SENATE BILL REPORT
SB 5029

As of February 13, 2013

Title: An act relating to establishing the Washington investment trust.

Brief Description: Creating the Washington investment trust.

Sponsors: Senators Hasegawa, Chase, Shin, Conway, Rolfes, Darneille, Hargrove, Keiser, Kohl-Welles, Kline and Frockt.

Brief History:
Committee Activity: Financial Institutions, Housing & Insurance: 2/14/13.

Brief Summary of Bill

- Establishes the Washington Investment Trust
- Details the Corporate Governance of the Washington Investment Trust
- Describes the Investment and Financial Operations of the Washington Investment Trust

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

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Background: The 2007 recession severely impacted local economies across the United States. Various states, in response, have considered operating state-owned financial institutions as a means to provide needed capital resources to their local economies. The Bank of North Dakota (BND), the sole state-owned bank in the nation, provides the model that these states are examining for possible adoption. BND, established in 1919 with initial capitalization of $2 million, operates as a banker's bank partnering to loan money to farmers, schools, and small businesses, and purchasing municipal bonds from public institutions. Today, the BND operates with an excess of $270 million in capital and, over the past ten years, has returned an annual average of $29.4 million to the state's general fund.

The Department of Financial Institutions (DFI) is the agency responsible for monitoring and regulating financial institutions operating in Washington State. To legally operate as a bank in the state, a financial institution must either be state or federally chartered. In addition to

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being chartered, banks must acquire and maintain deposit insurance from the Federal Deposit Insurance Corporation (FDIC) to protect deposits from potential bank failure. Examination reports obtained by DFI from financial institutions are confidential and exempt from public disclosure.

Under Washington law, the Treasurer is responsible for state funds and is the chair of the Public Deposit Protection Commission. As chair, the Treasurer must ensure that state funds deposited in public depositaries are backed by 100 percent collateral, liquid, and provides a return on investment. To date, there is approximately $5.5 billion in public depositaries, with $2.3 billion in community banks. In 2009, the Treasurer returned approximately $160 million to the state general fund.

Summary of Bill: The Washington Investment Trust (Trust) is established as a new executive agency. The purposes of the Trust are to: (1) invest in and finance infrastructure systems that will increase public health, safety, and quality of life; (2) improve environmental conditions and promote community vitality and economic growth; and (3) leverage state financial capital and resources, and work collaboratively with financial institutions, community-based organizations, economic development organizations, guaranty agencies, and other stakeholder groups.

Washington Investment Trust Commission (Commission). Effective immediately upon passage of the enabling legislation, the Commission commences its duties. The Commission is comprised of the Governor, Lieutenant Governor, the Attorney General, the Secretary of State, the State Treasurer, the Superintendent of Public Institution, and the Commissioner of Public Lands. Responsibilities of the Commission include adopting rules regarding safety and soundness standards of the Trust and other topics as needed for efficient administration of the Trust, and beginning Trust operations by July 1, 2014. The Commission may delegate duties and powers necessary to carry on the Trust's business to the Trust President, but may not delegate rule-making or policy-making authority. The Commission may also establish technical and advisory committees and consult with experts.

Trust Transition Board. The Transition Board is established and is comprised of two senators, one from each caucus; two representatives, one from each caucus; and seven citizen members with a background in finance. The President of the Senate and the Speaker of the House jointly select the chair of the Transition Board from among the citizen membership. The chair must convene the first meeting within 45 days of the bill's effective date. The Transition Board may appoint an interim president and other staff and may contract with people who have technical expertise.

The Transition Board must make recommendations to the Commission regarding a start-up business plan for the Trust that includes plans and timelines for functions that are new and functions transitioning to the Trust that were previously performed by another entity; initial capital requirements of the Trust; options for capitalizing the Trust, including federal transportation funds, Taft-Hartley trust funds, revenue bond proceeds, state reserves, and other core capital reserves not needed for liquidity; and other items requested by the Commission.

Management and Advisory Board. The Commission must appoint a Trust President. The President may hire employees and contract with people who have technical expertise. The Advisory Board reviews the Trust's operations and makes recommendations relating to the Trust's management, services, policies, and procedures. The Advisory Board consists of 11 members appointed by the Governor and confirmed by the Senate. The members must represent a diversity of experience relevant to activities of the Trust, and six members must have expertise in finance. Members serve a three-year term at the pleasure of the Governor.

Deposit of Public Funds. The Trust may serve as the depository for state monies and federal transportation funds once it has built sufficient capacity to accept and manage state monies and federal transportation funds, as determined by the Commission. The Commission must establish a process and timeframe for the deposit of state monies and federal transportation funds, taking into consideration the FDIC rules regarding minimum leverage capital requirements.

The Treasurer and local government agencies must deposit state monies and federal transportation funds into the Trust in accordance with the timeframe and guidelines determined by the Commission. The Commission must review state accounts that are not part of the Treasury and make recommendations to the Governor and the Legislature as to which accounts should be deposited in the Trust. The Trust may accept deposits from any public source.

All deposits in the Trust are guaranteed by the state rather than insured by the FDIC. All income earned by the Trust on state monies or federal transportation funds that are deposited in or invested with the Trust constitute income of the Trust and must be credited to the Trust except as otherwise required by law. Administrative and strategic planning expenses of the Trust are funded from its earnings – subject to legislative authorization – and from any other appropriations provided by the Legislature.

The Commission must establish a separate administrative account within the Trust from which its administrative and strategic planning costs must be funded. In each biennial operating budget, the Legislature must authorize the Commission to incur a maximum expenditure from the administrative account.

In an amount not to exceed the authorized expenditures, the Commission must proportionally allocate interest earnings from accounts and monies under its management and transfer this amount to the administrative fund. This transfer must precede the distribution of remaining earnings under applicable statutes.

The Trust must deposit in the general fund any interest earnings that exceed the total of those necessary to make required distributions and those necessary for the continued sound operation of the Trust as determined by the Commission.

The Trust is exempt from the requirements of the Public Deposit Protection Commission.

Investments by the Trust. The Commission and the Treasurer must jointly determine the amount of funds necessary to meet the operational needs of state government. The Trust may invest state monies deposited in the Trust that are not reasonably expected to be necessary to meet the short and intermediate term liquidity needs of the state. The Treasurer retains authority to manage and invest the amount of funds necessary to meet the operational needs of state government.

Federal Reserve System. The Trust is authorized to become a member of the Federal Reserve system.

Infrastructure Funding. The Trust is authorized to manage and invest state monies in order to facilitate investment in and financing of construction, rehabilitation, replacement, and improvement of new and existing public infrastructure systems. By November 1, 2013, the Commission must present an implementation plan and any necessary legislation to the Governor and legislative committees that: (1) identifies any existing accounts in the state Treasury associated with state infrastructure programs that the Trust recommends be transferred under its umbrella, and the steps and timelines for the transitions; (2) describes additional infrastructure funding that the trust recommends be sought and secured under its umbrella, and the steps and timelines required; and (3) demonstrates how the Trust plans to maximize revenues and public benefit.

Legislative and State Agency Authorities. Nothing in the chapter affects the ability of the Legislature to appropriate from public accounts managed by the Trust, or to place conditions or limitations on the appropriations. Nothing in the chapter affects the use of those monies by the state agencies receiving the appropriations.

Financial Oversight and Audit. The Trust must maintain capital adequacy and other standard indicators of safety and soundness monitored by DFI. The Director of DFI must examine the Trust, taking into consideration the unique circumstances of a publicly owned financial institution.

The state Auditor must conduct an annual audit of the Trust's accounts and financial transactions.

Reporting Requirements. The Trust must submit quarterly reports to the Commission. By December 1 of each year, the Commission must make a report to the Legislature on the affairs of the Trust.

Capitalization. The Commission must make recommendations and provide draft legislation to the Legislature on options for capitalization.

Public Disclosure. The following documents are exempt from public disclosure: financial and commercial information and records supplied by businesses or individuals during application for loans or program services; and examination reports and information obtained by DFI from the Trust.

State Treasurer's Functions. The Treasurer may maintain cash or demand deposits in the Trust in addition to qualified public depositaries. Subject to the limitations in the bill, the Treasurer may invest funds when there are cash balances that are more than sufficient to meet the current expenditures.

Other Provisions. The Trust may not make a loan to an Advisory Board member, the President, or employees; Advisory Board members, the President, and employees must follow the State Ethics Act. The Trust may be called a trust and may provide banking services without being called a bank. The Trust is exempt from all fees and taxes levied by the state or its subdivisions.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: The bill contains an emergency clause and takes effect immediately.