

Introduced by

Representatives Novak, Koppelman, Louser, J. Olson, S. Olson, Porter, M. Ruby, Thomas
Senators Elkin, Magrum, Rummel

1 A BILL for an Act to create and enact a new subdivision to subsection 7 of section 26.1-04-03
2 and a new section to chapter 54-06 of the North Dakota Century Code, relating to unfair
3 discrimination in the business of insurance and the investment and management of public
4 funds; to amend and reenact section 21-10-08.1 of the North Dakota Century Code, relating to
5 the prohibition on social investments; to provide an appropriation; and to provide for a legislative
6 management study.

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

8 **SECTION 1. AMENDMENT.** Section 21-10-08.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **21-10-08.1. Social investment - Prohibition.**

- 11 1. As used in this section, "social investment" means the consideration of socially
12 responsible criteria and environmental, social, and governance impact criteria in the
13 investment or commitment of public funds for the purpose of obtaining an effect other
14 than a maximized return at a prudent level of risk to the state.
- 15 2. Except as otherwise provided in a state investment policy relating to the investment of
16 the legacy fund and unless the state investment board or any other state entity
17 investing public funds, can demonstrate a social investment would provide an
18 equivalent or superior rate of return compared to a similar investment that is not a
19 social investment and has a similar time horizon and risk, the state investment board,
20 or other state entity may not invest state funds for the purpose of social investment.

21 **SECTION 2.** A new subdivision to subsection 7 of section 26.1-04-03 of the North Dakota
22 Century Code is created and enacted as follows:

23 Unless the refusal is the result of the application of sound underwriting and
24 actuarial principles related to actual or reasonably anticipated loss experience.

1 refusing to insure solely in consideration of the risk's environmental, social, and
2 governance criteria; diversity, equity, and inclusion policies; or political and
3 ideological factors.

4 **SECTION 3.** A new section to chapter 54-06 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Proxy voting.**

- 7 1. Proxy votes made on behalf of state funds or the funds of political subdivisions which
8 receive investment management services from the state must be made in accordance
9 with the requirements provided in section 21-10-08.1.
10 2. A state entity may not adopt a practice of following the recommendations of a proxy
11 advisory firm or other service provider unless the proxy advisory firm's or the service
12 provider's voting guidelines comply with the requirements of section 21-10-08.1.

13 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - ~~DIVESTMENT OF COMPANIES~~**
14 **~~THAT BOYCOTT ENERGY OR COMMODITIES~~ENVIRONMENTAL, SOCIAL, AND**
15 **GOVERNANCE TRENDS.** ~~During the 2023-24 interim, the legislative management shall study~~
16 ~~environmental social governance as it pertains to a set of nonspecific, quantifiable, and~~
17 ~~nonquantifiable criteria with attributing factors used for making determinations, decisions, or~~
18 ~~investments as it pertains to government and private industry in the state. The study must~~
19 ~~include an evaluation of investment policy as it relates to environmental social governance and~~
20 ~~the level of involvement the state has with companies that use environmental social governance~~
21 ~~in their ranking when making business or investment decisions. The study also must include the~~
22 ~~potential implications for the state as it relates to the boycott of energy or production agriculture~~
23 ~~commodities by companies that intend to penalize, inflict economic harm on, or limit commercial~~
24 ~~relations. All aspects of boycotts, including the transport, sale, utilization, production, or~~
25 ~~manufacturing of natural gas, oil, coal, petrochemicals, or production agricultural commodities~~
26 ~~must be evaluated. The legislative management shall report its findings and recommendations,~~
27 ~~together with any legislation required to implement its recommendations, to the sixty-ninth~~
28 ~~legislative assembly.~~

- 29 1. During the 2023-24 interim, the legislative management shall study environmental,
30 social, and governance trends, laws, and policies that impact businesses and
31 industries of this state. The study must include input from representatives from state

1 government and industry with expertise in the areas of energy, agriculture, investment,
2 insurance, economic development, finance, procurement, and contracting, and laws
3 related to these areas.

4 2. The study must identify laws and regulations enacted by the federal government and
5 other state governments related to environmental, social, and governance policies and
6 trends which impact the state's energy and production agriculture industries. The
7 study also must examine corporate environmental, social, and governance policies
8 and trends impacting the state's energy and production agriculture industries,
9 including finance, lending, insurance, and boycotts of energy or production agriculture
10 commodities.

11 3. The study may identify industry-specific public policy strategies for immediate and
12 long-term implementation to help the state continue to be a global leader in energy
13 and agriculture. Strategies may include marketing and advocacy for state industries,
14 exploration of emerging technology and practices, and examination of investment
15 policy.

16 4. The legislative management shall report its findings and recommendations, together
17 with any legislation and appropriation requests required to implement the
18 recommendations, to the sixty-ninth legislative assembly.

19 **SECTION 4. APPROPRIATION - LEGISLATIVE MANAGEMENT - ENVIRONMENTAL,**
20 **SOCIAL, AND GOVERNANCE TRENDS STUDY.** There is appropriated out of any moneys in
21 the general fund in the state treasury, not otherwise appropriated, the sum of \$45,000, or so
22 much of the sum as may be necessary, to the legislative management for the purpose of
23 defraying costs associated with the study of current environmental, social, and governance
24 policies, trends, and issues that impact citizens, businesses, and industries of this state, for the
25 biennium beginning July 1, 2023, and ending June 30, 2025.