



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.

Adam Mathiak
Senior Fiscal Analyst

ATTACH:7