



North Dakota Legislative Council

Prepared for Representative Kasper
21.9745.01000
April 2021

SUMMARY OF PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2046

INTRODUCTION

This memorandum summarizes amendment 21.0095.02015 to Engrossed Senate Bill No. 2046.

AMENDMENT 21.0095.02015

Amendment 21.0095.02015 is a hoghouse amendment. This amendment replaces the text of Engrossed Senate Bill No. 2046 with new text that provides for:

- Closure of the Public Employees Retirement System (PERS) main system plan (defined benefit plan) for new state hires effective January 1, 2023, and for direction of those new hires into the PERS defined contribution plan;
- The PERS main system to be separated into a plan for state employees and a plan for political subdivision employees;
- An increase in employer and employee contribution for political subdivisions that participate in the PERS main system plan;
- A general fund cash infusion of \$100 million into the PERS main system plan for state employees;
- A Legislative Management study of the PERS retirement plans;
- The creation of a legacy sinking and interest fund and an income tax relief fund;
- Clarifications to legacy fund definitions;
- The creation of a legacy earnings fund to implement a percent of market value calculation to determine the amount of legacy fund earnings available for spending based on 6 percent of the 5-year average value of legacy fund earnings;
- Allocations from a legacy earnings fund to a legacy sinking and interest fund (\$100 million), a clean sustainable energy fund (\$40 million), the PERS main system plan based on the plan's actuarial funded ratio (\$40 million), and other legislative purposes (remaining amount); and
- Allocations of excess money from a legacy earnings fund to the strategic investment and improvements fund (40 percent), legacy fund principal (40 percent), and an income tax relief fund (20 percent).

Allocation of Legacy Fund Earnings

- **SECTION 1** - Creates a legacy sinking and interest fund for bond repayments related to bonds issued to support infrastructure projects and programs and the clean sustainable energy fund.
- **SECTION 2** - Clarifies legacy fund definitions related to the provisions of the Constitution of North Dakota.
- **SECTION 3** - Creates a legacy earnings fund to implement a percent of market value calculation to determine the amount of legacy fund earnings available for spending based on 6 percent of the 5-year average value of legacy fund assets and provides the following allocations from the legacy earnings fund:

\$100 million to a legacy sinking and interest fund;

\$40 million to a clean sustainable energy fund;

\$40 million to the PERS main system plan based on the plan's actuarial funded ratio;

The remaining amount available for spending for other legislative purposes;

40 percent of any excess in the legacy earnings fund to the strategic investment and improvements fund;

40 percent of any excess in the legacy earnings fund to the legacy fund to become part of the principal; and

20 percent of any excess in the legacy earnings fund to an income tax relief fund.

- **SECTION 16** - Creates an income tax relief fund.
- **SECTION 19** - Provides a statement of legislative intent for the 68th Legislative Assembly to consider additional allocations from the legacy earnings fund, including allocations to the highway tax distribution fund, value-added agricultural programs, the innovation loan fund to support technology advancement, state building maintenance and improvements, and for other one-time initiatives and projects.
- **SECTION 22** - Provides the effective date of August 1, 2021, for the provisions of the bill relating to the allocation of legacy fund earnings.

Closure of Defined Benefit Plan and Routing of New Hires to Defined Contribution Plan

- **SECTION 4** - Amends the definition of "eligible employee" as that term applies to the PERS defined benefit plan, providing the term does not include state employees who are first employed after December 31, 2022, and clarifying the closure of the defined benefit plan does not affect Supreme Court and district court judges, employees eligible to participate in a law enforcement retirement plan, employees of a political subdivision, and employees of the State Board of Higher Education and state institutions under the jurisdiction of the State Board of Higher Education who participate in the TIAA-CREF plan.
- **SECTION 5** - Provides the closure of the PERS defined benefit plan applies to individuals appointed or elected to a state office after December 31, 2022, and provides those individuals are participating members of the defined contribution plan.
- **SECTION 7** - Closes the PERS defined benefit plan to temporary employees who first begin employment after December 31, 2022.
- **SECTION 9** - Closes the PERS main system plan for state employees effective January 1, 2023.
- **SECTION 12** - Amends the definitions of "eligible employee" and "participating member" and creates a new definition of "temporary employee" as these terms apply to the PERS defined contribution plan.

The term "eligible employee" clarifies the term does not include a Supreme Court or district court judge, an employee eligible to participate in a law enforcement retirement plan, an employee of a political subdivision, or an employee of the State Board of Higher Education and state institutions under the jurisdiction of the State Board of Higher Education.

The term "participating member" clarifies an eligible employee no longer elects to participate in the defined contribution plan.

The term "temporary employee" is created.

- **SECTION 13** - Provides for a 6-month window for members of the defined benefit plan to transfer to the defined contribution plan.
- **SECTION 14** - Creates a new section of law to the defined contribution plan law, providing:
 - All eligible employees are participating members of the defined contribution plan.
 - A temporary employee may elect to participate in the defined contribution plan.
 - The contribution rate for a temporary employee who elects to participate in the defined contribution plan.
- **SECTION 15** - Provides the formula for the transfer of accumulated fund balances for a member of the defined benefit plan who elects to transfer to the defined contribution plan.
- **SECTION 17** - Directs the PERS Board to estimate the accumulated balance transfer for a member of the defined benefit plan who might be interested in transferring to the defined contribution plan.
- **SECTION 22** - Provides the effective date for the closure and routing provisions of the bill is January 1, 2023.

Separation of State and Political Subdivision Plans

- **SECTION 8** - The newly created North Dakota Century Code Section 54-52-02.15 provides effective July 1, 2021, the PERS Board shall maintain a plan for political subdivisions that participate in the PERS main

system which is separate from the main plan for the state. Additionally, this section directs the Legislative Management to introduce legislation to the 68th Legislative Assembly to separate the political subdivision plan from the PERS retirement plans.

- **SECTION 21** - The application clause clarifies in implementing Section 8, effective July 1, 2021, for all current active and retired members of the PERS main system, the PERS Board shall calculate separate data for both the main system plan for state employees and the plan for political subdivisions on the:

Actuarial accrued liability;

Actuarial value of assets; and

Unfunded actuarial liability.

Increase of Political Subdivision Contribution

- **SECTION 6** - Provides for a 1 percent increase in political subdivision temporary employee contribution effective January 2022.
- **SECTION 10** - Provides for a .5 percent increase in political subdivision employee contribution effective January 2022.
- **SECTION 11** - Provides for a .5 percent increase in political subdivision employer contribution effective January 2022.

Appropriation

- **SECTION 18** - Provides for a general fund appropriation and transfer of \$100 million to PERS for the PERS main system plan for state employees on January 1, 2023.

Legislative Management Study

- **SECTION 20** - Directs the Legislative Management to conduct a study of the PERS retirement plans. This study is required to be completed by November 1, 2021, so the Legislative Management can introduce any needed legislation to the 67th special legislative session.

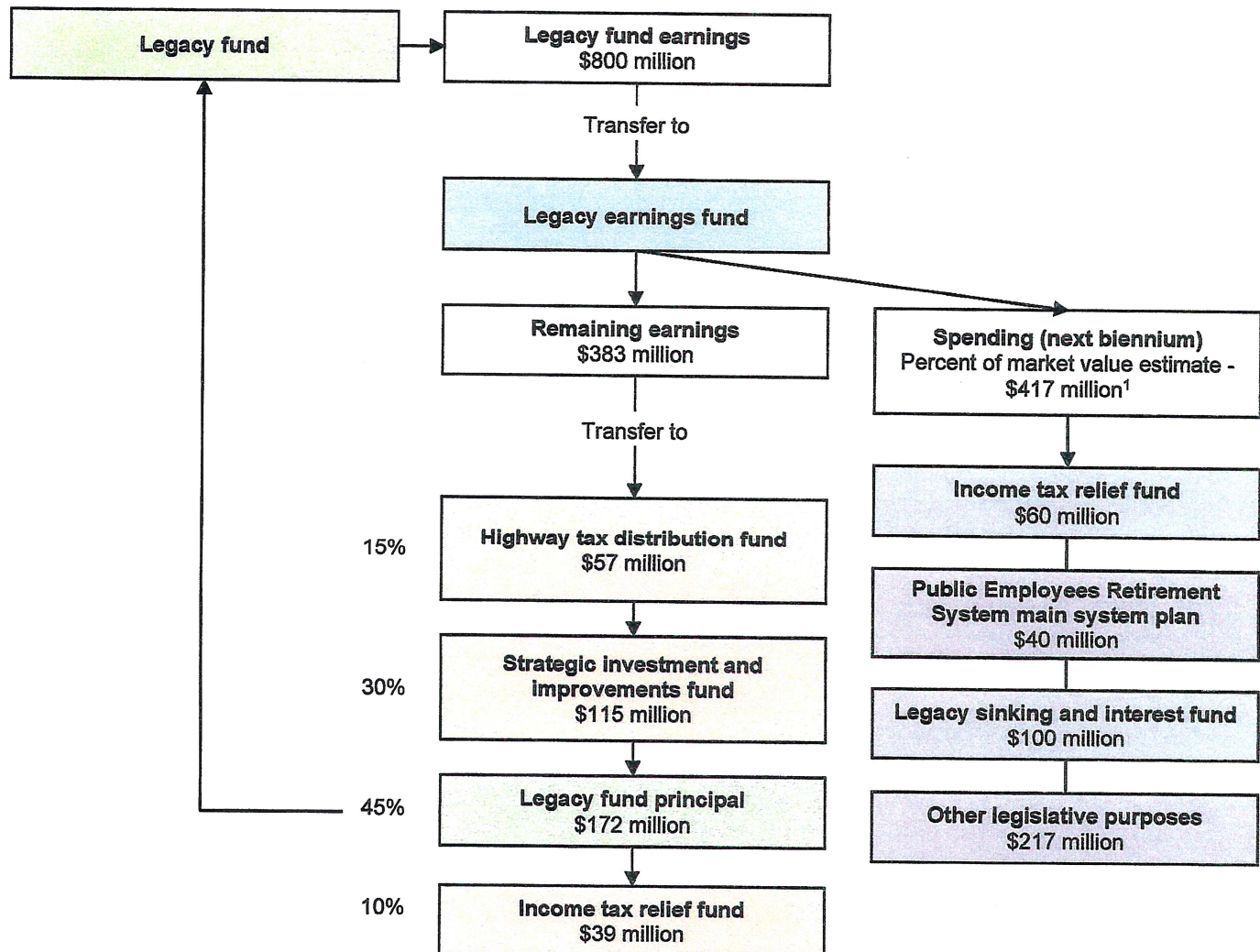
Emergency Clause

- **SECTION 23** - Provides the bill is an emergency measure.

LEGACY FUND EARNINGS SCENARIO - SENATE BILL NO. 2046

This memorandum provides, for illustration purposes only, information on a legacy fund earnings scenario based on the provisions of Senate Bill No. 2046 with proposed amendments [21.0095.02012] an alternate spending amount provided by the requester.

LEGACY FUND EARNINGS SCENARIO - SPENDING AMOUNT PROVIDED BY REQUESTER



¹This amount was provided by the requester.

NOTE: The amounts reflected on this schedule are not official estimates and are provided for illustration purposes only.

Kasper, Jim M.

From: Miller, Scott A.
Sent: Monday, April 19, 2021 8:41 PM
To: Kasper, Jim M.
Cc: Pollert, Chet A.; Delzer, Jeff W.; Koppelman, Ben; Louser, Scott C.; Steiner, Vicky L.; Rohr, Karen M.; Karls, Karen; Vetter, Steve M.; Schauer, Austen; Anderson, Pamela K.; Schneider, Mary; Stemen, Greg; Magrum, Jeffery; Ostlie, Mitch; Hoverson, Jeff A.
Subject: RE: ADDITIONAL INFORMATION--SB 2046==MONDAY APRIL 19, 2021
Attachments: NDPERS_Val_2020_FINAL.pdf; NDPERS_ImpactBill_382_Final (Rep Steiner 2018 interim proposal analysis).pdf; Gallagher study Memo.pdf

Good Evening –

Here are the answers to your questions:

1. The amount of unfunded liability currently for the NDPERS employees portion of the DB plan.

An actuarial study would be necessary to give you a more accurate answer on the portion of the unfunded actuarial liability that is attributable to state employees. GRS indicates that a preliminary estimate of the State's portion of the unfunded actuarial liability is 62% of the \$1.44 billion unfunded actuarial liability as of July 1, 2020, or \$892.8 million.

2. The amount of unfunded liability currently for the Political Subs portion of the DB plan.

As I stated in the answer to question 1, we would need an actuarial study to get a more accurate amount of the political subdivisions' portion of the plan's unfunded actuarial liability. GRS indicates that a preliminary estimate of the Political Subdivisions' portion of the unfunded actuarial liability is 38% of the \$1.44 billion unfunded actuarial liability as of July 1, 2020, or \$547.2 million.

3. The number of ACTIVE employees participating in the NDPERS employees DB plan.

If you mean the number of active state employees in the Main PERS plan, that number is 10,181 as of January 2021.

4. The number of ACTIVE employees participating in the Political Subs portion of the DB plan.

Political subdivision active employees - 14,473 as of January 2021.

5. The number of RETIRED employees receiving retirement benefits from the NDPERS plan and the Political Subs DB plan.

As of January 2021, there were 12,750 total retired members receiving retirement benefits from the main DB plan. We do not track the employer from which each person retires because it has not been relevant to this point, and so separating them into state and political subdivisions is difficult. We are researching to determine if we can provide the breakout of those that retired from the state vs political subdivisions. We do not know that we can do so by the hearing tomorrow. Note that we have a large number of retirees who worked for both the state and one or more political subdivisions.

6. The annual dollar amount of retirement benefits being paid to retired employees of the NDPERS DB plan and the Political subs DB plan.

Annual benefits for 2020 were @ \$219.4 million for all retirees. As I stated in the response to question 5, we do not track the employer from which each person retires. We are researching to determine if we can provide the breakout of benefits for those that retired from the state vs political subdivisions.

7. The TOTAL dollar amount of the market value of the NDPERS DB fund and the Political Subs DB plan currently.

The most recent information we have for the total NDPERS plan is the preliminary numbers as of March 31, 2021, and is \$ 3,779,315,276. We do not currently have a separate state and political subdivision plan or trust, and so do not have it split between state and political subdivisions. We would need our actuary to help us make that apportionment.

8. Any other reports that you have now that would be meaningful for the Legislative Assembly to know about regarding the DB plan.

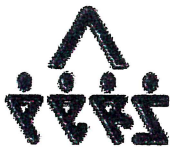
I have attached the Actuarial Valuation as of July 1, 2020, which is the latest valuation we have. I have also attached the actuarial analysis of Bill 382, which I talked about during my testimony today. I attached the Gallagher study in the event you wanted to review it, but because it was seven years ago and so much has changed, including how actuaries now model plan closures, I do not think it provides an adequate estimate of the closure liability today. Please let me know if there are any other reports you would like.

Scott

Scott A. Miller

Executive Director

North Dakota Public Employees Retirement System



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From: Kasper, Jim M. <jkasper@nd.gov>

Sent: Monday, April 19, 2021 1:08 PM

To: Miller, Scott A. <scottmiller@nd.gov>; Kasper, Jim M. <jkasper@nd.gov>

Cc: Pollert, Chet A. <cpollert@nd.gov>; Delzer, Jeff W. <jdelzer@nd.gov>; Koppelman, Ben <bkoppelman@nd.gov>; Louser, Scott C. <scloser@nd.gov>; Steiner, Vicky L. <vsteiner@nd.gov>; Rohr, Karen M. <kmrohr@nd.gov>; Karls, Karen <kkarls@nd.gov>; Vetter, Steve M. <smvetter@nd.gov>; Schauer, Austen <aschauer@nd.gov>; Anderson, Pamela K. <pkanderson@nd.gov>; Schneider, Mary <mschneider@nd.gov>; Stemen, Greg <gstemen@nd.gov>; Magrum, Jeffery <jmagrum@nd.gov>; Ostlie, Mitch <mostlie@nd.gov>; Hoverson, Jeff A. <jahoverson@nd.gov>

Subject: ADDITIONAL INFORMATION--SB 2046===MONDAY APRIL 19, 2021

Mr. Miller:

Kasper, Jim M.

From: Miller, Scott A.
Sent: Tuesday, April 20, 2021 9:17 AM
To: Kasper, Jim M.
Cc: Pollert, Chet A.; Delzer, Jeff W.; Koppelman, Ben; Louser, Scott C.; Steiner, Vicky L.; Rohr, Karen M.; Karls, Karen; Vetter, Steve M.; Schauer, Austen; Anderson, Pamela K.; Schneider, Mary; Stemen, Greg; Magrum, Jeffery; Ostlie, Mitch; Hoverson, Jeff A.
Subject: RE: ADDITIONAL INFORMATION--SB 2046===MONDAY APRIL 19, 2021

Good Morning –

Here are the retiree and beneficiary benefit payment numbers:

Main Plan retired, disabled, and beneficiary benefits as of July 1, 2020:

State:	\$135,740,774
Non-State:	\$ 65,320,453
Total:	\$201,061,227

Scott

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Cc: Pollert, Chet A. <cpollert@nd.gov>; Delzer, Jeff W. <jdelzer@nd.gov>; Koppelman, Ben <bkoppelman@nd.gov>; Louser, Scott C. <scouser@nd.gov>; Steiner, Vicky L. <vsteiner@nd.gov>; Rohr, Karen M. <kmrohr@nd.gov>; Karls, Karen <kkarls@nd.gov>; Vetter, Steve M. <smvetter@nd.gov>; Schauer, Austen <aschauer@nd.gov>; Anderson, Pamela K. <pkanderson@nd.gov>; Schneider, Mary <mschneider@nd.gov>; Stemen, Greg <gstemen@nd.gov>; Magrum, Jeffery <jmagrum@nd.gov>; Ostlie, Mitch <mostlie@nd.gov>; Hoverson, Jeff A. <jahoverson@nd.gov>
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