North Dakota Legislative Council
Prepared for the Tax Reform and Relief Advisory Committee
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LEGACY FUND PROJECTIONS - CONSIDERATIONS FOR PROPERTY TAX RELIEF

FUND HISTORY

Overview

The Legislative Assembly approved House Concurrent Resolution 3054 (2009), which provided for a constitutional amendment to create the Legacy Fund. In 2010, the voters approved the constitutional amendment creating the Legacy Fund under Section 26 of Article X of the Constitution of North Dakota. The section transfers 30 percent of oil and gas gross production and oil extraction taxes to the Legacy Fund which becomes the principal of the fund along with any other funding transferred to the fund by the Legislative Assembly. A portion of the principal may be spent each biennium but requires a vote of at least two-thirds of the members elected to each house of the Legislative Assembly. The Legacy Fund is invested by the State Investment Board (SIB) based on recommendations from the Legacy and Budget Stabilization Fund Advisory Board. The investment earnings are distributed from the fund each biennium.

As originally created, the principal and earnings of the Legacy Fund could not be spent until after June 30, 2017. Up to 15 percent of the principal of the Legacy Fund could be spent during a biennium, and the investment earnings were transferred to the General Fund at the end of each biennium. However, the Legislative Assembly approved House Concurrent Resolution 3033 (2023) to amend the constitutional provisions for the Legacy Fund, which the voters approved in November 2024. The constitutional amendment replaced the transfer of earnings at the end of each biennium with a distribution from the Legacy Fund to the Legacy Earnings Fund at the beginning of each biennium. The amendment also decreased the amount of principal that may be spent during a biennium from 15 to 5 percent.

Additional Revenue

The Legislative Assembly approved House Bill 1451 (2011) to transfer additional funding to the Legacy Fund. Pursuant to North Dakota Century Code Section 15-08.1-08, 25 percent of any revenues deposited in the Strategic Investment and Improvements Fund were transferred to the Legacy Fund if the balance of the Strategic Investment and Improvements Fund exceeded $300 million at the end of any month. The transfer provision was in effect for the 2011-13 and 2013-15 bienniums, but the Legislative Assembly removed the transfer provision in House Bills 1176 and 1377 (2015).

House Bill 1279 (2025) extends a partial coal conversion tax exemption for coal conversion facilities and allocates the state share of coal conversion tax revenues to the Legacy Fund rather than the General Fund. The exemption will be phased out between fiscal years 2027 and 2031 resulting in additional revenue for the Legacy Fund.

Investments

Pursuant to Section 21-10-11, the Legacy and Budget Stabilization Fund Advisory Board recommends an investment policy for the Legacy Fund. Originally, the advisory board recommended investing 100 percent of the Legacy Fund in short-term fixed income investments. In April 2013, the advisory board recommended adding domestic and foreign equities, real estate, real assets, and other fixed income investments to the investment policy, which was fully implemented as of January 2015.

During the 2015-17 biennium, the Legacy and Budget Stabilization Fund Advisory Board authorized the SIB to transfer the investments in the Bank of North Dakota's CD Match Program from the Budget

Stabilization Fund to the Legacy Fund after the Budget Stabilization Fund was liquidated during the 2015-17 biennium due to a budget shortfall.

In House Bills 1425 and 1512 (2021), the Legislative Assembly amended Section 21-10-11 and directed the advisory board to develop an asset allocation plan for the Legacy Fund targeting 10 percent of fixed income and 10 percent of equity investments for in-state investment programs. In February 2021, the advisory board changed the investment policy authorizing the SIB to target an allocation of 3 percent (with a range of 0 to 6 percent) in private capital markets for an in-state investment program. The SIB selected 50 South Capital to manage the in-state investments known as the "North Dakota Growth Fund." The advisory board updated the investment policy in October 2022 to reflect a target allocation of 20 percent for in-state investments.

Senate Bill 2330 (2023) changed the amount designated for in-state investments from 20 percent of the fund allocation balance to $1.3 billion, including $700 million for in-state fixed income investments and $600 million for in-state equity investments. In June 2023, the advisory board revised the investment policy to reflect additional changes to the asset allocation of the investments of the Legacy Fund based on recommendations from RVK, Inc., including changes approved during the 2023 legislative session. The revised investment policy decreased the allocations to core fixed income investments, treasury inflation-protected securities, domestic equities, and international equities while increasing the allocations to the Bank of North Dakota's CD Match Program, private credit, high-yield fixed income, private equity, and in-state private equity.

The advisory board approved an updated investment policy in March 2026 to reflect the constitutional changes approved by the voters in November 2024 and to provide consistency with the investment policies for other funds managed by the SIB.

Distributions

The Legislative Assembly approved House Bill 1167 (2013) to create Section 21-10-12, which defined the investment earnings as the realized earnings of the fund. Based on the definition, the realized earnings were distributed from the Legacy Fund at the end of each biennium, but the unrealized earnings remained in the fund.

During the 2019-20 and 2021-22 interims, a Legacy Fund Earnings Committee studied the potential uses of Legacy Fund earnings, gathered public input, and reviewed the operation of other sovereign wealth funds. Based on the study, the committee recommended House Bill 1037 (2021) to establish a spending policy based on a percent of market value (POMV) calculation and to create a special fund to separately identify the spending of earnings distributed from the Legacy Fund.

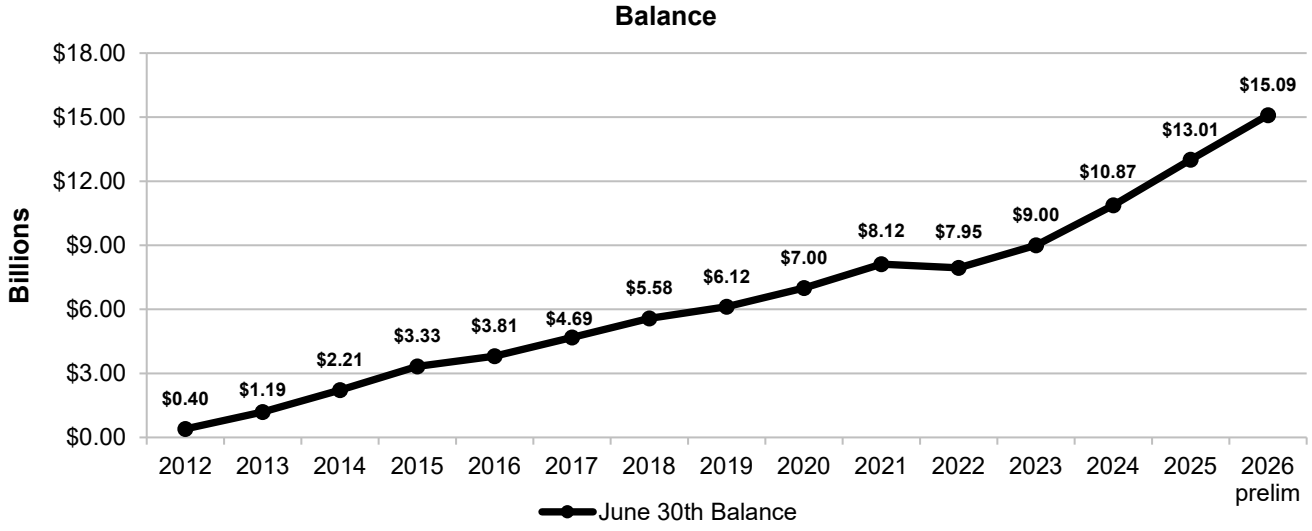
Although House Bill 1037 (2021) was not approved by the Legislative Assembly, similar provisions were approved in House Bill 1380 (2021). As approved, Section 21-10-13 provided for the earnings distributed from the Legacy Fund to be immediately transferred to the Legacy Earnings Fund and determined the amount available for spending in the subsequent biennium was based on a POMV calculation. The POMV calculation equaled 7 percent of the 5-year average value of the Legacy Fund assets based on the June 30th financial statements for the 5-year period ending with the most recently completed even-numbered fiscal year.

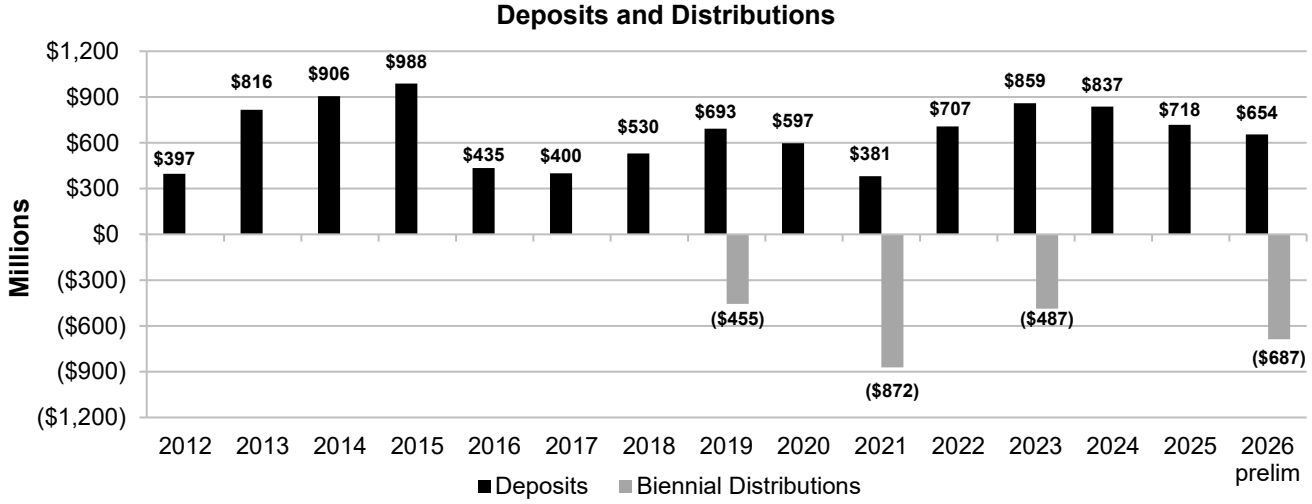
The Legislative Assembly approved Senate Bill 2330 (2023) to change the definition of investment earnings to reflect the POMV calculation used for the spending policy. Then, in 2025, the Legislative Assembly approved House Bill 1176 and Senate Bill 2012 to repeal the Legacy Fund definitions under Section 21-10-12, which were no longer necessary after approval of the constitutional amendment in November 2024. The bills also repealed the Legacy Earnings Fund under Section 21-10-13 and moved it to a newly created section under Chapter 54-27. Pursuant to Section 54-27-32, the distribution from the Legacy Fund at the beginning of each biennium uses a POMV calculation equal to 8 percent of the 5-year average value of the Legacy Fund based on the June 30th fund balances for the 5-year period ending with the most recently completed even-numbered fiscal year.

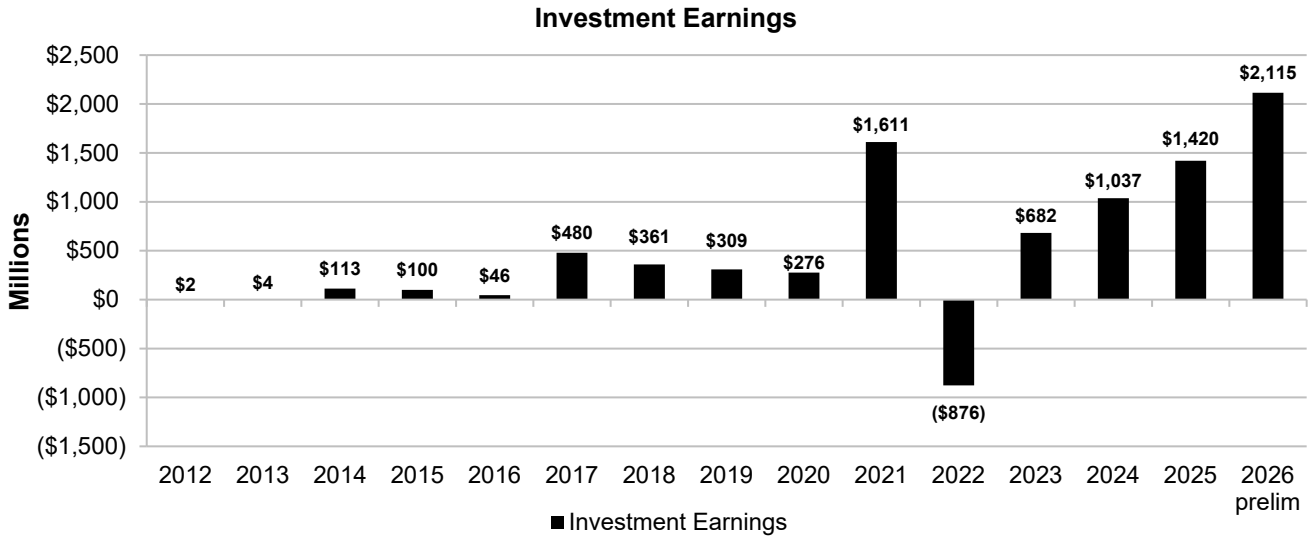
HISTORICAL BALANCES AND PERFORMANCE

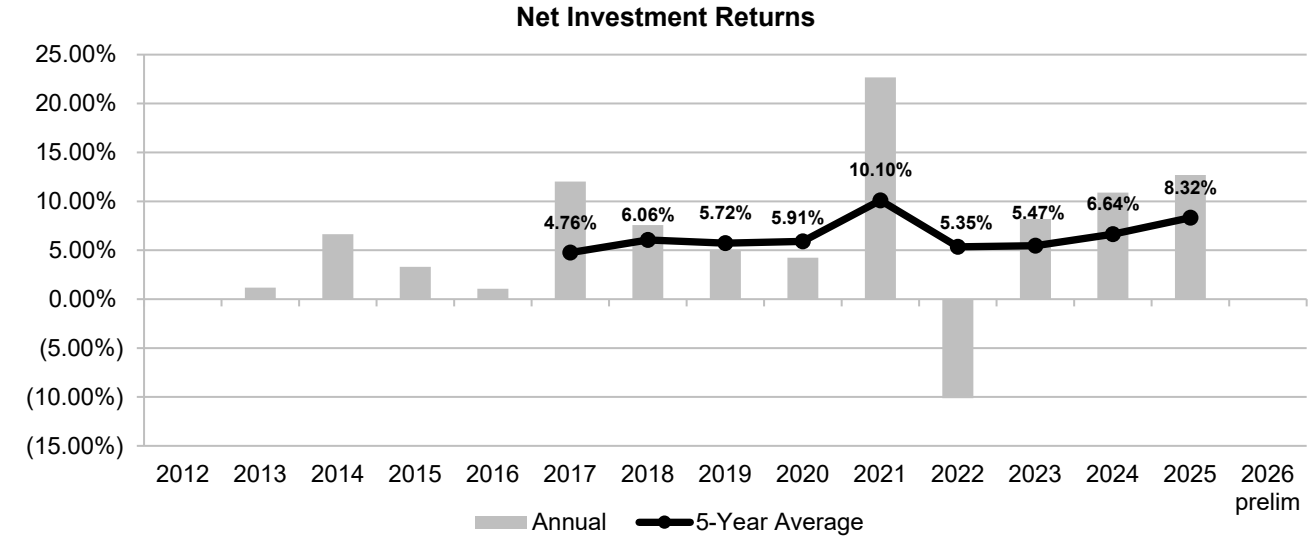
The schedule and charts below provide information on the Legacy Fund, as reported by the Retirement and Investment Office, since fiscal year 2012, including the fund balance, deposits, distributions, and investment earnings and returns. The amounts shown for fiscal year 2026 are preliminary and subject to change.

	Amounts Shown in Millions				Net Investment Return	
Fiscal Year	June 30th Balance	Deposits	Biennial Distributions	Investment Earnings	Annual	5-Year Average
2012	$398.9	$396.6		$2.3		
2013	$1,194.2	$816.0		$4.2	1.17%	
2014	$2,214.6	$905.8		$113.2	6.64%	
2015	$3,325.8	$987.9		$100.0	3.31%	
2016	$3,806.5	$434.9		$45.9	1.06%	3.31%
2017	$4,685.6	$399.5		$479.5	12.03%	4.76%
2018	$5,576.1	$529.9		$360.6	7.57%	6.06%
2019	$6,122.2	$692.6	($455.3)	$308.8	4.98%	5.72%
2020	$6,995.3	$596.6		$276.5	4.23%	5.91%
2021	$8,115.2	$380.6	($871.7)	$1,611.0	22.68%	10.10%
2022	$7,946.1	$707.3		($876.5)	(10.12%)	5.35%
2023	$8,999.7	$858.7	($486.6)	$681.5	8.19%	5.47%
2024	$10,873.7	$836.7		$1,037.3	10.89%	6.64%
2025	$13,011.1	$717.5		$1,419.9	12.70%	8.32%
2026 (prelim)	$15,093.2	$654.3	($686.9)	$2,114.7		









USES OF DISTRIBUTIONS

Current Law

Pursuant to Section 54-27-32, the amount distributed from the Legacy Fund and deposited in the Legacy Earnings Fund is allocated as follows:

- The first $102,624,000 or an amount equal to the amount appropriated from the Legacy Sinking and Interest Fund for debt service payments for a biennium, whichever is less, to the Legacy Sinking and Interest Fund under Section 6-09.4-10.1;
- 30 percent of the remaining amount to the Highway Fund; and
- 70 percent of the remaining amount to the Legacy Property Tax Relief Fund.

A flowchart regarding Legacy Fund investments and allocations for the 2025-27 biennium is attached as the *Legacy Fund Investments and Allocations Flowchart - 2025-27 Biennium*.

Historical Distributions

The schedule below provides information on the historical distributions from the Legacy Fund and use of the distributions since the 2017-19 biennium, which was the first biennium when distributions began.

Biennium	Legacy Fund Distributions		Use of Distributions
	General Fund	Legacy Earnings Fund	
2017-19	$455,263,216[1]		Since the Legacy Fund earnings were distributed to the General Fund, no specific purpose was identified for the use of the earnings.
2019-21	$871,687,384[2]		Since the Legacy Fund earnings were distributed to the General Fund, no specific purpose was identified for the use of the earnings. Pursuant to Senate Bill 2362 (2019), $64.37 million was transferred from the General Fund to the Common Schools Trust Fund because the actual Legacy Fund earnings exceeded $164.37 million with the intent that the $64.37 million transferred was derived from Legacy Fund earnings.
2021-23		$486,568,637[3]	Based on changes approved in House Bill 1380 (2021), Legacy Fund earnings were transferred immediately from the General Fund to the Legacy Earnings Fund and were available for spending in the next biennium.
2023-25		N/A[4]	Based on changes approved in House Bill 1379 (2023), the $486,568,637, which was transferred into the Legacy Earnings Fund in the 2021-23 biennium, was used as follows: • $102,620,461 was transferred to the Legacy Sinking and Interest Fund for bond payments related to infrastructure projects and programs. • $225,000,000 was transferred to the General Fund to support legislative tax relief initiatives. • $100,000,000 was transferred to the Legacy Earnings Highway Distribution Fund to support road and bridge projects. • $29,474,088 was transferred to the General Fund without a specific purpose. • $29,474,088 was transferred to the Strategic Investment and Improvements Fund without a specific purpose, but the fund's purpose is to support one-time projects to improve state infrastructure or state government.
2025-27		$686,881,086[3]	Distributions from the Legacy Fund, which are deposited in the Legacy Earnings Fund, were allocated as follows: • $102,622,743 to the Legacy Sinking and Interest Fund for bond payments related to infrastructure projects and programs. • $175,277,503 to the Highway Fund to support road and bridge projects. • $408,980,840 to the Legacy Property Tax Relief Fund to provide funding for the state reimbursement of the primary residence credit.

[1]For the 2017-19 biennium, due to the timing of investment reports, the earnings available for transfer to the General Fund were based on the realized earnings through May resulting in 23 months of earnings. The 2019 legislative revenue forecast reflected an estimated transfer of $300 million of earnings at the end of the 2017-19 biennium.

[2]For the 2019-21 biennium, the transfer reflected 24 months of earnings from June 1 prior to the beginning of the biennium through May 31 of the 2nd year of the biennium. The 2021 legislative revenue forecast reflected an estimated transfer of $736 million at the end of the 2019-21 biennium.

[3]These amounts reflect the POMV calculation.

[4]Due to the change in timing of the distribution from June 30 to July 1, as approved by the voters in November 2024, no distribution was made during the 2023-25 biennium.

FUTURE PROJECTIONS

The schedule below provides information on projections for the Legacy Fund, including the fund balance and distributions to the Legacy Earnings Fund, for the 2025-27 biennium through the 2043-45 biennium. The projections reflect the following:

- Oil and gas tax revenue deposits of $1.17 billion per biennium, the same as the 2025-27 biennium revenue forecast;
- Coal tax deposits increasing to $43 million per biennium by the 2031-33 biennium based on the fiscal note for House Bill 1279 (2025);
- Investment earnings of 6.5 percent per year compared to a 5-year annualized return of 5.47 percent at the end of fiscal year 2023, 6.64 percent at the end of fiscal year 2024, and 8.32 percent at the end of fiscal year 2025 as reported by the Retirement and Investment Office;
- Distributions to the Legacy Earnings Fund at the beginning of each biennium based on the current law POMV calculation using 8 percent of the 5-year average balance of the Legacy Fund;
- The current allocation formula for the Legacy Earnings Fund, which provides approximately $103 million for bond payments and then allocates the remaining amounts 30 percent to the Highway Fund and 70 percent to the Legacy Property Tax Relief Fund.

Biennium	Legacy Fund Ending Balance	POMV Distributions	Legacy Earnings Fund Allocations		
			Bond Payments	Highway Fund	Tax Relief
2025-27	$16,670,000,000	$687,000,000	$103,000,000	$175,000,000	$409,000,000
2027-29	$19,170,000,000	$895,000,000	$103,000,000	$238,000,000	$554,000,000
2029-31	$21,730,000,000	$1,170,000,000	$103,000,000	$320,000,000	$747,000,000
2031-33	$24,390,000,000	$1,412,000,000	$103,000,000	$393,000,000	$916,000,000
2033-35	$27,210,000,000	$1,608,000,000	$103,000,000	$452,000,000	$1,053,000,000
2035-37	$30,180,000,000	$1,812,000,000	$103,000,000	$513,000,000	$1,196,000,000
2037-39	$33,320,000,000	$2,027,000,000	$103,000,000	$577,000,000	$1,347,000,000
2039-41	$36,650,000,000	$2,254,000,000	$103,000,000	$645,000,000	$1,506,000,000
2041-43	$40,160,000,000	$2,493,000,000	$103,000,000	$717,000,000	$1,673,000,000
2043-45	$43,880,000,000	$2,747,000,000		$824,000,000	$1,923,000,000