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Testimony of Brent Bennett, Ph.D.
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Texas Public Policy Foundation
Before the
North Dakota Senate
Industry and Business Committee

Chairman Larsen and Members of the Committee,

Thank you for the opportunity to testify in support of HB 1429 and to share some of our experience developing and implementing similar laws in Texas. I hope to convey to the committee the importance of passing this legislation, explain how we are implementing similar reforms in Texas, and suggest some further improvements to North Dakota's approach to this issue.

There are many facets to fighting the march of the progressive left through our institutions, and our states have a limited but important role to play in this fight. The provisions in this bill to help ensure that state investments are not invested or utilized in politically motivated ways that harm pensioners and taxpayers is an important first step. We also continue to encourage North Dakota to consider stronger fiduciary standards to guard against harmful ESG practices and contracting provisions that direct money away from firms that engage in economic boycotting practices.

An important area that this bill addresses is the proxy voting practices of state investment funds and their hired managers and advisors. For example, Glass Lewis is the proxy advisor for the Legacy Fund, and our examination the proxy votes cast by Glass Lewison on behalf of the Legacy Fund brought up several votes in favor of shareholder resolutions that pressure energy companies to either adopt greenhouse gas emissions targets or to spend considerable resources measuring and categorizing their emissions, well beyond the requirements of existing laws. These votes are consistent with Glass Lewis's benchmark policy and clearly violate both the existing prohibition on social investment in § 21-10-08.1 and amended prohibition put forward in this bill.

HB 1429 does not require North Dakota investment funds to fire Glass Lewis, which would be costly and impractical. It does require the funds to develop a custom voting policy that comports with the § 21-10-08.1 prohibitions against social investing. Fortunately, Glass Lewis offers what it calls a [governance-focused voting policy](#) that defaults more often to management recommendations on environmental and social proposals, unless otherwise directed by the client. This policy is a good starting point for a custom policy, and adopting it is a change the Legacy Fund and other funds can make immediately.

The prohibition on using ESG criteria in insurance practices in Section 2 is a welcome addition to this bill and is something that other states are actively considering. The Texas House Insurance Committee

just considered [HB 1239](#) yesterday, which would place a similar prohibition on using ESG criteria in ratemaking. The North Dakota Insurance Department put out an [excellent report](#) last year detailing the effects of insurance companies boycotting and sanctioning coal companies and placing a clear emphasis on the need for action in this area. Coal mines and power plants in North Dakota are down to only a couple of companies that are willing to insure their facilities and have seen their premiums increase by two or three times in some cases. The report details more than 50 “coal exit” policies from many of the world's largest insurance companies, and given the trends in investments and banking, we can expect more harm to come in insurance unless the states assert their primacy in regulating insurance practices and adopt clear prohibitions against such boycotting practices.

Finally, we strongly encourage North Dakota to adopt investment and contracting provisions that steer money away from companies, particularly financial services firms, that are actively boycotting and sanctioning energy, firearms, and agriculture companies. As active market participants controlling trillions of dollars in investments and spending, states cannot be aloof or neutral as to what kinds of companies they do business with. When corporations abandon their role as the vanguards of free market capitalism and advocate for policies that erode the very foundations of capitalism, states should take their business elsewhere.

We know it is a challenging task for each state to find the right cost/benefit balance when choosing not to work with certain vendors, but the contracting and investment provisions adopted Texas and other states are already having a positive effect on the marketplace. The two dominant proxy advising firms, ISS and Glass Lewis, have created non-ESG voting policies in response to our efforts, and new investment managers are creating products and services that explicitly adhere to sound fiduciary principles and eschew ESG ideology. [American banks](#) are threatening to leave the U.N.-backed effort to restrict all lending to new fossil fuel projects over antitrust and state regulatory concerns. The more states that join in this effort, the more reasons companies will have to say no to progressive activists and continue to lend and invest in the industries that are vital to our states.

Ultimately, market competition is the antidote to the collusive action that progressive activists seek to impose. **States and municipalities have an important role, as market participants, in fostering competition by demanding products and services that best serve the interests of their taxpayers from companies that are aligned with their interests.** We support North Dakota’s efforts to push back against the woke agenda that is harming its constituents and vital industries and look forward to assisting with improving these policies in the coming months and years to ensure the best outcomes for North Dakota’s citizens.

Sincerely,

Brent Bennett
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