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## LEGACY FUND EARNINGS COMMITTEE

Thursday, September 22, 2022  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Chet Pollert, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Representatives Chet Pollert, Joshua A. Boschee, Jeff Delzer, Craig Headland, Mike Lefor; Senators Jessica Bell, Joan Heckaman, Ronald Sorvaag, Terry M. Wanzek, Rich Wardner

**Member absent:** Senator Jerry Klein

**Others present:** Representative Glenn Bosch, Bismarck, member of the Legislative Management  
Allen H. Knudson, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Wardner, seconded by Senator Bell, and carried on a voice vote that the minutes of the June 22, 2022, meeting be approved as distributed.**

### LEGACY FUND STATUS Retirement and Investment Office

Mr. Scott Anderson, Chief Investment Officer, Retirement and Investment Office, presented information ([Appendix B](#)) regarding the status of the legacy fund, including the status of the in-state investment program and legacy fund asset allocation study. He noted:

- The legacy fund had a balance of \$7.9 billion as of June 30, 2022, including \$568.7 million of earnings available to transfer to the general fund at the end of the 2021-23 biennium;
- The investment returns for the legacy fund for fiscal year 2022 reflect a loss of 10.1 percent compared to the benchmark's loss of 10.5 percent; and
- The agency continues to receive updates from RVK, Inc., regarding asset allocation scenarios and policy considerations for the in-state investment program as a part of the Legacy and Budget Stabilization Fund Advisory Board's study.

### Legislative Council

Mr. Adam Mathiak, Senior Fiscal Analyst, Legislative Council, reviewed North Dakota Century Code Sections 21-10-11 and 21-10-13, relating to the legacy fund.

Mr. Mathiak presented a memorandum entitled [Legacy Fund Investments and Earnings Flowchart](#) regarding the legacy fund investment process and allocation of legacy fund earnings.

Mr. Mathiak presented a memorandum entitled [Legacy Fund Earnings Scenario](#) regarding a scenario based on the actual legacy fund earnings for the 2021-23 biennium through June 30, 2022, and the percent of market value calculation in Section 21-10-13. He noted:

- The percent of market value calculation for 2023-25 biennium spending from the legacy earnings fund is \$486.6 million based on 7 percent of the 5-year average of legacy fund assets through June 30, 2022; and
- Approximately \$48.2 million would be available for a transfer from the legacy sinking and interest fund to the Public Employees Retirement System main system plan in the 2023-25 biennium based on the current allocation formula and bond payments of \$101.8 million.

## STATUS OF RELATED STUDIES

### Legacy and Budget Stabilization Fund Advisory Board

Representative Keith Kempenich, Vice Chairman, Legacy and Budget Stabilization Fund Advisory Board, provided an update ([Appendix C](#)) on the status of the board's review of legacy fund investments, including the in-state investment program.

### Retirement Committee

Representative Lefor, Chairman, Retirement Committee, provided an update ([Appendix D](#)) on the status of the Retirement Committee's study to develop a plan for new hires to participate in a defined contribution plan and to close the defined benefit plan. He noted closing the defined benefit plan using actuarially determined employer contributions and offering a defined contribution plan to new hires would have a preliminary estimated initial cost of \$330 million compared to a cost of \$169 million to continue the current defined benefit plan.

## STATE BUDGET UPDATES

### Tax Department

Mr. Brian Kroshus, Tax Commissioner, presented information ([Appendix E](#)) regarding the status of the income tax credit authorized in House Bill No. 1515 (2021), including a comparison of the actual and budgeted credits for the biennium to date, and the estimated fiscal impact of the oil extraction tax "trigger." He noted:

- For fiscal year 2022, \$103.1 million of tax credits was claimed with approximately 277,000 tax returns eligible for a full or partial credit of the 429,000 returns filed; and
- The oil extraction tax rate increased from 5 to 6 percent effective for June 2022 oil production because oil prices exceeded the "trigger" price for 3 consecutive months.

In response to a question from a committee member, Mr. Kroshus noted:

- The oil extraction tax rate may decrease to 5 percent effective for November 2022 oil production if oil prices continue to remain below the "trigger" price; and
- The state may receive approximately \$140 million of additional oil extraction tax collections if the higher tax rate is effective for oil production between June and October 2022.

### Public Finance Authority

Ms. DeAnn Ament, Executive Director, Public Finance Authority, presented information ([Appendix F](#)) regarding the status of the bonds issued to support infrastructure projects and programs authorized in House Bill No. 1431 (2021). She noted:

- \$710.1 million of bonds were issued to finance \$680 million of authorized projects and programs.
- The bonds issued in December 2021 have a net interest rate of 2.71 percent compared to a net interest rate of 4.58 percent for the bonds issued in July 2022.
- The biennial repayment cost of the bonds is approximately \$101.8 million.

### Legislative Council

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented a report ([Appendix G](#)) regarding the state budget and a comparison of ongoing general fund revenues and appropriations. He noted:

- The 2021-23 biennium general fund budget was balanced with one-time revenue sources, including a transfer from the strategic investment and improvements fund and the beginning balance.
- Ongoing general fund appropriations may exceed ongoing general fund revenues by \$400 million for the 2021-23 biennium if the general fund revenues for the 2021-23 biennium exceed the forecast by 22 percent for the remainder of the biennium.
- The gap between ongoing general fund appropriations and ongoing general fund revenues may decrease to \$290 million in the 2023-25 biennium based on a potential increases in ongoing general fund appropriations and revenues.

Mr. Knudson presented a memorandum entitled [Budget Outlook - 2021-23 and 2023-25 Bienniums](#) regarding preliminary estimates for general fund revenue and appropriation levels for the remainder of the 2021-23 biennium with potential increases for the 2023-25 biennium.

**COMMITTEE DISCUSSION**

Chairman Pollert noted the committee did not recommend any bill drafts as a result of the study of proposed uses of legacy fund earnings.

**It was moved by Senator Sorvaag, seconded by Senator Wardner, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and to present the report to the Legislative Management.**

**It was moved by Senator Bell, seconded by Senator Wardner, and carried on a voice vote that the committee be adjourned sine die.**

No further business appearing, Chairman Pollert adjourned the committee sine die at 2:05 p.m.

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Adam Mathiak  
Senior Fiscal Analyst

ATTACH:7