

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED 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 a new section to chapter 21-10 of the North Dakota
2 Century Code, relating to the state investment board; to amend and reenact sections 6-09-49,
3 21-10-02, and 21-10-11 of the North Dakota Century Code, relating to the legacy infrastructure
4 revolving loan fund, the state investment board, and the legacy and budget stabilization fund
5 advisory board; and to provide a continuing appropriation.

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

7 **SECTION 1. AMENDMENT.** Section 6-09-49 of the North Dakota Century Code is amended
8 and reenacted as follows:

9 **6-09-49. Infrastructure revolving loan fund - Legacy infrastructure revolving loan fund**
10 **- Continuing appropriation.**

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

- 1 e. New or replacement of existing storm water and transportation infrastructure,
2 including curb and gutter construction.
- 3 3. In processing political subdivision loan applications under this section, the Bank shall
4 calculate the maximum loan amount for which a qualified applicant may qualify, not to
5 exceed fifteen million dollars per loan. The Bank shall consider the applicant's ability to
6 repay the loan when processing the application and shall issue loans only to
7 applicants that provide reasonable assurance of sufficient future income to repay the
8 loan.
- 9 4. The Bank shall deposit in the infrastructure revolving loan fund all payments of interest
10 and principal paid under loans made from the infrastructure revolving loan fund. 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 and for loan
16 disbursement according to this section.
- 17 5. The Bank may adopt policies and establish guidelines to administer this loan program
18 in accordance with the provisions of this section and to supplement and leverage the
19 funds in the infrastructure revolving loan fund. Additionally, the Bank may adopt
20 policies allowing participation by local financial institutions.
- 21 6. a. The legacy infrastructure revolving loan fund is a special fund in the infrastructure
22 revolving loan fund from which the Bank of North Dakota shall provide loans to
23 political subdivisions, the Garrison Diversion Conservancy District, and the Lake
24 Agassiz water authority for eligible infrastructure projects as defined in
25 subdivision g. The Bank shall use moneys in the legacy infrastructure revolving
26 loan fund to provide loans to political subdivisions for eligible infrastructure
27 projects pursuant to subdivisions g, h, and i.
- 28 b. The Bank may adopt policies and establish guidelines to administer the legacy
29 infrastructure revolving loan program in accordance with this subsection,
30 including policies to supplement and leverage the moneys in the fund and
31 policies to allow participation by local financial institutions.

- 1 c. A loan made from the legacy infrastructure revolving loan fund must have an
2 interest rate that does not exceed two percent per year. The maximum term of a
3 loan for an infrastructure project under subdivision g is thirty years or the useful
4 life of the project, and the maximum term for a loan for an infrastructure project
5 under subdivision h or i is forty years or the useful life of the project.
- 6 d. All principal and interest payments received on loans made from the legacy
7 infrastructure revolving loan fund must be deposited into the legacy infrastructure
8 revolving loan fund. The Bank may use a portion of the interest paid on the
9 outstanding loans as a servicing fee to pay administrative costs, which may not
10 exceed one half of one percent of the amount of the outstanding loans. All
11 moneys transferred to the legacy infrastructure revolving loan fund, interest upon
12 moneys in the fund, and payments to the fund of principal and interest are
13 appropriated to the Bank on a continuing basis for administrative costs and for
14 loan disbursement according to this subsection.
- 15 e. An applicant shall issue an evidence of indebtedness as authorized by law.
- 16 f. In processing political subdivision loan applications under this subsection, the
17 Bank shall calculate the maximum outstanding loan amount per qualified
18 applicant. The maximum outstanding loan amount for infrastructure projects
19 under subdivision g is forty million dollars. The Bank shall consider the applicant's
20 ability to repay the loan when processing the application and shall issue loans
21 only to applicants that provide reasonable assurance of sufficient future income
22 to repay the loan.
- 23 g. Eligible infrastructure projects under this subdivision are capital construction
24 projects to construct new infrastructure or to replace infrastructure, and which
25 provide the fixed installations necessary for the function of a political subdivision
26 and are in the public interest. Capital construction projects exclude routine
27 maintenance and repair projects but include the following:
- 28 (1) Water treatment plants;
29 (2) Wastewater treatment plants;
30 (3) Sewer lines and water lines, including lift stations and pumping systems;
31 (4) Water storage systems, including dams, water tanks, and water towers;

- 1 (5) Storm water infrastructure, including curb and gutter construction;
- 2 (6) Road and bridge infrastructure, including paved and unpaved roads and
- 3 bridges;
- 4 (7) Airport infrastructure;
- 5 (8) Electricity transmission infrastructure;
- 6 (9) Natural gas transmission infrastructure;
- 7 (10) Communications infrastructure;
- 8 (11) Emergency services facilities, excluding hospitals;
- 9 (12) Essential political subdivision buildings and infrastructure; and
- 10 (13) The Red River valley water supply project.
- 11 h. The department of transportation shall approve county road and bridge projects
- 12 for purposes of loans under this subsection. The department of transportation
- 13 may adopt policies for the review and approval of loans under this subsection.
- 14 i. For purposes of loans under this subsection, the state water commission shall
- 15 review and approve eligible projects to construct new water-related infrastructure
- 16 or to replace existing water-related infrastructure, which provide the fixed
- 17 installations necessary for the function of a political subdivision and are in the
- 18 public interest. The state water commission may adopt policies for the review and
- 19 approval of loans under this subsection. Capital construction projects exclude
- 20 routine maintenance and repair projects, but include the following:
- 21 (1) Flood control;
- 22 (2) Conveyance projects;
- 23 (3) Rural water supply;
- 24 (4) Water supply; and
- 25 (5) General water management.

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

28 **Prudent investor rule - Exception.**

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

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

3 **21-10-02. Board - Powers and duties.**

4 1. The board is charged with the investment of the funds enumerated in section
5 21-10-06. It shall approve general types of securities for investment by these funds
6 and set policies and procedures regulating securities transactions on behalf of the
7 various funds. Representatives of the funds enumerated in section 21-10-06 may
8 make recommendations to the board in regard to investments.

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

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

18 4. The board may create investment fund pools in which the funds identified in section
19 21-10-06 may invest.

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

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

24 **21-10-11. Legacy and budget stabilization fund advisory board.**

25 1. The legacy and budget stabilization fund advisory board is created to develop
26 recommendations for the investment of funds in the legacy fund and the budget
27 stabilization fund to present to the state investment board.

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

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

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- 1 ~~4.5.~~ The board shall report at least semiannually to the budget section.
- 2 ~~5.6.~~ Legislative members are entitled to receive compensation and expense
3 reimbursement as provided under section 54-03-20 and reimbursement for mileage as
4 provided by law for state officers. The legislative council shall pay the compensation
5 and expense reimbursement for the legislative members.
- 6 ~~6.7.~~ The legislative council shall provide staff services to the legacy and budget
7 stabilization fund advisory board.
- 8 ~~7.8.~~ The staff and consultants of the state retirement and investment office shall advise the
9 board in developing asset allocation and investment policies.
- 10 ~~8.9.~~ The board shall develop a process to select a member of the board to serve on the
11 state investment board in a nonvoting capacity.