

## VETO MEASURE

April 15, 2015

The Honorable Wesley Belter  
Speaker of the House  
House Chambers  
State Capitol  
Bismarck, ND 58505

Dear Speaker Belter:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1033 and returned it to the House of Representatives.

I have vetoed this legislation due to language found in sections 2 and 3 of the bill. Section 2 provides that Legacy Fund moneys that are available for expenditure "...may not be included in the draft appropriations acts under section 54-44.1-06." This language would infringe upon the executive authority of the Governor to submit proposed legislative initiatives to the Legislature. Article V, Section 7 of the North Dakota Constitution states: the "governor shall present information on the condition of the state, together with any recommended legislation, to every regular and special session of the legislative assembly." Section 54-44.1-06 of the North Dakota Century Code further asserts the Governor shall present, "recommendations of the Governor for appropriations for the next biennium." The primary function of the executive branch is to manage the affairs of the state, including the careful budgeting of resources. This includes making recommendations to the Legislature pursuant to Article V, Section 7 of the North Dakota Constitution that contain executive branch assessments of the amount and preferred allocation of resources needed to fulfill legislative policies. Section 2 would restrict the executive branch in carrying out its constitutional responsibilities and is therefore unconstitutional.

Section 3 of the bill would require that "any legacy fund earnings that are transferred to the general fund in accordance with section 26 of Article X of the Constitution of North Dakota must be transferred immediately by the state treasurer back to the legacy fund to become part of the principal of the fund." Requiring such a transfer would clearly contradict the intent of the voters when they enacted section 26 of Article X of the North Dakota Constitution that was approved by voters on November 2, 2010, which provides that "The state investment board shall invest the principal of the North Dakota legacy fund. The state treasurer shall transfer earnings of the North Dakota legacy fund accruing after June 30, 2017, to the state general fund at the end of each biennium." It is the clear intent of the constitutional language that subsequent to the transfer of the earnings to the General Fund the Legislative Assembly shall determine how these general fund dollars are to be used as part of the normal appropriations process, including consideration of the Governor's recommendations. Any provision that establishes an "automatic" reversal of the earnings transfer from the Legacy Fund before it actually occurs is a clear conflict with the intent of voters when they voted to approve the procedures of the Legacy Fund. For these reasons, I have vetoed House Bill 1033.

Sincerely,

Jack Dalrymple  
Governor