



LEGACY FUND EARNINGS COMMITTEE

Wednesday and Thursday, February 19-20, 2020
 Rough Rider Center, 2209 Wolves Den Parkway
 Watford City, 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, Jerry Klein, Jessica Unruh, Rich Wardner

Member absent: Senator Ray Holmberg

Others present: Senator Donald Schaible, Mott, member of the Legislative Management
 Representatives Bert Anderson, Crosby; Patrick Hatlestad, Williston; David Richter, Williston; and Denton Zubke, Watford City
 Senators Dwight Cook, Mandan; and Dale Patten, Watford City
 Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council
 See [Appendix A](#) for additional persons present.

It was moved by Representative Kempenich, seconded by Representative Vigesaa, and carried on a voice vote that the minutes of the November 12-13, 2019, meeting be approved as distributed.

The Legislative Council staff presented a memorandum entitled [Legacy Fund Summary](#). He said the Retirement and Investment Office reported earnings of the legacy fund eligible to be transferred to the general fund at the end of the 2019-21 biennium totaled \$239.8 million, as of December 31, 2019. The balance of the legacy fund as of December 31, 2019, was \$6.86 billion.

The Legislative Council staff presented a memorandum entitled [Major Direct State Assistance to Political Subdivisions](#). He said the major direct assistance provided by the state includes appropriations and revenue allocations associated with school funding, energy tax distributions, and transportation project funding. He said state assistance to political subdivisions increased from \$2.5 billion in the 2011-13 biennium to an estimated \$4.0 billion in the 2019-21 biennium primarily due to an increase in property tax relief provided by the state through the K-12 education funding formula.

PUBLIC COMMENTS

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

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| Dr. Mark R. Hagerott, Chancellor, North Dakota University System | Establish a higher education innovation fund to support university research projects and workforce training and establish a higher education stabilization fund to offset any potential budget allotments (Appendix B) |
| Ms. Terri Thiel, Executive Director, Dickinson Convention and Visitors Bureau | Use \$25 million per biennium to create a destination development fund for grants to develop visitor attractions (Appendix C) |
| Mr. Doug Bolken, Destination Marketing Association of North Dakota | Provide \$25 million per biennium for a destination development fund for grants to develop visitor attractions (Appendix D) |
| Ms. Amy Kruger, Executive Director, Williston Convention and Visitor Bureau | Support a destination development fund for grants to develop visitor attractions (Appendix E) |

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| Ms. Denise Andress, Western North Dakota Area Health Education Center | Provide funding for the Health Occupations Students of America organization and for health care worker recruitment and training programs (Appendix F) |
| Ms. Margie Zalk Enerson, Marketing Consultant, Engage to Inspire Marketing | Develop a centralized, statewide workforce development initiative (Appendix G) |
| Mr. Dave Weiler, Bismarck | Preserve the legacy fund for future generations by not spending all the earnings and waiting to spend the earnings until after the earnings have been transferred to the general fund (Appendix H) |
| Ms. Michelle Stepheus, Cartwright | Pay dividends to North Dakota residents similar to the Alaska Permanent Fund |
| Mr. Steve Burian, Co-Chair, Valley Prosperity Partnership | Provide funding for research at the University of North Dakota and North Dakota State University (Appendix I) |
| Mr. Steve Stenehjem, Chief Executive Officer, First International Bank | Provide funding for agriculture, energy, and medical research; infrastructure; and health care workforce training (Appendix J) |
| Dr. Shelley Lenz, Dickinson | Develop vocational schools for workforce training; create a carbon sequestration program; and paid family leave for all employees (Appendix K) |
| Mr. Geoff Simon, Executive Director, Western Dakota Energy Association | Distribute funding for infrastructure development, including school-related infrastructure |
| Dr. Jeff Thake, Superintendent, Williston Public School District | Provide funding for school construction projects (Appendix L) |
| Ms. Beth Zietz, Superintendent, Williams County School District 8 | Provide support for school construction projects (Appendix M) |
| Mr. Gary Wilz, Superintendent, Killdeer Public School District | Provide financial support for education infrastructure to reduce the property tax burden for local residents |
| Mr. Keith Harris, Assistant Superintendent, Dickinson Public School District | Assist local communities with the construction of school facilities (Appendix N) |
| Mr. Tim Godfrey, Superintendent, Kenmare Public Schools | Support for school districts with school construction needs (Appendix O) |
| Ms. Trudy Ruland, Mountrail County Board of Commissioners | Develop a program to provide grants and loans to counties and townships for road and bridge projects (Appendix P) |
| Ms. Vawnita Best, Community Development Director, Watford City | Support infrastructure initiatives, including roads, water projects, and school buildings and support research and development initiatives (Appendix Q) |
| Mr. Scott Decker, Mayor, Dickinson | Provide funding for school construction projects to reduce property taxes (Appendix R) |
| Mr. Steve Easton, Interim President, Dickinson State University | Continue to support career and technical education |
| Mr. Charles Tuttle, Minot | Prioritize funding for school districts and reduce the property tax burden |
| Senator Dale Patten, Watford City | Support transportation projects, energy projects, education initiatives, bonding programs, reinvestment in the legacy fund, and property tax relief (Appendix S) |
| Mr. Robin Arndt, Supervisor, Watford City Park District | Provide funding for public parks, trails, and recreation facilities (Appendix T) |
| Mr. Phil Riely, Mayor, Watford City | Prioritize funding for critical infrastructure projects, particularly in western North Dakota (Appendix U) |

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| Ms. Lyn James, Mayor, Bowman | Support grant and loan programs related to small community infrastructure needs |
| Mr. Howard Klug, Mayor, Williston | Provide funding for school districts and child care programs impacted by oil and gas development activity |
| Mr. Robert Harms, Bismarck | Return 75 percent of the earnings to the legacy fund principal and avoid committing the earnings to ongoing programs (Appendix V) |
| Mr. Steve Holen, Superintendent, McKenzie Public School District | Address the funding needs of K-12 education, including school construction projects (Appendix W) |
| Dr. Nick Klemisch, Superintendent, Garrison Public School District | Provide support for school construction projects |
| Ms. Joanna Baltas, President, School Board, Williston Public School District | Provide funding for school infrastructure projects |
| Ms. Leslie Bieber, Superintendent, Alexander Public School District | Prioritize state support for school infrastructure projects (Appendix X) |

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

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| Arts and Cultural Heritage Fund Planning Committee | Establish a \$50 million endowment for grants related to art, cultural, and historical projects (Appendix Y) |
| Ms. Bernice Duletski, Bismarck | Develop a state soybean processing plant and a statewide civic leadership center (Appendix Z) |
| Mr. Tom Mayer, Bismarck | Dedicate a percentage of earnings to infrastructure projects and support the Theodore Roosevelt Presidential Library (Appendix AA) |
| Mr. Glenn Pederson | Establish a can and bottle deposit system (Appendix BB) |
| Mr. Gary Weisenberger, Mayor, Stanley | Support critical infrastructure and services in cities (Appendix CC) |
| Mr. Arnie Kopp | Provide funding for school construction and road projects (Appendix DD) |
| Mr. Jeffrey Jensen, Watford City | Provide funding for public safety personnel, infrastructure, and mental health programs (Appendix EE) |
| Mr. Ron Rolle, Williston | Provide property tax relief (Appendix FF) |
| Ms. Samantha Roberts, Williams County | Support school construction projects (Appendix GG) |
| Ms. Maeve MacSteves, Williston | Provide assistance for school construction projects (Appendix HH) |
| Mr. Jon and Ms. Eve Stika, Dickinson | Provide funding for education, transportation, and communication infrastructure projects (Appendix II) |
| Mr. Jerry Saude, Bismarck | Establish a reserve fund, reinvest a portion of the earnings in the legacy fund principal, limit funding for one-time infrastructure projects, and do not provide payments to North Dakota residents (Appendix JJ) |
| Mr. Brian Wysocki | Support K-12 education (Appendix KK) |
| Mr. George Kuchynski, Bismarck | Develop a low-interest revolving loan fund for political subdivision infrastructure projects (Appendix LL) |
| Ms. Virginia Dolajak, Bismarck | Provide funding for property tax relief (Appendix MM) |
| Mr. Dan Beyer, Washburn | Provide assistance for school construction projects (Appendix NN) |
| Ms. Dee Shumake, Williston | Provide funding for school infrastructure and health care programs (Appendix OO) |

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| Ms. Vonne Tarnavsky, Watford City | Support road construction projects, particularly US Highway 85 (Appendix PP) |
| Mr. Jared Loveridge | Return 50 percent of the earnings to the legacy fund principal and support property tax relief and infrastructure projects (Appendix QQ) |
| Mr. Roscoe Streyle, Minot | Reinvest 50 percent of the earnings, use 30 percent for one-time projects, and use 20 percent to establish a revolving loan fund for infrastructure projects (Appendix RR) |
| Mr. Chris Kreger | Provide funding for oil well site reclamation, natural gas processing, and transportation infrastructure projects (Appendix SS) |
| Mr. Brandyn Ehlis, Fargo | Support teachers and schools, including supplemental salary payments for teachers (Appendix TT) |
| Mr. Keith Zahn | Provide assistance for school construction projects (Appendix UU) |
| Mr. Michael W. Califf, Williston | Provide funding for school infrastructure, after school programs, scholarships for oilfield worker training, and road maintenance (Appendix VV) |
| Mr. Bruce Anderson, Williston | Support for school construction projects (Appendix WW) |
| Mr. Tim Schmidt, Williston | Support school construction projects, road infrastructure, and property tax relief (Appendix XX) |
| Ms. Heidi Grondahl, Williston | Provide funding for K-12 education (Appendix YY) |
| Ms. Heidi Fick, Williston | Provide funding for school construction projects and health care infrastructure (Appendix ZZ) |
| Ms. Margot Brunelle | Provide assistance for school construction projects (Appendix AAA) |
| Ms. Danelle Dyke, Minot | Provide funding for free lunches for all North Dakota students (Appendix BBB) |
| Ms. Jill M. Johnson, Fargo | Support a program to provide free lunches for all North Dakota students (Appendix CCC) |
| Mr. Jesse Stundal, Williston | Support school construction projects and road construction projects, particularly Highway 85 (Appendix DDD) |
| Mr. Terry Kovacevich, Dickinson | Pay dividends to North Dakota residents and support individual college savings plans (Appendix EEE) |
| Mr. Jordon Evert, Williston | Distribute funding to support education, health care, infrastructure projects, and property tax relief (Appendix FFF) |
| Ms. Chennille Currier | Provide additional funding to the City of Williston (Appendix GGG) |
| Mr. Darrik Trudell | Support infrastructure projects and natural gas-related projects (Appendix HHH) |
| Mr. Michael Wenstad | Provide assistance for K-12 education (Appendix III) |
| Mr. Zachary Gaaskjolen, Western Dakota Energy Association | Provide funding for infrastructure projects, including low-interest rate revolving loan programs (Appendix JJJ) |
| Mr. Peter F. Hanebutt, Director of Public Policy, North Dakota Farm Bureau | Limit the expenditure of legacy fund earnings to 50 percent and support infrastructure projects (Appendix KKK) |
| Mr. Jorge and Ms. Amy Guzman, Dickinson | Support school construction projects (Appendix LLL) |
| Mr. Rodney Miller, Williston | Provide grants and low-interest rate loans for school construction projects (Appendix MMM) |

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| Mr. Bruce Brandenburger, Williston | Support school construction projects (Appendix NNN) |
| Ms. Stephanie Fisher, Williston | Provide low-interest rate loans for school construction projects (Appendix OOO) |
| Mr. Floyd Miller, Williston | Distribute funding for school construction projects with 50 percent designated for oil-producing counties, 30 percent for counties adjacent to oil-producing counties, and 20 percent for the remaining non-oil-producing counties (Appendix PPP) |
| Ms. Marcia and Mr. Sam Haro, Williston | Provide funding for school construction projects (Appendix QQQ) |
| Mr. Mitch Lundby | Support school construction projects (Appendix RRR) |
| Mr. John Odermann, Dickinson | Return 50 percent of the earnings to the legacy fund principal, use 30 percent for a low-interest rate revolving loan program related to infrastructure projects, and use 20 percent to support mental and behavioral health programs (Appendix SSS) |
| Dr. Sherlock Hirning, Superintendent, Divide County School District | Support school district transportation costs and road infrastructure projects (Appendix TTT) |
| Mr. Robert Graham | Limit the expenditure of legacy fund earnings to 50 percent for the next 20 years and do not provide funding for ongoing programs (Appendix UUU) |
| Mr. Shawn Wenko, President, Economic Development Association of North Dakota | Provide funding for infrastructure projects, workforce development programs, and economic development programs (Appendix VVV) |

PRESENTATIONS AND COMMITTEE DISCUSSION

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.

The Legislative Council staff presented a memorandum entitled [Infrastructure Revolving Loan Fund - Summary](#), regarding the status of the loan program. He said House Bill No. 1443 (2015) created the infrastructure revolving loan program to provide low-interest rate loans to political subdivisions for eligible infrastructure projects. Since the creation of the fund through December 2019, he said, 48 loans have been approved totaling \$150.3 million. He said approximately \$5 million will be available per year for new loans after all the available funding has been committed to loans and the recipients begin making repayments.

The Legislative Council staff presented a memorandum entitled [Options to Administer Legacy Fund Earnings](#). He said the current administrative process is based on transferring all the biennial earnings of the legacy fund to the general fund in accordance with constitutional and statutory provisions. He said the common schools trust fund uses a distribution method separate from the earnings of the fund which could be a model for the legacy fund. He said potential concerns associated with the current method of administering the legacy fund earnings include cashflow challenges, budgeting uncertainty, an excess or shortfall in the general fund balance, maintaining the fund's purpose to replace oil revenues, and determining appropriate uses of the legacy fund earnings. He said the potential concerns could be addressed with a constitutional change making the change more permanent but possibly causing timing delays associated with the implementation of a constitutional change. The potential concerns, he said, also could be addressed with a statutory change providing flexibility to make future adjustments but possibly resulting in frequent changes that compromise the long-term purposes of the fund.

Representative Delzer said a statutory change would allow the change in administration of the legacy fund earnings to be done more quickly while allowing for a constitutional change in the future. He said a reserve fund associated with the legacy fund earnings could reduce the risk of a shortfall if the actual earnings are less than budgeted.

Senator Wardner said a distribution method using percentages provides flexibility since the distributions would fluctuate proportionally as the legacy fund earnings increase or decrease.

The Legislative Council staff presented a memorandum entitled [Summary of Comments Submitted to the Legacy Fund Earnings Committee](#). He said the committee received comments from 36 individuals at the committee's November 12-13, 2019, meeting. He said the proposed uses of legacy fund earnings were categorized with some comments reflected in multiple categories. He said the committee received 7 proposals related to K-12 education, 12 related to health and human service programs, 10 related to economic development, 17 related to infrastructure programs, 5 related to tax relief programs, and 7 miscellaneous proposals.

In response to a question from Representative Delzer, the Legislative Budget Analyst and Auditor distributed a copy of an email ([Appendix WWW](#)) regarding the estimated balance of the legacy fund needed to replace oil tax revenues. He said the balance of the legacy fund would need to be approximately \$75 billion with a 4 percent annual return to replace an estimated \$3 billion of annual oil tax revenues.

Senator Wardner said the administration of the legacy fund earnings could be changed to provide a distribution method based on a percentage of the five-year average of the fund balance. He said a certain percentage of the earnings could be returned to the legacy fund principal to help the fund grow over time.

Senator Klein said the administration of the legacy fund earnings could be changed to ensure the earnings are spent after the cash from the legacy fund earnings has been deposited, which would provide stability for the state budget.

Representative Boschee distributed information ([Appendix XXX](#)) regarding a proposal for legacy fund earnings. He said his proposal would return 20 percent of the legacy fund earnings to the legacy fund principal. He said the remaining earnings would be distributed 25 percent to the highway tax distribution fund, 15 percent to a research and innovation fund, 15 percent to a human services and public health stabilization fund, 10 percent to a workforce development and lifelong education fund, 15 percent to a regional economic development infrastructure fund, 10 percent to an arts and culture endowment fund, and 10 percent to a student lunch support fund.

Chairman Pollert requested the Legislative Council staff to prepare a bill draft for the committee to consider at its next meeting to statutorily change the administration of the legacy fund earnings.

Chairman Pollert said the committee's next meeting may be in June 2020.

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

Adam Mathiak
Senior Fiscal Analyst

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