

HOUSE BILL NO. 1425

Introduced by

Representatives Nathe, D. Anderson, Bosch, Headland, Howe, Lefor, Mock, Porter

Senators Hogue, Meyer, Bell, Wardner

1 A BILL for an Act to create and enact section 6-09-49.1 and a new section to chapter 21-10 of
2 the North Dakota Century Code, relating to the legacy infrastructure revolving loan fund and the
3 state investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the North
4 Dakota Century Code, relating to the state investment board and the legacy and budget
5 stabilization fund advisory board; and to provide a continuing appropriation.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Section 6-09-49.1 of the North Dakota Century Code is created and enacted
8 as follows:

9 **6-09-49.1. Legacy infrastructure revolving loan fund - Continuing appropriation.**

- 10 1. The legacy infrastructure revolving loan fund is a special fund in the state treasury
11 from which the Bank of North Dakota shall provide loans to political subdivisions, the
12 Garrison Diversion Conservancy District, and the Lake Agassiz water authority for
13 essential infrastructure projects. The Bank shall administer the legacy infrastructure
14 revolving loan fund. The maximum term of a loan made under this section is thirty
15 years. A loan made from the fund under this section must have an interest rate that
16 does not exceed two percent per year.
- 17 2. For purposes of this section, "essential infrastructure projects" means capital
18 construction projects for the following:
- 19 a. The Red River valley water supply project;
20 b. New or replacement of existing water treatment plants;
21 c. New or replacement of existing wastewater treatment plants;
22 d. New or replacement of existing sewerlines and waterlines; and
23 e. New or replacement of existing storm water and transportation infrastructure,
24 including curb and gutter construction.

- 1 3. In processing political subdivision loan applications under this section, the Bank of
2 North Dakota shall calculate the maximum loan amount for which a qualified applicant
3 may qualify, not to exceed fifteen million dollars per loan. The Bank shall consider the
4 applicant's ability to repay the loan when processing the application and shall issue
5 loans only to applicants that provide reasonable assurance of sufficient future income
6 to repay the loan.
- 7 4. The Bank of North Dakota shall deposit in the legacy infrastructure revolving loan fund
8 all payments of principal paid under loans made from the legacy infrastructure
9 revolving loan fund. The Bank shall transfer all payments of interest paid under loans
10 from the legacy infrastructure revolving loan fund to the legacy fund, however, the
11 Bank may use a portion of the interest paid on the outstanding loans as a servicing fee
12 to pay for administrative costs, which may not exceed one-half of one percent of the
13 amount of the interest payment. All moneys transferred to the fund, interest upon
14 moneys in the fund, and payments to the fund of principal and interest are
15 appropriated to the Bank on a continuing basis for administrative costs, transfers to
16 the legacy fund, and for loan disbursement according to this section.
- 17 5. The Bank of North Dakota may adopt policies and establish guidelines to administer
18 this loan program in accordance with the provisions of this section and to supplement
19 and leverage the funds in the legacy infrastructure revolving loan fund. Additionally,
20 the Bank may adopt policies allowing participation by local financial institutions.

21 **SECTION 2.** A new section to chapter 21-10 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Prudent investor rule - Exception.**

24 Notwithstanding section 21-10-07, for purposes of investment of the legacy fund, the state
25 investment board shall give preference to qualified investment firms and financial institutions
26 with a presence in the state.

27 **SECTION 3. AMENDMENT.** Section 21-10-02 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **21-10-02. Board - Powers and duties.**

- 30 1. The board is charged with the investment of the funds enumerated in section
31 21-10-06. It shall approve general types of securities for investment by these funds

1 and set policies and procedures regulating securities transactions on behalf of the
2 various funds. Representatives of the funds enumerated in section 21-10-06 may
3 make recommendations to the board in regard to investments.

4 2. The board or its designated agents must be custodian of securities purchased on
5 behalf of funds under the management of the board.

6 3. The board may appoint an investment director or advisory service, or both, who must
7 be experienced in, and hold considerable knowledge of, the field of investments. The
8 investment director or advisory service shall serve at the pleasure of the board. The
9 investment director or advisory service may be an individual, corporation, limited
10 liability company, partnership, or any legal entity which meets the qualifications
11 established herein. The board may authorize the investment director to lend securities
12 held by the funds. These securities must be collateralized as directed by the board.

13 4. The board may create investment fund pools in which the funds identified in section
14 21-10-06 may invest.

15 5. For purposes of investment of the legacy fund, the board shall give preference to
16 investment firms and financial institutions with a presence in the state.

17 **SECTION 4. AMENDMENT.** Section 21-10-11 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **21-10-11. Legacy and budget stabilization fund advisory board.**

20 1. The legacy and budget stabilization fund advisory board is created to develop
21 recommendations for the investment of funds in the legacy fund and the budget
22 stabilization fund to present to the state investment board.

23 2. The goal of investment for the legacy fund is principal preservation while maximizing
24 total return and to provide a direct benefit to the state by investing a portion of the
25 principal in the state. Preference must be given to qualified investment firms and
26 financial institutions with a presence in the state for investment of the legacy fund.

27 3. The board shall determine the asset allocation for the investment of the principal of the
28 legacy fund including:

29 a. A target allocation of ten percent to fixed income investments within the state, of
30 which:

- 1 (1) Up to forty percent must be targeted for infrastructure loans to political
2 subdivisions under section 6-09-49.1. The net return to the legacy fund
3 under this paragraph must be fixed at a target rate of one and one-half
4 percent;
- 5 (2) Up to sixty percent, with a minimum of four hundred million dollars, must be
6 designated to the Bank of North Dakota's certificate of deposit match
7 program with an interest rate fixed at the equivalent yield of United States
8 treasury bonds having the same term, up to a maximum term of twenty
9 years; and
- 10 (3) Any remaining amounts must be designated for other qualified fixed income
11 investments within the state.
- 12 b. A target allocation of ten percent to equity investments in the state, of which at
13 least three percent may be targeted for investment in one or more equity funds,
14 venture capital funds, or alternative investment funds with a primary strategy of
15 investing in emerging or expanding companies in the state. Equity investments
16 under this subdivision must:
- 17 (1) Be managed by qualified investment firms, financial institutions, or equity
18 funds which have a strategy to invest in qualified companies operating or
19 seeking to operate in the state and which have a direct connection to the
20 state; and
- 21 (2) Have a benchmark investment return equal to the five-year average net
22 return for the legacy fund, excluding in-state investments.
- 23 4. The board consists of two members of the senate appointed by the senate majority
24 leader, two members of the house of representatives appointed by the house majority
25 leader, the director of the office of management and budget or designee, the president
26 of the Bank of North Dakota or designee, and the tax commissioner or designee. The
27 board shall select a chairman and must meet at the call of the chairman.
- 28 ~~4-5.~~ The board shall report at least semiannually to the budget section.
- 29 ~~5-6.~~ Legislative members are entitled to receive compensation and expense
30 reimbursement as provided under section 54-03-20 and reimbursement for mileage as

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- 1 provided by law for state officers. The legislative council shall pay the compensation
2 and expense reimbursement for the legislative members.
- 3 ~~6-7.~~ The legislative council shall provide staff services to the legacy and budget
4 stabilization fund advisory board.
- 5 ~~7-8.~~ The staff and consultants of the state retirement and investment office shall advise the
6 board in developing asset allocation and investment policies.
- 7 ~~8-9.~~ The board shall develop a process to select a member of the board to serve on the
8 state investment board in a nonvoting capacity.