

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1380

(Representatives Lefor, Bosch, Dockter, Headland, Howe, Nathe, Porter, M. Ruby, Steiner)
(Senators Patten, Sorvaag, Wardner)

AN ACT to create and enact a new section to chapter 6-09.4 and a new section to chapter 21-10 of the North Dakota Century Code, relating to a legacy sinking and interest fund and a legacy earnings fund; to amend and reenact subsection 1 of section 21-10-06 and section 21-10-12 of the North Dakota Century Code, relating to funds invested by the state investment board and legacy fund definitions; to repeal House Bill No. 1038, as approved by the sixty-seventh legislative assembly, relating to a legislative management legacy fund earnings committee; to provide for a transfer; to create a legislative management legacy fund earnings committee; to provide a statement of legislative intent; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09.4 of the North Dakota Century Code is created and enacted as follows:

Legacy sinking and interest fund - Debt service requirements - Public finance authority.

There is created in the state treasury the legacy sinking and interest fund. The fund consists of all moneys deposited in the fund under section 3 of this Act. Moneys in the fund may be spent by the public finance authority pursuant to legislative appropriations to meet the debt service requirements for evidences of indebtedness issued by the authority for transfer to the Bank of North Dakota for allocations to infrastructure projects and programs. Any moneys in the fund in excess of the amounts appropriated from the fund to meet the debt service requirements for a biennium must be transferred by the state treasurer to the public employees retirement system main system plan under chapter 54-52, but only if the public employees retirement system main system plan's actuarial funded ratio as reported for the most recently completed even-numbered fiscal year is less than ninety percent. If the public employees retirement system main system plan's actuarial funded ratio is ninety percent or more and then subsequently decreases below ninety percent, the state treasurer may not resume the transfers under this subdivision unless the main system plan's actuarial funded ratio is less than seventy percent.

SECTION 2. AMENDMENT. Subsection 1 of section 21-10-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Subject to the provisions of section 21-10-02, the board shall invest the following funds:
 - a. State bonding fund.
 - b. Teachers' fund for retirement.
 - c. State fire and tornado fund.
 - d. Workforce safety and insurance fund.
 - e. Public employees retirement system.
 - f. Insurance regulatory trust fund.
 - g. State risk management fund.
 - h. Budget stabilization fund.
 - i. Health care trust fund.

- j. Cultural endowment fund.
- k. Petroleum tank release compensation fund.
- l. Legacy fund.
- m. Legacy earnings fund.
- n. A fund under contract with the board pursuant to subsection 3.

SECTION 3. AMENDMENT. Section 21-10-12 of the North Dakota Century Code is amended and reenacted as follows:

21-10-12. Legacy fund - ~~Earnings defined~~definitions.

For the purposes of section 26 of article X of the Constitution of North Dakota, ~~the term "earnings":~~

- 1. "Earnings" means net income in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.
- 2. "Principal" means all moneys in the legacy fund not included in earnings as defined under subsection 1.

SECTION 4. A new section to chapter 21-10 of the North Dakota Century Code is created and enacted as follows:

Legacy earnings fund - State treasurer - Transfers.

- 1. There is created in the state treasury the legacy earnings fund. The fund consists of all moneys transferred to the fund under subsection 2 and all interest and earnings upon moneys in the fund.
- 2. Any legacy fund earnings transferred to the general fund at the end of each biennium in accordance with section 26 of article X of the Constitution of North Dakota must be immediately transferred by the state treasurer to the legacy earnings fund.
- 3. For each biennium subsequent to the biennium in which the legacy fund earnings are transferred under subsection 2, the amount available for appropriation from the legacy earnings fund is seven percent of the five-year average value of the legacy fund assets as reported by the state investment board. The average value of the legacy fund assets must be calculated using the value of the assets at the end of each fiscal year for the five-year period ending with the most recently completed even-numbered fiscal year.
- 4. On July first of each odd-numbered year, from the amount available for appropriation or transfer from the legacy earnings fund for the biennium, the state treasurer shall transfer funding in the following order:
 - a. The first one hundred fifty million dollars to the legacy sinking and interest fund under section 1 of this Act.
 - b. The next sixty million dollars to the highway tax distribution fund for allocations under section 54-27-19.
 - c. Any remaining funds for other purposes as designated by the legislative assembly, including:
 - (1) Up to fifty million dollars for tax relief pursuant to appropriations or transfers authorized by the legislative assembly;

- (2) Up to thirty million dollars to the clean sustainable energy fund pursuant to appropriations or transfers authorized by the legislative assembly; and
 - (3) Up to thirty million dollars for university research programs, the innovation loan fund to support technology advancement, and workforce enrichment initiatives pursuant to appropriations or transfers authorized by the legislative assembly.
5. If the amounts transferred under subsection 2 exceed the amount available for appropriation under subsection 3, an amount equal to any appropriations from the legacy sinking and interest fund for bond payments under section 2 of this Act must be retained in the legacy earnings fund through June 30, 2025, after which an amount equal to twice any appropriations from the legacy sinking and interest fund under section 2 of this Act for bond payments, but not more than one hundred fifty million dollars, must be retained in the legacy earnings fund. After deducting any amounts to be retained in the legacy earnings fund, the state treasurer shall transfer, within thirty days, any remaining amounts under this subsection in the following order:
- a. The first one hundred million dollars to the legacy fund to become part of the principal.
 - b. Any remaining amount to the strategic investment and improvements fund to be used in accordance with the provisions of section 15-08.1-08.

SECTION 5. REPEAL. House Bill No. 1038, as approved by the sixty-seventh legislative assembly, is repealed.

SECTION 6. LEGACY FUND EARNINGS - LEGISLATIVE MANAGEMENT COMMITTEE.

1. During the 2021-22 interim, the legacy fund earnings committee is created and is composed of the following members:
 - a. The majority and minority leaders of the house of representatives and the senate, or their legislative designees;
 - b. The chairmen of the finance and taxation standing committees of the house of representatives and the senate, or their legislative designees;
 - c. The chairmen of the appropriations committees of the house of representatives and the senate, or their legislative designees;
 - d. The chairmen of the industry, business and labor standing committees of the house of representatives and the senate, or their legislative designees;
 - e. One member of the legacy and budget stabilization fund advisory board from the house of representatives and one member of the legacy and budget stabilization fund advisory board from the senate, appointed by the respective majority leaders; and
 - f. The chairman of the legislative management, or the chairman's legislative designee.
2. The legislative management shall designate the chairman of the committee.
3. The committee shall study potential uses of legacy fund earnings, including the use of earnings to provide tax relief, research and technological advancements, innovation, economic growth and diversification, and workforce development. The committee may consider input from representatives of economic development entities, agricultural organizations, research entities, the innovation loan fund to support technology advancement committee, workforce development entities, higher education institutions, and the parks and recreation department. As part of the study, the committee shall:

- a. Consider the establishment of a statutory committee to award grants for university research programs and workforce enrichment initiatives;
 - b. Define the use of university research, innovation, and workforce enrichment funding that may include efforts to stimulate economic activity across the state through innovation of new technology, concepts, and products; to promote job creation and career and wage growth; to enhance health care outcomes; and to provide experiential learning opportunities for students; and
 - c. Develop reporting requirements for entities receiving funds from the clean sustainable energy fund and from grants awarded for university research, innovation, and workforce enrichment initiatives.
4. The legislative management shall report its findings and recommendations, together with any legislation required to implement those recommendations, to the sixty-eighth legislative assembly.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the sixty-seventh legislative assembly that the sixty-eighth legislative assembly consider additional allocations from the legacy earnings fund, including allocations to value-added agricultural programs, the innovation loan fund to support technology advancement, state building maintenance and improvements, and for other one-time initiatives and projects, including initiatives and projects to diversify the state's economy, to improve the efficiency and effectiveness of state government, and to reduce ongoing general fund appropriations of state agencies.

SECTION 8. EFFECTIVE DATE. This Act becomes effective on August 1, 2021.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1380.

House Vote: Yeas 81 Nays 9 Absent 4

Senate Vote: Yeas 46 Nays 1 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State