

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 section 6-09-49.1 and a new section to chapter 21-10 of  
2 the North Dakota Century Code, relating to the legacy infrastructure loan program and the state  
3 investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the North Dakota  
4 Century Code, relating to the state investment board and the legacy and budget stabilization  
5 fund advisory board; and to provide a continuing appropriation.

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

7 **SECTION 1.** Section 6-09-49.1 of the North Dakota Century Code is created and enacted  
8 as follows:

9 **6-09-49.1. Legacy infrastructure loan program - Continuing appropriation.**

- 10 1. The legacy infrastructure loan program is created from which the Bank of North  
11 Dakota shall provide loans to political subdivisions, the Garrison Diversion  
12 Conservancy District, and the Lake Agassiz water authority for eligible infrastructure  
13 projects as authorized in this section.
- 14 2. The Bank of North Dakota may adopt policies and establish guidelines to administer  
15 the legacy infrastructure loan program in accordance with this section.
- 16 3. A loan made from the legacy infrastructure loan program must have an interest rate  
17 that does not exceed two percent per year. The maximum term of a loan under  
18 subsections 7 and 9 is forty years or the useful life of the project.
- 19 4. The Bank of North Dakota shall transfer all payments of principal and interest paid on  
20 loans made from the legacy infrastructure loan program to the legacy fund. The Bank  
21 may use a portion of the interest paid on the outstanding loans as a servicing fee to  
22 pay for administrative costs, which may not exceed one-half of one percent of the  
23 amount of the outstanding loans.
- 24 5. An applicant shall issue an evidence of indebtedness as authorized by law.

- 1       6. When processing political subdivision loan applications under this section, the Bank of  
2       North Dakota shall calculate the maximum outstanding loan amount per qualified  
3       applicant. The maximum outstanding loan amount for infrastructure projects under  
4       subsection 7 is forty million dollars. The Bank shall consider the ability of the applicant  
5       to repay the loan while processing the application and shall issue loans only to  
6       applicants that provide reasonable assurance of sufficient future income to repay the  
7       loan.
- 8       7. Eligible infrastructure projects under this subsection are capital projects to construct  
9       new infrastructure or to replace infrastructure and which provide the fixed installations  
10      necessary for the function of a political subdivision and are in the interest of the public.  
11      Capital construction projects include:
- 12      a. Water treatment plants;  
13      b. Wastewater treatment plants;  
14      c. Sewerlines and waterlines, including lift stations and pumping stations;  
15      d. Water storage systems, including dams, water tanks, and water towers;  
16      e. Storm water infrastructure, including curb and gutter construction;  
17      f. Road and bridge infrastructure, including paved and unpaved roads and bridges;  
18      g. Airport infrastructure;  
19      h. Electricity transmission infrastructure;  
20      i. Natural gas transmission infrastructure;  
21      j. Communications infrastructure;  
22      k. Emergency services facilities, excluding hospitals;  
23      l. Essential political subdivision building and infrastructure; and  
24      m. The Red River valley water supply project.
- 25      8. The department of transportation shall approve county road and bridge projects for  
26      purposes of loans under this section and may adopt policies for the review and  
27      approval of projects under this section.
- 28      9. For purposes of loans under this subsection, the state water commission shall review  
29      and approve eligible projects to construct new water-related infrastructure or to  
30      replace existing water-related infrastructure which provide the fixed installations  
31      necessary for the function of a political subdivision and are in the best interest of the

1           public. The state water commission may adopt policies for the review and approval of  
2           projects under this section. Capital construction projects include:

- 3           a. Flood control;  
4           b. Conveyance projects;  
5           c. Rural water supply;  
6           d. Water supply; and  
7           e. General water management.

8           10. Capital construction projects under subsections 7 and 9 do not include routine  
9           maintenance and repair projects.

10           **SECTION 2.** A new section to chapter 21-10 of the North Dakota Century Code is created  
11 and enacted as follows:

12           **Prudent investor rule - Exception.**

13           Notwithstanding section 21-10-07, for purposes of investment of the legacy fund, the state  
14 investment board shall give preference to qualified investment firms and financial institutions  
15 with a presence in the state.

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

18           **21-10-02. Board - Powers and duties.**

19           1. The board is charged with the investment of the funds enumerated in section  
20           21-10-06. It shall approve general types of securities for investment by these funds  
21           and set policies and procedures regulating securities transactions on behalf of the  
22           various funds. Representatives of the funds enumerated in section 21-10-06 may  
23           make recommendations to the board in regard to investments.

24           2. The board or its designated agents must be custodian of securities purchased on  
25           behalf of funds under the management of the board.

26           3. The board may appoint an investment director or advisory service, or both, who must  
27           be experienced in, and hold considerable knowledge of, the field of investments. The  
28           investment director or advisory service shall serve at the pleasure of the board. The  
29           investment director or advisory service may be an individual, corporation, limited  
30           liability company, partnership, or any legal entity which meets the qualifications

1 established herein. The board may authorize the investment director to lend securities  
2 held by the funds. These securities must be collateralized as directed by the board.

3 4. The board may create investment fund pools in which the funds identified in section  
4 21-10-06 may invest.

5 5. For purposes of investment of the legacy fund, the board shall give preference to  
6 investment firms and financial institutions with a presence in the state.

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

9 **21-10-11. Legacy and budget stabilization fund advisory board.**

- 10 1. The legacy and budget stabilization fund advisory board is created to develop  
11 recommendations for the investment of funds in the legacy fund and the budget  
12 stabilization fund to present to the state investment board.
- 13 2. The goal of investment for the legacy fund is principal preservation while maximizing  
14 total return and to provide a direct benefit to the state by investing a portion of the  
15 principal in the state. Preference must be given to qualified investment firms and  
16 financial institutions with a presence in the state for investment of the legacy fund.
- 17 3. The board shall determine the asset allocation for the investment of the principal of the  
18 legacy fund including:
- 19 a. A target allocation of ten percent to fixed income investments within the state, of  
20 which:
- 21 (1) Up to forty percent must be targeted for infrastructure loans to political  
22 subdivisions under section 6-09-49.1. The net return to the legacy fund  
23 under this paragraph must be fixed at a target rate of one and one-half  
24 percent;
- 25 (2) Up to sixty percent, with a minimum of four hundred million dollars, must be  
26 designated to the Bank of North Dakota's certificate of deposit match  
27 program with an interest rate fixed at the equivalent yield of United States  
28 treasury bonds having the same term, up to a maximum term of twenty  
29 years; and
- 30 (3) Any remaining amounts must be designated for other qualified fixed income  
31 investments within the state.

1           **b.** A target allocation of ten percent to equity investments in the state, of which at  
2                   least three percent may be targeted for investment in one or more equity funds,  
3                   venture capital funds, or alternative investment funds with a primary strategy of  
4                   investing in emerging or expanding companies in the state. Equity investments  
5                   under this subdivision must:

6                   (1) Be managed by qualified investment firms, financial institutions, or equity  
7                   funds which have a strategy to invest in qualified companies operating or  
8                   seeking to operate in the state and which have a direct connection to the  
9                   state; and

10                  (2) Have a benchmark investment return equal to the five-year average net  
11                  return for the legacy fund, excluding in-state investments.

12           **4.** The board consists of two members of the senate appointed by the senate majority  
13                   leader, two members of the house of representatives appointed by the house majority  
14                   leader, the director of the office of management and budget or designee, the president  
15                   of the Bank of North Dakota or designee, and the tax commissioner or designee. The  
16                   board shall select a chairman and must meet at the call of the chairman.

17           ~~4.5.~~ The board shall report at least semiannually to the budget section.

18           ~~5.6.~~ Legislative members are entitled to receive compensation and expense  
19                   reimbursement as provided under section 54-03-20 and reimbursement for mileage as  
20                   provided by law for state officers. The legislative council shall pay the compensation  
21                   and expense reimbursement for the legislative members.

22           ~~6.7.~~ The legislative council shall provide staff services to the legacy and budget  
23                   stabilization fund advisory board.

24           ~~7.8.~~ The staff and consultants of the state retirement and investment office shall advise the  
25                   board in developing asset allocation and investment policies.

26           ~~8.9.~~ The board shall develop a process to select a member of the board to serve on the  
27                   state investment board in a nonvoting capacity.