

**2019 SENATE FINANCE AND TAXATION COMMITTEE**

**SB 2276**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

SB 2276  
1/28/2019  
Job #31580

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 6-09-49 of the North Dakota Century Code, relating to the infrastructure revolving loan fund; and to provide a statement of legislative intent.

## Minutes:

Attachments: 3

**Chairman Cook:** Called the hearing to order on SB 2276.

**Senator Joan Heckaman, District 23:** Introduced the bill. See attachment #1. Distributed a Hog House amendment. See attachment #2. There are already a few funds in place but I think this is a good opportunity for us to provide more loan opportunities. We would bring some of the funds from the Legacy Fund principle back into the state of ND as an investment.

**Senator Unruh:** As we are trying to weed out what we are going to prioritize this session; we heard a bill this morning to increase tax on one of our biggest industries in the state because we needed more money for education and critical infrastructure. Now we have this bill in front of us for quality of life projects. Where does this fall in the list of priorities for you?

**Senator Heckaman:** The main priority for me is bringing the money back to the state of North Dakota to invest. Right now, the principle in the Legacy Fund is mostly invested out of state. We need to bring them back and invest them through the Bank of ND to provide a variety of programs the bank isn't able to provide money for right now. They do not have any loan programs for the specifics that are in this bill. We worked together to design the language in here to meet the needs of our communities. When you here from the bank and the state investment board, you will see that we have a lot of needs across the state of ND that aren't being met. Some examples are quality of life, opportunities for mental and behavioral health, homeless, and addiction programs.

**Eric Hardmeyer, President of the Bank of North Dakota:** Testified in favor of the bill. See attachment #3. As we have been working with Senator Heckaman, the particular issues that are addressed in terms of quality of life projects, we have encountered those throughout the course of many years while working with various programs and listening to different economic developers. We also listened to the governor's mainstream initiative. Let me walk you through

the specific workings of this program. This is similar to a program that exists today. If you look at this slide, (1) this is what is called the BND Match Program. This has been in place since 1993. It is called the match program because it matches funds and the deposit with the loan. The match and the deposit that we get, has always come from the state investment board either through the budget stabilization fund or the Legacy Fund. This match program exists and it a \$20 million authorization to use Legacy Fund assets as part of the fixed asset allocation. \$200 million is used to buy CD's in the BND. They are used to provide loan funds to companies that are primary sector jobs and financially strong companies. The benefit of the program is to provide an interest rate at treasury plus a quarter over the 1-5-year treasury. We have, over the course of 25 years, made about \$253 million worth of loans under this program. Outstanding today may be \$50-60 million. It has been as high as over \$100 million. However, the authorization we have is for \$200 million worth of Legacy Fund assets to be used by BDN CDs. If you go to the next slide (2) Senator Heckaman has proposed to create a Legacy Quality of Life Fund. This uses the same 5% Legacy Fund asset allocation and allows for \$200 million for match and the balance for the Legacy Quality of Life Fund. In essence, the commitment from SIB would grow from 200 to 300 million dollars. Our deposits are backed by the full faith and credit of the state of ND. The state investment board is taking to credit risk for any projects. The BND is absorbing the credit risk. The reason why is because the BND does not have a long term fixed rate deposit base. Our deposits come from the treasury. Those are 2 years or less in terms of maturity. This agreement with the board has allowed us to lock in rates using this deposit for a longer term at a lower rate than we could access those funds. We have access to long term money but it is not this cheap. This arrangement has worked well. It has funded many projects; Cargo, U.S. Bank, MDU. There is one other feature to this that would be unique. That is that we ask for the opportunity to set a longer fund interest rate than what we have today. Today we have a five year roll over interest rate at the U.S. Treasury rate. We would like to take that up to a 10 year roll over rate. The reason is because it locks in and reduces the interest rate risk. We have heard that on a number of projects that if they can fix the rate for a longer period, they would like to do that. The arrangement with SIB is that they will do up to 5%, not to exceed \$200 million for match. The use of those proceeds would be for the items that Senator Heckaman has outline in the Hog House amendment.

**Senator Patten:** Does the CD stay in the Legacy Fund books as an asset?

**Eric Hardmeyer:** Yes.

**Senator Patten:** Does the deposit collateralize the loan?

**Eric Hardmeyer:** No.

**Senator Patten:** What is the BMD loan to deposit ratio now?

**Eric Hardmeyer:** It has been over 100. It is 94. For those of you wondering where he is going, that is a banker ratio that we look at how much of your deposits are loans. Anything north of 100% would be a concern. We are at a high loan to deposit ratio.

**Senator Patten:** Are you currently limited in your interest rate terms?

**Eric Hardmeyer:** Not by law, just by agreement with the state investment board at the 5-year rollover.

**Senator Dotzenrod:** You had mentioned going to the 10 year instead of the 5 year. Does that require the legislature to do something?

**Eric Hardmeyer:** No, we are not limited by law. This is just by the agreement. I think Dave will be able to address that better than me in terms of SIB philosophy and return expectations.

**Chairman Cook:** Any further testimony in favor? Any opposed? Neutral?

**Dave Hunter, Chief Investment Officer, Retirement Investment Office:** Testified neutrally for the bill. The state investment board is in charge of investments of funds, including those under the Legacy Fund. There is an advisory board which is responsible for making recommendations to the state investment board for specific types of investments such as this. This has come up in the past with the request to extend the size of the program from 200 to 300 million dollars. When we set that 200 it was when the Legacy Fund was closer to \$4 billion. 5% was our target allocation. \$400 billion times 5% was about 200 million dollars. The desire to see it go up to would be \$6 billion. We have had lots of discussions with Senator Heckaman and others to make sure we tie this together. In the end, it is up to the state investment board to make decisions on individual investments. We have to be governed by century code that requires us to make a legal investment. That is at a market rate of interest. As long as we can do that, we are in good shape. In the past, that is how it has worked under the match program. As an individual, it makes sense to increase the size of the program as long as we can continue to make sure that we are making good investments.

**Chairman Cook:** It is my understanding that we would not even need this legislation for what Senator Heckaman is trying to accomplish. You and the state investment board could agree with the bank to do it on your own. Is that true?

**Dave Hunter:** We would work with our advisory board client. The state investment board has 16 clients. If the legacy Fund said they want to make that increase, we would work with our consultants and say that 5% works. We have done that in the past and we would say we would increase the size of the program. To a certain extent I guess there is no requirement.

**Chairman Cook:** The 5% and \$6 billion dollars is \$300 million. What about the \$200 million? Does that become part of the \$300 million?

**Dave Hunter:** Yes. The size would be \$300 million; \$200 million would be the existing BND CD match loan program. The proposal would be to increase it by \$100 million to accommodate the additional infrastructure fund.

**Chairman Cook:** My current understanding of the match loan program is a 5 year fixed rate that was negotiated between you and the bank. Are you okay with letting the bank go to 10 years?

**Dave Hunter:** As long as it is at a market rate. We have to have a fiduciary investor and say that as long as we can get it at a legal market rate, then it would be reasonable. I do have

overall concerns about going from a 5-10 year regarding where we are at in the cycle. However, we can take it into consideration and make sure we get a good market rate then move forward.

**Senator Patten:** Back to the judiciary issue, going to a 10-year CD; would that comply with the legal fiduciary aspect? Or is that getting too locked into just a cash asset?

**Dave Hunter:** As long as we price it properly, we are good.

**Senator Patten:** Regarding the requirement of the legislation, it legislative intent needed to make the decision to authorize you? I was under the impression that as long as your judiciary is responsible, the capacity would be available to you.

**Dave Hunter:** We have an existing program in place right now. The desire is to encourage the state investment board and BND to work together. I am not the most political person to understand the whole concept of legislative intent.

**Senator Dotzenrod:** I haven't heard the term "revolving fund" being used here at all. Is this going to function like one?

**Dave Hunter:** I believe it was the case that this would be used as a revolving loan fund. That terminology was used in a prior graph. We have been fortunate to have pretty good returns over the past 5.5 years with the Legacy Fund.

**Chairman Cook:** You want to get up and clarify that your intent is to direct where this money goes?

**Senator Heckaman:** Senator Cook, you are correct. There is intent language in here that is important. There is also direction for the BND to look at section 1 sub a and b for the \$100 million. Those are the programs that we identified that we aren't able to put funding out for right now. There is a need. Besides the intent language, the Legacy Advisory Board gets some direction to give the state board some intent language.

**Senator Dotzenrod:** Is there going to be any difficulty in defining some of these terms such as a quality of life and maybe it doesn't meet the standards that the bank expects. It appears that these projects are subjective in determining if they qualify or really meet the definition. Is there going to be any difficulty in the bank's ability to make judgment about what would qualify and what wouldn't.

**Eric Hardmeyer:** I think you have a list there of what they might be. You also see in section three that the Bank of North Dakota will work with the industrial commission to establish the needs as they relate to the quality of life. There is a check there and BND will work with what is existing there. If we identify other areas that we think have a good place, we would go to the industrial commission and ask for input.

**Chairman Cook:** With that we will close the hearing on SB 2276.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

SB 2276  
2/5/2019  
Job #32202

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard
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## **Explanation or reason for introduction of bill/resolution:**

A BILL for an Act to amend and reenact section 6-09-49 of the North Dakota Century Code, relating to the infrastructure revolving loan fund; and to provide a statement of legislative intent.

## **Minutes:**

Attachments: 1
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**Chairman Cook:** Called the committee to order on SB 2276.

**Chairman Cook:** I have amendments to make it a one paged bill. See attachment #1. At the end of this bill, there is some intent language. This hog house amendment takes the intent of this bill and mandates that the state investment board works with the Bank of North Dakota for 5%. It would take it to \$300 million. The use of the money would be determined by the BND. I talked to Senator Heckaman and she is happy with these amendments.

**Senator Dotzenrod:** They look good to me. They really reduce the bill down to a concise definition of what she is looking for.

**Senator Dotzenrod:** Move to adopt the amendments.

**Senator Patten:** Seconded.

**Chairman Cook:** Any Discussion?

**A Voice Vote Was Taken. All were in favor.**

**Motion Carried.**

**Senator Dotzenrod:** Moved a Do Pass on SB 2276 as Amended.

**Senator Unruh:** Seconded.

**Chairman Cook:** Any Discussion?

**Senator Meyer:** We have had a few of these bills coming through that touch the principle amount of the Legacy Fund. This is still something I am not in favor of.

**Senator Dotzenrod:** I would like to point out that this money doesn't leave the Legacy Fund. We have an asset allocation rule that we have adopted that is 50% equities, 35% fixed assets, and 15% are EITs. This would be intended that this 5% would stand in that 35% fixed asset category. It is consistent with the asset allocation that is currently there.

**Chairman Cook:** It will be invested in North Dakota.

**A Roll Call Vote Was Taken. 5 yeas, 1 nay, 0 absent.**

**Motion Carried.**

**Senator Dotzenrod will carry the bill.**

ed  
1201

PROPOSED AMENDMENTS TO SENATE BILL NO. 2276

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide a statement of legislative intent relating to legacy fund investments."

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

**SECTION 1. LEGISLATIVE INTENT - LEGACY FUND INVESTMENTS.** It is the intent of the sixty-sixth legislative assembly that:

1. The Bank of North Dakota and the state investment board collaborate to allow for the expansion of the investment of legacy fund assets in Bank of North Dakota programs;
2. The minimum investment be five percent of the principal amount in the legacy fund;
3. The investment earn at least the respective United States treasury rate for the term of the investment, not to exceed ten years; and
4. The investment be used to support community infrastructure priorities or existing economic development programs, including the Bank of North Dakota match program."

Renumber accordingly



Date: 2-5-19  
 Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2276**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Dotzenrod Seconded By Unruh

Senators	Yes	No	Senators	Yes.	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer		✓			
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Dotzenrod

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2276: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2276 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide a statement of legislative intent relating to legacy fund investments.

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

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3. The investment earn at least the respective United States treasury rate for the term of the investment, not to exceed ten years; and
4. The investment be used to support community infrastructure priorities or existing economic development programs, including the Bank of North Dakota match program."

Renumber accordingly

**2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2276**

# 2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

SB 2276  
3/14/2019  
#33731

- Subcommittee  
 Conference Committee

Committee Clerk: Carmen Hart	Typed by Jeanette Cook
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## Explanation or reason for introduction of bill/resolution:

Provide a statement of legislative intent relating to legacy fund investments

## Minutes:

Attachments 1-4
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**Chairman Kasper** opened the hearing on SB 2276.

**Senator Joan Heckaman** appeared in support. Attachment 1. (:28-3:13)

**Rep. Laning:** What difference is there between the United States treasury rate and the normal return on Legacy Fund investments?

**Senator Heckaman:** Others might be better able to answer that question.

**Rep. Schauer:** Are you comfortable with this bill also being part of the “will” of the legacy fund as voted on by the people?

**Senator Heckaman:** I’m not sure what you mean by “will”.

**Rep. Schauer:** How the Legacy Fund was formed, how to spend it, and saving it. This really wasn’t part of that. Are you comfortable that this is a good way to use the Legacy Fund?

**Senator Heckaman:** I’m not sure it wasn’t part of the will of the people. The people didn’t decide how it was to be invested. That is up to the State Investment Board. So right now, the money is invested out-of-state. Why not bring it back here and invest it right here? I don’t know that the will of the people was specific to say that none of the money could be invested in North Dakota.

**Rep. C. Johnson:** Wouldn’t the State Investment Board already have the flexibility to investigate investments within the state?

**Senator Heckaman:** They do, but this is what is called Legislative intent. We are asking them to go to the Board and bring more of the funds back to North Dakota. This is **only** Legislative intent; it is not a law that says they **have** to do that. This is our intent that we

know that there are needs out there, and we want them to work with our Bank of North Dakota and local lenders to build the projects in our state, rather than invest it out-of-state. It is only part of the 35%, not part of the higher invested funds that will be brought back here.

**Eric Hardmeyer, President, Bank of North Dakota**, appeared in support. Attachment 2.  
(6:23-12:42)

**Vice Chair Steiner:** Can you explain the cap, and who is it controlled by?

**Mr. Hardmeyer:** It is an arrangement that exists today with a collaborative effort between the State Investment Board and the Bank of North Dakota. That cap over the years has changed. In 1993 it started at \$40 million and has now worked its way up to \$200 million. I can tell you that activity under this program has been up and down. It has been as high as \$130 million. Today we are at \$50 million outstanding, authorizations for \$200 million. We have projects that we are working on that move the needle in many different areas in the state. It might be value added energy or value added Ag. Any number of companies have become very interested in the state of North Dakota providing significant investment into the state. This is an important program that we have used as part of our spectrum of programs to assist in the economic development activities of the state of North Dakota. It is not in statute, but it is just an agreement that exists between SIB and BND.

**Rep. Laning:** How would you estimate the difference between the return that the Legacy Fund would get under this program versus the average return right now?

**Mr. Hardmeyer:** It carries a double A plus rating compared to US Treasury. Dave can expand on that.

**Rep. Hoverson:** What would be the reasons not to invest it all in North Dakota? Why pay fund managers \$13 million to fund it out-of-state?

**Mr. Hardmeyer:** I should let Dave answer that. From my perch as President of the Bank of North Dakota and sitting on the Budget Stabilization and Legacy Fund Advisory Board that when this fund began in 2011, 100% of the proceeds were deposited in Bank of North Dakota in CDs or NOW accounts. The Advisory Board got together and looked at how other wealth funds are managed. We looked at the opportunities to increase the return and protect principle while maximizing interest rates. We wouldn't be able to do that by putting it all into the Bank of North Dakota at this time.

**Rep. Schneider:** Are there any reasons why we shouldn't do this bill?

**Mr. Hardmeyer:** I wouldn't be here in support if I could get up here and say why we shouldn't do it. I do struggle with the idea: why are we NOT investing in the state of North Dakota? It is a risk free opportunity to do that and serve a real purpose. It is the best of both worlds for the State Investment Board. They are investing back in the state of North Dakota using this program. Our investment is virtually guaranteed by the state of North Dakota. At the same time, we are creating a great opportunity to expand our economic development efforts by using this program. It is creating new wealth and new jobs. I think it is a win/win.

**Rep. Rohr:** Do we really need this bill; wouldn't you do this anyway?

**Mr. Hardmeyer:** It is not a mandate; this is legislative intent. It gives legislators the chance to say that they think it is a good idea for some of the investment to come back into North Dakota. We like the idea that you weighed in and said, it is a good idea. It provides direction for the SIB and the BND as we collaborate. I don't see any downside to this.

**Chairman Kasper:** On line 6 it says, "Legacy Fund program". I have heard you use the word CDs. That is not a program that is an investment instrument.

**Mr. Hardmeyer:** You may be correct; we could reword that a little bit. They are just buying CDs, and with that CD we are offering a program.

**Chairman Kasper:** That is the second step of the process. The word "progams" in there does potentially have risk. If they are directly investing in programs as opposed as a CD, and the bank is investing it.

**Mr. Hardmeyer:** I guess it could read (line 6) "an expansion of the investment into a CD".

**Chairman Kasper:** On Line 9, "not to exceed 10 years", are we talking about the fund earning at least the US Treasury rate? Today's US Treasury rate might be tremendously different than 10 years from now. The potential is that you could tie up the Legacy Fund investments in a 10-year interest rate at 2%, where five or eight years from now the Treasury is earning 4 or 5%. What would be the advantage to lock in a long term rate like that for the investment fund, not for the entity that might borrow the money, but fiduciary responsibility to the Legacy Fund and the people who are investing the dollars there?

**Mr. Hardmeyer:** We do have long term CDs at the BND today that are yielding 5% plus. It is a matter of not trying to speculate on interest rates but are offering this over time. Rates go up and down and at times will have a higher interest rate than we would today. Today, they have 30-year US Treasury in their portfolio as well, or 10 or 15 years. It is part of the overall strategy. They will not be all the same. Initially, when we first had this program, as a borrower you could go from 1-year to 20-years. We would match that interest rate term. Today SIB is more comfortable at a 5-year US Treasury rate, since we are in a significantly low interest rate period. This is a long-term program and interest rates go up and down.

**Chairman Kasper:** Would you see that the CD investment of the Legacy Fund in this program would be shorter term rates, so that they could be reopened at appropriate times to yield a higher rate than 2 or 3% rate today?

**Mr. Hardmeyer:** One of the challenges that we have trying to promote this program is that borrowers like to know what the rates are going to be. They like to know what the index is. If we say, you get to choose from 1 to 10 years on the US Treasury curve, then they have some idea. If you explain the program and say, we really don't know, they don't like that. We are better able to promote the program when people know what it is that we are dealing with.

**Mason Risk, Economic Development Association of ND**, appeared in support. Attachment 3. (25:12-26:56)

**Dale Niezwaag, Basin Electric Power Cooperative**, appeared in support. Attachment 4. End 28:35

There was no further support for Engrossed SB 2276.  
There was no testimony in opposition to Engrossed SB 2276.

**Dave Hunter, Executive Director and Chief Investment Officer for the Retirement Investment Office that serves the State Investment Board**, appeared in a neutral position. There is one point of clarification or suggestion for consideration: the way that the bill is written right now it establishes a minimum investment of 5%. Defining a minimum level can be problematic. If we were to use a minimum level right now, we would be in violation of it because the \$200 million was set as a maximum. We are only at \$50 million, or less, at this point in time. My proposal would be to say, "a 5% target" as opposed to a "minimum". (28:54-29:54)

**Rep. Laning:** Do you view this of having potential of losing returns for the Legacy Fund?

**Mr. Hunter:** We really cannot invest in something if we do not believe that that it is at a market rate. We have a prudent investor rule. Because it will be at a market rate, it allows us to be a legal investment.

**Rep. P. Anderson:** Do you think the state of North Dakota should do more bonding?

**Mr. Hunter:** I am not qualified to comment on that.

**Chairman Kasper:** What do you think about using the word "programs"?

**Mr. Hunter:** I agree; it may not be the best term to use, but it is simply buying a CD.

**Chairman Kasper:** I know, but the legislation does not say that. Could you and Sen. Heckaman come up with a word that would meet the intent of the bill and make it clear that we are not asking the Legacy Fund to invest in programs, but CDs? Do you see that the CDs that are invested in the bank have laddered time lines or just lock in the CD rate for 10 years? Do you see that as a problem from the fiduciary perspective?

**Mr. Hunter:** The way the CD investment is set up, they would the dictate the underlying demand for the underlying loan. We will be mindful of what the CD terms are, and how much duration risk we have over the 5 to 10-year period in particular, and make sure we are comfortable when we are pricing that spread to treasuries in order to appropriately compensated for that risk.

**Rep. Rohr:** Do you think we need this bill?

**Mr. Hunter:** I think that we already have a program in place speaks volumes. Personally, I understand the intent and the drive behind it.

**Chairman Kasper:** Could you be doing this without the bill?

**Mr. Hunter:** Yes, that is a fact. We are doing it, just not at ten years. It is policy to keep it at 5 years right now.

**Chairman Kasper:** Could your new policy be 10-years? Would the investment board make the decision?

**Mr. Hunter:** Yes, that is correct.

**Mr. Hardmeyer:** To address your question about the difficulty on line 6, we simply struck the word “programs” and at the end of the sentence add “investment of Legacy assets in the Bank of North Dakota”. Would that alleviate the issue?

**Chairman Kasper:** It would solve the problem as long as it doesn’t hinder what you are trying to do.

**Mr. Hardmeyer:** On the CD, there is little bit of difference in a BND CD and US Treasury. If we have a ten-year loan to a company, we structure our deal with SIB that it is in ten one-year tranches. So, they get the 10-year rate on a one year tranch, and a ten-year rate on a two-year tranch because we pay that back to them annually. You could look at that in terms of how that might impact the overall return.

**Chairman Kasper:** It definitely could help increase the yield.

The hearing was closed on SB 2276.

**Chairman Kasper** brought Engrossed SB 2276 back before the committee. **Senator Heckaman** came over and made a recommendation that we amend: line 7, strike the word “minimum” and substitute “targeted”. On line 6, strike the word “programs” and put a period after Dakota.

**Rep. Vetter moved the amendments.**

**Rep. Schauer seconded the amendments.**

**A voice vote was taken. The motion passed.**

**Rep. P. Anderson:** I think this is a good bill.

**Rep. Karls:** I am not sensing where these are going to have a good rate of return when looking at the orange graph provided. (Attachment #2 p. 3)

**Chairman Kasper:** The investment from the Legacy Fund to the BND is going to be a CD with an interest rate at the current market rate. Bank of ND determines how they will invest all of their money. Their match program says they will match their dollars with the industry, and it will be a source of funds to make those additional investments. The risk on the loan going bad is not the Legacy Fund’s risk. The risk is the BND’s risk. If the that loan goes back, they’ve got to eat it. It does not make the CD disappear. The only way the BND loses

on that investment is if that bond holder goes under, and they cannot repay the money at the end of the period. We trust the Bank of North Dakota to make wise investments.

**Rep. Karls:** I am saying that I wouldn't invest in those type of things. I'd buy an oil well.

**Chairman Kasper:** That is what the other 65% is; it is in equities. Some is in real estate. They have to make choices of how they invest the money. This is more like a fixed, safer investment.

**Rep. Schneider moved a DO PASS as amended on SB 2276.**

**Rep. Vetter seconded the motion.**

**Rep. Rohr:** I am going to resist the motion because both Eric and the State Investment Board individual indicated that they can already do this without the bill.

**Vice Chair Steiner:** I agree and will resist as well.

**Rep. Schneider:** I didn't get the impression that they found it unnecessary, and Eric said that it would be helpful. Both of them understood the importance of articulating the intent, which we do regularly in the legislature. Mr. Fisk said that the primary purpose of his organization, and supported by this bill, was the creation of new wealth throughout North Dakota and developing more vibrant communities and improving quality of life. I think that is supported by the bill.

**Rep. Laning:** It is nothing more than legislative intent. It is just our opinion; it doesn't do anything really.

**Chairman Kasper:** I asked if we really need this. He told me, we can do this without the bill, but sometimes the investment board can be difficult to deal with. This legislative intent gives us a little more help to be able to do things like this.

**Rep. B. Koppelman:** The job of those that are the fiduciaries of the Legacy Fund dollars is to grow the fund into the biggest fund that they can, and to use reasonable risk practices to do that. The benefit of that is that we have the Legacy Fund earnings to do things in North Dakota that we find appropriate. This bill looks to lend the principle into North Dakota and make it work here as a benefit. If they are not wanting to do that, (Their job is to grow the fund, not care what it is used for.) then it seems to me that this goes against that. It is a CYA for those people who are doing the investing to say, "the legislature told us to do it." Then if it doesn't get a good enough return, they can repeat that. I can appreciate the voters' will to put the Legacy Fund in place and have the earnings used on projects. I think our intent should to use those earnings to help our state. We can let the fiduciaries get us as much money as they can in the market. I am probably going to resist the motion.

**Rep. P. Anderson:** But they are already doing that with \$200 million. We are adding \$100 million to be used for community infrastructure. The Legacy Fund is financing bridges all over the world. I think financing some infrastructure in North Dakota makes sense to me.

**Rep. Schauer:** This match program has been around for twenty-five years. The companies it has helped are North Dakota companies. We are here to help businesses. I get a little surprised when we have conservative Republicans that are not supportive of helping business. It makes a lot of sense to me. It gives a little flexibility to the match program. I will be voting yes.

**Rep. B. Koppelman:** I don't know if it is government's job to finance the private or the public sector. Those rates may not bring the same returns.

**A roll call vote was taken: Yes 9 No 5 Absent 0**

**The motion passed.**

**Rep. Laning will carry SB 2276.**

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Title.03000

Adopted by the House Government and  
Veterans Affairs Committee  
March 14, 2019

DR 3/14/19

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2276

Page 1, line 6, after "in" insert "the"

Page 1, line 6, remove "programs"

Page 1, line 7, replace "minimum" with "targeted"

Renumber accordingly

Date: 3-14-19  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2276**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.1094.02001

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep. Vetter    Seconded By Rep. Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Pamela Anderson		
Vice Chair Vicky Steiner			Rep. Mary Schneider		
Rep. Jeff Hoverson					
Rep. Craig Johnson					
Rep. Daniel Johnston					
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Karen Rohr					
Rep. Austen Schauer					
Rep. Steve Vetter					

*Voiced  
Vote  
motion  
Carries*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Line 7 - strike "minimum" substitute "targeted"  
 Line 6 - strike "programs" and put period after  
 Dakota.*

Date: 3-14-19  
 Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2276**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.1094.02001

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider

Motion Made By Rep. Schneider Seconded By Rep. Vetter

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Pamela Anderson	X	
Vice Chair Vicky Steiner		X	Rep. Mary Schneider	X	
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston		X			
Rep. Karen Karls		X			
Rep. Ben Koppelman		X			
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr		X			
Rep. Austen Schauer	X				
Rep. Steve Vetter	X				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Laning

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2276, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2276 was placed on the Sixth order on the calendar.

Page 1, line 6, after "in" insert "the"

Page 1, line 6, remove "programs"

Page 1, line 7, replace "minimum" with "targeted"

Renumber accordingly

**2019 TESTIMONY**

**SB 2276**

SENATE FINANCE AND TAXATION COMMITTEE

SB 2276

Chairman Cook and Members of the Committee:

I am Senator Joan Heckaman from D-23. I am here to introduce SB 2276 to you this afternoon.

This bill has had several turns and twists, but I am here today to ask for your favorable consideration to a Hog House amendment that I will distribute.

This program would address issues important to all North Dakotans. There are several opportunities to invest in our state and this is one of those. It would ask the Bank of North Dakota to work with the State Investment Board to invest some of the Legacy funds in North Dakota.

The Bank of ND and the Investment Board have been consulting on this bill. In the end, I believe that the best solution to turn SB 2276 into a workable bill is to Hog House it and work on the specifics I was trying to develop in the first place.

The funding in this bill would provide essential funds to communities to address projects of quality of life and services to those identified in Section 1 subsection b.

Here to describe the program is a representative from the Bank of North Dakota. And I would direct your questions to the Bank to gain more insight into the mechanics of this bill.

Sen. Joan Heckaman

PROPOSED AMENDMENTS TO SENATE BILL NO. 2276

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legacy quality of life loan program and to provide a statement of legislative intent.

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

**SECTION 1.**

**Legacy quality of life loan program.**

1. The Bank of North Dakota shall administer a program to provide loans for essential quality of life projects to:
  - a. Improve a community's quality of life, including the construction, refurbishment, reconstruction, rehabilitation, acquisition, or improvement of recreational, arts, science, and other quality of life amenity projects; or
  - b. Improve services for individuals with behavioral and mental health issues, addiction, homelessness, or other disadvantages.
2. The interest rate for loans under this section must be one quarter of one percent more than the respective treasury rate corresponding with the requested term of the loan. The maximum term of a loan is thirty years; however, the Bank of North Dakota may not set interest rate terms in excess of ten years.
3. The Bank of North Dakota may identify and provide loans for quality of life needs established by the Bank of North Dakota and approved by the industrial commission. The Bank of North Dakota shall establish priorities for providing loans under this section.
4. The Bank of North Dakota may adopt policies allowing participation by local financial institutions.

**SECTION 2. LEGISLATIVE INTENT - LEGACY FUND INVESTMENTS.** It is the intent of the sixty-sixth legislative assembly that:

1. The Bank of North Dakota and the state investment board collaborate to allow for the expansion of the investment of legacy fund assets in Bank of North Dakota programs;
2. The minimum investment be five percent of the principal amount in the legacy fund;
3. The investment earn at least the respective United States treasury rate for the term of the investment; and

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4. The investment be used to support community infrastructure priorities or existing economic development programs, including the Bank of North Dakota match program."

Renumber accordingly

# BND Match Loan Program Initiated in 1993

## BND Match Program

For Credit Rated Companies expanding or retaining primary sector jobs in North Dakota

These are Loans for Large Projects important to Economic Diversification Efforts

Requires a Lead Lender with Interest Rate set at .25% to .50% over 1 to 5-Year US Treasury with a floor of 2%.

Maximum Term of Loan is 15-Years

Match Loan Process

Maximum Allocation \$200 Million

BND Initiates a "Match Loan" predicated on the availability of Funding from SIB

The State Investment Board purchases a CD from BND based on the identified interest rates

BND assumes credit risk for the loan. The SIB is assured of a fixed rate of return

The Loan is Repaid to BND and the amount is reinitiated into the "pool" of funding available to BND with a maximum of \$200m



# Proposed in SB 2276 To Create Legacy Quality of Life Fund

5% of Legacy Fund Principal

Legacy Quality of Life Fund

Quality of Life Projects

Recreational; Arts; Science  
and Amenities

Human Services

Behavioral and Mental  
Health; Addiction & Homeless

.25% Interest Rate over respective  
Treasury Rate with an Interest Rate Term  
Not To Exceed 10-Years

Maximum Term—30-Years

BND Match Program  
Existing Since 1993

For Credit Rated Companies  
expanding or Retaining Primary  
Sector Jobs in N.D.

Requires a Lead Lender with  
Interest Rate set at .25% to .50%  
over 1 to 5-Year  
US Treasury with a floor of 2%.

Maximum Term is 20-Years with an  
Interest Rate Term to Not Exceed  
10-years

February 4, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2276

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide a statement of legislative intent relating to legacy fund investments.

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

**SECTION 1. LEGISLATIVE INTENT - LEGACY FUND INVESTMENTS.** It is the intent of the sixty-sixth legislative assembly that:

1. The Bank of North Dakota and the state investment board collaborate to allow for the expansion of the investment of legacy fund assets in Bank of North Dakota programs;
2. The minimum investment be five percent of the principal amount in the legacy fund;
3. The investment earn at least the respective United States treasury rate for the term of the investment, not to exceed ten years; and
4. The investment be used to support community infrastructure priorities or existing economic development programs, including the Bank of North Dakota match program."

Renumber accordingly

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HOUSE GOVERNMENT AND VETERAN'S AFFAIRS COMMITTEE

SB 2276

Chairman and Members of the Committee: I am Senator Joan Heckaman, D-23, and I am here to introduce SB 2276 to you this morning.

This bill is a concept that I believe can help secure the future of North Dakota by investing some of the principal of the Legacy Fund into our state. Currently almost all the Legacy Fund principal invested in other states and countries. SB 2276 would provide that least 5% of the principal be invested in the Bank of North Dakota to earn at least the respective US treasury rate not to exceed 10 years.

There is currently \$200 million invested and this bill would move the total funds to 5% of the Legacy Fund. Remember, this bill does not remove funds from the principal. It just returns those out of state investments back to North Dakota.

Subsection 4 identifies some of the priorities that could benefit from this investment. It includes community infrastructure, existing economic development programs, and the match program administered by BND.

Your support of this piece of legislation provides intent for the State Investment Board to consider when adjusting their current portfolio. Current allocations consist of 50% equity, 35% fixed income, and 15% real assets. This investment would come from the 35% of fixed income which in many cases is not earning any higher rate than the Bank could garner through its programs.

Here is the opportunity to bring North Dakota money back to this state to make a difference here. That is the main purpose of this bill-Invest North Dakota money in North Dakota.

I believe there will be others following me who will explain the program further, but this is our chance to build North Dakota.

Thank you. I would stand for questions.

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**Testimony to the House Government & Veterans Affairs Committee  
Senate Bill 2276  
March 14, 2019**

**Eric Hardmeyer - President  
Bank of North Dakota**

Mr. Chairman and members of the Government & Veterans Affairs Committee, my name is Eric Hardmeyer and I am the President and CEO at the Bank of North Dakota (BND). I am here to testify in support of SB 2276.

BND has operated under an agreement with the State Investment Board (SIB) since 1993 to fund the Match Loan Program. Simply explained, BND works with a local bank to fund a project, the funding for the project comes from a specific BND certificate of deposit (CD) purchased by SIB. The BND CD "Matches" the terms of the loan that BND is making to the company. This arrangement has grown from a \$40 million authorization to the current authorization of 5% of Legacy assets with a cap of \$200 million. The concept was and continues to be that SIB, as a part of its fixed income allocation uses various funds under its management to buy BND CDs. For a period, they specifically used the Budget Stabilization Fund but discontinued that in 2016 when it was liquidated to assist with revenue shortfalls to the General Fund. Since then, SIB has transferred the funding of this program to the Legacy Fund. To be clear, SIB is purchasing BND CD's as part of its fixed income allocation, this is not a spend of principal. Also, there is no credit risk to SIB, they are merely buying a CD which is backed by the full faith and credit of the State of North Dakota. BND bears the credit risk.

Why is this arrangement necessary? This grew out of the need to find a long-term fixed funding source to make loans to investment grade companies that were going to make significant investments into ND projects. At the time, 1993, BND did not have access to any long-term funds to Match to a long-term loan. From inception of the program to 2007, BND provided the flexibility with the program to offer interest rates to qualifying companies for a fixed rate period from 90-day variable to a 20-year fixed. The rate to the borrower would be indexed at .25% over the corresponding US treasury rate.

This program continues to be used today as part of our economic development spectrum of programs. Most recently it was used by MDU to finance their natural gas pipeline expansion to Gwinner. Other companies that have used this program include Basin Electric Cooperative, Dakota Growers Pasta, Great River Energy, Marvin Windows, and Steffes ETS.

This legislation provides legislative intent to continue this program and expands it to allow for community infrastructure. Also, it provides a sense of certainty to the Match program and allows for growth.

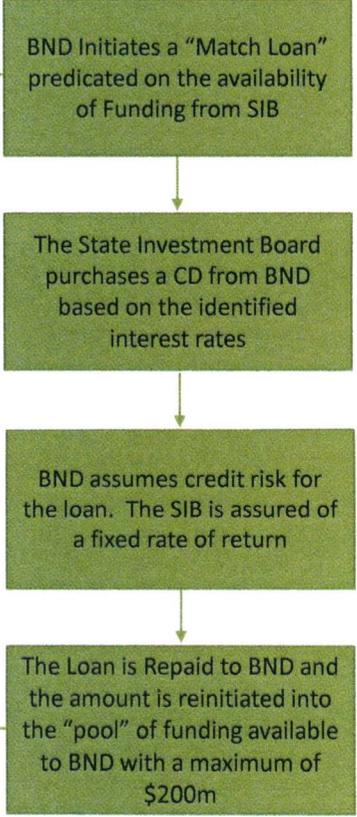
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# BND Match Loan Program Initiated in 1993

- BND Match Program
- For Credit Rated Companies expanding or retaining primary sector jobs in North Dakota
- These are Loans for Large Projects important to Economic Diversification Efforts
- Requires a Lead Lender with Interest Rate set at .25% to .50% over 1 to 5-Year US Treasury with a floor of 2%.
- Maximum Term of Loan is 20-Years

Match Loan Process  
Maximum Allocation  
\$200 Million



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# Proposed in SB 2276

5% of Legacy Fund Principal

Legacy Community Infrastructure

Quality of Life Projects

Recreational; Arts; Science and Amenities

Human Services

Behavioral and Mental Health; Addiction & Homeless

.25% Interest Rate over respective Treasury Rate with an Interest Rate Term Not To Exceed 10-Years  
Maximum Term—20-Years

BND Match Program Existing Since 1993

For Credit Rated Companies expanding or Retaining Primary Sector Jobs in N.D.

Requires a Lead Lender with Interest Rate set at .25% to .50% over 1 to 5-Year US Treasury with a floor of 2%.

Maximum Term is 20-Years with an Interest Rate Term to Not Exceed 10-years



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**Testimony of Mason Sisk**  
**Economic Development Association of North Dakota**  
**In Support of SB 2276**  
**March 14, 2019**

Chairman Kasper and members of the House Government and Veterans Affairs Committee:

My name is Mason Sisk and I am testifying on behalf of the Economic Development Association of North Dakota in support of SB 2276.

EDND represents more than 80 state economic development organizations on the front line of economic development efforts throughout North Dakota. The primary purpose of the organization is to promote the creation of new wealth throughout North Dakota to develop more vibrant communities and improve quality of life.

The state is already investing Legacy Fund principal out of state and could be using these funds to continue to receive a return on investment while supporting community programs.

The growth of our state over the last decade, combined with aging infrastructure, has led to a critical need to complete road, water, electric, airport, and other essential projects. Local communities need funds and affordable financing, which is difficult to achieve without raising taxes. Updated infrastructure provides support to North Dakota businesses already providing jobs and revenue to the state, as well as new businesses able to help diversify the economy.

Bank of North Dakota (BND) programs are very important to and widely used by economic developers across North Dakota. Programs such as PACE and Flex PACE provide flexibility for businesses and development agencies to support new and growing businesses in a fiscally safe manner. These programs have generated substantial investment in North Dakota in a cost-effective way and support economic progress that creates attractive and viable communities. These programs increase property tax revenue, expand business capacity, create new and highly skilled jobs, and help entrepreneurs in communities throughout the state.

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Thank you for the opportunity to address the committee, and I strongly urge a do pass recommendation on SB 2276.

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**Testimony in Support of Senate Bill 2276  
Dale Niezwaag - Basin Electric Power Cooperative  
House Government and Veterans Affairs Committee, March 14, 2019**

Mr. Chairman and members of the Committee, I am Dale Niezwaag, VP of Government Relations at Basin Electric. I am here to support a do-pass recommendation for Senate Bill 2276.

Basin Electric is a generation and transmission cooperative headquartered in Bismarck that provides wholesale electric power and energy to 141-member cooperatives in nine states and most of the cooperatives in North Dakota.

Our cooperative maintains a diverse energy generation portfolio comprised of an “all of the above strategy”. Basin operates over 5,000 megawatts of wholesale electric generating capability and have over 7,000 megawatts capability within its resource portfolio. In addition, Basin owns or maintains over 2,500 miles of high voltage transmission lines with a substantial amount of those lines in North Dakota.

Basin Electric supports funding for the Bank of North Dakota Match Program by enhancing access to Legacy Fund assets managed by the State Investment Board. BND is an important conduit of financing for projects of all sizes in North Dakota. Small and medium sized companies, in cooperation with their local bank, can access many of BND’s participation programs or the PACE program to provide an interest rate buy down.

Financing can be a challenge for some companies in North Dakota for large scale projects that move the needle on economic diversification. The Match Program is the one program that provides investment rated companies a local financing option with a competitive interest. Specifically, this program provides an efficient way to finance projects that do not require access to capital markets. An interest rate differential of 1% to 2% on a \$50,000,000 to \$100,000,000 project makes a substantial economic difference.

In closing, I would note that Basin did use the Match Program during the height of the oil boom. At that time, our company was able to secure 20-year, fixed rate financing for a transmission line expansion project serving western North Dakota. Today, the program is only providing a 5-year option. SB2276 provides for a 10-year financing option to provide certainty to companies utilizing the program. Basin supports the expansion of this fixed rate financing option.

Please provide a do-pass recommendation to SB2276. If you have questions, I am happy to answer them.