

Sixty-seventh  
Legislative Assembly  
of North Dakota

**ENGROSSED 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 a new section to chapter 21-10 of the North Dakota  
2 Century Code, relating to the state investment board; to amend and reenact sections 6-09-49,  
3 21-10-02, and 21-10-11 of the North Dakota Century Code, relating to the legacy infrastructure  
4 revolving loan fund, the state investment board, and the legacy and budget stabilization fund  
5 advisory board; and to provide a continuing appropriation.

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

7 **SECTION 1. AMENDMENT.** Section 6-09-49 of the North Dakota Century Code is amended  
8 and reenacted as follows:

9 **6-09-49. Infrastructure revolving loan fund - Legacy infrastructure revolving loan fund**  
10 **- Continuing appropriation.**

- 11 1. The infrastructure revolving loan fund is a special fund in the state treasury from which  
12 the Bank of North Dakota shall provide loans to political subdivisions, the Garrison  
13 Diversion Conservancy District, and the Lake Agassiz water authority for essential  
14 infrastructure projects. The Bank shall administer the infrastructure revolving loan  
15 fund. The maximum term of a loan made under this section is thirty years. A loan  
16 made from the fund under this section must have an interest rate that does not exceed  
17 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 sewer lines and water lines; and

e. New or replacement of existing storm water and transportation infrastructure, including curb and gutter construction.

3. In processing political subdivision loan applications under this section, the Bank shall calculate the maximum loan amount for which a qualified applicant may qualify, not to exceed fifteen million dollars per loan. The Bank shall consider the applicant's ability to repay the loan when processing the application and shall issue loans only to applicants that provide reasonable assurance of sufficient future income to repay the loan.

4. The Bank shall deposit in the infrastructure revolving loan fund all payments of interest and principal paid under loans made from the infrastructure revolving loan 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 interest payment. All moneys transferred to the fund, interest upon moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank on a continuing basis for administrative costs and for loan disbursement according to this section.

5. The Bank may adopt policies and establish guidelines to administer this loan program in accordance with the provisions of this section and to supplement and leverage the funds in the infrastructure revolving loan fund. Additionally, the Bank may adopt policies allowing participation by local financial institutions.

6. a. The legacy infrastructure revolving loan fund is a special fund in the infrastructure revolving loan fund 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 defined in subdivision g. The Bank shall use moneys in the legacy infrastructure revolving loan fund to provide loans to political subdivisions for eligible infrastructure projects pursuant to subdivisions g, h, and i.

b. The Bank may adopt policies and establish guidelines to administer the legacy infrastructure revolving loan program in accordance with this subsection, including policies to supplement and leverage the moneys in the fund and policies to allow participation by local financial institutions.

- 1           c. A loan made from the legacy infrastructure revolving loan fund must have an  
2           interest rate that does not exceed two percent per year. The maximum term of a  
3           loan for an infrastructure project under subdivision g is thirty years or the useful  
4           life of the project, and the maximum term for a loan for an infrastructure project  
5           under subdivision h or i is forty years or the useful life of the project.
- 6           d. All principal and interest payments received on loans made from the legacy  
7           infrastructure revolving loan fund must be deposited into the legacy infrastructure  
8           revolving loan fund. The Bank may use a portion of the interest paid on the  
9           outstanding loans as a servicing fee to pay administrative costs, which may not  
10          exceed one half of one percent of the amount of the outstanding loans. All  
11          moneys transferred to the legacy infrastructure revolving loan fund, interest upon  
12          moneys in the fund, and payments to the fund of principal and interest are  
13          appropriated to the Bank on a continuing basis for administrative costs and for  
14          loan disbursement according to this subsection.
- 15          e. An applicant shall issue an evidence of indebtedness as authorized by law.
- 16          f. In processing political subdivision loan applications under this subsection, the  
17          Bank shall calculate the maximum outstanding loan amount per qualified  
18          applicant. The maximum outstanding loan amount for infrastructure projects  
19          under subdivision g is forty million dollars. The Bank shall consider the applicant's  
20          ability to repay the loan when processing the application and shall issue loans  
21          only to applicants that provide reasonable assurance of sufficient future income  
22          to repay the loan.
- 23          g. Eligible infrastructure projects under this subdivision are capital construction  
24          projects to construct new infrastructure or to replace infrastructure, and which  
25          provide the fixed installations necessary for the function of a political subdivision  
26          and are in the public interest. Capital construction projects exclude routine  
27          maintenance and repair projects but include the following:
- 28               (1) Water treatment plants;  
29               (2) Wastewater treatment plants;  
30               (3) Sewer lines and water lines, including lift stations and pumping systems;  
31               (4) Water storage systems, including dams, water tanks, and water towers;

(5) Storm water infrastructure, including curb and gutter construction;

(6) Road and bridge infrastructure, including paved and unpaved roads and bridges;

(7) Airport infrastructure;

(8) Electricity transmission infrastructure;

(9) Natural gas transmission infrastructure;

(10) Communications infrastructure;

(11) Emergency services facilities, excluding hospitals;

(12) Essential political subdivision buildings and infrastructure; and

(13) The Red River valley water supply project.

h. The department of transportation shall approve county road and bridge projects for purposes of loans under this subsection. The department of transportation may adopt policies for the review and approval of loans under this subsection.

i. 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 and are in the public interest. The state water commission may adopt policies for the review and approval of loans under this subsection. Capital construction projects exclude routine maintenance and repair projects, but include the following:

(1) Flood control;

(2) Conveyance projects;

(3) Rural water supply;

(4) Water supply; and

(5) 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.

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

3       **21-10-02. Board - Powers and duties.**

- 4       1. The board is charged with the investment of the funds enumerated in section  
5       21-10-06. It shall approve general types of securities for investment by these funds  
6       and set policies and procedures regulating securities transactions on behalf of the  
7       various funds. Representatives of the funds enumerated in section 21-10-06 may  
8       make recommendations to the board in regard to investments.
- 9       2. The board or its designated agents must be custodian of securities purchased on  
10      behalf of funds under the management of the board.
- 11      3. The board may appoint an investment director or advisory service, or both, who must  
12      be experienced in, and hold considerable knowledge of, the field of investments. The  
13      investment director or advisory service shall serve at the pleasure of the board. The  
14      investment director or advisory service may be an individual, corporation, limited  
15      liability company, partnership, or any legal entity which meets the qualifications  
16      established herein. The board may authorize the investment director to lend securities  
17      held by the funds. These securities must be collateralized as directed by the board.
- 18      4. The board may create investment fund pools in which the funds identified in section  
19      21-10-06 may invest.
- 20      5. For purposes of investment of the legacy fund, the board shall give preference to  
21      investment firms and financial institutions with a presence in the state.

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

24      **21-10-11. Legacy and budget stabilization fund advisory board.**

- 25      1. The legacy and budget stabilization fund advisory board is created to develop  
26      recommendations for the investment of funds in the legacy fund and the budget  
27      stabilization fund to present to the state investment board.
- 28      2. The goal of investment for the legacy fund is principal preservation while maximizing  
29      total return and to provide a direct benefit to the state by investing a portion of the  
30      principal in the state. Preference must be given to qualified investment firms and  
31      financial institutions with a presence in the state for investment of the legacy fund.

- 1       3. The board shall determine the asset allocation for the investment of the principal of the  
2       legacy fund including:
- 3       a. A target allocation of ten percent to fixed income investments within the state, of  
4       which:
- 5           (1) Up to forty percent must be targeted for infrastructure loans to political  
6           subdivisions under section 6-09-49.1. The net return to the legacy fund  
7           under this paragraph must be fixed at a target rate of one and one-half  
8           percent;
- 9           (2) Up to sixty percent, with a minimum of four hundred million dollars, must be  
10          designated to the Bank of North Dakota's certificate of deposit match  
11          program with an interest rate fixed at the equivalent yield of United States  
12          treasury bonds having the same term, up to a maximum term of twenty  
13          years; and
- 14          (3) Any remaining amounts must be designated for other qualified fixed income  
15          investments within the state.
- 16       b. A target allocation of ten percent to equity investments in the state, of which at  
17       least three percent may be targeted for investment in one or more equity funds,  
18       venture capital funds, or alternative investment funds with a primary strategy of  
19       investing in emerging or expanding companies in the state. Equity investments  
20       under this subdivision must:
- 21           (1) Be managed by qualified investment firms, financial institutions, or equity  
22           funds which have a strategy to invest in qualified companies operating or  
23           seeking to operate in the state and which have a direct connection to the  
24           state; and
- 25           (2) Have a benchmark investment return equal to the five-year average net  
26           return for the legacy fund, excluding in-state investments.
- 27       4. The board consists of two members of the senate appointed by the senate majority  
28       leader, two members of the house of representatives appointed by the house majority  
29       leader, the director of the office of management and budget or designee, the president  
30       of the Bank of North Dakota or designee, and the tax commissioner or designee. The  
31       board shall select a chairman and must meet at the call of the chairman.

- 1     ~~4.5.~~   The board shall report at least semiannually to the budget section.
- 2     ~~5.6.~~   Legislative members are entitled to receive compensation and expense
- 3            reimbursement as provided under section 54-03-20 and reimbursement for mileage as
- 4            provided by law for state officers. The legislative council shall pay the compensation
- 5            and expense reimbursement for the legislative members.
- 6     ~~6.7.~~   The legislative council shall provide staff services to the legacy and budget
- 7            stabilization fund advisory board.
- 8     ~~7.8.~~   The staff and consultants of the state retirement and investment office shall advise the
- 9            board in developing asset allocation and investment policies.
- 10    ~~8.9.~~   The board shall develop a process to select a member of the board to serve on the
- 11           state investment board in a nonvoting capacity.