

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

HOUSE BILL NO. 1425  
(Representatives Nathe, D. Anderson, Bosch, Headland, Howe, Lefor, Mock, Porter)  
(Senators Hogue, Meyer, Bell, Wardner)

AN ACT to create and enact section 6-09-49.1 and a new section to chapter 21-10 of the North Dakota Century Code, relating to the legacy infrastructure loan fund and the state investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the North Dakota Century Code, relating to the state investment board and the legacy and budget stabilization fund advisory board; and to provide a continuing appropriation.

## BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. The legacy infrastructure loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions, the Garrison Diversion Conservancy District, and the Lake Agassiz water authority for eligible infrastructure projects as authorized in this section.
2. The Bank of North Dakota may adopt policies and establish guidelines to administer the legacy infrastructure loan fund in accordance with this section.
3. A loan made from the legacy infrastructure loan fund must have an interest rate that does not exceed two percent per year. The maximum term of a loan under this section is the lesser of thirty years or the useful life of the project.
4. The Bank of North Dakota shall transfer all payments of principal and interest paid on loans made from the legacy infrastructure loan fund to the legacy fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans.
5. An applicant shall issue an evidence of indebtedness as authorized by law.
6. When processing political subdivision loan applications under this section, the Bank of North Dakota shall calculate the maximum outstanding loan amount per qualified applicant. The maximum outstanding loan amount for infrastructure projects under subsection 7 is forty million dollars. The Bank shall consider the ability of the applicant to repay the loan while processing the application and shall issue loans only to applicants that provide reasonable assurance of sufficient future income to repay the loan.
7. Eligible infrastructure projects under this subsection are capital projects to construct new infrastructure or to replace infrastructure and which provide the fixed installations necessary for the function of a political subdivision. Capital construction projects exclude routine maintenance and repair projects, but include:
  - a. Water treatment plants;
  - b. Wastewater treatment plants;
  - c. Sewerlines and waterlines, including lift stations and pumping stations;

- d. Water storage systems, including dams, water tanks, and water towers;
  - e. Storm water infrastructure, including curb and gutter construction;
  - f. Road and bridge infrastructure, including paved and unpaved roads and bridges;
  - g. Airport infrastructure;
  - h. Electricity transmission infrastructure;
  - i. Natural gas transmission infrastructure;
  - j. Communications infrastructure;
  - k. Emergency services facilities, excluding hospitals;
  - l. Essential political subdivision building and infrastructure; and
  - m. The Red River valley water supply project.
8. The department of transportation shall approve county road and bridge projects for purposes of loans under this section and may adopt policies for the review and approval of projects under this section.
9. For purposes of loans under this subsection, the state water commission shall review and approve eligible projects to construct new water-related infrastructure or to replace existing water-related infrastructure which provide the fixed installations necessary for the function of a political subdivision. The state water commission may adopt policies for the review and approval of projects under this section. Capital construction projects exclude routine maintenance and repair projects, but include:
- a. Flood control;
  - b. Conveyance projects;
  - c. Rural water supply;
  - d. Water supply; and
  - e. General water management.

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

**Prudent investor rule - Exception.**

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

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

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

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

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

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

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

1. The legacy and budget stabilization fund advisory board is created to develop recommendations for the investment of funds in the legacy fund and the budget stabilization fund to present to the state investment board.
2. The goal of investment for the legacy fund is principal preservation while maximizing total return and to provide a direct benefit to the state by investing a portion of the principal in the state. Preference must be given to qualified investment firms and financial institutions with a presence in the state for investment of the legacy fund.
3. The board shall determine the asset allocation for the investment of the principal of the legacy fund including:
  - a. A target allocation of ten percent to fixed income investments within the state, of which:
    - (1) Up to forty percent must be targeted for infrastructure loans to political subdivisions under section 6-09-49.1. The net return to the legacy fund under this paragraph must be fixed at a target rate of one and one-half percent;
    - (2) Up to sixty percent, with a minimum of four hundred million dollars, must be designated to the Bank of North Dakota's certificate of deposit match program with an interest rate fixed at the equivalent yield of United States treasury bonds having the same term, up to a maximum term of twenty years; and
    - (3) Any remaining amounts must be designated for other qualified fixed income investments within the state.
  - b. A target allocation of ten percent to equity investments in the state, of which at least three percent may be targeted for investment in one or more equity funds, venture capital funds, or alternative investment funds with a primary strategy of investing in emerging or expanding companies in the state. Equity investments under this subdivision must:
    - (1) Be managed by qualified investment firms, financial institutions, or equity funds which have a strategy to invest in qualified companies operating or seeking to operate in the state and which have a direct connection to the state; and
    - (2) Have a benchmark investment return equal to the five-year average net return for the legacy fund, excluding in-state investments.

4. The board consists of two members of the senate appointed by the senate majority leader, two members of the house of representatives appointed by the house majority leader, the director of the office of management and budget or designee, the president of the Bank of North Dakota or designee, and the tax commissioner or designee. The board shall select a chairman and must meet at the call of the chairman.
- 4.5. The board shall report at least semiannually to the budget section.
- 5.6. Legislative members are entitled to receive compensation and expense reimbursement as provided under section 54-03-20 and reimbursement for mileage as provided by law for state officers. The legislative council shall pay the compensation and expense reimbursement for the legislative members.
- 6.7. The legislative council shall provide staff services to the legacy and budget stabilization fund advisory board.
- 7.8. The staff and consultants of the state retirement and investment office shall advise the board in developing asset allocation and investment policies.
- 8.9. The board shall develop a process to select a member of the board to serve on the state investment board in a nonvoting capacity.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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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. 1425.

House Vote:    Yeas 85            Nays 8            Absent 1

Senate Vote:    Yeas 47            Nays 0            Absent 0

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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.

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Secretary of State