

SENATE BILL NO. 2291

Introduced by

Senator Bell

1 A BILL for an Act to create and enact a new section to chapter 21-10, a new section to chapter
2 54-44, and a new section to chapter 54-60 of the North Dakota Century Code, relating to social
3 investments made by the state investment board and the boycott of energy or commodities
4 companies; to provide for a department of commerce study of the implications of complete
5 divestment of companies that boycott energy or commodities; ~~and~~ to provide for reports to
6 legislative management; and to declare an emergency.

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

8 **SECTION 1.** A new section to chapter 21-10 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Social investment - Prohibition.**

- 11 1. As used in this section, "social investment" means the ~~investment, divestment, or~~
12 ~~prohibition of investment of state funds for a purpose other than maximum risk-~~
13 ~~adjusted investment return, including an ideological, environmental, political, or~~
14 ~~religious purpose, or for the purpose of state, local, or regional economic~~
15 ~~development.~~consideration of socially responsible criteria in the investment or
16 commitment of public funds for the purpose of obtaining an effect other than a
17 maximized return to the state.
- 18 2. The~~Except as otherwise provided in a state investment policy relating to the~~
19 investment of the legacy fund and unless the state investment board ~~may not invest-~~
20 ~~state funds for the purpose of social investment~~ can demonstrate a social investment
21 would provide an equivalent or superior rate of return compared to a similar
22 investment that is not a social investment and has a similar time horizon and risk, the
23 state investment board may not invest state funds for the purpose of social
24 investment.

1 **SECTION 2.** A new section to chapter 54-44 of the North Dakota Century Code is created
2 and enacted as follows:

3 **State participation - Environmental social governance.**

4 1. As used in this section:

5 a. "Boycott energy or commodities" means without any ordinary business purpose,
6 refusing to deal with, terminating business activities with, or otherwise taking any
7 action intended to penalize, inflict economic harm on, or limit commercial
8 relations with a company because the company invests in or assists in the
9 transport, sale, utilization, production, or manufacturing of natural gas, oil, coal,
10 petrochemicals, or agriculture commodities or a company that does business with
11 a company that refuses to deal with, terminates business activities with, or
12 otherwise takes any action intended to penalize, inflict economic harm on, or limit
13 commercial relations with a company because the company invests in or assists
14 in the transport, sale, utilization, production, or manufacturing of natural gas, oil,
15 coal, petrochemicals, or agriculture commodities.

16 b. "Environmental" means criteria used to consider performance as a steward of the
17 environment or the beneficial use of natural resources.

18 ~~b-c.~~ "Environmental social governance" means a set of nonspecific, quantifiable, and
19 nonquantifiable criteria with attributing factors used for making determinations,
20 decisions, or investments.

21 ~~e-d.~~ "Governance" means criteria that deals with leadership, audits, internal controls,
22 and shareholder rights, or any other determinations or de facto makeup of a
23 company or organization.

24 ~~d-e.~~ "Social" means criteria used to consider issues relating to the management of
25 relationships with employees, suppliers, customers, and communities and other
26 social interactions within society, including ideological, political, or religious
27 purposes.

28 2. The office of management and budget shall encourage state agencies to avoid
29 contracting with companies that support environmental social governance through
30 activities that boycott energy or commodities.

1 **SECTION 3.** A new section to chapter 54-60 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Boycott of energy or commodities - Report to legislative management.**

- 4 1. As used in this section, "boycott energy or commodities" means without any ordinary
5 business purpose, refusing to deal with, terminating business activities with, or
6 otherwise taking any action intended to penalize, inflict economic harm on, or limit
7 commercial relations with a company because the company invests in or assists in the
8 transport, sale, utilization, production, or manufacturing of natural gas, oil, coal,
9 petrochemicals, or agriculture commodities or a company that does business with a
10 company that refuses to deal with, terminates business activities with, or otherwise
11 takes any action intended to penalize, inflict economic harm on, or limit commercial
12 relations with a company because the company invests in or assists in the transport,
13 sale, utilization, production, or manufacturing of natural gas, oil, coal, petrochemicals,
14 or agriculture commodities.
- 15 2. Before August first of each even-numbered year, the department of commerce shall
16 provide a report to the legislative management of all the companies in the state which
17 boycott energy or commodities, including a list of all investments of state funds in
18 companies with direct or indirect holdings in companies that boycott energy or
19 commodities under chapter 21-10.

20 **SECTION 4. DEPARTMENT OF COMMERCE STUDY OF DIVESTMENT OF COMPANIES**
21 **THAT BOYCOTT ENERGY OR COMMODITIES - REPORT TO LEGISLATIVE**

22 **MANAGEMENT.** During the 2021-22 interim, the department of commerce shall study the
23 implications of a complete divestment of state funds from companies that boycott energy or
24 commodities. The department of commerce shall report its findings and recommendations to the
25 legislative management by June 1, 2022.

26 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.