



2025 South Dakota Legislature

House Bill 1202

Introduced by: **Representative Manhart**

1 **An Act to permit the state to invest in Bitcoin.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 4-5-26 be AMENDED:**

4 **4-5-26.** State public funds made available for investment may be invested in the
 5 following classes of securities and investments and, except as provided by § 3-12C-223;
 6 chapter 3-13; chapter 13-63; the permanent school and other educational and charitable
 7 trust funds as provided in S.D. Const., Art. VIII, §§ 2 and 7; the permanent trust fund
 8 containing the net proceeds from the sale of state cement enterprises as provided in S.D.
 9 Const., Art. XIII, § 20; the health care trust fund as provided in S.D. Const., Art. XII, § 5;
 10 and the education enhancement trust fund as provided in S.D. Const., Art. XII, § 6; not
 11 otherwise:

- 12 (1) Direct and indirect obligations of the United States government;
- 13 (2) Agencies and instrumentalities of the United States government;
- 14 (3) Mortgage-backed securities of United States government-sponsored enterprises;
- 15 (4) Direct obligations of ~~the State of South Dakota~~ this state and any of its political
 16 subdivisions;
- 17 (5) Obligations consisting of notes, bonds, debentures, and certificates, which are direct
 18 obligations of a solvent corporation or trust existing under the laws of the United
 19 States or any state thereof, ~~if such~~ the investments are rated in the four highest
 20 classifications established by at least two standard rating services at the time of
 21 purchase;
- 22 (6) Savings accounts, share accounts, certificates of deposit of banks, savings and loan
 23 associations, building and loan associations, and bankers' acceptances;
- 24 (7) Repurchase agreements fully collateralized by securities described in this section;
- 25 (8) Shares in exchange-traded funds and open-end, no-load funds that are
 26 administered by an investment company registered under the Federal Investment

Company Act of 1940, 15 U.S.C. §§ 80a-1 to 80a-64, inclusive (January 1, 2025), whose shares are registered under the Federal Securities Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive (January 1, 2025), and investments are predominantly in securities described in this section; ~~or~~

- (9) Bitcoin that meet the requirements of sections 2 to 5, inclusive, of this Act; and
 (10) In addition to the investments authorized by subdivisions (1) to ~~(8)~~ (9) of this section, inclusive, the ~~investment council~~ State Investment Council may also allocate a sum certain of state public funds for investment in the accounts and certificates of South Dakota banks and associations. This sum ~~shall~~ must initially be offered to South Dakota banks and associations, and if not initially fully subscribed, the investment officer shall immediately reoffer the unsubscribed sum to other qualified public depositories defined by subdivision 4-6A-1(7).

Section 2. That a NEW SECTION be added to chapter 4-5:

Terms used in sections 2 to 5, inclusive, of this Act mean:

- (1) "Bitcoin," the digital asset that is the basis of the Bicoïn exchange-traded product regulated by the federal Securities and Exchange Commission;
 (2) "Digital asset," virtual currency, cryptocurrencies, natively electronic assets, and other digital-only assets that confer economic, proprietary, or access rights or powers;
 (3) "Exchange-traded product," any financial instrument that is approved by the federal Securities and Exchange Commission, the federal Commodity Futures Trading Commission, or the Division of Banking, which is traded on a United States regulated exchange and derives value from an underlying pool of assets;
 (4) "Private key," a unique element of cryptographic data used for signing transactions on a blockchain and known only by the owner;
 (5) "Qualified custodian," any federal or state-chartered bank, trust company, or special purpose depository institution or company regulated by the Division of Banking that holds a digital asset for an approved exchange-traded product; and
 (6) "Secure custody solution," a technological product or blended product and service that meets the requirements set forth in section 5 of this Act.

Section 3. That a NEW SECTION be added to chapter 4-5:

The amount of state moneys that the State Investment Council may invest in Bitcoin may not exceed ten percent of the state moneys made available for investment.

1 **Section 4. That a NEW SECTION be added to chapter 4-5:**

2 Any Bitcoin acquired as an investment must be held:

- 3 (1) Directly by the State Investment Council through the use of a secure custody
4 solution;
5 (2) On behalf of the State Investment Council by a qualified custodian; or
6 (3) In the form of an exchange-traded product issued by a registered investment
7 company.

8 **Section 5. That a NEW SECTION be added to chapter 4-5:**

9 A secure custody solution must have the following characteristics:

- 10 (1) The private key is exclusively known by and accessible by the government entity;
11 (2) The private key is exclusively contained within an encrypted environment and
12 accessible only via end-to-end encrypted channels;
13 (3) The private key is never contained by, accessible by, or controllable via a
14 smartphone;
15 (4) Any hardware that contains the private key is maintained in at least two
16 geographically diversified, specially designated secure data centers;
17 (5) The secure custody solution enforces a multi-party governance structure for
18 authorizing transactions, enforces user access controls, and logs all user-initiated
19 actions;
20 (6) The provider of the secure control solution has implemented a disaster recovery
21 protocol that ensures customer access to assets in the event the provider becomes
22 unavailable; and
23 (7) The secure custody solution undergoes regular code audits and penetration testing
24 from audit firms, and any identified vulnerabilities are promptly remedied.