

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**LEGACY FUND EARNINGS COMMITTEE**

Tuesday and Wednesday, November 12-13, 2019  
 Diederich Atrium, Harry D. McGovern Alumni Center,  
 North Dakota State University, 1241 North University Drive  
 Fargo, North Dakota

Representative Chet Pollert, Chairman, called the meeting to order at 6:30 p.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

**Members absent:** None

**Others present:** Senator Ronald Sorvaag, Fargo, member of the Legislative Management  
 Representatives Thomas Beadle, Fargo; Ron Guggisberg, Fargo; Michael Howe, West Fargo; Alisa Mitskog, Wahpeton; Brandy Pyle, Casselton; and Cynthia Schreiber-Beck, Wahpeton  
 Senators Kyle Davison, Fargo; Gary Lee, Casselton; Judy Lee, West Fargo; Merrill Piepkorn, Fargo; Larry J. Robinson, Valley City; Jim Roers, Fargo; and Kristin Roers, Fargo  
 Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council

See [Appendix A](#) for additional persons present.

**It was moved by Senator Holmberg, seconded by Representative Boschee, and carried on a voice vote that the minutes of the August 15, 2019, meeting be approved as distributed.**

The Legislative Council staff presented a memorandum entitled [Legacy Fund Summary](#). He said the earnings of the legacy fund eligible to be transferred to the general fund at the end of the 2019-21 biennium total \$126.7 million, as of September 30, 2019. He said the balance of the legacy fund as of September 30, 2019, is \$6.36 billion.

**PUBLIC COMMENTS**

Interested persons testified regarding proposed uses of legacy fund earnings, as follows:

Interested Persons	Proposed Uses of Legacy Fund Earnings
Mr. Charley Johnson, President and Chief Executive Officer, Fargo-Moorhead Convention and Visitors Bureau	Use \$15 million of legacy fund earnings for matching grants to build or expand visitor attractions ( <a href="#">Appendix B</a> )
Mr. Brian Schill, Healthcare NOW: North Dakota	Establish a health insurance program for all North Dakota residents who do not already qualify for the federal Medicare program ( <a href="#">Appendix C</a> )
Ms. Landis Larson, President, Secretary and Treasurer, North Dakota AFL-CIO	Use the legacy fund earnings to benefit the working people in North Dakota and do not provide tax reductions ( <a href="#">Appendix D</a> )
Mr. Steve Burian, Co-Chair, Valley Prosperity Partnership	Provide funding for research at the University of North Dakota and North Dakota State University ( <a href="#">Appendix E</a> )
Mr. Jason Boynton, Lunch Aid	Provide a free hot lunch to all public school students in North Dakota at an estimated cost of \$41 million per year ( <a href="#">Appendix F</a> )
Mr. Cody J. Schuler, Executive Director, Fargo-Moorhead Coalition to End Homelessness	Support programs to alleviate homelessness, including programs that provide affordable housing ( <a href="#">Appendix G</a> )
Ms. Sarah Trustem, Community Relations Coordinator, Dickinson Public Schools	Provide capital assistance to school districts for constructing or renovating school buildings ( <a href="#">Appendix H</a> )

Interested Persons	Proposed Uses of Legacy Fund Earnings
Ms. Melissa Sobolik, President, Great Plains Food Bank	Support food pantries, soup kitchens, and shelters ( <a href="#">Appendix I</a> )
Mr. Steven Otteson, Fargo	Develop a home remodeling loan program through the Bank of North Dakota for individuals with lower credit scores
Mr. Tom Erdmann, Mayor, Carrington	Provide funding for the Red River Valley Water Supply Project ( <a href="#">Appendix J</a> )
Mr. Eric Volk, Executive Director, North Dakota Rural Water Systems Association	Provide a long-term, low-interest rate loan program for water infrastructure projects ( <a href="#">Appendix K</a> )
Mr. Dan Hannaher, Director, Public Policy and Advocacy, Lutheran Social Services of North Dakota	Establish an early care and education initiative, a public-private transportation network, a state-funded rental housing assistance program, a human service delivery innovation fund, and disaster mitigation and recovery programs ( <a href="#">Appendix L</a> )
Mr. Al Carlson, Fargo	Provide matching grants to charitable organizations for donations received on February 13 of each year, Giving Hearts Day ( <a href="#">Appendix M</a> )
Mr. Jerry Rostad, President, Board of Commissioners, Fargo Park District	Support park district and state park infrastructure needs ( <a href="#">Appendix N</a> )
Ms. Nancy Johnson, Executive Director, North Dakota Soybean Growers Association	Create endowments for university staff positions to conduct research related to agriculture and soybeans ( <a href="#">Appendix O</a> )
Mr. Wesley Belter, Fargo	Provide funding for infrastructure projects, including road and water projects ( <a href="#">Appendix P</a> )
Mr. Tony Grindberg, Commissioner, Fargo	Create a legacy zone program based on the existing renaissance zone program ( <a href="#">Appendix Q</a> )
Mr. Mark Strand, Fargo	Provide \$10 million per year to a public health infrastructure fund for vaccines, workforce training, and disease prevention programs
Ms. Jay Scott, Fargo	Create a state health insurance program, support infrastructure and schools, expand public services to Native Americans, provide funding for wind and solar energy research and development projects ( <a href="#">Appendix R</a> )
Mr. Levi Bachmeier, Business Manager, West Fargo Public Schools	Provide school construction assistance for school districts levying over 30 mills for sinking and interest purposes ( <a href="#">Appendix S</a> )
Mr. Samuel Wagner, Casselton	Provide low-interest rate loans to small communities for recreation facilities, cover the cost of supplies purchased by teachers, expand childcare assistance programs, and support investments in parks as well as wind and solar energy projects
Mr. Keith Lund, Economic Development Association of North Dakota	Support infrastructure development, K-12 education, economic development programs, and workforce development programs and do not eliminate state income taxes ( <a href="#">Appendix T</a> )
Mr. Colin Zawaira, Moorhead, MN	Provide financial support for direct service providers who serve in health and human service programs
Dr. Tim Mahoney, Mayor, Fargo	Provide long-term capital financing to cities for infrastructure projects ( <a href="#">Appendix U</a> )
Mr. Thomas Hill, United Way	Develop a social impact bonding program to provide funding to address poverty-related issues

Interested Persons	Proposed Uses of Legacy Fund Earnings
Mr. Ron Gaul, Fargo	Continue to support K-12 education and do not reduce income tax rates
Mr. Lance Gaebe, Executive Secretary, North Dakota Water Users Association	Provide low-interest rate loans for water infrastructure projects by issuing market rate loans from the legacy fund and common schools trust fund for water projects and buying down the interest rates with legacy fund earnings ( <a href="#">Appendix V</a> )
Mr. Bernie Dardis, Mayor, West Fargo	Support local infrastructure development ( <a href="#">Appendix W</a> )

In response to a question from Representative Kempenich, Mr. Johnson said grants for visitor attractions would be competitive grants based on a scoring system.

In response to a question from Representative Boschee, Mr. Erdmann said the average water bill in Carrington is approximately \$44 per month.

Interested persons submitted written testimony to the committee regarding proposed uses of legacy fund earnings, as follows:

Interested Persons	Proposed Uses of Legacy Fund Earnings
Mr. Dean Elfman, Mayor, Larimore	Support small towns and rural communities with funding for water, sewer, and road infrastructure projects ( <a href="#">Appendix X</a> )
Mr. Jerome Conner, District 33	Provide funding to eliminate state income taxes and local property taxes and do not support one-time projects ( <a href="#">Appendix Y</a> )
Mr. Murray G. Sagsveen, Chair, Board of Directors, Lutheran Social Services of North Dakota	Expand state initiatives for transportation infrastructure, workforce development, education, tax relief, health care, and economic development ( <a href="#">Appendix Z</a> )
Mr. James Thronset	Pay North Dakota residents who are at least age 65 \$2,000 per year ( <a href="#">Appendix AA</a> )
Mr. Ken Vein, Vice President, City Council, Grand Forks	Support investments in critical infrastructure and support education, workforce development, affordable housing, and university research programs ( <a href="#">Appendix BB</a> )
Dr. William Aderholdt, Program Manager, Grand Farm, Emerging Prairie	Provide funding for the Grand Farm initiative for agriculture research ( <a href="#">Appendix CC</a> )
Ms. Traci Redlin	Provide interest rate buydowns on student loans through the Bank of North Dakota ( <a href="#">Appendix DD</a> )
Mr. Joel Paulsen, Director, Metro Flood Diversion Authority	Provide financial assist for the Fargo-Moorhead Area Diversion Project ( <a href="#">Appendix EE</a> )

**REVENUE INFORMATION**

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented a report entitled *Presentation to Legacy Fund Earnings Committee* ([Appendix FF](#)) regarding a summary of North Dakota's budgeting process since the 1980s. He said the oil boom and bust cycle during the 1980s created budgetary challenges that lasted until the mid 1990s and affected the way the state budgets today. He said the Legislative Assembly responded to the budget challenges by implementing the following changes:

- Created a permanent oil tax trust fund to reduce the general fund's direct reliance on oil and gas tax revenues;
- Established a budget stabilization fund; and
- Provided separate constitutional allocations of oil and gas tax revenue for a K-12 education stabilization fund.

The Legislative Budget Analyst and Auditor said state revenues increased significantly during the oil boom that began in 2008. He said the increase in oil and gas development activity also prompted increased state spending for property tax relief programs, infrastructure development, public safety, and human service programs. He said the Legislative Assembly changed the oil and gas tax revenue allocation formulas to allocate revenue to various state

funds as a way to set aside money for the next biennium and provide volatility protection. He said the decline in oil prices during the 2015-17 biennium resulted in a 50 percent decrease in oil and gas tax revenues and nearly a 30 percent decrease in general fund revenues. He said the Legislative Assembly's policy of setting aside oil and gas tax revenues for the next biennium helped to lessen the impact of the budgetary challenges.

The Legislative Budget Analyst and Auditor said ongoing general fund revenues have been less than ongoing general fund spending since the 2015-17 biennium. He said approximately 8 percent (\$400 million), of the general fund budget is related to oil and gas tax revenues received during the biennium. He said the general fund budget also includes \$947 million of indirect oil and gas tax revenue as transfers from other funds. He said of ongoing spending, \$1,347 million, or 27 percent, of the \$5,071 "general fund equivalent" budget is related to oil and gas tax revenues. He said ongoing general fund appropriations exceed ongoing general fund revenues by \$840 million for the 2019-21 biennium after excluding the estimated transfer of \$100 million of legacy fund earnings. He said options to address the gap between ongoing revenues and ongoing appropriations include general fund revenue growth exceeding projections, general fund tax increases, general fund spending reductions, using additional oil and gas tax revenues, and using additional legacy fund earnings.

Senator Klein said understanding the current budget situation is an important part of the committee's discussions for using the legacy fund earnings.

The Legislative Council staff presented a memorandum entitled [Legacy Fund Projections](#), regarding projections for the legacy fund balance and transfers of earnings to the general fund. He said the projections are based on three scenarios including transferring 100 percent of the legacy fund earnings to the general fund, transferring 50 percent of the legacy fund earnings to the general fund, and returning 100 percent of the legacy fund earnings to the legacy fund.

## **SOVEREIGN WEALTH FUNDS**

### **Retirement and Investment Office**

Mr. David J. Hunter, Executive Director and Chief Investment Officer, Retirement and Investment Office, presented information ([Appendix GG](#)) regarding an overview of sovereign wealth funds in the United States. He said RVK conducted a survey of 10 sovereign wealth funds in the United States during 2019. He said the distributions from 6 of the 10 funds analyzed are based on the percent of market value while the distributions from the remaining 4 funds are based on investment income. He said investment performance varied significantly between the funds, which was likely a result of significant differences in asset allocations. He said the principal is permanently restricted for 8 of the 10 funds, but the principal may be spent from the other 2 funds.

Mr. Hunter said the potential earnings of the legacy fund for the 2019-21 biennium could be \$432 million based on 4 percent of the 5-year average balance of the legacy fund multiplied by two. He said the potential earnings of the legacy fund for the 2019-21 biennium could be \$492 million if the calculation period was shorted to 3 years rather than five years. He said a longer time period helps to provide stability to the distributions by reducing the volatility associated with changes in the fund balance.

In response to a question from Representative Delzer, Mr. Hunter said the State Investment Board's investment policy allows for an investment of up to \$300 million in the Bank of North Dakota's match loan program as a part of the legacy fund's fixed income investments. He said the legacy fund has \$50 million invested in the match program.

### **Alaska Permanent Fund**

Mr. David Teal, Director, Alaska Division of Legislative Finance, presented information ([Appendix HH](#)) regarding the Alaska state budget and use of Alaska's permanent fund. He said the Alaska permanent fund is a constitutionally protected fund that receives a portion of the state's oil and gas revenues and is intended to provide an intergenerational benefit to Alaska's residents. He said a portion of the fund's income pays annual dividends to Alaska's citizens, which began in 1982. He said the state's individual income tax was repealed in 1980 due to a surplus of oil and gas related revenues. He said Alaska deposited additional revenue in the permanent fund to offset inflation and created an earnings reserve account to address the volatility of earnings.

In response to a question from Senator Unruh, Mr. Teal said Alaska does not have a statewide sales tax, but some cities have a local option sales tax.

In response to a question from Representative Kempenich, Mr. Teal said the dividend payments to citizens are calculated based on a formula. He said the payments in recent years have been less than the calculated amount because the permanent fund's earnings were insufficient for the state's budgetary needs.

In response to a question from Senator Heckaman, Mr. Teal said Alaska has recently begun investing a portion of the permanent fund in Alaska, but most of the investments are part of a global allocation strategy.

Mr. Teal said the committee should consider the purpose of the legacy fund as it develops policy for spending the earnings. He said a portion of the earnings of Alaska's permanent fund were reinvested until recently, which significantly increased the balance of the fund. He said oil production is declining in Alaska resulting in revenue shortfalls for Alaska's state budget. He said earnings of the permanent fund were used to support state government operations beginning in fiscal year 2019 to address the budgetary shortfall. He said the earnings of the fund provide \$3 billion of annual revenue. He said Alaska implemented a method of distributing the earnings based on a percent of market value to help reduce the volatility of this revenue source for the state's budget. He said the percent of market value helped to reduce volatility, but did not help the overall budget process because of disagreements regarding the spending of the earnings.

Representative Delzer said state funding for local political subdivisions could cause budgetary challenges in North Dakota if the funding levels are unsustainable.

Mr. Teal said Alaska's experience with the permanent fund over the past 40 years may provide guidance for North Dakota's legacy fund. He said questions for the committee's consideration, based on Alaska's experience, include the following:

- Is the legacy fund intended to benefit the state's residents while the oil is being produced or the state's residents when the oil resources are depleted?
- Should the earnings of the legacy fund be reinvested to increase the balance of the fund and future earnings?
- What procedures or methods should be used to reduce the volatility of legacy fund earnings?
- When will the legacy fund earnings be needed to replace declining oil and gas revenues in the state budget?

### OTHER

Mr. Jonathan Williams, Chief Economist and Vice President, Center for State Fiscal Reform, American Legislative Exchange Council, presented information ([Appendix II](#)) regarding income tax rate reductions. He said states with high individual income tax rates had the highest level of out-migration from 2007 to 2017. He said individual income taxes can be a volatile revenue source for states because of the volatility of investment income and passthrough business income. He said lower individual income tax rates provide individuals with more disposable income to spend, which can help to grow a state's economy.

Mr. Russ Latino, Vice President, Economic Opportunity Portfolio, Americans for Prosperity, presented information ([Appendix JJ](#)) regarding income tax rate reductions. He said state legislatures can develop balanced budgets and provide individual income tax rate reductions if spending increases are limited. He said states with simple and transparent tax structures have experienced economic growth.

Senator Wardner presented information ([Appendix KK](#)) regarding a proposal for using legacy fund earnings. He said the proposal focuses on lower the tax burden and increase the quality of life. He said the proposal would allocate 25 percent of the legacy fund earnings to the state highway fund to support road maintenance and road projects. He said his proposal includes funding for other state programs, which will be explained in more detail at a future meeting.

Representative Delzer distributed a memorandum entitled *Proposal for Legacy Fund Earnings* ([Appendix LL](#)) regarding a proposal to return 25 percent of the legacy fund earnings to the legacy fund and to designate a portion of the remaining earnings for road projects, other infrastructure projects, and income tax relief.

Representative Boschee said he is considering a proposal to designate funding for certain state programs to address some of the state's needs.

Chairman Pollert said the committee's next meeting will be in Watford City in February 2020. He said the primary purpose of the meeting is to continue gathering input from interested persons regarding the use of legacy fund earnings.

No further business appearing, Chairman Pollert adjourned the meeting at 12:50 p.m.

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Adam Mathiak  
Senior Fiscal Analyst

ATTACH:38