

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 and subsection 10 of section 54-44.4-02 of the  
5 North Dakota Century Code, relating to the prohibition on social investments and restrictions on  
6 perpetual contracts; and to provide for a legislative management study report.

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 Refusing to insure or charging a different rate solely in consideration of  
2 the risk's environmental, social, and governance criteria; diversity, equity, and  
3 inclusion policies; or political and ideological factors, unless the refusal or  
4 different rate is the result of the application of sound underwriting and actuarial  
5 principles related to actual or reasonably anticipated loss experience.

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

8 **Proxy voting.**

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

15 **SECTION 4. AMENDMENT.** Subsection 10 of section 54-44.4-02 of the North Dakota  
16 Century Code is amended and reenacted as follows:

- 17 10. Employee benefit services, trust-related services, and investment management  
18 services obtained by an agency with a fiduciary responsibility regarding those  
19 services. Nothing in this subsection may be construed to allow an agency to create or  
20 renew a contract perpetually and without limitation.

21 **SECTION 5. ~~LEGISLATIVE MANAGEMENT~~ BANK OF NORTH DAKOTA STUDY -**

22 ~~DIVESTMENT OF COMPANIES THAT BOYCOTT ENERGY OR~~

23 ~~COMMODITIES~~ ENVIRONMENTAL, SOCIAL, AND GOVERNANCE TRENDS - REPORT TO

24 LEGISLATIVE MANAGEMENT. ~~During the 2023-24 interim, the legislative management shall~~

25 ~~study environmental social governance as it pertains to a set of nonspecific, quantifiable, and~~

26 ~~nonquantifiable criteria with attributing factors used for making determinations, decisions, or~~

27 ~~investments as it pertains to government and private industry in the state. The study must~~

28 ~~include an evaluation of investment policy as it relates to environmental social governance and~~

29 ~~the level of involvement the state has with companies that use environmental social governance~~

30 ~~in their ranking when making business or investment decisions. The study also must include the~~

31 ~~potential implications for the state as it relates to the boycott of energy or production agriculture~~

~~1 commodities by companies that intend to penalize, inflict economic harm on, or limit commercial  
2 relations. All aspects of boycotts, including the transport, sale, utilization, production, or  
3 manufacturing of natural gas, oil, coal, petrochemicals, or production agricultural commodities  
4 must be evaluated. The legislative management shall report its findings and recommendations,  
5 together with any legislation required to implement its recommendations, to the sixty-ninth  
6 legislative assembly.~~

- 7 1. During the 2023-24 interim, the Bank of North Dakota shall study environmental,  
8 social, and governance trends, laws, and policies that impact businesses and  
9 industries of this state. The study must include input from representatives from state  
10 government and industry with expertise in the areas of energy, agriculture, investment,  
11 insurance, economic development, finance, procurement, and contracting, and laws  
12 related to these areas.
- 13 2. The study must identify laws and regulations enacted by the federal government and  
14 other state governments related to environmental, social, and governance policies and  
15 trends which impact the state's energy and production agriculture industries. The  
16 study also must examine corporate environmental, social, and governance policies  
17 and trends impacting the state's energy and production agriculture industries,  
18 including finance, lending, insurance, and boycotts of energy or production agriculture  
19 commodities.
- 20 3. The study must identify a strategy to make the delivery of investment reports relating  
21 to state funds available and readily consumable to the public.
- 22 4. The study may identify industry-specific public policy strategies for immediate and  
23 long-term implementation to help the state continue to be a global leader in energy  
24 and agriculture. Strategies may include marketing and advocacy for state industries,  
25 exploration of emerging technology and practices, and examination of investment  
26 policy.
- 27 5. Before June 1, 2024, the Bank of North Dakota shall provide a report of its findings  
28 and recommendations to the legislative management, together with any legislation and  
29 appropriation requests required to implement the recommendations.