

STUDY OF THE LASTING BENEFITS OF THE LEGACY FUND - BACKGROUND MEMORANDUM

STUDY OVERVIEW

Section 1 of 2013 Senate Bill No. 2124 ([Appendix A](#)) provides for a Legislative Management study of the lasting benefits of the legacy fund. The study is to review methods to assure the legacy fund provides the lasting benefits intended by the voters enacting the constitutional measure that created the fund. The study has been assigned to the Government Finance Committee.

LEGACY FUND HISTORY

The legacy fund was created in 2010 when the voters of North Dakota approved a constitutional amendment--now Article X, Section 26, of the Constitution of North Dakota ([Appendix B](#))--to provide that 30 percent of oil and gas gross production and oil extraction taxes on oil and gas produced after June 30, 2011, be transferred to the legacy fund. The principal and earnings of the legacy fund may not be spent until after June 30, 2017, and any expenditure of principal after that date requires a vote of at least two-thirds of the members elected to each house of the Legislative Assembly. Not more than 15 percent of the principal of the legacy fund may be spent during a biennium. The Legislative Assembly may transfer funds from any source to the legacy fund and such transfers become part of the principal of the fund. The State Investment Board is responsible for investment of the principal of the legacy fund. Interest earnings accruing after June 30, 2017, are transferred to the general fund at the end of each biennium. North Dakota Century Code Section 21-10-11 provides the goal of investment for the legacy fund is principal preservation while maximizing total return.

Section 15-08.1-08, created by the 2011 Legislative Assembly in House Bill No. 1451, establishes the strategic investment and improvements fund. The fund is intended to provide funding for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. The section provides if the balance of the strategic investment and improvements fund exceeds \$300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund must instead be deposited in the legacy fund. For the 2013-15 biennium, an estimated \$260.7 million will be transferred from the strategic investment and improvements fund to the legacy fund. The balance in the strategic investment and improvements fund on June 30, 2015, is estimated to be \$735.1 million.

2011-13 BIENNIUM OIL AND GAS TAX REVENUES DEPOSITED IN THE LEGACY FUND

The following schedule details deposits of oil and gas tax revenue directly into the legacy fund during fiscal year 2012 and during each month of fiscal year 2013 through May 2013:

Fiscal year 2012 total	\$446,334,850
August 2012	43,464,073
September 2012	45,425,341
October 2012	53,869,764
November 2012	57,588,723
December 2012	60,838,520
January 2013	54,982,692
February 2013	79,273,665
March 2013	85,466,178
April 2013	78,432,705
May 2013	90,597,908
Total 2011-13 biennium (through May 2013)	\$1,096,274,419 ¹

¹Does not include transfers of revenues from the strategic investment and improvements fund.

STATUS OF THE LEGACY FUND

The following schedule provides an analysis of the legacy fund for the 2011-13 and 2013-15 bienniums, including the fiscal effect of revenue adjustments to the fund due to actions of the 2013 Legislative Assembly:

	2011-13 Biennium		2013-15 Biennium	
		\$0		\$1,314,842,496
Beginning balance		\$0		\$1,314,842,496
Add estimated revenues under current law				
30 percent of oil and gas gross production and extraction tax collections	\$1,168,911,752 ¹		\$1,481,076,825 ²	
Transfer of oil and gas tax revenues from the strategic investment and improvements fund	126,555,856 ³		212,279,556 ³	
Transfer of other revenue sources from the strategic investment and improvements fund	7,674,888 ⁴		48,423,636 ⁴	
Investment earnings	11,700,000		18,800,000	
Total estimated revenues		\$1,314,842,496		\$1,760,580,017
Revenue adjustments due to actions by the Legislative Assembly in 2013				
Oil tax exemption for natural gas gathering lines (HB 1134)				(\$4,800,000)
Changes oil taxes and modifies tribal agreement (HB 1198)				25,980,000
Total available		\$1,314,842,496		\$3,096,602,513
Total estimated expenditures and transfers		0 ⁵		0 ⁵
Estimated ending balance		\$1,314,842,496		\$3,096,602,513

¹The amount shown for the 2011-13 biennium reflects actual collections through April 2013 and the February 2013 legislative revenue forecast for oil price and production for the remainder of the 2011-13 biennium. This amount does not reflect any transfers from the strategic investment and improvements fund.

²Estimated revenues - The executive budget revenue forecast for the 2013-15 biennium projects oil and gas gross production tax and oil extraction tax revenues to total \$4,936,922,750 for the 2013-15 biennium, excluding the tribal share of oil produced on Indian reservations. Thirty percent of the projected revenues is \$1,481,076,825. This amount does not reflect any transfers from the strategic investment and improvements fund.

³Pursuant to Section 15-08.1-08, if the unobligated balance of the strategic investment and improvements fund exceeds \$300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund. This amount does not reflect additional transfers from the strategic investment and improvements fund from revenue sources other than oil and gas tax revenue.

⁴This amount reflects transfers to the legacy fund from the strategic investment and improvements fund from revenue sources other than oil and gas tax revenue, pursuant to Section 15-08.1-08.

⁵The principal and earnings of the legacy fund may not be spent until after June 30, 2017.

LEGACY AND BUDGET STABILIZATION FUND ADVISORY BOARD

The Legacy and Budget Stabilization Fund Advisory Board was created by the 2011 Legislative Assembly as the result of the enactment of Section 21-10-11. The board was established for the purpose of developing recommendations for the investment of funds in the legacy fund and the budget stabilization fund to present to the State Investment Board. Section 21-10-11 provides staff and consultants of the state Retirement and Investment Office advise the board in developing asset allocation and investment policies. The Legislative Council is to provide staff services to the board and the board, is required to report at least semiannually to the Budget Section.

The Legacy and Budget Stabilization Fund Advisory Board is comprised of two members of the Senate appointed by the Senate Majority Leader, two members of the House of Representatives appointed by the House Majority Leader, the Director of the Office of Management and Budget or designee, the President of the Bank of North Dakota or designee, and the Tax Commissioner or designee. The Chairman of the board is to be selected by board members. Legislative members appointed to the board include Senators Jerry Klein and Carolyn C. Nelson and Representatives Keith Kempenich and Gary Kreidt.

Attached as [Appendix C](#) is a copy of the current legacy investment fund policy statement as approved by the board.

STUDY PLAN

Study of the Lasting Benefits of the Legacy Fund

The following is a proposed study plan for the committee's consideration in its study of the administration and use of the legacy fund to ensure the fund provides the lasting benefits intended by the voters in creating the fund:

1. Receive and review information regarding the current investment strategy of the fund and estimated future fund earnings.
2. Review current sources of revenue deposited in the fund and if changes need to be made.
3. Receive information on the estimated investment earnings that will be transferred from the legacy fund to the general fund during the 2017-19 biennium and beyond.
4. Consider whether investment earnings transferred from the legacy fund to the general fund should be used for general government purposes or be designated for specific purposes, and if so, what purposes.
5. Receive information to determine if the 2017 Legislative Assembly can make appropriations from the legacy fund for the 2017-19 biennium.
6. Review the desirability of appropriating funds from the legacy fund when available and what the funds should be used for if appropriated.
7. Receive testimony from interested persons regarding the study.
8. Develop recommendations and any bill drafts necessary to implement the recommendations.
9. Prepare a final report for submission to the Legislative Management.

ATTACH:3