

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1344

Introduced by

Representatives Dahl, DeKrey

Senator Nelson

1 A BILL for an Act to amend and reenact sections 21-04-09 and 21-06-07 of the North Dakota
2 Century Code, relating to public deposits.

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

4 **SECTION 1. AMENDMENT.** Section 21-04-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **21-04-09. Pledge of security in place of depository bond.** The board of any public
7 corporation may accept from any financial institution, as security for repayment of deposits, a
8 pledge of securities in lieu of a personal or surety bond. When securities are so pledged to the
9 board of any public corporation, the board shall require security in the amount of one hundred
10 ten dollars for every one hundred dollars of public deposits. Securities that are eligible for the
11 pledge are bills, notes, or bonds issued by the United States government, its agencies or
12 instrumentalities, all bonds and notes guaranteed by the United States government, irrevocable
13 standby letters of credit issued by federal home loan banks of a rating of AA or better by
14 Moody's Investors Service, Inc. or Standard & Poor's Corporation, federal land bank bonds,
15 bonds, notes, warrants, certificates of indebtedness, insured certificates of deposit, shares of
16 investment companies registered under the Investment Companies Act of 1940, letters of credit
17 issued by the Bank of North Dakota, and all other forms of securities issued by the state of
18 North Dakota, its boards, agencies, or instrumentalities, or by any county, city, township, school
19 district, park district, or other political subdivision of the state of North Dakota, whether payable
20 from special revenues or supported by the full faith and credit of the issuing body, and bonds
21 issued by any other state of the United States or such other securities approved by the banking
22 board. The securities and securities sold under agreements to repurchase as described in
23 section 21-06-07 must be delivered to and held for safekeeping by any financial institution,
24 other than the depository, which the depository and the public corporation may agree upon.

1 Whenever any securities are so deposited for safekeeping with any custodian, the custodian
2 shall issue a receipt therefor jointly to the depository and the public corporation.

3 Any financial institution pledging securities, at any time it deems it advisable or
4 desirable, and without the consent of the board of the public corporation, may substitute other
5 eligible securities for all or any part of the securities pledged. The securities substituted must,
6 at the time of the substitution, have a market value at least equal to the market value of the
7 securities released and delivered to the depository.

8 In the event of the substitution the holder or custodian of the pledged securities shall, on
9 the same day, forward by registered mail to the public corporation and the depository financial
10 institution a receipt specifically describing and identifying both the securities substituted and
11 those released and returned to the depository financial institution.

12 A depository financial institution may fulfill the pledge of securities requirements of this
13 section by maintaining a security pledge schedule that establishes the following:

- 14 1. The names of all public bodies maintaining deposits with the financial institution.
- 15 2. The amount of each deposit maintained by each public body.
- 16 3. The amount of federal deposit insurance corporation insurance applied to each
17 account.
- 18 4. The net deposits exceeding federal deposit insurance corporation coverage for
19 each account.
- 20 5. The amount of net deposit exceeding federal deposit insurance corporation deposit
21 insurance multiplied by one hundred ten percent for each account.
- 22 6. The amount of securities needed to be pledged to fulfill the requirements of this
23 section.
- 24 7. The total number of qualified securities pledged by the financial institution under
25 the requirements of this section.

26 A financial institution is in compliance with this section as long as the security pledge
27 schedule discloses the total qualified securities pledged in excess of the total pledges needed
28 for a total amount of deposits maintained by all the public bodies with the financial institution as
29 verified by the custodian of the securities every three months and copies thereof are provided
30 to the custodian of the securities and to each of the public corporations maintaining deposits
31 with the financial institution.

1 No pledge of security or bond may be required for any funds deposited with a financial
2 institution directly or by a financial institution's participation as a member of a reciprocal deposit
3 placement service to the extent that the deposits are insured or guaranteed by the federal
4 deposit insurance corporation or the national credit union administration as determined by the
5 commissioner of financial institutions or an insurance company that is qualified to offer excess
6 deposit insurance in this state and which has a rating of A- or better by A.M. Best Company
7 Inc., or the equivalent rating by another recognized rating organization as determined by the
8 insurance commissioner.

9 **SECTION 2. AMENDMENT.** Section 21-06-07 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **21-06-07. Political subdivisions may invest funds.**

- 12 1. Counties , cities, school districts, park districts, and townships in this state may
13 invest moneys in their general fund, or balances in any special or temporary fund,
14 in:
- 15 a. Bonds, treasury bills and notes, or other securities that are a direct obligation
16 of, or an obligation insured or guaranteed by, the treasury of the United
17 States, or its agencies, instrumentalities, or organizations created by an act of
18 Congress.
 - 19 b. Securities sold under agreements to repurchase written by a financial
20 institution in which the underlying securities for the agreement to repurchase
21 are of a type listed above.
 - 22 c. Certificates of deposit fully insured by the federal deposit insurance
23 corporation or by the state.
 - 24 d. Obligations of the state.
 - 25 e. Certificates of deposit fully insured or guaranteed by the federal deposit
26 insurance corporation and placed for the benefit of the public depositor by a
27 public depository through an appropriate reciprocal deposit placement service
28 as determined by the commissioner of financial institutions.
- 29 2. Bonds, treasury bills and notes, or other securities so purchased must be taken
30 into consideration in making levies for the ensuing year, and when funds are

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- 1 needed for current expenses, the governing board and authorities of such
- 2 municipalities may convert those obligations into cash.