

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~~program
3 and the state investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the
4 North 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~~program - Continuing**
10 **appropriation.**

11 ~~1. The legacy infrastructure revolving loan fund is a special fund in the state treasury~~
12 ~~from which the Bank of North Dakota shall provide loans to political subdivisions, the~~
13 ~~Garrison Diversion Conservancy District, and the Lake Agassiz water authority for~~
14 ~~essential infrastructure projects. The Bank shall administer the legacy infrastructure~~
15 ~~revolving loan fund. The maximum term of a loan made under this section is thirty~~
16 ~~years. A loan made from the fund under this section must have an interest rate that~~
17 ~~does not exceed 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 sewerlines and waterlines; 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 of~~
4 ~~North Dakota shall calculate the maximum loan amount for which a qualified applicant~~
5 ~~may qualify, not to exceed fifteen million dollars per loan. The Bank shall consider the~~
6 ~~applicant's ability to repay the loan when processing the application and shall issue~~
7 ~~loans only to applicants that provide reasonable assurance of sufficient future income~~
8 ~~to repay the loan.~~
- 9 ~~4. The Bank of North Dakota shall deposit in the legacy infrastructure revolving loan fund~~
10 ~~all payments of principal paid under loans made from the legacy infrastructure~~
11 ~~revolving loan fund. The Bank shall transfer all payments of interest paid under loans~~
12 ~~from the legacy infrastructure revolving loan fund to the legacy fund, however, the~~
13 ~~Bank may use a portion of the interest paid on the outstanding loans as a servicing fee~~
14 ~~to pay for administrative costs, which may not exceed one-half of one percent of the~~
15 ~~amount of the interest payment. All moneys transferred to the fund, interest upon~~
16 ~~moneys in the fund, and payments to the fund of principal and interest are~~
17 ~~appropriated to the Bank on a continuing basis for administrative costs, transfers to~~
18 ~~the legacy fund, and for loan disbursement according to this section.~~
- 19 ~~5. The Bank of North Dakota may adopt policies and establish guidelines to administer~~
20 ~~this loan program in accordance with the provisions of this section and to supplement~~
21 ~~and leverage the funds in the legacy infrastructure revolving loan fund. Additionally,~~
22 ~~the Bank may adopt policies allowing participation by local financial institutions.~~
- 23 1. The legacy infrastructure loan program is created from which the Bank of North
24 Dakota shall provide loans to political subdivisions, the Garrison Diversion
25 Conservancy District, and the Lake Agassiz water authority for eligible infrastructure
26 projects as authorized in this section.
- 27 2. The Bank of North Dakota may adopt policies and establish guidelines to administer
28 the legacy infrastructure loan program in accordance with this section.
- 29 3. A loan made from the legacy infrastructure loan program must have an interest rate
30 that does not exceed two percent per year. The maximum term of a loan under
31 subsections 7 and 9 is forty years or the useful life of the project.

1 4. The Bank of North Dakota shall transfer all payments of principal and interest paid on
2 loans made from the legacy infrastructure loan program to the legacy fund. The Bank
3 may use a portion of the interest paid on the outstanding loans as a servicing fee to
4 pay for administrative costs, which may not exceed one-half of one percent of the
5 amount of the outstanding loans.

6 5. An applicant shall issue an evidence of indebtedness as authorized by law.

7 6. When processing political subdivision loan applications under this section, the Bank of
8 North Dakota shall calculate the maximum outstanding loan amount per qualified
9 applicant. The maximum outstanding loan amount for infrastructure projects under
10 subsection 7 is forty million dollars. The Bank shall consider the ability of the applicant
11 to repay the loan while processing the application and shall issue loans only to
12 applicants that provide reasonable assurance of sufficient future income to repay the
13 loan.

14 7. Eligible infrastructure projects under this subsection are capital projects to construct
15 new infrastructure or to replace infrastructure and which provide the fixed installations
16 necessary for the function of a political subdivision and are in the interest of the public.

17 Capital construction projects include:

18 a. Water treatment plants;

19 b. Wastewater treatment plants;

20 c. Sewerlines and waterlines, including lift stations and pumping stations;

21 d. Water storage systems, including dams, water tanks, and water towers;

22 e. Storm water infrastructure, including curb and gutter construction;

23 f. Road and bridge infrastructure, including paved and unpaved roads and bridges;

24 g. Airport infrastructure;

25 h. Electricity transmission infrastructure;

26 i. Natural gas transmission infrastructure;

27 j. Communications infrastructure;

28 k. Emergency services facilities, excluding hospitals;

29 l. Essential political subdivision building and infrastructure; and

30 m. The Red River valley water supply project.

1 8. The department of transportation shall approve county road and bridge projects for
2 purposes of loans under this section and may adopt policies for the review and
3 approval of projects under this section.

4 9. For purposes of loans under this subsection, the state water commission shall review
5 and approve eligible projects to construct new water-related infrastructure or to
6 replace existing water-related infrastructure which provide the fixed installations
7 necessary for the function of a political subdivision and are in the best interest of the
8 public. The state water commission may adopt policies for the review and approval of
9 projects under this section. Capital construction projects include:

10 a. Flood control;

11 b. Conveyance projects;

12 c. Rural water supply;

13 d. Water supply; and

14 e. General water management.

15 10. Capital construction projects under subsections 7 and 9 do not include routine
16 maintenance and repair projects.

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

19 **Prudent investor rule - Exception.**

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

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

25 **21-10-02. Board - Powers and duties.**

26 1. The board is charged with the investment of the funds enumerated in section
27 21-10-06. It shall approve general types of securities for investment by these funds
28 and set policies and procedures regulating securities transactions on behalf of the
29 various funds. Representatives of the funds enumerated in section 21-10-06 may
30 make recommendations to the board in regard to investments.

- 1 2. The board or its designated agents must be custodian of securities purchased on
2 behalf of funds under the management of the board.
- 3 3. The board may appoint an investment director or advisory service, or both, who must
4 be experienced in, and hold considerable knowledge of, the field of investments. The
5 investment director or advisory service shall serve at the pleasure of the board. The
6 investment director or advisory service may be an individual, corporation, limited
7 liability company, partnership, or any legal entity which meets the qualifications
8 established herein. The board may authorize the investment director to lend securities
9 held by the funds. These securities must be collateralized as directed by the board.
- 10 4. The board may create investment fund pools in which the funds identified in section
11 21-10-06 may invest.
- 12 5. For purposes of investment of the legacy fund, the board shall give preference to
13 investment firms and financial institutions with a presence in the state.

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

16 **21-10-11. Legacy and budget stabilization fund advisory board.**

- 17 1. The legacy and budget stabilization fund advisory board is created to develop
18 recommendations for the investment of funds in the legacy fund and the budget
19 stabilization fund to present to the state investment board.
- 20 2. The goal of investment for the legacy fund is principal preservation while maximizing
21 total return and to provide a direct benefit to the state by investing a portion of the
22 principal in the state. Preference must be given to qualified investment firms and
23 financial institutions with a presence in the state for investment of the legacy fund.
- 24 3. The board shall determine the asset allocation for the investment of the principal of the
25 legacy fund including:
- 26 a. A target allocation of ten percent to fixed income investments within the state, of
27 which:
- 28 (1) Up to forty percent must be targeted for infrastructure loans to political
29 subdivisions under section 6-09-49.1. The net return to the legacy fund
30 under this paragraph must be fixed at a target rate of one and one-half
31 percent;

- 1 (2) Up to sixty percent, with a minimum of four hundred million dollars, must be
2 designated to the Bank of North Dakota's certificate of deposit match
3 program with an interest rate fixed at the equivalent yield of United States
4 treasury bonds having the same term, up to a maximum term of twenty
5 years; and
- 6 (3) Any remaining amounts must be designated for other qualified fixed income
7 investments within the state.
- 8 b. A target allocation of ten percent to equity investments in the state, of which at
9 least three percent may be targeted for investment in one or more equity funds,
10 venture capital funds, or alternative investment funds with a primary strategy of
11 investing in emerging or expanding companies in the state. Equity investments
12 under this subdivision must:
- 13 (1) Be managed by qualified investment firms, financial institutions, or equity
14 funds which have a strategy to invest in qualified companies operating or
15 seeking to operate in the state and which have a direct connection to the
16 state; and
- 17 (2) Have a benchmark investment return equal to the five-year average net
18 return for the legacy fund, excluding in-state investments.
- 19 4. The board consists of two members of the senate appointed by the senate majority
20 leader, two members of the house of representatives appointed by the house majority
21 leader, the director of the office of management and budget or designee, the president
22 of the Bank of North Dakota or designee, and the tax commissioner or designee. The
23 board shall select a chairman and must meet at the call of the chairman.
- 24 4.5. The board shall report at least semiannually to the budget section.
- 25 5-6. Legislative members are entitled to receive compensation and expense
26 reimbursement as provided under section 54-03-20 and reimbursement for mileage as
27 provided by law for state officers. The legislative council shall pay the compensation
28 and expense reimbursement for the legislative members.
- 29 6-7. The legislative council shall provide staff services to the legacy and budget
30 stabilization fund advisory board.

Sixty-seventh
Legislative Assembly

- 1 ~~7.8.~~ The staff and consultants of the state retirement and investment office shall advise the
- 2 board in developing asset allocation and investment policies.
- 3 ~~8.9.~~ The board shall develop a process to select a member of the board to serve on the
- 4 state investment board in a nonvoting capacity.