

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1380

Introduced by

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

1 A BILL for an Act to create and enact a new section to chapter 6-09.4, and a new section to
2 chapter 21-10, ~~and a new section to chapter 57-38~~ of the North Dakota Century Code, relating
3 to a legacy sinking and interest fund, and a legacy earnings fund, ~~and an income tax relief fund~~;
4 to amend and reenact subsection 1 of section 21-10-06 and section 21-10-12 of the North
5 Dakota Century Code, relating to funds invested by the state investment board and legacy fund
6 definitions; to repeal House Bill No. 1038, as approved by the sixty-seventh legislative
7 assembly, relating to a legislative management legacy fund earnings committee; to provide for a
8 transfer; to create a legislative management legacy fund earnings committee; ~~and~~ to provide a
9 statement of legislative intent; and to provide an effective date.

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

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

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

15 There is created in the state treasury the legacy sinking and interest fund. The fund consists
16 of all moneys deposited in the fund under section 3 of this Act. Moneys in the fund may be
17 spent by the public finance authority pursuant to legislative appropriations to meet the debt
18 service requirements for evidences of indebtedness issued by the authority for transfer to the
19 Bank of North Dakota for allocations to infrastructure projects and programs. Any moneys in the
20 fund in excess of the amounts ~~necessary~~ appropriated from the fund to meet the debt service
21 requirements for a biennium, ~~may be appropriated by the legislative assembly for other~~
22 ~~purposes~~ must be transferred by the state treasurer to the public employees retirement system
23 main system plan under chapter 54-52, but only if the public employees retirement system main
24 system plan's actuarial funded ratio as reported for the most recently completed even-

1 numbered fiscal year is less than ninety percent. If the public employees retirement system
2 main system plan's actuarial funded ratio is ninety percent or more and then subsequently
3 decreases below ninety percent, the state treasurer may not resume the transfers under this
4 subdivision unless the main system plan's actuarial funded ratio is less than seventy percent.

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

7 1. Subject to the provisions of section 21-10-02, the board shall invest the following
8 funds:

- 9 a. State bonding fund.
- 10 b. Teachers' fund for retirement.
- 11 c. State fire and tornado fund.
- 12 d. Workforce safety and insurance fund.
- 13 e. Public employees retirement system.
- 14 f. Insurance regulatory trust fund.
- 15 g. State risk management fund.
- 16 h. Budget stabilization fund.
- 17 i. Health care trust fund.
- 18 j. Cultural endowment fund.
- 19 k. Petroleum tank release compensation fund.
- 20 l. Legacy fund.
- 21 m. Legacy earnings fund.
- 22 n. A fund under contract with the board pursuant to subsection 3.

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

25 **21-10-12. Legacy fund –~~Earnings defined~~definitions.**

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

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

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

3 **Legacy earnings fund - State treasurer - Transfers.**

4 1. There is created in the state treasury the legacy earnings fund. The fund consists of all
5 moneys transferred to the fund under subsection 2 and all interest and earnings upon
6 moneys in the fund.

7 2. Any legacy fund earnings transferred to the general fund at the end of each biennium
8 in accordance with section 26 of article X of the Constitution of North Dakota must be
9 immediately transferred by the state treasurer to the legacy earnings fund.

10 3. ~~If the amounts transferred under subsection 2 exceed the amount available for~~
11 ~~appropriation under subsection 4 the state treasurer shall transfer the excess, within~~
12 ~~thirty days, as follows:~~

13 ~~a. Forty percent to the strategic investment and improvements fund to be used in~~
14 ~~accordance with the provisions of section 15-08.1-08;~~

15 ~~b. Forty percent to the legacy fund to become part of the principal; and~~

16 ~~c. Twenty percent to the income tax relief fund under section 4 of this Act.~~

17 ~~4.~~ For each biennium subsequent to the biennium in which the legacy fund earnings are
18 transferred under subsection 2, the amount available for appropriation from the legacy
19 earnings fund is ~~six~~seven percent of the five-year average value of the legacy fund
20 assets as reported by the state investment board. The average value of the legacy
21 fund assets must be calculated using the value of the assets at the end of each fiscal
22 year for the five-year period ending with the most recently completed even-numbered
23 fiscal year.

24 ~~5.4.~~ On July first of each odd-numbered year, from the amount available for appropriation
25 or transfer from the legacy earnings fund for the biennium, the state treasurer shall
26 transfer funding in the following order:

27 a. The first one hundred ~~fifty~~ million dollars to the legacy sinking and interest fund
28 under section 1 of this Act;

29 b. ~~The next forty million dollars to the clean sustainable energy fund;~~

1 ~~c. The next forty million dollars to the infrastructure revolving loan fund under~~
2 ~~section 6-09-49, but not in an amount that would bring the balance of the~~
3 ~~infrastructure revolving loan fund to more than five hundred million dollars; and~~

4 ~~d. The next sixty million dollars to the highway tax distribution fund for allocations~~
5 ~~under section 54-27-19.~~

6 c. Any remaining funds for other purposes as designated by the legislative
7 assembly, including:

8 (1) Up to fifty million dollars for tax relief pursuant to appropriations or transfers
9 authorized by the legislative assembly;

10 (2) Up to thirty million dollars to the clean sustainable energy fund pursuant to
11 appropriations or transfers authorized by the legislative assembly; and

12 (3) Up to thirty million dollars for university research programs, the innovation
13 loan fund to support technology advancement, and workforce enrichment
14 initiatives pursuant to appropriations or transfers authorized by the
15 legislative assembly.

16 5. If the amounts transferred under subsection 2 exceed the amount available for
17 appropriation under subsection 3, an amount equal to any appropriations from the
18 legacy sinking and interest fund for bond payments under section 2 of this Act must be
19 retained in the legacy earnings fund through June 30, 2025, after which an amount
20 equal to twice any appropriations from the legacy sinking and interest fund under
21 section 2 of this Act for bond payments, but not more than one hundred fifty million
22 dollars, must be retained in the legacy earnings fund. After deducting any amounts to
23 be retained in the legacy earnings fund, the state treasurer shall transfer, within thirty
24 days, any remaining amounts under this subsection in the following order:

25 a. The first one hundred million dollars to the legacy fund to become part of the
26 principal.

27 b. Any remaining amount to the strategic investment and improvements fund to be
28 used in accordance with the provisions of section 15-08.1-08.

29 ~~**SECTION 4.** A new section to chapter 57-38 of the North Dakota Century Code is created~~
30 ~~and enacted as follows:~~

1 ~~Income tax relief fund.~~

2 ~~There is created in the state treasury the income tax relief fund. The fund consists of all~~
3 ~~moneys deposited in the fund under section 3 of this Act. Moneys in the fund may be spent~~
4 ~~pursuant to legislative appropriations for individual and corporate income tax relief.~~

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

7 **SECTION 6. LEGACY FUND EARNINGS - LEGISLATIVE MANAGEMENT COMMITTEE.**

- 8 1. During the 2021-22 interim, the legacy fund earnings committee is created and is
9 composed of the following members:
- 10 a. The majority and minority leaders of the house of representatives and the senate,
11 or their legislative designees;
 - 12 b. The chairmen of the finance and taxation standing committees of the house of
13 representatives and the senate, or their legislative designees;
 - 14 c. The chairmen of the appropriations committees of the house of representatives
15 and the senate, or their legislative designees;
 - 16 d. The chairmen of the industry, business and labor standing committees of the
17 house of representatives and the senate, or their legislative designees;
 - 18 e. One member of the legacy and budget stabilization fund advisory board from the
19 house of representatives and one member of the legacy and budget stabilization
20 fund advisory board from the senate, appointed by the respective majority
21 leaders; and
 - 22 f. The chairman of the legislative management, or the chairman's legislative
23 designee.
- 24 2. The legislative management shall designate the chairman of the committee.
- 25 3. The committee shall study potential uses of legacy fund earnings, including the use of
26 earnings to provide tax relief, research and technological advancements, innovation,
27 economic growth and diversification, and workforce development. The committee may
28 consider input from representatives of economic development entities, agricultural
29 organizations, research entities, the innovation loan fund to support technology
30 advancement committee, workforce development entities, higher education

1 institutions, and the parks and recreation department. As part of the study, the
2 committee shall:

- 3 a. Consider the establishment of a statutory committee to award grants for
4 university research programs and workforce enrichment initiatives;
- 5 b. Define the use of university research, innovation, and workforce enrichment
6 funding that may include efforts to stimulate economic activity across the state
7 through innovation of new technology, concepts, and products; to promote job
8 creation and career and wage growth; to enhance health care outcomes; and to
9 provide experiential learning opportunities for students; and
- 10 c. Develop reporting requirements for entities receiving funds from the clean
11 sustainable energy fund and from grants awarded for university research,
12 innovation, and workforce enrichment initiatives.

- 13 4. The legislative management shall report its findings and recommendations, together
14 with any legislation required to implement those recommendations, to the sixty-eighth
15 legislative assembly.

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

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