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## LEGACY FUND EARNINGS COMMITTEE

Tuesday, March 29, 2022  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Chet Pollert, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Representatives Chet Pollert, Joshua A. Boschee, Jeff Delzer, Craig Headland, Mike Lefor; Senators Jessica Bell, Joan Heckaman, Ray Holmberg, Jerry Klein, Ronald Sorvaag, Rich Wardner

**Members absent:** None

**Others present:** Representatives Glenn Bosch, Bismarck, and Kim Koppelman, West Fargo, members of the Legislative Management

Allen H. Knudson, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Sorvaag, seconded by Representative Headland, and carried on a voice vote that the minutes of the December 15, 2021, meeting be approved as distributed.**

### LEGACY FUND STATUS

Mr. Scott Anderson, Chief Investment Officer, Retirement and Investment Office, presented information ([Appendix B](#)) regarding the status of the legacy fund, including a brief overview of the in-state investment program and legacy fund asset allocation study. He noted the Retirement and Investment Office contracted with RVK, Inc., to conduct an asset allocation study of the legacy fund and to develop guidelines and policies for an in-state equity investment program.

In response to a committee member question, Mr. Anderson indicated some in-state equity investments have been approved already through 50 South Capital, the investment manager selected to administer private equity investments under the legacy fund.

In response to a committee member question, Mr. Anderson noted:

- Recent global events prompted the State Investment Board to exit investments in Russian bonds and equities.
- The value of Russian investments held in the funds managed by the State Investment Board totaled approximately \$16 million in January 2022 compared to a total investment portfolio of approximately \$20 billion.
- The Russian investments decreased in value by approximately \$10 million in February 2022, resulting in some small realized losses for the funds when the investments were sold in March 2022.
- Trading restrictions prevented the sale of some Russian investments leaving the legacy fund with approximately \$1.2 million of Russian investments as of March 2022.

### OIL ACTIVITY UPDATE

Mr. Lynn Helms, Director, Department of Mineral Resources, presented information ([Appendix C](#)) regarding the status of oil and gas development in the state. He noted:

- Oil production on the Fort Berthold Reservation accounts for approximately 18 to 20 percent of total statewide production with production on trust lands anticipated to increase more than fee lands as oil development continues in the future.

- Straddle wells, wells drilled from outside the Fort Berthold Reservation crossing into the reservation, may increase from the current level of 141 wells to approximately 280 wells as oil development activity increases. He noted the state had 35 drilling rigs and 11 fracturing crews on March 29, 2022.
- The inventory of drill but uncompleted wells was 475 as of February 28, 2022, with the inventory anticipated to steadily decrease during the year.
- The Department of Mineral Resources estimates \$130 million of federal funds will be available over the next 10 years to plug and restore approximately 230 orphaned wells and well sites in North Dakota.

In response to a committee member question, Mr. Helms indicated drilling activity in North Dakota may continue for 10 to 20 years after which enhanced oil recovery methods will be needed to further develop oil production.

### **BOND ISSUANCE UPDATE**

Ms. DeAnn Ament, Executive Director, Public Finance Authority, presented information ([Appendix D](#)) regarding the status of the bond issuance to support infrastructure projects and programs authorized in House Bill No. 1431 (2021), including the dollar amount of bonds issued to date and plans for future issuances, the interest rate of the bonds, the cost of issuing the bonds, and the estimated amounts needed each biennium to repay the bonds. She noted:

- \$389 million of bonds were issued in December 2021 to finance \$374.5 million of authorized projects.
- The bonds have a net interest rate of 2.71 percent and a biennial repayment cost of approximately \$51 million.
- Another set of bonds will be issued in the summer or fall of 2022 to finance the remaining \$305.5 million of authorized projects.

### **STATE HIGHWAY FUND STATUS**

Mr. William T. Panos, Director, Department of Transportation, presented information ([Appendix E](#)) regarding the status of the state highway fund, including an overview of the revenue sources for the state highway fund, a comparison of actual and budgeted revenues for the biennium to date, and examples of potential uses of any future legacy fund earnings that may be transferred to the fund under North Dakota Century Code Section 21-10-13. He noted state highway fund revenues are derived from transfers from the highway tax distribution fund (59 percent), an unencumbered cash balance (18 percent), local reimbursements (10 percent), and other fees and collections (13 percent). He noted the department is required to prioritize funding from the state highway fund for maintaining the state highway system, which may limit the opportunity to use funds for "shovel-ready" discretionary projects.

In response to committee member questions, Mr. Panos noted:

- The department generally maintains a cash balance equal to approximately 3 months of expenses for cashflow purposes in the state highway fund.
- The department has received all the federal funding anticipated during the regular legislative session, but the funding was received later than originally anticipated.

### **INCOME TAX CREDIT STATUS**

Mr. Brian Kroshus, Tax Commissioner, presented information ([Appendix F](#)) regarding the status of the income tax credit authorized in House Bill No. 1515 (2021), including an overview of the qualification criteria, the estimated fiscal impact, and a comparison of the actual and budgeted credits for the biennium to date. He noted:

- The income tax credit is estimated to reduce income tax collections deposited in the general fund by \$211 million for the 2021-23 biennium, including \$104 million in fiscal year 2022 and \$107 million in fiscal 2023.
- The department received 223,538 returns as of March 28, 2022, of which 155,150 were eligible for a full or partial credit, with \$56.3 million of credits claimed.

### **CLEAN SUSTAINABLE ENERGY FUND STATUS**

Mr. Al Anderson, Director, Clean Sustainable Energy Authority, presented information ([Appendix G](#)) regarding the status of the clean sustainable energy fund, including revenues and expenditures for the biennium to date, grant award commitments, and examples of potential uses of any future legacy fund earnings that may be transferred to the fund under Section 21-10-13. He noted the Clean Sustainable Energy Authority has approved \$28 million of grants and \$135 million of loans for six projects for the 2021-23 biennium through March 2022. He indicated the six projects reflect \$4.5 billion of investment in the state to develop clean energy projects.

In response to a committee member question, Mr. Anderson noted the loans approved by the Clean Sustainable Energy Authority are administered by the Bank of North Dakota, have an interest rate of 2 percent, and range in length from 10 to 15 years.

### INNOVATION LOAN FUND STATUS

Mr. Josh Teigen, Director, Economic Development and Finance Division, Department of Commerce, presented information ([Appendix H](#)) regarding the status of the innovation loan fund to support technology advancement, including revenues and expenditures for the biennium to date, loan commitments, and examples of potential uses of any future legacy fund earnings that may be transferred to the fund under Section 21-10-13. He noted \$26.8 million has been loaned from the innovation loan fund since the fund was created in 2019, including \$9.6 million for the health care industry, \$7.3 million for agriculture technology, and \$9.9 million for other industries.

In response to committee member questions, Mr. Teigen noted:

- The fund is anticipated to be self-sustaining when the balance reaches approximately \$100 million.
- A funding level of \$15 to \$20 million per biennium appears to be an appropriate level of funding for the innovation loan fund based on market demand.

### STATE BUDGET OUTLOOK

Mr. Allen H. Knudson, Legislative Budget Analyst and Auditor, Legislative Council, presented a report ([Appendix I](#)) regarding the state budget and a comparison of ongoing general fund revenues and appropriations. He noted:

- General fund appropriations for the 2021-23 biennium total \$5.01 billion, including \$4.88 billion of ongoing funding and \$0.13 billion of one-time funding.
- Ongoing general fund appropriations exceed forecasted ongoing general fund revenues by \$1.17 billion for the 2021-23 biennium primarily related to property and income tax relief approved by the Legislative Assembly in recent bienniums.
- The 2021-23 biennium budget was balanced with a transfer from the strategic investment and improvements fund, the replacement of some general fund spending with federal funds, and the deposit of legacy fund earnings at the end of the biennium.
- Balancing ongoing general fund revenues and appropriations will be a challenge for the 2023-25 biennium, but additional funding may be available to address the budget gap if oil and gas tax revenues and general fund revenues continue to exceed the forecast for the remainder of the 2021-23 biennium.

### PROPOSED USES OF LEGACY FUND EARNINGS

Representative Boschee provided comments regarding proposed uses of legacy fund earnings related to health and human services programs. He noted the Legislative Assembly has provided one-time funding to support roads, airports, and other infrastructure projects, but less one-time funding has been used to support health and human services programs. He noted:

- Legacy fund earnings could be used to support one-time initiatives to improve health and human services programs and potentially decrease future ongoing costs for the programs.
- Utah and New York have used social impact bonding as a method to improve health and human services programs.

Mr. Christopher D. Jones, Executive Director, Department of Human Services, noted the Department of Human Services is reviewing examples of social impact bonding and other one-time initiatives in other states to improve North Dakota's health and human services programs. He noted some states have implemented private sector solutions to address challenges in health and human services programs.

No further business appearing, Chairman Pollert adjourned the meeting at 2:45 p.m.

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Adam Mathiak  
Senior Fiscal Analyst

ATTACH:9