

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

LEGACY FUND EARNINGS COMMITTEE

Thursday, August 15, 2019
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, Josh Boschee, Jeff Delzer, Craig Headland, Keith Kempenich, Don Vigesaa; Senators Joan Heckaman, Ray Holmberg, Jerry Klein, Jessica Unruh, Rich Wardner

Others present: Representative Scott Louser, Minot, member of the Legislative Management
Senators Brad Bekkedahl, Williston, and Dwight Cook, Mandan
See [Appendix A](#) for additional persons present.

The Legislative Council staff reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#).

BACKGROUND INFORMATION

The Legislative Council staff presented a memorandum entitled [Legacy Fund Earnings Study - Background Memorandum](#). He said the Legislative Assembly created the Legacy Fund Earnings Committee and provided for a study of the potential uses of legacy fund earnings in Senate Bill No. 2015 (2019). He said the Government Finance Committee also studied the legacy fund during the 2013-14 interim and recommended House Bill No. 1033 (2015), which was approved by the Legislative Assembly, but vetoed by the Governor. He said the executive budget recommended using \$300 million of legacy fund earnings for various projects and the 2019 Legislative Assembly considered a number of bills related to the use of legacy fund earnings. He said the Legislative Assembly did not designate the 2019-21 biennium legacy fund earnings for any specific projects or initiatives. He said Norway and Alaska invest oil and gas-related revenues in permanent funds to generate income in perpetuity as a way to support government operations when oil and gas-related revenues decline.

The Legislative Council staff presented the following proposed study plan for the committee's consideration:

1. Receive information regarding the investments and earnings of the legacy fund, including estimated future earnings;
2. Receive information regarding the investments and earnings of other similar funds;
3. Receive information regarding the costs and benefits of any potential initiatives that would use legacy fund earnings;
4. Receive testimony from interested persons regarding the study;
5. Develop recommendations and any bill drafts necessary to implement the recommendations; and
6. Prepare a final report for submission to the Legislative Management.

Representative Delzer requested the proposed study plan be amended to include an evaluation of the flexibility of potential initiatives and their impact on future Legislative Assemblies.

It was moved by Representative Delzer, seconded by Representative Headland, and carried on a voice vote that the committee adopt the following study plan:

1. **Receive information regarding the investments and earnings of the legacy fund, including estimated future earnings;**
2. **Receive information regarding the investments and earnings of other similar funds;**
3. **Receive information regarding the costs and benefits of any potential initiatives that would use legacy fund earnings;**

4. Evaluate the flexibility of any potential initiatives that would use legacy fund earnings, including any restrictions that may impact future Legislative Assemblies and state budgets;
5. Receive testimony from interested persons regarding the study;
6. Develop recommendations and any bill drafts necessary to implement the recommendations; and
7. Prepare a final report for submission to the Legislative Management.

LEGACY FUND OVERVIEW

Mr. David J. Hunter, Executive Director and Chief Investment Officer, Retirement and Investment Office, presented information ([Appendix B](#)) regarding an overview of the legacy fund, including investments and earnings of the fund. He said the legacy fund had a value of \$6.5 billion as of June 30, 2019, based on preliminary estimates. He said the investments of the fund include \$3.2 billion, or 49 percent, in global equities, \$2.2 billion, or 34 percent, in global fixed income investments, \$900 million, or 14 percent, in global real assets, and \$200 million, or 3 percent, in cash. He said the current investment allocation strategy is based on 50 percent equities, 35 percent fixed income, and 15 percent real assets. He said the fund had additional cash investments in anticipation of the constitutionally required transfer of earnings to the general fund at the end of the 2017-19 biennium. He said the fund had a net return of 5.58 percent for the 5-year period ended March 31, 2019, which was approximately 0.7 percent or \$100 million more than the policy benchmark.

Mr. Hunter said the Legislative Assembly may consider changing the method of determining legacy fund earnings. He said the current method uses net income for the biennium, excluding any unrealized gains and losses. He said most endowments and permanent trust funds use a method based on a percentage of the market value of the fund, similar to the method used for the common schools trust fund. He said the percent of market value method may reduce volatile changes in the earnings and may provide certainty for budgeting, since the transfer of earnings would be based on historical values.

Mr. Hunter said the State Investment Board received information regarding the Alaska Permanent Fund. He said the Alaska Legislature eliminated the state's income tax and sales tax after the creation of the fund because of a surplus of state revenues. He said Alaska has been experiencing budget challenges in recent years due to declining oil revenue.

In response to a question from Representative Delzer, Mr. Darren Schulz, Deputy Chief Investment Officer, Retirement and Investment Office, said Alaska's oil production peaked in the late 1980s.

COMMENTS AND DISCUSSION

Mr. Lance Gaebe said in the past, the common schools trust fund distributed all the income from the trust assets each biennium, which limited the growth of the fund, until a constitutional change became effective in July 2009. He said the current distributions are based on 10 percent of the 5-year average of the fund's assets.

Mr. Robert Harms distributed information ([Appendix C](#)) regarding a working group that was involved in the creation of the legacy fund. He said the group initially supported a concept to spend 25 percent of the earnings while reinvesting the remaining 75 percent to increase the size of the fund. He said using legacy fund earnings for tax relief programs could provide a benefit to taxpayers but could cause budgetary challenges for the state. He said designating legacy fund earnings for specific initiatives could help identify priorities but could limit opportunities for future initiatives if the designations are not flexible.

Representative Boschee distributed information ([Appendix D](#)) regarding the concept of social impact funding. He said social impact funding could be one of the uses of legacy fund earnings. He said social impact funding involves a partnership between the public sector and private entities in which the state contracts with the private sector to implement social welfare programs with requirements to meet certain outcomes.

Representative Headland said transferring the legacy fund earnings to a special fund may provide better transparency because the legacy fund earnings become commingled with other funding sources when deposited in the general fund.

Senator Wardner said the legacy fund earnings were needed to balance the general fund budget during the 2017-19 biennium. He said funding for road projects remains a challenge, and a portion of the legacy fund earnings could be used to supplement existing funding for state highways.

Representative Delzer suggested the committee review the outcomes of the Government Finance Committee's study of the legacy fund during the 2013-14 interim.

Senator Unruh suggested the committee review similar permanent trust funds from other states, including funds from Alaska, New Mexico, Wyoming, and Texas.

Representative Kempenich suggested committee members develop a list of goals for the legacy fund to help identify priorities for using the legacy fund earnings.

Senator Holmberg suggested the committee meet in the evening for some of the future meetings to provide additional opportunities for members of the public to provide comments.

No further business appearing, Chairman Pollert adjourned the meeting at 11:50 a.m.

Adam Mathiak
Senior Fiscal Analyst

ATTACH:4