoroughly out of control of this legislature as to when that is going to happen. We do have to think of these as one-time funds. To preserve the idea of the one-time harvest and the legacy for the future, the proposal in front of you is inappropriate. I do want to go back and talk about the passion that I heard from people for infrastructure dollars. I appreciate Chairman Cook's suggestion that likely only one of the bills will pass. I have no issue with the state spending a lot of money on infrastructure. It is one of the basic things the state does. Traditionally, roads but now we count water and sewer projects as infrastructure. We have made enormous investments in western ND in bringing infrastructure up to standards over the course of the oil boom in response to the large influx of people and equipment. No arguments that infrastructure is needed but we probably need a better way of working with our local municipalities to accomplish that. I am not here to oppose infrastructure spending by this legislature. You have the SIF Fund which was Senator Cook's brain child and plenty of other opportunities. You heard the treasurer talk about the investment policy inside the Legacy Fund specifically for investing in ND. That would possibly be enhanced or improved. My most strenuous objection to this resolution is the notion of handing off a very large piece of the dollars to yet one more separate board that will likely not have the resources to manage it appropriately as the treasurer mentioned. We have a state investment board process that has been in place for many decades and has developed a certain amount of expertise and they contract with investment corporations to manage our investments as best as possible. Whether they choose to invest in real estate out of state or within ND, that is a decision for the current investment board and it does not give reason to take this large amount of money and pass it off to a different group. The legislature has already given away far too much of its power to various groups and subgroups. I think at the risk of this resolution, I would urge you to work it up and change it. Take the worst parts of the governmental structure so it doesn't see the light of day. You can't let this bill go forward as it is. It is just wrong. With that, I will stand for questions.

(1:21:25) Sen. Dotzenrod: Do you see any distinction between spending and setting aside funds for a revolving fund?

Connie Triplett: Yes, I heard several of the presenters here say that there was no additional risk from investing in ND. That may be depending on how this is structured. If it stayed inside the Legacy Fund and with the policies that are already in place, I probably wouldn't have a concern with it. If it goes off to a group of people who are more self-interested in getting their hands on the money in the first instance, I would be concerned about who is going to enforce it. If someone defaults in the loan, is the state really going to go out and due Fargo or Cass County if they default on a loan? I think it is really dicey to start getting into those kinds of issues, especially when the board is made up of the people who are essentially giving themselves loans. I don't know where you start but I think you have to start with the structure in fixing this bill.

Senator Patten: If the fund money that was used were to stay in the Legacy Fund, and you replace municipal bonds with ND bonds where you add another line that says ND bonds. Does that change your opinion about what we are doing? So it would stay as a component of the investment the Legacy Fund makes.

Sen. Connie Triplett: I don't want this resolution to go back out to be voted on again. I think the power exists for them to choose to invest some of those dollars in ND if they pass muster in terms of being quality projects and quality opportunities. If the key is that the municipalities want a reduced interest rate that do not satisfy the Legacy Fund, then maybe there is a way in companion pieces to fix ones to say that the Bank of ND would do buy downs on interest rates so that the local groups get what they want. You still need to maintain the integrity of the current Legacy Fund and the current investment policies.

Senator Patten: What do you think of the risk associated with other initiated measures that may come up that would redirect the Legacy Fund to something different.

Sen. Connie Triplett: I think it is a scare tactic to get this bill passed.

Representative Dave Weiler: Testified in opposition to the bill. See attachment # 13. Item #4 on page 2 of the bill, I did not hear this from Senator Hogue or anybody else. I want to clarify that this bill attempts to take 15% of the principle balance but it also says "and annual transfers of 15% of any increase in the fund. I would assume that is the principle balance of the fund. I wanted to see if that is exactly what they are attempting to do. This fund is in its infancy. We just started it 8 years ago. If you look at other states who have done this, the amounts are so high since they have left it alone. It has been asked when there is going to be enough money to take out of the principle balance. If not now, what year can we start doing that? Our answer to that is that we are not sure, but today is not the day. I would like to respond to Senator Patten's question about the risk associated with the risk of this going back to the voters of ND. I will always trust the voters of ND and I do not think they will fail. Oil is a finite resource. Those revenues from it are someday going to begin declining. It is our hope that if this is allowing to grow and get big enough, our kids and our grandkids will enjoy a lot of revenue from grant resource.

Senator Patten: Thank you for answering my question. Isn't that what this bill would do?

Rep. Dave Weiler: Yes. If it goes to the voters, I would trust them to not support this.

Senator Dotzenrod: There have been a few comments about what authority rests currently inside the Legacy Fund and what authority to they have to go ahead and provide ND bonding projects. I want to let the committee know that the current state investment management board is here and if we have questions, we can ask him since he is here.

Dave Hunter, Chief Investment Officer and Executive Director, ND Retirement Office: If you could rephrase that question for me, Senator Dotzenrod.

Senator Dotzenrod: Is the authority currently in the way we manage our Legacy Fund to provide bonding projects. I think there are some Bank of ND projects that have been some Legacy Fund extensions of revenues or ability to use some of that. I thought it would be good to clarify what is there.

Dave Hunter: At this point in time, a \$200 million program outstanding for the bank of ND match loan CD program. When it was established, the Legacy Fund was at \$4 billion. It was

est. at 5%, hence the \$200 million amount. Assuming we are getting close to \$6 billion now, if you do the 5% you could have a capacity potential as far as \$300 million. There is capacity with legislative direction and even with the advisory board as a client, the client creates the investment policy statements and submits it to the state investment board for approval but we work together to have the appropriate adjustment for risks and returns. If we are fortunate enough to have a Legacy Fund that generates \$7 billion as of July 1, 2021, and we were to take 15% out, that would be over \$1 billion. If you earned 6% which is the expected long term rate of return on the Legacy Fund, over the next 20 years, that 6% return would turn into \$3.2 billion. It is an opportunity cost. If instead, we gave it to a different allocator of assets, and they earned 3%, that 3% return would go up to \$1.8 billion. So there is an opportunity cost of about \$1.4 billion. Just from a numbers and sense standpoint, there are costs both with and without doing things. We have been blessed to earn over 6%. That is approximately about \$1 billion. If you have \$1 billion you take it out on July 1, 2021 and invest it at a 3% rate that would equate to about \$1.8 billion if you keep it in and we are blessed to earn 6%, that would equate to \$3.2 billion. That is just the first proposed transfer. The only other question I had in regards to the way in which the bill was drafter, is the talking about earnings. Earnings is not clearly defined. When you talk about earnings, there are actually two grabs at the definition. There is one 25% of the earnings would be used every fiscal year and then the rest would be transferred to the Legacy Fund for general fund purposes. It seems like there are two. Legacy Funds get one-point transfer from the treasurer at one time and then there is another at 25%.

Senator Patten: Senator Hogue brought up the municipal bond component and you talked about the 6% return. In that mix, you have some very high earning assets and some that don't earn as much and I think the municipal bond was around 2%. Is that correct?

Dave Hunter: We do not have a dedicated asset allocation to municipal bonds, we have a dedicated allocation to fixed income that earned about 3.9%. Our municipal bond rate is probably close to that 2% rate. Again, when we are making investments, we are trying to choose the best risk adjusted rate of return of everything that is out there in the world.

Senator Patten: Using the idea that at least a component of that investment portfolio is going to be in that level of category, I wanted to get your thoughts about having that component be part of ND bonds that wouldn't be available at a similar rate to that 2%.

Dave Hunter: We have a dedicated asset allocation for the Bank of ND match loan cd program. It is similar in nature. It is part of our overall fixed income allocation which is part of our overall asset allocation which is 50% equity, 35% fixed income, and 15% real assets. We step back and say "if it makes sense from an overall portfolio perspective, we pursue it. As already discussed, we do have a committed program with \$200 million to the Bank of ND outstanding already to help support ND's economic interest.

Senator Patten: Do you believe the investment board has the authority to do something like that right now?

Dave Hunter: The way the investment policy statements are created with our client, which is the Legacy Fund Advisory Committee, and the State Investment Board accepting that allocation, it works very well. I do get concerned when we start doing economically targeted

investing that makes the more specific you get, the more challenging it is. Rather than looking at the entire world for your investment opportunities, you are starting to narrow it. That becomes a challenge. Having said that, we do have an existing asset allocation of \$200 million for a Bank of ND match cd program.

Chairman Cook: If you are going to invest in municipal bonds, you are going to invest at market rate.

Dave Hunter: That goes without saying, for everything we invest in. We do not make individual investment. We choose investment meanders. We have 37 investment meanders. One of them is the Bank of ND. We have 30 co-investment managers that manage \$100 million or more. They go through a heavy due diligence program. We monitor them regularly and make sure they are doing everything we expect them to do. If they are not, we will replace them. Thankfully, we do not have to replace them too frequently. We are always looking to maximize our return for the level of risk and without any blinders on.

Chairman Cook: If we want to do anything less than market rate, we do it through the bank of ND.

Dave Hunter: That is the way the program has been set up in the past. When we work with the bank of ND, we are looking to get a market rate of interest through them. We have additional \$40-\$50 million in short term investments with them which is at a market rate. We are happy to have that.

Chairman Cook: We will close the hearing on SCR 4005.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

SCR 4005
1/28/2019
Job # 31588

- ☐ 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 use of the principal and earnings of the legacy fund to create the North Dakota first fund for the purpose of funding permanent infrastructure projects.

Minutes:

Attachments: 0

Chairman Cook: Called the committee to order on SCR 4005.

Senator Unruh: Moved a Do Not Pass on SCR 4005.

Senator Meyer: Seconded.

Senator Dotzenrod: I was around when we put the Legacy Fund in place. I have a pretty strong bias against going into that fund in a way that sections off part of it so it can't be used. And this is what that does. I think when the measure was put into place, it said the legislature could take money out but it said they had to have 2/3rds vote in the House and Senate side. I have a strong bias about going into it so that is why I am going to vote yes on the do not pass.

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

Motion Carried.

Senator Kannianen will carry the bill.

Date: 1-28-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4005

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 Unruh Seconded By Meyer

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 Kannianen

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

REPORT OF STANDING COMMITTEE

SCR 4005: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4005 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SCR 4005

1 TESTIMONY OF DAVID HOGUE IN SUPPORT OF SCR 4005

2 SENATE FINANCE AND TAXATION COMMITTEE

3 JANUARY 15, 2019

4
5 Good Morning Chairman Cook and members of the Senate Finance and
6 Taxation Committee. My name is David Hogue. I am a North Dakota state senator
7 representing District 38, which includes northwest Minot and the city of Burlington. I
8 appear before your committee to seek support for SCR 4005.

9 SCR 4005 is a proposed resolution that would amend our state constitution with
10 respect to the Legacy Fund. As you know, the Legacy Fund is embedded in our state
11 constitution. The Legacy Fund collects 30% of all revenues from oil and gas taxes and
12 puts those collected revenues into a separate fund. The Fund balance approaches \$6
13 billion this month. For the last several months, approximately \$68 million has been
14 deposited into the Legacy Fund from monthly oil and gas revenues. Earnings from the
15 Legacy Fund now go to the general fund at the end of each biennium. Here is the

1 projection of revenues:

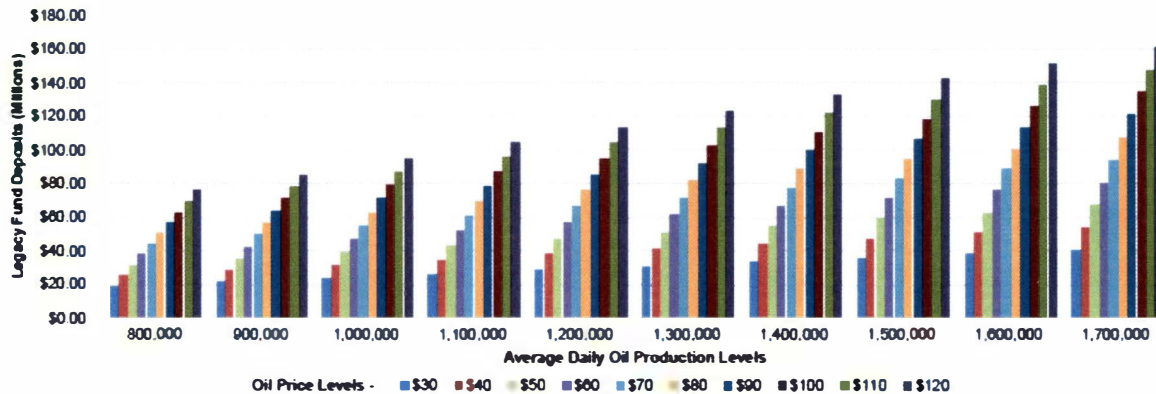
19.9239.01000

Prepared for Senator Belkdeahl

ESTIMATED MONTHLY LEGACY FUND DEPOSITS - VARYING OIL PRICE AND OIL PRODUCTION LEVELS

The schedule and chart below provide information on the estimated monthly deposits of oil and gas tax collections into the legacy fund based on varying oil price and oil production levels. The oil price levels reflect the estimated prices for a barrel of North Dakota light sweet crude oil. The oil production levels reflect the estimated average daily oil production for a 30-day month. The estimated monthly deposits are based on the current oil and gas gross production tax rate of 5 percent, the current oil extraction tax rate of 5 percent, the existing tax revenue sharing agreement with the Three Affiliated Tribes of the Fort Berthold Reservation, and the recent level of tribal allocations averaging 0.7 percent of the total oil and gas tax collections.

Barrels of Oil	\$30	\$40	\$50	\$60	\$70	\$80	\$90	\$100	\$110	\$120
800,000	\$18.92	\$25.23	\$31.53	\$37.84	\$44.15	\$50.45	\$56.76	\$63.07	\$69.37	\$75.68
900,000	\$21.28	\$28.38	\$35.47	\$42.57	\$49.66	\$56.76	\$63.85	\$70.95	\$78.04	\$85.14
1,000,000	\$23.65	\$31.53	\$39.42	\$47.30	\$55.18	\$63.07	\$70.95	\$78.83	\$86.72	\$94.60
1,100,000	\$26.01	\$34.09	\$43.36	\$52.03	\$60.70	\$69.37	\$78.04	\$86.72	\$95.39	\$104.06
1,200,000	\$28.38	\$37.84	\$47.30	\$56.76	\$66.22	\$75.68	\$85.14	\$94.60	\$104.06	\$113.52
1,300,000	\$30.74	\$40.99	\$51.24	\$61.49	\$71.74	\$81.99	\$92.23	\$102.48	\$112.73	\$122.98
1,400,000	\$33.11	\$44.15	\$55.18	\$66.22	\$77.26	\$88.29	\$99.33	\$110.36	\$121.40	\$132.44
1,500,000	\$35.47	\$47.30	\$59.12	\$70.95	\$82.77	\$94.60	\$106.42	\$118.25	\$130.07	\$141.90
1,600,000	\$37.84	\$50.45	\$63.07	\$75.68	\$88.29	\$100.90	\$113.52	\$126.13	\$138.74	\$151.36
1,700,000	\$40.20	\$53.61	\$67.01	\$80.41	\$93.81	\$107.21	\$120.61	\$134.01	\$147.42	\$160.82



North Dakota Legislative Council

March 2018

The Legacy Fund is managed by our state investment board, which accepts input from an advisory board. SCR 4005 does three things: (1) it creates an infrastructure fund with 15% of the Legacy Fund Principal and a 25% of the earnings of the Legacy Fund; (2) it establishes a board to identify infrastructure priorities for the Legacy Fund earnings and principal; and (3) it creates a sunset or expansion clause for the legislature which, after fifteen years, may elect to terminate, decrease, or expand the funding based on the history of the Fund.

1 There are two separate, fundamental policy reasons why we are offering SCR
2 4005. The first reason relates to the size of the major infrastructure projects that are on
3 the table for state assistance today. The Fargo Diversion stands at \$2.75 billion. Minot
4 flood protection stands at \$1.1 billion. The Red River Water Supply project is over \$ 1
5 billion. The WAWs and NAWs projects also have a significant state cost share in future
6 years. In sum, the major water projects that will require a state share exceed \$5 billion,
7 and I haven't talked all the other major infrastructure projects that are required by the
8 state.

9 In the arena of the legislative assembly, one of my biggest concerns relates to
10 our two-year budget cycle. We get so busy during the session. We have these
11 committee hearings in the morning, floor sessions in the afternoon, and socials in the
12 evening. We don't have a place to think long term. We don't have many opportunities
13 to think strategically about what is best for the long term interest of the state and its
14 people.

15 Well SCR 4005 is strategic in its approach to building long term projects. It holds
16 that once the state decides to build a billion dollar project, the state's resources should
17 be used to accelerate construction to eliminate the inflation that goes with building
18 projects expected to span over 15 or 20 years or so.

19 Last Thursday morning your Senate Appropriations Committee heard testimony
20 in the Brynhild Haugland Committee Room concerning the Water Commission budget.
21 We heard testimony about the larger water projects. That testimony confirmed the
22 significance and desirability of building our large water projects on an accelerated basis.

1 For example, we heard that for each year we delay the Red River Water Supply Project,
2 it will cost an additional \$28 million because of inflation. The US Bureau of Reclamation
3 has a report that concludes that the cost of pipe alone goes up 3% due to inflationary
4 pressure every year, and that estimate does not account for the recent trade war. We
5 don't need to review the sub categories within the CPI to know that major components
6 of construction projects like labor and materials increase due to inflation.

7 So here is my question, if we as a state knew we were going to spend several
8 billion dollars to construct several significant projects, how could we reduce those costs,
9 if at all? My answer: accelerate construction with available resources. Build it in a
10 shorter time to avoid built in inflation. With what you ask? With leveraging the principal
11 balance of the Legacy Fund is my answer. Look at the investment performance of
12 Legacy Fund assets below.

Recent Legacy Fund Investment Performance

Legacy Fund	January 31, 2018	3 Year
Investment Allocation	Market Value	Return
Cash	\$ 51,247,924	0.19%
Real Estate	\$ 272,965,486	11.09%
Diversified Real Assets	\$ 529,158,049	1.03%
Fixed Income (Bonds)	\$ 1,816,870,324	3.97%
International Equities	\$ 1,110,319,117	2.56%
Small Cap Domestic Equities	\$ 423,343,886	7.71%
Large Cap Domestic Equities	\$ 1,218,349,502	9.48%

What if we took a portion of the Legacy Fund principal and said that it be invested in North Dakota infrastructure instead of projects across the nation? Even if we provided North Dakota political subdivisions below market rates, we would still be better off because of the savings on inflation!

There is a second reason I ask you to support SCR 4005. I call this reason the "false nest egg" argument, Mr. Chairman. I am aware there are those that oppose this measure on the grounds that we need to preserve the Legacy Fund principal as though it were some sort of nest egg that we can sit on indefinitely until we deign to spend as we please for the perfect legacy project. In my view, Mr Chairman, that's a pipe dream. I attach to my testimony exhibits 1-4. These exhibits represent the proportion of out of

1 state funding on constitutional measures compared to in state funding of the last four
 2 constitutional amendments over the last three election cycles. As you will note Mr.
 3 Chairman and committee members, out of state funding for constitutional measures is
 4 on the order of a 96% average for the last four constitutional measures. What I'm
 5 suggesting is that our state, because of our process, is wide open for constitutional
 6 amendment. The metaphorical cookie jar of the Legacy Fund, Mr. Chairman, is not
 7 tucked away on the counter against the wall; it is sitting on the kitchen table in plain
 8 grasp and view for anyone with the resources to lift the lid and claim it.

9 So, with an unrestricted \$ 6 billion dollar fund, who among the nest egg
 10 witnesses who follow me in opposition, who will tell you that the Legacy Fund will be put
 11 to a better purpose than building out ND's infrastructure on an accelerated basis? Will
 12 providing income tax relief to individuals serve a better purpose? That is a legislative
 13 proposal. How about spending the Legacy Fund to pay for property taxes for you and
 14 me? Is that an expenditure worth of Legacy Fund spending?

15 If we passing nothing to "wall off" a portion of the Legacy Fund for future
 16 generations, get ready for an onslaught of initiative proposals. That's why I think this is
 17 an exceptional proposal Mr. Chairman. We as a legislature are staking the people's
 18 claim to 15% of the Legacy Fund for what is manifestly a legacy project: building out
 19 infrastructure for all generations.

20 If the proposal proves to be unworkable, I've proposed a safety valve to ease
 21 concerns: after 15 years, the legislative assembly can do away with the funding. I think
 this is the first sunset clause in the constitution Mr. Chairman and I support it because it

1 doesn't cast the state on a course that cannot be changed after time and experience
2 have shown us to be on the wrong course. We can let the next generation of legislators
3 decide if we're on the right course.

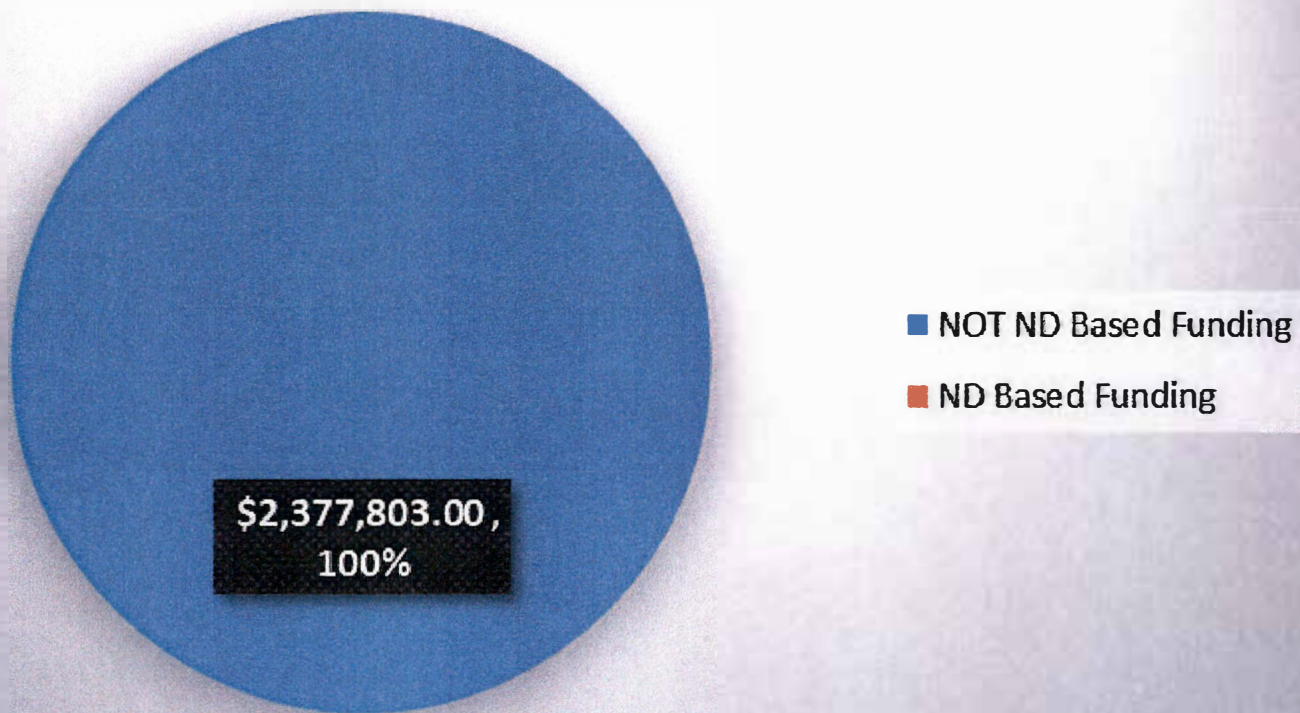
4 But I think this is manifestly the right policy choice presently. Think about all of
5 the proper purposes of the Legacy Fund. Is there any doubt that, say 15% of the fund,
6 should be used for infrastructure projects?

7 Chairman Cook and committee members, I'm happy to stand for your questions.

8

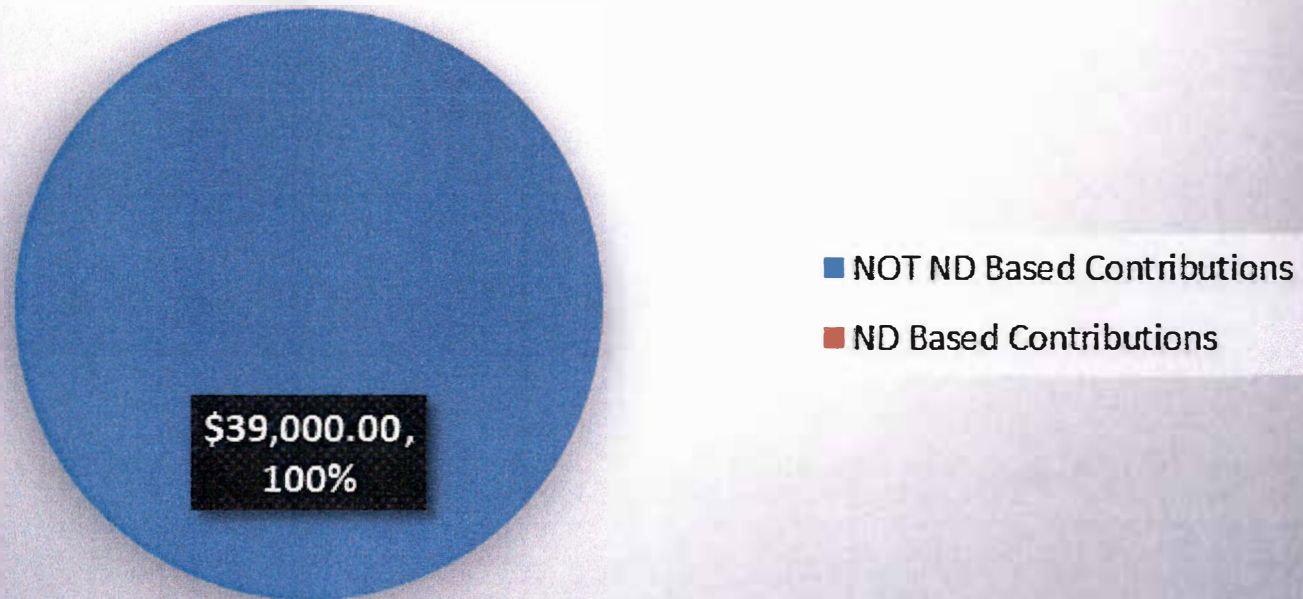
9

Marsy's Law For North Dakota Funding Sources



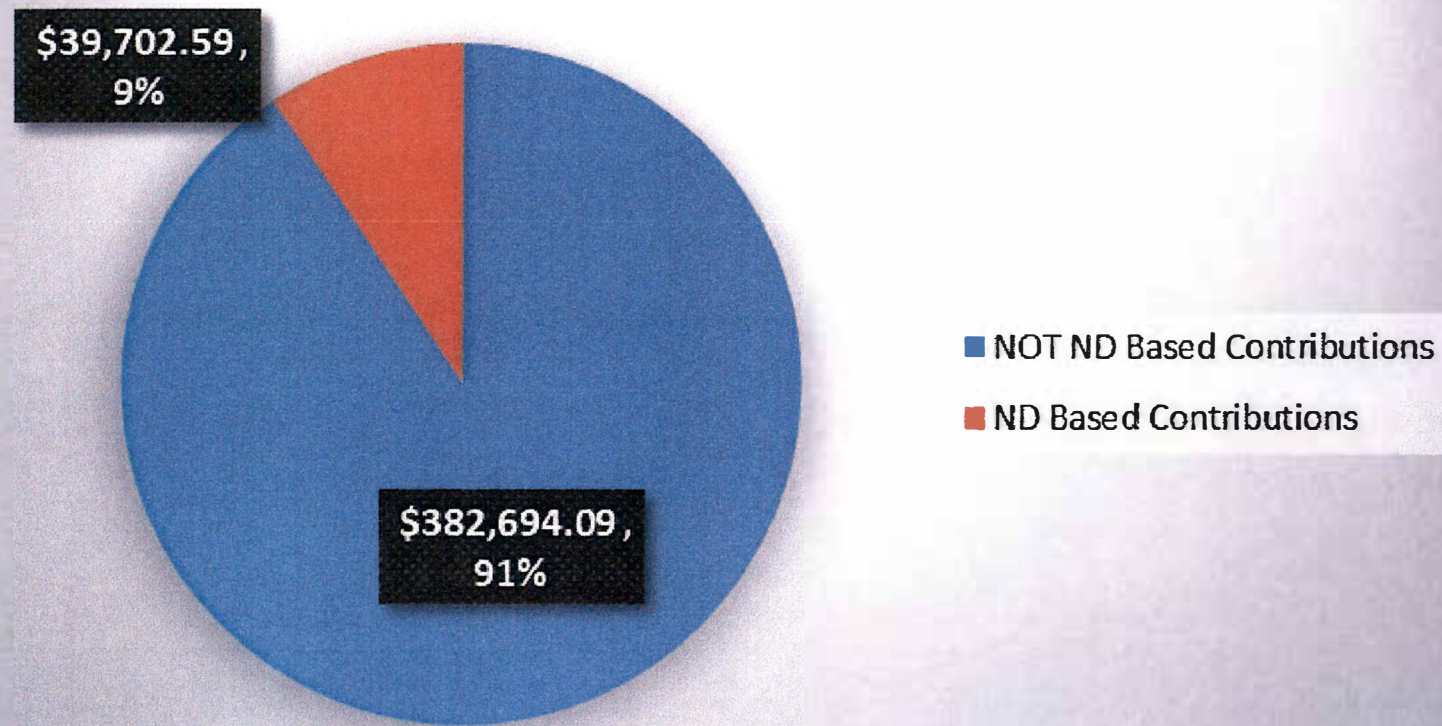
X/5 SCR 4005 #1 pg. 8

North Dakotans for Citizen Voting Funding Sources

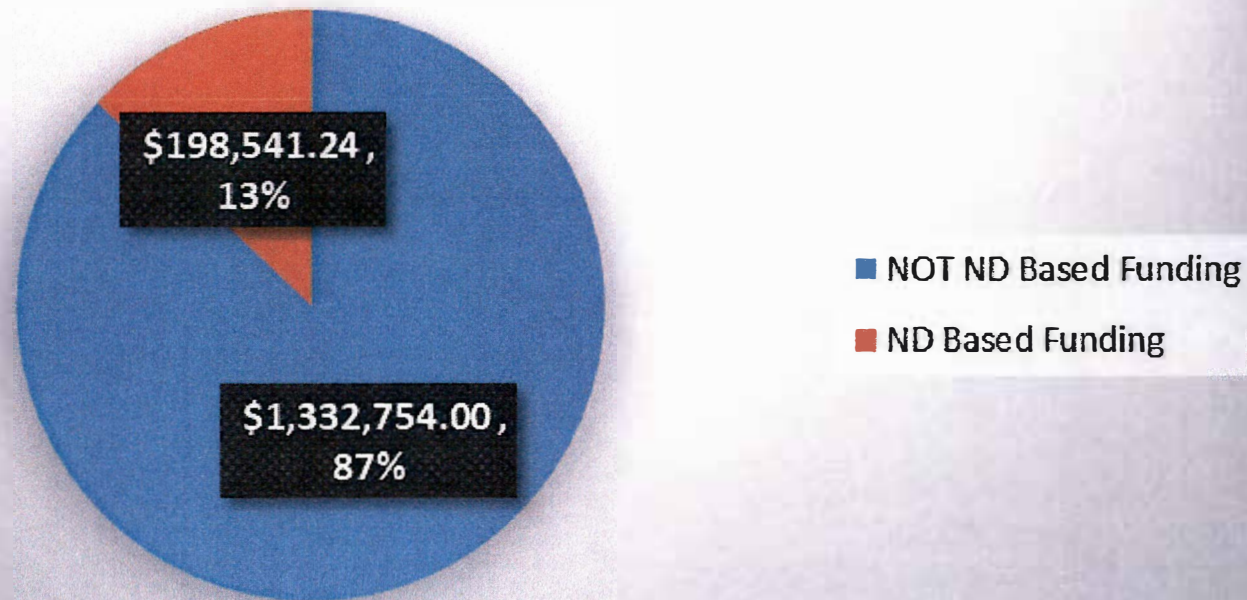


1/5 SCR 4005 #2 pg.9

Measure 1 Funding Sources



North Dakotans for Clean Water, Wildlife, and Parks Funding Sources



X/5 SCR 4005 #1 pg. 11

19.3026.03001
Title.

Prepared by the Legislative Council staff for
Senator Hogue

January 14, 2019

Y/15
SCR 4005
#2
pg. 1

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4005

Page 2, line 15, after the underscored period insert "After December 31, 2035, the legislative assembly may terminate, expand, or reduce the amount transferred to the North Dakota first fund and may revise the purpose of the fund."

Renumber accordingly

FARGO MAYOR TIM MAHONEY TESTIMONY ON SCR 4005

JANUARY 15, 2019

SENATE FINANCE AND TAXATION

SENATOR DWIGHT COOK, CHAIRMAN

Chairman Cook, members of the committee, for the record, my name is Tim Mahoney.

I come before you today to express my support for Senate Concurrent Resolution 4005 and the creation of the North Dakota First Fund.

Infrastructure is the backbone to economic growth for our Cities, Counties, and the State of North Dakota. The critical infrastructure needs across the State are exhaustive. In order to meet the current demand of both small and large projects, as well as multi-generational projects, we have to be more innovative in how we fund and finance infrastructure. I believe an investment of the Legacy Fund in North Dakota's infrastructure capitalizes on the decision the people of North Dakota made with the creation of the Legacy Fund be utilized to address our citizen's needs first.

Increasing the ability of the State to provide long-term, low-interest financing is essential to address the current needs. According to the State Water Commission's Water Development Plan, the State is facing \$3.6 Billion in funding requests over the next 10 years for water infrastructure projects. These requests amount to an approximate \$2 Billion revenue shortfall. It is my belief that the North Dakota First Fund would enable these projects to proceed on time, which will avoid escalation of the already large funding shortfall.

15 SCR 4005 #3 pg. 2

I support this bill because it helps build a legacy of essential projects, both big and small, from cities and regions all over the State. We see leaders from all around the State standing here together to support this bill. It also not only provides for a means to address the critical needs of today, but creates a revolving fund that can help ensure those unanticipated needs of future leaders also have a means.

The time is right to act on creating a true legacy for North Dakota. Thank you for the opportunity to provide testimony today, and thank you for putting North Dakota first.

**Testimony of Dr. Tim Mahoney, Lake Agassiz Water Authority Chairman
& City of Fargo Mayor
Senate Concurrent Resolution 4005
Senate Finance and Taxation Committee
Bismarck, North Dakota – January 15, 2019**

Chairman Cook and members of the Senate Finance and Taxation Committee, thank you for this opportunity to testify in support of the Senate Concurrent Resolution 4005 on behalf of the Red River Valley Water Supply Project. My name is Dr. Tim Mahoney, and I am the Mayor of Fargo and Chairman of the Lake Agassiz Water Authority (Lake Agassiz).

Lake Agassiz and Garrison Diversion Conservancy District are the co-sponsors of the Red River Valley Water Supply Project, a plan to deliver an emergency water supply to roughly 50 percent of North Dakota's population. The Project will deliver Missouri River water to 35 cities and water systems, including Fargo, in the eastern and central parts of the state via underground pipelines.

Climatologists predict another devastating drought, similar to the 1930s will occur by the year 2050. The emergency water supply from the Red River Valley Water Supply Project will mitigate the effects of serious droughts in large and small communities and rural water systems. This Project is for emergency use during drought conditions, and it **will not** replace the member entities' existing water treatment, supply or distribution infrastructure.

Since the Red River Valley Water Supply Project is an additional cost to all participating cities and water systems, it is imperative the project remains affordable, as the Project's users need to continue to maintain their current water infrastructure.

Senate Concurrent Resolution 4005 proposes to use the Legacy Fund to help fund large, permanent water infrastructure projects such as the Red River Valley Water Supply Project, which has a projected cost of \$1.14 billion. Lake Agassiz and Garrison Diversion are requesting

1/15 SCR 4005 #4 pg. 2

a long-term low interest loan to construct the Red River Valley Water Supply Project, because the Project's financing must be affordable and predictable for the local share of the costs.

The project team has created a prudent 10-year construction schedule to mitigate the risk of increasing construction costs. It is important to begin construction on the Project as soon as possible because construction cost escalation is a serious threat and the next large drought could be just around the corner.

Lake Agassiz, Garrison Diversion, and the City of Fargo support Senate Concurrent Resolution 4005 because it would create a political subdivision grant and low-interest revolving loan fund that draws from the principal and earnings of the Legacy Fund. A combination of low-interest loans and grant money would help keep this much-needed drought mitigation Project affordable for the Red River Valley Water Supply's largest AND smallest users. Specifically, we want to make sure the local share of the costs do not burden communities with smaller populations.

Thank you Chairman Cook and members of the Senate Finance and Taxation Committee for taking the time to hear Lake Agassiz's testimony today.

Senate Finance and Taxation Committee
Chairman Dwight Cook
January 15, 2019

By: Shaun Sipma
Mayor, City of Minot
shaun.sipma@minotnd.org
701.721.6839

SCR 4005

Chairman Cook and Members of the Senate Finance and Taxation Committee, my name is Shaun Sipma. As Minot's Mayor, and on behalf of the City, thank you for the opportunity to speak in support of SCR 4005.

Let me reiterate an important point that Senator Hogue has been emphasizing: the principal of the Legacy Fund is already being used to fund infrastructure for political subdivisions around the country. To the extent the Legacy Fund is invested in municipal bonds, other cities outside of North Dakota are deploying the funds for the benefit of their community and citizens. Reserving a portion of the Legacy Fund for investment in North Dakota communities, for our own needs, results in no more risk to the principle than exists currently for it investments in community infrastructure projects outside our state.

If SCR 4005 is submitted to voters and approved by them, a portion of Legacy Fund principle and earnings, instead of going into investments outside our state, would be invested at home, in North Dakota political subdivisions. This does not constitute "spending the principle;" rather, it only results in accepting a little less in the earnings in order to directly benefit our communities and our citizens. That is a win-win for the whole state.

As you well know, the City of Minot is still recovering from the 2011 flood event which inundated the heart of our city. We are also determined to protect ourselves from any flood

event of that magnitude in the future. To fully finance what is, in the end, a \$1 billion project, the city will need to come up with its local share of more than \$350 million. A financing vehicle such as the one proposed in this resolution could realistically save our city more than 100 million dollars in long-term financing costs and administrative fees. That's why I am here today. Let's put North Dakota Money to work for North Dakotans.

Thank you for your time today. Affordable and modern infrastructure is critical for the future economic growth of our State. Passing SCR 4005 will put this important public finance option in front of the voters in the 2020 general election. Let's have that public discussion about the Legacy Fund being used for this purpose. For these reasons, I urge you to please give this resolution a "do pass" recommendation.

Testimony to the

Senate Finance and Taxation Committee

January 15, 2019

Jason Benson, Cass County Engineer

Providing testimony in the absence of Vice Chairman Chad Peterson, Cass County Commission

Regarding: Senate Concurrent Resolution 4005

Senator Cook and committee members, I am Jason Benson, the Cass County Engineer. Chad Peterson, Vice Chairman of the Cass County Commission is extremely passionate about this topic, but unfortunately could not be present today. He ask that I echo his support for Senate Concurrent Resolution 4005. If there is one criticism I have is that the bill does not go far enough. I would support investments far beyond the value proposed. As it stands, the resolution accomplishes a number of things. Here are just a few of the many positive outcomes:

1. The investments create a true legacy

It creates a legacy by investing in one time expenditures that would in some cases benefit generations of citizens. In addition, some of the projects funded might otherwise be too cumbersome to finance and this investment would help their funding. The predictable investment income can then be used to fund future projects.

2. It preserves principal dollars and future revenue is predictable

It preserves the legacy fund principal balance into perpetuity. The revenue will be stable and predictable forever regardless of outside market forces. With a downturn turn of the world economy, large portions of these dollars could be lost forever. The investments in North Dakota as proposed will be paid off over time with little to no risk to the principal. As these projects are paid off, we create room for the next generation of investment using these same dollars and the revenue they have made. This is North Dakota money helping all North Dakotans, forever.

3. Opportunity cost shouldn't be the burden of tax payers

We presume legacy fund dollars are invested in a diverse way to maximize returns and limit risk. The opportunity cost of investing legacy fund dollars in local one-time expenditures in lieu of the proposed portfolio mix is a real thing. But we often forget the opportunity cost exists regardless. It's whether or not North Dakota leaders want the opportunity cost to be the burden of the legacy fund or directly on the backs of North Dakota citizens. I would rather have taxpayers invest their resources as they see fit than have them directly fund capital expenses while the state sits on billions of dollars that could be safely invested.

4. It creates the potential to ease parochial fighting

If dollars were increased far beyond that proposed many large, "shovel ready" projects could be funded today. Moving billions of one-time projects into construction would make room for the remaining projects. Then between the unallocated legacy fund dollars, truly predictable investment revenue and annual increase in the fund itself, those remaining and yet unknown projects could more easily be funded as they were capitalized.

Senator Cook and committee members, this list of positive outcomes could continue for quite some time. The only negative I've seen discussed is that the legacy fund would not grow because investments would be too conservative (i.e. opportunity cost). To that I say, "So what?" Is the goal to have an infinitely large legacy fund that will eventually be... larger? For the reason mentioned above, I'd rather let tax payers invest freely and take this legacy capital and invest it in one-time, needed investments.

I'd be happy to talk more about the items listed above and any others any time you wish. Again, as I stated in the beginning, Commissioner Chad Peterson could not attend today but we both fully support Senate Concurrent Resolution 4005.

Testimony to Senate Finance and Taxation Committee

Re: Senate Concurrent Resolution 4005

Date: Tuesday, January 15, 2019

By: Ryan Ackerman, PE

Administrator, Souris River Joint Water Resource Board

The Souris River Joint Board is a multi-jurisdictional entity that has representation from each of the four counties along the Mouse River in North Dakota along with a fifth representative from the City of Minot. The Souris River Joint Board is the local sponsor of the Mouse River Enhanced Flood Protection Project, which is a \$1 billion initiative to reduce flood risk throughout the basin, including the communities of Minot, Burlington, Sawyer, and Velva, and rural developments, farms and ranches.

We stand in strong support of Senate Concurrent Resolution 4005, which would create the North Dakota First Fund using both principal and earnings from the Legacy Fund for the purpose of funding permanent North Dakota infrastructure projects.

Critical water projects across the State are faced with a serious problem that the North Dakota State Water Commission effectively outlined in their 2019 Water Development Plan. On Page 83 of this State Water Commission document, a summary of the needs over the next 10 years is presented at approximately \$6.8 billion. Page 84 estimates the 20 year need at approximately \$8.3 billion.

The problem is that there is not an adequate stream of capital to get these projects built in a manner which adequately outpaces inflation. Just consider the need over the next 10 years – at a 3-percent rate of inflation, the cost of \$6.8 billion of capital improvements increases approximately \$200 million per year, or \$400 million per biennium. The amount of \$400 million per biennium is roughly equivalent to the transfers into the Resources Trust Fund, which is the primary source of capital for water projects statewide.

If we do not change the paradigm of how water projects are financed within the State of North Dakota, I believe it is likely that the water projects being contemplated by the State today are going to be the same projects being contemplated decades from now. And if we are going to continue implementing these large-scale water projects in smaller phases over a period of decades, it becomes entirely possible that by the end of the capital investments, it will be time to begin replacing pieces of the aged infrastructure. The problem has the potential to become perpetual.

We believe that a part of the solution to this problem lies in the proposal outlined in SCR 4005. If adopted by the Legislative Assembly and approved by the voters, the North Dakota Infrastructure Board would have the ability to invest in North Dakota communities through capitalizing a revolving loan fund to finance portions of large-scale water infrastructure projects. Our hope is that the Infrastructure Board would establish terms that would help to ease the financial burden on local governments to finance the local share of multi-generational, legacy water infrastructure projects. We believe loan terms of up to 40 years at interest rates of 2% or less would be a massive benefit to the citizens of North Dakota.

While spending the principal of the Legacy Fund is of concern to many, it is important to note that capitalizing a revolving loan fund for North Dakota projects using the principal of the Legacy Fund is

1/15 SCR 4005 # 7 pg. 2

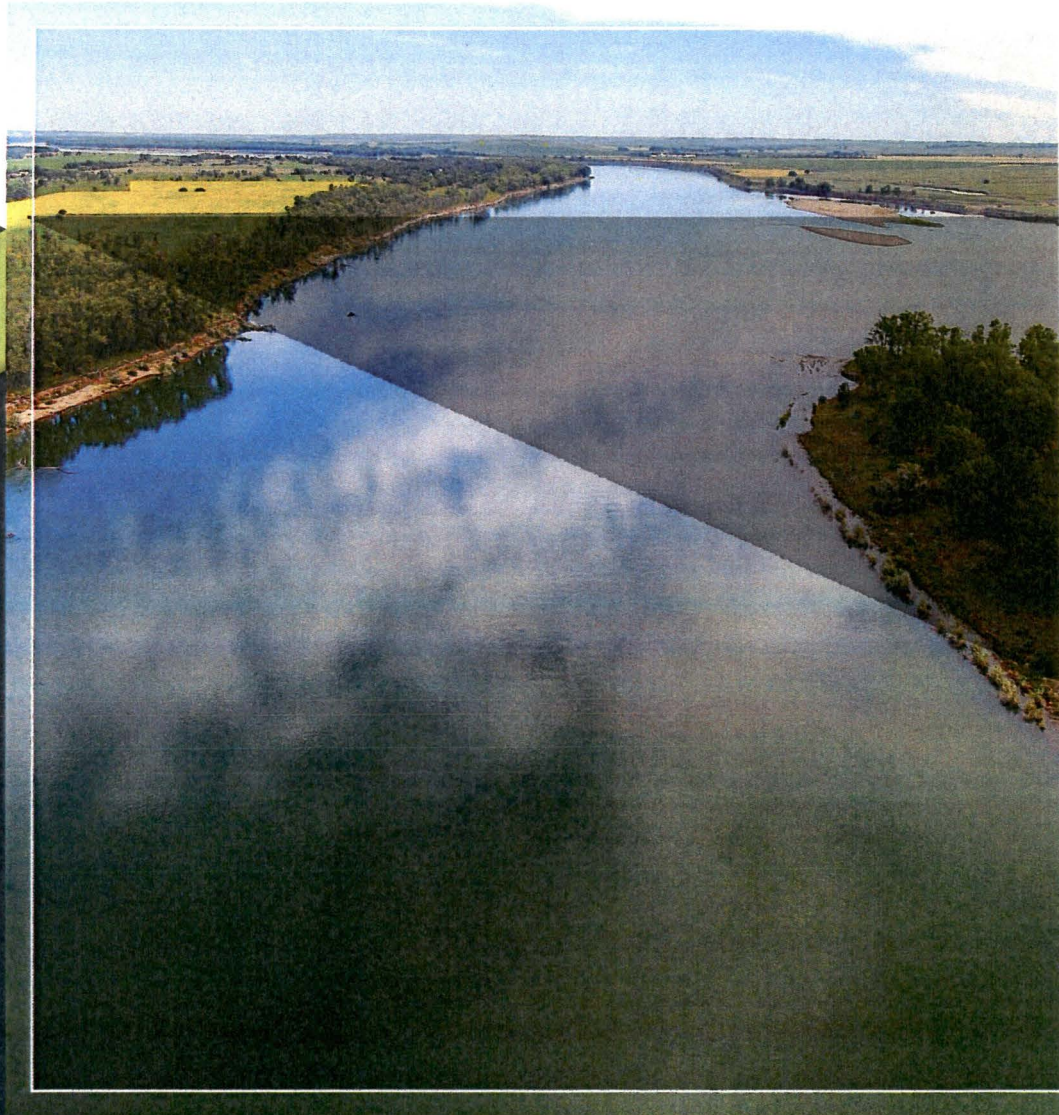
comparable to making a different investment choice. Instead of investing in municipal bonds that are benefitting local governments across the country, we could be directly investing in communities inside our State. While the direct rate of return might be lower than what could be realized on the open market, it is also important to realize the benefits provided to the citizens from these projects. Reduced interest costs, reduced flood risk, elimination of high-cost flood insurance premiums, resilient water supplies to combat the economic effects of droughts – all of these and more could be returns on our investment in the State of North Dakota.

We urge a Do Pass recommendation from this committee.

PLAN

1/15
SCR 4005
#7
pg. 3

North Dakota Water Development



20
19

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ESTIMATED 10 YEAR WATER PROJECT FUNDING NEEDS (2018 DOLLARS) & REVENUE COMPARISONS

10-YEAR OUTLOOK

PROJECT	STATE	LOCAL	FEDERAL	TOTAL COST	NOTES
Agency Operations	\$135,000,000	\$-	\$-	\$135,000,000	Based on current operational budget estimates.
Water Supply	\$2,280,200,000	\$875,100,000	\$-	\$3,155,300,000	
Southwest Pipeline Project	\$206,300,000	\$-	\$-	\$206,300,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Red River Valley Water Supply Project	\$835,500,000	\$278,500,000	\$-	\$1,114,000,000	Estimate based on 75/25 cost-share per SWC policy, and on input provided by project sponsor to complete all known foreseeable project components.
Western Area Water Supply	\$157,500,000	\$52,500,000	\$-	\$210,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Northwest Area Water Supply	\$180,900,000	\$24,100,000	TBD	\$205,000,000	Based on input provided by project sponsor to complete all known foreseeable project components. A portion of the state share is expected to be federal.
Municipal Water	\$660,000,000	\$440,000,000	\$-	\$1,100,000,000	Based on results of municipal water supply system surveys, and 2019 project inventory information collection efforts.
Rural Water	\$240,000,000	\$80,000,000	\$-	\$320,000,000	Based on results of rural water supply system surveys, and 2019 project inventory information collection efforts.
Flood Control	\$1,126,345,000	\$1,312,955,000	\$851,000,000	\$3,290,300,000	
Devils Lake Outlet Operations	\$50,000,000	\$-	\$-	\$50,000,000	Based on current operational budget estimates.
Mouse River Enhanced Flood Protection	\$463,685,000	\$244,315,000	\$40,000,000	\$748,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Valley City	\$78,000,000	\$19,000,000	\$-	\$97,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Lisbon	\$14,160,000	\$3,540,000	\$-	\$17,700,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Fargo-West Fargo Flood Control Project	\$499,500,000	\$1,032,100,000	\$811,000,000	\$2,342,600,000	Based on input provided by project sponsor to complete all known foreseeable project components. An additional \$86 million is anticipated from Minnesota.
Lower Heart (Mandan) Flood Risk Reduction	\$21,000,000	\$14,000,000	\$-	\$35,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Irrigation	\$5,000,000	\$5,000,000	\$-	\$10,000,000	Based on 2011-2021 trends.
Other Flood Control & Conveyance	\$108,500,000	\$106,700,000	\$5,000,000	\$220,200,000	Based on 2019-2021 needs, and 10-years to implement all known projects.
General Water	\$15,000,000	\$15,000,000	\$-	\$30,000,000	Based on 2011-2021 trends.
TOTALS	\$3,670,045,000	\$2,314,755,000	\$856,000,000	\$6,840,800,000	

CORRESPONDING REVENUE & NEEDS COMPARISON ESTIMATES

AT \$300 MILLION PER BIENNIUM FROM RESOURCES TRUST FUND		AT \$400 MILLION PER BIENNIUM FROM RESOURCES TRUST FUND		AT \$500 MILLION PER BIENNIUM FROM RESOURCES TRUST FUND	
Resources Trust Fund At \$300M/Biennium	\$1,500,000,000	Resources Trust Fund At \$400M/Biennium	\$2,000,000,000	Resources Trust Fund At \$500M/Biennium	\$2,500,000,000
Water Development Trust Fund At \$18M/Biennium	\$90,000,000	Water Development Trust Fund At \$18M/Biennium	\$90,000,000	Water Development Trust Fund At \$18M/Biennium	\$90,000,000
REVENUE TOTAL	\$1,590,000,000	REVENUE TOTAL	\$2,090,000,000	REVENUE TOTAL	\$2,590,000,000
STATE SHORTFALL	\$(2,080,045,000)	STATE SHORTFALL	\$(1,580,045,000)	STATE SHORTFALL	\$(1,080,045,000)

Table 22 - Estimated 10-Year Water Project Funding Needs (2018 \$) And Revenue Comparisons.

SCR 4005
#7
pg. 4
1/15

ESTIMATED 20-YEAR WATER PROJECT FUNDING NEEDS (2018 DOLLARS) & REVENUE COMPARISONS

20-YEAR OUTLOOK

PROJECT	STATE	LOCAL	FEDERAL	TOTAL COST	NOTES
Agency Operations	\$270,000,000	\$-	\$-	\$270,000,000	Based on current operational budget estimates.
Water Supply	\$3,043,500,000	\$1,155,500,000	\$-	\$4,199,000,000	
Southwest Pipeline Project	\$438,000,000	\$-	\$-	\$438,000,000	Based on input provided by project sponsor to complete all known foreseeable project components, and infrastructure survey results.
Red River Valley Water Supply Project	\$835,500,000	\$278,500,000	\$-	\$1,114,000,000	Estimate based on 75/25 cost-share per SWC policy, and input provided by project sponsor to complete all known foreseeable project components.
Western Area Water Supply	\$157,500,000	\$52,500,000	\$-	\$210,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Northwest Area Water Supply	\$180,900,000	\$24,100,000	TBD	\$205,000,000	Based on input provided by project sponsor to complete all known foreseeable project components. A portion of the state share is expected to be federal.
Municipal Water	\$969,600,000	\$646,400,000	\$-	\$1,616,000,000	Based on results of municipal water supply system surveys.
Rural Water	\$462,000,000	\$154,000,000	\$-	\$616,000,000	Based on results of rural water supply system surveys.
Flood Control	\$1,176,345,000	\$1,312,955,000	\$851,000,000	\$3,340,300,000	
Devils Lake Outlet Operations	\$100,000,000	\$-	\$-	\$100,000,000	Based on current operational budget estimates.
Mouse River Enhanced Flood Protection	\$463,685,000	\$244,315,000	\$40,000,000	\$748,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Valley City	\$78,000,000	\$19,000,000	\$-	\$97,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Lisbon	\$14,160,000	\$3,540,000	\$-	\$17,700,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Fargo-West Fargo Flood Control Project	\$499,500,000	\$1,032,100,000	\$811,000,000	\$2,342,600,000	Based on input provided by project sponsor to complete all known foreseeable project components. An additional \$86 million is anticipated from Minnesota.
Lower Heart (Mandan) Flood Risk Reduction	\$21,000,000	\$14,000,000	\$-	\$35,000,000	Based on input provided by project sponsor to complete all known foreseeable project components.
Irrigation	\$10,000,000	\$10,000,000	\$-	\$20,000,000	Based on 10-year assumptions over a 20-year timeframe.
Other Flood Control & Conveyance	\$217,000,000	\$213,400,000	\$10,000,000	\$440,400,000	Based on 10-year assumptions over a 20-year timeframe.
General Water	\$30,000,000	\$30,000,000	\$-	\$60,000,000	Based on 10-year assumptions over a 20-year timeframe.
TOTALS	\$4,746,845,000	\$2,721,855,000	\$861,000,000	\$8,329,700,000	

CORRESPONDING REVENUE & NEEDS COMPARISON ESTIMATES

AT \$300 MILLION PER BIENNIUM FROM RESOURCES TRUST FUND		AT \$400 MILLION PER BIENNIUM FROM RESOURCES TRUST FUND		AT \$500 MILLION PER BIENNIUM FROM RESOURCES TRUST FUND	
Resources Trust Fund At \$300M/Biennium	\$3,000,000,000	Resources Trust Fund At \$400M/Biennium	\$4,000,000,000	Resources Trust Fund At \$500M/Biennium	\$5,000,000,000
Water Development Trust Fund At \$18M/Biennium	\$180,000,000	Water Development Trust Fund At \$18M/Biennium	\$180,000,000	Water Development Trust Fund At \$18M/Biennium	\$180,000,000
REVENUE TOTAL	\$3,180,000,000	REVENUE TOTAL	\$4,180,000,000	REVENUE TOTAL	\$5,180,000,000
STATE SHORTFALL	\$(1,566,845,000)	STATE SHORTFALL	\$(566,845,000)	STATE SURPLUS	\$433,155,000

Table 23 - Estimated 20-Year Water Project Funding Needs (2018 \$) And Revenue Comparisons.

SCR 4005
#7
pg. 5
1/15

**Lower Heart River WRD
Ryan Jockers, Vice-Chair
Presentation For
January 15, 2019
Finance and Taxation Hearing on SCR 4005**

I. Lower Heart River WRD is working on maintaining, for the City of Mandan, its 100 year flood certification for flood mapping. A FEMA study has indicated the current levee structure protecting the City of Mandan would be insufficient in an ice jam event during a 100 year runoff. The study has indicated a shortfall for the required minimum freeboard of 3 feet while ice is in the river system.

II. After several studies, Lower Heart River WRD presented to the State Water Commission, a plan to correct the freeboard shortfall at the June 2018 meeting. This plan indicated a total cost estimate of \$36,000,000 for a physical enhancement to the existing system. Our request to the SWC, at that time, was for cost-share for the preliminary work required to stage that project. That portion was in the amount of \$800,000 and we were approved for a 35% share by the SWC. Since this approval by the SWC, we have also applied for, and received approval for \$100,000 in grant funds from FEMA for components of this same preliminary work that will reduce the overall cost to the State and LHWRD.

III. Presently, we are in the preliminary work phase, and that will continue through 2019. We have been working with HDR Engineering to assist in reducing the early estimated overall costs of that plan as we move forward. The preliminary phase is focused on providing FEMA sufficient data to reconsider elements of their study, which can be shown to be improved upon for a more thorough, final analysis of the levee's capacity to handle a 100 year event during an ice jam. We are proving that the required 3 feet of freeboard presently exists through a majority of the system as it stands today.

IV. We need to complete our preliminary geotechnical work and verify the capacity of the existing system to realize what changes will occur to the original plan from June of 2018, we feel that this process will reduce the overall cost of the plan of \$36MM.

V. With the help of HDR Engineering, Lower Heart believes we may have some indication from FEMA an opinion of direction by March 2019 to determine where the overall costs may be driven down. We are feeling confident the existing system can be improved to satisfy FEMA and that we can provide the necessary 3 feet of freeboard for less than half of the original plans cost of \$36MM.

VI. Since June of 2018, we have met with the City of Mandan's Mayor and Administrator to discuss funding methods for this project, and will continue to do so when we find out our updated cost estimates later this spring or summer. We have had multiple meetings in this regard and we are working together to plan the process to pay for the costs. The overall estimated costs, when they can be determined, will indicate the best funding method for Mandan's property owner.

VII. Lastly, Lower Heart WRD does not currently qualify for infrastructure loans that could provide funding for permanent flood improvement projects, such as the one mentioned earlier. Senate Concurrent Resolution (SCR) 4005 would add a funding mechanism that can provide access to low cost dollars for our current project, and other projects in the near future, especially when cost share funding has been exhausted. Further, SCR 4005 would help us in our primary goal, to provide the highest level of safety for the city of Mandan, yet ensuring the tax burden is as low as possible for Mandan property owners. To that end, Lower Heart WRD is in favor of SCR 4005, and if enacted, strongly believes it will make a positive impact on the city of Mandan and the surrounding region.

**Testimony by Larry Bares, Chairperson of the
Southwest Water Authority Board of Directors**

On behalf of

Southwest Water Authority

to the

Senate Finance and Taxation Committee

Hearing on Senate Concurrent Resolution Number 4005

Tuesday, January 15, 2019

1/15 SCR 4005
#9 pg. 1

Good morning Mr. Chairman and members of the committee. My name is Larry Bares, Chairperson of the Southwest Water Authority Board of Directors. I am here in support of Senate Concurrent Resolution Number 4005. With the Southwest Pipeline Project being under construction for more than 30 years, Southwest Water Authority understands the importance of this Resolution and gaining the funding needed to build water infrastructure.

Senate Concurrent Resolution Number 4005 would create a North Dakota infrastructure fund to be known as the North Dakota First Fund to be administrated by a North Dakota infrastructure board. The Fund would serve as a grant and low-interest revolving loan fund from the principal and earnings of the Legacy Fund and would provide a procedure for political subdivisions to access grant and low-interest loan dollars for permanent water infrastructure projects. Providing the infrastructure funding to cities, counties, water resource districts and other political subdivisions, Senate Concurrent Resolution Number 4005 is important not only for economic reasons, but for the quality of life in North Dakota.

Never before has it been more important for water interests to work together and support each other, especially when it comes to making available other funding sources, in addition to the Resources Trust Fund, to build much-needed water infrastructure. The fact that so many political subdivisions work together is what has made the water community in North Dakota effective. There is one message, one strong voice, and that is to provide quality of life throughout North Dakota.

Approval of Senate Concurrent Resolution Number 4005 could provide the necessary funding for political subdivisions to provide water supply, flood control and infrastructure to the people in North Dakota. Southwest Water Authority is in support of Senate Concurrent Resolution Number 4005, the North Dakota First Fund and what it could mean for completion of water infrastructure projects throughout the state.

Thank you.

North Dakota WATER COALITION

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Bismarck, ND 58502
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FAX (701) 223-4645

Barnes Rural Water District
Cass County Government
Cass County Joint Board
Devils Lake
Devils Lake Basin Joint Board
Dickinson
Fargo
Garrison Diversion
Conservancy District
Grafton
Grand Forks
Grand Forks - Traill Water
District
Lake Agassiz Water Authority
Lisbon
Mandan
McLean-Sheridan Rural Water
Mercer County Water Resource
District
Minot
Missouri River Joint Board
North Central Regional Water
District
North Dakota Association of
Counties
North Dakota Farmers Union
North Dakota Irrigation
Association
North Dakota League of Cities
North Dakota Public Finance
Authority
North Dakota Rural Water
Systems Association
North Dakota Soybean
Growers Association
North Dakota State Water
Commission
North Dakota Water Resource
Districts Association
North Dakota Water Users
Association
North Dakota Weather
Modification Association
Northeast Regional Water
District
Northwest Area Water Supply
Red River Joint Water Board
Souris River Joint Board
South Central Regional Water
District
Southwest Water Authority
Spearman Rural Water District
Valley City
West Fargo
Western Area Water Supply
Williston

Testimony of Lance Gaebe, Executive Director
North Dakota Water Coalition
Senate Finance and Taxation Committee
In Support of SCR 4005
January 15, 2019

1/15 SCR 4005
#10 pg. 1

Mr. Chairman and members of the Senate Appropriations Committee, my name is Lance Gaebe and I serve as executive director of the North Dakota Water Coalition.

The North Dakota Water Coalition formed in 1994 to **complete North Dakota's water infrastructure for economic growth and quality of life**. The Water Coalition brings together more than 40 water project sponsors and groups to work toward unity for support of water projects across North Dakota.

Collaboration within the water community and building consensus regarding funding needs and priorities are essential in meeting the water resource management needs of North Dakota.

It is difficult to accomplish the projects with the revenues projected in the Resources Trust Fund and the Water Development Trust Fund for the next biennium thus the Water Coalition supports efforts conceived in SCR 4005 to establish creative finance options for important infrastructure projects.

SCR 4005 would ask voters to amend Section 26 of Article X of the Constitution to implement the North Dakota First Fund with 15% of the principal of the Legacy Fund and annual transfers of 15% of any principal increase and 25% of the earnings in each subsequent year. This effort would truly create a Legacy with the Legacy Fund.

For the next biennium and beyond, there is a critical need for financial support for the state's water projects. We have worked to implement concessions in an effort to prioritize the water funding needs. There are important water supply, flood control, irrigation and water management projects underway across the state. These projects are vital but, unfortunately collectively expensive. Though each share a critical role in the advancement of North Dakota's water infrastructure.

The North Dakota Water Coalition support lending programs and credit options of using the Legacy Fund to finance the completion of state water infrastructure, the Coalition and its members look forward to helping advance the proposal through the Legislature and with the voters of the state.

We appreciate your past support of water infrastructure and urge your continued backing of North Dakota's water infrastructure with adoption of SCR 4005.

1/15 SCR 4005
#10 pg.2

Meeting the Challenge XI

2019-21 Critical Water Needs Summary

January 2019

Fargo-Moorhead Area Diversion Project

The Fargo-Moorhead Area Diversion Project will establish in excess of 100-year flood protection for the 230,000 people within its protective boundaries. The federally authorized project reduces flood risk through construction of a 30-mile, 20,000-cubic-feet-per-second diversion channel, upstream retention and an intricate system of in-town levees. The project provides flood risk reduction from six rivers, including the Red, Wild Rice, Sheyenne, Maple, Rush and Lower Rush Rivers. The project includes an embankment and tie-back levee that will temporarily retain flood waters upstream of the metropolitan area in times of extreme flooding to ensure no downstream impacts. In addition to the diversion channel, the project will include in-town levees along the Red River through Fargo. These levees will enable flood waters to safely pass through the metro area, as well as the diversion channel, which will help reduce project impacts and will provide more robust flood risk reduction.

The project was federally authorized in 2014 through the passage of the Water Resources Reform & Development Act and a Project Partnership Agreement was signed with the U.S. Army Corps of Engineers in 2016. Efforts are also underway with permitting agencies in North Dakota and Minnesota, including a new permit application submitted to Minnesota in March of 2018. A permit decision is expected in the winter of 2018.

In December 2018, the Diversion Authority released a new \$2.75 billion cost estimate. The proposed funding plan for the Project includes \$750 million from the deferral government (\$450 million committed to date), \$870 million for the State of North Dakota (\$570 committed to date), and over a billion dollars locally provided by approved sales taxes in Fargo and Cass County.

Souris/Mouse River Flood Protection Project

The Mouse River Flood Protection plan consists of an overall project from the 49th Parallel (Sherwood) to 49th Parallel (Westhope). The preliminary alignment for protection measures is an area from the Mouse River State Park to Velva and consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, ring dikes, and residential and commercial property acquisitions in the flood alignment boundary. Levees comprise nearly 90 percent of the alignment, totaling 21.6 miles. The remainder of the alignment consists of 2.8 miles of floodwalls and 30 transportation closure structures (19 roadway and 11 railroad). In addition, the project would require 33 stormwater pump stations.

The estimated project cost is \$820 million, based on the current level of design based on a 27,400 cfs flood event. Of this estimated cost, \$565 million is related to construction, \$154 million is related to property acquisition, and the remaining \$101 million covers planning, engineering, and program management costs. In addition to the urban portion from Mouse River Park to Velva, there is also a rural reaches portion that is the STaRR program, which is looking at structure acquisition, ring dike, and relocation options. There are also plans to look at enhanced conveyance from Velva to the Canadian border. The rural reaches portion is approximately \$180 million, bringing the entire project to over \$1 billion.

Sheyenne River Flood Protection

In the fall of 2011, Valley City began developing investment strategies for permanent flood protection. Funds were originally approved for the Valley City Permanent Flood Protection during the 2013 ND Legislative Session. This flood protection consists of a combination of clay levees, floodwalls and select property

acquisitions. Phase 1 of the project, protecting residential property and Valley City State University, was completed in the fall of 2016. The second phase will focus on Main Street and one of the city's Distribution Power Substations. Design for Phase 2 is getting started with work anticipated to begin in 2017. Overall completion is expected within eight years assuming an average of \$25 million in state funding each biennium over that time period.

Lisbon developed a permanent flood protection plan, which includes home acquisitions and levee construction along the Sheyenne River. With the help of the State Water Commission, the city began construction on Levee A in 2014. Levee A tied into existing high ground on the northwest side of the city and extended east to ND State Hwy 32. The following year, the city constructed Levee C, which started just east of ND State Hwy 32 and extends south to a point that is just north of ND State Hwy 27. The city is currently constructing Levee E, which includes 1,100 feet of flood protection on the east side of the Sheyenne River between ND State Hwy 27 and 8th Ave. The city is currently in the design process for Levee D and Levee F and look to be under construction in 2017 and 2018, respectively. Once Levee D and Levee F are constructed, levee work will be completed in the northern portion of the city.

Devils Lake Outlet Operations

The state completed construction of an outlet from the end of Devils Lake to the Sheyenne River in 2005. The outlet pumps were designed with a maximum capacity of 100 cubic feet per second (cfs). Modifications constructed in early 2010 increased that capacity to 250 cfs. During the summer of 2012, as the flood water continued to rise in the Devils Lake Basin, the state also completed an outlet from East Devils Lake with a maximum capacity of 350 cfs. The combined operating capacity of the West and East Devils Lake outlets is 600 cfs, and together, the outlets have discharged over 1.16 million acre-feet. At the current lake elevation, this volume corresponds to approximately 6.5 feet of flood water on top of the lake surface. The funding request for Devils Lake Outlet Operations go towards the costs associated with operating the Devils Lake Outlets, monitoring the outlet and downstream water quality, and providing mitigation for those who are adversely impacted by outlet operation.

Rural Water Supply

Regional/rural water systems provide a safe, reliable, high-quality, and affordable water supply to North Dakota residents, farms, industries, subdivisions, and small communities. In order to meet the growing statewide water needs, Garrison Diversion Conservancy District, the State Water Commission, the four Tribal Nations, and the North Dakota Rural Water Systems Association are working cooperatively to solve water quality and quantity problems.

Projects for the 2019-2021 biennium include, but are not limited to, expansions of Agassiz WUD, All Seasons WUD, Dakota RWD, East Central RWD, Greater Ramsey WD, McLean-Sheridan RWD, Missouri West Water System, North Prairie RWD, North Central RWD Northeast RWD, South Central RWD, Southeast RWD, Stutsman RWD, Tri-County WD, and Walsh

Challenge XI

Without assistance, many systems could not reasonably afford to bring water to people who desperately need it or comply with complex regulations and mandates.

Municipal Water Supply

North Dakota's 357 incorporated cities generate over 90% of in-state sales tax annually. A critical component of their revenue generating ability is a sustainable municipal water infrastructure that supports water demand and water quality. The partnership of local and state funding for water infrastructure capital investments encourage and strengthen a growing state economy. These projects not only serve municipal and industrial customers, but also serve rural water customers through current and future water supply regionalization partnerships.

Red River Valley Water Supply Project (RRVWSP)

The Red River Valley Water Supply Project (RRVWSP) is a plan to safeguard water for North Dakota communities and rural water systems in times of drought by delivering water from the Missouri River to central and eastern North Dakota through a buried pipeline. Upon its completion, the RRVWSP will benefit about half of North Dakota's population by providing an emergency water supply during droughts.

The water will also provide opportunities for industrial development, as a current lack of industrial water supply has driven industries to obtain water through less desirable means and relocation out of North Dakota.

Funding requested is to be allocated towards construction of a pipeline segment, as well as completing the final design of key components and the land acquisition process for the RRVWSP.

Southwest Pipeline Project (SWPP)

The Southwest Pipeline Project (SWPP) continues its mission of quality water for southwest North Dakota. The North Dakota State Water Commission (SWC) has been constructing a complex network of pipelines, pump stations, reservoirs and treatment facilities since 1986. More than 56,000 North Dakota residents receive quality water from the SWPP with service provided to more than 7,150 rural locations through over 5,262 miles of pipeline. Service is also available to three crew camps, two raw water depots, Red Trail Energy Ethanol Plant, 21 raw water customers, Missouri West Water System and Perkins County Rural Water System.

The SWPP continues construction on the supplemental intake at Renner Bay on Lake Sakakawea. Progress is being made on the raw-water main transmission pipeline. Construction is also continuing on the Residuals Handling Facility in Dickinson. The third WTP recently came online. The Project is increasing its storage capacity with the additional Dickinson and Richardton raw water reservoirs.

Rural areas and communities currently served by the SWPP are relying on their current and future growth on the availability of clean water. Addressing the waiting list, water treatment plant replacement and additional capacity for both raw and potable water are necessary. Growth in southwest North Dakota is able to be sustained with the continued growth and increased capacity of the Pipeline.

1/15 SCR 4005 #10 pg. 4

The Western Area Water Supply Project (WAWSP)

The Western Area Water Supply Project (WAWSP) utilizes water from the Missouri River in Williston, treats it at the Williston Regional Water Treatment Plant, and then transports it to cities and rural areas in all or parts of Burke, Divide, McKenzie, Mountrail, and Williams Counties in northwestern North Dakota. The WAWSP's service area is forecast to reach 125,000 people by the year 2038, according to a 2014 study completed by the North Dakota State University Department of Agribusiness and Applied Economics. The Western Area Water Supply Authority (WAWSA) has constructed more than 1,042 miles of transmission lines and rural water distribution networks, as well as pump stations, reservoirs, and other critical infrastructure, in order to serve an estimated 65,000 people in the service area.

The WAWSP Business Plan is a first-of-its-kind public-private partnership in North Dakota. To date, the North Dakota Legislature has obligated \$309 million to complete the project. In order to repay its loans, WAWSA is selling the system's unused water capacity to the oil industry during the population growth period to pay for a significant portion of the project's \$469 million cost. Specific projects that could be advanced this biennium include part two of a McKenzie County system expansion, R&T system Stanley, White Earth and Powers Lake rural distributions, and Williams Rural north and 29-mile rural distribution efforts.

Northwest Area Water Supply (NAWS)

The Northwest Area Water Supply (NAWS) is delivering drinking water to areas in north central North Dakota. NAWS currently has approximately 230 miles of pipe (185 miles of distribution pipeline and 45 miles of raw water transmission pipeline), one high service pump station, two ground storage reservoirs, one elevated storage reservoir, and four booster pump stations. The project currently serves Burlington, West River Water and Sewer, Berthold, Kenmare, Sherwood, Mohall, Upper Souris Water District, and All Seasons Water Users District with water purchased from Minot through an interim water supply agreement. The project also distributes water for the city through two connections to the Minot water distribution system, the Minot Air Force Base, and multiple connections to North Prairie Rural Water. The project had been in litigation since 2002 and under a federal injunction since 2005. In August 2017, the US District Court for the District of Columbia ruled in favor of the State and Bureau of Reclamation and vacated the injunction. Manitoba and Missouri appealed the district court decision, but Manitoba has since settled its case with Reclamation.

Work is currently underway to replace the softening basins and associated systems at the Minot Water Treatment Plant and design is underway for the Biota Water Treatment Plant at Max and for the intake modifications at Snake Creek Pumping Plant. Contracts will be bid over the winter of 2018-19 for the first two pipeline contracts to extend the distribution system towards Bottineau for construction in the 2019 construction season. Design is underway for the remaining pipeline to Bottineau for construction in the 2020 season along with other critical project components. The water needs in the Bottineau area are critical and the aquifers currently serving the project through contracts with the City of Minot are not a sustainable water source.

General Water Management

In addition to the many large-scale water projects being developed across the state, there are dozens of smaller local water management projects that benefit individuals and local communities. The State Water Commission provides support for these water management projects by cost-sharing with local entities, primarily water resource districts. Joint water boards also play a key role in these local water management projects. Examples of general water management projects that typically receive cost-share assistance from the state include: rural flood control, snagging and clearing, channel improvements, recreation projects, dam certification and repairs, planning efforts, special studies, and other water management projects.

Irrigation

Irrigation provides the opportunity for producers to grow high-value crops that meet high-quality market standards and to consistently raise high-yielding good quality traditional crops. According to a 2014 NDSU study, investment in irrigation provides positive returns over dryland crop rotations. North Dakota has about 290,000 acres of land under irrigation, but a 2012 study showed a potential for 550,000 additional irrigated acres in North Dakota. The SWC provides up to 50% cost-share for off-farm irrigation supply works, storage facilities, intake structures, pumps, and electrical power.

Project Funding

The North Dakota Water Coalition has assembled a priority list of minimum state funding levels needed to assist projects and categories during the 2019-2021 biennium which total \$552.4 million. The project sponsors have coordinated to prioritize the water funding needs to align with the anticipated \$403 million available for water projects. Because the minimum amounts of critical water project funding needs exceed the projected revenues the Water Coalition recommends the following to help meet the critical water needs of our state:

- Fund of State Water Commission administrative operations from the State General Fund
- Oppose any reduction or diversion of 20 percent of oil and gas extraction taxes from the Resources Trust Fund which supports water projects and infrastructure
- Support lending programs and credit options up to \$150 million, through the Bank of North Dakota and the Legacy Fund to finance the completion of state water infrastructure

Statewide Water Funding and Needs: 2019-21 and Beyond

	Total Project Cost	Total Funding (Federal, State and Local Funds)	Current Unmet Need
Fargo Moorhead Diversion	\$2.75 billion	\$792.5 million (as of October 2018)	\$2.2 billion
Red River Valley Water Supply Project	\$1.03 billion	\$1.114 billion (potential)	\$150 million*
Irrigation Infrastructure			\$1 million
Mouse River Flood Control	\$1.028 billion	\$324.2 million (as of October 2018)	\$748 million
Municipal Water Supply (cities)	\$125-150 million		\$125-150 million
Rural Water (systems)			\$83 million
General Water Management/Conveyance			\$45 million
Northwest Area Water Supply (NAWS)	\$411 million	\$138.1 million (as of June 2018)	\$232 million
Sheyenne River Flood Control for Valley City/Lisbon	\$143 million	\$65.8 million (as of October 2018)	\$97 million
Southwest Pipeline Project (SWPP)	\$370.99 million	\$407 million (as of October 2018)	\$190.68 million
Western Area Water Supply (WAWS)		\$329 million (as of October 2018)	\$175 million

*Legislative Intent

2019 and Beyond

Water needs are clearly greater than our resources. We must work hard to “Meet the Challenge” and “complete North Dakota’s water infrastructure for economic growth and quality of life.”

Kelly Schmidt, State Treasurer

Opposition Testimony

to SCR 4005

Senate Finance & Tax

Sen. Dwight Cook, Chair

Sen. Kannianen, Vice-Chair

January 15, 2019

Mr. Chairman, members of the committee, I am Kelly Schmidt, State Treasurer. I stand in Opposition to SCR 4005.

If approved, SCR 4005 would require an initial transfer from the Legacy Fund to the newly created North Dakota First Fund in an amount equal to 15% of the principal balance of the fund as of July 1, 2021. This would equate to a \$1 billion PRINCIPAL transfer if assuming \$40/barrel oil. In addition, it also requires 15% of oil and gas deposits currently being deposited into the Legacy Fund to be deposited into the North Dakota First Fund. Again, using conservative estimates this would be \$60M per year to this new fund.

In addition to transfers affecting the principal, this resolution requires that 25% of the Legacy Fund's annual earnings also be transferred to the North Dakota First Fund. It is estimated Legacy Fund earnings to be transferred to the general fund at the end of the 2021-23 biennium will be \$300M less than would be if no transfers were made. With the required subsequent annual transfers to this new fund, the difference in estimated Legacy Fund earnings transferred to the general fund versus the estimates if no transfers were made would continue to increase to over a \$1B biennial reduction by 2038.

The citizens of North Dakota voted to create the Legacy Fund in 2010 with a 69% approval. I believe it was the intent to let these funds grow to preserve the one-time harvest of oil revenues. SCR 4005 does not accomplish that intent.

TESTIMONY OF CONNIE TRIPLETT
BEFORE THE NORTH DAKOTA SENATE
FINANCE & TAXATION COMMITTEE

Regarding Senate Concurrent Resolution 4005

January 15, 2019

Mr. Chairman and Members of the committee, it is a pleasure to appear in this room before this committee which has so many good memories for me. My name is Connie Triplett. I reside in Grand Forks. I am opposed to SCR 4005.

I am appearing as a member of an *ad hoc* group whose members have modestly named it the Legacy Fund Founders. I am also representing myself as a former legislator with a history of involvement on this topic. I will make a clear distinction between those two roles as necessary.

For those who were not here in 2007 and 2009, and just for the record, I am going to recount briefly the history of the creation of the Legacy Fund. It started with a proposed Constitutional amendment to create a 'Permanent Oil Tax Trust Fund' in the 2007 session. The proposal passed the legislature in 2007 and was put on the ballot in 2008. That measure would have put considerably more dollars into a trust fund than does the existing Legacy Fund amendment.

The 2007 version failed at the ballot box in 2008, but it was a significant development because it began a statewide conversation about the concept of such a fund. My claim to fame regarding the 2007 resolution is that it passed the Senate with a bare minimum of 24 votes and I was the only member of the minority party who voted in favor of it. So you can see that I have been invested in this idea for a long time.

Although the first measure failed by nearly a two-to-one vote, legislators who favored the idea heard loud and clear from the citizens of North Dakota that they very much approved

of the *concept* of such a fund but believed we were proposing to bite too deeply into oil tax revenues. So we tried again in 2009.

The prime sponsor of HCR 3054 in 2009 was Rep. Dave Weiler, who had also been the prime sponsor of the first effort in 2007. In 2009, the resolution was wired for passage: all four members of legislative leadership signed on as co-sponsors. I was the final co-sponsor - from the days when six sponsors was the maximum allowed.

The resolution passed both houses with strong bipartisan support, but with different language, as happens from time to time. The House refused to concur with the Senate amendment, which provided **for 25% of revenues to go into the trust fund which would then be inviolable until 2040**. Think of that. 34 members of the Senate voted in favor of hanging on to all of the principal for 30 years!

But a conference committee means compromise. The conferees on the Senate side were Senators Hogue, Oehlke, and Triplett. On the House side were Representatives Koppelman, Schatz, and Schneider, but Rep. Schatz was soon replaced by Rep. Weiler. Together, our conference committee re-wrote the resolution, and created the proposal that made it to the ballot, which was to deposit 30% of both the gross production tax and the oil extraction tax into the Legacy Fund, leave it grow until "after June 30, 2017" after which time a 2/3 majority of members of both houses of the legislature could invade the principal, but only to the extent of 15% in any biennium.

During the conference committee process, we worked closely with the groups who had opposed the 2007 version to understand their members' concerns and to find common ground. And while we moved the date up considerably, from 2040 to 2017, when it would be possible to invade the principal, no one was advocating that it be a routine matter to do so.

A big difference between the first effort in 2007 and the second effort in 2009 was that a group of us decided after the legislative session was over that we could not take it for granted that the measure would pass at the ballot box. That's where the Legacy Fund

Founders come into the picture. Our little group organized and fanned out across the state with power point presentations and offered ourselves as speakers at service clubs and on radio programs, we created an organized campaign of letters to the editor, we used social media, including a YouTube video production which we shared far and wide, starring my friend Rep. Weiler and me, making the point that this was a bipartisan effort to put aside a significant portion of oil and gas tax revenues for future generations.

In all of the presentations made by all the members of our group, we presented the Legacy Fund as a fund **for the benefit of future generations**, for our children and our children's children. The measure passed by a strong 64% of the vote in 2010, as opposed to 2008, when the earlier measure had lost by 64% of the vote. Quite a turnaround in two years.

And that brings us to the present: we are here now (the Legacy Fund Founders) because we have a collective sense of responsibility to see that this legislature does not undo the will of the people expressed in passing the Legacy Fund amendment in 2010. We all helped to sell this concept to the citizens of the state and we are here today to urge you to keep the commitments that were made during the election of 2010: that the principal will only be invaded if necessary under dire circumstances, *e.g.*, to support our public schools in times of serious financial distress.

Most of us involved in the Founders club are doing this work on our own time and our own dime. I believe that everyone who worked to get the Legacy Fund established has been working selflessly 'for the children' - for the next generation and the next and the next.

As the session progresses, I can virtually guarantee you that our members will be divided over *what* to spend Legacy Fund dollars on, but we are united on these core principles:

1. This is not the time to invade the principal of the fund; there is no emergency in ND that would warrant such a move.
2. Do not spend all of the interest; we propose that not more than 25 % of interest earnings be spent in any biennium and that the rest be retained in the Legacy Fund to help

it grow;

✓15
SCR 4005
#12 pg. 4

3. Avoid permanent commitments of Legacy Fund earnings;
4. Any beneficiaries of Legacy Fund earnings should have a financial stake in funded projects; and
5. Spending of earnings should be based on long-term strategic planning.

To that end, I want to bring to your attention the fact that another, separate group of citizens gathered throughout 2014 to think deeply about how to manage the Legacy Fund. With a Bush Foundation grant and additional support from the Northwest Area Foundation, the ND Natural Resources Trust, and the Consensus Council, the Great Plains Institute gathered a solid cross section of engaged North Dakotans to study how best to manage the significant opportunities presented by the Legacy Fund. That group's recommendations are presented in a document entitled *North Dakota's Legacy Fund:*

Building a Bridge to the Future. It is available online at:

https://www.betterenergy.org/blog/north_dakota_legacy_fund_recommendations/. If any of you have not read that document, I urge you to do so. It does not purport to tell legislators exactly what to do with the money, but rather provides valuable background information regarding other sovereign wealth funds and provides a solid framework for decision-making.

You may also want to review an Attorney General's opinion from 2016 (Letter Opinion 2016-L-02) . Among other things, at page four of the opinion, it summarizes the intent behind the establishment of the Legacy Fund as being "largely focused on the desire to provide inter-generational equity among North Dakotans by preserving the wealth gained from the state's exhaustible resource for use by future generations."

I urge a Do Not Pass on SCR 4005.

Questions?

North Dakota Legacy Fund Policy Framework

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

POLICY GUIDANCE:

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

In recent history, we have seen wild swings of state revenues based upon oil production and prices (1980s and 2015), which required extreme adjustments in state spending. Oil revenues currently represent 20%* of proposed general fund spending. The Legacy Fund was created in part to mitigate against wild swings in state revenues.

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

Members of the Legacy Fund Founders Committee