

**House Concurrent Resolution 3033**  
**North Dakota Retirement and Investment Office (RIO)**  
**Neutral Testimony relating to HCR 3033 before the Senate Industry &**  
**Business Committee**  
**Senator Doug Larsen, Chair**  
**Senator Greg Kessel, Vice Chair**

**Janilyn Murtha, JD, MPAP – Executive Director**  
**Ryan Skor, CPA, MBA – Chief Financial Officer/Chief Operating Officer**

**I. Introduction**

The Retirement and Investment Office (hereinafter “RIO”) was created by the 1989 Legislative Assembly to capture administrative and investment cost savings in the management of the investment program of the State Investment Board (SIB) and the retirement program of the Teachers’ Fund for Retirement (TFFR). Statutory authority for the agency is found in North Dakota Century Code chapter 54-52.5 and the programs are governed by chapters 21-10 (SIB) and 15-39.1 (TFFR).

The State Investment Board has the statutory responsibility to administer the investment program for 28 funds including the Legacy Fund, TFFR, PERS, and WSI. It also maintains contractual relationships for the investment management of multiple political subdivisions and governmental funds. Currently the SIB is responsible for the investment of the Legacy Fund, seven pension funds and 20 other non-pension funds for a total of 28 separate client funds with an overall fund value of more than \$19.2 billion as of January 31, 2023.

**II. Neutral Testimony for HCR 3033**

During 2022 the Legacy and Budget Stabilization Fund Advisory Board (Advisory Board) selected a consultant, RVK, Inc. to assist with a Legacy Fund Asset Allocation Study. As a result of this study and recommendations by RVK, changes to the Legacy Fund Investment Policy Statement were approved by both the Advisory Board and the SIB in December 2022. At the last meeting, it was discussed that RVK and the Advisory Board intend to meet in Q2 2023 to review recommendations for updates to the Legacy Fund asset allocation and discuss a pacing schedule. RVK did note in their presentations to the Advisory Board that changes to the structure of the in-state investment program in code could improve returns for the Legacy Fund and enhance opportunities for the in-state investment program.

S.B. 2330 reflects changes to the structure of the in-state investment that could enhance opportunities for growth both for the Legacy Fund and for the in-state investment program. One such change was to create a more predictable stream of earnings with a percent of market value definition for earnings.

A percent of market value definition of earnings, much like the Land Trust definition of earnings, provides a much more predictable earnings stream for spending and enables more asset allocation options to maximize returns for a given level of risk and better fund implementation options. The result would be higher Legacy returns over time. The current realized gains and income definition requires the asset allocation to focus on income and capital gains generation with the asset allocation and implementation plans. Freeing the Legacy fund from this constraint increases the potential earnings stream and reduces uncertainty for allocating earnings.

While the percent of market value language for earnings in HCR 3033 is similar to that of SB 2330 and seeks to move the definition of earnings from Century Code to the N.D. Constitution, the proposed earnings definition in HCR 3033 is nonetheless variable within the biennium and doesn't achieve the same benefit to the Legacy Fund as the fixed percent of market value definition proposed in SB 2330.

### **III. Summary**

We respectfully note for your consideration that while the percent of market value language for earnings in HCR 3033 is similar to that of SB 2330, the proposed earnings definition in HCR 3033 is nonetheless variable within the biennium and doesn't achieve the same benefit to the Legacy Fund as the fixed percent of market value definition proposed in SB 2330.