

GOVERNMENTAL FINANCE

CHAPTER 187

HOUSE BILL NO. 1116

(Representatives Klemin, Heinert)
(Senators Bekkedahl, Patten)

AN ACT to amend and reenact subsection 6 of section 21-03-07 and sections 57-15-06.6 and 57-47-02 of the North Dakota Century Code, relating to the issuance of general obligation bonds and the authorized uses of the county capital projects levy; to provide an effective date; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 21-03-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The governing body of any county may also by resolution adopted by a two-thirds vote dedicate the tax ~~levy~~ levies authorized by section 57-15-06.6 and subsection 5 of section 57-15-06.7 and may authorize and issue general obligation bonds to be paid by the dedicated levy for the ~~purpose of providing funds for the purchase, construction, reconstruction, or repair of regional or county correction centers, or parks and recreational facilities~~ purposes identified under section 57-15-06.6 and subsection 5 of section 57-15-06.7; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the county may, within sixty days after publication, file with the county auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the county, as ~~theretofore~~ last finally equalized, all further proceedings under the initial resolution are barred.

SECTION 2. AMENDMENT. Section 57-15-06.6 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.6. County capital projects levy.

1. The board of county commissioners of each county may levy an annual tax not exceeding ten mills plus any voter-approved additional levy as provided in subsection 8 of section 57-15-06.7 for the purpose of the following capital projects:
 4. a. Constructing ~~and~~, equipping, and maintaining structural and mechanical components of regional or county corrections centers or for the purpose of

- contracting for corrections center space capacity from another public or private entity.
2. b. Acquiring real estate as a site for public parks and construction and equipping, and maintaining structural and mechanical components of recreational facilities under section 11-28-06.
 3. c. Acquiring real estate as a site for county buildings and operations and constructing and equipping, and maintaining structural and mechanical components of county buildings and property.
 4. d. Acquiring real estate as a site for county fair buildings and operations and constructing and equipping, and maintaining structural and mechanical components of county fair buildings and property as provided in section 4-02-26.
 5. e. Acquiring and developing real estate, capital improvements, buildings, pavement, equipment, and debt service associated with financing for county supported airports or airport authorities.
 6. f. Expenditures for the cost of leasing as an alternative means of financing for any of the purposes for which expenditures are authorized under ~~subsections 1~~subdivisions a through 5e.
 - g. Improvement of the county road system, including the acquisition of land; construction of new paved and unpaved roads, bridges, or public places; replacement of existing paved and unpaved roads, bridges, or public places; and maintenance and repair of existing paved and unpaved roads, bridges, or public places.
2. Any voter-approved levy for the purposes specified in this section approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.

¹²¹ **SECTION 3. AMENDMENT.** Section 57-47-02 of the North Dakota Century Code is amended and reenacted as follows:

57-47-02. County authorized to borrow - Term - Interest rate.

Whenever in the judgment of the board of county commissioners all taxes authorized to be levied in any one year for general or special county purposes are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon a county, then such a county may borrow money in such an amount as the board ~~shall determine to be~~determines necessary to meet the deficiencies existing in its general or special funds, or to carry on primary governmental functions, and to pay mandatory obligations. For the purpose of borrowing, a county may issue evidences of indebtedness, which must consist of an agreement by the county to pay a stated sum on a specified date, or on or before a specified date, not more than five years in the future, or twenty years for loans issued

¹²¹ Section 57-47-02 was also amended by section 4 of House Bill No. 1116, chapter 187.

under section 6-09-49, together with interest thereon at a rate or rates resulting in an average annual net interest cost not to exceed twelve percent per annum if sold privately, or with no interest rate ceiling if sold at a public sale or to the state of North Dakota or any of its agencies or instrumentalities. A public sale must comply with the procedures set out in chapter 21-03. There is no requirement for an advertisement for bids if an evidence of indebtedness is sold privately or to the state of North Dakota or any of its agencies or instrumentalities.

¹²² **SECTION 4. AMENDMENT.** Section 57-47-02 of the North Dakota Century Code is amended and reenacted as follows:

57-47-02. County authorized to borrow - Term - Interest rate.

Whenever in the judgment of the board of county commissioners all taxes authorized to be levied in any one year for general or special county purposes are insufficient to carry on the primary governmental functions, or to pay the mandatory obligations imposed by law upon a county, then such a county may borrow money in an amount the board determines necessary to meet the deficiencies existing in its general or special funds, or to carry on primary governmental functions, and to pay mandatory obligations. For the purpose of borrowing, a county may issue evidences of indebtedness, which must consist of an agreement by the county to pay a stated sum on a specified date, or on or before a specified date, not more than five years in the future, or twenty years for loans issued under section 6-09-49 or 6-09-49.1, together with interest at a rate or rates resulting in an average annual net interest cost not to exceed twelve percent per annum if sold privately, or with no interest rate ceiling if sold at a public sale or to the state of North Dakota or any of its agencies or instrumentalities. A public sale must comply with the procedures set out in chapter 21-03. There is no requirement for an advertisement for bids if an evidence of indebtedness is sold privately or to the state of North Dakota or any of its agencies or instrumentalities.

SECTION 5. EFFECTIVE DATE. Sections 2 and 3 of this Act are effective for taxable years beginning after December 31, 2020.

SECTION 6. CONTINGENT EFFECTIVE DATE. Section 4 of this Act is effective at the time provided in Section 5 of this Act if section 6-09-49.1, as created by House Bill No. 1425, is approved by the sixty-seventh legislative assembly.

Approved April 22, 2021

Filed April 23, 2021

¹²² Section 57-47-02 was also amended by section 3 of House Bill No. 1116, chapter 187.

CHAPTER 188

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 defineddefinitions.

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.

Approved May 10, 2021

Filed May 10, 2021

CHAPTER 189

SENATE BILL NO. 2291

(Senator Bell)

AN ACT to create and enact a new section to chapter 21-10 of the North Dakota Century Code, relating to social investments made by the state investment board; to provide for a department of commerce study of the implications of complete divestment of companies that boycott energy or commodities; to provide for reports to legislative management; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Social investment - Prohibition.

1. As used in this section, "social investment" means the consideration of socially responsible criteria in the investment or commitment of public funds for the purpose of obtaining an effect other than a maximized return to the state.
2. Except as otherwise provided in a state investment policy relating to the investment of the legacy fund and unless the state investment board can demonstrate a social investment would provide an equivalent or superior rate of return compared to a similar investment that is not a social investment and has a similar time horizon and risk, the state investment board may not invest state funds for the purpose of social investment.

SECTION 2. DEPARTMENT OF COMMERCE STUDY OF DIVESTMENT OF COMPANIES THAT BOYCOTT ENERGY OR COMMODITIES - REPORT TO LEGISLATIVE MANAGEMENT. During the 2021-22 interim, the department of commerce shall study environmental social governance as it pertains to a set of nonspecific, quantifiable, and nonquantifiable criteria with attributing factors used for making determinations, decisions, or investments as it pertains to government and private industry in the state. The study must include an evaluation of investment policy as it relates to environmental social governance and the level of involvement the state has with companies that use environmental social governance in their ranking when making business or investment decisions. The study must also include the potential implications for the state as it relates to the boycott of energy or production agriculture commodities by companies that intend to penalize, inflict economic harm on, or limit commercial relations. All aspects of boycotts, including the transport, sale, utilization, production, or manufacturing of natural gas, oil, coal, petrochemicals, or production agricultural commodities must be evaluated. The department of commerce shall report its findings and recommendations to the legislative management by June 1, 2022.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 23, 2021

Filed March 24, 2021